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**The Laws of the Medieval Kingdom of Hungary *Decreta regni
mediaevalis Hungariae***
Online edition

The present edition is a revised, up-dated, and re-worked version of the five printed volumes of the *The Laws of the Medieval Kingdom of Hungary. Decreta regni mediaevalis Hungariae*, [DRMH] published between 1989 and 2012. The initiator of that project was Charles Schalcks, Jr., Publisher, a tireless servant of Slavic and East European studies, single-handed editor and publisher of several books and many seminal periodicals. On the counsel of Peter Hidas from Montréal, who was to be General Editor of all the laws of Hungary, he had approached Prof. György Bónis (1914–1985) to prepare a bi-lingual edition of the medieval laws of Hungary that was to be part of a major editorial plan of publishing all the laws of Central and Eastern Europe with English translations.¹ Bónis, in turn, invited James Ross Sweeney (1940–2011) of Penn State University, who then asked the assistance of the present editor, at that time at the University of British Columbia, who finally remained with the project to its very end. The first volume (1000–1300) appeared in 1989 (with a second, revised ed. in 1998); the second (1301–1458), co-edited with the leading Hungarian medievalist of the time, Pál Engel (1938–2001) and the Roman legal scholar Paul B. Harvey Jr. (1945–2014) of Penn State, came out in 1992. The volume of the laws of King Matthias I Corvinus (1458–90) was edited with the cooperation of Paul Harvey and Leslie S. Domonkos, then at Youngstown State University, and published in 1996. For the legislation of the Jagiellonian age, including the great collection of customary law, the *Tripartitum*, the editor was joined by Martyn Rady of UCL SEES, Peter Banyó of CEU Budapest, and Zsolt Hunyadi from Szeged University (and profited from the counsel of András Kubinyi, 1929–2007), so that the project could be completed by 2012. In the course of these decades a great number of colleagues, faculty and students alike, from the editors' own universities and elsewhere assisted the editors; financial aid from their home universities and several foundations was helpful in preparing the printed volumes. Thanks are due to all of these persons and institutions, duly listed in the prefaces to the printed volumes of DRMH 1–5.

1 Selection of texts

In principle, this edition intends to present all surviving texts of legal force for the entire kingdom of Hungary in their time (“statutory law” and the major source of customary law) from its foundation in 1000 AD to its end at the battle of Mohács,

1526 (or the fall of Buda to the Ottomans in 1541). No such collection exists, and, considering the rather chequered history of these text, cannot be easily constructed. Besides, the exact definition of “law” (*decreta*) is open for discussion.² The editors have, therefore, made reasonable selections for every period, based on the available resources; they are confident that this edition represents the essentially complete corpus of what were legally binding rules in the kingdom across these five centuries as far as they survived in a more or less authentic form. Their point of departure was the collection of the hand- or typewritten transcripts of Ferenc Döry (1875–1960), who spent decades planning to edit a complete critical collection of medieval laws, but did not live to see it published. His work was acquired by György Bónis, who shared it with the editors of DRMH, then it went into the possession of Géza Érszegi, and is now deposited in the Hungarian National Archives.

1.1 *The laws from 1000 to 1301*

There is no generally accepted canon for the texts of Árpáodian legislation. Neither the choice of legislative documents nor their authentic texts have yet been established through a critical edition. In the absence of a consensus, legal scholars have been free to shape the contents of printed collections in accordance with different principles. In the Hungarian tradition, the *Codex Juris Hungarici (CJH)*³ represents a minimalist principle, for it contains only the “books” of Stephen, Ladislas, and Coloman, and the Golden Bull of Andrew II of 1222. The manuscript collections used by the first editors of the CJH did not contain later ones.⁴ At the other extreme, Stephen Endlicher included more than eighty pieces in his collection of “laws,” augmenting—theoretically speaking, not without reason—the “law books” with a number of charters of privileges for towns, territories, and other communities.⁵ The present edition represents a compromise between these two, combining legal tradition and modern view of legal history. Almost all of

¹ Of this ambitious project, only the five volumes of DRMH and the edition of a few early Russian laws materialize.

² See: György Bónis, “Begriff, Wirkung und gesellschaftliche Rolle des Dekrets,” in *DRH 1301*, pp. 15–31 and Susanna Teke, “Begriff des Dekrets und seine gesellschaftliche Rolle zur Zeit von König Matthias,” in *DRH Matth.* pp. 11–4

³ The most frequently used, so-called “Millennial,” edition is *Magyar Törvénytár: Codex Juris Hungarici*, Dezső Márkus *et al.* eds., Budapest: Franklin, 1896 ff.

⁴ See Andor Csizmadia, “Previous Editions of the Laws of Hungary,” in DRMH 21, pp. xvii–xxxiii. Now also below under Studies to medieval Hungarian law.

⁵ Stefan Ladislaus, Endlicher, *Rerum Hungaricarum monumenta Arpadiana*. Sankt Gallen: Scheitlin, 1849.

what had been part of the *CJH* for centuries has been included, but now augmented by additional texts. In contrast to the *CJH*, we have dropped the *Institutio Morum* “of St. Stephen” (called there the first book of his laws). As early as the eighteenth century, Adam Kollar demonstrated that this *speculum principum* does not belong into a book of laws.⁶ On the other hand, certain texts of historical significance, not strictly laws or *decreta* but rather important privileges, discovered only in the eighteenth century, are included here: besides the Golden Bull of 1222, also its 1231 renewal and a later, shorter version of 1267 for a wider circle of freemen. The coronation decree of Andrew III and the parliamentary *decretum* of 1298 can be regarded as the earliest true pieces of legislation and although missing from the *CJH*, they are included here. In the printed version, certain texts issued in what was called “synods” had been relegated into an Appendix. That we have revised for the present edition: the statutes of the “Synod of Szabolcs (1092)—also styled “Book I of King Ladislas’ Laws”—and the “Synod of Esztergom” as well as the undated canons of other early twelfth-century synods belong to this group. Together with the statute of Coloman concerning the Jews—as part of this rare group of early “laws”—have been included. However, the so-called “Second Cuman Law” dated to 1279, has been now convincingly argued to be a modern forgery, based partially on an authentic royal charter of that year.⁷ While in the printed version the editors’ doubts about its authenticity were already noted, we have now left it out altogether. Finally, an undated collection of legal norms, formerly believed to have originated in the last years of the thirteenth century, was also included in the Appendix as “Complatio c. 1300.” Containing significant legal measures (although irregular in form), it was seen as the last piece of legislation extant from the Árpáadian age. It has now been demonstrated that it originates most likely from a century or so later.⁸ Its date cannot be ascertained, the only firm *ante quem* is the year 1440, when it was presented to King Wladislas I, copied into a booklet; we call it therefore “Compilatio ante 1440”. Privileges and decrees are referred to throughout by the date of their issue.

⁶ A. Kollar., *De originibus et usu perpetuo potestatis legislationis circa sacra apostolica regum Ungariae libellus singularis*. Vienna: Trattner, 1764. The “Admonitions” were most recently edited by László Havas, *Sancti Stephani primi regis Hungariae libellus de institutione morum: sive admonitio spiritualis*, Debrecen: Debreceni Tudományegyetem 2004; better than Josephus. Balogh, in: Emericus Szentpéteri, ed, *Scriptores rerum Hungaricarum tempore ducum regumque stirpis Arpadiane gestarum*, vol. 2., (Budapest: Academia Litt., 1938; repr. Budapest: Nap, 2001) pp. 611–28. On this “mirror of princes,” see Jenő Szücs “The Admonitions of St. Stephen and his state,” *New Hungarian Quarterly* 29. 112 (1988): 89–97, with English translation of the text, by James Ross. Sweeney and János M. Bak, *ibid.*, 98–105.

⁷ See Nora Berend, “Forging the Cuman Law, forging an identity,” in: *Manufacturing a Past for the Present: Forgery and Authenticity in Medievalist Texts and Objects in Nineteenth-Century Europe*, János M. Bak, Patrick Geary, Gábor Klaniczay, eds. (Leiden: Brill, 2014), pp. 109—28.

1.2 *The laws between 1301 and 1490*

The *decreta* of the Angevin, Luxembourg and Corvinian age have been critically edited—based on Döry’s manuscripts—in two volumes: György Bónis and Vera Bácskai *Decreta regni Hungariae. Gesetze and Verordnungen Ungarns 1301– 1457* (Budapest: Akadémiai Kiadó, 1976), in the series *Publicationes Archivi Nationalis Hungariae II, Fontes* vol. 11 [DRH]; and György Bónis with Géza Érszegi and Zsuzsanna Teke, *Decreta regni Hungariae. Gesetze and Verordnungen Ungarns 1458–1490* (ibid., 1989), same series, vol. 19 [DRH Matth]. The editors of DRMH essentially followed their choices, but did not include the fragmentary texts and those that are known only by reference (*deperdita*); they can be consulted in the two volumes mentioned above. An exception is the decree of 1411, for which a text, not utilized in previous editions, was recently discovered. Thanks to the collegial advice of Dr. Iván Borsa of the Hungarian National Archives, the editors were able to include the reading of this version, as it seems to contain the oldest text. As mentioned above, the “*Compilatio ante 1440*” is now placed in its chronological context here. The editors yielded to tradition and included one of the royal charters on a cameral contract from 1342, while omitting the others printed in DRH. Three other texts, not *decreta* proper, but relevant for legal development have also been retained: the royal propositions of 1415/7 and of 1432/3, and a Register from 1467. Recent research proved that the so-called Palatinal Articles, believed to have been issued in 1458, are of much later date.⁹ They have, therefore, been dropped.

1.3 *The laws and dietal decisions between 1490 and 1526*

The *decreta* of these decades were never edited in any critical version. For this period, the editors were forced to give up the principle of translating and printing the entire corpus of statutory law. The bulk of legal documents emanating from the period between 1490 and 1526 proved to be too large to handle successfully. As far

⁸ Pál Engel, “Az ‘1300 körüli’ tanácsi határozat keletkezéséhez” [On the origin of the decision in council of ‘c. 1300’], in I, *Honor, vár, ispánság*., ed. Enikő Csukovics (Budapest: Osiris, 2003) pp. 638-48.

⁹ Norbert C. Tóth, “A nádori cikkelyek keletkezése,” [Origin of the Palatinal Articles] in: *Rendiség és parlamentarizmus Magyarországon a kezdetektől 1918-ig*. Dobszay Tamás *et al.* eds., (Budapest: Oszággyűlés – Argumentum, 2014) pp. 36-45.

as we know, during these decades more than forty diets were held, and even though the decisions of many are lost, under King Wladislas II seven (or six) *decreta* were issued amounting altogether to some four hundred articles (paragraphs); from the ten years of King Louis II's reign, more than three hundred articles have survived. Besides, many of the texts repeat more or less verbatim provisions of earlier *decreta* and often contain matters that were merely ephemeral administrative issues. One may even question whether all the decisions of diets—some not approved by the king, others not accepted by the estates—deserve at all the name of “legislation” in the sense that they contain legal norms binding for all subjects of the kingdom. This is especially true for the articles issued at the “tumultuous diets” of the last decade of the medieval kingdom under Louis II. These texts are less legal monuments than political programs, designed for the moment and as part of the propaganda war waged between the different factions. We identify them rather as dietal decisions. Lacking up-to-date, document based studies for the period, the context and background of the texts can be indicated only in general outlines. These will have to be augmented by new research, but at least the surviving texts are worth to be made accessible.

The editors, therefore, made a few compromises for the texts of the Jagiellonian Age. Almost all original surviving Latin texts—based on Döry's transcription, hitherto unpublished—are included in the edition, but not all are translated and annotated. Actually, the *CJH* Millennial edition also abbreviated these texts or set them in small type. The selection was guided by the question whether the text contains any new legal (including procedural) measure, or whether it is politically important (e.g. reflecting stages in the tug-of-war between different noble and aristocratic factions, or the gradual restriction of the liberty of peasants, and so on). According to these criteria:

- (1) some *decreta* are altogether given only in Latin;
- (2) the rest of the *decreta* is presented in the usual bi-lingual form but those paragraphs that repeat earlier laws were left out, and marked not only—as in previous volumes—when they are verbatim identical to earlier articles by the = sign, but, this time, also when they are essentially the same as texts already edited elsewhere, containing only stylistic changes; these are marked by the ≈ sign indicating “similar to”;
- (3) even in the translated texts, several overly verbose articles were dropped and

instead something of a regest is offered, summarizing their content in a sentence in English and printing their *tituli* (even though these were mostly added by later editors) in Latin.

2 *The Latin text*

This edition presents, as mentioned above, a hitherto partly unpublished vulgate redaction of the Latin text of the laws, based largely on the transcriptions made by Ferenc Döry. Döry followed, as a rule, the best and oldest available manuscripts: for St. Stephen, the twelfth-century Codex Admont; for Ladislas and Coloman, mainly the Codex Thuróczi; and for the *decreta* from the thirteenth century onward either the rare originals or the best available medieval transcripts. It is, of course, not certain that there are not more copies in provincial or private archives. For the Golden Bull of 1222 and the *decretum* of 1514, however, newly established texts have been adduced, prepared by Géza Érszegi, who collated all available copies. As mentioned above, the law of 1411 is also in a new redaction.

At some points, where Döry's reading does not agree with those of the older editions, the disagreement has been noted. In some instances all surviving texts are so corrupt or incomplete that, in order to render some sense, reconstructions proposed by other historians have been consulted. Manuscript variants are included only in the texts from the Jagellonian age (1490–1526). For the preceding centuries the *DRH* edition of Bónis *et al.* can be consulted.

The *Tripartium* (DRMH 5) follows the first printed edition of 1517 (Vienna: Singrenius) tacitly correcting obvious misprints.

The presentation of the texts conforms to the prevailing norms of modern scholarship. Rubrics inserted by early modern editors have been dropped, with the exception of chapter headings in some of the law books of Stephen and Ladislas and in a few later *decreta*, which may be original. (Exceptions made for the Jagiellonian age are discussed above.) The subdivision of laws into articles is an old *CJH* tradition and rests implicitly on medieval bases, even though the numbering is modern. The traditional numbering of either the *CJH* or the first editors has been, as a rule, followed to facilitate scholarly consultation. Differences between this edition and previous ones, if significant, are listed in the concordances following the respective texts. The orthography has been normalized to the usage of *u* and *v*, *i*, and

j; *e caudata* (which prevails for *æ*) is given as *e*.

3. *The English translation.*

This posed more problems than translations usually do. Every translation implies interpretation and thus a certain amount of change and distortion. The editors had to face at least two additional problems. First, the Latin text was in many cases clearly faulty or garbled and had never been properly amended. During the past five hundred years learned editors of the *CJH* put their hands to the text and did their best to make sense of it. They did so, however, in the light of a living Hungarian legal tradition, that is, of the customary law of the noble *natio Hungarica* of much later centuries. We attempt to bring the texts as we have it, even if they do not correspond with the expectations of lawyers and legal historians of a later age, or contained contradictions and obscurities. The editors have noted their doubts and problems, as well as earlier scholarly comments in the notes, but have attempted to render the text of the ancient originals as faithfully as possible.

This brought them to the second major quandary. It is obvious that medieval institutional and legal terms in the English language originated in the historical realities of the British Isles. Here, however, concepts that grew out of an entirely different historical experience had to be rendered in English words. Many of our learned colleagues in such cases decide to retain the “original” Latin—which may be precise, but awkward. One still might ask, however, how “original” these Latin terms were. Surely medieval Hungarians named offices and institutions in the vernacular and these terms were translated into Latin by the learned clerks who composed the written record—therefore, only their Magyar version, if known, would be truly original. But deploying a large number of Latin or Hungarian technical terms on each page of English text would not have helped the non-specialist reader. Therefore, the editors attempted in almost all cases to coin a term that appears to be a reasonable English equivalent of the Latin of the laws (and, as far as one can presume, of the vernacular original). Finally, only the translation of the word *comes* remained “unsolved”: since it does not imply noble title (there was, with some exceptions, no titled nobility in medieval Hungary) nor the kind of royal officer of Carolingian-type “count,” the editors decided to give the Hungarian version, *ispán*, that seems to have designated first the great men of the realm, later

royal officers heading the counties.¹⁰ The difficulties with another enigmatic term, *regnicola* (verbatim: inhabitant of the realm), that seems to have meant landowning freemen, later noblemen, led to an awkward but perhaps reasonable formulation: they are referred to (in the earlier Middle Ages) as “man/men of the realm,” and later as “gentleman/en of the realm.” Other technical terms are explained in the notes and in the Glossary.

All in all, the translation aims at the maximum feasible authenticity, bearing in mind that not all readers will wish to enter into the intricacies of local development. The task was to prepare a readable and informative text, not necessarily elegant, but faithful, and by adding notes and glosses, to enable the reader to derive more precise understanding.

4 The *apparatus criticus*

As can be expected in a project that was accomplished across several decades with a number of collaborators, the annotations and prefaces to the texts are slightly diverse in every section, even if a certain uniformity was attempted. Every law opens with a preface on its background and textual problems, then lists the manuscripts (used by Döry and usually re-checked by the editors) as MSS, the previous editions (EDD) and a selected list of relevant scholarly literature (LIT).

Annotations on historical matters, technical terms, and personal data as well as cross-references to earlier or later legislation are added only to the English translation.

The annotations are composed so that every law can be read in itself, thus repetitions are frequent.

5 *Glossary and Gazetteer*

Even though technical terms are usually explained in the notes, it seemed useful to summarize them in a Glossary and partial subject index. Such a helpful addition was prepared by Zsolt Hunyadi from Szeged University and I am most grateful to him to

¹⁰

That the word was seen as specific for this Hungarian officer is suggested by the fact that in German it was translated not as *Graf* but as *Gespan*. Pipo Scolari, *ispán* of several counties in Hungary, was called in Florence Pipo Spano.

have prepared and now updated it. Considering the many changes of place names and the peculiarities of the medieval use of them, we also added a Gazetteer of such place names that have significantly diverse forms, historical or otherwise. That table does not claim completeness, but may be helpful in identifying locations.

Overall,, no systematic attempt was made during the preparation of the present edition fully to update the literature in the prefaces and the notes from the printed DRMH, but some recent titles have been added.

Many thanks are due to USU Digital Commons for publishing this version.

Budapest, August 2019.

János M. Bak, ed.-in-chief

(Having been alerted to some mistakes, a revised version was prepared and the Glossary and Gazetteer added half a year after the first publication. Thanks to attentive readers for their comments!)

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The Golden Bull of Andrew II (1222)

THE HOUSE OF ÁRPÁD (1000–1301)

THE LAWS OF KING ST. STEPHEN I OF HUNGARY (1000–1038)

Book I

(St 1)

The two books of ascribed to King St. Stephen laws mark the legislative foundation of the kingdom of Hungary. They were intended to enforce the teachings and protect the institutions of Christianity introduced into the country under the king's father, Prince Géza (c. 972–997) and forcefully expanded by Stephen. The king legislated both for the newly created government of royal counties and for the dioceses in the ecclesiastical sphere. Although the laws are formulated as issued on royal authority, there are also references to the council (*senatus*) as legislator. No information is available on the composition of this body. The exact date of the codification cannot be established but historians assume that the first book of the second book is now dated to the last decade of his reign, c. 1030–1038. The text has numerous verbal, stylistic, and conceptual similarities with papal and Frankish royal-imperial canons and capitularies (Závodszy, pp. 13– 56). Canonical and Carolingian models may have reached Hungary through the Western (Bavarian, Italian, Lotharingian) missionaries who, together with Western knights, were called in by the king. The author of the laws must have been one of them, perhaps a monk, but his person cannot be identified with any certainty.

The textual transmission of the laws was studied most carefully by Mónika Jánosi (1945–95). She proposed that a mid-eleventh century text found its way to the monastery of Admont (version A), but remained unknown in Hungary until the nineteenth century. A second version, a few chapters longer (B 1) was compiled around 1100, perhaps for King Coloman (1095–1116), who referred to it in his law (see **Colo** Preamble.). It survived in four later codices, the earliest of which may have been written in 1406, but known only from a copy of two hundred years later. Some time before the sixteenth century, a third version (B 2) was compiled, not significantly different from B 1 save some word and chapter sequence. Both B versions were known to the first editors of the *Corpus Juris Hungarici*, John Zsámbuki (Sambucus) and Bishop Zakariás Mosóczy (on this, see Andor Csizmadia, "Previous editions of the laws of Hungary, in: *Decreta Regni Mediaevalis Hungariae 1000–1526: Laws of the Medieval Kingdom o Hungary vol. 1 1000–1301*, János M. Bak, György Bónis, James R. Sweeney, ed. 2 (Idyllwild, CA: Charles Schlacks, 1999) xvii—xxxiii, here xxii–xxv.

Our edition follows the transcription of Ferenc Döry (1875–1960) based on the best codices.

MSS: “Codex Admont”, late twelfth century, ff. 119–126 of Codex 712, Monastery of Admont, Austria; presently Széchényi National Library, Budapest, Clmae 433.

“Codex Thuróoczi”, a fifteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Clmae 407, ff. 79v–85r.

Codex Ilosvay”, a sixteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Fol. Lat. 4023, ff. 9r–17r.

EDD: *Magyar Törvénytár: Corpus Iuris Hungaricia*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896) 1,20-43; Levente Závodszy, *A Szt. István. Szent László és Kálmán korabeli törvények és zsinati határozatok forrásai* [Sources of the laws and synodal decrees from the times of St. Stephen, St. Ladislav, and Coloman], (Budapest: Szt. István Társulat, 1904) pp. 141-52; *Szent István törvényeinek XII. századi kézírata. Az Admonti Kodex* [A Twelfth-Century Manuscript of the Laws of St. Stephen: The Admont Codex], Emma Bartoniek, ed. Budapest: Lantos, 1935.

LIT: F. Schiller, “Das erste ungarische Gesetzbuch und das deutsche Recht,” *Festschrift Heinrich Brunner* (Weimar: Böhlau Nachf., 1910) pp. 379–404; J. von Sawicki, “Zur Textkritik und Entstehungsgeschichte der Gesetze König Stefans des Heiligen”, *Ungarische Jahrbücher*, 9 (1929), 395–425; György Bónis, “Szent István törvényeinek önállósága” [The Autonomous Character of the Laws of St. Stephen], *Századok* 82 (1938), 433–487; Jenő Szűcs, “König Stefan in der Sicht der modernen ungarischen Geschichtsforschung”, *Südost-Forschungen*, 31 (1972), 17–40; György Györffy, “Dem Gedächtnis Stephans, des ersten Königs von Ungarn,” *Acta Historica Acad. Sc. Hung.*, 17 (1971), 1–11; *Idem*, *István király és műve* [King Stephen and His Work] (Bp.: Gondolat, 1977), espec. pp. 265–275; briefly also in *Idem*, *King Stephen of Hungary*, trans. by Peter Doherty, (Boulder, CO: Social Science Monographs &c. 1994) pp. 132-9; Lajos Csóka, “Az első magyar törvénykönyv keletkezése” [Origins of the First Hungarian Book of Laws], *Jogtörténeti tanulmányok*, 3, (1974), 153–176; Mónika Jánosi, *Törvényalkotás Magyarországon a korai Árpád-korban* [Making of Law in the Early Árpadian Age] (Szeged: Szegedi Középkorász Műhely, 1996). Gábor Mikó “Szent István törvényei és a pseudo-izidori hamisítványok” [The laws of St. Stephen and the Pseudo-Isidorian forgeries] *Magyar könyv- szemle* 123. (2007) 153-68 (<http://epa.oszk.hu/00000/00021/00369/153.htm>; vidimus 1.3.2018)

DECRETA S. STEPHANI REGIS

(1000–38) [LIBER PRIMUS]

Prefatio regalis decreti

Regnante divina clementia opus regalis dignitatis alimonia katholice fidei effectum amplius ac solidius alterius dignitatis operibus solet esse. Et quoniam unaqueque gens propriis utitur legibus, idcirco nos quoque dei nutu nostram gubernantes monarchiam, antiquos ac modernos imitantes augustos, decretali meditatione nostre statuimus genti, quemadmodum honestam et inoffensam ducerent vitam, ut sicut divinis legibus sunt ditati, similiter etiam secularibus addicti, ut quantum boni in his divinis ampliantur, tantum rei in istis multentur. Que autem decrevimus, in sequentibus subnotavimus lineis.

Capitula huius libri:

- I. De statu rerum ecclesiasticarum.
- II. De potestate episcoporum super res ecclesiasticas eorumque conveniencia cum laicis.
- III. Quales esse debeant testes et accusatores clericorum.
- IV. Item de eodem.
- V. De labore sacerdotum.
- VI. De concessione regali propriarum rerum.
- VII. De retentu regalium rerum.
- VIII. De observatione dominici diei.
- IX. Item aliud.
- X. De observatione quatuor temporum.
- XI. De observatione sexte ferie.
- XII. De his, qui sine confessione moriuntur.
- XIII. De observanda christianitate.
- XIV. De homicidiis.
- XV. De his, qui suas uxores occidunt.
- XVI. De evaginatione gladii.
- XVII. De periuris.
- XVIII. De libertis.
- XIX. De conventu ad ecclesiam et de his qui murmurant, vel locuntur in ecclesia hora misse.
- XX. De non recipiendis servis vel ancillis in accusatione et testimonio super dominos suos vel

dominas.

- XXI. De his, qui alienis servis libertatem acquirunt.
- XXII. De his, qui liberos in servitatem redigunt.
- XXIII. De his, qui alterius milites sibi tollunt.
- XXIV. De his, qui hospites alterius sibi tollunt.
- XXV. De his, qui flagellantur sua querentes.
- XXVI. De viduis et orphanis.
- XXVII. De raptu puellarum.
- XXVIII. De fornicationibus cum ancillis alterius.
- XXIX. De his, qui petunt sibi ancillas alienas in uxores.
- XXX. De his, qui extra regnum suas fugiunt uxores.
- XXXI. De furto mulierum.
- XXXII. De incendiis mansionum.
- XXXIII. De strigis.
- XXXIV. De malefecis.
- XXXV. De invasione domorum.

I. De statu rerum ecclesiasticarum.

Quisquis fastu superbie elatus domum dei ducit contemptibilem et possessiones deo consecratas atque ad honorem dei sub regia immunitatis defensione constitutas inhoneste tractaverit, vel infringere presumpserit, quasi invasor et violator domus dei excommunicetur. Decet enim et, ut indignationem ipsius domini regis sentiat, cuius benivolentiae contemptor et constitutionis prevaricator extitit. Nichilominus tamen rex sue concessionis immunitatem ab omnibus ditionis sue illesam conservari pricipiat. Assensum vero non prebeat improvide affirmatibus non debere esse res dominicas, id est domino dominantium traditas. Ita sunt sub defensione regis, sicuti proprie sue hereditatis. Magisque advertat, quia quanto deus excellentior est homine, tanto prestantior est divina cause mortalium possessione. Quocirca decipitur, quisquis plus in propriis quam in dominicis rebus gloriatur. Quarum divinarum rerum defensor et custos divinitate statutus diligenti cura non solum eas servare, sed etiam multiplicare debet, magisque illa, que diximus prestantiora, quam sua defendere oportet et augmentare. Si quis igitur insanus inopportunitate improbitatis sue regem a recto proposito pervertere temptaverit, nullisque remediis mitigari posse visus fuerit, obsequiis aliquibus transitoriis sit necessarius, abscondendus ab eo prociendusque est iuxta illud evangelicum: Si pes, manus vel oculus tuus scandalizat te, amputa vel erue eum et proice abs te.

II. De potestate episcoporum super res ecclesiasticas eorumque convenientia cum laicis.

Volumus, ut episcopi habeant potestatem res ecclesiasticas providere, regere et gubernare atque dispensare secundum canonicam auctoritatem. Volumus, ut et laici in eorum ministerio obediant episcopis ad regendas ecclesias, viduas et orphanos defensandos et ut obedientes sint ad eorum christianitatem servandam. Consentientesque sint comites et iudices presulibus suis ad iustitias faciendas iuxta precepta legis divine. Et nullatenus per aliquorum mendacium vel falsum testimonium neque periurium vel premium lex iusta in aliquo depravetur.

III. Quales debeant esse testes et accusatores clericorum.

Testes autem et accusatores clericorum sine aliqua sint infamia, uxores et filios habentes et omnino Christum predicantes.

IV. Item de eodem.

Testimonium laici adversus clericum nemo recipiat. Nemo enim clericum in publico examinare presumat, nisi in ecclesia.

V. De labore sacerdotum.

Scitote fratres cuncti, quod supra omnes vos laborat sacerdos. Unusquisque enim vestrum suum fert laborem proprium, ille vero et suum et singulorum. Et ideo sicut ille pro omnibus vobis, ita et vos omnes pro eo summo opere laborare debetis in tantum, ut si neccessitas fuerit, animas vestras pro eo ponatis.

VI. De concessione regali propriarum rerum.

Decrevimus nostra regali potentia, ut unusquisque habeat facultatem sua dividendi, tribuendi uxori, filiis, filiabus atque parentibus sive ecclesie, nec post eius obitum quis hoc destruere audeat.

VII. De retentu regalium rerum.

Volumus quidem, ut sicuti ceteris facultatem dedimus dominandi suorum rerum, ita etiam res, milites, servos et quicquid ad nostram regalem dignitatem pertinet, permanere immobile et a nemine quid inde rapiatur, aut subtrahatur, nec quisquem in his predictis sibi favorem acquirere audeat.

VIII. De observatione dominici diei.

Si quis igitur presbiter vel comes sive aliqua alia persona fidelis die dominica invenerit quemlibet laborantem, sive cum bubus, tollatur sibi bos, et civibus ad manducandum detur. Si autem cum equis, tollatur equus, quem dominus bove redimat, si velit, et idem bos manducetur, ut dictum est. Si quis aliis instrumentis, tollantur instrumenta et vestimenta, que si velit, cum cute redimat.

IX. Item aliud.

A sacerdotibus vero et comitibus commendetur omnibus villicis, ita ut illorum iussu omnes concurrant die dominica ad ecclesiam, maiores ac minores, viri ac mulieres, exceptis, qui ignes custodiunt. Si quis vero non observationis causa remanebit per illorum negligentiam, vapulent ac depilentur.

X. De observatione quatuor temporum.

Si quis quatuor temporum ieiunia cunctis cognita carnem manducans violaverit, per spatium unius ebdomade inclusus ieiunet.

XI. De observatione sexte ferie.

Si quis in sexta feria ab omni christianitate observata carnem manducaverit, per unam ebdomadam luce inclusus ieiunet.

XII. De his, qui sine confessione moriuntur.

Si quis tam perdurato corde est, quod absit ab omni christiano, ut nolit confiteri sua facinora secundum suasum presbiteri, hic sine omni divino officio et elemosinis iaceat, quemadmodum infidelis. Si autem parentes et proximi neglexerint vocare presbiteros et ita subiacet absque confessione morti, ditetur orationibus ac consoletur elemosinis, sed parentes lavent negligentiam ieiuniis, secundum arbitrium presbiterorum. Qui vero subitanea periclitantur morte, cum omni ecclesiastico sepeliantur honore, nam divina iudicia occulta nobis sunt et incognita.

XIII. De observanda christianitate.

Si quis observatione christianitatis neglecta et negligentie stoliditate elatus, quod in eam commiserit, iuxta qualitatem offensionis ab episcopo per disciplinas canonum iudicetur.¹⁹ Si vero rebellitate instructus rennerit sibi impositum eque sufferre, iterum eodem iudicio restringatur et etiam usque septies. Tandem super omnia si resistens et abnuens invenitur, regali iudicio, scilicet defensori christianitatis, tradatur.

XIV. De homicidiis.

Si quis ira accensus aut superbia elatus spontaneum commiserit homicidium, sciat se secundum nostri senatus decretum centum et X daturum pensas auri. Ex quibus quinquaginta ad fiscum regis deferantur, alie vero L parentibus dentur, X autem arbitris et mediatoribus condonentur, ipse quidem homicida secundum institutionem canonum ieiunet.

Item aliud.

Si quis autem casu occiderit quemlibet, XII auri pensas persolvat et sicut canones mandant, ieiunet.

Item de homicidiis servorum.

Si alicuius servus servum alterius occiderit, reddatur servus pro servo, aut redimatur et penitentiam, quod dictum est, agat.

Item aliud.

Si vero liber alicuius occiderit servum, reddat alium servum vel pretium componat et secundum canones ieiunet.

XV. De his, qui suas uxores occidunt.

Si quis comitum obduratus corde neglectusque anima, quod procul sit a cordibus fidelitatem observantium, uxoris homicidio polluetur, secundum decretum regalis senatus cum quinquaginta iuvcis parentibus mulieris concilietur et ieiunet secundum mandata canonum. Si autem miles vel alicuius vir ubertatis eandem culpam inciderit, iuxta eundem senatum solvat

parentibus X iuencos ieiunetque, ut dictum est. Si vero vulgaris in eodem crimine inveniatur, cum quinque iuencis cogitas reconcilietur et subdatur predictis ieiuniis.

XVI. De evaginatione gladii.

Ut pax firma et incontaminata per omnia maneat, tam inter maiores natu quam inter minores, cuiuscunque conditionis sint, interdiximus omnino, ut nullus ad ledendum aliquem evaginet gladium. Quod si quis posthac stimulis sue audacie tactus temptaverit, eodem iuguletur gladio.

XVII. De periuris.

Si quis valentium fide commaculatus, corde pollutus iuramento confracto periurio addictus inveniatur, perditus manu periurium luat, aut cum quinquaginta iuencis manum redimat. Si vero vulgaris periurius exteterit, manu amputata punietur aut XII iuencis redimetur et ieiunet, ut canones mandant.

XVIII. De libertis.

Si quis misericordia ductus proprios servos et ancillas libertate feriaverit cum testimonio, decrevimus, ut post obitum eius nemo invidia tactus in servitatem eos audeat reducere. Si autem libertatem promiserit et morte impediante non testificatus fuerit, habeat mulier illius vidua et filii potestatem hanc eandem libertatem testificari et agapen facere pro redemptione anime sui mariti qualitercunque velit.

XIX. De conventu ad ecclesiam et de his, qui murmurant vel locuntur in ecclesia hora misse.

Si qui ad ecclesiam venientes ad audiendum officium et ibidem hora sollempnitatis missarum inter se murmurant et ceteros inquietant exponentes fabulas otiosas et non intendentes divinas lectiones cum ecclesiastico nutrimento, si maiores sunt, increpati cum dedecore expellantur de ecclesia, si vero minores et vulgares, in atrio ecclesie pro tanta temeritate coram omnibus ligentur et corripiantur flagellis et cesura capillorum.

XX. De non recipiendis servis vel ancillis in accusationem vel testimonium super dominos vel dominas.

Ut gens huius monarchie ab omni incursu et accusatione servorum et ancillarum remota et quieta maneat, secundum decretum regalis concilii penitus interdictum est, ut nullius causa culpe aliqua servilis persona contra dominos vel dominas in accusationem vel in testimonium recipiatur.

XXI. De his, qui alienis servis libertatem acquirunt.

Si quis improvidus alienum servum sine conscientia sui senioris ante regem vel maiores natu et dignitate duxerit, ut soluto servitutis iugo levitam libertatis sibi acquirat, sciat se, si dives est, quinquaginta iuencos redditurum, ex quibus quadraginta debentur regi, X vero seniori servi, si vero pauper et tenuis, XII iuencos, ex quibus X regi, duo seniori servi.

XXII. De his, qui liberos in servitatem redigunt.

Quoniam igitur dignum deo est et hominibus optimum, unumquemque sue industria libertatis vite cursum ducere, secundum regale decretum statutum est, ut nemo comitum vel militum posthac liberam personam servituti subdere audeat. Quod si elationis audacie sue stimulatus presumpserit,

sciat se totidem ex proprio compositurum, que vero compositio inter regem et comites dividatur, ut cetera.

Item de eodem.

Sed si quis actenus in servitute retentus pro libertate sui tuenda iudicium legale faciens securus extiterit, tantummodo libertate fruatur et ille, a quo in servitute tenebatur, nichil reddat.

XXIII. De his, qui alterius milites sibi tollunt.

Volumus, ut unusquisque senior suum habeat militem, nec aliquis alter illum suadeat antiquum deserere seniore et ad se venire, inde enim litigium habet initium.

XXIV. De his, qui hospites alterius sibi tollunt.

Si quis hospitem cum benivolentia accipit et nutrimentum sibi honeste inpendit, quamdiu secundum propositum nutritur, non deserat suum nutritorem, nec ad aliquem alium suam deferat hospitalitatem.

XXV. De his, qui flagellantur sua querentes.

Si cuius miles aut servus ad alium fugerit, et his cuius miles vel servus fuga lapsus est suum miserit legatum ad reducendos eos et is legatus ibidem a quoquam percussus et flagellatus extiterit, decernimus nostrorum primatum conventu, ut ille percussor X solvat iuencos.

XXVI. De viduis et orphanis.

Volumus quidem, ut et vidue et orphani sint nostre legis participes tali tenore, ut si qua vidua cum filiis filiabusque remanserit atque nutrire eos et manere cum illis, quamdiu vixerit, promiserit, habeat postestatem a nobis sibi concessam hoc faciendi et a nemine iterum cogatur in coniugium. Si vero mutato voto iterato nubere voluerit et orphanos deserere, de rebus orphanorum nichil omnino sibi vendicet, nisi tantum sibi congrua vestimenta.

Item de viduis.

Si autem vidua sine prole remanserit et se innuptam in sua viduitate permanere promiserit, volumus, ut potestatem habeat omnium bonorum suorum et quidquid velit inde facere, faciat. Post obitum autem eius eadem bona ad suos redeant parentis mariti, si parentes habet, sin autem, rex sit heres.

XXVII. De raptu puellarum.

Si quis militum inpudicia fedatus, puellam aliquam sine concessione parentum sibi in uxorem rapuerit, decrevimus puellam reddi, etiamsi ab illo aliqua vis sibi illata sit, et raptor X solvat iuencos pro raptu, licet postea reconcilietur parentibus puelle. Si vero pauper quis hoc vulgaris agere agreditur, componat raptum V iuencis.

XXVIII. De fornicatoribus cum ancillis alterius.

Ut liberi suam custodiant libertatem incontaminatam, volumus, illis ponere cautionem. Quisquis transgrediens fornicatur cum ancilla alterius, sciat se reum criminis et pro eodem crimine inprimis decoriari. Si vero secundo cum eadem fornicatus fuerit, iterum decorietur ac depiletur. Si autem

tertio, sit servus pariter cum ancilla, aut redimet se. Si autem ancilla conceperit de eo, et parere non potuerit, sed in partu moritur, componat eandem cum altera ancilla.

De servorum fornicatione.

Servus quoque alterius, si cum ancilla alterius fornicatur, decoretur ac depiletur. Et si ancilla de eo conceperit et in partu moritur, servus venundetur ac dimidia pars pretii senior ancille detur, altera pars vero seniori servi remaneat.

XXIX. De his, qui petunt sibi ancillas alienas in uxores.

Ut nemo eorum, qui libero censentur nomine, cuiquam quid iniurie facere audeat, terrorem et cautionem inposuimus, quia in hoc regali concilio decretum est, ut si quis liber connubium ancille alterius sciente domina ancille elegerit, perdita libertatis sue industria, perpetuus efficiatur servus.

XXX. De his, qui extra regnum suas fugiunt uxores.

Ut gens utriusque sexus certa lege et absque iniuriis maneat et vigeat, in hoc regale decretum statutum est, ut si quis protervitate peditus propter abominationem uxoris patriam effugerit, uxor cuncta, que in potestate mariti habebantur, possideat, dum velit expectare virum, et nemo in aliud coniugium cogere presumat. Et si sponte nubere velit, liceat sumptis congruis sibi vestimentis et dimissis ceteris bonis ad connubium ire. Et si vir hoc audito redierit, ne liceat sibi aliam ducere preter suam, nisi cum licentia episcopi.

XXXI. De furto mulierum.

Cum igitur cunctis horrendum et omnibus abhominabile sit virilem sexum repertum furtum fecisse, et magis magisque sexum femineum, secundum regalem senatum decretum est, ut si aliqua mulier maritata furtum commiserit, a marito redimetur, et si secundo eandem culpam inciderit, similiter redimetur, si vero tertio, venundetur.

XXXII. De incendiis mansionum.

Si quis per inimicitias alterius edificia igne cremaverit, decrevimus ut et edificia restituat, et quidquid suppellectilis arsum fuerit, et insuper XVI iuvencos, qui valent XL solidos.

XXXIII. De strigis.

Si qua striga inventa fuerit, secundum iudicalem legem ducatur ad ecclesiam et commendetur sacerdoti ad ieiunandum fidemque docendam. Post ieiunium vero domum redeat. Si secundo in eodem crimine inveniatur,

simili ieiunio subiciatur, post ieiunium vero in modum crucis in pectore et in fronte atque inter scapulas incensa clave ecclesiastica domum redeat. Si vero tertio, iudicibus tradatur.

XXXIV. De maleficis.

Ut creatura dei ab omni lesione malignorum remota et a nullo detrimentum sui passura maneat, nisi a deo, a quo et augmentatur, secundum decretum senatus statuimus magni cautionem terroris veneficis ac maleficis, ut nulla persona maleficio aut veneficio quemquam hominem subvertere a

statu mentis aut interficere audeat. Ast si quis vel que posthac hoc presumpserit, tradatur in manus maleficio lesi, aut in manus parentum eius secundum velle eorum diiudicandum. Si vero sortilegio utentes inveniuntur, ut faciunt in cinere, aut his similibus, ab episcopis flagellis emendentur.

XXXV. De invasione domorum.

Volumus, ut firma pax et unanimitas sit inter maiores et minores secundum apostolum: omnes unanimes estote et cetera, nec aliquis alium invadere audeat. Nam si quis comitum post diffinitionem huius communis concilii tam contumax extiterit, ut alium domi querat ad perdendum eum atque sua dissipare, si dominus domi est et secum pugnaverit vel interfecerit, luat secundum legem de evagatione gladii confectam. Si autem comes ibidem occubuerit, sine compositone iaceat. Si vero ille non supervenerit, sed suos milites miserit, centum iuvenis componat invasionem. Si vero miles quis curtim vel domum alterius militis invaserit, X iuvenis componat invasionem. Si vulgaris quidem alterius sui similis mansiunculas invaserit, V iuvenis solvat incursionem.

Explicit liber primus.

THE LAWS OF KING STEPHEN I (1000–1038)

[BOOK ONE]

Preface to the royal law

The work of the royal office, subject to the rule of divine mercy, is by custom greater and more complete when nourished in the Catholic faith than any other office. Since every people use their own law, we, governing our monarchy by the will of God and emulating both ancient and modern caesars, and after reflecting upon the law, decree for our people too the way they should lead an upright and blameless life. Just as they are enriched by divine laws, so may they similarly be strengthened by secular ones, in order that as the good shall be made many by these divine laws so shall the criminals incur punishment. Thus we set out below in the following sentences what we have decreed.

Here are the chapters of this book.

1. The state of ecclesiastical things.
2. The powers of the bishops over church goods and their accord with laymen.
3. What sort of person may be a witness and accuser of clerks.
4. Similarly on the same.
5. The work of priests.
6. Royal concession for the free disposition of goods.
7. The preservation of royal goods.
8. The observance of the Lord's day.
9. More on the same.
10. The observance of Ember days.
11. The observance of Friday.
12. Those who die without confession.
13. The observance of Christianity.
14. On homicide.
15. Those who kill their wives.
16. Drawing the sword.
17. On perjury.
18. On manumission.
19. Gathering at church and those who mutter and chatter in church during mass.
20. Inadmissability of accusations and testimony of *servi* or *ancillae* against their masters or mistresses.
21. Those who procure liberty for *ancillae* of others.
22. Those who enslave freemen.
23. Those who take the warriors of another for themselves.

24. Those who take guests of another for themselves.
25. Those who are beaten while looking for their own.
26. Widows and orphans.
27. The abduction of girls.
28. Those who fornicate with *ancillae* of another.
29. Those who desire *ancillae* of others as wives.
30. Those who flee their wives by leaving the country.
31. Theft committed by women.
32. Arson of houses.
33. On witches.
34. On sorcerers.
35. The invasion of houses.

1 The state of ecclesiastical things.¹

Should anyone, swollen with haughty pride, hold the house of God in contempt, or mistreat the possessions consecrated to God and placed for His service under protective royal immunity, or presume to injure them, let him be excommunicated as an invader and desecrator of the house of God. It is fitting that he should also feel the indignation of his lord, the king, whose good will be disparaged and whose good order subverted. Therefore the king commands that the immunity which he has granted be preserved unimpaired by everyone subject to him. He gives no assent nor should assent be given to foolish assertions that possessions ought not to be given to the church, that is, to the Lord of Lords. Rather they receive the protection of the king in the same way as his own inheritance. He gives even more attention to them, for, just as God is greater than man, the affairs of God take precedence over the possessions of mortals. Thus the man who glories more in his own than in the things of the Lord is badly deceived. The divinely ordained defender and keeper of the things of God ought not only to preserve them with diligent care, but also increase them, and those things which we have called the more important should be defended and increased even more than his own things. If anyone, therefore, should be so foolhardy as to try through the devices of his own wickedness to turn the king away from right purpose, and it should appear that no remedies can be effectively applied, even though he may be temporarily necessary, he should be cut off by the king and cast away just as according to the Gospel: *If your foot, or your hand, or your eye offend you, cut it off, or pluck it out, and cast it from you.*²

¹ The first five chapters and at least parts of the preface are believed to have been inserted in the laws after St. Stephen's death, sometime in the eleventh century (Schiller, pp. 389–391; Sawicki, p. 407f.). This chapter follows verbatim canon 6 of the Synod of Mainz (Con. Magunt. I. a. 847; see Mansi, XIV: 905; also *MGH Cap.*, II: 177).

² Mt 18: 8; Mk 9: 42, 44, 46.

2 The powers of the bishops over church goods and their accord with laymen.³

It is our will that bishops have the power to oversee, rule, govern, and dispose of church goods according to the authority of the canons. It is our will that laymen should be obedient in their service to the bishops ruling the churches and defending widows and orphans, even as they be obedient in holding to their Christianity. The *ispáns* and judges⁴ should mete out justice according to the precepts of divine law in concert with the prelates. Just law should in no way be perverted by lies or false witness, by perjury or bribes.

3 What sort of person may be a witness and accuser of clerks.⁵

The witnesses and accusers of clerks should be without infamy,⁶ having wives and sons, and in all ways professing Christ.

4 Similarly on the same.

No one should accept the testimony of a layman against a clerk. No one should presume to try a clerk in public, unless in church.⁷

5 The work of priests.

Be it known to you, brethren, that the priest works more than any one of you. Each of you bears his own burden, but he bears his own and the burden of all others. Therefore, as he labors for you,

³This chapter follows verbatim canon 7 of the same Synod of Mainz of A.D. 847 (Mansi, XIV: 905; *MGH Cap.*, II: 179).

⁴The *comes* and *judex* in this chapter may in fact refer to two officials of the Carolingian Empire, as the text is a word-for-word borrowing from a ninth-century law. Nevertheless, we have rendered the designation of this royal officer as *ispán*, the name used for administrators and commanders of counties in Hungary. (That *comes* may have had a wider meaning, referring to an elite, is possible.) The actual existence of regular courts of *ispáns* and judges in St. Stephen's times cannot be proven from this borrowed text.

⁵The author—or his immediate model, probably a compilation of canons—here confused a passage in the “*Capitula Papae Hadriani I*” of A.D. 785 (Mansi, II: 914) which prescribes the qualities necessary in secular witnesses. The accusation of clerks belongs to the next chapter and is explicitly prohibited to secular persons.

⁶*Infamia* (“infamy”) is to be understood as a legal punishment depriving the culprit of his civil or ecclesiastical rights for such offenses as bigamy, perjury, or heresy; cf. *Dictionnaire de droit canonique*, R. Naz, ed. (Paris: Letouzey & Ané, 1953), XV, 1358f. The “false capitularies” known as the collection of Benedict the Deacon (*PL* 97: 698–911) discusses infamy extensively (cf. G. May, “Die Infamie bei Benedikt Levita”, *Österreichischen Archiv für Kirchenrecht*, 11 [1960], 16–36), and it is likely that his interpretation reached Hungary through an unidentified canonical collection.

⁷This chapter, in essence the confirmation of the *privilegium fori* of the clergy, follows verbatim the chapters of Pope Hadrian, referred to above. In fact, as Sawicki (p. 410f.) pointed out, the clergy's immunity from secular justice did not become generally accepted practice at least until the end of the eleventh century; cf. **Coloman 5 and 65**.

so you should work for him with all your strength, even, if necessary, laying down your lives for him.⁸

6 Royal concessions of free disposition of goods.

We, by our royal authority have decreed that anyone shall be free to divide his property, to assign it to his wife, his sons and daughters, his relatives, or to the church;⁹ and no one should dare to change this after his death.

7 The preservation of royal goods.

It is our will that just as we have given others the opportunity to master their own possessions, so equally the goods, warriors,¹⁰ *servi*, and whatever else belongs to our royal dignity should remain permanent, and no one should plunder or remove them, nor should anyone dare to obtain any advantage from them.

8 The observance of the Lord's day.

If a priest or *ispán*, or any faithful person finds anyone working on Sunday with oxen, the ox shall be confiscated and given to the men of the castle¹¹ to be eaten; if a horse is used, however, it shall be confiscated, but the owner, if he wishes, may redeem it with an ox which should be eaten as has been said. If anyone uses other equipment, this tool and his clothing shall be taken, and he may redeem them, if he wishes, with a flogging.¹²

⁸This article—as some other passages as well— is strongly indebted to the Pseudo-Isidorian false decretals, specifically to the *Collectio Danieliana*; see Mikó, “Szent István törvényei.”

⁹The king seems to have wanted to transform the undivided property of clans into the personal property of freemen and nobles. This was hardly successful as inheritance of “allodial” property remained restricted to the clans. Even though the thirteenth-century privileges (see **1222: 4**; **1231: 11**; **1290: 19**) repeated the clause of free disposition, with the enactment of the *aviticitas* in **1351**, the inalienation of noble property became the law in force until the nineteenth century

¹⁰*Miles*, meaning “warrior”, seems to have been an armed servant of the king and magnates. On the social categories of the ages in general, see László Solymosi, “Gesellschaftsstruktur zur Zeit des Königs Istvan der Heiligen” in *Gizella és kora. Felolvasóülések az Árpád-korból*, I [Queen Gizella and her Age. Colloquia on the Arpadian age],. Zs. V. Fodor, ed. (Veszprém: Laczkó Dezső Múzeum, 1993) pp. 59–69.

¹¹*Cives* in St. Stephen's time were dependent men attached to the castles of the royal *ispáns* for their defense and maintenance; their exact social status has been a matter of long debate—just as that of the servile population in general. (In particular between K. Tagányi and L. Erdélyi in *Történelmi Szemle*, 3–4 (1914– 1916); on these historians, see F. Rottler, “Beiträge zur Kritik der Historiographie des frühen Mittelalters: Über die Geschichtsanschauung László Erdélyis”, *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae: Sectio historica.*, 3 (1961), 121–152; and S. B. Vardy, “The Hungarian Economic History School” *Journal for European Economic History*, 4 (1975), 121–136.

¹²Lit.: “by his skin,” translators suggest flogging, which is supported by the wording of a decree of King Childebert of A.D. 596 with a similar injunction, where the redemption is *de dorsum* (his back). See Závodszy, p. 22.

9 More on the same.

Priests and *ispáns* shall enjoin village reeves¹³ to command everyone both great and small,¹⁴ men and women, with the exception of those who guard the fire, to gather on Sundays in the church. If someone remains at home through their negligence let them be beaten and shorn.

10 The observance of Ember days.¹⁵

If someone breaks the fast known to all on Ember days, he shall fast in prison for a week.

11 The observance of Friday.

If someone eats meat on Friday, a day observed by all Christianity,¹⁶ he shall fast incarcerated during the day for a week.¹⁷

12 Those who die without confession.

If someone has such a hardened heart – God forbid it to any Christian – that he does not want to confess his faults according to the counsel of a priest, he shall lie without any divine service and alms like an infidel. If his relatives and neighbors fail to summon the priest, and therefore he should die unconfessed, prayers and alms should be offered, but his relatives shall wash away their negligence by fasting in accordance with the judgment of the priests. Those who die a sudden death shall be buried with all ecclesiastical honor, for divine judgment is hidden from us and unknown.

13 The observances of Christianity.

¹³ Although *villici* are known to have existed in the Carolingian realm, the models for this chapter (e.g., Charlemagne's capitulary of A.D. 789, c. 25, *MGH Cap.*, I: 64 or Capit. de part Saxon, c. 18, *ibid.*, p. 69) do not mention them as being in charge of supervising Sunday church attendance. About *villici* in Hungary we know from later times that they were frequently elected by the villagers but also represented the lord of the land.

¹⁴ The translation can also be read: "old and young" (cf. Sawicki, p. 410f.).

¹⁵ The observance of three days' fast during the weeks following Ash Wednesday, Pentecost, the Exaltation of the Holy Cross, and St. Lucia was prescribed for the Latin church only under Pope Gregory VII, but it was widespread in the Carolingian realm and its successor states; see also **Coloman 71** and **Syn. Szab. 25**.

¹⁶ This decree prescribed what had been general practice in most of Europe, although, according to Závodszy (p. 25), only c. 11 of the council of Coyanza in A.D. 1050 (Mansi XIX: 790) made it generally mandatory for laymen. Comparing it with a tenth-century Bavarian law (Lex Baiuvariorum, Additamenta: Acta synodi Ratisbon., *MGH LL*, III: 456), he regards this chapter as a proof of South German influence on the legislation

¹⁷ Some Hungarian translations render the passage "fast for a week in the dark", but neither the Latin text, nor logic (in comparison with ch. 10) justifies this

If someone neglects a Christian observance and takes pleasure in the stupidity of his negligence, he shall be judged by the bishops according to the nature of the offense and the discipline of the canons.¹⁸ If he rebelliously objects to suffer the punishment with equanimity, he shall be subject to the same judgment seven times over. If, after all this, he continues to resist and remains obdurate, he shall be handed over for royal judgment, namely to the defender of Christianity.¹⁹

14 On homicide.

If someone driven by anger and arrogance willfully commits a homicide, he should know that according to the decrees of our council²⁰ he is obliged to pay one hundred ten gold *pensae*,²¹ from which fifty will go to the royal treasury, another fifty will be given to relatives, and ten will be paid to arbiters and mediators.²² The killer himself shall fast according to the rules of the canons.²³

More on the same.

If someone kills a person by chance, he shall pay twelve *pensae* and fast as the canons command.

The killing of slaves.

If someone's slave kills another's slave, the payment shall be a slave for a slave, or he may be redeemed and do penance as has been said.

More on the same.

¹⁸ This chapter in fact authorizes the introduction of canon law into Hungary (cf. also ch. 14 below); on this and its later development, see Gy. Bónis, "Entwicklung der geistlichen Gerichtsbarkeit in Ungarn vor 1526", *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, 80, Kan. Abt. 49 (1963), 174–235

¹⁹ The king as *defensor christianitatis*, in this case as the judge of the incorrigible backsliding neophyte, was, of course, central to the idea of Christian kingship which Stephen wished to establish by his coronation with papal-imperial approval; cf. the Preface and ch. 1 above; in general, see P. Váczy, *Die erste Epoche des ungarischen Königtums* (Pécs: Danubia, 1935).

²⁰ This collection uses the words *senatus*, *consilium regalis* or *consilium commune* for the royal council; that—at any rate in later centuries—consisted of the great men (barons) and prelates in an informal way, actually of those, who happened to be in the king's entourage.

²¹ The *pensa auri* was equivalent to the contemporary Byzantine gold *solidus*; see Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325], (Budapest: Magyar Tudományos Akadémia, 1916., repr. 199), pp. 158–168)

²² Note the role of the arbitrators and the claim of the king to parts of the composition. Fifty *pensae* was the composition (*wergeld*) of a free person in St. Stephen's Hungary; fifty *pensae* was the royal fine and ten the "cost" of the proceedings. The figures of fifty or hundred and ten *pensae* occur quite frequently as the highest sums to be paid as composition or fine; see, e.g., **Stephen: II: 4; Ladislas II: 6.**

²³ Penances for different types of homicide were prescribed in every penitential, ranging from seven to ten years of fasting; cf., e.g., Poenitentiale Pseudo-Romanum c. 1 § 1 (N. Wasserschleben, *Die Bußordnungen der abendländischen Kirche* [Halle: Graeger, 1851], p. 364) or Poenitentiale Hubertense, c. 1 (*ibid.*, p. 377).

If a freeman kills the slave of another, he shall replace him with another slave or pay his price, and fast according to the canons.

15 Those who kill their wives.

If an *ispán* with a hardened heart and a disregard for his soul – may such remain far from the hearts of the faithful – defiles himself by killing his wife, he shall make his peace with fifty steers²⁴ to the kindred of the woman, according to the decree of the royal council, and fast according to the commands of the canons. And if a warrior or a man of wealth commits the same crime he shall pay according to that same council ten steers and fast, as has been said. And if a commoner²⁵ has committed the same crime, he shall make his peace with five steers to the kindred and fast.²⁶

16 Drawing the sword.

In order that peace should remain firm and unsullied among the greater and the lesser of whatever station, we forbid anyone to draw the sword with the aim of injury. If anyone in his audacity should put this prohibition to the test, let him be killed by the same sword.

17 On perjury.

If a powerful man of stained faith and defiled heart be found guilty of breaking his oath by perjury, he shall atone for the perjury with the loss of his hand; or he may redeem it with fifty steers. If a commoner commits perjury, he shall be punished with the loss of his hand or may redeem it by twelve steers and fast, as the canons command.²⁷

18 On manumission.

²⁴ *Iuvenci*, meaning “steers” or “young oxen”, served apparently as the “general equivalent” in eleventh-century Hungary, a society extensively engaged in animal husbandry. See A. Kraloványzky, “A tinópénz kérdéséhez I. István korában” [On the Question of Steer-Money in the Age of Stephen I], *Alba Regia*, 14 (1975), 283–286. They were valued at one gold *pensa* each (see **Ladislav III: 29**), hence fifty oxen, that is, fifty *pensae*, reflect here a free woman’s composition (cf. ch. 14 above).

²⁵ *Vulgaris*, meaning “commoner”, a rather general category (see below) is rarely used after 1050.

²⁶ The three main strata of society under St. Stephen suggested by this chapter, i.e., *comes* (*ispán*) or *maior* (magnate), *miles* (warrior) or *liber* (freeman), and the different servile elements (*servus*, *pauper*, *vulgaris*), are succinctly discussed by György Györffy, “Ungarn von 895 bis 1400,” in *Europäische Wirtschafts- und Sozialgeschichte im Mittelalter*, ed. J. A. van Houtte, Stuttgart: Klett-Cotta, 1980. [*Handbuch der europäischen Wirtschafts- und Sozialgeschichte*, ed. H. Kellenbenz, II], 625–55, here p. 632ff. See also n. 10, above.

²⁷ The same punishment was prescribed, *inter alia*, in the Capitulary of Herstal A.D. 779 (*MGH Cap.*, I: 49, c. 10). This severe punishment had the effect of depriving the perjurer of any future capacity to swear an oath in his own defense or in that of another; cf. J. Goebel, *Felony and Misdemeanor* (Philadelphia: Univ. of Pennsylvania Press, 1937), pp. 79–80. The canonical punishment for perjury was a seven-year penance, including four years of fasting; cf. Poenitentiale Merseburgense c. 5 (Wasserschleben, *Bußordnungen*, p. 392)

If anyone, prompted by mercy, should set his male and female slaves free in front of witnesses, we decree that no one out of ill will shall reduce them to servitude after his death. If, however, he promised them freedom but died intestate, his widow and sons shall have the power to bear witness to this same manumission and to render *agape*²⁸ for the redemption of the husband's soul, if they wish.

19 Gathering at church and those who mutter or chatter in church during mass.

If some persons, upon coming to hear the divine service, mutter among themselves and disturb others by relating idle tales during the celebration of mass and by being inattentive to Holy Scripture with its ecclesiastical nourishment, they shall be expelled from the church in disgrace if they are older, and if they are younger²⁹ and common folk they shall be bound in the narthex of the church in view of everyone and punished by whipping and by the shearing off of their hair.

20 Inadmissibility of accusations and testimony of *servi* or *ancillae* against their masters or mistresses.

In order that the people of this kingdom may be far removed and remain free from the affronts and accusations of *servi* and *ancillae*, it is wholly forbidden by decree of the royal council that any servile person be accepted in accusation or testimony against their masters or mistresses in any criminal case.

21 Those who procure liberty for *servi* of others.³⁰

If anyone thoughtlessly brings the *servus* of another, without the knowledge of his master, before the king or before persons of higher birth and dignity in order to procure for him the benefits of liberty after he has been released from the yoke of servitude, he should know that if he is rich, he shall pay fifty steers of which forty are owed to the king and ten to the master of the *servus* but if he is poor and of low rank, he shall pay twelve steers of which ten are due to the king and two to the master of the *servus*.

²⁸ The reference here is not to the early Christian *agape*, but rather to a memorial meal shared by the manumitted or an offering made in the memory of the dead

²⁹ “Older” or “younger” seems to be appropriate here, although the Latin may also mean persons of socially “higher” or “lower” standing

³⁰ The exact status of male and female servile persons in eleventh-century Hungary has been the object of scholarly debates for at least a century (see also above, n. 11). In the printed version of DRMH, the editors decided to avoid coming down on either side and translated *servus* and *ancilla* &c. as “bondman” or “bondwoman” intending to escape the decision, but that was awkward. Now see: László Solymosi, “Liberty and Servitude in the Age of Saint Stephen,” in: Attila Zsoldos, ed. *Saint Stephen and His Country: A Newborn Kingdom in Central Europe: Hungary* (Budapest: Lucidus, 2001), pp. 69-80. Most recently, Cameron Sutt, in *Slavery in Árpád-era Hungary in a Comparative Context* (Leiden: Brill, 2005) argued— with extensive discussion of the relevant literature—quite convincingly for regarding them slaves, but this is not the last word on the matter. We, therefore, took the “easy way out” by keeping the Latin term and leaving the decision to the reader.

22 Those who enslave freemen.

Because it is worthy of God and best for men that everyone should conduct his life in the vigor of liberty, it is established by royal decree that henceforth no *ispán* or warrior should dare to reduce a freeman to servitude. If however, compelled by his own rashness he should presume to do this, he should know that he shall pay from his own possessions the same composition, which shall be properly divided between the king and the *ispáns*, as in the other decree above.

Similarly on the same.

But if someone who was once held in servitude lives freely after having submitted to a judicial procedure³¹ held to consider his liberty, he shall be content with enjoying his freedom, and the man who held him in servitude shall pay nothing.

23 Those who take the warriors of another for themselves.

We wish that each lord have his own warriors and no one shall try to persuade a warrior to leave his long-time lord and come to him, since this is the origin of quarrels.

24 Those who take guests³² of another for themselves.

If someone receives a guest with benevolence and decently provides him with support, the guest shall not leave his protector as long as he receives support according to their agreement, nor should he transfer his service³³ to any other.

25 Those who are beaten while looking for their own.

³¹ This technical term meant in fact an ordeal; there are many examples of trials by ordeal regarding the assertion of liberty to be found in the records of ordeals by hot iron at Várad (Nagyvárad/Oradea). See: *Regestrum Varadiense examinum ferri candentis ordine chronologico digestum*, J. Karácsonyi, S. Borovsky, eds. (Nagyvárad: Capitulum Varadiense Lat. Rit., 1903); cf. I. Zajtay, “Le registre de Varad: Un document judiciaire du XII^e siècle”, *Revue d’histoire du droit*, 4, No. 32 (1954), 527–562 and M. Lupesco Makó, “Between Sacred and Profane: The Trial by Hot Iron Ceremony Based on the ‘Regestrum Varadiense’” *Mediævalia Transilvanica* 3 (1999), pp. 5–26. For the European-wide practice of recourse to the “judgment of God”, see R. C. van Caenegem, “La preuve dans le droit du moyen âge”, *Recueils de la Société Jean Bodin pour l’histoire comparative des institutions*, 17 (1965), 691–753, trans. J. R. Sweeney and D. A. Flanary as “Methods of Proof in Western Medieval Law”, *Academiae Analecta*, Academie voor Wetensch., Lett. en Schone Kunsten van België, Kl. d. Lett., 45, No. 3 (1983), 85–127.

³² In St. Stephen’s time the foreigners who came to Hungary were mostly Western clerks and knights; see Erik Fügedi, “Das mittelalterliche Königreich Ungarn als Gastland”, in Walter Schlesinger, ed., *Die deutsche Ostsiedlung des Mittelalters als Problem der Europäischen Geschichte* (Sigmaringen: Thorbecke, 1975), pp. 471–508. See now also Erik Fügedi and János M. Bak, “Foreign Knights and Clerks in Early Medieval Hungary,” in Nora Berend, ed. *Expansion of Central Europe in the Middle Ages* pp. 319–32. (Farnham: Ashgate Variorum) [The Expansion of the Latin Europe, 1000 – 1500, vol. 5]

³³ *Hospitalitas*, a technical term of early medieval Barbarian-Roman arrangements, may also mean the transfer of the host’s protection to another guest.

If a warrior or a *servus* flees to another and he whose warrior or man has run away sends his agent to bring him back, and that agent is beaten and whipped by anyone, we decree in agreement with our magnates that he who gave the beating shall pay ten steers.

26 Widows and orphans.

We also wish widows and orphans to be partakers of our law in the sense that if a widow, left with her sons and daughters, promises to support them and to remain with them as long as she lives, she shall have the right from us to do so, and no one should force her to marry. If she has a change of heart and wants to marry and leave the orphans, she shall have nothing from the goods of the orphans except her own clothing.³⁴

More about widows.

If a widow without a child promises to remain unmarried in her widowhood, she shall have the right to all her goods and may do with them what she wishes. But after her death her goods shall go to the kin of her husband, if he has any, and if not, the king is the heir.

27 The abduction of girls.

If any warrior debased by lewdness abducts a girl to be his wife without the consent of her parents, we decree that the girl should be returned to her parents, even if he did anything by force to her, and the abductor shall pay ten steers for the abduction, although he may afterwards have made peace with the girl's parents. If a poor man who is a commoner should attempt this, he shall compensate for the abduction with five steers.³⁵

28 Those who fornicate with *ancillae* of another.³⁶

In order that freemen preserve their liberty undefiled, we wish to warn them. Any transgressor who fornicates with an *ancilla* of another, should know that he has committed a crime, and he is to be whipped for the first offense. If he fornicates with her a second time, he should be whipped and shorn; but if he does it a third time, he shall become a slave together with the woman, or he may redeem himself. If, however, the *ancilla* should conceive by him and not be able to bear but dies in childbirth, he shall make compensation for her with another *ancilla*.

The fornication of *servi*.

³⁴ In contrast to later laws (e.g., **Ladislav III: 6**), married women apparently did not yet have a right to their *dos* or dowry after the death of their husbands; see also below, ch. 30

³⁵ Violent abduction of girls, a widespread custom in archaic societies, was repeatedly prohibited in “barbarian laws” and medieval synodal statutes. Nevertheless, it survived in many countries in one form or another; ritual remnants of this could be found in Hungarian folk custom until quite recently; cf. E. Tárkány Szücs, *Magyar jogi népszokások* [Hungarian Legal Folk Customs] (Budapest: Gondolat, 1981), pp. 255– 256.

³⁶ On *ancilla*, see n. 30, above.

If a *servus* of one master fornicates with the *ancilla* of another, he should be whipped and shorn, and if the woman should conceive by him and dies in childbirth, the man shall be sold and half of his price shall be given to the master of the *ancilla*, the other half shall be kept by the master of the *servus*.

29 Those who desire *ancillae* of others as wives.

In order that no one who is recognized to be a freeman should dare commit this offense, we set forth what has been decreed in this royal council as a source of terror and caution so that if any freeman should choose to marry a *ancilla* of another with her master's consent, he shall lose the enjoyment of his liberty and become a slave forever.

30 Those who flee their wives by leaving the country.

In order that people of both sexes may remain and flourish under fixed law and free from injury, we establish in this royal decree that if anyone in his impudence should flee the country out of loathing for his wife, she shall possess everything which was her husband's, and no one shall force her into another marriage. If she voluntarily wishes to marry, she may take her own clothing leaving behind other goods, and marry again. If her husband, hearing this, should return, he is not allowed to replace her with anyone else, except with the permission of the bishop.

31 Theft committed by women.

Because it is terrible and loathsome to all to find men committing theft, and even more so for women, it is ordained by the royal council, that if a married woman commits theft, she shall be redeemed by her husband, and if she commits the same offense a second time, she shall be redeemed again; but if she does it a third time, she shall be sold.

32 Arson of houses.

If anyone sets a building belonging to another on fire out of enmity, we order that he replace the building and whatever household furnishing were destroyed by the fire, and also pay sixteen steers which are worth forty *solidi*.³⁷

33 On witches.

If a witch is found, she shall be led, in accordance with the law of judgment into the church and handed over to the priest for fasting and instruction in the faith. After the fast she may return home. If she is discovered in the same crime a second time, she shall fast and after the fast she shall be branded with

³⁷ In this exceptional case, Bavarian silver *solidi* are meant, of which 2.5 were equal to a Byzantine gold *solidus* (the frequently cited *pensa auri* of this collection). Thus the exchange of sixteen steers, worth the same number of gold pieces, is consistent, only the author of the laws did not change the monetary equivalent from the probable model of this chapter, the Lex Baiuvariorum (*MGH LL*, III: 306, X. 1); see Hóman, *Magyar pénztörténet 1000–1325*, pp. 165–67

the keys of the church in the form of a cross on her bosom, forehead, and between the shoulders.³⁸ If she is discovered on a third occasion, she shall be handed over to the judge.³⁹

34 On sorcerers.

So that the creatures of God may remain far from all injury caused by evil ones and may not be exposed to any harm from them – unless it be by the will of God who may even increase it – we establish by decree of the council a most terrible warning to magicians and sorcerers that no person should dare to subvert the mind of any man or to kill him by means of sorcery and magic. Yet in the future if a man or a woman dare to do this he or she shall be handed over to the person hurt by sorcery or to his kindred, to be judged according to their will. If, however, they are found practicing divination as they do in ashes or similar things, they shall be corrected with whips by the bishop.

35 The invasion of houses.

We wish that peace and unanimity prevail between great and small⁴⁰ according to the Apostle: *Be ye all of one accord*⁴¹, etc., and let no one dare attack another. For if there be any *ispán* so contumacious that after the decree of this common council he should seek out another at home in order to destroy him and his goods, and if the lord of the house is there and fights with him and is killed, the *ispán* shall be punished according to the law about drawing the sword.⁴² If, however, the *ispán* shall fall, he shall lie without compensation. If he did not go in person but sent his warriors, he shall pay compensation for the invasion with one hundred steers. If, moreover, a warrior invades the courtyard and house of another warrior, he shall pay compensation for the invasion with ten steers. If a commoner invades the huts of those of similar station, he shall pay for the invasion with five steers.

End of the first book.

³⁸ No parallel is known to this kind of branding, although wearing “the cross of infamy” on the clothes of those convicted of heresy may have been a later, less brutal form of the same punishment.

³⁹ Secular court is meant here.

⁴⁰ Or: “young and old.”

⁴¹ Cf. Phil 2: 2–4.

⁴² See above, ch. 16.

CONCORDANCE

dDRMH (Same as Závodszy)	<i>Magyar Törvénytár/Corpus Iuris Hungarici</i> 1896 (same as MPL 151: 1245–54)	<i>Codex Admont</i> , ed. E. Bartoniek
Stephen I	Stephen II	Stephen I
1–3	1–3	1–3
4	3 § 1–2	4
5–13	4–12	5–13
14	16, 13	14
15	14	15
16		16
17	15	17
18–20	17–19	18–20
21		21
22–35	20–33	22–35

THE LAWS OF KING STEPHEN I OF HUNGARY

(1000–1038)

Book II (St 2)

The second book of laws belongs also to the legislative foundation of the Kingdom of Hungary.. The king legislated both for the newly created government of royal counties and for the dioceses in the ecclesiastical sphere. The exact date of the codification cannot be established , but the second book is now dated to the last decade of his reign, c. 1030–1038 or, perhaps (according to Jánosi), later, compiled under Andrew I (1046--60), but reflecting decisions of the founding monarch. The text has numerous verbal, stylistic, and conceptual similarities with papal and Frankish royal- imperial canons and capitularies (Závodszy, pp. 13–56). Canonical and Carolingian models may have reached Hungary through the Western (Bavarian, Italian, Lotharingian) missionaries who, together with Western knights, were called in by the king. The author of the laws must have been one of them, perhaps a monk, but his person cannot be identified with any certainty.

The textual transmission of the laws was studied most carefully by Mónika Jánosi (1945-95). She proposed that a mid-eleventh century text found its way to the monastery of Admont (version A), but remained unknown in Hungary until the nineteenth century. A second version, a few chapters longer (B 1) was compiled around 1100, perhaps for King Coloman (1095-1116), who referred to it in his law (see **Colo** Preamble.). It survived in four later codices, the earliest of which may have been written in 1406, but known only from a copy of two hundred years later. Some time before the sixteenth century, a third version (B 2) was compiled, not significantly different from B 1 save some word and chapter sequence. Both B versions were known to the first editors of the *Corpus Juris Hungarici*, John Zsámbuki (Sambucus) and Bishop Zakariás Mosóczy (on this, see Andor Csizmadia, "Previous editions of the laws of Hungary, in: *Decreta Regni Mediaevalis Hungariae 1000–1526: Laws of the Medieval Kingdom o Hungary vol. 1 1000–1301*, János M. Bak, György Bónis, James R. Sweeney, ed. 2 (Idyllwild, CA: Charles Schlacks, 1999) xvii—xxxiii, here xxii-xxv. Our edition follows the transcription of Ferenc Döry (1875-1960) based on the best codices.

Best MSS:

“Codex Admont”, late twelfth century, ff. 119–126 of Codex 712, Monastery of Admont, Austria; presently Széchényi National Library, Budapest, Clmae 433.

Codex Thuroczi”, a fifteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Clmae 407, ff. 79v–85r.

Codex Ilosvay”, a sixteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Fol. Lat. 4023, ff. 12r–17r.

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896) 1, 20-43[=MTvT/CJH]; Levente Závodszy, *A Szt. István. Szent László és Kálmán korabeli törvények és zsinati határozatok forrásai* [Sources of the laws and synodal decrees from the times of St. Stephen, St. Ladislav, and Coloman], pp. 153-6 (Budapest: Szt. István Társulat, 1904); *Szent István törvényeinek XII. századi kézírata. Az Admonti Kodex* [A Twelfth-Century Manuscript of the Laws of St. Stephen: The Admont Codex], Emma Bartoniek, ed. Budapest: Lantos, 1935.

LIT: F. Schiller, "Das erste ungarische Gesetzbuch und das deutsche Recht," *Festschrift Heinrich Brunner* (Weimar: Böhlau Nachf., 1910) pp. 379-404; J. von Sawicki, "Zur Textkritik und Entstehungsgeschichte der Gesetze König Stefans des Heiligen", *Ungarische Jahrbücher*, 9 (1929), 395-425; György Bónis, "Szent István törvényeinek önállósága" [The Autonomous Character of the Laws of St. Stephen], *Századok* 82 (1938), 433-487; Jenő Szűcs, "König Stefan in der Sicht der modernen ungarischen Geschichtsforschung", *Südost-Forschungen*, 31 (1972), 17-40; György Györfy, "Dem Gedächtnis Stephans, des ersten Königs von Ungarn," *Acta Historica Acad. Sc. Hung.*, 17 (1971), 1-11; Idem, *István király és műve* [King Stephen and His Work] (Bp.: Gondolat, 1977), espec. pp. 269-275; briefly also in Idem, *King Stephen of Hungary*, trans. by Peter Doherty, (Boulder, CO: Social Science Monographs &c. 1994) pp. 132-9; Lajos Csóka, "Az első magyar törvénykönyv keletkezése" [Origins of the First Hungarian Book of Laws], *Jogtörténeti tanulmányok*, 3, (1974), 153-176; Mónika Jánosi, *Törvényalkotás Magyarországon a korai Árpád-korban* [Making of Law in the Early Árpadian Age] (Szeged: Szegedi Középkorász Műhely, 1996).

DECRETA S. STEPHANI REGIS (1000–1038)

[LIBER SECUNDUS]

I. De regali dote ad ecclesiam.

Decem ville ecclesiam edificent, quam duobus mansis totidemque mancipiis dotent, equo et iumento, sex bubus et duabus vaccis, XXX minutis bestiis. Vestimenta vero et cooperativa rex prevideat, presbiterum et libros episcopi.

II. De successoribus regalium beneficiorum.

Consensimus igitur petitioni totius senatus, ut unusquisque propriorum simul et donorum regis dominetur, dum vivit, excepto, quod ad episcopatum pertinet et comitatum, ac post eius vitam filii simili dominio succedant. Nec pro ullius causa reatus detrimentum bonorum suorum patiatur quis, nisi consiliatus mortem regis aut traditionem regni fuerit, vel in aliam fugerit provinciam. Tunc vero bona illius in regiam veniant potestatem. Ast si quis in consilio regie mortis aut traditionis regni legaliter inventus fuerit, ipse vero capitali subiaceat sententie, bona vero illius filiis innocentibus inremota sint remanentibus salvis.

III. De servis et servorum occisoribus.

Si alicuius servus servum alterius occiderit, senior homicide medietatem servi componat seniori interfecti, si potest, sin autem peracta una quadragesima venundetur servus et pretium dividatur.

IV. De liberatione eiusdem.

Servum liberari homicidam, si seniori placuerit, cum centum et X iuvcis aut redimat, aut tradat.

V. De libertate servorum.

Si quis alienis servis libertatem acquirere nititur, quot servi erint, totidem mancipia solvat, ex quibus due partes regi, tertia seniori servorum. Rex autem ex sua parte tertiam tribuat comiti.

VI. De furto servorum.

Si quis servorum semel furtum commiserit, reddat furtum, et componat nasum V iuvcis, si potest, sin autem abscidatur. Si absciso naso iterum commiserit furtum, componat aures V iuvcis, si potest, sin autem abscindantur. Si idem tertio furtum commiserit, careat vita.

VII. De furto liberorum.

Si quis liberorum furtum commiserit, hac lege componere decrevimus. Si semel, redimat se, si potest, sin autem venundetur. Si autem idem venundatus furtum commiserit, legibus servorum subiaceat.

Item de eodem.

Si secundo, simili legi subiaceat, si vero tertio, dispendio vite diiudicetur.

VIII. De compositione regis.

Si quis comitum partem regis defraudaverit, reddat fraudem et duplo componat.

IX. De iniusta appellatione.

Si quis militum iudicium a suo comite recte iudicatum spernens, regem appellaverit, cupiens comitem suum reddere iniustum, sit debitor decem pensarum auri suo comiti.

X. De violentia comitis.

Si quis comitum inventa aliqua occasione quid iniuste militi abstulerit, reddat, et insuper ex proprio tantum.

XI. De solutione mendacii.

Si quis autem militum, suum spontaneum donum dicens sibi vi ablatum, mendax extiterit, ex hoc careat et insuper tantumdem solvat.

XII. De iudicio gladii.

Si quis gladio hominem occiderit, eadem gladio iuguletur.

XIII. De debilitatione membrorum.

Si quis autem gladio evaginato alium quemlibet debilitaverit, vel in oculo, vel in pede, vel in manu, consimile dampnum sui corporis patiatur.

XIV. De adulatoribus.

Si quis falsum testimonium vel adulationis sermonem contra aliquos protulerit, tacereque eos deprecatus fuerit, ut astutia diaboli ad invicem eos separet, solvat duas compositiones fallacis lingue pro reatu mendacii. Si uni soli adulatus fuerit, privetur lingua.

XV. Ne furis testimonium recipiatur.

Si quis illorum, qui vulgo udvornich vocantur, furtum commiserit, lege liberorum diiudicetur, testimonium autem eorum inter liberos non recipiatur.

[XVI.] De gladii vulneratione.

Si quis vero gladio vulneraverit aliquem et vulneratus de eodem vulnere sanus et incolumis evaserit, homicidii compositionem vulneris illator componat.

[XVII.] De gladii evaginatione sine vulnere.

Si quis furore repletus evaginaverit gladium et tamen non leserit, pro sola evaginatione mediam homicidii compositionem absolvat.

[XVIII.] De testimonio servorum regali curie vel civitati prepositorum. Si quis servorum curie regali aut civitati preficitur, testimonium eius inter comites recipiatur. Item si servus seniorem, si miles suum comitem interfecerit.

[XIX.] De conspiratione regis et regni.

Si quis in regem aut in regnum conspiraverit, refugium nullum habeat ad ecclesiam. Et si quis contra regis salutem aut dignitatem quolibet modo aliquid conspiraverit aut conspirare aliquid temptaverit, seu temptanti sciens consenserit, anathematizetur et omnium fidelium communione privetur. Et si quis huiusmodi aliquem noverit et probare valens non edicaverit, predictae subiaceat dampnationi.

[XX.] De decimatione.

Si cui deus decem dederit in anno, decimam deo det. Et si quis decimam suam abscondit, novem solvat. Et si quis decimationem episcopo separatam furatus fuerit, diiudicetur ut fur ac huiusmodi compositio tota pertineat ad episcopum.

[XXI.] De versutia comitum.

Si quis versutiis alicui comitum vel alteri persone fideli dixerit: audivi regem ad perditionem tui loqui et hic inventus fuerit, pereat.

The Laws of King St. Stephen I

Book II

1 The royal contribution to a church.

Ten villages¹ shall build a church and endow it with two manses and the same number of *mancipii*,² a horse and mare, six oxen, two cows, and thirty small animals. The king shall provide vestments and altar cloths, and the bishop the priests and books.

2 Successors to royal grants.

We have agreed to the petition of the whole council that everyone during his lifetime shall have mastery over his own property³ and over grants of the king, except for that which belongs to a bishopric or a county,⁴ and upon his death his sons shall succeed to a similar mastery. Nor should an accused suffer damage to his goods for any reason, unless he plotted the king's death or the betrayal of the kingdom, or fled to a foreign land. In this case his goods devolve to the king. Yet if anyone should be found guilty according to law of plotting the king's death or the betrayal of the kingdom, he shall be subjected to capital punishment but his goods shall remain secure and his innocent sons undisturbed.

3 *Servi* and the killers of *servi*.

If someone's *servus* kills another's *servus*, the master of the killer shall compensate the master of the victim with the price of the *servus*, if he can, but if not, the slave shall be sold after forty days and his price divided.⁵

¹ *Villa*, means "village", "village community."

² *Mansus* means a servile peasant tenement. The laborers (probably whole families) belonging to it are referred to as *mancipia*. The exact status of male and female servile persons in eleventh-century Hungary has been the object of scholarly debates for at least a century (see also above, n. 11). In the printed version of DRMH, the editors decided to avoid coming down on either side and translated *mancipium*, *servus* and *ancilla* &c. as "bondman" or "bondwoman" intending to escape the decision, but that was awkward. Now see: László Solymosi, "Liberty and Servitude in the Age of Saint Stephen," in: Attila Zsoldos, ed. *Saint Stephen and His Country: A Newborn Kingdom in Central Europe: Hungary* (Budapest: Lucidus, 2001), pp. 69-80. Most recently, Cameron Sutt, in *Slavery in Árpád-era Hungary in a Comparative Context* (Leiden: Brill, 2005) argued—with extensive discussion of the relevant literature—quite convincingly for regarding them slaves, but this is not the last word on the matter. We, therefore, took the "easy way out" by keeping the Latin term and leaving the decision to the reader. -- The endowment of a parish church follows essentially Carolingian patterns, as codified, e.g., in the *Capit. de partibus Saxoniae* c. 15, *MGH Cap.*, I, 69.

³ I.e., something like allodial lands

⁴ The existence of land given as an allotment to the office of a bishop or and *ispán* has often been overlooked. This type of "temporary donation", not dissimilar to Western benefices, has not been studied in detail.

⁵ Cf. **Stephen I: 14.**

4 The liberation of the same [*servi*].⁶

If the master wants, he may either free the *servus* who killed a freeman by paying one hundred ten steers, or he may hand him over.

5 The freedom of *servi*.

If someone wants to procure the freedom of *servi* of other masters, he may pay for as many *servi* as there are, from which two parts go to the king, the third to the master of the men. The king shall give a third of his part to the *ispán*.

6 Theft by *servi*⁷

If a *servus* commits a theft once, he shall make restitution and pay compensation for his nose with five steers, if he can, otherwise it shall be cut off. If having lost his nose he steals again, he shall pay composition for his ears with five steers, if he can, otherwise they shall be cut off. But if he steals a third time, he shall lose his life.

7 Theft by freemen.

If a freeman commits a theft, we decree that he make composition by this law: if he does it once, he shall redeem himself, if he can, otherwise he shall be sold; if after having been sold he commits a theft, he shall be subject to the law of slaves.⁸

On the same.

If he⁹ commits a second offense, he shall be subject to the same law; if a third time, he shall be sentenced to death.

8 The king's composition.

If an *ispán* cheats the king of his portion, he shall make restitution and pay double as compensation.

9 Unjust appeal.

If a warrior, scorning the just judgment of his *ispán* appeals to the king, seeking to prove the injustice of the *ispán*, he will owe ten *pensae* of gold to the *ispán*.¹⁰

⁶The title refers to “the same” topic as in ch. 3, but the text treats a different crime.

⁷In this case a person who could, in certain circumstances, render a fine of five steers was hardly a domestic slave, but rather a servile tenant (serf), even though referred to in the same way (*servus*) as those mentioned in the preceding chapters who clearly are more precisely “slaves.”

⁸I.e. ch. 6, above

⁹Translators and commentators see this passage as referring to free men.

¹⁰The translator of *MTvT/CJH*, I (39, n. 11) suggests that the punishment may not have been a mere ten *pensae* fine, but rather a kind of debt bondage with such an amount due at regular intervals to the *ispán*. He cites in support a will of 1157 which mentions a *debitor sex pensarum* -- see Gusztáv Wenzel, ed., *Árpádkori új okmánytár. Codex diplomaticus Arpadianus continuatus*, (Budapest: MTA, 1860–78) [Monumenta Hungariae historica, Diplomataria, VI ff.] I: 64.

10 Violence by an *ispán*.

If on any pretext an *ispán* takes something unjustly from a warrior he shall make restitution and also pay the same amount out of his own resources.

11 Payment for a lie.

If a warrior says that his freely given gift was taken from him by force, and in so doing tells a lie, he shall be deprived of it and, in addition, pay the same amount.

12 Judgment of the sword.

If anyone kills a man by a sword, he shall be put to death by the same sword.¹¹

13 The maiming of parts of the body.

If anyone maims another in any way with a drawn sword, either in the eye, or on the foot, or on the hand, he shall suffer the same injury to his own body.

14 On flatterers.

If someone spreads false testimony or connivingly intrigues against others and asks them to remain silent about it so the cunning of the devil may cause divisions among them, he shall pay double composition of a lying tongue for the crime of lying. If he has connivingly intrigued with only one person, he shall be deprived of his tongue.¹²

15 The testimony of a thief shall not be accepted.

If any of those people who are popularly called *udvarnok*¹³ commits a theft, he shall be judged according to the law of freemen,¹⁴ but his testimony shall not be accepted among freemen.¹⁵

[16.] Wounds inflicted by the sword.

If anyone wounds another with a sword and the victim emerges from this wounding safe and sound, the wounder shall pay the composition for homicide.

[17.] Drawing of the sword without wounding.

If anyone filled with rage draws a sword but does no injury, he shall pay one half the composition for homicide for the drawing alone.

¹¹ See **Stephen I: 14**; less harsh punishment was included in the law of **Ladislav II: 8**.

¹² The apparent imbalance of punishment may be explained if we assume, as was often the case, that the offender judged to be deprived of his tongue could pay composition for it.

¹³ Agricultural servile personnel on royal estates; see György Györffy, "Zur Frage der Herkunft der ungarländischen Dienstleute," *Studia Slavica Acad. Sc. Hung.*, 22 (1976), 318.

¹⁴ Both codices of the vulgate tradition (Cod. Ilosvay, Cod. Thuroczi) add *liberorum*, which makes better sense.

¹⁵ The text from the Codex Admont ends here. The following chapters are traditionally numbered 14–19, and inserted before ch. 14 above. On this textual problem, see now Jánosi, *Törvényalkotás*, pp. 81–9.

[18.] The testimony of *servi*¹⁶ put in charge of a royal residence or castle.¹⁷

If a *servus* is appointed to administer a royal residence or castle, his testimony shall be accepted among the *ispáns*. Similarly, if a *servus* kills his master, or a warrior his *ispán*.¹⁸

[19.] Conspiracy against the king and the kingdom.

If anyone has conspired against the king or the kingdom, he shall have no refuge in the church.¹⁹ And if anyone conspired in any way against the king's person or dignity, or attempts to conspire, or knowingly sympathizes with those attempting to conspire, he shall be anathematized and cut off from association with the faithful. And if someone knew anyone of this sort and can prove it but does not speak out, he shall be subject to the same judgment.

[20.] On tithes.²⁰

If in a year God has given ten parts to anyone, he shall give one-tenth to God. If anyone evaded rendering his tithe, he shall pay nine.²¹ And if anyone shall have stolen the tithe reserved for the bishop, he shall be judged as a thief, and the entire composition shall belong to the bishop.

[21.] The intrigues of the *ispáns*.

If anyone deceitfully says to any *ispán* or other loyal persons, "I heard the king speak of your ruin," and he is found out, he shall be put to death.

CONCORDANCE

¹⁶ Henrik Marczali (*A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungarorum* Budapest.: Athenaeum, 1901 p. 79) followed by Závodszy, amended the text to read *senior* instead of *servus*, finding the commission of such duties to unfree men inconceivable, but *senior* (magnate) makes nonsense of the text. – Actually, this chapter was one of the main reasons for the editors not wanting the call *servi* &c. slaves, believing that they would not be assigned a castle. This issue is still problematic, but it is true that ancient slaves were often given quite significant military or civil administrative posts.

¹⁷ *Curia* or *curtis* was the center of royal estates; *civitas*, however, is the usual name for a county (see Glossary); see Gy. Györffy, "Civitas, castrum, castellum", *Acta Antiqua Acad. Sc. Hung.*, 23 (1975), 331–334; and *idem*, "Die Entstehung der ungarischen Burgorganisation", *Acta Archaeologica Acad. Sc. Hung.*, 28 (1976), 323–358. In this case it is more likely that royal servants were in charge of minor residences, castles, and perhaps smaller district attached to them.

¹⁸ This sentence is misplaced here; most editors have suggested that it belongs to [16.] above or [18.] below.

¹⁹ This is the first reference to ecclesiastical asylum in the laws; see György Bónis, "Első törvényeink sorsa és az egyházi menedékjog" [The Fate of Our First Laws and Ecclesiastical Asylum], *Regnum*, 3 (1938–39), 75–97.

²⁰ This chapter confirms the establishment of the ecclesiastical dues which were to remain in force for many centuries to come; see Andor Csizmadia, "Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn", *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Kan Abt. 61 (1975), 228–257. For more elaborate assessment of the tithe, see, e.g., **Syn. Szab. 40** and **Coloman 25**.

²¹ The meaning of this clause is unclear. May mean a ninth, that it a second tithe.

dDRMH (Same as Závodszyk,)	<i>Magyar Törvénytár/Corpus Iuris Hungarici</i> 1896 (same as MPL 151: 1245–54)	<i>Codex Admont</i> , ed. E. Bartoniek
Stephen II (St2)	Stephen II	Stephen II
1–5	34–38	1–5
6	39–40	6
7–13	41–47	7–13
14	54	14
15	55	15
16	48	
17–20	50–53	

CANONS OF THE SYNOD OF SZABOLCS 20 MAY 1092
[Laws of King St Ladislav I (1077-95) “Book I”]
(Syn. Szab.)

St. Ladislav I was the second king of Hungary to leave a collection of statutes to posterity. During the four decades preceding his reign, the social and ecclesiastical order established by St. Stephen suffered much in the course of foreign intervention, civil war, and pagan uprisings. The new laws introduced harsh measures for the restoration of property and public order.

The canons of this synod, the only legislation precisely dated in the reign of King Ladislav, have come down to us as “Book I” of that king’s laws. The text makes clear that the holy synod (*sancta synodus*) was primarily a gathering of bishops and abbots at which the king presided and to which the secular magnates were invited. The synodal *decreta* deal with ecclesiastical matters or procedures in church law in forty of the forty-two canons, and are described as having been canonically (*canonice*) established. Traditionally three “books” of laws have been ascribed to King Ladislav, and all earlier editions and commentaries cite this legislation in tripartite form (see *MTvT/CJH*, 1). We call Book I Synod of Szabolcs (Syn. Szab.) and but keep the name of Books II and III in order to facilitate references to the older editions.

Since these laws have survived only in fifteenth- and sixteenth-century transcriptions rather than in medieval manuscripts, there is considerable controversy about their dating. Mónika Jánosi (1945-95) suggested that one should speak about the redaction rather than the dating of these legislative documents, as the latter cannot be ascertained. The Synod of Szabolcs may contain all ecclesiastical (and some secular) legislation passed on several occasions during Ladislav’s time. Books II and III have to be judged similarly as collections of decrees of different times. A final redaction of all these texts may have taken place as late as King Béla III’s reign in the late thirteenth century.

MSS: Codex Thuroczi”, a fifteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Clmae 407, ff. f. 85r–88v.

Codex Ilosvay”, a sixteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Fol. Lat. 4023, ff. 17r–20v.

EDD: I. Batthyány, *Leges ecclesiastici regni Hungariae...* (Alba-Carolina: Typis episcopalibus, 1785), I, 433–41; Mansi, *Concilia XX*: 758–83; *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896) 1, 50–65 [=*MTvT/CJH*]; Levente Závodszy, *A Szt. István. Szent László és Kálmán korabeli törvények és zsinati határozatok forrásai* [Sources of the laws and synodal decrees from the times of St. Stephen, St. Ladislav, and Coloman], pp. 157–65. (Budapest: Szt. István Társulat, 1904.

LIT: I. Batthyány, “Dissertatio de synodis...”; in *Idem, Leges*, I, 30–54; G. Adriányi, “Die ungarischen Synoden”, *Annuarium historiae conciliorum*, 8 (1976), 541–575 (espec. 542f.) M.

Büdinger, *Ein Buch ungarischer Geschichte 1058–1100* 86-8 (Leipzig: Teubner, 1866); Henrik Marczali, *Magyarország története az Árpádok korában 1038–1301* [History of Hungary in the Age of the Arpads 1038–1301] (Bp.: Athenaeum, 1896=*A magyar nemzet története* [History of the Hungarian Nation], ed. S. Szilágyi, II); Gy. Györffy, “Szent László”, in *László király emlékezete* [Memory of King Ladislas] (Bp.: Magyar Helikon, 1977), pp. 13–15; Mónika Jánosi, *Törvényalkotás Magyarországon a korai Árpád-korban* [Making of law in Hungary in the early Árpadian age] (Szeged: Szegedi Középkorász Műhely, 1996). pp. 104-28, esp. 124 ff.; Ferenc Makk and Gábor Thorczkay, eds. *Írott források az 1050–1116 közötti magyar történelemről* [Written sources to Hungarian history 1050–1116] (JATE, Szeged, 2006).

CONSTITUTIONES SYNODI IN CIVITATE ZABOLCH

20 Maii 1092

[LADISLAI REGIS DECRETORUM LIBER PRIMUS]

Incipit decretum sancti regis Ladislai.

Regnante creatore et salvatore domino nostro Jesu Christo anno incarnationis eius millesimo XCII^o XIII. kalendas Junii in civitate Zabolch sancta synodus habita est, presidente christianissimo Hungarorum rege Ladislao cum universis regni sui pontificibus et abbatibus, necnon cunctis optimatibus, cum testimonio totius cleri et populi. In qua sancta synodo canonice et laudabiliter decreta hec inventa sunt.

Recapitulationes:

- I. De bigamis presbiteris et diaconis.
- II. De his, qui ancillam in locum surrogaverint uxoris.
- III. De indulgentia presbiterorum.
- IV. De consensu episcoporum nolentibus separari ab illicito coniugio.
- V. De dote ecclesiarum non expleta.
- VI. De perditione rerum ecclesiarum ob sacerdotis incuriam.
- VII. De restauratione desolataram ecclesiarum propter seditionem.
- VIII. De desolatione propter vetustatem.
- IX. De negotiatoribus quos ysmaelitas appellant.
- X. De coniugio iudeorum et christianorum mulierum.
- XI. De negligentia ecclesiarum in dominicis et festivis diebus.
- XII. De veneratione supradictorum dierum.
- XIII. De interfectione adultere.
- XIV. De subtractione kalendarum absque licentia.
- XV. De negligentia festivitatum ob negotium.
- XVI. De negligentia dominice diei.
- XVII. De hospitibus advenientibus clericis.
- XVIII. De coherentia clericorum.
- XIX. De desertione propriarum ecclesiarum.
- XX. De muliere in adulterio deprehensa.
- XXI. De procuratione abbatum erga proprios episcopos.
- XXII. De ritu gentilium.
- XXIII. De datione propriarum rerum alicui ecclesie.
- XXIV. De inventione rerum ecclesiarum.
- XXV. De negligentia fidelium cadaverum.
- XXVI. De laboribus iudeorum in festivitibus.

XXVII. De decimatione liberorum abbatum.
XXVIII. De testibus iudicii ferri vel aque.
XXIX. De celebratione misse extra ecclesiam.
XXX. De decimatione liberorum.
XXXI. De carnis dimissione.
XXXII. De illata violentia virginis vel mulieris.
XXXIII. De decimatione pecorum in alio episcopatu nascentium.
XXXIV. De satisfactione meretricum vel strigarum.
XXXV. De osculo abbatis vel monachi erga regem vel episcopum.
XXXVI. De salutatione abbatis vel monachi euntis ad regem.
XXXVII. De observatione vigiliarum sanctorum.
XXXVIII. De sanctorum veneratione festivitatum.
XXXIX. De abbatibus vel monachis in kalendis sedentibus.
XL. XL. De decimationem negantibus.
XLI. De litigatoribus venientibus ad regale palatium.
XLII. De spretu sigilli regis vel iudicis.

I. De bigamis presbiteris et dyaconis.

Bigamos presbiteros et dyaconos, et viduarum vel repudiarum maritos iubemus separari, et peracta penitentia ad ordinem suum reverti. Et qui noluerint illicita coniugia dimittere, secundum instituta canonum debent degradari. Separatas autem feminas parentibus suis iubemus reddi et quia non erant legitime, si voluerint, liceat eis maritari.

II. De his, qui ancillam in locum surrogaverint uxoris.

Si quis autem presbiter ancillam suam uxoris in locum sibi associaverit, vendat; et si noluerit, venundetur tamen, et pretium eius ad episcopum transferatur.

III. De indulgentia presbiterorum.

Presbiteris autem, qui prima et legitima duxere coniugia, indulgentia ad tempus datur propter vinculum pacis et unitatem sancti spiritus, quousque nobis in hoc domini apostolici paternitas consilietur.

IV. De consensu episcoporum nolentibus separari ab illicito coniugio.

Si quis autem episcopus aut archiepiscopus ab illicitis coniugiis separari nolentibus, spretu synodali decreto aut consensum prebuerit, aut ecclesiam dederit, aut aliquid, quod ad ordinem pertinet, agere permiserit, a rege et coepiscopis suis secundum, quod rationabile videtur eis, diiudicetur. Si vero archipresbiter causa ignorantie episcopo consenserit aut presbiter per consensum illius in tali vitio permanserit, iudicio episcopi voluntario subiaceat.

V. De dote ecclesiarum non expleta.

Quicumque ecclesiam deo edificaverit, et dotem nominaverit, nominatam vero non dederit, ad illud explendum transmissio prevaleat episcopale iudicium; cui si quis contradixerit, et contradicendo verberaverit, ipse regali iudicio subiaceat.

VI. De perditione rerum ecclesiarum ob sacerdotis incuriam.

Si quis presbiterorum res ecclesie ad propria loca duxerit et ibi vendiderit, vel per incuriam suam perdiderit, tripliciter ecclesie restituat.

VII. De restauratione desolataram ecclesiarum propter seditionem.

Ecclesias propter seditionem desolatas aut combustas, iussu regis parochiani restituant. Calices et vestimenta ex sumptu regis dentur, libros episcopus provideat.

VIII. De desolatione propter vetustatem.

Ecclesias ex vetustate desolatas episcopus reedificet.

IX. De negotiatoribus, quos ysmahelitas appellant.

De negotiatoribus, quos ysmahelitas appellant, si post baptismum ad legem suam antiquam per circumcisionem rediisse inventi fuerint, a sedibus suis separati ad alias villas removeantur. Illi vero, qui inculpabiles per iudicium apparuerint, in propriis sedibus remaneant.

X. De coniugio iudeorum et christianorum mulierum.

Si iudei uxores christianas sibi associaverint, aut aliquam personam christianam in servitio apud se detinuerint, ablata ab eis libertati reddantur, venditoribus earum pretium tollatur et in sumptum episcoporum veniat.

XI. De negligentia ecclesiarum in dominicis et festivis diebus.

Si quis in dominicis diebus aut in maioribus festivitibus ad ecclesiam non venerit parochianam, verberibus corripiatur. Si vero ville remote fuerint et ad ecclesiam suam parochianam villani venire non potuerint, unus tamen ex eis in vice omnium cum baculo ad ecclesiam veniat, et tres panes et candelam ad altare offerat.

XII. De veneratione supradictorum dierum.

Si quis in his diebus venatus fuerit, canibus et equo careat, sed equum bove redimat. Si vero presbiter vel clericus venatus fuerit, ab ordine descendat usque ad satisfactionem.

XIII. De interfectione adultere.

Si quis uxorem cum altero viro adulterantem necaverit, deo rationem reddat, et si voluerit, aliam ducat. Si vero ex propinquis aliquis femine in eum insurrexerit, quod interfecisset iniuste, iudicio discutiatur, et illud a vicinis eorum omnimodis investigetur, si in despectione et contemptu apud virum suum prius esset, aut aliqua suspicio fornicationis de illa prius orta fuisset, et hoc, secundum quod rationabile videtur, diiudicetur.

XIV. De subtractione kalendarum absque licentia.

Si quis de kalendis sine presbiteri sui et fratrum licentia subtraxerit, manum eam, cum qua fraternitatem promisit, decem pensis redimat.

XV. De negligentia festivitatum ob negotium

Si quis in dominicis diebus vel in maioribus festivitibus ecclesiam negligens mercatum frequentaverit, equo careat.

XVI. De negligentia dominice diei.

Si quis die dominica mercatum constituerit, precipit sancta synodus, ut sicut construxit, ita destruat. Si autem quis rennuit, quinquaginta quinque pensas solvat.

XVII. De hospitibus advenientibus clericis.

Si quis hospes clericus in hanc patriam sine commendatitiis litteris episcopi sui venerit, ne forte monachus aut homicida fuerit vel alicuius ordinis se confessus fuerit, iudicio vel testimonio discutiatur.

XVIII. De coherentia clericorum.

Si quis hospes clericus in patriam istam veniens, alicui episcoporum vel comitum adhererit, et eum dominus suus bene habuerit, et secundum quod cum eo convenit, tractaverit, si discedere ab illo voluerit, nequaquam discedat, donec prius de iniustitia sibi illata in audientia regis declamaverit.

XIX. De desertione propriarum ecclesiarum.

Si derelicta ecclesia villani alias transierint, pontificali iure et regali mandato, unde transierunt, ibi redire cogantur.

XX. De muliere in adulterio deprehensa.

Si quis uxorem suam in adulterio deprehenderit et in iudicium statuerit, secundum statuta canonum penitentia imponatur et peracta penitentia, si maritus voluerit, iterum recipiat, sin autem, quamdiu ambo vixerint, inuupti permaneant.

XXI. De procuratione abbatum erga proprios episcopos.

Abbatum secundum decreta patrum in procuratione episcoporum suorum, in quorum territorio sunt, humiliter permaneant. Et non semel in anno, sed sepe monasteria eorum episcopi visitent et regulariter vitam et conversationem fratrum discutiant. Conversi monachi, cui monasterio monachorum voluerint, se cum rebus suis commendent; similiter et monache in monasterio monachorum. Deinceps autem aliquis episcopus aut abbas sine titulo certi loci monachum aut monacham non audeat ordinare.

XXII. De ritu gentilium.

Quicumque ritu gentilium iuxta puteos sacrificaverint, vel ad arbores et fontes et lapides oblationes obtulerint, reatum suum bove luant.

XXIII. De datione propriarum rerum alicui ecclesie.

Si quis res suas aut predia uni dederit ecclesie, nulla interveniente causa subtrahere audeat et dare alie.

XXIV. De satisfactione meretricum vel strigarum.

Meretrices et strige, secundum quod episcopo iuste visum fuerit, ita diiudicentur.

XXV. De osculo abbatis vel monachi erga regem vel episcopum.

Si contigerit regi aut episcopo ad quamlibet abbatiam venire, abbas vel monachi ad regis vel episcopi osculum in ecclesia non accedant, sed egressi in claustrum, ordinatim stantes, regis vel episcopi osculum prestolentur. Regem autem et episcopum, cum quot et qualibus sibi placuerit, abbas claustrum intrare permittat.

XXVI. De salutatione abbatis vel monachi euntis ad regem.

Si autem contigerit, abbatem vel monachum ad curiam regis venire, in ecclesia dei ad salutandum regem non eat, sed postquam exierit de ecclesia, in domo vel tentorio salutet eum.

XXVII. De observatione vigiliarum sanctorum.

In hac vero sancta synodo a venerabili rege Ladislao statutum est, ab universis collaudatum et canonizatum, ut vigilie celebrentur beati Stephani regis et Gerardi martiris, quo die passus est,³⁶ et tres dies ad festivitatem sancti Martini. Et quod patruus suus Andreas rex cum omnibus, qui

tunc erant, episcopis, vovit et statuit, iste rex christianissimus destruere noluit, sed firmiter roboravit, scilicet dierum trium vigiliam ad festivitatem sancti Petri.

XXVIII. De sanctorum veneratione festivitatum.

Iste vero festivitates feriande sunt per annum: Nativitas domini, sancti Stephani prothomartiris, sancti Johannis ewangeliste, sanctorum Innocentum, Circumcisio domini, Epiphania cum vigilia, Purificatio sancte Marie, in Pascha quatuor dies, sancti Georgii martiris, Philippi et Jacobi cum vigilia, Inventio sancte crucis, Ascensio domini, in Pentheskosten IIII dies, sancti Johannis Baptiste, Petri et Pauli una die, sancti Jacobi apostoli, sancti Laurentii martiris, Assumptio sancte Marie, sancti Stephani regis, Bartholomei apostoli, Nativitas sancte Marie, Exaltatio sancte crucis, sancti Mathei apostoli, sancti Gerardi episcopi, sancti Michaelis archangeli, Symonis et Jude apostolorum, Omnium Sanctorum, sancti Henrici ducis, sancti Martini episcopi, sancti Andree apostoli, sancti Nicolai episcopi, sancti Thome apostoli et unaqueque parochia suum patronum et dedicationem ecclesie celebret.

XXIX. De abbatibus vel monachis in kalendis sedentibus.

Abbatibus et monachi inter fratres kalendarum non sedeant, sed abbas oblationes fratrum in claustrum recipiat et secundum regulam fratribus administret.

XL. De decimationem negantibus.

Episcopus accipiat decimationem in omnibus, sed eo tenore: pristaldus episcopi interroget possessorem annonarum seu bestiarum, quantum habeat? Si vero crediderit verbis illius, accipiat secundum hoc, quod dixit; si vero non crediderit, faciat illum iurare et accipiat. In annona vero commixtum ne accipiat, sed separatim. Si vero post iuramentum dominum annone quis alienus perierum dixerit, preter pristaldum episcopi ante pristaldum regis et comitis numeretur annona. Si culpabilis inventus fuerit dominus annone, ei decima pars detur et novem partes dentur episcopo; si autem qui insurrexerit, ipse mendax extiterit, eodem iudicio persolvat culpam. Si non habuerit, unde se redimat, solus vendatur exceptis liberis. Decimatio autem tota colligatur usque ad Nativitatem domini. Filius, qui in domo patris est, seu filius, seu servus, non separentur, sed simul dent decimationem cum patre; a filiis vero aut servis, qui per se habent domos suas, accipiant decimam de omnibus, que habent. Si autem aliquis contumax fuerit, interrogatus decimam noluerit iudicare pristaldo episcopi, tunc pristaldus coram idoneis testibus designet, quantum sibi videtur esse iustum. Linum vel canopum, quantum potest pugillus pressis digitis ad terram premere, accipiat. Si trituratam annonam invenerit, si decem ydrie fuerint, nichil accipiat, si viginti vel plus, accipiat decimam partem.

XLI. De litigatoribus venientibus ad regale palatium.

Si quis vero nobilium vel comitum in curiam causa litium veniens ad regale palatium cum suo litigatore non steterit et regio nuntio vocatus sine regis licentia domum perrexerit, rationem perdat et insuper, si quid ab eo abstulerit, duppliciter reddat.

XLII. De spretu sigilli regis vel iudicis.

Si quis autem regis sigillum super aliquem proiciens et ipse in curiam venire neglexerit, rationem perdat et quinque pensas persolvat et quocienscumque renovaverit, totiens quinque pensas solvat. Si vero iudicis sigillum proiciens non venerit, centum nummos solvat.

CANONS OF THE SYNOD OF SZABOLCS
20 MAY 1092
[BOOK ONE OF THE LAWS OF KING LADISLAS]

Here begin the statutes of the holy King Ladislas:

In the reign of the Creator and Savior, Jesus Christ, in the year of His incarnation 1092, on the twentieth day of May a holy synod was held in the castle of Szabolcs,¹ presided over by the most Christian king, Ladislas, with all the bishops and abbots of his realm, as well as all the magnates, the entire clergy, and people as witnesses thereof. The following was canonically and commendably established in this holy synod

Summary:

1. Bigamous priests and deacons.
2. Those who keep *ancillae*² in place of wives.
3. An indulgence to priests.
4. Episcopal consent to those not wanting to separate from an illegal marriage.
5. Unfulfilled pledges to churches.
6. The loss of church property on account of the negligence of the clergy.
7. Restoration of churches ruined as a result of sedition.
8. Ruin as a result of age.
9. The merchants called Ishmaelites.
10. The marriage of Jews and Christian women.

¹ Szabolcs Castle, center of the county of same name, was founded by St. Stephen; the earthworks have survived into modern times and were archeologically explored in the late nineteenth century. On recent diggings, see P. Németh, “Előzetes jelentés a szabolcsi Árpádkori megyeszékhely kutatásának első három esztendejéről [Preliminary report on the first three years’ exploration of the Szabolcs county seat of the Árpadian age], *Archaeologiai Értesítő*, 100 (1973), 167–178; cf. also Fügedi, *Castle and Society in Medieval Hungary*, ch 1.

² The exact status of male and female servile persons in eleventh-century Hungary has been the object of scholarly debates for at least a century. In the printed version of DRMH, the editors decided to avoid coming down on either side and translated *servus* and *ancilla* &c. as “bondman” or “bondwoman” intending to escape the decision, but that was awkward. Most recently, Cameron Sutt, in *Slavery in Árpád- era Hungary in a Comparative Context* (Leiden: Brill, 2005) argued—with extensive discussion of the relevant literature—quite convincingly for regarding them slaves, but this is not the last word on the matter. We, therefore, took the “easy way out” by keeping the Latin term and leaving the decision to the reader.

11. Neglecting church on Sundays and feast days.
12. The observance of the aforesaid days.
13. Killing an adulteress.
14. Absence from a confraternity without permission.
15. Neglecting feasts as a result of business.
16. Neglecting Sundays.
17. The arrival of alien clerks.
18. The dependence of clerks.
19. Desertion of a church.
20. A woman caught in adultery.
21. The procuration of abbots to their own bishops.
22. Heathen rites.
23. The gift of personal property to a church.
24. Finding church goods.
25. Neglecting the corpses of the faithful.
26. The working of Jews on feast days.
27. The tithe of the abbot's freemen.
28. Witnesses at ordeals of hot iron and water.
29. The celebration of mass outside the church.
30. Tithes from freemen.
31. Renunciation of meat.
32. The rape of virgins and married women.
33. The tithe on cattle born in another diocese.
34. The atonement of whores and witches.
35. The kiss of an abbot or a monk given to the king or a bishop.
36. The greeting of the abbot going to the king.
37. The observance of the vigils of the saints.
38. Veneration of the feasts of the saints.
39. The abbots or monks sitting among the confraternity.
40. Those who refuse the tithe.

41. Litigants coming to the royal palace.
42. Contempt for the king's or the judge's seal.

1 Bigamous³ priests and deacons.

We command that priests and deacons who are bigamous or husbands of widows or of repudiated women be separated from their wives, and, having done penance, shall return to their order. Those who do not wish to abandon illegal marriages shall be degraded in accordance with canonical statutes. We command that the separated women, however, be returned to their kindred, and, because they were not married legally, it is permissible for them to marry if they wish.⁴

2 Those who keep bondwomen in place of wives.

If any priest lives together with a bondwoman in place of a wife, he shall sell her; and if he does not want to, she shall be sold nevertheless, and her price shall be given to the bishop.

An indulgence to priests.

3 To priests, who married once and legally, we give temporary indulgence because of the bond of unity and peace of the Holy Spirit for as long as the lord pope shall advise us on this.⁵

4 Episcopal consent to those not wanting to separate from an illegal marriage.

³ The concept of *bigami* mentioned here is derived ultimately from 1 Tim 3: 2 and 12. It passed from early church practice into Byzantine canon law, and thence into this *decretum* (cf. also **Colo. 67**). It is an explicit prohibition of all second marriages to those in both major and minor orders. In Byzantine history this canonical prohibition was a significant issue in both the Moechian and Tetragamist controversies. The inclusion of this measure, therefore, serves to document Byzantine influence in the Hungarian church; see Anton Szentirmai, "Der Einfluß des byzantinischen Kirchenrechts auf die Gesetzgebung Ungarns im XI–XII. Jahrhundert." *Jahrbuch der österreichischen byzantinistischen Gesellschaft*, 10 (1961), 76–79; and in general, Gyula Moravcsik, *Byzantium and the Magyars*, (Budapest: Akadémiai K., 1970) pp. 102–118 with literature.

⁴ The text of this article and the following two have been compared critically by Závodszy (pp. 58–61) to canons 3 and 13 of the Quinisextum or Council in Trullo (A.D. 691–692); Mansi XI: 942f., 947.

⁵ Although in general these synodal decrees show scarcely any familiarity with the program advanced by the "Gregorian" Reformers since the mid-eleventh century, this canon by implication recognizes the total prohibition of clerical marriage. It also points to a measure of royal-papal cooperation in the gradual implementation of the reform program in Hungary. For the reform, with occasional references to Hungary, see H. Jedin and J. P. Dolan, *Handbook of Church History* (New York: Herder, 1969), III, 351–403. See also E. Pásztor, "Sulla origini della vita comune del clero in Ungheria," in *La vita comune del clero nei secoli XI–XII: Atti de settimana di studio, Mendola 1959* (Milano: Vita e Pensiero, 1962), 2: 71–8; Josef Deér, "Die Ansprüche der Herrscher des 12. Jahrhunderts auf die apostolische Legation," *Archivum historiae pontificiae*, 2 (1964): 153–76

If, however, any bishop or archbishop should either give his consent, or grant a church, or permit any other function which pertains to orders to a person who in contempt of this synodal decree does not wish to separate from an illegal marriage, he shall be judged by the king and his episcopal brethren in whatever manner seems reasonable to them. And if an archpriest⁶ agrees with his bishop out of ignorance or if a priest persists in this corruption with his consent, he shall be subject to the discretionary judgment of the bishop.⁷

5 Unfulfilled pledges to churches.

Whoever builds a church to God and announces his donation, but in fact does not give what he said, the bishop shall have the right to claim it after having sent a messenger. Should anyone speak against the messenger, and in the altercation beats him, he shall be subject to royal judgment.

6 The loss of church property on account of the negligence of the clergy. If any priest takes the goods of the church to his own place and sells them, or if he loses them through negligence, he shall make triple restitution to the church.⁸

7 Restoration of churches ruined as a result of sedition.

By the king's command, the people of the parish shall restore the churches ruined or burnt through sedition.⁹ The chalices and vestments shall be given at the expense of the king,¹⁰ the bishop shall provide the books.

8 Ruin as a result of age.

⁶ Archpriests as distinguished from parish pastors are referred to here for the first time in Hungarian sources; Antal Szentirmai, "Die Anfänge des Rechts der Pfarrei in Ungarn." *Österreichisches Archiv für Kirchenrecht*, 10 (1959), 30–35, here p. 30. They seem to have been the parish priests of the most important church of a smaller district within the diocese comparable to the later *plebani* and perhaps with similar rights and duties as a rural dean in England or the *pievano* in Italy; cf. R. Brentano, *Two Churches: England and Italy in the Thirteenth Century* (Princeton: Princeton Univ. Press, 1968), p. 68

⁷ Závodszy (p. 61f.) points to parallels in Canon 12 of the Council of Melfi (A. D. 1090); Mansi XX: 724

⁸ This measure is closely related to Canon 8 of the 847 Council of Mainz (Mansi XIV: 906) and Canon 6 of the 888 Council of Mainz (*ibid.*, XVIII: 66); Závodszy, p. 62f

⁹ Two major "pagan" uprisings occurred in the decades preceding King Ladislas' reign: one in 1046 under the leadership of Vata, probably consisting of former tribal leaders and freemen, and one in 1060 under János, son of Vata, possibly supported by déclassé freemen rebelling against the new ecclesiastical and social order. In the former, Bishop (St.) Gerald., among others, was killed by the rebels, and in both many churches were burned down. The first rebellion was put down swiftly by King Andrew I, the second by Béla I; see Gy. Kristó. "Megjegyzések az ún. 'pogánylázadások' kora történetéhez" [Comments on the history of the age of the so-called pagan uprisings], *Acta Universitatis Szegediensis de Attila József nominatae, Acta Historica*, 18 (1965), 1–57. See also: Christian Lübke, "Das 'junge Europa' in der Krise: Gentilreligiöse Herausforderungen um 1000, *Zeitschrift für Ostmitteleuropa-Forschung* 50 (2001), 475–95

4

¹⁰ Cf. **Stephen II: 1**

The bishops shall rebuild churches ruined by age.

The merchants called Ishmaelites.¹¹

9 The merchants, called Ishmaelites, who after having been baptized return to their old religion through circumcision, shall be removed from their dwelling to different villages. But those, who have proved themselves innocent by ordeal, shall remain in their own dwellings.

The marriage of Jews and Christian women.

10 If Jews live together with Christian wives, or keep any Christian person in servitude in their home, these shall be taken away and restored to liberty; those who sold them shall lose the price that will go to the bishop.¹²

11 Neglecting church on Sundays and feast days.

If someone does not come to the parish church on Sundays or the greater feasts, he shall be punished by beating.¹³ If, however, the villages are far apart and the people of the parish are unable to come to church, one among them on behalf of all shall, nevertheless, come to the church with a staff and shall offer at the altar three loaves of bread and a candle.¹⁴

12 The observance of the aforesaid days.

If someone hunts on these days, he shall lose his dogs and horse, but he may redeem the horse with an ox. But if a priest or a clerk hunts, he shall be deposed from his order until he makes

¹¹ The presence of a Muslim or “Ishmaelite” community in Hungary is well documented for the entire Árpád period. Muslim merchants generally were active throughout Eastern Europe in the tenth and eleventh centuries. The wide distribution in the tenth century of silver dirhems, the observations of contemporary Arab geographers, and the evidence for trade in Hungarian horses, slaves, and worked silver suggest prolonged and wide-ranging economic contacts with Eastern, particularly Muslim, traders, some of whom, apparently, were settled in Hungary; cf. A. Bartha, *Hungarian Society in the Ninth and Tenth Centuries* (Bp.: Akadémiai, 1975), pp. 115–117; see also **Coloman 46** with n. 42. See S. Balič, “Der Islam im mittelalterlichen Ungarn.” *Südost-Forschungen*, 23 (1964), 19–35 and now: Nora Berend, *At the Gate of Christendom: Jews, Muslims and ‘Pagans’ in Medieval Hungary, c. 1000-c.1300*, Cambridge: Cambridge University Press, 2001.

¹² This prohibition was widespread in Christian Europe and repeated regularly; cf., e.g., Can. 72 of the Synod of Meaux (Conc. Meldense) in 845 (Mansi XIV: 836ff.), where a number of earlier canons are also repeated

¹³ Cf. **Stephen I: 9**.

¹⁴ Decrees on similar offerings are to be found, e.g., in Canon 12 of the V. Synod of Rome (A.D. 1078); Mansi XX: 510; See: Závodszy, p. 66.

satisfaction.¹⁵

13 Killing an adulteress.

If someone kills a wife committing adultery with another man, he shall render account to God, and, if he wishes, may marry another¹⁶. But if any relatives of the woman charge that he has killed her unjustly, he shall be put to the ordeal, and their neighbors thoroughly questioned whether the wife was formerly despised and scorned by her husband, or if there previously had been any suspicion of her fornication, and this shall be decided according to what seems reasonable.

14 Absence from a confraternity¹⁷ without permission.

If anyone is absent from a confraternity without the permission of his priest and brethren, he shall redeem that hand with which he promised brotherhood with ten *pensae*.

15 Neglecting feasts as a result of business.

If someone neglects the church by visiting the markets on Sundays or major feasts, he shall lose his horse.

16 Neglecting Sundays.

If someone sets up a market on Sundays,¹⁸ the holy synod rules that what he has put up, he shall take down. If, however, anyone should refuse, he shall pay fifty-five *pensae*.

¹⁵ As early as the reign of Charlemagne the hunt on Sunday had been prohibited: see c. 1 of the Admon. gen. of A.D. 789 (*MGH Cap.*, I: 61); the clergy's hunting was proscribed in c. 19 of the Capit. gen. de missis, A.D. 802 (*ibid.*, p. 95)

¹⁶ As in other European countries, adultery was perceived as a crime committed by a woman against her husband, and, if she were revealed, she was at his mercy. The killing of an adulteress was, therefore, an act of private legal retribution and not murder; see, e.g., Edictum Rothari, cap. 212, , *Leges Langobardorum* MGH LL 4, p. 51; cf. *The Lombard Laws*, trans. Katherine Fischer Drew (Philadelphia: Penn. U. Press, 1973) p. 93

¹⁷ These confraternities—called *calenda* or *kalenda*, because they met on the first day of every month—were sodalities or religious associations organized to promote pious works. Similar associations existed in many countries of Europe; Bishop Atto of Vercelli in his Capitulary (Cap. 29, Mansi XIX: 250) refers to kalends that consisted only of clergy. In Hungary laymen were also included (cf. B. Majláth, “A ‘kalandos’ társulatok” [The ‘calends’ associations], *Századok* 19 [1885], 563–78); they survived into our own times as burial associations in some rural communities; see Ernő Tárkány Szücs, *Magyar jogi népszokások*, (Budapest: Akadémiai, 1981, repr. 2003) pp. 189–190. See also below, canon 39.

¹⁸ According to tradition (*Chronica de gestis Hungarorum &c.* János M. Bak, László Veszprémy, eds. Budapest: CEU Press, 2018, p. 183), King Béla I moved the day of fairs from Sunday to Saturday (the Hungarian word for Sunday, *vasárnap*, from *vásár*= fair, *nap* = day) retains the memory of the older custom

17 The arrival of foreign clerks.¹⁹

If any foreign clerk comes into this country without a commendatory letter from his bishop, he shall be put to the ordeal or compurgation in order to disclose whether or not he was a monk, a murderer, or a member of some order.

18 The dependence of clerks.

If a clerk arrives in this country and adheres to a bishop or *ispán*, and his lord keeps him well, treating him in the manner to which he had agreed, then he may not leave his lord even if he should wish to leave, unless he shall first have denounced him in the king's court for an injustice done to him.

19 Desertion of a church.

If villagers abandon their own church and wander away, they shall be compelled by episcopal law and royal mandate to return whence they came.²⁰

20 A woman caught in adultery.

If someone catches his wife in adultery and this is affirmed in court, penance shall be imposed according to canon law, and then the husband shall receive her again after she has performed penance, if he wants to; otherwise they shall remain unmarried for as long as they both shall live.²¹

21 The procuration of abbots to their own bishops.

Abbots shall humbly remain subject to the procuration of their own bishops in whose territory they are, in accordance with the decrees of the Fathers.²² Bishops shall visit their monasteries not just once a year, but often, and they shall examine regularly the life and habits of the brothers. Lay brothers shall commend themselves together with their goods to the monastery which they choose and the same shall be done by nuns in female convents. Henceforth, however, no bishop

¹⁹ On "guest" clergy, see **Stephen I: 24**.

²⁰ The interpretation of this decree is very controversial; it was for a long time seen as proof of nomadic habits of the Hungarians well into the late eleventh century (seemingly supported by the remarks of Otto of Freising about their living in "tents"; *Gesta Friderici I.* xxxii, *MGH SSrG* [46], 50 (=C. C. Mierow, trans., *The Deeds of Frederick Barbarossa* [New York: Columbia Univ. Press, 1935], p. 66). More recent studies tend to consider it as an indication of either semi-nomadic transhumance from winter dwellings to summer pasture, or rather of agricultural villages "moving" when their cultivated fields were exhausted. Cf. Gy. Györffy, *Wirtschaft und Gesellschaft der Ungarn um die Jahrtausendwende*, (Wien-Köln-Graz: Böhlau, 1983), pp. 24-31

²¹ Závodszy (p. 70) points to a similar decree of the Synod of Ingelheim (A.D. 948), cap. X (*MGH Const.*, I: 15). This canon appears to reflect a different spirit than can. 13 above, where the killing of the adulterous wife is apparently tolerated as "justifiable homicide," for which no secular punishment is imposed on the husband

²² Canon 4 of the Council of Chalcedon (A.D. 455) charged bishops with the responsibility for founding communities of monks and entrusted the task of supervising them specifically to bishops. Gratian later incorporated this canon into his *Decretum* (C. 16, q. 1, c. 12 and C. 18, q. 2, c. 10)

or abbot shall dare institute a monk or a nun without a title to a specific place.²³

22 Heathen rites.

Anyone making a sacrifice next to wells or giving offerings to trees, fountains, and stones according to heathen rites shall atone for their offense with an ox.²⁴

23 The gift of personal property to a church.

If someone gives his land or goods to one particular church, he shall not for any reason withdraw them and give them to another.

24 Finding church goods.

Church goods, wherever they may be found, whether in other churches or with lay patrons,²⁵ shall return to the original church.

25 Neglecting the corpses of the faithful.

If someone does not observe Sunday and does not keep feasts, or does not fast on Ember Days and vigils, or does not bury his dead near the church,²⁶ he shall fast on bread and water for twelve days in the pillory. If a lord does not take to the church the body of his *servi*,²⁷ or a village reeve²⁸ that of a poor alien or a villager, he shall fast for the same length of time.

26 The working of Jews on feast days.

If a Jew is found at work on Sundays or the major feasts, he shall lose the tools with which he

²³ The title (*titulus*) binding an individual monk or nun to a specific community has the effect of guaranteeing them a living. In the Rule of St. Benedict (cap. 1) the *gyrovagi* who wandered from one monastery to another “ever roaming and never stable” were roundly condemned; see also Roul Naz, ed. *Dictionnaire de droit canonique*, 7 vols. (Paris: Letouzey & Ane, 1990) VI, 1278–1288, espec. 1288

²⁴ The need for passing a canon against persistent, though perhaps not organized, heathen practices nearly a century after the mass conversion of the Hungarians should be noted; similar prohibitions can be found in Charlemagne’s Capit. de part. Saxon., c. 21 (*MGH Cap.*, I, 69)

²⁵ *Dominus* can be translated here as lay patron, thus indicating the existence of proprietary churches in Hungary to which the donations mentioned above in cap. 5 and 23 may also refer; see Elemér Mályusz, “Die Eigenkirche in Ungarn,” *Studien zur Geschichte Osteuropas*: (Festschrift für H. F. Schmidt) 3 (1966) 76- 95.

²⁶ Burying the dead in the churchyard was an important symbolic act for the Christianization of the populace and also for encouraging the settled way of life (see n. 20, above) as the living tended to stay near to their dead; see e.g. Philippe Aries, *The Hour of Our Death*, trans. H. Weaver (New York: Knopf, 1981) pp. 40- 2, 50-6, and 62-71.

²⁷ *Servus* can mean here slave, servant, and serf alike.

²⁸ Although *villici* are known to have existed in the Carolingian realm, the models for this chapter (e.g., Charlemagne’s capitulary of A.D. 789, c. 25, *MGH Cap.*, I: 64 or Capit. de part Saxon, c. 18, *ibid.*, p. 69) do not mention them as being in charge of supervising Sunday church attendance. About *villici* in Hungary we know from later times that they were frequently elected by the villagers but also represented the lord of the land. See **also Stephen I: 9**.

worked in order not to bring scandal to Christians.²⁹

27 The tithe of the abbot's freemen.

Abbots shall give the tithe of their freemen³⁰ to the bishops.

28 Witnesses at ordeals of hot iron and water.

Whenever an ordeal by water or hot iron is held, three suitable and duly sworn witnesses shall be there to testify to the innocence of the innocent, or on the contrary to the guilt of the guilty. The priest shall receive two *pensae* for ordeals by hot iron and one for that by water.³¹

29 The celebration of mass outside the church.

No priest shall dare to celebrate mass outside the church, unless he is compelled by the necessity of a journey. If he should be compelled by his *ispán*, he shall be suspended from his order, and he who forced him shall pay fifty-five *pensae*. On a journey of several days the divine office may be celebrated in a tent.³²

30 Tithes from freemen.

Bishops shall receive the tithes of freemen. But freemen shall be held by whichever bishop or count to whom they had at their pleasure adhered without, however, losing their freedom. Those persons, moreover, who were given freedom to serve the church for the salvation of the soul, shall

²⁹ The practice of confiscating the tools of anyone, Christian or not, who worked on Sundays dates from the time of St. Stephen; see **Stephen I: 8**.

³⁰ The exact social status of these "freemen", who dependent on an abbot (or bishop, or *ispán*; see below, c. 30), is a debated issue. György Györffy (*Studia Historica Acad. Sc. Hung* 186, pp. 104–116) regards the "freemen", some of whom may have been attached to lords, as a significant social stratum, adding up to something like a fifth of the population in the early Árpáadian period. On the question of "freedom", see also I. Bolla and P. Horváth, "La rôle de la liberté hongroise médiévale," *Acta Univ.Sc. Budapestiensi, Sect. iurid.*, 23 (1981), 9–25

³¹ Records of ordeals by hot iron at Várad (Nagyvárad/Oradea) are known. See:; *Regestrum Varadiense examinum ferri candentis ordine chronologico digestum*, J. Karácsonyi, S. Borovsky, eds. (Nagyvárad: Capitulum Varadiense Lat. Rit., 1903); cf. I. Zajtay, "Le registre de Varad: Un document judiciaire du XII^e siècle", *Revue d'histoire du droit*, 4, No. 32 (1954), 527–562 and M. Lupesco Makó, "Between Sacred and Profane: The Trial by Hot Iron Ceremony Based on the 'Regestrum Varadiense'" *Mediævalia Transilvanica* 3 (1999), pp. 5–26. For the European-wide practice of recourse to the "judgment of God", see R. C. van Caenegem, "La preuve dans le droit du moyen âge", *Recueils de la Société Jean Bodin pour l'histoire comparative des institutions*, 17 (1965), 691–753, trans. J. R. Sweeney and D. A. Flanary as "Methods of Proof in Western Medieval Law", *Academiae Analecta*, Academie voor Wetensch., Lett. en Schone Kunsten van België, Kl. d. Lett., 45, No. 3 (1983), 85–127. This is, however, the first mention of ordeal by water, to which few medieval references are known in Hungary. This canon seems to imply that the ordeal was administered widely by any priest whatsoever; but only a short time later King Coloman restricted the ordeal to specific locations; see **Colo. 22**.

³² Several Carolingian capitularies (e.g., c. 14 of A.D. 769, *MGH Cap.*, I: 46), and synodal decrees (e.g., Council of Mainz, A.D. 888, Mansi XXVIII: 67) contain similar injunctions. Great lords and rulers received special privileges to have services held by their chaplains outside a church, but this does not yet seem to have been the practice in eleventh-century Hungary; see, however, **Syn. Strig. 33**.

work for the priest alone.

31 Refraining from meat.

The Latins,³³ who do not wish to agree to the lawful Hungarian custom³⁴ – that is, those who continue to eat meat on Monday and Tuesday, after the Hungarians have renounced it – shall leave for wherever they like if they will not adopt our better custom. But they shall leave behind them the money they acquired here, unless they come to their senses and abstain from meat with us.

32 The rape of virgins or married women.

Anyone who rapes a virgin or a married woman going from village to village shall be punished as for homicide.

33 The tithe on cattle born in another diocese.

Bishops who receive tithes on cattle born in another diocese shall give a fourth part to the priests living in their own bishopric.

34 The atonement of whores and witches.

Whores and witches shall be judged according to what seems just to the bishop.

35 The kiss of an abbot or a monk given to the king or a bishop.

If the king or a bishop happens to come to an abbey, the abbot and the monks shall not come to kiss the king or the bishop in church, but they, standing in order, shall await for the kiss of the king or the bishop in the cloister. The abbot shall allow the king or the bishop to enter the cloister with as many people of whatever rank he may wish.

36 The greeting of the abbot or monk going to the king.

If it happens that an abbot or monk arrives at the king's court, he shall not greet the king in the church of God, but after leaving the church shall salute him in his residence or tent.

37 The observance of the vigils of the saints.

In this holy synod it was established by the venerable King Ladislav and approved and ordained

³³ *Latini* were French, Italian, and Walloon urban settlers, mainly craftsmen and traders, whose presence in early Hungarian cities, such as Székesfehérvár and Esztergom, is documented since the early eleventh century; see H. Ammann, "Die französische Südostwanderung im Rahmen der mittelalterlichen französischen Wanderungen," *Südost-Forschungen*, 14 (1955), 406–428; and György Székely, "Wallons et Italiens en Europe centrale aux XI^e–XVI^e siècles", *AUSBp Sect. hist.*, 6 (1964), 3–71.

³⁴ According to Moravcsik (*Byzantium and the Magyars*, p. 117), the practice of an extended Lent "preserved an archaic Byzantine custom which the Magyars may have got to know before their final settlement." In Latin Christendom the beginning of Lent was changed to Shrove Tuesday in the sixth or seventh century; see Karl Holl, "Die Entstehung der vier Fastenzeiten in der Griechischen Kirche", in *Gesammelte Abhandlungen zur Kirchengeschichte* (Tübingen: Mohr, 1928; rept. Darmstadt: Wiss, Buchges., 1964), II, 155–203

by all, that the vigils of the holy King Stephen³⁵ and of Gerard the Martyr, which is fixed on the day of his agony,³⁶ shall be observed, together with three days at the feast of St. Martin.³⁷ This most Christian king does not wish to destroy but rather more strongly to confirm what his uncle, King Andrew together with all the bishops then extant swore and instituted,³⁸ namely that a three-day vigil be held at the feast of St. Peter.³⁹

38 Veneration of the feasts of the saints.

The following feasts shall be celebrated during the year:⁴⁰ Christmas, St. Stephen the Protomartyr, St. John the Evangelist, Holy Innocents, the Circumcision of the Lord, Epiphany with its eve, the Purification of the Blessed Virgin Mary, four days at Easter, St. George the Martyr, SS. Philip and James with the eve, the Invention of the Holy Cross, the Ascension of the Lord, four days at Pentecost, St. John the Baptist, one day for SS. Peter and Paul, St. James the Apostle, St. Lawrence the Martyr, the Assumption of the Blessed Virgin Mary, St. Stephen the king, St. Bartholomew the Apostle, the Nativity of the Blessed Virgin Mary, the Exaltation of the Holy Cross, St. Matthew the Apostle, St. Gerard the Bishop, St. Michael the Archangel, the Apostles Simon and Jude, All Saints, St. Emeric the duke,⁴¹ St. Martin the Bishop, St. Andrew the Apostle,

³⁵ King Stephen I was canonized in 1083; his feast is celebrated in Hungary on 20 August. His Lives are edited by E. Bartoniek, in Emericus [Imre] Szentpétery, *Scriptores rerum Hungaricarum tempore ducum regumque stirpis Arpadianae gestarum*, (Budapest: MTA, 1937–38, repr. Ibid.: Nap, 2001) II, 363–400; German translation with notes in T. von Bogyay, G. Silagi, J. Bak, *Die heiligen Könige* (Graz: Styria, 1976), pp. 25–72; New ed. with English translation is to be published in Gábor Klaniczay (ed.), *Sanctitas Principum: Sancti Reges, Duces, Episcopi et Abbates Europae Centralis (Saec. XI-XIII) – The Sanctity of the Leaders: Holy Kings, Princes, Bishops, and Abbots from Central Europe (Eleventh to Thirteenth Centuries)*. Central European Medieval Texts 7 (Budapest: CEU Press, forthc.)

³⁶ Bishop Gellért/Gerard of Csanád was killed during the pagan uprising on 23 September 1046 and canonized in 1083; see his *Vita*, edited by E. Madzsar, in Szentpétery, *Scriptores* II, 461–505, German translation in Bogyay *et al.*, *Die heiligen Könige*, pp. 73–120; with English translation in Klaniczay, *Sanctitas*, as above.

³⁷ 11 November

³⁸ This reference to a synod during the reign of King Andrew I (1046–1060) is the only authentic information about that meeting and its decrees. The text of a *Decretum Andreae Regis I*, published in the *CJH* (down to the *CJH/MTvT*) was compiled by Z. Mossóczy from Antonio Bonfini's *Rerum Hungaricarum decades* (1494). The first editors noted this fact but later editions dropped the note. The *constitutiones* of Andrew I published in the *Patrologia Latina*, 151: 1257–1258 follow the old *CJH* and are, therefore, similarly apocryphal

³⁹ 29 June (SS. Peter and Paul) is meant; Nándor Knauz, *Kortan* [Chronology] (Bp.: MTA, 1876), p. 237

⁴⁰ On the ecclesiastical calendar used in the Hungarian church, see Polikárp Radó, *Libri liturgicimanuscripti bibliothecarum Hungariae* (Budapest: Musaeum Nationalis Hungariae, 1947), I, 37–39, where the oldest surviving calendar from the Codex Pray (comp. c. 1192–1195) is reproduced

⁴¹ Duke Emeric (Imre), son of St. Stephen, died in 1031, and seems to have been venerated as a “virgin” by the late eleventh century. He was canonized together with his father and Bishop Gerard, in 1083; his feast was 5 November. His *Vita*, edited by Emma Bartoniek, is in Szentpétery, *Scriptores* II, 440–460. New ed. with English translation in Klaniczay, *Sanctitas*, as above n. 35.

St. Nicholas the Bishop, St. Thomas the Apostle, and each parish shall celebrate its own patron saint and the dedication of the church.

39 The abbots or monks sitting among the confraternity.⁴²

Abbots and monks shall not sit among the brethren of a confraternity, but the abbot shall receive the offerings of the brethren⁴³ in the cloister and minister to the brethren according to the rule.

40 Those who refuse the tithe.

The bishop shall receive the tithe in all things, but in this way: the bailiff of the bishop shall question the owner of the grain or beast about how much he has. And if he believes his response, he shall receive the amount which he has said; if he does not believe it, he shall make him swear and then receive it. He shall not accept the grain mixed, but separated. If after the oath an outsider says the owner of the grain committed perjury, the grain shall be counted before the bailiff of the bishop in company with the bailiff of the king and of the *ispán*. If the owner of the grain is found guilty, nine parts shall go to the bishop and the tenth part to him. If, however, the accuser is found to have lied, he shall pay for his mischief in the same way. If he has nothing with which to redeem himself, he alone shall be sold, not his children. The entire tithe shall be collected before Christmas. A son who lives in his father's house shall not pay separately, but whether son or bondman they both shall give the tithe together with the father. From sons or bondmen who have independent houses, the tithe is due from all they have. But if anyone is refractory, and having been questioned does not want the tithe to be judged by the bailiff of the bishop, then the bailiff shall say in front of suitable witnesses how much seems just to him. He shall receive as much flax and hemp as a fist can press to the ground with compressed fingers. If he should find ten buckets of threshed corn, he shall receive nothing; if twenty or more, he shall take the tenth part.

41 Litigants coming to the royal palace.

If someone, either a nobleman or an *ispán*, comes to the court at the royal palace on account of a lawsuit, and does not stand his ground with his adversary but despite having been called by the king's messenger, returns home without royal permission, he shall lose his suit, and if he took anything from his adversary he shall pay double.

42 Contempt for the king's or the judge's seal. If someone sends the king's seal to another⁴⁴ and fails to appear in court, he shall lose his suit and pay five *pensae*, and each time he repeats it he shall

⁴² On confraternities, see above, can. 14.

⁴³ Hincmar of Rheims (*Capitula ad presbyteros parochiae suae*, c. 15, Mansi XV:478) counselled his priests to stay with the *confratres* for only three glasses of wine, and then retire to their dwellings. Of course, for regular clergy the ruling was to be stricter

⁴⁴ In the early Middle Ages summons to court was given by sending the judge's seal to the accused. One such bull (*billog*) has actually survived; see Emil Jakubovich, "I. Endre törvénybeidéző ércbilloga" [The metal summoning bull of Andrew I], *Turul*, 47 (1933), 68–78. On the possible Slavic models for this procedure, see Milán Sufflay, "Az idéző pecsét a szláv források világánál" [The summoning seal in the light of Slavic sources], *Száz.*, 40 (1906), 293–312. See also W. Ewald, *Siegelkunde*, 2nd ed. (München: Oldenbourg, 1972), pp. 29–30. See also **Ladislas III: 3, 25–26**.

pay five *pensae* again. If someone sends the seal of the judge and does not appear, he shall pay one hundred pence.⁴⁵

⁴⁵ *Nummus* in late antiquity meant a lesser bronze coin, but here is used as a synonym for penny (*denarius*). In the probable model for this canon (Lex Alemannorum Karolina, c. 28; cf. Závodszky, p. 81), the ratio of the two fines is 2:1; hence we may assume that 5 *pensae* were also the double of 100 *nummi*. This would suggest a 40 *nummi* = 1 *pensa* = 40 *denari* equation, see Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325], (Budapest: MTA, 1916. [repr. 1991])., p. 224, n. 1.

**THE LAWS OF KING LADISLAS I OF HUNGARY (1077–
1095)**
[BOOK TWO]
(Lad 2)

St. Ladislas I (1077–1095) was the second king of Hungary to leave a collection of statutes to posterity. During the four decades preceding his reign, the social and ecclesiastical order established by St. Stephen suffered much in the course of foreign intervention, civil war, and pagan uprisings. The new laws introduced harsh measures for the restoration of property and public order. Traditionally three “books” of laws have been ascribed to King Ladislas, and all earlier editions and commentaries cite this legislation in tripartite form (see *MTvT/CJH*, 1–cf. Concordance below). “Book I” of the old collections, however, is in fact mainly ecclesiastical legislation consisting of the canons of the Synod of Szabolcs of 1092. As only “Book II” and “Book III” are entitled to be regarded as royal *decreta*, “Book I” is now published as “Synod of Szabolcs”[Syn. Szab.] . The traditional designation and sequence of the secular laws of King Ladislas (Books II and III) has been retained to facilitate access to older editions and references.

Since these laws have survived only in fifteenth- and sixteenth-century transcriptions rather than in medieval manuscripts, there is considerable controversy about their dating. Mónika Jánosi (1945-95) suggested that one should speak about the redaction rather than the dating of these legislative documents, as the latter cannot be ascertained. The Synod of Szabolcs may contain all ecclesiastical (and some secular) legislation passed on several occasions during Ladislas’s time. Books II and III have to be judged similarly as collections of decrees of different times. Jánosi accepted Büdiner’s suggestion (even if that was challenged by Györffy, p. 13) for dating Book III to the reign of Géza I (1074-77)—in part perhaps to Salomon’s (1073-74)—and explained the ascription of all these laws to Ladislas because of the saintly king’s high reputation. A final redaction of all these texts may have taken place as late as King Béla III’s reign (1173-96).

The opening sentences of both collections state that they were decrees of a group, probably of the king and his council, but in the formulation of subsequent articles abrupt grammatical changes in the subject pronouns from singular to plural, and from first person to third, also suggest that these texts originated at different occasions and were compiled into one body only later, when their origin and the different bodies that had passed the laws were no longer known.

MSS: *Codex Thuróoczi*”, a fifteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Clmae 407, ff. 88v–94r.
Codex Ilosvay”, a sixteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Fol. Lat. 4023, ff. 20v--26r.

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., (Budapest:

Franklin, 1896) 1, 66-89 [=MTvT/CJH]; Levente Závodszy, *A Szt. István. Szent László és Kálmán korabeli törvények és zsinati határozatok forrásai* [Sources of the laws and synodal decrees from the times of St. Stephen, St. Ladislav, and Coloman], pp.166-71 (Budapest: Szt. István Társulat, 1904.

LIT: M. Büdinger, *Ein Buch ungarischer Geschichte 1058–1100* (Leipzig: Teubner, 1866); Henrik Marczali, *Magyarország története az Árpádok korában 1038–1301* [History of Hungary in the Age of the Árpáds 1038–1301] (Budapest: Athenaeum, 1896=A magyar nemzet története [History of the Hungarian Nation], ed. Sándor Szilágyi, II); Pál. Angyal, “I. Endre és Szt. László büntetőtörvénykönyve” [The Criminal Laws of Andrew I and St. Ladislav], *Magyar Jogászegyleti Értekezések* (1941), pp. 71–85; György Györffy, “Szent László”, in *László király emlékezete* [Memory of King Ladislav] (Budapest: Magyar Helikon, 1977), pp. 13–15; Mónika Jánosi, *Törvényalkotás Magyarországon a korai Árpád-korban* [Making of Law in the Early Árpadian Age] (Szeged: Szegedi Középkorász Műhely, 1996). pp. 104-28; Ferenc Makk and Gábor Thorczkay, eds. *Írott források az 1050–1116 közötti magyar történelemről* [Written sources to Hungarian history 1050–1116] (JATE, Szeged, 2006).

LIBER SECUNDUS

Sequitur recapitulatio secundi libri:

- I. De furto proximi quorumlibet principum.
- II. De furto servi.
- III. De ligatione furis.
- IV. De purgatione furti, si quem furem tota villa proclamaverit.
- V. De inquisitione furtive rei.
- VI. De iudicis iudicio erga servum vel liberum.
- VII. De negotiatoribus sive mercatoribus.
- VIII.
- IX. De quolibet eiusdem prosapie faciente furtum.
- X. De cuiusvis servo in furto deprehenso.
- XI. De nobile vel milite invadente alterius domum.
- XII. De libero vel servo in furto capto.
- XIII. De furto clericorum.
- XIV. De libero in furto reperto.
- XV. Ut nulli negotiatori liceat emere vel vendere equos aut boves, nisi quantum ei necesse fuerit.
- XVI. De venditione equorum vel bovum sine licentia regis.
- XVII. De privatione honoris comitum, si permittunt emere vel vendere.
- XVIII. De negotiatione cuiusvis hospitis.

Temporibus piissimi regis Ladislai omnes nos regni Pannonico optimates in Monte Sancto conventum fecimus et quesivimus, qualiter malorum hominum impedirentur studia et gentis nostre expedirentur negotia.

- I. De furto proximi quorumlibet principum.

Primo omnium iureiurando constituimus, ut qualiscumque proximus principum reperiretur in furti culpa ultra pretium gallinarum, nullatenus possit abscondi vel defendi a quolibet eorum. Placuit quoque ut ipse fur, nisi ceciderit in ecclesiam, suspendatur et omnis facultas eius depereat. Et si [per] imprudentia[m] eius, qui ceperat eum, evaserit in ecclesiam, vel in curiam regis, vel ad pedes episcoporum, careat, qui non cavit, vendicatione furti. Si autem de manu fideiussoris evaserit, de patibulo quidem liberetur, verumtamen cum eodem fideiussore in aliam regionem venundetur et bona ipsius regali fisco vindicentur.

- II. De furto servi.

Si servus fur inventus fuerit, non possit pretio commutari nasus eius, nisi ceciderit in ecclesiam vel

in curiam regis vel ad pedes episcopi; et si ceciderit, careat custos eius vindicatione furti. Si vero secundo captus fuerit, suspendatur.

III. De ligatione furis.

Si quis autem furem ligaverit, habeat potestatem ligandi eum et ducendi ad iudicem, sive iuste, sive iniuste ligaverit. Si autem eum ligare quis prohibuerit, persolvat L quinque pensas et eandem moxam reddat in ligamine.

IV. De purgatione furti, si quem furem tota villa proclamaverit.

Si quem deinceps tota villa furem esse proclamaverit, probetur iudicio. Unde si mundus apparuerit, villa persolvat solummodo unam pensam presbitero. Si autem reus iudicetur, omnis substantia eius vendicatur regi, unde detur IIII pars villanis. Si vero aliquem personaliter furem esse proclamaverit, accipiant unam pensam. Si autem una pars accusaverit furem, alia vero defenderit, non recipiatur eorum defensio, et probato fure iudicio, si culpabilis inventus fuerit, non habeant partem in quarta vendicationis.

V. De inquisitione furtive rei.

Si quis vestigia sequitur furtive rei, nuntium premittat in villam, in quam dirigantur vestigia, ne excutiendo bestias suas perturbent villam sequenda vestigia. Quod si contumaciter fecerint, perditas res persolvant. Si autem, priusquam nuntius venerit, villani excusserint bestias suas, tunc investigatores perscrutentur singulas domos, ut ipsis placuerit. Si cui perierit res, eat cum testibus ydoneis investigare rem, ubi putaverit esse, et si prohibitus fuerit, prohibitores probentur iudicio et si culpabiles effecti fuerint, pereant ut fures; si vero mundati, propter prohibitionem LV pensas solvant. Si instinctu comitis sin militis investigatorem impederint, pro ipsis LV pensas comes persolvat et post hec probetur iudicio.

VI. De iudicis iudicio erga servum vel liberum.

Si iudex nasum servi non inciderit vel liberum non suspenderit, pereant omnia sua preter filios filiasve et ipse iudex venundetur. Si vero suspenderit iustum, centum X pensas et omnia bona sua suspenso restituat. Et si se duobus ydoneis liberaverit, ab eo, qui duxerat cum in concilium, tollat LV pensas. Et si advenerit iudicium et iustus iudex apparuerit, introductor eadem pena pereat, qua iudex periturus erat. Et si maioris facultatis fuerit, quam iudex, amittat etiam libertatem.

VII. De negotiatoribus sive mercatoribus.

Nemo emat vel vendat preter mercatum; si qui vero contra hoc emerint de furtiva re, pereant omnes, et emptor et venditor et testes. Si vero propriam rem contraxerint, perdant rem et pretium et testes

tantundem. Si vero in mercato tractus sit, contractus fiat coram iudice et theloneario et testibus, et si res empta esse furtiva apparuerit, emptor quidem testimonio iudicis et thelonearii evadat, testes autem reddant venditorem.

VIII. De iugulato homine.

Si quis extracto gladio iugulaverit hominem, regali iudicio tradatur in carcerem, et omnia sua dividantur in tria, scilicet vinee, terre, lixe, servi, unde due partes dentur cognatis iugulati, tertia vero filiis et uxori iugulatoris. Si vero minoris facultatis sit, quam centum X pensarum, amittat etiam libertatem.

IX. De quolibet eiusdem prosapie faciente furtum.

Si quis eodem decreto et divina propitiante gratia prolem vel cognatum sive quemlibet propinquum in furti conditione preoccupaverit, suspensionem vel carnis perditionem non subeat, sed ut exul venundetur, si vulgaris fuit. Si vero nobilis eadem culpa captus a parentibus fuerit, non venundetur, sed ergastuli custodie commendetur.

X. De cuiusvis servo in furto deprehenso.

Si quis ergo servum suum vel in propriorum sive aliorum in furto culpabilem invenerit, prefato testante eloquio, iudicibus ne parcat ad incidendum largiri nasum.

XI. De nobile vel milite invadente alterius domum.

Si quis nobilium vel militum alterius nobilis domum invaserit et ibi pugnam fecerit, et uxorem illius flagellaverit, si tantam substantiam habuerit, due partes eiusdem substantie pro reatu commisso dentur, tertia vero uxori filiisque suis remaneat. Si autem substantia defuerit, raso capite ligatus et flagellatus circa forum ducatur, et sic vendatur; alii vero, qui cum illo erant, liberi reatum suum LV bizanciis redimant, servi vero eadem pena dampnentur, ut dominus eorum. Servi vero alieni, qui ad hanc pugnam insciis dominis convenerint, venundentur et dimidium pretium pro reatu detur, dimidium vero ad dominos illorum redeat.

XII. De libero vel servo in furto capto.

Si quis liber vel servus in furto captus fuerit, suspendatur. Si vero pro evadendo patibulo ad ecclesiam confugerit, eductus ab ecclesia obcecetur. Servus in furto captus, si ad ecclesiam non fugerit, sicut liber suspendatur. Domino servi illius detrimentum sit in servo suspenso, domino vero rerum perditarum detrimentum sit in rebus perditis. Liber in furto captus, si ad ecclesiam confugerit, et inde eductus obcecatus fuerit, filii sui et filie sue, si X annorum aut minoris etatis fuerint, in libertate permaneant, si vero maioris etatis quam decem annorum fuerint, in servitatem

redigantur et omnis substantia eorum auferatur. Servus autem vel liber, si anserem aut gallinam furatus fuerit, monoculus efficiatur, et quod furatus est, reddat.

XIII. De furto clericorum.

Ordo clericalis, si anserem vel gallinam, poma vel his similia furatus fuerit, scopis tantum a magistro corrigatur, sed quod furatus est, restituat; maius his si furatus fuerit, ab episcopo suo degradetur et iudicio vulgari dampnetur.

XIV. De libero in furto reperto.

Si quis liber decem denariorum pretium furatus fuerit, suspendatur; minus decem denariis si furatus fuerit, furtum duodecies reddat et bovem unum persolvat. Servus autem tale furtum si fecerit, reddat duplum et nasum amittat. Servus profugus si alicubi in furto deprehensus fuerit, obcecetur. Et ideo ne suspendatur, nec lingua abscindatur, decrevimus, et si postea dominus suus eum invenerit, requirat per eum si aliquid perdidit.

XV. Ut nulli negotiatori liceat emere vel vendere equos aut boves, nisi quantum ei necesse fuerit.

Nullus mercator in aliquo huius terre confinio equum aut bovem vendere vel emere presumat, sed equum solummodo sibimet ad expeditionem necessarium, aut boves ad arandum aptos, si voluerit, emat.

XVI. De venditione equorum vel bovum sine licentia regis.

Si quis equum ad vendendum sine licentia regis in confinium duxerit, equus per comitem confinii ab eisdem auferatur, vel equi dominus in carcerem mittatur, donec testimonio comitis sui comprobetur; et si reus extiterit, sicut fur pereat, sin autem liber et hospes, evadat et equum quem adduxit amittat.

XVII. De privatione honoris comitum, si permittunt emere vel vendere.

Comites confiniorum, si equos vel boves ultra fines huius patrie sine licentia regis vendi permiserint, comitatus honore priventur. Custodes vero confiniorum, qui vulgo ewrii vocantur, si absque scientia comitum tale quid commiserint, libertatem amittant, si pauperes fuerint. Illis vero custodibus, qui presunt, in culpa eadem rei inventi fuerint, cum omnibus que habuerint pereant, soli filii et filie in libertate permaneant.

XVIII. De negotiatione cuiusvis hospitis.

Hospites ex aliis regionibus in confinium pro equo emendo vel aliis rebus negotiandis si venerint,

cum nuntio eiusdem confinii comitis ad regem eat, et per licentiam regis quicquid et quantum ei concessum fuerit, coram pristaldo regis emat.

Explicit liber secundus.

THE LAWS OF ST. LADISLAS (107-95)

BOOK II

The chapters of the second book follow:

- 1 Theft by anyone related to a nobleman.
 - 2 Theft by a *servus*.
 - 3 Tying up a thief.
 - 4 Purgation of theft when someone is accused of being a thief by a whole village.
 - 5 The search for stolen property.
 - 6 The judgment of a judge against a *servus* or a freeman. 7
- Traders or merchants.
- 8 On the killer.
 - 9 Anyone committing theft within his own kindred.
 - 10 Anyone's bondman caught in theft.
 - 11 The invasion by a warrior of the house of another.
 - 12 A freeman or *servus* caught in theft.
 - 13 Theft by clerks.
 - 14 A freeman discovered in theft.
 - 15 No merchant shall buy or sell horses or oxen unless they are necessary to him.
 - 16 Deprivation of the comital office for allowing buying and selling.
 - 17 All trade with foreigners.

At the time of the most pious King Ladislas, we, the magnates of the kingdom, held an assembly on the Holy Pannonian Mountain¹ and sought to determine how to prevent the deeds of evil men and how to promote the affairs of our people.

- 1 Theft by anyone related to a nobleman.²

In the first place we have all established by oath that if any relative of a nobleman is discovered

¹The Benedictine Abbey of St. Martin, now called Pannonhalma, founded around 1000 and regarded as the premier monastic community of the realm.

²*Princeps* in the eleventh-twelfth century meant a magnate; a "great man of the realm."

in a theft beyond the value of a hen, no one of them may conceal or defend him. It was also ordered that a thief, unless he retreats into a church,³ shall be hanged and all his property completely destroyed. And if through the carelessness of the man who caught him, he should flee to a church, or to the king's court, or to the feet of a bishop, it should cost him who did not take good care, the price of the theft.⁴ If he should flee from the hands of a guarantor,⁵ he shall escape the gallows, but nevertheless he shall be sold in another land together with the guarantor and his goods shall be appropriated by the royal treasury.

2 Theft by a *servus*.⁶

If a *servus* is caught in theft it is not possible to commute the price of his nose, unless he retreats to a church or the royal court or to the feet of the bishop; and if he does retreat, it should cost his keeper the price of the theft.⁷ And if he is caught the second time, he shall be hanged.

3 Tying up a thief.

Whoever ties up a thief, shall have the right to tie him and lead him to a judge,⁸ whether he has bound him justly or unjustly. If anyone, however, should prohibit the binding, he shall pay fifty-five *pensae*⁹ and render account for his offense by being bound himself.

4 Purgation of theft by someone accused of being a thief by a whole village.¹⁰

If the residents of an entire village one after another should accuse some- one of being a thief, he

³ Cf. **Stephen II: 18**. See: György Bónis “Első törvényeink sorsa és az egyházi menedékjog” [The fate of our first laws and ecclesiastical asylum]. *Regnum*, 3 (1938–39), 75–97.

⁴ *Venditio* means “sale”, or “sale-price”; traditionally translators and commentators have implied that in this law *venditio* refers to the portion of confiscated goods that are due to the captor of a criminal.

⁵ *Fidejussor*, i.e. “surety”. On his duties, see Gy. Bónis, “Les sûretés personnelles en Hongrie du XII^e au XVII^e siècle” *Receuil de la Société Jean Bodin pour l’histoire comparative des institutions*, 29 (1971), 725–765, espec. 727ff..

⁶ The exact status of male and female servile persons in eleventh-century Hungary has been the object of scholarly debates for at least a century (see also above, n. 11). In the printed version of DRMH, the editors decided to avoid coming down on either side and translated *servus* and *ancilla* &c. as “bondman” or “bondwoman” intending to escape the decision, but that was awkward. Most recently, Cameron Sutt, in *Slavery in Árpád-era Hungary in a Comparative Context* (Leiden: Brill, 2005) argued—with extensive discussion of the relevant literature—quite convincingly for regarding them slaves, but this is not the last word on the matter. We, therefore, took the “easy way out” by keeping the Latin term and leaving the decision to the reader.

⁷ See above, n. 4.

⁸ That is, to a royal judge. Nothing is known about these judges mentioned in the early laws. (In those of St. Stephen, they appear in chapters borrowed from Bavarian law.) For the procedure, see **Ladislav III: 9**.

⁹ The *pensa auri* was equivalent to the contemporary Byzantine gold *solidus* (Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325], Budapest: Magyar Tudományos Akadémia, 1916. [repr. 1991], pp. 158–168)

¹⁰ This section shows the application of public accusatory proceedings in the prosecution of criminals

shall be tried by ordeal.¹¹ If he appears clean,¹² the village shall pay one *pensa* to the priest. But if he is found guilty, all his property shall be confiscated by the king, of which a fourth part shall be given to the villagers. If certain persons should individually accuse someone of being a thief, they shall receive one *pensa*. If, however, one group [of villagers] accuses the thief and another defends him, their defense shall not be accepted, and after the thief has been tried by ordeal they shall have no share in the fourth part of the confiscation if he should be found guilty.

5 The search for stolen property.

If someone is pursuing the traces of a stolen object, he shall send a messenger to the village where the clues have led him, lest the villagers disturb the traces by turning out their beasts. But if they defiantly do so, they shall pay for the lost objects. If, however, the villagers have turned out their beasts before the arrival of the messenger, the investigators shall search each house as they please. If he, whose property was lost, goes with suitable witnesses to look for the object at the place where he suspects it to be and is impeded, those who obstructed him shall be tried by ordeal. If found guilty, they shall perish like thieves; but if found innocent, they shall pay fifty-five *pensae* and afterwards be tried by ordeal.¹³

6 The judgment of a judge against a *servus* or a freeman.

If a judge does not cut the nose of a *servus* or does not hang a freeman, he shall lose all he has, except his sons or daughters, and the judge himself shall be sold. If he hangs an innocent man, however, he shall pay one hundred ten *pensae* and restore all the hanged man's goods. If he acquits himself with two suitable witnesses, he shall take fifty-five *pensae* from the man who had him brought to court. If an ordeal is held and the judge is found innocent, his accuser shall suffer the same punishment which the judge would have suffered. And if he has greater means than the judge, he shall lose his freedom as well.

7 Traders or merchants.

No one shall buy or sell except in the market. If, in violation of this anyone buys stolen property, everyone shall perish: the buyer, the seller, and the witnesses. If, however, they agreed to sell

¹¹*Judicium* here meant in fact an ordeal. In Hungary, records of ordeals are known only from the thirteenth century. See: *Regestrum Varadiense examinum ferri candentis ordine chronologico digestum*, J. Karácsonyi, S. Borovský, eds. (Nagyvárad: Capitulum Varadiense Lat. Rit., 1903); cf. I. Zajtay, "Le registre de Varad: Un document judiciaire du XII^e siècle", *Revue d'histoire du droit*, 4, No. 32 (1954), 527–562 and M. Lupesco Makó, "Between Sacred and Profane: The Trial by Hot Iron Ceremony Based on the 'Regestrum Varadiense'" *Medievalia Transilvanica* 3 (1999), pp. 5–26. For the European-wide practice of recourse to the "judgment of God", see R. C. van Caenegem, "La preuve dans le droit du moyen âge", *Recueils de la Société Jean Bodin pour l'histoire comparative des institutions*, 17 (1965), 691–753, trans. J. R. Sweeney and D. A. Flanary as "Methods of Proof in Western Medieval Law", *Academiae Analecta*, Academie voor Wetensch., Lett. en Schone Kunsten van België, Kl. d. Lett., 45, No. 3 (1983), 85–127. – This kind of collective denunciation was abolished in the Golden Bull of Andrew II, see **1222:6**.

¹²That is, innocent.

¹³The practice described in this chapter is analogous to the Germanic *Spurfolge*, for which see *Reallexikon der Germanischen Altertumskunde*, ed. J. Hoops (Strasbourg: Trübner, 1911–1919), IV, 209f. with literature.

something of their own, they shall lose that thing and its price, and the witnesses shall lose as much too. But if the deal was made in the market, and agreement shall be concluded in front of a judge, a toll-gatherer, and witnesses, and if the purchased goods later appear to be stolen, the buyer shall escape penalty on the testimony of the judge and the toll-gatherer; the witnesses, however, shall produce the seller.

8 On the killer.

If someone kills a man with a drawn sword, he shall be sent to prison by royal judgment and all his property, namely vineyards, farmlands, servants, and slaves, shall be divided into three parts, whence two parts shall be given to the kinsman of the victim, the third part to the sons and wife of the killer. But if he has property worth less than one hundred ten *pensae*, he shall lose his freedom as well.¹⁴

9 Anyone committing theft within his own kindred.

If anyone respecting these laws and guided by divine grace catches an offspring, cousin, or any near relative in the commission of a theft, this person shall neither be hanged nor suffer mutilation, but, if a commoner, shall be sold abroad. If a noble be taken in the same crime by his kindred, he shall not be sold, but handed over for forced labor.

10 Anyone's *servus* caught in theft.

If anyone discovers his *servus* in the crime of theft of his own or another's property, in accordance with the preceding declaration, judges shall not forbear from imposing the cutting off of the nose.¹⁵

11 The invasion by a warrior¹⁶ of the house of another.

If a noble or warrior invades the house of another noble and causes a fight there and beats the other man's wife, two-thirds of his property, if he has enough, shall be given for the commission of the crime, one-third shall remain for his wife and sons. If, however, he lacks property, he shall be led with his head shaven around the market-place bound and whipped, and sold in this state. Others who were with him, if freemen, shall redeem their crime with fifty-five bezants;¹⁷ if bondmen, shall be punished by the same penalty as their master. Foreign slaves who instigated a fight without the knowledge of their masters shall be sold and half their price shall be given for the crime, the other half shall revert to their masters.

12 A freeman or bondman caught in theft.

If someone, freeman or *servus*, should be caught in theft, he shall be hanged. But if he flees to the church to evade the gallows, he shall be led out of the church and blinded.¹⁸ A *srevus* caught in theft, if he does not flee to the church, shall be hanged; the owner of the stolen goods

¹⁴ This chapter moderates the severity of the "law of the drawn sword", found in **Stephen I:16** and **35**.

¹⁵ See above, ch. 6.

¹⁶ *Miles* ("warrior") was a lesser knight.

¹⁷ *Bizancii* were equal to gold *pensae*; see Hóman, *Pénztörtörténet* p. 164, where assumptions of possible later interpolation of this passage, exactly because of this word, are refuted (n. 3).

¹⁸ It is not quite clear how this measure should tally with the rule included in chapter 2 above. In the case of *servi*, moreover, the effect of this law is more severe than that of **Stephen II:6**, where the death penalty was imposed only for the third offense.

shall take a loss in the lost goods. The sons and daughters of a freeman caught in theft who fled to the church, was led out and blinded, if they are ten years old or less, shall retain their freedom; but if they are older than ten years they shall be reduced to servitude and lose all their property. A *servus* or freeman who steals a goose or a hen shall lose one eye and shall restore what he has stolen.

13 Theft by clerks.

Anyone in the clerical order, who has stolen a goose or a hen, fruit or something similar, shall be corrected by his master with switches, and shall restore what he has stolen; if he has stolen anything larger he shall be degraded by his bishop and be sentenced in accordance with ordinary legal procedure.¹⁹

14 A freeman discovered in theft.

If a freeman has stolen anything worth ten pennies,²⁰ he shall be hanged; if he has stolen anything worth less than ten pennies he shall repay twelve times the value of the theft and pay an ox. A *servus* who commits such a theft shall pay double and lose his nose. A fugitive *servus* who is caught in theft somewhere, shall be blinded. And we have decreed that neither shall he be hanged, nor his tongue cut out; if his master shall find him, he shall demand from him what was lost.

15 No merchant shall buy or sell horses or oxen unless they are necessary to him.

No merchant anywhere along the frontiers²¹ of this land shall presume to sell or buy a horse or an ox. But he may buy a horse necessary to him exclusively for transport or oxen suitable for plowing, if he wishes.

16 The sale of horses and oxen without permission.

If someone without the king's license brings a horse to the frontier in order to sell it, the horse shall be taken away from him by the *ispán* of the frontier²² and the owner of the horse shall be put in prison until he is verified by the testimony of his *ispán*; if he is guilty he shall die as a thief; if, however, he escapes [the ordeal] free and safe he shall lose the horse which he brought.

17 Deprivation of the office of *ispán* for allowing buying and selling.

Ispáns of the frontier shall be deprived of their office of *ispán* if they allow horses and oxen to be sold beyond the frontiers of this country without the king's license. The guardians of the border,

¹⁹ Presumably after having been defrocked these clerks were handed over to the secular court. The text, however, is susceptible to other interpretations.

²⁰ "Heavy" pennies (*denarii*) were first minted in c. 0.781 gr weight in the later years of King Ladislas; see (Hóman *Pénztörténet* p. 231f.). The measures are quite harsh considering that the value of 10d might have been equal to one of the smaller household animals (a sheep or pig) since a young ox was worth 40d=1 *pensa*.

²¹ Early medieval Hungary was surrounded by a wide area of "borderland" (*indagines regni*) in which natural and artificial obstacles hindered the passage save at gates (*portae*); see Hansgerd Göckenjan, *Hilfsvölker und Grenzwächter im mittelalterlichen Ungarn* (Wiesbaden: Steiner, 1972) pp. 5-11.

²² The *ispán* (*comes*) of a border county or border region enjoyed greater authority than his colleagues inland; for example, the *ispán* of Co. Pozsony, commander of the important western gates, is usually listed among the high officers of the realm.

commonly called *őr*,²³ shall lose their freedom if they are poor and committed the crime without the knowledge of the *ispáns*. The officers among these guardians found in the same crime, shall perish together with all they possess, only their sons and daughters shall remain free.

18 All trade with foreigners.²⁴

Aliens who come to the frontier from other regions to buy a horse or to trade in other things shall go to the king with a messenger from the *ispán* of the frontier and may, with the king's licence, buy and sell in the presence of the king's bailiff²⁵ whatever and however much they have been allowed.

Here ends the second book.

²³ *Őr*, Hungarian for "guard"; here: frontier guard; on these, see Göckenjan, *Hilfsvölker*, pp. 12–22

²⁴ *Hospes*, literally: "guest"; was the terms used for immigrant settlers. As the context here refers to temporary visitors in contrast to settlers, we prefer the translation of "foreigner."

²⁵ The bailiff (in the early laws called *pristaldus*, probably from a Slavic loan-word, **pristav*; later *homo regius*, i.e. royal bailiff, or *homo* of any other judge): the executive officer of a judge, who delivered summonses and assisted in the process of trial and punishment; also, an officer of the king, count or other lords, who performed similar tasks. In early laws, the bishop's man collecting the tithe is also called *pristaldus*.

THE LAWS OF KING LADISLAS I OF HUNGARY

(1077–1095)

[BOOK THREE]

(Lad 3)

St. Ladislas I (1077–1095) was the second king of Hungary to leave a collection of statutes to posterity. During the four decades preceding his reign, the social and ecclesiastical order established by St. Stephen suffered much in the course of foreign intervention, civil war, and pagan uprisings. The new laws introduced harsh measures for the restoration of property and public order.

Traditionally three “books” of laws have been ascribed to King Ladislas, and all earlier editions and commentaries cite this legislation in tripartite form. “Book I” of the old collections, however, is in fact mainly ecclesiastical legislation consisting of the canons of the Synod of Szabolcs of 1092. As only “Book II” and “Book III” are entitled to be regarded as royal *decreta*, “Book I” is now published as “Canons of the Synod of Szabolcs”[Syn. Szab.] . The traditional designation and sequence of the secular laws of King Ladislas (Books II and III) has been retained to facilitate access to older editions and references.

Since these laws have survived only in fifteenth- and sixteenth-century transcriptions rather than in medieval manuscripts, there is considerable controversy about their dating. Mónika Jánosi (1945-95) suggested that one should speak about the redaction rather than the dating of these legislative documents, as the latter cannot be ascertained. The Synod of Szabolcs may contain all ecclesiastical (and some secular) legislation passed on several occasions during Ladislas’s time. Books II and III have to be judged similarly as collections of decrees of different times. Jánosi accepted Búdiner’s suggestion (even if that was challenged by Györffy, p. 13) for dating Book III to the reign of Géza I (1074-77)—in part perhaps to Salomon’s (1073-74)—and explained the ascription of all these laws to Ladislas because of the saintly king’s high reputation. A final redaction of all these texts may have taken place as late as King Béla III’s reign (1173-96).

The opening sentences of both collections state that they were decrees of a group, probably of the king and his council, but in the formulation of subsequent articles abrupt grammatical changes in the subject pronouns from singular to plural, and from first person to third, also suggest that these texts originated at different occasions and were compiled into one body only later, when their origin and the different bodies that had passed the laws were no longer known.

MSS: Codex Thuróczi”, a fifteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Clmae 407, ff. 90v–94r.

Codex Ilosvay”, a sixteenth-century manuscript, formerly in the Nationalbibliothek, Vienna;

presently Széchényi National Library, Budapest, Fol. Lat. 4023, ff. 22r--26r.

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896) 1, 75-89 [=MTvT/CJH]; Levente Závodszy, *A Szt. István. Szent László és Kálmán korabeli törvények és zsinati határozatok forrásai* [Sources of the laws and synodal decrees from the times of St. Stephen, St. Ladislas, and Coloman], pp. 172-80 (Budapest: Szt. István Társulat, 1904)

LIT: M. Büdinger, *Ein Buch ungarischer Geschichte 1058–1100* (Leipzig: Teubner, 1866); Henrik Marczali, *Magyarország története az Árpádok korában 1038–1301* [History of Hungary in the Age of the Arpads 1038–1301] (Bp.: Athenaeum, 1896=A *magyar nemzet története* [History of the Hungarian Nation], ed. Sándor Szilágyi, II); Pál Angyal, “I. Endre és Szt. László büntetőtörvénykönyve” [The Criminal Laws of Andrew I and St. Ladislas], *Magyar Jogászegyleti Értekezések* (1941), pp. 71–85; György Györffy, “Szent László”, in *László király emlékezete* [Memory of King Ladislas] (Bp.: Magyar Helikon, 1977), pp. 13–15; Mónika Jánosi, *Törvényalkotás Magyarországon a korai Árpád-korban* [Making of Law in the Early Árpadian Age] (Szeged: Szegedi Középkorász Műhely, 1996). pp. 104-28. Ferenc Makk and Gábor Thorczkay, eds. *Írott források az 1050–1116 közötti magyar történelemről* [Written sources to Hungarian history 1050–1116] (JATE, Szeged, 2006).

DECRETA S. LADISLAI REGIS

[LIBER TERTIUS]

Incipit liber tertius. Capitulationes eiusdem:

- I. De centurionibus et decurionibus.
- II. De his, qui aliorum servientes detinent.
- III. De palatino comite.
- IV. De quolibet fure ad ecclesiam fugiente.
- V. De servo vel libero in eadem culpa ad ecclesiam fugiente.
- VI. De muliere in furto inventa.
- VII. De puella furtum faciente.
- VIII. De furibus decem vel sex denariorum valentium.
- IX. De his, qui capiunt furem.
- X. De his, qui in expeditione furantur.
- XI. De negotiatoribus euntibus de civitate in civitatem.
- XII. De fure in curia nobilium capto.
- XIII. De collectoribus fugitivarum rerum.
- XIV. De his, qui equos a cursoribus dimissos retinent.
- XV. De his, qui decretum regis spernunt.
- XVI. De iudicibus.
- XVII. De furibus ad ecclesiam fugientibus et se innocentes proclamantibus.
- XVIII. Ut nullus cum fure convenire audeat.
- XIX. Nemo ducat furem ad alium iudicem.
- XX. De usucapionibus.
- XXI. De his, qui recipiunt servum vel lixas alterius.
- XXII. De iudice eiecto et constituto.
- XXIII. De falsis iudicibus.
- XXIV. De iudice litigium differente.
- XXV. De iudicibus sigillum mittentibus.
- XXVI. De spernentibus sigillum iudicum.
- XXVII. De his, qui domi fecerint pugnam.

XXVIII. De cursoribus, qui ultra tertiam villam equos duxerint.

XXIX. De querentibus perditarum rerum.

I De centurionibus et decurionibus.

Hoc decreverunt, hanc legem constituerunt: ut nuntius regis per omnescivitates dirigatur, qui congreget centuriones et decuriones eorum, qui vulgo ewrii vocantur, cum omnibus sibi commissis, et precipiat eis, ut si quem furti culpabilem sciunt, ostendant; et qui pro culpabilibus ostensi fuerint, si quod non sint culpabiles, iudicium portare voluerint, iudicium detur illis. Quosque nominant ewrii, illi patiantur sub decenario numero, quorum unus pro X portet iudicium; si fuerit salvus, reliqui IX salvi fiant, sin autem IX portent iudicium, unusquisque pro se. Ille autem, qui pro IX iudicium portaverit, ipse etiam pro se portet, sed eque iudicium.

Post hec inquiretur a cunctis optimatibus et populo, si quam villam sciant furto diffamatam; et si quam dixerint, dicat nuntius regis villanis, ut quos fures, sciant in illa, illos reddant. Quos autem rediderint, si iudicio se velle defendere dixerint, ne prohibentur. Sed qui fures antea auditi fuerant, illis nequaquam detur iudicium.

Preterea eiusdem ville villani per decem et decem dividantur, et decimus pro IX portet iudicium. Si fuerit ipse mundus, reliqui IX mundi sint; si culpabiles sint, sicut supra diximus, unusquisque pro se portet, decimus autem, qui pro IX portaverat, ipsemet eque iudicio probetur.

Deinde nuntius regis de villa in villam vadat, sciscitando a villanis, ut ubi furem sciunt, monstrent. Notum etiam faciat, totius Hungarie principes sacramentum fecisse, quod neque furi parcant, neque celant eum, ipsi quoque similiter faciant. Et si rustici dixerint, iusiurandum se velle observare, tunc ostendant fures, ubi sciunt. Sed si postea aliquis fures celasse eos accusaverit, et ita periuri inventi fuerint, pro commutatione lingue decem pensas solvant et canonice penitentant.

II De his, qui aliorum servientes detinent.

Precipimus etiam, ut idem regis nuntius palam faciat omnibus, tam nobilibus, quam ignobilibus, imprimis episcopis, abbatibus, comitibus, postea vero minoribus, quod a tempore regis Andree et ducis Bele et a descriptione iudicis Sarkas nomine aput quemcumque aliqui civium vel illorum, qui dicuntur ewnek vel servi detinentur, in assumptione sancte Marie omnes regi presententur. Quod si quis rennuerit, dupliciter reddat; vel si quis defendere voluerit, in predicta festivitate veniat ad curiam et defendat.

Veniant et illi omnes, qui dicuntur wzbeg ad curiam in eadem festivitate et secundum quod regale iudicium ordinaverit, postmodum ratum permaneat. Et si quis ultra predictum terminum aliquem illorum, quos tunc reddi precipimus, detinuerit, dupliciter reddat et LV pensas propter transgressionem solvat. Et si qua suspicio de illo, qui alterius rem detinebat habita fuerit, eo quod ille, quem retinuerat, fur et latro diffamabatur, ipse expurget se iudicio; si culpabilis

fuerit, ut fur et ipse diiudicetur.

Illi quoque, qui dicuntur vulgo wzbeg, cuicumque persone si adhererint, representent eos regi in assumptione sancte Marie; quod si quis transgressus fuerit, bis totidem reddat et insuper propter legis fracturam LV pensas adhibeat.

III De palatino comite.

Placuit etiam, ut si aliquando palatinus comes domum ierit, regis etcurie sigillum, que in vice eius remanserit, illi dimittat, ut sicut regis una est curia, et ita unum sigillum persistat. Domi vero comes idem quamdiu manserit super neminem sigillum mittat, nisi super eos dumtaxat, qui vocantur udornic et qui spontanea voluntate iverint ad eum, illi ei liceat iudicare. Quod si aliter fecerit, LV pensas solvat. Similiter et ducis comes, qui super suos, quam alios iudicaverit, eadem sententia corrigatur.

IV De quolibet fure ad ecclesiam fugiente.

Si quis liber furatus fuerit, et in ecclesiam fugerit, cuius ecclesie refugium quesivit, illius servus sit. Ille autem, cuius suasionem evasit, parte sua careat. Et si presbiter illum postea emancipaverit, et ipse vice eiusdem ecclesie servus sit. Ille vero, qui furatus fuerit, venundetur in aliam patriam, et si postmodum huc reversus fuerit, tollantur ei oculi.

V De servo vel libero in eadem culpa ad ecclesiam fugiente.

Servus autem, qui furatus fuerit et ad ecclesiam fugerit, domino suo reddatur, et cuius consilio fugit, det ecclesie duas pensas. Et si liber furtum fecerit, sed neque captus, neque ligatus in ecclesiam fugerit, ipse similiter sit servus ecclesie, et cuius erat fur, parte sua non careat. Eo modo si servus ad ecclesiam fugerit, una pensa dominus eius eum redimat, cuiusque res furatus fuerat, illi totum restauret. Item si servus magnum quid et tantum furatus fuerit, quantum dominus eius restaurare non poterit, cuius erat, unam pensam ecclesie donet et servus sit ecclesie.

VI De muliere in furto inventa.

Si qua mulier habens maritum furtum fecerit, nasum perdat et venundetur, et cum tota substantia sua, cum qua post viri sui mortem cum alio viro posset maritali, pereat. Et si vidua idem fecerit, alterum oculum perdat et exceptis partibus filiorum suorum cum parte sua anichiletur.

VII De puella furtum faciente.

Si que innupta puella furtum fecerit, venundetur, et nunquam ad libertatem redeat. Et si quis emancipaverit, pretio careat, illa autem in curiam regis ducatur.

VIII De furibus decem vel sex denariorum valentium.

Si liber, quod decem denarios valeat, furatus fuerit, cum omni substantia sua pereat; si minus, alter oculus eruatur, et secundum sancti Stephani decreta diiudicetur. Item si servus VI denariorum pretium furatus fuerit, careat oculis; si minus, oculo, et quod furatus fuerit, dominus eius duppliciter restituat.

IX De his, qui capiunt furem.

Quocienscumque quis furem ceperit et ligaverit, per tres dies tantum teneat, in quarto ante iudicem statuatur; et si forte se furti conscios inventurum dixerit, sex septimanarum spatio indulgentiam habeat, et interim furti conscios, quos se inventurum promiserat, inveniat; si autem non invenerit, regali sententia dampnetur. Si vero plus, quam per tres dies eum tenuerit, et in quarte, sicut diximus, iudici non presentaverit et postea vel a parentibus furi, vel a domino, si dominum habet, declamatio venerit, ante iudicem statuatur, et quia eum vinculatum tenuit et secundum legem tertia vel quarta die non presentaverit, ipse ante iudicem statuatur, et quia iniuste tenuit furem, X pensas solvat, fur autem secundum legem diiudicetur. Et si qui contumax iudicium iudicum transgreditur, sex pensas solvat, iudex vero per vim furem accipiat et si fur iudicium quesierit, et iudicio dato inculpabilis fuerit, de his sex pensis unam sancte ecclesie donet; et si culpabilis fuerit, cum omni substantia sua in sumptum regis exportetur.

X De his, qui in expeditione furantur.

Si rex in expeditione fuerit, et interim furem capi contigerit, qui cepit, firmiter teneat, sed postquam rex et primates redibunt, ultra quem terminum dixi, tenere non presummat. Quod si aliter fecerit, sex pensas enumeret.

De eademve.

Si quis in expeditione furtum fecerit, cum omnibus rebus suis extirpetur.

XI De negotiatoribus euntibus de civitate in civitatem.

Si quis de civitate in civitatem vadens emerit vel vendiderit, et si quod prius vendidit, postea furatum esse apparuerit, ille qui vendidit, sicut fur diiudicetur, et qui testes fuerint, iudicio discutiantur; si culpabiles inventi fuerint, sicut fures, ita diiudicentur.

XII De fure in curia nobilium capto.

Si quis in curia nobilium furtum fecerit, nuntietur vel eiusdem curie domino vel pristaldo eius. Et si forte contigerit, quod neuter domi sit, expectent per X dies; si in undecimo neuter illorum venerit, ante iudicem statuatur et secundum legem tractetur.

XIII De collectoribus fugitivarum rerum.

Rerum fugitivarum collector, quem vulgariter joccedeth dicunt, quitquid colligit, ad civitatem eiusdem provincie congregat, et regis agazo et comitis eiusdem civitatis in suburbio stabulum faciant, ibi usque ad festivitatem sancti Michaelis quitquid pecorum collectum fuerit, servetur; due partes fugitivorum hominum, ioch scilicet, donentur regis pristaldo, tertia pars comiti et usque ad prenominatum festivitatem detineantur, de quibus post festivitatem sancti Michaelis, quando dividuntur, nuntius episcopi decimam partem accipiat. A festivitate sancti Martini usque ad festivitatem sancti Georgii congregentur oves et boves et simili modo dividantur. Et si interim rerum fugitivarum collector, quem dixi, hec transgressus fuerit, exceptis filiis et uxore eius, cum omni substantia perdat; si comitis collector fugitivorum liber fuerit, simili modo disperdatur, si servus, comiti auferatur. Si regis fugitivorum collector de his, qui collegit, alicui dederit, ambo perdantur; et si quis et quitquam de talibus negaverit, quantum negavit, duodecies tantum reddat.

XIV De his, qui equos a cursoribus dimissos retinent.

Si quis equos, quos cursores dimittunt, habuerit, per tres spetimanas ad ecclesiam vel mercatum monstrandi causa ducat. Et si dominus eius non venerit, donet eum regis collectori. Similiter de equis fiat a furibus dimissis, ut qui furem cum equo deprehenderit, furem det iudici, equus vero suus sit.

XV De his, qui decretum regis spernunt.

Quicumque ergo regis et principum decreta fregerit, si episcopus est, secundum voluntatem regis diiudicetur; si comes, a comitatu degradetur; si centurio, honore privetur et insuper LV pensas solvat; si miles, similiter LV pensas solvat.

XVI De iudicibus.

Volumus, ut unusquisque iudex in parochia sua iudicet.

XVII De furibus ad ecclesiam fugientibus et se innocentes proclamantibus.

Si qui fures, servi vel liberi ad ecclesiam subintraverint, et se innocentes esse proclamaverint, iudicio probentur. Quod si rei apparuerint, quasi qui ecclesiam non intrassent, iudicentur; si vero culpam confessi fuerint, lege beati Stephani discutiantur.

XVIII Ut nullus cum fure convenire audeat.

Nemo cum fure convenire audeat; si autem quis fecerit, LV pensas perdat.

XIX Nemo ducat furem ad alium iudicem.

Volumus etiam, ut si quispiam furem ceperit, ante illum iudicem discutiatur causa, in cuius termino captus fuerit fur.

XX De usucapionibus.

Usucapiones capiantur a festo sancti Georgii usque ad festum sancti Johannis Baptiste et ducantur in civitatem, teneanturque usque ad festum sancti Michaelis, presententurque assidue in mercato, ut si quispiam suam repererit personam, redimat XC denariis, equum XII, bovem V, ex quibus due partes regi, tertia comiti tribuantur. Si vero usque sancti Michaelis festum inventi non fuerint, dividantur predicto modo, tamen nullo pacto vendantur vel cellentur, sed tantum labore eorum utatur. Quod si collector vendiderit vel celaverit, triplum reddat, ipseque X pensas persolvat. Comes vero si idem fecisse probatur, LV pensas persolvat. Simili modo iubemus, ut qui usucapiones tenuerint a tempore regis Bele, usque ad festum beati Stephani dimittant.

XXI De his, qui recipiunt servum vel lixas alterius.

Interdicimus etiam, ut nullus recipiat servum alterius vel lixas; si quispiam autem receperit, si comes fuerit, sciat se duppliciter cum LV pensis reddendum, si minister, duppliciter cum XXV pensis, si plebeus, duppliciter cum V pensis. Quod si receptus vel pro furto, vel pro aliquo crimine latuerit, et receptor conscius reatus illius fuerit, et negaverit se fuisse conscium, si comes est, iuramento se purget et insuper LV pensas persolvat; si vero plebeus, simili iuramento purgetur et insuper V pensas persolvat, et si quid contra eum latro proclamaverit, exaudiatur.

XXII De iudice eiecto et constituto.

Si quis iudicium non diffinivit litigium, antequam eius potestas auferatur, veniat ad iudicem constitutum et sicut iudicare disposuerat, cum eo discernat, et exinde recipiat nonam partem iudicii, iudex vero decimam.

XXIII De falsis iudicibus.

Si qui falsi iudices in occulto iudicare aliquid cognoscerentur, presententur iudici, in cuius termino reperti fuerint, inquisitque ab eis causa commissi, quod diiudicaverint, dupplum reddant, ipsique X pensas proferant.

XXIV De iudice litigium differente.

Si quis distulerit iudicium litigii ultra XXX dies, vapuletur.

XXV De iudicibus sigillum mittentibus.

Possit iudex sigillum suum mittere super quoscumque, exceptis presbiteris et clericis necnon comitibus. Si quis autem iudicem iniuste iudicasse proclamaverit, et non probaverit, V pensas solvat; si vero iudex convictus fuerit, iudicium in dupplum restituat et insuper V pensas persolvat. Iudex pro suo iudicato, nisi in se, uno anno, postea non introducat.

XXVI De spernentibus sigillum iudicum.

Si quis sigillum iudicis negligens ad causam non venerit, primo V pensis puniatur; si secundo, totidem; si tertio, rationem perdat et tonsus vendatur pro debito.

XXVII De his, qui domi fecerint pugnam.

Si qui domi pugnaverint et ad iudicem non venerint, nichil querat iudex. Si venerint, ad eius fiat libitum. Quod si concordati aliquid iudici inde dederint, tertiam sibi, II partes regi reservet.

XXVIII De cursoribus, qui ultra tertiam villam equos duxerint.

Nemo cursorum audeat ducere equum ultra tertiam villam vel accipere ad ecclesiam euntium vel redeuntium, sive ad curiam episcoporum seu comitum, nec de presbiteris et clericis ac in curribus eorum. Accipiat autem qualescumque invenerit equos, ut regis legatio citius expediatur. Si quis autem cursorem verberaverit, LV pensis, si lora retemptaverit, decem pensis puniatur.

XIX De querentibus perditarum rerum.

Si quis servum fugitivum vel quodcumque perditum querere voluerit, a nemine prohibeatur. Si quis autem prohibuerit, vel querentem verberaverit, decem iuvencis mulctabitur valentibus decem pensas.

Explicit decretum sancti regis Ladislai.

THE LAWS OF KING LADISLAS

Book III.

Here begins the Third Book. Its chapters are:

1. Centurions and decurions.
2. Those who detain the servants of others.
3. On the count palatine.
4. The flight of any thief to a church.
5. The flight to a church of a bondman or freeman for the same crime.
6. The woman discovered in a theft.
7. The commission of theft by a girl.
8. Thieves who steal ten or six pennies' worth.
9. Those who catch a thief.
10. Those who steal during a campaign.
11. Merchants going from castle to castle.
12. The thief captured in the court of nobles.
13. Collectors of stray things.
14. Those who retain the horses left by couriers.
15. Those who scorn the decree of the king.
16. On judges.
17. Thieves fleeing to the church and proclaiming themselves innocent.
18. No one shall dare to negotiate with a thief.
19. No one shall bring a thief to another judge.
20. On usucaptions.
21. Those who receive male or female slaves of others.
22. Former judges and incumbent judges.
23. False judges.

24. Postponement of a lawsuit by a judge.
25. The sending of judges' seals.
26. Those who scorn judges' seals.
27. Those who fight a duel at home.
28. Couriers who lead their horses farther than the third village.
29. Those searching for lost things.

1 Centurions and decurions.¹

They² have decreed this and they have established this law: the king's messenger shall go to all the castles³ and assemble the centurions and decurions of those who are commonly called *őr*⁴ together with all who are committed to them: and he shall order them to point out anyone whom they know to be guilty of theft. The ordeal⁵ should be administered to those who have been pointed out to be guilty, if they wish to undergo the ordeal to prove they are not guilty. Those who are called *őr* shall be arranged in tens, one of whom shall undergo the ordeal on behalf of the ten, if he is cleared unscathed, the other nine shall be unscathed; if not, however, each one shall also undergo the ordeal. Moreover, he who underwent the ordeal on behalf of the nine shall also undergo the ordeal for himself. Afterwards all the magnates and people shall be asked if they know of a village infamous for theft, and if they name any village, the royal messenger shall call on the villagers to deliver up those whom they know to be thieves there. Those whom they have delivered up may not be prohibited from defending themselves by ordeal if they say they want to. But the ordeal shall not be administered to those who were previously reputed to be thieves.

In addition the villagers of the same village shall be divided into groups of ten and the tenth person

¹ The system of “tens” and “hundreds” with their heads called centurions and decurions seems to have applied to different serving strata of early medieval Hungarian society (György Györffy, *Wirtschaft und Gesellschaft der Ungarn um die Jahrtausendwende*, Wien–Köln–Graz: Böhlau, 1983 [Also published as *Studia Historica Acad. Sc. Hung.* 186. Bp.: Akademiai, 1983], pp. 93–101). Parallels can be found both in the Frankish state (cf. Th. Mayer, “Staat und Hundertschaft in fränkischer Zeit”, in *Mittelalterliche Studien* [Lindau: Thorbecke, 1959], pp. 104–120) and in the neighboring kingdoms of Poland and Bohemia (cf. O. Kossmann, *Polen im Mittelalter* [Marburg: Herder-Institut, 1971], p. 72ff, and more recent literature in Györffy, *Wirtschaft und Gesellschaft* p. 208)

² Referring to some kind of assembly.

³ Castles were the centers of the counties.

⁴ *Őrök* (Pl.) were guards who served not only on the borders (see **Ladislav II: 17**), but also in royal castles; György Györffy, *István király és műve* [King Stephen and his work]. Budapest: Gondolat, 1977, pp. 204–205 and Hansgerd Göckenjan *Hilfsvölker und Grenzwächter im mittelalterlichen Ungarn*. Wiesbaden: Steiner, 1972.

⁵ *Iudicium portare*, literally “to carry the ordeal,” refers to the ordeal. Records of ordeals by hot iron at Várad (Nagyvárad/Oradea) are known only from the thirteenth century, see: *Regestrum Varadiense examinum ferri candentis ordine chronologico digestum*, J. Karácsonyi, S. Borovsky, eds. (Nagyvárad: Capitulum Varadiense Lat. Rit., 1903); online : <https://www.arcanum.hu/hu/online-kiadvanyok/Varadi-varadi-jegyzokonyv-regestrum-varadinense-1208-1235-2/> ; cf. I. Zajtay, “Le registre de Varad: Un document judiciaire du XII^e siècle”, *Revue d'histoire du droit*, 4, No. 32 (1954), 527–562 and M. Lupesco Makó, “Between Sacred and Profane: The Trial by Hot Iron Ceremony Based on the ‘Regestrum Varadiense’” *Mediævalia Transilvanica* 3 (1999), pp. 5–26. For the European-wide practice of recourse to the “judgment of God”, see R. C. van Caenegem, “La preuve dans le droit du moyen âge”, *Recueils de la Société Jean Bodin pour l'histoire comparative des institutions*, 17 (1965), 691–753, trans. J. R. Sweeney and D. A. Flanary as “Methods of Proof in Western Medieval Law”, *Academiae Analecta*, Academie voor Wetensch., Lett. en Schone Kunsten van België, Kl. d. Lett., 45, No. 3 (1983), 85–127.

shall undergo the ordeal for the nine. If he shall be clean,⁶ the remaining nine will be clean, if they are guilty, each one shall undergo the ordeal himself, as we have said above, and the tenth who underwent it on behalf of the nine shall be tried by ordeal again for himself. After that the king's messenger shall go from village to village asking the villagers to point out whom they know to be a thief. He shall also declare that since the magnates of Hungary have taken an oath neither to be lenient to a thief nor to hide him,⁷ they should do the same. And if the peasants say that they wish to observe the oath, then they should expose the thieves where they know them to be. But if afterwards anyone accuses them of hiding thieves, and are thus found to have committed perjury, they shall pay ten *pensae* in commutation for their tongues and do penance according to the canons.⁸

2 Those who detain the servants of others.

We further ordain that the same royal messenger shall publicly make it known to all, nobles and non-nobles alike – first to the bishops, abbots and *ispánok*, then to the lesser men – that any of those detained from the time of King Andrew and Duke Béla⁹ and when the estate survey of the judge Sarkas¹⁰ was made, whether men of the castle¹¹ or those called *ínek* or *servi*¹² shall be given to the

⁶That is, innocent.

⁷See, **Ladislav II: 1**.

⁸This decree represents a reduction of the penalty for perjury imposed in the laws of St. Stephen (see **Stephen I: 17**).

⁹Andrew I (1047–1060) shared power with his brother, King Ladislav's father (the later King Béla I, 1060–1063), for many years.

¹⁰The polyptych or survey—probably of the lands and men on the royal property—made by Judge Sarkas (or Sarchas) is unfortunately lost, but has been dated to c. 1060–1063. It is regarded as the “Hungarian Domesday Book.” See: Györffy, *István király*, p. 246.

¹¹*Cives* in the early centuries were dependent men attached to the castles of the royal *ispáns* for their defense and maintenance. Their exact social status has been a matter of long debate—just as that of the servile population in general, see below n. 12. The discussion was mainly between Károly Tagányi and László Erdélyi in *Történelmi Szemle*, 3–4 (1914–1916); on these historians, see F. Rottler, “Beiträge zur Kritik der Historiographie des frühen Mittelalters: Über die Geschichtsanschauung László Erdélyis”, *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae: Sectio historica.*, 3 (1961), 121–152; and S. B. Vardy, “The Hungarian Economic History School” *Journal for European Economic History*, 4 (1975), 121–136.

¹²In the text *ewnek*. This archaic Hungarian word is now understood to have meant “commoner” or “poor man” in the eleventh century and was probably pronounced *in* (Pl. *ínek*); cf. *ínség*, “hunger” or “shortage” in modern Hungarian, see Györffy, *Wirtschaft und Gesellschaft*, pp. 129–140). The meaning of *servi* is problematic. The exact status of male and female servile persons in eleventh-century Hungary has been the object of scholarly debates for at least a century (see also above, n. 11). Most recently, Cameron Sutt, in *Slavery in Árpád-era Hungary in a Comparative Context* (Leiden: Brill, 2005) argued—with extensive discussion of the relevant literature—quite convincingly for regarding them slaves, but this is not the last

king by the Feast of the Assumption of the Virgin Mary.¹³ If any- one refuses this, he shall pay double,¹⁴ but if anyone wishes to defend [his title to the men], he shall come to the court on the said feast and defend it.

All those called *üzbég*¹⁵ shall come to the court at the same feast and whatever shall be ordained by royal judgment shall be valid for them. And if anyone detains beyond the aforesaid date any of those whom we have ordered to be returned, he shall remit double and pay fifty-five *pensae* because of his offense. And if there happens to be suspicion of a person who keeps something belonging to another, he shall be denounced as a robber and thief by him whose property he retained; and he shall clear himself by ordeal and if he is guilty, he, too shall be judged as a thief.

Also if any of those commonly called *üzbég*¹⁵ should adhere to any person whatsoever, he shall be returned to the king on the Feast of the Assumption of the Virgin Mary; if anyone refuses to do so, he shall remit twice as much for the offense and pay an additional fifty-five *pensae* for the breaking of the law.

3 On the count palatine.¹⁶

It is also agreed that when the count palatine returns home he shall entrust the seal of the king and the court to the man who remains in his place, for just as the king has one court so there should be but one seal. But as long as that same count remains at home he shall send the seal to

word on the matter. We, therefore, took the “easy way out” by keeping the Latin term and leaving the decision to the reader.

¹³ August 15

¹⁴ Here and in the following articles the Latin text distinguishes between *reddere* meaning “return” or “render” and *solvere* meaning “pay” or “render”; the usage is not consistent, but permits the assumption that stolen or appropriated goods (including servants) were to be “returned” two- or three-fold in kind, and additional fines were “paid” in coin or other valuables. Note the rather high amount of fines (fifty-five *pensae*). The *pensa auri* was equivalent to the contemporary Byzantine gold *solidus* (Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325], Budapest: Magyar Tudományos Akadémia, 1916. [repr. 1991], pp. 158–168)

¹⁵ A Slavic loan-word (*zbeġ*) meaning “refugee”; Györfly (*Wirtschaft und Gesellschaft*, pp. 186–187) suggests that the reference is actually to Slavic (or other foreign) peasants who fled to Hungarian lords and churches. Such aliens were subject to the king, hence the demand for their return

¹⁶ The palatine (*comes palatines*) was originally the head of the king’s household. By the mid-twelfth century he had become and highest officer in the realm, the king’s deputy and commander of the royal host. He gradually moved out of the court and served as the king’s itinerant judge administering justice to the nobles. The names of almost all palatines are known from c.1150 onward; The election or selection of the palatine became a contested issue between king and nobility.

no one,¹⁷ except only to those who are called *udvarnok*¹⁸ and to those who come to him voluntarily, whom he is permitted to judge. If he should do otherwise, he shall pay fifty-five *pensae*; Similarly the *ispán* of the duke,¹⁹ if he judges others besides his own people, shall be subject to the same sentence.

4 The flight of any thief to a church.

If a freeman has committed a theft and fled to a church, he shall be the *servus* of that church whose asylum he sought.²⁰ The person who persuaded him to escape shall lose his portion.²¹ If the priest should later manumit him, he himself shall be the *servus* of the church in his stead, but the person who committed the theft shall be sold in another country. If subsequently he should return here, he shall lose his eyes.

5 The flight to a church of a *servus* or freedman for the same crime.

A *servus* who has committed theft and fled to the church, shall be returned to his master, and the man who advised him to flee shall give two *pensae* to the church. And if a freeman committed a theft but is not caught or bound, and he flees to the church, he similarly shall be the *servus* of the church, and the man whose goods he stole shall not lose his share. In the same manner, if a *servus* flees to the church, his master shall redeem him with one *pensa* and make complete restitution to the man whose goods were stolen. Also, if the *servus* has stolen something even greater than his master's ability to restore, the owner of the *servus* shall give one *pensa* to the church and the *servus* shall belong to the church.

6 The woman discovered in a theft.

If a married woman commits a theft, she shall lose her nose and be sold, and she shall lose all her

¹⁷ In the early Middle Ages summons to court was given by sending the judge's seal to the accused. One such bull (*billog*) has actually survived; see Emil Jakubovich, "I. Endre törvénybeidézô ércbilloga" [The Metal Summoning Bull of Andrew I], *Turul*, 47 (1933), 68–78. On the possible Slavic models for this procedure, see Milán Sufflay, "Az idéző pecsét a szláv források világánál" [The Summoning Seal in the Light of Slavic Sources], *Száz.*, 40 (1906), 293–312. See also W. Ewald, *Siegelkunde*, 2nd ed. (München: Oldenbourg, 1972), pp. 29–30; and Ferenc Eckhart, "Die glaubwürdigen Orte Ungarns im Mittelalter," *MIÖG*, Ergänzungsband 9 (1913/15), 395–558, here pp. 407–9.

¹⁸ The *udvarnoks* (from Hung. *udvar*, from Slavic *dvor*, "court") were peasants on settlements attached to the royal household, supplying it with agricultural produce grown on their plots (hence occasionally called *panisdator*, i.e., bread giver), in contrast to *servi* designated as ploughmen or craftsmen, messengers, fishermen, and the like, working on the royal domain with no land or equipment of their own.

¹⁹ In the eleventh century a younger member of the dynasty received part of the land as ducal territory; see above, ch. 2, and Dániel Bagi, "The dynastic conflicts of the eleventh century in the Illuminated Chronicle," in: *Studies on the Illuminated Chronicle*, János M. Bak and László Veszprémy, eds. (Budapest: CEU Press/National Széchenyi Library, 2018) 139–58. The *ispán* of the duke (in this case of Ladislav's younger brother, Levente) presumably performed the same functions in the service of the duke as those performed by the palatine for the king's court.

²⁰ Cf. **Stephen II. 18** and **Ladislav II: 1–2**. See: György Bónis, "Első törvényeink sorsa és az egyházi menedékjog" [The fate of our first laws and ecclesiastical asylum]. *Regnum*, 3 (1938–39), 75–97.

²¹ Namely of the confiscated goods of the thief.

own property with which she could have married another after the death of her husband.²² If a widow commits the same crime, she shall lose one eye and be punished by forfeiture of her [widow's] portion, except for that intended for her sons.

7 The commission of theft by a girl.

If an unmarried girl commits a theft, she shall be sold and never returned to freedom. And if anyone manumits her, he shall lose her price, but she shall be brought to the king's court.

8 Thieves who steal ten or six pennies' worth.²³

If a freeman has stolen something worth ten pennies, he shall perish with all his property; if less, one eye should be plucked out and he shall be punished according to the decrees of St. Stephen.²⁴ Again, if a *servus* steals something worth six pennies, he shall lose his eyes, if less, only one eye, and his master shall make double restitution of what he has stolen.

9 Those who catch a thief.

However often someone seizes a thief, he shall hold him for only three days; on the fourth day he shall haul him before a judge.²⁵ If perhaps he says he himself will find accomplices to the theft, he shall have a period of six weeks within which to find the accomplices whom he promised to find; if he does not find them, however, he shall be condemned by royal sentence. If he keeps the thief for more than three days, and he does not present him to a judge on the fourth day as we have declared, and afterwards word comes from the kinsman of the thief or from his master, if he had one, that he should be brought before a judge, that man himself shall be presented to the judge. Because he held the thief in fetters and not present him to the law on the third day or fourth day, but held him unjustly, he shall pay ten *pensae*. The thief, however, shall be punished according to the law. And if any insolent man violates the judgment of the judges, he shall pay six *pensae*, and the judge shall take the thief by force. If the thief ask for the ordeal, and he is found innocent, one of these six *pensae* he shall go to the holy church;

²² This is an early reference to the dower retained as the wife's property, apparently already established in customary law; cf., however, **Stephen I: 26**. Dower (*dos, dotalitium*): was originally the "price of the bride" paid by the bridegroom's family to that of the bride, then a grant of the husband to his wife on the occasion of their marriage. The dower was usually given both in land and chattels, but the woman did not have free disposal of the land so given, which was managed together with her husband's goods. After her husband's death, the widow could keep the dower unless she remarried. In this case, the kinsmen of the deceased husband redeemed the dower from her. The term often also included those valuables that were brought by the bride in the marriage (*res parafernales*), which remained with the wife.

²³ This law is quite harsh; for the amount of the fine and the money minted under King Ladislas, "Heavy" pennies (*denarii*) were first minted in c. 0.781 gr weight in the later years of King Ladislas; see Bálint Hóman, *Magyar pénztörténet*, pp. 231f.). The measures are quite harsh considering that the value of 10d might have been equal to one of the smaller household animals (a sheep or pig) since a young ox was worth 40d=1 *pensa*.

²⁴ Cf. **Stephen II: 7**. This reference, and the one below in ch. 17, suggest the knowledge and the ongoing validity of the laws of St. Stephen.

²⁵ That is, a royal judge. Nothing is known about these judges mentioned in the early laws. (In those of St. Stephen, they appear in chapters borrowed from Bavarian law.)

and if he is found guilty, he shall be exiled and all his wealth shall go to the king's treasury.

10 Those who steal during a campaign.

If while the king is on a campaign a thief happens to be caught, the man who caught him shall keep him firmly, but after the king's and the magnates' return he shall not presume to hold him beyond the deadline I have set. He who shall do otherwise shall pay six *pensae*.

On the same.

If someone has committed a theft during a campaign, he shall be thoroughly destroyed together with all his goods.

11 Merchants going from castle to castle.²⁶

If someone goes from castle to castle buying and selling, and if having sold something which later turns out to have been stolen, the seller shall be punished as a thief, and those who have acted as witnesses shall be examined by ordeal; if they are found guilty they shall be punished as thieves.

12 The thief captured in the court of nobles.

If someone committed a theft in the household of a noble, it shall be made known either to the lord of that household or to his bailiff.²⁷ And if by chance neither of them should be at home, one should wait ten days; and if on the eleventh neither of them shall have arrived, the thief shall be hauled before the judge and treated according to the law.²⁸

13 Collectors of stray things.

The collector of stray things, who is commonly called *jókszedő*,²⁹ shall bring whatever he has

²⁶ The word *civitas* can mean “county”, “city”, and “castle”. Since the centers of counties were castles and few other semi-urban settlements existed at that time, it is certain that in the present instance such fortified settlements are meant. See **Stephen I: 17**, with n. 17.

²⁷ Great landowners had their own bailiffs, just like the king. The bailiff (in the early laws called *pristaldus*, probably from a Slavic loan-word, **pristav*; later *homo regius*, i.e. royal bailiff, or *homo* of any other judge) was the executive officer of a judge, who delivered summonses and assisted in the process of trial and punishment; also, an officer of the king, *ispán* or other lords, who performed similar tasks.

²⁸ The right of a noble or his bailiff to judge cases of theft in his own household (*curia*) constitutes a type of judicial immunity. The fact that the royal judge had jurisdiction in default, however, points to the limited character of this privilege in the eleventh century.

²⁹ *Joccedeth*, interpreted as *jókszedô*, from *jó, jók*, “good(s)” and *szedô*, “gatherer” seems to have been a special officer in charge of retrieving alienated (royal) property. Antal Bartal (*Glossarium mediae et infimae latinitatis Regni Hungariae*. Budapest: MTA, 1901; reprt. Hildesheim–New York: Olms, 1970, p. 353, s.v. *jocorydech*) suggests a rather unlikely etymology, from Scottish (!) *Tokioderach*, “a decurion of justice”, and interprets the office as a general guardian of peace, *pandur* (“gendarme”).

collected to the castle of the district³⁰ in which he gathered them, and the king's master of horse³¹ and the groom of the *ispán* of the same castle shall build a stable in the bailey, where all the cattle collected shall be kept until Michaelmas.³² Two-thirds of the fugitive men, that is the *jók*,³³ shall be given to the king's bailiff and the third part to the *ispán*; and they shall be detained until the said feast; and when after Michaelmas they shall be divided, the agent of the bishop shall receive the tenth part. Between the Feasts of St. Martin and St. George³⁴ the oxen and cows shall be collected and divided in the same way. And if the collector of stray things, whom I have mentioned, should violate this ordinance, he with all his property shall perish except for his sons and wife; if the *ispán*'s collector of stray things is a freeman, he shall be taken from the *ispán*. If the king's collector of stray things gives anything out of what he had collected, both he and the recipient shall perish; and if someone denies anything about such things, he shall pay twelve times what he has denied.

14 Those who retain the horses left by couriers.³⁵

If someone has the horses left by couriers, he shall lead them for three weeks to the church or the market for display. And if their master does not come, he shall give them to the king's collector.³⁶ Likewise, with the horses of thieves: anyone who catches a thief with a horse, shall give the thief to the judge and retain the horse.

15 Those who scorn the decree of the king.

Anyone at all who violates the decrees of the king and the magnates shall be judged according to the king's will if he is a bishop; shall be deposed from his office if an *ispán*, shall be deprived of his commission and pay and additional fifty *pensae* if a centurion; and shall likewise pay fifty *pensae* if a warrior.

16 On judges.

³⁰ The text has *provincie*, hence, although it is likely that the collection was done by counties, the more general term "district" is preferred

³¹ *Regis agazo*: this officer of the household, originally in charge of the king's horses, later became a military commander and the equivalent of a marshal, but there is no continuity between this mention of a royal groom and the later master of the horse, first known from 1217, see Attila Zsoldos, *Magyarország világi archonológiája* [Secular archontology of Hungary] (Budapest: História, 2011) p. 56.

³² 29 September.

³³ See above, n. 29. Apparently the fugitive men were especially regarded as "goods."

³⁴ From 11 November to 24 April.

³⁵ This chapter and chapter 28 below show that in eleventh-century Hungary among the different royal servants were messengers who had the right to requisition horses. Györffy (*István király*, p. 242) assumes that their master was the *comes preconum*, mentioned as ostiary in the Hungarian Chronicle c. 92; see: János M. Bak, László Veszprémy, eds. *Chronica de gestis Hungarorum &c. Chronicle of the deeds of the Hungarians &c.* (Budapest-New York: CEU Press, 2018, CEMT) p. 176

³⁶ See above, ch. 13, n. 29.

It is our will that each judge give sentence within his own district.³⁷

17 Thieves fleeing to the church and proclaiming themselves innocent.

If thieves, whether slaves or freemen, go into church and proclaim themselves innocent, they shall be tried by ordeal. If they are found guilty, they shall be judged as though they had not entered the church, but if they confess the crime, they shall be examined according to the law of St. Stephen.³⁸

18 No one shall dare negotiate with a thief.

No one shall dare to bargain with a thief, if, however, anyone should do this, he shall lose fifty-five *pensae*.

19 No one shall bring a thief to another judge.

It is also our will that if anyone catches a thief, the case shall be examined by that judge within whose district the thief was caught.

20 On usucaptions.³⁹

Usucaptions shall be seized between the Feasts of St. George and St. John the Baptist,⁴⁰ and shall be brought to the castle and held till Michaelmas. They shall be constantly displayed in the market so that if anyone shall find his man, he shall redeem him for ninety pence, a horse for twelve, and an ox for five; out of which two-third are owed to the king, one-third to the *ispán*.-If they have not been claimed by Michaelmas, they shall be divided in the prescribed way, but shall not be sold or hidden, rather only their labor shall be used. If a collector⁴¹ sells or hides them, he shall remit threefold and pay ten *pensae*. And if an *ispán* should do the same, he shall pay fifty-five *pensae*. Similarly, we command that those who have usucaptions since the time of King Béla,⁴² shall give them up by the Feast of St. Stephen.⁴³

21 Those who receive male or female *servi* of others.

We forbid anyone to receive the slave or maidservant of others; but if anyone does receive them he

³⁷ The instruction here seems to aim at prohibiting judges from acting in counties of their neighbors and is related to chapter 19. below

³⁸ Probably referring to **Stephen II: 6–7**. See also Bónis, “Első törvényeink sorsa és az egyházi menedékjog.”

³⁹ In Roman Law this term means the acquisition of rights of ownership through prolonged use or possession, often for a year or two (*Corpus Iuris Civilis. Editio stereotypa* [Berlin: Weidmann, 1882], Cod. 7.24; 7.28; Dig. 41.3, Inst. 2.6). Here usucaption refers to missing or stolen items held for a long time

⁴⁰ That is, from 24 April to 24 June.

⁴¹ See above, ch. 13, n. 29

⁴² Béla I (1060–1063); see above, n. 9.

⁴³ August 20

should know that he shall remit twice⁴⁴ fifty-five *pensae* if he is an *ispán*, he shall remit twice with twenty-five *pensae* if a minor official,⁴⁵ and if he a commoner, he shall remit twice with five *pensae*. If the person received is connected either with theft or any other crime, and the receiver is an accomplice to that crime but denies being an accomplice, he shall clear himself by oath and pay an additional fifty-five *pensae* if he is an *ispán*; and if he is a commoner, he shall clear himself by a similar oath and an additional five *pensae*, and if the robber shall say anything against him, he shall be heard.

22 Former judges and incumbent judges.

If a judge did not bring a lawsuit to completion before his authority was withdrawn, he shall come to see the incumbent judge and discuss with him the judgment he had intended, and receive the ninth part from the judgment and the [incumbent] judge the tenth.⁴⁶

23 False judges.

If false judges⁴⁷ are known to have rendered judgment on anything in secret, they shall be hauled before the judge within whose district they were discovered, and after his inquiry into the case they shall refund twice the amount they assessed in judgment and pay him ten *pensae*.

24 Postponement of a lawsuit by a judge.

If someone should delay judgment in a lawsuit for more than thirty days, let him be beaten.⁴⁸

25 The sending of judges' seals.

A judge may send his seal⁴⁹ to anyone, except priests and clerks⁵⁰ and also *ispáns*. But if someone protests that the judge has sentenced unjustly, and he does not prove it, he shall pay five *pensae*. But if the judge shall be convicted, he shall make restitution of twice the judgment and pay five *pensae*. The judge shall be liable for his judgment for no more than one year.

26 Those who scorn the seal of judges

⁴⁴ The text is unclear whether “twice” refers to the doubling of fines plus a penalty of fifty-five *pensae*. Marczali (*Magyarország*, p. 110) assumed that two separate chapters have been conflated in the existing copies

⁴⁵ The term *minister* is not often used in medieval Hungarian texts; judging from the context it refers here to minor office-holders

⁴⁶ Judicial fees were the tenth and the ninth of the fine assessed; see Imre Hajnik, *A magyar bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [The Hungarian judicial system and procedural law under the kings of the Árpád and diverse dynasties] (Budapest: MTA, 1899), pp. 442–450.

⁴⁷ This chapter suggests the existence of “private” arbitrators holding “secret” sessions; it may also refer to “judges” passing sentence on the basis of their tribal authority

⁴⁸ In spite of the rather radical cure proposed here, the dragging on of legal cases remained a problem for centuries; see, e.g., **Comp. ante 1400: 8**.

⁴⁹ See above, ch. 3.

⁵⁰ This is a confirmation of the *privilegium fori* of the clergy; cf. **Stephen I: 4**

If someone disregards the seal of a judge and does not come to the suit, the first time he shall be penalized by five *pensae*; the second time by the same amount; the third time he shall lose his suit and be shaven and sold for the debt.

27 Those who fight a duel⁵¹ at home.

If some people fight at home and do not come to the judge, the judge shall take no action. If they come, he shall act as he pleases. If they arrive at an agreement and thereafter give anything to the judge, he shall retain the third part for himself, and two-thirds for the king.

28 Couriers who lead their horses farther than the third village.

No courier shall dare lead a horse farther than the third village, or take one from those going or returning from church, or to the court of a bishop or *ispán*, or from priests and clerks and their wagons. Let him take horses wherever he finds them, so that the king's mission shall be expedited more quickly.⁵² But if someone beats the courier, he shall be penalized fifty-five *pensae*; if he detains him by the reins, ten *pensae*.

29 Those searching for lost things.

If someone should want to search for a fugitive *servus* or anything lost, no one shall stop him. But if anyone stops or beats a searcher, he shall be fined ten steers worth ten *pensae*.⁵³

Here ends the law of the holy King Ladislas.

⁵¹ It is unclear whether duels fought in private or simply domestic fighting is meant

⁵² See above, ch. 14.

⁵³ On the equivalence of the young steer (*tinó*) and the *pensa*, see Alán Kralovánszky, "A tinópénz kérdéséhez I. István korában" [On the question of steer-money in the age of Stephen I]. *Alba Regia*, 14 (1975), 283–286.

THE LAW OF KING COLOMAN OF HUNGARY (1095–1116)
(probably before 1104) (Colo)

The collection of laws bearing the name of King Coloman (Kálmán) emerged from a mixed assembly of magnates and prelates convened at Tarcál. The purpose of this gathering was to review the legislation of King Stephen—not only the laws known from that king’s extant collections but others now lost as well—in order to modify and improve the laws in the interest of the general welfare of the kingdom and for the maintenance of Christian society. The deliberations were in all likelihood conducted in the Hungarian language, leading some historians to believe the original text was composed in Hungarian and later set down in Latin by the hand of the priest Alberich (Büdinger, p. 152f.). The identity of Alberich, one of the many foreign priests resident in Hungary at this time, remains otherwise unknown.

The long prefatory epistle—unique among the royal legislative collections both for its florid style and its insights into the circumstances which produced this *decretum*—reveals the existence of a debate between the proponents of innovation and the advocates of ancient custom which, despite the abundance of conventional rhetorical forms, has the ring of authenticity. The contents of the legislation itself, like those of earlier collections, are both secular and ecclesiastical. Some of the individual measures presume the ongoing cooperation of churchmen and royal officers in supervising the Christian commonwealth. It is noteworthy that in this collection the severity of some earlier punishments is moderated; that the influence of “Gregorian” reforming ideas on ecclesiastical legislation is more pronounced than in the reign of King Ladislas; and that numerous regulations touching upon royal revenue point to a firm establishment of the new order, monarchical and Christian, envisioned a century earlier by King Stephen.

Despite the detailed information contained in the preface, no exact date can be assigned to this collection. As Archbishop Seraphin, to whom the proem is dedicated, died in 1104, it may be assumed to have been written before that date. This text, just like the earlier laws, was not preserved in an original medieval manuscript, and is known only from fifteenth- and sixteenth- century copies.

MSS:

“Codex Thuróczi”, a fifteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Clmae 407, ff. 94v–99r.

“Codex Ilosvay”, a sixteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Fol. Lat. 4023, ff. 26r–35r.

EDD: Levente Závodszy, *A Szt. István. Szent László és Kálmán korabeli törvények és zsinati határozatok forrásai* [Sources of the laws and synodal decrees from the times of St. Stephen, St. Ladislav, and Coloman] (Budapest: Szt. István Társulat, 1904.), pp. 181--94; *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896), 1, 92–121.

LIT: M. Büdinger, *Ein Buch ungarischer Geschichte 1058–1100*. (Leipzig: Teubner, 1866) pp. 150–158; P. Angyal, “A büntetőjog fejlődése Kálmán uralkodása idején” [Development of criminal law under the reign of Coloman], in *Emlékkönyv Illés József*, Ferenc Eckhart, Alajos Degré, eds. (Budapest.: Stephanaeum, 1942), pp. 1–14. Ferenc Makk and Gábor Thorczkay, eds. *Írott források az 1050–1116 közötti magyar történelemről* [Written sources to Hungarian history 1050–1116] (JATE, Szeged, 2006); György Györffy, *István király és műve* [King Stepehn and his work] (Budapest: Gondolat, 1977).

DECRETUM COLOMANI REGIS

(1095–1116)

Incipit decretum Colomanni dei gratia regis Hungarie. Seraphin archipresuli divinarum igne virtutum ardenti Albericus, quamvis unus ex minimis, tamen servus sanctitatis nuncupatus in pallacio celestis contemplationis.

Quoniam fiduciam talem habemus per Christum, non quod sufficientes simus cogitare aliquid an nobis, quasi ex nobis, sed *sufficiencia nostra ex deo est*, cum spiritualis gratia inspirationis mentem tuam celestis sapientie thezauro ditaverit et quam plurimis disertis ac didascalici meriti viris lucidas contubernii tui officinas, quasi totidem gemmis ornaverit, haud parum ingenioli mei reformidat rusticitas, dum me, ut ita dicam, elinguem ac pene totius urbanitatis exsortem iubeas o presul regalium instituta collationum recolere vel senatoria regni totius decreta quasi ieiunio latescentis orationis nostre recapitulare.

Neque enim ad regalia consilia me consultricis prudentie inculta provehit materies, nec tenuis rei pro foribus stantem intromittit despecta pauperies, quia vero obedientie eligo magis operam dare, quam caritati omnia speranti aliquid denegare malo etiam ultra vires obtemperare presumere, quam presumptuose minime obtemperare. Quamvis enim inperitia mea dictandi non prestat facundiam, caritas tamen obedientiam non negat; porro nec in hoc opere proprii arbitrii vestigia figo, verum previis alieni itineris nisibus insisto, ob quam videlicet causam si quid inerrabundo vestigio liberius evagatus meus deviaverit calamus, nec ambigo, quam facilis aput te sit venie locus, que res pigram etiam impulit huius consilii moram.

Sed sunt fortasse nonnulli, qui sine rationis circumspectione idem, unde sermo est, concilium Tursollinum autument esse superfluum, minus provide asserentes antiquis potius priorum insistendum esse relatibus, quorum profecto quam frivola, quamque sit inconsulta coniectio, non est supervacuum paulisper commemorari, quia hi regni detractores magis proprio consulunt arbitrio, quam communiter regni provectui adminis- trando. Nam quis ambigat a sancto patre nostro Stephano, viro quippe apostolico legem populo nostro datam in quibusdam austeriorem, in quibusdam vero tollerabiliorem, in his quoque intensius vindicantem atque in aliis remissius indulgentem, nec quemquam tamen absque discipline verbere dimittentem cum predestinationis tempus nullum adhuc verum adduxisset fidei sponsorem, nec hoc quidem preter dispensationis respectum credi nephas est.

Nam cum tempore predicti patris universum regnum eius barbaricis servierit incultibus, ac rudis coactusque christianus contra commonitorium sancte fidei stimulum adhuc recalitraret, adhuc contra penitentialia ultricis virge verbera remorderet, opere pretium fuit, ut sancte discipline

coactio in fidelibus quidem ad conversionem fidei, sed conversis fieret ad iustitiam penitentiae peccati. At christianissimus rex noster Conlumbanus columbine gratia simplicitatis cum omni virtutum discretionem praeditus, postquam vidit adultam fidem perfecte religionis roborem accepisse, legalis vinculum cathene cogitavit relaxare prudenter, utpote perpendens indignum esse, si iam spontaneum fidei militem legalis pene timor torqueret, quem nec ipsa mors ab agnitione iam confessione veritatis abstrahere potuisset.

Hic nimirum cum videret propter civilia bella usque ad tempus ipsius ingravescens patris traditionibus iam magna ex parte solutis regni consultum labefactari, curie honorem vilescere, timens, ne miles, insolens pacis, domesticus tamen virtutis hospes, irrevocabilis fieret iniquitatis, regni principibus congregatis, totius senatus consulto prefati regis sanctae memoriae Stephani legalem textum recensuit, de quo, si rem consideres, nichil comminuit, sed auxit, non tam, quasi fundator, sed superedificator, quatenus primitiva plantaria salubri velut respersionis infusione irrigata iustitiae percipiant incrementa. Et ille quidem destructor fuit infidelium, exactor legis per transgressionem, iste iam fidelium recte conversationis augmentator in iustificatione. Ille lorica fidei populum induerat, iste terrene ambitionis superfluentia cingulo iustitiae precingebat; ille gladio spiritus verbi dei perterritus, iste galea salutis decoravit.

Postremo hunc uterque regum finem rebus imposuit, ut, dum debita ultrix poena filios perditionis consumeret, filios predestinationis refoveret. Non enim sine causa rex gladium portat, dei enim minister est, vindex in iram eius, qui malum agit, nam principes non sunt timori boni operis, sed mali. Quis enim est, qui noceat vobis, si boni emulatores fueritis? Hactenus hec.

Contra supradictos autem huius concilii detractores de singulis capitulis, quae ab re esse mentiuntur, possem etiam scribendo satisfacere, nisi epistolaris ego sermonis modum excedens modestiae tuae, o presulum decus, aures timuissimae fastidire. Possunt tamen illa ex his colligi, quae moderata satis brevitate prescripsi.

Verumtamen tu domine, qui in huius populi linguae genere minus me promptum consideras, si quid calamus a suscepti itineris tramite declinaverit, tua queso solita in me benivolentia et supervacua reseces et imperfecta suppleas, errata corrigas, commode dicta paterna gratia proveas et antequam in aures prodeant publicas. cure tuae digitum dignanter inponas, utque tuo dumtaxat doctissimo digna constitui examine tuo etiam iudicio a detrahentium muniantur livore.

I. Placuit regi et communi concilio, ut dotis cuiuslibet possessiones monasteriis seu ecclesiis a beato Stephano rege disposite inconvulse remaneant.

II. Quia populus noster magnis saepe tam viae, quam inopiae laboribus pregravatus pro qualibet necessitate curiam regalem adire non potest, bis in anno, id est in festivitate apostolorum Philippi et Jacobi et in octavis sancti Michaelis synodum in unoquoque episcopatu celebrari constituimus, in qua tam comes et comites, quam reliquorum magistratum potestates ad suum episcopum conveniant, ad quam quicumque etiam sine sigillo vocatus non venerit, reus iudicii erit.

- III. Alienigena presbiter vel dyaconus cum commendatitiis literis recipiatur. Qui vero hactenus recepti sunt, si iure venerint, examinentur, quatenus de quibus aliqua aures nostras pulsat infamia, hi ab officio cessent, donec vel iudicio purgentur, vel de terraeliminentur.
- IV. Nullus indigena sine fideiussore recipiatur.
- V. Episcoporum et comitum capellani vel reliquorum, per sigillum episcopi vel archiepiscopi ad causandum cogantur.
- VI. Si clericus cum laicis causam habet, per sigillum iudicis laicus cogatur; si vero laicus habet causam cum clerico, per sigillum episcopi vel archipresbiteri clericus cogatur, ab eisque coram iudice suo examinentur.
- VII. Si duo comites pro causa aliqua dissideant, in supradicto synodo ventillentur.
- VIII. Si duo abbates contenderint, in eadem synodo iudicentur.
- IX. Maiores ministri regis vel ducis et capellani, quorum personis indignum est coram iudice infra se conferre, in eadem synodo iudicentur.
- X. Si quis superbus iudex ad predictam synodum venire neglexerit, suo accusatore iudicetur.
- XI. Si maiores ministri regis et ducis vel inter se vel cum maioribus contenderint et ad iudicem venire contempserint, cum iudice eorum causas discutiant.
- XII. Ducis ministri, qui in mega regis sunt et regis, qui in mega sunt ducis, ante comitem et iudicem, minores vero ante iudicem delitigent.
- XIII. Si comes cum comite contenderit, vel populus eius, seu synodica discretio seu vicinus comes causas eorum discutiat.
- XIV. Nullus presumat secularis iudex sigillum clerico dare.
- XV. Quia eo minus videtur valere curia, cominus suppetunt necessaria, ne nostra habundantia in eius superfluat penuria, placuit omnes piscinas, preter quas sanctus Stephanus donaverat, sumptui regali reddere, quia indignum erat nobis recedentibus curialem nobiscum honorem recedere, ubi prestat nos et venientes copiam honoris invenire.
- XVI. Similiter decrevimus piscinas monasteriis vel ecclesie datas alias quidem reddere, sed necessarias cottidiano fratrum usui relinquere, nullas vero nisi superfluas auferre.
- XVII. Vinee, mansiones, terre, a regibus quibuslibet date, perseveranter his quibus dabantur, permaneant.
- XVIII. Silvas ecclesiis datas minime auferri concedimus.
- XIX. Veteres coloni eiecti, terram non habentes alibi, ad suam revertantur. Si terra eorum data est monasteriis vel ecclesiis, et ipsi aliam habent, hoc inviolabiliter ita permaneat.
- XX. Possessio quelibet a sancto Stephano data, humane successionis quoslibet contingat successores vel heredes. Possessio vero ab aliis regibus data de patre descendat ad filium, qui si

defuerint, succedat germanus, cuius filii etiam post mortem illius non exheredentur. Germanus autem predictus si non inveniatur, regi hereditas deputetur.

XXI. Hereditas emptitia nulli heredi auferatur, sed tantum eodem testimonio confirmetur.

XXII Iudicium ferri et aque in aliqua ecclesia fieri interdiximus, nisi in sede episcopali et maioribus preposituris, necnon Posonii et Nitrie.

XXIII. Iudex iniuste causas discutiens ad curiam regis cum sigillo cogatur, sed sine sigillo ad synodum.

XXIV. Si quis ad conventum episcoporum et comitum venire neglexerit, iudicetur. Ipsi vero sic sollicite conveniant, sic subnixi cura considant, sicque summa diligentia equi libraminis trutinam compensent, quatenus nec hincque per odium innocentiam condempnent, nec illinc per amicitiam culpam defendant.

XXV. De tributis autem et vectigalibus, sicut comitibus tertiam partem dare decrevimus, ita decimam quoque episcopis censemus, quia tam novi quam veteris testamenti pagina decimas dandas esse proclamat, incautum igitur et inconsultum est, si instituta sanctorum presumamus infringere, que summa potius devotione debemus adimplere.

XXVI. Si quis in testimonium adductus alicuius veritatem sua nititur attestazione probare, huius testimonium sic recipi iubemus, si presertim sit confessus peccata sua sacerdotibus, si denique aratrum habeat, ut et sit cautela veri testimonii per sacerdotem in confessione et mendacis culpe redemptio fiat in possessione.

XXVII. Nullus audeat perhibere testimonium, nisi confessus peccata. Cuiuscunque testimonium falsum inveniatur, eius testimonium amplius non recipiatur.

XXVIII. Si pristaldus iudicis pro causa diiudicata ab aliquo verberabitur, ad hunc a comite comitatus mittatur, et quicquid deliberatum est, totum auferatur vi.

XXIX. Iudicis pristaldos tales esse precipimus, quales idoneos testes fieri iusseramus supra.

XXX. Si pristaldus iudicis in legatione eius iniuste quid egerit, dampnetur cum iudice inique ei mandante.

XXXI. Dampnum a iudice per pristaldum alicui iniuste illatum de rebus iudicis restituatur.

XXXII. Si quis terram alterius ad possidendum sibi iniuste usurpaverit, cum in iudicio reus fuerit, tantumdem de propria terra perdat, insuper decem pensas persolvat.

XXXIII. Mercatores ob id solum, ut ditescant, venalium rerum dediti studiis, pristina duplicent tributa; pauperes vero, qui de mercato vivunt, persolita tributa persolvant.

XXXIV. Si quis de propriis et domesticis rebus quid in foro vendiderit, lege sancti Stephani tributum reddat.

XXXV. Si quis hospitem acola terram civium cohabitavit, aut iuxta medietatem substantie civilium expeditionem faciat, aut VIII denarios solvat.

XXXVI. Quando rex vel dux in comitatum aliquem intraverit, tunc megalis equus exercitualis prestetur, qui si quo casu mortuus fuerit, XV pense domino equi donentur. Si vero aliquomodo, sed non usque ad mortem lesus fuerit, predicti pretii pars dimidia pro equo reddatur.

Si magna fama marchiam intraverit, comes nuntios II equis exercitualibus IIII ad regem dirigat, qui cum proprio cibo illuc pervenientes, pretium viatici sui a palatino comite exigant, et tantumdem ad reditum suum. Si vero equi illorum mortui vel lesi fuerint, tot pense, quot supra diximus, pro equis reddantur, sed si sani redeant, pro una via exercituali deputetur.

XXXVII. In quamcumque civitatis megam rex digrediatur, ibi iudices II megales cum eo commigrent qui et contentiones populi illius discreto examine dirimant, et ipsi, cum clamor populi ingravescat, a comite palatino diiudi- centur.

XXXVIII. Si rex forte cuiquam comiti vel ministro aliquem de civibus dimiserit, solus in expeditionem pergat; sin autem ad populum, unde exiit, revertatur.

XXXIX. Omnibus interdiciamus tenere quemquam de civibus ad fugam facientem absque regis licentia; at si quis tenuerit, quasi legis fracturam emendet.

XL. Comites, si propriis in villis suos liberos habuerint, de quibus equos accipere et C pensas possint colligere, loricatedum unum regi de sumptu illo procurent. Si vero XL pensas, militem absque lorica educent, ac si minus, suis hoc propriis usibus reservent.

XLI. Si rex aliquem vagum servum alicui donaverit, hic medium caput eius tondat; quod si non fecerit, X pensas amittat. Cui si uxorem dederit, etiam illam cum eo perdat.

XLII. Quicumque absque regis licentia vagum tenuerit, LV pensas solvat. Et si aput dominum quitquid sit furatus, dominus a crimine iudicio purgetur, et qui fideiussor eius fuerat, illum ostendat, idemque si inculpabilis fuerit, eandem legem persolvat, quam retentor eius; et si non habet, propriam libertatem amittat.

XLIII. Si quis vagum apprehensum tenuerit, a domino eius I pensa exigatur.

XLIV. Si quis iocusidarius vagum, quem tenet, pro XC denariis alicui dederit, X pensas persolvat et totidem emptor illius. Ubi- cumque equites, emptores, viatores venerint V, si voluerint, nummis tantum capecium comparent. Qui vero minoris pretii acceperit, aut qui maioris fecerit, LV pensas persolvat.

XLV. Denarii VIII, qui de liberis singulis colligebantur, a modo non accipiantur. De civilibus ebdomadariis octo denarios precipimus colligi, inter quos scilicet, si quis liber non a rege, sed ab ipsis civibus. Si autem liberi, qui regi per fines eorum transmigranti equos, currus subductorios et servitia stipendiaria suppeditabant, IIII denarios persolvant. Et similiter liberos, qui cum eis cohabitare consenserint, aut exeant.

XLVI. Si quis ysmahelitas in ieiunio seu comestione porcineque carnis abstinentia vel in ablutione aut in quolibet sue facinore deprehenderit, ysmahelite regi deputentur. Qui vero eos accusabat, de substantia eorum partem accipiat.

XLVII. Unicuique ville ysmahelitarum ecclesiam edificare, de eademque villa dotem dare

precipimus. Que postquam edificata fuerit, media pares ville ysmahelitarum villam emigret, sicque altrinescus sedeant, et quasi unius moris in domo, nunc nobiscum, una eademque ecclesia Christi, in divina unanimiter consistant.

XLVIII. Ysmahelitarum vero nullus audeat filiam suam iungere matrimonio alicuius de genere sua, sed nostra.

XLIX. Si quis ysmahelitarum hospites habuerit, vel aliquem in convivium vocaverit, tam ipse, quam convivae eius de porcina tantum carne vescantur.

L. Si quis homicida apud comitem vel quemlibet inveniatur, per nuntium episcopi ad penitentiam queratur, qui si mittere renuerit, eadem cum homicida sententia feriat.

Parricidia et cetera, que preitulavimus homicidia, episcoporum censure vacare decrevimus, qui iuxta qualitatem facinorum et personarum, prout ipsis visum fuerit, canonice huiusmodi deliberentur, simplicia vero huiusmodi homicidia ab archidiacono et iudice seculari iudicentur, de quibus et ipsi nonam et decimam partem inter se dispertiant.

LI. Fur captus per triduum ligatus sine manuum siccatione et ignis concrematione teneatur, quarta autem die ad iudicem ducatur.

Fur quando ducitur a pristaldo domini sui, una ibi tantum familia sit, inde unus cum fure eat, qui si ire noluerit, iudex iudicare non formidet. Si vero ibi nulla familia fuerit, ad viciniorem domini illius locum iudex ligatum dirigat regi aut fur iudicetur.

LII. Si fur ductus salvus in iudicio apparuerit, captor eius iudicetur sententia, sed non aboculetur.

LIII. Si furi capto furtum proponi non possit, detur iudicium; in quo si salvus appareat, captor illius privetur substantia, quantam ipse fur dictus habere dinoscitur, non autem aboculetur. Fur inventus in iudicio culpabilis, aboculetur.

LIV. Si quis furatus quadrupes animal vel pretium eius, aut vestimentum pretii XX denariorum furetur, ut fur iudicetur.

LV. Si quis sola suspitione furem ceperit, ut fur culpabilis in iudicio iudicetur.

LVI. Uxor furis, que particeps est sceleris mariti, marito mancipetur servituti. Filii quoque eorum XV annorum et ultra, matris penam sortiantur; qui vero infra XV fuerint, impune dimittantur.

LVII. De strigis vero, que non sunt, ne ulla questio fiat.

LVIII. Mulieres partum suum necantes archidiacono oblate penitentiam agant. LIX.

Raptus mulierum episcopus seu archidiaconus diiudicet.

LX. Malefici per nuntium archidiaconi et comitis inventi iudicentur.

LXI. Adulteri episcopo vel archidiacono adducti debitis penarum iudiciis deputentur.

LXII. Si in villa, qua rex fuerit, equus perdatur, nullus de villa illa emendet; sed si circa partes illas latronum villa fuerit, hii ligentur.

LXIII. Si equites viatores in villa iacuerint, et equos perdiderint, a villanis hec emendentur; si vero

extra villam, nullus de villa persolvat.

LXIV. Qui in tribus conciliis causam suam legaliter diffinire noluerit, eius querimonia amplius non auditur.

LXV. Nullus comitum vel militum in ecclesia persumpmat sibi vindicare potestatem preter solum episcopum.

LXVI. Presbyteri et abbates seu cuiuslibet persone dignitatis ecclesie decimationem persolvant, in cuius territorio agriculturam exercent aut vindemiant.

LXVII. Bigami et viduarum vel repudiarum mariti a coniugiis cessent illicitis, vel a cleri excludantur consortiis.

LXVIII. Missa non celebretur, nisi consecratis in locis, nisi causa necessitatis aliqua existente, et tunc in tentorio, seu alio mundo loco, sed vie tantum ac itineri hec vacet necessitas, non venationi, nec sine tabula itineraria.

LXIX. Reliquie sanctorum per viam non portentur, nisi a bono et religioso clerico.

LXX. Nullus, qui in clero estimatur, vestibus utatur laicalibus, utpote fisso pellicio vel tunica sparsa, manica gilva, rubra stragula vel viridi clamide, caliga seu cappa, calceo picto vel sericato, camisia quoque et tunica et serico; non in pectore conserantur nodis vel fibulis, sed amplexantur collum quasi.

LXXI. Quatour tempora in suis, ut hactenus mos fuit, locis celebrentur.

LXXII. Officium de Sancta Trinitate post octavas Penthecostes celebretur.

LXXIII. Sepulture christianorum non nisi in atriis ecclesiarum fiant.

LXXIV. Nullus Judeus Christianum mancipium emere vel vendere audeat, aut in suo servitio tenere sinatur; nunc vero qui habet, si interea datis sibi induciis non vendat, amittat.

LXXV. Agriculturam autem si quis eorum habet, paganis hanc mancipiis exercent. Possessiones quidem Judei, qui possunt emere, habeant, sed ipsi nusquam, nisi ubi sedes episcopalis est, manere sinantur.

LXXVI. Nullus habitantium in Hungaria, adiacentibusque Hungarie regionibus Hungaricum equum emere audeat. Quod si quis emeret, ac ut eum furatus sit, sibi impositum fuerit, infra Hungariam et usque ad fines Hungarie tantum causam sue excusationis protendere ei liceat. Cum vero equi venditorem in extrema querere voluerit patria, non illuc ire permittatur, sed ferri iudicium portet. Si reus apparuerit, pro fure iudicetur; si mundus, non ut fur teneatur, sed pretio, quo emerat, solummodo careat.

LXXVII. Nemo servum in genere Hungarorum vel quemlibet in Hungaria natum, etiam alienigenam, nec ancillam, exceptis lingue alterius servis, qui ab aliis ducti sunt regionibus, nec aliud animal preter boves masculos extra Hungariam vendere vel ducere audeat. Quod si quis comitum infringeret, aut honore suo privetur, aut duas rerum suarum partes amittat, tertia vero substantie portio uxori atque heredibus suis remaneat.

LXXVIII. Quisque comitum in comitatu suo tertiam ibique partem habeat de tributo. Rex vero ad plenum de tributo omnium similiter duas partes habeat.

LXXIX. Singuli comites per quemcunque suorum voluerint denarios, qui per universas Hungarie partes colliguntur, quantum super unoquoque centurionatu fuerit collectum, nominatim sub certo scribentes numero. Strigonium usque ad festum sancti Michaelis mittant. Neque prius rege comites vel centuriones partem accipiant, sed in eodem loco, videlicet Strigonii, fiat omnium partium divisio. Si quis autem usque ad tempus presignatum nummos illos cum pleno illuc numero non attulerit, duppliciter reddat.

LXXX. Liberi quique ac hospites, sicut Sclavi vel ceteri extranei, qui in terris laborant aliorum, pro libertate tantum denarios dent, non alios etiam denarios insuper pro opere aliquo dare cogantur.

LXXXI. De castellanis autem tam pro opere, quam pro libertate denarii accipiantur.

LXXXII. Egressuri de Hungaria a theloneariis tam regis, quam comitis, qui exitus tenent, sigillum querant, quod thelonearius regis ab una parte cum sigillo comprimat, ab altera parte thelonearius comitis figura comitis sui concludat. Si quis absque tali sigillo egredi temptaverit, ut legis prevaricator L pensas persolvat.

LXXXIII. Si quispiam falsum testimonium alicui imposuerit, id est de eo pluribus ex villis sive rixe sive odii causa adtestantibus, ferro probetur iudicio; ac si mundus fuerit, impositor culpe X pensas solvat. Quod si reus erit, sane quidem res eius permaneat, sed ad modum crucis ferro in genis excoquatur, ut amplius testimonium ipsius refutetur.

LXXXIV. Si quis autem de furto accusatus ad ecclesiam fugerit, non illico teneri pro fure culpabili eum iudicamus, sed iudex cum presbitero ecclesie ipsius eum interroget, utrum culpabilis sit, necne; et si reum se esse fatebitur, pro ecclesia de obcecatione oculorum seu aliorum detruncatione membrorum liberetur. Si vero se non esse furem dixerit, excusandi se potestas ei non negetur, sed non de periculis supradictis eum ecclesia liberabit, si reus postea esse probabitur.

Item, si quis fur esse ab aliquo accusabitur, fur furti signo aput ipsum reperto vel comprobato, quod pro tali causa aliquid ulli restauraverit, unde de villis aliis plures eum criminabantur.

THE LAW OF KING COLOMAN (1095–1116)

Here begin the laws of Coloman, by the grace of God, king of Hungary.¹

To Archbishop Seraphin,² burning with the fire of divine virtues, from Alberich,³ who, although the least, is nevertheless called a servant of holiness in the palace of heavenly contemplation.

We, through Christ, have such boldness not because we ourselves are able to think anything as it were by ourselves, but *because our strength is from God*.⁴ The grace of spiritual inspiration has enriched your mind from the treasure of heavenly wisdom and adorned the halls of your household with numerous men of eloquence and hard-earned learning as with so many gems. Thus, the crudeness of my weak, scarcely sufficient intellect stands in dread when you, O Bishop, command that I, inarticulate and almost utterly devoid of refinement, if I may say so, sift the ordinances of royal gatherings and summarize in my meager distinction, emaciated by fasting, the decrees of the council for the entire kingdom.

Neither am I, on account of any natural ability in rendering wise counsel, brought into royal consultations; nor am I on account of my humble state and despised poverty admitted to the council, but have stood before the doors. But because I choose to pay greater heed to obedience than to deny anything to love which hopeth all things,⁵ I prefer to venture beyond my powers in order to obey rather than presumptuously to do too little. Although, because of my lack of experience in composition, I am bereft of eloquence, still love cannot refuse obedience.⁶ Furthermore, in this work, I am not following the path of my own choosing, but I pursue the course trodden by others before me, for which reason I have no doubt of finding easy pardon in you if my freely wandering

¹ Coloman used the expanded royal style including Croatia and Dalmatia—acquired through the efforts of both Coloman and King Ladislas between 1091 and 1105—only in charters for that kingdom. The archaic, or “personal-ethnic”, form of *rex Hungarorum* or *Pannoniorum* was used interchangeably with the “territorial” form, *rex Hungariae* (as here) until c. 1120–1130; Bálint Hóman, “A magyar nép neve és a magyar király címe a középkori latinságban” [The Name of the Hungarian People and the Style of Hungarian Kings in Medieval Latinity] (originally in *Történelmi Szemle* [1917]), *Történetírás és forráskritika* (Bp.: Magyar Történelmi Társulat, 1938), pp. 191–250, espec. 227–228.

² Seraphin was Archbishop of Esztergom c. 1095–1104; see Nándor Knauz, ed. *Monumenta ecclesiae Strigoniensis*. 2 volumes. Esztergom: Horak, 1874–82, 1: 68f

³ Nothing more is known of the priest Alberich than what he tells about himself in the proemium, that is, that he was “poor” (perhaps a monk) and that he did not understand the language of the Hungarians well; see István Borzsák, “A magyar Horatius” [The Hungarian Horace], in Róbert Falus, ed., *Horatius* (Budapest: Bibliotheca, 1958), p. 287f.

⁴ 2 Cor 3: 5.

⁵ Cf. 1 Cor 13: 7.

⁶ Cf. *Sancti Benedicti Regula Monachorum*, c. 68: “... *ex caritate confidens de adiutorio Dei obediatur*,” that is: “... let him obey out of love, trusting in the help of God,” *St. Benedict’s Rule for Monasteries*, trans. L. J. Doyle (Collegeville, Minn.: Liturgical Press [c. 1948]), p. 96

pen deviates from the oft-uncertain tracks, which condition has also brought about the extended delay of this enterprise.

But there may, perhaps, be some who without due consideration maintain that the Council of Tarcál,⁷ of which I speak, was superfluous, asserting with little wisdom that it is preferable to hold to the ancient propositions of those who lived in an earlier day. It might be useful to consider for a little while how frivolously presented and rashly advanced these assertions are, because these detractors of the kingdom are following their own individual instinct rather than furthering jointly the progress of the kingdom. For who may doubt that the law given to our people by our holy father Stephen,⁸ that truly apostolic man, was in certain matters more harsh and in others more lenient, in some matters more punitive and in others more gently indulgent, but let no one escape the rod of discipline. Although the time of predestination had not yet brought about any firm advocate of the faith, yet it would be wrong to believe that all this could have occurred contrary to divine intention.

Since in the time of the said father this entire kingdom wallowed in barbaric crudity, and the rough, coerced Christian converts kicked against the admonitory prod of holy faith and answered the penitential lashes of the switch of correction with bites, it was most necessary that the coercion of holy discipline converted nominal believers to the faith while it called the already converted to account for their sins through penance. But the most Christian King Columban,⁹ endowed with the artless grace of a dove and with all discernment of the virtues, after having seen that mature faith had acquired the strength of perfect religion, wisely considered releasing the bonds of legal fetters, or rather he deemed it unseemly that the now willing soldiers of the faith, whom not even death would be able to keep from confessing the truth recently embraced, should be tormented by the fear of legal punishment.

When he saw that, owing to civil wars which grew even worse down to his own time, the legal order of the kingdom which had already lost in large measure its ancestral traditions was destroyed and that the honor of the court was held for naught, fearing lest the warrior unused to peace and the settled guest unused to valor should become irrevocably men of iniquity, he assembled the magnates of the kingdom and reviewed with the advice of the entire council the text of the laws of the said King Stephen of holy memory. From this, if you examine the matter closely, he did not take anything away, but rather added to it, not however as a “founder” but as a “continuator” so that the tender seedlings showered, as it were, by this wholesome watering may attain the growth of justice. And while he [Stephen] was the destroyer of unbelievers and the enforcer of the law against transgressors, the other [Coloman] is the strengthener of upright believers in righteousness. The former armed the people with the shield of faith, the latter has surrounded the excesses of worldly ambition with the girdle of justice. The former struck fear in souls with the sword of the word of

⁷ Although different corrupt spellings are found in the manuscripts (*Tursollium*, *Cursollium*), the meeting is believed to have been held in Tarcál, Co. Zemplén in north-eastern Hungary

⁸ The writer, Alberich, in spite of his foreign origins, here identifies himself with “our people” and “our” holy father, Stephen.

⁹ Note the play on the name: Coloman–Columban: *columba*, “the dove”.

God, the latter adorned them with the helmet of salvation.

This object of both kings was set down so that while deservedly avenging punishment should consume the sons of perdition, the sons of predestination should be cherished. For the king beareth not the sword in vain, for he is the minister of God, revenger to execute wrath upon him that doeth evil, for rulers are not a terror to good works, but to the evil. Who is he that will harm you, if you be followers of what is good?¹⁰ So much for this.

Moreover, I would even be able to respond in writing to the above mentioned dis-paragers of particular provisions of this council, which they falsely assert to be unnecessary, if I did not fear to tire the ears of your modesty, O glory of bishops, by going beyond the compass of this introductory letter. Nevertheless, anyone can infer that response from what I have written down here in reasonably moderate brevity. Nonetheless, you my lord who knows that I am not very familiar with the language of these people, if my pen should stray from the path of my chosen route, I implore your customary benevolence toward me to prune the excesses, to supply the defects, to correct the errors, to promote with patient grace what has been properly expressed. I ask that you, before these should come to the public ear,¹¹ kindly to set your loving fingers to them so that at least what I have set down correctly, should according to your most learned scrutiny be further protected by your judgment against the malice of critics.

1 It pleased the king and the general council that possessions given to monasteries and churches by the holy king Stephen shall remain undisturbed.

2 Since our people are often as much burdened by the hardship of travel as by poverty, and cannot come to the royal court whenever necessary, we order that twice yearly, namely on the feast of the Apostles Philip and James and during the octave of St. Michael¹² a synod be held in each bishopric at which the *ispán*, or *ispáns* as well as authorities in other offices shall assemble with

¹⁰The author has strung together passages from Romans 13: 4 and 13: 3, and 1 Peter 3: 13, in that order.

¹¹Note here and the earlier references to tiring the archbishop's ears, the assumption that this writing would be read aloud

¹²That is, 1 May and 6 October, the latter being eight day after Michaelmas (29 September). This measure is the beginning of what became the "octavial" courts, later four annually.

their bishops,¹³ and whoever does not appear, even if summoned without a seal,¹⁴ shall be deemed guilty.

3 A foreign priest or deacon shall be received only with commendatory letters. Those who have already arrived shall be examined to learn whether they came legally, so that whoever we hear has a bad name shall be suspended from office, until they are cleared by judgment or expelled from the land.

4 No foreigner may be received without a surety.¹⁵

5 The chaplains of bishops, *ispáns*, and others shall be summoned to appear at court by the seal of the bishop or the archbishop.¹⁶

6 If a clerk has a suit with a layman, the layman shall be summoned by the seal of the judge; and if a layman has a suit with a clerk, the clerk shall be summoned by the seal of the bishop or archpriest¹⁷ and tried by them in the presence of the former's judge.

7 If two *ispáns* have any sort of legal dispute, they shall be heard in the above mentioned synod.

8 If two abbots should litigate, they shall be judged in the same synod.

¹³ Something else than the annual diocesan synod familiar in the Western church is intended here. The fact that these synods were to hear petitions from persons who otherwise would have appeared at the royal court and the presence of *ispáns* and other royal officers make this distinction clear. (The *ispán/comes* was a royal officer in charge of a county or a castle district; however, apparently the higher strata of freemen were in general referred to as *comites*). There is only one, rather inconclusive, reference to such a mixed synod from 1111 (see [Imre Szentpetery, István Borsa, *Az Árpád-házi királyok okleveleinek kritikai jegyzéke. Regesta regum stirpis Arpadiane critico-diplomatica*, (Budapest: MTA, 1923–61). 1: 43], hence it is unlikely that it became a general practice. The earliest documented diocesan synod dates from the late twelfth century (1198), when the Bishop of Vác received approval to hold an annual synod on the feast of the Nativity of the Blessed Virgin (8 September), not one of the feasts specified here; see P.C. Péterffy, *Sacra concilia ecclesiae romano-catholicae in regno Hungariae celebrata* (Pozsony: Royer, 1741), I, 81–85; and O. Hageneder and A. Haidacher, *Die Register Innozenz' III.* (Graz-Köln: Böhlau Nachfolger, 1964), I, 412

¹⁴ *Sine sigillo*: usually parties were summoned by the sending of a seal (see **Ladislav III: 3**); but twelfth-century evidence suggests that citation by an agent of the court (*per hominem*) was also practiced (cf. Milán Sufflay, in *Századok*, 40 [1906], 310, referring to a charter of King Stephen III of 1167 [Szentpetery, *Regesta* No. 112]; hence the reference here as well as below, in ch. 23, may be to such an alternative procedure.

¹⁵ The text has *indigena* (“native”) instead of “foreigner,” but that does not make sense. It is possible that this word, which in the later Middle Ages meant a foreigner who had acquired resident status, crept in during later copying of the *decretum*. On the legal duties of a surety, see, **Ladislav II: 1** (with n. 5).

¹⁶ This chapter and the following one confirm in somewhat more technical detail clerical exemption from secular jurisdiction (*privilegium fori*). See, **Stephen I: 4**, with n. 7, and also below, ch. 14

¹⁷ In the time of King Coloman the archdeacon (Hung.: *főesperes*), also called archpriest (see **Syn. Szab. I: 4**), was an administrator of a district without immediate pastoral duties; cf. Anton Szentirmai, “Der Ursprung des Archidiakonats in Ungarn” *Österreichisches Archiv für Kirchenrecht*, 7 (1956), 231–244; and *idem*, “Das Recht des Erzdechanten (Archidiakon) in Ungarn während des Mittelalters,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Kan. Abt. 43 (19–), 132–201

9 The major officers and chaplains of the king or the duke¹⁸ for whom it would be demeaning to be brought before an inferior judge, shall be judged in the same synod.

10 If an arrogant judge should fail to come to the said synod, he shall be judged by his accuser.

11 If the major officers of the king and the duke litigate either among themselves or with magnates and refuse to go to a judge, they shall clear the case with their judge.¹⁹

12 Officers of the duke who are in a royal county²⁰ and those of the king who are in a ducal county shall litigate before the *ispán* and the judge, the lesser ones before the judge.

13 If there is a lawsuit between *ispáns*, or between their peoples, their cases shall be heard either by the synod or the neighboring *ispán*.

14 No secular judge shall presume to summon a clerk.

15 Because our royal court would appear the meaner the more it lacks necessities, it is our pleasure, lest our riches be outshone by its poverty, that all fish ponds revert to the royal fisc except those granted by St. Stephen, because it was shameful that what was subtracted from us subtracted from the honor of the court where it is proper that we and those who come here find an abundance of honor.

16 Similarly we have decreed that although other fish ponds given to monasteries or churches are to be returned, those for ordinary necessities shall be left for the use of the brothers and only the excess shall be taken away.

17 The vineyards, fields, and lands granted by any king shall remain forever with those to whom they were given.

18 We do not permit forests given to churches to be taken away.

19 Dispossessed former peasants²¹ shall, if they have no land elsewhere, return to their own place. If their land was given to monasteries or churches, and they have other land, this grant shall remain inviolable.

¹⁸ In the eleventh and early twelfth century, younger brothers of the king were given the title of *dux* and part of country assigned to them as a kind of apanage, see, **Ladislav III: 9**, with n. 19. Now see also Dániel Bagi, "The dynastic conflicts of the eleventh century in the Illuminated Chronicle," in: *Studies on the Illuminated Chronicle*, János M. Bak and László Veszprémy, eds. (Budapest: CEU Press/National Széchenyi Library, 2018) 139-58.

¹⁹ The reference is unclear. *Judex eorum* may refer to the *comes curiae regis* ((Hung. *országbíró*): originally the officer in charge of the royal court (*comes curialis regis*) and thus the head of household servants, he acquired high judicial functions once the count palatine became the itinerant judge of the entire country (c. 1200)), or to the palatine who at that time also acted as judge of the royal household

²⁰ *Mega* is Latinized from the Hungarian word *megye*, meaning "county" or probably also "border of a county, which may have been the original Slavic meaning, whence the loan came.

²¹ It is not known, what kind of people are meant here. These *coloni* may have been poor freemen whose lands the king assigned to ecclesiastical lords; apparently some of them could move to other lands, in which case the donation was permanent. The exact meaning is debatable. The word is borrowed from Classical Latinity, where it meant agricultural slaves settled on their lord's land; in Hungary it came to be used for

20000 Any possession given by St. Stephen shall devolve to any successor or heir in natural succession. But possessions given by other kings shall pass from father to son, and in the absence of sons the father's brother should inherit, and upon his death his sons may not be disinherited. If the said uncle can not be found, the inheritance shall be assigned to the king.²²

21 Inheritance of purchased property shall not be taken away from any kind of heir, but shall be confined by the same testimony.²³

22 We forbid holding the ordeal by iron and water in any church except an episcopal see, the greater collegiate churches, and in Pressburg and Nitra.²⁴

23 A judge who decides cases unjustly shall be summoned to the king's court with a seal, but to the synod without a seal.

24 He who neglects to come to the assembly of bishops and *ispáns* shall be condemned. They, however, shall assemble with such care, deliberate with such attention, and balance the scales of

the tenant peasants only in the later fifteenth century, perhaps referring to the deterioration of the condition of tenant peasants (*jobbágy, jobagio*). Here, clearly, just a Classicism, as it refers to peasant with (lost) property.

²² This chapter seems to be the first differentiation of what became regarded as “ancestral” and “acquired” property. The “grants by St. Stephen” probably included also those allodial possessions that remained in the hands of the original clans, for which traditional inheritance by birth was the custom. For later donations the law sought to establish a more limited hereditary right, with escheat in the case of extinction of the male branch (*defectio seminis*); see Eszter Waldapfel, “Nemesi birtokjogunk kialakulása a középkorban” [Development of Our Noble Property Rights in the Middle Ages], *Századok* 65 (1931), 131–167, 259–272, espec. 143–157

²³ This chapter refers to the inheritance of possessions bought for money (*possessio emptitia* in later legal terminology), which were regarded as mobile property and freely heritable; see Waldapfel, as above, and also József Holub, “A vásárolt fekvő jószág jogi természete régi jogunkban” [The Legal Character of Purchased Real Property in Our Ancient Law], in Sándor Domanovszky, ed., *Emlékkönyv Károlyi Árpád* (Budapest: Sárkány, 1933), pp. 246–254

²⁴ The episcopal sees of this time were Esztergom, Eger, Győr, Pécs, Vác, Veszprém, Kalocsa, Csanád/Cenad (Nagy)vár/Oradea, Zagreb, and one in Transylvania; see Gábor Thoroczkay, “The Dioceses and Bishops of St. Stephen,” in: Attila Zsoldos, ed. *Saint Stephen and His Country. A Newborn Kingdom in Central Europe: Hungary* (Budapest: Lucidus, 2004) pp. 49–68. The collegiate churches, the provosts of which were appointed by the king, included Arad, Óbuda, Székesfehérvár, and Titel. These and several later episcopal and collegiate foundations came to function as *loca credibilia*, where judicial functions were combined with the privilege of authenticating documents; see Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555 and Zsolt Hunyadi, “Administering the Law: Hungary's Loca Credibilia.” in Rady, Martyn, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003), 25–35. Pressburg, (today: Bratislava, Slovakia) was an important border fortress and its collegiate church enjoyed special status (see [C. Rimely], *Capitulum insignis Ecclesiae Collegialis Posoniensis...* [Possoni: Angermeyer, 1880]); Nitra was to become the twelfth episcopal see of Hungary, but its organization was not completed until the last years of Coloman's reign (see Erik Fügedi, “Kirchliche Topographie und Siedlungsgeschichte im Mittelalter in der Slowakei”, *Studia Slavica Acad. Sc. Hung.*, 5 [1959], 363–400)

justice with equal weight so very diligently that they neither condemn innocence out of hatred on the one hand, nor defend guilt out of friendship on the other.

25 Just as we have decreed that a third of the tolls and customs be given to the *ispáns*, so we also assign a tenth to the bishops; because the pages of both the Old and New Testament declare that a tithe ought to be given to them, it would be unwise and ill advised if we presumed to break the rule of the saints which we ought rather to fulfill with utmost devotion.²⁵

26 If someone adduced as a witness strives to prove the truth of another by his own testimony, we order that his testimony to be so received that first he shall confess his sins to the priest and that second, he shall have a plow,²⁶ so that there shall be a safeguard for true testimony through the priest in the confession and through property available to redeem the crime of lying.

27 No one should dare bear witness until he has confessed his sins. And if anyone's testimony is proven false, henceforth his testimony will not be accepted.²⁷

28 If a bailiff²⁸ of a judge is beaten by anyone on account of a decision rendered in a case, in consequence of this the *ispán* of the county shall send word and whatever had been decided [by the judge] shall be taken away by force.²⁹

²⁵ On the division of revenues between the king and his officers, Boglárka Weisz, "Royal Revenues in the Árpáadian Period," in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018.) pp. 255–64 on the ecclesiastical tithe Andor Csizmadia, "Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn", *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Kan. Abt. 61 (1975) 228–257.

²⁶ The law probably refers not only to the implement, but by implication also to the possession of land; *aratrum* was used in medieval sources for both. Estimates of the size of "a ploughland" in the early twelfth century are rather uncertain: it could have been as small as 50 or as large as 120 ha. (Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325]. (Budapest: Akadémiai Kiadó, 1916), pp. 491–494; L. Bendeffy, "Középkori hossz- és területmértékek" [Medieval Measures of Length and Surface], in *Fejezetek a magyar mérésügy történetéből* (Bp.: MTA, 1959), p. 83f.

²⁷ Apparently not willful perjury is meant—that was punished more severely (see below, ch. 83), though less harshly than in **Stephen I: 17**.

²⁸ The bailiff (*pristaldus*, probably from a Slavic loan-word, **pristav*; later called *homo regius*, i.e. royal bailiff, or *homo* of any other judge) was the executive officer of a judge, who delivered summonses and assisted in the process of trial and punishment; also, an officer of the king, count or other lords, who performed similar tasks. In early laws, the bishop's man collecting the tithe is also called *pristaldus*. In the eleventh century the bailiff may have been identical with the *bilochus*, an officer of the court delivering the seal of summons (Hung: *billog*).

²⁹ The text is obviously corrupt in all manuscripts, as the object of the passive clause "be sent by the *ispán*" is missing. Most editors of the *CJH* amended it to mean that the culprit be sent to the *ispán*, but the manuscripts do not support such a reading. At any rate, the gist of the matter is that the *ispán* has to act as the authority to enforce the sentence if the bailiff is hindered by violent resistance from so doing.

29 We command that the bailiffs of judges shall have the same qualifications as those demanded for suitable witnesses in the chapter above.³⁰

30 If a judge's bailiff does anything unjust while acting officially, he shall be punished together with the judge who ordered him to act unjustly.

31 Restitution to anyone for damage caused by a judge through his bailiff shall be made from the judge's goods.

32 If someone who unjustly usurped possession of the land of another is found guilty by ordeal, he shall lose the same amount of his own land and pay additionally ten *pensae*.

33 Merchants entirely devoted to business for the purpose of growing rich shall pay double the old customs levy, but the poor who live from trade shall pay the usual levy.

34 If someone sells something in the market from his own domestic goods, he shall pay the customs levy set by the law of St. Stephen.³¹

35 If a guest lives adjacent to the land of men of the castle,³² he shall either take part in their campaigns to the extent of half of his property or pay eight pennies.³³

36 When the king or the duke enters any county, he shall be given a war horse from the county;³⁴ in case it should die, fifteen *pensae* shall be given to the owner of the horse. If, however, it should be in any way injured, half of that price shall be paid for the horse.

³⁰ Ch. 26, above

³¹ No such law of King Stephen has been preserved in the extant collections. This is clear evidence that the legislation of St. Stephen was more extensive than the surviving record indicates. Presumably, the customs levy in the law of St. Stephen is identical with the "old" or "usual" levy cited in chapter 33. Evidence for the *tricesima*, which probably was first an internal toll or the royal portion of customs granted to nobles and churches, dates from much later; see Zsigmond Pál Pach, *A harmincadvám eredete* [The origin of the thirtieth customs]. Budapest: Akadémiai, 1990, now also Boglárka Weisz, "Az Árpád-kori harmincadvám," in: *Erősségénél fogva várépítésre való. Tanulmányok a 70 éves Németh Péter tiszteletére*, Juan Cabello, C. Tóth Norbert, eds. (Nyíregyháza: Jóna András Múzeum, 2011) pp. 267-78.

³² The exact social category described by *civiles* or *cives* is unclear, they may have been freemen obligated to military service of the castles; see **Stephen I: 8** with n. 12.

³³ The "eight-penny-tax" seems to have been imposed on all free men wherever they lived (see also below, chapters 40, 45, 79–81), and was collected into the early thirteenth century; see F. Eckhart, *A királyi adózás története Magyarországon 1323-ig* [History of Royal Taxation in Hungary until 1323] (Arad: Réthy, 1908), pp. 14–29; see also Weisz as n. 25, above.

³⁴ It appears that the king and the duke were entitled to the use of the best war horse in the county (*equus megalis exercitualis*). This no doubt stems from the king's function as military commander; György Györffy (*István király és műve*, p. 240) cites evidence for the existence of "the king's horses" (*equos regis*) from the late eleventh century, but these seem to be kept on the royal domain. The claims of the king to supplies for his entourage (*descensus*), mentioned in the thirteenth century may have been a late version of these

If major news reaches the marches,³⁵ the *ispán* shall send two messengers equipped with four war horses to the king. They shall provide their own food on the way there and shall claim the cost of travel and an equal amount for the return journey from the count palatine.³⁶ If, however, their horses shall die or be hurt, as many *pensae* as we have mentioned above shall be paid for the horses, but if they return unhurt, the trip will be deemed a military campaign.

37 If the king enters the border of a county,³⁷ two judges from that county shall go with him, and they shall, after careful review, decide the lawsuits of its people; and they shall be judged by the count palatine if a popular outcry arises against them.

38 If the king perchance dispatches a man of the castle to an *ispán* or an official, he shall only go on campaign, otherwise he shall be returned to the people whence he came.

39 We forbid anyone to keep a man of the castle who escaped without the king's permission, and if anyone keeps such a man, he shall pay a fine for having broken the law.

40 If *ispáns* have free men in their villages from whom they can get horses and collect one hundred *pensae*, they shall provide the king with one man in armor out of this income. If, however, they can collect only forty *pensae*, they shall produce a soldier without armor, and if less, they shall retain this amount for their own use.

41 If the king grants a stray *servus*³⁸ to anyone, he shall shave half his head; if he does not do so, he shall lose ten *pensae*. If he has given him a wife, he shall lose her with him.

42 Anyone who keeps a fugitive without the king's permission shall pay fifty-five *pensae*. And if anything was stolen from the house of his master, the master shall be cleansed by ordeal and shall present his guarantor, and even if he should be innocent he shall pay the same amount as the

³⁵The "marches" (border counties) (*confinia, indagine*s) refers to a fairly wide area around the settled parts of the Carpathian basin (at least until the mid-thirteenth century), with wastes and obstacles protecting the center of the kingdom, permitting access only through gates (*portae*). The *ispán* in charge of the generally larger counties that bordered the frontier was also commander of border guards (*örök*) and controller of the access routes, hence an especially important royal officer (see Hans-Gerd Göckenjan, *Hilfsvölker und Grenzwächter im mittelalterlichen Ungarn*. Wiesbaden: Steiner, 1972 5–11.). See also **Ladislas II: 15–16**, with n. 18–19.

³⁶The *comes palatinus* was at this time still essentially the head of the royal household; to become the highest officer of the realm, itinerant judge and deputy of the king.

³⁷For *mega* (Hungarian: *megye*), see above, n. 20.

³⁸The exact status of male and female servile persons in eleventh-century Hungary has been the object of scholarly debates for at least a century (see also above, n. 11). Most recently, Cameron Sutt, in *Slavery in Árpád-era Hungary in a Comparative Context* (Leiden: Brill, 2005) argued—with extensive discussion of the relevant literature—quite convincingly for regarding them slaves, but this is not the last word on the matter. We, therefore, took the "easy way out" by keeping the Latin term and leaving the

man who retained the fugitive.³⁹ If he has nothing to pay, he shall lose his freedom.

43 A fugitive caught and held by someone shall be redeemed by his master with one *pensae*.

44 If a collector of lost things⁴⁰ who holds a fugitive gives him to anyone for ninety pennies, both he and the buyer shall pay ten *pensae*. Mounted men, merchants, and travelers, wherever they go, shall purchase a stack of grain,⁴¹ if they wish, for five pennies. Anyone who receives a lesser price or raises it higher shall pay fifty *pensae*.

45 The eight pennies which were collected from every freeman shall henceforth not be taken.⁴² We order eight pennies to be taken from those men of the castles who serve for a week, among whom, namely are those who are free of the men of the castle but not of the king.⁴³ Those freemen, however, who usually furnish the king with horses, transport wagons, and services for pay when he passes through their region, shall pay four pennies. And the freemen who decided to live with these men shall do likewise, or leave.

46 If anyone catches Ishmaelites⁴⁴ in fasting, or while eating in abstaining from pork, or bathing,

³⁹The passage is unclear. Why the fugitive's original master, who suffered a loss through theft, should be forced to undergo the ordeal, and why if he is proven innocent, he must pay the same large fine as the fugitive's protector cannot be understood. The text must be corrupt in both manuscripts.

⁴⁰On the *jókszedő*, see **Ladislav III: 13**, with n. 28

⁴¹*Capecium*, from Hungarian *kepe*, a number of sheaves stacked in the form of crosses or other piles; "...the amount of grain in a *capecium* cannot even be guessed" (Hóman, *Pénztörténet.*, p. 484), as we know neither the size of the sheaves nor the number of them in a usual stack. A modern *kepe* may contain nine to twenty-seven sheaves, of course, of different sizes, largely depending on regional practice. The right of travellers to free or cheap fodder is legislated in a near-contemporary constitution of Emperor Henry IV: *Iuramentum pacis a. 1085*, *MGH LL*, II. 59

⁴²See above, ch. 35 with n. 32.

⁴³*Hedbomadarii* were men of the castle (as well as dependent cultivators on private estates) who enjoyed a certain amount of freedom by being obligated to serve only three days per week. György Györffy, in *Wirtschaft und Gesellschaft der Ungarn um die Jahrtausendwende*, (Wien-Köln-Graz: Böhlau, 1983) pp. 151–3 [Also published as *Studia Historica Acad. Sc. Hung.* 186. Budapest: Akadémiai K., 1983] compared them to the Anglo-Saxon *gebur* (freedmen, who served two days weekly) and pointed to parallels in the *Lex Baiuvariorum* I: 1, 13 (*MGH LL*, III, 180, 6–10)

⁴⁴"Ishmaelites" were Muslims of probably Turkic origin who lived in medieval Hungary not only as tradesmen (see **Syn. Szab. 9**), but also as settled villagers obliged to military service; cf. Göckenjan, *Hilfsvölker* (s.v. *kaliz*). This chapter and those that follow demonstrate the king's attempts at their assimilation, which appears to have been so successful that when Abu Hâmid from Granada visited Hungary in 1153 he found that his coreligionists were about to vanish by becoming Christians. The "Ishmaelite" or "Saracen" counts, tax farmers, and other officers of the Chamber, repeatedly referred to in the thirteenth century (see **1222: 24; 1231: 18**), were probably later immigrants from Volga-Bulgaria (see György Györffy, "Ungarn von 895 bis 1400," in *Europäische Wirtschafts- und Sozialgeschichte im Mittelalter*, ed. J. A. van Houtte, Stuttgart: Klett-Cotta, 1980. [*Handbuch der europäischen Wirtschafts- und Sozialgeschichte*, ed. H. Kellenbenz, II], pp. 625–55, here p. 645 and B. Mátyás, "Az Árpád-kori magyarországi muszlimok eredete," [Origin of Árpadian age Muslims in Hungary] *Fons* 21 (2014), 315–329). See also S. Balic, "Der Islam im mittelalterlichen Ungarn", *Südost-Forschungen*, 23 (1964), 19–35, and now: Nóra Berend. *At the*

or in any of their misdeeds, such Ishmaelites shall be considered to belong to the king. He who accuses them, however, shall receive a part of their property.

47 We command that each village of the Ishmaelites shall build a church, and from each of these villages an endowment shall be given. After it has been built, half the Ishmaelites shall leave the village and settle in another place, and they shall thenceforth live united in custom together with us in that house which is one and the same Church of Christ, harmoniously in one religion.

48 No Ishmaelite shall dare marry his daughter to anyone of his own people, but only to one of us.

49 If an Ishmaelite has a guest, or anyone invited to dinner, both he and his table companions shall eat only pork for meat.

50 If a killer is found in the house of an *ispán* or anyone else, he shall be asked to do penance by a messenger of the bishop, and if he refuses to extradite him, he shall suffer the same punishment as the killer.

We have decreed that parricide and other crimes which we have classified as homicide pertain to the judgment of the bishops and shall be judged in accordance with canonical procedure depending upon the magnitude of the crime and the status of the person as they see fit; simple homicide, however, shall be judged by the archdeacon⁴⁵ and the secular judge, who shall divide the ninth and the tenth part⁴⁶ between them.

51 A captured thief shall be tied up and held for three days without having his hand seared and burned by fire, but on the fourth day he shall be brought to the judge.

When the thief is taken by the bailiff of his master, if there is a “family” in that place, one of them shall go with the thief, and if he does not want to go, the judge shall not hesitate to judge him. If, however, there is no “family,” the judge shall send him bound to the nearest estate of his lord and the thief is to be judged at law.⁴⁷

52 If a thief brought to judgment shall appear innocent in the ordeal, his captor shall be judged, but not blinded.⁴⁸

53 If it is not possible to establish that the captured thief was responsible for the theft, he shall be

gate of Christendom. Jews, Muslims and “Pagans” in medieval Hungary, c. 1000–c. 1300. (Cambridge: Cambridge University Press, 2001) esp. pp. 6-8, 84-7, 237-44

⁴⁵ See above, n. 17.

⁴⁶ The reference here may be to the judicial fines of the tenth and the ninth (see **Ladislav III: 22**, n. 46) or to two-tenths of the confiscated property of the killer (cf. **Ladislav II: 8**).

⁴⁷ *Familia* in medieval texts tends to mean (religious) “community” or “household settlement” rather than “family” in the modern sense. The measures in this passage aim at assuring that if there were other servants living in the location, a fellow-*servus* accompanied the thief to the judge, probably in order to guide the convicted and –according to the law (see below) blinded–man back to his home

⁴⁸ Blinding as customary punishment for theft was already decreed in **Ladislav III: 8**; a contemporary law of Emperor Henry IV contains similar clauses (*Constitutio pacis generalis* a. 1103. *MGH LL*, II, 60)

granted an ordeal; if he appears innocent, his captor shall be deprived of as much property as the alleged thief is known to have had, but he shall not be blinded. The thief found guilty in the ordeal shall be blinded.

54 If someone should steal a four-footed animal or its equivalent, or clothing of the value of twenty pennies, he shall be judged a thief.

55 If someone has seized a thief on mere suspicion, he shall be judged as a proven thief in the ordeal.

56 The wife of a thief, who was an accomplice in the crime of her husband, shall be reduced to the same servitude as the husband. Their sons fifteen years and older⁴⁹ shall share their mother's punishment; those under fifteen, however, shall be released.

57 Concerning vampires, who do not exist, no inquiry shall be made.⁵⁰

58 Women who kill their offspring shall be taken to the archdeacon and do penance.

59 The bishop or the archdeacon shall be the judge in cases of abduction of women.⁵¹

60 Sorcerers discovered by messengers of the archdeacon and the *ispán* shall be judged by them.⁵²

61 Adulterers brought before the bishop or archdeacon should be punished with the

⁴⁹ Legal age does not seem to have been settled at this time; in the laws of **Ladislav (II: 12)** ten-year old children are exempt from their parents's punishments. For a general discussion of the issue, see Joseph. Holub, "Le rôle de l'âge dans la droit hongroise du moyen âge," *Revue d'histoire de droit française et étrangère*, 1 (1922), 78–140.

⁵⁰ This passage concerning the *striga* was for a long time interpreted as proof for King Coloman's enlightened ideas on witches. The actual interpretation is more difficult. The original meaning of *striga* (derived from *strix*, a screech owl believed capable of sucking blood from young children, see Pliny the Elder, *Historia naturalis*, 11, 39, 95 § 232 and Ovid, *Metamorphoses*, 7, 269) was indeed a certain kind of witch, able to change form, and apparently cannibalistic. Lombard and Carolingian laws punished those who believed in such pagan myths (e.g., Cap. de part. Saxon, c. 6, *MGH Cap.*, I. 68f.; Ed. Rothari c. 376, ed. F. Beyerle, *Leges Langobardorum 643–886*, 2nd ed. [Witzenhausen: Deutscherl. Institutsverl., 1962], p. 91; cf. *The Lombard Laws*, trans. K. Fisher Drew [Philadelphia: Univ. of Pennsylvania Press, 1973], p. 126f.), but gradually *striga* seems to have become the name for all kinds of witches and vampires. It is in this general sense that King Stephen legislated against them (see above **Stephen I: 33**). James B. Russell in *Witchcraft in the Middle Ages* (Ithaca, N.Y.: Cornell Univ. Press, 1972), p. 97, is inclined to see a "debate" between King Coloman and his predecessors in which he represents the more traditional ecclesiastical view, along the lines of the Carolingian denial of the existence of form-changers. Russell appears not to have noted that the word *striga* is used in a different sense here in contrast to the *decreta* of Stephen and Ladislav. It is highly unlikely, therefore, that Coloman was responsible for an "unusual reversal of policy" as he suggests.

⁵¹ Cf. **Stephen I: 27**, with n. 35

⁵² This article modifies the law of St. **Stephen (I: 34)** which had left the punishment of *malefici* to the injured party and only diviners were to be judged by the bishop; here sorcery is treated as a public delict and prosecuted by the joint royal-ecclesiastical court

appropriate punishments.

62 If in a village visited by the king a horse is lost, no one from that village should make amends, but if there is a village of thieves nearby in that region, those people shall be held responsible.

63 If mounted travelers should rest in a village and lose their horses, the villagers shall make amends to them; but if the loss occurred outside the village, no one from the village shall pay.

64 He who declines to have his suit legally decided in three councils,⁵³ shall not have his case heard any further.

65 No *ispán* or warrior shall presume to claim any authority in the church except the bishop himself.⁵⁴

66 Priests and abbots or any other ecclesiastical dignitaries shall pay the tithe to the church of the region in which they are engaged in agriculture or viticulture.

67 Bigamous [priests]⁵⁵ or the husbands of widows or of women repudiated by their husbands shall give up these illicit marriages or be excluded from the clergy.

68 Mass shall not be celebrated except in consecrated places, unless compelled by reason of necessity, but only if this necessity is a journey or travel and not a hunt, and then only in a tent or any clean place and not without a portable altar.

69 The relics of saints shall be carried only by a good and religious clerk.

70 No one recognized to be a clerk shall wear secular clothing, namely: a slit fur cloak or spotted tunic, pale yellow gloves, a red striped coat, a green mantle, boots or a fur cap, painted or silken footwear, silk shirts and tunics, and these are not to be held together at the breast by knots

⁵³ The text reads *concilia*, which can refer to the royal council, the semi-annual assembly decreed above in ch. 2, or some local or central court session. From later evidence four annual court sessions are known. The threefold summons is a characteristic feature of several Germanic law codes and became an integral part of Hungarian judicial procedure.

⁵⁴ The prohibition seems aimed at practices limited to the proprietary church on which see Anton Szentirmai, "Die Anfänge des Rechts der Pfarrei in Ungarn," *Österreichisches Archiv für Kirchenrecht*, 10 (1959), 30–35; and Elemér Mályusz, "Die Eigenkirche in Ungarn," *Studien zur Geschichte Osteuropas* [Gedenkschrift für Hans Felix Schmid], 3 (1966), 76–95.

⁵⁵ The concept of *bigami* mentioned here is derived ultimately from 1 Tim 3: 2 and 12. It passed from early church practice into Byzantine canon law, and thence into this *decretum* (cf. also **Syn. Szab. I**). It is an explicit prohibition of all second marriages to those in both major and minor orders. In Byzantine history this canonical prohibition was a significant issue in both the Moechian and Tetragamist controversies. The inclusion of this measure, therefore, serves to document Byzantine influence in the Hungarian church; see Anton Szentirmai, "Der Einfluß des byzantinischen Kirchenrechts auf die Gesetzgebung Ungarns im XI–XII. Jahrhundert." *Jahrbuch der österreichischen byzantinistischen Gesellschaft*, 10 (1961), 76–79; and in general, Gyula Moravcsik, *Byzantium and the Magyars*, (Budapest: Akadémiai K., 1970) pp. 102–118 with literature.

or fibulae, but are to be such as embrace the neck, as it were.⁵⁶

71 The Ember days shall be observed in their places as has been customary.⁵⁷

72 The office of the Holy Trinity shall be celebrated after the octave of Pentecost.⁵⁸

73 Burials of Christians shall take place only in churchyards.

74 No Jew should dare to buy or sell Christian slaves, nor may he retain any in his service; and he shall lose those which he has now, if he does not sell them in the allotted time.⁵⁹

75 If, however, one of them has agricultural land, he shall farm it with pagan slaves. Jews, if they can afford it, are permitted to hold property, but they themselves may not reside outside episcopal sees.

76 No inhabitant of Hungary and the regions adjacent to Hungary should dare to buy a Hungarian horse. If someone buys one, and he is accused of having stolen it, he is permitted to extend the scope of his defense within and up to the borders of Hungary. But if he wishes to search for the seller of the horse in foreign lands, he shall not be allowed to go there, but shall be put to the ordeal of iron. If he is found guilty he shall be sentenced as a thief, and if innocent, he shall not be regarded as a thief but shall be deprived of the price at which he bought it.

77 No one should dare to sell or convey outside of Hungary a male or female slave of Hungarian origin or anyone born in Hungary, even one of foreign parent- age, except for slaves of other languages who were brought in from other regions, nor [should they export] any animal except male cattle. If an *ispán* should violate this decree, either he shall be deprived of his office, or he shall lose two-thirds of his property; a third of his wealth, however, shall remain for his wife and heirs.

78 Every *ispán* shall have a third part of the customs levy from his county. But the king shall have two-thirds of all customs in full.⁶⁰

79 Every *ispán* shall send to Esztergom before Michaelmass by whichever of his men he wishes those pennies collected in all parts of Hungary, noting names and specific amounts he

⁵⁶ Black cloth or uniform robes do not seem to have been required for the clergy before the eleventh century, when local councils began to legislate on details of clerical attire. The Council of Melfi (1089–1090) forbade clerks to wear sumptuous or slashed garments (c. 13. see Mansi XX: 724); later the Second Lateran Council (1139) came out against slashed and brightly colored clothing (c. 4, *ibid.*, XXI: 527); see “Costumes ecclésiastique”, in *Dictionnaire de droit canonique*, IV, 701–706

⁵⁷ See **Stephen I: 10**

⁵⁸ The Feast of the Holy Trinity was celebrated since the tenth century on the Sunday of the Octave of Pentecost. At first it was only a regional observance in Liège which gained European-wide popularity. In 1334 Pope John XXII mandated its universal observance

⁵⁹ This article is repeated in **Col. Iud. I**; there more elaborate restraints than those found in ch. 74 and 75 are placed upon the Jews

⁶⁰ On this arrangement, see Weisz, “Royal revenue” (as n. 25).

has collected from each centurionate.⁶¹ Neither the *ispáns* nor the centurions shall receive a portion any sooner than the king, rather the division of all portions shall be made in that same place, namely in Esztergom.⁶² If someone, however, does not bring these monies in full within the prescribed deadline, he shall pay double.

80 Every freeman and guest, who works in the fields of others, just like the Slavs and other outsiders.⁶³ shall pay only the pennies for their freedom, and shall not be compelled to give additional pennies in lieu of any other work.

81 From the men of the castles⁶⁴ pennies shall be received for both their freedom and in lieu of work.

82 Those who wish to leave Hungary, shall request a seal from the tollgatherers of both the king and the *ispán* who guard the border crossings. It shall be pressed on one side by the royal toll gatherer and on the other by the comital toll-gatherer with the image of his *ispán*. If someone tries to depart without such a seal, he shall pay fifty *pensae* as a violator or the law.

83 If someone is accused of having borne false witness against anyone, and many persons from the village testify to this because of a quarrel or out of hatred, he shall be tried by the ordeal of iron; and if he is proven innocent, the accuser shall pay ten *pensae* for his guilt. But if he is proven guilty, his goods shall remain intact, but his cheeks shall be branded in the form of a cross, so that

⁶¹ On the centurions and the centurionate, and the organization of certain military service populations, see **Ladislav III: 1**, with n. 1

⁶² Esztergom (Latin: *Strigonium*, German: *Gran*) became the residence of the prince probably as early as the reign of Géza; see György Györffy, “Vom Namen *Estrigen* bis zu *Parquan*. (Die Ausbildung Grans im Spiegel seiner Namen)”, in *Hungaro-Turcica: Studies in Honor of Julius Németh* (Budapest: Akadémiai, 1976). St. Stephen preferred Székesfehérvár in his later years because that was on the newly opened pilgrimage route to Jerusalem (Györffy, *István király*, pp. 316–318), but Esztergom remained a royal residence until the thirteenth century when King Imre (Emeric) granted the royal palace to the Archbishop of Esztergom and Imre’s successors later moved to Buda; see A. Kubinyi, *Die Anfänge Ofens* (Berlin: Duncker & Humblot, 1972)

⁶³ The reference here is obviously not to the different Slavic populations that lived in Hungary at the time of the Magyar’s arrival, but to Slav colonists who came as settlers (*hospites*), together with other “guests”, see Erik Fügedi, “Das mittelalterliche Königreich Ungarn als Gastland” in *Die deutsche Ostsiedlung des Mittelalters als Problem der europäischen Geschichte*, ed. Walter Schlesinger, Sigmaringen: Thorbecke, 1975, 471–507 and István Kniezsa, “Ungarns Völkerschaften im XI. Jahrhundert,” *Archivum Europae Centro-Orientalis*, 4 (1938), 240–412. The continuity between the different Slavic elements and the Slovaks of Northern Hungary (so named first in fourteenth-century sources) is debatable; see Györffy, “Ungarn von 895 bis 1400,” pp. 642–643.

⁶⁴ *Castellani* is a rarely used term for the men of the castle, (*jobagiones castri*), dependent freemen obligated to military service, attached to a royal castle and commanded by the *ispán* in the eleventh and twelfth centuries.

henceforth his testimony shall be repudiated.⁶⁵

84 If someone accused of theft flees to the church, we decree that he shall not be judged immediately as guilty of the theft, but the judge together with the priest of that church shall question him whether he is guilty or not; and if he confesses himself to be guilty, he shall be free from blinding or amputation of limbs for the sake of the church.⁶⁶ If, however, he says that he is not a thief he shall not be denied permission to clear himself; but if he later should be proven guilty, he shall not be free from the above mentioned dangers on account of the church.

Similarly if someone is accused by another of being a thief, and the evidence of the theft shall be found on him or otherwise proved, he shall restore any of those things for which numerous people from the villages incriminated him.⁶⁷

⁶⁵ This article reduces in fact the punishment for perjury in **Stephen I: 17**. The branding (cf. the branding of witches in a similar form in **Stephen I: 33**) serves the same purpose as the loss of the hand: it marks the perjurer indelibly so that his oath would never again be accepted

⁶⁶ The right of sanctuary is documented in earlier collections (**Stephen II: 18; Ladislas II: 1–2**). The present article has the effect of further protecting the accused not only from hanging but also from blinding and mutilation; see György Bónis, “Első törvényeink sorsa és az egyházi menedékjog” [The fate of our first laws and the right of ecclesiastical asylum], *Regnum* 3 (1938-9) 75-97.

⁶⁷ The surviving copies end here in mid-sentence.

STATUTES OF KING COLOMAN OF HUNGARY CONCERNING THE JEWS

(1095–1116)

(Col. Iud)

These statutes expand on the limitations imposed on Jews by the laws of St. Ladislav and Coloman and in particular regulate monetary and market transactions. It has been suggested (Baron, p. 213) that special laws for the Jews in Hungary became necessary after the influx of a sizeable number of refugees from Bohemia who had fled the attacks of Crusaders on the Jewish communities there.

Earlier published editions included these articles together with a few synodal canons in what had been called Book II of the *Decretum* of King Coloman. In the Codex Thuróczi they precede the statutes of the Synod of Esztergom, while in the Codex Ilosvay they are joined to the Laws of Coloman. Závodszy correctly recognized them as constituting a separate set of statutes.

MSS: “Codex Thuróczi”, a fifteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Clmae 407, ff. 102v—103r.

“Codex Ilosvay”, a sixteenth-century manuscript, formerly in the Nationalbibliothek, Vienna; presently Széchényi National Library, Budapest, Fol. Lat. 4023, f. 35r.

EDD: *Magyar Törvénytár: Corpus Iuris Hungaricia*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896) I, 120–21, *Monumenta Hungariae Judaica*, A. Friss, ed. vol. I: 1092–1539 (Budapest: Wodianer, 1903), pp. 2–4 [from Magyar Törvénytár]; Levente Závodszy, *A Szent István, Szent László és Kálmán korabeli törvények és zsinati határozatok forrásai* [Sources of the laws and synodal decrees from the times of St. Stephen, St. Ladislav, and Coloman] (Budapest: Szt. István Társulat, 1904), pp. 195–6.

LIT: Alexander [Sándor] Scheiber, “Hungary”, in *The Dark Ages: Jews in Christian Europe 711–1096*, ed. Cecyl Roth (s. 1: Jewish Historical Publications, 1966 = World History of the Jewish People, II, 3), pp. 313–318; S. W. Baron, *A Social and Religious History of the Jews*, 2nd ed. (New York: Columbia Univ. Press, 1957), III, 211–213, 332–333; Nóra Berend. *At the gate of Christendom. Jews, Muslims and “Pagans” in medieval Hungary, c. 1000–c. 1300.* (Cambridge: Cambridge University Press, 2000) pp. 74-5; Géza Komoróczy, *A zsidók története Magyarországon* [History of the Jews in Hungary] 2 vols. (Budapest: Kaligram, 2012) 1: 97-9; Ferenc Makk and Gábor Thorczkay, eds. *Írott források az 1050–1116 közötti magyar történelemről* [Written sources to Hungarian history 1050–1116] (JATE, Szeged, 2006)

CAPITULA COLOMANNI REGIS DE IUDEIS
[1095–1116]

Colomannus gracia dei rex Hungarorum hanc legem dedit Iudeis in regno suo commorantibus:

I. Ut nullus Iudeus presummat deinceps Christianum mancipium cuiuscunque lingue vel nationis emere aut vendere, aut in servitio suo retinere; et quis hoc decretum transgrediatur, dampnum Christiani mancipii apud eum inventum patiatur.

II. Si Christianus Iudeo aut Iudeus Christiano duarum vel trium pensarum pretium accomodare voluerit, mutuator a mutuate vedimonium recipiat et testes Christianos ac Iudeos in testimonium assumant, ut si forte alter alteri quod mutuaverat denegaverit, vadimonio tamen et testibus utriusque comprobetur.

III. Si autem ultra tres pensas alter alteri quidquam accomodaverit, vadimonium et testes, ut predictum est, assumant et quantitatem pecunie et nomina testium in cartulam scribere, ac sigillo utriusque, mutuatoris scilicet et mutuantis sigillari faciant, ut si quando alter alteri in hac re vim inferre voluerit, scripto ac sigillo utriusque veritas comprobetur.

IV. Si Iudeus a Christiano, aut Christianus a Iudeo aliquid emere voluerit, coram idoneis testibus Christianis et Iudeis rem venalem emat, eandemque rem et nomina testium in cartula scribere faciat, et cartulam illam cum sigillo utriusque, venditoris scilicet et emptoris insignatam apud se custodiat, ut si quando in hac emptione furti reus aliquo arguatur, dominum rei furtive, que apud se recognita est, et testes prenomatos producat et liberetur.

V. Si autem dominum furtive rei et apud se recognite producere non poterit, cartulam vero sigillatam ostenderit, iuramento testium inscriptorum purgatus evadet.

VI. Si autem testes Christianos non habuerit et Iudeos idoneos produxerit, et iuramento eorum secundum legem Iudeorum purgatus, furti compositionem quadruplo persolvat.

Quod si nec dominum recognite rei invenerit, nec cartulam sigillatam produxerit, more patrio deiudicetur, compositionem furti duodecies persolvat.

STATUTES OF KING COLOMAN CONCERNING THE JEWS
[1095–1116]

Coloman, by the grace of God, king of the Hungarians,¹ established the following law for the Jews residing in his country:

1 That no Jew henceforth shall dare to buy or sell a Christian slave, of whatever language or nation, or to keep him in his service² and if someone breaks this law, he shall lose the Christian slaves found with him.

2 If a Christian wants to lend the value of two or three *pensae*³ to a Jew, or a Jew to a Christian, the lender shall receive a pawn from the borrower and enlist the testimony of Christian and Jewish witnesses so that if one should deny that he borrowed [from the other], it may be proven by the pawn and the witnesses for both parties.

3 If, however, anyone shall have lent more than three *pensae* to another, they shall take both the pawn and the witnesses, as said before, and they shall have the amount of money and the names of witnesses written down in a charter⁴ and affixed with the seals of both the lender and the borrower so that if anyone should wish to take action against the other in this matter, the truth shall be proven by the writing and the seals of both parties.

4 If a Jew wants to buy anything from a Christian, or a Christian from a Jew, he shall buy the merchandise in front of suitable Jewish and Christian witnesses, and have the same item and the names of the witnesses written down in a charter and he himself shall keep that charter bearing the seals of both the seller and the buyer, so that if it should be claimed at any time that someone is guilty of theft, he shall produce the owner of the stolen object which he has acknowledged to be in his hands, as well as the witnesses, and he shall go free.

¹ Coloman used the expanded royal style including Croatia and Dalmatia—acquired through the efforts of both Ladislas I and Coloman between 1091 and 1105—only in charters for that kingdom. The archaic, or “personal-ethnic”, form of *rex Hungarorum* (as here) or *Pannoniorum* was used interchangeably with the “territorial” form, *rex Hungariae* until c. 1120–1130; Bálint. Hóman, “A magyar nép neve és a magyar király címe a középkori latinságban” [The Name of the Hungarian People and the Style of Hungarian Kings in Medieval Latinity] (originally in *Történelmi Szemle* [1917]), *Történetírás és forráskritika* (Budapest.: Magyar Történelmi Társulat, 1938), pp. 191–250, espec. 227–228.

² Cf. **Coloman 74; Syn. Strig. 63**. The earliest legal prohibition of Jews holding Christian slaves dates from A.D. 387, found in the Theodosian Code (3.1.5.1.128). The prohibition was repeated in somewhat different form in Justinian’s *Codex* 1.10.2.11.62

³ A *pensa [auri]* was a: money of account in eleventh-century Hungary, equal to one Byzantine gold *solidus* (or bezant), or to the value of a steer (young ox), or 40 pennies.

⁴ Bernát L. Kumorowitz (“Die erste Epoche der ungarischen privatrechtlichen Schriftlichkeit im Mittelalter [11–12. Jh.],” in *Etudes Historiques* [Budapest: Akadémiai K., 1960], pp. 253–290; also published as *Studia Historica Acad. Sc. Hung.*, 21 [1960]) has demonstrated that such *cartulae sigillatae* were in fact issued and can be regarded as the earliest private charters in Hungary. Cf. also László Mezey, “Anfänge der Privaturkunde in Ungarn und die glaubwürdigen Orte” *Archiv für Diplomatik* 18 (1972) 209–302, here pp. 290–300.

5 If, however, he cannot produce the owner of the stolen object acknowledged to be in his hands, but shows the sealed charter, he shall escape trial on the strength of the oath of the inscribed witnesses.

6 If, however, he did not have Christian witnesses and produced suitable Jews and has been cleared by their oath in accordance with the law of the Jews, he shall pay quadruple the composition for theft.⁵ But if he should not locate the owner of the object, or produce the sealed charter, he shall be judged by the custom of the land and shall pay twelve times the composition for theft

⁵The amount of the original composition would depend upon the value of the stolen object and the social status of the thief; see, for example, **Ladislav II: 13, 14, 15**

CONSTITUTIONS OF THE SYNODS HELD UNDER KING COLOMAN OF HUNGARY

Synod of Esztergom, 1104–12)

(Syn. Strig.)

This collection contains both the canons of a synod held under King Coloman, most probably during the archbishopric of Lawrence of Esztergom, who occupied the see from 1105 to 1116, and additional synodal statutes for which no dates are indicated in the manuscripts.

The date of the synod that enacted seventy-two of these canons, conventionally referred to as the Synod of Esztergom, has been the subject of extensive debate. The oldest and best manuscript (Codex Pray) does not refer to Archbishop Lawrence (mentioned only in the Cod. Thuróczi), hence various dates have been proposed.

Gyula Pauler (pp. 448–449) and, following him, László Erdélyi (pp. 47–48) argued that this synod may have preceded that of **1092** because some of the demands formulated in it seem to have been fulfilled either by the decrees of the Synod of Szabolcs or by measures contained in the *decretum* of **Coloman**. These suggestions have been rejected by most historians.

We have no grounds, therefore, to assume that the Synod of Esztergom predates the archiepiscopate of Lawrence, or to postulate the existence of another, unknown Lawrence, who may have held the office between 1077 and 1094 as Erdélyi (p. 47, n. 1) was obliged to do. After the study of eight manuscripts and the scholarly literature, Mónika Jánosi came down to dating the synod to 1104–12; Dorottya Uhrin, surveying the evidence, came to the same conclusion. Present consensus is that these canons may have been passed at several synods (their number is unusually high for one meeting!) and an unknown redactor put them together.

Although for reasons of easy reference we have retained the appellation “Synod of Esztergom”, there is no basis for calling it the “first” Esztergom synod (Závodszy, p. 197), since there is no evidence whatsoever for the location of the later, undated synods.

The present text is based on a new transcription made mainly from the Codex Pray by Ferenc Döry, whose arrangement of the canons and arguments for the dating have also been followed. For a comparison with earlier editions, see the Concordance.

MSS: Codex Pray, a liturgical manuscript compiled in 1192–1195 A.D., Széchényi

National Library (OSZK), Budapest, Nyelvmélekek MS 1, ff. I–III/

Codex Thuróczi, ff. 99v–102v.

Codex Festetich, a sixteenth-century manuscript formerly in the Archives of the Prince Festetich family, Keszthely, presently in OSZK, Budapest, Fol. Lat. 4355, ff. 101r–108v. “

Codex Nádasdy, a sixteenth-century manuscript, at one time in the possession of Count Palatine Pál Nádasdy, presently in the Eötvös Lóránd Tudományegyetem Könyvtára [Library of the Loránd Eötvös University], Budapest, MS G.39, ff. 46r–50v.

Codex Debrecen, a sixteenth-century manuscript, presently in the Református Főiskolai Könyvtár [Main Library of the Reformed Theological College], Debrecen, R 466, unfoliated.
and a few later others (see now Uhrin as below)

EDD: Ignacius Batthyány, *Leges ecclesiastici regni Hungariae et provinciarum adjaxcentium* 3 vols. (Alba-Carolina: Typis episcopalibus 1785–1827) II, 119–122; Levente Závodszy, *A Szt. István, Szent László és Kálmán korabeli törvények és zsinati határozatok forrásai* [Sources of the Laws and Synodal Decrees from the Times of St. Stephen, St. Ladislav, and Coloman], Budapest: Szt. István Társulat, 1904. pp. 197–210.

LIT: Gyula Pauler, *A magyar nemzet története az Árpádházi királyok alatt* [History of the Hungarian Nation under the Kings of the Árpád Dynasty], 2nd ed. (Budapest.: Athenaeum, 1899), I, 129–130, 448–450; László Erdélyi, *Magyarország törvényei Szent Istvántól Mohácsig. Művelődéstörténeti összehasonlító fejezetekbe írta* [The laws of Hungary from St. Stephen to Mohacs: In comparative cultural historical chapters], Budapest: Eggenberger, 1942, pp. 47–56; L. Balics, *A római kath. egyház története Magyarországon* [History of the Roman Catholic Church in Hungary] (Budapest.: Szt. István Társulat, 1885), I, 50–64; G. Adriányi, “Die ungarischen Synoden,” *Annuario historiae conciliorum* 8 (1976) 541–75, here espec. p. 543; Mónika Jánosi, “Az első ún. esztergomi zsinati határozatok keletkezésének problémái” [Problems of the origin of the canons of the so-called first Esztergom synod], *Acta Universitatis Szegediensis Attila József nominatae. Acta Historica* 83 (1986), 23–30; Lothar Waldmüller: *Die Synoden in Dalmatien, Kroatien und Ungarn. Von der Völkerwanderung bis zum Ende der Arpaden (1311)* (Paderborn &c: Schönigh, 1987); Ferenc Makk and Gábor Thorczkay, eds. *Írott források az 1050–1116 közötti magyar történelemről* [Written sources to Hungarian history 1050–1116] (JATE, Szeged, 2006); Dorottya Uhrin, “Az ún. I. és II. esztergomi zsinat és a Pray-kódex” [The so-called first and second Esztergom Synod and the Codex Pray] in *Írások a Pray Kódexről*, Zsófia Ágnes Bartók and Balázs Horváth, eds. (Budapest: Argumentum &c. 2019) pp. 19–28.

DECRETA SYNODORUM HABITORUM SUB COLOMANNO
REGE

[Synodus Strigoniensis] 1105–16

[Sancti spiritus adsit nobis gratia.] Inprimis interpellandus est rex:

- I. Ut cause clericorum vel ecclesiasticarum rerum canonice finiantur.
- II. Ut omni dominico die in maioribus ecclesiis evangelium et epistola et fides exponantur populo, in minoribus vero ecclesiis fides et oratio dominica.
- III. Ut omnis populus in Pascha et Penthecosten et Natali Domini penitentiam agat et communicet. Clerici vero in omnibus maioribus festis communicent.
- IV. Ut omnes ecclesiastici ordines in maioribus ecclesiis habeant et officium suum exhibeant.
- V. Ut canonici in claustro et capellani in curia literatorie loquantur.
- VI. Ut idiote presbiteri non ordinentur, qui vero ordinati sunt, discant aut deponantur.
- VII. Ut nullus aliquid de ritu gentilitatis observet; qui vero fecerit, si de maioribus est, XL dies districte peniteat, si autem de minoribus, VII dies cum plagis.
- VIII. Si quis descriptas festivitates non feriaverit, eadem lege iudicetur.
- IX. Si quis pro facinore commisso iniunctam penitentiam negligens ab episcopo excommunicatus in eadem perversitate obierit, in cimiterio non sepeliatur, nec a presbiteris.
- X. Si quis infirmatus presbiterum non vocaverit, nisi subitanea causa fuerit, eodem modo fiat de eo; parentes vero eius aut uxor XL dierum penitentia multentur. Si autem parentes non habuerit, villicus cum duobus senioribus ville idem iudicium subeat.
- XI. Ut hi, qui ad episcopatum promovendi sunt, si matrimonio legitimo iuncti sunt, nisi ex consensu uxorum, non assumantur.
- XII. Episcopus, si tres partes de acquisitiis ad utilitatem ecclesie fideliter contulisse videtur, liceat ei agere de quarta, quod voluerit.
- XIII. Episcopi, qui iam obierunt, necque ecclesie sue providerunt, sed tantum filios suos ditaverunt, placuit inde medietatem auferre et ecclesie reddere. Monasteria vero talium in potestatem succedentis episcopi transeant et faciat, quod inde melius visum fuerit.
- XIV. Si quis eorum, qui ecclesiis presunt, res earum dissipaverit, duplo restituat. Si non habet, deponatur, donec emendet.
- XV. Nullus episcopus aut presbiter in propriis locis servos ecclesie teneat.
- XVI. Unaquecunque ecclesia circa se in proximo habeat parochiam suam.
- XVII. Ecclesia non consecretur, si dos et terra prius non dantur.

- XVIII. Nullus presbiter sine titulo ordinetur. Nullus habeatur in clero, qui non est aditulatus alicui ecclesie.
- XIX. Nullus clericus de alio episcopatu vel provincia sine commendatitiis litteris suscipiatur.
- XX. Episcopus ad episcopum sine litteris et sigillo legationem non mittat.
- XXI. Hospites clerici, qui de alienis partibus venerunt, aut legitimos testes producant aut ad ferendam formatam redeant. Qui vero infamati sunt, omnino discedant, nec redeant, nisi cum formata.
- XXII. Nullus episcopus aut presbiter aut abbas missam celebrare audeat contra voluntatem presbiteri ecclesie.
- XXIII. Quicumque ad titulum ordinatus est vel cum professione susceptus, non privetur ordine vel honore, nisi super certis criminibus iudicio canonico. Sed neque ipse recedere audeat, nisi forte ad maiorem promoveatur gradum, quod etiam episcopus suus benigne debet consentire.
- XXIV. Si quis se oppressum existimat, liceat sibi concilium episcopale appellare. Si quis vero clericorum aut abbatum in causis ecclesiasticis relicto episcopali iudicio regalem curiam aut seculare iudicium adierit, causam perdat aut penitentia emendet.
- XXV. Ordo divinorum officiorum vel ieiuniorum secundum libellum, quem collaudavimus, ab omnibus teneatur.
- XXVI. Vita et victus canonicorum secundum regulam ipsorum ab episcopo disponantur.
- XXVII. Si quis hospitem canonicè regule se sponte subdiderit, nichil ad filium eius pertineat, nisi forte et ipse idem voluerit. Si quis vero clericus servus ecclesie fuerit, filii eius ad pristinam servitutem non redeant, sed inter liberos ecclesie habeantur.
- XXVIII. Nullus servus clericus ordinetur, nisi antea dominus eius plenam sibi dederit libertatem.
- XXIX. Presbiteris uxores, quas in legitimis ordinibus acceperunt, moderatius habendas provisà fragilitate indulsumus.
- XXX. Qui diaconatum vel presbiteratum sine matrimonio adepti sunt, uxorem ducere non licent.
- XXXI. Uxores episcoporum episcopalia predia non inhabitent.
- XXXII. Si quem episcopus excommunicaverit, hoc regi et fratribus suis datis litteris indicet.
- XXXIII. Nullus extra ecclesiam in tentorio vel in aliqua domo missam celebrare aut audire audeat, nisi rex aut episcopi et comites et abbates illi, qui tentorium aut aliquid huiusmodi divino solummodo cultui preparatum habere possunt, et hoc tantummodo, quando sunt in via.
- XXXIV. Abbates mitram, sandalia, cirothecas, nolam ad capellam vel cetera episcopalia insignia non habeant, neque baptizent, neque penitentiam dent, neque ad populum sermonem faciant.
- XXXV. Abbas provisà facultate monasterii cum episcopo ad duo aratra unum monachum regulariter vestitum et instructum teneat, et regulam beati Benedicti omnes monachi sciant et intelligant.
- XXXVI. Ut abbates raro de monasteriis egrediantur, neque ad regem, neque ad remotas possessiones sine conscientia episcopi pergant, ubi tamen diutius immorari non debent.
- XXXVII. Abbates parentibus suis non plus, quam ceteris pauperibus solatium faciant. Quod si abbas inventus fuerit bona monasterii dissipasse aut dispersisse, ipse deponatur et substantia illa

- ecclesie reddatur.
- XXXVIII. Nullus episcopus aut presbiter monachum ordinet.
- XXXIX. Si quis monachalem habitum habet, aut monasterium intret, aut habitum perdat et penitentiae subiaceat.
- XL. Nullus presbiter conventionem de missa pro oblatione faciat.
- XLI. Nullus ecclesiam emere vel vendere presumat. Si quis ecclesiam vendiderit aut presbiterum suum sine culpa abiecerit, delator illius culpe partem magistri illius eo anno accipiat.
- XLII. Nullus de baptismo vel sepultura pretium exigat.
- XLIII. Nullus festiuitates vendere presumat.
- XLIV. Ut iudicium ferri in quadragesima, sicut in aliis diebus, excepta causa effusionis sanguinis detur.
- XLV. Ut qui ferrum accipit, in designato loco ponat.
- XLVI. Nichil legatur neque cantetur in ecclesia, nisi quod fuerit in synodo collaudatum.
- XLVII. Si quis presbiter in convivio vel kalendis cogentes ad potum viderit, arguat eos, et si eum non audierint, ipse exeat et archidiacono eos accuset, qui eis penitentiam VII diebus iniungat. Quod si ipse presbiter non exierit, ab officio suspendatur et XL dies peniteat. Si presbiter coegerit vel coactus fuerit inebriatus, deponatur. Si quis presbiterum inebriatum invenerit, ante episcopum vel archidiaconum III pensas ab eo accipiat, et si idem presbiter secundo inebriatus fuerit, deponatur. Si quis de nobilibus ad potum coegerit vel coactus fuerit inebriatus, XL dies peniteat. Si vero in hoc perseveraverit, excommunicetur.
- XLVIII. Episcopi in unaquaque civitate duas domos ad coercendos penitentes faciant.
- XLIX. Si quis de maleficio accusatus convictus fuerit, secundum canones peniteat. Si accusator, quod iniecit, probare non poterit, eidem penitentiae subiaceat.
- L. Si qua mulier a viro suo fugerit, reddatur marito suo semel et bis; tertia vice, si nobilis est, adiciatur penitentiae sine spe coniugii; si de plebe, venundetur sine spe libertatis.
- LI. Si quis uxorem suam adulteram probaverit, si voluerit, ducat aliam; illa vero, si nobilis est, sine spe coniugii peniteat; si plebeia, sine spe libertatis venundetur. Quod si probare non poterit, idem iudicium maritus patiat, et illa, si voluerit, maritetur. Eodem modo, qui cum alterius uxore vel que cum marito alterius peccat, iudicetur.
- LII. Si quis puellam rapuerit vel violaverit, si nobilis est, canonicè penitentiae cum compositione subiaceat. Qui vero hoc persolvere non poterit, tonso capite secundum iudicium regis Ladislai venundetur.
- LIII. Si quis sponsam rapuerit alterius, si illa non consensit, reddatur proprio sponso; raptor vero, si nobilis est, compositionem canonicam faciat et sine spe coniugii peniteat; si non poterit compositionem dare, sine spe libertatis venundetur.
- LIV. Si quis uxorem fugiens se sponte debitorem fecerit, unde se expedire nolit propter odium,

quod in uxorem habet, semper in servitute permaneat. Et si unquam liber videatur, iterum venundetur, uxor vero eius, cui velit, nubat.

- LXV. Si quis de clero secundam uxorem vel viduam vel repudiatam duxerit, deponatur.
- LXVI. Bigami presbiteri, qui ad ordines suos redire voluerint, ex consensu uxorum suarum recipiantur.
- LXVII. Similiter, si presbiter concubinam habuerit, deponatur.
- LXVIII. Ut canonici regulam canonicam sciant et intelligant.
- LIX. Si quis clericorum furti arguitur, ab episcopo vel archidiacono iudicetur. Si reus inventus fuerit, deponatur et bona sua perdat; si nichil habuerit, vendatur.
- LX. Ne clerici tabernarii vel feneratori sint. Quicumque in tabernaria domo biberit, si clericus est, deponatur; si laicus, in testimonium non recipiatur.
- LXI. Ut clerici testes non sint, nisi in testamento morientis vel pro sacramento, vel pro iudicio.
- LXII. Iudei servos vel ancillas neque proprios, neque venales, neque mercenarios Christianos habere audeant.
- LXIII. Nullus Christianus carnes ab eis spretas emere presumat.
- LXIV. Decretum est et sancti concilii auctoritate sanctitum, ut de propriis horreis seu cellariis aut ovilibus monasteriorum et ecclesiarum et omnium, qui in clero sunt, decime non exigantur, excepta IIII parte parochiani presbiteri.
- LXV. Ut omnes archidiaconi breviarium canonum habeant.
- LXVI. Presbiteri quoque ecclesiarum iuxta ecclesiam domum habeant.
- LXVII. Servi ecclesiarum, si boves proprios habuerint, dimidiam partem de his, que araverint, accipiant, si autem cum bubus magistrorum suorum araverint, duas partes inde magistri ecclesiarum habeant.
- LXVIII. Quicumque de his, qui in clero sunt, ad synodum episcopi sui non venerit, usque ad laicum deponatur.
- LXIX. Si quis alterius servum vel servientem talem, qui domino suo sine ipsius voluntate alienari non potest aut quemlibet de civili populo litteras docuerit, seu clericum fecerit, absque conscientia et concessione domini sui, ipsum redimat et insuper L pensas persolvat.
- LXX. Si quis homicidium fecerit, secundum decreta Ancirani concilii peniteat.
- LXXI. Clerici repudiarum viduarumque mariti, necnon et bigami ab ordine deponantur, et si teneant ecclesiam, careant ecclesia.
- LXXII. Nullus clericus, nullus comes quemlibet clericum suscipiat ad divinum officium tenendum, nisi per manus sui parochiani episcopi.
- LXXIII. Ex auctoritate apostoli pro regis nostri salute et regni nostri salute et regni eius stabilitate in omnibus cotidie ecclesiis orandum censemus et districte precipimus.
- LXXIV. Ut si quis contra regis salutem aut dignitatem quolibet modo aliquid conspiraverit, aut conspirare aliquid temptaverit, seu temptanti sciens consenserit, anathematizetur et omnium fidelium communione privetur.
- LXXV. Ut si quis huiusmodi aliquem noverit, et probare valens non indicaverit, predicte subiaceat dampnationi.

- LXXVI. Ut si qua mulier a viro suo fugerit, reddatur ei, et quotiens fugerit, restituatur ei, quia scriptum est, quod Deus coniunxit, homo non separet.
- LXXVII. Ut si quis uxorem suam coram legibus adulteram probaverit, ipsa penitentiae subiaceat, et postea si voluerint, reconcilientur, aliter inuupti permaneant.
- LXXVIII. Ut si quis sponsam alterius rapuerit, sponso reddatur, raptor vero legibus subiaceat.
- LXXIX. Ut si quis uxorem exosam habens, sponte servituti se subdiderit, ut ab exosa separetur, uxor eum salva libertate sequatur, aliter inuupti permaneant.
- LXXX. Ut clerici bigami et viduarum et repudiarum mariti temporalibus ecclesiae beneficiis et cunctis dignitatibus ecclesiasticis priventur.
- LXXXI. Ut nullus episcoporum aliquem promoveat clericorum ad diaconatum vel ultra, nisi prius continentiam voverit, et si uxorem habuerit, ex eius fiat consensu idem promittentis.
- LXXXII. Ut nullus coniugatus presbiter aut diaconus altari deserviat, nisi prius uxori concedenti et continentiam voverit locum separatam et necessaria vite temporalis provideat, et secundum apostolum habens, quasi non habentem se esse intelligat.
- LXXXIII. Ut nullus laicus ecclesiae potestatem habeat.
- LXXXIV. Si presbiter altari deserviens concubinam habuerit, illa auferatur, ipse vero iuxta preceptum episcopi fructu peracto penitentiae ad ministrandum altari restituatur ecclesiae.
- LXXXV. Ut villa, in qua est ecclesia, ab ecclesia longius non recedat; quod si recesserit, X pensas persolvat et redeat.
- LXXXVI. Si quis festa vendiderit, pretium acceptum quadruplo restituat, ipse vero penitentiae subiaceat.
- LXXXVII. Si quis descriptas festivitates non celebraverit, sic vindicetur in eum: si liber est, tribus diebus peniteat; si servus, septem plagis multetur.
- LXXXVIII. Placuit sancte synodo, ut omnis coniugalis desponsatio in conspectu ecclesiae, presente sacerdote, coram idoneis testibus, aliquo signo subarrationis ex consensu utriusque fieret, aliter non coniugium, sed opus fornicarium reputetur.
- LXXXIX. Si quis presbiter bigamus propter uxorem divinum officium reliquerit, omni ecclesiastica dignitate privetur, et inter laycos deputetur.
- XC. Decretum est in sancta synodo ab omnibus episcopis, ut populus sancte ecclesiae decimas omnium, que possident, servi vero ecclesiae parochiano presbitero tres denarios impendant.

CONSTITUTIONS OF THE SYNODS HELD UNDER KING
COLOMAN

[Synod of Esztergom] 1105–1116

[May the grace of the Holy Spirit be with us] In particular the king is to be asked:¹

That lawsuits concerning clerks or ecclesiastical matters be determined canonically.²

- 1 That every Sunday in the greater churches the Gospel, Epistle, and Creed be expounded to the people, but in minor churches only the Creed and the Lord's Prayer.³
- 2 That all the people on Easter, Pentecost, and Christmas go to confession and communion.⁴ Clerks, however, shall take communion on each major feast.
- 3 That all clerks in the major churches be in orders and exercise their office.
- 4 That the canons in the cloister and the chaplains in the court converse in learned

¹ Závodszy (p. 197) provides the incipit: *Sancti spiritus adsit nobis gracia* [May the grace of the Holy Spirit be with us], but notes that this is not contained in the Cod. Thuroczi, which in turn has the following heading: *Incipiunt capitula de synodalibus decretis domini archiepiscopi Laurencii Strigoniensis metropolitani et decem suffraganeorum suorum* [Here begin the chapters from the synodal decrees of lord archbishop Lawrence, metropolitan of Esztergom and his ten suffragan bishops]

² That is, according to canon law as administered in ecclesiastical courts. This is an affirmation of the *privilegium fori*; see **Stephen I: 4** and **Coloman 5**. On the place of this synod in the development of ecclesiastical jurisdiction in Hungary, see György Bónis, "Entwicklung der geistlichen Gerichtsbarkeit in Ungarn vor 1526." *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, 80, Kanonistische Abteilung, 49 (1963), 174–235, here pp. 186–187.

³ Carolingian church councils commanded all priests to instruct the faithful each Sunday in the meaning of the Creed and the Lord's Prayer; see c. 8 of the Council of Rheims (813) and c. 4 of the Council of Châlons (813) as transmitted by Burchard of Worms, *Decretum* (II: 62–63, PL 140, col. 637). The word *fides* in the present text may refer to the Athanasian Creed (*Quicumque vult*) which, since Carolingian times, was known as the *fides Athanasii*; see R. McKitterick, *The Frankish Church and the Carolingian Reforms, 789–895* (London: Royal Historical Society, 1977), p. 52

⁴ In the Carolingian era confession had been prescribed for the faithful once annually during Lent (see the text of the Council of Rheims cited above); but from the beginning of the tenth century it ceased to be exclusively associated with Lent and was performed more frequently; see H. Jedin and J. P. Dolan, *Handbook of Church History* (New York: Herder, 1969), p. 303. The obligation to receive communion on Easter, Christmas, and Pentecost was, of course, of even older origin and failure was punished by excommunication; see Burchard, *Decretum*, II: 76, (Migne, PL 140, col. 639), citing c. 5 of the Synod of Agde, A.D. 506

fashion.⁵

- 5 That no uneducated priests be ordained, but those who have been ordained shall learn or be deposed.⁶
- 6 That no one celebrate anything taken from heathen rituals;⁷ but he who does, shall maintain strict penance for forty days for anything from the major observances, or for seven days with flogging for anything from the lesser observances.⁸
- 7 If someone does not celebrate the prescribed feasts, he shall be judged according to the same law.⁹
- 8 If someone, who has neglected to perform the penance imposed for the commission of a sin and was excommunicated by the bishop, dies in the same state, he shall not be buried in the cemetery, nor by priests.
- 9 If someone does not summon the priest on his deathbed, he shall be treated in the same manner, unless he should die suddenly; but his relatives or his wife shall be punished with forty days penance.¹⁰ If he had no relatives, however, the village reeve¹¹ and two elders of the village shall be punished in the same way.
- 10 Those who are to be elevated to the episcopate may not assume the office if they are bound by legitimate marriage, unless they have the consent of their wives.¹²

⁵ I.e., in Latin

⁶ This is an ancient requirement for the priesthood. Patristic writers were insistent upon solid clerical education grounded in the Scriptures; see, for example, St. Augustine, in the *De Doctrina Christiana* and the lapidary comment of St. Jerome: *ignoratio scripturarum, ignoratio Christi est* [He who does not know the Bible, does not know Christ]. Early church councils required priests to be learned both in sacred scripture and the canons; cf. the Fourth Council of Toledo (A.D. 635). c. 25, Mansi X, 626–627

⁷ Cf. **Stephen I: 13**; the immediate source of this canon has not yet been identified, but for purposes of comparison it is worth noting that the Roman Penitential specified a forty-day penance of bread and water for those who willingly participated in satanic rites involving herbs and potions, whereas a lesser seven-day fast (not flogging) was prescribed for those who pronounced curses or disparagement against their enemies; see Burchard, *Decretum*, II, coll. 964–965

⁸ The meaning of *majores* and *minores* is unclear. It may refer to kinds of sinners of different age or social status or rather to two kinds of pagan practices, major and minor ones.

⁹ See c. 7, above.

¹⁰ Cf. **Stephen I: 12**

¹¹ *Villici* are mentioned in **Stephen I: 9**, and seem to have been some kind of village elders. In later texts they are both representatives of the lord of the village and elective speakers of the villagers. .

¹² Western church practice since the time of the later Roman Empire imposed continence upon married clergy including bishops. Clerical promotion was prohibited for those who did not put aside their wives according to the fifth-century collection known as the *Canones ecclesiastici sanctorum Apostolorum* and

- 11 A bishop who has ostensibly left three-quarters of his wealth faithfully for the use of the church, may dispose of the remaining quarter as he wishes.
- 12 From bishops who died without having provided for their churches but rather only enriched their sons, half shall be taken from them and given to the church.¹³ Their monasteries, however, shall pass to the authority of the succeeding bishop and he may do what seems better to him.
- 13 If someone in charge of churches has squandered their goods, he shall make double restitution. If he does not have the means, he shall be deposed until he mends his ways.
- 14 No bishop or priest shall keep *servi*¹⁴ of the church on his own property.
- 15 Each church shall have around it an adjacent parish.
- 16 A church shall not be consecrated if it has not first been given an endowment and land.¹⁵
- 17 No priest shall be ordained without an assignment. There shall be no one among the clergy who has not been assigned to some church.¹⁶

the canons of the Council of Toledo (A.D. 400), c. I. The Fathers, notably St. Augustine, insisted that continence within marriage had to be agreed upon by both the husband and the wife; see J. Gaudemet, *L'Eglise dans l'empire romain* (Paris: Sirey, 1958 = G. LeBras, ed., *Histoire du droit et des institutions de l'Eglise en Occident*, III), pp. 159–63, 551f

¹³ I.e., from the son's inheritance. Lóránt Szilágyi (in Emma Lederer. *Szöveggyűjtemény Magyarország történetének tanulmányozásához, I. rész 1000–1526* [Chrestomathia to the Study of the History of Hungary, Pt. I: 1000–1526] (Budapest: Tankönyvkiadó, 1974) p. 60) suggested that the monasteries referred to would also have been inherited by the son(s). On the children of the clergy, see Bernhard Schimmelpfennig, “*Ex fornicatione nati: Studies on the Position of Priest's Sons from the Twelfth to the Fourteenth Century,*” *Studies in Medieval and Renaissance History*, NS, 2 [12] (1979), 1–50, with reference to earlier literature

¹⁴ The exact status of male and female servile persons in eleventh-century Hungary has been the object of scholarly debates for at least a century (see also above, n. 11). In the printed version of DRMH, the editors decided to avoid coming down on either side and translated *servus* and *ancilla* &c. as “bondman” or “bondwoman” intending to escape the decision, but that was awkward. Most recently, Cameron Sutt, in *Slavery in Árpád-era Hungary in a Comparative Context* (Leiden: Brill, 2005) argued—with extensive discussion of the relevant literature—quite convincingly for regarding them slaves, but this is not the last word on the matter. We, therefore, took the “easy way out” by keeping the Latin term and leaving the decision to the reader. In this case, it seem likely that the law is about slaves.

¹⁵ The words *dos* and *terra* can be understood as meaning the property rights and income of a parish church, including its equipment, rectory, cemetery, arable lands, dependent servants, and tithes; see also, **Stephen II: 1.**

¹⁶ This canon aims to assure that every priest be ordained to a definite ecclesiastical office (*titulus*), a measure that goes back to the Council of Chalcedon (A.D. 451, c. 6) which prohibited “absolute ordinations”, even though the practice did not entirely cease; see H. E. Feine, *Kirchliche Rechtsgeschichte*, 5th ed. (Köln: Böhlau, 1972), pp. 129f

- 18 No clerk shall be received from another bishopric or province without commendatory letters.¹⁷
- 19 No bishop shall send a legation to another bishop without letters and seal.
- 20 The foreign clerks, who have come from alien lands, shall either produce legitimate witnesses or return to obtain letters of credence.¹⁸ But those who are infamous shall all depart not to return unless with a letter of credence.
- 21 No bishop, priest, or abbot shall dare to celebrate mass against the will of the priest of the church.¹⁹
- 22 Whoever was assigned to a parish church or made his profession,²⁰ shall not be deprived of his order or honor, unless for specific crimes according to canonical judgment. But neither should he dare to leave, unless perchance he should be elevated to a higher grade, for which his bishop also must willingly give consent.
- 23 If someone considers himself oppressed, he is allowed to appeal to episcopal judgment. If, however, a clerk or abbot forsakes episcopal jurisdiction in cases concerning clergy and goes to the royal court or to secular judgment, he shall lose his case and do penance.²¹
- 24 The order of the divine offices and of fasting shall be kept by all according to the book which we approve.²²
- 25 The life and means of support of canons shall be arranged by the bishop according to their

¹⁷ Cf. **Coloman 3**. The early church legislated against clerical travel and unauthorized absence by requiring clergy to obtain *litteraturae commendantiae* from the local bishop; see Jean Gaudemet, *L'Eglise dans l'Empire Romain (IV^e-V^e s.)* (Paris: Sirey, 1959), p. 181. This legislation also found its way into Burchard's *Decretum* II, 136–137, (Migne PL 140, col. 648).

¹⁸ See above. The possession of *formata* was made a prerequisite before clergy from a foreign province could minister to the faithful in c. 2 of the Council of Meaux (A.D. 845), cited in *ibid.*, col. 649

¹⁹ The inclusion of the bishop, who of course is the superior of the parish priest, in this instance is unusual. This interesting case was not discussed by Antal Szentirmai, “Die Anfänge des Rechts der Pfarrei in Ungarn” *Österreichisches Archiv für Kirchenrecht* 10 (1959) pp. 31–35

²⁰ I.e., accepted into the regular clergy

²¹ This sentence and the second part of c. 27 below have been treated as separate chapters in earlier editions, hence our numbering differs from them; see the Concordance below

²² The *libellus* containing the divine offices and fasts may have been a sacramentary with the liturgy of the mass as well as a calendar or possibly a type of handbook for priests. It has been suggested, among many others, by Peter von Váczy in: *Die erste Epoche des ungarischen Königtums*, (Pécs: Danubius, 1935) pp. 118–119) that this canon refers to the *libellus in romano ordine* contained in the Codex Pray (ff. V–XXVI), now identified as the *Micrologus* of Bernold of Constance composed during the reign of Emperor Henry IV (d. 1106); its text is in Migne PL 151, coll. 977–1022

rule.²³

- 26 If some foreigner²⁴ voluntarily submits himself to the rule of canons regular, no property shall pertain by right to his son, unless by chance he wants him to have something. If, however, a clerk was a *servus* of the church, his sons shall not revert to their former servitude, but be counted among the freemen of the church.
- 27 No slave²⁵ shall be ordained a clerk, unless his master has given him full liberty beforehand.²⁶
- 28 In consideration of human frailty, we allow priests to live with restraint with the wives whom they have taken in accordance with legitimate practices.²⁷
- 29 Those who have entered the diaconate or the priesthood unmarried are not allowed to take wives.²⁸
- 30 The wives of bishops shall not inhabit the episcopal estates.
- 31 If a bishop has excommunicated someone, he shall signify this by letters to the king and to his fellow bishops.

²³ Edith Pásztor (*Sulle origini della vita comune del clero in Ungheria*, [Vita e Pensiero, Milan 1962], p. 78) assumes that early twelfth-century canons regular in Hungary did not own property, and this clause, therefore, entrusts the bishops with both their supervision and provisioning. Which “rule” is meant by the word *regula* cannot be decided, as there were several of them in use in the chapters of canons. Pásztor (*ibid.*) suggests that the rule of Pope Gregory VII for canons regular may have been the one accepted in Hungary because passages from it are included in the *Micrologus* of the Codex Pray (see above, n. 23). Ch. Dereine pointed out, however, that in the eleventh century *regula* did not necessarily refer to a written rule but rather to the canons’ way of life in general (“Vie commune, règle de saint Augustin et chanoines réguliers au XI^e siècle” *Revue d’histoire ecclésiastique*. 41 (1946), 400 quoted by Pásztor. “Sulla origini”, p. 78)

²⁴ *Hospes*, was the term used for foreign “guests,” that is, immigrants of various estate, from knights to peasant and clerks. See: Erik Fügedi, “Das mittelalterliche Königreich Ungarn als Gastland”, in: Schlesinger, W., ed. *Die deutsche Ostsiedlung des Mittelalters als Problem der europäischen Geschichte*, (Sigmaringen: Thorbecke, 1975), pp. 471-507.

²⁵ The context suggests that *servus* be translated here as “slave.”

²⁶ This ancient prohibition is found in many canonical collections. e.g., in Burchard’s *Decretum*, II, 24, (Migne PL 140, col. 629). The expression *plena libertas* [full liberty] suggests that there had also been manumissions and grants of liberty with limitations. On this, see now I. Bolla, *A jogilag egységes jobbágyosztály kialakulása Magyarországon* [The Development of a Legally Uniform Tenant-Peasant Class in Hungary] (Budapest: Akadémiai, 1983), espec. pp. 43–57.

²⁷ Cf. **Syn. Szab. 3**; apparently a decade or so after the Synod of Szabolcs this key issue of the Gregorian program was still unresolved in Hungary. See also the canons below

²⁸ Cf. c. 22 of the *Canones Apostolorum* in Burchard, *Decretum*, II. 62–63, (Migne PL 140, col. 646).

- 32 No one shall dare to celebrate or to hear mass in a tent or in any house outside the church, except the king or those bishops, counts, and abbots who may have a tent or something of this sort prepared exclusively for divine service, and this only if they are on a journey.²⁹
- 33 Abbots shall not have a mitre, sandals, gloves, a little bell for their chapel, or other episcopal insignia,³⁰ nor shall they baptize³¹ or administer penance or preach a sermon to the people.
- 34 An abbot, if the means of his monastery permit, shall together with the bishop keep one monk regularly clothed and instructed for every two plough-lands,³² and all monks shall know and understand the Rule of St. Benedict.
- 35 Abbots shall leave their monasteries rarely, and without the permission of the bishop may not visit the king or far-away possessions, where they ought not to stay for very long.
- 36 Abbots shall not give more alms to their relatives than to other poor. If an abbot is found to have squandered or scattered the goods of the monastery, he shall be deposed and the property restored to the church.
- 37 No bishop or priest shall ordain a monk.³³
- 38 If someone possesses a monk's habit, he shall either enter a monastery or lose the habit and do penance.
- 39 No priest shall bring suit concerning the offering of a mass.
- 40 No one shall presume to buy or sell a church.³⁴ If someone sells a church or expels his priest

²⁹ Cf. **Syn. Szab. 29**

³⁰ On these insignia, see Ph. Hoffmeister, *Mitra und Stab der wirklichen Prälaten ohne bischöflichen Charakter* (Stuttgart: Enke, 1928), pp. 3–23, who mentions this canon in the context of other synodal statutes (e.g., c. 6 of the Synod of Poitiers A.D. 1100, Mansi XX, 1123) which prohibits the use of pontifical insignia by abbots without explicit privilege

³¹ Even before these canons were promulgated, the abbot of St. Martin of Pannonhalma had secured from Pope Paschal II (8 December 1102) a solemn privilege confirming the abbot's right to baptize in the churches subject to his jurisdiction (Migne PL 163: 105)

³² "Two ploughs" means here two plough lands: their exact size is unknown, and this chapter was often adduced for estimating it. Estimates of the size of "a plough land" in the early twelfth century are rather uncertain: it could have been as small as 50 or as large as 120 ha. (Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325]. (Budapest: Akadémiai Kiadó, 1916), pp. 491–494; L. Bendeffy, "Középkori hossz- és területmértékek" [Medieval Measures of Length and Surface], in *Fejezetek a magyar mérésügy történetéből* (Bp.: MTA, 1959), p. 83f.

³³ The implication is that monks be left in their cloisters and not made secular priests.

³⁴ This is evidence of the effect of the Gregorian reform program upon local Hungarian ecclesiastical legislation. Reform synods under papal leadership since the mid-eleventh century had repeatedly prohibited

without cause, the informer of this crime shall receive the proprietor's portion [of the income from the church] for that year.³⁵

- 41 No one shall demand payment for baptism or burial.
- 42 No one shall presume to sell the feasts.
- 43 The ordeal of iron shall be administered in Lent just as on other days, except in the case of the spilling of blood.³⁶
- 44 He who has received the iron shall put it down at the designated location.³⁷
- 45 Nothing shall be read or sung in church, except what has been approved in the synod.³⁸
- 46 If a priest sees someone forcing [another] to drink at a banquet or in a confraternity,³⁹ he shall reproach them, and if they do not listen to him, shall go out and accuse them before the

simony in all its forms (including those referred to in cc. 42–43 below); see Hans Erich Feine, *Kirchliche Rechtsgeschichte*. Band 1: *Die katholische Kirche. Auf der Grundlage des Kirchenrechts von Ulrich Stutz*. (Böhlaus Nachfolger, Weimar 1950), p. 258

³⁵ The bounty promised to the informer suggests the contradictory nature of the reception of reforming ideas, as the function and the income of a “proprietor” (*magister*) is taken for granted only a sentence after the prohibition of simony

³⁶ Records of ordeals by hot iron at Várad (Nagyvárad/Oradea) are known only from the thirteenth century, see: *Regestrum Varadiense examinum ferri candentis ordine chronologico digestum*, J. Karácsonyi, S. Borovsky, eds. (Nagyvárad: Capitulum Varadiense Lat. Rit., 1903) ; online : <https://www.arcanum.hu/hu/online-kiadvanyok/Varadi-varadi-jegyzokonyv-regestrum-varadinense-1208-1235-2/>; cf. I. Zajtay, “Le registre de Varad: Un document judiciaire du XII^e siècle”, *Revue d'histoire du droit*, 4, No. 32 (1954), 527–562 and M. Lupesco Makó, “Between Sacred and Profane: The Trial by Hot Iron Ceremony Based on the ‘Regestrum Varadiense’” *Medievalia Transilvanica* 3 (1999), pp. 5–26. For the European-wide practice of recourse to the “judgment of God”, see R. C. van Caenegem, “La preuve dans le droit du moyen âge”, *Recueils de la Société Jean Bodin pour l'histoire comparative des institutions*, 17 (1965), 691–753, trans. J. R. Sweeney and D. A. Flanary as “Methods of Proof in Western Medieval Law”, *Academiae Analecta*, Academie voor Wetensch., Lett. en Schone Kunsten van België, Kl. d. Lett., 45, No. 3 (1983), 85–127

³⁷ The usual practice was to carry the hot iron for nine paces and then put it down in a designated spot; see H. C. Lea, *The Ordeal*, ed. E. Peters (Philadelphia: Univ. of Pennsylvania Press, 1973), p. 41.

³⁸ See c. 25 above.

³⁹ These confraternities—called *calenda* or *kalenda*, because they met on the first day of every month—were sodalities or religious associations organized to promote pious works. Similar associations existed in many countries of Europe; Bishop Atto of Vercelli in his Capitulary (Cap. 29, Mansi XIX: 250) refers to kalends that consisted only of clergy. In Hungary laymen were also included (cf. B. Majláth, “A ‘kalandos’ társulatok” [The Calends Associations], *Századok* 19 [1885], 563–78); they survived into our own times as burial associations in some rural communities; see Ernő Tárkány Szűcs, *Magyar jogi népszokások*, (Budapest: Akadémiai, 1981, repr. 2003) pp. 189–190. See also **Syn. Szab. 14** and **39**.

archdeacon, who shall impose upon them seven days' penance. If the priest himself does not go out, he shall be suspended from office and do forty days' penance. If a priest forced someone to become drunk or, forced by another, becomes drunk himself, he shall be deposed. If someone finds a drunken priest, he shall get three *pensae* from him in the presence of the bishop or the archdeacon, and if the same priest is drunk a second time, he shall be deposed.⁴⁰ If some noble forced someone to drink or, being forced, became drunk, he shall do penance for forty days. If, however, he perseveres in this, he shall be excommunicated.

- 47 Bishops shall establish two houses in each county⁴¹ for the confinement of penitents.
- 48 If someone is accused and found guilty of sorcery,⁴² he shall do penance according to the canons. If the accuser cannot prove what he charged, he shall be subjected to the same penance.
- 49 If a wife shall flee from her husband, she shall be given back to him the first and second time; the third time, if she is a noble, she shall do penance without the hope of marriage; if she is a commoner, she shall be sold without the hope of freedom.⁴³
- 50 If someone has proven that his wife was an adulteress, he may, if he wishes, take another; but the woman, if a noble, shall do penance without the hope of marriage; if a commoner, she shall be sold without the hope of freedom. But if the husband cannot prove it, she shall suffer the same punishment, and she may marry, if she wishes. The same punishment is due to him who sins with another man's wife, or to her who sins with another woman's

⁴⁰ Canons 42 and 43 of the *Canones Apostolorum* prescribe excommunication for bishops, priests, and deacons given to gambling and drunkenness, and deposition for the habitually inebriated; see Burchard, *Decretum*, XIV, 5–6, col 891. The Penitential of Theodulf of Orléans specifies that a priest who becomes drunk through ignorance shall do penance on bread and water for seven days, through negligence for fifteen days, and through contempt for forty days; see *ibid.*, XIV, 8. The efficacy of this canon in prohibiting clerical drunkenness must have been marginal. A century later, Hungarian clerics had the unflattering reputation in some quarters for overindulgence. The author of the *Casus Parisiensis*, a thirteenth-century commentary on the canons of the Fourth Lateran Council, noted that c. 15 prohibiting clerical drunkenness was intended to correct this abuse especially among the English, the Poles, and the Hungarians; see A. Garcia y Garcia *Constitutiones concilii quarti Lateranensis una cum commentariis glossatorum* (Vatican City: Bibliotheca Apostolica Vaticana, 1981 = Monumenta Iuris Canonici, Ser. A: Corpus Glossatorum, 2), p. 469

⁴¹ *Civitas can* mean both “county” and “city”.

⁴² Cf. **Stephen I: 34**. According to James R. Russell—in *Witchcraft in the Middle Ages* (Ithaca, N.Y.: Cornell Univ. Press, 1972), p. 73—the ecclesiastical punishment for *maleficium* in most Carolingian penitentials was a three-year penance, although one especially harsh text prescribed a three-stage penalty for repeat offenders: first, public humiliation; second, mutilation; and third, placed “at mercy”. The normal secular punishment was death.

⁴³ The intention of this canon was to insure the stability of marriage, a general concern of early medieval legislation. To be “sold without the hope of freedom” (in earlier laws described as “sold abroad”, e.g., **Ladislav II: 19; III: 14**) meant reduction to chattel slavery

husband.⁴⁴

- 51 If someone abducts or rapes a girl, he shall be subjected to canonical penance with composition, if he is a noble. He who cannot pay, however, shall be sold with shaven head according to the laws of St. Ladislas.⁴⁵
- 52 If someone abducts the betrothed of another man without her consent, she shall be given back to her betrothed;⁴⁶ the abductor, however, shall make canonical composition and do penance without the hope of marriage if he is a noble; if he cannot pay the composition, he shall be sold without the hope of freedom.
- 53 If someone fleeing his wife makes himself voluntarily a debtor⁴⁷ and then does not want to settle the debt because of the hatred he bears toward his wife, he shall always remain in servitude. And if anytime he be deemed to be free, he shall be sold again, his wife, however, may marry whomever she wishes.⁴⁸
- 54 If a clerk marries a second wife, a widow, or a repudiated woman, he shall be deposed.⁴⁹
- 55 Bigamous priests, if they want to return to their orders, shall be taken back with the consent of their wives.⁵⁰

⁴⁴ Cf. **Syn. Szab. 13** and **20**. The former canon permitted the husband to marry again, even if he killed his adulterous wife, while the latter contains the prohibition of a second marriage in contrast to the present canon. These contradictions point to the problematic value of arguments concerning the date of the Esztergom synod based on inconsistencies between different sets of synodal decrees

⁴⁵ Cf. **Stephen I: 27**, where, however, commoners are also permitted to pay a composition. Being sold into slavery with head shorn was a punishment for fornication with another man's *ancilla* according to **Stephen I: 28** and of warriors for breaking into the house of another in the laws of **Ladislas (II: 11)**

⁴⁶ This canon may be seen as an indication of the church's attempt to protect marriages already in the stage of *desponsatio pro futuris* against the popular practice of abduction of girls (see above, n. 35, p. 81). The penalty here is much higher than in **Stephen I: 27**. Cases of abduction, however, recurred well into the thirteenth century according to the *Regestrum Varadinense*, p. 163, No. 23 (*anno* 1213).

⁴⁷ Szilágyi (in Lederer, *Szöveggyűjtemény*, p. 35) glosses the word *debitor* here, based on a parallel passage in c. [79] below, as "slave."

⁴⁸ Cf. **Stephen I: 30** with slightly different arrangements.

⁴⁹ Cf. **Colo. 67** for this and the next canon.

⁵⁰ The concept of *bigami* mentioned here (and earlier in **Syn. Szab. 1**) is derived ultimately from 1 Tim 3: 2 and 12. It passed from early church practice into Byzantine canon law, and thence into this *decretum* (cf. also **Colo. 67**). It is an explicit prohibition of all second marriages to those in both major and minor orders. In Byzantine history this canonical prohibition was a significant issue in both the Moechian and Tetragamist controversies. The inclusion of this measure, therefore, serves to document Byzantine influence in the Hungarian church; see Anton Szentirmai, "Der Einfluß des byzantinischen Kirchenrechts auf die Gesetzgebung Ungarns im XI–XII. Jahrhundert." *Jahrbuch der österreichischen byzantinistischen*

- 56 Similarly, if a priest has a concubine, he shall be deposed.⁵¹
- 57 Canons shall know and understand the rule of canons regular.⁵²
- 58 If a clerk is accused of theft, he shall be judged by the bishop or the archdeacon. If he is found guilty, he shall be deposed and shall lose his goods; if he has none, he shall be sold.⁵³
- 59 Clerks should not be tavern-keepers or money-lenders. Whoever drinks in a tavern,⁵⁴ if a clerk, shall be deposed; if a layman, his testimony shall not be accepted.
- 60 Clerks shall not be witnesses except in cases of last wills of the dying, for oaths, or for ordeals.
- 61 The Jews shall not dare to have Christian *servi* or *ancillae*⁵⁵ either or their own, or for sale, or hired.
- 62 No Christian shall presume to buy the meat they despise.⁵⁶
- 63 It is decreed and inviolably established by the authority of the holy synod that tithes shall not be demanded from the barns or the cellars or sheepfolds of the monasteries and churches and of all who belong to the clergy, except for the fourth part of the parish priest.⁵⁷

Gesellschaft, 10 (1961), 76–79; and in general, Gyula Moravcsik, *Byzantium and the Magyars*, (Budapest: Akadémiai K., 1970) pp. 102–118 with literature.

⁵¹ The prohibition of clerical concubinage is another well-known part of the Gregorian reform program

⁵² On the rule referred to here, see above, n. 23.

⁵³ Cf. **Ladislav II: 13**; but the penalty of being sold into slavery is explicitly harsher.

⁵⁴ Both St. Augustine and the canons of the Councils of Carthage forbade clerics from eating or drinking in a tavern unless compelled by the needs of a journey, while the canons of the so-called Council of Laodicea excommunicated all clerics who even entered a tavern. (Taverns were associated with gambling and prostitution.) For the early texts, see Burchard, *Decretum*, II, 129–131, (Migne PL 140 cols. 647–648).

⁵⁵ Cf. **Colo. 74–75** and **Syn. Szab. 10**. For additional restrictions placed on Jews, see also **Col. Iud.**

⁵⁶ The sale to Christians of meat which did not conform to their dietary rules was seen as a major “abomination” of Jews; see, for example, Agobard of Lyon (d. 840/41). *De insolentia Judaeorum*, III, PL 104, col. 73; and Solomon Grayzel, *The Church and the Jews in the XIIIth Century* (Philadelphia: Dropsie College, 1933), p. 72, with notes and bibliography

⁵⁷ According to the Roman tradition of the quadripartition of tithes, equal portions were to be distributed to the bishop, the clergy, the poor, and for the fabric of the church. Over time, disbursement to the clergy generally came to be interpreted as that reserved for the priest celebrating the sacraments in the church to which the title was owed. The present canon has the effect of guaranteeing this quarter for the parish priest, while exempting monastic foundations, churches, and individual clerics from the remaining three-quarters of the tithe. It was precisely in the early twelfth century that monasteries, largely through papal concession,

- 64 All archdeacons shall possess a compendium of canon law.⁵⁸
- 65 Priests assigned to churches shall also have houses near the church.⁵⁹
- 66 *Servi* of churches, if they have their own oxen, shall retain half of what they cultivated; if, however, they ploughed with their master's oxen, the proprietors of the church shall have two-thirds.⁶⁰
- 67 Anyone who is a clerk who does not come to the synod of his bishop, shall be reduced to the status of a layman.
- 68 If someone taught reading to another man's slave or to a servant who cannot be alienated from his master without the master's consent, or to anyone in the secular population of the men of the castle,⁶¹ or made him a clerk without the knowledge and approval of his master, he shall redeem him and pay an additional fifty *pensae*.
- 69 If someone committed homicide, he shall do penance according to the decrees of the Council of Ancyra.⁶²
- 70 Clerks, who are husbands of repudiated women or widows or who are bigamists,⁶³ shall be deposed, and if they hold a church, they shall lose it.
- 71 Neither a cleric nor a count shall take a clerk for the purpose of holding the divine office, except by the hand of his diocesan bishop.

were permitted to retain the tithes from their own agricultural production and the annual increase of their livestock. See Giles Constable, *Monastic Tithes from their Origins to the Twelfth Century* (Cambridge: Cambridge Univ. Press, 1964), pp. 43–51, 235–37

⁵⁸This canon and c. 59 above point to the active role of Hungarian archdeacons in the administration of canon law early in the twelfth century. Unfortunately, which canonical collection was meant cannot be determined; *breviarium* was used rather indiscriminately; see Bónis, “Entwicklung”, p. 186, n. 31.

⁵⁹Canon 5 of the Council of Meaux required priests to reside adjacent to their churches; see Burchard, *Decretum*, II, 107 (Migne PL 140 coll. 644–45).

⁶⁰For the sharecropping arrangements of this canon; see Györffy, *Handbuch*, p. 634

⁶¹Castle warriors (*jobagiones castri*) were a dependent freeman obligated to military service, attached to a royal castle and commanded by the *ispán* in the eleventh and twelfth centuries, see Attila Zsoldos, *A szent király szabadjai – Fejezetek a várjobbágyok történetéből*. [The freemen of the Holy King – Chapters from the history of the castle warriors] (Budapest: MTA TTI, 1999).

⁶²The council of Ancyra (Ankara, Turkey) was held in A.D. 314. Canon 22 specifies the appropriate penance for different types of homicide; see Mansi II, 534

- [73.]⁶⁴ By the authority of the Apostle⁶⁵ we decreed and strictly command prayers to be offered daily in all churches for the welfare of our king and our kingdom and for the steadfastness of his reign.
- [74.] If someone conspires in any way whatsoever against the welfare or dignity of the king, or attempts to conspire, or knowingly agrees to such an attempt, he shall be anathematized and excluded from the community of the faithful.⁶⁶
- [75.] If someone should know anyone of this sort, and does not speak out though he can prove it, he shall suffer the same punishment.
- [76.] If a woman flees from her husband, she shall be returned to him, and as often as she flees she shall be brought back,⁶⁷ because it is written: what *God hath joined together let no man put asunder*.⁶⁸
- [77.] If someone has proven his wife to be an adulteress before the law, she shall do penance, and afterward, if they wish, they shall be reconciled, otherwise they shall remain unmarried.⁶⁹
- [78.] If someone abducted the betrothed of another, she shall be given back to her betrothed, but the abductor shall suffer according to the laws.⁷⁰
- [79.] If someone out of hatred for his wife voluntarily submits himself to slavery in order to be separated from the woman he detests, the wife may follow him preserving her freedom otherwise they shall remain unmarried.⁷¹
- [80.] Bigamous clerks and husbands of repudiated women and widows shall be deprived of the temporalities of church benefices and of all ecclesiastical dignities.⁷²
- [81.] No bishop shall promote any clerk to the diaconate or higher orders, unless he has previously sworn an oath of chastity, and if he had a wife, if he swore with her consent

⁶⁴ The following canons, Nos. [73]–[88], were issued by some other synod. Their text is also contained in the Codex Ilosvay, f. 34v.

⁶⁵ Cf. I Tim 2: 1–3

⁶⁶ Cf. **Stephen II:18**.

⁶⁷ Cf. above, c. 50. 69

⁶⁸ Mt 19:Mk10: 9

⁶⁹ Cf. **Syn. Szab. 20** and above, c. 51

⁷⁰ Cf. above, c. 53.

⁷¹ Cf. above, c. 54; this canon, however, prohibits the second marriage of the abandoned wife.

and she made the same promise.⁷³

[82.] No married priest or deacon shall serve at the altar, unless his wife has previously agreed and has sworn an oath of chastity and he has provided her with a separate place and the necessities of daily life, and understands himself to be, according to the Apostle, *like those who having wives remain as though they had none*.⁷⁴

[83.] No layman shall have control over a church.⁷⁵

[84.] If a priest serving at the altar has a concubine, she shall be expelled, but he having completed the penance imposed upon him according to the instructions of the bishop shall be restored to the service of the altar.⁷⁶

[85.] A village in which there is a church shall not move far from it; but if it has moved, it shall pay ten *pensae* and return.⁷⁷

[86.] If someone has sold the feasts,⁷⁸ he shall refund four times the amount he received, but he himself shall do penance.

[87.] If someone does not celebrate the prescribed feast,⁷⁹ he shall be punished as follows: if he is free, he shall do penance for three days, if a *servus*, he shall suffer seven lashes.

[88.] It is resolved by the holy synod that every marriage shall take place in the sight of the Church, in the presence of a priest, before suitable witnesses, with some token of the consent of both partners to the betrothal, otherwise it shall be deemed no marriage but a work of fornication.⁸⁰

⁷³ For this and the following canon, cf. above, cc. 11 and 29–31

⁷⁴ I Cor 7: 29

⁷⁵ This canon is the most clear cut declaration of the Gregorian program prohibiting lay interference with the church. It may be seen as connected to King Coloman's renunciation in the early twelfth century of lay investiture. Traditionally, Coloman's declaration had been associated with the Synod of Guastalla (A.D. 1106; Mansi XX, 1211–1212), but documentary evidence for such an exact date is wanting; see U.-R. Blumenthal, *The Early Councils of Pope Paschal II: 1100–1110* (Toronto: Pontifical Institute of Mediaeval Studies, 1978), p. 38, with references to the older literature

⁷⁶ Cf. above, c. 57

⁷⁷ Cf. Syn Szab. 19 with n. 20

⁷⁸ Cf. above, c. 43

⁷⁹ Cf. above, c. 8

⁸⁰ This canon reflects the most advanced canonical principles of the age by requiring four elements for the validity of marriage: public declaration, clerical and lay witnesses, a token, and—above all—the consent of the partners and of no one else. These aspects of marriage were addressed a few decades later by both Gratian and Peter Lombard, but in their entirety did not become church law until the Council of Trent which prohibited clandestine marriages. Even if this canon should prove to be an interpolation of the later twelfth century, it still represents a very early and mature formulation of ecclesiastical theory on marriage. See

- (89.)⁸¹ If a bigamous priest quits the divine office on account of his wife, he shall be deprived of all ecclesiastical dignity and regarded as a layman.⁸²
- (90.) It is decreed by all the bishops in holy synod that the people of the Holy Church shall pay a tenth of all they have,⁸³ but *servi* of the church shall pay three pennies to the parish priest.

Michael M. Sheehan, “Choice of Marriage Partner in the Middle Ages: Development and Mode of Application of a Theory of Marriage”, *Studies in Medieval and Renaissance History*, NS, 1 [11] (1978), 1–33, espec. 6–8, with references to recent research. The editors gratefully remember Professor Sheehan for his counsel on this matter and on several other passages in the synodal constitution.

⁸¹ This canon and the last one are fragments from yet another undated synod. They are not found in the Codex Pray but only in the later codices; in the Cod. Thuróczi and Cod. Ilosvay they follow immediately after the statutes of King Coloman concerning the Jews (**Col. Iud.**)

⁸² Cf. above, cc. 71 and 80

⁸³ Cf. **Stephen II: 18**

THE GOLDEN BULL OF KING ANDREW II OF HUNGARY 1222

This privilege, the “Golden Bull” of Andrew II (1205–35), so-called from its solemn pendant seal of precious metal, has for centuries been regarded as the cornerstone of noble liberties. In fact it was the king’s response to a protest of major nobles who wanted changes in the royal government and may have been supported by a simultaneous rebellion of lesser royal men, the *servientes regis*, who demanded guarantees for their status. The latter group considered their situation threatened by the increasingly powerful barons who had benefitted from the decline of the royal domain. From 1351 onward the Golden Bull in its 1222 redaction was confirmed by almost every king of Hungary down to 1916, except that in 1687 the clause granting the right of resistance was renounced by the estates and therefore omitted.

None of the seven originals mentioned below (1222: 31) have survived. The best text is in a charter issued by Hungarian prelates in 1318 and presented to King Charles I for his confirmation (which he refused) and in the text of King Louis I’s *decretum* of 1351. For the present edition the collation of several medieval confirmations, prepared by Géza Érszegi, has been used. The division into articles, introduced in the later transcriptions, has been retained in order to facilitate modern reference.

MSS: (Authenticated copy of 1318) Primatial secular archives, Esztergom, Lad. V. No. I.; additional Mss are listed by Érszegi (see below), p. 6ff.

EDD: Géza Érszegi, “Az Aranybulla” [The Golden Bull], in *Fejér megyei történeti évkönyv* [Historical Yearbook of County Fejér], 6 (1972), 14–19; also: *De bulla aurea Andreae II regis Hungariae MCCXXII*. Lajos Besenyei, Géza Érszegi, Maurizio Pedrazza Gorlero. eds. (Verona: Edizioni Valdonega, 1999). *Magyar Törvénytár: CJH*, Dezső Márkus *et al.* eds., Bp.: Franklin, 1896 ff.I, 130–145; Walther Näf, “Herrschaftsverträge des Spätmittelalters”, in *Quellen zur neueren Geschichte* (Bern: Historisches Seminar der Universität, 1951), pp. 7–15. Older editions are listed in Imre Szentpetery, István Borsa, *Az Árpád-házi királyok okleveleinek kritikai jegyzéke. Regesta regum stirpis Arpadiane critico-diplomatica*, Bp.: MTA, 1923–61, No. 379, p. 125f.

Online (incomplete): https://en.wikipedia.org/wiki/Golden_Bull_of_1222

LIT: László Blazovich, “The origins of the Golden Bull and its most important provisions as reflected in Hungarian constitutional and legal history” in *De Bulla Aurea* pp. 181–190; Géza Érszegi, “A history of the genesis of the Golden Bull and how it was handed down through the ages, with comments on its text” in *De Bulla Aurea* pp. 191–201; Martyn Rady, “Hungary and the Golden Bull of 1222” *Banatica*. 24 (2014) II: 87–108 (with text and English translation); Joseph Deér, “Der Weg zur Goldenen Bulle Andreas’ II.”, *Schweizer Beiträge zur allgemeinen Geschichte*, 10

(1952), 104–138; Elemér Hantos, *The Magna Charta of the English and of the Hungarian Constitution: A Comparative View of the Law and Institutions of the Early Middle Ages* (London: Kegan, Trench, 1904)(very dated!); György Bónis, “The Freedom of the Land in Medieval Hungarian Law,” *Anciens Pays et Asemblés d’Etats/Standen en Landen*, 53 (1970), 93–116; James R. Sweeney, “The Decretal *Intellecto* and the Hungarian Golden Bull of 1222,” in *Album Elemér Mályusz* (Brussels: Librairie Encyclopédique, 1976), pp. 89–96; József Geric, “Von den universi servientes regis bis zur universitas nobilium regni Hungariae,” *ibid.*, pp. 97–108; Ilona G. Bolla, “Az Aranybulla-kori társadalmi mozgalmak a Várad Regestrum megvilágításban” [German summary: “Die sozialen Bewegungen zur Zeit der Goldenen Bulle im Lichte des Regestrum von Wardein”], *Annales Universitatis Scientiarum Budapestinensise Rolando Eötvös nominatae: Sectio historica.*, I (1959), 84–105. Additional older literature can be found in the notes to Zoltán. J. Kosztolnyik, “*De facultate resistendi*: Two Essential Characteristics of the Hungarian Golden Bull of 1222,” *Studies in Medieval Culture*, 5 (1975), 97–104.

BULLA AUREA 1222

In nomine Sancte Trinitatis et individue unitatis. Andreas Dei gracia Hungarie, Dalmatie, Croatie, Rame, Servie, Galitie, Lodomerieque rex in perpetuum.

Quoniam libertas tam nobilium regni nostri quam etiam aliorum instituta a sancto Stephano rege per aliquorum regum potentiam ulciscencium aliquando iram propriam aliquando eciam attendencium consilia falsa hominum iniquorum vel sectantium propria lucra fuerat in quam plurimis diminuta, multociens ipsi nobiles nostri serenitatem nostram et predecessorum nostrorum regum suorum precibus et instancia multa pulsaverunt super reformatione regni nostri.

Nos igitur eorum petitioni satisfacere cupientes in omnibus — ut tenemur— presertim, qui inter nos et eos occasione hac iam sepius ad amaritudines non modicas est processum, quod — ut regia honorificencia plenius conservetur — convenit evitari, hoc enim per nullos alios melius fit quam per eos, concedimus tam eis quam aliis hominibus regni nostri libertatem a sancto rege concessam ac alia ad statum regni nostri reformandum pertinencia salubriter ordinamus in hunc modum:

- I. Ut annuatim in festo sancti regis, nisi arduo negotio ingruente vel infirmitate fuerimus prohibiti, Albe teneamur solemnizare. Et si nos interesse non poterimus, palatinus procul dubio ibi erit pro nobis, ut vice nostra causas audiat et omnes servientes, qui voluerint, libere illuc conveniant.
- II. Volumus eciam quod nec nos nec posteri nostri aliquo tempore servientes capiant vel destruant favore alicuius potentis, nisi prius citati fuerint et ordine iudiciario convicti.
- III. Item nullam collectam nec liberos denarios colligi faciemus super predia servientum nec domos nec villas descendemus nisi vocati. Super populos etiam ecclesiarum ipsorum nullam penitus collectam faciemus.
- IV. Si quis serviens sine filio decesserit, quartam partem possessionis filia obtineat, de residuo — sicut ipse voluerit — disponat. Et si morte preventus disponere non potuerit, propinqui sui, qui eum magis contingunt, obtineant. Et si nullam penitus generationem habuerit, rex obtinebit.
- V. Comites parochiani predia servientum non discuciant, nisi in causa monetarum et decimarum. Comites curie parochiani nullum penitus discuciant, nisi populos sui castri. Fures et latrones biloki regales discuciant, ad pedes tamen ipsius comitis.
- VI. Item populi coniurati in unum fures nominare non possint, sicut consueverant.
- VII. Si autem rex extra regnum exercitum ducere voluerit, servientes cum ipso ire non teneantur, nisi pro pecunia ipsius et post reversionem iudicium exercitus super eos non recipiet. Si vero ex adversa parte exercitus venit super regnum, omnes universaliter ire teneantur. Item — si extra regnum cum exercitu iverimus — omnes, qui comitatus habent vel pecuniam

- nostram, nobiscum ire teneantur.
- VIII. Palatinus omnes homines regni nostri indifferenter discuciat, sed causam nobilium, que ad perditionem capitis vel ad destructionem possessionum pertinet, sine conscientia regis terminare non possit: iudices vicarios non habeat, nisi unum in curia sua.
- IX. Curialis comes noster, donec in curia manserit, omnes possit iudicare et causam in curia incohatum ubique terminare, sed manens in predio suo pristaldum dare non possit nec partes facere citari.
- X. Si quis iobagio habens honorem in exercitu fuerit mortuus, eius filius vel frater congruo honore sit donandus et si serviens eodem modo fuerit mortuus, eius filius — sicut regi videbitur — donetur.
- XI. Si hospites videlicet boni homines ad regnum venerint, sine consilio regni ad dignitates non promoverentur.
- XII. Uxores decedentium vel condemnatorum ad mortem per sententiam vel in duello succumbentium vel ex quacumque alia causa non fraudentur dote sua.
- XIII. Iobagiones ita sequantur curiam vel quocumque proficiscantur, ut pauperes per eos non opprimantur nec spoliarentur.
- XIV. Si quis comes honorifice se iuxta comitatus sui qualitatem non habuerit vel destruxerit populos castri sui, convictus super hoc coram omni regno dignitate sua turpiter spoliatur cum restitutione ablatorum.
- XV. Agasones, caniferi et falconarii non presumant descendere in villis servientum.
- XVI. Integros comitatus vel dignitates quascumque in predia seu possessiones non conferemus perpetuo.
- XVII. Possessionibus etiam quas quis iusto servitio obtinuerit, aliquo tempore non privetur.
- XVIII. Item servientes accepta licentia a nobis possint libere ire ad filium nostrum seu a maiori ad minorem nec ideo possessiones eorum destruantur. Aliquem iusto iudicio filii nostri condemnatum vel causa Item servientes accepta licentia a nobis possint libere ire ad filium nostrum seu a maiori ad minorem nec ideo possessiones eorum destruantur. Aliquem iusto iudicio filii nostri condemnatum vel causa incohata coram ipso, prius-quam terminetur coram eodem, non recipiemus nec e converso filius noster.
- XIX. Iobagiones castrorum teneantur secundum libertatem a sancto rege institutam. Similiter et hospites cuiuscumque nationis secundum libertatem ab inicio eis concessam tenantur.
- XX. Decimo argento non redimantur, sed — sicut terra protulerit — vinum vel segetes persolvantur et si episcopi contradixerint, non iuvabimus ipsos.
- XXI. Episcopi super predia servientum equis nostris decimas non dent nec ad predia regalia populi eorundem decimas suas apportare teneantur.
- XXII. Porci nostri in silvis vel pratis servientum non pascantur contravoluntatem eorum.
- XXIII. Nova moneta nostra per annum observetur a pascha usque ad pascha et denarii tales sint quales fuerunt tempore regis Bele.
- XXIV. Comites camere monetarii, salinarii et tributarii nobiles regni, Ismaelite et Iudei fieri non possint.
- XXV. Sales in medio regni non teneantur, nisi tantum in Zaloch et in Zeged et in confiniis.

- XXVI. Possessiones extra regnum non conferantur; si aliquae sunt collate vel vendite, populo regni ad redimendum reddantur.
- XXVII. Marturine iuxta consuetudinem a Colomanno rege constitutam solvantur.
- XXVIII. Si quis ordine iudiciario fuerit condemnatus, nullus potentum eum possit defendere.
- XXIX. Comites iure sui comitatus tantum fruantur, cetera ad regem pertinentia scilicet cibrones, tributa, boves et duas partes castrorum rex obtineat.
- XXX. Item praeter hos quatuor iobagiones scilicet palatinum, banum et curiales comites regis et regine duas dignitates nullus teneat.

Et ut hec nostra tam concessio quam ordinatio sit nostris nostrorumque successorum temporibus in perpetuum valitura, eam conscribi fecimus in septem paria litterarum et aureo sigillo nostro roborari ita: quod unum par mittatur domino pape et ipse in registro suo scribi faciat; secundum penes hospitale; tertium penes templum; quartum apud regem; quintum in capitulo Strigoniensi; sextum in Colocensi; septimum apud palatinum, qui pro tempore fuerit, reservetur ita, quod ipsam scripturam pre oculis semper habens nec ipse deviet in aliquo in predictis nec regem vel nobiles seu alios consenciat deviare, ut et ipsi sua gaudeant libertate ac propter hoc nobis et successoribus semper existant fideles et corone regie obsequia debita non negentur. Statuimus etiam quod, si nos vel aliquis successorum nostrorum aliquo umquam tempore huic dispositioni contraire voluerint, liberam habeant harum auctoritate sine nota infidelitatis tam episcopi quam alii iobagiones ac nobiles regni nostri universi et singuli presentes ac posteri resistendi et contradicendi nobis et nostris successoribus in perpetuum facultatem. Datum per manus Cleti aule nostre cancellarii et Agriensis ecclesie prepositi anno verbi incarnati millesimo ducentesimo vicesimo secundo venerabili Iohanne Strigoniensi, reverendo Ugrino Colocensi archiepiscopis existentibus, Desiderio Chanadiensi, Roberto Vesprimiensi, Thoma Agriensi, Stephano Zagrabiensi, Alexandro Varadiensi, Bartholomeo Quinque Ecclesiensi, Cosma Iauriensi, Briccio Vaciensi episcopis existentibus regni nostri anno decimo septimo.

THE GOLDEN BULL OF 1222

In the name of the Holy Trinity and Indivisible Unity. Andrew, by the grace of God, King of Hungary, Dalmatia, Croatia, Rama, Serbia, Galicia, and Lodomeria¹ In perpetuity.

Since the liberties established by St. Stephen the king² in favor of the nobles³ of our realm as well as of other persons have been diminished in many respects by the authority of certain kings, some of whom in personal anger took vengeance, others of whom paid heed to the false counsel of wicked and self-seeking men, these same nobles have repeatedly importuned our Serenity and that of their kings, our predecessors, with numerous petitions and entreaties for the reform of our kingdom.

We therefore desire to fulfill their requests in all respects, as we are obliged to do, especially because between them and us this circumstance has often led to no inconsiderable bitterness, which ought rightly to be avoided for the better preservation of the royal dignity which can be done better by no one other than by them. We grant both to them and to other men of our kingdom the liberty given by the holy king, and we salubriously ordain what further pertains to the reformation of the state of our kingdom in this manner:

1 That we are bound to celebrate the feast of Saint Stephen annually in Székesfehérvár⁴ unless we should be beset by some urgent matter or prevented by illness. And if we cannot be present, the

¹ Kings of Hungary claimed sovereignty over Croatia and Dalmatia, acquired by Ladislas I and Coloman, and also over certain areas in the northern Balkans (Rama or Bosnia from c. 1138, Serbia from 1202); Andrew II was actively engaged in securing the princely throne of Galicia and Lodomeria (Vladimir), northeast of the Carpathians, for his youngest son, Prince Andrew. Even though several of these “kingdoms” were but briefly under Hungarian control, the extended royal style survived until the end of the kingdom in the twentieth century; see János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² It was general usage in the Middle Ages to assign “old law” to a venerable early king, such as Charlemagne, Edward the Confessor, or St. Wenceslas. Hence, there is no need to try to relate the liberties of 1222 to the actual legislation of St. Stephen. See: István Tringli, *The Liberty of the Holy Kings. Saint Stephen and the Holy Kings in the Hungarian Legal Heritage*, in: Attila Zsoldos, ed. *Saint Stephen and His Country. A Newborn Kingdom in Central Europe: Hungary* (Budapest: Lucidus, 2001) 127–82.

³ In the early thirteenth century the term *nobilis* still referred to the magnates only.

⁴ Annual courts of justice seem to have been held in the coronation city every August from the Feast of the Assumption of the Virgin to St. Stephen’s Day at least since the late eleventh century (cf. **Ladislas III: 2 and 20**), but may have been neglected. There is later reference to a court on 20 August under Béla III in 1185 See: Imre Szentpetery, István Borsa, *Az Árpád-házi királyok okleveleinek kritikai jegyzéke. Regesta regum stirpis Arpadiane critico-diplomatica*, (Budapest: MTA, 1923–61) No. 140; in general: György. Bónis. “The Hungarian Feudal Diet (13th to 18th Centuries),” *Receuil de la Société Jean Bodin pour l’histoire comparative des institutions*, 25 (1965), 287–307

palatine⁵ will definitely be there for us, and shall hear cases in our place, and all the *servientes*⁶ who wish shall freely assemble there.

2 It is further our wish that neither we nor our successors should at any time seize or cause the ruin of any *serviens* for the benefit of some magnate, unless they first be summoned and duly sentenced by judicial process.

3 Similarly, we shall levy neither the *collecta* nor the freemen's pennies on the estates of the *servientes*, and shall not exact hospitality in their houses or villages unless we have been called [there].⁷ We shall not collect any taxes at all from people attached to their churches.⁸

4 If a *serviens regis* should die without a son, his daughter shall receive a quarter of his

⁵The count palatine was originally the head of the royal household; by the thirteenth century he was about to go out of court, become the itinerant judge of all nobles and as the deputy of the king the highest officer of the realm.

⁶The *servientes regis* (for the first time mentioned here in a law or major privilege) were the upper strata of free warriors, who seem to have been the main supporters of the lords demanding the issue of the privilege. With the growth of private landowning, they tended to lose their immediacy to the king and began to organize themselves into some kind of corporations in the counties. They are seen as the precursors of the numerous stratum of the lesser nobility. See: Elemér Mályusz, *Die Entstehung der ständischen Schichten im mittelalterlichen Ungarn* (Budapest: Akadémiai K., 1980, Studia Historica Acad. Sc. Hung. 137.

⁷The term *collecta* has been applied in the eleventh and twelfth centuries to different extraordinary taxes that grew out of subsidies for war or payments in lieu of military service; see Ferenc Eckhart, *A királyi adózás története Magyarországon 1323-ig* [History of royal taxation in Hungary until 1323] (Arad: Réthy, 1908), pp. 32–73. In the thirteenth century it was gradually being replaced by the chamber's profit (see **1231:3**), initially a fee levied against those refusing to accept the new money and replacing the royal income from the recurrent devaluation of the coins that has been suspended; see Bálint Hóman. *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325] (Budapest: MTA, 1916), pp. 442–445 and in general Lajos Thallóczy, *A kamara haszna (Lucrum camerae) története...* [History of the chamber's profit (*lucrum camerae*) in the context of taxation in Hungary]. (Budapest: Weiszmann, 1879). The freemen's pennies (eight-penny tax) were abolished (with exceptions) by King Coloman (**Coloman 35 and 40**), but seem to have survived; see Eckhart, *A királyi adózás*, pp. 14–29. Lifting the burden of hospitality to the king and his entourage, the *droit de gîte (descensus)* was promised by several successors of Andrew II, but was not kept; later in the century it was replaced by a monetary levy. On the royal revenues and their division in general, see now: Boglárka Weisz *A királyketteje és az ispán harmada. Vámok és vámszedés Magyarországon a középkor első felében* [The second part of the king and the third for the *ispán*: Tolls and their collection in Hungary during the first half of the Middle Ages] (Budapest: MTA BTK, 2013) and Eadem, “Royal Revenues in the Árpáadian Age” in József Laszlovszky et al., eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) 255–64

⁸There are few references to ecclesiastical matters in the Golden Bull, mainly because the privileges of the clergy had been confirmed by Andrew II in a separate charter issued earlier in the same year; cf. Szentpétery, *Regesta*, No. 378.

possessions⁹ but he shall dispose of the rest as he wishes. And if, prevented by death, he shall not have been able to make disposition, those relatives closer to him shall obtain [the possessions]. If he shall have no relatives at all, the king shall obtain them.¹⁰

5 The *ispáns* of counties¹¹ shall not render judicial sentences concerning the estates of the *servientes* except in cases pertaining to coinage and tithes. The *ispáns* of castles¹² shall render judicial sentences on no one except those attached to their castles. Thieves and robbers shall be judged by royal judges,¹³ but only in the presence of the *ispán*.

6 Similarly, people united in a sworn association shall not be able to accuse thieves, as they have been accustomed to do.¹⁴

7 If the king, however, wishes to lead an army outside the kingdom, the *servientes* shall not be obligated to accompany him unless it be at his expense and, after his return, he shall not permit

⁹ This is the first mention of the “filial quarter”, an institution which Antal Murarik (*Az ősiség alapintézményeinek eredete* [Origin of the basic institutions of *aviticitas*] [Budapest: Sárkány, 1938], pp. 163–192) saw as having derived from Roman Law, in particular from the *Lex Falcidia* (cf. *Inst.*, Bk. II, tit. 22). According to the *Corpus Iuris Civilis* of Justinian the rights of female children were the same as those of male children when a man died intestate. But the descendants of females had been entitled to a smaller portion of the estate than those descended from the males in the earlier Teodosian Code (5.1.4.), where the legacy granted to grandchildren in the female line was reduced by a fourth part (*pars quarta*) in favor of the agnates. Justinian specifically abolished this provision (*Inst.* Bk. III, tit. 1, c. 16). The discussions concerning this institution in medieval Hungary were summed up by Ferenc Eckhart, “Vita a leányegyedről” [Debates on the filial quarter], *Századok*, 66 (1932), 408–415; see also József Holub, “La ‘quarta puellaris’ dans l’ancien droit hongrois,” *Studi in memoria di Aldo Albertoni* (Padua: Milani, 1935), III, 275–297. See now, Péter Banyó, “Birtoköröklés és leányegyed. Kísérlet egy középkori jogintézmény értelmezésére.” [Inheritance of land and the filial quarter: An attempt on the interpretation of a medieval legal concept] *Aetas* 18:3 (2000): 76–92.

¹⁰ This arrangement of unlimited inheritance was rescinded in the only explicit alteration of the Golden Bull in the *decretum* of **1351** guaranteeing the inheritance rights of the entire kindred that was in all likelihood the traditional practice all the time. The right of the king to the masterless goods (escheat, in later legal terminology: *caducitas*), became later one of the main sources for new donations.

¹¹ The *ispán* (*comes*) was the royal official in charge of a county (or, occasionally, other territorial unit), collector of revenues and commander of the troops of the county’s warriors. On the original arrangement of this, see Attila Zsoldos, “The Legacy of St. Stephen,” in: Idem, ed. *Saint Stephen and His Country*, pp. 71–88.

¹² The *ispán* of the castle, or *comes curialis*, was generally the castellan of the central castle of the county, but later became the general deputy of the *ispán* of the county.

¹³ *Biloki* or *billochi* were royal judges, so named for their royal seal of summons: *billog*, old Hungarian for seal (see **Ladislás III: 3**).

¹⁴ Cf. the earlier elaborate arrangements for just such public accustation in **Ladislás II: 4**

judgment against them concerning the campaign.¹⁵ If, however, the army of an enemy should advance upon the kingdom, every one without exception is obligated to go. Also, if we lead an army beyond the realm, all those who hold counties or receive money from us are bound to accompany us.¹⁶

8 The count palatine shall judge without differentiation all the men of our realm, but cases concerning nobles condemned to capital punishment and loss of possessions shall not be concluded without the king's knowledge. He shall have no deputy judge except for the one at his own court.¹⁷

9 Our judge royal¹⁸ shall be able to judge all while he resides in our court and shall have the right to pass sentence anywhere in cases initiated at the court, but when he stays on his estates he shall not be able to dispatch bailiffs or cite parties to a suit.

10 If one of the baronial retainers¹⁹ who holds a honor²⁰ should die in a campaign, his son or brother is to be granted a similar honor; and if a *serviens* dies in the same way, his son shall receive whatever appears appropriate to the king.

11 If foreigners, indeed honorable men, come to the kingdom, they shall not be raised to

¹⁵ Eckhart (*A királyi adózás*, pp. 33f.) presents evidence that in the earlier Árpáadian age fines were collected from those who, although obligated to military service, did not follow the king's call to arms. This passage seems to refer to such *judicia exercitua*.

¹⁶ The reference to soldiers serving the king for money (*pro pecunia*) is among the earliest citations of paid military service. It suggests that whereas the king had a claim on the military service of a wide stratum for the defense of the realm, the same soldiering elements were at his disposal for dynastic wars for pay only.

¹⁷ In contrast to this measure, the existence of two *vicepalatini* (or *vicejudices palatini*), one of whom resided in Buda or Pest, is documented in several different years in the late thirteenth century: see Imre Hajnik, *A magyar bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [The Hungarian judicial system and procedural law under the kings of the Árpád and diverse dynasties]. (Budapest: MTA, 1899), pp. 19, 66.

¹⁸ The judge royal, earlier called the *ispán* of the royal court (*comes curialis regis*), was the second highest officer of the household. Around 1230, when the palatine moved out of court, this officer became the main high judge of the realm.

¹⁹ In the late twelfth and early thirteenth centuries the term *iobagio* previously referring to members of the royal retinue and a wider group of royal officeholders was used in general for magnates and high officers of the realm (cf. below art. 30). However, by the end of the century, it changed its meaning entirely and was to design peasants in seigneurial dependence; we translate it as "tenant peasants" who were personally free but subject to dues and the jurisdiction of their lords.

²⁰ *Honores* in general means here offices and commissions given to magnates by the king at his pleasure; it is most likely that the income from certain possessions was also attached to them. *Honors* became a standard element of administration in the fourteenth century, see Pál Engel, "Honor, castrum, comitatus. Studies in the Government System of the Angevin Kingdom." *Questiones Medii Aevi Novae* 1 (1996): 91–100.

dignities without the consent of the kingdom.²¹

12 The wives of those who die either by capital punishment or in a duel or for any other reason, shall not be cheated out of their dower.²²

13 Baronial retainers shall follow the court or travel anywhere so long as they do not oppress or despoil the poor.

14 If any *ispán* does not honorably conduct himself according to the character of his comital office or brings ruin to those attached to his castle, and if this is proven, he shall make good the damage and be dishonorably deprived of his office in front of the whole kingdom.

15 Grooms, houndsmen, and falconers shall not presume to descend upon²³ the villages of *servientes regis*.

16 We shall not bestow whole counties or any other dignities as estates or possessions in perpetuity.²⁴

²¹ The term *regnum* meant in the Middle Ages not only the kingdom but also the great men of the country, in particular the royal council. J. Holub ("La représentation politique en Hongrie au moyen âge," *Etudes présentées à la Commission Internationale pour l'histoire des assemblés d'états*, 18 [1958], 84) put it thus: "Qu'etait ce *regnum*?...aux XI^e–XII^e siècles, il designait les notables qui conseillaient le roi dans la gestation de ses affaires." In this passage the "consent of the *regnum*" and below (1222: 14) the formulation *coram regno* suggest that in the early thirteenth century a greater circle of nobles, possibly the assembled diet, was meant by *regnum*. On the development of this term, see L. Peter, "Antecedents of the Nineteenth Century Hungarian State Concept", D. Phil. Thesis, Univ. of Oxford, 1966, espec. pp. 410ff.

²² The *dos* was originally the price of the bride, but by this time it had also meant the gift given to the bride by the bridegroom at the time of the marriage: see, **Ladislav III: 6**. The death in a duel may refer to judicial duels which were used in trials even after ordeals were discontinued

²³ On the *descensus*, see n. 7, above.

²⁴ This passage summarizes the opposition to King Andrew's "new institutions" (*novae institutiones*) and the practice of grants in perpetuity introduced by him in the preceding decades. The king described this program in 1217 thus: "On the counsel of some of our magnates we have altered the conditions of our realm that has been conserved by the ancients, and distributed castles, counties, lands, and other revenues of our abundant Hungary to our barons and knights as inheritable possession in perpetuity" – see: Nándor Knauz, ed. *Monumenta ecclesiae Strigoniensis*. 2 volumes (Esztergom: Horak, 1874–82): 216; and Szentpétery, *Regesta*, p. 154, which seem to have been followed by several others under Andrew II, e.g., in 1206 Co. Gora (*ibid.*, No. 258), in 1215 Co. Esztergom to the archbishop (*ibid.*, No. 300; the authenticity of this charter, however, has recently been challenged by R. Marsina, *Codex diplomaticus et epistolaris Slovaciae*, 1 [Bratislava: Academia scientiarum Slovaca, 1971], p. 156), and c. 1220 Co. Locsmánd (see Gyula. Kristo, "A locsmándi várispánság felbomlása" [The Dissolution of the County of Castle Locsmánd], *Soproni Szemle* No. 2 [1969], p. 134ff.). The motives and actual results of this policy have long been debated; see I. Rákos, "IV. Béla birtokrestaurációs politikája [The Policy of Béla IV on Restoration of Properties], *Acta Universitatis Szegediensis de Attila József nominatae, Acta Historica*, 47 (1974), 3–8 with older literature.

17 Also, no one shall at any time be deprived of possessions acquired by honorable service.²⁵

18 Similarly, *servientes* who have received permission shall be free to go from us to our sons, or from the older to the younger, without their possessions being wasted.²⁶ We shall not receive any one whom our son has condemned legally or whose case has been opened before him until it shall be concluded in his court, and our son shall do likewise.

19 Castle-warriors²⁷ shall be preserved in the liberties established by the holy king. Similarly foreign guests of whatever nationality shall be preserved in the liberties originally granted to them.²⁸

²⁵ This article probably refers to the revindications of “undeserved” royal grants, which King Andrew seems to have begun when churchmen and certain baronial groups questioned the wisdom of his “new institutions”. Archbishop John of Esztergom was identified by the king in 1217 as a stubborn opponent of his *novae institutiones* (Knauz, *Monumenta*, I: 217). Later Archbishop Ugrinus of Kalocsa is thought to have called on Rome in 1225 prompting Pope Honorius III to warn the king against diminishing his royal dignity by lavish donations and urging him to respect this clause; see James Ross Sweeney, “*The Decretal Intellecto* and the Hungarian Golden Bull of 1222,” in *Album Elemér Mályusz* (Brussels: librairie Encyclopédique, 1976), pp. 89–96; here p. 95. The king’s action may not have been very extensive or systematic, and the evidence on them is scant. The record of ordeals in Oradea (*Regestrum Varadiense examinum ferri candentis ordine chronologico digestum*. . . eds. János Karácsonyi and Sándor Borovsky. Nagyvárad: Capitulum Varadiense Lat. Rit., 1903; online: <https://www.arcanum.hu/hu/online-kiadvanyok/Varadi-varadi-jegyzokonyv-regestrum-varadinense-1208-1235-2/>) refers to two mandates (*edictum est*) to recover lost royal land (Nos. 315 and 317) and in 1220 a royal charter refers to lands taken back earlier from a certain *udvarnok* (Szentpétery, *Regesta*, No. 358). Nevertheless, these haphazard changes in grants and revindications may have caused considerable insecurity among the recipients of royal grants

²⁶ Prince Béla was crowned “junior king” in 1203 and by 1222 governed a considerable area of the country: his younger brother, Kálmán (Coloman), had been crowned King of Halich (Galicia) in 1217 but was overthrown and imprisoned in 1219/20; the youngest, Prince Andrew was betrothed to Maria of Novgorod-Smolensk and created Duke of Halich in 1222. While the text may refer to the transfer of loyalty from the “senior” to the “junior” king, it likely refers to a shift from the older to the younger princes

²⁷ Castle warriors (*jobagiones castri*) were dependent freeman obligated to military service, attached to a royal castle and commanded by the *ispán* in the eleventh to thirteenth centuries. With the transfer of many castles to private hands and the transformation of the military system along Western models, these militiamen were gradually replaced by the noble levy. As proprietors of small possessions on former castle estates, many a castle warrior rose into the lesser nobility. This social category gradually vanished during the fourteenth century. See, Attila Zsoldos, *A szent király szabadjai – Fejezetek a várjobbágyok történetéből*. [The freemen of the holy king : Chapters from the history of the castle warriors] (Budapest: MTA TTI, 1999).

²⁸ King Andrew was especially solicitous to grant privileges to immigrant *hospites*: his charter for the German (Saxon) settlers of Transylvania, the *Andreanum*, remained the basic legal document of that community for centuries; for its several editions, see Szentpétery, *Regesta*, No. 443. For the general context, see H. Helbig, “Die ungarische Gesetzgebung des 13. Jahrhunderts und die Deutschen,” in Walter Schlesinger, ed. *Die deutsche Ostsiedlung des Mittelalters als Problem der europäischen Geschichte*, (Sigmaringen: Thorbecke, 1975), pp. 509–526

20 The tithe should not be paid in silver, rather, as the earth brings it forth, it should be rendered in wine and grain,²⁹ and should the bishops object, we shall not support them.

21 The bishops shall not give the title from properties of *servientes* for our horses, nor shall their people be obliged to convey these titles to royal estates.³⁰

22 Our pigs shall not be pastured in the forests or meadows of the *servientes* against their will.

23 Our new coins shall be valid for a year from Easter to Easter, and pennies shall be the same as they were under King Béla.³¹

24 Ishmaelites and Jews shall not be allowed to become counts of the chamber of the mint, of salt, and of tolls [or] nobles of the realm.³²

²⁹ This resistance of the producers to the obvious attempts of the church to collect the tithe in coin, which forced them to market their crops, was not successful; within a year, Pope Honorius III rescinded the validity of this article (29 March 1223; cf. Augustinus Theiner, *Vetera monumenta historica Hungariam sacram illustrantia*, I, Roma: Typis Vaticanis, 1859 (repr. Osnabrück: Zeller, 1968) I, 38–39, Nos. 78–79), and the **1231** reissue omitted it.

³⁰ One possible interpretation of this unclear section is that bishops had been obligated to supply fodder to the king's horses from the tithe collected on the *servientes*' estates. L. Juhász ("Az Aranybulla megromlott 21. cikkéhez" [On the Corrupt Article 21 of the Golden Bull], *Filológiai Közöny*, 4 [1958], 99–103) suggests another translation: "The bishops shall not receive a tithe from the king's horses pastured on the estates of the *servientes*." It is possible that this is in some way related to the war-horses the king was entitled to receive from the counties (see above, n. 33, p. 91).

³¹ Bálint Hóman, in *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325] (Budapest: MTA, 1916), pp. 303–307, suggested that the comparison refers to King Béla I (1060–3), whose good *oboli* (with 1.644 g pure silver content) were indeed not matched by the coinage of the subsequent century. Such a "long memory" is rather unlikely and the reference is most probably to the coins of King Béla III (1172–96). However, the surviving good pennies of his—see Lajos Huszár, *Münzkatalog Ungarn. Von 1000 bis heute* (Budapest–Munich, 1979) pp. 60–71—are not sufficient to unequivocally decide the issue. On the early coins in special, see L. Kovács, *A kora Árpád-kori magyar pénzverésről. Érentani és régészeti tanulmányok a Kárpát-medence I. (Szent) István es II. (Vak) Béla uralkodása közötti időszakának (1000–1141) érmeiről* [On early-Arpadian age coinage. Numismatic and archaeological studies on the coins of the Carpathian Basin of the period between the reign of St Stephen I and Béla II (1000–1141)] *Varia Archaeologica Hungarica*, 7 (Budapest: Régészeti Intézet, 1997).

³² The translation corrects the text at this point assuming a missing *vel* or *et* (meaning "or") in the spirit of the article's renewal as **1231: 31**. Older translations, including Náf's attempted to understand the passage to mean that offices in the chambers were to be reserved for nobles of the realm. The Fourth Lateran Council (1215) restated the prohibition of the council of Toledo against the promotion of Jews to public offices (Conc. IV. Lat., Tit. 69, Mansi, XXII: 1057, and Gregory IX. *Decretales*, V.6.16.). This restriction was explicitly extended to pagans. In 1221 the papacy expressed concern that a large Jewish population existed in Hungary and ordered both King Andrew and Queen Yolanda not to impede the liberation of Christian slaves or free them from Muslim hands: see Theiner, *Vetera monumenta* I, 30, Nos. 58–59. See now also:

25 Salt should not be stored in the center of the kingdom except in Szalacs and Szeged, but in the borderlands.³³

26 Possessions shall not be granted outside of the realm; if some have been given or sold, they shall be returned to the inhabitants of the realm for a reimbursement.

27 The *mardurina* shall be rendered in the manner established by King Coloman.³⁴

28 If any one has been duly sentenced in judicial proceedings, no magnate should defend him.

29 *Ispáns* shall enjoy only the rights of their office; the king shall receive the rest which pertains to him, namely: the bucket tax, tolls, the ox-tax,³⁵ and two-thirds of the castle dues.

Nora Berend, *At the Gate of Christendom: Jews, Muslims and 'Pagans' in Medieval Hungary, c. 1000- c.1300* (Cambridge: Cambridge University Press, 2001) pp. 152-5. As to the financial officers of the time, see Márton Gyöngyössi, "13. századi budai és esztergomi kamaraispánok" [Counts of the chamber in Buda and Esztergom in the 13th C.] *Az Érem* 71. 2 (2015) 1–17.

³³ Szalacs is in Co. Bihar, Szeged in Co. Csongrád along the Tisza River; royal salt trading posts are known to have existed at the border in Co. Zala, in Pozsony, in Sopron and in Vasvár. While salt was not yet a royal monopoly (*regale*) in this period, the rich salt mines on royal land in Transylvania and northern Hungary allowed the kings virtually to control the production and distribution of salt, from which they gained considerable income: see O. Paulinyi. "A sóregálé kialakukása Magyarországon" [The Development of the Salt Monopoly in Hungary], *Századok*, 57–58 (1923/24), 627–647; and Beatrix F. Romhányi, "Salt Mining and Trade in Hungary before the Mongol Invasion" in József Laszlovszky et al., eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) 182–204.

³⁴ The *mardurina* was originally a tax of one marten pelt annually from each inhabitant of Croatia and Slavonia (see V. Klaić, "Marturina, Slavonska daca u srednjem vijeku" [The *Mardurina*: A Slavonian Tax of the Middle Ages], *Rad Jugoslavenske akademije znanosti i umjetnosti*, 157 [1904], 114–123; M. Kostrenčić et al., *Lexicon latinitatis mediae aevi Jugoslaviae* (Zagreb: Concilium academicarum scient. et art. SFR Jugoslaviae, 1961–78), fasc. 4, pp. 701–702). There is no contemporary evidence among known charters or extant legislation about King Coloman having instituted this payment; Andrew II, however, in a charter of c. 1224–1228 specified that the inhabitants of the *banatus* were to pay twelve Friesach pennies per household (*mansio*) "sicut tempore regis Colomanni consuetum fuerat" [as was usual in the times of King Coloman]; see T. Smičiklas, *Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae* (Zagreb: Academia Scientiarum, 1904). III, 140, No. 214. The *mardurina* was explicitly commuted into a money payment in **1231: 33**. See also Weisz, as nWeiss

³⁵ Little is known about these royal levies. The first of them, the "bucket-tax," was a levy on vineyards; see Antal Bartal, *Glossarium mediae et infimae latinitatis Regni Hungariae*. (Budapest: MTA, 1901; repr. Hildesheim–New York: Olms, 1970), p. 125 s.v. "Chybrio" [from Hung. *csöbör*, "bucket"]. The ox-tax may have been similar to the levy rendered for many centuries by the Transylvanian Székely; see Eckhart, *Adózás*, pp. 78–80. The royal portion of the counties' revenues amounted to an annual sum of 25 thousand marks in the late twelfth century, about 13 percent of the king's monetary income; see Hóman, *Pénztörténet*. p. 433; cf. György Györffy, "Ungarn von 895 bis 1400," in *Europäische Wirtschafts- und Sozialgeschichte im Mittelalter*, ed. J. A. van Houtte, Stuttgart: Klett-Cotta, 1980. [*Handbuch der europäischen Wirtschafts-*

30 Similarly, no one other than these four baronial retainers – the palatine, the ban,³⁶ the judge royal, and the judge of the queen’s court³⁷ – shall hold two offices.

And in order that this grant and ordinance or ours shall be valid in our time as well as in that of our successors in perpetuity, we ordered seven exact copies to be drawn up and authenticated with our golden seal, so that one copy shall be sent to the lord pope and he shall have it copied into his register,³⁸ the second copy shall be kept in the custody of the Hospital,³⁹ the third in the custody of the Temple,⁴⁰ the fourth with the king, the fifth at the cathedral chapter of Esztergom, the sixth at

und Sozialgeschichte, ed. H. Kellenbenz, II], 625–55 here p. 654; now also Weisz, *A királyketteje*. (as n. 7, above).

³⁶ The ban was the governor of Croatia, Dalmatia (when under Hungarian control), and Slavonia (the region between the rivers Drava and Sava). Occasionally, members of the dynasty, other times great men of the realm held this title; it was always a powerful position, with its own mint and supported by the assembly of local lords and nobles of the “kingdom of” Croatia, including membership in the royal council.

³⁷ On the judge royal (*comes curiae*), see above, n. 17; the *comes curiae reginae* was an officer of similar duties, but with more limited authority due to the less extensive properties of the queen

³⁸ No copy has been located in the extant registers of Honorius III (1216–1227). It is significant that the reputation of the papal registers in the thirteenth century encouraged the framers of the Bull to believe that a copy transcribed into them provided a form of authentic preservation. A papal letter of 15 December 1222, addressed to the Bishop of Eger and the abbots of Egres and St. Gotthard, explicitly refers to reports received in Rome about the events which brought the Golden Bull into existence. Honorius ordered these prelates strictly to admonish and instruct “the multitude” not to presume to threaten “the king, his crown, the persons of his family, or their goods, not to mention the rule of law” (Theiner, *Vetera monumenta*, I, 36, No. 73). This was not, as Hantos (*Magna Charta*, p. 25) asserts, a condemnation of the Golden Bull, for it is clear that Honorius did not yet have a copy of the Bull at hand. The pope’s letter of 29 March 1223 (see above, n. 29) appears directed against clause **1222: 20** without reference to the existence of the Bull, only to reports received in Rome. A papal letter of 23 August 1225, however, refers to Andrew’s “law of perpetual duration” and to the contents of **1222: 16** and **24**, thereby strongly suggesting access to a copy of the Bull in Rome by that time: see Sweeney, “The Decretal *Intellecto*,” p. 96

³⁹ The Order of the Knights of the Hospital of St. John in Jerusalem, or the Hospitallers, established a house in Hungary during the reign of Géza II (1141–1162). This was the convent of St. Stephen the King, located in Székesfehérvár, see Zsolt Hunyadi, *The Hospitallers in the kingdom of Hungary c. 1150–1387* (Budapest: CEU—METEM, 2010) pp. 102–4. As one of the major places of authentication it was logical to deposit a copy of the Bull in their house.

⁴⁰ The Order of the Knights of the Temple, or Templars, organized a province of Hungary and Slavonia no later than the reign of Stephen III (1162–1172). The Hungarian priory was located at Vrana on the Adriatic coast in Dalmatia, see B. Stossek, “Maisons et possessions des Templiers en Hongrie,” in: Zsolt Hunyadi, József Laszlovszky, eds. *The Crusades and the Military Orders. Expanding the Borders of Medieval Latin Christianity* (Budapest: CEU Press, 2001) pp. 245–51. A letter of Pope Alexander III dated 1169 or 1170 refers to a dispute between the Templars already established at Vrana and the Bishop of Scardona: see Smičiklas, *Codex diplomaticus*. I, 125, No. 120. The Master of the Temple in Hungary at the time of the Golden Bull may have been Pontius de Cruce who had accompanied Andrew on the Crusade in 1217–1218,

that of Kalocsa, and the seventh with the incumbent palatine, so that he, having this document always in his sight, should not deviate from the foregoing terms in any respect, nor permit the king, the nobles, or anyone else to deviate from it, so that they should not only enjoy their liberty but also because of this remain ever faithful to us and our successors and not refuse the obligations rightly due to the royal crown.⁴¹

We have also decreed that if we or any of our successors at any time should seek to oppose the terms of this settlement, both the bishops and other baronial retainers as well as the nobles of the realm, singularly and in common, both present and future generations, shall by this authority have the right in perpetuity to resist and speak against us and our successors without the charge of high treason.⁴²

Given by the hand of Cletus, chancellor⁴³ of our court and provost of the church of Eger, in the year of the Incarnation of the Word one thousand two hundred twenty-two, ⁴⁴when venerable John is Archbishop of Esztergom,⁴⁵ the venerable Ugrinus the Archbishop of Kalocsa⁴⁶, Desiderius

and who is attested in a royal grant of 1219; see Szentpétery, *Regesta*, No. 353.

⁴¹ The *corona regia* was here understood in the abstract sense of the royal dignity or kingly office to which services were owed; see J. Karpat. "Corona regni Hungariae im Zeitalter der Arpaden," in M. Hellman, ed., *Corona Regni* (Weimar: Böhlau Nachf., 1961), pp. 225–348, espec. 271f., 290ff., and 308ff

⁴² On the idea of right of resistance, see F. Kern, *Gottesgnadentum und Widerstandsrecht im frühen Mittelalter: Zur Entwicklungsgeschichte der Monarchie* (Leipzig: Koehler, 1914; English translation by S. B. Chrimes, *Kingship and Law* (New York: Praeger, 1956), pp. 1–147; for Hungary, see A. Degré, "Az ellenállási jog magyarországi története" [History of the Right of Resistance in Hungary], *Jogtudományi Közlöny*, 35 (1980), 366–377 and Zoltán J. Kosztolnyik, "De facultate resistendi: Two Essential Characteristics of the Hungarian Golden Bull of 1222." *Studies in Medieval Culture*, 5 (1975), 97–104.

⁴³ Kilit, *de genere* Béla, chancellor 1219–240, bishop of Eger 1224–45. On the development of the office of chancellor from the *comes capallae* during the late twelfth and early thirteenth century, see A. Kubinyi, "Königliche Kanzlei und Hofkapelle in Ungarn um die Mitte des 12. Jahrhunderts," in *Festschrift Fr. Hausmann* (Graz: Akademische Verlagsanstalt, 1977), pp. 299–324; also I. Szentpétery, *Magyar oklevéltan* [Hungarian Diplomatics] (Bp.: Magyar Történelmi Társulat, 1930), p. 93ff.

⁴⁴ The list of office-holders, in this instance only prelates, was inserted into privileges issued by the chancellery of the kings of Hungary as an indication of date and authentication, and was not meant as a list of witnesses; the circle of persons so mentioned varied throughout the centuries: see Szentpétery, *Magyar oklevéltan*, p. 104

⁴⁵ John, archbishop of Esztergom 1205–22.

⁴⁶ Ugrin, *de denere*. Csák, archbishop of Kalocsa 1219–41.

Bishop of Cenad,⁴⁷ Robert of Veszprém,⁴⁸ Thomas of Eger,⁴⁹ Stephen of Zagreb,⁵⁰ Alexander of Oradea⁵¹, Bartholomew of Pécs,⁵² Cosmas of Győr⁵³, and Briccius of Vác,⁵⁴ in the seventeenth year of our reign.⁵⁵

⁴⁷ Desiderius (Dezső), bishop of Cenad 1202–29.

⁴⁸ Robert, bishop of Veszprém 1209–26, archbishop of Esztergom 1226–39.

⁴⁹ Thomas, bishop of Eger 1217–24.

⁵⁰ Stephen, bishop of Zagreb 1214–27.

⁵¹ Alexander, bishop of Oradea, 1219–30.

⁵² Bartholomew, bishop of Pécs 1219–c.1247.

⁵³ Cosmas, bishop of Győr 1219–c. 1223.

⁵⁴ Briccius (Bereck), bishop of Vác 1221–37.

⁵⁵ Andrew counted his regnal years usually from the date of his brother's, King Imre's, death (30 November 1204), but occasionally from the death of Imre's son, King Ladislas III, who preceded Andrew for a few months before he died in Vienna on 7 May 1205, having been expelled from Hungary by his uncle. Hence the seventeenth regnal year combined with the 1222 year of grace may refer only to the latter and suggests that the Golden Bull was issued some time before 7 May of that year: see Nándor Knauz, *II. Endre szabadságlevellei* [Andrew II's charters of liberty] (Pest: Eggenberger, 1869), p. 34

**RENEWAL OF THE GOLDEN BULL OF KING ANDREW II OF HUNGARY,
1231**

Nine years after its first issuance Andrew II found it necessary to renew the Golden Bull with a number of minor changes and one major alteration, namely that the nobles' right of resistance was replaced by the right and duty of the archbishop of Esztergom to excommunicate any king who should disregard the privilege. It has been argued that this alteration and some other additions regarding ecclesiastical property and the clergy were due to increased papal interest in Hungarian politics, expressed in numerous letters to King Andrew and in legations from Rome.

This text was not used in any later confirmation of the Golden Bull, not even for the 1318 transcript, although that was issued by a group of prelates. It survives in two copies, authenticated by Giacomo da Pecorara, Cardinal Bishop of Palestrina, papal legate to Hungary (1232–1234), and Hungarian prelates. The editors are indebted to Dr. Gabriele P. Scardellato for having collated these manuscripts in Rome with Theiner's published text for the present edition.

The passages repeated from the privilege of **1222** are set in italics and minor stylistic changes are disregarded. The arrangement and numbering of the articles are Döry's;

Notes are added only to the changes vis-à-vis the text of **1222**.

MSS: (Authenticated copies of December 1232) Vatican Archives, Liber Censuum, *Miscellanea*, Arm. X, 1 foll. 274v–275v (ex 353–356); *ibid.*, *Cencii Camerarii Divers.* Arm. XXV, 18, foll. 271–280v.

EDD: Augustinus Theiner, *Vetera monumenta historica Hungariam sacram illustrantia*, I, (Rome: Typis Vaticanis, 1859; repr. Osnabrück: Zeller, 1968). 1, 107–111; Henrik Marczali, *A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungarorum* (Budapest.: Athenaeum, 1901) 134–137 (opposite the 1222 text); older editions are listed in Imre Szentpetery, István Borsa, *Az Árpád-házi királyok okleveleinek kritikai jegyzéke. Regesta regum stirpis Arpadiane critico-diplomatica*, (Budapest: MTA, 1923–61).

LIT: See **1222**

RENOVATIO BULLAE AUREAE 1231

In nomine Sancte Trinitatis et individue unitatis. Andreas Dei gratia Ungarie, Dalmatie, Chroatie, Rame, Servie, Galitie Lodomirique Rex im- perpetuum.

Quoniam libertas tam nobilium regni nostri, quam etiam aliorum a sancto Stephano rege instituta, per aliquorum regum potenciam ulciscencium aliquando iram propriam, aliquando etiam attendentium consilia falsa iniquorum hominum fuit in quamplurimis diminuta, multociens ipsi nobiles nostri serenitatem nostram et predecessorum nostrorum, regum suorum, precibus et instancia multa pulsaverunt super reformatione regni nostri.

Nos igitur petitioni eorum satisfacere cupientes in omnibus ut tenemur, presertim quia inter nos et eos occasione hac iam sepius ad amaritudines non modicas est processum, quod — ut regia honorificencia plenius conservetur — convenit evitari, hoc enim per nullos alios melius fit, quam per eos, concedimus tam eis quam aliis iobagionibus et servientibus regni nostri libertatem a sancto rege concessam, ac alia ad statum regni nostri ordinandi pertinencia, in hunc modum confirmamus.

- I. *In festo sancti regis, nisi arduo negotio regni nostri ingruente vel infirmitate prohibiti fuerimus, Albe tenemur sollempnisare, ut ibi oppressi sine timore querimonias suas nobis possint exponere: sed si nos non possumus interesse, palatinus interesse tenetur, ut vice nostra causas aludiat, et omnes servientes nostri et alii, qui volunt, libere et sine timore illuc convenient. Prelati ecclesiarum, ut archiepiscopi et episcopi, ad pauperum querimoniam audiendam, et infracte forte libertatis concesse confirmationem, nisi canonica prepedicione fuerint impediti, tenentur interesse. Si palatinus interim male administraverit negocia regis et regni, supplicabant nobis, ut utiliore loco eius constituamus, quem volemus, et nos eorum precibus annuemus.*
- II. *Volumus, quod nec nos nec posterii aliquos unquam capiant vel destruant, nisi prius ordine iudiciario convenientur. Et cum ista sacramento nostro et principum nostrorum fuerint confirmata, si qui per nos vel per filios nostros, vel per quoscumque post idem tempus, scilicet decimo septimo anno regni nostri sine iudicio sunt spoliati, plene restituantur.*
- III. *Item nullam collectam, nullam exactionem, nec lucum camere, quocumque nomine possit censi, occasione aliqua super homines cuiuscumque nationis vel condicionis colligi faciemus, illis exceptis, qui fisco regio in debito censu tenentur.*
- IV. *Super domos servientum vel villas nec agasones, nec falconarii, nec caniferi, nec curriferi nostri descendant ipsis invitis; ubicumque autem alibi nos vel dictos officiales nostros descendere contingerit, iustam extimationem solvi faciemus, sicut continetur in sequentibus. Et quia preterea tam propter descensus nostros et domine regine ac filiorum nostrorum, quam etiam archiepiscoporum, episcoporum, baronum et nobilium nostrorum intolerabilia dampna et gravamina per totum regnum fieri videbamus, districte statuendo precipimus, ut*

nichil recipiatur ad coquinam nostram vel nostrorum, nisi dato iusto precio. Similiter de annona et de vino, et aliis necessariis nichil recipiant, nisi dato iusto precio. Pro domestico autem, cui iusticia exhibita non fuerit, tres rustici de villa iurare debeant, et ad eorum iuramentum hospes quicumque fuerit, domestico plenam faciet iusticiam cum iudicio regali, vel dominus ville quicumque fuerit, sive archiepiscopus sive episcopus, sive nobilis, ille personaliter hoc verbo veritatis dicere teneatur. Quicumque vero nobiles iuxta formam statuti nostri iusticiam non fecerint, tales quilibet episcopus in sua diocesi excommunicet, et nos eos pro excommunicatis tamdiu habebimus, donec iniuriam passo satisfaciant competenter.

- V. *Si quis serviens noster sine herede decesserit, quartam possessionum filia optineat, de residuo, sicut ipse voluerit, disponat. Et si morte preventus disponere non posset, propinqui sui qui eum magis contingunt, optineant. Et si nullam penitus cognationem habuerit, rex habeat.*
- VI. *Comites parrochiani predia servientum et villas ecclesiarum non discuciant, nisi in causa monete et decimarum. Curiales comites parrochiani nullum penitus discuciant, nisi populos sui castri. Fures, latrones, per bilotos regales discuciantur, ante pedes tamen comitis.*
- VII. *Populi coniurati fures nominare non possunt, nec per hoc innocens populus opprimatur.*
- VIII. *Nobis facientibus exercitum extra Regnum, nobiles nobiscum ire non tenentur, nisi comites et stipendiarii et iobagiones castri, et qui ex officio debito tenentur, et quibus amplas concessimus possessiones. Si vero exercitus super regnum venerit, universi et singuli ad defensionem patrie contra inimicos se opponere tenentur. Regresso superveniente exercitu, pro vindicta ipsos tenentur persequi.*
- IX. *Palatinus vero omnes homines indifferenter discuciet, preter personas ecclesiasticas et clericos, et preter causas matrimoniales et dotis, et alias ecclesiasticas, quacumque ratione videntur ad ecclesiasticum examen pertinere. Cause nobilium, que ad perdicionem capitis aut destructionem possessionum eorumden pertinent, sine consciencia regia per nullos iudices terminentur. Palatinus iudices vicarios non habeat, nisi unicum in curia sua, et caveat diligenter, ne contra presens statutum aliquem iudicet vel condempnet.*
- X. *Curialis comes noster, dum in curia nostra manet, omnes iudicet, et causam inchoatam in nostra curia ubique possit terminare: set existens in predio suo vel alibi extra curiam nostram, nec dare prestaldos, nec partes possit citari facere. Et quia multi in regno leduntur per falsos prestaldos, citationes vel testimonia eorum non valeant, nisi per testimonium diocesis episcopi vel capituli; nec falsificatus prestaldus possit se iustificare, nisi eorumdem testimoniis in factis maiorum; in factis minorum vicinorum conventuum vel claustrorum testimoniis. Pristaldum nullus per annum vel biennium, vel ultra secum detineat, nisi usque ad decisionem cause, ad quam impetravit.*
- XI. *Hospites nobiles ad regnum venientes, nisi incole esse velint, ad dignitates non*

promoveantur: per tales enim divicie regni extrahuntur.

- XII. *Uxores decedencium vel condempnatorum per sententiam ad mortem, vel in duello succumbencium, aut alia ex quacumque causa non fraudentur dote sua. Uxores furum vel latronum ac eorum liberi pro delictis patrum non vendantur.*
- XIII. *Integros comitus vel dignitates in predia vel possessiones non transferemus.*
- XIV. *Statuimus iobagiones castrorum secundum libertatem a sancto rege constitutam, similiter et hospites cuiuscumque nationis secundum libertatem ab inicio eis concessam, perpetuo teneri.*
- XV. *Ad secandas indagines, ad fossata facienda, ad ortos, ad quecumque regia edificia, vel officinas servientium, vel ecclesiarum populos non cogemus.*
- XVI. *Preter vicesimam, quam ab antiquo reges habent: decimas non exigemus, quia per hoc populus gravatur.*
- XVII. *Porci nostri in silvis vel pratis servientum contra voluntatem eorum non pascantur.*
- XVIII. *Monete et salibus et aliis publicis officiis Iudei et Sarraceni non preficiantur.*
- XIX. *Possessiones extra regnum non conferantur: et si alique sunt collate vel vendite, populo regni ad redimendum reddantur, vel simpliciter recipiantur.*
- XX. *Item pro singulis marturinis quatuor pondera persolvantur: quantumcumque inde provenierit, tertia pars domino fundi, et due partes domino terre persolvantur.*
- XXI. *Comites iure sui comitatus sint contenti cetera ad regem pertinencia, scilicet cibriones, tributa, boves et due partes castrorum ad regis voluntatem, cui volet, distribuantur.*
- XXII. *Item quandocumque aliquos ordine iudiciario convinci contigerit, in voluntate nostra erit bona ipsorum penes nos retinere, vel aliis pro velle nostro distribuere, incendium tamen mitti nolumus super villas eorundem.*

Ut autem hec nostris et successorum nostrorum temporibus firma et inconcussa permaneant, tam nos quam filii nostri prestito corporaliter sacramento confirmavimus, et tam nostro quam filiorum nostrorum sigillis fecimus roborari, spontanee consencientes, ut sive nos sive filii nostri et successores nostri hanc a nobis concessam libertatem confringere voluerint, Strigoniensis archiepiscopus, premissa legitima admonitione, nos vinculo excommunicationis et eos innodandi habeat potestatem. Datum anno ab incarnatione domini millesimo duccentesimo tricesimo primo: anno vero regni nostri vicesimo nono.

RENEWAL OF THE GODLEN BULL 1231

In the name of the Holy Trinity and Indivisible Unity. Andrew, by the grace of God, King of Hungary, Dalmatia, Croatia, Rama, Serbia, Galicia, and Lodomeria, in perpetuity.

Since the liberties established by St. Stephen and the king in favor of the nobles of our realm as well as of other persons have been diminished in many respects by the authority of certain kings, some of whom in personal anger took vengeance, others of whom paid heed to the false counsel of wicked and self-serving men, these same nobles have repeatedly importuned our Serenity and that of their kings, our predecessors, with numerous petitions and entreaties for reform of our kingdom.

We therefore desire to fulfill their requests in all respects, as we are obliged to do – especially because between them and us this circumstance has often led to no inconsiderable bitterness, which ought rightly to be avoided for the preservation of the royal dignity which can be done better by no one other than by them. We grant both to them and to other baronial trainers and servientes regis of our kingdom the liberty given by the holy king, and we confirm what further pertains to be ordained for the state of our kingdom in this manner.

- 1 *That we are bound to celebrate the feast of Saint Stephen annually in Székesfehérvár unless we should be beset by some urgent matter or prevented by illness, so that the oppressed can present their grievances there without fear. But if we cannot be present, the palatine is obliged to attend so that he can hear cases in our place, and all our servientes and others, who wish shall freely assemble there without fear.¹ The prelates of the churches, both archbishops and bishops, unless they shall be prevented by canonical impediment, are obliged to attend in order to hear complaints of the humble and confirm liberties which may possibly have been violated. If meanwhile, the palatine should badly manage the affairs of king and kingdom, they shall petition us to install a more suitable person of our choice in his place, and we shall look favorably upon their requests.²*

¹ See 1222: 1

² This may be the first reference to the interference of the nobility with the choice of the count palatine, who in these times changed from being the head of the royal household to the itinerant general judge of the nobles. Norbert C. Tóth has recently demonstrated that ever since the election of Nicholas Zámbocki at a diet in 1342 (of which no decree survived), the palatine used the title *palatinus regni Hungariae* in which *regnum* means (as usual in medieval Hungary) the noble political nation; see “Az ország nádora” [The palatine of the *ország*] in *Középkortörténeti tanulmányok* 7, Attila Kiss P., Ferenc Piti and György

- 2 *It is further our wish that neither we nor our successors should at any time seize or cause the ruin of any one, unless he first be summoned and duly sentenced by judicial process.*³ And since these provisions had been confirmed by our oath and that of our magnates, whoever has been despoiled by us, our sons, or anyone else without judicial sentence since that time, namely, since the seventeenth year of our reign,⁴ complete restitution shall be made to him.
- 3 *Similarly we shall gather no collecta, no levies, nor the chamber's profit,*⁵ however it may be assessed, from anyone of whatever nation or rank on any occasion, except from those who are held to owe land-rent to the royal treasury.
- 4 Neither shall we, nor our grooms, nor falconers, nor houndsmen, nor teamsters descend upon the houses or villages of the *servientes* against their will; if, however, it should happen that we or our said officers should descend anywhere, we shall pay the just value as described below.⁶ And since on account of our *descensus*, that of the lady queen and our sons as well as that of the archbishops, bishops, barons, and our nobles we appear to have caused intolerable damage and hardship throughout our nobles we appear to have caused intolerable damage and hardship throughout our whole kingdom, we decree that it be strictly established that nothing should be received by our kitchen or theirs unless a just price has been paid. Similarly, no cereals, wine, or other necessities shall be received unless a just price has been paid.⁷ For the native husbandman who has been denied justice, three peasants⁸ from the village shall swear an oath and on their oath the foreign guest, whoever he was, shall render to the husbandman full justice in the royal fine,⁹ or the lord of the village, whoever he is, whether archbishop, or bishop, or noble shall personally be held to pass judgment.¹⁰ But those noblemen who do not render justice according to these terms of our statute shall be excommunicated by the bishop of their diocese and

Szabados, eds. pp. 439-50 (Szeged: Szegedi Középkorász Műhely, 2013) Later the diets claimed the right to elect the palatine, but this did not become accepted practice until the late Middle Ages.

³ See **1222: 2**

⁴ I.e., 1222, the date of the first Golden Bull

⁵ The *lucrum camerae*, a direct tax, replaced the king's income from the annual re-issue of money with less value that has been discontinued; see Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325] (Budapest.: MTA, 1916. [repr. 1991]) p. 442f, and note 8 to **1222**.

⁶ Cf. **1222: 15**

⁷ On the *descensus*, previously the duty of hosting the king, but here a kind of tax, see **1222: 15**. It is noteworthy that the issue is treated here in much greater detail than nine years before. The reason for this is not known.

⁸ *Rustici* means “peasants” in general, without precise social identification.

⁹ The “royal fine” was higher than (usually double) the “common fine.”

¹⁰ Lit. “Speak these words of truth”, which may refer to the replacement of the peasants’ oath or to passing judgment.

will be regarded excommunicate by us until they have properly given satisfaction to the person who suffered the injury.

- 5 *If a serviens of ours should die without an heir, his daughter shall receive a quarter of his possessions but he shall dispose of the rest as he wishes. And if, prevented by death, he shall not have been able to make disposition, those relatives closer to him shall obtain [the possession]. If he shall have no relatives at all, the king shall obtain them.*¹¹
- 6 *The ispáns of counties shall not render judicial sentences concerning the estates of the servientes and in villages or churches except in cases pertaining to coinage and tithes. The ispáns of county castles shall render judicial sentences on no one except those attached to their castles. Thieves and robbers shall be judged by royal judges but only in the presence of the ispán.*¹²
- 7 *People united in a sworn association shall not be able to accuse thieves, lest they oppress the innocent folk.*¹³
- 8 *When we lead the army outside the kingdom, the nobles do not have to come with us except for the counts, hired soldiers, castle warriors, and both those who are obliged to serve by reason of their office and those to whom we have granted substantial possessions. If, however, the army of an enemy should advance upon the kingdom, everyone without exception is obliged to oppose the enemy for the defense of the fatherland. And if the attacking army retreats, they must pursue if for revenge.*¹⁴
- 9 *The count palatine shall judge without differentiation all the men of our realm except ecclesiastical persons and clerks, and cases concerning marriage, dowry, and other ecclesiastical matters which appear to belong for whatever reason to ecclesiastical jurisdiction.*¹⁵ *Cases concerning nobles condemned to capital punishment and loss of their possessions shall not be concluded without the king's knowledge by any judge. The palatine shall have no deputy judge except for a single one at his own court. And he should*

¹¹ See **1222: 4**

¹² See **1222: 5** and note the exemption of ecclesiastical property from comital jurisdiction.

¹³ Cf. **1222: 6**

¹⁴ Cf. **1222: 7**; the term *pro defensione patriae* may indicate the emergence of a certain personal identification with the homeland, for which other documents of the time offer additional indications. See Joseph Deér, "La sentiment nationale hongroise au moyen âge," *Nouvelle revue de Hongrie*, 29 (1936), 411–19 and Idem, "Entstehung des ungarischen Nationalbewusstseins", *East Central Europe/l'Europe de Centre-Est. Eine wissenschaftliche Zeitschrift*, 20-23 (1963-68) Pt. 2, 11–54. The obligation to pursue the retreating enemy is not found elsewhere describing the duties of the general levy.

¹⁵ Cf. **1222: 8**, with a repeated confirmation of the sphere reserved to canonical jurisdiction; see György Bónis, "Entwicklung der geistlichen Gerichtsbarkeit in Ungarn vor 1526." *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, 80, Kanonistische Abteilung, 49 (1963), 174–235., here pp. 191–197.

be careful not to judge or condemn anyone contrary to these statutes.¹⁶

- 10 *Our judge royal shall be able to judge all while he resides in our court and shall have the right to pass sentence anywhere in cases initiated at our court, but when he stays on his estates or elsewhere outside our court, he shall not be able to dispatch bailiffs or cite parties to a suit.*¹⁷ And because many people suffer harm from false bailiffs, their summons or testimony shall not be valid without the witness of the diocesan bishop or the chapter. The accused bailiff should clear himself in major matters only by their testimony; in minor matters by the testimony of neighboring convents or monasteries.¹⁸ No one shall keep a bailiff with him for a year or two or longer, but only until the case for which he was commissioned is completed.
- 11 If guests, foreign noblemen, *come to the kingdom, they shall not be raised to any position of dignity, unless they wish to become residents, without the consent of the kingdom;* because such persons take away the riches of the realm.¹⁹
- 12 *The wives of those who died either by capital punishment or in a duel or for any other reason shall not be cheated out of their dower.*²⁰ The wives of thieves and robbers and their children shall not be sold for the crimes of the fathers.
- 13 *We shall not bestow whole counties or any other dignities as estates or possessions in perpetuity.*²¹
- 14 We order that *castle-warriors shall be preserved in perpetuity in the liberties established by the holy king, similarly foreign guests of whatever nationality in the liberties originally*

¹⁶ See **1222: 8**.

¹⁷ See **1222: 9**

¹⁸ This article suggests a gradual change in judicial procedure from the older style of personal summons and testimony of the *pristaldus*, (bailiff) as repeatedly prescribed in the *decreta* of Stephen, Ladislas, and Coloman, to one based on the cooperation of ecclesiastical authorities which had always been in charge of ordeals but now were also to supply authentic witnesses and to serve in the written administration of justice as *loca credibilia*. See Ferenc Eckhart, "Die glaubwürdigen Orte Ungarns im Mittelalter." *Mitteilungen des Instituts für österreichische Geschichtsforschung*, Ergänzungsband 9 (1913/15), 395–558; László Mezey, "Anfänge der Privaturkunde in Ungarn und der glaubwürdigen Orte," *Archiv für Diplomatik*, 18 (1972), 209–302; see also **1267: 3** (with n. 10). The procedure of "keeping the bailiff" is not clear.

¹⁹ Cf. **1222: 11**. The clause demanding "resident" status for eligibility of office suggests that there were foreign knights who came to stay only for a while at the king's court. No legal procedure is known for this period by which *indigenatus* (the legal term used later for becoming a Hungarian nobleman) could be acquired. A charter of Andrew III of 1300 contains in one edition (C. Wagner, *Analecta Scepusiensia*, 1 [Wien: Trattner, 1774], p. 115) the words *novus incola* for the grantee, but it is unclear whether the donation itself made him a resident.

²⁰ See **1222: 12**.

²¹ See **1222: 16**.

- granted to them.*²²
- 15 We shall not force the dependents of the *servientes* and the churches to cut fences or dig ditches, to work in the gardens or other royal buildings and workshops.
- 16 We shall not collect a tithe beyond the twentieth that is due to the king by ancient custom, because that burdens the people.
- 17 *Our pigs shall not be pastured in the forests or meadows of the servientes against their will.*²³
- 18 *Jews or Saracens shall not be counts of the chamber of the mint or of the salt or other public officers.*²⁴
- 19 *Possessions shall not be granted outside of the realm; and if some have been given or sold, they shall be returned to the inhabitants of the realm for a reimbursement, or simply reclaimed.*²⁵
- 20 Similarly, for every marten pelt four *pondera*²⁶ are to be paid. From whatever sum this amounts to, one-third shall go to the lord of the property and two-thirds to the lord of the land.²⁷
- 21 *Ispáns shall be content with the rights of their office, the royal income, namely, the bucket tax, tolls, the ox-tax, and two-thirds of the castle dues shall be distributed according to the wish of the king.*²⁸
- 22 Similarly, whenever anyone should be condemned by judicial procedure, their goods may

²² See **1222: 19**.

²³ See **1222: 22**.

²⁴ See **1222: 24**, but here the intention is clear.

²⁵ Cf. **1222: 26**, but here with the legal basis of simple confiscation of properties granted to foreigners.

²⁶ Cf. **1222: 27**. A *pondus* was 1/12 of a quarter (*ferto*) = 1/48 of a mark = c. 4.3–5.1 g of silver. According to Gyula Pauler (*A magyar nemzet története az Árpád-házi királyok alatt* [History of the Hungarian Nation under the Kings of the Árpád Dynasty], 2nd. ed. [Budapest: Athenaeum, 1899], II. 112), this formal monetarization of the tax at this time also implied an increase, because four *pondera* were equal to 20d while previously the *mardurina* was only twelve pennies.

²⁷ *Dominus terrae* means the king; see Péter von Váczy, *A szimbolikus államszermlélet kora* [The Age of the Symbolic Idea of State] (Pécs: Minerva, 1932), p. 58, n. 22 with parallel passages. For the connections between *dominus terrae/princeps terrae* in Hungarian usage and contemporary German legal terminology, see József Gerics, “Über das Rechtsleben Ungarns um die Wende des 13–14. Jahrhunderts,” *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae: Sectio historica*. 17 (1976), 78–79, n. 136

²⁸ See **1222: 29**; on the distribution of some of the royal revenue, see Boglárka Weisz *A királyketteje és az ispán harmada. Vámok és vámszedés Magyarországon a középkor első felében* [The second part of the king and the third for the *ispán*: Tolls and their collection in Hungary during the first half of the Middle Ages] (Budapest: MTA BTK, 2013).

either be retained by us or given to whomever we wish, as it pleases us. But we do not wish their villages to be burnt down.²⁹

In order that these shall be firm and unchanged in our time as well as in that of our successors, we have confirmed them by our corporeal oath and those of our sons, and validated them with our seal and those of our sons.³⁰ We agree of our free will that if we, our sons, or our successors attempt to infringe upon this liberty which we have granted, the archbishop of Esztergom shall have the authority, after proper warning, to bind us, or them, in the chains of excommunication.³¹ Given in the year of the Incarnation of the Lord one thousand two hundred thirty-one, and in our twenty-ninth regnal year.³²

²⁹ The (apparently older) copy in the MS Arm. XV: 1 has *volumus*, i.e., that the king wishes that the villages be burned; but this does not make sense, as the measure is clearly aimed at abolishing an archaic punishment.

³⁰ Prince Béla was crowned “junior king” in 1203 and by 1222 governed a considerable area of the country: his younger brother, Kálmán (Coloman), had been crowned King of Halich (Galicia) in 1217 but was overthrown and imprisoned in 1219/20; the youngest, Prince Andrew was betrothed to Maria of Novgorod-Smolensk and created Duke of Halich in 1222. While the text may refer to the transfer of loyalty from the “senior” to the “junior” king, it likely refers to a shift from the older to the younger princes.

³¹ This passage replaced the *ius resistendi* of **1222: 31**; in the decades that followed, several archbishops had recourse to interdict, although the royal family was never personally excommunicated. On 25 February 1232, Archbishop Robert attempted to force the royal government by interdict to dismiss Jewish and Muslim counts of the chamber and farmers of royal revenue. In 1235, the archbishops and Bishop John of Bosnia, plenipotentiary of Cardinal Legate Giacomo da Pecorara, Bishop of Palestrina, again placed the royal household under excommunication to enforce the agreement of Bereg. (22 August 1233) See: Imre Szentpetery, István Borsa, *Az Árpád-házi királyok okleveleinek kritikai jegyzéke. Regesta regum stirpis Arpadiane critico-diplomatica*, (Budapest: MTA, 1923–61) No. 599) on the same and related matters.

³² The twenty-ninth regnal year does not fit the Year of Grace in either counting used by Andrew’s chancellery (from November 1204 or May 1205). Nándor Knauz in *II. Endre szabadságlevelei* [Andrew II’s charters of liberty] (Pest: Eggenberger, 1869), p. 45f., after reviewing the different solutions proposed by historians, decided that the regnal year was miscalculated or the copies are mistaken. The date of 1231 A.D. is beyond doubt, in light of the actions of Archbishop Robert in early 1232 (see above) based on this document

CONCORDANCE

dDRMH 1231	Kovachich, <i>Vestigia comitiorum</i>
1	1–3
2	4–5
3	6
4	7–10
5	11
6	12–13
7	14
8	15–16
9	17–19
10	20–22
11	23
12	24–25
12–22	26–35

PRIVILEGE FOR THE LESSER NOBLES BY KING ANDREW II, 1267

This relatively short *decretum* is, in fact, the royal grant of a number of demands made by lesser landowners, who in the king's view were still *servientes regis*, but who styled themselves *nobiles*. These nobles since the 1230s exercised some power locally in the counties and were occasionally summoned to regional meetings during the civil war and the virtual partition of the realm between the king and his older son, Stephen. Probably under the leadership of western Hungarian noblemen, a sizeable group of them held a meeting in or near Esztergom in 1267 and submitted a series of complaints to the king, the "junior king" Stephen, and Prince Béla. The king and his sons, probably in the course of the following month, acceded to a number of them. Partially based on the Golden Bull of 1222 the archiepiscopal copy of which the petitioners may have consulted in Esztergom, the *decretum* specifies several privileges for the lesser nobles in matters of taxation, military service, and inheritance. It also accommodates their concerns about the crown's support for franchised villages and towns. The historical circumstances of its origins and its contents make this *decretum*, according to Jenő Szűcs, "the lesser nobility's very own charter."

MSS: (original) MNL OL DI 622.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD: I. Szentpétery, *Középkori oklevélszövegek* [Texts of Medieval Charters] (Budapest: Egyetemi Nyomda, 1927). pp. 53–55; Henrik Marczali, *A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungarorum* (Budapest: Athenaeum, 1901) pp. 168–169. Other editions are listed in Imre Szentpétery, István Borsa, *Az Árpád-házi királyok okleveleinek kritikai jegyzéke. Regesta regum stirpis Arpadiane critico-diplomatica*, (Budapest: MTA, 1923–61) No. 1547.

LIT: E. S. Kiss, "A királyi generális kongregáció kialakulásának történetéhez" [Contributions toward the history of the formation of the royal *congregatio generalis*], *Acta Universitatis Szegediensis de Attila József nominatae, Acta Historica*, 39 (1971), 15–18; I. Rákos, "IV. Béla birtokrestaurációs politikája," [The property-restoration policy of Béla IV] *ibid.*, 47 (1974), 9–11; J. Szűcs, "Az 1267. évi dekrétum és háttere. Szempontok a köznemesség kialakulásához" [The *decretum* of 1267 and its background: Aspects on the formation of the lesser nobility], *Mályusz Elemér Emlékkönyv* [Festschr. E. M.] ed. É. H. Balázs, E. Fügedi, F. Maksay (Bp.: Akadémiai, 1985) pp. 341–394.

PRIVILEGIUM 1267

Nos B[ela] Dei gratia rex Hungarie et St[ephanus] per eandem iunior rex Ungarie et dux Transsilvanus ac Bela iunior dux totius Sclavonie significamus omnibus presentes litteras inspecturis, quod nobiles regni Ungarie universi, qui servientes regales dicuntur, ad nos accedentes petierunt a nobis humiliter et devote, ut ipsos in libertate a sancto rege St[ephano] statuta et obtenta dignaremur conservare, ut ipsi tanto nobis et chorone tenerentur fidelius et affectuosius famulari, quanto eos gratiosioribus libertatibus dotaremus. Quorum petitiones et instantias considerantes fore iustas et legitimas, habito baronum nostrorum consilio et assensu duximus admittendas, attendendo, quod per hoc invigilari de commodiori debeat statu regni.

I. Statuimus itaque, quod collecte vel exactiones ratione camere vel aliqua alia ratione de populis nobilium nullo umquam tempore recipi debeant, nec victualia, nec etiam ratione descensus per nos vel per alios molestari.

II. Item volumus, quod omnes terre castri vel udvornicorum, ad quas populi nostro nomine vel domine regine sunt congregati, castro et udvornicis restituantur, ne ipse ville gaudere debeant privilegiato nomine hospitem liberorum.

III. Item ordinavimus, quod nullus ex nobilibus propter malam suggestionem debeat sine strepitu iudicii per nos captivari, incarcerari vel dampnari rebus seu persona, sed tractus in iudicium presentibus baronibus, exclusis ira, odio vel favore iudicetur iuris ordine observato.

IV. Item concessimus, quod nobiles petita licentia et optenta ad quemcunque nostrum se transferre voluerint, transferendi liberam habeant facultatem, nec propter hoc possessiones eorum destruantur.

V. Preterea statuimus, quod terre nobilium, quas populi liberarum villarum nostrarum vel domine regine seu udvornici seu castrenses quacunque occasione occupaverunt et detinent, restituantur ipsis nobilibus secundum fidem et scientiam duorum baronum nostrorum, quibus nos et ipsi nobiles fidem duximus adhibendam.

VI. Item volumus, quod si aliquem de nobilibus sine heredibus mori contingeret, possessiones et bona ipsius medio tempore non distraherentur, nulli donentur, nulli conferantur, nulli perpetuentur, donec cognati et generationes eiusdem decedentis ad nostram presentiam evocantur et ipsis ac baronibus nostris presentibus de eisdem ordinetur, sicut dictaverit ordo iuris. Interim autem et possessiones et bona ipsius decedentis cognati et generationes debeant conservare.

VII. Item statuimus, quod si ad occupanda vel acquirenda regna et terras contingat exercitum nos movere, nobiles invitos ad exercitum non trahemus, nisi qui sponte voluerit proficisci vel pro nostra pecunia; nec etiam in subsidium filiorum nostrorum vel aliorum invitos ire aliquatenus compellemus.

VIII. Item ordinavimus, quod singulis annis in festo sancti regis unus ex nobis Albam venire debeat et de quolibet comitatu duo vel tres nobiles debeant convenire, ut in eorum presentia de omnibus dampnis et iniuriis per quoscunque datis et illatis omnibus querelantibus satisfiat.

IX. Item si aliquis ex nobilibus non habens heredem in exercitu mortuus fuerit, possessiones ipsius quocumque modo acquisite ad manus regias non devolvantur, sed cognato vel generationi decedentis in exercitu cedere debeant, ita videlicet, quod possessiones ipsius hereditarie generationi sue remaneant, emptitie vero vel acquisite, cuicumque in vita sua conferre voluerit,

relinquantur.

X. Item cause nobilium sine petitionibus debeant expediri.

Et in hiis omnibus ac aliis libertatibus a sancto rege Stephano constitutis ipsos nobiles manutenebimus et conservabimus inviolabiliter. Sic nos Deus adiuvet et sancta Dei evangelia et vivificum dominice crucis lignum. Si quis autem nostrum in posterum presentis statuti et libertatis a sancto rege St[ephano] constitute transgressor extiterit, quod absit, ipsum dominus archiepiscopus Strigoniensis per censuram ecclesiasticam compellat ad premissa inviolabiliter observanda, prout id nos ipsi assumpsimus pari voto. Ut autem hec nostra ordinatio perpetuum robur obtineat firmatit, presentes eisdem litteras nostris sigillis fecimus communiri. Datum anno domini millesimo CC^o sexagesimo septimo.

PRIVILEGE OF 1267

We, Béla, by the grace of God, king of Hungary, and Stephen, by that same grace, junior king of Hungary and duke of Transylvania,¹ and Béla the younger, duke of all Slavonia,² notify all who see the present letter that the nobles of all Hungary, who are called *servientes regis*, came to us to ask humbly and devoutly³ that we deign to preserve them in the liberty granted and established by the holy King Stephen,⁴ so that they may serve us and the crown with greater faith and affection the more graciously we grant them liberties.⁵ Since we considered their petitions and requests both just and lawful, we have, with the counsel and assent of our barons, been moved to grant them, believing that the state of the realm shall be better safeguarded by this act.

1 We have ordered, therefore, that taxes or exactions assessed by the chamber⁶ or for any other reason should never be received from the dependents of the nobles, nor shall they be

¹ Stephen, the oldest son of Béla IV, was crowned *rex primogenitus regis Hungariae* in 1245, received the governance of Transylvania in 1257, and also ruled the Duchy of Styria (acquired from the Babenberg inheritance in 1254) between 1258 and 1261. After 1261, father and son fought continuous wars during which the country was partitioned, and Stephen governed the eastern part virtually as an independent ruler with the title *rex iunior*. Several peace treaties were arranged between the two parties, but the armed struggles always resumed. After his father's death, Stephen (V) became king, but died two years later, see *Biographisches Lexikon zur Geschichte Südosteuropas*, eds. M. Bernath and K. Nehring (München: Oldenbourg, 1981). IV. 186–188.

² Prince Béla (1243–1269), the youngest son of Béla IV, became duke of Slavonia and was entrusted with several counties in order to reorganize the country's western defenses in 1264. He fought on his father's side in the civil wars and predeceased him.

³It is noteworthy that the clause concerning the nobles' petition is couched in the very same words found in the preamble of the famous charter of the *servientes regis* "on both sides of the Zala River" of 1232, the earliest documented evidence for the attempt to administer justice by the *servientes* of a county acting corporately: see *Zala vármegye története. Oklevéltár* [History of Co. Zala: Diplomatarium], I. Nagy, D. Véghely, and Gy. Nagy, eds. (Bp.: Zala vm. közönsége, 1886), I, 643–644

⁴ It was general practice in the Middle Ages to assign "old law" to a venerable early king, such as Charlemagne, Edward the Confessor, or St. Wenceslas. For Hungary, see: István Tringli, The Liberty of the Holy Kings. Saint Stephen and the Holy Kings in the Hungarian Legal Heritage, in: Attila Zsoldos, ed. *Saint Stephen and His Country. A Newborn Kingdom in Central Europe: Hungary* (Budapest: Lucidus, 2001) 127–82.

⁵ Szücs (*Mályusz Emlékkönyv*) pointed out that this formulation mirrors exactly the *arenga* of royal grants in which the *tanto-quanto* clause usually refers to the king's granting "the more liberty to his faithful, the more services they perform"; for this view on royal-subject relations, see Peter von Váczy, *Die erste Epoche des ungarischen Königtums* (Pécs: Danubia, 1935), pp. 231ff., and A. Kurcz, "Arenga und Narratio ungarischer Urkunden des 13. Jahrhunderts", *MIÖG*, (1962, 336–338, for the topos *do ut des*)

⁶ The reference is to the Chamber's profit (*lucrum camerae*; see **1231: 3** with n. 4). This is made clear from similar but more unequivocal formulations in the charters about the peace concluded between the king and his son in 1266; see, e.g., Szentpetery, *Regesta Nos*, 1481 and 1484.

troubled for the exaction of *descensus* by us or by others.⁷

2 Further, it is our wish that all castle land or land in the hands of the *udvarnoks* on which people were brought together in our name or in that of the queen, shall be restored to the castle and to the *udvarnoks* lest the villages should come to enjoy the privileged name of free guests.⁸

3 Further, we ordered that no noble on account of evil counsel should be arrested, imprisoned, or harmed in his person or goods without a judicial hearing,⁹ but having been brought into court he should be judged in the presence of barons without wrath, hatred, or favor according to the rule of law.¹⁰

4 Further, we granted that nobles who wish to transfer their allegiance to either of us should, after requesting and obtaining leave, have the unrestricted right so to transfer, without their possessions being therefore wasted.¹¹

5 Furthermore we decreed that the lands of the nobles, which the people of our free villages¹²

⁷ This article and articles 3, 4, 6, 7, 8, and 9 below, depend on clauses of the Golden Bull; the formulation here, however, is more decisive and focused on concerns of the lesser nobles. Although prohibited in the privileges of 1222 and 1231, the *collecta* on the *servientes* was nonetheless levied in 1242, see Nándor Knauz, Lajos C. Dedek, eds., *Monumenta ecclesiae Strigoniensis*. 3 vols. (Esztergom: HorakBuzarovics, 1874– 1924), I: 347; and the collection of the *descensus* (a levy replacing the mandatory hospitality to the king and his entourage, the *droit de gîte*) was also a recurrent complaint mentioned in the peace treaties between Béla and Stephen from 1262 (Szentpétery, *Regesta*, Nos. 1791 and 1801), from 1263 (*ibid.*, No. 1346), and from 1266.

⁸ The “restoration” of castle land and land belonging to the servile *udvarnoks* (peasants on settlements attached to the royal household, supplying it with agricultural produce grown on their plots) was phrased in the language of royal *recuperationes*, a central concern in the earlier politics of Béla IV. but was in fact aimed at limiting the king’s settlement programs and his support of urban development

⁹ Cf. 1222: 2

¹⁰ The reference to *ordo iuris* may imply the abandonment of trial by ordeal, which would accord with contemporary European-wide practice. Although clerical participation in ordeals had been prohibited by the Fourth Lateran Council in 1215, the: *Regestrum Varadiense examinum ferri candentis ordine chronologico digestum*, János Karácsonyi, Sándor Borovsky, eds. (Nagyvárad: Capitulum Varadiense Lat. Rit., 1903) online : <https://www.arcanum.hu/hu/online-kiadvanyok/Varadi-varadi-jegyzokonyv-regestrum-varadinense-1208-1235-2/>—on which, see. I. Zajtay, “Le registre de Varad: Un document judiciaire du XII^e siècle”, *Revue d’histoire du droit*, 4, No. 32 (1954), 527–562—records the administration of ordeals as late as 1235. See also: M. Lupesco Makó, “Between Sacred and Profane: The Trial by Hot Iron Ceremony Based on the ‘Regestrum Varadiense’” *Mediævalia Transilvanica* 3 (1999), pp. 5–26. Precisely when, after this date, Romano-canonical methods of trial replaced these judgments of God cannot be determined, but it is noteworthy that the *loca credibilia* which formerly served to administer the ordeal continued to function as centers of authentication of written documents; see Ferenc Eckhart, “Die glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für österreichische Geschichtsforschung*, Ergänzungsband 9 (1913/15), 395–558. The ideal of a fair hearing before an impartial court subject to the rule of law is reminiscent of clause 39 of the English *Magna Carta*, but with important social differences.

¹¹ Cf. 1222: 18

¹² *Libere ville* included not only franchised villages but also towns and cities; see Erzébet Ladányi, “Libera villa, civitas, oppidum. Terminologische Fragen der ungarischen Städteentwicklung,” *Annales*

or those of the queen, or *udvarnoks*, or men of the castles have at any time occupied and retained, shall be restored to those nobles in accordance with the trust and wisdom of two of our barons, in whom we and these nobles shall have confidence.¹³

6 Further, we wish that if any of the nobles should die without heirs, his goods and property shall not for the moment be distrained or given to anyone, or granted to anyone by hereditary right until his relatives and clansmen have been summoned to our presence, and a decision has been given in their presence and that of our barons, just as the rule of law prescribes. In the meantime, however, the relatives and kinsmen of the deceased shall preserve his possessions and goods.¹⁴

7 Further, we decreed that if we happen to send an army to occupy or acquire kingdoms and territories, we shall not force the nobles into the army against their will, except for the person who wishes to join voluntarily or for money. We shall not compel anyone against his will to go to the aid of our sons or of anyone else.¹⁵

8 Further, we ordered that each year at the feast of the holy king, one of us shall come to Székesfehérvár and two or three nobles from each county shall gather so that in their presence satisfaction shall be given to all petitioners for all the damages and injuries caused and committed by anyone whatsoever.¹⁶

9 Further, if any noble should die on campaign without an heir, his property, no matter how acquired, shall not revert to the hand of the king, but shall be granted to a relative or kinsman of the man who died on campaign, specifically in the following manner: property which he had by hereditary right should remain with his kindred, but what was bought or acquired shall be left to whomever he wishes to give it during his lifetime.¹⁷

Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae: Sectio historica., 18 (1977), 6–14

¹³ The “commissions” for land restoration were in fact very active in the years 1268–69 and frequently offered to the elected officers of the county nobles the chance to perform “governmental” tasks in executing the law; Szücs (*Mályusz Emlékkönyv*) cites several documents on their activities.

¹⁴ This article clarifies the circle of relatives entitled to inherit, going beyond the general clause of **1222: 4**, having the effect of strengthening the noble kindred’s claim to lands while limiting that of the crown

¹⁵ The formulation is stronger than in **1222: 7** or **1231: 15–16**; in fact, between 1240 and the date of this *decretum* King Béla commanded an army for defense only in two cases, while he “forced” or “compelled” his noble warriors besides his Cuman retainers into no less than fifteen campaigns of conquest into Bosnia, Bulgaria, Galicia, and Styria-Austria; see, e.g., H. Dienst, *Die Schlacht an der Leitha 1246* (Wien: Österreichischer Bundesverlag, 1971); Ferenc Darkó, *Byzantinisch-ungarische Beziehungen in der zweiten Hälfte des XIII. Jahrhunderts* (Weimar: Böhlau, 1933); and V. Novotny, “Beiträge zur Geschichte Premysl Otakars II”, *MIÖG*, 31 (1910), 291–302

¹⁶ This article reflects the development of annual royal assizes into an assembly to which every county was supposed to send deputies: see György Bónis, “The Hungarian Feudal Diet (13th to 18th Centuries).” *Receuil de la Société Jean Bodin pour l’histoire comparative des institutions*, 25 (1965), 287–307 and Elemér. Mályusz. “A magyar köznemesség kialakulása” [Formation of the Hungarian lesser nobility], *Századok*, 76 (1942), 272–305, 407–434

¹⁷ Cf. art. 6 above; for the different forms of landed property, see, **Coloman, 20–21** with nn. 22–23

10 Further, the cases of nobles shall be expedited without petitions.¹⁸

And we shall keep and preserve these same nobles inviolably in these and all other liberties established by the holy King Stephen, so help us God, His holy Gospels, and the life-giving wood of the Cross.¹⁹ But if any of us, God forbid, should be in the future a trespasser of the present statute and of the liberties established by the holy King Stephen, the archbishop of Esztergom shall compel him through ecclesiastical sanctions to observe the foregoing inviolably, just as we each equally agreed.²⁰ So that this our ordinance shall receive the force of eternal validity, we commanded this letter to be sealed with our seals. Given in the year of our Lord, one thousand two hundred sixty-seven.²¹

¹⁸ King Béla IV's reform demanding written petitions submitted to the judge royal and other royal officers was very much resented even prior to 1241; Roger of Oradea listed the matter of petitions as "the fourth cause" of tension between king and nobles, see his "Epistola in miserabile carmen &c. Epistle to the sorrowful lament &c." in *Anonymus and Master Roger*, tr. János M. Bak and Martyn Rady (Budapest-New York: CEU Press, 2010 CEMT 5) pp. 144-7. On the differentiation between this reform and the stipulation for written royal administration (probably ordered first by Béla III), see György Györffy, "A magyar krónikák adata a III. Béla-kori petícióról" [Reference in the Hungarian Chronicles to petitions in the age of Béla III], in *Középkori kútfontok kritikus kérdései* [Critical issues of our medieval sources], János Horváth, György Székely, eds. (Bp.: Akadémiai, 1974), pp. 333-338, where it is also shown that this article did not make an end of petitions, witness one from 1299, published in Gusztáv Wenzel, ed., *Árpád-kori új okmánytár. Codex diplomaticus Arpadianus continuatus*, (Budapest.: MTA, 1860-78 [Monumenta Hungariae historica, Diplomataria] .)IV: 237

¹⁹ The reference is probably to a reliquary of the True Cross (staurotheka) on which the king and his sons swore the oath. There is ample evidence for such reliquaries among the treasures of the dynasty. The most famous is the Esztergom staurotheka but not known to be in the possession of the royal house; see A. Somogyi, "La staurotheque byzantine d'Esztergom", *Balkan Studies*, 9 (1968), 139-154. The so-called Záviss-Cross (now in the Treasury of St. Vitus' Cathedral, Prague) was most likely in the royal treasury around 1267 until it came to Bohemia with the treasures of King Béla's daughter, Anna (on which see Joseph Deér, *Die heilige Krone Ungarns* [Graz: Böhlau Nachf., 1966], pp. 251-261). Béla's other daughter, [St.] Margaret, is reported to have owned a *tábla* which contained "the living wood of the Holy Cross", i.e., a *lypsanotheka*, according to her hagiographer, Lea Ráskai. The editors are grateful for these references to Dr. Éva M. Kovács, whose article, "Signum crucis-lignum crucis: A magyar kettős kereszt ábrázolásai" [Sign of the Cross-Wood of the Cross: Illustrations of the Hungarian Double-Armed Cross], in *Eszmetörténeti tanulmányok a magyar középkorról*, ed. György Székely (Budapest.: Akadémiai Kiadó, 1984) pp. 407-24 contains additional references.

²⁰ Cf. the sanction clause of **1231**.

²¹ This charter was issued some time after 7 September 1267, which is the date of the meeting of the nobles; see Szentpétery, *Regesta*, No. 1531. The eschatocol, lacking the *per manum* clause, the list of dignitaries, and the regnal year, is surprisingly simple.

**CORONATION *DECRETUM* OF KING ANDREW III OF HUNGARY, 1
SEPTEMBER 1290**

King Andrew III (1290–1301) came to the throne amid an international struggle for control of Hungary. Not only did powerful baronial factions vie for power within the kingdom, but the succession to the throne was also contested. The Sicilian Angevins and their supporters claimed Hungary for Maria, Queen of Sicily and wife of Charles II, and her son Charles Martel. At the same time, the Habsburg emperor of Germany, Rudolf I, enfeoffed his son Albert, Duke of Austria and Styria, with the Kingdom of Hungary maintaining that it had been promised by Béla IV to their Babenberg predecessor, Frederick II, the Quarrelsome, in 1241. Finally the Hungarian episcopate, supported by the papacy—that in turn had claimed Hungary as a fief of St. Peter—secured the throne for Andrew “the Venetian,” son of Stephen, the posthumous son of King Andrew II and Tomasina Morosini, daughter of a Venetian patrician family. He was, in fact, the only—and last— male descendant of the founding Árpád dynasty.

His legislation began in an assembly held in Óbuda (Old Buda) soon after his coronation on 23 July 1290. The date of this assembly and of the *decretum* that emerged from it was established by Károly Szabó on the basis of the king’s itinerary and a donation charter issued from this gathering on 1 September 1290 in favor of the cathedral church of Esztergom, published in Nánndor Knauz., ed. *Monumenta ecclesiae Strigoniensis*. 2 volumes. (Esztergom: Horak, 1874–82), 2: 267.

The law did not survive in the original. The only text that has come down to us is an authenticated copy made by the cathedral chapter of Gyulafehérvár (Alba Julia) and prepared at the request of Transylvanian nobles. It is likely that King Andrew reissued the *decretum* in 1291 for these nobles and for the Transylvanian Saxon (German) settlers who are frequently mentioned in the text. This assumption is strengthened by the observation that the king spent considerable time in Transylvania that year.

The charter, now in the Hungarian National Archives, is so seriously damaged in several places that whole passages are barely legible. The reconstruction of the text of certain articles is debated. The original seal no longer survives, but the cord by which it was affixed does remain.

MSS: (Authenticated copy) MNL OL D1. 30586.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ http://archives.hungaricana.hu/en/charters/search
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EDD: Johannes Nicolaus Kovachich, *Sylloge decretorum comitialium inclyti regni Hungariae, quae in vulgato Corpore Juris Hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui*

parte, manca referebantur, et obivioni postliminio, recenter erepta sunt . . . (Pest: Trattner, 1818) pp. 15–26; better editions are Franz Zimmermann and Karl Werner, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen* (Hermannstadt: Michaelis, 1882), I, 173–176; and Henrik Marczali, *A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungarorum* (Budapest: Athenaeum, 1901), pp. 186–191 (with corrections by F. Dôry, *Századok* 40 [1906], 650).

LIT: Károly Szabó, “Az 1290-i óbudai országgyűlés végzései” [The Decisions of the diet of 1290 in Óbuda], *Századok* 18 (1884), 473–482; H. Helbig, “Ungarns Goldene Bulle von 1222 und die Adelsrechte in Siebenbürgen 1291”, in *Album Elemér Mályusz* (Brussels: Librairie encyclopédique, 1976), pp. 111–21.

1 SEPTEMBRI 1290

Andreas Dei gratia Hungarie, Dalmatie, Crouvacie, Rame, Servie, Gallicie, Lodomerie, Cumanie Bulgarieque rex omnibus Christi fidelibus presentes litteras inspecturis salutem in omnium salvatore. Ad universorum tam presentium quam futurorum notitiam harum serie volumus pervenire, quod cum anno Domini M^o [CC^o nonagesimo de voluntat]e et consensu venerabilium patrum archiepiscoporum, episcoporum, baronum, procerum et omnium nobilium regni nostri apud Albam in loco nostro cathedrali annuente Domino fuisset coronati et in regni gubernaculum successissemus iure et ordine geniture, habita congregatione generali, in ve[teri Buda, iura] ... nobilium regni nostri a sanctis progenitoribus nostris data et concessa, que in articulis exprimuntur sunt interempti, donationes pro eorum servitiis meritoribus per eunmuntur infrascriptis, inviolabiliter firma fide promisimus observate.

- I. Primum videlicet, quod omnia iura ecclesiarum in possessionibus, foris, tributis et aliis, que ecclesiis a sanctis vel aliis regibus progenitoribus nostris, sive aliis incolis regni nostri data sunt et concessa, conservamus et omnia integraliter restituemus ab ecclesiis occupata.
- II. Item nullum comitatum regni nostri ecclesiis vel earum prelatibus, baronibus vel nobilibus, alicui vel aliquibus imperpetuum conferemus, imitantes in hoc sanctorum progenitorum nostrorum, regum illustrium Hungarie vestigia pro modulo et pro posse. Promittimus etiam, quod dignitates seu comitatus regni nostri seu castra advenis vel hospitibus, aut paganis vel ignobilibus et hiis, qui in regno nostro nocumenta frequenter intulerunt, nullatenus conferemus, nec consiliis nostris interesse permittemus. Nec etiam barones suas dignitates in certa quantitate pecunie locare permittemus, nec vices suas sive iudicatus in parochia conferri ignobilibus patiemur.
- III. Item nullus sine testimonio capitulorum vel conventuum ad presentiam curialium comitum vel vicecomitum citari possit, nec comes iudicium recipere aut iudicare presumat absque quatuor nobilibus nominatis.
- IV. Item donationes, que per dominos Belam et Stephanum inclitos reges Hungarie felicium recordation[um sunt facte], nullatenus revocamus, cum iidem mediante iustitia, felici successu et prospero regnum Hungarie gubernaverint et salubri semper consilio fuerint usi. Ne hoc pretermittimus, quod quia dominus rex Ladizlaus frater noster in etate tenera fuerat constitutus et regnum Hungarie Tartari, Te[utonic]i et Boemi frequenter invaserunt et quorundam nobilium regni nostri patres et fratres in defensione regni sunt interempti, donationes pro eorum servitiis meritoribus per eundem regem Ladizlaum iuste et legitime factas iuxta consilium archiepiscoporum, episcoporum et consiliariorum nostrorum per regnum deutorum conservari faciemus. Collationes vero indebitas et iniustas tempore ipsius Ladizlai regis factas revocabimus consilio eorundem; hoc tamen expresso, quod collationes ab ipso rege Ladizlao factas usque festum sancti regis Stephani nunc venturum apud eosdem, quibus sunt collate, faciemus conservari, exceptis iuribus regalibus, videlicet

castris, prediis, civitatibus, hospitibus et udvornicis, que nobis omnes et singuli, si qui habent vel tenuerunt, reddere et restituere promiserunt et assumpserunt.

- V. Item palatinum, magistrum tavernicorum nostrorum, vicecancellarium, iudicem curie ex consilio nobilium regni nostri ex antiqua consuetudine regni nostri faciemus, salvo tamen iure Albensis ecclesie et privilegio, quod Albensis ecclesia nostra in ipsa vicecancellaria habet et habere dignoscitur ab antiquo.
- VI. Item si aliqua potentis extrinseca ad invadendum regnum nostrum venerit, aut aliqua pars vel provincia regni ab obedientia regis vel potentia regni se abstraxerit aut alienare aliquo modo voluerit, nobiles regni nostri et Saxones Transilvani predia tenentes et more nobilium se gerentes nobis astare et adiuvare nos tenebuntur. Sed si ad occupandum regnum extrinsecum procedere vellemus, non nisi pecunia a maiestate nostra erogata procedere teneantur. Hoc etiam expresso, quod nobiles regni nostri et predicti Saxones regni Transilvanie cum nullo baronum nostrorum, coacti vel invitati, super factis et negotiis regni nostri intrinsecis vel extrinsecis absque nobis sine pecunia ire teneantur.
- VII. Item nullam collectam vel acones aut descensus super ipsos nobiles et Saxones prenotatos ac populos eorundem recipi faciemus, nec etiam occasione lucri camere nostre vel aliqua alia ratione exigi volumus ab eisdem. Et si monetam nostram in regno nostro currere facere voluerimus, de qualibet provincia quatuor boni homines cum comite parochiali ipsam monetam nostram currere faciant et quambiri. Nulla[m devalidationem] ipsius monete nostre in regno nostro fieri permittemus.
- VIII. Item si palatinus in regno nostro ad faciendum iudicium processerit, in qualibet provincia quatuor iudices deputati cum comite parochiali ire et iudicare debeant et ius, quod comitem parochialem in iudiciis contingit, ipsi comiti d[ari] plene volumus et persolvi. Si vero palatinus sinistre procedere intenderet, iidem quatuor homines cum comite ipsorum prohibere et nobis intimare teneantur.
- IX. Item statuimus, quod populos archiepiscoporum, episcoporum et ecclesiarum privilegiatarum in causis temporalibus nullus iudicum archiepiscoporum in foris seu villis predictorum archiepiscoporum nobiles regni nostri et populos eorundem possit iudicare. Hospites etiam liberarum villarum, regis scilicet et regine nobiles regni nostri non possint iudicare.
- X. Item impignorationes super transeuntes incolas regni nostri penitus volumus et fecimus aboleri.
- XI. Item omnia tributa tempore Ladizlai regis facta omnino extirpentur. Volumus etiam, quod in locis antiquorum tributorum populi nobilium et ecclesiarum tributa non persolvant, sed tantummodo mercatores de aliis regnis ad alia regna transeuntes.
- XII. Preterea turres sive castra super ecclesiis edificata aut locis aliis pro nocumento constructa penitus evellantur.

- XIII. Item possessiones, fora et castra quorumcunque per violentos detentores indebite occupate restituantur et reddantur.
- XIV. Item decimas frugum secundum statuta sanctorum regum solvere teneantur, ita videlicet, quod quilibet nobilis sive Saxo de numero nobilium de quolibet aratro unum fertonem pro decimis solvat, populi autem ipsorum nobilium et Saxonum de singulis capeciis solvant unum pondus et decimator non per se, sed cum homine parochialis comitis dicare debeat, [et] usque festum sancti Martini super iuramento populorum nobilium ipse decime persolvantur; post ipsum autem festum credatur decimatorum iuramento.
- XV. Item decime vini in autumnno in specie recipiantur cum musto; si vero tempus novi vini seu musti in exigendo distulerint, extimatio sive pretium solvatur pro musto.
- XVI. Item privilegium, quod cum bulla aurea consignatum fuerit, a cancellario decem marcis argenti redimi debeat aut marca auri. Si vero sub pendenti sigillo cereo fuerit, a vicecancellario marca argenti et a notario fertone redimatur. D[e litteris] aut[em] p[atenti]bus duo pondera solvantur et de cla[usis] unum pondus.
- XVII. ... am videlicet ... personaliter iudicabimus ordine iudiciario causas litigantium cognoscentes.
- XVIII. Item in quolibet anno semel omnes barones et nobiles regni nostri Albam ad congregationem debeant convenire [tractantes] de statu regni et inquirentes de factis baronum, qualiter quilibet ipsorum in suis comitatibus processerint et conservaverint iura regni, et secundum sua merita premia et demerita vel commissa supplicia ipso die secundum iudicium nostrum et consiliariorum nostrorum recepturi.
- XIX. Item concessimus, quod si quis nobilium sive Saxonum predictorum sine herede decesserit, possessiones sic decedentis hereditarie, emptitie et etiam acquisite nullatenus debeant confiscari, sed idem decedens propinquis suis aut alicui propinquorum seu uxori vel etiam ecclesiis pro remedio anime sue legare in morte et conferre in vita, cuicumque voluerit, liberam habeat facultatem.
- XX. Item, si qui nobiles aut alii nocumenta intulerint, si ex clementia regia personis eorum parcere oporteat, vel debeamus, querelantibus tamen iustitiam omnimodam faciemus.
- XXI. Item, si quis malefactorum coram aliquo iudice convictus aufugerit, nullatenus ipsum recipiemus nec etiam defensamus, et similiter per barones nolumus nec patiemur defensari.
- XXII. Preterea, si aliqui ex ipsis regnicolis nostris vi vel metu possessiones suas vendiderunt aut non vendentes instrumenta venditionis contra se pro potentibus confici coacti fuerunt, si huiusmodi violentia sive metus legitime et rationabiliter constiterit, instrumenta taliter confecta sint viribus vacuata et penitus re[derguta].
- XXIII. Item in possessiones nobilium seu Saxonum predictorum non possit introire extraneus ratione dotis aut ratione quarte filiabus debite, sed heredes decedentium vel proximiores de generatione sua redimant eas secundum extimationem iustam regni nostri consuetam.

- XXIV. Item comes parochialis ... [nobiles] regni nostri ac predictos Saxones Transilvanos non nisi in tribus articulis, videlicet furto vel latrocinio, facto decimarum et monetarum debeat iudicare.
- XXV. Item, si aliquis ipsorum per comitem parochialem se senserit aggravatum, ipsam causam revocet et reducat nostri iudici ad ...
- XXVI. ...cum centum hominibus infra vel supra iuraverint, non nisi quadraginta denarios purgationis solvere teneantur.
- XXVII. Item, si quis nobilium vel Saxonum prefatorum possessiones suas pro suis excessibus et maleficiis amittere debeat vel contingat, cognati ipsius et propinqui possessionem ipsam redimendi habeant facultatem, ne in possessionibus propriis et avitis extraneum doleant possessorem.
- XXVIII. Item volumus, quod woyvoda Transilvanus nobiles sive Saxones memoratos partis Transilvane et banus totius Sclavonie nobiles partis Drawane nullatenus descendere possint, nec ipsos in aliquo indebite aggravare.

Ut igitur hec nostra ordinatio ymmo potius a predecessoribus nostris regibus illustribus Hungarie primitus observata robur optineat perpetue firmitatis, presentes concessimus litteras duplicis sigilli nostri munimine roboratas. Datum per manus discreti viri magistri Theodori Albensis ecclesie prepositi, aule nostre vicecancellarii, dilecti et fidelis nostri, anno Domini M^o CC^o nonagesimo primo, octavo Kalendas Martii, regni autem nostri primo anno.

1 SEPTEMBER 1290

Andrew, by the grace of God, King of Hungary, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria¹ to all the faithful in Christ who shall see this charter, greetings in the Savior of all mankind. It is our will to inform herewith all those in the present as well as in the future that when we were crowned in the year of the Lord 1290 by the benevolence of the Lord and by the will and consent of the archbishops, bishops, barons, magnates, and all the nobles of our realm at Székesfehérvár, the place of our residence, and when we by right and by order of birth acceded to the government of the realm, we, after having held a general assembly in Óbuda,² promised by firm faith inviolably to keep the rights of the nobles of our kingdom³ granted and established by our holy forebears, as expressed in the articles⁴ that follow.

- 1 First, we shall preserve all the rights of the churches to possessions, markets, revenues, and other things granted to the churches by our ancestors both the holy and the other kings, or by any other inhabitant of our realm, and we shall restore to them in entirety all that has been occupied.
- 2 Further, we shall not grant any county of our kingdom to churches or to their prelates, to barons or nobles, nor to any individual or group in perpetuity, following in this the example of our holy ancestors the illustrious kings of Hungary as far as possible.⁵ We promise neither to grant dignities, counties of our realm, or castles to newcomers or guests, or to pagans or non- noble persons, and those who have caused frequent damage to our country,⁶

¹The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all, but the list in the royal style survived until the end of the kingdom in the twentieth century; see János M. Bak, “Lists in the service of legitimation in Central European Sources,” in: Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

²Reconstruction of Károly Szabó; in *Századok*, 18, as above.

³That Andrew III swore an oath at his coronation to uphold the rights of the realm is recorded in the oldest extant report of a royal coronation in Hungary: *Österreichische Reimchronik*, vv 4241 ff., *MGH Dt. Chron.*, 5, 1: 535.

⁴The word *articulus* is used here for the first time for a passage in a law; it became the customary form of subdivision, systematically applied by the first editors of the *Corpus Juris Hungarici*.

⁵This is a restatement of **1222: 16**, which significantly includes churches and prelates as well as secular magnates.

⁶Cf. **1222: 11** and **1231: 11**. The exclusion of “pagans” may refer to the Cuman lords in the entourage of Andrew’s predecessor, Ladislas IV; the last clause was aimed at those barons, such as the Kőszegi–Güssing clan, who devastated the countryside and sided with the Habsburg claimants to the throne of Hungary; see J. Kaufmann, *Eine Studie über die Beziehungen der Habsburger zum Königreich Ungarn in den Jahren 1278 bis 1366* (Eisenstadt: Burgenländisches Landesarchiv, 1970), p. 45ff.

nor to let them enter our councils. Moreover, neither shall we permit barons to farm their dignities in return for fixed sums of money, nor shall we tolerate their assignment of base-born persons to be their deputies or judges in the counties.⁷

- 3 Further, no one shall be summoned into the presence of the *ispán* of the castle or the *alispán*⁸ without a letter of attestation from a chapter or convent,⁹ nor shall the *ispán* presume to accept a judgement or judge without four elected nobles.¹⁰
- 4 Further, we shall in no way revoke the grants made by the lords Béla and Stephen, illustrious kings of Hungary of happy memory,¹¹ for they governed the realm of Hungary by means of

⁷ The distinction made here between *nobilis* and *ignobilis* implicit in the prohibition of office-holding by *ignobiles*, is a significant step toward closing the ranks of the nobility, a process characteristic of the thirteenth century all over Europe. For an overview and literature, see “Adel,” *Lexikon des Mittelalters* (München: Artemis, 1980), 1, 118–142. In fact, in Hungary the border between nobility and other landowners (*homines possessionati*) remained open well into the fourteenth century; see Gy. Bónis, *Hűbériség és rendiség a középkori magyar jogban* [Feudalism and corporatism in Medieval Hungarian Law] (Kolozsvár: Erdélyi Tudományos Intézet, n.d. [1947?]), pp. 445–457. See also: Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 20–22. -- No evidence is known about barons having “farmed” their offices in medieval Hungary; the law, however, may have aimed at stopping them from entrusting their county offices to *familiars*, who were remunerated in money and may not always have been nobles.

⁸ The *vicecomes* (*alispán*) was usually the castellan of the county’s central castle and the deputy of the *ispán*, in charge of the actual administration of the county, while *ispáns* of the late thirteenth century were often great lords, to whom the king assigned several counties. They were mostly *familiars* (noble retainers) of the *ispán*. These were lesser noblemen who chose (or, occasionally, was forced) to accept military or administrative positions in the service of a prelate, baron or major landowner. They kept their noble privilege and were subject to their senior (*dominus*) only for service, for which they received monetary compensation and occasionally land. The institution resembled West European vassalage, but was less formalized (often signaled by only a handshake in the castle gateway), less mutual, and rarely passed onto descendants.

⁹ Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary’s *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35. The procedure prescribed here seems to have replaced the summons by the judge’s (or the king’s) seal; cf. **Ladislav III: 3**; see Imre Hajnik, *A magyar bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [The Hungarian judicial system and procedural law under the kings of the Árpád and diverse dynasties] (Budapest: MTA, 1899), p. 188f.

¹⁰ The “four nobles” refer to the county magistrates elected by the community of the lesser nobles in each county. This is a further institutionalization of the noble counties’ participation in the administration of the realm, especially of justice.

¹¹ Béla IV and Stephen V.

justice with auspicious and prosperous result and they always followed wise counsel. Nor, because when our brother Ladislas¹² became king while a minor¹³ the kingdom was frequently invaded by Tatars, nobles of our realm were killed in the defense of the kingdom,¹⁴ shall we fail, with the counsel of the archbishops, the bishops, and our counsellors delegated by the kingdom¹⁵ to maintain the just and legitimate grants given for their meritorious services by the same King Ladislas. But we shall revoke the unwarranted and unjust grants made in the time of King Ladislas with the counsel of the same persons. We declare, nevertheless, that we shall preserve the grants made by the same King Ladislas in the possession of those to whom they were given until the coming feast of the holy King Stephen,¹⁶ with the exception of royal rights, namely, castles, estates, cities, guests, and *udvarnoks*,¹⁷ which if anyone should have or hold them, these persons shall promise and undertake to return and restore any and all of them to us.

¹² Ladislas IV, Andrew III's predecessor, was in fact his cousin.

¹³ Ladislas IV inherited the throne as a ten-year-old, and for five years the government was in the hands of his mother, Elizabeth, who ruled with the support of changing baronial factions.

¹⁴ The textual reconstruction of F. Döry (cf. *Századok* 40 [1906], 650) refers to the repeated campaigns of King Otakar II Premysl in the years 1273–1278 and to the incursions of the Habsburg Duke Albert of Austria in the last years of King Ladislas' reign.

¹⁵ Although the delegation of nobles to the king's council is mentioned only in Andrew III's later *decretum* (1298: 7), it is likely that a similar arrangement was introduced at his accession to the throne. The correct translation and interpretation of this passage depends to a great extent on the rendering of the term *regnum*. The term meant in the Middle Ages not only the kingdom but also the great men of the country, in particular the royal council. J. Holub ("La représentation politique en Hongrie au moyen âge," *Etudes présentées à la Commission Internationale pour l'histoire des assemblés d'états*, 18 [1958], 84) put it thus: "Qu'était ce *regnum*?...aux XI^e–XII^e siècles, il designait les notables qui conseillaient le roi dans la gestation de ses affaires." In this passage the "consent of the *regnum*" and elsewhere (e.g., 1222: 14) the formulation *coram regno* suggest that in the early thirteenth century a greater circle of nobles, possibly the assembled diet, was meant by *regnum*. On the problems and the development of this term, see László Peter, "Antecedents of the Nineteenth Century Hungarian State Concept", D. Phil. Thesis, Univ. of Oxford, 1966, espec. pp. 410ff.

¹⁶ 20 August.

¹⁷ *Udvarnoks* (from Hung. *udvar*, from Slavic *dvor*, "court") were peasants on settlements attached to the royal household, supplying it with agricultural produce grown on their plots (hence occasionally called *panisdator*, i.e., bread giver), in contrast to *servi* designated as ploughmen or craftsmen, messengers, fishermen, and the like, working on the royal domain with no land or equipment of their own. By this time, they may have become tenants on royal land.

- 5 Further, we shall appoint the palatine,¹⁸ our chamberlain,¹⁹ the vice-chancellor,²⁰ and the judge royal²¹ with the counsel of the nobles or our realm in accordance with ancient customs,²² saving, however, the right and privilege of the church of Székesfehérvár, because our church of Székesfehérvár possesses within itself the vice-chancellorship which it is recognized to possess since antiquity.²³
- 6 Further, if any foreign power should invade our kingdom, or if any portion or province of the realm should withdraw from the king's obedience or from the authority of the realm, or if it should decide to secede in any way, the nobles of our realm and those Saxons of Transylvania who hold estates and live nobly shall be obligated to join us and give us aid. But if we should determine to conquer a foreign kingdom, they shall not be bound to come unless money shall be paid to them from our majesty. It has also been stated that the nobles

¹⁸ The request of the nobility to have a say in the appointment of the palatine was recurrent throughout the Middle Ages and became more or less accepted by the kings from the mid-fourteenth century onward. Norbert C. Tóth has recently demonstrated that ever since the election of Nicholas Zámbocki at a diet in 1342 (of which no decree survived), the palatine used the title *palatinus regni Hungariae*; see "Az ország nádora" [The palatine of the *ország*] in *Középkortörténeti tanulmányok* 7, Attila Kiss P., Ferenc Piti and György Szabados, eds. pp. 439-50 (Szeged: Szegedi Középkorász Műhely, 2013). For the meaning of *ország/regnum*, see n. 15, above.

¹⁹ The *magister tavernicorum* or the master of the *tárnok* (men in charge of supplies) was originally the household officer responsible for the victualling and other related needs of the court. He is first mentioned in 1135; see Attila Zsoldos, *Magyarország világi archontológiája* [Secular archontology of Hungary] 1000-1301 (Budapest: História, 2011), p. 61. By the thirteenth century he had become in fact lord chamberlain, called *camerarius* in the peace treaty between Andrew III and Albert of Austria (*Urkundenbuch des Burgenlandes*, ed H. Wagner *et al.* [Graz: Böhlau, 1965], p. 251). He is cited as "our" chamberlain to distinguish him from the same kind of officer of the queen.

²⁰ By the late thirteenth century the chancellor (usually a bishop or an archbishop) ceased to be immediately responsible for the writing office of the royal court: since the reign of Andrew II this task had passed into the hands of the vice-chancellor as in most other European countries; see Imre Szentpétery, *Magyar oklevéltan* [Hungarian diplomatics] (Budapest : MTA, 1930), pp. 84–86

²¹ The judge royal (*judex curiae regis*, Hung. *országbíró*) was originally the officer in charge of the royal court (*comes curialis regis*) and thus the head of household servants, he acquired high judicial functions once the count palatine became the itinerant judge of the entire country (c. 1200). From then on, the judge royal passed judgment in the name of the king (*presentia regis*) and soon acquired extensive jurisdictional functions, with a notarial and legal staff, including a *vicejudex curiae regis*, residing in Óbuda (Buda Vetus). The judge royal (or justiciar) held a separate court in the royal curia, where he tried cases of the nobility. Some towns came to be briefly subject to this judge.

²² The meaning of this clause also depends on the translation of the term *regnum* (see above, n. 15).

²³ The Provost of Székesfehérvár (Alba Regia) was customarily entrusted with the vice-chancellorship; see Szentpétery, *Magyar oklevéltan*. The text is correct in drawing attention to the antiquity of the association of Székesfehérvár and the operation of the royal chancellery, for several canons of this collegiate foundation are among the earliest recorded scribes and notaries in royal service; see András Kubinyi, "Königliche Kanzlei und Hofkapelle in Ungarn um die Mitte des 12. Jahrhunderts," in: Herwig Ebner, ed. *Festschrift für Friedrich Hausmann* (Graz: Styria, 1977), pp. 299–324.

of our realm and the said Saxons of Transylvania shall not be coerced by any baron or compelled against their will to go on campaign without us or without money for the internal or external affairs of the kingdom.²⁴

- 7 Further, we shall not demand the *collecta* or the bucket-tax or the *descensus*²⁵ from the same nobles and the said Saxons and their men, nor do we wish to exact from them the chamber's profit²⁶ or any other tax. And when we wish to have our money to circulate in our kingdom, four good men from each county and the *ispán* of the county²⁷ shall issue and exchange the same money. We shall not permit any loss of value of this money of our kingdom.²⁸

²⁴ This article modifies the military obligations of the Transylvanian Saxons set out in the so-called *Andreanum* of 1224, where it is stated that five hundred knights (*milites*) shall serve the king within the kingdom, while one hundred shall serve if the king personally leads an external campaign, or in his absence only fifty on an expedition outside the kingdom (Franz Zimmermann, Karl Werner, *Urkundenbuch zur Geschichte der Deutschen in Siebenburgen*. (Hermannstadt: Michaelis, 1882) I, 34; see also Herbert Helbig, "Ungarns Goldene Bulle von 1222 und die Adelsrechte in Siebenbürgen" in: *Album Elemér Mályusz: études / présentées à la Commission internationale pour l'histoire des assemblées d'États Székesfehérvár - Budapest, 1972*. (Brussels: Editions de la librairie encyclopédique, 1976) pp. 111-21, here p. 118). Hungarian nobles had earlier been exempted from mandatory participation in foreign campaigns by Béla IV (see, 1267: 7) who enlarged the original provision of **1222: 7 (=1231: 15–16)**

²⁵ *Collecta* was the general term for royal taxes, which may have originated in payments replacing military service, collected from a wide range of population from the twelfth century onward. The name of the "bucket-tax" (*acones*) is derived from a Hungarian measure of volume, the *akó*, which was roughly equal to 32 pints, approximately 50 liters; it was probably identical with the *chibrio* of 1222: 29. The *descensus* was by this time another type of royal tax, which developed from the mandatory hospitality owed to the king and his entourage (*droit de gîte*); cf. **1222:15, 1231:4** and **1267: 1**.

²⁶ The chamber's profit (*lucrum camerae*): was originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins; in this form first mentioned in 1231, but certainly earlier than that date. By the late thirteenth century, by which time the original way of gaining this income has been abandoned, the chamber's profit had become a direct tax but retained its name until the end of the Middle Ages. See: Thallóczy Lajos, *A kamara haszna (Lucrum camerae) története...* [History of the chamber's profit (*lucrum camerae*) in the context of taxation in Hungary] (Budapest: Weiszmann, 1879); Boglárka Weisz, Royal Revenues in the Árpáadian Period, in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 255–64. Exemption from its collection is first granted in the Golden Bull of **1231: 3**. The Transylvanian Saxons, however, were explicitly obligated to pay 500 silver marks *ad lucrum nostrae camerae* according to the *Andreanum* (Zimmermann–Werner, *Urkundenbuch*, I. 34); see Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325] (Budapest: MTA, 1916), p. 445, n. 1. The Saxon nobles, therefore, acquired here a parity with their Hungarian counterparts

²⁷ The *boni homines* probably refers here to the magistrates of the noble county; see above, art. 3. The *decretum* speaks throughout about the *comes parochialis* when referring to the *ispán* in charge of a county; documentary evidence suggests that the word *comes* became so widely used for men belonging to families in which several members were or had been *ispáns* regardless of their actual office, that it seemed necessary to specify when the reference was to an *ispán* in office

²⁸ Reconstruction by Döry. The meaning of this article is unclear because of a 3.7 cm long *lacuna* in the text.

- 8 Further, when the count palatine undertakes to render justice in our realm, four judges in each county and the *ispán* of the county ought to go and give sentence with him. We also wish that the right which falls to the *ispán* of the county in judgments²⁹ shall ... be fully conceded and paid to that *ispán*. If, however, the count palatine should be inclined to proceed incorrectly, these same four men with their *ispán* are bound to stop him and report to us.³⁰
- 9 Further, we ordain that no judge other than our own person shall be competent to judge the men of the archbishops, bishops, and privileged churches in secular cases, and none of the archiepiscopal judges in the markets and villages of the said archbishops shall be able to judge the nobles of our realm and their men. Nobles of our realm, moreover, shall not be permitted to judge the guests in the free villages, namely those directly subject to the king and the queen.³¹
- 10 Further, it is our will and action that reprisals against transients by the inhabitants of our realm shall utterly cease.³²
- 11 Further, all tolls set up in the time of King Ladislas³³ shall be entirely abolished. We also wish that only merchants passing through from one kingdom to another kingdom shall pay the customs at the old locations, not the men of the nobles and churches.
- 12 Further, all towers or fortresses built for harmful purposes over churches or other places shall be completely razed.
- 13 Further, anyone's possessions, markets, and castles unjustly seized by violent occupiers shall be returned and restored.
- 14 The tithe of produce shall be paid according to the statutes of the holy kings,³⁴ namely, so

Zimmermann–Werner (*Urkundenbuch*, I 174) suggest *devalidationem* for the missing word.

²⁹ I.e., in the fines.

³⁰ This legislation, charging the county magistrates with checking the arbitrary judgements of the palatine, creates the formal procedure for restraining him which was absent from earlier *decreta*, e.g., **1231: 3**.

³¹ *Libere ville* included not only franchised villages but also towns and cities; see Erzsébet Ladányi, “Libera villa, civitas, oppidum. Terminologische Fragen der ungarischen Städteentwicklung,” *Annales Universitatis Scientiarum Budapestiensis, Sectio historica*, 18 (1977), 6–14.

³² The expression *impignorationes* is understood to mean *repressalia*. This translation was offered by Holub (*Századok*, 55 [1921], 133–134) based on a charter issued shortly after this *decretum* pertaining to a commercial treaty between Andrew III and Duke Albert I of Austria; see Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66), VI, 1, 184. *Repressalia* means the right of a citizen, harmed or injured by a foreigner, to make reprisals on any citizen whatsoever of the native country or town of the offending foreigner.

³³ Ladislas IV.

³⁴ See **Stephen II: 19; Syn. Szab., 30, 40**.

that all nobles and Saxons of noble estate shall pay one quarter mark³⁵ for every plough land³⁶ and the men of the nobles and Saxons shall pay one *pondus*³⁷ for every stack of grain,³⁸ and the collector of tithes shall not gather them alone but in company with a man of the county's *ispán*; and until the Feast of St. Martin³⁹ the tithes themselves shall be paid according to the oath of the men of the nobles but after that feast the oath of the tithe-collectors shall be trusted.⁴⁰

- 15 Further, the tithe of wine shall be collected in autumn in grapes and must; but if the time of the new wine or must was missed, the actual or estimated price shall be paid instead of must.⁴¹
- 16 Further, a privilege sealed by a golden bull shall be procured from the chancellor for ten marks of silver or one mark of gold. If it has a pendant wax seal, it shall be procured from the vice-chancellor for one mark of silver and from a notary for a quarter mark. [Two *pondera* shall be paid for letters patent and one for letters close]...⁴²
- 17..., namely... [that] we shall judge... personally according to the law, examining the cases of the litigants.⁴³
- 18 Further, once each year all the barons and nobles of the realm shall convene at Székesfehérvár, to consider the state of the realm and inquire into the actions of barons—how each behaved in his county and how he maintained the rights of the kingdom—and to receive

³⁵ *Fertó* from German *Viertel* (“quarter”) was 1/4 of a silver mark, about 51.7–61.4 g.

³⁶ Estimates of the size of “a ploughland” in the earlier Middle Ages are rather uncertain: it could have been as small as 50 or as large as 120 ha. See: Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325]. (Budapest: Akadémiai Kiadó, 1916), pp. 491–494; László Bendeffy, “Középkori hossz- és területmérések” [Medieval Measures of Length and Surface], in *Fejezetek a magyar mérésügy történetéből* (Bp.: MTA, 1959), p. 83f.

³⁷ One *pondus* was 1/12 of a *fertó*, hence c. 4.3–5.1 g of silver.

³⁸ *Capecium*, from Hungarian *kepe*, a number of sheaves stacked in the form of crosses or other piles; “...the amount of grain in a *capecium* cannot even be guessed” (Hóman, *Pénztörténet.*, p. 484), as we know neither the size of the sheaves nor the number of them in a usual stack. A modern *kepe* may contain nine to twenty-seven sheaves, of course, of different sizes, largely depending on regional practice.

³⁹ 11 November.

⁴⁰ On the procedure of oaths and estimations concerning tithes, see **Syn. Szab.40**.

⁴¹ Some editors read the last words as *puri mustri*, which does not make sense.

⁴² Reconstruction by Döry. This is the earliest known schedule of charges for procuring legal documents. Ferenc Eckhart (“Die glaubwürdigen Orte Ungarns im Mittelalter,” *MIÖG*, Ergänzungsband 9 [1913/15], 395–558, here. 492–497) has examined the range of charges levied for various types of documents issued by *loca credibilia* in the fourteenth and fifteenth centuries.

⁴³ This article is almost wholly illegible in the authenticated copy. It is unclear whether certain cases are being reserved for the king’s personal cognizance, or whether in judging certain cases he shall take into account the personal status of the litigants.

on the same day their rewards for merits or punishments for omissions and misdeeds in accordance with our judgment and that of our councilors.⁴⁴

- 19 Further, we grant that if any of the nobles or aforesaid Saxons should die without heirs, the possessions of the deceased, whether hereditary, purchased, or acquired,⁴⁵ shall not be confiscated under any circumstances, rather the same deceased man shall have the unlimited right to bequeath them after his death or give them while alive either to his kindred, or any one of his relatives, or to his wife, or to churches for the salvation of his soul, or to whomever he wishes.⁴⁶
- 20 Further, if any nobleman or other person inflicted damages, and if it is suitable or necessary for us to pardon them by royal grace, we shall nevertheless render proper justice to the plaintiffs.
- 21 Further, if any criminal convicted by a judge escapes, we shall not receive or protect him, neither will we permit or tolerate our barons to protect him.
- 22 Besides, if anyone of the gentlemen of the realm⁴⁷ should sell his possessions because of pressure or fear or if not [wishing to]⁴⁸ sell should be coerced to sign an instrument of sale in favor of a powerful man, the instruments made out this way, if genuine and reasonable proof of force or fear shall be established, shall be repudiated as null and void.
- 23 Further, no outsider⁴⁹ shall enter the possessions of nobles or the aforementioned Saxons by right of dower nor by reason of filial quarter,⁵⁰ rather the heirs or near relatives of the

⁴⁴ Cf. . 1222: 1.

⁴⁵ Medieval Hungarian law distinguished these three kinds of landed property For donations the law sought to establish a limited hereditary right, with escheat in the case of extinction of the male branch (*defectio seminis*); see Eszter Waldapfel, “Nemesi birtokjogunk kialakulása a középkorban” [Development of our noble property rights in the Middle Ages], *Századok* 65 (1931), 131–167, 259–272, espec. 143–157. Possessions bought for money (*possessio emptitia*), were regarded as mobile property and freely heritable; see József Holub, “A vásárolt fekvő jószág jogi természete régi jogunkban” [The legal character of purchased real property in our ancient law], in Sándor Domanovszky, ed., *Emlékkönyv Károlyi Árpád* (Budapest: Sárkány, 1933), pp. 246–254. The distinction between acquired and purchased is not clear.

⁴⁶ This free alienation especially of allodial land, although several times expressed in the laws (e.g., **Stephen I: 6, 1267: 9**, etc.), ran against the tradition of kindred property and did not become general practice in medieval Hungary. The *decretum* of **1351** formally enacted the principle of entail (*aviticitas*).

⁴⁷ *Regnicola*, (lit.: “inhabitant of the realm”) was the term for those inhabitants who, as owners of land and lords of tenant peasants, enjoyed political rights; its equation with the “members of the estates” was gradual and hardly complete by the end of the Middle Ages. We translated it as “gentleman of the realm.”

⁴⁸ Lóránt Szilágyi’s interpretation in Emma Lederer, ed., *Szöveggyűjtemény Magyarország történetének tanulmányozásához. 1. rész 1000–1526* [Chrestomathy to the study of the history of Hungary. Part 1: 1000–1526] (Budapest: Tankönyvkiadó, n.d. [1964]), p. 88.

⁴⁹ Meaning, for example, a kinswoman’s husband from a different clan or kindred.

⁵⁰ The filial quarter (*quarta [filialis]*) was the hereditary portion of noblewomen due from the inherited estates of their fathers. The filial quarter was, in theory, paid in cash. In practice, however, it was often given out in land, especially in the thirteenth and fourteenth centuries. In law, the grant of the quarter in

deceased shall redeem them according to the just estimation customary in our kingdom.⁵¹

- 24 Further, the *ispán* of the county... shall judge the nobles of our realm and the said Saxons of Transylvania in three cases only, namely, theft, robbery, and matters pertaining to tithes and mints.
- 25 Further, if someone feels oppressed by the county's *ispán*, he shall retract his suit and bring it to our judgment to...⁵²
- 26 ...with one hundred men, more or less, they shall swear an oath,⁵³ they shall be bound to pay only forty pennies for the purgation.
- 27 Further, if any nobleman or aforementioned Saxon should have to lose or forfeit his possessions because of his crimes and excesses, his relatives shall have the right to redeem them so that they shall not suffer an alien possessor in their own and ancestral properties.⁵⁴
- 28 Further, it is our will that neither the voivode of Transylvania⁵⁵ nor the ban of all Slavonia⁵⁶ shall be allowed to exact *descensus* from either the nobles and Saxons in Transylvania, or

land was only valid when the woman was married to a non-noble man (*ignobilis* or *homo impossessionatus*), or as a temporary substitute for cash payment, but in fact it was more widespread. From the extensive literature, see, e.g. Péter Banyó. "Birtoköröklés és leánynegyed. Kísérlet egy középkori jogintézmény értelmezésére." [Inheritance of land and the filial quarter: An attempt on the interpretation of a medieval legal concept] *Aetas* 18:3 (2000): 76–92; Martyn Rady, *Nobility, Land and Service in Medieval Hungary* (Houndmill, Basingstoke: Palgrave, 2000) pp. 103–7.

⁵¹ Estimation (*estimatio*) meant the estimate of the value of immovable and movable property, usually on the traditional basis. The low common estimation assured kinsmen's and even neighbors' and abutters' ability to purchase (alienated or judicially-seized) property, and also reduced the burden placed on families having to pay the filial quarter (see above) in money, which was likewise calculated by reference to the common estimation. The *estimatio fori* represented the true market worth of goods.

⁵² Unclear sentence.

⁵³ Although the legal question addressed in this fragmentary article is unknown, the high number of "oath helpers" suggests that it refers to the purgatory oath of commoners. Oath (*iuramentum*) was a mode of proof that survived in Hungary until the nineteenth century and was sworn by one or both litigants supported by a number of oath-helpers, as defined by the judge depending on the value of the case and the status of the oath-helpers. There were also special oaths, such as the oath sworn on the soil (*iuramentum super terram*), or the capital oath (*iuramentum ad caput*) that the defendant was not allowed to counter by his own oath.

⁵⁴ This article is also aimed at the protection of the common ("ancient") property of the clans or kindreds; cf. above, art. 22.

⁵⁵ The voivode was the king's representative in Transylvania.

⁵⁶ The ban (*banus*, Hung. *bán*, from Avar *bajan* or Slavic *ban*, *pan* = lord): was the royally appointed governor of the kingdoms of Croatia-Dalmatia, and/or the region called Slavonia between the rivers Drava and Sava. In the twelfth to thirteenth centuries members of the dynasty were frequently appointed bans with a ducal title. The political importance and income of the ban was significant and he was always a member of the royal council.

from the nobles beyond the River Drave or to burden them unjustly in any way.⁵⁷

In order that this our ordinance, or rather that which has hitherto been observed by our predecessors the illustrious kings of Hungary, shall obtain the force of perpetual validity, we have issued this charter confirmed by our double seal. Given by the hand of the prudent Master Theodore, provost of the church of Székesfehérvár,⁵⁸ the well-beloved and faithful vice-chancellor of our court, in the year of the Lord one thousand two hundred ninety-one, the eight day before the Kalends of March, in the first year of our reign.⁵⁹

⁵⁷ According to Andrew II's charter of 1224 in favor of the Saxons, the *descensus* (*droit de gîte*, supplying the travelling court, later a tax in money) was to be paid three-fold to the king when on campaign, but only twice to the voivode: once upon entering and the other upon exiting the province; see Zimmermann–Werner, *Urkundenbuch*, I, 35: cf. Helbig. “Adelsrechte”, p. 11.

⁵⁸ This is most likely the person who became bishop of Győr 1295-1307.

⁵⁹ 22 February 1291 is, in fact, the date of the Transylvanian reissue of the *decretum*.

LAW OF KING ANDREW III OF HUNGARY

5 AUGUST 1298

King Andrew III was challenged by internal and external enemies throughout nearly his entire reign. The powerful magnates (*barones*), owners of several castles and estates, continued to subject the lesser nobles and freemen to their rule and build up veritable petty lordships. The Angevin claimants to the throne offered support and legitimation to the rebellious magnates. It was amid such conditions that the clergy—Andrew’s supporters from the outset—and the lesser nobility held a diet in Pest where they submitted a series of articles to the king and his barons for approval. This was not the only legislation passed in the later years of Andrew III, for judicial documents refer to other *statuta* but these have not come down to us.

The *decretum* of 1298 has not survived in an original or any near-contemporary copy. The text is known only through a transcript issued by King Wladislas I (1440–1444). At his coronation, Wladislas was presented with a small book (*libellus*) and asked to confirm the privileges it contained (see the *decretum* of **20 July 1440**). The contents consisted of this *decretum*, a set of additional legal norms (the **Compilatio ante 1440**), and the Golden Bull in its amended **1351** redaction. Wladislas’ confirmation survives in an original copy, but the parchment is in poor condition with several damaged spots and illegible passages.

MSS: (Copy of 1440) MNL OL DL. 13894

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ http://archives.hungaricana.hu/en/charters/search
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EDD: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801) I, 144–192, and Johannes Nicalaus Kovachich, *Sylloge decretorum comitialium incliti regni Hungariae, quae in vulgato corpore juris hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui parte, manca referebantur et oblivion postliminio, recenter erepta sunt*. . . (Pest: Trattner, 1818) pp. 42–53; S. L. Endlicher, *Rerum Hungaricarum monumenta Arpadiana* (St. Gall, 1849; rept. Leipzig: Harrassowitz, 1931), pp. 191–197 Hungarian annotated translation in: Emma Lederer. *Szöveggyűjtemény Magyarország történetének tanulmányozásához, I. rész 1000–1526* [Chrestomathy to the study of the history of Hungary, Pt. I: 1000–1526] (Budapest.: Tankönyvkiadó, 1974). pp. 89–98.

LIT: I. R. Kiss, “III Endre 1298/99. évi törvénye” [The law of Andrew III of 1298–99], in *Emlékkönyv Fejérpataky László* (Bp.: Franklin, 1917), pp. 263–278; Lóránt Szilágyi “III. Endre 1298. évi törvénye” [The law of Andrew III of 1298] *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae, Sectio historica.*, 1 (1957), 135–171; József Gerics. “Über das Rechtstleben Ungarns um die Wende des 13–14. Jahrhunderts,” *ibid.*, 17 (1976), 45–80; Idem, “Das Ständewesen in Ungarn am Ende des 13. Jahrhunderts”, in R. Vierhaus, e *Herrschaftsverträge, Wahlkapitulationen, Fundamentalgesetze* (Göttingen: Vandenhoeck, 1977), pp. 139–139.

5 AUGUSTI 1298

Tempore coronationis domini Andree regis illustris Hungarie, etsi non omnes conditiones seu libertates regni Hungarie ab antiquo observata, quedam, tamen ex ipsis libertatibus et conditionibus notabiles et plus necessarie publico scripto sigillo eiusdem domini regis vallato fuerint declarate, que quia iniquis hominibus et cupiditate excecatis pravitatibus intervenientibus minime fuerunt observate et ex tepiditate domini regis fuere penitus et postposite, regnum Hungarie in omni sui parte fluctuare fecit et per vastus varios ac plurimos ex potentia baronum et aliorum potentum provenientes in tantum annullari, ut ecclesie et nobiles, alii autem regnicole in suis rebus et facultatibus fere ad extremam exinanitionem devenirent. Quo viso idem dominus Andreas Spritu Sancto suggerente aures aperuit sue clementie et fidelibus consiliis acquiescens congregationem indixit generalem ad hoc, ut per prelatos et viros ecclesiasticos, necnon et nobiles huius regni, exclusis quibuscumque baronibus, prout moris est, huic regno casuro et per nimios vastus diminuto salubriori consilio, quo posset, subveniretur iniquitatibus perversorum studio solertiori obviando. Nos itaque Johannes, Dei gratia archiepiscopus Colocensis, aule domini regis cancellarius. Petrus Transylvaniensis, Andreas Agriensis, Thomas Bosnensis, Benedictus Vesprimiensis, Quinqueecclesiensis Paulus per procuratores suos solempnes, Haab Vaciensis, Theodorus Jaurinensis, Michael Zagrabiensis, Emericus Varadiensis, Anthonius Chanadiensis ecclesiarum episcopi apud ecclesiam fratrum minorum in Pesth anno Domini millesimo ducentesimo nonagesimo octavo in festivitate beati Dominici confessoris cum omnibus nobilibus Hungarie, singulis Saxonibus, Comanis in unum convenientes accepta auctoritate, ex consensu domini regis et baronum totius regni, prouti ... invocata Spiritus Sancti gratia tractare cepimus de hiis, per que regie magnificentie et statui regni totius ac ecclesiarum et ecclesiasticarum personarum et ordinum aliorum consuleretur.

Ideo statuimus:

- I. Ut dominum Andream ex regalis stirpe descendantem revereamur tamquam dominum regni naturalem. Et ut in persona ipsius regalis dignitas secundum exigentiam sui culminis fulgere possit, omnia regalia pariter et reginalia per quamcunque et quandocunq̄e indebite occupata pleno iure restituantur. Iura etiam ecclesiastica et nobilium in possessionibus, in foris, in tributis et aliis quocunq̄e tempore et per quoscunq̄e indebite occupata penitus restituantur. Barones et alii potenter agentes a vastibus et spoliis agendis omnino se referent et de hiis, que male gesserunt, regiam maiestatem offendendo, ad gratiam domini regis se conferant misericordiam petituri de commissis; et quod de cetero vastus, spoliationes, latrocinia et occupationes seu varia nocumenta cessent omnino. Et quicumque regalia et reginalia indebite occupata, possessiones etiam ecclesiarum et nobilium, fora, tributa hactenus indebite detenta non restituerint et infra spatium trium mensium a die congregtionis computandorum dimittere non curaverint, aut si qui de novo ad spoliandum et occupandum possessiones regales et reginales, ecclesiarum et nobilium contra hec statuta surrexerint, sententiam excommunicationis, quam in eos ex nunc auctoritate presentium proferimus, incurrant ipso facto, a quo absolvi non valeant, nisi apud archiepiscopum Colocensem, omnium episcoporum nichilominus consensu et assensu interveniente, et prehabita satisfactione competenti domini

regis cedant iudicio pena debita puniensi. Possessionibus tamen omnibus ipso facto privati, deducta repensione dampnorum per tales illatorum, et eis, [quibus] intulerunt, assignatis vel adiudicatis, cetera possessionum partes in manus regias devolvantur, ita quod heredes eorundem propter excessus parentum legitima parte hereditatis denudati inter nobiles non debeant computari et ab actibus nobilium atque ab aditu [curie regis] ... exclusi maneant ab omnibus actibus legitime alieni. Si qui vero ex istis ... insurgerent, quos dominus noster rex Hugarie invocata et congregata regni sui deprimere non posset et penis supradictis adducere, licitum illi sit tale auxilium aliunde implorare, per quod convinci possit feritas delinquentium. Et si idem dominus noster rex huiusmodi delinquentes persequi non curaret et penis supradictis negligenter punire obmitteret, renunciando omni privilegio, si quod habet de eo, quod excommunicari non possit, per dominum archiepiscopum Colocensem omnium prelatorum consilio accedente, prout ad hoc dominus rex se per litteras suas speciales obligavit, excom[mu]nicetur et capella eius interdicatur. Barones etiam et alii nobiles, qui se huiusmodi dampnatis et dampn[at]ione dignis adiunxerint, simili subiciantur ultioni. Et quia crescentibus excessibus crescere debet et pena, pro eo episcopi diocesani, in quorum diocesibus factum hoc a Deo et presenti statu dampnatum attemptatum fuerit, in ecclesiis et populis taliter dampnandorum interdictum ponant et positum tamdiu faciant observare, donec hec premissa operatione domini regis accedente finem capiant congruentem.

- II. Item munitiones et castella de novo absque licentia domini regis, vel que fuerint tales, de quibus detrimenta inferuntur vel in posterum inferri presumerentur, aut etiam quibus proprie possessiones non sufficiunt, minores etiam super ecclesias et monasteria facte sine dilatione omni deleantur; que si destructa non fuerint, detentores earundem munitionum sententiam excommunicationis ex nunc latam incurrant. Et nichilominus per dominum regem, ubi idem processerit, in regno, vel per palatinum reperte fuerint per quos dicte munitiones constructe fuerunt, in ius regium devolvantur nulla redemptione vel commutatione recepta. Que vero fuerunt aliorum, veris et propriis dominis restituantur.
- III. Item statuimus, quod usque ad tres menses a [die] presentis congregationis computandos omnibus levis, spoliatis seu depredatis per eos, qui leserunt et depredationem commiserunt, plena fiat satisfactio et ablaturum restitutio. Si vero per potentiam extorta fuerit, in remissionem non teneatur, sed hii, qui intra predictum terminum satisfacere non curaverint vel per potentiam sibi remissionem procuraverint, tanquam ex manifesta offensa sententiam excommunicationis ex nunc latam incurrant, et infidelitate notati regis cedant iudicio bonis et possessionibus omnibus illorum talium ad fiscum regium devolutis; dummodo per hominem domini regis ad hoc specialiter transmissum ac quatuor nobiles in qualibet provincia ad inquirendas et sciendas spoliationes preteritas et futuras deputatos domino regi fides fiat sub testimonio capitulorum, ubi hec damnatione digna fuerint commissa vel fuerunt. Si vero dicti quatuor nobiles ob favorem vel timorem aut recepto premio recusare vel huiusmodi depredationem false suggerere de hiis, que resciverunt, presumerint, excommunicationem incurrant ex nunc latam ipso facto, nichilominus domini regis cedant iudicio pena [debi]ta puniendi.
- IV. De spoliationibus autem a tempore congregationis inchoate factis decernimus statuentes, quod si per ipsos qua[atuor] homines per quamlibet [provinciam] electos episcopo diocesano

de hiis constare poterit, extunc quilibet episcopus diocesanus illos tales in sua diocesi dampnabiliter delinquentes dampnatione dignos excommunicet et denunciaret arcibus ab omnibus evitandos. Et si qui religiosorum huiusmodi excommunicatos vel alios, ut superius est expressum, ad divina[?] sacramenta admiserint in vita vel in morte, extunc omnibus, qui de ista religione esse dignoscuntur, ab omnibus regnicolis elemosina denegetur. Et quicumque ex regnicolis fratribus illius religionis sibi proximis vel alienis contra hec statuta elemosinas porrexerint, excommunicationis sententiam exnunc latam incurrant ipso facto. Dominus autem rex eosdem excommunicatos sine strepitu iudiciorum, si de hiis per veridicam relationem constiterit, debita pena feriat, si celeri satisfactione non curaverint suos excessus emendari et absolvi non procuraverint sine mora. Barones etiam vel nobiles regni, si pro aliquibus malefactoribus intercesserint, in latam exnunc excommunicationis sententiam incurrant ipso facto.

- V. Statuimus etiam, ut sicut ex parte regnicolarum precipitur fieri occupatorum restitutio, sic etiam dominus rex ad omnium occupatorum, que ecclesiarum et nobilium esse dinoscuntur, restitutionem teneatur; quod si non fecerit, sententiam excommunicationis per dominum archiepiscopum ex consensu prelatorum ferendam incurrat. Et si aliqua pars regni quocumque titulo vel colore per quemcunque regum alienata extitisset, teneatur revocare et idem dominus rex ad ius regium, ut regnum Hungarie quasi quoddam ius totum suarum possit partium integritate gaudere, sententiam ipsius archiepiscopi Colocensis, quam de consensu prelatorum [ferre debet], incursum, si hoc legitimo impedimento cessante idem dominus rex neglexerit emendare.
- VI. Item statuimus, quod si duo fuerint fratres aut plures ad invicem nulla divisione facta in suis possessionibus hereditariis et non acquisitis commorantes, unus illorum, qui utilior et aptior repertus fuerit inter ipsos, ad exercitum domini regis venire teneatur; qui si venire obmiserit, non ad plura iudicia seu gravamina exercitus, quam ad unum simul omnes teneantur.
- VII. Item statuimus, ut curia domini regis honorificentius regi possit et regnum Hungarie decentius gubernari, dominus noster rex singulis tribus mensibus singulos duos episcopos secundum exigantiam ordinis unum de suffraganeis Strigoniensis et alterum de suffraganeis Colocensis ecclesie, totidemque et quasi omnes nobiles regni, quos ex nunc elegimus, secum habeat congruis stipendiis de bono regio sustentandos. Et si idem dominus rex hoc facere obmiserit, quidquid preter consilium predictorum sibi applicandorum in donationibus arduis et dignitatibus conferendis vel in aliis maioribus fecerit, non teneant.
- VIII. Statuimus etiam, quod domina regina Hungarie debite dignitatis culmine gaudere possit, curia sua dignitatibus et honore in personis Hungarorum nobilium et non alienigenarum solempnius, sicut debet, ordinetur; et ut curia eiusdem domine regine decentius gubernetur, quosdam electos a domino rege barones ipsa domina regina habere teneatur; et regalia seu regalia in tributis seu tricesimis cum omnium integritate percipi possint.
- IX. Statuimus, ut omnia tributa a tempore regis Ladislai facta penitus deleantur; et quicumque res aliquas in huiusmodi deletis tributis retinere presumpserint, sententiam excommunicationis incurrant, possessiones vero seu terre, ubi huiusmodi illicita exiguntur, ad ius regium devolvantur.
- X. Statuimus siquidem et perpetuo edicto stabilimus, ut ecclesia [regni Hungarie] tam in capite,

quam in membre gaudere valeat suis libertatibus. Jura etiam ordinamus, imo ab antiquo ordinata declaramus, ut tempore vacationis bona et possessiones ecclesiarum nec per dominum regem vel ab eo missum, nec per eos, qui se nominant parochianos, occupentur, spolientur vel ledantur in parte vel in toto. Bona etiam decedentis episcopi dominus rex vel quelibet alia persona rapere non possit, sed utilitati ecclesie, cuius idem prelatus fuisse dinoscitur, si intestatus decedit, applicentur. Si vero compos sue mentis de hiis disposuerit, secundum promissionem iuris eis distr[ibui] debent, quibus fuerunt appromissa seu detentione cognatorum, servientium aut officialium episcopi decedentis a quocunque interveniente. Et si qui parochianorum vel aliarum personarum privatarum contra hec statuta venire presumpserint, quod absit, sententiam excommunicationis ex nunc latam incurrant ipso facto; et si qui collectas vel exactiones quascunque super populos ecclesiarum et nobilium facere presumpserint vel quoquomodo fiendas indixerint. Barones vero, qui in monasteriis ius patronatus non habent, ei super populos aliquarum ecclesiarum, ubi ius non habent, et etiam super populos nobilium descensus fecerint violentos, penam excommunicationis incurrant ex nunc latam.

- XI. Statuimus etiam potentum vel inpotentum aliquas provincias commetaneas duas vel plures aut etiam unam committat iudicandas sed omnes cause ad palatinum, dum provincias iudicat, vel tunc, dum non iudicat, ad parochiales iudices referantur; etsi aliqui huiusmodi provincias iudicandas assumpserint, sententia excommunicationis exnunc lata innodentur.
- XII. Item statuimus, quod nobiles servire valeant d[omini]s, quibuscunque voluerint sua spontanea voluntate; et si qui potentum huiusmodi nobiles ad sibi serviendum vi vel potentia artaverint aut ipsos propter hoc in personis vel facultatibus suis leserint vel gravare contra hoc statutum venerint, excommunicationem exnunc latam incurrant ipso facto. Et si de huiusmodi depressione nobilium domini regi constiterit, tales depressores perseguere teneatur digna ultione feriendos.
- XIII. Statuimus etiam, quod iudex curie regie vel alii quicunque iudices nobilem aliquem possessionatum ratione iudicii vel iudiciorum captivare non presumant; quod ulterius ad alios consurgere etiam non possit honores.
- XIV. Statuimus etiam, quod palatinus castra tenendo in campis et graminibus, et non in villis vel civitatibus iudicare debeat vernali, estivali et autumnali et non yemali ... servetur, et quod ulterius ad alios consurgere etiam non possit honores.
- XV. Statuimus etiam, ut per totum regnum una regalis et celebris sit moneta quinquialitate combusta ad duos annos. In reliquis vero annis ex argento decime combustionis confecta per omnes regni civitates et villas, fora conti [...]currere debeat. Et si qui nobilium vel potentum in foro sue possessionis vel etiam aliis in locis sibi commissis secundum antiquam consuetudinem monetam eandem currere non fecerint, extunc iure fori priventur, et ipsum ius fori ad illum vel ad illos devolvatur, qui... modum in hoc et in aliis digno et debito feruntur [?] honore. Et nichilominus hii, qui eandem non assumserint monetam, ad collectam dimidii fertonis per singulas mansiones sue possessionis teneantur. Et si que persona ausu temerario monetam in sua possessione vel domo cudi fecerit, illa possessione vel domo privetur penam legis susceptura.
- XVI. Statuimus et perpetuo edicto stabilivimus, ut dominus rex libertates regnicolarum suorum et

ecclesiarum tempore coronationis sue in litteris expressas et ea, que in presentibus statutis exponuntur ... [sententiam excommunicationis] domini archiepiscopi Colocensis, de consensu prelatorum ferendam incurrat. Et preter hec etiam alia, que in litteris domini regis tempore coronationis sue datis continentur, plenius attendantur et firmiter observentur.

XVII. Statuimus, ut omnes prelati, quos legitimum impedimentum non detinuerit, necnon et omnes barones et nobiles universi ad quindenas beati Georgii in Racus iuxta Danubium convenire teneantur, ut omnibus ibidem recensitis, que in litteris domini regis expressa continentur, institutis, que necessaria fuerint ...

XVIII. Observandum, quod sicut per barones, ita etiam per regem vel p[er reginam] Hungarie super populos ecclesiarum et monasteriorum nulla penitus collecta exigatur; et si contrarium factum fuerit, contrarium facientes [sententiam excommunicationis] per dictum dominum archiepiscopum Colocensem ad modum supradictum [ferendam] incurrant.

Et quia saluberrima statuta regio honori et statui regnicolarum magno remedio proficientia a predictis venerabilibus patribus et ab incolis totius regni Hungarie de legali consensu domini regis et baronum processerunt, prout in superioribus est expressum, pro [de...] concessa debitam reperiant firmitatem, [dominu]s rex et regni barones sigilla sua ad[latus] sigilli prelatorum huic carte statutorum apposuerunt.

5 AUGUST 1298

At the coronation of Lord Andrew, illustrious King of Hungary, the most notable and significant liberties and conditions, although not all the ancient conditions and liberties, had been promulgated in a public charter confirmed by the seal of the lord king¹; but because they were barely respected by evil and wicked men blinded by greed and entirely neglected through the laxity of the lord king, the Kingdom of Hungary in all its parts started to become unstable, and, due to the wasting and violence of the barons² and other mighty men, to be so destroyed that the churches, the nobles, and other inhabitants suffered almost total annihilation of their goods. Having seen this, the same Lord Andrew, guided by the Holy Spirit, opened the ears of his compassion and, accepting faithful counsel, convened a general assembly with the purpose that, to the extent possible, the prelates and clergy as well as the nobles of this kingdom—excluding any barons, as is customary³—should with sound advice against the wickedness and wily machinations of evil men come to the aid of this imperiled country diminished by enormous devastation.

Therefore we, John, by the grace of God Archbishop of Kalocsa, Chancellor of the court of the lord king,⁴ Peter, Bishop of Transylvania,⁵ Andrew of Eger,⁶ Thomas of Bosnia,⁷ Benedict of

¹ See 1290.

² The expression *baro* (mostly in the plural, *barones*) came to be used in the late thirteenth century for what had been a “baronial retainer” (*jobagio*) in the Golden Bull, though probably in a wider sense including the holders of royal office both in the counties and in the court. The word acquired its later meaning of a great landowner, regardless of royal office, only much later; see *Hűbériség és rendiség a középkori magyar jogban* [Feudalism and corporatism in medieval Hungarian law]. Kolozsvár: Erdélyi Tudományos Intézet, n.d. [1947]. p. 485, and Pál Engel “Honor, vár, ispánság: Tanulmányok az Anjou-királyság kormányzati rendszeréről [*Honor, Castle, County: Studies on the Governmental System of the Angevin Monarchy*], *Századok* 116 (1982), 883f; summarized in Pál Engel, “Honor, castrum, comitatus. Studies in the Government System of the Angevin Kingdom.” *Questiones Medii Aevi Novae* 1 (1996): 91–100.

³ The translation of *quibuscunque* as “any” or “all” is debatable; cf. Szilágyi, in Lederer, p. 90, n. 1. The exclusion of barons from the deliberations has been seen as proof of an attempt by the clergy and the county nobility to form an alliance with the king against the powerful barons. It should be noted, however, that the meeting took place with their approval and the statutes were confirmed by them. The case suggests rather a precursor of what in the fifteenth century became a bicameral diet.

⁴ The archiepiscopal see of Esztergom was vacant, hence the archbishop of Kalocsa was charged to serve as the senior prelate of the realm in all the relevant passages of the *decretum*. The archbishop of Kalocsa was John II (1278–1301).

⁵ Peter, *d. g.* Monoszló, bishop of Transylvania 1270–1307

⁶ Andrew, bishop of Eger 1275–1304

⁷ Thomas, bishop of Bosnia c. 1287–c.1304

Veszprém,⁸ Paul of Pécs⁹ by his solemn proctors, Haab of Vác,¹⁰ Theodore of Győr,¹¹ Michael of Zagreb¹², Emeric/Imre of Oradea/Nagyvárad,¹³ Anthony of Cenad,¹⁴ convened at the Church of the Friars Minor in Pest, in the year of the Lord one thousand two hundred ninety-eight, on the feast of St. Dominic the Confessor¹⁵ with all the nobles of Hungary and some Saxons and Cumans, by the consent and authority of the lord king and the barons of the whole country, as... and after having invoked the grace of the Holy Spirit, undertook to treat these matters through which the magnificence of the king and the state of the whole kingdom, as well as of the churches, of ecclesiastical persons, and of other orders, shall be promoted.

Therefore we order:

1 That we all honor the Lord Andrew, a descendant of the royal family, as the natural lord of the kingdom.¹⁶ And in order that in his person the royal dignity shall shine as appropriate to its eminence, all possessions of the king and queen unjustly occupied by anyone at any time shall be restored to them with full rights. Ecclesiastical and noble rights to possessions, markets, tolls, and other things unjustly occupied whenever and by whomever shall be completely returned. The barons and other violent men shall entirely refrain from wasting and pillaging, and, instead of doing evil by which they offend the royal majesty, they shall submit to the king's mercy and ask his pardon; and henceforth wasting, pillaging, robbery, unlawful occupation, and other kinds of harmful deeds shall cease altogether. And anyone who does not return the wrongfully occupied regalities of the king and the queen and also the hitherto wrongfully held possessions, markets, and tolls of churches and nobles within three months after the date of the present meeting, or starts pillaging and occupying anew the possessions of the king, the queen, the churches, and nobles disregarding this statute, shall upon commission of the deed¹⁷ fall under the sentence

⁸ Benedict d. hg. Rád, bishop of Veszprém 1289-1311.

⁹ Paul II, bishop of Pécs c. 1287-1304.

¹⁰ Haab (=Ladislav Aba?), bishop of Vác 1294-1311.

¹¹ Theodore, bishop of Győr 1295-1307.

¹² Michael, bishop of Zagreb 1296-1303.

¹³ Imre, bishop of Oradea 1297-1317.

¹⁴ Anthony, OFM, bishop of Cenad 1298-1307.

¹⁵ 5 August. The church (convent) of the Friars Minor was founded 1253-6, near the eastern gate of Pest. See Beatrix Romhányi, "The monastic topography of medieval Buda," in *Medieval Buda in Context*, Balázs Nagy et al. eds. (Leiden-Boston: Brill, 2016) pp. 204-28, here 208.

¹⁶ This statement aims at acknowledging Andrew's right to the throne which was contested during his entire reign, especially by the Sicilian Angevins and their adherents in Hungary and Croatia.

¹⁷ *Excommunicatio ipso facto* means that without any further judicial action the commission of the sin "automatically" imposes the sentence on the sinner; see *Dictionnaire de droit canonique*, V, 615-628

of excommunication passed against them herewith¹⁸ by the authority of this statute. They shall not be absolved save by the archbishop of Kalocsa¹⁹ with the unanimous consent and approval of all the bishops, and after they have made appropriate satisfaction to the lord king they shall be punished with the proper penalty. They shall, however, forfeit upon commission of the deed all their possessions, and, after the deduction of the damages they had caused – which are to be given to those whom they had harmed – the rest of their possessions shall fall into the king’s hands. Thus, their heirs shall be deprived of the legitimate part of their inheritance for the crimes of their parents, they shall not be regarded as nobles and shall be excluded from all acts of nobility and from entrance [to the king’s court]²⁰ and shall be deprived forever of their rights. And if some of them should... rebel, and our lord the king of Hungary having summoned and assembled the forces of the kingdom be unable to repress them, he shall have the right to request from elsewhere²¹ such aid as to enable him to subdue the ferocity of the criminals. And if the lord king does not bother to prosecute such criminals or does not permit the unruly to be smitten by the aforementioned punishments, then he shall renounce all privileges which he may have of being exempt from excommunication, and shall be excommunicated by the archbishop of Kalocsa with the counsel for all the prelates, to which our king has agreed in a special charter, and his chapel shall be placed under interdict. Barons and other nobles who join men so condemned or those who deserve condemnation shall be subject to the same punishment. And because increasing misdeeds demand increased retribution, the diocesan bishops in whose dioceses such deeds, condemned by God and the present assembly,²² are attempted, shall impose a ban on the churches and people of such miscreants and shall not lift it until the matter is suitably closed through the aforementioned actions of the lord king.

2 Further, fortifications and castles built recently without permission of the lord king,²³ or those from which harm was done or could be done in the future, or the possessions of which are insufficient²⁴—even the smaller ones built over churches and monasteries—shall be razed without

¹⁸ The *decretum* refers repeatedly to *excommunicatio ex nunc*. This is not a reference to any canonical punishment, but rather to the excommunication “now decreed” in this statute.

¹⁹ See above, n. 4

²⁰ Reconstruction of Henrik Marczali, in *A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungarorum* (Budapest: Athenaeum, 1901) p. 192.

²¹ The possibility of asking aid “from elsewhere” must have implied a call on Albert I of Austria, who since 1296 was King Andrew’s father-in-law.

²² The use of the word *status*, in the sense of “assembly”, is seen by József Gericz (“Ständewesen”, p. 138f. and Idem, “Über eine ungarländische Anwendung des Terminus ‘Status’ in der Bedeutung ‘Versammlung, Congregatio’ im Gesetz von 1298,” *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae, Sectio linguistica*, 7 [1976], 109–117) as a sign of the knowledge of Roman law and of the reception of imperial ideas on justice at the court of King Andrew III; cf. also Du Cange, *Glossarium mediae et infimae latinitatis*, G. A. L. Henschel, ed. (Paris: Didot, 1846), VI, 364

²³ Royal licences for building castles began to be issued under Ladislas IV; see Erik Fügedi, *Castle and Society in Medieval Hungary* (Bp.: Akadémiai Kiadó, 1986), pp. 72–82

²⁴ The implication seems to be that lords of castles with insufficient appurtenances tended to

delay; and if they be not demolished, their lords shall fall under the excommunication now decreed. And wherever the king or the count palatine, traveling in the kingdom, shall come across those who had built fortifications, they shall devolve to the right of the king without redemption or exchange. And if they belong to others they shall be returned to their true and proper lords.

3 Further, we decree²⁵ that within three months from the day of the present assembly full satisfaction shall be given and the stolen things returned to all who were injured, despoiled, and robbed by those who injured and robbed them. And if it²⁶ was extorted by violence, it should not count as restitution, but those who did not render satisfaction within the given term or procured a remission by force, shall fall as manifest offenders under the now decreed sentence of excommunication and shall be subject to royal judgment for infidelity.²⁷ All the goods and possessions of such men shall fall to the royal treasury. Henceforth the man of the lord king whom the king sent out especially for this task and the four nobles in each county²⁸ commissioned to inquire into and take cognizance of past and future misappropriations shall report to the king with the corroboration of the chapters in whose area these condemnable acts have been or shall have been committed. And if the said nobles, due to fear or favor or money received, shall have dared to decline to report or to report falsely a robbery committed by someone whom they know, they shall be

become robber barons; see *ibid.*

²⁵ Most of the articles begin with the words *Item statuimus*, which literally mean “we have decreed”. The use of the past tense would imply that the written law was seen merely as a record of the verbal decision passed in the assembly, and would be a significant indication of the king’s and the nobles’ view on legislation. The transmission of the text, however, is not sufficiently unequivocal to allow far-reaching conclusions on the basis of its grammar, and therefore, the present tense has been chosen for the translation

²⁶ That is, the plaintiff’s receipt of satisfaction (Szilágyi’s explanation in Lederer., *Szöveggyűjtemény*, p. 92).

²⁷ *Nota infidelitatis* meant technically *lèse-majesté*; see Imre Hajnik, *A magyar bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [The Hungarian judicial system and procedural law under the kings of the Árpád and diverse dynasties]. (Budapest: MTA, 1899). p. 388; initially, the two expressions were used as synonyms (see György Bónis, *Középkori jogunk elemei* [Elements of our medieval law] (Budapest: Közgazdasági, 1972), p. 299) but soon acquired a wider meanings. Then, the taint or charge of infidelity referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim’s heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. agreement, peace). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate

²⁸ See **1290: 3**. The king’s bailiff (*homo regius*) was a nobleman, frequently selected by the plaintiff, who, accompanied by the witness of a cathedral chapter (*locus credibilis*), represented the royal court at the execution of legal transactions (summons, inspection of boundaries, institution, etc.). The four nobles (called *iudices servientium or nobilium, szolgabírák*) were both helpers of the *ispán* and representatives of the county’s nobility.

subject to the now decreed excommunication and be punished with the proper penalty by the judgment of the king as well.

4 We by statute decree concerning the robberies committed since the beginning of this assembly, that if the diocesan bishop be properly informed by those four men elected in every county about these offenses, then he shall excommunicate those of offenders culpably deserving condemnation in his diocese and warn that they be strictly avoided by all. If any regular cleric should admit such excommunicates or others mentioned above, alive or dead, to the divine sacraments,²⁹ the order to which he is known to belong shall be denied alms by all gentlemen of this realm.³⁰ And any landed resident who, dis- regarding this statute, would give alms to a brother of that order, be he a relative of his or not, shall incur by this deed the now decreed sentence of excommunication. The lord king, if he shall receive true report concerning these excommunications, shall punish them with due punishment without the voice of a court of law, unless they hasten to correct their misdeeds, through satisfaction and procure absolution without delay. Even the barons or thenobles of the kingdom, if they should intercede for any of the malefactors, shall incur by this deed the now decreed sentence of excommunication.

5 We also decree that just as the landed residents have been ordered to restore the occupied things, the lord king shall also be obliged to return all occupied things that are known to belong to churches and nobles; should he fail to do so, he shall incur the sentence of excommunication from the lord archbishop with the consent of the prelates. And if the king should have alienated any part of the kingdom by any title or pretext, this lord king shall restore it to royal jurisdiction, so that the Kingdom of Hungary, as a legal whole, may enjoy the integrity of its parts;³¹ and if this same king fails without having been hindered by legitimate obstacle to correct this, he shall incur the sentence of excommunication from the archbishop of Kalocsa rendered with the requisite consent of the prelates.

6 Further, we decree that if two or more brothers are living together on their undivided hereditary, rather than acquired, possessions,³² one of them, who is found to be more useful and

²⁹ “Alive or dead” refers to burial in sacred ground as well as the other sacraments

³⁰ *Regnicola* (literally: inhabitant of the kingdom) meant in medieval Hungarian legal texts a politically enfranchised (landowning, noble) inhabitant of the realm; we translate it as “man/gentleman of the realm.”

³¹ An inalienability clause was included in Andrew III’s coronation oath according to the oldest extant report of a royal coronation in Hungary: *Österreichische Reimchronik*, vv 4241 ff., *MGH Dt. Chron.*, 5, 1: 535. On it, see: Emma Bartoniek, “A koronázási eskü fejlődése 1526-ig,” [Development of the coronation oath till 1526] *Századok* 51 (1917) pp. 5-44, here pp. 7-9.

³² Medieval Hungarian law distinguished at least two kinds of landed property For inherited property the law sought to establish a limited hereditary right, with escheat in the case of extinction of the male branch (*defectio seminis*); see Eszter Waldapfel, “Nemesi birtokjogunk kialakulása a középkorban” [Development of our noble property rights in the Middle Ages], *Századok* 65 (1931), 131–167, 259–272, espec. 143–157. Possessions bought for money (*possessio emptitia*), were regarded as mobile property and freely heritable; see József Holub, “A vásárolt fekvő jószág jogi természete régi jogunkban” [The legal character of purchased real property in our ancient law], in Sándor Domanovszky, ed., *Emlékkönyv Károlyi Árpád* (Budapest: Sárkány, 1933), pp. 246–254.. It was apparently quite common until the later Middle Ages that

more suitable, shall be obliged to come to the royal host; and if he fails to come, they shall be jointly accountable for no more than one military fine or penalty.³³

7 Further, we decree that in order that the king's court be more honorably governed and the Kingdom of Hungary better administered, our lord king every three months shall have with him two bishops in sequential order, one from the suffragans of Esztergom and the other from the suffragans of Kalocsa, and an equal number of nobles on behalf of all the kingdom, whom we have elected at this time, and duly provide them with a stipend from the royal treasury. And if the lord king should fail to do this, whatever he shall do without having had recourse to the counsel of the aforesaid, whether in, conferring important grants and dignities or in other major things, shall be invalid.³⁴

8 We also decree that in order for the lady queen to enjoy the dignity befitting her status, the court shall be conducted more festively, as is appropriate, by dignitaries and officers from the Hungarian nobility and not by foreigners;³⁵ and in order that the court of the lady queen be more properly governed, the queen shall be obliged to retain certain barons chosen by the king³⁶ and she shall receive in full the tolls and customs duties due to the king and the queen.

9 We decree that all tolls established since the time of King Ladislas³⁷ be entirely abolished; and whoever dares to continue to exact any part of these abolished tolls shall incur the sentence of excommunication and the lands or possessions where these illicit dues were collected shall devolve to the right of the king.

10 We decree and by perpetual edict establish that the Hungarian church shall enjoy its liberties in³⁸ head and members. And we order, or rather declare the ordinance of old, that during

the descendants of one landowner held their possessions undivided, postponing the legally complicated and cumbersome division (*osztály*) for generations.

³³ On the military fine, see **1222: 7**.

³⁴ The establishment of such a council of prelates, magnates, and lesser nobles was the most far-reaching objective in the short-lived "corporatist" episode of the late thirteenth century; see Gerics, "Ständewesen," *passim*.

³⁵ Andrew's second queen was Agnes of Habsburg (1281–1364), the daughter of Duke Albert of Austria, whom he married in 1296.

³⁶ A reference to the queen's "baron" without further specification can be found in her charter of 29 April 1299; see Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66), IV/2, 20; see also H. von Liebenau, *Hundert Urkunden zur Geschichte der Königin Agnes, Witwe von Ungarn 1288–1364* (Regensburg: Manz, 1869), p. 9, No. V. On the rather limited authority of the queens, see Attila Zsoldos, *Az Árpádok és asszonyaik. A királynéi intézmény az Árpádok korában*. [The Árpáds and their wives: The institution of queenship in the age of the Árpáds] Budapest: MTA Történettudományi Intézet, 2005).

³⁷ Ladislas IV.

³⁸ This clause may be a reference to the liberties granted to the clergy by Andrew II in 1222, parallel to the Golden Bull.

vacancies neither the lord king nor his envoy, nor those who call themselves “parochians”³⁹ shall occupy, waste, or deplete all or parts of the goods and possessions of the church. Neither the lord king nor any other person shall despoil the goods of a deceased bishop, but, if he died intestate, they shall be applied to the benefit of the church of which he was known to have been the prelate.⁴⁰ If he disposed of these with sound mind, they are to be distributed to whomever they were legally promised... or to the relatives, retainers, and officials of the deceased bishop... anyone’s intervention.⁴¹ And if a “parochian” or any private person should presume to act against these statutes, may God forbid, they shall incur the immediate sentence of excommunication now decreed; and so, too, those who dare to collect taxes or any other exaction from the people of the churches and of the nobles or who impose anything of that sort. But if barons who have no right of patronage⁴² over a monastery exact “hospitality” by force⁴³ from the people of the churches where they have no rights or from the people of nobles, they shall incur the penalty of excommunication now decreed.

11 We decree ... that the [king should not entrust judgment in the cases of] the powerful and the powerless in two or more adjacent counties or even one [to special judges],⁴⁴ but all cases shall be brought before the count palatine when he is passing judgment in the counties,⁴⁵ or to the county magistrates when he is not; and if any others dare to judge in such counties, they should be punished with the sentence of excommunication now decreed.

12 We also decree that nobles should be free to serve whichever lord they wish according to

³⁹ The meaning of the word *parochiani* is unclear; it may refer to the *ispáns* of the counties (*comites parochiani*), in contrast to “private persons,” or it may refer to nobles of the county or diocese (called *comprovinciales*), but the term is used nowhere else in either sense.

⁴⁰ The intention of this article is to prohibit the practice, common in the German church, of royal confiscation of the property of deceased bishops (*ius spoli*); see E. Schrader, “Bemerkungen zum Spolien- und Regalienrecht der deutschen Kirche im Mittelalter”, *ZSRG*, Germ. Abt. 84 (1967), 128–161, noting earlier literature. The reference to the ordinance of old may be to **Syn. Strig. 12–13** or to canon 44 of the Synod of Buda of 1279. In the anarchic decades under Andrew III, powerful barons may have practiced this misuse as well.

⁴¹ Because of a gap in the text the connection of *quocunque interveniente* to the rest of the sentence is unclear.

⁴² On the right of patronage, as distinct form proprietary rights denounced in canon law, see *Dictionnaire de droit canonique*, II (1937), 692–703 with bibliography. For a discussion of this right in Hungary, see Ferenc Kollányi, *A magán kegyúri jog hazánkban a középkorban* [Private right of patronage in our country in the Middle Ages] (Budapest: MTA, 1906).

⁴³ By the late thirteenth century, the *descensus*, originally the obligation of hospitality to the king and his officers (*droit de gîte*) became a form of tax, cf. **1222: 15, 1231: 4, 1267: 1, 1290: 7**. The expression *descensus violentus* is rare, and may refer to abuses in the decades of lawlessness when barons and their private armies exacted lodging and victuals from defenseless villagers.

⁴⁴ Szilágyi’s reconstruction (in Lederer, *Szöveggyűjtemény* p. 96)

⁴⁵ By the end of the thirteenth century it became general practice for the palatine to hold judicial assemblies (*congregationes generales*) during the circuit of the counties; see also below, art. 14; cf. Hajnik, *A magyar bírósági szervezet*, p. 13ff.

their own free will;⁴⁶ and if any of the powerful men would coerce such nobles by force or violence to serve him or dare to harm them in their persons or property, ... he acts against this statute, he shall incur the immediate sentence of excommunication now decreed. and if the lord king should know about such oppression of nobles, he is obliged to pursue these oppressors so that they be suitably punished.

13 We also decree that neither the judge royal,⁴⁷ nor any other judge should presume to arrest any nobleman or landowner⁴⁸ for judgment or judgments,⁴⁹ but if they should, they shall be deprived immediately of the office or judicial commission which they exercise.

14 We also decree that the palatine ought to render judgment, pitching camp in fields or pastures, but not villages or towns, in spring, summer, and autumn, but not in winter ... and that henceforth it should not be possible to ascend to other offices.⁵⁰

15 We decree that there shall be a single royal and general money of the eighth blanching⁵¹ for two years. In subsequent years silver money of the tenth blanching⁵² shall circulate in all towns and villages containing markets...⁵³in the whole realm. And if any noble or powerful man

⁴⁶ This section refers to those lesser nobles who in ever greater numbers had by this time become retainers (*servientes, familiares*) of the great landowners (their *domini*).

⁴⁷ The judge royal was by this time the highest judge in the royal court, having, probably since 1239, a regular deputy, the *vice-judex curiae regis*, who resided in Buda, and was especially active in the late thirteenth century (if the issuance of charters is an accurate indication); see György Györffy, “Budapest története az Árpád korban” [History of Bp. in the Árpadian Age], in *Budapest Története* [History of Bp.], ed. László Gerevich (Budapest: Főváros Tanácsa, 1973), I. 335.

⁴⁸ See Gerics, “Rechtsleben”, p. 65. The distinction made here between *nobilis* and *ignobilis* implicit in the prohibition of office-holding by *ignobiles*, is a significant step toward closing the ranks of the nobility, a process characteristic of the thirteenth century all over Europe. For an overview and literature, see “Adel,” *Lexikon des Mittelalters* (München: Artemis, 1980), 1, 118–142. In fact, in Hungary the border between nobility and other landowners (*homines possessionati*) remained open well into the fourteenth century; see György. Bónis, *Hűbériség és rendiség a középkori magyar jogban* [Feudalism and corporatism in Medieval Hungarian Law] (Kolozsvár: Erdélyi Tudományos Intézet, n.d. [1947?]), pp. 445–457 and Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 20–22. -- No evidence is known about barons having “farmed” their offices in medieval Hungary; the law, however, may have aimed at stopping them from entrusting their county offices to *familiares*, who were remunerated in money and may not always have been nobles.

⁴⁹ *Judicium* or *judicia* can also refer to fines.

⁵⁰ Partly due to a lacuna in the text, the exact reference of this last clause is unclear. It may be a restatement of **1222:30**.

⁵¹ Coins of such fineness (in decimal terms: 0.800) were minted under Ladislas IV and in the early years of Andrew III; see Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325]. (Budapest: MTA, 1916), pp. 326–327.

⁵² Light coins (pennies) of 0.900 silver fineness are known from the last years of the thirteenth century; see *ibid.*

⁵³ Kovachich suggested the words “of equal value” for the gap.

will not permit these monies to circulate in accordance with ancient custom⁵⁴ in the markets in his possession or in other places under his control, he shall be deprived of his market privilege which shall devolve to the person or persons who... in these and other matters display proper respect. And nevertheless those who do not accept this money shall pay a tax of half a *fertó*⁵⁵ for every tenement⁵⁶ in their possession. And if any person should be so rash as to mint money on his property or in his house, he shall forfeit that property or house and be punished according to the law.⁵⁷

16 We order and have by perpetual edict confirmed that the lord king [shall observe] the liberties of the landed residents and of the churches included in the charter issued at the time of his coronation as well as everything set forth in the present statute... he shall incur [the sentence of excommunication] from the lord archbishop of Kalocsa rendered with the consent of all prelates. And beyond these, everything contained in the charter of the lord king given at his coronation shall be even more fully observed and firmly adhered to.⁵⁸

17 We decree that all prelates, not prevented by a legitimate hindrance, as well as all barons and nobles shall be bound to come together at Rákos near the River Danube⁵⁹ on the fifteenth day after the Feast of St. George⁶⁰ in order to review everything contained in the charter of the lord king, and to establish what is necessary...

18 Be observed that just as by the barons, so also by the king or [queen] of Hungary no taxes shall be exacted from the people of the churches and monasteries; and if anything contrary to this is done, the contravenes shall incur the sentence of excommunication pronounced by the

⁵⁴ Lóránt Szilágyi (in Lederer, *Szöveggyűjtemény*, p. 97) offers the reading: “brought into circulation by agents delegated according to ancient custom.

⁵⁵ Half a *fertó* was 1/8 of a silver mark, about 25.8–30.7 g.

⁵⁶ In the late thirteenth and early fourteenth century *mansio* came to mean the complex of tenant holdings (Hung.: *telek*) and a taxation unit.

⁵⁷ On counterfeit money, see Hóman, *Pénztörténet* pp. 472–473, where reference can be found to counterfeiters punished with forfeiture of all their property as early as 1253; see Imre Szentpetery, István Borsa, *Az Árpád-házi királyok okleveleinek kritikai jegyzéke. Regesta regum stirpis Arpadiane critico-diplomatica*, (Budapest.: MTA, 1923–61), No. 998 and from 1263, *ibid.*, Nos. 1327 and 1372. While the prosecution of counterfeiting was formally decreed only much later, see in general Frigyes Kahler, “A magyarországi középkori pénzhamisítás (I. rész) [Medieval counterfeiting in Hungary. Part 1] *Numizmatikai Közlöny* 76–77 (1977–1978), 57–65. This seems to have been the first attempt at securing royal monopoly on minting.

⁵⁸ This article and the following two are barely legible in the transcript; the conjectures are those of Dôry, augmented by the suggestions of Szilágyi (in: Lederer, *Szöveggyűjtemény*, p. 98).

⁵⁹ The area that today is the northeastern part of Budapest, sometimes the place of muster of the army (e.g. in 1278 departing to the famous Battle of Marchfeld), became the regular meeting place of the assembly of the estates from the fifteenth century onward; see: János M. Bak and András Vadas, “Diets and Synods in Buda and Its Environs,” in: Balázs Nagy, Katalin Szende, András Vadas, eds. *Medieval Buda in Context* (Leiden-Boston: Brill, 2016) pp. 322–44.

⁶⁰ 8 May. (The feast of St. George is held on 23 April.)

archbishop of Kalocsa in the aforesaid way.

And because these salutary statutes, which contribute much to the benefit of the royal honor and to the conditions of the landed residents, have emanated from the aforesaid venerable fathers and from the inhabitants of the whole Kingdom of Hungary with the legal consent of the lord king and the barons as stated above, for ... [the liberties] granted receive the necessary validity, the lord king and the barons of the realm have appended their seals to this charter of statutes next to the seals of the prelates.

DIVERSE DYNASTIES (1301–1490)

LAW OF KING CHARLES I OF HUNGARY OF c. 1320

This first piece of evidence on the judicial reforms of King Charles I has survived in a mid- fifteenth-century *ars notaria*, probably compiled by John of Uzsa, Canon of Eger. It was issued, so its proem states, following the virtual civil war of the first decades of the fourteenth century and was in all likelihood part of a series of similar reforms. References to its application can be found as early as 1326 and 1329, thus, it can safely be dated to the first or second decade of the century. The text identifies the measures as a *decretum seu statutum*, it was issued by the king and his council (not a diet) and came down to us in a formulary. Still, we follow the decision of the editors, Ferenc Döry, György Bónis, Vera Bácskai, of the, *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457* (Budapest: Akademiai, 1978) [=DRH] in including it as the opening piece of the legislation of the Angevin kings.

MS.: (Ars Notaria) Österreichische Nationalbibliothek, Wien, Cod. 4276, ff. 104r–5r

EDD.: J. N. Kovachich, *Formulae solennes styli in cancellaria curiaque regum, foris minoribus ac locis credibiliis Regni Hungariae usati* (Pest: Trattner, 1799), pp. 2–3; Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66). 7/11: 612–45 (dated 1316); DRH, pp. 73–5.

LIT.: Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád and the diverse dynasties], (Budapest: Magyar Tudományos Akadémia, 1899), pp. 445–46; Gyula Gábor, *A megyei intézmény kialakulása és működése Nagy Lajos alatt* [Development and functions of the county under Louis the Great] (Budapest: Grill, 1908), pp. 173–5; Lóránt Szilágyi, “III. Endre 1298. évi törvénye” [The 1298 law of Andrew III] *.Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae: Sectio historica* 1(1957), 135–41; György Bónis, “Uzsai János Ars Notariaja” [The ars notaria of J. of Uzsa], *Filológiai Közlöny* 7 (1961): 247. Ferenc Eckhart, “Die glaubwürdigen Orte Ungarns im Mittelalter,” *MIÖG*, *Ergänzungsband* 9 (1913/15), 395–558.

SECUNTUR TRACTATUS, QUANDO IUDICIA PER HOMINES IUDICIS CURIE REGIE
VEL DOMINI PALATINI VEL CONVENTUUM ET IUDICUM NOBILIIUM IUXTA HUIUS
REGNI CONSUECUDINEM EXIGI SOLENT A CONVICTIS.

Iuxta quam partem est sciendum, quod ante convalescentiam potentie serenissimi principis domini Karuli condam regis Hungarie felicis memorie in diversis partibus ipsius regni non modice insolentie discordie lites et guerre necnon actus potentiales exerceri dinoscebantur, ita videlicet, quod pauperes et inpotentes per divites et potentes absque ulla misericordia opprimebantur, nullaque iustitia vel modica vigebat et regnabat, ideo pretactus dominus rex Karolus prelatorum et regni sui baronum salubri usus consilio super facto exactionis iudiciorum seu birsagiorum talem statutum fecit seu decretum, litteris suis hoc corroborando:

I. Quod dicta iudicia per homines memoratorum iudicis curie seu regni palatini et comitum ac iudicum nobilium non aliter, nisi mediante homine regio sub testimonio alicuius capituli vel credibilis conventus exigí possint a convictis, cuius quidem regalis statutionis hec est forma, quod quandocunque ipsorum iudiciorum exactores ad recipiendum iudicia per suos superiores destinantur, prius litteris regalibus receptis debent transire ad ipsa loca testimonialia, receptisque et adductis secum regio homine et testimonio capituli vel conventus transire debent ad sedem iudiciariam illius comitatus, in quo exigí oporteret iudicia prenotata: Et ibi prius litteris regalibus et registro domini sui superioris, utpote iudicis curie regie vel domini palatini vel comitis et iudicum nobilium, quis scilicet tunc talis exactor fuerit iudiciorum, perlectis et nobilibus illius comitatus in layca lingua reseratis aliquem competentem terminum assignare debent sic notificando et promulgando, ut convicti in iudiciis ad nostram sedem venientes se expedire niterentur iuxta continentiam registri prenotati. Qui si in terminis per eosdem iudiciorum exactores et regium ac capituli vel conventus homines ad id assignatis se expedire curaverint, extunc tales coram dicto regio et capituli hominibus retrahuntur de registro et recipiunt litteras expeditorias exactoris iudiciorum supradictorum, easdemque litteras pro maiori cautela postmodum confirmant in capitulo vel conventu aliquali, plures autem nobiles pro maiori cautela non litteras dictorum exactorum sed in relatione regii hominis et testimonii capituli vel conventus litteras expeditorias eorundem capituli vel conventus recipere procurant pro ipsorum expeditione. Si vero nobiles vel cuiuscunque conditionis homines in iudiciis convicti in termino, ut premissum est, assignato ab eisdem iudiciorum exactoribus se expedire non curaverint, extunc iidem exactores cum predictis regio et capituli hominibus vel conventus transire debent ad possessiones vel loca habitationis hominum in iudiciis convictorum, et in fine ville eorum conscendentes in signum pacis et iustitie hastam cum suo ferro in terram figere et tribus diebus facta legitima amonitione ibi expectare tenerentur solutioni et satisfactioni iudiciorum supradictorum, nil plus nisi victui necessaria recipientes. Et si talis convictus ibi se patienter expedierit, similiter de ipso registro retrahatur et littere expeditorie similiter emanentur, alioquin dictis tribus diebus transactis in rebus suis mobilibus et immobilibus sub federe impignorationis per eosdem iudiciorum exactores inibi recipi debent, quantum equipolleret vel se extenderet ad qualitatem iudiciorum.

II. Secundo est notandum, quod si exactores iudiciorum domini palatini vel iudicis curie regie ad tales processus egrediuntur, tunc regium hominem et testimonium capituli vel conventus quo supra

ac hominem comitis necnon unum vel duos ex quatuor iudicibus secum ducere debent pro testimoniis. Qui quidem exactores iudiciorum res pro iudiciis exactas inter se taliter dividere debent, quod primo decimam partem prefatis regio et capituli vel conventus hominibus simul, et tertiam partem comiti et iudicibus nobilium reddere, duas vero partes pro suo superiori debent reservare. Si vero exactores iudiciorum comitis et iudicum nobilium ad tales processus egrediuntur, non sic, sed tantummodo regium hominem et testimonium capituli vel conventus et secum ducere debent et decimam partem exactorum iudiciorum regio et capituli et conventus hominibus reddere, residuum vero inter se dividere debent, sicut est mos eorum. Et tandem in fine, postquam omnia iudicia in tali comitatu egrediuntur et processus eorum rite terminantur, sepelictorum iudiciorum exactores ad ipsum capitulum vel conventum, cuius testimonium ad perficiendum exactionem duxerant, redire et unicuique litteras expeditorias dare tenerentur et pro seipsis etiam recipere ac prenominitis comiti et quatuor iudicibus nobilium in relatione regii hominis et testimonii dicti capituli vel conventus similiter litteras expeditorias dare tenerentur sic alternatim pro cautela, prout hec et alia et levius lucidius et limpidius in statutis ipsius domini regis Karuli continentur, que quidem statuta in singulis comitatibus regni Hungarie in litteris ipsius domini Karuli conscripta habentur et conservantur.

WHAT FOLLOWS DEALS WITH HOW JUDGMENTS¹ OUGHT TO BE EXACTED FROM
THOSE CONVICTED ACCORDING TO THE CUSTOM OF THIS REALM BY THE MEN OF
THE JUDGE ROYAL OR OF THE LORD PALATINE OR OF THE CONVENTS AND
COUNTY MAGISTRATES.²

Be it known according to this division³ that prior to the recovery of power by the most serene prince, lord Charles of happy memory, the late king of Hungary, innumerable feuds, wars and acts

¹ After ordeals were abandoned in the mid-thirteenth century, the word *iudicium* usually meant fines, monetary punishments paid by parties at law for breaking procedural rules. Two-thirds of the fine usually went to the judge (parts of it also to the king or the *ispán*), one-third to the opposing party. Fines were an accepted part of litigation and were usually “rolled up,” balanced and paid off at the conclusion of the trial. Apart from bribes and other inducements, fines were the main source of income for judges.

² The Judge Royal (*judex curiae regis*, Hung. *országbíró*) was originally the officer in charge of the royal court (*comes curialis regis*) and thus the head of household servants, he acquired high judicial functions once the count palatine became the itinerant judge of the entire country (c. 1200). From then on, the judge royal passed judgment in the name of the king (*presentia regis*) and soon acquired extensive jurisdictional functions, with a notarial and legal staff, including a *vicejudex curiae regis*, residing in Óbuda. The judge royal (or justiciar) held a separate court in the royal curia, where he tried cases of the nobility. The palatine, count palatine (*comes palatines*) was originally the head of the king’s household and highest officer in the realm. By the mid-twelfth century he had become the king’s deputy and commander of the royal host; he gradually moved out of the court and served as the king’s itinerant judge administering justice to the nobles. The palatine also became the judge of the Cumans. These judges sent out noblemen (royal or palatinal bailiffs) for the execution of various judicial tasks (institutions, inquests, etc.) who acted in concert with an emissary of the local convent that served as place of authentication, (*loca credibilia*). These were cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances.), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. The county magistrates (Hung.: *szolgabíró*) were elected judges and administrative officers of the noble county; the office gradually evolved into a local judiciary of which usually four were elected or selected for every county, later with responsibilities in a defined quarter (circuit, Hung. *járás*) of the county. Imre Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád- and the diverse dynasties], (Budapest: Magyar Tudományos Akadémia, 1899), pp. 160–3.; Eckhart, “Die glaubwürdigen Orte,” pp. 431–3.

³ The opening words both here and in art. 2 (*sciendum, notandum*), just as the title itself, are typical for formularies or textbooks (*artes notariae*) compiled for the use of notaries and other practitioners of law. On the role of these books in the training and practice of law in medieval Hungary, see György Bónis, *Középkori jogunk elemei* [Elements of our medieval law] (Budapest: Közgazdasági Kiadó, 1972), pp. 141–62.

of might were committed in different parts of the kingdom, whereby the poor and the weak⁴ were oppressed without any pity by the rich and powerful, and no justice or restraint flourished or prevailed.⁵ Therefore, the said lord King Charles, with the beneficial advice of the prelates and barons of his realm,⁶ issued this statute or decree concerning the procedure of exacting legal dues or fines,⁷ and corroborated it by his letter, as follows:

1 That the said fines are not to be demanded from a convicted party by the men of the aforementioned judge royal, the palatine of the kingdom or county *ispáns* and magistrates in any other way, save with the assistance of the king's bailiff and with the testimony of some chapter or authenticating convent.⁸ This royal ordinance should be carried out in this way: whenever collectors of fines are sent out by their superiors to receive fines, they shall go to these places of authentication after having obtained a royal mandate,⁹ and then they should proceed accompanied by a royal bailiff and the witness of the chapter or convent to the seat of the court of that county in which the said fines are to be exacted. And there, after the royal mandate and the register¹⁰ of their superior lord (that is, either the judge royal, the lord palatine or the *ispán* and the county magistrates, whichever of them ordered the fines to be collected) have been read and explained in

⁴ The words *pauperes et impotentes*, with biblical overtones (which in turn, go back, through Jerome's readings, to the political vocabulary of classical authors, such as Sallust and Tacitus), meant in the Middle Ages the lesser freemen, not the working poor or unarmed peasantry; see Karl Bosl, "Potens and Pauper: Begriffsgeschichtliche Studien zur gesellschaftlichen Differenzierung im frühen Mittelalter," in *Festschrift für Otto Brunner* (Göttingen: Vandenhoeck & Ruprecht, 1963), pp. 60–87.

⁵ At least since the death of King Andrew III, if not before, the country was exposed to open civil war between the supporters of the Angevin claimants to the throne and their opponents. Peace was not fully established before the death of King Charles' major adversary, Mathew Csák, lord of the northeastern parts of Hungary, on 18 March 1321. This date is, therefore, taken as a likely *terminus post quem* for this ordinance.

⁶ The wording suggests that this edict originated in the royal council. Before the later fifteenth century no clear distinction can be made between *decreta* emanating from this body and from the diet of lords, nobles and clergy. King Charles seems to have held a few diets between his "election" in 1312 and ca. 1320, but no legislation has survived from these. No diet is known to have been called after 1320; see Martinus Georgius Kovachich, *Vestigia comitorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. (Buda: Regia Universitas, 1790) p. 182.

⁷ On *judicium*, see n. 1, above; the second word, *birsagium* is a Latinized form of the Hungarian *bírság*, also meaning "fine." The use of both words is merely a rhetorical repetition here.

⁸ The *comes*, in Hungarian, *ispán* was by this time a royally appointed officer in charge of a county. In the Angevin period, these offices were often coupled with courtly (baronial) positions as *honores* and the actual administration of the county was in the hands of the *alispán* (*vicecomes*) and the elected magistrates (see above, n. 2). See: Pál Engel, "Honor, castrum, comitatus. Studies in the Government System of the Angevin Kingdom." *Questiones Medii Aevi Novae* 1 (1996): 91–100.

⁹ Probably a letter of sentence (*litterae sententiales*), the record of a final judgment in a lawsuit is meant.

¹⁰ The two earliest registers of fines, which have survived from medieval Hungary are those of the judge royal from c. 1409; cf. *Zsigmondkori Oklevéltár* [Calendar for the age of Sigismund]. Elemér Mályusz, *et al.* eds. (Budapest: Akadémiai K., 1954–) [=ZsO] 2, No. 7246.

the vernacular¹¹ to the nobles of that county, they shall assign a suitable time and make it known and promulgate it so that those convicted should come to our seat of justice,¹² and strive to acquit themselves of the fine according to the content of the said register. If the convicted persons take care to acquit themselves within the time assigned by the collectors of fines, the king's bailiff, and the man of the chapter or convent, then these persons should be struck from the register in front of the said men of the king and the chapter and they should receive letters of quittance¹³ from the said collectors of fines. For greater surety they should have these letters confirmed afterwards by some chapter or convent. If several nobles pay a fine, they should arrange to receive a letter of quittance, for greater surety, not from the said collectors, but on the report of the king's bailiff and the witness of the chapter or convent—from the same chapter or convent for their quittance. If, however, nobles or men of whatever station convicted of a fine do not care to come to acquit themselves within the said time assigned by the collectors of fines, then these same collectors with the said men of the king and of the chapter or convent should go to the estates or places of residence of the men convicted of fines. When arriving at the edge of the village they shall thrust a spear with its head into the earth as a sign of peace and justice¹⁴ and, having given legitimate warning, ought to await for three days in that place payment and satisfaction of the said fines, receiving nothing but the necessities of life. And if such a convicted man has submissively acquitted himself, his name is likewise to be stricken from the register and a letter of quittance is to be issued in the same way. Otherwise, after the said three days have passed, sufficient movable and immovable property ought to be taken as security¹⁵ by the same collectors of fines, as is equivalent to, or amounts to, the sum total of the fines.

¹¹ Apparently such executionary procedures were opened in an assembly of nobles at the seat of the county, where the mandates were presented and translated into Hungarian (*layca lingua*) and a time period set for paying fines. No other details are known about these procedures.

¹² Szilágyi (p. 161) suggested and the editors of *DRH* accepted that the words referring to the royal court here are out of place and rather the *sedes iudiciaria*, the local court of the county is meant. The mistake may have been that of the copyist of the formulary.

¹³ The document called *litterae expeditoriae* was issued for the quittance of various kinds of payments, see Eckhart, “Die glaubwürdigen Orte,” pp. 530–1.

¹⁴ Verbatim: “with its iron.” Note the archaic symbolic action at the opening of the proceeding; cf. András Alföldi, “*Hasta—Summa Imperil*: the spear as embodiment of sovereignty in Rome,” *American Journal of Archaeology* 63 (1959) 1–27; and Idem, “Zum Speersymbol der Souveränität im Altertum,” in *Festschrift Percy Ernst Schramm zu seinem siebzigsten Geburtstag von Schülern und Freunden zugeeignet*, Peter Scheibert, Peter Classen, eds. (Wiesbaden: Steiner, 1964) 1: 3–6. This peculiar use of the spear was noted by Jacob Grimm (*Deutsche Rechtsalterthümer* [Leipzig: Dieterich 1899, repr. Darmstadt: Wiss. Buchges. 1961], 1:120 in repr. 1:116), apparently as a symbolic action without Western European parallels.

¹⁵ Security (*impignoratio*), in fact a pledge, was an arrangement by which all or part of an estate was assigned together with its income to a creditor. Usually cattle, or in case of higher fines, land was seized. Such pledging could also be ordered by a judge for the benefit of a plaintiff entitled to satisfaction or in matrimonial suits (dower, filial quarter). The contract of pledge needed to be authenticated by a place of

2 Secondly, it to be noted that if the collectors of fines of the lord palatine or the judge royal go out to such proceedings, then they ought to take with them the king's bailiff and the witness of the chapter or convent (as above), as well as the *ispán's* man and one or two of the county magistrates as witnesses. These collectors of fines ought to divide among themselves in this manner the property seized in judgment: to give first a tenth to the aforementioned king's bailiff and likewise to the man of the chapter or convent, and then one-third share to the *ispán* and the magistrates, while two shares shall be reserved for their lord. If, however, only the fine-collectors of the *ispán* and of the noble magistrates out to such a proceeding, they shall not so divide, but— as they ought to take with them the king's bailiff and also the witness of the chapter or convent— they shall give a tenth to the men of the king and of the convent or chapter, and divide the rest among themselves as is their custom.¹⁶ And finally at the end, when all fines are exacted in a county and all these procedures duly completed, the collectors of the oft-mentioned fines should return to the chapter or convent, the witness of which assisted them in accomplishing the collection, to give to each other, and receive for themselves, a letter of quittance; similarly, they should give letters of quittance mutually for surety to the aforementioned *ispán* and the four magistrates, on the report of the king's bailiff and the evidence of the said chapter or convent,¹⁷ just as these and other things are more clearly, lucidly, and plainly contained in the statutes of the lord King Charles, which are kept and preserved every county of the Kingdom of Hungary, written out in the edicts lord Charles himself.¹⁸

authentication. Relatives had preemptory rights. The creditor had full rights to the usufruct of the pledged property and could pledge it further but had to return it at a set date (32 years was the usual maximum term). This practice basically followed the Roman legal institution of *pignus* and *antichresis*.

¹⁶ The text is unclear about the division when a tenth is given to the authentic witness; clearly one-third and two-thirds of the remaining amount is implied.

¹⁷ The formulary in which this text survived contains (as No.7) such a letter of quittance issued by a place of authentication for the collector of fines and notes that he should record exactly the sums collected; document No. 8 in the formulary is a certificate of the place of authentication about the proper exaction of fines, see Johannes Nicolaus Kovachich,, *Formulae solemnes styli in cancellaria curiaque regum, foris minoribus ac locis credibiliis authenticisque Regni Hungariae . . . usati*. (Pest: Trattner, 1799) pp. 5–6). On 16 May 1326 King Charles ordered certain chapters and convents to exact fines due to Count Palatine Philippe Drugeth in the manner prescribed in this decree and refers to this procedure as *consuetudo regni*; see *Anjoukori Oklevéltár. Documenta res Hungaricas tempore regum Adegavensium illustrantia*, vol. 10, László Blazovich, Lajos Gécsi, eds. (Budapest–Szeged: n. p., 2000) No. 201, p. 140.

¹⁸ None of the copies has survived, hence the other reforming statutes are unknown.

MANDATE OF KING CHARLES I OF HUNGARY
10 August 1324

This succinct mandate, issued on behalf of the bishop of Veszprém about the simplification of oath-taking, can be seen as an addition to the judicial reforms of Charles I. Even though issued only by the king in council and for a specific petitioner, the contents alter customary law and the text is styled *statutum* and *edictum*; hence, it is warranted to include it among the laws of the realm.

MS.: Original on parchment with remains of the great seal. Episcopal archives, Veszprém, No. 122

ED.: Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád and the diverse dynasties], (Budapest: Magyar Tudományos Akadémia, 1899) pp. 338–73; Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301– 1457*, Budapest: Akadémiai, 1978 [=DRH], pp. 77–80.

LIT.: Hajnik, *Bírósági*, *loc.cit.*

MANDATUM 10 Augusti 1324

Nos Karolus dei gratia rex Hungarie significamus, quibus expedit, presentium per te[norem] universis, quod prelati et universi nobiles regni nostri nobis [in] partibus Transilvanis prope Cybinium in expeditione generali existentibus ad nostram accedentes presentiam sua nobis conquestione significare curarunt, quod apud nonnullos iudices et comites parochiales in regno nostro et specialiter in comitatibus Wesprimiensi et Zaladiensi huiusmodi consuetudo, imo potius corruptela in regnicolarum grave dispendium et iacturam iam inolevisset, ut nisi iurans vel prestans sacramentum, similiter et sui compurgatores vel codepositores iuramenti per uniformam verborum prolationem ut preiurans, et eadem verba et eosdem singulos articulos in receptione iuramenti, iuxta formam contestate litis propositos singillatim resumendo iuraverint, extunc iurans cum suis codepositoribus iuramenti tanquam periurii reputantur et tanquam succumbentes in causa pro convictis habentur, nec etiam iurantes, si in iurando verba iuramenti contingenter variaverint vel si verba singula et singulos articulos in receptione iuramenti propositos singillatim resumere nequiverint, ad resumendum et reiterandum ipsa verba et eosdem articulos amplius admittuntur, et sic plurimi causedicorum, alii in personis, alii possessionibus et nonnulli bonis omnibus extitissent hactenus contra iustitiam indebite condempnati. Per eosdem itaque prelatos et nobiles et specialiter pro parte venerabilis patris domini Herrici, dei gratia episcopi Wesprimiensis, aule domine r[egi]ne, consortis nostre karissime cancellarii, dilecti et fidelis nostri nobis fuit humiliter supplicatum, ut super hoc iusto eis ac debito statuti moderamine dignaremur de benignitate [regia] providere. Nos itaque, qui ex suscepti regiminis [debito subditorum] nostrorum gravamina sublevare, eosque sub iuris et iustitie regula gubernare debemus, attendente[s, quod] regnicole nostri et specialiter populi ecclesie et episcopatus Wesprimiensis pretextu huiusmodi abusive consuetudinis atque corruptele indebite et calumpniose opprimuntur, de prelatorum et [bar]onum nostrorum consilio et consensu penitus abolentes consuetudinem huiusmodi provida deliberatione duximus statuendum, ut iurantes seu deponentes iuramentum, tam actor, quam reus, cum suis codepositoribus iuramenti in verborum succincta et compendiosa prolatione sua deponant iuramenta sub hac infrascripta forma exemplari, videlicet:

Petrus actor iurans contra Martinum reum dicat per hec verba: Ego Petrus iuro in animam meam, ut sic me deus adiuvet, quod Martinus in hiis, que super eum requisivi in iudicio, culpabilis mihi est, seu reus alias tenetur mihi in pecunia quam ab ipso petivi in iudicio Et similiter iuratur in ceteris casibus.

Item Martinus reus iurans contra Petrum actorem dicat per hec verba: Ego Martinus iuro in animam meam, ut sic me deus adiuvet, quod in hiis, que Petrus requisivit super me in iudicio, innocens sum et immunis, alias non teneor sibi in aliqua pecunie quantitate. Et similiter in omnibus casibus deponitur iuramentum.

Hoc expresso, quod si verba iuramenti non possent per uniformam verborum prolationem ad iuramentum proferri, saltem per alia quecunque verba eundem dumtaxat sensum importantia proferantur, et si in prolatione eorundem verborum deficerent vel in proferendo variaverint, ea resumendi et reiterandi semel, secundo et tertio liberam habeant facultatem. Unde palatino, iudici

curie nostre, comitibus et universis iudicibus et iustitiariis in regno nostro nunc et pro tempore constitutis, quacunq[ue] dignitate, honore, nomine et titulo prefulgentibus, quibus presentes ostenduntur, regio edicto firmiter damus in mandatis, quatenus regnicolas nostros et specialiter universos populos ecclesie et epscopatus Wesprimiensis, tam in Wesprimiensi et Zaladiensi, quam in aliis comitatibus constitutos, cuiusvis status et conditionis ex[istant, contra] formam presentis edicti et statuti nostri in depositione et exactione iuramenti non debeant in aliquo aliquatenus aggravare, sed presens edictum et statutum [sub] pena capi[tis] et [sui hono]ris privatione debeant inviolabiliier observare. Quicunque autem secus facere presumpserit, regiam indignationem se n[overit incur]surum. [Datum] in festo sancti Laurentii martyris, anno domini MoCCCco vicesimo quarto.

MANDATE OF 10 AUGUST 1324

We, Charles, by the grace of God, king of Hungary, make known to all to whom it may concern through the contents of these presents that the prelates and all nobles of our realm, who approached our presence while we were encamped on a general campaign¹ in Transylvania² near Sibiu, reported to us, complaining that among many judges and county ispáns of our kingdom, especially in the counties of Veszprém and Zala, such a custom or rather such an abuse had now become established, to the grievous loss and detriment of the people, that if someone swearing or taking an oath,³ as well as his oath-helpers or those swearing with him, should not swear by uttering words identical to those read to him at the taking of the oath⁴ and did not repeat the very same words and the same individual items one by one in accordance with the subject matter of the litigation as established at the admission of the oath,⁵ then the oath-taker and his oath-helpers

¹ The general levy was called against the rebellious “Saxons” (privileged German settlers of Transylvania); it was, as usual, commanded by the king personally.

² Medieval Hungarian texts usually speak of *partes Transylvaniae*, i.e., Transylvanian parts of the kingdom, for the region between the forested mountains in the east of the Hungarian plain and the eastern and southern Carpathians was seen as enjoying only limited autonomy. We nevertheless translate the term simply as Transylvania.

³ Oaths remained the most significant formal proof even after the legal reforms of King Charles. However, they were now based on the written evidence presented in the early stages of the trial. The most usual way for a defendant of acquitting himself of a charge was to take the “purging” oath (*compurgatio*). Depending on the quantity and quality of evidence marshalled against the defendant, the judge decided whether a party was obliged to swear the oath alone or with a prescribed number of oath-helpers (*compurgatores*), who had to be “similar to him,” that is of the same estate. Originally (up to the mid-fourteenth century) the oath-helpers were also supposed to be material witnesses; who were in a position to prove the innocence of the defendant, later only their number and rank was relevant (see Hajnik, pp. 317 sqq.). In cases involving estates or other valuables, the number of oath-helpers was decided by the value of the case: the oath of a prelate or baron was worth 10 Marks, that of a noble 5 Marks, of a tenant peasant a quarter Mark.

⁴ The text of the oath that was to be repeated was read aloud by the man of the chapter or convent or by the king’s bailiff, both also serving as witnesses to the procedure (see Hajnik, p. 336). The necessity of precise pronunciation of oaths—and default for failure to use the exact wording—is typical of archaic legal proceedings. This practice remained in force for centuries and royal bailiffs were admonished to read the oath slowly, especially in cases involving extensive statements under oath (Hajnik, p. 339, n. 64; cf. *Tripartitum* Pars III, tit. 39). An exact parallel, for example, may be drawn with the *legis actiones* of early Roman law, wherein exact statement (and repetition) of the oaths, and so on, was required for proper procedure; Gaius *Institutiones* 4.11–2 (see, e.g., Joseph Antony Charles Thomas, *Textbook of Roman Law* [Amsterdam: North Holland], 1976, pp. 73sq.). The repetition of a “failed” oath, as allowed by this law, seems to have been permitted only—according to a decision of Voivode Thomas of 1342, see Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66) 8/4:620—if the swearer did not move his hand from the altar, that is, in modern terms, “while still under oath.”

⁵ Text, date and circumstances of the oath were decided by the judge; it was usual to swear the oath in the church of the chapter or convent, as place of authentication, except the oath on the soil, which was to be sworn in a pit (grave) dug at the border of the disputed property, and the swearer had to speak the oath, dressed in burial cloths, with a clog of earth held above his head; the oath-helpers stood around the pit. On

would be considered to be perjurers and to have failed the oath and lost the case. Nor are the oath-takers permitted to repeat and state again the very words and the same items, if, in swearing the oath, they contaminated the oath by varying the wording or if they were unable to repeat word for word the language and specific items⁶ prescribed at the admission to the oath. Thus, many litigants have hitherto been convicted unfairly and contrary to justice, some in their person, some in their estates, and not a few in all of their goods. Therefore, these same prelates and nobles and especially the venerable father Lord Henry, by the grace of God bishop of Veszprém, chancellor of the court of the Lady Queen, our dearest consort⁷ and our well-loved and faithful subject, besought us humbly that we should deign to make just and proper provision from royal benevolence, concerning these matters. And so we, who have undertaken the governance, are obligated relieve the complaints of our subjects and to govern them under the rule of law and justice, considering that the inhabitants of the realm⁸ and especially the people of the church and bishopric of Veszprém are improperly and scandalously oppressed on the pretext of this type of abusive custom, with the advice and consent of the prelates and our barons, we have decided, after careful deliberation, to abolish this sort of practice, and we decree that those swearing or taking an oath, plaintiff as well as defendant,⁹ together with their oath-helpers, should take their oaths by a brief and concise speaking of words, according to the model form written below:

Peter, the plaintiff, testifying against Martin the defendant, should say these words: I, Peter, swear on my soul, so help me God, that in these things of which I have accused him at law Martin has offended against me, or, alternately, the defendant owes me money which sought from him at law. And let a similar oath be sworn in other cases.

Then, Martin, the defendant, testifying against Peter, the plaintiff, should say these words: I, Martin, swear on my soul, so help me God, that I am innocent and guiltless of these things of which Peter has accused me at law, or, alternately, I do not owe him any amount of money. And

this, see Márta Belenyesy, “Le serment sur la terre au moyen age et ses traditions posterieures en Hongrie,” *Acta Ethnographica Academiae Scientiarum Hungaricae* 4 (1955) 361–394.

⁶The text has *articuli*, but the term “articles” came to be used for “articles of law”; hence, we avoided it here.

⁷Henry, (d. 1334), was bishop of Veszprém, chancellor of the queen 1323–34. The bishops of Veszprém held by ancient custom the office of chancellor of the queen. The tradition may have had its roots in the eleventh century when the queen’s residence was in Veszprém; the bishops of the same see usually also crowned the queens.

⁸In this case, the word *regnicola*—that usually means the enfranchised nobility of the realm—is best translated in the more general sense, for the measures touch on the life of all subjects.

⁹Though the oath was usually taken by the defendant, under certain circumstances the plaintiff, too, could prove his right by taking an oath “on the head” (*ad caput*) of his opponent, which, if performed successfully involved capital sentence; hence the name. Capital sentence (*sententia capitalis*) meant loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction. If physically executed (which happened very rarely in practice), the victim’s heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. Oaths on the soil (see n. 5 above) (*super terram*) could also be taken by either party (see Hajnik, pp. 314 ff.).

the oath is to be similarly sworn in all cases.

Let it be stated that if they are unable to speak the words of the oath word for word by an identical recital of words, at least the important items should be stated in other words, provided that the sense is the same, and if anyone should fail in the recital of words or should mix them up in quoting, he should have the unimpeded opportunity of at once reiterating and repeating them a second and a third time. Therefore, we firmly command by royal edict the palatine, our judge royal, the ispáns and all the judges and justices of our kingdom, who currently and for the moment hold office of whatever dignity, honor, name, and title they might have, to whom these presents are shown, that they shall not in any way oppress the inhabitants of the realm of whatever station or condition and especially the people dependent on the church and bishopric of Veszprém residing in the counties Veszprém and Zala or elsewhere, contravening the prescriptions of our present edict and statute concerning the taking and receiving of oaths, but they are bound to observe unchanged the present edict and statute ... under the threat of capital punishment¹⁰ and the deprivation of their honor. Moreover, whoever would dare to contravene this edict should know that he will incur royal displeasure upon himself. Given on the feast of St. Lawrence, the martyr, the year of Our Lord one thousand three hundred and twenty-four.

¹⁰ See n. 9, above.

PRIVILEGE OF KING CHARLES I OF HUNGARY
31 October 1328

This charter, issued in form of a privilege for the nobles of County Szepes repeats the essence of the decree of 10 August 1324, but adds to it an important paragraph about seigneurial jurisdiction. According to this, all tenant peasants and landless servitors are subject to the court of their lord, save in cases of major criminal delicts. In a charter of 17 January 1332 (MNL OL DI. 87019) King Charles referred to this—or an unknown, similar—decision as having been passed by the barons, prelates and nobles of the kingdom. This text is the first explicit mention of the seigneurial jurisdiction in a decree. It was unknown until published in Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, Budapest: Akadémiai, 1978 [=DRH].

MS.: Original on parchment; only a yellowish-pink string, passed through four holes, remains of the pendant seal. MNL OL DI. 38882.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

ED.: DRH, pp. 82–84.

LIT: Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád and the diverse dynasties], (Budapest: Magyar Tudományos Akadémia, 1899); Kamill Szoika, *A földesúri bírászkodás az Árpádkori Magyarországon* [Seigneurial jurisdiction in Árpáadian Hungary] (Budapest: Faculty of Law, 1944) [German summary pp. 75–8].

PRIVILEGIUM 31 OCTOBRIS 1328

[C]arolus dei gratia Hungarie, Dalmatie, Croatie, Rame, Servie, Gallitie, Lodomerie, Comanie Bulgarieque rex, princeps Sallernitanus et honoris Montis Sancti Angeli dominus. Omnibus Christi fidelibus presentibus pariter et futuris presentium notitiam habituris salutem in omnium salvatore. Ad petitiones fidelium tanto benignius regia debet condescendere celsitudo, quando id petitur, per quod regno prospicitur et corone. Proinde ad universorum notitiam harum serie volumus pervenire, quod quia nobiles de comitatu Scepesiensi fideles nostri suo et omnium hominum cuiusvis status in eodem comitatu existentium nomine ad nostram accedentes presentiam nostre maiestati declararunt, ut inter ipsos talis calumpniosa consuetudo ymo potius quedam corruptela haberetur, ut cum quilibet alterum in causam coram quovis iudice attraxerit et quamvis suam litem per plurimos articulos et verborum multiplicationem contra eum proposuerit, tandem si cuiusquam partium litigantium iuramentum deponere adiudicatum extiterit ipsi plurimi et multiplicati articuli in iudicio propositi in depositione seu serie iuramenti parti iuramentum deponere debenti omnino seriatim comprehendere et repetere committerentur, in siquidem huius modi iuramenti plurimis articulis in lite propositis multiplicati depositione fere omnes convincerentur, petentes a nostra celsitudine humiliter supplicando, ut quandam formam moderatam iuramenti perpetuo stabilem sub verborum collecta et succincta prolatione ipsorum multiplicatorum sensum articulorum plene comprehendentium regia auctoritate statueremus, ne amplius per huius modi calumpniosam consuetudinem aliquibus periculum possit in depositione iuramenti evenire.

Nos igitur ex regia pietate de qua debet nasci iustitia singularis et subiectorum onera sublevari, petitioni dictorum fidelium nobilium aures benignas inclinantes et eam—quia iusta et legitima erat—diligenter ad effectum perducere cupientes una cum prelati et baronibus regni nostri nobiscum in partibus Transsilvanis cum valido exercitu existentibus decernentes cunctis iuramentum deponere debentibus hanc specificam et exemplarem formam despositionis iuramenti perpetuo observandam duximus statuendam,

Quod si Paulus agens contra Nicolaum defendentem iurare debet qualiscunque sit sua actio et per quemcunque iudicem regni nostri existat iudicata iuret in hec verba dicens: Deus me ita adiuvet, quod Nicolaus in his omnibus, que contra ipsum in iudicio proposui, mihi reus est vel tanta quantitate pecunie sue tali re tenetur.

Consequenter quidem quilibet de coniuratoribus suis dicat: Deus me ita adiuvet, quod Nicolaus in his omnibus, que Petrus in iudicio contra ipsum proposuit, reus est vel tanta quantitate pecunie seu tali re sibi tenetur.

Item e converso si Nicolaus defendens contra Petrum agentem seu actorem iurare debet iuret isto modo dicens: Deus me ita adiuvet, quod in omnibus per Petrum in iudicio contra me obiectis inculpabilis sum vel nulla quantitate pecunie seu re teneor sibi aut tanta pecunia seu tali re teneor sibi.

Consequenter autem quilibet de suis coniuratoribus dicat: Deus me ita adiuvet, quod Nicolaus in his omnibus, que Paulus in iudicio contra ipsum proposuit inculpabilis est vel sibi in nulla quantitate pecunie seu re tenetur aut tanta pecunia tenetur.

Hoc specialiter declarato, quod si quis iurans vel aliquis de suis coniuratoribus linguam habens impeditam etiam prescriptam moderatam formam depositionis iuramenti per uniformem verborum

prolationem dicere non posset, sed per alia verba eundem sensum compleverit, pro iurato habeatur vel si prima vice quisquam iurans vel eius coniurator suum iuramentum premissio modo deponere nequiverit, secunda vice et tertia non tamen pluries repetendi suum iuramentum liberam habeat facultatem.

Super eo quoque ipsis nobilibus nobis querelantibus, ut ipsorum iobagiones ad nostram seu palatini vel comitis parochialis aut iudicum nobilium presentiam citarentur, statuimus committentes, ut quilibet iobagiones habentes in omnibus causis exceptis causis furti, latrocinii vel violentie seu incendii contra quospiam ipsi iidem suos iobagiones debeant et possint iudicare et nullus valeat eos ad alterius iudicis presentiam evocare; qui tamen ex parte iobagionum suorum si cuiusquam in reddenda iustitia negligentes extiterint, non sui iobagiones, sed ipsi idem ad presentiam ordinarii iudicis sui evocentur eo facto.

In cuius rei memoriam firmitatemque perpetuam presentes concessimus litteras nostras privilegiales novi et autentici sigilli nostri duplicis munimine roboratas. Datum per manus discreti viri magistri Andree prepositi ecclesie Albensis aule nostre vicecancellarii dilecti et fidelis nostri anno Domini M^oCCC^o vicesimo octavo pridie Kalendas Novembris, regni nostri anno similiter XX^o octavo venerabilibus in Christo patribus et dominis fratre Ladizlao Colocensi archiepiscopo et aule nostre cancellario, Mesko Nitriensi, Benedicto Chanadiensi, Nicolao Iauriensi, Georgio Sirmiensi, Ladizlao Quinqueecclesiensi, Iwanka Waradiensi, fratre Petro Boznensi, Laurentio Waciensi, Andrea Transsilvano, Henrico Wesprimiensi, Chanadino Agriensi, et Ladizlao Zagrabiensi episcopis ecclesias Dei feliciter gubernantibus, magnificis viris Iohanne palatino et comite Simigiensi, Demetrio magistro tawarnicorum nostrorum, Thoma woiwoda Transsilvano, Mykch bano totius Sclavonie, Paulo iudice curie nostre, Dyonisio dapiferorum, Stephano agasonurn nostrorum magistris, magistro Willermo comite Scepesiensi, Nicolao comite Posoniensi et aliis quam pluribus regni nostri comitatus tenentibus et honores.

PRIVILEGE OF OCTOBER 31 1328

Charles, by the grace of God, king of Hungary, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria, prince of Salerno, and lord of the Honor of Monte Sant'Angelo,¹ to all the faithful of Christ, present as well as future, to whose notice these presents may come, greetings in the Savior of all. The royal eminence ought to respond to the petitions of his faithful subjects all the more kindly when the kingdom and the crown profit by what is requested. Therefore, we wish to notify everyone by these words that our faithful subjects, the nobles of the county of Szepes,² approached our presence in their own name and in that of all men of whatever station in the county. They declared to our majesty that among them such a scandalous practice or rather such a corrupt procedure existed that when someone hauled another before a judge in a lawsuit and laid out his charge against him openly and in many particulars and a great number of words, then, when finally an oath was judged to be taken by one of the litigant parties, these several and numerous items presented in the trial have to be completely understood and sequentially repeated when taking or speaking the oath by the party who has to take the oath. The result is that nearly everyone is convicted when the swearing of oaths is complicated by numerous items presented in a lawsuit.³ They, humbly beseeching our eminence, requested that we establish

¹ The full royal style was used in those charters which were issued in the form of a privilege and corroborated with great seal of majesty. The “kingdoms” listed here were part of the royal style of the Árpáadian rulers from c. 1270; with the exception of the first three they constituted claims of Hungarian rulers to lands south of the Sava and the lower Danube or east of the Carpathian Mountains. On these, see, János M. Bak, “Lists in the Service of Legitimation in Central European Sources.” In: L. Doležalova ed. *The Charm of a List: From the Sumerians to Computerised Data Processing*. (Newcastle upon Tyne: Cambridge Scholars Publishing, 2009), pp. 34–45. To these Charles I added in 1323 those of “Prince of Salerno” and “Lord of the Honor of Monte Sant’Angelo” which his successors continued to use until 1386. Both domains formed part of the kingdom of Sicily and the Hungarian branch of the Angevin dynasty claimed them as their paternal inheritance. All the time, however, the honor (i.e., the barony) of Monte Sant’Angelo, situated on the Adriatic coast on the promontory of Gargano (some 175 km east-northeast of Naples), remained in the possession of the Durazzo line of the Angevins. (See Emile G. Léonard, *Les Angevins de Naples* [Paris: Presses Universitaires de France, 1954], pp. 322, 376.)

² It is not known why this edict was requested by and issued for the nobles of county Szepes (*Špis*, German: Zips); today part of Slovakia and Poland.

³ Oaths remained the most significant formal proof even after the legal reforms of King Charles. However, they were now based on the written evidence presented in the early stages of the trial. The most usual way for a defendant of acquitting himself of a charge was to take the “purging” oath (*compurgatio*). Depending on the quantity and quality of evidence marshalled against the defendant, the judge decided whether a party was obliged to swear the oath alone or with a prescribed number of oath-helpers (*compurgatores*), who had to be “similar to him,” that is of the same estate. Originally (up to the mid-fourteenth century) the oath-helpers were also supposed to be material witnesses; who were in a position to prove the innocence of the defendant, later only their number and rank was relevant (see Hajnik, *Bírósági szervezet* pp. 317 sqq.). In cases involving estates or other valuables, the number of oath-helpers was decided by the value of the case: the oath of a prelate or baron was worth 10 Marks, that of a noble 5 Marks, of a tenant peasant a quarter Mark. The text of the oath that was to be repeated was read aloud by the man of the chapter or convent or by the king’s bailiff, both also serving as witnesses to the procedure (see Hajnik, *Bírósági szervezet* p. 336).

for all time by royal authority a simplified form of oath of a succinct and brief utterance fully containing the sense of these multiple items, lest by this kind of scandalous practice people taking the oath be exposed to further dangers.

We, therefore, from royal compassion, from which particular justice in particular instances ought to arise and which ought to relieve the burdens of the subjects, incline benign ears to the petition of the said faithful nobles; and, since that petition was just and legitimate, we, sincerely desiring to fulfill it, decided, together with the prelates and barons of our kingdom who accompany us with a strong army in Transylvania, to decree for perpetual observance that all those who have to swear an oath should follow this specific and exemplary form of taking the oath.

That if Paul, suing Nicholas, the defendant, must swear an oath, whatever his suit may be and by whichever judge of our realm the oath is granted, he should swear in these words, saying: So help me God, that in all these things which I have affirmed against him at law, Nicholas is an offender against me, or owes me such and such an amount of money or such and such an item.

Subsequently anyone from among his oath-helpers should say: So help me God that in all these things which Peter⁴ has affirmed against him at law Nicholas is the offender, or owes him such and such an amount of money or such and such an item.

The necessity of precise pronunciation of oaths—and default for failure to use the exact wording—is typical of archaic legal proceedings. This practice remained in force for centuries and royal bailiffs were admonished to read the oath slowly, especially in cases involving extensive statements under oath (Hajnik, p. 339, n. 64; cf. *Tripartitum* Pars III, tit. 39). An exact parallel, for example, may be drawn with the *legis actiones* of early Roman law, wherein exact statement (and repetition) of the oaths, and so on, was required for proper procedure; Gaius *Institutiones* 4.11–2 (see, e.g., Joseph Antony Charles Thomas, *Textbook of Roman Law* [Amsterdam: North Holland], 1976, pp. 73sq.). The repetition of a “failed” oath, as allowed by this law, seems to have been permitted only—according to a decision of Voivode Thomas of 1342, see Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66) 8/4:620—if the swearer did not move his hand from the altar, that is, in modern terms, “while still under oath.” Text, date and circumstances of the oath were decided by the judge; it was usual to swear the oath in the church of the chapter or convent, of authentication, except the oath on the soil, which was to be sworn in a pit (grave) dug at the border of the disputed property, and the swearer had to speak the oath, dressed in burial cloths, with a clog of earth held above his head; the oath-helpers stood around the pit. Though the oath was usually taken by the defendant, under certain circumstances the plaintiff, too, could prove his right by taking an oath “on the head” (*ad caput*) of his opponent, which, if performed successfully involved capital sentence; hence the name. Capital sentence (*sententia capitalis*) meant loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction. If physically executed (which happened very rarely in practice), the victim’s heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. Oaths on the soil (*super terram*) could also be taken by either party (see Hajnik, *Bírósági szervezet* pp. 338–73, here 314 ff; .see also: Márta Belényesy, “Le serment sur la terre au moyen age et ses traditions posterieures en Hongrie,” *Acta Ethnographica Academiae Scientiarum Hungaricae* 4 (1955) 361–394.

⁴ In the second and third of these model oaths, the scribe has unconsciously substituted one model Christian name (Peter) for the correct model (Paul). In the last oath, the scribe used again the name with which he began. These model names are, of course, based on the names of the apostles; they were used by Christian legal authors to replace the pagan model names (Lucius Titius, Numerius Nigidius, etc.) used in Roman legal texts (e.g., Gaius, *Institutiones* 2.216, 3.167, 4.40–41).

Then, on the other hand, if Nicholas, the defendant, must swear against Peter, who sues him as plaintiff, he should swear in this manner, saying: So help me God that in all these things which Peter cited against me at law I am faultless, or I owe him no amount of money, or owe only so much money, or such and such an item.

Subsequently anyone from among his oath-helpers should say: So help me God that in all these things which Paul cited against him at law, Nicholas is faultless, or he owes him no amount of money, or nothing, or owes only so much money.

Let it be explicitly stated that if anyone who takes an oath or any of his oath-helpers is hindered in his speech and is not able to say even the aforesaid reduced form of the deposition of the oath by uttering the selfsame words but has fulfilled the same meaning by other words, he is to be held to have sworn the oath, or if the first time anyone swearing or his oath-helper was not able to take the oath in the aforesaid manner, he should have leave to repeat his oath a second and a third time, but not more.

Concerning that other matter about which these nobles also complained to us, namely, that their tenant peasants⁵ were being summoned to our presence or to that of the palatine or of the ispán of the county or of the noble magistrates, we have decided to establish that all those having tenant peasants should themselves be allowed and obligated to judge their tenants in all cases except cases of theft, robbery, assault or arson committed against anyone, and no one shall have the right to summon them before another judge.⁶ However, anyone who should be negligent in rendering justice in regard to his tenant peasants, he himself and not his peasants is to be summoned about this to the presence of his justice ordinary.⁷

For the firm and perpetual memory of which we have granted our present letter of privilege validated by the affixing of our new and authentic double seal. Given by the hand of the prudent master Andrew, provost of the church of Székesfehérvár, vice-chancellor of our court, our beloved

⁵ *Jobagio*, the Latinized form of Hungarian *jobbágy* (translated as tenant peasant) referred to peasants living on plots owned by their landlord, owing dues in kind, money and some labor, but personally free and have the right to change lords. On the jurisdiction of the lord over their peasants, see next note.

⁶ As early as the thirteenth century, all landowners had the right and duty of administering justice to their peasants, free or unfree. Seigneurial courts (*sedes dominalis* or *forum dominale*, Hung.: *úriszék*), consisting probably of tenant jurors, were presided over by the lord or his steward. Their jurisdiction was initially limited by royal privilege: cases involving bloodshed could be terminated only before a royal judge or county magistrate, thus criminals sentenced to death or mutilation had to be delivered to them by the seigneur. Since the early fourteenth century, however, some major lords were granted royal privilege to pronounce final judgment in all cases and set up gallows on their estates as symbols of their right to high justice, and by the mid-fifteenth century this privilege, often referred to a “free comity” (Hung.: *szabadispánság*) or *ius gladii* was exercised by all substantial landowners. In 1405 Sigismund granted the same right to royal cities (see **15 April 1405/I:5**). Cf. Szoika, *A földesúri bírászkodás*.

⁷ Judicial practice was governed by the general principle that cases were to be prosecuted before the judge of the defendant. The term justice ordinary (*iudex ordinarius*) usually refers to those judges who were authorized to administer justice to free persons from the royal judges (palatine, Judge Royal, Master of the Treasury) down to the ispáns and magistrates of the counties. See: Imre Hajnik, *Bírósági szervezet* pp. 45–7.

and faithful subject,⁸ in the year of the Lord one thousand three hundred twenty-eight, the day before the Kalends of November, in our regnal year likewise the twenty-eighth, when the following venerable fathers in Christ and lords felicitously governed the churches of God: friar Ladislás archbishop of Kalocsa and chancellor of our court,⁹ the bishops Meskó of Nitra,¹⁰ Benedict of Cenad,¹¹ Nicholas of Győr,¹² George of Srem,¹³ Ladislás of Pécs,¹⁴ Ivánka of Oradea,¹⁵ friar Peter of Bosnia,¹⁶ Lawrence of Vác,¹⁷ Andrew of Transylvania,¹⁸ Henry of Veszprém,¹⁹ Csanád of Eger,²⁰ and Ladislás of Zagreb,²¹ and when the honorable lords John, count palatine and ispán of Somogy,²² Demetrius Master of our Treasury,²³ Thomas voivode of Transylvania,²⁴ Mikcs ban of all Slavonia,²⁵ Paul our judge royal,²⁶ Denis the steward,²⁷ Stephen Master of our Horse,²⁸ master

⁸ Andrew, provost of Székesfehérvár, vice-chancellor of the king 1325–30

⁹ Ladislás (of Kabol, d. 1344), vice-chancellor of the king 1322–23, bishop of Zagreb 1326–43, archbishop of Kalocsa 1343–44

¹⁰ Mesko, duke of Tost in Upper Silesia (Piast), bishop of Nitra 1328–35, of Veszprém and chancellor of the queen 1335–43

¹¹ Benedict, bishop of Cenad 1309–32

¹² Nicholas (d. 1336), illegitimate issue of the clan Héder of Kőszeg, bishop of Győr 1308–36

¹³ George, bishop of Szerém 1313–33.

¹⁴ Ladislás of Kórógy, (d. 1346), bishop of Pécs 1314–46.

¹⁵ Ivánka, bishop of Oradea 1318–28.

¹⁶ Peter (friar, d. 1333), bishop of Bosnia 1317–33

¹⁷ Lawrence, bishop of Vác 1318–28

¹⁸ Andrew of Szécs,(d. 1356), bishop of Transylvania 1320–56.

¹⁹ Henry (d. 1334), bishop of Veszprém, chancellor of the queen 1323–34

²⁰ Csanád of Telegd, (d. 1349) bishop of Eger 1322–30, archbishop of Esztergom 1330–49.

²¹ Ladislás of Kabol, (d. 1344), vice-chancellor of the king 1322–23, bishop of Zagreb 1326–43, archbishop of Kalocsa 1343–44.

²² John Druget (d. 1333), count palatine 1328–33.

²³ Demetrius of Nekse, (d. 1338), master of the treasury 1316–38.

²⁴ Thomas of Szécsény (1299–1354) voivode of Transylvania 1321–42, judge royal 1349–54.

²⁵ Mikcs (or Michael, d.g. Akos, d. 1343), master of the queen's treasury 1323–25, ban of Slavonia 1325–43.

²⁶ Pál of Nagymarton ((1307–49), judge royal 1328–49.

²⁷ Denis, of Szécs (fl. 1312–41), master of the stewards 1322–41, also ban of Severin 1332–41.

²⁸ Lackfi, Stephen senior (son of Lack, d. 1353), master of the horse 1326–43, master of the treasury 1343–53, voivode of Transylvania 1344–50, ban of Croatia and Slavonia 1350–53.

William ispán of Špis,²⁹ Nicholas ispán of Pressburg³⁰ and many others holding counties and honors in our kingdom.³¹

²⁹ William Druget (fl. 1327–42) *ispán* of Szepes and other counties, 1334–42 count palatine.

³⁰ Miklós, Tretel, (fl. 1319–53) *ispán* of Pozsony 1323–49

³¹ The list of dignitaries, as a kind of dating clause (not as witnesses to the action), appears regularly in Hungarian charters of privilege between the mid-thirteenth and the early fifteenth century, see Imre Szentpétery, *Magyar oklevéltan* [Hungarian diplomatics] (Budapest: Magyar Tudományos Akadémia, 1930), pp. 104f.

CHARTER ON THE CAMERAL CONTRACT OF KING CHARLES I OF HUNGARY 1342

While not laws, the charters on the contracts of Kings Charles I and Louis I—according to the text, approved by the royal council—with the so-called counts of the chamber regulated matters of national importance and came to be regarded laws, included into several collections of decrees. Ferenc Döry, György Bónis, and Vera Bácskai, editors of the *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1445* (Budapest: Akadémiai Kiadó, 1978) [= *DRH*] printed several of them. We decided to publish one, the perhaps most detailed, even if it is not a *decretum* in the strict sense of the term. Modern lawyers would characterize it as a private contract, only medieval “private” matters of rulers were in no ways separated from affairs of state.

The monetary reforms of King Charles began in 1323 (see *DRH* pp. 76–7), but did not lead to result until a decade later. In 1327, the king confirmed the practice of sharing the income of mines (*urbura*) with the landowners, which enhanced the exploration and exploitation of precious metal resources, see *ibid.* pp. 80–1. The first surviving contract with Master Hyppolit of Kremnica was signed on 26 March 1335 (see *ibid.*, pp. 85–9). It was followed by contracts with Master Andrew in 1336 (see *ibid.*, pp. 90–4) and Master Fricskó in 1338 (see *ibid.*, 95–102). The contract of 1342 reflects those financial measures of Charles I that proved to be durable. Its content was not significantly changed in the contract between Louis I and Nicholas of Szatmár of 25 March 1345 (see *ibid.*, pp. 118–23).

On the same day as the contract below, another was signed with Master Hyppolit. The editors of *DRH* used it (as variant B, *ibid.*, pp. 116–7) to emend errors in the surviving text of the one with Master Andrew.

MS: Original on parchment with remnants of the great seal on the dorso, Primatial Archives, Esztergom, Arch. Saec. Acta rad. Lad. B; MNL OL DF 248 094

EDD: Gyula Szekfü, ed. “Oklevelek I. Károly pénzverési reformjához” [Records pertaining to the minting reform of Charles I], *Történelmi Tár* 1911, 24–35; Nándor Knauz, ed., *Monumenta ecclesiae Strigoniensis*, vol. 3 (Esztergom: Horak, 1882) pp. 412–9; *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896) 1: 150–63; *DRH* pp. 106–15.

LIT: Bálint Hóman, *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325] (Budapest: MTA, 1916); Idem, *A magyar királyság pénzügyei és gazdaságpolitikája Károly Róbert korában* [Monetary affairs and economic policies of the kingdom of Hungary in the age of Charles Robert] (Budapest: Budavári Tudományos Társaság, 1921); Oszkár Paulinyi, “The

Crown Monopoly of the Refining Metallurgy of Precious Metals and the Technology of the Cameral Refineries in Hungary and Transylvania in the Period of Advanced and Late Feudalism (1325–1700), with Data on the Output,” in: *Precious Metals in the Age of Expansion*, Hermann Kellenbenz, ed. (Stuttgart: Klett-Cotta, 1981); Boglárka, Weisz A nemesércbányákból származó királyi jövedelmek az Árpád-korban [Royal income from precious metal in the Árpadian age] in: *Középkortörténeti tanulmányok 5.* Éva Révész, Miklós Halmágyi, eds. (Szeged: Szegedi Középkorász Műhely, 2007) 247–259; Csaba Tóth, “Minting, Financial Administration and Coin Circulation in Hungary in the Árpadian and Angevin Periods (1000–1387)” in József Laszlovszky *et al.* eds., *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) 279–94; Zoltán Batizi, “Mining in Medieval Hungary” in: *Ibid.* 166–81.; Márton Gyöngyössi, Heinz Winter, *Münzen und Medaillen des ungarischen Mittelalters. 1000–1526.* Michael Alram und Heinz Winter, eds., *Sammlungskataloge des Kunsthistorischen Museums Band 4. / Münzkabinett. Kataloge der mittelalterlichen Münzen und Medaillen* (Vienna: Kunsthistorisches Museum, 2007).; Boglárka Weisz, “Entrate reali e politica economica nell’età di Carlo I” in: *L’Ungheria angioina.* Enikő Csukovits ed. (Rome: Viella, 2013) 205–236; Eadem: “L’organisation financière de la Hongrie angevine : institutions et personnes” in: *Périphéries financières Angevines. Institutions et pratiques de l’administration de territoires composites (XIIIe-XVe siècle).* Serena Morelli, ed. (École française de Rome, 2018). (<http://books.openedition.org/efr/3547>)

Nos Karolus dei gratia rex Hungarie memorie commendantes tenore presentium quibus expedit universis significamus, quod nos prelatorum et baronum regni nostri voto unanimi et de consilio eorundem, considerata sagaci industria magistri Endre Chempeliny, comitatus camerarum nostrarum de Syrmia et de Quinqueecclesiis cum omnibus comitatibus, districtibus, civitatibus, villis et opidis, qui et que ab antiquo ad easdem cameras dinoscuntur pertinuisse, scilicet cum comitatibus Syrmienti, Bachyensi, de Wolkow et de Bodrugh, item de Baranya, Symigiensi, Tholnensi et Zaladiensi eidem magistro Endre pro mille et quingentis marcis, partim in florensis seu aureis denariis camere nostre Bude censis et cudendis, partim vero in integris camere nostre monetis annorum preteriti, tertii, quarti et presentis, per totum nostrum uniformiter discurrendis et per preteriti anni modum tam per ipsum, quam per alios regni nostri camerarios ampliandis, nobis in terminis infrascriptis persolvendis, anno domini millesimo CCC^{mo} XL^{mo} secundo a data presentium per anni circulum simulcum decimis archyepiscopalibus dedimus iterato et locavimus ad exercendum, procurandum et tenendum isto modo:

I. Quod idem magister Endre faciet fabricari integros denarios camere nostre argenteos vere combustionis tertie, ad modum et formam ac valitudinem denariorum annorum preteriti, tertii et quarti, eosdem ampliando in vera et recta combustione tertia, ex quibus de una marca fini argenti duodecim pense incidentur, et octo pense ex eisdem et non plures unam marcam ponderis Budensis in statera ponderabunt et current pro marca fini argenti in montanis.

II. Qui quidem denarii nostri integri cambientur per hunc modum: quod ipse comes camere vel sui officiales in singulis foris civitatum et liberarum villarum nostrarum regalium et reginalium ac quorumlibet aliorum presentibus hominibus archyepiscopi Strigoniensis, magistri tawarnicorum et comitis parochyalis ac uno iudice nobilium, sub testimonio alicius capituli in eisdem foris ipsos denarios camere ampliandos et multiplicandos publice super tabula sua exponere debeant et tres ex eisdem denariis pro quatuor latis Wyenensibus vel aliis camere nostre monetis quinti anni iam abolitis aut etiam in aliis precedentibus annis fabricatis, combustionem Wyenensium habentibus cambientur, et sex ex eisdem tam denariis novis, quam annorum preteriti, tertii et quarti camere monetis, quia ipsos annorum preteriti, tertii et quarti camere denarios in suo esse cursu et cambio remanere volunus, pro grosso, et octo pense ac sedecim denarii pro marca pagamenti absque aliquali augmentatione ubique currant et solvantur.

III. Si qui vero iam dictas monetas nostras annorum preteriti, tertii et quarti veras et etiam hoc anno pro earundem ampliatione in eodem valore fabricandas in numero augmentantes reperti fuerint, tamquam transgressores regalium nostrorum mandatorum et statuta camere infringentes in rebus et personis per ipsum comitem camerarum nostrarum puniantur nostra auctoritate mediante.

IV. Item si leviores denarii in istis presentibus, preteriti, tertii et quarti annorum camere monetis

vel peioris combustionis plures quam octo pense et tres vel quatuor denarii marcam ponderantes apud quemcunque, sive in civitatibus, sive in aliis locis, seu etiam circa suos officiales, aut numerum marcarum augmentantes ubicunque invenirentur, tamquam falsarii nostra auctoritate puniantur.

V. Propter quod volumus et committimus, ut in cunctis civitatibus et locis publicis statera cum suis ponderibus semper habeatur et servetur ad evitandum, quod mercatores vel alii forenses, aut etiam quicumque ex civibus et hospitibus iuxta abusivam eorum consuetudinem et fraudem graviores denarios ipsius monete camerarum nostrarum annorum presentis, preteriti, tertii et quarti non possint eligere vel diminuere per incisiones.

VI. Istud tamen pro multiplicatione earundem monetarum camere nostre, maxime et specialissime cum ipso comite camerarum nostrarum iuxta suam spontaneam obligationem et nostram omnimodam intentionem volumus et committimus, ut in cunctis locis camerarum, in quibus monete camerarum cudi solent, nunc in principio ad minus mille marcas idem camerarius fabricari faciat cambio exponendas, qui si facere neglexerit, tamquam nos seducens et regnicolas nostros decipiens remanebit.

VII. Item ordinavimus, quod abhinc unusquisque campsores denariorum, ut soliti fore dicuntur, per se servare cesset omnino et desistat. Si enim aliquos ex eisdem campsoribus in detrimentum camerarum servare et habere ipse comes camerarum sciverit et in presentia hominum dominorum archiepiscopi Strigoniensis et magistri tawarnicorum triumque aliorum predictorum et unacum eisdem invenerit, nedum ipsi campsores, verum etiam ipsi domini eorum in ablatione rerum et bonorum ipsorum punientur et dehonestabuntur in personis.

VIII. Item florenus seu aureus denarius camere pro nonaginta denariis integris camere nostre ampliandis semper absque augmentatione et refutatione ubique acceptetur et cambiatur.

IX. Item una marca auri ponderis Budensis duodecim karatorum cambitur cum septem marcis ipsorum denariorum camere cum eodem pondere Budensi, levando in statera.

X. Et nullus possit cambire aurum vel argentum cum pecunia numerata, sed debeat cambire in camera regali cum eisdem denariis camere ampliandis levando in statera. Si qui autem secus fecisse vel facere reperti fuerint, pena condecienti tamquam transgressores regalis mandati et statuta camerarum infringentes puniantur.

XI. Ceterum statuimus, ut nullus omnino hominum cum aliquibus antiquis monetis aut auro vel argento, in specie et specialiter cum parvis et etiam mediocribus Wyenensibus, quorum omnimodam extirpationem volumus et committimus, preterquam cum ipsis monetis camerarum nostrarum mercandi habeat facultatem, alioquin emptores et venditores suas res et bona perdent et dehonestabuntur in personis.

XII. Preterea nullus mercator extraneus vel huius regni superveniens palam vel occulte in domibus aut camera suas res et bona, tam in pannis, quam in alii generis et speciei rebus, pro aliis monetis antiquis, cuiuslibet forme, auro vel argento, vendere aut commutare presummat, sed pro monetis camere predictis; de noticia tamen et ad scitum comitis camerarum aut predictorum hominum domini archiepiscopi et magistri tawarnicorum ac aliorum dum ad locum

depositionis ad vendendum vel commutandum devenerit, vendendi habeat facultatem. Si qui autem secus facientes et exercentes per ipsum comitem camerarum vel suos officiales reperti seu per eosdem deprehensi fuerint, res venditioni tam in pannis, quam in aliis rebus expositas et pro venditis rebus receptas perdant et puniantur in personis. Et nedum illi, qui per se et sua propria ;auctoritate contra ordinationem camerarum nostrarum et nostram voluntatem aurum vel argentum in specie, preterquam in aureis vel argenteis novis denariis exportantes inventi fuerint, ablatione eorundem et dehonestatione personarum suarum puniantur. Verum etiam et si sub sigillis vel signis camerariorum huiusmodi aurum vel argentum quoquam extra regnum deferendum fuerit inventum, et si camerarii alios, ad exportandum aurum vel argentum admiserint, iidem comites camerarum, quorum signa vel sigilla in ipso auro vel argento apposta invenientur, tamquam falsarii et transgressores regalium mandatorum puniuntur.

XIII. Hoc tamen in presenti articulo specialiter expresso, quod comites camerarum nostrarum, sub quorum iurisdictione montana habentur et existunt, pro comparando plumbo et aliis evidentibus necessariis camerarum et montanarum, sine suorum copia minere auri et argenti minime videntur posse procurari, ad notitiam eorundem hominum domini archyepiscopi et aliorum, si tamen evidens necessitas id requirit, de auro vel argento tantum a.d comparisonem premissorum habebunt transmittendi facultatem.

XIV. Item sub cuiuscunque comitis camerarum comitatu vel provinciis presens nostra moneta ex mala procuracione falsificata fuerit, et discurrere ac habundare ceperit, ipseque comes camerarum eandem falsam monetam captivare et anichilare non procuraverit, ipsi comiti camerarum sic imputabitur, ac si in locis camerarum suarum ipsa falsa moneta fuisset fabricata. Si autem ipse comes camerarum ad compessendum eosdem falsarios de eorum malitiosis operibus propriam alicubi non habuerit facultatem, extunc idem camerarius sub testimoniis , predictorum quinque hominum, veritate de eorundem falsariorum maleficiis indagata et recepta, eosdem falsarios nobis et nostris baronibus ac regno nominatim deberit declarare et nos pro extirpatione eorundem sollicitate tenebitur incitare.

XV. Item quia volumus, ut presens moneta nostra tertie combustionis amplianda per totum regnum nostrum immutabiliter possit perpetuari et habundari, et ipsi denarii camere nostre annorum preteriti, tertii et quarti unacum eisdem novis pariter debeant discurrere et acceptari, statuentes ordinavimus et committimus, ut :in quolibet comitatu de singulis portis, per quas currus cum feno vel frugibus honeratus intrare potest et exire, sive sub eadem porta seu curia portam habente tres vel quatuor, aut etiam plures existant homines residentes, sive solum unus commoretur in eadem, nisi in tantum sit egens et pauper, ut solvendi non habeat facultatem, quos videlicet prememorati quinque homines archyepiscopi et aliorum iuxta ipsorum conscientiam solvere posse cognoverint et commiserint, ac domini terre sibi solutionem facere posse vel non posse iuramento suo dixerint, exceptis servis et conditionariis nostrorum regalium et reginalium, ecclesiarum ac aliorum quorumlibet, necnon exercituantibus servientibus dominorum terre, quos ipsi iuramento eorum exceperint et iidem quinque homines, scilicet domini archyepiscopi et aliorum fore exercituantes investigando sciverint, et eciam exceptis

ecclesiis, civitatibus vel aliis evidenti privilegiata libertate fultis, facta dicatione infra quintumdecimum diem decem et octo denarius predictae camere nostre pro lucro camere ipsi comiti camerarum dare et solvere teneantur. Tali tamen expressione mediante, quod ubi et in quibus comitatibus aut regni nostri partibus porte tum ex consuetudine non habentur, tum etiam propter defectum lignorum fieri non potuerint, inibi et ipsi tales predictum lucrum camere, secundum quod in aliis temporibus, iuxta tamen dispositionem et conscientiosam ordinationem predictorum quinque hominum infra idem tempus solvere tenebuntur.

XVI. Civitates autem et alii regnicole nostri predictam evidentem libertatem habentes a solutione lucri camere taliter sint exempti, si tamen ipsas monetas camere nostre in tenentibus ipsorum et inter eos ac iobagiones eorundem acceptari faciendo continuum cursum et cambium earundem voluerint facere et exercere; sin autem, non per nos, sed per se ipsos libertates eorum infringentur et sic ad solutionem eiusdem lucri camere sicut alii regnicole nostri, sic et ipsi, dummodo hoc, ut ipsa moneta nostra per eos non fuerit acceptata, nec inter ipsos et ad eos pertinentes cambiari curata fuerit, ad relationem quinque hominum predictorum, videlicet domini archiepiscopi et magistri tawarnicorum ac comitis parochialis, unius iudicis nobilium et alicuius capituli nobis pateat evidenter, tenebuntur.

XVII. Ita tamen, quod quivis camerariorum ad singulos comitatus sue camere sufficientes denarios camere nostre pro multiplicatione dictorum modernorum denariorum nostrorum ad scitum et notitiam eorundem quinque hominum in tanta habundantia, quod ipse comitatus de ipsis contentetur, dare debeat cambio exponendos, qui si non faceret, aut ipsos nostros denarios in tam larga copia cambio exponere non curaret, illic et in illis comitatibus iura sua perdendo nec dicam faciendi, nec lucrum camere exigendi habeat facultatem.

XVIII. Solventibus autem in quolibet comitatu unus locus communis et conveniens pro dicta solutione deputetur, et si qui presentes pro multitudine solventium aut aliquo impedimento alio prepediti die assignato solvere non possent, absque aliquo gravamine quatuor diebus continuis expectentur, nec infra ipsos quatuor dies integros, si solutionem fecerint, possint aggravari.

XIX. Hoc expresso, quod iidem comites camere ipsum lucrum camere ratione cambii signater impositum non aliter, videlicet cum Wyenensibus aut aliquibus antiquis denariis vel grossis per formam compositionis aut alicuius alterius coloris cautela, nisi cum ipsis integris denariis camere nostre ampliandis exigere tenebuntur; et quod universos denarios antiquos aut Wyenenses grossos, tam Bohemicales, quam Racenses et alios, cuiuscunque forme existant, exceptis solummodo presentibus integris denariis camere nostre perpetuo currere statutis comburrere et infundere ac in formam modernorum denariorum nostrorum redigi facere pro multiplicatione eorundem teneantur, conditione tali, quod si qui facta dicatione in termino assignato lucrum camere non persolverent, tunc iidem quinque homines ad possessionem, de qua ipsum lucrum camere non est persolutum, accedant, et tamdiu moram ibi faciant absque destructione et spoliatione possessionaria, in expensa moderata eiusdem possessionis, donec ipsum lucrum camere cum iudicio trium marcarum persolvatur.

XXII. Si vero populi vel domini villarum non solventium lucrum camere prenotate preterito

termino solutionis dictis hominibus in officio camere procedentibus cum pecunia debita et iudicio ordinato extra villam obviarent placaturi, extunc ipsi executores negotiorum camere in talibus villis descensum facere non valeant aliqualem.

XXI. Comites autem parochiales et iudices nobilium favore vel pretio corruptos iustitiam camere celantes et homines de dicta solutione deferentes vel quoquo modo contra nostram ordinationem procedentes, dummodo contra ipsos hoc evidenter possit comprobari, penis non solventium decrevimus puniendos.

XXII. Et quia promisimus seriem omnium premissorum inviolabiliter observare, volumus, ut iidem comites camerarum nostrarum immutabiliter in premissis perseverent, E converso nec remedio aliquarum litterarum post emanationem presentium confectarum aut acquisita aliqua astutia quicquam immutare queant de singulis premissorum. Quia si qui contra hoc facere ex ipsis comitibus camerarum attemptarent, dictos quinque homines, sine quorum iuvamine lucrum camere exigendi nolumus eos habere facultatem, a societate ipsorum auctoritate presentium iubemus separari. Nam hanc dicam non pro exactione antiquarum monetarum aut Wyenensium, sed pro ampliacione monetarum camere nostre perpetuo discurrere in toto regno nostro ordinarum duximus disponendam.

XXIII. Item volumus, quod dicti comites camere nostre absque predictis quinque hominibus in negotiis camere exterioribus seu extraneis, videlicet in comitatibus fiendis et peragendis, utpote in dicationibus et exactionibus lucri camere nichil possint exercere. Si vero ausu temerario contra hoc procederent et in hoc malum aliquid paterentur, merito patientur et sustinebunt.

XXIV. Item si comitibus camere et suis sequacibus aut cum eo procedentibus violentiam quipiam inferrent manifeste, tales secundum qualitatem et quantitatem delicti puniantur.

XXV. Civitatenses vero sub comitatu et iurisdictione eorundem comitatum camere existentes iuxta presentem taxationem nostram et baronum nostrorum certam sumpmam pecunie de predictis monetis camere ampliandis similiter infra pretacti temporis spatium pro argento cambire vel finationem eiusdem monete camere in eisdem denariis camere ampliandis dare et solvere teneantur, videlicet Zalankemen ducentas et quadraginta marcas, item Zemlyn quindecim, item Zenthdemeter quinquaginta, item Engh sexaginta, item Noghaloz viginti quinque, item Eztyen triginta, item Segusd, Aranyas, Labaad et Chehy cum suis pertinentiis centum, item Peech quadraginta marcas modo predicto cambire teneatur; ita videlicet, quod aut ipsi civitatenses receptis ipsis quantitibus pecunie nove monete camere pro qualibet marca octo pensas in statera ponderanti unam marcam fini argenti, vel saltim nichil recipiendo combustionem seu finationem singularum marcarum ipsius monete, videlicet de singulis marcis super ipsos impositis singulas quatuor pensas predictarum monetarum, quarum octo pense marcam ponderant, dare debeant. Si qua autem civitatum negligens fuerit in solvendo, predicti executores negotiorum camere in medio talis civitatis tamdiu permanebunt, quosque cum gravamine duodecim marcarum solutionem faciet prenotatam, in expensa tamen eiusdem civitatis moderata cum adiutorio iudicis et iuratorum eiusdem civitatis.

XXVI. Hoc declarato, quod quilibet nobilis super solutione lucri camere litteras expeditorias a comite camerarum pro uno grosso redimere, licet plures habeat possessiones, teneatur.

XXVII. Item statuimus, quod in quibuslibet solitis locis camere in civitatibus debeat fieri domus regalis, ad quam omnes homines aurum et argentum ad vendendum, comburrendum et cambiendum defferre teneantur, et si palam vel occulte alias comburrere, vendere vel commutare presumpserint et in hoc reperti fuerint, per eundem comitem camerarum omnia bona sua presentibus supradictis testimoniis auferantur et insuper ut infideles puniantur.

XXVIII. Volumus etiam, ut nullus alias preterquam in domo regia aurum, quot karatorum fiat, probare debeat, sed camerarius debeat examinare in domo regia et ponere karatos et signo nostro regio inprimi faciat et consignari. Contra hoc autem presumpentes per eundem comitem camerarum predicta pena iussimus puniendos.

XXIX. Ceterum statuimus, ut nullus mercator aut quilibet alter ultra duas marcas denariorum ad montana secum defferre presumpmat pro expensis. Si autem ipse comes camerarum vel sui officiales apud tales ultra duas marcas reperient in denariis, auferant bona sua universa et puniant eum in persona presentibus testimoniis supradictis.

XXX. Et ut camerariorum nostrorum iustitia appareat in denariis fabricandis, statuimus, ut quilibet eorum in ipsorum monetis signum habeat, per quod moneta per ipsum fabricata cognoscatur.

XXXI. Ceterum volumus, ut ipse comes camerarum monetarios vel cutores denariorum ubique in civitatibus aut in villis invenire poterit et eosdem captivare voluerit, tunc iudex, iurati et universitas civitatis vel ville, in qua reperti fuerint, ad requisitionem ipsius comitis camere vel eius officialium ipsos monetarios captivare et ad manus comitis camerarum teneantur assignare. Si qui autem secus fecerint, eadem pena, qua monetarii contumaces sunt plectendi, puniantur.

XXXII. Item ipse comes camerarum nostrarum in civitatibus nostris, ubi monete nostre fabricantur, debet habere duo scrinia, in quorum uno ferramenta formalia sub sigillis hominum dominorum archyepiscopi et magistri tawarnicorum conserventur, in altero vero virgule pro monetis fuse, absque monetis novis, sub sigillis tribus et clavibus tribus eorundem trium hominum, videlicet archyepiscopi et magistri tawarnicorum ac eiusdem camerarii debent conservari et semper in presentia hominum ipsorum archyepiscopi et magistri tawarnicorum apperiantur, nec possint aliquo ipsorum absente aperiri vel opera monetarum exerceri. Ita, quod si idem comes camerarum nostrarum ipsis duobus testibus absentibus vel aliquo ipsorum absente fractis clavibus et sigillis monetas faceret fabricari, per ipsum magistrum tawarnicorum tamquam falsarius puniatur, dummodo hoc iidem homines domini archyepiscopi et magistri tawarnicorum fateantur.

XXXIII. Specialiter dum funditur argentum, omnes personaliter interesse debeant et singulis septimanis ipsos novos denarios nostros ipsi homines domini archyepiscopi et magistri tawarnicorum in combustione quadraginta eorundem denariorum novorum debeant examinare, et sic iidem novi denarii cambio exponantur.

XXXIV. Item cusores denariorum et fabricatores in eisdem nostris civitatibus commorantes, ne ipse comes camerarum nostrarum pro falsis monetis inculpetur, sub potestate et iurisdictione eiusdem remanebunt. Ceterum antiqua libertate camerarum nostrarum requirente statuimus, ut omnes servientes et officiales ac monetarios ipse comes camere nostre et non alter debeat iudicare; et si ipse ex parte quorum iustitiam dare neglexerit, magister tawarnicorum nostrorum predictus iustitiam facere teneatur quibuscunque querulantibus de eisdem.

XXXV. Item pro ampliatione earundem monetarum camerarum nostrarum statuimus, ut universi ecclesiarum prelati decimas et debita ac quosvis redditus ac etiam cuncti regni nostri barones et nobiles aliique cuiusvis status homines ipsorum proventus universos, scilicet tributa, terragia et quasvis collectas a quibuscunque ipsorum debitoribus et jobagionibus, tributariis et officialibus cum ipsis monetis camere nostre aut florenis recipere et exigi facere teneantur, dummodo ipsi denarii camere nostre in tanta copia cudantur, ut omnes debitores sua debita cum ipsis denariis camere persolvendi habeant facultatem. Nos autem promittentes assumpimus universas nostras collectas regales et reginales per totum regnum nostrum, specialiter tributa nostra et tricesimas nostras exigi facere et recipere cum eisdem.

XXXVI. Item si qui contra ipsum comitem camerarum nostrarum ratione iniuriarum seu dampnorum aut nocumentorum personis camerariorum nostrorum in officio procedentibus illorum ad nostram vel magistri tawarnicorum presentiam citati fuerint, in primo termino, absque ulteriori dilatione, dante iustitia ipsa causa finaliter debeat terminari. Quicumque autem comitem camere nostre predictum ordine iudiciario in causam attraxerit, prelibatus magister tawarnicorum nostrorum ex parte eiusdem iustitiam faciet nostra auctoritate mediante.

XXXVII. Hoc etiam ordinavimus, ut de quibuslibet rebus et bonis ipsarum camerarum nostrarum ubicunque in terra et in aquis per earundem officiales deferendis nullum tributum exigatur.

XXXVIII. Preterea de qualibet marca unum pondus ad rationem denariorum ratione conservationis ferramentorum homini eiusdem archyepiscopi omni die operis, et dimidius fertio homini ipsius magistri tawarnicorum preter sumpmam conventionis nostre regalis persolvatur. 'Si vero ipse comes camere nostre quolibet die operis de singulis marcis cisis singula pondera denariorum et dictos dimidios fertones premissio modo persolvere recusaverit vel dilationem facere homines ipsius domini archyepiscopi et magistri tawarnicorum ferramenta formalia includendi habeant facultatem.

XXXIX. Item aule nostre vicecancellario idem comes camere nostre proventus ab antiquo consuetos, videlicet triginta marcas in terminis solutionum subscriptarum, salvis proventibus notariorum remanentibus, plene dare et solvere teneatur.

XL. Hoc etiam adiecto, quod iniurias et dampna officialibus camerarum per quoscunque irrogata prefatus magister tawarnicorum prosequatur et emendet. De falsariis autem et eorum fautoribus antiquam regni nostri consuetudinem volumus observari.

XLI. Item statuimus, ut comites parochyales quorumlibet comitatuuum non plus, quam tres marcas octo pensarum nove monete nostre a comitibus camerarum nostrarum petere vel recipere

ratione fororum presumpmant. Nobiles autem vel cuiusvis alterius status homines fora habentes pretextu fororum ipsorum ab eisdem camerariis quicquam petere vel recipere non presumpmant.

XLII. Volumus etiam quod tam magister tawarnicorum suos dimidios fertones, quam dominus archyepiscopus sua pondera quibuspiam vendere non possint et locare; quod si fecerint, hiis iuribus ipsorum priventur.

XLIII. Preterea iidem archyepiscopus et magister tawarnicorum tales homines in prosequendis negotiorum camerarum transmittant, qui possessiones habeant, et si demerita eorum requirerent, perdere habeant.

XLIV. Item comites camerarum nostrarum, qui anno sequenti cameras nostras conducere voluerint, in die Strennarum venturo de predictis suis debitis rationem nobis personaliter reddendo conducant.

XLV. Item quia superius tetigimus, ut prefati quinque homines executores negotiorum camere super civitates huic nostre ordinationi rebellantes lucrum camere in expensa moderata commorando, cum subsidio iudicum et iuratorum earundem civitatum plene exigere cum gravamine iudicii duodecim marcarum et eisdem comitibus camerarum nostrarum plenarie persolvi facere teneantur, ideo volumus, ut si ipsi iudices et iurati presenti nostro mandato obedire recusarent, extunc ipsum lucrum camere non solutum plene et dictum iudicium duodecim marcarum cum dupplo persolvere teneantur.

XLVI. Exprimentes etiam, quod quecunque res et bona ratione non observationis aliquorum articulorum premissorum et transgressionis mandati nostri regalis seu violationis statuti camere a quibuscunque personis hominum et quibuscunque locis auferentur, in tres partes debeant dividi coequales, quarum due partes ipsi comiti camerarum, tertia vero pars in manus predictorum hominum domini archyepiscopi et magistri tawarnicorum debeant provenire.

XLVII. Item de quibuslibet marcis pro lucro camere in quibuslibet comitatibus dicatis et exactis unum grossum seu unum pondus homini domni archyepiscopi, alium vero grossum seu pondus homini magistri tawarnicorum dare et solvere tenebitur comes camerarum predictarum.

XLVIII. Istud tamen expresse volumus, quod si ipse comes camerarum nostrarum ipsam monetam camere nostre in locis solitis camere cudendo habundanter fabricari non fecerit, et ipse solum ad dicam et exactionem lucri eiusdem camere se dissimulando commiserit, extunc ipse talis, tamquam nos seducens et regni nostri deceptor seu mendax contra nostram maiestatem convincatur,

XLIX. Ut autem idem comes camerarum memoratam sumpnam pecunie mille et quingentarum marcarum nobis facilius solvere possit, ordinantes decrevimus, ut in octavis festi Nativitatis beati Johannis Baptiste trecentas et septuaginta quinque marcas, item in octavis Nativitatis beate virginis similiter trecentas et septuaginta quinque marcas et modo simili trecentas et septuaginta quinque marcas in octavis festi beati Martini, residuas vero trecentas et septuaginta quinque marcas in octavis diei Strennarum nunc venturis ultimam solutionem faciendo, in terminis sese invicem subsequentibus nunc venturis, hic in Wysegrad cum monetis prenotatis modo premissis solvere nobis tenebitur. Penam duppli incurrat, si aliquem terminorum premissorum obmiserit

insolutum. Datum in Wysegrad in festo Purificationis beate virginis, anno domini supradicto.

2 FEBRUARY 1342

We, Charles, by the grace of God king of Hungary, make known to all to whom it may concern by entrusting it to memory through the contents of these presents that having carefully considered the keen diligence of master Andrew of Csempelény¹ with the unanimous agreement and counsel of the prelates and barons of our realm, we have granted and farmed to the same master Andrew the office of count of ers² of Srem and of Pécs, with all the counties, districts, cities, villages, and towns which are known to have belonged to these same chambers from ancient times, that is, with the counties Srem, Becs, Valkó, Bodrog, as well as Baranya, Somogy, Tolna, and Zala, together with the archiepiscopal tithes³ to handle, manage, and hold in the one thousand, three hundred and forty-second year of our Lord from the date of the present time for a whole year for one thousand and five hundred marks⁴ to be paid out to us at the following terms, partly in florins, namely, gold pennies of our chamber, minted or to be minted in our mint at Buda,⁵ partly in full-weight money⁶ of the past four years⁷ and of the present year that are to be circulated in our entire (realm) just as they were circulated by him, as well as by other chamber counts of our realm in the past year, in the following way:

¹ Andrew of Csempelény was one of the few ethnic Hungarians among the so-called counts of the chamber; see W. von Stromer, "Die ausländischen Kammergrafen der Stefanskronen," *Hamburger Beiträge zur Numismatik* 16 (1973/5) pp. 85-106.

² The count of the chamber (*comes camerae*) was an officer in charge of the mint, the customs, and the administration of the royal salt mines from the early thirteenth century onward. These positions were in the thirteenth century frequently farmed out to Jewish and Muslim merchants and moneylenders, in the fourteenth and later to German and Italian merchants and bankers. On them, see Stromer, "Kammergrafen," as above.

³ According to ancient custom, ten per cent of the income of the royal chambers went to the archbishop of Esztergom, primate of Hungary, who also held other rights connected to minting; see below, Art. 2 and *passim*.

⁴ The value of the farm seems to have varied considerably; in 1345, the same chambers were farmed out for 3300 marks; see *DRH* p. 119.

⁵ Gold florins began to be minted under Charles I around 1325. They followed the model of the Florentine *fiorino d'oro*, their gold content was also the same (3.52 g), but they were slightly heavier (3.56 g) because the alloy was less fine.; see Arthur Pohl, *Ungarische Goldgulden des Mittelalters 1325–1540* (Graz: Akademische Verlagsanstalt, 1974) esp. pp. 3–18.; Boglárka Weisz, „Entrate reali e politica economica nell'età di Carlo I” in: *L'Ungheria angioina. A cura di Enikő Csukovits*. Roma 2013.

210. Toth, Csaba: Contributions to the study of the alloy standards of the Hungarian gold coins struck during the Angevin period. *Cercetări numismatice* 9–11 (2003–2005) 199–207.; Lengyel, András: *Gold Book. 1325–1340*. Budapest, 2013.

⁶ *Integros denario* refers to the details of minting as in art. 1, below..

⁷ The text consistently has "the money of the past, third and fourth past year," but for simplicity's sake we translate it as the "past four years." Since 1338 the royal penny has been issued in the same weight and alloy.

1. That the said Andrew will cause to be made at our chamber full-weight silver pennies of exactly a third firing in the manner, form, and validity of pennies of the past four years, issuing them in a just and right third firing, so that twelve *pensae*⁸ must be cut from one mark of fine silver eight *pensae* of them and not more will weigh on the scale one mark of the weight of Buda⁹ and should circulate in the value of a mark of fine silver at the mining towns,¹⁰

2, These full-weight pennies shall be issued for exchange in the following manner: the count of the chamber himself or his officials in the various market places of the cities and free villages of our domains and the queen's domains and those of any others, in the presence of the men of the archbishop of Esztergom,¹¹ of the Master of the Treasury,¹² and of the *ispán* of the county, as well as one noble magistrate and the witness of a chapter,¹³ must set out publicly, on their own

⁸The *pensa* was a money of account, equal to forty *denarii*, (pennies). Thus 12 x 40 = 480 pennies were to contain a (Buda) mark of pure silver. "Third firing" meant two-third (0. 666) fineness, that is, 320 pennies (=eight *pensae*) were to be minted from one Buda mark of this fineness.

⁹The Buda mark was equal to the Troy weight of ca. 245,5 g. Thus a new penny weighed ca. 0.77 g and contained 0.51 g of silver. This coin should be the type of H497. (Huszár, Lajos: Münzkatalog Ungarn von 1000 bis heute. Budapest–München, 1979.)

¹⁰The mining towns (*montanae*) enjoyed immunity from the county courts and were administered by the counts of the chambers. The most important ones were Körmöcbánya (Kremnitz/Kremnica), as the center of gold mining; Selmečbánya/Schemnitz/Banská Štiavnica; Besztercebánya/Nesohlk/Banská Bystrica in the northwest, Gölnicbánya/Gölnitz/Gelnica and Szomolnok/Schmölnitz/Smolnik in the northeast and Nagybánya/Neustadt/Baia Mare in the east; See Boglárka Weisz, Mining Town Privileges in Angevin Hungary. The Hungarian Historical Review 2. (2013) 288–312. There were also less important silver and gold mines in Transylvania; see Arthur Pohl, "Die Münzkammer Siebenbürgen 1325–1526," *Südost-Forschungen* 13 (1970) 24–43. By virtue of the royal monopoly on metals, they were purchased by the chambers *in montanis* on an imposed low price. For one mark pure silver, only 320 pennies were paid, which had the value of two thirds of a mark. The remaining one third was the traditional rate of the chamber's profit (see below, n. 30).

¹¹ See n. 3, above.

¹²The *magister tavernicarum* was a royal officer, originally responsible for the royal court's provisioning, derived from the Hungarian name for the guards of royal magazines (*tavernici*); from the end of the fourteenth century onwards, the master of the treasury was no longer associated with the treasury, but was rather the presiding judge of the appeal court of certain royal cities (*sedes tavernicalis*). See Boglárka Weisz, "The magister tavarnicorum and the towns in the Hungarian Kingdom in the Angevin era" *Mesto a Dejiny* 5. (2016) 6–17; Eadem, "L'organisation financière."

¹³ Cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances.), and sent out witnesses (called: *testimonia*) to legal transactions. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See Ferenc Eckhart, "Die Glaubwürdigen Orte Ungarns im Mittelalter." *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, "Administering the Law: Hungary's Loca Credibilia." in Martyn, Rady, ed. *Custom and law in Central Europe* (Cambridge: Centre for European Legal Studies, 2003), pp. 25–35.

table in these same marketplaces, the coins of our chamber to be circulated and exchanged, and three of these same pennies shall be exchanged for four broad Viennese pennies or for other monies of our chamber of four years ago now recalled, or for money made in other preceding years similar to the Viennese firing.¹⁴ And because we wish that these pennies of the past four years retain their value and circulation, six of these new pennies, just like those of our chamber from the past four years, should count for a groat,¹⁵ while eight *pensae* and sixteen pennies are to be circulated everywhere and accepted as tender without surcharge for a mark of payment.¹⁶

3. If anyone is discovered increasing the amount of our true money minted in the past four years and even of this year made and issued in the same value, namely, by increasing the number of coins minted from a mark, such a transgressor of mix royal mandate and the statute of the chamber is to be punished by our authority in his goods and in his person by the count of our chambers.

4. Then, if, among the present money of our chamber or that of the past four years, lighter pennies or such pennies of less valuable firing of which more than eight *pensae* and three or four pennies weigh a mark are found in anyone's possession, whether in the cities or in any other place, or even among the chamberlains or their officials, or among those minting more money from a mark, then these are to be punished by our authority as counterfeiters.¹⁷

5. Therefore, we command and enjoin that a scale with weights be always kept and maintained in all cities and public places to prevent merchants or other traders, or anyone from among the citizens and burghers, from being able—following their abusive custom and fraud—to pick out the heavier pennies from the money of our chambers of the present year and each of the past four years or to reduce them by clipping.¹⁸

¹⁴The “broad” Vienna pennies had about the same silver content as the Hungarian *denarii* of 1338 to 1342. Thus, by the exchange, the chamber’s profit was ca. 37 per cent, slightly above the usual rate of 33 per cent.

¹⁵The *grossus*, German *Groschen*, Hungarian *garas*, was a silver currency of good quality with a fineness of “sixteenth firing” (0.9375) minted in Hungary from 1329 to 1338 during the reign of Charles I. Eighty groats equaled one Buda mark of pure silver. Even after the minting stopped, the term survived as a money of account.

¹⁶The mark of payment (or of account) traditionally amounted to 10 *pensae* (400 pennies). Here, the value of the mark of payment is fixed at the value of 336 pennies (or 56 groats), equaling 0.7 Buda mark of pure silver.

¹⁷Counterfeiting money was regarded one of the major felonies, called charge of infidelity, and was punishable by capital punishment, see Frigyes: Kahler, “A magyarországi középkori pénzhamisítás (I. rész) [Medieval counterfeiting in Hungary, Pt. 1] *Numizmatikai Közlöny* 76–77 (1977–1978) 57–65.

¹⁸“Clipping” of coins meant the systematic selection of heavier pieces and cutting off their rim so that only lighter coins are circulated and illegal profit is obtained from the remaining silver. This practice,

6. Moreover, particularly and expressly for the increase of these monies of our chamber we wish and mandate that in all the places of the chambers in which money is customarily minted, the count of the chamber, according to his voluntary obligation and our intended purpose, should as a start cause to be minted and distributed not less than a thousand marks.¹⁹ If he neglects to do this, he will be condemned as deceiving us and cheating our subjects.

7. Then, we have ordered that, henceforth, everyone should cease and desist completely from keeping a private money changer as some are said to be accustomed to do. Indeed, if the count of the chamber finds out that someone keeps a minter to the detriment of our mint and establishes this in the presence of the men of the lord archbishop of Esztergom, of the Master of the Treasury, and the three aforesaid others, not only these minters but also their lords will be punished by the loss of their goods and chattels, as well as being personally dishonored.²⁰

8. Then, the florin or golden penny of the chamber is to be always accepted and exchanged everywhere without surcharge or refusal for ninety full-weight pennies to be issued by our chamber.²¹

9. Then, one mark of gold of the Buda weight of twelve carats is to be exchanged for seven marks of pennies of the chamber with the same Buda weight weighed on the scale.²²

usually done by money-changers, was widespread in medieval Europe and regarded everywhere as counterfeiting.

¹⁹ The setting of a minimum of new money to be minted was an innovation in 1342, not included in earlier cameral contracts, see e.g. *DRH* pp. 85-105.

²⁰ This formulation seems to refer to proscription.

²¹ This measure can be interpreted in two different ways. Either the legal course of the golden florin was fixed thereby in 90 pennies, or this price was prescribed for official money-changers only who sold the new currency to the towns and other communities with the legal reduction of 33 per cent. In terms of actual silver the florin was worth around 108 to 110 pennies, depending on how one calculated the exchange rate (then fluctuating between 1: 15. 5– 16). Thus the official price invested the pennies with a nominal value, exceeding the intrinsic value by 25 to 23 per cent. (This mean a corresponding devaluation of the florin.) In the other sense, the legal price would have been 72 to 74 pennies, that is, two-thirds of the market price, with one third for the chamber's profit. By the new regulation the course of the florin would have been fixed well above the market value (by 21–25 per cent), a measure encouraging the towns and others to pay their taxes in florins rather than in silver. The stipulation in the text that the florin "must be accepted" by the officials of the chamber and should not be "refused," speaks for the second interpretation. See Engel 1990, 47–55.

²² In view of the market exchange rate of precious metals (as note above) the imposed price for unminted gold was highly profitable for the chamber, at least 60 per cent.

10. And no one may exchange gold and silver for counted money, but must exchange them for pennies issued by the royal chamber weighed on the scale.²³ If, however, anyone will be found to do or to have done otherwise, he is to be punished by a suitable penalty as transgressor of the royal mandate and infringer of the statute of the chamber.

11. We have decreed besides that no one at all should have the right to trade in any old money or unminted gold or silver, and particularly in the small or even medium Viennese ones which we wish and command to eradicate completely, but only in the money of our chamber; otherwise, buyers and sellers will lose their goods and chattels and will be personally dishonored.

12. Henceforth, no foreign merchant or trader coming to this country should dare to sell overtly or covertly or to exchange his wares or goods, be it cloth or any other type and kind of merchandise, publicly or secretly, in houses or at the chamber, for old money of any form, or for gold and silver, but only for the said money of the chamber. Nevertheless, he should be allowed to sell when he comes to a place of staple,²⁴ for selling or trading with the knowledge and the advisement of the count of the chamber or the aforesaid men of the lord archbishop and of the Master of the Treasury and the others. However, if the count of the chamber or his officials find or apprehend any of the people acting or proceeding differently, these should lose the things set out for sale, cloth as well as other goods, and the price received for the goods sold, and they should be punished in person as well. And even more, not only those who are found exporting non-minted gold or silver, other than the new gold and silver pennies, by their own authority against the ordinance of our chamber and our will, shall be punished by its confiscation and the dishonoring of their persons, but also, if gold or silver to be sent out of our kingdom is found with the seals or signs of the chamberlains,²⁵ and if the chamberlains allow gold or silver to be exported, the counts of the chamber whose seals or signs are found on this gold or silver must also be punished as counterfeiters and transgressors of the royal mandates.

13. Moreover, this is particularly emphasized in the present charter that the counts of our chamber under whose jurisdiction the mines lie, for the sake of procuring lead and other evident necessities of the chamber and the mines (without an abundance of which no gold and silver

²³ The prohibition of exchange by count (*numerando*) and not by weight (*ponderando*) is recurrent in the cameral contracts and was aimed at eliminating the sorting out of heavier pieces or of “clipping” (see above, art. 5).

²⁴ At this time, Buda, Győr, Zágráb, Lőcse/Levoča and Sopron enjoyed staple right. See Boglárka Weisz, “Entrate reali e politica economica nell’età di Carlo I,” 231.

²⁵ See below, art. 30.

could be procured),²⁶ should have the power of transferring an amount of gold or silver with the knowledge of the men of the lord archbishop and the others, but only if it is obviously necessary.

14. Then, if in the county or province of any count of the chamber our present money is by evil management forged and distributed and becomes abundant, and the count of the chamber has not taken care of confiscating and destroying this same money, it will be deemed as though the false money had been made on the minting premises of this count of the chamber. However, if this same count of the chamber has not had sufficient force in any place to curb the forgers in their wicked works, then that chamberlain with the witness of the aforesaid five men, having investigated and learned the truth about the evil deeds of the counterfeiters, must denounce these very forgers by name to us, our barons, and our council, and urge us to root them out.

15. Then, since we wish that our present money of third firing issued in increased amount should remain unchangeably in circulation and be made abundant throughout our whole realm and that the pennies of our chamber of the last three years should be equally distributed and accepted with the new pennies, we have ordered and decreed by mandate that in every county from every gate through which a wagon loaded with hay or grain can enter or leave, whether behind this same gate or on a plot having a gate, three or four or even more men live, or if only one lives there,²⁷ eighteen pennies of our said chamber as the chamber's profit are to be rendered and paid on the fifteenth day after the assessment to the count of the chamber,²⁸ with the following exceptions: those who are so needy or poor that they cannot pay, what the aforementioned five men of the archbishop and the others on their conscience define and command to be able to pay, and the lords of the land swore on their oath whether they are able to pay or not; servants and

²⁶ Lead was needed for the parting of silver during the first stage of silver ore metallurgy, the so-called cupellation. See: Agricola, *De re metallica*, trans. H. C. and L. H. Hoover, ed. 2. (New York: Dover, 1950) Book X, pp. 476–93; Cf. Paulinyi, “Crown monopoly,” p. 35.

²⁷ This mention of the “gate” (*porta*) is one of the earliest references to this unit of taxation. It referred to a tenant peasant’s plot consisting of house, garden, arable land and pasture rights. The sentence suggests that by this time already more than one family lived on a plot. In fact, some plots were, in the course of time divided down to a “quarter virgate.” See: István Szabó, “Magyarország népessége az 1330. és 1526. évek között” [The population of Hungary between the years 1330 and 1526] in; *Magyarország történeti demográfiája*, J. Kovacsics, ed. (Budapest: KSH, 1963) p. 63–7. It is noteworthy that the statute recognizes that the typical wide gate of the farmyard, still widespread in rural Hungary, was not the only arrangement in settlements.

²⁸ The chamber’s profit (*lucrum camerae*) was originally the king’s income from minting and especially from the repeated exchange of better money for less valuable coins (*renovatio monetae*); in this form first mentioned in 1231, but certainly earlier than that date. The usual exchange rate was 66.6 per cent, the remaining one third being the chamber’s profit. By the late thirteenth century, by which time the original way of gaining this income has been abandoned, the chamber’s profit had become a direct tax but retained its name until the end of the Middle Ages. By 1336 the peasant plots were taxed by one fifth of a gold florin, the cities had to pay it in the old way, see art. 25, below. Still basic: See Boglárka Weisz, “Entrate reali e politica economica nell’età di Carlo I,” 215–219.

conditionarii of the king, the queen, the churches or others;²⁹ the military servitors of the lords, whom they exempted on their oath, and the five men (namely the men of the lord archbishop and the others³⁰) found by investigation to be such soldiers; and also churches, cities, or others with explicit privileged liberty. Nevertheless, noting that such payment is to be halved there and in such counties or parts of our realm where gates are not customary, or where they cannot be built because of lack of wood; there and then such people are liable to pay the said chamber's profit just as in other times, at the same term according to the circumspect decision of the said five men.

16. However, citizens and other subjects of ours having the aforesaid patent liberty shall remain exempt from the payment of the chamber's profit if they ensure the continuous circulation and exchange of these monies among them and the tenant peasants³¹ on their estates. Otherwise, their liberties are infringed upon not by us, but by themselves, and then they are just as liable as our other subjects for the payment of this chamber's profit, and so these people, provided that it be clearly evident to us from the report of the said five men, namely, the men of the lord archbishop, of the Master of the Treasury, of the *ispán* of the county, one noble magistrate³² and a man of a chapter, that our money was not accepted by them, nor was it arranged to be exchanged among them or by those belonging to them.³³

17. Moreover, every chamberlain should dispatch for exchange in every county of his chamber sufficient pennies produced by our chamber for the multiplication of our said new pennies with the knowledge and acknowledgement of the five men in such abundance that the county is supplied by them to satisfaction. If he has not done this or does not take care to set out for

²⁹ *Conditionarii* were peasants on royal estates (elsewhere called *udvornici*) who, because of their unfree origin were traditionally exempt from royal taxation.

³⁰ On the five men, see art. 16, below.

³¹ *Jobagio* (Latinized from Hungarian *jobbágy*) was the status of most of the rural population in medieval Hungary. They were personally free, obliged to render dues in kind, money and some labor to their lords, but free to move, once dues paid, to another seigneur's estate. We translate the term as "tenant peasant." See: János M. Bak, "Servitude in the Medieval Kingdom of Hungary (A Sketchy Outline)" in Paul Freedman and Monique Bourin, eds. *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*. Turnholt: Brepols, 2005. (Medieval Texts and Cultures of Northern Europe 9), pp. 387–400.

³² The *ispáns* (*comites*) were the royal officials heading the counties ever since the foundation of the kingdom. In Angevin times, this office was often combined with positions at court, the co-called honors, and the actual administration of the counties were in the hands of their deputies, the *vice-comites*, *alispáns*, see Pál Engel "Honor, castrum, comitatus. Studies in the Government System of the Angevin Kingdom." *Questiones Medii Aevi Novae* 1 (1996) 91–100. Noble magistrates were elected officials, known from the late thirteenth century onwards, assistants of the *ispán* and at the same time representatives of the county nobility. There were usually four or more such magistrates in every county.

³³ For the special arrangements for cities and burghers, see art. 25, below.

exchange our new pennies in such an abundant amount, then in those counties he should lose his rights and shall not be able to demand the chamber's profit nor any other tax.³⁴

18. In every county one common and convenient place is to be designated for those paying the said payment, and if those present are not able to pay on the day assigned because of the great number of taxpayers or some other impediment, they are to be awaited without penalty for four continuous days; nor may they be penalized if they make the payment within these four days.

19. It should also be noted that these same counts of the chamber are not allowed to collect the chamber's profit imposed exclusively for the purpose of exchange in any other way, that is, in Viennese or other old or large pennies by any kind of agreement or under any pretext, but only in the full-weight pennies of our chamber now issued, and that they are required to melt down and cast all old pennies or large Viennese, Bohemian, as well as Serbian ones, and others of any form,³⁵ save only the current whole pennies of our chamber which we have decreed to remain permanently in currency, and mint them into our new pennies for their increase; on such a condition that if anyone was not paying the chamber's profit after the assessment at the assigned term, then the same five men should move onto the property from which this chamber's profit was not paid and stay there without destruction or spoliation, at a moderate cost to the property, until the chamber's profit is paid together with a fine of three marks.³⁶

20. However, if the people or the lords of the villages are remiss in paying the profit of the said chamber at the term of payment meet the said men acting in the business of the chamber outside the village with the money owed and the assessed fine ordered to be paid, then these agents of the business of the chamber should not have the right to move onto any property in such villages.

21. *Ispáns* of counties and noble magistrates who for favor or for a payment conceal and release men from the said payment in any way against our ordinance should be punished with the penalty of those who do not pay if there is clear proof against them.

22. Since we have promised to observe inviolably all of the foregoing, we wish that these same counts of our chamber should also strictly adhere to these matters. And, conversely, neither by means of any charter issued after the present one, nor by some clever cunning should anyone dare to change anything of the foregoing. Thus if any one from among the counts of the chamber should attempt to act against this order, we command that the said five men, without whose assistance we do not wish the chamber's profit to be collected, should exclude him by the force of this letter from their midst, for we have commanded this tax to be collected not for levying old

³⁴ See above, art. 6. Here the forfeiture of the rights to collect the tax is added.

³⁵ One of the purposes of the monetary reform was to suppress the circulation of foreign money what was widespread in Hungary due to the poor quality of the coinage; see Hóman, *Pénztörténet*, pp. 104–7.

³⁶ The standard penalty for not paying the chamber's profit was established in 1335 (see *DRH*, p. 88) and remained valid throughout the Middle Ages.

or Viennese monies but for the increase of the monies of our chamber with coins which we intend to keep permanently circulating throughout the whole realm.

23. Then, we wish that the said counts of our chamber should not be able, without the said five men, to enter into foreign or outside business of the chamber, namely such matters that should be conducted and transacted in the counties, particularly in the assessment and levying of the chamber's profit. If they rashly attempt to proceed contrariwise and hence something evil occurs to them, they will deserve to endure and suffer it.

24. Then, anyone who attacks the count of the chamber, his company, or those traveling with him with manifest violence shall be punished according to the quality and quantity of the delict.

25. Burghers living in the cities located in counties of the counts of the chamber and under their jurisdiction are required, according to our and our barons' present assessment, to exchange a certain sum of money from the said money of the chamber issued for their increase within the said space of time for silver or to pay for the refining of this same money of the chamber issued for their increase in the pennies of the chamber. The following have to exchange in the aforesaid manner: Zalánkemény/Slankamen 240 marks, Zimony/Zemun 15, [Száva]Szentdemeter/ Sremska Mitrovica 50, Eng/Divoš 60, Nagyolasz/Mandjelos 25, Esztyén/Ustine 30, Segesd, Aranyos, Lábod, and [Kálmán]Csehi/Kálmánca with their appurtenances 100, and Pécs 40 marks³⁷ in such a way that these citizens either render one mark of fine silver after having received these quantities in the new money of the chamber for any mark weighing eight *pensae* by weight or, without accepting anything, pay for the refining or firing of that money, for every mark assessment four *pensae* of the said monies, of which eight *pensae* weigh a mark.³⁸ If, however, a city is negligent in paying, the said agents of the business of the chamber shall remain in such a city at the moderate expense of the city with the help of the judge and jurors of the same until the said payment with a fine of twelve marks is paid.

26. It is also stated that every noble is required to procure a letter of quittance for one large penny from the count of the chamber on payment of the chamber's profit even if he has several possessions.³⁹

³⁷ These cities were most important urban settlements of southern Hungary in the mid-fourteenth century. With the exception of Pécs, they lost their importance in the subsequent centuries. In the consequence of Ottoman occupation and the Turkish wars, most of them were destroyed to the point that they cannot now be unequivocally located. György Györffy in *Az Árpád-kori Magyarország történeti földrajza* vol. 1 [Historical geography of Árpád-age Hungary] (Budapest: Akadémiai Kiadó, 1987) p. 301 identified Esztyén as Ustine, now in Croatia.

³⁸ Cities paid their part of the chamber's profit according to their size and wealth.

³⁹ Nobles were generally exempt from taxes, except, apparently, from the chamber's profit. But at least, they had to pay it only once, even if they owned several properties, which was typical.

27. Then, we have ordered that in the usual cameral locations in the cities a royal house should be established to which everyone must bring gold and silver for sale, refining, and exchange.⁴⁰ If any one dares publicly or privately to refine, sell, or exchange elsewhere and is discovered in this, all his goods are to be confiscated by the count of the chamber in the presence of the aforementioned witnesses, and he is also to be punished as a traitor.

28. We command that no one should test gold (for how many carats it contains) in any place except in a royal building, but the chamberlain should examine it in the royal house, and he should have the carats engraved and marked with our royal mark. We have ordered that those daring to act contrariwise are to be punished by the aforesaid penalty by the same count of the chamber.

29. Furthermore, we order that no merchant or any other person should dare to take with him to the mining areas more than two marks of pennies for expenses. If the count of the chamber or his officials should find on such a person more than two marks in pennies they should confiscate all his goods and punish him in person in the presence of the said witnesses.

30. In order that the justness of our chamberlains in the minting of the pennies should be apparent, we have ordered that each of them should have a sign in his mint by which money made by him can be recognized.⁴¹

31. Furthermore, we wish that, should the count of the chamber find counterfeiters or makers of pennies in any city or village and attempt to capture them, the judge, jurors, and all the people of the city or village in which they were found be obligated, at the request of the count of the chamber or his official, to capture these minters and to surrender them into the hands of the count of the chamber. If, however, anyone does otherwise, he should be punished by the penalty for contumacious counterfeiting.

32. Then, in our cities where our money is made, the count of our chamber should have two chests. In one chest the iron tools for minting should be kept under the seal of the men of the lord

⁴⁰ This means the implementation of the royal monopoly of precious metals, introduced by Charles I in 1335 Weisz, "Entrate reali e politica economica nell'età di Carlo I" 223–224.

⁴¹ Quite some time before this official regulation in 1338, the counts of the chamber, or earlier the minters, usually put their mark on the gold and silver coins issued by them. As a rule, the mint was marked by a letter, such as B for Buda, K for Kremnica and the moneyer by a symbol, letter or coat of arms. For example, the Paduan bankers Giacomo and Giovanni Saraceno, in charge of finances in the 1360s and 1370s marked his coins with a "Saracen" head, a face with pronounced African features. In general, see Artur Pohl, *Münzzeichen und Meisterzeichen auf ungarischen Münzen des Mittelalters (1300–1540)* (Budapest: Akadémiai Kiadó–Graz: Akademische Druck- und Verlagsanstalt, 1982). Lengyel, András: *Gold Book*. Budapest, 2013.

archbishop and the Master of the Treasury,⁴² in the other chest no new coins, but the cast rods for minting money should be kept under three seals and three keys of the same three men, namely the men of the archbishop, the Master of the Treasury, and the officer of the chamber, and they should always be opened in the presence of the men of the archbishop and of the Master of the Treasury; when any of them is absent the chest must not be opened nor money minted. If the count of our chamber, when these two witnesses are absent or when even one is absent, should break the seals and the lock and cause money to be minted, he should be punished as a counterfeiter by the Master of the Treasury if the men of the lord archbishop and the Master of the Treasury so testify.

33. Particularly, when silver is cast, all these people must be present in person, and every single week the men of the lord archbishop and of the Master of the Treasury should examine our new pennies by melting down forty of them before they are put out for exchange in the described way.⁴³

34. Then, in order to avoid that the count of the chamber be accused because of counterfeit money, the minters and makers of pennies living in our said cities shall remain under his power and jurisdiction. Furthermore, as the ancient liberty of our chamberlains demands, only the count of the chamber and no other ought to judge all servants, officials, and minters, and if he should neglect to render justice in regard to his men, our said Master of the Treasury is to give justice to any complainant.

35. Then, for the increase of the monies of our chamber we order that all prelates of churches be obligated to receive and to collect the tithes, debts, and any other payments, just as all barons and nobles of our realm and others of whatever estate, all revenues, namely tolls, rents, and whatever other taxes from their debtors, tenant peasants, toll collectors, and officials, in the money of our chamber or florins, as soon as pennies of our chamber are struck in such abundance that all debtors will be able to pay their debts with pennies of the chamber. In turn we promise and agree to receive and to collect all our royal taxes and those of the queen throughout our entire realm, particularly our tolls and our thirtieth,⁴⁴ in these same pennies.

36. Then, if anyone will be summoned to our presence or to that of the Master of the Treasury in any offense against the count of our chamber by reason of injury or damage or harm inflicted to the men of our chamber acting on business, the suit should be terminated without further delay at

⁴² On such tools, see A. Luschim von Ebengreuth, *Allgemeine Münzkunde und Geldgeschichte des Mittelalters und der neueren Zeit* ed. 2 (Munich–Berlin: Oldebourg, 1926) pp. 82–93.

⁴³ The cameral contract of 1338 specifies that forty pennies both of the new minting and of the Viennese type are to be melted down, obviously for comparison of their fineness; see *DRH* p. 99.

⁴⁴ The thirtieth came to be a customs duty, developed from various market tolls. Weisz, “Entrate reali e politica economica nell’età di Carlo I” 227–230.

the first term, as justice demands.⁴⁵ If, however, the said count of our chamber should be sued at law by anyone, the said Master of the Treasury, by our authority, shall ensure justice on behalf of that person.

37. We have ordered also that no tolls are to be demanded for any goods or chattels of our chambers shipped anywhere by land or by water by the officials of the chamber.

38. Furthermore, one *pondus*⁴⁶ reckoned in pennies is to be paid for every mark to the man of the archbishop at every day of work for the safeguarding of the minting tools,⁴⁷ and half a *ferto*⁴⁸ to the man of the Master of the Treasury, above the amount established in our royal contract. If the said count of our chamber should refuse to pay in the aforesaid manner or should wish to delay payment on any day of work the *pondera* of pennies or the said half *fertones* for every mark minted, the men of the said lord archbishop and of the Master of the Treasury shall have the right to lock up the minting tools.

39. Then, the same count of our chamber must pay in full the vice-chancellor of our court the long-established customary revenue, namely, thirty marks at the dates of the payments written below,⁴⁹ besides the fee due to the notaries.

40. We also wish to add that the aforementioned Master of the Treasury should prosecute and amend injuries and losses inflicted by anyone on the officials of the chamber. Concerning counterfeiters and their protectors, we wish that the ancient custom of our kingdom be observed.⁵⁰

41. Then, we have ordered that no *ispán* of any county shall presume to demand or to collect from the counts of our chamber as market fee more than three marks of eight *pensae* each from

⁴⁵ The attempt at avoiding that justice be delayed characterized legislation throughout the Middle Ages, with little success (see e.g. **1351:25**). “First term” refers to one of the sessions of the royal courts, referred to as *octava* of which there were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George’s (23 April), St. James’s (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days.

⁴⁶ The *pondus* (1/48th of a mark in weight) was often made equal to the groat (1/56th of a mark as money of account), see above notes 15-16.

⁴⁷ The forty-eighth part due to the archbishop from minted silver and gold (not to be confused with the tenth part of the revenue, see art. 4, above) was called *pisetum* and was collected by the primate until the nineteenth century; see Frigyes Kahler, “Das pizetum-Recht,” *Debreceni Déry Múzeum Évkönyve* 1986 (Debrecen: Déry Múzeum, 1987) 181-91.

⁴⁸ A *ferto*, from the German *Viertel*, was one fourth of a mark, hence c. 2 oz.

⁴⁹ See art. 48.

⁵⁰ Ancient custom may refer to **1298:15** or customary law in general. A more precise codification against counterfeiting is in Sigismund’s urban decree **1405: 18**.

our new money.⁵¹ Nobles or other men of any estate holding market rights should not dare to demand or collect anything from these chamberlains.

42. We also command that neither the Master of the Treasury should be able to sell or to lease his half *fertones* to anyone, nor the lord archbishop his *pondera*; should they do so, they are to be deprived of their rights.⁵²

43. Moreover, to attend to the business of the chamber the same archbishop and: Master of the Treasury must send men who have possessions, so that if their trespasses may warrant it, they could lose these.

44. Then, the counts of the chamber who wish to farm our chambers in the following year should farm them on New Year's Day,⁵³ having given account of their debts to us personally.

45. Then, if—as we have touched on this above⁵⁴—the said five men, agents of the chamber's business, who are required to stay at a moderate expense and collect with the help of the judge and the jurors the chamber's profit and twelve marks fine in cities that are reluctant to hand it over completely to the count of the said chamber, find that the judge and jurors refuse to obey this ordinance of ours, we command that they are held to render the chamber's profit in its entirety together with double the amount of the twelve marks fine.

46. We state also that all goods and chattels confiscated from anyone anywhere because of contempt for any of the said articles, for transgression of our royal mandate or violation of the statute of the chamber, ought to be divided into three equal parts, two of which should go to the same count of the chamber, the third to the hands of the said men of the lord archbishop and the Master of the Treasury.

47. The count of the said chamber will be required to render and pay from every mark collected as the chamber's profit in any county one large penny or one *pondus* to the man of the lord archbishop and another large penny or *pondus* to the man of the Master of the Treasury.

48. However, we command expressly that if the count of our chamber does not cause money of our chamber to be made in the accustomed places of the chamber in abundance, and, by dissimulation, merely declares his intent to collect the chamber's profit, then such a man is to be punished as leading us astray, as a deceiver of our kingdom and a liar against our majesty.

⁵¹ The precise meaning of *ratione fororum* (“by reason of markets”) is not quite clear. Apparently the *ispáns* had a claim to any market revenue in their county and the sum specified here was set as a maximum of such payments.

⁵² There is no evidence that such sub-leasing may have happened.

⁵³ This date would have been an innovation, for the traditional beginning of the fiscal year was in February-March (usually at Purification of the Virgin, February 2). It did not become accepted.

⁵⁴ See art. 25.

49. In order that the count of the said chamber should be able to pay us more easily the sum of fifteen hundred marks, we have ordered and decreed that he should pay us at the octave of the feast of the nativity of the blessed John the Baptist three hundred and seventy-five marks and similarly three hundred and seventy-five marks on the octave of the feast of the Blessed Virgin, and in a similar manner three hundred and seventy-five marks in the octave of the feast of the Blessed Martin, making the last payment of the remaining three hundred and seventy-five marks at the octave of the New Year's Day at subsequent dates,⁵⁵ here in Visegrád⁵⁶ in the said money and the said manner. If he omits any payment of the said terms he should incur a double penalty.

Given at Visegrád on the feast of the Purification of the Virgin in the above-mentioned year.

⁵⁵ The dates of payments varied in the course of time. They were different, for example, in 1335 (*DRH*, p. 89). The present contract stipulated terms for 1 July, 15 September, 18 November, and 8 January.

⁵⁶ Visegrád at the bend of the Danube was the royal residence during most of the Angevin age; see József Laszlovszky, ed., *Medieval Visegrád (Royal Castle, Palace, Town and Franciscan Friary)*, *Dissertationes Pannonicae Ser. III., Vol. 4.* (Budapest: ELTE, 1995). About the coinage in Visegrád see Tóth, Csaba: Mints of Medieval Visegrád. In: "Quasi liber et pictura" *Tanulmányok Kubinyi András hatvanadik születésnapjára* Gyöngyi Kovács, ed. (Budapest: ELTE Régészeti Int., 2004) 571–3.



Louis I “the Great” in the Illuminated Chronicle (c. 1386)

DECRETUM UNICUM OF KING LOUIS I OF HUNGARY
11 December 1351

This decree is the only piece of legislation issued from a diet under King Louis I. As contained in the proem, the king felt obliged to reward the great monetary and personal sacrifices of his nobles in the Sicilian wars with the confirmation of “their rights.” The *decretum* contains in its first part the verbatim transcript of the Golden Bull of Andrew II of 1222 (from the 1318 transcript of the archbishop of Esztergom) with a significant change concerning noble inheritance, where it restores the older tradition of unlimited claim by the clan. However, by re-issuing the privileges granted to the magnates of the thirteenth century (who were then alone called *nobiles*) and explicitly expanding them to the free soldiering elements in Transylvania, Slavonia, and Croatia, Louis in fact gave the entire Hungarian nobility a charter of liberty. The document was seen as such by contemporaries, and its renewal became an accepted tradition of later kings of Hungary.

The decree was passed in a diet of the nobility (clergy are not mentioned in the proem) that seems to have lasted several weeks: in a charter of 12 December 1351 the palatine speaks of a delay in a

legal case “because of a royal meeting of the entire realm here in Buda for twenty-four days” (MNL OL DI. 4149). At least for the following year, the traditional judicial gathering on St. Stephen’s Day, based on the renewed Golden Bull, was also reintroduced (cf. a charter of the same Palatine Nicholas Gilétfi of 24 August 1352, Imre Nagy, and Gyula Tasnádi Nagy, eds. *Anjoukori Okmánytár. Codex diplomaticus Hungariae Andegavensis* (Budapest: Magyar Tudományos Akadémia, 1879–1920; 5: 604). The importance of this charter of privilege for the lesser and moyenne nobility is suggested also by the fact that several original copies are known which were sent to the counties as a form of promulgation (see below, MSS).

MSS.: Seven originals are known:

- for an unknown county (Co. Csanád?), Library of the Magyar Tudományos Akadémia, 165:121, parchment, seal pedant lost;
- for Co. Bereg, MNL OL DI. 4239/1, parchment with damaged double seal pedant; for
- Co. Bihar, MNL OL DI. 41174, parchment with fragment of double pendant seal; for
- Co. Körös MNL OL DI. 4239/4, parchment with damaged double pendant seal;
- from the family archives of the Perényi (hereditary *ispáns* of Abaújvár, hence probably the copy for that county) MNL OL DI. 70630, parchment with double pendant seal;
- from the *Archivum regnicolare*, MNL OL DI. 4239/3, parchment with double pendant seal, water-damaged;
- for Co. Sáros (later, as dorsal notes suggest, in Co. Szepes and Turóc) MNL OL DI. 4239/2, parchment, without seal.

Additionally, there are several transcripts: four copies of the transcript by Queen Mary in her decree of 22 June 1384 (see 1384); three copies of the transcript by King Matthias I in his

coronation decree of 6 April 1464; a transcript in privilegial form for Co. Pozsony, in the Slovak State Archives, Bratislava, Slovakia; a transcript in privilegial form for the city of Trencsén, in the City Archives Trenčín, Slovakia. (For detailed information on the manuscripts, see *DRH*, pp. 126–27.)

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

- EDD.: *Magyar Törvénytár: Codex Juris Hungarici*, Dezső Márkus *et al.* eds., vol. 1, Budapest.: Franklin, 1896, pp. 170–81; Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., Budapest: Regia Universitas, 1829–66, 9/2: 37–47; Henrik Marczali, *A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungarorum* Budapest: Athenaeum, 1901, pp. 216–23; Tade Smičiklas, *Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae* (Zagreb: Academia, 1904–) 12: 539;
- cf. also Johannes Nicolaus Kovachich, *Lectiones variantes decretorum comitialium inclyti regni Hungariae* (Pest: Trattner, 1816), pp. 47–55, 537–42; Döry, Ferenc, György Bónis, Vera Bácskai., eds. *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301– 1445.* (Budapest: Akadémiai, 1978) [=DRH] pp. 127-40
- LIT.: Pál Engel, *Realm of St. Stephen. A history of medieval Hungary 895–1526.* London–New York: I.B. Tauris, 2001 pp. 174-81; Stephen Béla Vardy, G. Goldschmidt, Leslie S. Domonkos, eds. *Louis the Great, King of Hungary and Poland* (Boulder, Co.: East European Monographs, 1986); György Bónis, *Hűbériség és rendiség a középkori magyar jogban* [Feudalism and corporatism in medieval Hungarian law] (Kolozsvár: Erdélyi Tud. Intézet, s.d. [1947], repr. Budapest: Közgazdasági és Jogi Könyvkiadó 2001) pp. 178–80.

11 DECEMBRIS 1351

Lodouicus dei gratia Hungarie, Dalmatie, Croatie, Rame, Seruie, Gallicie, Lodomerie, Comanie, Bulgarieque rex, princeps Salernitanus et honoris montis Sancti Angeli dominus, omnibus Christi fidelibus presentibus pariter et futuris presentium notitiam habituris salutem in eo, qui regibus dat feliciter regnare et victoriose triumphare. Tronus et potentia regalis dignitatis tunc dinoscitur roborari, cum subditorum quieti et tranquillitati provida circumspectione providetur, ipsisque digno remunerationis bratio in libertatibus largiendis, ymo etiam per alios reges pia consideratione institutis confovendis necnon confirmandis liberaliter respondetur. Nam observantia fidei, sui trahens originem, debitum rationis native legibus, stabilis perseverat, cum benivolentia principis in suos ostensa regnicolas sic semper coalescit in subditos, ut nisi vite suffocetur igniculus in corpore, vigor fidei non lentescit. Eapropter ad universorum notitiam harum serie volumus pervenire, quod baronum necnon procerum et nobilium regni nostri cetus et universitatis ydemptitas nostrum regium conspectum adeundo, fidelitatibus suis et fidelium servitiorum preclaris meritis in cunctis nostris et regni nostri negotiis prosperis et adversis cum sumpme fidelitatis studio et votiva diligentia nostre maiestati exhibitis et inpensis declaratis et nostram in memoriam revocatis, exhibuerunt nobis quasdam litteras privilegiales illustrissimi principis domini Andree, tertii Bele regis filii, olym incliti regis Hungarie, avi et predecessoris nostri pie recordationis aurea bulla sua roboratas, libertates ipsorum per sanctissimum Stephanum Hungarice gentis regem et apostolum, ut predictae littere declarabant, ipsis institutas innovantes et confirmantes tenoris subsequentis, supplicantes unanimiter et conformiter nostre humiliter maiestati, ut ipsas acceptantes, ratificantes et approbantes presentibus de verbo ad verbum transsumpti faciendo simul cum omnibus libertatibus eorum in eisdem expressis, excepto solummodo uno articulo in subsequentibus declarando, confirmare et easdem libertates in dictis litteris expressas ex regie benignitatis clementia auctoritate regia innovando ipsos in eisdem perempnaliter fruituros et gavisuros litteris nostris privilegialibus mediantibus stabilire dignaremur. Quarum tenor talis est:

(Decretum a. 1222, Aurea Bulla nominatum.)

Nos igitur petitioni dictorum haronum, procerum et nobilium regni nostri aures exaudibiles regio cum favore inclinantes, consideratis et in memoriam revocatis fidelibus obsequiis et sincerissimis complacentiis eorundem, quibus in cunctis nostris et regni nostri negotiis prosperis pariter et adversis, specialiter vero in sumpmenda vindicta innoxii sanguinis olym domini Andree, Jerusalem et Sycilie regis, fratris nostri karissimi beate recordationis, cuius dire necis acerbitas fere totius orbis fines seu plagas propulsavit, ad dictum regnum Sycilie nobiscum proficiscendo, inopinatis fortune casibus et variis personarum periculis sumpma fidelitate fulti intrepide se submitiendo nostre maiestati studuerunt complacere et se reddere utique gratiosos et acceptos, volentes voto ipsorum gratiose occurrere et eorum beneplacitum adimplere, ut ipsos ad similia fidelitatis opera exercenda devota mente incitemus, predictas litteras ipsius domini Andree regis, avi et predecessoris nostri karissimi aurea bulla sua roboratas, omni penitus suspicione carentes de verbo ad verbum presentibus insertas acceptantes, ratificantes et approbantes, simul cum omnibus libertatibus in eisdem expressis, excepto solummodo uno articulo modo prenotato de eodem privilegio excluso, eo videlicet, quod nobiles homines sine herede decedentes possint et queant

ecclesiis vel aliis, quibus volunt, in vita et in morte dare vel legare, possessiones eorum vendere vel alienare, ymo ad ista facienda nullam penitus habeant facultatem, sed in fratres, proximos et generationes ipsorum possessiones eorundem de iure et legitime, pure et simpliciter absque contradictione aliquali devolvantur, ut tenor continet privilegii bullati domini Andree regis supradicti, confirmantes et easdem libertates de beneplacita voluntate serenissime principisse domine Elyzabeth, eadem gratia regine Hungarie, genitricis nostre karissime ac de consilio eorundem baronum nostrorum ex regie benignitatis clementia innovando ipsos in eisdem perempnaliter commisimus fruituros et gavisuros. In super pro tranquilliori statu et pacifico comodo eorundem regnicolarum nostrorum, de voluntate eiusdem genitricis nostre et consilio eorundem baronum nostrorum, ipsis ex solita liberalitate huiusmodi libertates infrascriptas superaddendo duximus concedendas:

I. Quod si prelati vel aliqui viri ecclesiastici contra nobiles regni nostri in aliqua causa in presentia alicuius iudicis regni nostri processerint et litem habuerint, tunc pro causa, pro qua agitur, lite pendente interdictum in eos ponere vel contra ipsos sententiam excommunicationis non possint promulgare, sicut hactenus usi sunt et consueti, absque scitu et notitia regie maiestatis. Et si iidem viri ecclesiastici seu prelati tramite iuris observato in alicuius regii iudicis presentia de iure convicti fuerint, tunc in eiusdem gravaminis penam, quo eorum adversarios intendebant honorare seu aggravare, incidant eo facto.

II. Nec pro funere hominum per aliquem vel aliquos interemptorum archydiaconi mala consuetudine, sicut usi sunt, unam marcam exigere valeant atque possint.

III. Minuti etiam conventus ab emanatione litterarum suarum super perpetuatione possessionum conficiendarum cessent et eorum sigilla omni careant firmitate.

IV. Lucrum vero camere, prout tempore incliti principis domini Karoli olym regis Hungarie, genitoris nostri Karissimi pie memorie de quolibet integro fundo curie tres grossi solvebantur, sic et nunc cum tribus grossis in nostra camera cudendis, quorum grossorum unus sex denarios camere nostri, in valore et quantitate sex latorum Wyennensium valeat, et ipsorum grossorum quatuordecim unum fertonem faciant, persolvatur. Superfluos autem denarios, vldelicet dicarum redemptionem et victualia recipere non valeant.

V. Villicos et servientes in propriis eorum possessionibus commorantes ac servos ipsius lucri camere dicatores dicare et super ipsos lucrum camere exigere non possint, et generaliter dicendo nichil plus quam tres grossos recipere valeant et extorquere.

VI. Preterea ab omnibus jobagionibus nostris aratoribus et vineas habentibus in quibuslibet villis liberis ac etiam vduarnicalibus villis quocunque nomine vocitatis ac reginalibus constitutis, exceptis civitatibus muratis, nonam partem omnium frugum suarum et vinorum ipsorum exigi faciemus et domina regina exigi faciet; ac predicti barones et nobiles similiter ab omnibus aratoribus jobagionibus et vineas habentibus in quibuslibet possessionibus ipsorum existentibus nonam partem omnium frugum suarum et vinorum suorum eorum usibus exigant et recipiant. Prelati quoque et viri ecclesiastici jobagiones habentes primo decimas et posthec similiter nonam partem omnium frugum suarum et vinorum ipsorum exigant. Et si qui in exactione predicta secus fecerint, nos in talium rebellium et presentem nostram statutionem alternantium possessionibus pro usu nostro ipsam nonam partem ipsarum frugum et vini exigi faciemus sine diminutione et

relaxatione aliquali, ut per hoc honor noster augeatur et ipsi regnicole nostri nobis fidelius possint famulari.

VII. De possessionibus etiam a nobis et nostris successoribus inveniendis iuxta earum quantitatem, videlicet de possessione proventus decem marcarum facienti vicecancellarius noster unam marcam et scriptor unum fertonem, et de maioribus possessionibus proventus viginti marcarum facientibus duas marcas et scriptor similiter unum fertonem recipere possint et habere, et sic consequenter iuxta excesscentiam possessionum de novo inveniendarum.

VIII. Tributa etiam iniusta super terris siccis et fluviis ab infra descendentibus et supra euntibus non exigantur, nisi in pontibus et navigiis ab ultra transeuntibus persolvantur, cum in eisdem nobiles et ignobiles regni nostri multo et nimium perceperimus agravari,

IX. Ceterum si quis nobilis ordine iudiciario in facto potenciali succubitus in pena calumpnie, astationis falsi termini et exhibitionis falsarum litterarum ac sententie capitalis pro quocunque facto²⁴ in presentia palatini et iudicis curie nostre aut alterius cuiuscunque iudicis presentia convictus fuerit, iudex illius cause talem convictum recaptivet et tribus diebus causa reformationis pacis inter partes fiende et ordinande detineat, et si concordare nequirent, tunc in manus sui adversarii ad infligendam sibi penam iuxta regni consuetudinem et de iure debitam assignet. Et si tali convicto pars adversa mortem vel aliam penam consuetudinis regni de iure debendam infligerit vel fecerit, tunc a iudice et parte adversa sine receptione alicuius pecunie vel gravarninis possessionis sue erit expeditus.

X. Filiique, fratres, proximi, sorores et uxores pro excessu talis pereuntis hominis non debeant agravari, sed in possessionibus, domibus et bonis ipsorum quieti et pacifici permaneant. Si autem cum parte adversa homo premissa modo convictus posset concordare, iudex non ultra, nisi quinquaginta marcas, dando sibi terminum debitum ad easdem persolvendas, recipere possit; et si dato sibi termino solvere non curaret, de possessione sua, expirato ipso termino, recepto homine regio et testimonio alicuius capituli vel credibilis conventus portionem vel portiones ipsas quinquaginta marcas valentem vel valentes possit occupare tamdiu possidendam vel possidendas, donec per hos, quorum redemptioni eadem vel eedem magis convenire dinoscuntur, pro ipsis quinquaginta marcis redimantur.

XI. Ad eorundem etiam nobilium petitionem annuimus, ut universi veri nobiles intra terminos regni nostri constituti, etiam in tenutis ducalibus sub inclusione terminorum ipsius regni nostri existentes sub una et eadem libertate gratulentur.

XII. Lucrum etiam camere nostre nobiles inter fluvios Draue et Zaue ac de Posoga, necnon de Walko cum aliis veris nobilibus regni nostri unanimiter solvere teneantur, nec ratione collecte marturinarum Banzolosmaia vocatarum amodo et in posterum molestentur, sed ab omni exactione aliarum quarumlibet collectarum hactenus persolvi consuetarum exempti penitus, tamquam ceteri regni nostri nobiles aliarum partium, immunes habeantur.

XIII. Si vero alique minere auri vel argenti, cupri, ferri vel alie fodine in possessionibus nobilium invenirentur, absque competenti concambio non auferantur, sed pro talibus possessionibus mineras auri in se germantibus, si regie placuerit voluntati, equales possessiones conferat nobilibus prenotatis. Alioquin, si ipsas possessiones minerosas regia maiestas pro concambio habere nollet, extunc ius regale seu urburas iuri regio pertinentes percipi suo nomine

faciat, easdem possessiones ipsis nobilibus cum ceteris quibuslibet suis utilitatibus, proventibus et iuribus relinquendo, prout etiam idem dominus Karolus rex, genitor noster karissimus ipsis regnicolis annuerat litterarum suarum per vigorem.

XIV Si autem alicui possessionem vel possessiones contulerimus, ille possessionem vel possessiones eidem collatas pro se recapiat et non nomine nostro, sed nomine ipsorum proprio cum contradictoribus in statutione dicte possessionis apparentibus trahat litem, ita, quod nomen nostrum ipsi litigionarie questioni non immisceant, nec procuratorias litteras ad executionem talium causarum a nobis recipere possint seu inpetrare.

XV. Nobiles etiam ad loca tributorum ire non compellantur, sed per portus, quos voluerint, libero transitu absque aliquo impedimento potiantur.

XVI. Nec etiam jobagiones aliquorum regnicolarum nostrorum, ad regiam vel reginalem celsitudinem pertinentes, vel ad ecclesiarum prelatos aut potentes regni nostri attinentes, absque voluntaria permissione dominorum eorundem jobagionum potenter abducantur.

XVII. Denique istam consuetudinem, quod dum nobiles regni nostri ad conducendum uxores eorum accedunt et more solito cum eorum uxoribus ad propria redeunt, in pontibus et tributis una marca exigitur, duximus cassandam et anichilandam.

XVIII. Nichilominus etiam in civitatibus et liberis villis regalibus et reginalibus, prelatorum et baronum ac aliorum nobilium tenetis et possessionibus jobagiones regnicolarum nostrorum pro pristinis factis non possint inpediri, prohiberi seu arestari in rebus et personis, sed si iidem vulnera, lesiones, mortem, incendia et alia consimilia enormia perpetrarent manifeste, extunc ex parte eorundem iudicium et iustitia inpendatur, et quilibet querelantes in priorum dominorum suorum presentia iudicium et iustitiam prosequantur congruentem.

XIX. Porro pro excessibus patris filius nec in persona, nec in possessionibus, nec in rebus condempnetur.

XX. Episcopi quoque, capitula, abbates, conventus, prepositi et cetera possessionate ecclesiastice persone cum tribus litteris inquisitoriis, nisi regia maiestas destinatis probis viris, quos maluerit, experiatur et informetur inter nobiles et ecclesias super possessionibus acquirendis, possessionem nec requirere nec retinere possint, nisi cum litteris privilegialibus regiis vel reginalibus, aut iudicum vices gerentium regie maiestatis.

XXI. Homines autem capitulorum seu conventuum, qui ex mandato regio pro testimonio ducuntur, non possint esse alii, nisi hii, qui dignitates habent in eadem ecclesia. Et si ipsius capituli vel conventus testimonium in equo suo proprio ductus fuerit, tunc per diem duos grossos, si vero in equo ipsius nobilis ducetur, tunc per diem unum grossum ipsi idem nobilis dare teneatur.

XXII. Homo autem regius, qui ducitur ad citandum vel ad inquisitionem faciendam, non possit esse aliunde, nisi de eodem comitatu vel districtu, in quo est ille, qui citatur vel contra quem fit inquisitio; et capitulorum testimonium de propinquiore capitulis adducatur ad citandum aut ad inquirendum.

XXIII. Et inquisitiones non possint fieri per alium modum, nisi mediantibus litteris regalibus vel palatini aut iudicis curie regie, et congregentur nobiles illius comitatus vel districtus in unum et ab eis inquiratur manifeste.

XXIV, Causantes etiam in quacunque maxima et ardua causa concordare voluerint, iudex prohibere non possit, et de iudicio pacis ab ipsis non plus, quam tres marcas exigere valeat

quoquomodo.

XXV. Universe etiam cause in facto possessionum mote et movende in tertio termino absque dilatione et prorogatione aliquali terminentur.

Et ut presentis nostre confirmationis, innovationis, constitutionis et libertatum largitionis ac concessionis series robur optineat perpetue firmitatis, nec ullo unquam tempore per nos et nostros successores in aliqua sui parte quomodolibet valeat in irritum revocari, presentes concessimus litteras nostras privilegiales pendentis et autentici sigilli nostri dupplicis munimine roboratas.

Datum per manus venerabilis in Christo patris domini Nicolai, eadem et apostolice sedis gratia episcopi Zagrabiensis, aule nostre vicecancellarii, dilecti et fidelis nostri, anno domini M^{mo} CCCmo quinquagesimo primo, tertio ydus Decembris, regni autem nostri anno decimo. Venerabilibus in Christo patribus et dominis Nicolao Strigoniensi locique eiusdem comite perpetuo et Dominico Spalatensi archiepiscopis, fratre Dyonisio archielecto Colocensi, Nicolao Agriensi, Demetrio Waradiensi, Andrea Transilvano, Colomano Jauriensi, Nicolao Quinqueecclesiensi, Mychaele Waciensi, Johanne Wesprimiensi, Thoma Chanadiensi, fratribus Thoma Syrimiensi, Peregrino Boznensi, Stephano Nitriensi et Blasio Tyniniensi episcopis, ecclesias dei feliciter gubernantibus. Magnificis baronibus Nicolao palatino et iudice Comanorum, Nicolao filio Laurentii woyuoda Transilvano, Olyuerio magistro tauarnicorum nostrorum et iudice curie domine regine genitricis nostre karissime, comite Thoma iudice curie nostre, Stephano totius Sclauonie et Croatie, Dominico de Machou et Nicolao de Zeurino banis, Paulo magistro tauarnicorum reginalium, Bartholomeo pincernarum et Leukus dapiferorum, Dyonisio agazonum ac Theuteus ianitorum nostrorum, necnon Johanne filio eiusdem Olyuerii dapiferorum reginalium magistris, Symone filio Mauricii comite Posoniensi et aliis quampluribus regni nostri comitatus tenentibus et honores.

DECEMBER 11, 1351

Louis, by the grace of God king of Hungary, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria, prince of Salerno and lord of the honor of Monte Sant'Angelo,¹ to all of Christ's faithful, both present and future, to whose notice these presents may come, greetings in Him who grants to kings a felicitous reign, and triumphant victory. The throne and power of the royal majesty are recognized as strong when the royal majesty maintains by provident foresight the peace and tranquility of its subjects and when those subjects are granted, as a deserved reward, expanded liberties, as well as the acknowledgment and confirmation of privileges given them with dutiful consideration by previous kings. For the preservation of loyalty, drawing on its own origin as something arising from the innate laws of reason, remains steadfast and thus always becomes firmly established among subjects when the prince exhibits benevolence toward his own gentlemen of the realm, with the result that the strength of loyalty does not weaken unless the flame of life is extinguished in the body.² Therefore, we wish to bring to the notice of all by these presents that the community and total universality of the barons, nobles, and lords of our kingdom³

¹ The full royal style was used in those charters which were issued in the form of a privilege and corroborated with great seal of majesty. The "kingdoms" listed here were part of the royal style of the Árpáadian rulers from c. 1270; with the exception of the first three they constituted claims of Hungarian rulers to lands south of the Sava and the lower Danube or east of the Carpathian Mountains. On these, see, János M. Bak, "Lists in the Service of Legitimation in Central European Sources." In: L. Doležalova ed. *The Charm of a List: From the Sumerians to Computerised Data Processing*. (Newcastle upon Tyne: Cambridge Scholars Publishing, 2009), pp. 34–45. To these Charles I added in 1323 those of "Prince of Salerno" and "Lord of the Honor of Monte Sant'Angelo" which his successors continued to use until 1386. Both domains formed part of the kingdom of Sicily and the Hungarian branch of the Angevin dynasty claimed them as their paternal inheritance. All the time, however, the honor (i.e., the barony) of Monte Sant'Angelo, situated on the Adriatic coast on the promontory of Gargano (some 175 km east–northeast of Naples), remained in the possession of the Durazzo line of the Angevins. (See Emile G. Léonard, *Les Angevins de Naples* [Paris: Presses Universitaires de France, 1954], pp. 322, 376.) For Louis' interest in the vassal territories, see Alfons Huber, "Ludwig I. von Ungarn und die ungarischen Vasallenländer," *Archiv für Österreichische Geschichte* 66 (1885): 1–44; G. McDaniel, "The House of Anjou and Serbia" in *Vardy, et al., Louis*, pp. 191–201.

² The text as printed in *DRH* has been followed for the edition and translation. Editors have proposed a number of emendations (some of which were anticipated by medieval copyists): e.g., *debitam* for *debitum*, *naturae* for *nativae*. This translation follows one of the suggestions of Johannes Nicolaus Kovachich, *Lectiones variantes decretorum comitalium inclyti regni Hungariae* (Pest: Trattner, 1816), p. 538) in understanding *debitum* as a substantive in apposition to *originem*. The contorted and curious word order of this sentence may well be, as has been suggested, is due to the scribe's misunderstanding of what was dictated. In addition, no little confusion is owed to the author's patent attempt to compress several concepts, expressed (as throughout this preamble) in unusual terms, within one sentence; cf. the comments in *DRH*, p. 128, n. I–1.

³ Most frequently the term *cetus* (*coetus*) was used in the vague sense of "collectivity." It can be, and has been indeed, pointed out that the prelates are not explicitly mentioned in the text which seems to indicate that they did not take part in the assembly. Nevertheless, they are listed in the eschatocol of the document in the way usual for charters of privilege.

appeared in our royal presence, where they demonstrated and recalled to our memory their loyalty, the burdens they had undertaken, and the outstanding merits of their steadfast services carried out with consummate zeal, loyalty, and devoted attention to our royal majesty in all our affairs and in those of the kingdom, in good times and bad. They showed us a certain charter of privilege from the most illustrious prince Andrew, son of king Béla III, once renowned king of Hungary, our ancestor and predecessor of revered memory. This charter, containing the matters set out below, is validated by his golden bull and renews and confirms the liberties granted to them, according to the said charter, by St. Stephen, king and apostle of the Hungarian people.⁴ They humbly, with one voice and one wish, besought our majesty that we deign to affirm the charter by accepting, ratifying, and approving it, and causing it to be transcribed word for word together with all their liberties contained therein (with the exception of only one article, as stated below); and by renewing those same liberties contained in the said charter, we confirm in accordance with the clemency of royal benevolence and through our royal authority, by means of our own charter of privilege, their right to hold and enjoy those liberties in the future in perpetuity. The content of that charter is this:

(Decree of **1222**, the Golden Bull of Andrew II)

We, therefore, having listened with royal favor to the petition of the said barons, lords, and nobles of our kingdom, having considered and recalled to our memory their faithful obedience and most sincere good will with which they were eager to please our majesty and endear, and in general recommend themselves to us in all our affairs and those of the kingdom, in good times and bad, particularly in avenging the innocent blood of the late lord Andrew, king of Jerusalem and Sicily, our dearest brother of blessed memory, the bitterness of whose savage murder filled the lands and territories of almost the entire world, by setting out with us to the said kingdom of Sicily and facing intrepidly the unforeseen circumstances of fate and all kinds of personal danger.⁵ We wish to concur favorably with their request and to fulfill their wishes, in order to encourage them to engage with dedicated mind in similar works of faithful service. We accept, approve, and confirm the above-mentioned letter of the lord king Andrew II, our dearest ancestor and predecessor, validated with his golden bull, untouched by any doubt and, transcribed word for word, inserted in this charter with all the liberties contained in it, with the sole exception of the above-mentioned one

⁴The ascription of “ancient liberties” to the founder of the Christian kingdom was commonplace; the reference here is to the Golden Bull (**1222**), which also contains this claim.

⁵ Andrew (b. 1327) was the second son of King Charles I of Hungary and a younger brother of Louis I. His father had married him to Joan, the granddaughter and heiress of King Robert of Naples; in the obvious hope that Andrew would inherit the “Kingdoms of Jerusalem and Sicily” (that was the official name of the Kingdom of Naples). When in 1343 Joan I alone succeeded her grandfather and Andrew was merely given the simple title of Duke of Calabria, Louis was bitterly disappointed. In 1345, he managed to gain the consent of Pope Clement VI (as suzerain of Naples) to his brother’s coronation, but before it could be performed, Andrew was murdered. Louis then declared himself heir of “King” Andrew and took revenge by conquering Naples in two major campaigns (1347–48, 1350). Having realized, however, that he would not be able to keep his conquest against both Joan and the papal court, he made a truce in 1352 and withdrew his armies, without ever formally renouncing his rights.

paragraph to be excluded from this privilege, namely, that contrary to the clause according to which "noble men, dying without heirs should be able and allowed in life and death to give, grant, sell, or alienate their estates to churches or to others whom they wish," they should in fact have no right at all to do so, but the property of these same nobles should descend to brothers, collateral relatives, and clansmen by right and according to law, pure and simple, without anyone's objection;⁶ with the gracious consent of the most serene princess, the lady Elizabeth, by the same grace, queen of Hungary, our dear mother,⁷ and in accordance with the counsel of our barons, we confirm the same liberties in the words of the above-mentioned bull of privilege issued by lord king Andrew, and we renew them out of our royal benevolence and order that they shall be held and enjoyed by them in perpetuity for the future. Furthermore, on behalf of a more serene condition and peaceful situation for these same men, our gentlemen of the realm, and in accordance with the wish of our mother and the counsel of these same men, our barons, we, following our usual generosity, have thought it best to concede liberties of the following sort, by adding what is written below:

1 That if prelates or any clergy proceed against nobles of our kingdom in any suit and litigate in the court of any judge of our kingdom, then, in the matter of the lawsuit, while the case is pending, they are not allowed to impose an interdict upon the laymen or pronounce a sentence of excommunication against them, as has been the usage and custom until now, without the royal

⁶The inalienable status of most noble estates as defined here came to be called later aviticity (*aviticitas*, in Hungarian *ősiség*) and remained the law until 1848. It was based on the principle that the estate was the common inheritance of all those who descended, in the male line, from the ancestor (*avus*) who had acquired it: the kindred. The kindred (*generatio, genus*; Hung. *nemzetség*) was an extended kinship group, comprising several patrilineal families, which was the basic unit of both the conquering Hungarians and other nomads (e.g., the Cumans). From the thirteenth century, noble clans claiming common descent from a known warrior or other royal grantee (*de genere*) were the prime possessors of inherited and acquired landed property, often holding them jointly. In order to distinguish the Hungarian kinship system from other, slightly similar ones, Erik Fügedi introduced the term *klán*, which is translated here as "kindred." Historians, nonetheless, cannot agree whether the kindreds that emerged to light in the documentary record in the thirteenth century have any relation to the leading groups amongst the Hungarians of the time of the ninth-century conquest. In the older literature, this article was seen as the "law of aviticity" and was held to have been "introduced" by Louis I. Today, actually ever since the seminal study of A. Murarik, *Az ősiség alapintézményeinek eredete* [Origins of the basic institutions of entail] (Budapest: Sárkány, 1938), this passage is seen rather as a reestablishment of an old custom rooted in the tribal traditions of pre-Christian times which had never disappeared. Even though suspended by Andrew II, this inheritance pattern became again the general rule under King Charles I, and Louis only sanctioned it. See Erik Fügedi, "The *avus* in the Medieval Conceptual Framework of Kinship in Hungary," in Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*. ed. J. M. Bak (London: Variorum Reprints, 1986) ch. 4, pp. 137–42; János

M. Bak, "King Louis I and the Lesser Nobility," in Vardy, *et al.*, *Louis* pp. 67–80; Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 22–8.

⁷The dowager queen, Elizabeth, daughter of King Wladislas the Short of Poland and fourth wife of Charles I of Hungary, was considered co-regent of his son in an informal way and exerted a great influence on his policies until her death in 1380.

majesty's knowledge and notice.⁸ And if the same clergy or prelates should be lawfully, with full process of law, condemned by any judge, then they should fall immediately under the penalty for the same trespass as that which they intended to impose and inflict upon their opponents.

2 Archdeacons cannot and must not exact, as they used to by evil custom, one mark for the funeral of men murdered by one person or by many.⁹

3 Small convents must cease from issuing letters of confirmation on inheritance of property, and their seals shall be without any authority.¹⁰

4 The chamber's profit is now to be paid with three groats¹¹ to be minted in our Chamber,

⁸ Similarly to other European laws of the fourteenth century, the article intends to limit the rights of ecclesiastics in secular courts. In the fourteenth century, secular authorities increasingly viewed the imposition of ecclesiastical penalties, especially excommunication, by clerical litigants against their lay adversaries in a proceeding pending before a secular judge as an abuse of spiritual jurisdiction. For a discussion of these circumstances in France and England, particularly the development of the English writ of prohibition, see Elizabeth Vodola, *Excommunication in the Middle Ages* (Berkeley: Univ. of California Press, 1986) pp. 159–90. The Editors are pleased to thank Kenneth Pennington, Syracuse University, for this reference. Although this provision is the first to be included in a *decretum* of national validity, the measure was anticipated in a royal document applicable to Transylvania and pertaining exclusively to property disputes issued on 28 July 1344. This article has been, among others, adduced to impugn an “anti-clerical” bias to the diet of 1351. We know that King Louis had already issued a mandate of this content, but that was meant only for Transylvania and only in matters of property; see Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Pest/Budapest: Regia Universitas, 1829–66) 9/1: 194.

⁹ This practice had already been prohibited in a papal letter by Pope Benedict XII, on the request of King Charles I, see Augustinus Theiner, *Vetera monumenta historica Hungariam sacram illustrantia*, I, (Rome: Typis Vaticanis, 1859; repr. Osnabrück: Zeller, 1968), p. 607, but, judging from several later transcripts of the same (e.g., Nándor Knauz, Lajos C. Dedek, eds., *Monumenta ecclesiae Strigoniensis*. 3 vols. Esztergom: Horak-Buzarovics, 1874–1924., 3: 274; MNL OL DI. 5022), repeated even in the fifteenth century, without avail. Bónis assumed that the abuse goes back to some pre-Christian custom of composition, transferred in a “baptized” form to the archdeacon.

¹⁰ In the fourteenth century the reliability of minor convents as places of authentication (*loca credibilia*, cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents, substitutes for the notaries public of other countries) came to be doubted, because it was assumed that they were easily influenced by outside parties. To limit their activity, this article cancelled one of their most important rights, the authentication of property transactions *in perpetuum*. This did not, apparently, solve the problem, for in 1353 King Louis ordered all convents and chapters to present their seals in Buda, perhaps for the purpose of granting full rights only to the major ones; see Ferenc Eckhart, “Die glaubwürdigen Orte Ungarns im Mittelalter,” *MIÖG*, Ergänzungsband 9 (1913/15), 395–558 here pp. 420–22; Rady *Nobility, Land and Service*, pp. 66–73; Lajos Bernát Kumorovitz, “Az autentikus pecsét” [The Authentic Seal], *Turul* 50 (1936): 62.

¹¹ The “chamber’s profit” is mentioned here for the first time in a royal decree. It was originally the king’s income from minting and especially from the repeated exchange of better money for less valuable coins; in this form first mentioned in 1231, but certainly earlier than that date. By the late thirteenth century, by which time the original way of gaining this income has been abandoned, the chamber’s profit had become a direct tax but retained its name until the end of the Middle Ages, see: Boglárka Weisz, “Royal Revenues

just as in the time of the famous lord prince Charles, late king of Hungary, our dearest father of sacred memory, when three groats were paid for a whole plot; and of these groats one must be worth six pennies of our Chamber in the value and quantity of six broad Viennese ones, and fourteen of them count for one *ferto*.¹² However, no additional pennies or victuals viz. as fee for the taxation,¹³ are to be exacted.

5 Tax-collectors should not assess reeves and servitors living on their own property or their bondsmen, nor exact the chamber's profit from them;¹⁴ and generally speaking, they shall not receive and exact more than three groats.

6 Furthermore, we and the lady queen will cause the ninth part of all their crops and vines to be exacted from all our tenant peasants holding plow lands and vineyards in any free village of ours of whatever kind,¹⁵ and also in the *udvarnok* villages by whatever name they are known,¹⁶

in the Árpáadian Age” in József Laszlovszky. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 255–64 and Csaba Tóth, “Minting, Financial Administration and Coin Circulation in Hungary in the Árpáadian and Angevin Periods (1000–1387)” *Ibid.*, pp. 279–94. It was regulated in the cameral contracts of the 1330s and 1340s; see **1342**. The groat (*grossus*, *Groschen*) of Charles and Louis had the value of 1/21 florin, so the chamber’s profit (*lucrum camerae*, a direct tax, that, at least since 1231, replaced the royal income from minting gradually less valuable coins) on one peasant holding amounted to 1/7 florin. Compared to other taxes it was not a heavy burden. In the early fifteenth century, 1/5 florin per plot was regarded the customary due. This direct tax is already mentioned in the same amount in the cameral contracts.

¹² The *ferto*, (“quarter”, from the Germ. Viertel), a quarter of a mark of silver, according to different types of mark c. 56–60 gr., was a weight and a money of account.

¹³ The word *redemptio*, usually meaning a fee for issuing documents, suggests that this measure referred to unlawfully demanded payments for letters of quittance.

¹⁴ The reeve (*villicus*) was the head of the village administration, probably of personally free, small cultivators, in charge of minor jurisdiction and enforcement of royal laws; the tenant peasants (see n. 16, below) seem to have had elected *villici* and other officials (sworn men, judges). — The propertied *servientes* here referred to, were, of course not those predecessors of the lesser nobility who were called *servientes regis* in the thirteenth century, but most likely freeholders obliged to do perpetual military service under the banner of a secular or, more often, of an ecclesiastical lord. They were also subject to his jurisdiction but unlike unfree tenants, they had their own court of justice. Their subordination was not of feudal character, for they possessed their estate (*predium*) by the same hereditary right as nobles did. On this account, they were considered nobles themselves, but their status as *nobiles prediales* was lower than that of “true” nobles. Communities of *prediales* survived into the mid–nineteenth century see Rady *Nobility, Land and Service* pp. 79–84. The interpretation of this passage was for a long time pivotal in the debate about the taxation of medieval nobility, see e.g., József Illés, *Az Anjou–kori társadalom és az adózás* [Society and taxation in the Angevin era] (Budapest: Politzer, 1900), esp. pp. 51–5.

¹⁵ The payment called ninth is attested here for the first time. In fact it was the tenth part of the crop, namely, the ninth of what remained after rendering the tithe. (Hence, it was sometimes called “the second tithe”.) Originally the ninth seems to have been the common tax on wine, later called *nona vinorum* or *tributum montis* (tax “of the hill,” i.e., of the vineyards).

¹⁶ *Jobagiones* (Latinized from Hung. *jobbágy*) were peasants living on plots owned by their landlords (including the king and queen), owing dues in kind, labor and ever more in money, but personally free and allowed to change lords. We translate the term as “tenant peasant.” The *udvarnok* (from Hung. *udvar*, from Slavic *dvor*, “court”) were peasants on settlements attached to the royal household, supplying it with

and the villages of the queen, with the exception of walled cities; and similarly the said barons and nobles should exact and take for their own use the ninth part of all their crops and vines from all tenant, peasants holding plow lands and vineyards on any of their estates.¹⁷ And also prelates and clergy having tenant peasants should exact first the tithes and after that similarly the ninth part of all their own crops and vines.¹⁸ And if anyone should act differently as to the above exactions, we shall cause that on the estates of such a recalcitrant person who violates our present order, the ninth part of his fruits and vines be exacted for our own use without any allowance and dispensation, so that, in this way, our honor might be increased and our gentlemen of the realm might serve us more loyally.

7 Our vice-chancellor should receive and have his fee from properties that can be donated by us and our successors, according to their size, namely from a property bringing a revenue of ten marks, one mark, and the scribe should receive one ferto; from larger properties bringing a revenue of twenty marks, two marks, and likewise one ferto for the scribe, and so on, according to the increase of revenue from properties found to be free for donation in the future.¹⁹

8 No unlawful tolls, moreover, must be levied on dry land²⁰ and on rivers on those ascending or descending; only those who cross by bridge or in ferries must pay, for we have realized that nobles and non-nobles of our kingdom are greatly, indeed, too much oppressed by these tolls.

agricultural produce grown on their plots (hence occasionally called *panisdator*, i.e., bread giver). The villages inhabited by them (*ville udvornicales*) preserved their particular organization within the royal demesne until about 1400.

¹⁷ The purpose of this obligation on all landowners to exact uniform dues has been long debated. Present consensus holds that it was passed in defense of lesser landowners, who suffered from the labor shortage caused partly by the plague that had hit Hungary in the preceding years. They frequently lost their tenants to better-off nobles, who could afford to demand lower dues from those moving to their estates; see Imre Bard “Louis I and the Serfs,” in Vardy *et al.*, *Louis*, pp. 81–90, briefly summarizing some of the relevant Hungarian literature; now also János M. Bak, “Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline” in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005.) In a mandate of 1 August 1370 King Louis repeated his threat to collect the ninth for the fisc if not all landowners in Co. Győr exact the same dues; see Iván Nagy. *et al.*, eds. *Hazai Okmánytár. Codex diplomaticus patrius*, 8 vols. (Győr– Budapest: Magyar Tudományos Akadémia, 1865–1891) 3: 189–90.

¹⁸ In spite of this decision, only a year later, in 1352, on the intervention of the pope the king ordered the tithe to be paid again in money. Even though only the edict to the estates of Transylvania has survived (see Franz Zimmermann–Carl Werner, *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen*. vol. 3 [Hermannstadt: Michaelis, 1882], pp. 88–90), one may presume that the regulation was general.

¹⁹ Cf. the later regulation in **Comp. ante 1440 and 1435/I: 8**.

²⁰ The “dry tolls” seem to have been based on old custom, and the king saw himself forced to relent on this point; only a year later he granted the right to the nuns of Óbuda to levy such a toll, explicitly rescinding his law of 1351 (MNL OL DI. 4230 of 27 November 1352). On road tolls in general, see Magdolna Szilágyi, *On the Road: The History and Archaeology of Communication Networks in East–Central Europe* (Budapest: Archaeolingua 2014) esp. pp. 91–106 and Eadem, “Mobility, Roads, and Bridges in Medieval

9 Furthermore, if any noble is condemned in a process of law by the palatine or the judge royal or any other judge, for defeat in judicial combat in cases of act of might,²¹ frivolous prosecution,²² false court appearance,²³ or proffering forged documents, or for any other capital offense,²⁴ the judge of such a case must seize such a condemned man and hold him for three days to allow peace to be restored and ordered between the parties; and if they do not reach agreement, then he must hand over the condemned man into the hands of his adversary who may inflict on him the penalty according to the custom of the realm and as required by law.²⁵ And if the plaintiff causes the death of the condemned party or inflicts any other penalty customary in the kingdom and required by law, then the latter shall be released without any payment or attachment of his property by the judge and the plaintiff.

10 Sons and brothers, relatives, sisters and wives should not be made liable for the crime of such an executed man, but should remain safe and undisturbed in their estates, houses, and

Hungary,” in *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden–Boston: Brill, 2018) pp. 64–80.

²¹ *Succubitum duelli* meant the same penalty as would have been enacted had one of the parties, or their champions, been defeated in a judicial combat that, like an ordeal, was practiced throughout the Middle Ages in spite of ecclesiastical opposition.

²² Frivolous prosecution (*calumnia*): unfounded and vexatious litigation (Hung. *patvarkodás*). Such offenses as prosecuting the same case in two different courts, thus seeking satisfaction twice (*via duplex*), or claiming an obligation already settled (*dupplici sub colore*) were classified as *calumnia*. Anyone so convicted had to pay his man price. The term might include *astatio falsi termini* whereby a litigant appeared in court instead of another person, without a letter of attorney (q.v.), or summoned an adversary to a false term so as to mislead him and the court, thus obstructing the administration of justice.

²³ For the delict of “false court appearance” see above and Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád and the diverse dynasties], (Budapest: Magyar Tudományos Akadémia, 1899). p. 441.

²⁴ Capital sentence, (*sententia capitalis*) implied loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim’s heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary). This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment. The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate.

²⁵ A capital sentence could be passed also in a civil process and the convicted was handed over to the winning party. This was usually followed by a contract allowing the convicted to redeem his head by paying his composition, but up to the sixteenth century the execution of the sentenced was also permitted. The composition (*compositio*), or man price (*homagium*): was a sum of money, which was owed by a person (or his kindred) who had killed, maimed, or otherwise harmed a man or woman, paid to the kindred (or family) of the victim. This system, widespread among Germanic peoples of the post-migration age, aimed at replacing the extended blood feuds arising from the obligation of revenge but continued in Hungarian law until early modern times. The amount paid (the *wergeld*) was based on the victim’s or the culprit’s social and legal status and the nature of the crime. The man price of barons was 100, and of nobles and burghers 50 marks. Composition and *homagium* became blurred in practice with the fine of the head and to a lesser extent the fine of the tongue.

property. Moreover, if a man condemned in the above manner is able to come to an agreement with his opposing party, the judge may take no more than fifty marks,²⁶ and has to grant him a reasonable date for completing payment; and if he does not pay up by the date given to him, the judge may on the expiration of that date, with the assistance of a royal bailiff and the witness of any authenticating chapter or convent, take possession of a portion or portions worth fifty marks from his property,²⁷ until it is or they are redeemed for that fifty marks by those who are known to be most entitled to redemption.²⁸

11 We grant the petition of these same nobles, that all true nobles established within the borders of our kingdom, including also those living on ducal territory within the borders of our kingdom, should enjoy one and the same liberty.²⁹

12. Nobles between the Drava and Sava Rivers and of the counties Pozsega as well as Valkó are required to pay our chamber's profit in the same way as other true nobles of our kingdom; they should not henceforth be disturbed by reason of the collection of the *mardurina*, called *bánzsolozsmája*; rather they should be held exempt from every exaction of any other tax customarily paid until now, just as the other nobles of our kingdom from other parts.³⁰

²⁶ Fifty Marks was the customary composition of a nobleman.

²⁷ On this procedure of garnisheeing property, see **1320**, and also **Comp. ante 1400**: 3 and 9.

²⁸ The redemption of estates mortgaged or garnisheed pertained always to the next collaterals on the male line.

²⁹ This sentence did not in 1351 have the far-reaching implications which later centuries, above all, Werbőczy (*Tripartitum* I,3) attached to it, namely that in Hungary all noblemen, from; the owner of a single plot to the mightiest aristocrat, were equal (see Bak, in Vardy *et al.*, *Louis*, pp. 71–2). Although in fact no legal division existed among “true” nobles, poor or rich, this article intended only to grant “true noble” status all the freemen in the “ducal” territories, i.e., Croatia, Slavonia, Dalmatia and perhaps also Transylvania (for at that time all these were governed by the king’s younger brother, Prince Stephen) and, apparently, also to the dependent nobles (*prediales*), see above, n. 14. On some of the implications of this decision, see below art. 12.

³⁰ The *mardurina* was originally a tax of one marten pelt annually from each inhabitant of Croatia and Slavonia (see V. Klaić, “Marturina, Slavonska daca u srednjem vijeku” [The *Mardurina*: A Slavonian Tax of the Middle Ages], *Rad Jugoslavenske akademije znanosti i umjetnosti*, 157 [1904], 114–123; M. Kostrenčić *et al.*, *Lexicon latinitatis medii aevi Jugoslaviae* (Zagreb: Concilium academicarum scient. et art. SFR Jugoslaviae, 1961–78], fasc. 4, pp. 701–702). There is no contemporary evidence among known charters or extant legislation about King Coloman having instituted this payment. Andrew II, however, in a charter of c. 1224–1228 specified that the inhabitants of the *banatus* were to pay twelve Friesach pennies per household (*mansio*) “*sicut tempore regis Colomanni consuetum fuerat*” [as was usual in the times of King Coloman]; see T. Smičiklas, *Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae* (Zagreb: Academia Scientiarum, 1904). III, 140, No. 214. The *mardurina* was explicitly commuted into a money payment in **1231: 33**. The portion of the ban was called in Hungarian *zsolozsma* (“service,” from the Slavonic *služba*) or *bánzsolozsmája* (“service to the ban”) and was paid in kind, mostly in food and fodder (*victualia bani*) similar to the royal *descensus* in Hungary proper. Even though abolished by the decree of 1351, the *mardurina* survived. It was so called as late as the fifteenth century and the peasants of Slavonia had to pay half the amount of what was exacted as the chamber’s profit in the rest of the kingdom. The article is formulated rather equivocally, because it is believed that noble households were exempt from any

13 If deposits of gold, silver, copper, iron, or any other metal should be found on the estates of nobles, the deposits must not be confiscated without proper exchange; however, if it pleases the king, property of equal value should be conferred on the said nobles for those properties yielding gold. Otherwise, if the royal majesty does not wish to acquire the estates rich in minerals by exchange, then he should cause the royal dues or the royal portions of the *urbura* to be collected in his name, but leave the estates with all their other easements, revenues, and rights in the hands of the same nobles, just as the lord king Charles, our most dear father, approved for his gentlemen of the realm by force of his charter.³¹

14 He, on whom we have conferred any estate or estates, must occupy the estate or estates conferred on him in his own name and conduct litigation in his own name and not in ours against anyone disputing his right to the said possession, so that our name will not be mixed in any legally contested matter, nor may they acquire or receive letters of advocacy from us to conduct such cases.³²

15 Nobles cannot be compelled to pass by places of toll-collection, but they may cross at any ford they wish free from hindrance.

16 Tenant peasants of any of our gentlemen of the realm or belonging to the king's or queen's majesty or to prelates of churches or magnates of our kingdom may not be removed by force without the voluntary permission of the lords of these same tenant peasants.³³

taxation. It probably intended to stress that in collecting and paying the taxes from their estates the nobles of Slavonia were henceforth to enjoy the same standing as those living in Hungary proper (see art. 11, with n. 29, above).

³¹ Up to the early fourteenth century, all mines were in royal hands. If mineral deposits were found on private estates, the king had the prerogative to acquire it by exchange of property. In order to make private landowners interested in opening up new deposits, Charles I allowed them in 1327 (see *DRH* p. 80) to keep their property and to retain also one-third of the royal dues, the *urbura*. The latter was a due on mined metals, 1/10 of gold and 1/8 of other metals. It is believed that the expansion of precious metal mining in fourteenth-century Hungary was to a great extent due to this new arrangement; see Bálint Hóman, “La circolazione delle monete d’oro in Ungheria dal X al XIV secolo e la crisi europea dell’oro nel secolo XIV,” *Rivista Italiana di Numismatica* 35 (1922): 109–56, here pp. 135 ff.; now also Tóth, “Minting, Financial Administration and Coin Circulation” (as n. 11, above).

³² This article aims at eliminating the advantage of those grantees of royal favor who were permitted to entrust litigation, for example, in matters of “objection to institution,” to the king’s advocate, who, of course, enjoyed considerable influence in the courts.

³³ The traditional text is unclear and, according to István Szabó (*Századok* 88 [1954]: 525–6) an additional *etiam* (“also”) is missing before the reference to the royal tenants. Bónis decided not to add a word but rather to solve the problem by punctuation, making the sentence an enumeration of different tenants, from those of the nobles through those of the royal couple to those of the prelates and magnates. Szabó may, however, be right in assuming that the words *prelati aut potentes* were added later to the decree and that is when the textual corruption crept in.

17 Finally, we wish to declare null and void that custom by which one mark is exacted at bridges and tolls from nobles on their way to marry their wives and returning home with their wives.

18 Tenant peasants of our gentlemen of the realm cannot in any way be taken, seized, or arrested in their goods or persons in cities and free villages of the king or the queen, on holdings and estates of prelates, barons, or other nobles for previous misdeeds,³⁴ but if they have manifestly committed assault, injury, murder, arson, and other similar crimes, then justice and judgment should be meted out on their account, and any plaintiffs should seek justice and appropriate sentence from their lords.³⁵

19 Furthermore, a son should not be condemned in person, property, or chattels for the crimes of his father.³⁶

20 Bishops, chapters, abbots, convents, provosts, and other propertied ecclesiastics with three letters of inquiry may not acquire or hold property unless the royal majesty receives, concerning the properties to be acquired, proof on inquiry by trusted men selected by the royal majesty from the nobles and clergy, and unless letters of privilege from the king, or queen or judges acting on behalf of the royal majesty are granted.³⁷

³⁴ The prohibition of the violent removal of peasants from other landowners' estates may have become widespread because of the shortage of labor mentioned above (see n. 17, above, with the relevant literature).

³⁵ This is not only a confirmation of the seigneurial jurisdiction of the nobility (see **31 October 1328**) but — according to the detailed analysis by István Szabó (“Az 1351. évi 18. tc.” [Article 1351:18], in *Szentpétery Emlékkönyv* [Sz. Festschrift] (Budapest: Dunántúli Nyomda, 1938), pp. 419–39; and “Az 1351. évi jobbágytörvények” [The laws of 1351 concerning tenant peasants], *Századok* 88 [1954]: 497–527; French resume on pp. 743–4)—an explicit extension of it for the lesser nobility. The delicts listed in the article belong to those *causae criminales* which usually were not included in the jurisdiction of nobles without the right to “high justice.” Neither were the lesser nobles, in contrast to the crown, the magnates and free cities, permitted to prosecute *pro pristinis factis* (“for ancient delicts”). Thus, the inclusion of these crimes into this article meant a widening of the juridical powers of the lesser nobility.

³⁶ Cf. art. 10, above; while the notion of “collective guilt” was generally eschewed by the Christian Middle Ages, Louis referred to his decision of punishing only the guilty person in a charter of 1353 as a “privilege granted in grace” to the nobles (quoted by József Holub, in his review of Bálint Hóman, Gyula Szekfű, *Magyar történet* [Hungarian history] vols. 1–3, *Századok* 69 [1935]: 194). One may consider this issue in the light of the “collective property” of the Hungarian kindreds and see it as contrasting legal prosecution to rights of possession. Some historians have suggested that this passage was included expressly to bar the repetition of the horrible punishment of several dozen members of an entire clan, as was done in 1330 after the attempt by Felician Záh on the life of the royal family, probably provoked (perhaps) by the seduction of his daughter serving at the royal court; see Henrik Marczali, “Le procès de Félicien Záh,” *Revue historique* 107 (191:1): 4358.

³⁷ Neither the wording nor the impact of the article is clear. Although the recovery of estates was to be done “in three attempts” this article speaks about acquisition; the document issued by places of authentication in such “threefold attempts” was called a letter of institution (*littere statutorie*, the record by a place of authentication that the institution of an owner into his property had been performed) and not a letter of inquest (*littere inquisitorie*, a mandate ordering an inquest and also specifying whether the witnesses’

21 .The men of chapters or convents who are called upon as witnesses by royal order may not be other than those who hold offices in that same church. If a witness goes forth from his chapter or convent on his own horse, then he should be given two groats per day; if he is taken on the horse of a noble, then he should receive from that noble one groat per day.³⁸

22 The royal bailiff, who is called to summon or to make an inquest, cannot be from anywhere other than the same county or district where that man lives who is summoned or against whom the inquest is conducted; evidence from chapters must be sought from the nearest chapter for a summons or to an inquest.³⁹

23 And inquests cannot be conducted in any other way except by means of a letter of the king or of the palatine or of the judge royal, and the nobles of that county or district must be gathered together and the inquest must be publicly conducted among them.

24 When litigants in any major and difficult case wish to settle, the judge cannot prevent them, and he may in no way exact from them more than three marks as the fine of peace.⁴⁰

25 All suits that have been brought and will be brought in matters of property must be completed at the third term without any delay or prorogation.⁴¹

And in order that the contents of our present confirmation, renewal, ordinance, and magnanimous grant and permission of these liberties should acquire the force of everlasting validity and that no

names and status should be recorded). Furthermore, it is not clear who is to be asked in the prescribed inquest “among nobles and churches.” Bónis reads the last clause as referring to charters of privilege issued by the judges ordinary in the king’s high courts.

³⁸ This measure also aims at the control of the legal activity of the chapters as art. 3, above; cf. Eckhart, “Die Glaubwürdigen,” p. 493. The amount of *per diem* was later stipulated at twenty-four pennies, see: **Comp. ante 1440**: 19.

³⁹ Inquest as a means of producing evidence could be held in different ways. The “simple” inquest could be ordered by many authorities on the initiative of a plaintiff who needed a letter of evidence on his being injured so that he could enter an action. See Hajnik, *Bírósági szervezet* p. 287, who is probably wrong in making reference there to this article. Here probably not the “simple” but the “common” inquest (*inquisitio communis*) is meant. The latter was a procedure for obtaining material proof in which abutters, neighbors, and other nobles from the county (*comprovinciales*) swore an oath on their faith and “fidelity to the Holy Crown” regarding the truth of their testimony, usually in matters of property rights. The inquest, as ordered by a higher court, was usually held where the disputed estate was located or the criminal act perpetrated. See Erik Fügedi, “Verba volant...” in Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*. ed. János M. Bak. (London: Variorum Reprints, 1986), ch. VI; and Rady *Nobility, Land and Service*, pp. 70–3.

⁴⁰ If the party was convicted before a compromise could be reached, the 3 Mark fine no longer sufficed; the judge had the right to collect 50 Marks, i.e., a nobleman’s composition (cf. above, art. 10).

⁴¹ Attempts at limiting the delay in suits are characteristic for the entire medieval legislation in Hungary. See, for example: Martyn Rady, “Justice Delayed? Litigation and Dispute Settlement in Fifteenth-Century Hungary.” *Central Europe*, 2 (2004): 3–14.

part of it should ever be rescinded by us or our successors, we have issued this charter of privilege of ours validated by our authentic, pendant double seal.

Given by the hand of the reverend father in Christ, lord Nicholas, by His grace and that of the apostolic see bishop of Zagreb, vice-chancellor of our court, our beloved and faithful subject, in the year of the Lord one thousand three hundred and fifty-one, three days before the Ides of December, the tenth year of our reign, when the reverend fathers in Christ and lords Nicholas, archbishop of Esztergom and perpetual *ispán* of the same place,⁴² Dominic, archbishop of Split,⁴³ friar Dennis, archbishop-elect of Kalocsa,⁴⁴ the bishops Nicholas of Zagreb,⁴⁵ Demetrius of Oradea,⁴⁶ Andrew of Transylvania,⁴⁷ Coloman of Győr,⁴⁸ Nicholas of Pécs,⁴⁹ Michael of Vác⁵⁰, John of Veszprém,⁵¹ Thomas of Cenad,⁵² friar Thomas of Srem⁵³, friar Peregrinus of Bosnia,⁵⁴ friar Stephen of Nitra,⁵⁵ and Blaise of Knin⁵⁶ were felicitously governing the churches of God, and when the honorable barons Nicholas, palatine and judge of the Cumans,⁵⁷ Nicholas, son of Lawrence, voivode of Transylvania,⁵⁸ Oliver, our master of the Treasury and judge of the court

⁴² Nicholas (of Vásári, d. 1358), bishop of Nitra 1347–49, of Zagreb 1349, archbishop of Kalocsa 1349–50, of Esztergom 1350–58.

⁴³ Dominic, archbishop of Split, 1328–56.

⁴⁴ Denis (friar, son of *ispán* Lack, d. 1355), archbishop of Kalocsa 1350–55.

⁴⁵ Nicholas (erroneously called Keszei or Frankói, d. 1366), bishop of Nitra 1349, of Zagreb 1350–56, archbishop of Kalocsa 1356–58, of Esztergom 1358–66, vice-chancellor of the king 1351–56, chancellor 1356–66.

⁴⁶ Demetrius (of Futak, d. 1372), bishop of Oradea 1345–7.

⁴⁷ Andrew (of Szécs, d. 1356), bishop of Transylvania 1320–5.

⁴⁸ Coloman (illegitimate son of Charles I, d. 1375), bishop of Győr 1337–75.

⁴⁹ Nicholas (of Neszmély, d. 1360), bishop of Pécs 1346–60.

⁵⁰ Michael (son of the voivode Thomas of Szécsény, d. 1377), bishop of Vác 1342–62, of Eger 1362–77.

⁵¹ John (of Gara, son of ban Paul, d. 1357), bishop of Veszprém 1346–57.

⁵² Thomas (of Telegd., bishop of Cenad 1350–58, archbishop of Kalocsa 1358–67, 1367–75.

⁵³ Thomas (son of Benedict, friar), bishop of Srem 1349–64

⁵⁴ Peregrinus (of Saxony, friar, d. 1356), bishop of Bosnia 1349–56

⁵⁵ Stephen (friar, erroneously called Szigeti or Frankói), bishop of Nitra 1349–67, archbishop of Kalocsa 1367–82, titular patriarch of Jerusalem.

⁵⁶ Blaise, bishop of Knin 1351–58

⁵⁷ Nicholas of Zsámbok, count palatine 1342–56.

⁵⁸ Nicholas, called Kont (d. 1367, son of Lawrence Tót), lord butler 1345–51, voivode of Transylvania 1351–56, count palatine 1356–67, founder of the magnate family of Újlak/Ilok.

of our beloved mother the lady queen,⁵⁹ count Thomas, the judge royal,⁶⁰ Stephen, ban of all Slavonia and Croatia,⁶¹ Dominic, ban of Mačva,⁶² Nicholas, ban of Severin,⁶³ Paul, master of the queen's treasury,⁶⁴ Bartholomew, master of our butlers,⁶⁵ Lőkös master of our stewards,⁶⁶ Dennis our master of the horse,⁶⁷ Töttös, master of our doorkeepers,⁶⁸ John, son of the said Oliver, master of the stewards of the queen,⁶⁹ Simon, son of Maurice, *ispán* of Pressburg,⁷⁰ and many others held counties and other offices in our realm.⁷¹

⁵⁹ Oliver of Paks (d. 1360), judge of the queen 1336–57, master of the treasury 1347–52, 1359–60

⁶⁰ Thomas of Szécsény (fl. 1299–1354) vojovode of Transylvania 1321–42, judge royal 1349–54

⁶¹ Stephen Lackfi, senior (son of Lack, d. 1353), master of the horse 1326–43, master of the treasury 1343–53, voivode of Transylvania 1344–50, ban of Croatia and Slavonia 1350–53

⁶² Dominic Ostfi, (son of Osl, of Asszonyfalva, d. 1353), ban of Mačva 1340–53

⁶³ Nicolas of Szécs (d. 1387), steward 1342–6, ban of Croatia and Slavonia 1346–59 and later, ban of Severin 1350–55, Judge Royal 1381–4, count palatine 1385–6.

⁶⁴ Paul „Kazal” of Gara, (fl. 1310–53) master of the queen’s treasury 1334–53,

⁶⁵ Bartholomew, called Tót (d. 1352, brother of Nicholas Kont), lord butler 1351–52.

⁶⁶ Lőkös called Tót (brother of Count Palatine Nicholas Kont, d. 1359), master of the stewards 1351–59, lord butler 1352–59.

⁶⁷ Dennis Lackfi, (d. 1367) master of the horse 1343–59, voivode of Transylvania 1369–72.

⁶⁸ Töttös (or Stephen, of Becse, d. 1353), master of the doorkeepers 1342–53, master of the queen's treasury 1353

⁶⁹ John of Paks (son of Oliver), 1346 the queen's master of the stewards, 1351–55, *ispán* of Somogy.

⁷⁰ Simon of Meggyes (d. 1375, alias of Móríchida or Zdenc, son of Maurice), *ispán* of Pozsony Co. 1351–60, ban of Dalmatia and Croatia 1369–71.

⁷¹ The list of spiritual and secular lords was appended to privilegial charters ever since the late thirteenth century. They are not meant as witnesses, merely indicating the time of the issue by reference to the persons in office.

LAW OF QUEEN MARY OF HUNGARY

22 June 1384

This decree was passed in a diet called by the government of the twelve-year old Queen Mary, which was in fact dominated by her mother, Queen Elizabeth, and Palatine Nicholas of Gara (Garai), in order to satisfy general dissatisfaction of the nobility with the new rulers. It was apparently hoped that by having the young queen confirm her father's 1351 decree, incorporating the Golden Bull of 1222—by this time already regarded as the “cornerstone of noble liberty”—the opposition could be quelled. The proem does not include the prelates among those present, even though their names feature in the eschatocol, as was usual with charters of privilege.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (colleccio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MSS.: four contemporary originals, three in Hungary (MNL OL DL. 42297, 7052/2 and 7052/1) and one in Zagreb (Državni Archiv, Doc. Med. Var. 101); all on parchment with pendant seals lost or broken. (For details, see Ferenc Döry, György Bónis, Vera Bácskai., eds. *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1445*. (Budapest: Akadémiai, 1978) [=DRH], p. 142.)

EDD.: *Magyar Törvénytár: Codex Juris Hungarici*, Dezső Márkus *et al.* eds., Budapest: Franklin, 1896 1: 184–9 (cf. Johannes Nicolaus Kovachich, *Lectiones variantes decretorum comitialium inclyti regni Hungariae (Pest: Trattner, 1816)*, pp. 55–9, 54257); Georgius Pray, *Annales regum Hungariae ab anno Christi CMXCVII ad annum MDLXIV deducti*. 5 vols. (Vienna: Schulz–Trattner–Bernard, 1763–70), 2: 167–8; Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66), 10/1: 148–51; DRH, pp. 142–5.

LIT.: Martinus Georgius Kovachich, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum* (Buda: Regia Universitas, 1790) pp. 191–92; JánosM. Bak, *Königtum und Stände in Ungarn im 14.–15. Jh.* (Wiesbaden: Steiner, 1973), p. 25.

22 IUNII 1384

Maria dei gratia Hungarie, Dalmatie, Croatie, Rame, Servie, Gallicie, Lodomerie, Comanie Bulgarieque regina, princeps Salernitana et honoris montis sancti Angeli domina omnibus Christi fidelibus, tam presentibus, quam futuris, presentium notitiam habituris salutem in omnium salvatore. Ea, que rei publice seu communis boni grata comoda respiciunt, tenemur aspicere consideratione gratiosa, quia tronus excellentie regalis culminis tanto solidatur felicius, quanto potestas principantis suos subiectos optate pacis presidio duxerit confovendos. Proinde ad universorum notitiarn harum serie volumus pervenire, quod serenissimo principe domino Lodouico, eadem dei gratia inclito rege Hungarie, Polonie, Dalmatie etc. genitore nostro carissimo laudande recordationis volente domino celi, cuius nutu omnia reguntur et disponuntur, absque prole masculina de medio sublato, nobisque iure successorio et ordine geniture solium et coronam dicti regni Hungarie ac scepra regiminis ipsius genitoris nostri feliciter adeptis, baronum necnon procerum et nobilium regni nostri cetus et universitatis idemptitas missis ad nos et inclitam principem dominam Elizabeth, eadem dei gratia reginam Hungarie, Polonie, Dalmatie etc. genitricem nostram carissimam eorum nuntiis, nobilibus scilicet viris Paulo litterato de Poduersya et Dyonisio filio Dominici de Oztopan, exhibuerunt nobis quasdam litteras privilegiales memorati genitoris nostri priori suo sigillo autentico in partibus Vzure casualiter deperdito consignatas, litteras privilegiales illustrissimi principis domini Andree, tertii Bele regis filii, olim incliti regis Hungarie, avi et predecessoris nostri pie recordationis aurea bulla sua roboratas super libertatibus ipsorum baronum, necnon procerum et nobilium regni nostri confectas in se confirmative continentes, tenoris et continentie per omnia infrascripte, supplicantes nostre serenitati precibus humilimis et devotis, ut memoratas litteras privilegiales ipsius genitoris nostri de verbo ad verbum inseri et transscribi faciendo simulcum libertatum articulis, tam per ipsum dominum Andream regem, quam etiam genitorem nostrum ipsis datis et concessis, et in tenoribus earundem expressis acceptare, approbare, ratificare et innovative nostro dignaremur privilegio perpetuo confirmare. Quarum tenor talis est:

(Decretum 11 Decembris 1351)

Nos itaque premissis supplicationibus memoratorum haronum, procerum et nobilium regni per dictos eorum nuntios nobis porrectis favorabiliter exauditis, memoratas litteras privilegiales paternas presentibus de verbo ad verbum insertas quoad omnes earum continentias et clausulas acceptamus, approbamus, ratificamus et nostro pro predictis baronibus, proceribus et nobilibus regni nostri privilegio innovantes perpetuo confirmamus.

In cuius rei memoriam firmitatemque perpetuam presentes concessimus litteras nostras privilegiales pendentis et autentici sigilli nostri dupplicis munimine roboratas.

Datum per manus reverendissimi in Christo patris et domini, domini Demetrii, divina miseratione tituli Sanctorum Quatuor Coronatorum sacrosancte Romane ecclesie presbyteri cardinalis ac sancte Strigoniensis Ecclesie gubernatoris perpetui locique eiusdem comitis similiter perpetui et aule nostre fidelis cancelarii, anno domini M^oCCC^{mo} LXXX^{mo} quarto, decimo kalendas mensis Julii, regni autem nostri anno tertio. Reverendis et venerabilibus in Christo patribus eodem domino Demetrio dicte sancte Strigoniensis ecclesie gubernatore perpetuo, Lodouico Colocensi, Petro

Jadrensi, Vgolino Spalatensi et Petro Ragusiensi archiepiscopis, Emerico Agriensis, Paulo Zagrabienis, Goblino Transsiluanensis, Valentino Quinqueecclesiensis decretorum doctore, Johanne Waradiensis, Guiliermo Jauriensis, Benedicto Wesprimiensis, Johanne Chanadiensis, Georgio Boznensis, Petro Wacyensis, Johanne Syrimiensis, fratre Dominico Nitriensis, Paulo Tininiensis, Demetrio Nonensis, Grisogono Traguriensis, Matheo Sibiricensis, Benevenuto Pharensis, Jacobo Makarensis, Michaele Scardonensis et Thoma Seniensis ecclesiarum episcopis, ecclesias Dei feliciter gubernantibus, Corbauienti sede vacante. Magnificis viris Nicolao da Gara, regni nostri palatino et iudicie Comanorum, Ladisiao woyuoda Transsiluano et comite de Zolnuk, comite Nicolao de Zeech iudice curie nostre, Stephano de Lindua totius regni Sclauonie, Stephano filio Philpus de Machow, Templino de Sancto Georgio Dalmatie et Croatie banis, Nicolao dicto Zambo tauarnicorum, Blasio dicto Forgach pincernarum, Nicolao filio Nicolai de Telegd ianitorum, Ladislao filio Nicolai de Wesen dapiferorum, Stephano filio condam domini Dyonisii woyuode agazonum nostrorum magistris, predicto Nicolao dicto Zambo comite Posoniensi aliisque quampluribus regni nostri comitatus tenentibus et honores.

JUNE 22, 1384

Mary, by the grace of God queen¹ of Hungary, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania and Bulgaria, princess of Salerno, and lady of the Honor of Monte Sant'Angelo,² to all Christ's faithful, present and future, to whose notice these presents may come, greetings in the Savior of all.

We are obligated to look with favorable consideration on those aspects of the common good or commonwealth which are regarded as pleasing and suitable, since the throne, which is the pinnacle of royal excellence, is more happily strengthened the more the power of the ruler with the bulwark of desired peace will have considered that her subjects should be duly favored. Therefore, by these presents we wish to bring to everyone's attention that when the most serene prince, the lord Louis, by the same grace of God renowned king of Hungary, Poland, Dalmatia, etc., our dearest father of praiseworthy memory, was carried off from among us without male issue through the will of the Lord of heaven by whose decision all things are ruled and arranged,³ and we, by hereditary right and by order of birth, happily acquired the throne and crown of the said kingdom of Hungary and

¹ Based on some contemporary unofficial comments, such as those in the *Memoriale* by the Zadar patrician Paulus de Paolo (in: Joannes Georgius Schwandtnerus, ed. *Scriptores rerum Hungaricarum veteres ac genuini ... : ex mss. codicibus et rarissimis editionibus bibliothecae Augustae Vindobonensis ... vindicati ... : cum amplissima praefatione Matthiae Belii*, 3 vols. [Vienna: Trattner, 1766–8] 3: 724), who, aware of the unusual case of female succession, speaks of Mary as “king,” the Hungarian chronicler Thuróczy coined the term *rex foemineus*, and this anomaly came to be noted in historical scholarship even to our day. (Cf. Ernst H. Kantorowicz, *The King's Two Bodies* [Princeton: Princeton Univ. Press, 1956], p. 80, n. 93.) In fact no official, contemporary source refers to her except as *regina*, and this was demonstrated as early as in 1745 by Mathias Bél ; cf. Bak, *Königtum*, p. 25, with notes 100–04 on p. 93

² The full royal style was used in those charters which were issued in the form of a privilege and corroborated with great seal of majesty. The “kingdoms” listed here were part of the royal style of the Árpáadian rulers from c. 1270; with the exception of the first three they constituted claims of Hungarian rulers to lands south of the Sava and the lower Danube or east of the Carpathian Mountains. On these, see, János M. Bak, “Lists in the Service of Legitimation in Central European Sources.” In: L. Doležalova ed. *The Charm of a List: From the Sumerians to Computerised Data Processing*. (Newcastle upon Tyne: Cambridge Scholars Publishing, 2009), pp. 34–45. To these Charles I added in 1323 those of “Prince of Salerno” and “Lord of the Honor of Monte Sant'Angelo” which his successors continued to use until 1386. Both domains formed part of the kingdom of Sicily and the Hungarian branch of the Angevin dynasty claimed them as their paternal inheritance. All the time, however, the honor (i.e., the barony) of Monte Sant'Angelo, situated on the Adriatic coast on the promontory of Gargano (some 175 km east–northeast of Naples), remained in the possession of the Durazzo line of the Angevins. (See Emile G. Léonard, *Les Angevins de Naples* [Paris: Presses Universitaires de France, 1954], pp. 322, 376.)

³ Louis I died 10 September 1382 and was buried in Székesfehérvár on 16 September. Mary was crowned on the following day.

the scepter of governance from our said father,⁴ then the assemblage and unified community⁵ of barons as well as lords and nobles of our realm sent to us and to the renowned princess, the lady Elizabeth, by the same grace queen of Hungary, Poland, Dalmatia, etc., our dearest mother, their envoys,⁶ namely the noble men, the learned Paul of Podversia and Denis, son of Dominic of Osztopán,⁷ and showed us a certain charter of privilege of our said parent, signed with his first authentic seal (accidentally lost in the province of Usura)⁸ and containing in a manner of confirmation letters of privilege validated with his golden bull by the most illustrious prince lord Andrew, son of King Béla III, renowned former king of Hungary, our ancestor and predecessor of blessed memory, about the liberties of the same barons, lords, and nobles of our kingdom, in the words and contents written below. (These envoys) begged our serenity with most humble and devout requests that we should cause the said charter of privilege of our father to be inserted and transcribed word for word together with the articles of liberty granted and conceded them both by lord Andrew and our father and that we should through our own action, deign to accept, approve, ratify, and confirm by renewing the exact contents of that charter in a perpetual privilege. The contents of which is this:

(Decree of **11 December 1351**)

And thus, having listened with favor to the supplications of the said barons, lords, and nobles of the realm which were presented to us by their said envoys, we accept, approve, and ratify the said paternal letter of privilege with all its contents and clauses, inserting it word for word into the present charter, and we, in accordance with our right, renew and confirm it in perpetuity for the said barons, lords, and nobles of our kingdom.

In memory of this deed and for the sake of its perpetual legal force, we have granted in person our charter of privilege validated by our pendant and authentic double seal. Given by the hand of the

⁴ Louis made elaborate arrangements for the succession of “one of his daughters” in his Polish kingdom, including the grant in 1379 of the famous first charter of liberty for the lesser nobility, the “privilege of Košice” (in Polish sources: Koszyce)—see J. Dąbrowski, *Ostatnie lata Ludwika Wielkiego 1370–1382* [The last years of Louis the Great] (Crakow: Akad. Umiejętności, 1918), pp. 351 f.—but there is no reliable evidence about any similar steps in Hungary, where he must have trusted in the loyalty of the new aristocracy to assure the succession of Mary, the only reigning queen in the medieval history of Hungary. That Mary does not refer even in passing, as Louis did in 1342, to any kind of “election,” merely to her hereditary right, suggests that her party wanted to emphasize her legitimacy; cf. Bak, *Königtum*, pp. 24–5.

⁵ The Latin *cetus et uniuersitatis idempitas*, though awkward, became a standing formula in chancellery documents; on the former see n. 3 to **1351**.

⁶ As far as we know, it occurs here for the first time and was not to become usual until the sixteenth century that the estates presented their wishes by delegates (*nuncii*) to the ruler; cf. also **1385**.

⁷ Paul of Podversia and Denis, son of Dominic of Osztopán (*fl.* 1372–1412) were probably the delegates of the counties Somogy and Pozsega, respectively; Bónis (*DRH*, p. 142) saw it as significant that the two envoys came from that southwest corner of the country where the opposition to Mary’s reign was soon to erupt in violent confrontation.

⁸ King Louis’ first great seal was lost in 1363 during a campaign against Bosnia; Ozora (in the text *Uzura*, today: Osora) is a region in northern Bosnia, between the Drina and Bosna Rivers.

most reverend lord and father in Christ, lord Demetrius, by divine mercy cardinal priest of the Holy Roman Church of the title of SS Quattro Coronati, and perpetual governor of the church of Esztergom, likewise perpetual *ispán* of that place and faithful chancellor of our court,⁹ in the year of the lord one thousand three hundred and eighty-four, the tenth day before the Kalends of the month of July, in the third year of our reign, when the following reverend and venerable fathers in Christ governed the churches of God felicitously; the same lord Demetrius, perpetual governor of the said holy church of Esztergom, and when archbishops Louis of Kalocsa,¹⁰ Peter of Zadar,¹¹ Ugolino of Split,¹² and Peter of Dubrovnik,¹³ bishops Emeric of Eger,¹⁴ Paul of Zagreb,¹⁵ Gobelinus of Transylvania,¹⁶ doctor of canon law Valentine of Pécs,¹⁷ John of Oradea,¹⁸ Guillaume of Győr,¹⁹ Benedict of Veszprém,²⁰ John of Cenad,²¹ George of Bosnia,²² Peter of Vác,²³ John of Srem,²⁴ Friar Dominic of Nitra,²⁵ Paul of Knin,²⁶ Demetrius of Nin,²⁷ Chrysogonus of Traia,²⁸

⁹ Demetrius (son of Peter, d. 1387), bishop of Srem 1364–68, of Transylvania 1368–76, of Zagreb 1376–78, archbishop of Esztergom 1378–87, chancellor 1377–87, cardinal priest of the Holy Roman Church of the title of SS Quattro Coronati *from 1381*.

¹⁰ Louis (count of Helfenstein), archbishop of Kalocsa 1383–91.

¹¹ Peter (de Matafaris of Zadar), archbishop of Zadar 1376–1400.

¹² Ugolino (of Malabranca), archbishop of Split 1356–90.

¹³ Peter, archbishop of Dubrovnik 1384–85.

¹⁴ Emerich (Cudar of Ónod, d. 1389), bishop of Oradea 1375–77, of Eger 1384–87, of Transylvania 1387–89.

¹⁵ Paul (brother of ban John of Horváti), bishop of Cenad 1377–78, of Zagreb 1378–86.

¹⁶ Gobelinus (d. 1386), bishop of Transylvania 1376–86.

¹⁷ Valentine (of Alsán, d. 1408), vice-chancellor of the king 1373–76, bishop of Pécs 1374–1408, chancellor of the queen 1384–86, cardinal 1384.

¹⁸ John, bishop of Oradea 1382–95.

¹⁹ William (Guillaume), bishop of Győr 1377–86.

²⁰ Benedict (of Himháza, d. 1387), bishop of Veszprém 1379–87.

²¹ John, bishop of Cenad 1380–95.

²² George (d. 1423?), bishop of Bosnia 1382–87.

²³ Peter (son of William), bishop of Vác 1376–1400.

²⁴ John, bishop of Srem 1376–92.

²⁵ Dominic (friar), bishop of Nitra 1372–87.

²⁶ Paul, bishop of Knin 1373–96.

²⁷ Demetrius (de Matafaris of Zadar), bishop of Nin 1354–87.

²⁸ Chrysogonus de Dominis, bishop of Rab 1363–1372, bishop of Trogir/Traù 1372–1403, archbishop–elect of Kalocsa (1403–8?)

Matthew of Sibenik,²⁹ Benvenuto of Hvar,³⁰ James of Makarska,³¹ Michael of Skradin,³² and Thomas of Zenj³³ governed the churches of God felicitously, the see of Korbava being vacant; and when the honorable lords Nicholas of Gara was palatine of our realm and judge of the Cumans,³⁴ Ladislav voivode of Transylvania and *ispán* of Szolnok,³⁵ count³⁶ Nicholas of Szécs judge royal,³⁷ Stephen of Lindva ban of all Slavonia,³⁸ Stephen son of Phillip ban of Mačva,³⁹ Templinus of Szentgyörgy ban of Croatia and Dalrnatia,⁴⁰ Nicholas called Zámbo⁴¹ master of the treasury,⁴² Blaise Forgács, lord butler,⁴³ Nicholas son of Nicholas of Telegd, master of the doorkeepers,⁴⁴ Ladislav, son of Nicholas of Verseny, the lord steward,⁴⁵ Stephen son of the late lord voivode

²⁹ Matthew, bishop of Šibenik 1357–92.

³⁰ Benvenuto, bishop of Hvar/Fara 1384–98.

³¹ James, bishop of Makarska 1370–86.

³² Michael, friar, bishop of Skradin 1356–88.

³³ Thomas (I), friar, bishop of Zenj 1381–86.

³⁴ Gara, Nicholas senior of (nephew of ban Paul, d. 1386), ban of Mačva 1359–75, count palatine 1375–85, ban of Dalmatia and Croatia 1385–86.

³⁵ Ladislav of Losonc (d. 1392) voivode of, Transylvania 1376–85 and 1386–92

³⁶ The term comes was occasionally used as an honorable title, not referring to the office of county *ispán*, even though there were (with some exceptions) no titled nobles in Hungary.

³⁷ Szécs, Nicholas of (d. 1387), master of the stewards 1342–46, ban of Dalmatia, Croatia and Slavonia 1346–49, 1359–68, 1372–80, of Szörény 1350–55, judge royal 1355–58, 1369–72, 1381–84, count palatine 1385–86

³⁸ Stephen Bánfi of Alsólendva (d. 1385) ban of Slavonia 1381–5.

³⁹ Stephen of Kórogy (d. 1397) ban of Mačva 1382–5 and 1394–7.

⁴⁰ Thomas (Temlinus) of Szentgyörgy, (called Count, fl. 1363–1403), master of the treasury 1378–82, ban of Dalmatia and Croatia 1384–85, judge royal 1385.

⁴¹ Names like those of Nicholas and Blaise (below) in the form *Nicolaus dictus* (=“called”) *Zambo*, which has been rendered in translation as simply a Christian name and a “family name,” indicate an early stage of the development of constant family names that were not always derived, as usual with the nobility, from their estate (which seems to have remained “official” as late as 1435, see e.g., **8 March 1435:4**).

⁴², Nicholas Zámbo (of Mezölak, d. 1395), chief treasurer 1377–82, master of the treasury and *ispán* of Pozsony 1382–88.

⁴³ Blaise Forgács, (d. 1386), knight, lord butler 1383–86.

⁴⁴ Nicholas of Telegd, (d. 1391), *ispán* of Bihar Co., master of the doorkeepers 1383–84.

⁴⁵ Ladislav of Verseny, (son of Nicholas, fl. 1380–1406), master of the stewards 1383–86

Denis, master of our horse,⁴⁶ the aforementioned Nicholas Zárnbó, *ispán* of Pressburg, and many others holding counties and honors in our kingdom.

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⁴¹ Names like those of Nicholas and Blaise (below) in the form *Nicolaus dictus* (=“called”) *Zambo*, which has been rendered in translation as simply a Christian name and a “family name,” indicate an early stage of the development of constant family names that were not always derived, as usual with the nobility, from their estate (which seems to have remained “official” as late as 1435, see e.g., **8 March 1435:4**).

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⁴⁵ Ladislav of Verseny, (son of Nicholas, fl. 1380–1406), master of the stewards 1383–86

⁴⁶ Stephen Lackfi of Simontornya, son of Denis, Master of the Horse 1367–82.

⁴⁷ These kinds of lists of dignitaries (not witnesses) were appended to privilegial charters from the late thirteenth to the fifteenth century as a kind of authentication.

LAW OF QUEEN MARY OF HUNGARY

14 November 1385

The dissatisfaction with the regimen of Queen Elizabeth, the queen mother, led to virtual civil war by 1384 despite the affirmations of peace in the decree of that year. Several barons supported Mary's fiancée, Sigismund of Luxemburg, margrave of Brandenburg, but the queen mother secretly engaged her to Louis of Orléans, brother of King Charles VI of France. A third party, apparently mainly of lesser nobles, opposed Mary's succession and supported the claims of Charles of Durazzo, her second cousin. In the summer of 1385, the two court parties came to an agreement and Mary was wed to Sigismund, but the margrave had to flee Buda to escape the advancing Charles. In these circumstances the diet convened; it is unclear, however, whether it was called by the queens to placate the opposition or in response to the insistence of the counties. While the decree contains merely a repetition of previously confirmed liberties, the diet was a historical one, for this was the first time that the presence of "four richer nobles" from each county, already referred to in the *decretum* of 1267, is explicitly documented. That the privileges of liberty were not transcribed and the law promulgated (at least in both surviving originals) in the form of simple letters patent without the list of dignitaries, with the great seal *en placard*, may have been the consequence of the troubled situation.

MSS.: Two authentic originals: a copy for District Rábaköz in Co. Sopron, MNL OL DL. 61249, and a copy for the "Ten lances" noble community in Co. Szepes, now MNL OL DL. 38885.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Martinus Georgius Kovachich, *Vestigia comitorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum* (Buda: Regia Universitas, 1790), pp. LIX–LXII; Johannes Nicolaus Kovachich, *Sylloge decretorum comitialium inclyti regni Hungariae, quae in vulgato corpore juris hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui parte, manca referebantur et oblivion postliminio, recenter erepta sunt* (Pest: Trattner, 1818), pp. 53–6; Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66), 10/1: 216–8; Ferenc Döry, György Bónis, Vera Bácskai., eds. *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1445*. (Budapest: Akadémiai, 1978) [=DRH], pp. 146–8.

LIT.: Imre N. Bard, "Aristocratic Revolts and the Late Medieval Hungarian State A.D. 1382–1408," Ph. D. dissertation, Univ. of Washington, 1978; Pál Engel, *The Realm of Stephen: A History of Medieval Hungary 895–1526* (London: I.B. Tauris, 2001) pp. 195–9.

14 NOVEMBRIS 1385

Nos Maria dei gratia regina Hungariae, Dalmatiae, Croatiae, etc. notum facimus universis, quibus incumbit, per presentes, quod cum nos sana et matura unacum prelati et baronibus ac regni nostri proceribus deliberatione prehabita pro bono communi utilitateque eiusdem regni nostri, presertim pro reformandis deformatis remeliorandisque et discutiendis ac rectificandis universis et singulis ipsius regni nostri factis, cuiusvismodi existant, et generaliter sedandis et extirpandis omnibus maleficiorum generibus post felicem obitum olim excelsi principis domini Ludouici regis Hungariae, genitoris nostri carissimi, cuius memoria in benedictione est, hincinde inter ipsos nobiles et nostros regnicolas cuiusvis preeminentie existant, qualitercumque, quodcumque et quomodocumque subortis et alternatim pullulatis, annuente divine maiestatis clementia congregationem generalem Bude, octavo die festi Omnium sanctorum iam preteriti celebrassemus, sic videlicet, ut de singulis ipsius regni nostri comitatibus singuli quatuor potiores nobiles ad diem et locum predictos convenire debuissent, demum ipso termino feliciter adveniente ipsisque nobilibus universaliter in locum predictum iuxta nostre celsitudinis decretum convenientibus ceteris et universitas eorundem per certos et fidedignos ambasiatores ipsorum maiestati nostre patefecerunt querulose, quomodo ipsi in illis omnibus libertatibus, immunitatibus libertatumque prerogativis, quas eisdem sancti et alii reges Hungarie beatarum recordationum ex bonarum et efficacissimarum ipsorum litterarum vigoribus limitando concessissent, et quas idem olim genitor noster tandemque nos roborasse, approbasse at confirmasse perhibemur, prorsus et in toto non haberentur, et in eisdem ipsi imminente tempore non conservarentur, supplicantes iidem ambasiatores suis et dictorum universorum fidelium dicti regni nostri Hungarie nobilium in personis maiestati nostre subiective, ut ipsos in omnibus illarum libertatum prerogativis, quas eisdem dicti olim sancti et alii reges Hungarie concessisse dinoscuntur, et que per eundem olim patrem nostrum demumque per nos roborate et, confirmate esse perhibentur, omni novitate exclusa dignemur invariabiliter conservare. Nos igitur illam inviolabilem fidelitatis constantiam in acie nostre mentis revolventes, qua iidem fideles dicti regni nostri nobiles a temporibus dictorum sanctorum et aliorum regum usque modo in tuitione et protectione huius nostri regni Hungarie, omniumque iuri sacre corone nostre regie subiectorum, specialiter autem in tuta conservatione confiniorum, limitum et terminorum eiusdem regni nostri Hungarie promptos se intrepide reddere studuerunt fideles et exhibuerunt, per que huius regni gubernacula feliciter possidemus, eorundem nobilium regni nostri fidelium supplicationem veram, ymmo toti regno nostro proficuum fore agnoscences, premisseque libertati ipsorum in toto vel in parte derogari nolentes, eisdem nobilibus regni nostri et cuilibet eorum harum serie firma et bona nostra fide mediante promittimus, spondemus et ex certa nostre maiestatis scientia pollicemur, ut ipsos amodo in antea in omnibus illis libertatibus, immunitatibus et libertatum prerogativis, que eisdem per ipsos sanctos et alios Hungarie regni reges, nostros videlicet divos predecessores donate et concesse per nosque roborate existunt et confirmate, ut iidem ad tuitionem ipsius regni nostri Hungarie ipsamque eorum fidelitatem diuturnam inviolabiliter observandam ferventius animentur, tenebimus et conservabimus perpetuo et irrevocabiliter permansuros, fruituros et gavisuros; et in huius rei evidens testimonium ipsis fidelibus nobilibus regni nostri presentes duximus concedendas. Datum Bude, septimo die congregationis nostre predictae, anno domini millesimo trecentesimo octuagesimo quinto.

14 NOVEMBER, 1385

We, Mary, by the grace of God, queen of Hungary, Dalmatia, Croatia, etc., make known to all to whom it may concern by these presents that when after sound and mature deliberation with the prelates, barons, and lords of our realm, for the common good and welfare of the same kingdom, for reforming in particular what was deformed and for improving, repairing, and rectifying all matters, of whatever sort they might be, of that very kingdom of ours and generally to pacify and to eradicate all kinds of crimes which have arisen or otherwise flourished in any way, time, or manner, among these same nobles and our subjects of whatever privilege, following the untroubled death of the late eminent prince, the lord Louis, king of Hungary, our dearest father of blessed memory, we, with the help of the gentle favor of the divine majesty, held a general assembly in Buda on the eighth day of the recent feast of All Saints,¹ in such a way that from each and every county of our kingdom four of the richer nobles were obliged to come for the said day to the said place, and when finally the appointed date happily arrived and all the nobles were all together in the said place in accord with the decree of our eminence, the entire assembly and community disclosed through selected and trustworthy envoys² in a complaint to our majesty how they were nowadays deprived of the full enjoyment of all the liberties, immunities, and privileges of freedom, which the holy and other kings of Hungary of blessed memory³ had granted them by defining these in their good and most efficacious charters, which earlier our father and, recently, we ourselves have validated, approved, and confirmed,⁴ but which in the present time are not being completely observed; these same envoys and the loyal nobles of our kingdom of Hungary humbly requested our majesty in person that we deign to preserve them in the enjoyment of all the privileges of liberty which the said holy and other kings of Hungary are acknowledged to have granted them and which are proven to have been validated and confirmed by our father and finally by us, as well, unchanged, without any innovations whatsoever. We, therefore, keeping steadfastly in mind that unsullied constancy of loyalty⁵ with which these same loyal nobles of our said kingdom from the times of the holy and other kings up to the present have fearlessly taken care to render and

¹ 8 November 1385.

² As the diet took place in Buda, where the queens were also staying, it is unclear why communication by envoys was necessary, but may have been customary in those years. As far as we know, it started in **1384** but was not to become usual until the sixteenth century that the estates presented their wishes by delegates (*nuncii*) to the ruler. In view of the turbulent political situation, one may assume that Mary and her mother remained behind the walls of the castle, while the nobles assembled in the city.

³ References to the “holy kings,” meaning above all St. Stephen, as founders of the noble privilege were common since the thirteenth century (see **1222**: Preamble). The Angevin rulers were particularly eager to underscore their continuity with the royal saints of the Árpád dynasty; see Gábor Klaniczay, *Holy Rulers and Blessed Princesses: Dynastic Cults in Medieval Central Europe*, transl. Éva Pálmai (Cambridge: CUP, 2002) pp. 295-394.

⁴ The *decretum* of 11 December **1351**, and its transcript of 22 June **1384** are meant.

⁵ The scribe tried to use some classical allusions (probably) from Vergil (*Aeneid* 4.643) and, at first or second hand, from Cicero (*de nature deorum* 2.57.142, cf. Catullus 63. 56) which led to a rather complicated clause.

show themselves faithful in the preservation and protection of this, our kingdom of Hungary and of all those subject to the jurisdiction of our royal Holy Crown, particularly in the safe preservation of the borders, frontiers, and boundaries of that kingdom of Hungary of ours,⁶ on account of which we happily hold the governance of the realm, recognize that the requests of these faithful nobles of our kingdom are genuine and, moreover, beneficial our whole realm, and, not wanting them to lack the aforementioned liberties in whole or even in part, promise, vow, and pledge in accordance with our specific understanding of our royal majesty⁷ to these nobles of the kingdom, each one of them, in good and firm faith by the words of these presents that we will hold and preserve them henceforth as formerly, in perpetuity, and irrevocably, in all the liberties, immunities, and privileges of freedom which were granted and conceded to them by the saintly and other kings of Hungary, namely our holy predecessors, and which are now validated and confirmed by us, to abide in, use, and enjoy these, so that these same nobles might be most fervently moved to observe their long held faith for the defense of our Hungarian kingdom; in manifest testimony of which we have caused the present charter to be granted to the same faithful nobles of our kingdom. Given at Buda on the seventh day of our said assembly, in year of the Lord one thousand three hundred and eighty-five.⁸

⁶ This might be an allusion to the Moravian border, which was threatened at that time by an invasion of Sigismund's troops.

⁷ *Ex certa nostre maiestatis scientia* is a recurrent phrase of royal charters, but its exact meaning is not clear. The translation we chose is probable, not certain, but renders the traditional sense of the words, which is something like "according to our understanding of our authority..." Zsuzsanna Teke's interpretation in: Ferenc Döry, György Bónis, Vera Bácskai., eds. *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*. (Budapest: Akadémiai K., 1991), p. xix, according to which this clause was to refer to the king's special jurisdiction (*absoluta potestas*) does not explain its use here.

⁸ The diet opened on 7 November.

DECRETUM OF THE DIET OF HUNGARY IN 1386 (AFTER 27 AUGUST)

It is difficult to define the exact legal character of this document. In essence, it is a peace treaty between the “court party,” supported by a number of nobles, on the one hand, and the rebellious “Horváti-party” of southern Hungary and Croatia, who held Queen Mary and Queen Elizabeth captive, on the other. Contemporary sources are too contradictory to allow us to decide whether the peace was in fact concluded or remained a plan. The document was issued from a festive gathering of prelates and nobles, called by Palatine Nicholas of Szécs (Széchi) and dramatized by an oath sworn on the head reliquary of the kingdom’s founder. Some time around 1387 the palatine and the barons did constitute a “council of the realm” which had its own seal with the inscription SIGILLUM REGNICOLARUM REGNI HUNGARIAE in order to bridge the gap of the interregnum. If this decree was issued under that seal, it would certainly qualify as a “decree of the interim sovereign power.” However, the sole surviving copy is fragmentary, incomplete, and unsealed. Hence, formally it cannot be classified as a decretum. Nevertheless, the highly significant statements about the conceptual separation of ruler and realm, expressed for the first time in such poignant words, make it constitutionally an important document for the development of political and legal thought. Therefore, we followed the editors, Ferenc Döry, György Bónis, Vera Bácskai, of the *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Bp.: Akademiai, 1978) [=DRH] and included this text among the *decreta*.

The date of this decision is also open to conjecture. John Nicholas Kovachich, who discovered the only copy, dated it as emanating from a diet that opened on 27 August 1386, but Imre Hajnik, who later edited it, dated it to 1387. István R. Kiss devoted a study to the diets of 1386 and accepted the date proposed by Kovachich, arguing that it is impossible that the murder of Queen Elizabeth in January 1387 would not have been known eight months later, when Queen Mary was already released, while the text speaks of her as still alive. This dating remains still problematic because of the equivocal formulation in art. 4, where “royal” and “reginal” majesties are separately referred to: as far as we know, Sigismund’s acceptance as ruler of Hungary was not yet decided by summer 1386, hence the “king” implied here would have to be Mary (see below, note 9). A solution might be that the wording was meant in generic (“constitutional”) terms: *regia serenitas* meaning any ruler, in general. Lacking more precise information on the turbulent events of the age, we accepted the dating of both Kovachich and R. Kiss.

MS.: Fragmentary copy on paper, from the Kállay Family Archives; MNL OL Dl. 52575.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer
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EDD: Johannes Nicolaus Kovachich, *Notitiae praeliminares ad Syllogem decretorum* (Pest:

Trattner, 1820), pp. 417–22; Imre Hajnik, “Az 1387. évi székesfehérvári “országgyűlés” cikkelyei” [The articles of the Székesfehérvár “diet” of 1387], *Történelmi Tár* (1878): 173–6; *DRH*, pp. 149–53.

LI.: István R. Kiss “Az 1386. évi országgyűlések” [The Diets of the Year 1386], *Századok* 47 (1913): 721–35; Ferenc Eckhart, *A szentkorona-eszme története* [History of the idea of the Holy Crown] (Budapest: Magyar Tudományos Akadémia, 1941), pp. 67–8; János M. Bak, *Königtum und Stände in Ungarn im 14.-15. Jh.* (Wiesbaden: Steiner, 1973), pp. 27–8; Imre Szentpétery, *Magyar oklevéltan* [Hungarian diplomatics] (Budapest: Magyar Tudományos Akadémia, 1930), p. 211 (on the seal of the council).

1384 (POST 27 AUGUSTI)

Ad perpetuam rei memoriam. Noverit presens etas et futura posteritas, quod nos prelati, barones, proceres et universi regni nobiles pacis comoda provide attendentes et contentionum discrimina, que in ipso regno, proch dolor, acciderunt seu emergerunt, cogitantes et nostros animos ad concordie semitas convertentes, ut in pacis tranquillitate coli possit congruentius et salubrius actio pacis, in Albam Regalem, in qua iuxta privilegiatam libertatem regni a sanctis regibus et eorum successoribus concessam in arduis negotiis tractandis et ordinandis solitum est regnicolis convenire, facta generali proclamatione per omnes comitatus regni Hungarie die octavo festi beati regis Stephani universaliter congregati prestito iuramento capite eiusdem sancti regis altari superposito cum sumpma reverentia manualiter tacto, super eo, quod commodum rei publice et utilitatem regni ac sacre corone communem contra quoslibet vovebimus, etiamsi regia maiestas contra id facere vellet, sibi contradicemus ac prohibebimus eandem cum effectu, contraque extraneam potentiam nos omnimode resistendo oponemus pro defensione regni et suarum tenutarum et confiniorum, necnon etiam contra quemlibet potentem internos insultantem et actus potentiarios exercentem et contra presentis pacis ordinationem rumpentem totis viribus insurgemus, pro reformatione et bono statu regni fecimus, ordinavimus et promulgavimus unionem et, pacis reformationem, prout in capitulis et articulis infrascriptis lucide continentur, perpetue et inviolabiliter duraturam.

I. Item primo, si alique novitates vel motiones difficiles in regno emergi contingerint, tunc regia maiestas prelati et baronibus regni ad tractandum et consiliandum de potioribus nobilibus regni adiungat et assummat ad ea recuperanda.

II. Item duos honores baronatus una persona obtinere seu tenere non possit, et quod ecclesiastice persone seculares honores nullo modo obtinere possint, et e converso seculares persone ecclesiasticos honores quacunque occasione pretensa tenere vel usurpare non possint, maxime sedibus et dignitatibus vacantibus.

III. Item prelati et barones pro consiliariis deputati iurabunt, quod in consiliis exhibendis et dandis non solum regie maiestatis aut eorum vel suorum propriam querent utilitatem, sed communem utilitatem regni et sacre corone regie, et e converso ipsa regia celsitudo promittet huiusmodi consiliariis regie serenitati falsum et communi bono contrarium suaserint consilium, extunc rescita huius veritate de medio huiusmodi consiliariorum tamquam falsi turpiter eiciantur nunquam ad eadem prebenda admittendi.

IV. Item regia serenitas promittet suo iuramento, quod omnem rancorem, invidiam, contemptum et iniuriam, [que] contra quoscunque et cuiusvis conditionis homines ex quibuscunque actenus habuisset causis, ex cordibus suis prorsus evellendo relaxabit, nec ipsis seu alicui eorundem palam vel latenter per se vel alios ratione previa quovis tempore quidquam inputabit, similiter et reginalis maiestas.

V. Item quod thesaurum domus regie tam in reliquiis, quam in omnibus aliis tempore proxime rixe et pugne per Johannem banum Machouiensem et fratres suos ac Johannem priorem Auranie et ad eosdem pertinentes contra condam Nicolaum de Gara palatinum et suos fratres,

fautores et adherentes receptum idem Johannes banus et prior ac eorum fratres mediante ipsorum iuramento, prout plenius possunt, recuperare procurent et domui regie restituere.

VI. Item omnes captivos, quos idem banus et prior Auranie ac fratres eorum et ad eosdem pertinentes pro nunc in ipsorum captivate habent et conservant, libere abire permittant, et nec ipsos vel ad eosdem pertinentes in possessionibus vel aliis bonis ipsorum inpediant et occupata eisdem remittant.

VII. Item idem banus et prior et eorum fratres omnia castra, civitates et fortalitia, opida, villas et possessiones et quevis iura regalia vel reginalia necnon ceterorum nobilium, que pro nunc occupata tenent, libere illis, ad quos pertinent, remittant sine mora.

VIII. Item quia premissa rixa non in contemptum vel iniuriam reginalis maiestatis, sed propter antiquas inimicitias inter predictas partes ortas et habitas commissa et facta extitit, ideo ipse domine regine predictis Johanni bano, Johanni priori Aurane ac suis proximis adherentibus, familiaribus et sequacibus eorundem, quod si forte contra honorem regalem seu reginalem commissum extitisset, ut status regni in melius reformetur, radicitus de ipsarum cordibus evellendo, literis etiam ipsarum et aliis ad hec necessarie occurrentibus remediis confirmando, ipsos in curiam reginalem benigne recipiant ipsosque secundum decentiam status et conditionis eorum regalibus honoribus honorando et sublimando, prout et ceteros nobiles ac barones regni regalis maiestas consuevit, condecenter in consiliis et aliis honorare atque sublimare dignentur.

IX. Et ut omnino radicitus et expressa denotatione via odiis malitiis, partialitatibus ac scandalis precludatur et in regno pacis commoda reform[entur, si] predictae domine regine et earum heredes vel soboles ab eisdem procreate aliquam vindictam, afflictionem vel perturbationem aut quomodocunque animi motionem super facto pugne superius expresse facerent vel fieri permittent, vel ad hoc consensum prebebunt ad suggestionem quorumcunque, ita quod si contingerit ipsarum maiestatem aliquorum suggestionibus et inductionibus incitari vel aliqua occasione commoveri, tunc omnes prelati, barones ac universi regni nobiles talem partem nullo modo fovere, ymo expresse contradicere et se retrahere tenebuntur. Nullus etiam omnino hominum super eodem facto ac interfectionibus hominum quorumcunque in ipsa pugna illatis et quibuscunque eventibus ibi accidentibus signanter autem heredes, consanguinei, affines, amici et quilibet attinentes illarum personarum, que ibi occubuerunt vel quomodocunque offense vel dampnificate extiterunt, verbo vel [facto] –

1386 (AFTER AUGUST 27)

For the perpetual memory of this matter: let the present age and future posterity know that we, the prelates, barons, lords, and all the nobles of the kingdom, properly and carefully contemplating the advantages of peace, and the causes of the strife, which, alas, has occurred or arisen in this kingdom, considered and turned our minds to paths of agreement, so that the works of peace may be more appropriately and more profitably cultivated in the calm of peace.¹ We, after a general proclamation was made in all the counties of the kingdom of Hungary, have assembled together on the eighth day of the feast of the holy king Stephen,² in Székesfehérvár—where according to the privileged liberty of the kingdom granted by the holy kings and their successors, it is customary for the gentlemen of the realm to assemble to treat and arrange urgent affairs³—and swore an oath on the head of the same holy king⁴ that had been placed on the altar and touched with our hands in the greatest reverence, that we shall undertake to protect, the welfare of the commonwealth and the common good of the kingdom and the Holy Crown against anyone. We shall oppose and actively prohibit even if the royal majesty wishes to act in opposition⁵ and shall also oppose any outside power with utmost resistance for the defense of the realm, its boundaries, and dependencies. Furthermore, we shall rise in all our strength against any powerful man committing attacks and acts of might, and disturbing the ordinance of the present peace; and acting in support of the restoration and good order of the kingdom, we have established and proclaimed a union and the restoration of peace to last perpetually and inviolably, as is clearly contained in the chapters

¹ For the preceding events, see Imre N. Bard, “Aristocratic Revolts and the Late Medieval Hungarian State A.D. 1382–1408,” Ph. D. dissertation, Univ. of Washington, 1978; Pál Engel, *The Realm of St. Stephen: A history of medieval Hungary, 895–1526*, transl. Tamás Pálosfalvi, ed. Andrew Ayton (London: Tauris, 2001) pp. 195–208. After the forced abdication of Mary, the coronation of Charles of Durazzo on 31 December 1385, and his murder by the queens’ men in February 1386 (see Lorenzo di Monaci, “*Carmen de Carolo parvo*” in F. Cornelius, ed., *Chronicon de rebus Venetis* [Venice, 1758], pp. 325–81), civil war broke out once more, this time between the supporters of Mary and of Charles’s son, King Ladislas of Naples (1386–1414). See also: Pál Engel, “Charles II de Duras, roi de Hongrie et son parti,” in: *La dédition de Nice à la Savoie 1388 &c.* (Paris, 1990) pp. 199–205.

² In Hungary, 20 August is observed as St. Stephen’s Day.

³ On the tradition of judicial and political assembly in Székesfehérvár, since at least the early thirteenth century, see **1222:1**, **1231:1**.

⁴ The head-reliquary of St. Stephen, which, together with the crown adorning it, also played a role in 1440, was kept in the treasury of the collegiate chapter of Székesfehérvár and disappeared probably during the Ottoman siege of the city in 1543. It is not known even from a picture. However, in the eighteenth century a similar reliquary, maybe the same, was in the custody of the Dominicans in Dubrovnik and recovered from them by Maria Theresa in 1769.

⁵ It is not entirely clear whether the term “royal majesty” here and in the following refers to Queen Mary who was taken prisoner by the rebels on 25 July 1386, or rather to any ruler, perhaps to one (Sigismund of Luxemburg?) who was to be elected by the lords who took on themselves the protection of the “Holy Crown’s” interest (see also below, notes 9). At any rate, the concept of a government that would resist even the actions of the ruler in the name of the “kingdom,” is an important step towards the development of a transpersonal concept of the “state”; see Bak, *Königtum*, pp. 27–8, summarizing the research of Ferenc Eckhart and others as well.

and articles written below.

1 Then, first, if any novelties⁶ or troublesome events chance to arise in the kingdom, then the royal majesty should augment the prelates and barons of the kingdom by having some of the more powerful nobles join them in discussing and taking counsel about restoring order.⁷

2 Then, one person may not obtain or hold two baronial offices,⁸ and ecclesiastical persons may in no way receive secular offices, and, in turn, secular persons may not hold or usurp ecclesiastical prebends, especially vacant sees and dignities, on any pretense.

3 Then, prelates and barons chosen as counsellors will swear that in offering and giving advice they will seek not only what is advantageous for the royal majesty, themselves, and others, but rather the common advantage of the kingdom and the royal Holy Crown, and, conversely, the royal eminence will promise to follow and to observe inviolably the same advice in good faith; and if anyone from among these counsellors should give the royal serenity false advice contrary to the common good, then when the truth of this has been found out, he should be dishonorably expelled from their midst as a false counsellor, never to be admitted to these offices again.

4 Then, the royal serenity shall promise on oath to discard all rancor, envy, contempt, and harm which up to this point she might have held against any men of any estate for whatever reason by directly erasing it from her heart, nor will we bring any charges against them or against their people, publicly or privately, by herself or by others, at any time or for whatever previous reason; and the same shall hold true for her majesty the queen mother.⁹

5 Then, John, ban of Mačva¹⁰ and John, the prior of Vrana and their brothers¹¹ should make sure to return and restore to the royal palace, under their own oath,¹² as fully as they are able, the

⁶ *Nouitas* implied in medieval understanding some evil innovation, it was often used for heresy; cf. Du Cange, *Glossarium* 4:657, where reference is made to the French legal term *nouvelleté*, meaning usurpation of rights or property.

⁷ “Prelates and barons” stands for the informal royal council. This program of adding lesser nobles to the council, formulated as early as 1298 (see **1298:7**), did not become a reality until the late fifteenth century.

⁸ Cf. **1222:30**.

⁹ The meaning of the expressions *regia serenitas* and *reginalis maiestas* has been often debated: while the context here suggests that Queen Mary and her mother, Elizabeth, are meant; this usage would confirm the incorrect assumption that Mary was in fact addressed as “king” (cf. n. 1, to **1384**). If, however, this decree already implied the impending election of Sigismund, the *regia* may refer to him, and the *reginalis* to Mary or to both she and her mother.

¹⁰ John of Horvát (Horváti) (d. 1394), was ban of Mačva 1375-81, 1385-86, rebel from 1386. He and his three brothers, one of whom was Paul (bishop of of Cenad 1377-78, of Zagreb 1378-86) were, as main supporters of Charles and Ladislas of Naples, the leaders of the rebellion in the south.

¹¹ John of Palisna, (d. 1391), ally of John Horváti, was prior of Aurana/Vrana, Castle Vrana, near Zara in Dalmatia, the seat of the prior of the Knights Hospitallers in Hungary and Croatia.

¹² Apparently, the booty was already distributed among the rebels and they were to recover it under the threat of oaths.

treasures of the royal palace, both the relics and all the other things, taken away during the time of the recent strife and struggle of ban John, prior John of Vrana, their brothers and dependents with the late Nicholas of Gara, count palatine,¹³ and his brothers, followers, and adherents.

6 Then, this same ban and the prior of Vrana, their brothers and dependents should permit all captives whom they now hold and keep in their custody to leave freely, and neither should they hold back possessions or other goods of the captives and their dependents, but should return to them all things they had seized.

7 Then, the same ban and the prior and their brothers should return freely without delay to those to whom they belong all the castles, cities and fortifications, towns, villages and estates, and the usurped royal rights of whatever sort, and those of the queen or other nobles, which they currently occupy.

8 Then, since the aforementioned strife arose not for the contempt or injury of the queen's majesty, but was induced and carried on because of ancient enmities among the aforementioned parties,¹⁴ the same ladies, the queens, in order that the state of the kingdom may be restored for the better, should entirely root out from their hearts anything that the aforementioned ban John and prior John of Vrana, their close relatives, retainers, and followers, may have by chance committed against the royal honor or that of the queen; and they should confirm this by their letters and other necessary and pertinent remedies,¹⁵ and they should kindly receive these men at the queen's court and should deign to honor and promote them appropriately in council and otherwise by honoring and promoting them to royal honors, which are in accordance with the preeminence of their station and birth, just as the royal majesty is wont to do with other barons and nobles of the kingdom.

9 And in order that the road to hatred, ill will, partiality, and scandal be completely and expressly barred, and the advantages of peace in the kingdom be restored, then if the aforesaid ladies, the queens, and their heirs, and the offspring born to them should cause or permit any revenge, trouble, or disorder, or let a climate of enmity emerge because of the above-mentioned struggle, or consent to any suggestion by anyone so that the suggestions and intentions would incite or move their majesties to some incident, all the prelates, barons, and all noblemen of the kingdom will be bound in no way to support such a posture, but rather to speak up strongly against it and take no part in it. None of the people involved in this action, or the killing of any man in the

¹³ Nicholas senior of Gara/Garai (d. 1386), ban of Mačva 1359-75, count palatine 1375-85, ban of Dalmatia and Croatia 1385-86; was the chief supporter of the dowager queen and was killed in a skirmish near Gara (today: Gorjani, Croatia) when the queens were taken prisoner. See *Biographisches Lexikon zur Geschichte Südosteuropas*. Matthias Bernath *et al.*, eds. Munich: Oldenbourg, 1974-81, 4 vols., 2:7-9.

¹⁴ This was partly true, for the competition between the two factions went back to the time of Louis I, and the rebellion of the Horváti began against the hegemony at court of their opponent, Palatine Garai. Thus, the revolt against the queens could reasonably be presented as a factional feud.

¹⁵ The punishment of rebellion implied the immediate loss of all property that was then usually distributed among the faithful. Therefore, the sentence for charge of infidel only be annulled, but the grants of confiscated estates had also to be revoked. These measures may be implied in the clause *aliis ad hec necessarie occurrentibus*.

said struggles and the events connected with them, particularly the heirs, relatives, kinsmen, friends, and others of their adherents who lost their lives there or suffered injury by word or action ¹⁶

¹⁶The surviving text ends in mid-sentence.

LAW OF KING SIGISMUND OF HUNGARY (October 1397)

This decree is the first piece of legislation that can be styled “dualist” in that it reflects a compromise between king and noble estates. It was also the first of many laws which attempted to strengthen the country’s position against the growing threat of Ottoman advance from the south. After the disaster at Nicopolis (28 September 1396)—whence Sigismund returned to Hungary only with great difficulties, many months later—the king’s position was anything but stable. During his absence the party of Ladislas of Naples gained new strength and the powerful Lackfi family was attempting a coup (see Imre N. Bard, “Aristocratic Revolts and the Late Medieval Hungarian State A.D. 1382–1408,” Ph. D. dissertation, Univ. of Washington, 1978, pp. 40-50). However, the king managed to rally support and put down the rebellion swiftly. When he called a diet to the center of the southern defense, Timișoara, his aims were to stabilize central authority with the help of faithful aristocrats and the county nobility, on the one hand, and to reform the defense of the country, on the other.

The decree contains, without explicitly referring to their original issue, most of the articles of the **Golden Bull of 1222**, and almost all of those added to it in **1351** by Louis I. In addition to these re-issued privileges, the edict contains another 25 articles. These are mixed in terms of *cui prodest*: some strengthen the hand of the king, e.g., in recovering royal property, others enhance the power of the counties, the seat of the lesser nobility’s power, and a few have an anti-clerical character. The reform of the army — had it been fully implemented — could have helped the entire nation in its fight against the Ottoman Empire.

The diet was called for 29 September 1397 and lasted less than a month. On 26 October Sigismund issued charters already quoting passages from the decree passed at the meeting (*Zsigmondkori Oklevéltár* [Calendar for the age of Sigismund]. Elemér Mályusz, *et al.* eds. Vol. 1 (Budapest: Akadémiai K.), 1954 [=ZsO] no. 5037) and the deputies of Trogir, who arrived on that day, were too late to participate. No dated and formally-issued original of this decree has survived; the only text we have was discovered in the nineteenth century in a simple transcript probably prepared for some landowner. Reference is, however, made to a copy which the nobles of Co. Zagreb presented to the ban in 1398, regarding their rights (see below, art. 41); hence, we may assume that the county delegates received originals in Timișoara or were sent copies later, as was usual.

MS.: Parchment with octagonal privy seal *en placard*; seriously damaged. State Archives, Bratislava (Slovakia), County archives, Diaetalia 1/30.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives | (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer
@ <http://archives.hungaricana.hu/en/charters/search>

- EDD.: Nándor Knauz, "Az 1397-ki országgyűlés végzése" [Decree of the diet of 1397], *Magyar Történelmi Tár* 3 (1857): 213–38; Ferenc Döry, György Bónis, Vera Bácskai., eds. *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1445*. (Budapest: Akadémiai, 1978) [=DRH], pp. 157–74.
- LIT.: Knauz, *op. cit.*; József Deér, "Zsigmond király honvédelmi politikája" [Defense policies of King Sigismund], *Hadtörténelmi Közlemények* 37 (1936): 1–57, 169–202; Joseph Held, "Military Reform in Early Fifteenth Century Hungary," *East European Quarterly*, 11,2 (1977): 129–39; András Borosy, "The *militia portalis* in Hungary before 1526," in János M Bak and Béla K. Király, eds. *From Hunyadi to Rákóczi: War and Society in Medieval and Early Modern Hungary* pp. 63-80 (Brooklyn, N.Y.: Social Science Monographs, 1982). pp. 63–80; Elemér Mályusz, *Kaiser Sigismund in Ungarn 1386-1437*. Trans. A. Szmodits. (Budapest: Akadémiai., 1990), p. 175 f.; Idem, "Die Zentralisationsbestrebungen König Sigismunds in Ungarn," in *Etudes historiques* (Budapest: Akadémiai, 1960) 1: 317–58 (also: *Studia Historica Acad. Sc. Hung.* 50, *ibid.*, 1960.) On the seal, see: Lajos Bernát Kumorovicz, "A magyar királyi egyszerű es titkos pecsét használatának alakulása a középkorban" [Development of the use of the Hungarian royal simple and privy seal in the Middle Ages]. *A Bécsi Magyar Történetkutató Intézet Évkönyve*, 7 (1937): 69-112.

(1397 OCTOBRIS)

Nos Sigismundus dei gratia rex Hungarie, Dalmatie, Croatie etc. marchyoque Brandenburgensis etc. memorie commendante te[nore pre]sentium significamus quibus expedit universis, quod cum per insultus et potentiam Turcorum et aliorum scismaticorum hominum in quibusdam annorum curriculis iam retrolapsis usque presens tempus in confiniis regni nostri Hungarie pridem plurime devastationes, spoliationes et concremationes possessionum, hominum utriusque sexus, virorum scilicet et mulierum. [su]bductiones, alia etiam enormia intollerabilia, per que facta nostra et omnium regnicolarum nostrorum potentia dimi[nuta es]se videbatur, creberrime commissa fuissent et, committerentur de presenti, eapropter de bono et tranquillo statu ac restauratione confinium dicti regni nostri volentes con.templari, tam pretextu premissorum, quam etiam pro aliis factis et arduis negotiis ipsius regni nostri et sacre regie nostre corone universos prelatos et viros ecclesiasticos e[minent]i dignitate prefulgentes ac barones nostros, item de quibusvis comitatibus regni nostri singulos quatuor probos et nobiles viros plena potestate ceterorum consociorum ipsorum fungentes ad festum presens beati Mychaelis archangeli pro congregatione et consilio generali in premissis facienda huc in Temeswar litteris nostris mediantibus [convenir]e mandassemus, demum eisdem in locum et terminum prenotatos pariter accersitis et convenientibus annotati barones et nobiles regni nostri super omnibus premissis diligenti tractatu, sano consilio et matura deliberatione inter se prehabitis taliter inter se duxerunt disponendum et ordinandum;

I. Ut annuatim in festo sancti regis Stepha[ni], nisi arduo negotio ingruente vel infirmitate fuerimus prohibiti, Albe teneamur solempnizare.. Et si nos interesse non poterimus, palatinus procul dubio ibi erit pro nobis, ut vice nostra causas audiat et quemlibet presentibus partibus iudicet, et omnes servientes, qui voluerint, libere illuc convenient.

II. Et quod nec nos, nec posterii nostri in aliquo tempore servientes capiamus vel destruant favore alicuius potentis, nisi primo citati fuerint et ordine iudiciario convicti.

III. Super predia servientum, nec domos nec villas descendimus, nisi vocati. Super populos etiam ecclesiarum ipsorum nullam penitus collectam faciemus.

IV. Comites parochiani predia servientum non discutiant, nisi causa monetarum. Comites curie parochiani nullum penitus discutiant, nisi populos sui castri. Fures et latrones bylokii regales discutiant, ad pedes tamen ipsius comitis.

V.=1222: VI.

VI. Si autem rex extra regnum exercitum ducere voluerit, servientes cum ipso ire non teneantur, nisi pro pecunia ipsius, et post reversionem iudicium exercitus super eos non recipiet. Item si extra regnum cum exercitu ierimus, omnes, qui comitatus habent vel pecuniam nostram, nobiscum ire teneantur. Tempore autem maxime necessitatis huius regni Hungarie, dum scilicet extranea potentia paganorum scilicet et aliarum nationum metas et confinia eiusdem regni hostiliter subintrare conaretur, baro etiam in metis et confiniis dicti regni nostri honorem a nobis tenens huiusmodi potentie resistere nequiret, tunc universi regnicole una nobiscum adversus iam dictorum potentiam more exercituantium, specialiter autem barones honorem a nostra maiestate possidentes personaliter et quolibet tempore unanimiter insurgere, aut si nos in dicto regno nostro aliis negotiis regni nostri occupati non essemus, tunc cum domino palatino regni nostri ad metas et confinia eiusdem regni nostri taliter exercituare, ut nobiles, quotquot fuerint fratres in numero absque ulla

divisione simul coniuncti et in una curia residentes, unum ex ipsis mittere, ceteri vero divisionaliter ab invicem sequestrati, singuli singulariter exercituare teneantur. Si autem quispiam ipsorum possessionatorum hominum infirmitate inhibitus exercituare nequiret, tunc homines suos more exercituantium disponendo faciat exercituare. Minores autem nobiles jobagionibus orbati et privati, si evidenter eorum egritudinis causam declarare valebunt, expediti habeantur. Si vero quemquam possessionatorum hominum ab ipso exercitu abesse contingeret vel quispiam ipsorum in ipsum proficisci recusaret, tunc prout numerus et quantitas jobagionum ipsorum affuerit, videlicet in tantis florenis auri per centum denarios novos computatis, quantos jobagiones habuerint, cetera autem nobiles persone jobagionibus carentes in singulis tribus marcis denariorum convincantur eo facto. Hoc non pretermissum, ut quivis baronum et nobilium regni nostri possessionatus secundum exigentiam status et possibilitatem virium ipsorum, scilicet de quibus vis viginti jobagionibus unum pharetrarium more exercituantium promptuare et in ipsum exercitum durante duntaxat presenti guerra paganorum secum ducere et exercituare facere teneatur. Preteritis autem guerris presentibus [ge]neratio exercituantium regnicolarum universorum pristinam libertatem temporibus aliorum regum, nostrorum scilicet predecessorum assuetam viceversa optinebit. Nichilominus exercituanes in itinere ipsius exercitus tam in eundo, quam etiam in redeundo in expensis ipsorum propriis procedendo ab omnibus spoliis, rapinis et receptionibus victualium inhibiti sint et prohibiti, si vero quemquam exercituantium secus in hiis facere contingeret, extunc idem absque prorogatione aliquali in facto potentie convincatur eo facto.

VII. Palatinus omnes homines regni nostri indifferenter discutiat. Iudices vicarios non habeant, nisi unum in curia sua.

VIII. = 1222: IX

IX.=1222:X.

X.= 1222:XII.

XI.=1222:XIII.

XII. Palatinus autem, iudex curie, bani et comites regios honores [ossidentes, si se] iuxta honoris eorum qualitatem non habuerint vel distruxerint populos castrorum eorum, etiam et [al]terius cuiusvis homines, convicti super hoc coram omni regno dignitate sua turpiter spolientur cum restitutione ablatorum.

XIII. = 1222:XV.

XIV. =1222:XVI.

XV.=1222:XVII.

XVI.=1222:XVIII.

XVII.=1222:XIX.

XVIII.=1222:XXI.

XIX.=1222:XXI.

XX.=1222:XXIII.

XXI.=1222:XXIV.

XXII.=1222:XXV.

XXIII.=1222:XXVI.

XXIV.=1222:XXIX.

XXV.=1222:XXX.

XXVI.=1351:I.

XXVII.= 1351:11.

XXVIII=1351:III.

XXIX.=1351;IV.

XXX.= 1351:V.

XXXI.= 1351:VI.

XXXII. Item tam nos vel -----[quam] etiam prelati, barones et nobiles et possessionati homines aquas piscinosas habentes tertiam partem omnium piscium ipsorum piscandorum in aquis fluentibus, in lacubus autem vulgo mo[char] seu morotua vocitatis mediam partem quorumlibet piscium annuis piscationibus faciemus et iidem [domini] prenotati recipere debeant, ut hoc honor noster augeatur et ipsi regnicole nobis fidelius possint famulari.

XXXIII.=1351:VII.

XXXIV.= 1351:IX.

XXXV.=1351:X.

XXXVI. Item supplicatum extitit nostre serenitati per regnicolas regni nostri universos, ut cunctos nobiles et quosvis possessionatos nostri Sclauonie, necnon comitatum de Posega et de Valko in solutionibus lucri camere nostre seu mardurinarum nostrarum eisdem libertatibus, in quibus iidem regnicole nostri forent constituti, relinquere dignemur.

XXXVII.=1351:XIII.

XXVIII.= 1351:XIV.

XXXIX.=1351:XVII.

XL.=1351:XVIII.

XLI.=1351:XIX.

XLII.= 1351:XX.

XLIII.=1351:XXI.

XLIV.=1351:X11.

XLV.=1351:XXIII.

XLVI.=1351:XXIV.

XLVII.=1351:XXV.

XLVIII. Preterea eisdem regnicolis necnon ad eorundem instantiam annuimus, ut omnes et quoslibet homines nostros alienigenas et advenas de dicto regno nostro emittimus et emitti faciemus preter hos, videlicet magnificum virum dominum Stiborium wayuodam ac venerabiles patres dominos Eberhardum Zagrabiensis et Maternum Transsilvanensis ecclesiarum episcopos, et quod nos ac prenotati episcopi et wayuoda nostri nostros et eorundem familiares alienigenas et advenas de cunctis nostris et eorundem castris, tenutis et possessionibus usque ad octavas festi Nativitatis domini nunc venturi excipiemus, transmittimus et transmitti faciemus per dominos episcopos et w[ayu]odam prenotatos. Nec amodo et deinceps plures homines advenas, secularies videlicet et ecclesiasticos ad honores seculares et beneficia ecclesiastica promovebimus nec predictis auctoritatem promovendi committimus, in cunctis etiam castris, tenutis et possessionibus infra ambitum dicti regni nostri habitis homines Vngaric[e nati]onis locabimus et deputari faciemus per iam dictos.

XLIX. Ceterum ordinatum etiam extitit et dispositum per antefatos barones et regnicolas universos, ut omnia castra, tenute, civitates et possessiones, que vel quas quibusdam eo tempore, quo iidem adversus nos animo indurato et manu poten[ti insur]rexissent, pre timore insurrectionis eorundem tradidissemus et donassemus, simul cum talibus donationibus, quas hiis, qui inter nostram serenitatem et predictos rebellizantes in nos pro pace facienda tunc laborassent aut pacem fecissent, contulissemus et tradidissemus pre timore prenotato, [merito] et iusto modo auferre v[aleamus] ab eisdem. Donationes autem universas, quas hiis, qui nostre serenitati fideles famulatus inpendissent, et qui in nostris servitiis neci traditi et dimembrati fuissent aut suorum filiorum et proximorum ipsorum necem ac sanguinis eorundem effusionem passi essent, fecissemus, ratificabimus et confirm[abimus litter]arum nostrarum per vigorem, et quod cuncta castra, tenutas ac possessiones quaslibet, quas et que vendidissemus aut inpignorassemus, ab hiis, quibus ipsas et eadem vendidissemus aut inpignorassemus, sine omni pecuniaria solutione ecipere et in ius ac proprietatem *sacre* corone nostre regie [ad manus nostras] applicandi habeamus auctoritatem.

L. Item si qui ex prelatis seu viris ecclesiasticis, baronibus et eorundem baronum filiis ac magnatibus contra quoscunque in quibusvis factis et causis, in facto potentie, delationis falsarum litterarum, calumpnie et astationis falsi termini annotatis gravaminibus in presentia q[uorundam iu]dicum convincerentur, hos non protegemus, sed ad satisfaciendum eorum adversariis eosdem per dominum palatinum astringi faciemus.

LI. Nichilominus si quipiam terminos eorum iuramenti, duelli, communis inquisitionis et proprie obligationis deputatos obmiserint, eisdem amplius alter terminus pro exse[cutione----- m]inime debeat deputari, sed secundum dignitatem talis cause iudex ordinarius procedere debeat. LII. Nobiles etiam regni nostri et aliorum quorumvis jobagiones pro nullis factis regni nostri amplius dicari faciemus, sed eosdem in eisdem libertatibus, quibus iidem temporibus regum

predecessorum [nostrorum sunt gavis], frui et gratulari commitemus.

LIII. Hoc declarato etiam, quod si aliquis aliquas novitates, scilicet facta potentiaria, spoliaciones, derobaciones et illegitimas possessionum occupationes ac alia consimilia cuiquam fecerit aut irrogasset, tunc vicecomes et iudices nobilium rescita prius de hiis omnimoda v[eritate, non obst]antibus litteris nostris regalibus gratiosis quibuscunque, ex parte talls sine omni dilatione satisfactionis complementum parti lese impendant. Et si qua partium in huiusmodi inpensione iudicil non contentaretur, tunc dlscussio eiusdem iudicli inpensionis in nostram ac prelatorum et regni nostri baronum [presentiam tran]smitti debeat, ubi nos et iidem prelati ac barones partibus ambabus, non obstantibus quibusvis litteris nostris prorogatoriis absque omni dilatione iudicium exhibere teneantur.

LIV. Hoc etiam non pretermisso, quod filias quorumvis regnicolarum nostrorum in possessionibus et hereditatibus patris sui infra quintam lineam generationis eiusdem in heredes masculos non procreabimus.

LV. Item si aliquis in gravaminibus aliorum iudiciorum in processu alicuius cause in presentia cuiusvis iudicis convictus fuerit, tunc iudex ipsius cause ante decislonem elusdem pro ipsis iudiciis neminem captivare vel in rebus dampnificare presumpmat, demptis talibus personis, que ibidem in ipsius iudicis presentia in factis potentie, calumpnie, delationis falsarum litterarum et astationis falsi termini convincerentur.

LVI. Item si aliquis quempiam nota infidelitatis denigraverit, talem una cum baronibus et regnl nostri nobilibus iudicabimus et simul sententiabimus.

LVII. Preterea beneficia ecclesiastica bullati acceptare non valeant, nisi illi, quibus per patronos ipsarum ecclesiarum ipse ecclesie conferuntur.

LVIII. Nobiles etiam ad loca tributorum ire non compellantur, sed per portus, quos voluerint, libero transitu absque aliquali impedimento potiantur. Littere autem nostre quibusvis mercatoribus in eo, iidem in locis tributorum regnicolarum nostrorum tributa non , date per amplius non dentur, et quod si aliquis tributum in sua sine consensu nostro institueret, tunc talis possessio cum ipso tributo devolvatur et applicetur iuri nostro regio ipso . Universi autem prelati, barones, nobiles et alterius cuiusvis homines tributa habentes litteralia eorum instrumenta vel alia , quibus ipsa tributa instituta aut donata sunt, in octavls festi beati martiris nunc venturicoram nostra maiestate ac prelati et baronibus nostris exhibere et declarare teneantur. Qui vero nulla iura eorum tributis nec per attestationem hominum suorum conproac aliam declarationem assignare et declarare possunt, inibi tributum non exigatur.

LIX. Item victualia, munera et alia consimilia quorumvis possessionatorum hominum de u[na posse]ssione ipsorum ad aliam aut alia loca deferenda sine tributaria solutione dimittantur.

LX. Ceterum fratrum aut parentum et consanguineorum interficientium possessiones non extraneis et aliis, nisi lesis per regiam maiestatem perpetuo conferantur.

LXI. Comes etiam Crisiensis et Zagrabiensis comitatum sigillum suurn, quo [ipse ln suo offi]cio fungitur, ipsemet servare non possit, nisi talis notarius, cui nobiles eorundem comitatum ipsum assignabunt, neque idem comes absque interessentia iudicum nobilium in aliqua causa iudicium et deliberationem faciendi habeat auctoritatem.

LXII. Item pro causis regnicolarum nostrorum universis a[udiendis, discutiendis] et iudicandis ad octavas maiores, in quibus ipse cause vertuntur, tres vel quatuor ex prelati et baronibus nostris

transmittere teneamur. Evocatorias autem litteras, quas cancellarii nostri sub hac forma verborum, videlicet ubi tunc deo duce fuerimus constituti novis modis inv[entis---am]plius minime dare teneantur. Illi autem, qui nostram specialem in presentiam super quibusvis causis evocabuntur, easdem causas per neminem alium preterquam prelatos et barones nostros iudicari faciemus et super tali adiudicatione littere nostre sub nostro sigillo regio conficiantur[r. --- citation]es, evocationes et proclamationes quelibet non ad quindenae alicuius termini, sed ad octavas fieri procurentur.

LXIII. Extitit etiam per barones et nobiles regni nostri antedictos ordinatum, ut universi viri ecclesiastici mediam partem omnium proventuum ipsorum pro tuitione confiniorum dicti [regni nostri durante] dumtaxat guerra presenti paganorum prescriptorum dare deberent et administrare teneantur, et quod nullus regnicolarum nostrorum mediam partem decimarum quarumvis a jobagionibus eorum provenientium ipsis viris ecclesiasticis, sed talibus, quos pro ipsis mediis fructibus et prov[entibus colligendis ac] administrandis nos una cum baronibus et nobilibus regni nostri eligemus, dare teneantur, sic videlicet, quod tales proventus non ad alia aliqua facta, nisi pro tuitione regni nostri prenotata exponantur, nec etiam tales deputatos homines ad id astringemus, ut iidem ad ali[qua alia facta dictos provent]us darent vel administrarent.

LXIV. Item preterea premissorum antedicti viri ecclesiastici cuiuslibet regnicolarum nostrorum interdictum aut excommunicationem iniungere vel domino apostolico querulari non audeant modo aliquo, si vero quisquam ipsorum secus in hiis facere attemptaret, extunc idem v[igore ----- - al]iarum litterarum nostrarum patentium sub nostro ac baronum nostrorum sigillis sigillatarum convincatur ipso facto.

LXV. Preterea quia in litteris privilegialibus condam dicti domini Lodouici regis felicis recordationis confirmationis inter alia in eisdem expressa id, ut decime argento non redimantur, sed sicut terra profert et germinaret, persolverentur, cernebatur haberi, ideo per barones et nobiles regni nostri prenotatos propter facta paganorum prescriptorum unanimi voluntate sancitum extitit pariter et ordinatum, ut usque tempus prefixum universi proventus ecclesiasticarum personarum, qui actenus cum frugibus recipi consueverunt, cum denariis recipi et administrari possint, preteritaque ipsa guerra administratio proventuum iam dictarum ecclesiasticarum personarum secundum pristinam libertatem in ipsis litteris dicti domini Lodouici regis confirmationis conscriptam fieri procuretur.

LXVI. Item decimatores virorum ecclesiasticorum ad dicandos homines non ipsimet, sed cum uno iudice nobilium accedendo quosvis homines decimandos, prout iidem quantitatem rerum eorum dicandarum fide eorum mediante astrinxerint, dicare teneantur, et quod iidem decimatores nobiles pauperes jobagionibus carentes, famulos ignobiles et jobagi[ones quosli]bet bladis et vinis deficientes dicare non presumant.

LXVII. Item iidem viri ecclesiastici tam super regales et reginales, quam etiam baronum et nobilium sacerdotes preter consuetas collectas taxare non audeant; et quod quivis archidiaconorum ad singulos sacerdotes et ecclesiarum rectores solum cum quatuor equis semel in anno descendere possit.

LXVIII. Interea homines ignobiles habita licentia et iusto terragio ipsorum persoluto usque quindecim dies omnibus debitoribus suis satisfaciendo et transactis ipsis quindecim diebus sequentes de omnibus expurgati, quo maluerint, transseundi liberam habeant [auctoritatem:et si per

quempiam non dimitterentur, tunc dominus talium hominum ad quem scilicet illi transsire voluerint, assumpto secum uno ex iudicibus nobilium tales vel eundem hominem ignobilem ad se et suarn possessionem modo premissa absolutam deducendi et asportandi habeat facultat[em.]

LXIX. Universique notarii, tam nostri, quam etiam domini palatini et iudicis curie nostre, necnon banorum et wayuode nostrorum in redemptionibus litterarum quarumvis earum redemptiones non aliter, nisi prout tempore dicti condam domini Lodouici regis fuit constitutum, habere possint, de litteris scilicet sententialibus quib[usvi]s octo florenos auri per centum denarios novos numerando recipere valeant.

LXX. Postremo vero dicatores florenorum et viginti unius denariorum novorum per nos ac prelatos et barones nostros pridem intra ambitum regni nostri constituti in octavis festi Epiphaniarum domini similiter nunc affuturi, coram nobis comparere teneantur rationem expositionis ipsius taxe assignaturi efficacem.

(OCTOBER 1397)

We, Sigismund, by the grace of God, king of Hungary, Dalmatia, Croatia, etc., and margrave of Brandenburg, etc., wishing that it be remembered, make known by these presents to all to whom it may concern that during the past few years to this very day the Turks and other wicked²⁵⁸ schismatics by their attacks and violent actions have destroyed, looted, and burnt down many estates and have carried away people of both sexes, males and females, and have frequently perpetrated and are still committing terrible and intolerable deeds in the border regions of our kingdom of Hungary, by which our strength and that of all of our gentlemen of the realm appear to have declined; therefore, willing to provide for the proper and peaceful condition and restoration of the border regions of our said kingdom, we have – both for reasons already stated and also for other actions and urgent matters concerning our kingdom and our royal Holy Crown – bid by our letters all the prelates and others holding major ecclesiastical dignities, the barons, and four honest noblemen from each county of our kingdom with full powers from their fellow noblemen to assemble²⁵⁹ on the present feast of St. Michael the Archangel,²⁶⁰ at a diet and general discussion about the said matters to be held here in Timișoara; and the said barons and nobles of our kingdom, after being called to the said place and at the said time, and having here assembled, have decided after diligent discussion and mature deliberation of the above-mentioned matters, to issue the following orders:²⁶¹

1 That we are bound to celebrate the feast of Saint Stephen annually in Székesfehérvár unless we should be beset by some urgent matter or prevented by illness. And if we cannot be present, the palatine will definitely be there for us, and shall hear and judge cases in our place, if all parties are present, and all the *servientes* who wish shall freely assemble there.²⁶²

2 And that neither we nor our successors should at any time seize or cause the ruin of any *serviens* for the benefit of some magnate, unless they first be summoned and duly sentenced by judicial process.²⁶³

²⁵⁸ The missing word in the Latin can be assumed to have been *iniquorum* or *impiorum* from a very similar clause in charters from 1397, 1398, cf. ZsO nos. 5101, 5598.

²⁵⁹ The word *convenire* is a conjecture of Nándor Knauz. The reference to full powers from the county nobles signals another step towards the diet's development to a representative institution; see György Bónis, "The Hungarian Feudal Diet (13th to 18th centuries)," *Receuil de la Société Jean Bodin pour l'histoire comparative des institutions*, 25 (1965): 207–307

²⁶⁰ 29 September 1379

²⁶¹ The preamble of the *decretum* is in essence repeated in the charter mentioned above, which suggests that a copy of the original was retained in the royal chancellery.

²⁶² Cf. **1222:1**. Articles of the Golden Bull—even if the original formulation did not make sense in 1397, as in the references to *servientes*, who had long ago become *nobiles*—and of **1351** are mostly repeated verbatim. We merely refer to the articles by number, unless major changes were made vis-à-vis the earlier texts.

²⁶³ With the exception of *capiant* for *capiamus*, identical with **1222:4**

3 We shall not exact hospitality in the houses or villages of the *servientes*, unless we have been called (there). We shall not collect any taxes at all from people attached to their churches.²⁶⁴

4 The *ispáns* of counties shall not render judicial sentences concerning the estates of the *servientes* except in cases pertaining to coinage. The *ispáns* of castles shall render judicial sentences on no one except those attached to their castles. Thieves and robbers shall be judged by royal judges, but only in the presence of the *ispán*.²⁶⁵

5 = **1222:6**.

6 If the king, however, wishes to lead an army outside the kingdom, the *servientes* shall not be obligated to accompany him unless it be at his expense, and, after his return, he shall not permit judgment against them concerning the campaign. If we lead an army beyond the realm, all those who hold counties or receive money from us are bound to accompany us.²⁶⁶ However, in time of great need of this kingdom of Hungary, namely when foreign forces, such as those of the pagans or other nations, are planning to attack the borders and frontiers of this same kingdom, and the baron who holds an *honor*²⁶⁷ from us at the border and frontier fortresses of this our aforementioned kingdom cannot withstand such a force, then all the gentlemen of the realm must rise together with us in soldierly fashion against the aforesaid force, particularly all those barons in person who at that time hold honors from us; or if we are engaged in other matters of our realm, then they must go to war together with the count palatine of our kingdom²⁶⁸ to the borders and frontiers of the same kingdom in such a way that those noble families in which however many brothers live together in one residence in an undivided household,²⁶⁹ should send one, while those others, who have already divided their estates, are all obligated to go to war in person. And if any one of the landowning men is stricken by illness and cannot go to war, then he must send his people

²⁶⁴ Identical with **1222:5** but the last sentence is omitted

²⁶⁵ Identical with **5:1222**, only cases related to tithes are left out from those pertaining to comital jurisdiction.

²⁶⁶ So far identical with **1222:7**; the last sentence of the article in the Golden Bull is replaced by the following elaborate arrangements.

²⁶⁷ *Honores* were introduced by the Angevins combining courtly, baronial positions with comital offices of one more counties the income of which (to an unknown part) went to the office-holder; see Pál Engel, "Honor, castrum, comitatus. Studies in the Government System of the Angevin Kingdom." *Questiones Medii Aevi Novae* 1 (1996): 91–100.

²⁶⁸ This clause was to override explicitly the traditional privilege of the nobility, for "true nobles" of the realm had to serve only under the king's personal command (**1222:7**)

²⁶⁹ As all sons were entitled to an equal portion of an inherited estate, with the paternal house usually going to the youngest, division was often postponed for another generation or more. From a legal point of view, brothers or cousins who lived on still undivided estates were considered to form one family. In general, see Pál Engel, "Erbteilung und Familienbildung," in ...*The man of many Devices, Who Wandered Full many Ways...* *Festschrift in Honor of János M. Bak*, ed. Balázs Nagy and Marcell Sebök, Budapest: CEU Press, 1999, 411–421. On dividing the land, see Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000), pp. 45-8.

equipped as soldiers to fight. If lesser noblemen, lacking or having no tenant peasants,²⁷⁰ can unequivocally prove their illness, they may be excused. But if any of the landowning men should fail to join the levy, then he who is reluctant to go to war is to be convicted to pay in accordance with the number and quantity of his tenant peasants, namely, as many golden florins, counted in 100 new pennies,²⁷¹ as he has tenant peasants; other noblemen, lacking tenant peasants, are to be convicted to three marks of pennies each.²⁷² In addition to this, we order that all landowners among the barons and noblemen of our realm must equip and lead to war in accordance with the requirements of their station and the ability of their power from every twenty peasant tenants one archer in soldierly fashion and to make them fight during the present war with the heathen.²⁷³ However, once the present war is over, the entire cohort of the gentlemen of the realm who have

²⁷⁰ The status of the majority of the peasants in high medieval Hungary were that of *jobbágy* (Latinized: *jobagio*), a term earlier used for higher officials. We translated it as “tenant peasants.” They were personally free, their plots in fact heritable, owed dues in kind and money—and ever more in labor—to their lords. They were subject to their lord’s jurisdiction but with the right to appeal to the county court. Their freedom to move from one lord to another was decreed by Sigismund (see below Art. 68). See: János M. Bak, “Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline” in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005)

²⁷¹ In the 1390s, pennies of different value were in circulation. A “new penny” (*nova moneta*) was first issued by Sigismund in 1392 and was to be worth three old pennies which also remained in circulation. 100 new pennies (or 300 old ones) were in fact exchanged for one gold florin at least until 1403, when the government began a new financial policy leading also to the debasement of the new pennies. For this and the followings, see Márton Gyöngyössi, “Coinage and Financial Administration in Late Medieval Hungary (1387–1526)” in József Laszlovszky et al. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 295–308.

²⁷² Three Marks was the usual amount of different types of fines; in what pennies is it meant here is not clear. It would have been equal to 400 new ones. The mark was a measure of silver (and sometimes of gold), often the unit of fines. Since the late thirteenth century the Buda mark (~245.54 gr.), belonging to the Troyes-mark type, was standard in Hungary. See Bálint Hóman. *Magyar pénztörténet 1000–1325* [Hungarian monetary history 1000–1325]. (Budapest: Akadémiai Kiadó, 1916).

²⁷³ The exact meaning of this article, in particular of the words *de quibusvis viginti jobagionibus*, has been much debated by historians. According to some it aimed at arming every twentieth tenant farmer and thus setting up a peasant militia, while others interpret it to mean that landowners had to hire and equip as many (professional?) soldiers as they held estates divided in 20 *portae* (a *porta* being the taxation unit, based on the peasant plot). There is evidence for both; the closest in time is a mandate of Sigismund from 13 November 1398 to the nobles of Co. Pozsony commanding them to appear in camp *cum vicesima parte universorum iobagionum* (“with the twentieth part of all their tenants”), see ZsO 1, no. 5582. Several royal mandates, originally probably circulars, survived from the last years of the century in which Sigismund repeated the essence of this new military organization and specified its implementation, cf. ZsO 1, nos. 5583, 5683; these orders define procedures of registering the landowners, their obligations in the *militia portalis*, and the mode of punishing those reluctant to fulfill their duty. See: András Borosy, “The militia portalis in Hungary before 1526,” in János M. Bak and Béla K. Király, eds. *From Hunyadi to Rákóczi. War and society in late medieval and early modern Hungary* (East European Monographs, 104, Brooklyn: Brooklyn College, 1982), pp. 63–80. One may, of course, also assume that the contemporaries were not aware of the problem and all they had in mind was to mount nobles and peasants invariably, depending on local conditions.

been to war will regain their ancient liberties which were customary in the reign of our predecessors.²⁷⁴ Those on their way to the army and back are obligated to live on their own expenses; any kind of looting, robbery, and seizing of foodstuff is prohibited; if someone acts otherwise, he will be forthwith convicted of act of might²⁷⁵ in accordance with what he has done.

7 The count palatine shall judge without differentiation all the men of our realm. He shall have no deputy judge except one at his own court.²⁷⁶

8 = **1222:9**.

9 = **1222:10**.

10 = **1222:12**.

11 = **1222:13**.

12 If the count palatine, the judge royal, the bans, or any *ispán* holding royal honors does not honorably conduct himself according to the character of his office or brings ruin to those attached to his castle or to nobles or others of any estate, and if this is proven, he shall make good the damage and be dishonorably deprived of his office in front of the whole kingdom.²⁷⁷

13 = **1222:15**.

14 = **1222:16**.

15 = **1222:17**.

16 = **1222:18**.²⁷⁸

17 = **1222:19**.

²⁷⁴ Namely, to serve only in person, under the king's command, as stipulated in **1222:7**.

²⁷⁵ Act of might (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. A distinction was made between "major" and "minor" acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one (incl. rape).

²⁷⁶ Identical with the first part of **1222:8**; the textual corruption of *habeant* in the plural instead of *habeat*, which survived in all versions of the *Corpus Iuris Hungarici*, was the source of total misinterpretation of the article, assuming that it prohibited all judges—not only the palatine—from having deputies.

²⁷⁷ By reformulating **1222:14** this article extended the circle of defendants to all major officeholders, and that of plaintiffs to a wide circle of the population.

²⁷⁸ Here the reference in **1222:18** to the king's son is again out of place, for Sigismund had no son. Similarly in art. 17=**1222:19** the term *iobagiones castri* is entirely anachronistic as this stratum of semi-free warriors ceased to exist in the mid-fourteenth century; see Attila Zsoldos, *A szent király szabadjai. Fejezetek a várjobbágyság történetéből*. [The freemen of the king: Chapters from the history of the *iobagiones castri*] (Budapest: MTA Történettudományi Intézet, 1999 [Társadalom- és művelődéstörténeti tanulmányok 26]).

18 = **1222:21.**

19 = **1222:22.**

20 = **1222:23.**

21 = **1222:24.**

22 = **1222:25.**

23 = **1222:26.**

24 = **1222:29.**

25 = **1222:30.**

26 = **1351:1.**

27 = **1351:2.**

28 = **1351:3.**

29 = **1351:4.**

30 = **1351:5.**

31 = **1351:6.**

32 Then, we [...] as well as the prelates, barons, nobles and other landowners who own fishing waters shall ensure that we receive, and the same (lords) are entitled to receive, at the annual fishing one third of any kind of fish caught from running waters and half of the fish from lakes commonly called *mocsár* or *morotva*²⁷⁹ so that our honor be increased and our gentlemen of the realm be able to serve us more faithfully.²⁸⁰

33 = **1351:7.**

34 = **1351:9.**

35 = **1351:10.**

36 Then, all gentlemen of the our realm asked our majesty to deign to preserve all the noblemen and other landowners of Slavonia and of the counties of Pozsega and Valkó in the same

²⁷⁹ The two words given in the vernacular mean rather marshes or backwaters, at any rate in modern Hungarian. Actually, such a high seigneurial impost would have totally ruined the entire fishery; evidence suggests, however, that this measure was not implemented and rents for fishing were rendered according to customary practice; Alajos Degré *Magyar halászati jog a középkorban* [Hungarian fishing laws in the Middle Ages] (Budapest: Jogi szeminárium, 1939), pp. 106, 109.

²⁸⁰ Identical with the closing sentence of **1351:6** and to many a charter of donation.

privileges concerning the payment of the chamber's profit and of the *mardurina* which were granted the gentlemen of the realm of our Hungary.²⁸¹

37 = **1351:13.**

38 = **1351:14.**

39 = **1351:17.**

40 = **1351:18.**

41 = **1351:19.**

42 = **1351:20.**

43 = **1351:21.**

44 = **1351:22.**²⁸²

45 = **1351:23.**

46 = **1351:24.**

47 = **1351:25.**

48 Furthermore, on the request of our gentlemen of the realm, we agree to dismiss and cause to be dismissed all foreigners and newcomers from our kingdom,²⁸³ except the following ones: the honorable voivode Stibor²⁸⁴ and the reverend lords Eberhard, bishop of Zagreb,²⁸⁵ and Maternus,

²⁸¹ Repeating the measures of **1351: 11–12** in a slightly different formulation.

²⁸² The content is identical with **1351:22**. In the early fifteenth century this article was understood to mean that the chapter or convent of authentication had to be in the same county as the estate in which the introduction is being carried out.; Sigismund, however, frequently granted dispensation from this arrangement, see ZsO 2, nos. 1960, 5988, 7730; see Ferenc Eckhart, “Die glaubwürdigen Orte Ungarns im Mittelalter,” *MIÖG*, Ergänzungsband 9 (1913/15), 395–558, here p. 457

²⁸³ This promise of the king responded to the repeated protest of the nobles against his “foreign” counsellors; Sigismund had agreed to dismiss these in the agreement with his electors in Hungary in 1387 (before 31 March); see *Monumenta Hungariae Historica, Acta Extera* (Budapest: Magyar Tudományos Akadémia, 1876) 3: 620–2; repr. in János M. Bak, *Königtum und Stände in Ungarn im 14–16. Jahrhundert* (Wiesbaden: Steiner, 1973) pp. 132–3. While a certain element of proto-nationalism or rather xenophobia did play a role in these demands, the main issue was that the king’s confidants were above all loyal to him and, not embedded in the network of clan, family, and party in Hungary. Hence, they threatened the access of the Hungarian aristocracy to power. However, as soon as they, too, were connected by marriage and custom to the “native” Hungarians, they became part of the local aristocracy. The editors of *DRH* (p. 167, n. XLVII, 1) pointed to the example of the Bohemian cleric John of Usk, who in fact lost his Transylvanian prebend, granted him by Sigismund in 1392 *iuxta statuta regni Ungarie*, but received the rich Buda parish in 1398, see ZsO 1, nos. 5505, 5527.

²⁸⁴ Stibor, senior (of Sciborze and of Bolondóc, 1348–1414), was a knight of Polish origin, ispán of Pozsony 1389–1401, voivode of Transylvania 1395–1401, 1409–14.

²⁸⁵ Eberhard (d. 1419), was bishop of Zagreb 1397–1406, 1409–19^l, of Oradea 1406–09, chancellor 1404–

bishop of Transylvania;²⁸⁶ and we promise that we and the above-mentioned bishops and the voivode will expel and send away, and that we shall cause the aforesaid bishops and the voivode to send away all of our and their retainers who are foreigners or newcomers from our and from their castles, holdings, and estates by the eighth day of the coming feast of Christmas;²⁸⁷ and henceforth we shall appoint no foreigners, be they laymen or clergy, to secular offices or ecclesiastical benefices, and we shall not grant liberty to do so to the above-mentioned officeholders either. We shall place only Hungarians in all castles, holdings, and estates on the territory of our kingdom and shall cause the aforesaid officeholders do the same.

49 In addition, the above-mentioned barons and gentlemen of the realm, all together have decided and ordered that we shall be able to re-vindicate justly all those castles, holdings, towns, and estates which we have given and granted to certain persons out of fear of their rebellion in the time when they obstinately had risen against us with mighty force, as well as the grants which we made because of the said fear to those who at that time exerted themselves to make peace or arranged the peace between our majesty and the rebels.²⁸⁸ All other grants, however, which we have given those who had served our majesty faithfully and who were killed or maimed in our service or who suffered the shedding of blood of their sons or kinsmen, we shall uphold and confirm with the authority of our charter. Also, we shall have the authority to recover all castles, holdings, and other estates which we have sold or mortgaged, without paying any compensation to those whom we have sold or pledged them and to return them to the right and possession of the Holy Crown.²⁸⁹

19.

²⁸⁶ Maternus (d. 1399) was the tutor of young Sigismund in Brandenburg. In order to retain him as a trusted counselor, the king procured him the bishopric of Veszprém 1392–95, and then of Transylvania in 1395.

²⁸⁷ That, is by New Year's Day; the term set for such an extensive measure was very short and obviously aimed more at demonstrating the diet's mood than actually achieving the expulsion of foreigners.

²⁸⁸ Apart from the conflicts with the pro-Neapolitan (Horváti) faction during 1386–94, which cannot possibly be meant here, no armed rebellion against Sigismund before 1397 is known. The passage may refer to an obscure plot of unnamed "mighty prelates, barons and lords" some time in early 1388; according to a royal charter (Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66) 10/1: 420 of 7 May 1388) the arch-chancellor, Archbishop John Kanizsai of Esztergom, succeeded in "reconciling the troubled hearts" by calling on the rebels "in their own homes." Simultaneously with the present decree Sigismund issued charters for Stibor, the Kanizsai brothers and the Treutels in which the present article is expressly referred to and these barons are excepted from the measure, *constitutionibus in Themeswar ... editis ... non obstantibus*. (*DRH*, p. 168 n. XLIX, 1 with ref. to Fejér, *op. cit.* 10/2: 438–55, 10/3:204–10). This makes Mályusz (*Kaiser Sigismund*, p. 47 f.) assume that the Kanizsai-Stibor faction was behind the move and that it was to veil the confiscation of the estates of the former palatine, Leusták of Ilsva, who fell at Nicopolis. It is also possible that the opaque formulation came in handy for the king, who in these years tried to recover as much of royal property lost during the struggle for the throne as possible.

²⁸⁹ Sigismund made good use of this decision for the recovery of some of the losses in the royal domain. Several charters cite this article justifying the revocation of grants and mortgages (*Zs. O.* 1, no. 5037; 2, nos. 812, 4373). However, most of these charters were issued when the recovered estate was granted to some other landowner, hence, the over-all gain for the royal domain was limited. Also, Sigismund continued

50 Then, if any prelate or other ecclesiastic, baron, baron's son, or any magnate is convicted of act of might, proffering false documents, frivolous prosecution, or false court appearance²⁹⁰ against anyone in any case by any judge, we will not protect him but will force him through the count palatine to give satisfaction to his adversaries.

51 Nevertheless, if anyone misses the date set for taking an oath,²⁹¹ for a judicial combat, for a common inquest²⁹² or for paying a debt,²⁹³ he ought not be granted another date for settlement of the matter, [...] ²⁹⁴ but the judge ordinary of the case²⁹⁵ shall proceed according to the merit of the case.

52 We shall not impose taxes for any matter of this kingdom on the nobles of the kingdom and on the tenant peasants of others, but shall let them enjoy the same liberty which they had during the reign of our predecessors.²⁹⁶

to grant royal property to his supporters in the subsequent decades as well, although usually only as mortgages, reserving the proprietary rights of the crown; cf. *DRH* p. 169, n. XLIX, 2. On the decline and partial recovery of royal domain, in particular of castles, see Erik Fügedi, *Castle and Society in Medieval Hungary (1000-1437)* transl. J. M. Bak (Budapest: Akadémiai Kiadó, 1986), pp. 125–28, where the results of Pál Engel's and his own monographic studies are summarized.

²⁹⁰ Frivolous prosecution (*calumnia*) included unfounded and vexatious litigation (Hung. *patvarkodás*). Such offenses as prosecuting the same case in two different courts, thus seeking satisfaction twice (*via duplex*), or claiming an obligation already settled (*duplici sub colore*) were classified as *calumnia*. Anyone so convicted had to pay his man price. False court appearance (*astatio falsi termini*) meant that a litigant appeared in court instead of another person, without a letter of attorney, or summoned an adversary to a false term so as to mislead him and the court, thus obstructing the administration of justice.

²⁹¹ Oath (*iuramentum*) as a mode of proof survived in Hungary until the nineteenth century and was sworn by one or both litigants supported by a number of oath-helpers, as defined by the judge depending on the value of the case and the status of the oath-helpers. There were also special oaths, such as the oath sworn on the soil (*iuramentum super terram*, see **1435/II:10**) or the capital oath (*iuramentum ad caput*, see e.g., **1435/II:4,6 Tripartitum II 32**) that the defendant was not allowed to counter by his own oath. Those summoned to give evidence at an inquest were also expected to give evidence under oath. Oath taking was regulated first in **1324**.

²⁹² Inquest was a procedure for obtaining material proof in which abutters, neighbors, and other nobles from the county (*comprovinciales*) swore an oath on their faith and “fidelity to the Holy Crown” regarding the truth of their testimony, usually in matters of property rights. The inquest, as ordered by a higher court, was usually held where the disputed estate was located or the criminal act perpetrated. See Erik Fügedi, “Verba volant... Oral Culture and Literacy among the Medieval Hungarian Nobility.” in Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*, ch. VI. (London: Variorum, 1986)..

²⁹³ *Obligatio* usually meant something like a promissory note in medieval Hungarian legal usage; see Antal Bartal, *Glossarium mediae et infimae latinitatis Regni Hungariae*, Bp.: MTA, 1901 (rept *ibid.*, 1981) p. 148.

²⁹⁴ *Lacuna* of about 14 letters.

²⁹⁵ The expression “judge ordinary of the case” is intended to underline that the decision be made by the court where the case was opened and not elsewhere

²⁹⁶ Even though the text is not specific, for it has the general term *dicare* (“assess for taxes”), the king's

53 We also proclaim that if someone should commit any novelties,²⁹⁷ that is, act of might, looting, robbery, illegal seizure of estates, or other similar acts against anyone, then the *alispán* and the noble magistrate, after having established the truth of the matter, should give adequate satisfaction to the aggrieved party without delay,²⁹⁸ regardless of any kind of royal letter of pardon. Should one of the parties not be satisfied with the judgment, then the suit ought to be transferred to us and to the prelates and barons,²⁹⁹ where we and the same prelates and barons shall be obligated to do justice for both parties without any delay, regardless of any letter of prorogation issued by us.

54 It should also be mentioned that we will not grant sons' rights in the estates or in the heritage of their fathers the daughters of any gentleman of the realm within the fifth degree of the same kindred.³⁰⁰

promise obviously referred to those extraordinary taxes, mostly called *subsidium*, which the Angevins began frequently to raise and Sigismund continued to do so. Article 70, below, proves that he did not intend to stop this practice and the taxation of estates, of both lay and ecclesiastical landowners continued; in general see also János M. Bak, “Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter” in R. Schneider, ed. *Das spätmittelalterliche Königtum im europäischen Vergleich*. (Sigmaringen: Thorbecke, 1987), pp. 347-87, here p. 355.

²⁹⁷*Nouitas* implied in medieval understanding some evil innovation, it was often used for heresy; cf. Du Cange, *Glossarium* 4:657, where reference is made to the French legal term *nouvelleté*, meaning usurpation of rights or property.

²⁹⁸The *alispán* (*vicecomes*), was usually a noble retainer (*familiaris*) of the *ispán* and the actual administrator of the county. During the fourteenth century, when several counties were granted as honors, the *alispán*, joined by the elected noble magistrates, handled the financial and military matters of the county and chaired the county court. In the late Middle Ages the laws usually refer to *ispán* and/or *alispán* together. From the early sixteenth century, the *alispán* was usually elected by the noble community of the county. See József Holub, “A főispán és alispán viszonyának jogi természeté.” [Legal character of the relationship between *ispán* and *alispán*. Contributions to the county administration in the Middle Ages], in *Fejérpataky Emlékkönyv* [F. Festschrift] (Budapest: Franklin, 1917), pp. 186–211 and Martyn Rady (2000), 114–115. The intention of the article is to empower the noble county to act against violent disturbers of the peace. While Elemér Mályusz in “Die Zentralisationsbestrebungen König Sigismunds in Ungarn” in *Études historiques* (Budapest : Akadémiai Kiadó., 1960), 1, pp. 317-58, maintained that the counties were not strong enough to make use of this increased jurisdiction before the 1410s, there is evidence that as early as 1400 the palatine ordered the officers of Co. Szatmár, referring to the present decree, to proceed against a violent offender, see ZsO 2, no. 279. See also **1405/II: 4**.

²⁹⁹This clause establishes the appellate jurisdiction of what was called the court of the *personalis presentia regia*, see also n. 55, below.

³⁰⁰Preference (*prefectio in filium, in heredem masculinum*, Hung. *fiúsítás*) was a royal privilege by which the king “promoted” the daughter (or daughters) of a nobleman without male heirs to a son, i.e., authorized her to inherit the paternal fortune just as if she were a man, starting a new kindred. At the beginning, the privilege was granted even in cases where male heirs in the fourth, third or even second degree were alive, thus infringing on the rights of the collateral branches (see above note 12). This provoked wide dissension among the nobility which induced Louis I to declare void, some time before his death, all previous *prefectiones* if relatives up to the fourth degree could be found. He also promised to limit his future grants in this sense. Although Louis’ decree on this matter has not survived, his widow, Queen Elizabeth, in a

55 Then, if in any trial before any judge someone will have been condemned to pay a fine, the judge of the case should not dare to take into custody that person or have his goods harmed in order to obtain the fines before the end of the trial, except those who have been convicted in the same court by the same judge of an act of might, frivolous prosecution, proffering false documents, or false court appearance.³⁰¹

56 If anyone will be denounced by someone for infidelity, we shall judge him and pass sentence only together with the barons and nobles of our kingdom.³⁰²

57 Moreover, *bullati* should not be allowed to receive ecclesiastical benefices³⁰³ except those which are granted by the patrons of the churches themselves.

58 Nobles cannot be compelled to pass by places of toll-collection, but they may cross at any ford they wish free from hindrance.³⁰⁴ We shall no longer issue letters of permission, which we used to give certain merchants exempting them from tolls of our gentlemen of the realm.³⁰⁵ And if someone sets up a toll on his own estate without our approval, the toll and the estate will escheat to the royal right and into the possession of our royal majesty. All prelates, barons, nobles, and others of any estate and condition, moreover, who own tolls are obligated to show and to produce to our majesty, our prelates and barons the letters and titles by which their tolls were established and granted by the eighth day of the coming feast of St. George the Martyr.³⁰⁶ Those who are not able to produce a title to their toll, by either the testimony of the people from their county or other evidence, will no longer be allowed to collect that toll.

charter from 1385 refers to such a decision; the text of that charter was included in a letter of judgment by the count palatine dated 1399 which came down to us in a transcript of 1414; see *DRH*, p. 141. It was King Louis' promise that was decreed here by King Sigismund.

³⁰¹ On these delicts see Art. 50, above.

³⁰² That cases of *nota infidelitatis* (charge of infidelity) were to be judged at the diet came to be a practice only some hundred years after this decree. What is meant here is to assure a fair and open trial, with the participation of lay barons and lords (for clergy were not allowed by canon law to hear criminal cases) in cases that seemed to be so frequent in court intrigues that a special term, *denigratio*, was coined for them, meaning in fact an accusation of infidelity.

³⁰³ *Bullati* were clergy claiming an ecclesiastical benefice on the basis of a papal grant (a "bull"). See also **6 April 1404/I**. Earlier, Sigismund had promised in the agreement at his election to restrict the papal designation of clergy to Hungarian prebends and repeated this prohibition in a charter for the chapter of Pressburg in 1394; see Elemér Mályusz, *Das Konstanzer Konzil und das königliche Patronatsrecht in Ungarn* (Budapest: Akadémiai Kiadó, 1959), pp. 65–67

³⁰⁴ Cf. **1351:15**.

³⁰⁵ Exempting merchants from paying duties at royal tolls and customs was, of course, a general and basic right of every ruler; however, the Angevin kings often granted exemptions from every toll in the kingdom or in a certain region, which was seen as infringement of seigneurial rights. That is what the king here promises to stop doing; nevertheless, we know of such grants by Sigismund in favor of the citizens of Bártfa/Bardejov in 1402 (ZsO 2, no. 1471), and of Szeged in 1405 (Ibid. 3972).

³⁰⁶ 1 May 1398.

59 Then, any landowner who carries his foodstuff, presents, or other similar things from one of his estates to another should be allowed to pass without paying toll.³⁰⁷

60 Further, the royal majesty should not grant the estates of those who kill their brothers, parents, or kinsmen to strangers or to others, but only to the aggrieved persons in perpetuity.

61 The seals used in official acts of the *ispáns* of Körös and Zagreb counties should not be kept by the *ispáns* themselves but by the notary to whom the nobles of those counties entrust it; and without the presence of the noble magistrate, the *ispáns* are not allowed to pass judgment or to pronounce sentence in any case.³⁰⁸

62 Then, we commit ourselves to delegate three or four of our barons and prelates for hearing, trying, and settling³⁰⁹ the various cases of our gentlemen of the realm to the major octaves³¹⁰ at which these cases are treated.³¹¹ Letters of summons, moreover, issued by our chancellors with the clause "wherever we will stay by God's will" should henceforth never be issued.³¹² Those who in

³⁰⁷ On roads and tolls in general, see Magdolna Szilágyi, *Mobility, Roads, and Bridges in Medieval Hungary*, in *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 64–80.

³⁰⁸ The article aims at strengthening the position of the nobles of Slavonia. From the 1380s onward the judicial records of the ban of Slavonia were sealed, with the clause *absentibus sigillis*, with the seal of the vice-ban, who was also ex-officio *ispán* of the counties of Zagreb and Körös. This practice implied the transfer of considerable jurisdiction to this official, in analogy to the *specialis presentia* at the royal court. Allegedly under Louis I the nobles of the region acquired the right to elect the keeper of the seal, the protonotary or notary of the ban's court; they had now this right included in a *decretum*. In the next year the nobles made the ban, Nicholas of Gara, confirm this right; see Georgius Fejér, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*. 11 volumes in 43 parts. (Budapest: Regia Universitas, 1829–66) 10/2:622–24; ZsO 1, no. 5220). A generation later, in 1438, the nobles even obtained the right to depose the protonotary; cf. Fejér, *loc. cit.*, 192–4.

³⁰⁹ The conjecture of Knauz, *inquirendis*, is legally impossible, for inquest was not held before the judges, but out of court; hence, the editors of *DRH* inserted the procedurally appropriate words into the *lacuna*.

³¹⁰ Octave court (*octava*): was the term for the sessions of royal courts of justice; there were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times.

³¹¹ The nobles seem to have demanded, and the king agreed, to send magnates to the sessions because the increasingly professional administration of justice by learned jurists instead of the great men of the realm appeared unacceptable to the conservative nobility.

³¹² The quoted formula was used to cite parties before the king who would then judge the case with the barons of his retinue, while travelling through his several countries; this was called the court of the *personalis presentia regis*. According to Kumorowitz this section was not aimed at abolishing that court (which is referred to below in art. 53 and 56), but to reduce its jurisdiction to cases of charge of infidelity and appeals in cases of acts of might. In fact, as Knauz (p. 233 n. 3) already noted, the court of "personal presence" did not cease to operate, and summons with *ubi tunc...* were issued even during the session of this very diet.

specific cases are to be summoned to our special presence should be judged by no one else but our prelates and barons, and the letters of judgment should be issued under our own seal.³¹³ (...) summons and proclamations must not be issued for the fifteenth day of a certain date but only to an octave.³¹⁴

63 The above-mentioned barons and nobles of our kingdom have also ordered that all clergy give and render half of their income for the defense of the frontiers, but only during the above-mentioned war against the pagans; and our gentlemen of the realm should give half of the tithe from their tenant peasants not to the clergy but should deliver it to those who will be selected by our majesty, together with the barons and nobles of our kingdom, to collect and deliver the half of the ecclesiastical revenues and incomes, and these revenues should not be used for any other purpose but for the defense of our kingdom, and we should not force those appointed men to give or to use the said incomes for any other purpose.³¹⁵

64 Then, none of those said clergy may dare to punish any gentleman of the realm for acting in accord with the aforementioned measure by interdict or by excommunication, or to lodge any complaint against them with the Apostolic Father; and if someone dares to act otherwise, that person should stand immediately convicted by the authority of our (...) letters patent sealed by our and by our barons' seals.³¹⁶

65 Moreover, although the confirming letter of privilege issued by the late King Louis of blessed memory states among other matters that the tithe should not be commuted to money but

³¹³ In the late fourteenth century the court of the *specialis presentia* went “out of court,” with the arch-chancellor presiding and sealing its sentences with his judicial seal, *propter absentiam sigillorum*. In fact this court, too, was on its way to professionalization: it was usually held not by the (clerical) arch-chancellor himself but by a legally trained *vicegerens* or *diffinitor*. The article (apparently once again bowing to the wishes of the nobility) aims at restoring the royal supervision through the use of the seal of majesty and the presence of magnates on the bench; see Lajos Bernát Kumorovitz, “A *specialis presentia regis* pecséthasználata Zsigmond korában” [The Sealing practice of the *specialis presentia regis* under Sigismund], in *Domanovszky Emlékkönyv* [D. Festschrift] (Budapest: Egyetemi Nyomda, 1937), pp. 422–23; György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the laws in pre-Mohács Hungary] (Budapest: Akadémiai K., 1971), pp. 120–31; briefly also in his “Men Learned in the Law in Medieval Hungary,” *East Central Europe/L’Europe de centre-est* 4:1 (1977): 186–7

³¹⁴ This fragmentary sentence suggests that the *specialis presentia* was attempting another modernization by citing parties within a short term, a fortnight, and not only for the quarter-annually held octaves. The nobility apparently objected to this move.

³¹⁵ The collectors empowered by this act did in fact exact considerable contributions from ecclesiastical bodies in the subsequent years; however, Sigismund continued to tax the clergy throughout his reign, not only for the imminent war; see Deér, p. 78. Several mandates are known from the years 1398 and 1401 in which half the income of prebends was ordered to be submitted for defense (ZsO 1, nos. 5559, 5617; 2, no. 1005).

³¹⁶ Knauz (p. 234, n. 5) assumed that there was another decree, now lost, but it is possible that the reference was to a charter to be issued, perhaps in the court of the personal presence.

should be rendered as the earth brings it forth,³¹⁷ the barons and nobles of our kingdom, pressed by the attacks of the above-mentioned heathens have unanimously decided and ordered that until the above date all the dues to the clergy which at present are usually collected in kind should be collected and delivered in money, but after the end of the present war the dues to the aforesaid ecclesiastics should be rendered according to the ancient privileges contained in King Louis' letter of confirmation.

66 Then, the tithing-men of the clergy should not go alone to assess the tithe but with the noble magistrate and should assess the tithe according to the tithe-payers' sworn declaration regarding their titheable goods; and the tithing-men should not dare to tithe poor nobles without tenant peasants, non-noble servants,³¹⁸ and such tenant peasants as have no wine and grain.

67 Then, these same clergy should not levy more taxes than the usual ones on the priests of the king, the queen, or of barons and nobles;³¹⁹ and the archdeacon is allowed to visit each priest and head of parish church only once a year accompanied by only four horses.³²⁰

68 Non-noblemen, once they have received leave, paid their just rent, and have satisfied all their creditors within fifteen days, are to be allowed to go freely wherever they wish after the fifteenth day when they have absolutely cleared themselves. And if someone is not allowed to go, then his noble master, namely to whom he wants to go, shall have unconditional right to lead and take him to his own estate with the assistance of a noble magistrate.³²¹

³¹⁷ This matter does not seem to have been settled for centuries. See See: Andor Csizmadia, "Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn." *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 61 (1975), 228–257. A more detailed monograph on the issue is still missing.

³¹⁸ This principle was expressed as early as in **1351:6**. It is to be noted that nobles in general were at this time not exempt from the tithe; this seems to have been granted to them some time in 1405, see *DRH*, p. 216.

³¹⁹ Apart from a privileged minority in royal and Saxon cities, most Hungarian parish priests were subject to diocesan jurisdiction and taxation. Their annual tax, called *cathedraticum*, was to be paid to the archdeacon, but its amount was not fixed before the late fifteenth century. The general recommendation that "the rich [priest] should pay more and the poor less" could not cut short abuses, of course; see Elemér Mályusz, *Egyházi társadalom a középkori Magyarországon* [Ecclesiastical society in medieval Hungary] (Budapest: Akadémiai K., 1971), p. 124. Actually, this article was not initiated by the lower clergy which in Hungary did not play any role in politics, but by the lords and nobles who as patrons of churches were interested in the finances of their parishes.

³²⁰ The provision apparently brought no results. As late as 1450 the synod of Esztergom had to face the common abuse that archdeacons made their annual visitations to the parishes with a huge escort of twenty or more persons. It declared that the number should be limited to eight. We are also told that, besides chaplains, the escort used to consist of stable-grooms, huntsmen and other man-servants as well, see Ignatius Batthyány, *Leges ecclesiasticae regni Hungariae et provinciarum adiacentium*, vol. 3 (Alba Carolinae; Typ. episcopalibus, 1825), p. 481.

³²¹ This important liberty of the tenant peasants, was spelled out in a decision of the royal council of 3 August 1397 (*DRH*, pp. 154–56). The full text of it came to be a point of reference for a long time (virtually into the sixteenth century) and was included in later *decreta* as well (see 31 August 1405/II:14–16). Clearly,

69 All notaries, ours or those of the count palatine, the judge royal, the bans, and the voivode should receive no other fees for the redemption of charters than those which were established in the reign of the late King Louis,³²² namely, eight golden florins counted in one hundred new pennies for any kind of letter of judgment.

70 Finally, the assessors of the one florin and twenty-one new pennies, whom we, our prelates, and our barons appointed some time ago for the territory of our kingdom, are obligated to present themselves and to give an account of the collected taxes on the eighth day of the coming feast of Epiphany.³²³

many a landowner tried to retain his tenants, especially when land-labor ratios were favorable for the peasants. See n.13, above.

³²² The reference to Louis I's regulation of fees cannot be to **1351:7**, where fees for charters of donations are specified, but rather to some unknown order of the king or merely to the general practice of the fourteenth century.

³²³ It is remarkable that the diet did not object to the tax of 121d, merely ordered the assessors to render accounts by 13 January 1398. The origin of this tax is not clear, On 12 April 1394 the royal council levied a tax of 1/2 florin on every porta (ZsO 1, no. 3366); and on 25 January 1399 the king ordered another accounting of the "half florins and 21 pennies" (ibid. no. 5683); see also Deér, p. 77.

**LAW OF KING SIGISMUND OF HUNGARY,
6 APRIL 1404
(PLACETUM REGIUM)**

Following the unsuccessful bid of Ladislas of Naples for the Hungarian throne, in which he was supported by Pope Boniface IX against Sigismund, the king and his lords confiscated ecclesiastical income in Bohemia and Hungary. This decree (or rather decision of the royal council, for it does not seem to have been passed by a diet) aims at codifying these advances and, based on art. 57 of 1397, curtails significantly papal rights over Hungarian churches. It was intended to be a lasting arrangement, as the words about its validity “until expressly revoked,” a notion borrowed from Roman legal jurisprudence, testify. Although motivated by political conflict, it should also be viewed in a broader European context. In the fourteenth and fifteenth centuries European monarchies attempted increasingly to place restrictions upon appeals to Rome, upon collection of papal revenues, and upon the collation of benefices. This decree, customarily cited as the *placetum regium*, should, thus, be seen as part of this larger movement which includes several English statutes of *Provisors* and *Praemunire* from the later fourteenth century, the French Pragmatic Sanction of Bourges of 1438, the German *Acceptatio* of Mainz of 1439, and others.

MS.: Original on paper with privy seal *en placard*, Archives of the Primate of Esztergom, Arch. Saec., Acta rad. fasc. 29, n. 44.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ http://archives.hungaricana.hu/en/charters/search
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EDD.: Ignatius Batthyány, *Leges ecclesiasticae regni Hungariae et provinciarum adiacentium* (Alba Carolinae-Claudiopoli: Typis episcopalibus, 1785–1827), 1: 471–74; Martinus Georgius Kovachich, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. (Buda: Regia Universitas, 1790), pp. 199203; Stephanus Katona, *Historia critica regum Hungariae*. 42 vols. (Pest: Weigand, 1779–1817), 11: 614–18; Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts. (Budapest: Regia Universitas, 1829–66), 10/4: 303–6; Henrik Marczali, *A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungarorum* Budapest: Athenaeum, 1901, pp. 235–7; Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, Budapest: Akadémiai, 1978 [=DRH], pp. 180–2 (cf. also *Zsigmondkori Oklevéltár* [Calendar for the age of Sigismund]. Elemér Mályusz, et al. eds. Budapest: Akadémiai K., 1954– [=ZsO]. 2, no. 3094)

LIT.: Vlmos Fraknói, *A magyar királyi kegyúri jog Szent Istvántól Mária Teréziáig* [The royal right of patronage from St. Stephen to Maria Theresa] (Budapest: Magyar Tudományos Akadémia, 1895); Elemér Mályusz, *Das Konstanzer Konzil und das königliche*

Patronatsrecht in Ungarn (Budapest: Akadémiai K., 1959); Imre N. Bard, "*Aristocratic Revolts and the Late Medieval Hungarian State A.D. 1382–1408*," Ph. D. dissertation, Univ. of Washington, 1978 pp. 94–113; for the European background, cf. Francis Oakley, *The Western Church in the Later Middle Ages* (Ithaca-London: Cornell Univ. Press, 1979), pp. 53, 73–75.

6 APRILI 1404

Deliberatio domini regis et baronum.

Nos Sigismundus dei gr[atia] rex Hungarie, Dalmatie, Croatie etc. marchioque Brandenburgensis, sacri Romani imperii vicarius generalis et regni Bohemie gubernator universis et singulis presentes inspectu[ris] et presertim, presentium serie volumus fieri manifestum, quomodo nonnulli, ymmo quamplures regnicole nostri, ecclesiastici videlicet et seculares creberrimis vicibus tribulationes, vexationes, dampna, nocumenta, iurium et iurisdictionum ipsorum altercationes ac violationes ipsis per bullatos hactenus irrogatas et illata fuisse ac irrogari de presenti lamentabilibus vocibus et turbatis animis nobis propalarunt, adeo insuper se per censuras ecclesiasticas, utputa citationes extra regnum, excommunicationes, interdicta, monitiones, pecuniarum, rer[um et b]onorum exinde exactiones, extusiones et pactationes gravatos, impeditos et molestos acclamarunt, quod, nisi superinde eis remedium relevationis et liberationis a[d]hiberetur oportunum, ad ingentem exinanitionem rerum et bonorum, necnon status, libertatis et iurisdictionis eorundem exterminium eos oporteret devenire, supplicantes nostro culmini humiliter et devote, ut eis et eorum statui totiusque regni nostri utilitati et comodo regali presidio et defensionis auxilio succurrere dignaremur. Nos itaque, qui cunctorum et precipue nobis subiectorum incomodis subvenire et calamitates, quibus gravantur, reprimere tenemur, eisque toto nostro posse et voluntate ob[vi]are, auditis premissis lamentabilibus querelis et experientia nonnullis temporibus super eis recepta, oppressiones nichilominus et huiusmodi tribulationes, hucusque presertim hiis proximis disturbiorum et regni nostri motionum temporibus per bullatos ac alios auctoritate sedis apostolice, quam ad nostri honoris, status et gradus deiectionem, regni nostri et corone in alium translationem, ac alias ad nostri totalem depositionem laborasse et adhuc sentimus indefesse laborare, nobis et regnicolis nostris illatas et irrogatas animo iam ulterius tolerare non v[al]entes patienti, attendentes potissime nefarium illi obedientie debitum debere reddere, qui subditorum utilitati et paci repugnans eos dolosis machinationibus et latentibus insidiis afficere et publicis nocumentis non desinit lacessere, omnium prelatorum, baronum, procerum, militum, nobilium et universitatum ditionis sacre corone regie Hungarie atque nostro consilio et matura deliberatione diutius prehabitis eorumque utilitate, intentione, ymmo petitione ad hoc circa nos laborantibus, presentium serie auctoritate eiusdem sacre corone et de plenitudine regie potestatis volumus, pronuntiamus, sancimus, decernimus et declaramus, quemadmodum pridem factum et dispositum fuisse recalimus, ut nullus bullatus auctoritate videlicet apostolica vel alia quavis preterquam nostra, sine nostro speciali consensu et assensu beneficia ecclesiastica. curata vel non curata, cuiuscunque valoris existant, olim, uti percepimus, vigore litterarum apostolicarum vel legatorum eius seu aliorum quorumcunque prelatorum acceptari et assequi solita acceptare, assequi et etiam tempore disturbiorum proxime preteritorum regni nostri assecuta et obtenta possidere, retinere et habere, durantibus instantibus dissensionum regni nostri temporibus et presenti decreto nostro immutato vel ir[re]vocato per expres[su]m, nec aliquis prelato•um eorundem et virorum ecclesiasticorum, cuiuscunque s[i]atus, ordinis, gradus, conditionis vel preeminentie existat, preter nobiles seculares ius patronatus eligendi et presentandi habentes, beneficia qualiacunque vel quomodocunque vacantia vel vacatura cuiquam providere et de eis disponere in toto vel in parte preter nostram maiestatem, cuius dispositioni, collationi et provisioni ea pleno iure reservamus, nullas quoque

litteras apostolicas et rescripta, cuiuscunque tenoris seu legatorum, cardinalium, auditorum ac iudicum, officialium et executorum quorumcunque, sive in Romana curia, sive extra eandem, cuiuscunque tenoris, roboris, firmitatis et comminationis existant, tam in causis beneficialibus, quam in aliis quibuscunque causis litigiosis, criminalibus vel prophanis emanatas vel obtenta valeat atque possit, auctoritate regia supradicta irritum decernentes et inane, si contra hec per quempiam scienter vel ignoranter contigerit attemptari, contradictores denique et huic decreto repugnare attemptantes crimen lese maiestatis incurrere et irremissibiliter volumus condigna ultione puniri. Quocirca vobis universis et singulis prelati, abbatibus, prepositis, prioribus, guardianis, capitulis, ecclesiarum parochialium et capellarum rectoribus, aliis etiam cunctis viris ecclesiasticis, cuiuscunque status, conditionis et dignitatis existant, firmo regio sub edicto necnon sub pena capitis et, privationis beneficiorum et rerum singulorum precipiendo mandamus, quatenus amodo deinceps nullas huiusmodi litteras apostolicas, legatorum, cardinalium, auditorum et, aliorum quorumvis iudicum et officiatium curie Romane, necnon cit[ati]ones, inhibitiones, rescripta, executiones et processus, cuiuscunque tenoris existant, tam in causis beneficialibus,, quam in foro contentioso, sive in dicta Romana curia, sive extra per quoscunque iudices principales et executores emanatas et obtentat recipere, publicare et executioni demandare quovismodo presumatis sine nostro consensu et licentia speciali, et aliud sub pena premissa facere non ausuri. Presentes etiam volumus in locis et ad id aptis publice facere proclamari. Datum Posonii, dominico die in octava Pasche, anno domini millesimo quadringentesima quarto.

6 APRIL 1404

Decision of the lord king and the barons.

We, Sigismund, by the grace of God king of Hungary, Dalmatia, Croatia, etc., margrave of Brandenburg, vicar general of the Holy Roman Empire, and regent of Bohemia, wish that each and every person who will see these presents be informed by these words that some or indeed many of our gentlemen of the realm, both clerical and lay, have revealed to us with lamenting words and perturbed souls that on many occasions they have suffered persecutions, insults and damages, challenges, and infringements to their rights and jurisdiction from papal collectors;¹ furthermore, they have complained of ecclesiastic punishments, notably of being summoned abroad, of excommunications, prohibitions, warnings, as well as of exaction, extortion, and forced sale of their money, goods, and chattels, which burden, obstruct, and worry them to such an extent that without timely help to protect and to relieve them they could not avoid the considerable destruction of their goods and chattels and the annihilation of their station, liberty, and rights; therefore, they have respectfully and with reverence requested our eminence that, with the bulwark and protection of the crown, we deign to come to their aid, their station, and the best interests and advantage of our entire kingdom. Hence, we, who are obligated to assist everyone, above all our aggrieved subjects, to confront and obviate the annoyances by which they are beleaguered with all our might and ability, having heard these sorrowful complaints, and having, in addition, personal experience on several occasions, no longer intend to tolerate these injuries and insults which befell us and our gentlemen of the realm, particularly during the recent disturbances and commotions in the kingdom,² when clerics with papal letters³ and others empowered by the Apostolic See—which, as

¹ *Bullati* were usually referring to clerks who claimed a benefice on the basis of a papal bull. In the present context, however, it is clear that the reference is to collectors of papal revenues empowered to punish the recalcitrant with ecclesiastical sanctions including summons abroad (i.e., to Rome). Papal collectors were normally commissioned in Rome by the Camerarius (papal chamberlain) and once resident in a specific region they in turn would commission local clerics to serve as deputy collectors; see William Edawrd Lunt, *Papal Revenues in the Middle Ages*, 2 vols. (New York: Columbia Univ. Press, 1934, repr. Hamden, Conn.: Octagon Books, 1965) 1: 42–51, and the specimen letter of commission of a collector of *annates* from Pope Clement VI to Archbishop Cenadinus of Esztergom from 13 September 1343, *ibid.*, 2: 358–61. An excellent study of the work of the papal Camera and the collection of one particular form of income, papal spoil, is Daniel Williman, *The Right of Spoil of the Popes of Avignon, 1316–1415* (Philadelphia: Amer. Philos. Soc., 1988), esp. pp. 19–22, where the solitary Hungarian (as opposed to Dalmatian) reference is to the commission to the collector of Poland and Hungary following the death of Bishop John of Veszprém dated 1357

² On 1 June 1403, Pope Boniface IX recognized Ladislas, king of Naples (1386–1414), son of the hapless Charles of Durazzo—murdered in Hungary in 1386—as king of Naples and Hungary, who claimed the crown of Hungary by hereditary right. He was supported by a group of Hungarian and Croatian nobles, but the rebels were defeated by Sigismund’s adherents and Ladislas, who had landed in Dalmatia, had to return to Naples. See: Bard, “Aristocratic Revolts;” and Pál Engel, *The Realm of St. Stephen: A history of medieval Hungary, 895–1526*, transl. Tamás Pálosfalvi, ed. Andrew Ayton (London: Tauris, 2001) pp. 195–208.

³ The term *bullati* here appears to convey the more general meaning.

we know, has been assiduously attempting to destroy our honor, estate, and status, and to transfer our kingdom and crown to someone else, and also otherwise totally to depose us—for we regard it as particularly nefarious to show obedience to him who, attacking the welfare and peace of subjects, never ceases to mislead them with sly practices and hidden stratagems and to trouble them with open injuries. Therefore, we with our council and as a consequence of extensive and mature deliberation with all the prelates, barons, magnates, knights, nobles, and communities subject to the Holy Crown of Hungary, and considering their welfare, intention, and even explicit petition in this matter, do by the authority of the aforementioned Holy Crown and by the plenitude of our royal power, will pronounce, establish, decide, and decree—through these presents, what we remember having recently enacted⁴ and decided—that no clergy with apostolic authority or any other authority except our own be allowed to accept or to obtain ecclesiastical benefices, with or without the cure of souls, of whatever value they may be, which—as we understand—have been accepted and obtained through apostolic letters or those of papal legates or of other prelates, or to hold, retain, and keep those received during the recent disturbances in the kingdom, without our specific consent and permission, until the explicit modification or withdrawal of the present decree; nor is any one of the said prelates and clergy of whatever station, order, rank, condition, or standing, except for the lay nobles who have by reason of patronage⁵ the right of selection and presentation, allowed to appoint someone to any kind of benefice, in whatever way vacant now or in the future, or to dispose of a benefice in whole or in part, except our majesty for whom we reserve these with the full right of disposal, collation, and provision. No one is allowed and enabled to receive, promulgate, and act upon apostolic letters and rescripts of whatever content, whether those of legates or cardinals, auditors, and judges, officials, and agents of anyone with whatever purport, force, validity, or sanction, issued or received from the Roman Curia or outside of it, regarding benefices is well as other lawsuits of any sort, criminal or profane,⁶ which we waive null and void by our aforesaid royal authority; and if anyone attempts deliberately or through ignorance to act against these commands, he who contravenes them or dares to contest them, commits the crime of *lèse majesté*, and we will punish him with deserved revenge.⁷

⁴The reference is obviously to 1397:57 (cf. also 1397:64)

⁵On the royal right of patronage (*advowson*), see Fraknói, *passim*, and Mályusz, pp. 65 ff.

⁶The term *prophanis* is apparently used here in opposition to *criminalibus* as synonym for ‘secular’ to refer to those cases brought before ecclesiastical courts in which a layman was one of the litigants and where criminal behavior was not at issue. For a discussion of the theoretical underpinning of canonical criminal jurisprudence, see R. M. Freher, “Preventing Crime in the High Middle Ages: The Medieval Lawyers’ Search for Deterrence,” in James Ross Sweeney and Stephen Chodorow, eds., *Popes, Teachers, and Canon Law in the Middle Ages* (Festschrift for Brian Tierney) (Ithaca, NY: Cornell Univ. Press, 1989), pp. 212–33, esp. 219–21

⁷Mályusz (pp. 14–18) lists a whole series of cases which prove the implementation of this decree. Most characteristic is a mandate of the voivode of Transylvania of 1405, in which he seized the tithe of a parish priest, because he called upon the Roman curia in a legal matter “in contempt of the decree of the royal majesty” see: ZsO 2, no. 4132.

Therefore, we order each and every the of you, prelates, abbots, provosts, priors, wardens, chapters, rectors of parish churches and chapels, and all other clergy of whatever station, rank, and dignity, by our strict royal edict and under capital penalty and the loss of benefice and goods, that henceforth in the future you must not receive, promulgate, and act upon any kind of letter from the Apostolic See, from legates, cardinals, auditors, and magistrates or any other judge or official of the Roman Curia, nor any citation, prohibition, rescript, order, and legal writ of whatever purport they may have both in cases concerning benefices or other lawsuits, issued by or received from the said Roman Curia or outside of it, by any higher judge or agent without our specific consent and permission, and you will not dare to act otherwise subject to the above mentioned penalty We want these presents to be proclaimed publicly in places suitable for that purpose.

Given at Pressburg⁸ on the eighth day of Easter in the year of the Lord one thousand, four hundred and four.

⁸ Pozsony, presently Bratislava, Slovakia

LAW OF KING SIGISMUND OF HUNGARY OF 21 DECEMBER 1404

This royal ordinance, just as its procedural predecessor and legal cause, Sigismund's letter of pardon for the rebels of 8 October 1403 (see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, Budapest: Akademiai, 1978 [=DRH], pp. 175–79), could be classed as a regulation of particular and not general purport; hence, it might not qualify as a *decretum* proper. Also, it was issued as letters patent without the list of officeholders usual for charters of privilege. However, the text itself refers to “articles,” which is usually a name for laws; the king called it in contemporary charters a *statutum*; and tradition also included it among the *decreta*. It is a regulation of elaborate procedures of institution and of verification of claims to royal grants, following the widespread confiscations after the last major rebellion against Sigismund in 1402–3.

All earlier editions printed the text from a transcript, issued in all likelihood in February 1405 but erroneously dated to February 1404 which came to be the date of the “First Decree of Sigismund” in the *Corpus Iuris Hungarici* and other editions. The king's itinerary tallies well with the date of the original printed here (which is textually identical with the earlier editions, save for a few minor scribal errors) and so does the fact that Sigismund referred to this *statutum* a day before its issue on 20 December 1404. (*Zsigmondkori Oklevéltár* [Calendar for the age of Sigismund]. Elemér Mályusz, et al. eds. Budapest: Akadémiai K., 1954– [=ZsO] 2, no. 3553).

The format is also quite confusing and caused earlier editors to introduce entirely misleading paragraph numberings. The preface and *narratio* end with a series of statements verbally numbered as “first,” “second,” and “third” but then the statutory parts and the final “articles” are again divided (as usual, without formal numbering) into articles. Whereas the introduction to this series of statements suggests that these are the complaints (*querelae*), this decree is in fact a summary of both the complaints and the specific remedies provided. The present numbering was introduced by Döry and hence by the editors of *DRH* whom we follow (see Concordance).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer //archives.hungaricana.hu/en/charters/search
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MS.: Original on parchment with the privy seal en placard, MNL OL DL. 8997.

EDD.: Georgius Pray, *Annales regum Hungariae ab anno Christi CMXCVII ad annum MDLXIV deducti*. . . 5 vols. (Vienna: Schulz-Trattner-Bernard, 1763–70), 2: 212–14; Stephanus Katona, *Historia critica regum Hungariae*. 42 vols. (Pest: Weigand, 1779–1817), 11: 597–605; Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66), 10/4: 276–83; *Magyar Törvénytár: Codex Juris Hungarici*, Dezső Márkus et al. eds., (Budapest: Franklin, 1896) 1: 203–09 (all dated Buda, 19 February 1404); *DRH*, pp. 183–8.

LIT.: Elemér Mályusz, *Kaiser Sigismund in Ungarn 1386–1437*. Transl. by A. Szmodits (Budapest: Akadémiai Kiadó, 1990), pp. 66–9.

21 DECEMBRIS 1404

Nos Sigismundus dei gratia rex Hungarie, Dalmatie, Croatie etc. marchioque Brandenburgensis etc. sacri Romani imperii vicarius generalis et regni Bohemie gubernator memorie commendamus per presentes, quod quemadmodum nobis alias extra regnum nostrum in partibus Bohemie pro sacri Romani imperii honore et iure nostri patrimonii pro posse insudantibus et laborantibus, quidam prelati, magnates proceresque et nobiles regni nostri malo freti consilio, ymmo rebellionis calcaneo ducti et in reprobum sensum dati, ingrati et immemores beneficiorum a celsitudine nostra receptorum in crimine lese nostre maiestatis simul conspirantes nos verum regem et dominum Hungarie dyademate et solio ipsius regni nostri, cui iam deo propitio fere sedecim annis feliciter regnavimus, privare et destituere, aliumque eis ignotum regem, utputa Ladislaum filium condam Karuli de Duracio eligendo in dictum regnum nostrum introducere satagebant, tandemque asistente nobis divini remedii adiutorio, nonnullorumque fidelium baronum et procerum nostrorum interveniente subsidio gubernacula dicti regni nostri votive readipissentibus plerosque ex dictis infidelibus nostris iuxta demeritorum suorum exigentiam digna correctionis linea ferri alios quoque castris, tenentibus, districtibus, civitatibus, oppidis, possessionibus et cunctorum bonorum materiebus privari disponentes et destitui, huiusmodi castra, tenutas, districtus, civitates, oppida, possessiones et cunctorum bonorum maneries, tamquam per notam infidelitatis huiusmodi rebellionis ad manus nostras regias devoluta et redactas de dictisque manibus nostris regiis nonnullis predictis fidelibus baronibus, proceribus et nobilibus nostris partem nostram animo constanti et fidelitate firma tenentibus, foventibus et magnificentibus iuxta laudabilium servitorum ipsorum merita vigore certarum litterarum nostrarum exinde confectarum iure perennali dedisse, donasse, contulisse et distribuisse perhibemur et recordamur; ita nunc nonnulli forent incole regni nostri, quorum, ut premittitur, possessiones et iura possessionaria per maiestatem modo premissa pretactis nostris fidelibus donate et distributa existunt, qui hiis tribus modis infrascriptis lamentabilibus querelis nostram infestant maiestatem:

Primo, qualiter nonnulli essent ex ipsis, quorum licet iura possessionaria propter notam infidelitatis ipsorum dictis nostris fidelibus in evum contulerimus, tamen tandem moti regia pietate, qua delinquentibus veniam solemus impertiri, ipsis capitibusque, possessionibus ac rebus et bonis ipsorum universis gratiam fecissemus specialem.

Secundo autem quibusdam ex ipsis, licet iura ipsorum possessionaria per eandem notam infidelitatis aliis fidelibus nostris donaverimus, tamen ipsi iuxta gratiam per nos ac domino Johanni archyepiscopo Strigoniensi, necnon utrique Nicolao alias vayuodis nostris Transsilvanensibus factam a quibusvis malorum generibus, necnon actibus potentiariis et iniuriis cuiusquam inferendis supersedisserit prorsus et cessassent, nec unquam post predictam gratiam nobis aut cuiusquam regnicolarum nostrorum, adherendo nostris rebellibus et emulis, aliquam iniuriam, dampna, nocumenta insolentiasque et obprobria intulissent,

Tertio autem essent tales, quorum similiter iura possessionaria pro premissa nota infidelitatis aliis nostris fidelibus certarum litterarum nostrarum donationalium vigore contulissemus, qui nunquam et maxime in hiis proxime elapsis disturbiorum temporibus aliquid noxii criminis infidelitatis aut alicuius contagionis infidelitatis notam in se continentis contra nostram maiestatem et sacrum

nostrum regium dyadema aut alios quoscunque fideles nostros palam vel occulte perpetrassent et commisissent, propter que ipsi huiusmodi eorum possessionibus et iuribus possessionariis non essent digne et merito privandi et destituendi, supplicantes nostro culmini vocibus gemebundis, ut ipsis circa premissa de remedio providere dignaremur opportuno.

Nos itaque, qui ex suscepti regii regiminis officio causas quorumlibet oppressorum et querulantium animo metiri. debemus iustitia requirente, auditis et sane intellectis propositionibus premissis, unacum fidelibus prelati, baronibus et proceribus nostris maturo exinde prehabito et digesto consilio circa premissos articulos, obiectiones et querelas per memoratos querulantes modo superius specificato coram nobis ac ipsis prelati et baronibus nostris propositos et declaratas, unacum eisdem sanximus, decrevimus et instituimus super hiisque statutum fecimus:

I. Ut hii omnes et singuli regnicole nostri, quorum, uti superius expressatum est, iura possessionaria aliis fidelibus nostris pretextu premissae note infidelitatis contulisse dinoscimur, hos nostros fideles, apud quos dicta iura possessionaria existunt, in domibus eorum propriis, aut alias, ubi reperiri poterint, mediantibus hominibus nostris regiis et testimoniis aliquorum credibilium capitulorum vel conventuum contra se ipsos personaliter vel per procuratorem nostre maiestatis personalem, ubi pro tunc deo duce unacum eisdem prelati, baronibus et proceribus nostris fuerimus constituti evocent in presentiam, merum, plenum et condignum iudicium finemque decisivum recepturos causa in premissa.

II. Adveniente autem ipso termino ipsis partibus coram nobis pro habendo in eorum causa. moderativo iudicio comparentibus, si et, in quantum ipse partes unanimi et concordanti voluntate se ipsas in eorum causa attestationi seu testimonio aliquorum fidedignorum proborum et nobilium virorum, qui fideles fuerunt a principio et sunt nostre maiestati, sponte submiserint aut compromiserint, extunc ibidem ipsa compromissio ipsis partibus per nos ac ipsos barones nostros admittatur et consentiatur; inter ipsasque partes iuxta formam huiusmodi compromissionis aut attestationis iudicium et iustitia exhibeatur indilate, prout conveniens fuerit et iuri videbitur expedire.

III. In casu vero, quo partes pretacte in huiusmodi testium electione discordes fuerint, tunc nos prelatos, barones aut tales nobiles illius comitatus, in quo ipse possessiones donate et collate existunt, qui nobis fideles fuere, vel si in ipso comitatu tot et tanti nobis fideles in numero pro tunc non fuissent, quorum testimonium super hiis sufficiens esset et acceptandum, tunc alios nostros fideles alterius comitatus ipsis possessionibus collatis propinquiores de fidelitate vel infidelitate partis, que inculpatur, per certas nostras litteras requirere et ab ipsis exinde meram certitudinem recipere et experiri tenemur, ut recepta rei veritate inter ipsas partes finem facere valeamus indilatam.

Ad conclusionem autem horum articulorum:

IV. Primo quicumque regnicolarum nostrorum, quorum iura possessionaria modo antelato cuiquam fidelium nostrorum sunt collata, se annotatam gratiam per nos ipsis domino archiepiscopo et wayvodis factam per evidens documentum aut alia credibilia testimonia veraciter observasse comprobare poterunt, tales rursus in plenum dominium universorum iurium ipsorum possessionariorum debent esse in continenti restituendi. Illis vero nostris fidelibus, apud quos ipsa

iura possessionaria extiterint, loco eorundem alias possessiones dare non tenebimur. Illi autem fideles nostri, qui possessiones aliquorum infidelium nostrorum notiorum a nobis impetrarunt, et se ipsos ipsi infideles ab ipsa nota infidelitatis expurgare non valerent, allegantes solum sibi ipsis capitibus, possessionibus et bonis eorum post ipsam donationem nostram per nostram maiestatem gratiam fore factam, in pleno dominio ipsarum possessionum ipsis donatarum in evum debeant remanere, nec unquam ipsas possessiones ab eisdem nostris fidelibus modo qualicumque absque bona eorum annuentia et voluntate auferre valeamus, nec ipsis infidelibus nostris ipsa gratia nostra, quoad rehabilitationem ipsarum possessionum eorum possit in aliquo suffragari, quoniam volumus huiusmodi donationem nostram semper et ubique in sui roboris firmitate inviolabiliter permanere.

V. Item quicumque fidelium nostrorum alias possessiones nostrorum infidelium a culmine nostro modo qualicumque obtinuerit vel impetraverit, se ipsumque in dominium huiusmodi possessionum per nos sibi donatarum tepiditate aut aliqua alia inertia ductus infra tempus legitimum, utputa infra anni revolutionem per nostrum et capituli aut conventus homines, prout moris est, statui non fecerit, talis vigores litterarum suarum donationalium perdiderit, ipseque possessiones rursus ad manus nostras regias sunt devolvende eo facto, aut hiis regnicolis nostris, quibus capitibus et possessionibus gratiam fecissemus, in eo casu debent esse utique restituende. Illorum autem infidelium possessiones, quorum solum capitibus et non possessionibus gratiam fecisse perhibemur, nobis remaneant, aut si cuicumque ipsas maluerimus donare, id in nostra constat et constare poterit voluntate. Qui vero modo et consuetudine observatis se vigore donationis nostre regie in dominium possessionum sibi datarum infra tempus legitimum per nostrum et capituli aut conventus homines introduci ac per ipsos homines fassionem debitam coram dicto capitulo aut conventu, prout moris est, fieri procuravit, occurrentibusque interim et imminentibus sibi aliquibus impedimentis aut obstaculis eorundem capituli et conventus, vel ipsi capitulum et conventus ipsas litteras statutorias ob contradictionem, inhibitionem aut aliam potentiariam resistentiam aut amore seu formidine dictorum nostrorum infidelium vel fratrum eorundem, aut aliis causis ex premissis extradare et emanari facere recusassent, tunc ex eo non debet perdere vigores littere sue donationalis dummodo de re legitime doceat et super hiis perhibeat testimonium veritatis.

VI. Preterea quicumque fidelium nostrorum in dominium possessionum ob notam infidelitatis alicuius per nos sibi donatarum infra anni revolutionem aut hucusque ob metum et potentiam sui adversarii vel de nostra commissione seu mandato aut prorogatione se statui facere nequivisset et in dominium earundem legitime introire, et id rite et legitime cum sufficienti testimonio posset comprobare, similiter nolumus, ut ex eo perdat vigores suarum litterarum donationalium.

VII. Volumus etiam et presentis scripti nostri patrocinio stabilimus, ut hii omnes et, singuli nostri fideles, qui de possessionibus eorum per nostram maiestatem eis pretextu aliquorum infidelitatis donatis vigore gratie nostre per nos ipsis infidelibus facte aut per ipsos infideles aut alios quoscumque potentialiter exclusi essent, vel qui, ut premisimus, ob metum dictorum adversariorum eorum hucusque dictas possessiones intrare nequivissent, rursus in dominium plenum earundem per comites parochiales illorum comitatum, in quibus ipse possessiones existunt, modis omnibus restituantur et introducantur.

VIII. Volumus etiam, ut numerus eorundem fidelium nostrorum augeatur et via recludatur

delinquentium, sanximus, ut quicumque regnicolarum nostrorum quibusvis nostris infidelibus facto, consilio aut subsidio expensaruntque largitione subvenisse aut ipsis hospitalitatem prebuisse comprobari poterunt, hii omnes similiter perdant iura ipsorum possessionaria universa, harum nostrarum vigore et testimonio litterarum.

Datum in Zolyo, in festo beati Thome apostoli, anno domini millesimo quadringentesimo quarto.

21 DECEMBER, 1404

We Sigismund, by the grace of God king of Hungary, Dalmatia, and Croatia, margrave of Brandenburg, etc., vicar general of the Holy Roman Empire, and regent of the kingdom of Bohemia, wish to be remembered by the words of these presents that during the time when we were exerting ourselves and working to the best of our ability for the honor of the Holy Roman Empire and our hereditary rights outside the kingdom in the regions of Bohemia,¹ certain prelates, magnates, lords, and nobles of our kingdom, relying on evil counsel or even led by rebellious intent and imbued with ill will, ungrateful to us, and unmindful of the benefits they have received from our majesty, conspired to commit high treason by attempting to deprive us and eject us, true king and lord of Hungary, from the crown and throne of the same kingdom, over which we had been, by God's permission, reigning for almost sixteen years now, by electing another person, not known to them personally, namely Ladislav, son of the late Charles of Durazzo, as king,² and bringing him into the said kingdom of ours. Finally, when with the help of divine assistance and the aid of some faithful barons and lords of ours we regained, according to our wishes, the governance of our said kingdom, we caused suitable punishments to be meted out according to their misdeeds to several of the said traitors against us and ordered that others be deprived of and expelled from their castles, tenancies, districts, cities, towns, estates, and all kinds of possessions. We have been reminded and remember that we gave, granted, transferred, and distributed in perpetuity these castles, tenancies, districts, cities, towns, estates, and other kinds of possessions, as having fallen and devolved to our royal hands by the deed of high treason of the said rebels, by our royal hands through certain charters of ours written in this matter to several of our said faithful barons, lords, and nobles, according to the merit of their praiseworthy service, who stood by us with steady heart and firm fidelity, supported us, and augmented our honor. Now then, there are several such people in our kingdom, whose estates and property rights, as mentioned before, have been distributed by our majesty among our said followers in the aforesaid manner, who now besiege our majesty with sorrowful complaints on the three following counts:

First, that there are among them such persons whose property rights, owing to their infidelity we have granted in eternity to our said followers, but to whose heads, estates, and all goods and

¹ Sigismund of Luxemburg was elected king in 1387 by a league of barons and had to accept their control. Soon he began to build up his own party and follow his own policies which provoked growing discontent among the magnates (see notes to 1397). In 1401 he was temporarily arrested by the royal council. In early 1403, while Sigismund was fighting in Bohemia, an open revolt of the barons followed, led by Chancellor John of Kanizsa and Count Palatine Detric Bebek of Pelsőc in support of King Ladislav of Naples (see Imre N. Bard, *"Aristocratic Revolts and the Late Medieval Hungarian State A.D. 1382–1408," Ph. D. dissertation, Univ. of Washington, 1978* pp. 41–61). Sigismund spent most of the year 1402 (February– September, November–December) in Bohemia, where he had been named vicar by his brother Wenceslas (4 February 1402). However, two months later Sigismund captured Wenceslas and entrusted him to the Habsburg dukes of Austria with whom he made an alliance. In 1403 the king spent the first half of the year in Moravia, fighting against Margrave Jodok for his hereditary claims and in the last resort for his succession in the Holy Roman Empire.

² On the events in general, see Pál Engel, *The Realm of St. Stephen: A history of medieval Hungary, 895–1526*, transl. Tamás Pálosfalvi, ed. Andrew Ayton (London: Tauris, 2001) pp. 195–208.

chattels we have later granted the same special pardon moved by royal grace we are accustomed to grant delinquents.

Second, some of them, although we have granted their property rights, because of the same charge of infidelity,³ to other followers of ours, had—according to the pardon granted by us to the lord John, archbishop of Esztergom, as well as the two Nicholases, our former voivodes of Transylvania⁴—completely avoided and ceased to commit any kind of misdeed, act of might,⁵ and harmful action against anybody, nor caused after that pardon any injury, damage, harmful insolence, or abuse against us or any of our gentlemen of the realm by joining our enemies or rivals.

Third, there are also those whose property rights we have granted by the force of specific charters, similarly for the said charge of infidelity, to other followers of ours, but who had never, particularly not in these recently past times of troubles, committed or perpetrated anything punishable by the charge of infidelity or were involved in any other criminal complicity, publicly or secretly against our majesty, the Holy Crown, or any of our followers; hence, it would be neither right nor proper to deprive them of their estates and property rights and to expel them; they beseeched our eminence with lamentations that we deign to provide suitable remedy for the matters said before.

We, therefore, who by our received office of governance ought to weigh at all times the case of any oppressed and complaining person, having, as justice demands, heard and sufficiently pondered the aforesaid matters, have, after having taken and accepted due counsel with our faithful prelates, barons, and lords, together with them decided, decreed, and ruled regarding the above listed articles, objections, and complaints of the aforementioned complainants which were presented and enunciated in our presence together with the same prelates and barons, in the way described above have issued the following statutes:

³ The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property defined in detail in **Tripartitum I, 14**), usually punished by capital sentence. (*sententia capitalis*):

⁴ John of Kanizsa (d. 1418) was bishop of Eger 1384–87, archbishop of Esztergom 1387–1418, chancellor 1387–1403; Nicholas of Csák (d. 1426) was *ispán* of Temes 1394–1402, voivode of Transylvania 1402–03 and 1415–26; Nicholas of Marcali (d. 1413) was *ispán* of Temes 1394–1402 and voivode of Transylvania 1402–03.

⁵ Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one

1 That those of our gentlemen of the realm,⁶ individually and collectively, whose property rights we, as described above, are known to have granted by reason of the said charge of infidelity to other followers of ours, should summon those followers of ours who now hold these said property rights, from their own houses or from wherever they can find them, through our royal bailiffs and the witness of any chapter or convent of authentication, personally or through their lawyer to the personal presence of our majesty, wherever we, with God's guidance, shall be, together with our prelates, barons, and lords,⁷ so that they might receive a true, complete, and appropriate judgment and final conclusion for the said matter.⁸

2 When, then, at the appointed time, these parties appear before us, in order to receive exemplary judgment in their case, if they will have unanimously and by common will submitted and committed themselves to the testimony and declaration of certain trustworthy and honest noblemen who have been faithful to our majesty from the beginning by their own free will, then and there, an agreement among the parties themselves shall be admitted and consented to by us and our barons. The judgment among the parties themselves, according to the wording of such an agreement or declaration shall constitute immediate justice and shall be expedited to the extent that it is convenient and congruous with law.

3. In the case, however, that the said parties will not have been able to agree in the selection of such witnesses, we are obligated to inquire through specific letters of ours and to find out the truth from the prelates, barons, or other nobles who have been our followers in that county where these estates are granted and donated, or if in that county we should not have at the time an adequate number of followers whose testimony would be sufficient and admissible in this matter, then from other followers of ours in another county closest to the transferred estates, regarding the faithfulness or unfaithfulness of the accused party; so that, having ascertained the truth in the matter, we should be able to pass final decision between the same parties.

In conclusion of these points we have decreed:

4 First, that any gentleman of our realm whose property rights have been in the above-mentioned manner transferred to any one of our followers, but who can prove by appropriate record or other trustworthy testimony that he truly observed the said pardon granted by us to the lord archbishop and the voivodes, should immediately receive again full dominion of all his property rights; and we are not held to give to those followers of ours in whose hands these property rights have been any other estate in their stead.

Those followers of ours, however, who had asked from us the estates of such traitors who could not clear themselves from the charge of infidelity, but merely maintain that our majesty had granted pardon to their lives, estates, and goods after the said donation, should be left for ever in the full

⁶ *Regnicola* (literally: inhabitant of the kingdom) is used in medieval Hungarian legal texts mainly for the members of the enfranchised nobility. We translate it as “gentleman of the realm.”

⁷ Such summons to the court of the king’s personal presence were supposed to be discontinued, see **1397:62**

⁸ Several summons, referring to this *statutum* are known from 1405; cf. ZsO 2, nos. 3664, 3669, 3737, 3985

dominion of the estates granted to them. We shall have no right to take away these estates from these our followers under any pretext without their free consent and will, and our pardon for those traitors should have no value whatsoever for the recovery of these estates, because we wish that these grants of ours should remain always and everywhere in full and inviolable force.

5 Then, if any of our followers who had requested or obtained from our eminence in whatever way an estate of the traitors, but because of laxity or laziness of some sort did not arrange the institution into such an estate within the statutory period, namely one year, by a bailiff of ours or of a chapter or a convent, as is usual,⁹ should lose the force of such a charter of donation, and the estates should immediately fall to our royal hands straightaway, or, in such a case, they should be restored to those of our gentlemen of the realm to whom we had granted pardon for their lives and estates. However, the estates of those traitors whom we had granted pardon for their heads only but not for their properties, we shall retain ourselves or have and shall have the liberty to grant to whomever we prefer. The donation charters of those, however, who kept the law and custom and had been introduced by a bailiff of ours and of a chapter or convent, into the dominion of the estates granted them, and made, as is usual, the proper declaration through those men before the chapter or convent, but in the meantime this chapter or convent denied them or refused to issue the letters of institution because of some obstacles or difficulties having emerged before them or the chapter or convent, or because of some problem or violent resistance, or owing to favor or fear from the said traitors or their kinsfolk or for any other specific cause, should not for this reason lose their validity, provided that the grantees legally document these things and present truthful testimony concerning them.

6 Furthermore, if any one of our followers was unable because of fear or the violence of his opponent or because of a command, mandate, or extension of ours to be introduced within a year into the dominion of the estates granted him by us owing to the infidelity of someone, and able to prove this properly and legally with sufficient witnesses, we are thus unwilling that his charter of donation should lose its force.

7 We also wish and establish by the protection of these presents that all and every one of our followers who have been violently barred by the traitors or by anyone else from their estates, granted them by our majesty on the basis of the charge of infidelity, or those, who, as said before, were not able to enter into possession of the estates owing to fear of their said adversaries, should

⁹ Institution (*introductio* or *statutio*) was the procedure required to validate the acquisition of property. Grantees of royal donations or new owners of purchased, pledged or exchanged estates were expected to take possession of the land within a year, with the assistance of a royal bailiff (a nobleman or courtier commissioned for the task) specified in the charter, and witnessed by a specified place of authentication (a chapter or convent authorized to execute such transactions) in the presence of abutters and neighbors. Institution could be thwarted by anyone present who made contradiction or *repulsio*, i.e., opposed the execution. Moreover, any interested party could object to the institution by announcing his protest (*prohibitio*) within two weeks, thus initiating a lawsuit. For detailed regulations, see **Tripartitum I, 32; II, 73-4**.

be by all means restored to and granted full dominion of these by the *ispán* of those counties in which these estates are located.

8 We also wish that the number of our followers may increase and the road for the evildoers be barred; therefore, we have decreed that any of our gentlemen of the realm who can be proven to have abetted by deed, counsel, assistance, or contribution of expenses any of the traitors or to have offered them hospitality should, by the force and witness of these presents, likewise lose all their property rights.¹⁰

Given in Zvolen, on the feast day of St. Thomas, the Apostle, in the year of the Lord one thousand, four hundred and four.

CONCORDANTIA CONCORDANCE

Magyar Törvénytár	DRH /onIDRMH
I-VIII	Pr.
IX	I
X	II
XI	III
XII-XIV	IV
XV-XVII	V
XVIII-XX	VI-VIII

¹⁰ In a letter of judgment, in 1419, Count Palatine Nicholas of Gara made reference to a royal *decretum* which seems to have completed this one on some points. It ordered that all persons claiming an estate from a rebel should lose their claims forever unless they could bring their action to a definitive sentence before the charge of infidelity of their opponent was proclaimed (MNL OL DI. 100414, cf. *DRH*, p. 188, n. 1)

LAW OF KING SIGISMUND OF HUNGARY OF 15 APRIL 1405

This decree indicates King Sigismund's interest in the development of towns in Hungary, which may have had several reasons. His familiarity with the much more developed Bohemian and German urban scene was certainly one of them. His support given to the fortification of cities can also be explained by the fact that the number of royal castles had diminished drastically in the early years of his reign while royal control of the cities had been an important factor in the king's victory over the baronial revolt in 1403. Above all, however, Sigismund needed monetary income and was aware that flourishing towns were the quickest source of revenues.

The assembly in which this decree was passed met in early April; a privilege issued by Sigismund for the town of Debrecen on 2 April 1405 (*Zsigmondkori Oklevéltár* [Calendar for the age of Sigismund]. Elemér Mályusz, *et al.* eds. Budapest: Akadémiai K., 1954– [=ZsO] 2, no. 3767) already contains a number of articles from it. It was not a diet proper, because neither the aristocracy nor the counties were represented (see Mályusz, "Geschichte des Bürgertums," p. 393), although the text of the decree was sent to some counties (the copy for Co. Pest. did survive), suggesting that the king wished to inform the nobility and win their support for his urban policies.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives | (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer
@ <http://archives.hungaricana.hu/en/charters/search>

MSS.: Eleven originals survived, two *deperdita* were known before 1945: a copy for Debrecen, County archives, Dipl. no. 6; a copy for Prešov (Slovakia), Archives of Pannonhalma no. 715; a copy for Hibe, Archives of Liptovský Mikuláš (Slovakia), Chyba no. 5; a copy for Košice, City Archives Košice (Slovakia), Call. Schwartzbach. no. 45; a copy for Krapona, MNL OL DL. 42840; a copy for Némethlipcse, Archives of Liptovský Mikuláš (Slovakia), Partizánska Lupca, no. 51; a copy for Ružomberok/Rózsahegy, *Ibid.* Ružomberok, no. 9; a copy for Sárvár, MNL OL DL. 9031; a copy for Sopron, City Archives, Sopron, L, IV, 103; a copy for Szeged, MNL OL DL. 90552; a copy for Zilina, City Archives Zilina (Slovakia), Dipl. no. 11. All had pendant seals, but all of those are lost now. (For details, see *DRH*, p. 190.)

EDD.: Georgius Pray, *Annales regum Hungariae ab anno Christi CMXCVII ad annum MDLXIV deducti*. 5 vols. (Vienna: Schulz-Trattner-Bernard, 1763-70), 2:215–22; Stephanus Katona, *Historia critica regum Hungariae*. 42 vols. (Pest: Weigand, 1779-1817), 11: 636–51; *Magyar Törvénytár: Codex Juris Hungarici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896) 1:211–29 ("II Decree of Sigismund"); *DRH*, pp. 189–213. (See also ZsO 2, no. 3791.)

LIT.: Elemér Mályusz, "Geschichte des Bürgertums in Ungarn," *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte* 20 (1928): 393; Katalin Szende, "The Urban Economy in Medieval

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Sigismundus dei gratia Hungarie, Dalmatie, Croatie, Rame, Seruie, Gallicie, Lodomerie, Cornanie Bulgarieque rex, marchioque Brandenburgensis ac sacri romani imperii archicamerarius, necnon Bohemie et Lucemburgensis heres, universis Christi fidelibus tam presentibus, quam futuris, presentium notitiam habituris salutem in omnium salvatore. Sceptrigera regalis dignitatis altitudo eo vigilantiori cura subditorum suorum conservationem ac tranquillitatem exquirat, quo felicitatem publicam in sui augmentum et gloriam, calamitatem vero in sui cernit detrimentum et ignominiam redundare. Neque enim princeps esse potest inglorius, qui de subiectorum pace et securitate semper cogitat, neque non ignavus, qui futuris malis et periculis non previdet, quando potest. Hinc est, quod convocatis ex omnibus regni nostri comitatibus ac districtibus civitatum, oppidorum et liberarum villarum regie iurisdictioni pertinentium nunciis et legatis, auditis et diligenter intellectis eorum et cuiuslibet ipsorum petitionibus, requisitionibus, informationibus, opinionibus et querelis, de prelatorum, baronum et potiorum regni nostri procerum, ipsorum etiam legatorum consilio, matura quoque superinde deliberatione prehabita pro bono et pacifico statu evidentique utilitate totius regni nostri quasdam civitates murorum ambitu cingendas, quasdam liberas villas seu oppida civitatis honore sublimandas, quasdam consuetudines, que potius abusiones videbantur, abolendas, quasdam moderandas, quasdam in melius reformandas, quedam etiam de novo statuenda decrevimus, sanximus et ordinavimus, prout infra.

Ad quam rem una potissimum consideratio mentem nostram induxit, quod retroactis temporibus, prout in cronicis legitur Hungarorum, hoc regnum nostrum variis sepe afflictionibus interdum per Bissenos, aliquando per Tartaros, nonnunquam per alios paganos, novissime vero per Turcos irrogatis solummodo ob muratarum civitatum seu aliarum munitionum carentiam et defectum, cum homines, ubi se et, bona sua recludere seu reducere possent, loca fortia non haberent, quin ymo cuncta exposita predis hostium in propatulo subiacerent, miserabiles desolationes, tristissimas populorum abductiones et generaliter innumerabilia, que horror est referri, et inestimabilia pertulit detrimenta.

I. Primo namque quorundam subditorum nostrorum precibus inclinati libertates infra declarandas statuimus, quod in omnibus civitatibus, oppidis, castris et villis, et generaliter ubicunque intra regni nostri ambitum, tam in nostris, quam aliorum, quorumcunque sint, libra, statera, ulna, mensura vini, frugum et generaliter omnes res mensurabiles et ponderabiles ponderentur et mensurentur secundum mensuram civitatis nostre Budensis, demptis tantummodo mensuris decimarum et montium tributis vulgo heguam, in Teutonico pergreht, ac lucris, censibus, feudis et redditibus presbiterorum et virorum ecclesiasticorum, quos in suis statu et iustitia, quantitate et valore volumus permanere. Si quis autem contrarium facere presumpserit, incidet in penam amissionis rei ponderate vel mensurate, perdendo pro parte ponderata vel mensurata totam rem ponderandam vel mensurandam.

II. Sanximus preterea mercatoribus forensibus in civitatibus quibuslibet pannos incidere et ad ulnam vendere, ymmo nec pauciores sex staminibus simul vendere ullo tempore, etiam diebus nundinarum non licere, dummodo iidem mercatores sex pannos vel plures habere dinoscantur. Si vero pauciores sex haberent, eosdem integros vendere vel commutare valeant atque possint. Quod si secus attemptatum fuerit, perdantur quelibet stamina contra huiusmodi ordinationem nostram

vendita, alienata vel commutata, necnon pecunia, si qua forte soluta fuisset pro eisdem.

III. Decrevimus insuper, quod nullus publicus notarius in causis, que inter duos laicos vertuntur, sive coram iudice ecclesiastico, sive seculari procurare audeat vel ullatenus advocare, sed nec extraneum testimonium inter cives locum habeat, nec nobiles seu viri ecclesiastici inquisitiones possint facere contra eos.

IV. Porro omnibus et singulis civibus, hospitibus et populis quarumcunque civitatum nostrarum et liberarum villarum alicui ex principalioribus civitatibus annexarum a quacunque sententia per eorum iudices et cives lata ad magistrum tavarnicorum nostrorum vel ad iudicium illius civitatis, cuius libertate talis civitas vel villa libera fungitur, liceat appellare, nec ab illorum, ad quos appellatum fuerit, iudicatu vel sententia sit ulterius in aliorum iudicum presentiam procedendum, sed ipsa causa debeat coram eisdem finaliter terminari.

V. Ad hec, quemadmodum ex antiqua regni nostri consuetudine per divos reges predecessores nostros et nos hactenus observata palatinus, comites parochiales aliique honorem seu dignitatem baronatus tenentes in congregatoriis ac generalibus iudiciis quoslibet fures, latrones ac alios malefactores inibi proscriptos et extradatos iudicare, condemnare, punire seu proscribere consueverunt, et insuper veluti nobiles ex speciali gratia regia ipsis concedi consueta in eorum possessionibus etiam malefactores, quos in maleficiis et culpis deprehendunt, condemnare penaliter ac punire facultatem liberam habuerunt, ita et nos in presenti sanctione duximus statuendum, quod de cetero pro conservanda pace proque civitatum et villarum uberiori tranquillitate, pro viarum securitate, pro itinerantium comodo, et ut malefactoribus delinquendi materia subtrahatur, omnes et singule civitates ac libere ville seu iudices et iurati earundem huiusmodi malefactores, qui in eorum tenentis maleficia perpetrassent, quemadmodum et nobiles ex gratia et donatione regia facere possent, condemnandi et debitis puniendi suppliciis plenam et liberam habeant facultatem, salvo si ipsi rei et, suppliciis digni a regia maiestate obtinuissent gratiam superinde. Sin autem palatinus, comites et aliqui honorem baronatus habentes, necnon civitatum rectores huiusmodi malefactores extradatos comprehendere et punire non possent, sed nichilominus eos culpabiles iudicando proscriberent, eo casu teneantur illi, qui proscriptionem fecerint, tales malefactores proscriptos cunctis iudicibus et iustitiariis regni nostri et etiam omnibus civitatibus denunciare et per eorum litteras maleficii eorundem seriem continentes manifestare. Qui iudices et iustitiiarii ac etiam civitatum rectores, postquam huiusmodi littere ad manus eorum pervenerint, ipsos malefactores, si in eorum tenentis et districtibus invenerint, possint et valeant, ymmo teneantur et debeant arestare, captivare, punire et iuxta eorum demerita dignis affligere suppliciis et tormentis, salvo semper, si a regia maiestate venie gratiam impetrassent. Quod si quis iudicum, iustitiorum vel rectorum predictorum ipsos malefactores, cum in manus ipsorum inciderint, punire contempserit, sciat se procul dubio indignationem maiestatis nostre gravissimam incursum et a nostra serenitate iuxta qualitatem excessus exinde dependentis irremissibiliter puniendum. Nullus etiam omnino presummat eosdem malefactores fovere, protegere vel aliquo modo defensare sub pena superius annotata.

VI. Sanximus preterea, ut amodo in antea cives, hospites seu jobagiones nostri regales de nostris civitatibus, possessionibus, oppidis et liberis villis castrorumque nostrorum tenentis in ecclesiarum, nobilium et alterius preeminentie hominum possessiones, et e converso earundem ecclesiarum,

necnon nobilium et alterius preeminentie hominum jobagiones in prefatas nostras possessiones castrorumque nostrorum tenutas et generaliter quilibet libere conditionis homines de possessionibus nobilium in ecclesiarum possessiones et de ecclesiarum possessionibus in nobilium possessiones temporibus semper successivis universis et perpetuis liberam, tutam et omnimodam manendi causa se transferendi habeant facultatem harum nostrarum litterarum per vigorem.

His moderaminum limitationibus clare presentibus expressatis, ut quicumque et quorumcunque jobagionum dominus aliqua birsagia sua, quibus jobagio suus aiiquo tempore fuisset convictus, infra unius mensis spatium non exegisset super eundem, extunc birsagia talia super eundem jobagionem suum dicto mense elapso recipere et eundem jobagionem retinere non valeat, sed idem jobagio, quo maluerit, modo preahito indemnis moraturus acceclat. Jobagiones autem ultra Draue fluvium residentes; huius libertatis privilegio gaudere nolumus, sed potius in suis antiquis consuetudinibus decrevimus permanere .

VII. Decernimus insuper et ordinamus, quod nullus ex prelatiis, baronibus, proceribus, nobilibus aut alterius cuiuscunque dignitatis, ordinis, Status et conditionis hominibus, regnicolis et subditis nostris occasione debiti, delicti, culpe aut maleficii unius persone seu hominis, cuiuscunque status et conditionis existat, audeat vel presumat civitatem, oppidum vel villam, ubi talis debitor, delinquens, aut maleficus residere consuevit, seu cives, oppidanos vel villanos arestare, detinere vel modo aliquo impedire; sed si quis contra talem quidquam actionis habet vel habuerit, id in presentia iudicis sui ordinarit exequatur, prout retroactis temporibus fieri in talibus secundum. regni nostri iustitiam consuevit, ita quod innoxii pro nocentibus nullo modo aggraventur.

VIII. Statuimus etiam et ordinamus, quod quemadmodum antiqua regni nostri habet consuetudo, ut si cuiquam in villa vel possessione alicuius domini terrestris, cuiuscunque status et conditionis, tam ecclesiasticus, quam secularis existat, aliqualis inferretur iniuria, dampnum vel offensa, talis lesus seu dampnum passus primo ad dominum seu iudicem illius possessionis accedendo iustitiam postulare teneatur, et si talis dominus vel iudex sibi iustitiam facere contempserit, ad comitem provincialem valeat appellare, et si comes etiam in reddenda iustitia tepidus fuerit vel remissus, ad nostram regiam maiestatem possit etiam appellare, ita nunc quoque volumus, ut si alicui persone regnicole vel extranee in aliqua civitatum, oppidorum et villarum liberarum nostrarum per aliquem, cuiusvis status existat et conditionis, aliqualis iniuria, offensa vel dampnum fuerint irrogate vel illata, tunc talis lesus seu dampnum passus primo coram iudice illius civitatis suam debeat prosequi iustitiam. Et si iudex et iurati illius civitatis iustitiam, sibi debitam facere recusaverint vel exhibere distulerint, tunc ipse lesus vel dampnum passus, ad magistrum tauarnicorum nostrarum suam causam attrahere valeat atque possit. Deinde si etiam ipse magister tavarnicorum nostrarum super huiusmodi querela iustitiam ministrare contempserit, tunc liceat annotato leso vel dampnum passo ipsius magistri tavarnicorum iudicio dimisso suam causam in nostre maiestatis presentiam attrahere, nosque, uti ex regiminis nostri regalis officio tenemur, unicuique ministrabimus iustitie complementum. Quod si quispiam lesus vel dampnum passus hoc ordine non servato auctoritate propria, se presumpserit vindicare et sibi satisfactionem recipere, talis transgressor huius nostri decreti in facto potentie vincatur, cum neminem liceat nulla postulata iustitia propria se auctoritate vindicare.

IX. Decrevimus etiam, quod ir, quibuscunque causis et processibus, de quibus iudices causarum

quarumcunque nonam et decimam ;ab illa parte, que causam obtinet, recipere consueverunt, de cetero non ab ipsa parte, que causam obtinet, sed ab illa, que in ipsa causa convincitur, recipere debeant iudices illius cause et extorquere, cum non sit equum, ut qui iustus est, pro iniustis puniatur et in rebus dampnificetur.

X. Statuimus etiam, ut quilibet civis et inhabitator quarumlibet civitatum nostrarum amodo et in antea ad collectas nostras regales et contributiones pro rata, non obstantibus quibuscunque libertatibus ipsis hactenus datis et in posterum per nos et nostros successores concedendis, quas quoad premissa ipsis non volumus ullatenus suffragari, solvere et cum illis nostris civibus contribuere teneantur. Si vero per nos vel nostros successores aliquos cives nostros libertare et exemptos facere contingeret, tunc et in eo casu nos et nostri successores predicti, quicumque ipsi cives libertati ad collectas solvere deberent, id de communitatis computo defalcando ad nostram tenemur et debebunt recipere rationem.

XI. Item licet cives nostri Budenses inter ceteras eorum libertates tali libertate per nostros predecessores ipsis largita et concessa ac per nos confirmata freti et usi hucusque dinoscuntur, utputa quod omnes et singuli tam regnicole, quam extranei mercatores universas et quaslibet res mercimoniales ac bona venalia et commutabilia tam ascendendo, quam descendendo in ipsorum civium Budensium medio deponere ac depositas inibi vendere et commutare abindeque nullatenus alias abducere, neque deportati facere debuissent et fuissent assueti; tamen, quia nunc facta generali congregatione quarumlibet civitatum, oppidorum ac liberarum villarum nostrarum regalium, habito superinde consilio visum et consultum extitit, ut pro ampliori fructuositate et uberiori statu, comodo et communi bono regni et regnicolarum ac precipue civium et mercatorum nostrarum, ne propter utilitatem et augmentum unius civitatis tota regni nostri communitas dampnum et incomodum suscipiat et nocivum recipiat detrimentum, omnes et singuli mercatores nostri, videlicet regnicole de regno nostro exeuntes et in regno nostro commorantes universas et quaslibet ipsorum res mercimoniales et bona venalia seu commutabilia per totum regnum nostrum et extra ipsum regnum quocunque, quotiescunque et quandocunque voluerint, liberam, meram, plenam et securam deducendi, deferendi, pellendi, reducendi, deponendi ac depositas vendendi, commutandi ac abinde deferendi et deduci faciendi ac cum eisdem iuxta eorum voluntatis libitum disponendi habeant facultatem, non obstantibus quibuscunque libertatibus et privilegiis dictis civibus nostris Budensibus super premissa rerum depositione quomodolibet datis et concessis, quas et que quoad premissa ex certa scientia revocamus, exceptis extraneis, qui teneantur in premissis antiquam consuetudinem observare.

XII. Insuper omnes et singuli cives civitatum, quas de novo creavimus, quibuscunque aliarum civitatum constituimus libertatem, si de iudicatu et sententia iudicum et iuratorum suorum noluerint contentari, ad illam civitatem, cuius libertate funguntur, aut ad magistrum tavarnicorum nostrarum valeant appellare; ita tamen, quod postquam magistrum tavarnicorum elegerint, ad iudices et iuratos recurrere non valeant, nec e contra ad nullum ulterius, nisi si opus fuerit, ad presentiam nostram personalem appellatio possit fieri quovis modo.

XIII. Sanximus nichilominus statuentes, ut cives et hospites nostri quarumlibet civitatum nostrarum regalium intra ambitum et climata regni nostri existentium dona seu munera ipsorum in novo quolibet anno pretextu strenuarum regie maiestati debita sic et eo motio nostre maiestati dare

et solvere, quemadmodum noviter convenimus cum eisdem, et in quarumlibet civitatum, oppidorum et liberarum villarum nostrarum litteris per nos ipsis concessis, inter alias eorum libertates clare exprimuntur, debent et tenebuntur. Preterea magistro ianitorum nostrorum tempore in prefixo non plus, quam sex florenos dare et cum eisdem nostris muneribus annis singulis solvere teneantur. Dum autem ubi et quando nostram vel reginalem claritatem in aliquam civitatem, oppidorum et liberarum villarum regni nostri intrare contigerit, extunc cives et hospites loci illius, in quem ingressum fecerimus, nostre aut reginali maiestati victualia oportuna ad unum prandium et unam cenam, si prandium et cenam ibidem habere voluerimus, aut prandium vel cenam tantummodo, si nisi semel nos ibidem comestionem habere contigerit, habundanter dare et amministrare teneantur. Magistro vero agazonum civitates, per quas nostram seu reginalem maiestatem transire contigerit, illius scilicet civitatis artifices cuiuslibet generis, utputa omnes pellifices unum pellicium, omnes frenatores unum frenum et sic de singulis una vice dumtaxat in anno, quandocumque nos inde transire contingat, et non aliter, dare et enceniare teneantur, demptis tantummodo civitatibus, que ad premissa ex antiqua consuetudine nullatenus obligantur. Ceteris vero officialibus, tam nostris, quam reginalibus, videlicet pincernarum et dapiferorum magistris, dispensatori, hostiariis, cocis et aliis quibuscumque nichil penitus dare seu solvere teneantur.

XIV. Disposuimus etiam de modo ac consuetudine ab antiquo solitis observari, quod prelati et quipiam viri ecclesiastici causas aliquas inter regnicolas nostros motas amodoque et in antea qualitercunque, quomodocunque et ubicunque movendas et suscitatas, utputa iudicium seculare concernentes iudicare et diffinire minime valeant neque possint, et e converso barones, comites provinciarum et alii regni nostri nobiles civesque et hospites causas aliquas, lites seu questiones, forum videlicet ecclesiasticum tangentes discutere et iudicare non debeant, neque presumant. Et si inter ipsos viros ecclesiasticos ab una, parte vero ex altera iudices seculares pretaxatos super aliquibus causis in eorum presentia vertentibus circa ipsarum causarum iudicium, cuius videlicet ipsorum iudicio pertineant, discordia seu disceptatio extiterit suborta, extunc partes eedem causam seu causas huiusmodi litigiosas in specialem nostram presentiam, ubi deo duce pro tunc fuerimus constituti, cum prelati et baronibus nostris dirinnendas transmittere teneantur, ubi decernentes sanctiemus, ad cuius partis iudicium seu forum spectare debeant et pertinere cause prenotate.

XV. Insuper, quemadmodum et ab antiquo iuxta statuta regia aurum, argentum, cuprum et alia metalla de regno nostro educi prohibita existunt ita inter alias constitutiones civitatibus, oppidis et liberis villis ad presens editas sanximus et statuimus, ut in qualibet civitatum, oppidorum et liberarum villarum duo iurati cives ad id idonei per iudicem et cives eligantur, qui quibuslibet ligationibus et obstructionibus ballarum, vasorum et aliorum ponderum ligandorum interesse et easdem conspiciere debeant, sine quibus civibus ad id deputatis nulli mercatores, institores ac alii quicunque commutatores ipsorum ballas ac alia pondera ligare aut concludere presumant, quas quidem ballas et pondera iidem duo cives eorum sigillorum appositione consignare debeant et munire; et si contrafactum fuerit, extunc ipse balle vel mercimonia non inspecte nec sigillata, ut premittitur, totaliter amittantur et fisco nostro regali penitus applicentur. Quibus fluidem ballis aut aliis quibusvis ponderibus sic ligatis et consignatis ad iocaque tricesimarum nostrarum deductis et portatis, si et in casu, quo nostri tricesimatres aut eorundem officiales talibus sigillationibus fidem nollent adhibere, sed huiusmodi ballas pretenderent disligare, extunc, si currus, in quibus balle et

pondera deferuntur, magni onerati, in vulgo masa dicti extiterint, unam marcam auri vel sexaginta quatuor florenos aut monetam eiusdem valoris, si vero currus, medius, modicus seu parvus foret, tunc mediam marcam aut florenos vel monetam equivalentes ad temonem ipsius currus apponendo, easdem ballas et pondera disligare et conspiciere valeat atque possit. Et si in huiusmodi ballis seu ponderibus aurum, argentum vel alie res prohibite non reperirentur, extunc tricesimator amittat marcam seu pecuniam appositam, que domino earundem rerum seu mercatori debeant remanere. Si vero aurum, argentum vel alique res prohibite :reperite fuerint in ipso curru et invente, tunc non solum eedem res prohibite, sed etiam alie universe et bona quevis in ipso curru et balla existentes et habita simul cum marca seu pecuniis huiusmodi per ipsos tricesimatores aut eorum officiales auferantur et recipiantur.

XVI. Statuimus etiam et ex deliberatione decrevimus, ut nullus omnino mercatorum, alterius etiam cuiusvis regni nostri status, conditionis et preeminentie hominum res mercimoniles ac bona quevis venalia et commutabilia forensium ac extraneorum sub nomine rerum et mercantiarum propriarum, prout in talibus astutia aliquorum hactenus facere consuevit, acceptare, recipere, tenere, conservare, vendere, commutare seu etiam modo quovis expedire, societatesque cum ipsis forensibus contrahere, facere, stabilire, ordinare et firmare ratione atque causa, ut sub colore huiusmodi societatis premissa libere exercent dictoque nostro decreto contrafaciant, ullatenus audeat atque possit; contrarium vero facientes rerum omnium et bonorum sub huiusmodi cautelosa collusionione in nostri presentis edicti contemptum in regnum nostrum apportatarum, venditarum et vendendarum, commutatarum et commutandarum irremissibilem perditionem et fisco nostro regio applicationem personasque ipsas penam arbitrariam nostre maiestatis incurrere volumus eo facto, totiens quotiens in contrarium premissorum per quempiam contrafactum fuerit, seu etiam attemptatum.

XVII. Preterea quia noviter certis histis et rationabilibus causis moti pro rei publice utilitate totiusque regni conservatione, pro qua etiam retroactis temporibus predecessores nostri Hungarie reges multa statuta multasque consuetudines inducere curaverunt, unacum predictis prelati, baronibus ac regni nostri poteribus proceribus decrevimus, ut universi mercatores, negotiatores et alii, cuiuscunque status et conditionis homines extra regni nostri limites mercimonia seu res mercimoniales et venales deferentes et exportantes tricesimam partem, quemadmodum de illis, que introducuntur in regnum, solvere et amministrare teneantur, idcirco in premissi decreti nostri noviter instituti aliqualem alleviationem et etiam recompensam sanximus et ex liberalitate regia concessimus, quod huiusmodi mercatores ac negotiatores et alii prenominati per quecunque loca tributorum seu teloniorum nostrorum regalium cum personis, equis, curribus ac quibuscunque eorum mercimoniis ac rebus et bonis universis libere et expedite, sine aliquali solutione tributaria transire valeant, totiens quotiens eis fuerit opportunum, mandantes tributariis nostris quibuslibet, tam presentibus, quam futuris, quatenus huiusmodi personas sub pena indignationis nostre gravissime contra formam premissae libertatis nullatenus impedire, neque ab eis tributum aliquod petere et exigere audeant.

XVIII. Ceterum cum in omnibus regnis reges quadam prerogativa precipua monetam tam auream, quam argenteam cudi facere liberam habeant facultatem, inhonestum satis et detestabile videretur, quod pecunia cusa per cudentis ditionem cursum et expositionem debitam non haberet, sed multo

detestabilius, si circumcideretur vel eligeretur aut modo aliquo vitaretur. Cupientes igitur hiis enormibus casibus salubribus remediis obviare, requisito super eo prelatorum, baronum procerumque nostrorum, necnon universorum civium civitatum regalium presentialiter constitutorum consilio, pro utilitate totius regni pariter et augmento proque iustitie splendore conservando ordinavimus et etiam statuimus, quod nullus omnino hominum, cuiuscunque status et conditionis existat, audeat vel presumat pecuniam nostram regalem sive autream, sive argenteam, dummodo iusta et recta sit, reicere vel aliquatenus refutare, item nec circumcidere, graves a levibus discernere vel aliquo artificio seu ingenio vitare. Contrarium quidem attemptare presumentes hoc modo debeant puniri, videlicet ille vel illi, qui pecuniam eandem recipere recusaverint, cadant in penam amissionis pecunie, que sibi deberetur, vel rei, pro qua pecuniam solvere tenentur, ita quod iudex et iurati illius loci illam pecuniam vel rem habeant et debitor a creditore suo ac emptor a venditore proinde liber sit et absolutus, ac si eidem dictam pecuniam persolvisset; ille vero vel qui regiam pecuniam circumcidere, diminuere, eligere vel vitare presumpserint, ut prefertur, tamquam falsarii et malefactores non tantum in rebus, sed etiam in personis iuxta regni nostri consuetudinem antiquam puniantur; quod si facere ipsi iudices et iurati, in quorum manus tales transgressores inciderint, rennerint et eos impune abire permiserint, pro pecunia vel re relaxata in tanta quantitate pecunie vel valore ipsius rei fisco regio subiaceant condempnati; pro falsariis vero dismissis in illam penam incidant sive pecuniariam, sive personalem, quam nostra maiestas eis duxerit imponendam et etiam infligendam.

XIX. Verum ut ipsa pecunia nostra in sua rectitudine conservetur, nullusque presummat ipsam decidere vel vitare, sanximus etiam, quod in qualibet nostra civitate sit cambsor regius, qui solus cambiendi et commutandi pecuniam, videlicet pro florenis aureis monetam et pro moneta florenos aureos habeat facultatem; interdicientes universis et singulis regnicolis nostris et etiam extraneis, cuiuscunque status et conditionis existant, ut de cetero cambire seu commutationem aliquam de pecunia et florenis aureis pro pecunia facere non valeant, neque possint sub pena amissionis ipsius pecunie cambse vel cambiende, que eidem cambsori regio nomine fisci nostri debeat apportari.

XX. Demum cum predecessores nostri Hungarie reges probabili sanctione statuerint, ut intra limites regni nostri Hungarie nulli sales expeditionem seu cursum habere deberent, nisi tantummodo sales, qui in ipso regno nostro effodiuntur, nostra quoque maiestas considerans hanc sanctionem fore iustissimam et honestam, cum quodammodo pars sit magna dementie, id, quod de suo quispiam habere potest, ab alio mutuare, similiter statuit sanctiendum, habito tamen prius superinde nostrorum prelatorum, baronum ac procerum consilio nostro et deliberatione prematura, quatenus de cetero nullus omnino hominum, cuiuscunque status, dignitatis et conditionis existat, sive regnicola, sive advena, audeat vel presumat sales alicuiusmodi, preterquam solummodo sales nostros regales in regno effossos intra regnum nostrum inducere, deferre, vendere, emere, distrahere, consumere vel aliquo modo habere sub pena inferius annotata, videlicet, quod si apud quospiam, cuiusvis status et conditionis existant, reperti fuerint huiusmodi sales in regno nostro non effossi, ille vel apud quos reperti fuerint, primo perdant et amittant ipso facto protinus ipsos sales. Si vero quispiam venundaverit, antequam apud eum reperiantur, tunc ad restitutionem pecunie irremissibiliter teneatur, quos sales vel quam pecuniam camerarius regius nomine fisci regalis indilate auferat et exigat ab eisdem.

XXI. Denique pro communi bono et totius utilitate regni providere volentes, ne aurum et argentum, quod in ipso regno effoditur, extra regnum per quempiam deferatur, nisi prius conversum fuerit in monetam, hoc etiam salubri remedio duximus statuendum, videlicet ut nemo montanus cuiquam hominum, cuiusvis status et conditionis existat, aurum vel argentum publice vel secreta vendere, nemoque omnino montanus, cuiusvis etiam status et conditionis existat, a montano seu laboratore emere audeat vel presumat, sed omne et totum aurum, argentum, quod et quantum ubique per regni nostri climata effoditur et etiam invenitur, debeat sine aliquali diminutione camere regalis monete tam auree, quam argenteae presentari vendendum camarario regio pro pretio et pretiis hactenus limitatis. Item nec ab aliqua alia persona causa mercationis seu venditionis publice vel secreta emi aut vendi liceat aurum vel argentum, etiamsi de alienis partibus ipsum aurum et argentum ad hoc regnum portaretur, sed semper quicumque venditor illud debeat camarario regie monete presidenti vendere et nulli alteri; ipseque camararius dare sibi pretium non secundum estimationem montanorum, sed prout in loco, ubi tunc fiet venditio, teneatur. Pro usu vero proprio, videlicet pro vasis aureis et argenteis, balteis et aliis ad cultum vel ornatum spectantibus laborandis unusquisque vendendi et emendi liberam habeat facultatem. Si quis autem forte contrarium facere presumpserit, et venditor aurum vel argentum et emptor pecuniam amittat protinus ipso facto, quod aurum vel argentum, quae pecunia fisco nostro regio pro medietate et pro reliqua medietate accusanti, si quis accusator extiterit, applicetur. Ob hoc etenim nolumus, quod quispiam audeat vel presumpmat acum seu lapidem illum, in quo auri vel argenti qualitas dinoscitur, habere, item neque testam seu intimam pro argenti fusione et finantia tenere, exceptis dumtaxat aurifabris; insuper nec separandi cum aqua aurum ab argento artem exercere, nisi ille vel illi, quibus huiusmodi officia duxerimus specialiter committenda.

In quorum omnium et singulorum testimonium firmitatemque perpetuam presentes litteras nostras privilegiales pendentes et autentici novi sigilli nostri duplicis munimine iussimus roborari. Datum per manus reverendissimi in Christo patris et domini domini Eberhardi, premissa dei et apostolice sedis gratia episcopi Zagrabiensis, aule nostre regie sumptuum cancellarii, dilecti nostri et fidelis, anno domini millesimo quadringentesimo quinto, decimo septimo Kalendas mensis Maii, regni autem nostri anno decimo septimo. Venerabilibus in Christo patribus et dominis Valentino tituli sancte Sabine sacrosancte Romane ecclesie presbitero cardinali et ecclesie Quinqueecclesiensis gubernatore, Johanne Strigoniensi, Colocensi sede vacante, Andrea Spalatensi et altero Andrea Ragusiensi archiepiscopis, Luca Waradiensis, Stephano Transsilvanensis, eodem domino Eberhardo Zagrabiensis, Agriensi sede vacante, Johanne Boznensis, Wesprimiensi sede vacante, Johanne Jauriensi, Nicolao Waciensis, Petro Nitriensis, fratre Dosa electo Chanadiensis ecclesiarum episcopis, ecclesias dei feliciter gubernantibus, Syrimiensi, Traguriensi, Scardonensi, Tininiensi, Nonensi, Sibinicensi, Corbawiensi et Segniensi sedibus vacantibus; necnon magnificis viris Nicolao de Gara, regni nostri Hungarie palatino, Johanne et Jacobo wayuodis nostris Transsilvanensibus, comite Frank filio condam Konye bani, iudice curie nostre, Paulo Bisseno et altero Paulo de Pech Dalmatie et Croatia predictorum ac totius Sclavonie, Johanne de Maroth Machouiensi banis, honore banatus Zewriniensis vacante, Nicolao Treutul de Newna tavarnicorum et comite de Posega, Sirnone filio dicti condam Konye bani ianitorum, Martino Ders dapiferorum, Laurentio de Tary pincernarum, Petro Cheh agazonum nostrorum magistris, Smylone de Wethaw comite Posoniensi aliisque quampluribus regni nostri comitatus tenentibus et honores.

15 APRIL, 1405

Sigismund, by the grace of God, king of Hungary, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria, margrave of Brandenburg, arch-chamberlain of the Holy Roman Empire, heir of Bohemia and Luxemburg,¹ to all Christ's faithful, present and future to whose notice these presents may come, greetings in the Savior of all.

The more the scepter-bearing eminence of royal dignity perceives that happiness of the subjects serves the growth and glory of the kingdom, while their misery causes its detriment and bad reputation, the more he desires to maintain by vigilant care their sustenance and peace. For no prince can be inglorious who constantly contemplates the peace and safety of his subjects, and none worthy who does not forestall future dangers and disasters when he can. That is why, after having called together the emissaries and delegates of cities, towns, and free villages under royal jurisdiction, from every county and district of our realm,² and having listened to and understood well all their petitions, requests, presentations, views, and complaints, we have decided, ordered, and commanded for the good and peaceful state and the manifest advantage of our entire kingdom, with the counsel of the prelates, barons, and the greater lords of our kingdom as well as of the delegates, having held mature deliberations in these matters, that certain cities be surrounded by protective walls,³ certain free villages and towns be raised to the status of cities, certain customs,

¹ The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims, but remained listed till the end of the monarchy in the twentieth century. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45. Sigismund added to it his inherited titles.

² Calling together burghers to a special meeting was not only an unprecedented, but in fact a unique event in the history of medieval Hungary. Actually, not all the important cities were represented, which is suggested by the fact that Cluj/Kolozsvár received its copy of the statutes only seven months later (Fahlbusch, p. 34, n. 106). The difference between cities, towns and free villages is not easy to define because the terms were not always used in a consistent way (see Erzsébet Ladányi, “*Libera villa, civitas, oppidum*. Terminologische Fragen in der ungarischen Städteentwicklung,” *Annales Universitatis Scientiarum Budapestinensise Rolando Eötvös nominatae: Sectio historica* 18 [1977], pp. 3–43). It may be said on the whole, however, that fortified towns were called *civitates*, and this was the usual name also for some unfortified places like mining towns or episcopal cities. Apart from these, unfortified royal towns or privileged royal markets were generally termed *liberae villae* up to the late fourteenth and early fifteenth century when these words were gradually replaced by the term *oppidum*. This became common later for all categories of such privileged places, royal or not, which were not considered to be “free cities” (*civitates*). Characteristically enough, the Hungarian equivalent of *oppidum* was *mezőváros*, literally “a field town,” implying any unwalled settlement with a privileged community (see Erik Fügedi, “Die Ausbreitung der städtischen Lebensform: Ungarns *oppida* im 14. Jahrhundert,” in Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*. ed. J. M. Bak. London: Variorum Reprints, 1986, ch. 13, pp. 165-92).

³ Increasing the number of fortified royal cities seems to have been a point of particular importance to Sigismund. By temporary exemption from taxes and other means he supported the completion of unfinished

which appear rather to be abuses, be abolished, others changed, others improved, and some newly established.

One major consideration led us to these decisions, namely that this kingdom in times past, as one can read in the chronicles of the Hungarians,⁴ had to endure deplorable destruction, sorrowful abduction of people, and in general innumerable and inestimable damages horrible to relate, from different and frequent attacks, once by the Pechenegs, once by the Mongols, or other pagans, and more recently by the Turks, only because, owing to the lack of walled cities and other fortifications, there were no fortified places in which people with their goods could have found refuge and shelter, but were instead completely exposed unprotected, easy prey to the enemy.

1 First, moved by the requests of some of our subjects, we establish the following liberties: that in all cities, towns, castles and villages, be they ours or others', and in general everywhere in the realm, weights, scales, ells, and the measures of wine, grain, and everything measurable and weighable shall be weighed and measured according to the measures of our city of Buda,⁵ with the exception of the measure of the tithes and of the tribute of the mountains commonly called hegyvám, in German, Pergrecht,⁶ as well as the income, rent, land, and revenue of priests and ecclesiastical persons which we wish to remain in their present state, quality, quantity, and value. Moreover, if anyone dares to act otherwise, he shall be punished by the loss of the thing so weighed or measured, losing the entire item subject to weight or measure even if only a part was weighed and measured incorrectly.

fortifications in royal cities. At the time of the 1405 assembly he granted extended liberties to a number of royal markets with the remarkable stipulation that they could enjoy them only after their walls were built up. On Sigismund's policies towards the cities, see Kubinyi, "Der ungarische König," *passim* and the studies cited in n 2, above.

⁴ The "chronicles of the Hungarians" obviously refers to the fourteenth-century compilation of different chronicles and *gesta* of the Árpáadian period, see now the *Chronicle of the Deeds of the Hungarians from the Fourteenth-Century Illuminated Chronicle &c.*, János M. Bak, László Veszprémy trans. and ed. (Budapest-New York: CEU Press, 2018); cf. also Baázs Kertész, "Afterlife of the fourteenth-century chronicle compositions," in *Studies to the Illuminated Chronicle*, J. M. Bak and L. Veszprémy, eds. (ibid., 2018) 181-98; and Elemér Mályusz, "La chancellerie royale et la rédaction des chroniques dans la Hongrie médiévale," *Le Moyen Age* 75 (1969): 51-86, 219-54, esp. p. 241. The invasions of the Pechenegs took place in the twelfth century, those of the "Tartars," i.e., of the Mongols in 1241/42 and 1285, while Ottoman raids had been a more or less usual phenomenon since 1390 or 1391. Despite the reasoning of the edict it is unlikely, however, that Sigismund's policies on this point were motivated by these invasions, for none of the cities to be fortified lay in the exposed region.

⁵ This ambitious attempt at the standardization of all measures, however favorable it might have been, had no practical consequences; see András Kubinyi, "Budapest története a későbbi középkorban Buda elestéig" [The History of Budapest in the Late Middle Ages Until the Fall of Buda], in László Gerevich, ed., *Budapest története* [History of Budapest], vol. 2 (Budapest: Fővárosi Tanács, 1973), p. 51, with a short summary of the Buda measures. Local measure systems, above all those of other important cities, such as Pressburg or Košice continued to prevail and were not definitely abolished before the nineteenth century.

⁶ The Hungarian word "hegyvám" is a literal translation of *tributum montis*; the literal meaning of the German "Bergrecht" is "right of the mountain."

2 We have also decided that foreign merchants should not be permitted in any city to cut cloth and sell it by the ell, or moreover, to sell less than six bolts at once at any time, not even during fairs,⁷ provided that these merchants are known to have six or more pieces of cloth. If they have fewer than six bolts, they should be allowed and permitted to sell or exchange these bolts individually. If there is an attempt to act otherwise, the pieces of cloth sold, transferred, or exchanged in contravention of this ordinance of ours, as well as the money that may have been paid for them, should be confiscated.

3 We have decreed, furthermore, that no notary public dare to intervene in any way or act as an advocate in cases between two laymen, either before an ecclesiastical or a lay judge;⁸ and no outside testimony shall be introduced into cases of burghers, nor should noblemen or clergy be able to institute inquisitions against them.⁹

4 Furthermore, each and every citizen, settler or inhabitant of any of our cities or free villages attached to one of the major cities¹⁰ is permitted to appeal any sentence passed by the

⁷ Restriction on foreign merchants (or merchants in general as opposed to cloth-cutters) selling cloth “en detail” was widespread in medieval Europe; see, e.g., “Charter of the Garment cutters of Stendal,” *Source Book for Medieval Economic History*, Roy C. Cave, and Herbert H. Coulson, eds. (Milwaukee: Bruce, 1936), pp. 246–7.

⁸ Few public notaries are known to have been working in Hungary, for their functions were fulfilled by other authorities, above all by the *loca credibilia*. Their competence in ecclesiastical matters was not questioned, but their activity among laymen was restricted to cases reserved for canonical jurisdiction, such as wills and marriage contracts, a practice which this law intended to codify. For other legal matters, members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary’s *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Idem, *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66-73

⁹ Royal cities had an unquestioned jurisdictional power over their territory, and their council functioned for the citizens as a place of authentication (*locus credibilis*); see Martyn C. Rady, *Medieval Buda: A Study of Municipal Government and Jurisdiction in the Kingdom of Hungary* (Boulder, Co.: East European Monographs, 1985), pp. 54–68. As a consequence, documents issued by other local authorities were not accepted as valid, and inquests against citizens were to be held by emissaries of the council and not, as usual, by a chapter or county magistrates. In 1435 the citizens of Zagreb refused to accept three letters of inquest not issued by urban authorities, explicitly referring to this article; whether they were successful or not is not known, for the ban sent the case to the royal court; see Ivan Kristitelj Tkalčić, *Monumenta historica liberae regiae civitatis Zagrabiae* (Zagreb: Albrecht, 1870) 2: 112-13.

¹⁰ The “list” of townsmen *cives, hospites, populi* suggests the differentiation of burghers in Hungarian cities. While *hospites* is frequently used for any townsman, the three categories may have indicated burgesses,

judges and burghers to our Master of the Treasury or to the judges of that city in accordance with the laws of which his city or free village makes use. Nor has the case to be carried further to the bench of other judges from the judgment or sentence of those to whom the appeal was made, but is to be completed and closed before them.¹¹

5 In addition: since the palatine, the county ispáns, and others holding the honor and office of baronage, who by ancient custom of our kingdom, observed both by the holy kings, our predecessors, and ourselves, judged, sentenced, punished, or proscribed at palatinal meetings and general law-courts any thief, robber, or other criminal proscribed and extradited¹² there, and also noblemen, by special royal grace granted to them, have had the full authority to judge as criminals and punish those culprits whom they had caught in misdeeds and crimes on their estates,¹³ we have thought best to establish by the present statute that henceforth, for the keeping of the peace, the more prosperous calm of the cities and villages, the safety of the roads, and the comfort of travelers as well as for the repression of the delinquency of evildoers, each and every city and free village or their judges and jurors should also have the full and complete right to condemn and duly punish those criminals who commit crimes in their territories – just as the nobles are also allowed to do

other burghers and non-privileged urban dwellers: see György Granasztói, *A középkori magyar város* [The Medieval Hungarian City], (Budapest: Gondolat, 1980), p. 107 f.

¹¹ The Master of the Treasury—originally in charge of supplies to the royal court—is first mentioned as judge of the cities in the urban privilege for Satu Mare in 1264. Until the end of the fourteenth century he acted as royal judge delegate with noble jurors. Urban assessors, first mentioned in 1383, were to gradually replace noble members of the court who are mentioned last in 1439. See Boglárka Weisz, “A tárnokmester jogköre az Anjou-korban,” [The jurisdiction of the *magister tavernicorum* in the Angevin period] In *Pénz, posztó, piac. Gazdaságtörténeti tanulmányok a magyar középkorról*, ed. Eadem, (Budapest: MTA Bölcsészettudományi Kutatóközpont Történettudományi Intézet, 2016) pp. 181–200. From the extensive literature (going back to G. M. Kovachich) see, Andrásd Kubinyi, “Der ungarische König” pp. 198–201, 204–6; Iván Bertényi, “Die städtischen Bürger and das Gericht der königlichen Anwesenheit im 14. Jahrhundert,” *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae: Sectio historica* 11 (1970): 10–14.

¹² “Extradition” probably refers to those criminals who were captured by landholders not invested with high justice. They had to be extradited to a person or body authorized to pass and execute the capital sentence.

¹³ As early as the thirteenth century, all landowners had the right and duty of administering justice to their peasants, free or unfree. Seigneurial courts (*sedes dominalis* or *forum dominale*, Hung.: *úriszék*), consisting probably of tenant jurors, were presided over by the lord or his steward. Their jurisdiction was initially limited by royal privilege: cases involving bloodshed could be terminated only before a royal judge or county magistrate, thus criminals sentenced to death or mutilation had to be delivered to them by the seigneur. Since the early fourteenth century, however, some major lords were granted royal privilege to pronounce final judgment in all cases and set up gallows on their estates as symbols of their right to high justice, and by the mid-fifteenth century this privilege, often referred to a “free comity” (Hung.: *szabadispánság*) or *ius gladii* was exercised by all substantial landowners. See: Kamill Szoika, *A földesúri bírászkodás az Árpád kori Magyarországon* [Seigneurial jurisdiction in Árpadian Hungary] (Budapest: Faculty of Law, 1944) [German summary pp. 75–8]

by special royal grace and grant – excepting when the culprits or those worthy of punishment have received in this matter pardon from the royal majesty forgiving them their deeds.

If, however, the palatine, the *ispáns* and others holding the honor of baronage, or the magistrates of the cities were not able to capture and punish such outlawed criminals but nevertheless judge them guilty and proscribe as such, in that case those who have issued the proscription should denounce these proscribed criminals to all judges and justices of our realm and also announce this proscription to all the cities in a letter containing a description of the crimes.

Judges and justices, as well as the magistrates of the cities, once they have received such a letter, should have the right and power, nay, the duty to arrest, capture, punish, and mete out punishment and torture to these criminals, according to their misdeeds if they find them in their territories and regions, excepting always if they have received pardon by the grace of the royal majesty.

Whoever of the said judges, justices, and magistrates may fail to punish such criminals when they fall into his hands should know that he will beyond doubt call upon himself the gravest disapproval of our majesty and that he shall be pitilessly punished by our majesty according to the nature of his trespass. Also let no one dare to support, protect, or in any way defend these criminals under threat of the punishment noted above.

6 We have decreed furthermore that just as in the past, so for all times in the future our royal burghers, settlers, and tenant peasants should have the liberty, generally and in eternity, to move freely, safely, and in any manner from our cities, estates, towns, free villages, and appurtenances of our castles to the estates of churches, nobles, and people of other eminent condition and take residence there; so too may the tenant peasants of churches and nobles as well as of people of other eminent condition move to our said estates and the appurtenances of our castles, and in general people of free condition from nobles' estates to lands of the church and from ecclesiastical lands to estates of nobles.

With the following moderating limitation expressed in these presents, that if a lord of any tenant peasant has not collected from his tenant, peasant any fine to which his tenant peasant was at any time condemned within a month, he should not, have the right to collect such a fine after the lapse of the said month, nor to restrict such a tenant peasant, but the said tenant peasant should settle where he prefers unharmed in the way described before.¹⁴ We do not grant the privilege of this kind of liberty to the tenant peasants beyond the River Drava, but rather decree that they remain in their old customs.¹⁵

¹⁴ This article expands on the brief regulation contained in **1397:68**, based on the council decree of 3 August 1397 (*DRH*, pp. 154–56). The full text of it came to be a point of reference for a long time, virtually into the sixteenth century. Clearly, many a landowner tried to retain his tenants, especially when land-labor ratios were favorable for the peasants. On the condition of tenant peasants under Sigismund, see Elemér Mályusz, *Kaiser Sigismund in Ungarn 1386-1437*. Transl. by A. Szmodits (Budapest: Akadémiai Kiadó, 1990), pp. 233–35.

¹⁵ The phrase is an isolated evidence for the special status of Slavonian peasants. It can be surmised from other sources that by about 1430 they already acquired the right to move freely (see Mályusz, as above).

7 We have decreed and ordered, furthermore, that no prelate, baron, lord, noble, gentleman of the realm, or any one of whatever rank, order, station, or condition or any of our subjects may dare or attempt in any way to arrest, capture, or harass any citizen, townsman, or villager or any city, town, or village where such a debtor, delinquent, criminal, or malefactor used to reside, because of debt, delict, crime, or misdeed of a person or man of whatever station or condition, but whoever has or will have any case against such a person should sue him before his justice ordinary, as has usually been done in the past according to the laws of our kingdom, so that the innocent shall in no way suffer for the guilty.¹⁶

8 We have also established and ordered, just as ancient custom of our realm demands, that if anyone of whatever station and condition, be he clergy or layman, suffers some injury, damage, or harm in the village or estate of a landowner, that such a damaged or wronged person must first turn to the lord or judge of that estate and demand justice;¹⁷ and if such a lord or judge refuses to grant him justice, he should be able to appeal to the ispán of the county; and if the ispán is slow or negligent in granting justice, he should be allowed to appeal also to our royal majesty.

Thus we now also wish that if any person, resident¹⁸ or foreigner has suffered or incurred any injury, harm, or damage by anyone of whatever station or condition in one of our cities, towns, or free villages, then such a person wronged or suffering injury or loss should pursue his claim to justice first before the judge of that city. And if the judge and jurors of that city refuse or delay granting him due justice, then the person wronged or suffering injury or loss should be allowed and should be able to carry his case to the presence of our Master of the Treasury. If, thereafter, even the Master fails to administer justice concerning the complaint, then the said person wronged or suffering injury or loss should have leave to bring his suit, bypassing the jurisdiction of the Master of the Treasury, to the presence of our majesty, and we shall render full justice to all as we are held to do in accordance with the obligations of our royal office.¹⁹ If, however, some person wronged or suffering injury or loss not following this order, presumes to avenge himself and secure satisfaction on his own behalf, then such a transgressor of our present decree shall be convicted of act of might because no one is allowed to avenge himself on his own authority without requesting proper justice.

¹⁶ This kind of action against a member of a community another member of which was indebted to a person was quite common; it was prohibited already in **1290:10**.

¹⁷ On seigneurial jurisdiction, see n. 13, above.

¹⁸ While in most legal texts the term *regnicola* (literally: inhabitant of the realm) refers to the enfranchised nobility and we translate it as “gentleman of the realm,” here and in several subsequent articles it is used in reference to merchants, thus, clearly, the literal meaning is implied.

¹⁹ According to this article the court of the Master of the Treasury was to be the appellate court for all towns (see n. 11, above), whence appeals were allowed to a second instance, the court of the *personalis praesentia*. In fact the *ius tavernicale* was the law of the seven (later eight) “free royal cities” while other towns appealed to the royal presence; see Martnus Georgius Kovachich, *Codex authenticus iuris tavernicalis* (Buda: Universitas Scient., 1803), pp. 23ff; Rady, *Buda*, pp. 127–60.

9 We have also decreed that in the future in all those cases and lawsuits in which the judges of the case used to receive a ninth and tenth from the winning party, the judges of the case should receive and collect not from the party that has won the case, but from the party that was convicted in that case,²⁰ for it is not equitable that the just should be punished for the unjust and be fined.

10 We have also decided that, henceforth, regardless of any privilege which had been granted them in the past or will be granted them in the future by us and by our successors, of which they are not allowed to avail themselves in these matters, all burghers and inhabitants of any of our cities are to be obligated without distinction to pay their portion of our royal dues and taxes. And if we or our successors happen to exempt and excuse one of our burghers, in that case we and our successors are obligated and will be bound to deduct that amount by which the exempted burghers would have contributed to the taxes from the accounts of the community and credit it to our account.

11 Furthermore, although it is well known that the burghers of Buda up to now have held and enjoyed among other rights that privilege which was granted them by our predecessors and had been confirmed by us, namely that customarily each and every merchant, including residents and foreigners, whether coming or going, must unload all wares to be sold or traded in the presence of the burghers of Buda, and to sell or exchange those unloaded wares there, and was not allowed to transport them anywhere else;²¹ nevertheless, in the common assembly held recently with all our cities, towns, and free villages, after deliberation on this subject, for the increase of the income of our country, its inhabitants, and especially of the burghers and merchants, for the improvement of their condition, and for the public good, lest because of the profit and growth of one city the whole community of our country suffers loss, damage, and injury, we found it right and so we decided that each and every one of our merchants, that is, the residents of our kingdom, may carry, transport, drive, bring back, and unload all and any kind of merchandise for sale or exchange when leaving the country or when staying here, wherever, whenever and as often as desired, across the country or anywhere outside of it, completely unobstructed and absolutely safely, and may sell, trade, transport, carry away, and handle freely the unloaded wares at their pleasure, regardless of the aforementioned liberties and privileges of the said burghers of Buda granted and permitted

²⁰ The “ninth and tenth” (*nona et decima*) (worth 10 percent each, just as with tenants’ dues) was the portion due to the judge from any monetary payment in any case brought before him. It is mentioned already in eleventh century laws, see, e.g., **Lad3: 22**, see Imre Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád and the diverse dynasties], (Budapest: Magyar Tudományos Akadémia, 1899). pp. 442–50, esp. p. 449.

²¹ The article sanctioned a royal decree issued in 1402. In the fourteenth century, staple right had been the privilege of four cities only: Buda and Győr since the thirteenth century, Levoča was granted it by Charles I in 1321 and Košice by Louis I in 1347; see Sándor Domanovszky, *A szepesi városok árumegállító joga* [The Right of Staple of the Cities of Spíš] (Budapest: Magyar Tudományos Akadémia, 1922). Owing to the central position of Buda, its staple right was of primary importance. Sigismund granted this right to five other cities in January 1402 as a reward for their “faithfulness in the time of our necessity,” i.e., during his captivity in 1401, but he withdrew this grant in October of the same year. At the same time he restricted, however, the force of existing staple rights to foreign merchants and exempted all Hungarian citizens from it; see Mályusz, *Kaiser Sigismund*, p. 37.

them concerning the unloading of wares, which we explicitly repeal regarding the said matter, excepting foreign merchants who are held and obligated to observe the old custom concerning this matter.²²

12 Moreover, whenever burghers of those cities which we have recently founded and provided with the privileges of other cities do not want to agree to the judgments or decisions of their judges and jurors, they can appeal to that city by the laws of which they live or to our Master of the Treasury. However, if they appeal to the Master of the Treasury, they are not allowed in any way to return to their judges and jurors or to appeal to any other authority, except to make an appeal to our personal presence, should this become necessary.²³

13 In addition we have decreed the rule that the burghers and settlers of our royal cities within the territory and boundaries of our kingdom will be obliged to grant and deliver those gifts and donations, called New Year's presents, which they owe our majesty in that form and way as we have recently agreed to with them and as it is distinctly expressed together with other privileges of theirs in the charters we gave our cities, towns, and free villages.²⁴ Moreover, they must give six florins and not more to the Master of our Doorkeepers at the fixed time annually, which they must pay together with the presents due to us. If and when their majesties the king and the queen happen to visit any of the cities, towns, and free villages of our kingdom, the burghers and settlers of that place which they visit must deliver and serve food sufficient for a midday meal and for an evening meal if they are to take the meals there or a luncheon or a supper in the case that they happen to take only one meal there.²⁵ To the Master of our Horse, those cities or rather each craftsman of the mentioned city which we or her majesty the queen might pass through, except those which by right of ancient practice are not obligated to render these duties, is bound to give and deliver one product of his craft, namely, every furrier a fur coat, every saddler a bridle-bit, and so forth, but only once a year whenever we should pass through those cities. To our other office-holders or those of the queen, namely the masters of the cupbearers and the butlers, the stewards, doorkeepers, cooks, and others, or to anyone else, they do not have to give and pay anything.

²² Sigismund confirmed or repeated the exemption from tolls for several cities in the subsequent years explicitly referring to this article (see *DRH*, p. 200, n. 1).

²³ See above note 10; here, however, the typical medieval custom of first appeal to the “mother-town,” i.e., the city of whose laws were granted to the new foundation (or newly privileged city) is emphasized. Hungarian cities were frequently granted the laws of Székesfehérvár (in the earlier period), of Buda or Korpona (later); see Erik Fügedi, “Középkori magyar városprivilegiumok” [Medieval Hungarian urban privileges], *Tanulmányok Budapest múltjából* 14 (1961): 17–108, repr. in his *Kolduló barátok, polgárok, nemesek* [Mendicant friars, burghers, nobles] (Budapest: Magvető, 1981), pp. 238–334; cf. Rady, *Buda*, pp. 141–59.

²⁴ *Munera* (“gifts”) were regular payments in kind, due to the landowners usually on three major feasts of the year. The New Year’s gift (*donum* or *munus*) rendered by the royal cities to the king may have been, too, of seigneurial origin. It is attested in the fourteenth and fifteenth centuries and was paid most often in clothes (see Fügedi, *Kolduló barátok*, p. 263).

²⁵ These arrangements seem to be late successors of the early medieval *descensus*, originally a *droit de gîte*, which otherwise came to be a monetary tax before it vanished.

14 Observing the customs and practices of old, we also order that no prelate or clergy should judge or pass final sentence in suits among inhabitants of our country opened or started or to be opened or started in any way and anywhere, insofar as these pertain to secular courts; and vice versa, barons, county ispáns, and other nobles of our country, as well as burghers and settlers, should not and ought not treat and judge cases, lawsuits, and questions which belong to ecclesiastical courts. And if disagreement or argument arises between the clergy on the one hand and the aforesaid secular judges on the other concerning which court has jurisdiction in a certain case, then the parties are obliged to transfer that contested case or those contested cases to the court of our special personal presence, wherever we, by God's guidance, happen to be staying at that time, and we will decide with the prelates and barons²⁶ by judgment which of the parties has the right to hold the court and to which court the said cases belong.

15 Furthermore, since exporting gold, silver, copper, and other ores from the country had been prohibited as of old,²⁷ we order and decree among the other decisions now issued for cities, towns, and free villages that in every city, town, and free village the judges and burghers are to elect two burghers suitable for this task as jurors whose duty will be to be present at the packing and wrapping up of crates of goods, vessels, and other packaged goods, and to examine them, and no merchant, dealer, or trader may dare to pack and wrap up his crates of goods and other bales without the presence of the jurors delegated to oversee the packing; and these packs and loads must be marked and certified by the seals of those two burghers.²⁸ Anyone who may act contrariwise will lose all the bales and goods which were not searched and sealed in the aforesaid manner, and these all will go to our royal treasury. And when the packs and other kinds of loads wrapped and sealed in this way have been carried and delivered to our customs post, in the case that our customs collectors or their officials do not accept the seals, but wish to open these bales, if these bales and loads were transported on large carts, commonly known as *mázsa*²⁹, then, after

²⁶The passage is technically unclear in its present form. The “presence,” i.e., the court of any judge was called “special” if he administered justice not through his deputy, as usual, but in his own person. The king did it occasionally at any place within his realm where “by God’s guidance” he happened to stay (on the opposition to this form of jurisdiction and summons, see **1397:62**). His “special presence” can be meant here only in this sense, because in the fourteenth-fifteenth century this form of royal jurisdiction was technically called “personal presence.” The term “royal special presence” was at that time reserved for a high court which had been set up in the capital in about 1376 and functioned permanently under the presidency of the arch-chancellor until 1428. Actually, a copy of this decree, the one for Kremnica, has the correct *personalem in presentiam*, see Johannes Nicolaus Kovachich, *Lectiones variantes decretorum comitialium inclyti regni Hungariae* (Pest: Trattner, 1816) p. 62. As to the gist of the matter, the expansion of royal jurisdiction vis-à-vis courts spiritual was an important concern of Sigismund and does not, properly speaking, belong to the purview of this *decretum*.

²⁷The export of unminted gold and silver was prohibited long before, e.g. in **1342: 12**.

²⁸This arrangement presupposes the existence and use of private seals among burghers, for which there is evidence from several towns of Hungary; see, e.g., E. Tompos, “Soproniak középkori pecsétei” [Medieval seals of Sopron burghers], *Soproni Szemle* 28 (1973): 289–306.

²⁹*Mázsa* was a cart of large capacity, used in long-distance trade from the thirteenth to the early sixteenth century; see Sándor Domanovszky, *Gazdaság és társadalom a középkorban*, [Economy and society in the

depositing on the pole of the cart one golden mark or sixty-four florins, or money of the same value,³⁰ or if the cart is medium or moderate-sized or a small one, then half a mark or florins or money of the same value, the officials are allowed to open and to search the packs and bales. If they find in these packs and bales neither gold nor silver or any other prohibited merchandise, the customs collector will lose the deposited mark or money, which goes to the owner of the goods or to the merchant. But if they find or detect gold or silver or any other prohibited merchandise on the cart, not only that merchandise which is under prohibition, but all the other goods and chattels on that cart along with the said mark or money must be confiscated and kept by the customs collectors or their officials.

16 We have decided and after due deliberation have decreed that no merchant or any other inhabitant of our kingdom of whatever station, rank, and condition may dare in any way to accept, receive, or keep, retain, sell, exchange, or dispose of wares or any kind of goods for sale or exchange owned by strangers or foreign merchants pretending that they were his own goods and wares, as had been cunningly done in the past, or to establish, create, set up, organize, and make partnership with foreigners in order that under the cover of this sort of partnership he may freely do these things in contravention of our said decree.³¹ We order that those who act or even attempt to act contrariwise shall each and every time pitilessly lose forthwith in favor of our royal treasury the goods and items sold or to be sold, exchanged or to be exchanged, which they have brought into our kingdom in contempt of this decree by clever collusion and shall also receive a penalty regarding their persons to be decreed at our pleasure.

17 Furthermore, having been guided by definite just and reasonable principles for the common good and the survival of the whole kingdom in favor of which our predecessors, the kings of Hungary, have taken care to decree many laws and introduce many customs, we have recently decided, together with the prelates, barons, and distinguished lords of our kingdom, that every

Middle Ages] (Budapest: Gondolat, 1979), pp. 101–35. The Hungarian word now means metric “hundredweight.”

³⁰ The gold Mark is used here as a money of account. Sixty-four florins were an enormous sum, amounting to about two year’s pay of a mercenary soldier. By the “money” (*moneta*) the current pennies are meant whose value fluctuated. A “new penny” (*nova moneta*) was first issued by Sigismund in 1392 and was to be worth three old pennies which also remained in circulation. 100 new pennies (or 300 old ones) were in fact exchanged for one gold florin at least until 1403, when the government began a new financial policy leading also to the debasement of the new pennies. In 1405, 132–3 “new” and 396–400 “small” pennies equaled one florin; see Márton Gyöngyössi, “Minting and Financial Administration in Late Medieval Hungary (1387–1526)” in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden- Boston: Brill, 2018) pp. 295–308.

³¹ Partnerships between merchants in Hungary and abroad were usually initiated in form of credits for merchandize or were arranged so that a member of a foreign trading family took out burgesses’ right in a Hungarian city; see Emma Lederer, *Középkori pénzüzletek Magyarországon* [Medieval Financial Transactions in Hungary] (Budapest: Kovács, 1936), pp. 89–109, who also noted that Sigismund’s prohibition had little effect on such joint ventures. About those in general, see Kriszrina Arany, “Foreign Business Interests in Hungary in the Middle Ages” in József Laszlovszky *et al.* eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 491–508.

merchant, trader, and any other person of whatever station or condition who takes and exports goods and wares or things for sale beyond the borders of our kingdom will have to pay and render the thirtieth thereof,³² just as he has to do for the things imported into the kingdom. We have ordered and by royal generosity we have allowed for the extenuation and compensation of our recently decreed and aforementioned order, that those merchants and traders and others mentioned above may cross the borders of the kingdom in person with their horses, carts, and all kinds of goods and items any of the royal tolls or tribute posts³³ without paying tolls, freely and unobstructed, as many times as they wish to. We order all our present and future toll collectors that they dare not under penalty of our most serious displeasure, by contravening the abovementioned privilege, obstruct these persons under any circumstances by demanding or collecting from them any tribute.

18 Moreover, because the kings of all countries by the right of certain paramount privileges have the power to cause gold or silver money to be minted, it seems to be a very dishonest and accursed thing that coined money should not properly circulate and be used in the whole territory of its issuer, and it is even more accursed when it is chipped, shaved, or defaced in any way. Therefore, wishing to forestall by suitable means these enormities, after having consulted in this matter with the prelates, barons, and lords as well as with the burghers of royal cities who appeared in person, we have decided and ordered the following, for the profit and growth of our kingdom and the maintenance of the splendor of justice, that no one of any station and condition may dare or attempt to decline or to refuse in any way our gold or silver money, provided that it is legitimate and true, nor to chip the coins, separate the lighter ones from the heavier ones, or deface them through any art or cunning. Whoever would dare attempt to do anything against this order must be punished in the following way: he or those who are unwilling to accept our money will as a penalty lose the money that is owed them or those goods for which they have to pay, so that the money or goods should go to the judge and jurors of that place, and the debtor towards his creditor or the buyer towards the seller will be free and quit, as if he had paid the said money; and those who dare chip or shave or deface the royal money, will be punished as if counterfeiters and criminals, not only in their goods but also in their persons, according to long-established custom of our kingdom. Judges and jurors who hesitate to keep the aforesaid rules if these offenders fall in their hands, and let them go unpunished, will be charged for the loss of money and goods with the same amount of money or the value of the goods in favor of the royal treasury, and for the release of the forgers

³² The thirtieth (in Transylvania twentieth) was a customs' duty for export and import that developed from different commercial levies, see Sándor Domanovszky, "A harminczadvám eredete" [Origins of the Thirtieth], repr. now in his *Gazdaság és társadalom*, pp. 49–99. See also: Zsigmond Pál Pach, *A harmincadvám eredete* [The origin of the thirtieth customs] (Budapest: Akadémiai Kiadó, 1990), Idem "A harmincadvám az Anjou-korban és a 14–15. század fordulóján," [The thirtieth-toll in the Angevin Period and at the turn of the 14th and 15th centuries] *Történelmi Szemle* 41 (1999), 231–277. Sigismund's "recent" decree to which the text refers, has not survived.

³³ *Tributum* or *teloneum* was a comprehensive term for any toll except the thirtieth. By royal grants, most tolls belonged to churches and lay lords, but a minority remained in the king's hands.

will suffer such personal or financial punishment as our majesty will find proper to inflict and to impose.³⁴

19 In order to keep the true value of our money and prevent anyone from damaging or defacing it, we have also decreed that in each of our cities there should be a royal money-changer who alone will be empowered to change and exchange money, namely, to exchange gold florins for minted coins and minted coins for gold florins, and we prohibit each and every one of our inhabitants as well as foreigners of any station or condition to be able and empowered to change and exchange money and gold florins for minted coins; otherwise, they will be punished by the loss of the money exchanged or to be exchanged which must be handed over to the royal money-changer in favor of our royal treasury.³⁵

20 Finally, since our predecessors, the kings of Hungary, ordered by proper decision that, within the borders of our kingdom, no other salts besides the ones mined in the kingdom shall be used and circulated³⁶ and this ordinance has been also seen very just and proper by our majesty, for it is surely foolish to borrow things which one can get from one's own, therefore we similarly have decreed an order, but only after consulting with our prelates, barons, and lords, and after mature deliberation, that no one of any station and condition, be he inhabitant or newcomer, may dare or attempt to bring into our kingdom to transport, carry, sell, buy, distribute, consume, or obtain in any way salts other than our royal salts, mined in the kingdom under pain of the following punishment: if such salts not mined in our kingdom are found on anyone of any station or condition, then first he or those on whom these are found shall lose these salts immediately and suffer the consequences; and if someone before being caught has already sold the salt, he shall

³⁴ After earlier attempts (e.g. **1298:15**) this is the first systematic codification of royal monopoly on minting and the punishment of counterfeiters.

³⁵ On the royal money-changer, see, **1342: 12**.

³⁶ Since the earliest times, both the mining and selling of salt had been royal prerogatives. Old salt mines were to be found in Transylvania (Dés/Dej, Szék/Sic, Kolozs/Cojocna, Torda/Turda, Vízakna/ Ocna Sibiului) and new ones were opened up in Co. Máramaros in the fourteenth and early fifteenth centuries. All of them were administered by the count of the royal salt chamber (*comes camerarum salium regalium*) who was also in charge of the salt trade. Cut into cubes, the salt was transported by his officers to special store houses (also called *camerae*) throughout the kingdom. Most of the salt was to be sold at fixed price but it often occurred that debts to the king's account were acquitted by paying in salt cubes. Income from the salt monopoly was estimated to amount to 100,000 florins per year in Sigismund's age and thus it became by that time the most substantial item in the king's annual revenues. See András Kubinyi, "Königliches Salzmonopol and die Städte des Königreichs Ungarn im Mittelalter," in Wilhelm Rausch, ed., *Stadt and Salz* (Linz: Wimmer, 1988), pp. 227; János M. Bak, "Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter" in R. Schneider, ed. *Das spätmittelalterliche Königtum im europäischen Vergleich*. (Sigmaringen: Thorbecke, 1987), pp. 347-87, here pp. 359–60, 381 and now István Draskóczy, Salt Mining and the Salt Trade in Medieval Hungary from the mid-Thirteenth Century until the End of the Middle Ages, in: *The Economy of Medieval Hungary*, József Laszlovszky et al. eds. (Leiden-Boston: Brill, 2018) pp. 205-18.

have to return the money, and the salts and money are to be taken away and collected immediately by the royal chamberlain in the name of the royal treasury.

21 And then, since we wish to provide for the public good and for the profit of the entire realm and to prevent anyone from taking out of the kingdom gold or silver mined in the kingdom without first exchanging it for money, we consider it a good preventative measure to decree that none of the miners may dare or attempt to sell gold or silver openly or secretly to persons of any station and condition nor by any means may a miner of any station and condition, dare to buy gold or silver from another miner or mine worker; but all the gold and silver, as much as is found and mined anywhere within the territory of our kingdom, has to be delivered up without any lessening to the royal chamber of the gold and silver coins, to be sold to the royal chamberlain at the previously determined prices.³⁷ Likewise, gold or silver may not be bought or sold openly or secretly from or to any other person for the purpose of selling and buying, not even gold and silver brought into this kingdom from abroad, but if someone wants to sell gold or silver, he must give it to the royal chamberlain presiding over the mint and to no one else, and the same chamberlain must set the price not according to the estimation of the miners but according to the current market price. However, for personal use, such as making golden or silver vessels, strapping for sabers, or other articles of luxury or religious use, everyone is allowed to sell or buy freely. If someone dares act contrariwise, both the seller of gold or silver and the buyer will lose his money without further ado so that one half of the gold or silver and of the money concerned will go to our royal treasury and the other half to the accuser if there is one. For the very same reason, we prohibit that anyone except a goldsmith may keep in his possession an *acus*, or that stone by which the quality of gold or silver can be assayed, or utensils or instruments suitable for casting or alloying silver;³⁸ in addition, no one shall practice the craft of separating gold from silver by water unless entrusted by us with this task.

In witness of all this, in parts and in general and for its everlasting validity we have ordered that our present charter be confirmed with our new double authentic seal pendant. Given by the hand

³⁷Cf. **1351: 13**. Up to the early fourteenth century, all mines were in royal hands. If mineral deposits were found on private estates, the king had the prerogative to acquire it by exchange of property. In order to make private landowners interested in opening up new deposits, Charles I allowed them in 1327 (see *DRH* p. 80) to keep their property and to retain also one-third of the royal dues, the *urbura*. The latter was a due on mined metals, 1/10 of gold and 1/8 of other metals. It is believed that the expansion of precious metal mining in fourteenth-century Hungary was to a great extent due to this new arrangement; see Bálint Hóman, “La circolazione delle monete d’oro in Ungheria dal X al XIV secolo e la crisi europea dell’oro nel secolo XIV,” *Rivista Italiana di Numismatica* 35 (1922): 109–56, here pp. 135 ff.; now also Tóth, “Minting, Financial Administration” (as n. 11, above); see also **1342: 11**.

³⁸The phrase that follows explains this term; an *acus* is a touchstone: basanite, a type of jasper or black siliceous mineral, see Robert James Forbes, *Studies in Ancient Technology* 8, 2nd ed. (Leiden: Brill, 1971), pp. 175–76. What is unusual is the use of *acus*, a word normally designating needles, combs and other sharp instruments. The common Latin term (early and late) for a touchstone is *coticula* (see esp. Pliny *HN* 33.43.126). But *acus* as a synonym for *coticula* also appears in a Latin dictionary dedicated to Charlemagne (Paul the Deacon, *Epitome of Festus de significatu verborum*, p. 23, ed. Lindsay) and this usage may go back to the late first century B.C.

of the most reverend father in Christ, lord Eberhard, by the grace of God and the apostolic see bishop of Zagreb, arch-chancellor of our court,³⁹ our beloved faithful servant, in the year of the Lord one thousand, four hundred and five, the seventeenth day before the Kalends of May, in the seventeenth year of our reign, during the time, when the following reverend fathers in Christ and lords bishops governed felicitously the churches of God: Valentinus, cardinal priest of the holy Roman church with the title of St. Sabina, governor of the church of Pécs,⁴⁰ archbishops John of Esztergom,⁴¹ the see of Kalocsa being vacant, Andrew of Split⁴² and the other Andrew of Dubrovnik⁴³, bishops Lucas of Oradea,⁴⁴ Stephen of Transylvania,⁴⁵ the same Eberhard of Zagreb, the see of Eger being vacant, John of Bosnia,⁴⁶ the see of Veszprem being vacant, John of Győr,⁴⁷ Nicholas of Vác,⁴⁸ Peter of Nitra,⁴⁹ brother Dózsa bishop-elect of Cenad⁵⁰ and the sees of Srem, Scardona, Knin, Nona, Šibenik, Krbava, and Senj being vacant; and when the honorable lords Nicholas of Gara, palatine of our kingdom of Hungary,⁵¹ John⁵² and James our voivodes of Transylvania⁵³, count Frank, son of the late ban Kónya, judge royal,⁵⁴ Paul of Bessenye⁵⁵ and the other Paul, of Pecs,⁵⁶ bans of the said Dalmatia and Croatia as well as of all of Slavonia, John of

³⁹ Eberhard (d. 1419), bishop of Zagreb 1397-1406, 1409-19¹, of Oradea 1406-09, chancellor 1404-19..

⁴⁰ Valentine (of Alsán, d. 1408), vice-chancellor of the king 1373-76, bishop of Pécs 1374-1408, chancellor of the queen 1384-86, cardinal 1384.

⁴¹ John (of Kanizsa, d. 1418), bishop of Eger 1384-87, archbishop of Esztergom 1387-1418, chancellor 1387-1403.

⁴² Andrew (Andrea Benzi de Gualdo), archbishop. of Split 1390-1412, of Kalocsa 1413-19.

⁴³ Andrew, archbishop of Dubrovnik 1389 to 1432.

⁴⁴ Lucas of Órév, bishop of Oradea 1397-1406.

⁴⁵ Stephen (of Upor, d. 1419), provost of Titel and secret chancellor 1397, bishop of Transylvania 1401-19.

⁴⁶ John (of Liszkó, d. 1408), bishop of Bosnia 1387-1408. ⁴⁷

John (of Hédervár, d. 1415), bishop of Győr 1386-1415. ⁴⁸

Nicholas, bishop of Vác 1402-5.

⁴⁹ Peter (the Pole), bishop of Nitra 1399-1405

⁵⁰ Dózsa of Marcal, bishop of Oradea 1403-23.

⁵¹ Gara, Nicholas junior of (son of Nicholas senior, d. 1433), magnate, ban of Mačva 1387-90, 1393-94, of Dalmatia and Croatia 1394-1402, of Slavonia 1397-1402, count palatine 1402-33.

⁵² Tamási, John of (d. 1416), master of the horse 1402-03, voivode of Transylvania 1403-09, Master of the Doorkeepers 1409-16.

⁵³ Szántó, James Lack of (fl. 1370-1428), voivode of Transylvania 1403-09, Master of the Queen's Doorkeepers 1413-16.

⁵⁴ Szécsény, Frank (Francis) of (d. 1408), voivode of Transylvania 1393-95, judge royal 1397-1408.

⁵⁵ Besenyő, Paul (of Özdöge alias of Torna), fl.1400-32), ban of Dalmatia, Croatia and Slavonia 1402-6.

⁵⁶ Pécs, Paul of (d. 1409), ban of Dalmatia, Croatia and Slavonia 1404-6.

Marót, ban of Mačva ⁵⁷the banate of Severin being vacant; Nicholas Treutel of Nevna, Master of our Treasury and ispán of Pozsega,⁵⁸ Simon, son of the said late ban Kónya, Master of the Doorkeepers,⁵⁹ Martin Ders, Master of the Table,⁶⁰ Lawrence of Tar, Master of the Cupbearers,⁶¹ Peter Cseh, Master of the Horse, ⁶²Smile of Wettau ispán of Pozsony,⁶³ and many others held comital and other offices of our realm.⁶⁴

⁵⁷ Marót, John senior of (d. 1435), ban of *Mačva* 1397-1409, 1427-28.

⁵⁸ Treutel, Nicholas (of Nevna, d. 1420/21), ban of *Mačva* 1394-97, master of the treasury 1402-8.

⁵⁹ Szécsény, Simon of (brother of Frank, d. 1412), judge royal 1395, Master of the Doorkeepers 1402-9.

⁶⁰ Szerdahely, Martin Ders of (fl. 1385-1415), vice-ban of Slavonia, vice count palatine 1397-1402, master of the stewards 1404-6.

⁶¹ Tar, Lawrence of (fl. 1389-1426), lord butler 1405-06, the Queen's lord butler and master of the stewards 1406-14.

⁶² Léva, Peter Cseh of (alias of Nevna, d. 1440), magnate, master of the horse 1404-15, ban of *Mačva* 1427-31, voivode of Transylvania 1436-37.

⁶³ Wettau, Smilo of, Moravian lord in King Sigismund's service, *ispán* of Pozsony 1402-05.

⁶⁴ The list of spiritual and secular lords was appended to privilegial charters ever since the late thirteenth century. They are not meant as witnesses, merely indicating the time of the issue by reference to the persons in office.

LAW OF KING SIGISMUND OF HUNGARY OF 31 AUGUST, 1405

This formal *decretum*, written in full privilegial form, seems to have been issued in a regular diet, a few months after the “urban decree,” which was passed in a special meeting with urban delegates. Its date, which is crucial in defining its aim and place in Sigismund’s legislation, was long debated. Several sixteenth-century codices (see *DRH*, p. 218, n. 1) have different dates, from 12 March to 5 August 1405, while the cartulary of the convent of the Order of St. John (University Library, Budapest, Coll. Hevenessiana Ab 71, II: 183-87) has 31 August 1404. However the exemplar closest to the date of issue, the authentic transcript by the collegiate chapter of Székesfehérvár (see below, MS) of 23 April 1406 gives the most reliable date, and this was accepted by the editors of Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, Budapest: Akadémiai, 1978 [=*DRH*] and us.

In the light of this, the decree is clearly an attempt at formalizing some of the more general measures of 15 April 1405, adding a number of regulations relevant to the nobility and altogether attempting to produce a law of lasting purport (see below, n. 1).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MS.: Parchment with a pinkish-green silk thread passed through four holes for the affixing of the now lost seal; from the archives of the Knights of St. John, MNL OL DI. 106238.

EDD.: Stephanus Katona, *Historia critica regum Hungariae*. 42 vols. (Pest: Weigand, 1779–1817. 11:625–7; Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66) 10/4: 308–10, 564–65; Martinus Georgius Kovachich, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum* (Buda: Regia Universitas, 1790), p. 209; *Magyar Törvénytár: Corpus Juris Hungici*, Dezső Márkus *et al.* eds., Budapest: Franklin, 1896 1:230–41 (“III Decree of Sigismund”); *DRH*, pp. 218–25. (Cf. *Zsigmondkori Oklevéltár* [Calendar for the age of Sigismund]. Elemér Mályusz, *et al.* eds. Budapest: Akadémiai K., 1954– [=ZsO] 2, no. 3902.)

LIT.: Erzsébet Ladányi, “Zsigmond 1405. évi törvényeinek keletkezési körülményeihez” [On the origins of Sigismund’s laws of 1405 A. D.] in *Mályusz Elemér Emlékkönyv* [Festschrift E. M.], Éva H. Balázs, Erik Fügedi, Ferenc Maksay, eds. (Budapest: Akadémiai K., 1984), pp. 269–76.

31 AUGUSTI 1405

Sigismundus Dei gratia Hungarie, Dalmatie, Croatie, Rame, Servie, Lodomerie, Comanie Bulgarieque rex, marchio Brandenburgensis, sacri Romani imperii archicamararius, necnon Bohemie et Lucenburgensis heres. Omnibus Christi fidelibus presentibus pariter et futuris presentium notitiam habituris salutem in eo, qui dat principibus feliciter gubernare et virtuose triumphare. inter ceteras animi nostri sollicitudines una est nobis cura precipua, ut quotiens gravioribus sumus ab agendis expediti ad ea etiam, que commissorum imperio nostro subditorum utilitatem commoditatemque concernunt, pia dispositione operam impendamus. Est enim subditorum tranquillitas gloria regnantis et ubi aliquid a principe modeste sancte ac prudenter pro communi utilitate decernitur, eius profectu diligentie sollicitudo magnopere collaudatur. Proinde -in archano nostri pectoris perspicaci consideratione pensantes multa incommoda multaque dampna ex diversis consuetudinibus et sepe contrariis in regno nostro vigentibus nostris regnicolis evenire, celebrato prelatorum, baronum procerumque nostrorum conventu, de ipsorum consilio, auctoritate et consensu maturaque discussione prehabita, pro totius regni bono, utilitate profectu et augmento has leges, sive constitutiones ex auctoritate regia duximus salubriter statuendas, quas ab omnibus et singulis regnicolis nostris, tam ecclesiasticis, quam secularibus nemine excluso volumus et precipimus plene, integre et inviolabiliter observari.

I. Primitus et primarie una cum eisdem prelati, baronibus potioribusque regni nostri proceribus sancientes et stabilientes statuimus et, statutum fecimus hoc modo et ordine isto: quod prelati, barones, nobiles et alterius status condicionis et dignitatis homines in regno nostro ad instar exercituantium procedentes aut aliquibus ipsorum negotiis seu causis versus nostram maiestatem, aut cum ea, vel alias ubicunque et in quibuscunque partibus regni nostri progredientes, fidelibus regnicolis nostris quibuscunque dampna, spolia, iniurias, lesiones, aut aliqua malorum genera contra deum et eius iustitiam absque iuris tramite facere et inferre nullatenus presumant. Et si quipiam contra huiusmodi nostra statuta quicquam genus maleficii perpetraverit exindeque nostre maiestati, aut alii iudici ordinario per quempiam querimonia porrecta extiterit et conquerens in huius modi suam querimoniam evidenti documento comprobare valuerit, extunc dictorum factorum potentiariorum perpetratores in facto potentie eo facto vincantur. Lesis autem et dampnum passis nos, aut idem iudex ordinarius indilate, summarie et, de plano ac sine strepitu cit figura iudicii exhibebimus et, exhibere teneatur satisfactionem.

II. Porro nullus omnino hominum cuiuscunque preeminentie dignitatis et condicionis existant in nostris regalibus, reginalibus, seu ecclesiarum, vel nobilium possessionibus pignora, seu vadia pro quibuscunque factis aliquorum regnicolarum, seu plebicularum nostrorum, scilicet at aliorum quorumcumque eorum auctoritate mediante auferre, aut recipi facere valeant neque possint. Horum contrarium facientes in facto potentie vincantur.

III. Preterea nullus omnino iudicum et iustitiariorum, aut alii quipiam procerum regni nostri mutilationes, seu dimembrationes quibusvis plebicolis et regnicolis nostris facere presumat neque valeat, nisi hii solummodo, quibus per nos potestas nostra regia rite fuerit attributa. Contrarium facientes penam premissi facti potentie incursum eo facto.

IV. .Decrevimus etiam, quod prelati, palatinus regni nostri, iudex curie nostre, magister tawarnicorum nostrorum et alii barones, nec non comites parochiales et generaliter quivis iudices

et iustitiarum regni nostri ecclesiastici et seculares proceres et nobiles, castellani et civitatenses per climata regni nostri spolia, derobationes rerum et bonorum ablationes, sanguinis effusiones et alia actuum potentiariarum genera nostris fidelibus regnicolis, cuiusvis status et condicionis existant, facere, inferre et committere nuilatenus audeant.

V. Sanximus nihilominus, ut castellani et officiales nostri regales in nostris regiis propriis possessionibus, districtibus et tenentibus iudicesque et iurati cives nostri regales in eorum medio, item prelati, barones, nobiles et alterius dignitatis homines possessiones habentes in eorum propriis possessionibus res et bona fidelium incolarum, seu plebicularum nostrorum, quovis quesito colore, aut causa arestare vel prohiberi facere non sint, ausi modo aliquali, nisi in possessionibus aliorum, vel loco communi, prout regni nostri consuetudo id requirit. Et volumus hos omnes tales, qui in contrarium huiusmodi nostri decreti contraire, quod non credimus, presumpserint, facto potentie subiicere.

VI. Statuimus preterea, ut universe annone, nec non vina, blada, panni et aliorum bonorum, seu victualium genera et alie res venales, cuiuscunque speciei vel maneriei existant, illis et eisdem iustis, equis et veris cubulis, ponderibus, mensuris et ulnis in universis nostris, scilicet et aliorum quorumlibet regnicularum nostrorum civitatibus, oppidis et villis mensurari, vendi, seu venditioni exponi, nec non emi, aut commutari et solvi ac administrari debeant, qui et que in civitate nostra Budensi ab antiquo inventi sunt et stabilita habentur de presenti. Contrarium facientes penam ablationum huiusmodi suarum rerum venalium patiantur ipso facto.

VII. Computationem autem, seu numerationem florenorum in regno nostro currentium hoc modo duximus limitandum, quod omnibus numeris dictorum florenorum minoribus in nonnullis regni nostri partibus, uti agnovimus, abusive adinventis, prorsus abolitis in quorumlibet rerum et bonorum emptionibus et venditionibus alter numerus ipsorum florenorum non dicatur, nec computetur, nisi florenus aureus veri, boni et iusti ponderis, vel alter florenus per centum novos denarios computatus. Huiusmodi nostri statuti transgressores honorum et rerum ipsorum venalium et emptionalium ablationes patiantur indilate.

VIII. Interea quidem non improvide, sed deliberata mente presenti nostro decreto serius duximus stabiliendum, quod nullus omnino hominum incolarum scilicet aut extraneorum, mercatorum aut commutatorum sales extraneos, seu regnorum alienorum in regnum nostrum venundationis, aut alia quadam de causa importare, aut eis uti, vel in quibusvis partibus regni nostri cum eis procedere quovis modo audeat vel presumat. Nam ubicunque et in quorumcunque possessionibus ipsi sales extranei venditi, vel vendendi, emptive aut emendi per quospiam reperiri poterunt, volumus, ut dominus terre aut possessionum illarum, in quibus dicti sales, ut premititur, reperti fuerint, ab eorum venditoribus emptoribusve et commutatoribus auferre teneatur, vel si forsitan favore, aut pretio allectus, seu circumventus dictos sales auferre renueret, extunc similiter volumus, ut huiusmodi possessiones nobilium, in quibus, uti premisimus, memorati sales reperientur, per comites nostros, tam provinciales, quam parochiales pro nostra utique occupari debeant maiestate:

IX. Insuper edicimus statuendo cunctis fidelibus regnicolis nostris, ut amodo imposterum et per amplius ac in antea nullus eorum et nullo penitus dempto quospiam infideles nostros, aut proscriptos, vel alia quavis labe, seu nota crimineque, aut contagio scrupuli offuscatos et denigratos palam, vel occulte, publice seu manifeste, directe, vel indirecte apud se retinere,

conservare, aut ipsis favorem auxilium et hospitalitatem prebere, vel largiri presumat quovis temporum •in eventu. Quoniam contrarium facientes illa et eadem pena, qua huiusmodi nostri infideies proscripti, aut alia nota denigrati forent cruciandi, feriri debeant et puniri incompassibiliter ipso facto.

X. Stabilimus denique, ut si aliqui ex nostris regnicolis, cuiuscunque status et, dignitatis existant, quicquam iuris seu questionis contra et adversus villanos seu rusticos prelatorum, baronum, nobilium, aut alterius status hominum habent vel habuerint, id primitus et primarie in presentia ipsorum dominorum terrestrium legitime prosequi debeant. Et si domini ipsorum villanorum seu rusticorum iustitiam facere denegarent, aut in reddenda eadem essent remissi, extunc huiusmodi domini terrestres pretextu abnegate ipsius iustitie in presentiam comitis provincialis, vel vicecomitis eiusdem, aut iudicum nobilium illius comitatus, in quo ipsa iustitia esset abnegata, legitime evocentur. Qui quidem comes parochialis, vicecomes et iudices nobilium sub privationis honorum ipsorum et nostre indignationis penis iudicium et iustitiam ac omnis iuris complementum ex parte ipsorum indilate absque strepitu et figura iudicii surmarie et de pla.no, favore etiam odio et amore quibusvis relegatis debebunt et tenebuntur exhibere.

XI. Sicque decrevimus, ut quicumque regnicolarum nostrorum, similiter cuiuscunque dignitatis vel ordinis existerent, adversus cives nostros regales quicquam actionis habent, vel habuerint, id ipsi in presentia iudicum et iuratorum civium nostrorum regalium, ubi et in quo loco ipsi cives nostri inculparentur, aut officialium seu iudicum, quibus regia maiestas gubernationem, officiolatum, seu iudicatum nostrarum regalium civitatum duxisset committendum, rite et legitime prosequantur, qui ex parte ipsorum iudicium et iustitiam exhibere teneantur. Et si ipsi iudices et iurati cives nostri regales, aut alii officiales seu iudices nostri prenotati inibi deputati, in faciendis quibuspiam iudicio et iustitia extiterint remissi, extunc huiusmodi nostri iudices et iurati cives, vel alii officiales seu iudices ad exhibendam ipsam iustitiam per magistrum tavarnicorum nostrorum auctoritate nostra regia. astringantur et compellantur. In casu vero, quo ipsis querulantes de, iudicio ipsorum iudicum et iuratorum civium contentari noluerint, tunc in huiusmodi eorum agendis ad presentiam magistri tavarnicorum nostrorum secundum antiquam consuetudinem possint appellare, ipsi in eorum iudicium et iustitie complementum exhibere et ipsum suum iudicium per annotatos iudices et iuratos cives nostros efficaciter tenebitur facere observari. Et si memorati querulantes tam de ipsorum iudicis et iuratorum civium quam dicti magistri tavarnicorum nostrorum iudicio contenti non fuerint, tunc huiusmodi causas ipsorum coram nostra maiestate more alias consueto prosequi valebunt, quibus nos iudicium et iustitiam faciemus, prout expostulat ordo iuris.

XII. = Apr. 1405: .

XIII. Specifice nichilominus digna premeditatione annuentes statuimus, ut universi regnicole persone, ecclesiastice videlicet et seculares, cuiuscunque dignitatis et preeminentie existant, qui in facibus possessionum ipsorum mineras auri vel argenti, aut alterius cuiuscunque metalli ad nos et ad camaram nostram regiam de iure et consuetudine pertinentes amodo in antea invenire et reperire possent, non obstante, si regiam gratiam in eo non haberent, ut maiestas regia huiusmodi possessiones ipsorum mineras supradictas habentes in concambium aliorum iurium regalium ab ipsis auferre non valeret, possessiones easdem ah ipsis absque eorum spontanea et libera voluntate de plenitudine nostre regie potestatis et presenti nostra gratia speciali per nos ipsis regaliter

attributa non auferemus nec ipsas ab eisdem alienabimus contra formam presentis nostre gratie supradicte. Sed tamen volumus, ut rectam et equalem medietatem urburarum mineris de eisdem provenire solitarum iidem viri ecclesiastici et nobiles nostro fisco regio assignent et aministrari faciant, aliam vero medietatem eorundem ex presenti nostro indulto pro se ipsis valeant reservare. Nec iidem viri ecclesiastici, nobiles ac laboratores minerarum predictarum aliquod aurum et argentum ex ipsis mineris provenientia extra regnum nostrum deferre, aut aliis quibusvis hominum personis venditioni exponere debeant. Sed huiusmodi aurum et argentum, sicut de aliis mineris et montanis nostris ad camaram nostram vendere est consuetum, ad vendendum in camaram nostre maiestatis teneantur apportare et exponere huiusmodi venditioni. In casu vero, quo iidem nobiles, vel viri ecclesiastici nec non laboratores predicti huiusmodi auro et argento cyphos, coclearia, aut alia clenodia, sive argenteria, neve aurea pro usu ipsorum reservando preparari facere, aut ipsum aurum et argentum in specie erga se ipsos pro usu et commodo suis retinere maluerint, in h[is eisd]em plene libertatis concessimus et harum serie concedimus facultatem. Horum autem contrarium facientes et huiusmodi nostri decreti transgressores huiusmodi gratia nostra regia per nos ipsis quoad presens circa conservationem, gubernationem, adeptionem et limitationem iam dictorum metallorum, minerarum urbararum modo, quo supra regaliter indulta et attributa destituantur illico et priventur ipso facto.

XIV.=15 . 1405: V1,

XV. Preterea quicumque, vel quorumcunque iobagionum dominus collectam, seu dationem aliquam super suum imposuerit iobagionem termino unius mensis ad hoc sibi assignato dationem eandem expirato ipso termino unius mensis infra quindecim dies super eundem recipere protelasset, extunc ipse dationem huiusmodi sic protelatam super eundem iobagionem suum ipsis quindecim diebus expiratis, extorquere et iobagionem eundem retinere non queat, neque possit. Sed idem iobagio superius limpide nominatus, quo voluerit quitus et pacificus libere moraturus discedat.

XVI. Ceterum si alicuius terre dominus suum iobagionem, aut aliquem de villa ante tempus licentie receptionis eiusdem in facto aliquo non inculepaverit et calumpniatus non extiterit, extunc ipse iobagionem talem post tempus receptionis ipsius sue licentie calumpnia quavis relegata liberum a se abire permittendo, in nullo queat dampnificare, aut disturbare presentis scripti et decreti nostri patrocinio mediante.

Et ut huiusmodi sanxionis nostre decretum salvum semper habeatur et solidum, volumus et presentibus firmissimo edicto precipimus et mandamus universis et singulis comitibus vel vicecomitibus et iudicibus nobilium illorum comitatum, in quibus in eventu temporis pretitulata disceptatio fuerit fortasse exorta, ut ipsi nostros regios et earumdem ecclesiarum nec non baronum, nobilium et alterius status ac preeminentie homines castellanos, officiales, iudices et villicos ipsarumque ecclesiarum rectores nec non nobiles et alterius regni nostri status homines ac officiales eorundem ad premissi nostri decreti regalis observationem cum eorum dampnis et gravaminibus compellant semper et coerceant, teneant ac astringant mera nostra regia auctoritate per nos eis attributa mediante. In cuius rei memoriam firmitatemque perpetuam presentes concessimus litteras nostras privilegiales pendentis et autentici novi nostri sigilli dupplicis munimine roboratas. Datum per manus reverendi in Christo patris domini Eberhardi dei et

apostolice sedis gratia episcopi - Zagrabiensis, aule nostre regie supremi cancellarii, fidelis nostri dilecti anno domini millesimo quadringentesimo quinto secundo Kalendas Septembris, regni autem nostri anno decimo septimo. Venerabilibus in Christo patribus et dominis Valentino tituli sancte Sabine sacrosancte Romane ecclesie presbytero cardinali et ecclesie Quinqueecclesiensis gubernatore, Iohanne Strigoniensi, Collocensi sede vacante, Andrea Spalatensi, et. altero Andrea Ragusyensi archiepiscopis, Luca Varadiensis, Stephano Transsilvanensis, eodem domino Eberhardo Zagrabiensis, Agriensi sede vacante, Iohanne Boznensis, Wesprimiensi sede vacante, Iohanne Iauriensis, Thoma electo Segniensis, Wacyensi sede vacante, fratribus Hykone Nitriensis et Dosa Chanadiensis electis ecclesiarum episcopis, ecclesias Dei feliciter gubernantibus, Syrmieni, Macarensi, Traguriensi, Scardonensi, Iadriensi, Tynyniensi, Nonensi, Sibiricensi, Maccharensi, Farensi et Corbaviensi sedibus vacantibus, nec non magnificis viris Nicolao de Gara, dicti regni nostri Hungarie palatino, Iohanne filio Henrici et Iacobo Lachk waywodis nostris Transsilvarum, comite Frank filio condam Konye bani, iudice curie nostre, Paulo Bisseno et, altero Paulo de Peech Dalmatie et Croatie predictorum ac totius regni nostri Sclavonie, Iohanne de Maroth Machoviensi banis, honore banatus Zewriniensis vacante, Nicolao Trewtel de Neuna tavarnicorum et comite de Posega, magistratu ianitorum nostrorum vacante, Martino Ders dapiferorum, Laurentio de Taar pincernarum, Petro Cheh agazonum nostrorum magistris, Silstrang comite Psoniensi aliisque quam pluribus regni nostri comitatus tenentibus et honores.

31 AUGUST 1405

Sigismund, by the grace of God king of Hungary, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania and Bulgaria, margrave of Brandenburg, arch-chamberlain of the Holy Roman Empire, and heir of Bohemia and Luxemburg¹ to all of Christ's faithful, present as well as future, to whose notice these presents may come, greetings in Him, who grants the princes felicitous reign and triumphant victory. Among the various cares of our soul one specific concern is that, whenever we are free of more grave duties, we should also labor with dutiful regard for the profit and comfort of those committed to our governance. For the peace of his subjects is the ruler's glory, and when the prince arranges something for the common good by moderate, devoted, and wise action, success is the highest praise for his solicitous diligence. Therefore, contemplating with acute awareness in the depth of our heart that much harm and many disadvantages are caused to our gentlemen of the realm by the different and frequently conflicting customs prevailing in our kingdom, having held an assembly with our prelates, barons, and lords, with their counsel, authority, and consent, after mature deliberation, we have decided to issue by royal authority for the good, profit, advancement, and growth of the whole realm the following salubrious laws or constitutions which we wish and order to be observed wholly, totally, and unchanged² by each and every one of our gentlemen of the realm, clerical as well as secular, no one excepted.

1 To begin with and first, we have ordered and issued, by deciding and establishing together with the same prelates, barons, and major lords of our kingdom, the following statutes in this manner and order: that when prelates, barons, nobles, and other men in our kingdom of whatever station, dignity, and condition set out for a military campaign, or travel to or with our majesty on any of their business or lawsuit, or otherwise, anywhere and in any part of our kingdom, they should not act contrary to the path of right and inflict on any of our loyal gentlemen subjects harm, damages, injuries, wounds, or any other kinds of crimes against God and His justice.³ And if

¹The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45. Sigismund added to it his inherited and acquired titles.

²The attempt at replacing “diverse customs” by a *decretum* on major matters suggests a conscious interest in issuing systematic and long-term legislation for the realm. On this tendency in early fifteenth-century Europe, including Hungary, see Armin Wolf, “Die Gesetzgebung der entstehenden Territorialstaaten,” in Helmut Coing, ed., *Handbuch der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte* (München: Beck, 1973), 1: 554–5. A similar attempt at overriding an old custom and establishing uniform usages was made in the “urban decree” concerning measures and weights, see **15 April 1405/I: 1**.

³Members of the royal council and the household, travelling on royal affairs, seem to have required quarter and food without payment by force based on the ancient right of *descensus* (apparently sometimes exacted by violence, see **1279:[9]**). The article was meant to stop this abuse. On a more practical level, it was probably directed against the usual acts of violence committed by people joining the royal army, and thus

anyone commits any kind of crime in defiance of this statute, and someone complains in this matter to us or to one of the justices ordinary, and such a plaintiff is able to prove his complaint with manifest evidence, then the perpetrators of the stated acts of might should be for that reason convicted of an act of might. And we or these justices ordinary will without delay grant and are obligated to grant complete satisfaction to the injured and wronged party summarily and publicly, without further litigation and legal process.⁴

2 Further, absolutely no one, whatever high rank or condition he may have, should have the right and liberty to exact or to take a pledge or a security on his own authority for any deed⁵ from any of our gentleman subjects or common folk or other subject of ours⁶ on the estates of the king, the queen, the churches, or the nobles. Those acting contrariwise must be convicted of an act of might.

3 Moreover, absolutely no judge, justice, or any other lord of our kingdom may dare or presume to maim or dismember any of our gentleman subjects or common folk excepting those to whom this privilege has been legally granted by us.⁷ Those acting contrariwise will incur for that reason the penalty for act of might.

anticipated the overall measures taken in the decree of **1427A**. It may be worthwhile to note that the somewhat awkward phrase *abs iuris tramite*... is an obvious borrowing from such late Antique or early Christian authors as Tertullian or Ammianus Marcellinus.

⁴The formula is borrowed from the “summary procedure” of canon law. The language of this passage is borrowed from a decretal letter of Clement V of c. 1306/7, *Saepe contingit quad*, incorporated in that pope’s supplement to the canonical collections, the *Clementines* V. 11. 2 (Emilius Friedberg, *Corpus Iuris Canonici* 2 [Graz: Akademische Verlagsanstalt, 1959], col. 1200), which reads: *de plano ac sine strepitu et figura iudicii*. For the background of the decretal *Saepe*, see Stefan Kuttner, “The Date of the Constitution “Saepe”, the Vatican Manuscripts, and the Roman Edition of the Clemenines,” now in his *Medieval Councils, Decretals and Collections of Canon Law* (London: Variorum Reprints, 1980), ch. 13, pp. 427–

52. At the moment we lack any full-scale discussion of the impact of *Saepe* on the development of summary procedure in either the canonical or secular traditions. See now: Kenneth Pennington in his *The Prince and the Law, 1200–1600: Sovereignty and Rights in the Western Legal Tradition* (Univ. of California Press, 1993), ch. 5. The Editors express their gratitude to Professor Pennington for his guidance and helpful advice.

⁵ Instead of initiating a lawsuit, it seems to have been an old custom to take a “security” (*vadium*) arbitrarily, in goods or chattels, for a minor offense, real or presumed. It was obviously thought to be an advance or a substitute for expected fine (cf. n. 15 to 1320).

⁶ The word *regnicolae* is used variously in the preamble and articles of this decree. Sometimes it implies a wider or different stratum than its usual meaning: “gentlemen of the realm,” that is, the enfranchised nobility. We have, therefore, translated the term in this decree, depending on the specific context as “gentlemen subjects” or “gentlemen of the realm.”

⁷ As early as the thirteenth century, all landowners had the right and duty of administering justice to their peasants, free or unfree. Seigneurial courts (*sedes dominalis* or *forum dominale*, Hung.: *úriszék*), consisting probably of tenant jurors, were presided over by the lord or his steward. Their jurisdiction was initially limited by royal privilege: cases involving bloodshed could be terminated only before a royal judge or county magistrate, thus criminals sentenced to death or mutilation had to be delivered to them by the seigneur. Since the early fourteenth century, however, some major lords were granted royal privilege to pronounce final judgment in all cases and set up gallows on their estates as symbols of their right to high

4 We have also decreed that the prelates, the count palatine of our kingdom, our judge royal, our Master of the Treasury, and other barons, as well as *ispáns* of the counties, and in general all judges and justices of our kingdom, both clerical and secular, lords and nobles, castellans and burghers, should not dare to inflict or to commit at all any damage, theft of goods, robbery of chattels, shedding of blood, or any other kind of act of might in any part of the realm against any of our loyal gentlemen of whatever station or rank they might be.⁸

5 We decree as well that our castellans and royal officials in our royal estates, districts, and holdings, as well as our royal urban judges and jurors in their jurisdictions, and likewise the prelates, barons, nobles, and propertied men of other rank in their own estates, must not presume to distrain or garnish the goods and chattels of our loyal tenants and other common folk, under any pretended reason or cause, on their own estates but only on the estates of others or at public places,⁹ as the custom of our realm demands. And we wish that all who are of the sort who would dare to act in defiance (that we do not believe) of this our decree be subject to the charge of an act of might.

6 We have decreed further that all sorts of grain, wine, cereal, cloth, other goods and victuals, or wares for sale of whatever kind and type must be measured, sold, offered for sale, bought or exchanged, paid for, and handled in all of our cities, towns, and villages as well in those of the gentlemen of the realm with the same true, just, and correct bushels, weights, rods, and ells which have been established of old in our city of Buda¹⁰ and are confirmed herewith. Those acting contrariwise should suffer for their action the penalty of confiscation of their merchandise.

justice, and by the mid-fifteenth century this privilege, often referred to a “free comity” (Hung.: *szabadispánság*) or *ius gladii* was exercised by all substantial landowners. See: Kamill Szoika, *A földesúri bíraskodás az Árpád kori Magyarországon* [Seigneurial jurisdiction in Árpadian Hungary] (Budapest: Faculty of Law, 1944) [German summary pp. 75–8]

⁸ This article was seen as a general confirmation of older measures against acts of might (e.g., **1397: 53**), and frequently cited by the king and other judicial organs in the subsequent years, see *DRH*, p. 220, n. 1. Act of might (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one. Until the enactment of detailed regulations in **8 March 1435/I: 3, 4**, and **6** the courts acted on the basis of this article against perpetrators of “new acts of might.”

⁹ By “public place” (*locus communis*) probably a place is meant where fairs used to be held.

¹⁰ The attempt at establishing uniform measures was typical for medieval legislation all across Europe, with limited success until modernity. Cf. **15 April 1405/I: 1**. We have here translated *cubulus*, a Hungarian measure for grains and wine, mentioned here with the other general terms for measures, for simplicity’s sake as “bushel,” without wanting to imply that it was identical with the measure of that name used in pre-modern England (where it, actually, did not have a uniform size either).

7 We intend to regulate the counting or calculating of the florins current in our kingdom in the following manner: that by entirely abolishing the counting of the said florins for lesser value, which, we have heard, has become an abuse in several regions of our kingdom, (we order that) when buying and selling of any goods or wares the florin must not be assessed or counted in any other way but as one gold florin of true, good, and just weight, or as the other florin, which is counted for 100 new pennies.¹¹ Trespassers against this ordinance of ours will suffer immediately the confiscation of their goods to be bought or sold.

8 Moreover, we deem it to be established by the present decree, not heedlessly but by considered forethought, that absolutely no one, resident or foreigner, merchant or trader, should dare to import for sale or for any other reason or use or to transport in any part of the realm foreign salt, that is, salt of another country. If anyone finds such foreign salt anywhere, on anyone's estates, sold or for sale, bought or about to be bought, the lord of that land or estate on which the said salt, as mentioned above, is found, is obligated to take it away from its seller, buyer, or trader; and if perhaps, as a favor or having been bribed or deceived, he fails to confiscate the said salt, we order that the estates of such a noble on the estates of whom, as mentioned above, the said salt was found, be seized for our majesty everywhere by our *ispáns*, of counties as well as of districts.¹²

9 Furthermore, we decree by ordering all of our loyal gentlemen of the realm that henceforth and in the future, just as before, none of them, without exception, should dare any time to keep with him, protect, grant, or bestow aid and hospitality overtly or covertly, publicly or secretly, directly or indirectly, any traitor against us, or any proscribed criminal or other men tainted or soiled by the taint of infamy, crime, or suspicion.¹³ Those acting contrariwise will be for their action punished and penalized without pity with that selfsame penalty which such proscribed traitors and others blemished by crime would have to suffer.

10 Further, we declare that if any of our gentlemen subjects, of whatever station or dignity he may be, has or will have a case or a lawsuit against villagers or peasants of the prelates, barons,

¹¹ This article successfully suppressed the anarchy of local systems of account prevalent in the fourteenth century, see Pál Engel, “A 14. századi magyar pénztörténet néhány kérdése” [Some questions of fourteenth-century Hungarian monetary history], *Századok* 124 (1990) pp. 25–93. After 1405, payments were to be—and came to be, indeed—defined either in effective florins or in “florins percent” (a money of account comprising one-hundred current pennies). See now also Csaba Tóth, Minting, Financial Administration and Coin Circulation in Hungary in the Árpadian and Angevin Periods, in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 279–94; and Márton Gyöngyössi, Minting and Financial Administration in Late Medieval Hungary (1387–1526), *Ibid.*, pp. 295–308.

¹² See **15 April 1405/I: 11**.

¹³ According to ancient custom, a ban was proclaimed by the community against all the “thieves and malefactors” (*fures et latrones*), i.e., all public criminals of a province convicted of a felony, such as robbery, arson, rape or counterfeiting money. In the fourteenth century, the procedure took the form of general assemblies held by the count palatine (or by a royal commissioner) for a county where a list of the proscribed criminals was drawn up and solemnly proclaimed. The *proscriptus*, that is, the person outlawed in this way, could not receive pardon but was to be captured by anyone and handed over to the authorities for execution. Those protecting the proscribed, called *hospites furum*, fell under the same punishment.

nobles, or men of any other estate, he ought first and foremost to prosecute them before the court of their lords.¹⁴ And if the lords of these villagers or peasants should refuse to administer justice or are lax in doing so, then that lord for having failed to do justice should be legally summoned to the court of the *ispán*, or *alispán*, or noble magistrates of that county where justice was refused. These *ispáns*, *alispáns*, and noble magistrates of the county are in turn obligated under the penalty of losing their office and our pleasure to pass summary sentence, justice, and all matters related to judgment in regard to these plaintiffs, immediately and publicly, without any further legal procedure,¹⁵ and without favor or hatred or preference towards anyone.

11 We have likewise decided that if any of our gentlemen subjects, similarly of whatever dignity or station, has or will have a legal case against our royal burghers, then he should sue them legally and properly before our royal burgher judges and jurors, where and in which place these burghers of ours are accused, or before those officials or judges to whom the royal majesty deemed right to entrust the governance and jurisdiction of our royal cities, who, in turn, are obligated to render justice and judgment in their regard. And if those royal burgher judges, and jurors of ours or the said officials and judges in charge of the place are remiss in rendering justice and judgment, then these burgher judges and jurors, or royal officials and judges, should be forced and compelled to administer justice through the Master of the Treasury by our royal authority. In cases where the plaintiffs are unwilling to acquiesce in the judgment of these burgher judges and jurors, that in such cases they are free, according to ancient custom, to appeal to the court of the Master of our Treasury, who is obligated to pass judgment and to do justice in their case and to assure that that judgment be properly observed by the said burgher justices and jurors of ours. And if the aforesaid plaintiffs are not content with the judgment of either their burgher judges or citizen jurors or of our said Master of the Treasury, then they should have leave to bring such a case before our majesty in the usual way, and we shall do justice as the order of law demands.¹⁶

12 = **15 April 1405: 14.**

13 We specifically decree, moreover, after suitable deliberation, that if any gentleman of the realm, clerical or lay person of whatever dignity or eminence, who anywhere on his estate may in the future find and discover ores of gold or silver, or of any other metal, belonging by right and custom to us and our royal chamber, we shall not take away those estates from them, according to the present special grace royally given them by the fullness of our royal power, and not remove these from them against this aforementioned grant of ours without their free and spontaneous agreement, regardless of the lack of such a royal grant which would imply that the royal majesty has no right to take away by exchange for other royal rights these estates containing the aforesaid minerals, We order, rather, that these ecclesiastics and nobles transfer and render to our royal fisc the true and equal half of the mining dues (*urbura*) that usually accrue from these mines.¹⁷ And

¹⁴ Cf. **1351: 18** (repeated in **1397: 40**).

¹⁵ Cf. above n. 7.

¹⁶ The article summarizes and specifies the articles **15 April 1405/I: 4, 8, and 9**.

¹⁷ Cf. **1351: 13**. Up to the early fourteenth century, all mines were in royal hands. If mineral deposits were found on

these ecclesiastics, nobles, and the miners of the said mines are not permitted to export from the realm or to offer for sale to any person any of the gold and silver from these mines. But they ought to offer for sale and present to the chamber of our majesty such gold and silver, just as such minerals are customarily sold from our mines to our chamber.¹⁸ If, however, these nobles, ecclesiastics, or the said miners prefer to have cups, spoons, other jewels, or silverware made for their own use from such gold and silver, or to keep the same gold and silver for their own use and comfort, we herewith grant them leave and liberty to do so. From those, in turn, who act contrariwise and transgress this decree of ours, this royal grant given and permitted to them regally, regarding the keeping, administering, acquiring, and handling of the aforesaid metals and mining revenues (*urbura*), as described above, should be right away revoked for such an action.

14 = **15 April 1405: 6.**¹⁹

15 Furthermore; any lord of any tenant peasant who has imposed any fines or dues on his tenant peasant with the term of one month assigned to this for him and has delayed collecting his dues from them within fifteen days after the elapse of the said term of one month cannot nor will be able in any way to exact the due delayed in this way from his tenant peasant after the expiration of fifteen days. But the said tenant peasant, in the way clearly noted above, may depart, as he wishes, freely in peace.

16 Furthermore, if the lord of any land has not accused or charged his tenant peasant or any villager with any trespass before the time of granting his leave, then after the time of receiving leave, he must permit such a tenant peasant to leave by abandoning any charges and in no way harm or impede him under the protection of the present charter and decree.

And so that the decree of our sanction should always be held safe and strong, we wish and we command, enjoining by the firmest possible royal edict and order, each and every ispán, alispán, and noble magistrate in those counties, in which at any future time disagreement may arise on the above, that they always compel, force, coerce, and obligate our royal castellans, officials, judges, and reeves, as well as those of churches, nobles, and men of other status or rank, and also the

private estates, the king had the prerogative to acquire it by exchange of property. In order to make private landowners interested in opening up new deposits, Charles I allowed them in 1327 (see *DRH* p. 80) to keep their property and to retain also one-third of the royal dues, the *urbura*. The latter was a due on mined metals, 1/10 of gold and 1/8 of other metals. It is believed that the expansion of precious metal mining in fourteenth-century Hungary was to a great extent due to this new arrangement; see Bálint Hóman, "La circolazione delle monete d'oro in Ungheria dal X al XIV secolo e la crisi europea dell'oro nel secolo XIV," *Rivista Italiana di Numismatica* 35 (1922): 109–56, here pp. 135 ff.; now also Tóth, "Minting, Financial Administration" (as n. 11, above))

¹⁸ Cf. **15 April 1405/I: 15.**

¹⁹ Art. 14 is the verbatim repetition of **15 April 1405/I: 6** without the clause concerning the tenants beyond the Drava River. The two following articles repeat a charter of Sigismund of 3 August 1397 (see *DRH*, p. 155) concerning the free movement of the peasant tenants. These passages were frequently referred to in royal charters of the subsequent years (see the references in *DRH*, p. 224, n. XIV/1). An almost identical text was also issued as a royal mandate to the collegiate chapter of Pressburg, 20 January 1407, and as an order in council of 26 July 1409 (see *ibid.*, pp. 226–29.)

rectors of those churches, nobles, and men or officials of our kingdom of any other status to observe our preceding royal decree under fines and penalties issued against them, by the means of our royal authority granted them by the present writing.²⁰

In the remembrance and perpetual force of this matter we have granted our charter of privilege validated by affixing our new authentic double seal pendant. Given by the hand of the most reverend father in Christ, lord Eberhard, by the grace of God and the apostolic see bishop of Zagreb, arch-chancellor of our court,²¹ our beloved faithful servant, in the year of the Lord one thousand, four hundred and five, two days before the Kalends of September, in the seventeenth year of our reign, during the time, when the following reverend fathers in Christ and lords bishops governed felicitously the churches of God: Valentinus, cardinal priest of the holy Roman church with the title of St. Sabina, governor of the church of Pécs,²² archbishops John of Esztergom,²³ the see of Kalocsa being vacant, Andrew of Split²⁴ and the other Andrew of Dubrovnik²⁵, bishops Lucas of Oradea,²⁶ Stephen of Transylvania,²⁷ the same Eberhard of Zagreb, the see of Eger being vacant, John of Bosnia,²⁸ the see of Veszprém being vacant, John of Győr,²⁹ Thomas bishop-elect of Senj,³⁰ the see of Vác being vacant, Peter of Nitra,³¹ brother Hinkó³² and Dózsa bishop-elect of Cenad³³ and the sees of Srem, Skradin, Zadar, Knin, Nin, Šibenik, Makarska, Hvar and Krabava being vacant; and when the honorable lords Nicholas of Gara, palatine of our kingdom of

²⁰ This measure, like many others in Sigismund's reign, was intended to enhance the competence of the county magistrates as possible supporters of the royal power, see Elér Mályusz, *Kaiser Sigismund in Ungarn 1386-1437*. Trans. A. Szmodits. (Budapest: Akadémiai., 1990), pp. 183–6.

²¹ Eberhard (d. 1419), bishop of Zagreb 1397–1406, 1409–19¹, of Oradea 1406–09, chancellor 1404–19.

²² Valentine (of Alsán, d. 1408), vice-chancellor of the king 1373–76, bishop of Pécs 1374–1408, chancellor of the queen 1384–86, cardinal 1384.

²³ John (of Kanizsa, d. 1418), bishop of Eger 1384–87, archbishop of Esztergom 1387–1418, chancellor 1387–1403.

²⁴ Andrew (Andrea Benzi de Gualdo), archbishop of Split 1390–1412, of Kalocsa 1413–19.

²⁵ Andrew, archbishop of Dubrovnik 1389 to 1432.

²⁶ Lucas of Órév, bishop of Oradea 1397–1407.

²⁷ Stephen (of Upor, d. 1419), provost of Titel and secret chancellor 1397, bishop of Transylvania 1401–19.

²⁸ John (of Liszkó, d. 1408), bishop of Bosnia 1387–1408. ²⁹

John (of Hédervár, d. 1415), bishop of Győr 1386–1415. ³⁰

Thomas (II), friar, bishop of Senj 1405–30.

³¹ Peter (the Pole), bishop of Nitra 1399–1405.

³² Benedict Hinko (friar, d. 1428), bishop of Nitra 1405–28.

³³ Dózsa of Marcall, bishop of Cenad 1403–23.

Hungary,³⁴ John son of Henry³⁵ and James Lack our voivodes of Transylvania³⁶, count Frank, son of the late ban Kónya, judge royal,³⁷ Paul of Bessenye³⁸ and the other Paul, of Pecs,³⁹ bans of the said Dalmatia and Croatia as well as of all of Slavonia, John of Marót, ban of Mačva⁴⁰ the banate of Severin being vacant; Nicholas Treutel of Nevna, Master of our Treasury and *ispán* of Pozsega,⁴¹ the Master of the Doorkeepers being vacant, Martin Ders, Master of the Table,⁴² Lawrence of Tar, Master of the Cupbearers,⁴³ Peter Cseh, Master of the Horse,⁴⁴ Silstrang *ispán* of Pozsony,⁴⁵ and many others held comital and other offices of our realm.⁴⁶

³⁴ Gara, Nicholas iunior of (d. 1433, son of Nicholas senior), magnate, ban of Mačva 1387–90, 1393–94, of Dalmatia and Croatia 1394–1402, of Slavonia 1397–1402, count palatine 1402–33

³⁵ Tamási, John of (d. 1416), master of the horse 14023, voivode of Transylvania 1403–9, Master of the Doorkeepers 1409–16.

³⁶ Szántó, James Lack of (fl. 1370–1428), voivode of Transylvania 1403–9, Master of the Queen's Doorkeepers 1413–6.

³⁷ Szécsény, Frank (Francis) of (d. 1408), voivode of Transylvania 1393–5, judge royal 1397–1408.

³⁸ Besenyő, Paul (of Özdöge alias of Torna), fl.1400–32), ban of Dalmatia, Croatia and Slavonia 1402–6.

³⁹ Pécs, Paul of (d. 1409), ban of Dalmatia, Croatia and Slavonia 1404–6.

⁴⁰ Marót, John senior of (d. 1435), ban of *Mačva* 1397–1409, 1427–8.

⁴¹ Treutel, Nicholas (of Nevna, d. 1420/21), ban of Mačva 1394–7, master of the treasury 1402–8.

⁴² Szerdahely, Martin Ders of (fl. 1385–1415), vice-ban of Slavonia, vice count palatine 1397–1402, master of the stewards 1404–6.

⁴³ Tar, Lawrence of (fl. 1389–1426), lord butler 1405–6, the Queen's lord butler and master of the stewards 1406–14.

⁴⁴ Léva, Peter Cseh of (alias of Nevna, d. 1440), magnate, master of the horse 1404–15, ban of Mačva 1427–31, voivode of Transylvania 1436–37.

⁴⁵ Silstrang, Erich or Erhard (fl. 1405/17), Bohemian lord in Sigismund's service, *ispán* of Pozsony 1405–9, of Komárom 1409, of Győr 1413–7.

⁴⁶ The list of spiritual and secular lords was appended to privilegial charters ever since the late thirteenth century. They are not meant as witnesses, merely indicating the time of the issue by reference to the persons in office.

**LAW OF KING SIGISMUND OF HUNGARY
1411 (BEFORE 18 MARCH)**

This decree did not survive in the original form, only in several essentially identical mandates the earliest of which is dated 18 March 1411. This fact warrants a dating of this decree as “before 18 March.” Several sixteenth-century collections contain it as a decree and the text itself refers to it as a *decretum generale*. Considering that the mode of collecting the chamber’s profit and the tithe was relevant for the entire country, we accepted the decision of the editors of Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301– 1457*, Budapest: Akademiai, 1978 [= *DRH*] to include it in the series of laws.

MSS.: [contemporary copy] Letters patent inserted in a transcript of 30 May 1412 issued by the Premonstratensian convent of Jászó, sealed *en placard*, in Státni archiv Levoča, Archives of the chapter of Spíšska Kapituló, scr. 10, fast. 2, no. 26. For other copies, see *DRH 1301– 1457*, p. 232.

EDD.: *Magyar Törvénytár: Corpu Juris Hungici*, Dezső Márkus *et al.* eds., Budapest: Franklin, 1896 1:214–45 (from a 4 November 1411 copy); *DRH*, pp. 232–4 (from a 5 April 1411 copy).

LIT.: Martinus Georgius Kovachich, *Vestigia comitorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. Buda: Regia Universitas, 1790, p. 217; Lajos Thallóczy, *A kamara haszna (Lucrum camerae) története...* [History of the chamber's profit (*lucrum camerae*) in the context of taxation in Hungary]. (Budapest: Weiszmann, 1879), p. 68; Márton Gyöngyössi, “Coinage and Financial Administration in Late Medieval Hungary (1387–1526)” in József Laszlovszky *et al.* *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 295–308.

1411, ANTE 18 MARTII

Sigismundus dei gratia Romanorum rex semper augustus ac Hungarie etc. rex fidelibus nostris universis dictatoribus et exactoribus tam lucri camere nostre regalis, quam decimarum archiepiscopalium vel episcopalium in quibuscunque comitatibus dicti regni nostri Hungarie constitutis vel quocunque temporum in eventu constituendis, presentes inspecturis salutem et gratiam. Cum nos pridem unacum prelati et baronibus nostris ad instantiam et querimoniam nonnullorum regnicolarum nostrorum contra et adversum vos nostre maiestati porrectam super dicatione et exactione dictorum lucri camere nostre, necnon decimarum huiusmodi decretum perpetuo duraturum per vosque firmiter observandum duxerimus institutendum:

I. Quod dicatores seu exactores dicti lucri camere nostre tempore importationis et solutionis pecuniarum per eos dicatarum ab unoquoque vilico ipsas importante seu solvente nil plus, neque pintam vini vel valorem eiusdem, nec quidquam aliud quodcunque preterquam duos denarios pro tempore currentes pro redemptione dicarum, prout id solitum extitit tempore illustrissimi principis condam domini Lodouici similiter regis Hungarie, patris et soceri nostri charissimi, recipere possint atque valeant.

II. Item decrevimus, ut iidem dicatores in huiusmodi dicatione ipsorum unam portam integram, per quam currus intrare et exire potest, si etiam curia in eadem plures habitarent domestici, quam unus, in triginta denariis novis, et unam valvam seu parvam portam vulgo werecke dictam non magis, nisi in quindecim novis denariis seu pro media porta, ubi vero aliquem jobagionem seu incolam se a solutione dicti lucri camere nostre fraudulose precavere satagentem ab anteriori parte curie sue parvam portam seu hostium, retro vero magnam portam habere conspexerint, huiusmodi curiam similiter in una porta dicare teneantur.

III. Item statuimus, ut prefati dicatores antedicti lucri camere nostre regalis tempore dicationis huiusmodi villicos et operarios, necnon tales familiares, qui de curia dominorum suorum victibus et arnicibus sustentantur, et hoc domini ipsorum ad suam humanitatem dumtaxat, villici autem vel officiales eorundem dominis absentibus fide mediante dicere presumpserint, quod ita sit, dicare non presumant.

IV. Item sanximus, ut elapso termino solutionis prescripti lucri camere nostre regalis illud, quod in eo remaneret insolutum, idem comes lucri camere nostre, vel sui officiales sed exactores propria eorum auctoritate exigere et extorquere, aut pro eo pignus recipere nequaquam presumant, nisi auxilio comitis vel vicecomitis et iudicum nobilium huiusmodi comitatum, in quibus lucrum camere nostre exigitur prenotatum.

V. Item, disponimus etiam, ut dicatores decimarum capetias seu acervos frugum secundum proprias eorum considerationes et estimationes dicare non presumant, sed domesticus ille, cuius fruges dicantur, super hoc iuramento solito, tacto crucis dominice signo prestito fateri teneatur, quot et quantas illo anno capetias habuisset, et super hoc predicti dicatores contentari tenentur. De dica vero decimationum nullus denarius exigatur.

VI. Volumus nihilominus, quod decimator decimas non solutas vigore seu subsidio comitis vel

vicecomitis parochialis exigere et extorquere non possit, nisi per censuram ecclesiasticam, canonica tamen ammonitione precedente. In casu vero, ipsi dicatores et exactores tam prescripti lucri camere nostre, quam etiam decimarum iam dictarum contra premissum nostrum decretum in aliquo ultra modum iam limitatum facere vel procedere attemptarent, extunc idem comes parochialis ac iudices nobilium cum nobilibus illius comitatus, in quo hoc agitur, admittere non debeant et consentire.

Et ut ipsum nostrum decretum vim perpetue firmitatis roburque perhempnale ac debitum effectum semper futuris temporibus optineat, volumus omnino et eisdem vestris fidelitatibus firmissimo nostro regio sub edicto districte precepimus et mandamus, quatenus premissum nostrum generale decretum dum ad possessiones, necnon bona et iura possessionaria honorabilis capituli ecclesie Sancti Martini in dictis comitatibus habitas et existentia dictum lucrum camere nostre, necnon decimas prenotatas dicaturi accesseritis et profecti fueritis, firmiter et in solidum inconcusseque ac inviolabiliter quoad omnes suas clausulas, continentias et articulos observantes populos et jobagiones in quibuscunque possessionibus eorum commorantes, tam ratione dicti lucri camere nostre, quam etiam decimarum predictarum iuxta modum s[uper]ius in decreto limitatum et non ultra dicare debeatis. Aliud contra formam premissi generalis nostri decreti facere nullatenus presumptatis gratie nostre sub obtentu. Presentes quoque solito sigillo nostro fecimus consignari, quam post earum lecturam semper reddi iubemus presentanti. Datum Cassouie, feria quarta proxima ante dominicam Letare, anno domini M^{mi} quadringentesimo undecimo.

1411, BEFORE 18 MARCH

Sigismund, by the grace of God, ever august king of the Romans, king of Hungary etc., to all our loyal men who have been or in the future will be appointed in any county to assess and collect both the chamber's profit,¹ as well as the archiepiscopal and episcopal tithes,² and who will read these presents, greetings and, grace. Because of the request and complaint of several gentlemen of the realm submitted to our majesty against and about you in matters of the assessment and exaction of our chamber's profit and of the tithes, we, together with our prelates and barons, have recently decided to order you to observe firmly this following everlasting edict:

1 That the officials who assess and collect the said profit of our chamber must not take more than two of the currently circulating pennies as a fee from the reeves³ for the quittance, not even a pint of wine or the value of the same, nor anything else on the occasion of the delivery and payment⁴ of the money they had imposed, just as was the custom during the reign of the most glorious prince lord Louis, likewise king of Hungary, our dearest father and father-in-law.

2 Then, we have decreed, that the officials who assess the taxes should in their assessments impose thirty new pennies⁵ for a whole gate through which a cart can leave and enter, even if more than one peasant lives on the plot, and no more than fifteen pennies for a hinged door, namely for a small gate commonly known as *verőcze*, just as for a half gate. But where they notice that the tenant peasant⁶ or other inhabitant who, by fraudulent stratagem, in order to avoid the chamber's

¹ The chamber's profit (*lucrum camerae*) was originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins; by the late thirteenth century, it had become a direct tax but retained its name until the end of the Middle Ages. On its origins, see Lajos Thallóczy, *A kamara haszna (Lucrum camerae) története...* [History of the chamber's profit (*lucrum camerae*) in the context of taxation in Hungary] (Budapest: Weiszmann, 1879). Now also Boglárka Weisz, "Royal Revenues in the Árpadian Period," in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 255–64 and Gyöngyössi, "Coinage."

² The dicator seems to have been both assessor and collector of different levies.

³ The reeve (*villicus*) was the head of the village administration, in charge of minor jurisdiction and enforcement of royal laws.

⁴ The expression (already used this way in **1351:4**) implies by the word *redemptio*—usually referring to documents—that unlawful fees were asked for the quittance. The sixteenth-century copies have *literarum*.

⁵ In the late fourteenth century, pennies of different value were in circulation. A "new penny" (*nova moneta*) was first issued by Sigismund in 1392 and was to be worth three old pennies which also remained in circulation. 100 new pennies (or 300 old ones) were in fact exchanged for one gold florin at least until 1403, when the government began a new financial policy leading also to the debasement of the new pennies. Because of the devaluation after 1402 between 1407 and 1410, 160 new pennies were worth a florin. We have no data of the exact value of "new pennies" in 1411.

⁶ Tenant peasant (*jobagio* from Hung. *jobbágy*) was the status of the majority of the agrarian population in medieval and early modern Hungary (down to 1848). They were personally free, obliged to render dues in kind, money and labor to the lord of the land on which they lived. Their plots were *de facto* heritable, though not their property. Tenant peasants had the right to move (or to be moved) to another lord, once

profit has a small gate or door at the front of his plot and a big one at the rear, then for this plot they must impose as much as for a whole gate.⁷

3 Then, we have established that the said officials who assess the said profit of our royal chamber should not dare to impose a tax on reeves, on day laborers, and on those servants whom their lord provides with food and clothing on his demesne farm,⁸ if their lord declares on his word,⁹ or, in his absence, his reeves or officials claim under oath that this is so.

4 Then, we have decided that, after the date of payment of our aforementioned royal chamber's profit, neither the counts of the chamber's profit,¹⁰ nor their officials nor the collectors of taxes should presume under any circumstance by virtue of their office to collect, extort, or take a pledge for the payment of the outstanding amount, unless with the help of the *ispán*, or the *alispán*, and the noble magistrates¹¹ of that county where our said chamber's profit has been imposed.

5 We have also ordered that the tithing-men dare not tithe the shocks, namely, the heaps of grain, by using only their own discretion and estimation, but that the peasant to whom the grain belongs should, besides swearing the usual oath (touching the sign of the Lord's cross), testify to the number and size of his shocks in that year, and the said tithing-men must be satisfied with that.² Not a single penny shall be demanded for the tithing.

their dues were paid.. The prohibition of their doing so was mainly in the interest of the lesser nobility, whose peasants were sometimes moved (or lured) to the estates of greater landlords who were able to offer better conditions. For a summary of their fate, see János M. Bak, "Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline" in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005)

⁷ Cf. **1397:29**. The taxation unit—a peasant plot—was called *porta* (gate), but, due to partable heritage and shortage of land, by the fifteenth century, more than one family lived on one plot. Moreover, apparently, tax payers tried to evade payment by not having a "full sized" gate on their property.

⁸ Cf. **1351:5; 1397:30**

⁹ That the lord has to declare merely *ad humanitatem suam*, i.e., on his word of honor, meant an acceptance of his higher social status, for usually legally binding declarations were made under oath (as the officials are bound to do). On the concepts of *honor* and *humanitas* in Angevin Hungary, see Ágnes Kurcz, *Lovagi kultúra Magyarországon a 13-14. században* [Chivalric culture in Hungary in the thirteenth and fourteenth centuries] (Bp: Akadémiai K., 1988), pp. 170, 188–192

¹⁰ Most of the royal revenues were collected and administered by *comites camerae*, mainly foreign entrepreneurs who contracted with the king; see e.g. the one with Endre Chempeliny from 2 February 1342, *DRH* pp. 106–17; on these arrangements, see Gyöngyössi, "Coinage."

¹¹ Ever since the Angevin age, the *ispáns* (*comites*) held more than one county as a *honor* and the actual administration was entrusted to their deputy (usually their retainer) the *alispán*, who acted together with the (usually four in every county) elected noble magistrates (*judices nobilium*, *szolgabíró*) who were both his helpers and representatives of the county nobility.

6 We also desire that the tithing-man be not allowed to collect or to extort the unpaid tithes with the help and power of the county's *ispán* or *alispán*, but only by way of ecclesiastical punishment preceded by canonical warning. Should those who assess and collect both our said chamber's profit and the aforesaid tithe dare act and proceed in any way against our aforementioned

decree exceeding the established quantities, then the county's *ispán* and the noble magistrates, together with the nobles of that county in which this occurs, must not let it happen or condone it.

¹³

And in order that henceforth the aforementioned decree should always have the validity of perpetual strength, everlasting force, and the required effect, we order and altogether command and bid your collective loyalty with our strictest royal decree, that when you go and travel to the estates or rights of the honorable lord Peter of Perény, former *ispán* of the Székely¹⁴ and George son of Peter of Dob, located or lying in whichever county,¹⁵ to assess our said chamber's profit and the tithe, you must keep the aforementioned general decree, each of its clauses, contents, and articles firmly, totally, unalterably, and unchanged. And you must also assess the people and the tenant peasants wherever they might live on their estates for the chamber's profit and the tithes in the amount and not more than has been laid down in this afore stated decree. Do not dare to act in any way in contravention of this general decree of ours. We have also ordered that these presents, sealed with our privy seal, should be returned to the bearer, after having been read.¹⁶ Given in Košice on Palm Sunday in the year of the Lord one thousand, four hundred and eleven.

¹³ Here again the role of the county is enhanced; cf **1405**, note 21. The last two articles were repeated by King Matthias as **1464:24**, which also warrants that the decision be regarded a law.

¹⁴ Perény, Peter of (d. 1423), *ispán* of the Székely 1397-1401, judge royal 1415-23.

¹⁵ Dob, George of (fl. 1411-39), knight of the household.

¹⁶ This caluse is typical for letters patent.

KING SIGISMUND OF HUNGARY'S PROPOSITION TO THE ROYAL COUNCIL

1415

(Prop. 1415/7)

While it is likely that most *decreta*, agreed to at diets and then issued by the ruler, started out with proposals from the crown (or the royal council), few of those have survived. Ferenc Döry, György Bónis, Vera Bácskai, published three of them in the *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1445* (Budapest: Akadémiai Kiadó, 1978)[= *DRH*], two of Sigismund's, and one of Ladislas Posthumus. We decided to include the two from Sigismund as they shed light at the procedure of law-making and are frequently referred to later. (See also **Proposition 1432/33**)

The first, undated, proposition concerning matters of defense, justice, and coinage, sent by the king to the council from abroad can be dated on the basis of the dignitaries mentioned in it. This gives the years between 1415, when the ban and the judge royal mentioned in Artt. I-II took office, and 1417, when some of the subjects of the proposition had been regulated in the *decretum* of **21 July 1417**.

The text survived in a truncated and poorly copied version in the family archives of the Kállay where Martin Georg Kovachich found it and published the text. We print it following the *DRH*, tacitly accepting Döry's textual corrections as noted there.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives | (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MS: Contemporary paper copy, MNL OL DL 56715.

EDD: Martinus Georgius Kovachich, Johannes Nicolaus Kovachich, *Aurea complectens subsidia literaria ad historiam legislationis et jurisprudentiae Hungaricae* (Buda: Regia Universitas) 1, pp. 434-41; *DRH* pp. 397-404.

LIT: Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád and the diverse dynasties] (Budapest: MTA, 1899) p. 32; Elemér Mályusz, *Kaiser Sigismund in Ungarn 1386-1437*. Transl. by A. Szmodits (Budapest: Akadémiai Kiadó, 1990).

COPIA CONSTITUTIONUM PRELATIS ET BARONIBUS REGNI HUNGARIAE
DESTINATARUM

I. Pro defensione regni Hungarie sunt dispositi infrascripti per regiam maiestatem:

Nicolaus Chak waywoda Transsilvanus	ad lanceas II ^c XXV
Michael filius Salamonis	ad lanceas C XXV
Episcopus Transsilvanus	ad lanceas C L ^{ta}
Pipo comes	ad lanceas M ^{le} II ^c
Nicolaus filius palatini	ad lanceas II ^c L ^{ta}
Sigismundus de Losonch	ad lanceas II ^c L ^{ta}
Summa lancearum duo M ^{lia} et IIc	

II. In medio autem regni sunt infrascripti pro defensione regni in subsidium prescriptorum dispositi:

Dominus Nicalaus de Gara palatinus	ad lanceas [IIc] L ^{ta}
Comes Petrus de Peren	ad lanceas [C]
Johannes de Rozgon	ad lanceas C.
Sumpna lancearum IIIc et L ^{ta} .	

III. Insuper vult et mandat regia maiestas quod omnes et singuli barones et nobiles regni Hungarie, qui de pecuniis regni habent, ad exercitationes secundum decretum alias per ipsum et barones factum et dispositum ad exercituandum moveantur et compellantur.

IV. Nota: pro defensione regni Hungarie a parte partium Transalpinarum, Bulgarie, Rasye sunt per regiam maiestatem dispositi, ut prehabitu est.

EFFECTUS DOMINI REGIS EST CONTINETUR IN INFRASCIPTIS, SEQUITUR

V. Serenissimus dominus rex per prelatos, barones, nobiles et ceteros possessionatos homines regni sui instanter desiderat, ut universis regni sui incolis in causis tam possessionum, quam potentiarum, quam etiam quibuscunque et qualitercunque et quomodocunque emergendis et suscitandis fiat rectum et equum iudicium cum amministrazione iustitie etc.

VI. Ut istud rectum iudicium cunctis postulantis fieri et exhiberi possit, desiderat ipse dominus rex supradictos prelatos et nobiles regni sui generalibus suis iudicibus seu iustitiariis, ut puta domino palatino et iudice curie sue, magistro thawarnicorum, sumpmo thesaurario ac cancellario maioris sigilli sui, quo ut rex Hungarie utitur, ceteros alios sui barones, necnon de singulis regni sui comitatibus quatuor aut plures nobiles conscientiosos et magne auctoritatis viros, ac etiam de

omnibus et singulis capitulis et conventibus certas personas adiungi et asociari, qui eligantur more in celebratione generalium congregationum fieri solito, per dominum nostrum regem ac per nobiles singulorum comitatum etc.

VII. Item, quod illi, qui pro huiusmodi iudicio faciundo pretactis baronibus iungentur, prestent ante omnia super hoc debitorie iuramentum, quod omnibus petentibus prece, premio, favore et odio semotis certum iudicium et iustitiam facerent.

VIII. Item, quod hii, qui pretactis iustitiariis regni iungentur, unacum eisdem in omnibus possessionibus, potentiariis ceterisque quibuscunque, quantumcunque arduis causis possint et valent procedere de plenitudine regie maiestatis usque ad finalem earundem determinationem et decisionem inclusive.

IX. Item, quod processus singuli et definitive sententie constituentur et emanentur solito more sub authenticis sigillis iudicum et iustitiarum ordinariorum pretactorum.

X. Item, quod iudices et iustitii faciant cunctorum processuum et diffinitivarum sententiarum plenas et rigidas executiones et etiam per alios, ut moris est, fieri demandent.

XI. Item quia propter pluralitatem terminorum seu octavarum antefatis prelati, baronibus et nobi[libus pro] faciundo huiusmodi iudicio ad singulas octavas accedere debentibus plures inconven[ientie] et incomoditates penurieque expensarum infallanter incumbunt, ad semovendum quevis huiusmodi impedimenta videtur prefato domino nostro regi, quod tales termini seu octave ad certas paucas notabiles octavas annuatim celebrandas reducantur, ad quas memorati pro faciundo iudicio deputandi absque eorum incomoditatibus et sine onere expensarum accedere possint.

XII. Item qui autem ex baronibus regni antefati pro faciundo huiusmodi iudicio domino nostro regi apti et iudicibus ordinariis asociandi esse videntur, in sequentibus sunt subdenotati. Modum tamen electionis et quos eligere voluerint, ponit sua serenitas in arbitrium prelatorum baronum et nobilium eorundem.

SECUNTUR NOMINA IUDICUM ORDINARIORUM

XIII. Dominus Nicolaus de Gara palatinus, comes Petrus de Peren, Johannes de Perseulch magister thauarnicorum, Johannes de Rozgon sumpmus thesuriarius, cancellarius maioris signi in regno Hungarie existentis. Et istis supradictis, ut in curia regia continuam faciant residentiam, est per suam serenitatem sufficienter provisum, predictis autem iudicibus ordinariis pro faciundo iudicio in certis principalibus et notabilioribus octavis sunt adiungendi infrascripti, prout regie videtur maiestati, qui possunt de facili principalibus octavis interesse: Unus ex dominis Wylak, Stephanus de Kanissa alias ianitorum regalium magister, Emericus de Peren secretarius cancellarius, Karolus banus, Nicolaus de Zeech, Ladislaus filius Pauli de Gara, Johannes filius bani de Ezdench, David filius Martini de Albews, Johannes filius Pethew, Stephanus Kompolth.

XIV. Item pro memoria iudiciorum singularum causarum retinenda videtur prefato domino nostro regi, quod disponantur et ordinentur certi libri ad quos processus iudicarii et presertim sententie diffinitive, quos et quas in aliquibus causis emanare contingat, inscribantur, ut successivis temporibus in similibus emergendis semper iudicia uniformia fiant et dictentur.

XV. Item ad hunc etiam finem, quod regnicole, quorum fortasse instrumenta litteraria comburi, perdi aut ab ipsis alienari contigerit, ex huiusmodi libris, in quibus sententie pro ipsis regenerande et referende scribi debuerint, nulla litteraria instrumenta habere possint.

XVI. Item decernatur tamen, quod huiusmodi libri seu registra sententiarum et processuum semper retineantur sub sigillis officialium seu instrumentorum ordinariorum registratorum et aliquorum aliorum eis iniungendorum, quos sua serenitas desiderat similiter ad hoc deputare.

XVII. Item cum maxima pars iudiciorum et iustitie ac conservationis possessionum et iuris possessionarii dicti regni Hungarie nobilium et ecclesiarum stet in iudicum ordinariorum, capitulorum, conventuum et iudicum nobilium prefati regni Hungarie hominibus; eapropter videtur prefato domino regi, quod sit statuendum et decernendum, ut dicti iudices, capitula, conventus et iudices nobilium tantum idoneos atque conscientiosos pro testimoniis et ceteris agendis destinent, de quibus nulla falsitas habeatur vel suspicio sed quod plena possit eisdem in eorum faciendis relationibus et examinationibus fides adhiberi.

XVIII. Item videtur etiam prefato domino regi, quod sit providendum, statuendum et decernendum, quod in singulis comitatibus Hungarie boni nobiles et conscientiosi viri propria armorum insignia habentes in iudices nobilium preficiantur, qui etiam personaliter, exigentibus causis et negotiis, iuxta regni consuetudinem ad singulorum requisitionem pro testimoniis et ceteris agendis exeant.

XIX. Item videtur prefato domino regi, quod sit limitandum, statuendum et decernendum, quanta debeat esse redemptio singularum litterarum sub supradictorum regni iudicum ordinariorum, capitulorum, conventuum et iudicum nobilium sigillis emanandarum.

XX. Item videtur prefato domini regi, quod sit decernenda et statuenda una pena in illos, qui predictorum regni iudicum ordinariorum sive generalium vel iudicum nobilium homines pro sententiarum, inquisitionum regalium necnon iudicum mandatorum executionibus transmissos percutere, vulnerare, interficere sive fugare aut dehonestare presumpant.

XXI. Item dispositis premissis dominus noster providebit, quod comites singulorum comitatum pro se ipsis in singulis comitatibus personaliter residendo unacum iudicibus nobilium et nobilibus comitatus illius iudicium et iustitiam omnibus faciant et amministrent.

XXII. Item etiam videtur domino regi, quod sit statuendum et decernendum, que sit pena eorum, [qui] fures, latrones, spoliatores, predones notorios aut proscriptos et alios maleficos penes se aut in eorum servitiis vel domibus conservare aut eis hospitalitatem prebere, aut eos protegere sive defensare [presumpserint], et quod declarentur pene antiqutis statute.

SEQUITUR DE FACTO CUSSIONIS MONETARUM AURI, ARGENTI, CUPRI

XXIII. Quia per falsificationem et circumscisionem monetarum regni Hungarie principaliter dominus rex et consequenter prelati barones nobiles et possessionati homines in eorum redditibus et proventibus, civitatesque et generaliter cuncti regni Hungarie regnicole in ipsorum mercimonialibus et quibusvis negotiationibus magnum dampnum ymmo intollerabile detrimentum indesinenter percipient, ad [illud] decernendum igitur et salubri remedio obviandum pro utilitate et communi bono totius regni Hungarie videtur prefato domino regi, ut debeat una moneta sub insigniis armorum regni Hungarie in quadruplici forma de purissimo et firmissimo argenti cudi, semper perpetuis futuris temporibus in regno Hungarie currenda et recipienda; sic videlicet ut decem grossi argentei maioris forme valent unum florenum puri auri Hungarie, vel medii grossi argentei XX de secunda forma valeant similiter florenum aurum puri auri, et LXXX argentei de quarta forma et minori valent unum florenum puri auri.

XXIV. Item videtur domino regi, quod floreni auri Hungarie, qui sunt boni et ubique terrarum ducatis Venetiis equiparantur, remaneant in eisdem characteribus et pondere, in quibus nunc sunt, cudantur tamen sub insigniis armorum regni Hungarie, ut supra.

XXV. Item videtur domino regi, quod pro utilitate regnicolarum debeat cudi una communis moneta de puro cupro, que moneta cuprea limitetur solum ad illum valorem argenti, quem valeret, si venderetur non laboratum.

XXVI. Item decernatur, quod propter memorias perpetuo habendas reges qui pro tempore corone regni Hungarie preerunt, ponant ex uno latere monete cudenda arma vel certa signa.

XXVII. Item his itaque prehabitis prefata regia maiestas desiderat deliberari et decerni, si huiusmodi moneta argentea vel cuprea sint modo quo supra cudende.

XXVIII. Item desiderat dominus rex decerni et statui, quod semper unus nobilis in regno Hungarie bene possessionatus, qui amissionem et perdicionem suarum possessionum et suorum bonorum timeret, si non fidelitate et honore motus cautionem et diligentiolem faciat custodiam et provideat, in provisionem cussionis monetarum dictarum eligatur et preficiatur, quique singulis ebdomadis de moneta cudenda probam recipiat et etiam apud se sigillatim observet, et eodem anno huiusmodi cussionis monetarum lapso earundem monetarum proba per dominum archiepiscopum Strigoniensem et officiales regios ad hoc deputandos solito more probetur et examinetur.

XXIX. Item desiderat dominus rex decerni et statui certas penas, quibus contrafacientes puniantur, quod nulli quicumque et cuiuscunque conditionis seu status predicti regni Hungarie regnicole aliquem aliam monetam argenteam vel cupream preter quam regni Hungarie monetas pretactas in dicto regno Hungarie tractent, nec in eodem currant sive per quempiam recipiantur.

XXX. Item desiderat dominus rex statui et decerni, quod nullo tempore moneta aurea et argentea possit per quempiam de dicto regno educi aut exportari.

XXXI. Item desiderat dominus rex decerni eorum penas, qui de dicto regno huiusmodi monetam auream seu argenteam educerent aut exportarent; ita videlicet ut tales dictante

COPY OF THE CONSTITUTIONS SENT TO THE PRELATES AND BARONS OF THE KINGDOM OF HUNGARY

1 For the defense of the kingdom of Hungary the following are deployed by the royal majesty:¹

Nicholas Csák, voivode of Transylvania ²	225 lances ³
Michael son of Solomon ⁴	125 lances
The bishop of Transylvania ⁵	150 lances
<i>Ispán</i> Pipo ⁶	1200 lances
Nicholas son of the palatine ⁷	250 lances
Sigsimund of Losonc ⁸	250 lances
Total of lances: 2200	

2 In the middle of the country the following should be ready for the defense of the realm in support of the abovementioned.

Nicholas Garai count palatine ⁹	250 lances
<i>Ispán</i> Peter of Perény ¹⁰	100 lances
John of Rozgony ¹¹	100 lances

¹ This partial listing of troops was augmented by the detailed arrangements of the **Proposition 1423-4**.

² Csák, Nicholas of (d. 1426), *ispán* of Temes 1394–1402, voivode of Transylvania 1402–3, 1415–26

³ One *lancea* or *gleve* consisted of one armored knight (*armatus*) accompanied by two or three bowmen (*pharetrarii* or *sagittarii* or *arcerarii sub eisdem lanceis*).

⁴ Michael, son of Salamon Nádas, *ispán* of the Székely (1405–20).

⁵ Stephen Upori, bishop of Transylvania (1403–19).

⁶ Pipo of Ozora, (*Filippo Scolari*, 1369–1426), Florentine merchant, *ispán* of the salt chambers 1401–26, *ispán* of Temes 1404–26.

⁷ Nicholas, son of the former palatine Miklós Szécsi, master of the Treasury 1408–10.

⁸ *Sigismund Losonci*, captain of Ozora in 1417.

⁹ Gara, Nicholas junior of (son of Nicholas senior, d. 1433), magnate, ban of Mačva 1387–90, 1393–4, of Dalmatia and Croatia 1394–1402, of Slavonia 1397–1402, count palatine 1402–3.

¹⁰ Perény, Peter of (d. 1423), *ispán* of the Székely 1397–1401, judge royal 1415–2.

¹¹ Rozgony, John of (d. 1438), *ispán* of Sáros 1410–35, lord treasurer 1412–36, master of the treasury 1433–37.

Total of lances 350

3 Moreover, the royal majesty wishes and orders that all and every of the barons and nobles of the kingdom of Hungary who are paid by the country be moved and compelled to campaign according to the decree made and approved at another time by the same and the barons.¹²

4 Note that for the defense of the kingdom of Hungary from the side of Transylvania, Bulgaria and Rascia the royal majesty disposes as it previously.

PURPOSES OF THE LORD KING ARE CONTAINED BELOW AS FOLLOWS

5 The most serene lord king urgently desires through the prelates, barons, nobles and other men of property that all inhabitants of his realm obtain right and equitable judgment in the course of law in cases regarding both property and violence or indeed those emerging or arising in any way, mode, or form.

6 So that this just judgment be done and presented to all claimants, the same lord king wishes that the said prelates and nobles of his realm should be joined and associated with his judges ordinary and justiciars, namely the lord palatine, his judge royal, the master of the treasury, the supreme treasurer and the chancellor of his major seal used in the kingdom of Hungary;¹³ as should all his other barons as well as four or more conscientious and well respected men from every county of the realm, and moreover certain persons from all and every chapter and convent.¹⁴ They should be

¹² Referring probably to **1397: 6**.

¹³ These barons usually presided royal courts, though the inclusion of the treasurer is an exception. The count palatine (*comes palatinus*) was originally the head of the king's household as his name, *nádorispán* (from Slavic *na dvor*=in court) suggest. By the mid-twelfth century he had become the king's deputy and commander of the royal host; he gradually moved out of the court and served as the king's itinerant judge administering justice to the nobles and *servientes regis*. The election or selection of the palatine was a contested issue between king and estates. The judge royal (*judex curiae regis*, Hung. *országbíró*) was originally the officer in charge of the royal court (*comes curialis regis*) and thus the head of household servants, he acquired high judicial functions once the count palatine became the itinerant judge of the entire country. From then on, the judge royal passed judgment in the name of the king (*presentia regis*) and soon acquired extensive jurisdictional functions, with a notarial and legal staff, including a *vicejudex curiae regis*, residing in Óbuda. The judge royal (or justiciar) held a separate court in the royal curia, where he tried cases of the nobility. Some towns came to be briefly subject to this judge. The master of the treasury (*magister tavernicorum*) was a royal officer, originally responsible for the royal court's provisioning, derived from the Hungarian name for the guards of royal magazines (*tavernici*); from the fourteenth century onwards, the master of the treasury was no longer associated with the treasury, but was rather the presiding judge of the appeal court of certain royal cities (*sedes tavernicalis*). The chief chancellor was in Sigismund's time still always an ecclesiastic lord, the chancellery itself was run by the vice-chancellor. The chief chancellor presided over the court of the special personal presence.

¹⁴ Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses

elected in the usual way at the holding of the diets by our lord the king and the nobles of the single counties, and so on.

7 Then, that those who will join the barons to make these judgments should first of all swear a mandatory oath that they will pass definite judgment and justice to all claimants setting aside request and reward, favor or hate.

8 Then, that those who will join the said justices of the realm should be able and empowered to proceed together with them with the full power of his royal majesty to the final judgment and sentence of all cases regarding property, violence or any others no matter how arduous.

9 Then, that all single [trials] and final judgments be established and issued in the usual way under the authentic seal of the said judges and justices ordinary.

10 Then, that the judges and justices should ensure that complete and strict execution should follow the final sentences of all trials, and require the same to be done by others, as it is usual.

11 Then, because of the many terms and octavial courts, the said prelates, barons and nobles, attending the single octavial courts administering justice inevitably suffer inconvenience, discomfort and the burden of expenses, in order to remove such kind of hindrance it seems good to our said lord king that such terms or octaves be reduced to a certain few major octaves to be held annually, which the aforementioned can attend without discomfort and burden of costs, in order to pass judgment.¹⁵

12 Then, those who among the barons of the said kingdom seem to our lord to be apt for administering such justice and worthy to be joined with the justices ordinary, are listed below. The way of election and who should be elected, his serenity leaves to the judgment of the same prelates, barons and nobles.¹⁶

(called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, "Die Glaubwürdigen Orte Ungarns im Mittelalter." *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, "Administering the Law: Hungary's *Loca Credibilia*." in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Martyn Rady Nobility, *Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66-73; now also T. Köfalvi, "Places of Authentication (*loca credibilia*)," *Chronica* 2 2002), 27–38.

¹⁵ Octavial courts (*octava*) refer to the session of royal courts of justice; of which here were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times. The king's attempt was to reduce the number of these sessions. It was not implemented.

¹⁶ The plan to establish such a sizeable court that surely would have been unwieldy, was never implemented. Bónis & al. (*DRH* p. 397) suggested that Sigismund thought of something like an "anti-diet" as a counterbalance to the noble assembly, but it does not sound convincing. Some aspects of the judicial

HERE FOLLOW THE NAMES OF THE JUSTICES ORDINARY

13 Lord Nicholas Garai, palatine, *ispán* Peter of Perény, John of Pelsóc, master of the treasurers,¹⁷ John of Rozgony, chief treasurer and the chief chancellor of the great seal of the kingdom of Hungary.¹⁸ And sufficient arrangements have been made by his serenity that the aforementioned could establish continuous residence in the royal court. And it pleases his royal majesty that for administering justice in certain principal and notable octaves the following, who can easily attend the major octaves, should join the said justices ordinary: one of the lords Újlaki,¹⁹ Stephen of Kanizsa, sometime master of the royal doorkeepers,²⁰ Imre of Perény secret chancellor,²¹ the ban Charles,²² Nicholas of Szécs, Ladislás, son of Paul Garai,²³ John, son of ban Zdenčzi,²⁴ David son of Martin of Abisi,²⁵ John son of Pető,²⁶ Stephen Kompolti.²⁷

14 Then, it pleases our lord king that for retaining the memory of single judgments, certain books be set up and ordered into which the judicial process and particularly the final sentences which happen to emerge in any case should be inscribed, so that in similar cases in subsequent times consistent sentences may always be passed and declared.²⁸

15 Then, also for that purpose that if gentlemen of the realm, whose written instruments might by chance have been burnt, lost or taken from them, could from these kind of books, into which the

reform outlined here became part of the *decretum* of **8 May 1435**. At any rate, the list below indicates the group of barons and nobles whom the king trusted at that moment.

¹⁷ John Pelsöci Bebek, master of the treasury (1410–9).

¹⁸ Eberhard, bishop of Zagreb, chief chancellor (1404–19.)

¹⁹ Ladislás and Emeric Újlaki, bans of Mačva (1410–8).

²⁰ Stephen Kanizsai, former master of the doorkeepers (1396–1401).

²¹ Emeric Perényi, secret chancellor (1405–18/9).

²² Charles of Korbavia, former ban of Croatia and Slavonia (1409–11).

²³ Either Desider, son of Paul Garai or Ladislás, son of Nicholas Garai, both later bans of Mačva.

²⁴ Master John, son of Ban Simon Zdenčzi, landowner in Co. Kőrös.

²⁵ David, son of Martin Albisi, *ispán* of Co. Zólyom.

²⁶ John, son of Pető Gersei, *ispán* of Zala (1404–10) of Co. Győr in 1405.

²⁷ Stephen Nánai Kompolti, later judge royal (1423–5).

²⁸ The establishment of such a register would have been a very progressive step in the administration of justice. It is not known, whether it was ever attempted. The formulation of the article suggests a proposal to formally introduce case law (based on precedence) in Hungary, which was probably informally long ago the case, above all through the formularies; see, e.g. György Bónis, *Középkori jogunk elemei* [Elements of our medieval law] (Budapest: Közgazdasági és Jogi Könyvkiadó, 1972) pp. 143–223, with extensive bibliography.

judgments have to be written, to be retrieved and consulted on their behalf, if they have no written instruments.²⁹

16 Then, let it be decided that these books or registers of sentences and trials be always retained under the seal of officials or registered ordinary instruments or of any others attached to them whom his serenity wishes to assign for that.

17 Then, since most of the judgments, sentences and the recording of the possessions and partial possessions of the nobles and churches of the said kingdom of Hungary rests with the men of the judges ordinary, the chapters and the convents as well as of the noble magistrates³⁰ of the said kingdom of Hungary, therefore, it pleased the said lord king that it be established and decreed that the said judges, chapters, convents, and noble magistrates send such suitable and conscientious [persons] as witnesses and other actions to whom no falsity or suspicion is attached, but in whose reports and inquiries full trust can be placed.

18 Then, it pleases the said king that provision be made, established, and decreed that in every county of Hungary good noblemen and conscientious gentlemen who have their own coats of arms be promoted to noble magistrates,³¹ that they may also personally go out, where cases and affairs demand, as witnesses and for other business at the request of individual persons, according to the custom of the realm.

19 Then, it pleases the said lord king that it should be limited, established and decreed how much should be the fee for letters issued under the seals of the aforementioned judges ordinary, chapters, convents, and noble magistrates.³²

20 Then, it pleases the said lord king that a fixed punishment should be established and decreed for those who dare to strike, wound, kill, chase away or dishonor the men of the judges ordinary or general or the noble magistrates serving sentences or performing inquests at the orders of the king or of the noble magistrates.³³

²⁹ The Latin is faulty at the end. The *loca credibilia* did preserve copies of family documents, but not systematically.

³⁰ Noble magistrates were elected noblemen, usually four in each county, as both helpers of the *ispán* and *alispán* and representatives of their fellow nobles.

³¹ In the mid-fourteenth century, the post of noble magistrate was seen as a burden and people had to be coerced to take it. There is evidence that they then hurried to obtain coats of arms and seals.

³² This was regulated in **1417** and in then in detail in **1435: 10-12**.

³³ Personal protection of judges (and other officers of the court) derived ultimately from the sacrosanct rights of the *tribuni plebis* of the Roman Republic, rights extended to (and claimed by) the Roman emperors in their civil and judicial capacities; see Theodor Mommsen, *Römisches Staatsrecht* ed. 3 (Leipzig: Hirzel, 1887) 2 301-306, 782; 948ff.; Mason Hammond, *The Augustan Principate* (Cambridge, MA: Harvard University Press, 1968) pp. 79-87.

21 Then, once the above matters are settled, our lord will make provision that the *ispáns* of every county, residing in person in the same county, will themselves pass judgment and administer justice to all, together with the noble magistrates and the nobles of the county.

22 Then, it pleases the lord king that it be established and decreed, what should be the punishment of those who [dare to] keep with them in their place of office or their own houses, or offer hospitality to or protect and defend notorious and proscribed thieves, brigands, plunderers, robbers and other malefactors and that the punishments established in olden time be made known.³⁴

HERE FOLLOWS ABOUT THE MINTING OF GOLD, SILVER, AND COPPER MONEY³⁵

23 Because through the forging and clipping of the coins of the kingdom of Hungary above all the lord king and consequently the prelates, barons, nobles, and men of property in regard to their income and revenue, and the cities and generally all inhabitants of the kingdom of Hungary in their commerce and other business incessantly suffer great damage, nay intolerable loss ; therefore in order to decide the matter and come up with a salutary remedy for the advantage and common good of the whole kingdom of Hungary, it pleases the lord king that one money be minted with the stamp of the arms of the kingdom of Hungary in four forms, of the purest and finest silver, to circulate within the kingdom and be received into the future everlasting: namely such that ten larger silver groats be worth one Hungarian florin of pure gold, twenty groats of medium size of the second type likewise be worth one florin of pure gold, and eighty of the fourth and smaller type be worth one florin of pure gold.

24 Then, it pleases the lord king that the gold florins of Hungary, which are good and everywhere of equal value to Venetian ducats, should remain in the same character and weight in which they are now, but be minted with the impress of the arms of the kingdom of Hungary, as above.³⁶

25 Then, it pleases the lord king that for the advantage of the inhabitants one common coin be minted of pure copper, which should be worth only as much silver as it would be if unminted.

26 Then let it be decreed that the kings who will in their time bear the crown of the kingdom of Hungary should have their arms or certain distinguishing signs struck on one side of the coins, in order to preserve their everlasting memory.

³⁴ This article, which had several parallels, may have been triggered by the earlier revolts against Sigismund.

³⁵ On the context of this monetary reform, see Márton Gyöngyössi, “Coinage and Financial Administration in Late Medieval Hungary (1387–1526)” in József Laszlovszky *et al.*, eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 295–308.

³⁶ From the extensive literature on this currency, see István Draskóczy, “Der ungarische Goldgulden und seine Bedeutung im ungarischen Außenhandel des 14. und 15. Jahrhunderts,” In *Der Tiroler Bergbau und die Depression der europäischen Montanwirtschaft im 14. und 15. Jahrhundert* (Veröffentlichungen des Südtiroler Landesarchivs, 16), R. Tasser and E. Westermann, eds., (Innsbruck–Wien–Bozen: Studien Verlag, 2004) pp. 61–77.

27 Then, once the above is settled the royal majesty desires that it be deliberated and decided whether these silver and copper coins should be minted in the way described) above.

28 Then, the lord king wishes that it be decided and decreed that always one nobleman of the kingdom of Hungary, well endowed and fearful of losing and forfeiting his possessions and goods should he not faithfully and honorably watch over carefully and attentively guard what is put in his care, be chosen and placed in charge of overseeing the minting of the said money; who would receive a sample of the money minted every week and keep it with him under seal, so that at the end of the same year of this kind of minting of the moneys, a sample of the same moneys/coins may be checked and examined in the customary manner by the lord archbishop of Esztergom³⁷ and the royal officials appointed to this task.

29 Then, the lord king wishes that fixed punishments be decided and decreed by which counterfeiters should be punished, so that no inhabitant of the said kingdom of Hungary of whatever estate or status should handle in the said kingdom of Hungary any other silver or copper money than the aforementioned moneys of the kingdom of Hungary, nor should (any such) circulate in the same or be received by anybody.

30 Then, the lord king wishes that it be decided and decreed that at no time should gold and silver money be taken out or exported from the said kingdom.³⁸

31 Then, the lord king wishes that the punishments of those [persons as is laid down (?)] who would take out or export these gold or silver coins from the said kingdom be decided; so, namely, that those³⁹

³⁷ The archbishop of Esztergom had from ancient times a kind of supervisory role and a regular income from the minting of money. One of these was the *pisetum*, see Frigyes Kahler, "Das pizetum-Recht," *Debreceni Déry Múzeum Évkönyve* 1986 (Debrecen: Déry Múzeum, 1987) 181-91

³⁸ This prohibition goes back to the earliest regulations of the coinage, see **1342: 15**.

³⁹ The copy ends here in mid-sentence.

LAW OF KING SIGISMUND OF HUNGARY 23
July 1421

This royal decree, issued in a general meeting of Co. Pozsony, regulates the administration of justice in the county courts. The rise of their standing seems to have induced the officers of the counties to litigate in the local courts, where they served as party and judge at the same time. The decree seeks to end this abuse.

The text came down to us only in letters patent issued for certain individual families; the most complete one (see MS), for an unknown addressee, contains, however, references to the royal council's participation in the issue. Also, several records refer to this text as *decretum*, and, considering that it regulates matters relevant to the entire kingdom, it does qualify as a law of the realm.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MS.: Original on parchment with the privy seal en *placard*; MNL OL DI. 79687.

ED.: Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, Budapest: Akademiai, 1978 [=DRH], pp. 240–1. Two copies, sent to the counties Fejér and Vas, in favor of noble families there, are published in Imre Nagy III *et al.*, eds., *Codex diplomaticus domus senioris comitum Zichy de Zich et Vásonkeö* (Budapest: Magyar Történelmi Társulat, 1895) [henceforth: *Cod. dipl. Zichy*] 8: 28–30 and in Nagy, Iván *et al.*, eds. *Hazai Okmánytár. Codex diplomaticus patrius*. 8 volumes. (Győr-Budapest: Magyar Tudományos Akadémia, 1865-1891), 1: 315, respectively.

23 IULII. 1421

Nos Sigismundus dei gratia Romanorum rex semper augustus ac Hungarie, Bohemie, Dalmatie, Croatie etc, rex memorie commendamus tenore presentium significantes quibus expedit universis, quod nobis Posenii unacum prelati et baronibus proceribusque dicti regni nostri Hungarie in sede nostra iudiciaria sedentibus nonnulli proceres et nobiles ipsius regni nostri Hungarie nostre maiestatis consurgendo in conspectum humiliter curarunt significare, quomodo comites vel vicecomites nostri in plerisque comitatibus prescripti regni nostri Hungarie constituti ipsos contra se super diversis causarum articulis ad sedem iudiciariam eiusdem comitatus, quem pro honore tenerent, in causam convenirent, propter quod ipsi in eorum iuribus fuissent defraudati adeo et in tantum, ut per predictos comites vel vicecomites in eorum rebus dampnificati extitissent et spoliarentur. Supplicaverunt itaque hiis dictis nostre claritati, ut eis circa hoc regale remedium opportunum dignaremur adhibere. Verum cum via iuris et iustitie exigente, dicti etiam regni nostri Hungarie consuetudine dictante, nullus iudicum et iustitiariorum prescripti regni nostri Hungarie in una et eadem causa iudex et actor esse potest, ideo nolentes prescriptos regni nostri proceres et nobiles per predictos comites et vicecomites sic de facili et indebite opprimi et in eorum iuribus ac rebus dampnificari, matura deliberatione prehabita duximus statuendum, quod amodo in posterum nullus comitum vel vicecomitum cuiuscunque comitatus aliquem ex nostris regnicolis contra se pretextu alicuius facti ad sedem iudiciariam comitatus illius, in quo pro honore essent constituti vel constituerentur, contra se per modum citationis vel aliter in causam convenire et cum eis in lite procedere valeant atque possint, sed si quid actionis ipsi comites vel vicecomites adversus aliquos regni nostri Hungarie regnicolas aut aliquem eorum habent vel habere pretendunt, id in curia nostre serenitatis coram nostra speciali presentia aut palatinali sive iudicis curie nostre ad instar aliorum causantium requirere exequique debeant et teneantur.

Quocirca vobis prescriptis regni nostri Hungarie universis comitibus vel vicecomitibus presentibus et futuris presentium notitiam habituris firmo nostro regio damus sub edicto, quatenus amodo in posterum contra formam prescripte nostre gratie dictis nostris regnicolis modo previo facte in nullis causis et causarum articulis contra vos ipsos in dicta sede vestra iudiciaria in causam convenire, eosque *vexare et impedire nullatenus presumptis nec sitis* ausi modo aliquali, sed si quid actionis contra eos habetis, vel habere pretenditis, in dicta curia nostre serenitatis ad instar aliorum iuridice exequi debeatis. Presentes etiam post earum lecturam semper reddi edicimus presentanti.

Datum in dicto Posenio, feria quarta proxima ante festum beati Jacobi apostoli, anno domini millesimo quadringentesimo vigesimo primo, regnorum nostrorum anno Hungarie etc. XXXquinto, Romanorum undecimo et Bohemie primo.

23 JULY 1421

We, Sigismund, by the grace of God always august king of the Romans, and king of Hungary, Bohemia, Dalmatia, Croatia, &c., wish to have remembered through the words of these presents by all to whom it may concern that, when we were sitting on our seat of judgment at Pressburg with the prelates, barons, and lords of our said kingdom of Hungary in attendance, several lords and nobles of this our kingdom of Hungary, rose up in the presence of our majesty and humbly undertook to inform us that in many counties of our aforesaid kingdom of Hungary our *ispáns* and *alispáns* conduct trials concerning various cases of law against themselves at the court of that county the *honor* of which they hold,¹ and that because of this the lords and nobles have been defrauded of their rights to such an extent and manner that they had suffered losses and had been despoiled by the said *ispáns* and *alispáns*. And so, after relating these things, they requested from our highness that we deign to extend to them appropriate royal remedy against these procedures. Truly, because the way of law and justice so directs and the custom of our said kingdom of Hungary so prescribes, no judge or justice of our said kingdom of Hungary may be judge and advocate in one and the same case,² the said lords and nobles of our kingdom do not wish to be readily and unduly oppressed, nor to be harmed in their rights and goods by the said *ispáns* and *alispáns*; hence we, after mature deliberation, order it decreed that from now on into the future no *ispán* or *alispán* of any county is permitted or enabled to conduct trials by means of citation or otherwise against any one of our gentlemen of the realm³ in a case against himself by any allegation at the court of that county to the *honor* of which he has been or will be appointed or to proceed against them in a dispute. But, if the *ispáns* or *alispáns* should have or allege to have any kind of case against any one or more gentlemen of the realm in our kingdom of Hungary, they are obligated and required to sue and to proceed in the court of our highness at the court of the special royal presence, or that of the palatine, or of our judge royal, just like other litigants.⁴

¹ By this time, *ispáns* were often high officials, holding more than one county as a *honor*, while the actual administration was in the hands of their retainer, the *vice-comes*, Hung.: *alispán*.

² This legal maxim is a specific application of a principle of Roman civil law: “he who exercises jurisdiction ought not pronounce law in matters affecting himself or his household” (Ulpian [ca. A.D. 2151, *Digesta Iustiniani* 2.1.10). This principle was made law by an imperial constitution of A.D. 376: “no one may be a judge in a matter affecting himself” (*Codex Iustinianus* 3.5.1).

³ *Regnicola* (verbatim: inhabitant of the kingdom) was used in medieval Hungarian legal texts as the term for the enfranchised nobleman. We translate it as “gentleman of the realm.”

⁴ The *specialis presentia regia*, the royal court of the special presence appeared around 1337, presided over by the vice-chancellor, but only became fully institutionalized by the end of the Angevin rule. From 1453 to 1464 this court was presided over by the (arch)chancellor and passed sentences under his or the vice-chancellor’s seal. Its judges were among the first legally-trained professionals in a royal court. Abolished in the general judicial reform of 1464, its name was for a while occasionally also used for the new, united court of the personal presence. Here it is unclear, whether the king’s “personal presence” or the chancellor’s court is meant. The count palatine and the judge royal were the traditional highest courts, the former

Therefore we order you, the said *ispáns* and *alispáns* of our kingdom of Hungary, present and future, who will take notice of these presents, by our firm royal edict that from now into the future you should not presume in any way to summon our said gentlemen of the realm contrary to the intent of our previously noted royal grant in any case or article of a case against yourselves to a hearing at your said county court, nor to dare to vex or to harass them in any manner, but if you have or allege to have any suit against them, you must pursue it to judgment in the said court of our serenity in the same way as the others.⁵ We also decree that this charter be always returned to the bearer after its being read.⁶

Given at the said Pressburg, on the Thursday before the feast of St. James the Apostle, in the year of the Lord one thousand four hundred and twenty-one, the thirty-fifth year of our reign in Hungary &c., eleventh as king of the Romans, and the first in Bohemia.

itinerant, the latter out of court with a seat in Buda.

⁵The numerous explicit and implicit references to this decree in royal charters are listed in *DRH*, p. 241, n. 4. Some of them aim at widening the purview of the decree so as to include county magistrates and the ban and vice-ban of Croatia.

⁶This clause is typical for letters patent, the form in which this decree survived.

ORDINANCE OF KING SIGISMUND OF HUNGARY
17 March 1427 A

This military ordinance regulates more systematically matters regarding the movement of troops addressed in earlier laws. It was issued by the king and his council, perhaps in preparation for the two Walachian expeditions of Sigismund later that year. (We mark the two decrees issued the same day by A and B)

MS.: Original on parchment, with remnants of the privy seal en placard; Archives of the convent of Lelesz, fasc. 47, Acta anni 1427, no. 22

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EDD.: Martinus Georgius Kovachich, *Supplementum ad vestigia comitorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789- 1801), 1:328–7; Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66), 10/6: 878–84; Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akademiai, 1978) [=DRH], pp. 244–7.

LIT.: S. Kőszeghy, “Zsigmond király két honvédelmi szabályzata” [Two military ordinances of King Sigismund] *Hadtörténelmi Közlemények* 5 (1892): 587–91.

17 MARTII 1427 (A)

Nos Sigismundus dei gratia Romanorum rex semper augustus ac Hungarie, Bohemie, Dalmatie, Croatie etc. rex memorie commendamus tenore presentium significantes, quibus expedit universis, quod nos frequentibus querelis regnicolarum nostrorum, tam ecclesiasticorum, quam secularium super illationibus violentiarum, dampnorum et multarum incomoditatum per nostros ac prelatorum et baronum, militum et nobilium regni nostri familiares exercitualmente proficiscentes in possessionibus nostris et eorundem tempore expeditionum exercituum perpetratis assidue propulsati, cupientes super hiis de remedio condigno providere, una cum eisdem prelatis et baronibus nostris mature deliberantes de eorundem beneplacito et consilio ordinavimus, statuimus ac presenti decreto sancimus:

I. Ut quicumque exercituum victualia et res necessarias, quibus carere non possunt, videlicet panes, vinum, pabulum, fenum, ova, caseum, blada, pisces, legumina, ancas, pullos, porcellos, agnellos, butirum, carnes et similia minora violenter aut, pretio non soluto, seu non plene soluto abstulerint aut aliter in hiis dampna intulerint, requisitique non satisfecerint, contra illos homines dampnificati seu eorum domini debeant convocare duos iudices nobilium illius comitatus, in quo dampnum fieri contingit, et coram illis homines dampnificati simul cum eorum villico deponere debent iuramentum de quantitate dampni illati, ipsique iudices nobilium similiter ad eorum iuramentum, quod prestiterunt tempore electionis eorum in iudices, debent dare litteras eorum testimoniales dictis dampnificatis sub sigillis comitis illius comitatus et ipsorum iudicum nobilium, hominesque dampnificati cum eisdem litteris accedentes ad iudices regni in curiam regiam tempore, quo in aliqua die octavarum fit iudicium regni, ubi iidem iudices regni predictis litteris testimonialibus plenam fidem adhibere et dampnificatis super dampno principali in dictis litteris testimonialibus contento, necnon super omnibus expensis, laboribus et fatigiis in requisitione dictorum dampnorum factis et fiendis conscientioso moderamine prehabito litteras sententiales et perceptorias comiti illius comitatus, in quo exercituum predicti, qui dampnum intulerunt, existunt, sub certo autentico sigillo dare debeant, vigore quarum dictus comes indilatam et plenam satisfactionem tam super dampno principali, quam super dictis expensis, fatigiis et laboribus iuxta moderamen dictorum iudicum cum rebus promptis et pecuniis aut occupatione possessionum et non cum estimatione exhibere teneatur.

II. Item quicumque res maiores, videlicet equos, boves, vestes, porcos, lardos et alias res maiores, quibus sine necessitate carere possent, abstulerint, seu domos, cellaria et scrinia rusticorum confregerint, aut vina receperint, currus onerantes ac alia similia dampna maiora intulerint, omnes tales per dampnificatos seu eorum dominos ad curiam regiam ad certas octavas in presentiam alicuius iudicum curie evocentur. Qui si ad ipsas octavas venire contempserint vel neglexerint, in ipso primo termino tamquam culpabiles reputentur et sentententur, per hoc tamen factum potentie et occupationis possessionum non incurrant, sed dampnum, quod contra eos propositum fuerit, quater appreciare et persolvere dampnificatis ipsis per iustitarios regni predictos compellantur. Si vero ad ipsas octavas venerint seu per procuratorem legitimum comparuerint, extunc dampno confesso similiter sententialiter condemnentur et ad satisfactionem compellantur, dampno vero negato iudices

predicti mediantibus eorum litteris debent remittere dampnificatos ad inquisitionem comitatus, in quo dampna sunt illata, ubi exactis attestatoriis iuramentis corporalibus super eorum fassione constiterit dampnum illatum, illatores huiusmodi supradictis penis condempnentur et satisfacere modo premissis compellantur.

III. Quicumque autem maiora facinora et delicta commiserint, videlicet interfectiones hominum, oppressiones et raptus mulierum et virginum, effractiones ecclesiarum et vasorum sacrorum ac domorum nobilium, tales tribus inquisitionibus per illos, quibus iniuria huiusmodi fuerit illata, fieri procuratis, erga domos dominorum eorum ad certas octavas in curiam regiam debeant evocari rationem premissorum reddituri. Qui si comparuerint et se in talismodi illatis iniuriis innocentes fore allegaverint, tunc probatio ipsarum illatarum iniuriarum ad attestationem nobilium illius comitatus, in quo hoc patraturum fuerit, committatur. Ubi autem in octava predicta non comparerent, extunc in sententia capitali eo facto convincantur; et si tales convicti reperti non fuerint vel reperiri non possent, extunc prefatus dominus eorum homagia ipsorum persolvat et de dampnis et iniuriis illatis lesis satisfacere teneatur.

IV. Item in omnibus premissis ubicunque illatores dampnorum et facinorum predictorum per passos iniuriam et dampnum eo, quod tales forte impossessionati vel ignoti, aut nimis remoti extiterint, ad evocandum inveniri non possent, sufficiat huiusmodi evocationem fieri circa habitationem baronis vel domini eorum, sub cuius nomine et banderio in huiusmodi exercitu procedebant, et idem dominus evocationem eandem ad notitiam suorum famulorum deducat.

V. Item si aliquis ex baronibus extiterit presens cum suis gentibus in exercitu et eidem contra suos familiares de aliquo dampno illato conquestum fuerit, de quo satisfacere non curaverit, extunc de eis dampnificati eorum dampna super ipsum baronem satisfacere non curantem requirendi et recuperandi habeant facultatem,

VI. Item exercitantes tempore estivo et alio, quo in campo stare possunt, teneant campestris descensus; graminata tamen atque ligna silvatica ignibus apta, similiter tempore iemali hospitia, sive iudei multi, sive pauci procedant, eisdem prohiberi et denegari non debent, et in istis exercitantes predicti a nemine debeant inquietari impediri atque molestari. Casu autem, quo in aliquo locorum graminata pastui iumentorum exercitantium necessaria non invenirentur, sed tantummodo prata et fenilia ad domos rusticorum reservata et custodita, tunc in illis iumenta exercitantium depasci possent et enutriri, antequam forent falcata et simul congregata. Postquam autem falcata fuerint, non recipiantur vi neque gratis, sed nisi pecunia condigna valoris eiusdem.

VII. Preterea pro avena vel ordeo aut siligine tempore caristie pro cubulo Budensi solvantur denarii triginta unus, tempore autem fertilitatis solvantur viginti quinque.

Item pro feno pro uno equo per diem unum et noctem solvatur unus [denarius], et non tamen substernatur fenum, sed quantum equo petitur, tantum detur.

Item pro pane, quantum potest competere et sufficere duabus personis pro uno prandio, solvatur denarius unus.

Item--- ante adventum exercitantium communiter tabernarii--- Item pro anca una solvantur denarii quinque.

Item pro pullo antiquo solvantur denarii tres, pro iuveni duo.

Pro porce[llo sol]vantur denarii quinque et demum pro agnello solvantur denarii octo.

Item pisces, legumina, carnes mactate, caseum, butirum et similia, de quibus non potest haberi ratio singularis, emantur et solvantur pretio competenti, considerata tamen temporis et loci qualitate.

Item ova pro denario octo.

Item si qui voluerint emere boves, porcos maiores, lardos, non emant aliter, quam cum bona voluntate vendentis et solvant secundum quod poterunt de pretio concordare.

VIII. Item videtur, quod in omnibus locis, in quibus sal regium potest sufficienter haberi, sit prohibitum vendi vel emi sal extraneum. Si quis contra fecerit, venditor prima vice repertus per camerarium regium toto sale privetur, secundo vero sale simul cum curru et animalibus ipsum currum vehentibus destituatur; tertio vero vel pluries personaliter detineatur et pena condigna, sicut cum camerario ipso concordare poterit, puniatur. Emptor sal amittat et insuper pretium, quod pro sale dederat, camerario regio secundario persolvat.

IX Item, quod de sale regio tamdiu, quousque ducitur sub nomine regio, nullus audeat exigere tributum in terra aut in aqua, nisi qui possent probare se in hoc ius habere speciale. Similiter fiat de sale dato exercituantibus, donec eorum nominibus ducitur et venditur.

Postquam autem huiusmodi sal sive de camera regia, sive ab exercituantibus ad mercaturam devenerit, mercatores ipsi videntur teneri ad tributum. Quicumque autem tributarium de huiusmodi sale regio vel exercituantium tributum exegerit, et camerarius regius domino illius tributarii intimaverit, teneatur idem dominus dictum tributarium assignare dicto camerario ad satisfactionem ipsi camerario iuxta eius voluntatem adstringendum presentium litterarum nostrarum privilegialium testimonio mediante,

Datum Brassouie, feria secunda proxima post dominicam Reminiscere, anno domini millesimo quadringentesimo vigesimo septimo, regnorum nostrorum anno Hungarie etc. XL, Romanorum XVII et Bohemie septimo.

17 MARCH 1427 (A)

We Sigismund, by the grace of God ever august king of the Romans and king of Hungary, Bohemia, Dalmatia, Croatia, etc., wish to be remembered by notifying all to whom it may concern through the words of these presents that, induced by the complaints of our gentlemen of the realm, both clerical and lay, about the violent acts, damages, and many kinds of impositions committed by the armed retainers mobilized for campaigns by us, the prelates, barons, knights, and nobles of the kingdom on our estates and theirs while they go to war,¹ and wishing to remedy these by suitable means, after mature deliberation with the same prelates and barons and following their pleasure and counsel, we have ordained, established, and decreed the following.

1. If any soldier takes by force or without payment or without full payment or causes any kind of damage in victuals and other necessities without which one cannot live, such as bread, wine, fodder, hay, eggs, cheese, grain, fish, vegetables, geese, poultry, piglets, lambs, butter, meat, and similar things of lesser value, and does not offer satisfaction to the one demanding payment, then against him the persons who have suffered loss or their lords ought to call upon two noble magistrates of that county in which the damage was done and the plaintiffs shall swear, publicly together with their reeve, an oath on the amount of the damage incurred. The noble magistrates, according to the oath that they swore at their election to the office,² ought to give the said plaintiffs a letter of evidence under their own and of the county ispán's seals, and then these plaintiffs ought to appear with this letter before the judges of the royal court when on an octavial term³ royal court is held. At that place and time the judges must give full credence to the said letter of evidence, and after conscientious examination issue a letter of judgment and order⁴ on the damage contained in the said letter of evidence as well as on the expenses, exertions, and labors spent and to be spent by the plaintiffs for the recovery of their losses, under their distinct authentic seal,⁵ addressed to

¹ Damages caused by the military were a recurrent problem of the time, treated more than once in the laws; see **12 March 1435/II: 6–8** and **Prop: 3**

² The oath taken by the noble magistrates at their accession was probably as old as their institution. As early as the mid-fourteenth century, the magistrates were occasionally called *iudices iurati*; see Gyula Gábor *A megyei intézmény kialakulása és működése Nagy Lajos alatt* [Development and functions of the county under Louis the Great] (Budapest: Grill, 1908), p. 85. Cf. also **8 March 1435/I: 1**

³ Octavial courts (*octava*) refer to the session of royal courts of justice; of which here were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times.

⁴ *Litterae testimoniales* (or *fassionales*) were issued as proof of a recognizance, that is a deposition before a place of authentication (see below n. 5); *litterae sententiales et praeceptoriae*, was the legal record of final sentence in a lawsuit.

⁵ A seal was called authentic if it had legal force. Documents sealed in this way were accepted as evidence in lawsuits. Besides the royal seals, those of the high justices of the realm (the count palatine, the judge royal, the Master of the Treasury and the bans), and, of course, the seals of the places of authentication, were regarded "authentic." Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine,

the ispán of that county where the soldiers who had caused the damages are to be found. On the strength of this letter, the ispán is obligated to secure immediate and full satisfaction not only for the main damage but also for the aforementioned expenses, exertions, and labors according to the decision of the said judges, in kind or in money or by institution to estates, but not in the amount of the estimated value.⁶

2. Then, those who will have taken major things, such as horses, cattle, clothes, pigs, bacon, and other valuable items without which one can survive, or who destroy the houses, cellars, and barns of the peasants or seize all their wine or loaded carts or cause similar major damage, should be cited by the plaintiffs or their lords to the royal court at an octavial session to the bench of a judge. Those who neglect or avoid appearing at that octave are to be judged at that first term as guilty and to be sentenced. Whereas they should not incur the punishment of confiscation of their estates for this act of might, they should nonetheless be forced by the said royal justices to repay these damaged persons four times the estimated value of the damage which was charged against them.⁷ If, however, they appear personally or through legal counsel at that octavial court and admit the damage, they should also be duly sentenced and compelled to repair the damage. However, if they deny the damage, the said judges ought to send the plaintiffs with their letters to the county where the damage occurred, and there, when the damage inflicted has been testified to by statements sworn on corporeal oath,⁸ the accused must be condemned to the aforesaid punishment and must repair the damages in the said manner.

Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary’s *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66-73

⁶ Estimation was an artificial means of assessing property, mobile and immobile, in course of a legal procedure. It was not made on current prices but according to a traditional key, and the amount given in a special “mark of estimation” remained far below the real value. This law may have been intended to assure that damages were repaired in their actual worth. Another possible reading (by Erik Fügedi) implies that the measure was to prohibit the practice of pledging cattle or land for major debts, instead of paying them in money or valuable objects. Such pledges were often defined not by amount but generally as *in condigna estimatione*. On the other hand, the text allows payment by “occupation of estates” and there is evidence for both land and cattle being pledged under Sigismund; see, e.g., *Zsigmondkori Oklevéltár* [Calendar for the age of Sigismund]. Elemér Mályusz, *et al.* eds. (Budapest: Akadémiai K. 1954–), vol. 2, nos. 3421, 5275, 6996.

⁷ The penalty of fourfold damages may be traced to Roman civil law. However, not in remedies for damages in property (for which twofold damages were the normal penalty), but for outright theft (*furtum manifestum*), see *Dig.* 47.2, esp. 47.2.89; *Codex Iustinianus* 6.2.11 and 18.

⁸ *Iuramentum corporale*: an oath in which the number of oath helpers depended on the amount of the damage. Usually for each Mark of damage (in value of estimation, see note above) one person’s oath was

3. Those, however, who have committed major crimes and delicts, such as the killing of people, maltreatment or rape of women and virgins, robbery of churches or of houses of nobles, or theft of sacred vessels, are to be summoned from the houses of the plaintiffs lords to an octavial session at the royal court after a threefold inquiry⁹ by those who have suffered such damage in order to respond to the complaints. If they appear and claim to be innocent of the harm caused, then the proof of these inflicted damages ought to be requested from the nobles of that county where the damage was committed. If, however, they do not appear at the said octave, they should incur capital sentence for that reason.¹⁰ If these culprits have not been or cannot be found, then the said lords of theirs have to pay their composition¹¹ and make satisfaction for the damages and injuries caused by them.

4. Then, whenever regarding the aforesaid matters those who have suffered the damages and injuries cannot find those who caused the damages or inflicted the injuries in order to summon them, either because of being unpropertied or unknown or living too far away, it will suffice to deliver such a summons to the residence of that baron or lord under whose banner and name they serve in the army,¹² and that lord has to bring the summons to the notice of his retainers.

5. Then, if any baron who is among his men at arms¹³ and does not take care that satisfaction be given by a retainer of his when he is requested to do so by someone who had suffered damage,

required. Cf. Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád and the diverse dynasties], Budapest: Magyar Tudományos Akadémia, 1899, p. 316.

⁹ Threefold inquiry: an inquiry made in the same case by three different authorities in order to make the evidence weightier. It was carried out by the county in question and by two *loca credibilia* in the neighborhood. See Hajnik, *Bírósági szervezet*, p. 291.

¹⁰ Capital sentence. (*sententia capitalis*) meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment. The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate.

¹¹ Composition (*compositio*), or man price (*homagium*) was a sum of money (in earlier laws frequently expressed in cattle or other valuables), which was owed by a person (or his kindred) who had killed, maimed, or otherwise harmed a man or woman, paid to the kindred (or family) of the victim. The amount was based on the victim's or the culprit's social and legal status and the nature of the crime. According to the **Tripartitum.**, the man price of barons was 100, and of nobles and burghers 50 marks. Composition and *homagium* became blurred in practice with the fine of the head and to a lesser extent the fine of the tongue.

¹² Up to the end of Sigismund's rule, the prelates and barons of the realm alone were entitled to use a banner (*vexillum* or *banderium*) as their sign when leading their retainers and other soldiers to war. Other nobles, however rich, were supposed to join the king's "banner"; hence the command of a *banderium* became the symbol of baronial status.

¹³ I.e. when the lord took part on the campaign in person. On many occasions the lord's *banderium* was led by his deputy.

then these damaged parties should have the right to demand and claim their damages from that very baron who failed to satisfy them.

6. During summer or such time when they can stay in the open, the army should camp in the fields, but they, be they many or few, ought not to be denied straw and firewood from the forest nor housing in wintertime, and in these matters the soldiers should be neither molested nor harassed or hindered. Where there is not enough pasture for the beasts of the army beyond those meadows and pastures which are necessary and reserved for the peasant households, then the animals of the army should graze and feed only before the meadows are mown and the hay gathered. After the mowing, no hay must be taken by force or without payment, but only for the proper price according to its value.

7. Furthermore: for oats, rye, and barley, for a cubulus of Buda ¹⁴in lean years 31 pennies are to be paid; in fertile years, 25 pennies.

Then, for hay for a horse for a day and a night, one penny, but the hay should not be strewn under the horse; only as much hay should be given as the horse needs.

Then, for bread, sufficient for two people to eat for one meal, one penny is due. Then, before the army's arrival, tavern keepers ...¹⁵

For a goose, 5 pennies are to be paid.

For an old hen, 3 pennies are due; for a young chicken, 2 pennies.

For a piglet, 5 pennies, and furthermore, for a lamb, 8 pennies are to be paid.

Then, fish, vegetables, cut meat, cheese, butter, and suchlike which cannot be listed singularly, should be bought and paid for at a suitable price, always considering the conditions of time and place.

Then, for a penny, eight eggs.

Then, if anyone wishes to buy cattle, fat pigs, or bacon, he should not do so without the good will of the seller and should pay the price agreed to.

8. Then, it seems best that in places where a sufficient amount of royal salt can be acquired, the buying and selling of foreign salt be prohibited. If someone acts against this, the seller at first offense should be deprived by the royal chamberlain of all the salt, at the second time also of the cart and the animal drawing the cart, at the third time or thereafter, he should be personally arrested

¹⁴ The measure of grain is given in *cubulus Budensis*—according to Emma Lederer (“Régi magyar űrmértékek” [Old Hungarian measures of volume] *Századok* 57, 1923/24, 135–42) ca. 80 litres—consistent with Sigismund’s efforts to make the measures of Buda compulsory for the whole land (see **15 April 1405/I:1**), although the “*cubulus* of Kassa” was the most widely used one. The difference between the two cannot be ascertained any more precisely.

¹⁵ About five words are missing.

and punished by suitable punishment according to his bargain with the chamberlain. The buyer should lose the salt and in addition should pay as much to the royal chamberlain as he paid for the salt.¹⁶

9. Then, no one should dare to demand toll for the king's salt wherever it is shipped in the king's name, on water or land, unless he can prove that he has a special right to do so. The same should hold for the salt of the soldiers¹⁷ as long as it is transported or sold in their name. Once, however, such salt of either the royal chamber or the soldiers' passes into the hands of a merchant, the merchants are considered liable for the toll on it. Wherever a toll-collector demands toll from such royal or military salt, and the chamberlain reports this to the master of the toll-collector, the master of the said toll has to hand over that toll-collector to the chamberlain in order to satisfy the chamberlain, according to his demands, by the force of this, our present letter of privilege.

Given at Braşov, on Monday following the Sunday of Remembrance, in the year of the Lord one thousand, four hundred twenty-seven, in the fortieth year of our reign in Hungary etc., the seventeenth as king of the Romans, and the seventh year of our reign in Bohemia.

¹⁶Import of foreign salt had been prohibited many times before, most recently in **14 April 1405/I: 20**. On the issue in general, see István Draskóczy, Salt Mining and the Salt Trade in Medieval Hungary from the mid-Thirteenth Century until the End of the Middle Ages, in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 205–18.

¹⁷Professional soldiers were paid in cubes of salt; hence these articles here.

LAW OF KING SIGISMUND OF HUNGARY
17 March 1427 B

This short decree introduced a new money of change which remained standard for decades. It goes back to the **Propositio 1415/7** sent by Sigismund to the royal council. Why did it take 10 years to codify the monetary reform is not known. Although the surviving original lacks the usual privilegial form, it opens with full royal style and the text refers to a formal royal command. Since the contents also treat matters of national importance, it may count, as a law of the land. (We mark the two decrees issued the same day A and B)

MS.: Paper original, sealed on the dorso with the great seal of the realm, *en placard*; City Archives, Cluj (Romania) M, 54.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Elek Jakab, *Oklevéltár Kolozsvár története a középkorban I. kötetéhez* [Diplomatarium to the First Volume of the History of Kolozsvár/Cluj in the Middle Ages] (Budapest: Egyetemi Nyomda, 1870), pp. 164–66; Franz Zimmermann and Karl Werner, *Urkundenbuch zur Geschichte der Deutschen in Siebenburgen*. (Hermannstadt: Michaelis, 1882).4: 275-7.; Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457, [=DRH]* (Budapest: Akadémiai, 1978), pp. 248–50.

LIT.: Lajos Huszár, *A budai pénzverés története a középkorban* [History of the minting of Buda in the Middle Ages] (Budapest: Magyar Tudományos Akadémia, 1958), pp. 69–81; Márton Gyöngyössi, “Coinage and Financial Administration (1387–1526),” in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 295–308

17 MARTII 1427/ B

Sigismundus dei gratia Romanorum rex semper augustus ac Hungarie, Bohemie, Dalmatie, Croatie, Rame, Servie, Galicie, Lodomerie, Comanie Bulgarieque rex, marchio Brandenburgensis et Lucernburgensis heres necnon Barbara d[ei] gratia regnorum predictorum regina omnibus Christi fidelibus presentibus pariter et futuris presens scriptum inspecturis salutem in omnium salvatore. Cum inter ceteras animi nostri curas, quibus ad profectum regnorum nostrorum utilitatemque nobis subiectorum meditatione continua distrahimur, mente volveremus quemadmodum et ipsorum regnorum nostrorum expeditionibus et diversis statibus eorundem subditorum nostrorum in cusione, cursu et consuetudine monete tam auree quam argentee utiliore et fructuosiore dispositionem ederemus, habito cum prelatibus et baronibus nostris, quorum sigilla una cum nostris pro maiori evidentia consensus eorundem presentibus sunt appensa, maturo superinde consilio, provida deliberatione precedente ordinationes, statuta, edictalia scripta infra contenta decrevimus, sanximus et decernimus tam effectui mancipanda quam futuris temporibus continue firmitate servanda.

I. Ordinavimus itaque statuimus, sanximus et conclusimus monetam auream nostre maiestatis in eisdem qualitate, quantitate et gradibus auri, quibus hucusque cusa est et nunc cuditur, de cetero cudi et remanere, monetam vero argenteam maiorem a modo in antea cudi et fabricari de argento finissimo in tanta quantitate, quod de una marca puri argenti exeant denarii sexcenti, quorum centum currant pro floreno auri. Minores vero denarii vulgariter filler vocati camare nostre regie hactenus cusi—quousque durabunt—remaneant et currant nec cudantur de cetero plures de istis vel alii fillerii, nisi tandem turn per nos ac prelatos et barones nostros predictos pro nostra et regni nostri utilitate de cusione minoris nostre monete aliud cogitatum extiterit et provisum.

II. Quocirca ex vigore presentis decreti et sanxionis nostre maiestatis de prelatorum et baronum nostrorum predictorum unanimi voluntate, consensu et ordinatione firmissimo sub precepto per universos comitatus et provincias ac loca dicti regni nostri insinuari, publicari et proclamari mandamus, ut omnes regnicole et alii quivis homines in regno nostro commorantes falsos denarios minores seu fillerios, quorum admixtione vera moneta camare nostre regie hactenus extitit et nunc est depravata, usque ad festum sancti Jacobi apostoli proxime venturum prorsus abicere, anichilare et abolire teneantur, nullatenus de cetero eosdem apud se detinere presumendo. Volentes et eodem edicto committentes, ut infra ipsum terminum iudices presidentes et rectores curie, nundinarum et fororum omnes falsos obulos seu fillerios necnon officiales nostri regales ad id deputandi in locis et foris suarum iurisdictionum diligenter requiri ac inventos incidi et destrui facere te[neantur] sicque incisos et destructos eis, apud quos inventi fuerint, nec hoc cupiditati imputetur, restitui faciant et resignari, Lapsa autem huiusmodi termino festi sancti Jacobi apostoli, si quis cum moneta omnino falsa segregata videlicet a moneta vera camare nostre regalis ad numerum ad minus duodecim denariorum se extendentem fuerit deprehensus, talis pena delatoris false monete puniatur. Quicumque vero falsam monetam intermixtam bone monete camare regie usque ad decimum,

puta inter centum fillerios decem falsos aut in centum florenis verorum denariorum decem florenos falsorum, deferre comperti fuerint, tales in personis detineri ac pena falsificantium monetam puniri debeant prenotata. Denarii vero falsi sic inventi modo premissis aboleantur. Moneta autem falsa infra pretaxatum numerum, ratione cuius scilicet delator persone aut, rerum subire non merebatur penam, similiter ab eisdem iudicibus et presidentibus nundinarum, fororum et civitatum ac officialibus nostris requiratur, incidatur et aboleatur.

III. Statuimus insuper et sanximus, quod quicumque homines regnicole vel forenses—cuiuscumque status et conditionis existant—in tantam malitiam suam temeritatem extenderint, quod predictam monetam nostram novam argenteam vel aliam quamlibet contra veteres et varias nostre maiestatis ac dictorum prelatorum et baronum nostrorum ordinationes et inhibitiones radere vel quomodolibet incidendo minorare aut rasam vel minutam defferre seu cum talei quovismodo mercari vel negotiari presumpserint, pena falsorum denariorum plectantur prenotata eandemque penam subire volentes et decernentes omnes segregatores, exponderatores et electores graviorum denariorum a levioribus huiusmodique ingenio cursum et valorem dicte monete nostre vilificare satagentes.

IV. Item statuimus, ordinavimus pro statutoque et sanxione irrevocabili habere volumus et reliquimus, ut marca puri argenti Budensis ponderis valeat quingentos et quinquaginta denarios monete maioris supradicte, quorum scilicet centum currant pro floreno auri.

V. Preterea statuimus, sanximus et ordinavimus, quod nemo in mercaturis, emptionibus, venditionibus et commutationibus presumat procedere et negotiari cum auro vel argento non monetato, sed totum aurum et argentum comportetur ad camaram monete nostre regalis vendaturque ibi pretio suo modo premissis limitato. Mercantie vero quelibet exerceantur et fiant cum moneta regali vel commutationibus aliarum rerum preter aurum et argentum. Si quis autem contrarium fecerit, emptor tam aurum et argentum non monetatum modo premissis in huiusmodi negotiationibus expositum quam alia cuncta bona sua tunc secum habita et reperta, venditor vero rem venalem pro huiusmodi auro et argento non monetato expositam amittat ipso facto.

VI. Ad hec unanimi consensu et voluntate prelatorum et baronum predictorum sanximus et statuendo commisimus perpetue firmiter observanda, ut nullus omnino hominum regnicola vel forensis—cuiuscumque status et conditionis existat—aurum et argentum necnon pecuniam auream et argenteam de regnis nostris corone nostre Hungarie suppositis sub pena capitis ac perditionis omnium bonorum suorum mobilium et immobilium ubilibet habitorum audeat exportare ultra rationabiles et condecetes expensas considerata dignitate et conditione personarum., prelatis tamen et baronibus ac nobilib[us et] ceteris regnicolis nostris secundum cuiuslibet conditionis facultatem pro clenodiis et i[ab]oribus propriis aurum et argentum emenda ac ubi maluerint purgari, fabricari et laborari faciendi [libe]ra facultate remanente vigore et testimonio presentium literarum nostrarum privilegialiurn mediante.

Datum Brassovie feria secunda proxima post dominicam Reminiscere anno dornini M^{mo} CCCC^{mo} XX^{mo} VII^{mo}, regno[rum] nostrum anno Hungarie etc. XL^{mo} Romanorum et Bohemie septimo.

17 MARCH 1427 (B)

Sigismund, by the grace of God ever august king of the Romans, king of Hungary, Bohemia, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria, margrave of Brandenburg and heir of Luxembourg,¹ as well as Barbara, by the grace of God queen of the above kingdoms,² to all Christ's faithful, present and future, who will read these presents, greetings in the Savior of all. When, among other concerns of our mind with which we are occupied in steady contemplation of the improvement of our kingdoms and the advantage of our subjects, we turn our thoughts to the question of how we could issue a more useful and fruitful regimen regarding the minting, circulation, and usage of money, both gold and silver, for the enterprises of our kingdoms as well as for the diverse status of our subjects in them, after having held mature counsel with our prelates and barons, whose seals are appended along with ours for greater evidence of their consent to these presents,³ we have decreed, ordered, and established, after having considered the preceding consultations, that the ordinations, statutes, and edicts set out below should be immediately observed and kept with perpetual force in the future.

1. We have therefore ordained, determined, ordered, and decided that the gold coinage of our majesty should be minted and should remain further in the same quality, quantity, and fineness of gold in which it has been minted until now and is still being minted; and the larger silver coinage should be minted and produced henceforth from the finest silver in such quantity that six hundred pennies should be minted from a mark of pure silver, and one hundred of these should equal one gold florin. The smaller pennies of our royal chamber, commonly called *fillér*, thus far minted should remain in circulation as long as they last, but neither more nor different *fillérs* must be

¹The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45. Sigismund added his hereditary titles to it.

²This is the only known law issued together by the king and his second wife, Barbara, countess of Cilje, perhaps because of her being the mistress of the mining towns of northern Hungary thus closely involved in matters of mining and minting.

³Obviously, there was a parchment original with several seals pendant, now lost. The practice of appending the seals of magnates began in the fourteenth century, first only on international treaties, later on other important documents as well. For its origins in the Angevin age, see Pál Engel, “Nagy Lajos bárói” [Barons of Louis the Great], *Történelmi Szemle* 28 (1985): 393–4, 410–3

minted, unless we and our said prelates and barons will have considered and decided otherwise in regard to the minting of our smaller money for our profit and for that of our kingdom.⁴

2. Therefore, by the power of the present decree and order of our majesty following the unanimous will, consent, and command of our said prelates and barons, we order by most strict ordinance that it be made known, published, and proclaimed in all counties, provinces, and places of our said kingdom that all residents⁵ and any others sojourning in our kingdom are required to discard, destroy, and abolish forged small pennies or *fillérs* by the next coming feast of St. James the Apostle,⁶ and no one should dare to keep any of them for himself, since mixing them has caused and is still causing the devaluation of the true money of our royal chamber. We also wish and command by the same edict that within this time limit the presiding judges and the supervisors of the towns, markets, and fairs,⁷ as well as our royal officials appointed to this in the places and areas of their jurisdiction are required to have all forged *obuli* or *fillérs*⁸ diligently searched out and to cut up and destroy those found; and in addition, they must see to it, lest they be accused of cupidity, that the cut up, and destroyed coins be restored and returned to those in whose possession they were found. After the expiration of this time limit of the feast of St. James the Apostle, anyone who is caught at all with forged money set aside from the true money of our royal chamber in the amount of at least twelve pennies, will be punished with the penalty of a counterfeiter of forged money. Whoever is found guilty of mixing forged money with good money of our royal chamber up to one tenth, that is, ten forged *fillérs* among one hundred, or ten florins of forged pennies among one hundred florins of true pennies, must be detained in person and punished with the penalty for forgers of money as noted above.⁹ Forged pennies found in the above manner must be destroyed. Forged money of less than the above quantity, for which the culprit does not merit undergoing the penalty of person or property, must similarly be confiscated, cut up and destroyed by the said judges and supervisors of markets, fairs, and towns or by our officials.

3. We have laid down and ordered furthermore that any resident or foreigner, of whatever station or condition, who would extend their boldness to such evil that they dare to clip or diminish by

⁴ Counting the silver mark as the Mark of Buda (245.5 g), the new “larger silver pennies” contained 0.4 g silver. Although their face value established by this decree was far above their intrinsic value in terms of the current price of silver (see below, n. 9), they remained in circulation for the rest of Sigismund’s reign

⁵ In this text *regnicolae* is consistently used in contrast to foreigners and sojourners in the kingdom; “residents” is, therefore, the proper translation in this decree, while otherwise the word was used to refer to the enfranchised nobility of the realm and we translate it as “gentleman of the realm.”

⁶ 25 July 1427.

⁷ The editors of *DRH* emended here *curia* to *civitas* on the basis of the second mention of these office-holders, in same article, below.

⁸ *Obulus* was the name used for the smallest coins since the early fourteenth century. In the Angevin period *obuli* had the value of half a penny, but after the accession of Sigismund they rapidly lost value, which was reflected in their Hungarian name *fillér*, derived from German *Viertel* (“quarter”), meaning a farthing.

⁹ Counterfeiting money counted as one of the major felonies, called “charge of infidelity” and could be punished by capital sentence.

cutting our said new silver or any other money, have in their hands clipped or diminished money, or conduct commerce or business with such, contrary to old and various orders and prohibitions of our majesty and of our said prelates and barons, should be punished with the penalty noted above of counterfeit pennies; and we wish and decree that all those who separate, weigh out, and select heavier pennies from lighter ones and by this cunning attempt to reduce the circulation and to cheapen the value of our said money should suffer the same penalty.

4. Then, we have laid down and ordered and we wish and leave it to be held by irrevocable statute and order that a mark of pure silver of Buda weight should be worth five hundred and fifty pennies of the larger money mentioned above, namely that of which one hundred equals a gold florin.¹⁰

5. Furthermore, we have laid down, decreed, and ordered that in commerce, buying, selling, and exchange no one should dare to proceed or to negotiate with gold or silver that is not coined, but should bring all gold and silver to the chamber of our royal mint where it must be sold for the price fixed in the preceding manner.¹¹ All business affairs must be conducted and take place with royal money or by the exchange of other goods besides gold and silver. If anyone should do otherwise, the buyer should lose the unminted gold and silver mentioned above used in any such business, as well as all other goods in his possession and found with him, and the seller should for the same reason lose the goods exposed for sale for unminted gold and silver in the same way.

6. With the unanimous consent of the said prelates and barons and their agreement to all this, we have ordered and committed it to be laid down firmly so that it be observed perpetually that no resident or foreigner at all — whatever station and condition he might be — should dare to export gold and silver as well as gold and silver money from our kingdoms subject to our crown of Hungary, beyond reasonable and proper expenses appropriate to the dignity and worth of the person, under the capital penalty and the loss of all his movable and immovable goods held anywhere; however, for our prelates, barons, nobles, and other gentlemen of the realm, according to the means of their respective stations, the free allowance should remain valid by the force and witness of our present privilege to cause gold and silver to be used for their own jewels and works (of art) or, if they prefer, to purify, fabricate, and work with gold and silver.

Given at Braşov on Monday following the Sunday of Remembrance, in the year of the Lord one thousand, four hundred and twenty-seven, the fortieth year of our reign in Hungary, etc., the seventeenth as king of the Romans, and the seventh in Bohemia.

¹⁰ This price setting corresponds to a 1:12.5 ratio between gold and silver, 5.5 florins (=19.5 gold) being exchanged to a mark of 245.5 gold. The real price of silver in terms of Buda Mark around this time was, however, 3.2 florins, i.e., the ratio was rather 1:21.

¹¹ The export of unminted gold and silver was prohibited long before, see, e.g. the Cameral contract of 1342: 12, *DRH* p. 133.

KING SIGISMUND OF HUNGARY'S PROPOSITIONS ON DEFENSE OF C. 1432/1433

Very few royal proposals for discussion at diets or royal council meetings have come down to us from the Middle Ages. The *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, Ferenc Döry, György Bónis, Vera Bácskai, eds., (Budapest: Akadémiai Kiadó, 1978) [=DRH] contains, three: a brief one from Sigismund, dated ca. 1415/17 (pp. 397–404), and a short document from Ladislas V from ca. 1454. (pp. 431–34). We decided to include the the two Sigismundians, for they served clearly as a basis of decretal. The one from 1432/3 led to the one of **12 March 1435/II** and was referred to as “King Sigismund’s Register” (see art. 6) as late as 1518.

The surviving copies are not dated, but the contents allow us to conjecture a fairly exact date. Sigismund refers to the loss of Trnava, which was captured by the Hussites around 24 June 1432; it must have taken some time for the news to reach the king and emperor who was at that time detained in Siena. From there Sigismund sent orders for a campaign against the Venetians on 28 October 1432, but revoked it, having made a truce with the Signoria, on 21 January 1433. Actually, in the latter command to Ladislas of Kanizsa, Sigismund refers to “other dispositions sent to you,” which most likely mean the present military arrangement, for he still expects a war in Friuli, but expresses hope to avoid it (art. 23). These and other minor indications speak for a dating “between November 1432 and 20 January 1433,” as was already proposed by Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801), 1: 350, 361).

Two of the sixteenth-century codices which contain this “Register” also contain a slightly different list of *banderia*, augmenting art. 21–22 of the ordinance. They seem to have been drawn up after the death of Sigismund, as their preface suggests, but before the mid-sixteenth century, when they were copied into three manuscript collections of legal texts. The heading runs:

In the time of king Sigismund of Hungary, who was also emperor of the Romans, the kingdom of Hungary had many enemies from different lands, and so because of this the king, with the counsel of his lords and the gentlemen of the realm, has divided all his people and those of the lords gentlemen of the realm, who were able to go on campaign from the kingdom, in the following order... .

The textual transmission of this list (see DRH, pp. 425–30) must have been different from that of the Propositions. The two texts are included in the codices at entirely different places; the later list is also contained in a codex from 1588, while it is missing from one that has the Register. We took the liberty of adding the data contained in that list to the English translation of the propositions, in brackets, because they usually clarify the size of military units assigned to the different borders. In the rare cases where the list does not contain a region or person mentioned in the Register, a note refers to this fact; persons not mentioned in the Register but in the list appear in brackets.

MSS.: No original survived; copies are in Cod. Festetich (OSzK Fol. Lat. 44355) pp. 217–31 and

391–95; Cod. Debrecen (11 pp. unnumbered); Cod. Nádasdy (Budapest University Library, Cod. G 39) foll. 190v–92v, list only. It was also copied into the now lost Cod. Szapáry.

EDD. Kovachich, *Supplementum* 1: 374–441 (from the Cod. Szapáry); Johannes Nicolaus Kovachich, *Sylloge decretorum comitialium in clyti regni Hungariae, quae in vulgato corpore juris hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui parte, manca referebantur et oblivion postliminio, recenter erepta sunt*. (Pest: Trattner, 1818), pp. 416–40 (list only); *DRH*, pp. 405–30.

LIT: Kovachich, *Supplementum* 1: 348 sqq.; S. Kőszeghy, “Zsigmond király két honvédelmi szabályzata” [Two military ordinances of King Sigismund] *Hadtörténelmi Közlemények* 5 (1892): pp. 592–608; József Deér, “Zsigmond király honvédelmi politikája” [Defense policies of King Sigismund], *Hadtörténelmi Közlemények* 37 (1936): 1–57, 169–202, there: pp. 15–16, 25–30, 34.

CIRCA MODUM ET FORMAM DEFENSIONIS TOTIUS REGNI HUNGARIE CONTRA OMNES INIMICOS EX QUACUNQUE PARTE IPSUM REGNUM INSULTANTES NOTATA SUNT INFRASCRIPTA.

I. Quia ex regni Hungarie ab antiquo observata lege et consuetudine debitum fuit, ut ultra defensionem, quam rex et regina ac prelati ecclesiarum et viri ecclesiastici ipsius regni de regiis et regionalibus ac ecclesiarum proventibus pro conservatione regni eiusdem et confiniorum suorum ex omni parte facere tenentur, etiam universitas regnicolarum nobilium et possessionatorum pro huiusmodi defensione confiniorum regni contra omnes inimicos regnum ipsum insultantes in generali exercitu regni universaliter proficisci tenetur; item quia etiam rex Hungarie utitur ultra titulum regni Hungarie horum regnorum titulis, videlicet Dalmatie, Croatie, Rame, Seruie, Gallicie, Lodomerie, Cumanie et Bulgarie, que scilicet regna sunt ab antiquo eidem regno Hungarie incorporata, et ad horum cuiuslibet conservationem et confiniorum defensionem per regem, reginam, prelatos, viros ecclesiasticos et communitatem nobilium et possessionatorum hominum necessario semper est intelligendum, videtur itaque regie maiestati, quod domini prelati et barones in unum locum et ad certum terminum facerent generalem conuocationem et aliquos de quolibet comitatu totius regni advocarent, cum quibus habito tractatu declarent per expressum de locis et terminis per totum circuitum regni, usque quem scilicet locum et terminum, ac quamdiu pro regni defensione contra inimicos communitatis regnicolarum generalis exercitus deberet, sicut tenetur, ingruente necessitate proficisci atque stare.

II. Item quia precedentia gesta generalis exercitus communitatis regnicolarum manifestam prebuerint experientiam generalis utilitatis, qualis profectus provenerit ex generali exercitu regnicolarum circa defensionem et conservationem regni, cum alii ex eisdem plurimi aut paupertate aut senio aut alia impotentia constricti potius baculis, quam armis fulciti verius mendicitati, quam militie actu vacaverunt, disponendum ergo esset et providendum, quod hi, qui irent pro defensione regni, non essent inermes, sed haberent saltem arcus et alia arma, quibus pro defensione regni ad offensam hostium se exponere possint. Videtur utilius, quod de quolibet comitatu mitterentur certo numero pharetrarii equestres secundum facultatem cuiuslibet comitatus, et ab huiusmodi pharetrariorum assignatione nullus nobilium se excusare et abstrahere possit, sed quilibet nobilis in illo comitatu, in quo possessionem habet, teneatur communiter cum communitate tale onus portare. Ita videlicet, quod videtur maiestati regie, ut in relevationem oneris pauperum, senum, orphanorum viduarum nobilium ac possessionatorum cuiuslibet comitatus ipsis regni, ut de quolibet comitatu certi numeri equestres pharetrarii bene valentes pro huiusmodi defensione confiniorum darentur et mitti deberent pro temporis necessitate; sic et ut pauperes nobiles, orphani et vidue non aggravarentur, ut per singula capita secundum regni consuetudinem proficiscerentur, sed ut corripitarentur tanti secundum eorum facultatem, quanti ex eis communi expensarum contributorie unum hominem pharetrarium equestrem mittere possent. De nobilibus autem jobagiones habentibus fieret in quolibet comitatu per nobilium communitatem certa limitatio secundum facultatem eorundem, quanti homines mitti deberent ab eisdem, et sic hominibus, quos tam pauperes nobiles, quam etiam nobiles possessiones habentes dare debent, simul computatis videretur, quanti homines de quolibet comitatu ad huiusmodi exercitum mitti possint, et quod omnes tales ad exercitum ire debentes proficiscerentur sub conductu proprii comitis provincialis, sicuti fuit antiquitus consuetum, prout super hoc etiam capi potest exemplum

et informatio de gestis specialiter regis Salamonis, Geysse ducis et de comite Vid Bachiensi et Jan comite Soproniensi, qui in expeditionibus eorundem regis et ducis contra Runos et Bissenos circa NandoraIbam cum Bachiensi et Soproniensi militarunt.

III. Item videretur etiam disponendum sub gravibus penis, quod exercituantes, sive sint regis, sive regine, sive prelatorum vel baronum, aut generalis exercitus regni, dum et quandocumque ad exercitum se profecturos levabunt, neminem in suo transitu vel reditu deberent damnificare, quia sepe regnum ab huiusmodi exercituantibus plus offenditur et damnificatur, quam ab inimicis.

IV. Item quod regia maiestas non nunciat eis talismodi dispositionem faciendum ex eo, quod aliquam novam dispositionem in eorum medium introduceret vel ipsos aggravaret, sed ideo, quia, ut apparet sue maiestati, ex tali dispositione multo maior utilitas et profectus regno Hungarie provenient, et quamvis isto modo numerus exercituantium esset minor, quam si tota communitas per singula capita insurgeret, tamen multo plures utilitates inde regno possunt provenire, et talismodi exercitatio non propter quascunque leves causas insurgere debeat, sed solummodo tunc, cum tam magna potentia inimicorum regnum Hungarie vellet invadere aut ei insultare, cui dominus rex cum suo exercitu proprio nequaquam resistere valeret.

V. Item quia communitas regni Hungarie solet allegare, quod dum in generali exercitu contra inimicorum insultus insurrexerit, non vult amplius circa metas seu confinia regni stare, quam per quindecim dies, ideo videtur maiestati regie, ut si modo premissis per ipsam communitatem nobilium et possessionatorum huminum dicti equestres ex eorum medio pro exercitu generali fuerint deputati, contra quod tunc esset disponendum, quod huiusmodi equestres in metis illis, que iuxta preacta scripta per communitatem nobilium declarabuntur seu limitabuntur, non tantummodo per dies quindecim contra inimicorum insultus stare deberent, sed tamdiu, quousque domino regi, si ipse in tali exercitu presens foret, vel capitaneis et ductoribus exercituum sua maiestate absente congruum et necessarium fore videtur, deberent permanere. Et videtur maiestati regie, quod premissa, sicut scripta sunt, disponantur in alleviationem oneris pauperum nobilium, qui sunt impotentes ad exercituandum; teneantur secundum antiquam regni consuetudinem sic et taliter equis et armis decentibus apti et fulciti in exercitum accedere aut suos mittere, ut non sint sic inermes, sicut preteritis temporibus fuerunt, quia aliter nihil boni eveniret ex talium exercituatione, sicut et alias de hoc sufficienter fuit expertum.

VI. Ut autem ad disponenda premissa consensu nobilium et possessionatorum hominum cuiuslibet comitatus accedente facilius et habilior modus habeatur, videtur, quod etiam preacta ad quemlibet comitatum sint pro informatione in eodem existentium intimanda, ut in quolibet comitatu congregentur in unum propter habendam notitiam eis intimatorum et propter deliberare, si quid melius disponendum eis videbitur in premissis, ut cum sic deliberata eorum intentione aliquos ex eis instructos possint ad congregationem prelatorum et baronum destinare. Et ut premissa omnia ad notitiam communitatis cuiuslibet comitatus deduci possint, vult et mandat maiestas regia per vicecancellarium maioris sigilli sui regii ad quemlibet comitatum copiam huius registri de verbo ad verbum scriptam pro informatione communitatis cuiuslibet comitatus destinare simul cum litteris eiusdem maiestatis tenorem littere sue hinc illac destinate continentibus pro maiori certitudine voluntatis dicte maiestatis.

VII. Item videretur regie maiestati, quod si aliqui nobiles a rege vel regina, prelati, baronibus, viris ecclesiasticis seu aliis quibuscunque essent stipendiati vel haberent officiolatus, tunc horum

nullus propter servitia dominorum suorum ab exercituatione, quam ratione possessionum suarum facere debet, excusatus seu supportatus haberetur, sed pro se, ut disponeretur per communitatem comitatus, ratione possessionum suarum mittere teneretur, qui non secum, sed cum generali exercitu regnicolarum proficisceretur, ut sic quilibet ratione possessionum suarum cum communitate onus portaret.

VIII. Item videtur etiam disponendum, quantum pro una lancea et pharetrario equestri per regem, reginam, prelatos, barones et alios quoscunque exercituantibus stipendiariis solvi debeat, non tantum ad dies, sed ad unam integram exercituationem, quia aliquando breviori tempore, et aliquando longiori poterit ipsa exercitatio expediri, et videtur, quod limitetur et taxetur huiusmodi pecunia pro lancea et pharetris ad unum florenum auri, ad quorum rationem solvatur cum moneta, quam pro eorum velle ex permissione regia prelati et barones locumtenentes maiestatis regie et regnicole cudi facient, et quod nec dantes minus dare, nec etiam stipendiarii recipientes ad plus dandum teneantur, sicut etiam fuit factum per quondam comites Piponem et Dezpoth.

IX. Et ut solutio nec solventi, nec recipienti cedere posset in damnum, sed esset in pretii moderamine equalitas utrique parti, videretur itaque disponendum et taxandum, ut venderentur et emerentur sales non eo modo, prout nunc fit, sed eo modo haberent pretium taxatum ad quodlibet sal, sicuti fuit tempore quondam domini regis Ludovici, et videretur, quod sales ponderarent unum centenarium et statuerent pretium floreni auri, ut sic sciretur, quanto pretio emeretur centenarius salis et quanto libra una, ut tam lapides, quam etiam minuta salium haberent cursum in vendendo, et quod fieret talis limitatio, ut ultra expensas secture et etiam portature salium de camera ad cameram proventus regales in salibus non diminuerentur. In Polonia autem et per totam Alemaniam et Italiam ac in toto mundo sal venditur ad pondus et mensuram et sic ubilibet inter emendum et vendendum sal bona equalitas habetur, propter quod etiam regia maiestas desiderat disponi pro communi equitate, ut in regno Hungarie ad pondus et mensuram sal et minuta salium vendantur, si tamen eis videbitur.

X. Item ordinaretur insuper, quod de salibus regalibus, qui de camera ad cameram portarentur, et etiam eorum conductoribus nullibi tributum reciperetur et contrafacientes subirent penam. Illi autem, que pro defensione regni et confiniorum ipsius de proventibus regalibus sunt disponenda, interim et hac vice disponant, prout ab ipsa maiestate regia per priora scripta habent in hoc datam eis facultatem.

XI. Videtur etiam necessario disponendum, quod omnes exercituanes generaliter et singulariter debeant et teneantur constitui die statuto et loco, in quo mandabitur eos debere, et quod hii, qui in die et loco statutis non constituerentur, subeant penam, quam vult regia maiestatis contra tales, quia sicut notum est, frequenter hi, qui prius venerant, fatigiis et tedio afficiuntur et usque dum ultimi adveniunt, in dissolutionem se converterunt.

XII. Item videtur etiam disponendum, quod nullus exercituantium de exercitu ante debitum ipsius tempus et sine licentia capitanei exercitus recedere presumeret, sub penis gravibus super hoc statutis et statuendis.

XIII. Et ut premissa sunt scripta et annotata super expeditionibus exercitibus undecunque contra inimicos rogni Hungarie insultantes futuris semper temporibus successivis pro defensione regni faciendis, verumtamen, quia inter respectum guerrarum Turcarum et Hwzitarum distincte et separatim fieri debent expeditiones exercitiales, ideo hec, que sequuntur, maiestas regia duxit

premissis addenda.

XIV. Item quia dominus rex est certificatus, quod oratores Huzitarum modis omnibus in sacro Basiliensi concilio existunt cum pleno mandato in materia fidei, qui uti spes firma habetur, suscepta a sacro concilio plena informatione dimissis erroribus ad obedientiam sancte matris ecclesie se reducent, et quia etiam ab ipso sacro concilio iam frequenter et litteris et nunciis monita est ipsa maiestas, ut personaliter se ad ipsum concilium conferat, tum pro facto fidei, tum etiam reformatione morum et pace Christi fidelium, quare ipsa maiestas attento, quod reditio Bohemorum Hwzitarum in facto temporalitatis sine ipsius principalitate debite et faciliter fieri non posset, cum et hoc idem scriptum est a concilio eius maiestati, attento etiam, quod temporale dominium Bohemorum concernit suam maiestatem, decrevit itaque sua maiestas negotiis imperialibus in Italia et specialiter cum Florentinis ad statum votive dispositionis deductis citius, ut poterit, ad ipsum Basiliense concilium transire, ubi si ipsi Boherni Hwzite ad obedientiam ecclesie et unitatem fidei reducti extiterint, sicut spes bona habetur de eisderm, extunc sine armis regnum Hungarie eum terris ab eisdem occupatis plenarie liberabitur ab Hwzitis, et ipsis reductis poterit concilium sub nomine passagii a tota Christianitate de magna providentia providere, cum qua deo auxiliante sua maiestas personaliter proficiscendo poterit regnum Hungarie cum ceteris eidem annexis a Turcis penitus liberare et dominia sua dilatare atque ampliare. Si autem Hwzite in concilio reduci non poterint, extunc tota Christianitas providente ipso sacro concilio levabit manus suas in potentatu maximo contra ipsos Hwzytas, quo sic habito decrevit maiestas regia ipsa modis omnibus in Hungariam reverti personaliter et Tyrnauiam, Zakolcza ac alias terras et metas regni Hungarie ab ipsorum Hwzytarum manibus et potestate liberare. Cum autem opportunum sit ante reversionem sue maiestatis in Hungariam per prelatos, barones et regnicolas sic disponere et providere de comitatibus, quorum nobiles et alii possessionati homines pro defensione regni ex parte Bohemie contra Hwzytas sunt deputati, sive per singula capita secundum antiquam consuetudinem regni veniant, sive de quolibet comitatu pharetrarii sub certo numero mittantur, ut omnes et singuli ad reditum ipsius maiestatis sue pro recuperatione civitatum, terrarum, metarum regni ab Hwzytis occupatarum sic promptos et dispositos se conservent, ut quamprimum moniti fuerint, statim possint ad exercituandum moveri et versus Tyrnauiam proficisci, et ipsa maiestas in medium promptarum gentium exercituantium veniendo statim valeat agere pro rehabilitatione Tyrnaue et aliarum terrarum supradictarum, que quidem gentes non tantummodo quindecim diebus, prout consueverunt, sed usque necesse fuerit, debeant in agendis perseverare, quia si per totum ipsius recuperationis locorum pretactorum tempus remanere noluerint, utique et id, quod inceptum fuit pro recuperatione huiusmodi, transibit in vanum. Nec etiam ipsis aliter facientibus regia maiestas his personaliter vellet interesse, et qualitercunque hec dispos ita fuerint, certificetur superinde maiestas sua, pruisquam regnum Hungarie ingrediatur.

XV. Disponatur etiam, quod rustici omnium et singularum villarum partium superiorum, de quibus saltem Hwzytis solvunt et ipsis obediunt, ut ad faciendos omnes labores, qui in recuperatione terrarum occupatarum fieri debent, illo tempore, quo super hoc eis iussum fuerit, venire teneantur et sint astricti, interim autem agant, ut melius poterint, pro bono et utilitate regni in offensionem Hwzytarum et recuperationem terrarum ab eisdem alienatarum et occupatarum.¹⁶ Prefatus autem dominus rex et serenissima domina regina de proventibus suis levabunt potentiam suam in recuperationem premissorum, et etiam prelatorum potentiam, qui per prelatos, barones et

regnicolas contra Hwzytas deputabuntur, illac accedere faciet, quam scilicet potentiam cum sua et dicte domine regine potentia retinebit et stare faciet ibidem pro defensione regni et in recuperationem locorum ab Hwzytis occupatorum per totum tempus recuperationis, prout fuerit opportunum. Et nichilominus iidem prelati, barones et regnicole disponant et provideant, qui ex prelati et baronibus regni contra Thurcas versus Walachiam, Zewreniensem et; illas partes Danubii ac versus Boznam teneantur pro defensione regni agere et invigilare. Maiestas autem regia faciet etiam ad illas partes totum posse suum.

XVI. Item videretur maiestati regie, quod nobiles et possessionati homines cuiuslibet comitatus congregarentur sub certis gravaminibus et birsagiis, quemadmodum solitum est congregari, et quod in unum convenientes pariter condescenderent, et quilibet eorum absque quolibet timore libere secundum suum sensum dicerent suam opinionem singillatim ad singula, nec quisquam ditiorum vel potentiorum auderet quovis modo inferioribus vim adhibere aut minas imponere, ut non dicerent, quid sibi appareret, et hoc ordine observato requirerent quoslibet distinctim et seorsum per capita super sua opinione in premissis et opinionem cuiuslibet extensive perscriberent. Hisque sic peractis tandem a tota communitate nobilium divitum et pauperum, et non tantum a potentioribus et ditioribus eligerentur de quolibet comitatu certi nobiles et idonei viri, qui attentioem haberent respectum et diligentioem considerationem ad procurandas communitatis utilitates, quos de huiusmodi opinionibus et totali intentione eorum plene informatos ad prelatos et barones regni congregatos pro facienda in omnibus conclusionem futuris semper temporibus observanda destinarent.

XVII. Videtur etiam, quod non essent admittendi quilibet nobiles alterius comitatus in medium congregatorum alicuius comitatus, nec daretur vox talibus in declaratione facienda, sed quod quilibet nobilis in suo comitatu, ubi habet domicilium, deberet dicere et suam proferre opinionem.

XVIII. Item omnia premissa circa defensionem regni descripta relinquuntur per maiestatem regiam arbitri et dispositioni prelatorum et baronum ac communitatis regni, ut quicquid pro meliori statu regni disponendum videbitur, statuam ordinent et disponant.

XIX. Licet in precedentibus sufficienter per maiestatem regiam sit tactum, quomodo sua maiestas vult per prelatos, barones et regnicolas per expressum declarare, usque quem locum et terminum communitas regnicolarum generalis exercitus ingruente necessitate teneatur proficisci et etiam quamdiu stare deberet in eodem, verumtamen, sicuti prius scriptum est, regna Dalmatie, Croatie, Rame, Seruie, Bozne, Gallicie, Lodomerie et Bulgarie dudum et etiam tempore serenissimi domini Ludouici regis recolende memorie ad coronam et regnum Hungarie pertinuerunt. Scit enim dominus Nicolaus de Gara palatinus et quamplures alii, quod terre et provincie, ut sunt Halomfeold, Hlewna, Berzezthel et alie, que nunc occupate tenentur per regem Bozne, et Boznenses ipsi predicto donam regi Ludouico tenebantur et possidebantur per banum regni Croatie. Scit etiam idem dominus palatinus et quamplures alii, qualiter castrum Greben et alia castra ibi circumquaque existentia cum suis pertinentiis tempore dicti quondam domini regis Ludouici tenta fuerint per Hungaros. Item sciunt, quod ecclesia Boznensis, cuius episcopus nunc in Dyalw residet, est ultra Zavum, que similiter nunc cum suis terris a Boznensibus possidetur, et sciunt multi, quoniam Seruia sive Rascia, Bulgaria sive Walachia et specialiter partes Zewrenii tente et conservate fuerint per regem et coronam regni Hungarie. His igitur respectibus maiestas regia per prelatos et barones ac regnicolas regni se vult declarare, utrum iidem dicant et velint esse

dicta regna incorporata fuere regno Hungarie, intelligantque includi ac existere sub metis eiusdena. Que si sub metis regni Hungarie intelligunt et dicunt extitisse et debere esse, extunc petit sua maiestas, ut declarentur et exponantur, que loca per totum circuitum regni pro metis ipsius regni habeantur, et ad quem locum communitas regnicolarum generalis exercitus pro recuperatione terrarum alienatarum proficisci debeat, ut dicta maiestas sua sciat, dum opus fuerit, ad que loca possit facere transire regnicolas suos, aut pro regni defensione, aut terrarum alienatarum recuperatione, nec sua maiestas et regna debent deficere in iis agendis cum ecclesiis regni. Considerat namque sua maiestas, quod regnum Hungarie cum regnis et terris eidem incorporatis est taliter et adeo amplum, potentissimum et copiosum gentibus, ut contra quoscunque inimicos ex quacunque parte regni existentes, si bene et ordinate gentes regni Hungarie dividantur, poterunt sufficientes gentes pro regni defensione et terrarum alienatarum recuperatione, hostiumque offensione deputari, et levari, sicut de huiusmodi defensione per maiestatem regiam in sequentibus, prout sibi apparuit, disposita poterint suscipere informationem, et in his petit et mandat regia maiestas per prelatos, barones et regnicolas suos, antequam regnum Hungarie ingrediatur, plenissime informari, quicquid ab eisdem fuerit circa hanc materiam dispositum, ordinatum, declaratum et conclusum, ut secundum ea sciat regia maiestas et possit se, sicut et intendit, conservare.

SEQUITUR DIVISIO

XX. Quemadmodum prelati et barones regni Hungarie iam plures concitaverunt et moverunt regnicolas contra Hwzitas, sic et nunc relinquitur per maiestatem regiam arbitrio eorundem prelatorum et baronum, ut in levatione regnicolarum contra Hwzytas faciant illud, quod eis videbitur faciendum. Quia tamen maiestas sua respectum et considerationem habet ad guerras, que tam ex parte Hwzytarum, quam Turcorum et aliunde habentur, et attento potissime, quod rex Bozne et Boznensis multis insolentiis et iniuriis affecerunt regnum et regnicolas Hungarie, ideo maiestas sua hoc respectu prelatos, barones et nobiles regni sui ordine subscripto divisit, si eis sic fiendum appareat, quorum una pars contra Turcos, alia contra Hwzytas, tertia contra Boznam continuum respectum pro regni defensione et hostium offensione habere teneantur, sicut hec divisio apparet in subscriptis.

XXI. Hec est dispositio contra Thurcos et eis colligatos ac adherentes:

A parte Dalmatie seu maris et Croatie.

Banus Croatie	banderium
Ragusium	cum potentia
Comes Corbavie	banderium
Comes Segnie	banderium
Totum regnum Croatie et	
Walachi in eo existentes	curn potentiis eorum

Regale	banderium
Item versus fluvium Wn.	
Banus Sclavonie	banderium
Dornini de Blagay	banderium
Prior Aurane	banderium
Episcopus Zagrabiensis	banderium
Ladislaus Toth	equos centum
Item ad Wzura.	
Despotus	cum quantis potest
Magtster curie comes de Posega	equis centum
Episcopus Boznensis	equis centum
Petrus Cheh de Nema	equis C
Bani Machovienses	equis CCCC
Joannes filius Gregorii	banderium
Mathko nomine Zebernik	equites M
Joannes banus de Maroth	equites M
Episcopus Quinqueecclesiensis	banderium
Filii Bothos	equites C
Joannes de Gara	equites C
Henricus filius Waywode	equites C
Georgius filius Lorandi de Serke	equites C
Comitatus Zagrabiensis	Comitatus Crisiensis
Comitatus Warasdiensis	Comitatus de Werewcze
Comitatus de Posega	Comitatus Zewriniensis
Comitatus de Walko	Comitatus Bachiensis
Comitatus de Bodrogh	Comitatus de Baronya
Comitatus Tholnensis	Comitatus Simigiensis
Comitatus Zaladiensis	

Si volunt isti contra Boznenses ordinari, facilius habebitur, si vero isti comitatus nollent adiuvere, manebunt priores cum eorum banderiis.

Versus Temeskeoz usque Zewrenium inclusive.

Archiepiscopus Colocensis	banderium
Episcopus Waradiensis	banderium
Episcopus Chanadiensis	banderium
Regia maiestas	banderium
Comitatus Themesiensis	Comitatus Chanadiensis
Comitatus Horodiensis	Comitatus de Sarand
Comitatus Chongradiensis	Comitatus Crasso

Comitatus de Kewe Comitatus de Thorontal
Despotus cum quantis potest
Walachi, Sclavi et Iuanchi, Comani et Philistei.

Versus partes Transluanas

Episcopus Transsylvaniensis banderium

Waywoda Transsylvaniensis banderia duo

Siculorum comes banderia duo

Waywoda Moldavus contra

Turcos et partes Transalpinas cum tota potentia

Saxones, Siculi, nobiles

Walachi partium Transsylvanarum cum potentia

Comitatus Bihoriensis Comitatus de Bekes

Comitatus Zathmariensis Comitatus de Zabolch

Comitatus Maramarosiensis Comitatus de Beregh

Comitatus de Wgocha Comitatus de Krazna

Comitatus Zolnok mediocris Comitatus Zolnok exterior

Regale banderium

Et he tres partes tam scilicet versus Themeskewz quam versus partes Transalpinas respectum habent, mutuis semper respectibus contra Turcas ad loca, ad que necesse fuerit, iuvare poterunt et debent.

XXII. Pro custodia castri Psoniensis.

Episcopus Wesprimiensis lanceas L

Episcopus Jauriensis lanceas L

Abbas Sancti Martini lanceas XXV

Domini de Hederwara lanceas XXV

per quartam partem toto anno pro custodia, et de residuo pro defensione castri et civitatis Psoniensis fiat dispositio comitibus Psoniensibus de proventibus regalibus.

Contra Hwzitas

Archiepiscopus Strigoniensis banderium

Episcopus Agriensis banderium

Comitatus Soproniensis Comitatus Castriferrei

Comitatus Wesprimiensis

Comitatus Jauriensis

Comitatus Philisiensis

Comitatus Mosoniensis

Comitatus Nitriensis

Comitatus de Thurocz

Comitatus Lyphthoviensis

Comitatus Scepusiensis

Comitatus Zempliniensis

Comitatus Borsodiensis

Comitatus Geomeriensis

Comitatus Hewesiensis

Comitatus Zolnok exterior

Comitatus Borsodiensis

Et si deo placebit,

regia maiestas personaliter

Petrus Cheh

Comites de Bozyn

Wolfardus de Modor

Nicolaus filius Bani de Galgocz

Petrus et Joannes Forgach

Filii Noffry

Styborius

Michael Ernye

Stephanus Saffar

Magister tauernicorum

Emericus de Derenchen

Emericus de Palocz

Nicolaus de Kahmo

Comitatus Albensis

Comitatus Strigoniensis

Comitatus Comaromiensis

Comitatus Psoniensis

Comitatus Trinchiniensis

Comitatus de Arwa

Comitatus Zoliensis

Comitatus de Saaros

Comitatus Abawyvariensis

Comitatus de Tholna

Comitatus Nogradiensis

Comitatus Pesthiensis

Comitatus Hontensis

Comitatus de Wngh

Archiepiscopus Strigoniensis

Episcopus Agriensis

Comes de Sancto Georgio

Stybarius

Ladislaus de Zechen

Nicolaus filius Blasii de Gyarmath

Rubertus de Thar

Stephanus de Aran

Joannes filius Jacobi

Osualdus de Zelchen

Sebastianus de Degh

Domini de Pelsewcz

Joannes filius Emerici de Peren

Domini de Homonna

Paulus Kompolth

Henricus et Demetrius de Berzencze	Joannes Zwdar
Kwkalfus	Simon Zwdar
Frank de Semse	Nicolaus et Georgius Soos
Andreas de Budamer	Georgius de Agaad
Timoteus de Nesa	Frank de Zeech
Ladislaus de Kanysa	Ladislaus Petheo
Mathias de Hathwan	Eustachius et alii nobiles de Serk

XXIII. Item quamvis regia maiestas et regnum Hungarie a dictis partibus habent guerras, tamen quia nunc inter suam maiestatem et Florentinos sperat eadem maiestas, quod etiam Veneti per medium Florentinorum concordabunt cum sua maiestate, qua habita sperat sua maiestas, quod poterit nedum totam Turciam, imo verius totam Italiam relinquere in bona pace et tranquillitate, et si habebitur concordia cum Venetis, he gentes, que contra ipsos sunt deputate, poterunt libere se contra alios divertere. Si vero non concordaverint, tunc sua regia maiestas vult, ut omnes gentes, quibus per maiestatem suam scriptum est, intrent patriam Fori Julii, in quarum medium in ipsam patriam Fori Julii etiam maiestas sua personaliter proficiscitur ad gerenda bella contra Venetos.²⁶ Et si cum Turcis vel Hwzytis concordia habebitur et commode fieri poterit, tunc vult sua maiestas, quod etiam de illis partibus contra Turcas vel Hwzytas deputatis, quanto plures poterunt, tanto plures ipsam patriam Fori Julii intrent.

XXIV. Item de Hwzytis spes bona habetur, quod per sacrum concilium Basiliense ipsi Hwzyte in spiritualibus ad obedientiam sancte ecclesie et in temporalibus ad obedientiam sue maiestatis reducentur. Quod si sic factum fuerit, sicut speratur, tunc et ille gentes contra Hwzytas deputate poterunt contra alios inimicos regis et regni se convertere. Habetur etiam tractatus super treugis ineundis cum Turcis, que si facte fuerint, non erit opus contra ipsos Turcas aliquam potentiam movere, et sic potentia illa que contra Turcas est deputata, poterit converti contra alios inimicos regnum Hungarie hostiliter invadere machinantes, et si cum quocunque ex predictis concordia habebitur, talis potentia, que deputate fuit contra talem, qui concordat, se poterit convertere ad partem cum sua maiestate et regno concordare nolentem. Casu autem, quo favente altissimo cum quolibet predictorum concordia fiet, sicut speratur, tunc, licet predictae gentes ad presens ab omni exercitacione penitus conquiescant et sint supportate, verumtamen utile est et valde necessarium, ut in omnem eventum regni pro futura defensione super exercitacione facienda nunc omnino dispositio fiat, ut tempore necessitatis occurrente nobiles quarumlibet partium et regnicole sciant, ad quas partes respectum habeant et se conservare debeant pro regni defensione facienda. Et petit atque mandat maiestas sua per prelatos et barones disponi, sicut et in precedentibus scriptum est, quantum dari debeat pro qualibet lancea ad rationem floreni auri, et quod etiam exercituantes tempore, quo se levant et in exercitum proficiscuntur, ac ab illo revertuntur, neminem ledere ac offendere et in suis bonis damnificare presumant, et quod tempore seu die constituto omnes exercituantes in loco deputato constitui teneantur. Disponant etiam, ut quamdiu necesse fuerit, in loco necessario debeant remanere et decernere penas contra hos, qui in aliquo premissorum contrarium facere presumpserint quovis modo.

THE FOLLOWING ARE TO BE NOTED ON THE MEANS AND METHODS OF DEFENDING THE WHOLE KINGDOM OF HUNGARY FROM ALL ENEMIES ATTACKING THAT KINGDOM FROM ANY DIRECTION.

1. Whereas it was due by law and custom observed since ancient times that beyond the defense forces, which the king, the queen, the prelates of churches, and the clergy of the kingdom are required to maintain from the king's and queen's revenues and from those of the churches for the preservation of this kingdom and its borders from any direction, the community of noble gentlemen of the realm and men of property is also required to set out together in general levy of the kingdom for the same defense of the borders of the realm against all enemies attacking this kingdom; and whereas besides the title of the kingdom of Hungary the king of Hungary also uses the titles of Dalma-tia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bul-garia, namely of those kingdoms which of old have been included in the kingdom of Hungary,¹ and the preservation of these and the defense of their borders by the king, queen, prelates, clergy, and the community of nobles and men of property must necessarily be also understood at all times, therefore, it appears to his royal majesty that the lords, prelates, and barons should summon a general assembly to one place and at a particular time and call men from every county of the whole kingdom and, after discussing the matter with them, should define expressly places and borders along the circumference of the whole kingdom, namely, those places and borders to which the general levy of the community of the gentleman of the realm has to go, and how long it has to stay there to defend the kingdom against enemies, when necessary.

2. Then, because past deeds of general levies of the community of the gentlemen of the realm offer clear proof of its overall usefulness, what benefit would arise from a general levy of gentlemen of the realm for the defense and preservation of the kingdom, if many of them, hindered by poverty, age, or other weaknesses, appear more on crutches rather than with arms, more like beggars than warriors?² Therefore, it should be arranged and provided that those who will set out to defend the kingdom ought not to be defenseless, but should at least have a bow and other arms with which they can withstand the attacks of enemies for the defense of the kingdom. It seems more useful that a definite number of mounted archers should be sent from every county according to the

¹ These countries, listed in the royal style ever since late Árpádian times, were glossed by the sixteenth-century editors (John Sambucus and Nicholas Telegdi) as follows: "Rama means Bosnia, Serbia means Rascia, Galicia is greater Walachia, Lodomeria is Russia, Cumania has its name from the land of Walachia, earlier inhabited by the black Cumans, which lies between the Alps and the Danube, from the river Olt towards Tartary and is now inhabited by the Wallachs and is called a part of the Transalpine and Moldavian lands." By Alps, of course, the Carpathian Mountains are meant. Galicia, a Russian principality belonging to Poland since the 1340s, was erroneously identified with Walachia.

² It is believed that a report by the Grand Master of the Teutonic Order in a letter of 1422, where he speaks about many thousand "peasants" (*gebawer*) in Sigismund's army, was in fact a reference to the rather shabby noble levy; see František Palacký, *Urkundliche Beiträge zur Geschichte des Hussitenkrieges* (Prag: Tempsky, 1873) 1, pp. 191.

capacity' of each county and that no noble should be able to excuse himself or to avoid sending archers, but every noble should bear the burden in common with the community of that county in which he holds property. It, therefore, seems clear to the royal majesty that in order to relieve the burden on the poor, the old, and the orphans and on widows of nobles and men of property³ in every county of this kingdom, a definite number of mounted archers, well prepared for the defense of the borders, should be equipped and sent from every county in the time of necessity, in such a way that poor nobles, orphans, and widows should not be burdened by serving personally according to the custom of the realm, but it should be calculated how many of them are able by common contribution, according to their capacity, to send one man as a mounted archer. Concerning nobles having tenant peasants it should be exactly defined in every county by the community of nobles how many men should be sent, and thus having added the men sent by the poor and the propertied nobles, it should be clear how many men are to be sent to the army from every county altogether. These men, who are required to go to the army, should set out under the leadership of their own county's *ispán*, as was ancient custom, for which one may find example and guidance from the deeds particularly of king Solomon, duke Géza, Vid, *ispán* of Bács, and Jan, *ispán* of Sopron, who fought in the expeditions of that king and duke against the Greeks and Pechenegs around Belgrade with the troops of the counties of Bács and Sopron.⁴

3. Then, it also seems appropriate, and to be enforced by heavy penalties, that soldiers, whether they belong to the king, queen, prelates, barons, or, the general levy of the kingdom, as long as and whenever they are preparing themselves to set out for campaigning, cause no loss to anyone in marching to or from the army, for the kingdom is often harmed or injured more by its own soldiers than by enemies.⁵

4. Then, that his royal majesty sends the noble assemblies these propositions of future arrangements not in order to introduce some new arrangement to their midst or to burden them, but only because in the view of his majesty, greater advantage and profit will accrue to the kingdom of Hungary from such an arrangement. Although in this manner the number of soldiers may be less than if every member of the entire community rose up one by one, nevertheless, great profit can accrue to the kingdom, for such an army should not be raised for any trivial reason, but only

³ The meaning of “men of property” was practically identical with “noble,” for almost all landowners were of noble origin.

⁴ The reference is to the chronicle text now known as *Chronici Hungarici compilatio saeculi XIV*, well-known in the later Middle Ages in several versions (ed. Alexander Domanovszky, in Emericus Szentpétery, ed., *Scriptores rerum Hungaricarum tempore ducum regumque stirpis Arpadianae gestarum*, [Budapest: Regia Universtas, 1937–38] 1: 217–506); see now: *Chronica de gestis Hungarorum e codice picto saec. xiv. Chronicle of the deeds of the Hungarians from the fourteenth-century illuminated chronicle*, János M. Bak, László Veszprémy, eds. and trans. (Budapest–New York, CEU Press, 2018). The war against the Pechenegs and Greeks of 1071–72 is described in cap. 105 *Chronica.*, p. 201). The “testimony” of the chronicle is here adduced to convince the nobles of the legitimacy of local leadership (of the *ispán*) in contrast to their codified right to go to war only under the king’s command.

⁵ On harm done by soldiers of the levy, see **1427A: 1–6**.

if a very great force of enemies intends to invade or to attack the kingdom of Hungary and the lord king cannot resist it with his own army.

5. Then, because the community of the kingdom of Hungary usually insists that when it rises in a general levy against the attacks of enemies it does not wish to remain at the frontiers or borders of the kingdom for longer than fifteen days, it seems right to his royal majesty that when the said mounted men have been dispatched for a general army from their midst in the above manner by the community of nobles and men of property, then these mounted men must remain against the attacks of enemies on those borders which will be declared or defined according to the aforementioned decision of the community of nobles, not for fifteen days only, but as long as it may seem necessary to the lord king, if he himself is present. with the army, or in the absence of the majesty, to the captains and leaders of the armies.⁶ And it seems proper to his royal majesty that the foregoing measures, as they are written, should be implemented in order to alleviate the burden on the poor nobles, who are unable to campaign; others should be required by ancient custom of the realm to go to the army or to send their men properly equipped and prepared with horses and arms so that they are not unarmed as they were in times past, because otherwise no good comes from an army of such men, as is well enough known from experience.

6. In order that the above should more easily and more conveniently receive the consent of the nobles and men of property of every county, it seems useful that the preceding should be sent to every county for the information of those living there, so that in every county they should be gathered together to receive notice of these matters communicated to them and to discuss, what seems to be the best arrangement for the foregoing, so that they can send suitable men with their decision to the assembly of prelates and barons. And in order that all the foregoing be brought to the notice of the community of every county, his royal majesty wishes and orders that the complete record word for word of this decision be sent for the information of the community of every county by the vice-chancellor under his greater royal seal, along with a letter containing the gist of his majesty's letter regarding this project⁷ for greater certainty concerning the will of the same majesty.

7. Then, it seems good to his royal majesty that if any nobles are stipendiaries or hold offices from the king, the queen, the prelates, barons, ecclesiastics, or any others, then none of them may be held exempt or free because of service to his lords from military service, which he is required to perform owing to his property, but, according to his property subject to the decision of the community of the county, he must send someone in his stead, who will set out not with him, but with the general levy of the gentlemen of the realm, so that everyone will bear his burden, according to his holdings, along with the community.

8. Then, it also seems good that it be decided how much should be paid for one lance and one mounted archer by the king, the queen, the prelates, barons, and all others to the professional

⁶The extension of the duty of service was in fact an innovation in contrast to customary limitation of noble service.

⁷The letter of Sigismund from Siena did not survive; the vice-chancellor in question was Andrew of Szentgyörgy, 1428—33.

soldiers, and not the amount per day, but the one for an entire campaign, because one campaign may last a shorter time, another a longer time; and it seems right that this pay for lances and archers should be limited and prescribed as one gold florin, and that this amount should be paid in that money which at their wish by royal permission the prelates and barons, who are the vicars of of the royal majesty,⁸ and the gentlemen of the realm will have minted, and that those paying must give no less and those paid must take no more than what is expected, just as was done by the late count Pipo and the despot.⁹

9. And in order that payment may cause no loss for either the payer or the receiver, but there should be equal moderation in the price on both sides, the following disposition and prescription seem equitable, that salt should not be sold and bought in the way it is now done, but the price should be set for any salt in the way it was in the time of the late lord king Louis;¹⁰ and care shall be taken that one piece of salt should weigh one ton and its price be one gold florin, so that it be known what is the price of a ton of salt and what of one pound, so that both the blocks of rock salt and pieces of salt will have a value in selling. And there should be such a regulation that the royal revenues from salt should not be diminished beyond the expenses of cutting and of shipping the salt from chamber to chamber. In Poland, in all of Germany, in Italy, and indeed throughout the whole world, salt is sold by weight and quantity, and, consequently, there is fair exchange everywhere between salt for sale and salt bought; because this is so, the royal majesty also wishes to arrange, for the common good, that in the kingdom of Hungary blocks and pieces of salt should be sold by weight and quantity, but only if this seems right to them.¹¹

⁸The vicars of Sigismund in 1430–34 were Nicholas of Gara Jr. (son of Nicholas senior, ban of Mačva 1387–90, 1393–94, of Dalmatia and Croatia 1394–1402, of Slavonia 1397–1402, count palatine 1402–33); Matthew of Pálóc (secret chancellor 1419–23, judge royal 1425–35, count palatine 1435–36), Peter of Berzevicze, (knight of the household, *ispán* of Szepes 1411–33, of Liptó 1420–33, Master of the Treasury 1419–33); John of Rozgony (*ispán* of Sáros 1410–35, lord treasurer 1412–36, Master of the Treasury 1433–37), George of Pálóc ((brother of Count Palatine Matthew, bishop of Transylvania 1419–23, archbishop of Esztergom 1423–39, archchancellor 1438–39) Clement of Molnári (bishop of Győr 1417–38), and Peter of Rozgony, (bishop of Veszprém 1417–25, of Eger 1425–38).

⁹Filippo (Pipo) Scolari of Ozora, count of the salt chambers 1401–26, *ispán* of Temes 1404–26), and Stephen Lazarević, Despot (Prince) of Serbia 1389–1427.

¹⁰The price of salt under Louis I is not known; this passage was included here because many a professional soldier was paid in salt; cf. **1427A:8–9**.

¹¹Rock salt from the mines in Máramaros Co. and Transylvania was sold widely in East Central Europe both in blocks (*lapis, petra salis*) and in smaller pieces as well, contrary to what Robert P. Multhauf in the *Dictionary of the Middle Ages* (New York: Scribner, 1986) 10: 634 maintains. The royal income from this monopoly was in fact one of the main items in the Hungarian “budget”; see János M. Bak, “Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter” in R. Schneider, ed. *Das spätmittelalterliche Königtum im europäischen Vergleich*. (Sigmaringen: Thorbecke, 1987), pp. 347–87, here pp. 356–9; István Draskóczy, Salt Mining and the Salt Trade in Medieval Hungary from the mid–Thirteenth Century until the End of the Middle Ages, in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden–Boston: Brill, 2018) pp. 205–18.

10. Then, it should be further ordained that no toll may be exacted from the royal salt which is carried from chamber to chamber or from those carrying it; those acting otherwise will be subject to punishment. However, those means from the royal revenues which are to be assigned for the defense of the kingdom and its borders should be for the time being and this case disbursed in such way, as they are empowered by the royal majesty's earlier writings in this matter.

11. It also seems necessary-to define that all soldiers together and singly must and are required to assemble at a set time and place which will be ordered for them, and that those who are not assembled at the arranged time and place must be subject to such punishment which the royal majesty desires for them, because it has been noted that frequently those who had come earlier, affected by weariness and tedium, begin to disperse by the time the last arrive.

12. Then, it also seems good to arrange that no man of the army should dare to leave the army before the set time and without leave from the commander of the army, subject to the heavy penalties that have been and are to be prescribed for this.

13. All that which is written and noted above regards the deployment of armies for the defense of the kingdom against enemies of the kingdom of Hungary attacking from any direction at any time in the future; however, in the wars with the Turks and the Hussites, distinct and separate military campaigns have to be launched; therefore, his royal majesty has caused the following to be added to the above.

14. Then, since the lord king is certain that the Hussite delegates came to the holy council of Basle with full powers in all matters of faith, and, as he firmly hopes, will, after receiving full instruction from the holy council, renounce their errors and subject themselves again to the obedience of holy mother Church, and since the same majesty has been requested frequently by the same holy council in letters and by messengers that he personally should attend the same council, for the sake of the faith and also for the restoration of the morals and the peace of Christ's faithful,¹² wherefore, the same majesty, considering that the return of the Bohemian Hussites in secular matters cannot be suitably and easily accomplished without his leadership, which has been put in writing by the council to his royal majesty, and also considering that the temporal lordship of the Bohemians belongs to his majesty; therefore, his majesty has decided that, after having brought the imperial business in Italy and particularly with the Florentines¹³ to such a conclusion as he desires, he will come as quickly as possible to the council at Basle, and, if the Bohemian Hussites there will have returned to the obedience of the Church and the unity of the faith, for which there is good hope, then the kingdom of Hungary together with the regions occupied by them will be fully freed from

¹² On the procedures at the Council of Basle, see the chronological overview by R. W. Cook "Negotiations between Hussites, the Holy Roman Emperor, and the Roman Church, 1427–36," *East Central Europe/L'Europe de centre-est* 5 (1978): 90–104, esp. pp. 95 ff. with references to the sources and literature.

¹³ The Republic of Florence was an ally of Venice in her war against Sigismund (see below, n. 26) and hindered the emperor-elect in reaching Rome, where he was to be crowned. Sigismund was supported only by Siena, Florence's arch-enemy, and had to stay there for nine months in 1432–33, incurring enormous debts, surrounded by enemies.

the Hussites without arms; and once they are reconciled, the council will be able to make provision under the name of *passagium*¹⁴ for all Christianity with great foresight, and then his majesty may set out personally with the help of God and be able to free entirely the kingdom of Hungary and its attached regions from the Turks as well as to widen and enlarge his dominions. However, if the Hussites cannot be reconciled in the council, then by the decision of the holy council all Christianity will raise its hands with the greatest power against the Hussites; in this case his royal majesty has decided that he personally will by all means return to Hungary and free Trnava, Skalice and other lands and border regions of the kingdom of Hungary from the hand and power of the Hussites.¹⁵ It seems useful that before the return of his majesty to Hungary the prelates, barons, and gentlemen of the realm arrange and make provision for the counties whose nobles and other men of property have been appointed to defend that part of the kingdom facing Bohemia against the Hussites, that they should either come singly according to the ancient custom of the kingdom or that a particular number of archers should be sent from every county, so that all and every one of them should be prepared and ready to recover the cities, lands, and borders of the kingdom occupied by' the Hussites upon the return of his majesty, so that as soon as they are called upon, they should be able to march immediately and be deployed at Trnava; and when his majesty arrives with his men ready for battle all should be able to act at once to recover Trnava and the other abovementioned lands. The men must remain in action not for fifteen days only, as they have been accustomed, but as long as necessary, because if they do not wish to remain for the whole time required to recover the said lands, then what was begun for this recovery will be in vain. His majesty refuses personally to take part if this is done otherwise, and his majesty is to be informed about what has been arranged in this matter before he enters the kingdom of Hungary.

15. It should also be decided that the peasants of each and every village of the upper (i. e., northern) regions, at least those which pay tribute to the Hussites and obey them, be required and bound to come and to undertake everything which must be done to recover the occupied lands at the time they are ordered to act in this matter. In the meantime they should act as best they can for the good and utility of the kingdom in attacking the Hussites and recovering the lands occupied and alienated by them.¹⁶ The said lord king and the most serene lady queen will raise their own force from their own revenues for the recovery of the above, and the king will also send there the force of the prelates, which will be raised by the prelates, barons, and landed residents against the

¹⁴The word *passagium*, although usually meaning “passage” or “travel” in general, must refer here to the safe conducts issued to the Hussite delegation by the Council and, later, by the Czechs to the conciliar envoys to Prague; on these see Cook, “Negotiations,” pp. 94, 96.

¹⁵ These towns, together with several castles, were taken by the Hussites in 1432 and were redeemed from them only in 1434, when Hussite invasions into northern Hungary ended. The six years of incursions of the Hussites into northern Hungary caused extensive damage: they sacked the royal cities in the Spis and (in 1433) the mining and minting centre Kőrmöcbánya/Kremnica; see Pál Tóth-Szabó, *A cseh-huszita mozgalmak és uralom története Magyarországon* [History of Czech–Hussite movements and domination in Hungary] (Budapest: Hornyánszky, 1917).

¹⁶ There is no evidence that the king’s call on the peasants to fight against the Hussites had any consequences; see Tóth-Szabó, *A cseh-huszita mozgalmak*, pp. 130–32.

Hussites, and he will keep this force with his own and that of the lady queen and have it remain there to defend the kingdom and to recover the places occupied by the Hussites throughout the whole time of the recovery, as seems suitable. In the meantime the same prelates, barons, and landed residents should decide and arrange which of the prelates and barons are required to move and be on guard for the defense of the kingdom against the Turks towards Wallachia, towards Severin and the Danubian region, and towards Bosnia.¹⁷ His royal majesty will also do everything in his power for (the defense of) those regions.

16. Then, it seems good to his royal majesty that nobles and men of property of every county should be called together under definite penalties and fines, in the way they are customarily called together, and that those gathered should deliberate in equality, and every one of them, one by one, should give his opinion freely according to his feelings without fear, while none of the wealthier and more powerful persons should dare to use force or make threats in any way against his inferiors, so that they do not say what they find best; and by observing this rule they should call on everyone clearly and separately one by one for his opinion on the above and record in full everyone's opinion.¹⁸

After these matters have been accomplished, in every county certain nobles and suitable men should be elected from the whole community of nobles, both rich and poor, and not only from the more powerful and wealthier ones, such that would respect with care and studiously keep in mind what can be done for the common good; and they, fully informed of these opinions and all the intentions (of their county), should be sent to the prelates and barons of the kingdom to pass decision on everything that is to be done in all future times.

17. It also seems good that no nobles from another county should be admitted to the assembly of any county, nor should they be permitted to vote in arriving at a final decision, but every noble must speak in his own county, where he has his residence, and present his opinion there.

18. Then, everything set out above on the defense of the kingdom is left by his royal majesty to the decision and pleasure of the prelates, barons, and the community of the realm, so that they should establish, order, and decide whatever seems right to improve the state of the kingdom.

19. Although in the foregoing it was sufficiently treated by his royal majesty what his majesty wishes that the prelates, barons, and gentlemen of the realm should define regarding the place and the border to which the troops of the general levy of the gentlemen of the realm are required to set out and also how long they must remain there, nevertheless, as has been written earlier, the kingdoms of Dalmatia, Croatia, Rama, Serbia, Bosnia, Galicia, Lodomeria, and Bulgaria have been long since and also in the time of the most serene lord king Louis of venerated memory attached to the crown and kingdom of Hungary. For the lord palatine Nicholas of Gara and very many others know that that the lands and provinces, namely Hulm, Hlivno, Berzezthel, and others, which are

¹⁷ These arrangements are contained in the "Division," below.

¹⁸ These measures offer a rare insight into the internal workings of county assemblies, where, apparently, the barons and their retainers, together with the major landowning nobles, dominated the discussions. The king attempted to protect the rights of the lesser nobles.

now held occupied by the king of Bosnia and the Bosnians themselves, were subject to and held by the said lord king Louis through the ban of the kingdom of Croatia.¹⁹ The same lord palatine and many others also know that castle Greben and other castles around there with their appurtenances were held by the Hungarians in the time of the late lord king Louis.²⁰ Then, they know that the Church of Bosnia, whose bishop now lives in Dyakus, extends beyond the River Sava, which similarly with its lands is in the possession of the Bosnians, and many know how long Serbia or Rascia, Bulgaria or Wallachia, and particularly the lands of Severin were held and retained by the king and crown of the kingdom of Hungary.²¹ Regarding these things, therefore, his royal majesty wishes that the prelates, barons, and gentlemen of the realm announce, whether they declare and wish the said kingdoms to be incorporated into the kingdom of Hungary and whether they understand them to be included in and to be within its borders. If they understand them to be within the borders of the kingdom of Hungary and declare that they are and should be, then his majesty seeks that it be announced and defined which places around the whole kingdom should be held as the borders of the same kingdom, and to what place the troops of the general levy of the gentlemen of the realm have to set out to recover alienated lands, so that his said majesty may know to what points he can command his gentlemen of the realm, if necessary, to defend the kingdom or to recover alienated lands. Nor should his majesty and the kingdom, together with the churches of the realm, be deficient in their action. For his majesty considers the kingdom of Hungary with the kingdoms and lands included in it to be so wide, so very powerful, and so richly populated, that enough men can be enlisted and raised against any enemies from any border of the kingdom to defend the realm, to recover alienated lands and to attack the enemy, if the men of the kingdom of Hungary are well and properly distributed, so that they can take cognizance of the arrangements of defense, as it appears correct to his royal majesty in what follows. And, concerning this, his royal majesty seeks and orders to be informed as fully as possible by his prelates, barons, and gentlemen of the realm about what has been arranged, ordered, announced,

¹⁹ The region of Chulm in West Bosnia, with the county (*iupa*) Livno and its chief castle Bistrica, roughly equal to Hercegovina (see H. Kreševljaković, “Stari bosanski gradovi” [Ancient Bosnian castles], *Naše Starine* 1 [1953], 41), was annexed by Hungary under King Louis I in 1357 but was lost after his death. Prior to this Hum/Chulmia/Zachulmia was subject to Hungary in the twelfth century, especially to the future Andrew II in his capacity as Duke of Croatia. But at this time they were under the rule of King Tvrtko II of Bosnia (1420–43); see John W. Fine, Jr., *The late medieval Balkans: A critical survey from the late 12th century to the Ottoman Conquest* (Ann Arbor: Univ. of Michigan Press, 1987), pp. 463–79; Pavo Živković, *Tvrtko II Tvrtković. Bosna u prvoj polovini XV stoljeca* [Tvrtko II: Bosnia in the first half of the fifteenth century] (Sarajevo: Inst. za ist. u Sarajevo, 1981).

²⁰ Castle Greben in northwestern Bosnia had been in Hungarian hands from 1358 on, but returned to Bosnia after 1382.

²¹ The bishop of Bosnia, in spite of his title, had his seat in the Hungarian town Diakovár/Đakovo ever since the foundation of the see in the thirteenth century. For the other countries named here, see the Hungarian royal style as above (with n. 1). The banate of Severin, founded ca. 1250, subsisted until the Ottoman conquest in 1524, but most of its former territory had become part of Walachia; see James R. Sweeney, “Walachia–Moldavia,” in *The Dictionary of the Middle Ages*, 12:505f.

and concluded on this matter by them before he enters the kingdom of Hungary, so that his royal majesty can rely upon these as it is his intention.

THE DIVISION FOLLOWS

20. Just as the prelates and barons of the kingdom of Hungary had raised and moved many people against the Hussites, it is now left by his royal majesty to the same prelates and barons to decide to do what seems to be best in raising the gentlemen of the realm against the Hussites. However, because his majesty considers and keeps in his mind that wars are fought both against the Hussites and the Turks as well as elsewhere, and is particularly concerned that the king of Bosnia and the Bosnians have afflicted on the kingdom and inhabitants of Hungary many insults and injuries; therefore, regarding this state of affairs his majesty has divided the prelates, barons, and nobles of the kingdom into the order given below, if it should please them that this should be done. One part of them is deployed to the defense of the kingdom and the attack of the enemies against the Turks, another part against the Hussites, and the third against Bosnia, as is apparent from the division below.

21. This is the arrangement against the Turks, their allies and followers:²²

On the Dalmatian [Adriatic] side, at the sea, in Croatia

Ban of Croatia [one] *banderium*

Ragusa/Dubrovnik with its forces

Count of Krbava [one] *banderium*

Count of Cetina [one] *banderium*

Count of Segnia [one] *banderium*

all the Kingdom of Croatia [and Slavonia] with the Wallachs living there with all their forces

Royal *banderium* [1000 horse]

Then, towards the River Una

Ban of Slavonia [one] *banderium* the

lords of Blagaj [one] *banderium* Prior of

Vrana [one] *banderium*

Bishop of Zagreb [one] *banderium*

²² The additions in brackets are taken from the later, extended version of the list; the sequence follows the format of the Propositions, but, for practical reasons, not its two-column arrangement. *Italics*: not contained in the older list.

Ladislás Tót²³ 100 horse [one *banderium*]

Then, towards Ozora:

The despot with as many as he can [8000 horse]

Master of the Court, the *ispán* of Pozsega [i.e. Ladislás of Tamási²⁴] 100 horse

Bishop of Bosnia 100 horse

Peter Cseh of Nevna²⁵ 100 horse

Bans of Mačva 400 horse

John, son of Gregory²⁶ [one] *banderium*

Matko²⁷ for Srebernik 1000 horse

John of Marót,²⁸ ban 1000 horse Bishop

of Pécs [one] *banderium*

Sons of Botos²⁹ 100 horse

John of Gara³⁰ 100 horse [one *banderium*]

Henry, son of the voivode³¹ 100 horse

George, son of Roland of Serke³² 100 horse

[Bulgaria] [4000 horse]

Co. [=County of] Zagreb

²³ Szomszédvári Tót, Ladislás, *aulicus*

²⁴ Tamási, Ladislás of (son of voivode John, fl. 1402–40), magnate, master of the doorkeepers (of the household), 1417–34, master of the horse 1438–39, *ispán* of Pozsega.

²⁵ Léva, Peter Cseh of (alias of Nevna, d. 1440), magnate, master of the horse 1404–15, ban of Mačva 1427–31, voivode of Transylvania 1436–37.

²⁶ Alsan, John of (son of Gregory, nephew of Cardinal Valentine, d. 1437), magnate from Valkó Co., lord butler 1406–18.

²⁷ Tallóc, Matko (Matthew) of (d. 1445), royal captain of Belgrade from 1429, lord of Srebernik in Bosnia from 1430, ban of Slavonia 1435–45, of Dalmatia and Croatia 1436–45, count of Cetin.

²⁸ Marót, John senior of (d. 1435), ban of Mačva 1397–1410, 1427–28.

²⁹ Botos (“sons of,” of Harapk), knightly family from Valkó Co.

³⁰ Gara, John of (nephew of Dezső, d. 1439/40), magnate.

³¹ Tamási, Henry of (son of voivode John, d. 1444), magnate, master of the doorkeepers 1423–34, *ispán* of the Székely 1437 and of Pozsega.

³² Serke, George Lorándfi of (son of Roland, fl. 1404–59), knight from Gömör Co., lord of Némethi/Njemci in Valkó Co., *ispán* of Gömör 1443.

Co. Varasd

Co. Pozsega [300]

Co. Valkó [200]

Co. Bodrog [300]

[All the estates of Dalmatia, Croatia, Slavonia, likewise Bosnia and its parts, as well as the Duchy of St Sava³³ send 9000 soldiers]

Co. Körös

Co. Veróce [200]

Co. Szerém [200]

Co. Bács [500]

Co. Baranya [500]

Co. Tolna [200]

Co. Zala [600]

Co. Somogy [500]

If they want to be deployed against the Bosnians, that would be useful, but if these counties do not want to assist, the magnates will remain with their *banderia*.

Towards Temesköz including Severin

Archbishop of Kalocsa [one] *banderium*

Bishop of Oradea [one] *banderium* Bishop

of Cenad *banderium* [200 horse]

Royal majesty *banderium* [1000 horse]

Co. Temes [200]

Co. Arad [200]

Co. Csongrád [200]

Co. Keve [100]

Co. Csanád [300]

Co. Zaránd [300]

Co. Krassó [100]

Co. Torontál [100]

³³ Shortlived state (1435–83) in what is now Hercegovina.

The Despot with as many as he can
Wallachs, Slavs, “Iuanchi”, Cumans and Jász [200]

Towards Transylvania

Bishop of Transylvania [one] *banderium*

Voivode of Transylvania two *banderia*

The *ispán* of the Székely two *banderia*

Voivode of Moldavia against the Turks and Wallachia with all his might

Co. Bihar [600]

Co. Szatmár [200]

Co. Máramaros [50]

Co. Ugocsa [100]

Co. Middle-Szolnok [with Szolnok Exterior, 400]

Co. Békés [200]

Co. Szabolcs [200]

Co. Bereg [100]

Co. Kraszna [100]

Co. Exterior Szolnok [see above]

Royal *banderium*

[Saxons and Székely] [4000]

[The entire nobility of Transylvania] [300]

And these three groups, namely both those toward Temesköz and toward Wallachia, should be able and obligated to go to the help of each other against the Turks, wherever need arises.

22. For guarding the castle at Pozsony/Pressburg³⁴

Bishop of Veszprém 50 lances

Bishop of Győr 50 lances

Abbot of St Martin (of Pannonhalma) 25 lances

Lords of Hédervára 25 [100] lances,

³⁴ The special position of Pressburg, the major border towards the West is emphasized by this special arrangement; it is to be noted that the *ispán* of Pozsony is always included among the barons listed in the eschatocol of privileges.

for a quarter of the year for guard duty, and for the rest, the defense of castle and city Pozsony should be arranged by the *ispán* of Pozsony, from royal revenues.

Against the Hussites

Archbishop of Esztergom [two] *banderia*

Bishop of Eger [two] *banderia*

Co. Sopron [100]

Co. Veszprém [100]

Co. Győr [100]

Co. Pilis [50]

Co. Moson [25]

Co. Nyitra [with Turóc, 600]

Co. Turóc [see above]

Co. Liptó [with Szepes, 200]

Co. Szepes [see above]

Co. Zemplén [with Borsod, 300]

Co. Borsod [see above]

Co. Gömör [with Heves, 400]

Co. Heves [see above]

Co. Szolnok Exterior

Co. Borsod [repetition]

Co. Vas [with Fejér 100]

Co. Fejér [see above]

Co. Esztergom [with Komárom, 200]

Co. Komárom [see above]

Co. Pozsony [with Trencsén and Árva, 300]

Co. Trencsén [see above]

Co. Árva [see above]

Co. Zólyom [with Sáros and Abaújvár, 600]

Co. Sáros [see above]

Co. Abaújvár [see above]

Co. Tolna [with Nógrád and Pest, 100]

Co. Nógrád [see above]

Co. Pest [see above]

Co. Hont [and Bereg] [300]

Co. Ung

And if pleases God, the royal majesty personally [with 400 horse]

Archbishop of Esztergom [repetition]

Bishop of Eger [repetition]

*Peter Cseh*³⁵

*Counts of Bazin*³⁶

*Wolfurt of Modor*³⁷

Nicholas, son of the ban of Galgóc³⁸ [100]

Peter and John Forgács³⁹ [50]

The sons of Noffry⁴⁰ [50]

Zubor⁴¹ [50]

Michael Etre⁴² [50]

Stephen Sáfár⁴³ [50]

Master of the Treasury [Peter of Berzevice⁴⁴] [50]

³⁵ Lévai Cseh, Peter, ban of Mačva 1427–31, voivode of Transylvania 1436–7, *ispán* of several counties.

³⁶ Several counts of Szentgyörgy and Bazin were alive and held posts in this time.

³⁷ Wolfurt, Paul of (d. 1438), lord of Vöröskő and Modor in Pozsony Co.

³⁸ Újlak, Nicholas of (alias of Galgóc, son of ban Ladislav, d. 1477), ban of Mačva 1438–72, voivode of Transylvania 1441–65, king of Bosnia 1471–77.

³⁹ Forgács, Peter, of Gimes (fl. 1385–1435), knight, *ispán* of Nyitra 1405–22, master of the queen's doorkeepers 1417–19; Forgács, John senior, of Gimes (fl. 1411–49), knight, retainer of the lords Bebek, castellan of Hrušová 1445.

⁴⁰ Nofri (sons of), knightly family, sons of Onofrio Bardi of Florence, lords of Bajmóc/Bojníce.

⁴¹ Zubor, Denis (of Földvár, fl. 1433–42), knight from Tolna Co.

⁴² Etre, Michael (of Kálnó, fl. 1406–44), knight from Nógrád Co., later retainer of Ladislav of Gara.

⁴³ Torna, Stephen Sáfár of (fl. 1392–1439), master of the king's wardrobe, 1403–09, *ispán* of Győr and Komárom 1411.

⁴⁴ See n. 8, above.

Emeric of Derencsény[50]⁴⁵
 Emeric of Pálóc⁴⁶ [100]
 Nicholas of Rihνό⁴⁷ [50]
 Henry and Detritus of Berzevice⁴⁸ [50]
*Rikalf of Tarkő*⁴⁹
*Frank of Semse*⁵⁰
*Andrew of Budamér*⁵¹
*Timothy of Nersa*⁵²
*Ladislás of Kanizsa*⁵³
*Matthias of Hatvan*⁵⁴
 Count of Szentgyörgy [one *banderium*]⁵⁵
 Stibor⁵⁶ [two *banderia*]
 Ladislás of Szécsény⁵⁷ [100 horse]
 Nicholas, son of Blaise of Gyarmat⁵⁸ [50]

⁴⁵Derencsényi, Emeric, *aulicus*, *ispán* of Gömör 1419–23.

⁴⁶Pálóc, Emerich of (brother of Matthew, d. 1433), royal castellan of Diósgyőr 1409–27, secret chancellor 1419–23.

⁴⁷Perény, Nicholas of (alias of Rihνό, d. 1444), knight, master of the stewards 1437, royal captain of Késmárk 1440.

⁴⁸George Berzevice, Henry of (fl. 1425–33), knight from Sáros Co..

⁴⁹Rikalf, Ladislás (of Tarkő, fl. 1410–47), knight from Sáros Co., *ispán* of Liptó.

⁵⁰Semsei, Frank *aulicus* 1432–40.

⁵¹Budamér, Andrew, knight of the court, 1402–32?

⁵²Nézsza, Timothy of (fl. 1432–36), *aulicus*, knight from Nógrád Co. ⁵³

Kanizsa, Ladislás of (d. 1434), magnate, *ispán* of Sopron 1428–34. ⁵⁴

Hatvan, Matthias of, knight from Heves Co.

⁵⁵Szentgyörgy, Ladislás of (called Count, d. 1438), magnate, lord high treasurer 1438.

⁵⁶Stibor, junior, (of Bolondóc, son of Stibor senior, d. 1434), lord, *ispán* of Nyitra and Trencsén.

⁵⁷Szécsény, Ladislás of (d. 1460), magnate, *ispán* of Nógrád and Hont.

⁵⁸Gyarmat, Nicholas of (son of Blaise, fl. 1389–1435), knight from Nógrád Co., *ispán* of Hont Co. 1435.

Robert of Tar⁵⁹ [50]
 Stephen of Arany⁶⁰ [50]
 John Jakabfi⁶¹ [100]
 Oswald of Szelcsény⁶² [50]
 Sebastian of Dég⁶³[50]
 the lords of Pelsóc⁶⁴ [200]
 John, son of Emeric of Perény⁶⁵ [200]
 The lords of Homonna⁶⁶ [200]
 Paul Kompolt⁶⁷ [100]
 John Cudar⁶⁸ [50, + Simon Cudar⁶⁹, 50]
 Nicholas and George Sós⁷⁰ [50]
 George of Agárd⁷¹ [50]
 Frank of Szécs⁷² [100]
 Ladislas Pető⁷³ [50]

⁵⁹ Tar, Rupert (Robert) of (son of Lawrence, d. 1448), knight, master of the queen's horse 1438–39, *ispán* of Heves 1441.

⁶⁰ Arany, Stephen of (fl. 1426–42), royal councillor, *ispán* of Nógrád, Hont and Gömör 1435–37.

⁶¹ Jakabfi, John (son of Jacob), knight.

⁶² Szcsénykei SD Zelecsényi, Oswald, *aulicus* 1432.

⁶³ Dég, Sebastian of (fl. 1412–39), knight of the household.

⁶⁴ Bebek, magnate family, lords of Plešivec.

⁶⁵ Perény, John senior of (son of Emerich, d. 1458), magnate, master of the stewards 1431–37, master of the treasury 1438–58.

⁶⁶ Druget(h), magnate family, lords of Homonna.

⁶⁷ Nána, Paul Kompolt of (d. 1441), magnate, lord butler 1429–38, judge of the Cumans 1439.

⁶⁸ Cudar, John, of Ónod and Makovica (d. 1440), magnate.

⁶⁹ Cudar, Simon, of Ónod and Makovica (d. 1462), magnate, lord butler 1441–56, master of the doorkeepers 1458–62.

⁷⁰ Soós, George, of Sóvár (fl. 1417–52), knight, *ispán* of Sáros 1435–40, of Pozsony 1450–52.

⁷¹ Agard, George of (fl. 1417–33), knight from Zemplén Co..

⁷² Szécs, Frank (Francis) of (fl. 1405–33), knight from Gömör Co..

⁷³ Gerse, Ladislas Pete of (d. 1455/56), magnate, *ispán* of Vas and Zala 1424–48.

Eustachius⁷⁴ and other nobles of Serke [50]

23. Then, while his royal majesty and the kingdom of Hungary are waging wars in the said areas, his majesty now has hopes for a concord between his majesty and the Florentines and trusts that the Venetians will also come to agreement with his majesty by the mediation of the Florentines. In this expectation his majesty is hopeful that he will be able to leave all Turkey⁷⁵ and even all of Italy in happy peace and quiet, and if agreement is made with the Venetians, those men who were deployed against the Venetians, will be free to turn against others. However, if no agreement is made, then his royal majesty wishes all men to whom he has written to come to Friuli, where his majesty intends to join them personally to set out to campaign against the Venetians in the same land of Friuli.⁷⁶ And if an agreement can be made and suitably arranged with the Turks or the Hussites, then his majesty wishes that also those levied in the above regions against the Turks or the Hussites, the more the better, come also to Friuli.

24. Then, regarding the Hussites there is good reason for hope that the Hussites will be brought back in spiritual affairs to obedience to holy Church and in temporal affairs to obedience to his majesty by the holy council of Basle. If this can be so done, as there is hope, then the troops levied against the Hussites can turn against other enemies of the king and the kingdom. There are also talks on making a truce with the Turks, and if that can be done, there will be no need to move any forces against the Turks, and therefore that force which has been raised against the Turks can be turned against other enemies planning to invade the kingdom of Hungary by force, and if peace is reached with any of the above, the forces raised against the one which agreed to peace can be turned against those unwilling to make an agreement with his majesty and the kingdom. In the case that, by favor of the most high, agreement is reached with any of the above, which is to be hoped, then the said troops should at present refrain from all fighting and be excused. Nevertheless, it is useful and very necessary that plans should be made for mobilization for future defense of the kingdom for any event, so that in time of emergency the nobles and gentlemen of the realm of every region will know what parts they are responsible for and are to be prepared for in acting in

⁷⁴ Serke, Eustachius of (fl. 1394–1451), knight from Gömör Co..

⁷⁵ It is unclear what is meant by *Turcia* here, unless it is a scribal error. A few years later, after the conclusion of the Hussite wars Sigismund organized a campaign against the Ottomans, together with a former Taborite captain, which was quite a symbolic success, but worthless in military terms; see Mályusz, Elemér Mályusz, *Kaiser Sigismund in Ungarn 1386–1437*. Transl. by A. Szmodits (Budapest: Akadémiai Kiadó, 1990) p. 127.

⁷⁶ The war with Venice was, as usual, about the control of Dalmatia. King Louis I had reasserted there Hungarian sovereignty (acknowledged by Venice in the Peace of Torino, 8 August 1381), but Venice recovered the towns between 1409 and 1420, and succeeded in holding them against Sigismund's attacks in 1410–13, 1418–20 and 1431–33. The Venetian annexation of the Patriarchate of Aquileia in 1420 widened the conflict, for that was imperial territory. Sigismund planned to break the Serenissima's resistance by a commercial blockade, but that, too, failed. The conflict ended with a long-term truce between Sigismund and Venice signed on 5 June 1433, on the worst possible terms for Hungary and the Empire: it left Dalmatia and Friuli in the hands of the Republic with no reparations in return. The kings of Hungary made no more attempts to regain their Adriatic foothold. See Mályusz, *Kaiser Sigismund* pp. 108–22.

the defense of the kingdom. And his majesty seeks and orders that it be arranged by the prelates and barons, as is written above, how much should be paid for every lance in terms of gold florins; and also that soldiers should not dare to harm or attack anyone or cause loss to his possessions when they are being raised and set out for the army or are returning from it; and that at the set time or day all soldiers must be ready in the proper place. They should also arrange that they must remain in the necessary place as long as is required and decide about the penalties of those who dare to act in any way against the above orders.

LAW OF KING SIGISMUND OF HUNGARY OF 8 MARCH 1435

Decretum maius

This major piece of legislation, conventionally referred to as the *decretum maius* of King Sigismund, is in fact an elaborate attempt to make an end of abuses that emerged during the long absence of the king, under the government of the baronial “vicars of the realm.” It is seen as a decree favoring the lesser nobility of the counties, by giving them extensive powers against violent magnates, limiting the expenses of litigation, regulating the procedures of arrest and seizure. Also the preamble contains the constitutionally significant clause about the county deputies representing “the entire body of the realm (*regnum*).”

It has been suggested that these reforms were elaborated by the royal advocate, Stephen of Arany, while in Siena with Sigismund in 1433, but this cannot be substantiated; see Elemér Mályusz, *Kaiser Sigismund in Ungarn 1386-1437*. Transl. by A. Szmodits. (Budapest: Akadémiai Kiadó, 1990), p. 183-4.

In the *Corpus Iuris Hungarici* this decree has been erroneously called the “second decree of 1435,” even though it preceded the decree of 12 March 1435 by four days. Also, the numbering of the paragraphs in all the manuscript copies and older editions are inconsistent. The editors of the *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1445* (Budapest: Akadémiai Kiadó, 1978), Ferenc Döry, György Bónis, and Vera Bácskai [*DRH*], have changed the numbering in several places, which we follow (see Concordance).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MSS: Six originals: two in MNL OL DI 12642; one was in the Croatian National Archives, now lost but copied by Döry; one in the Esztergom Archiepiscopal archives Arch. Saec. Acta radic. Lad. V fasc. 1; one in the archives of Trenčín, in Slovakia, Cista 1, fasc. 1, no. 6; and one from the Zichy archives now MNL OL DI 804498, all on parchment, their double seals pendant lost or broken except on the Esztergom copy. (For details, see *DRH*, p. 260)

EDD: *Magyar Törvénytár/Corpus Iuris Hungarici*, Sándor Márkus *et al.* eds. (Budapest: Franklin, 1896) 1: 254-76; *DRH* pp. 260-76.

LIT: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. Pest: Regia Universitas, 1789-1801.1: 462-6; Elemér Mályusz, “Die Zentralisationsbestrebungen König Sigismunds in Ungarn” in *Études historiques*. Budapest : Akadémiai., 1960, 1, pp. 317- 58, here p. 350, Idem, *Kaiser Sigismund* p. 183-7; János M. Bak, “Tradition and Renewal in the *Decretum Maius* of King Matthias,” in *Matthias Rex 1458–1490: Hungary at the Dawn of the Renaissance* <http://renaissance.elte.hu/wp-content/uploads/2013/09/Janos-M.-Bak-Tradition-and-Renewal-in-the-Decretum-Maius-of-King-Matthias.pdf> [see also in Studies, below.]

8 MARTII 1435
DECRETUM MAIUS

Sigismundus divina favente clementia Romanorum imperator semper augustus ac Hungarie, Bohemie, Dalmatie, Croatie, Rame, Seruie, Gallicie, Lodomerie, Cumanie Bulgarieque rex universis Christi fidelibus, presentibus pariter et futuris, presentium notitiam habituris salutem in omnium salvatore, Inter cuncta, que pro subiectorum salute conservanda nostre meditationis perpendit acumen, ad ea presertim cordis nostri curas innata nobis inclinatione nature solemus divertere, quibus humane temeritatis audacia effrenata nonnunquam iuncta potentie reprimatur et iuris integritas abutentium prevaricatione depravata nunc apertiori priorum consuetudinum declaratione, nunc novarum utili constitutione legum principantis providentia reformetur. Proinde ad universorum., tam presentium quam futurorum notitiam volumus pervenire, quod cum nos pro imperialis fastigii honore finaliter adipiscendo post electionem nostram in regem Romanorum factam et prime corone regie Romane Aquisgrani susceptionem novissimae sacri Romani imperii principibus electoribus nobis consulentibus in partes Lombardie descendentes in civitate Mediolani secundam coronam regiam Romanam recepissemus, et demum in urbem Romanam profecti fuisset infulasque nostras imperiales de manibus sanctissimi domini nostri domini Eugenii pape quarti cum debita solemnitate suscepissemus et deinde nonnullis partibus Italie et Germanie perlustratis rebusque tam sancte Romane ecclesie, quam nostris imperialibus nobis interim occurrentibus votive dispositis exonerati, tandem in peculiare regnum nostrum Hungarie medio tempore presentia nostra regali viduatum iniuriisque et dampnificationibus potentialibus in suo statu et sue quietis ac pacis amenitate disturbatum regressi in hac civitate nostra Posoniensi primam residentiam personalem fixissemus ac unacum fidelibus nostris, prelatis videlicet et baronibus eiusdem regni nostri ad nostram maiestatem confluentibus certam conventionem nobilium de singulis ipsius regni nostri comitatibus convocari fecissemus, tandem ipsorum congregatione adunata de eorundem prelatorum et baronum nostrorum necnon nobilium regni nostri totum corpus eiusdem regni cum plena facultate absentium representantium unanimi consilio, deliberatione et consensu pro debita, ordinata et conformi iustitie amministrazione incolis eiusdem regni equaliter omnibus de cetero exhibenda, necnon quieto et tranquillo statu eorundem regnicolarum infrascriptas constitutiones, statuta et leges in perpetuum duraturas et inviolabiliter observandas disposuimus, decrevimus et duximus ordinandas, declearandas et firmandas.

I. Primo quidem, ut omnis scrupulosa suspicio, que contra iudices et iustitios ipsius regni nostri de favore vel odio aut quoquomodo concipi posset, de cordibus quorumlibet penitus removeatur et tollatur, statuimus, ut semper successivis temporibus omnes et singuli iudices et iustitios dicti regni nostri, tam ecclesiastici, quam seculares, qui videlicet in palatinum, iudicem curie regie, magistrum tauarnicorum regium, cancellarium aut vicecancellarium regalem., in prothonotarios seu vicesgerentes iudicum pretactorum ac etiam assessores eorundem in iudicio, in wayuodam partium Transsilvanarum, comitem Siculorum, banum regnorum Dalmatie et Croatie, banum Sclauonie, banum Machouiensem ac in comites quorumlibet comitatum et iudices nobilium eligentur et assumuntur, eorundemque in

iudicatu vicesgerentes substituti et assessores tempore receptionis eorundem ad huiusmodi honores et officia, amministrationis iudicii et iustitiie in manibus nostris regiis vel deputatorum a nobis iuramentum prestare teneantur per formam verborum infrascriptam, videlicet sic: Ego T. iuro per deum et per gloriosam dei genitricem virginem Mariam, per omnes sanctes et electos dei, quod annibus et singulis coram me causantibus absque cuiusvis persone, divitis scilicet et pauperis aceptione omnibusque prece, premio, favore, amore et odio postpositis et remotis, prout scilicet secundum deum et iustitiam faciendum cognovero, iustum et verum iudicium et iustitiam faciam meo pro posse. Sic me deus adiuvet et beata virgo Maria et hoc lignum vivifice crucis domini nostri Jhesu Christi.

II. Iudices autem nobilium in quolibet comitatu eligantur et preficiantur ex nobilibus potioribus et bene possessionatis illius comitatus communiter omnibus nobilibus eiusdem comitatus concorditer visi et merito acceptandi, et ipsi electi teneantur non refutare, sed suscipere officium iudicatus sub pena viginti quinque marcarum per ipsam communitatem, si secus fecerint, irremissibiliter exigendarum, exceptis tamen officiolatus et honores regios, reginales, prelatorum, baronum vel aliorum tenentibus vel stipendia ratione exercituandi habentibus vel aliis rationabilibus ex causis in ipso comitatu continuam residentiam non facientibus, et huiusmodi officium ad minus per annum exercere, habendo sigillum cognoscibile ad dandum cum sigillis aliorum iudicum nobilium et comitis vel vicecomitis litteras fidedignas. Si vero elapso anno voluerint, habeant recusandi facultatem. Quod si resignaverint aut per communitatem nobilium comprovincialium remoti seu mutati fuerint, ante annum quintum futurum ad idem officium assumendum inviti non coartentur. De birsagiis autem sedium parochialium ad portionem iudicariam cedentibus comes parochialis et iudices nobilium equam inter se divisionem facere teneantur in duas partes.

III. Verum quia frequenti querela regnicolarum nostrorum ymmo quadam palpabili experientia teste nostra percepit celsitudo per nonnullas novas possessionum occupationes et potentiariorum actuum illationes eosdem regnicolas, inferiores videlicet a potentioribus multipliciter opprimi et gravari, ideo volentes insolentiis et novis attemptationibus per remedia opportuna viam precludere statuimus et ordinavimus, quod quandocunque et ubicunque fuerint facte nove possessionarie aut terrarum occupationes, potentialiter vadiationes seu rerum et bonorum ablationes, succisiones silvarum, interemptions, vulnerationes et verberationes hominum, domorum et possessionum invasiones et depredationes ac alii similes novi actus potentiarii maiores, extunc lesi, dampnum et iniuriam passi impetratis litteris nostris regalibus querimonialibus et preceptorii comites parochiales et iudices nobilium comitatus illius, in quo facta huiusmodi patrata extiterint, accedant et requirant. Qui quidem comites et iudices nobilium cum testimonio capituli vel conventus illi comitatu deservire soliti a vicinis et commetaneis ac nobilibus comprovincialibus sub certis penis in huiusmodi litteris nostris regalibus declarandis in sedem eorum iudicariam per modum proclamate congregationis partibus quoque litem habentibus convocatis ad fidem eorum deo debitam fidelitatemque nobis et sacre corone observandam tactis sanctorum reliquiis prestitam super huiusmodi novis occupationibus possessionariis et aliis actibus potentiariis plenam et indilatam requirant veritatem, qua requisita et inventa possessiones occupatas auctoritate eis in hac parte attributa mediante restatuant eisdem, a quibus fuerant indebite occupate, ipsosque

in dominio earundem protegant et conservent, alia vero bona et vadia potentialiter ablata absque defectu reddant et restitui faciant.

IV. Super facto autem potentie in talibus commisse partes utrasque discussionem et, sententiam finalem recepturas ad certum terminum mediantibus eorum et dicti capituli vel conventus litteris seriem totius facti experimentibus ac propria et possessionum factum huiusmodi attestantium nomina continentibus in personalem presentiam nostram regiam aut palatinali seu iudicis curie nostre transmittant, ubi absque ulterioris termini et litigionarii processus observatione et continuatione, etiam partis non venientis absentia. non obstante, nos vel iudex alius, ad quem causa transmissa fuerit, iuramentum capituli decernendo tandem finalem sententiam proferemus et proferre tenebitur. Partes tamen litigantes, quodcumque voluerint, absque requisitione iudicis et onere solutionis bursagiorum liberam concordandi habeant facultatem, quemadmodum antiqua et laudabilis regni nostri consuetudo huiusmodi concordiam in quibuscunque factis potentialibus et aliis libere fiendam dictat et consentit.

V. Ne autem barones, iudices et alii honores regios et officiolatus a regia maiestate tenentes seu comites parochiales honori et iudicatu ipsorum subiectos, quibus ipsi etiam ab aliis iustitiam. tenentur ministrare, per se ipsos quavis cupiditate vel propria voluntate allecti aliqua occasione indebite gravent, opprimant seu dampnificent, aut per eorum vicesgerentes talia fieri permittant, statuimus, ut a talibus lesi, dampnificati et iniuriati impetratis litteris nostris ipsorum querelam continentibus preceptorisque, modo pretacto eorum iudicibus nobilium ac testimonio capituli vel conventus eiusdem comitatus per modum similis proclamatae congregationis veritatem inquiri facere et sua dampna ac gravamina comprobare valeant, et per ipsos iudices nobilium unacum nobilibus comprovincialibus comitatus eiusdem iudicium et iustitia ex parte huiusmodi officialium impendatur, aut nostre maiestati seu iudicibus et iustitiariis curie nostre prenotatis modo prescripto per litteras ipsorum iudicum nobilium seu capituli et conventus seriem totius facti continentes causa discutienda ad certum terminum transportetur, ubi huiusmodi causa modo premissa sine dilatione terminetur. Si vero iidem barones seu officiales regales aut comites debitum moderamen sui officii in tantum excesserint, ut ex parte totius communitatis officiolatu suo subiecte generalis vociferatio querulosa contra eos emerit, extunc nos ad fidelem et litteratoriam assertionem iudicum comprovincialiumque nobilium et capituli aut conventus comprovincialis personaliter vel per idoneum hominem ad hoc specialiter deputatum volumus et tenebimur ex parte talium condignam iustitiam ministrare.

VI. Statuimus itaque et ad reprimendum potentiariorum actuum effrenatum abusum presenti ordinatione sancimus, quod si qui castellanorum aut ceterorum officialium nostrorum, aut reginalium, necnon prelatorum ac baronum et, nobilium ac regnicolarum nostrorum de castris, officiolatibus et cum potentiis dominorum suorum, a quibus huiusmodi castra, possessiones et officiolatus pro honore obtinent, aliquos actus potentiarios, dampnificationes, iniurias et quecumque mala perpetraverint et commiserint, talium domini, qui eisdem huiusmodi castra, officiolatus et honores contulerunt, super omnibus dampnis et nocentis per se et de suis bonis plenam satisfactionem exhibere sint obligati et teneantur effective, se ipsos in huiusmodi actibus potentiariis per suos castellanos seu officiales perpetratis inscios, innocentes et immunes fore debito iuramento purgaturi, suum autem

dampnum in huiusmodi satisfactione pretacta perceptum, si voluerint, a suis familiaribus, castellanis seu officialibus, qui ipsi satisfactioni causam dederant, per ablationes rerum et bonorum ipsorum ac possessionum occupationes seu rebus et bonis ac possessionibus minus sufficientibus personarum eorum detentionem et in captivitatem redactionem et conservationem usque ad recuperationem damnorum suorum predictorum fiendam, non obstante libere conditionis et alterius cuiuslibet dignitatis privilegio, liberam habeant facultatem, quantitatem tamen sui dampni in solutione huiusmodi percepti non excedendo.

VII. Ut autem officiales et comites nostri pretacti nobiles et incolas regni nostri sub suo honore et iudicatu constitutos indebitis birsagiorum exactionibus gravandi occasionem non habeant, antiquam in hac parte consuetudinem regni nostri imitando declaramus, quod nullus iudicum secularium iudicia seu birsagia extorquere possit, nisi tempore congregationis palatinalis vel alterius per regiam maiestatem ad congregationes generales celebrandas deputati in singulis comitatibus celebrande secundum consuetudinem ab antiquo observatam, exceptis casibus infrascriptis, quibus etiam extra tempus dictarum congregationum generalium birsagia exigere debite possint.

Primo videlicet propter violentam retentionem aut dampnificationem jobagionum petita licentia, iusto terragio deposito allisque suis debitis persolutis ad alterius possessionem se transferre volentium, quo casu comes parochialis cum suis iudicibus nobilium, absque quibus nullum in talibus processum facere debet, ab hiis, qui in hoc casu culpabiles legitime inventi fuerint, iudicium seu birsagium trium marcarum toties quoties et quodcumque culpabiles inventi fuerint, sine expectatione extorquere potest, jobagionem retentum seu dampnificatum cum omnibus bonis suis, dampnis etiam recuperatis liberum abire permitti faciendo.

Item si quis jobagionem alterius non petita nec obtenta licentia, vel petita sed non obtenta ante dies quindecima huiusmodi petite licentie potentialiter abduxerit, talis pro abductione violenta jobagionis huiusmodi birsagium trium marcarum solvet et eundem jobagionem cum aliis tribus marcis birsagialibus per comitem parochialem cum iudicibus nobilium restituere compellatur. Si vero jobagio aliquis non obtenta licentia sed furtive ad possessionem alterius recesserit et idem, ad cuius possessionem accesserit, requisitus reddere recusaverit, extunc ad restitutionem ipsius jobagionis fugitivi comes parochialis talem cum birsagio trium marcarum compellere debeat et teneatur.

Item violator sedis iudicarie birsagium viginti quinque marcarum persolvat.

Item quicumque furem vel latronem aut aliquem publicum malefactorem captivaverit et eum de captivitate sua voluntarie abire permiserit, solvere debet comiti parochiali homagium malefactoris prenotati.

Item ubicunque lucrum camere tempore debito solutum non fuerit, comes parochialis cum iudicibus nobilium de qualibet villa non persolvente post emanationem litterarum birsagialium per iudices nobilium contra tales dari solitarum exigere debeat ipsum lucrum camere cum birsagio trium marcarum.

Consimiliter quia certa scientia meminimus nostrorum predecessorum litteris et per nostram maiestatem frequentius litteratorie ex laudabili consuetudine regni nostri precipi solitum esse et usitatum fore decimas ecclesiarum de singulis villis decimas persolvere post interdictum

ecclesiasticum certo consueto tempore observari commissum recusantibus per comites parochiales aut vices suas gerentes exigi debere cum singulis tribus marcis, ideo presentis ordinationis et statuti vigore eandem consuetudinem ratam habentes, innovantes et imitantes committimus, quod post interdictum ecclesiasticum in singulis diocesibus et locis temporibus hucusque solitis impositum de singulis villis, que per unius mensis spatium huiusmodi interdictum ecclesiasticum animo indurato tollerando easdem decimas persolvere recusaverint seu non curaverint, mox elapso ipsius mensis spatio comites vel vicecomites parochiales per decimatores requisiti decimas easdem cum singulis tribus marcis birsagialibus pro se indilate exigendis eis, quibus solvi debent, absque dilatione et defectu persolvi facere teneantur.

Item quodcumque nobiles alicuius comitatus vigore litterarum regalium per modum proclamate congregationis sub pena trium marcarum in eisdem litteris regalibus expressa convocati fuerint, quicumque ad illam congregationem non venerint, nisi egritudine, senio, viduitate, orphaneitate, paupertatis impotentia, absentia remota vel eorum arduis negotiis rationabiliter se excusare potuerint, comes parochialis et iudices nobilium predictas tres marcas in dictis litteris nostris expressas indilate exigere possunt.

Item palatinus et iudex curie et ceteri iudices ordinarii ecclesiastici et seculares universa iudicia in causis coram eis vertentibus aggregata statim ipsis causis finitis ac per sententiam finalem conclusis primo parti adverse de sua portione satisfactionem impendere teneantur et ad partem suam iudicariam cedentia exigendi liberam habent facultatem.

VIII. Item statuimus, quod ad faciendas statutiones, inquisitiones et evocationes et alios quoslibet processus cum hominibus et testimoniis capitularibus et conventualibus fieri solitos, que communiter fidedignitates vocantur, de capitulis et conventibus persone seu homines simplices non mittantur, sed de ipsis capitulis canonici ad minus aut persone in beneficiis vel officiis constitute, de conventibus vero monachi conventuales sacerdotes destinentur. Qui quidem pro huiusmodi testimoniis capitularibus et conventualibus deputati, priusquam ad faciendas aliquas possessionarias statutiones, metarum reambulationes, revisiones possessionarias et communes inquisitiones transmittantur et procedant, iurare teneantur, ut in eisdem factis fideliter et recte procedent et veram relationem seu fassionem facient. Homines etiam regii in premissis procedentes tempore reversionis eorum ac fassionis seu relationis coram ipsis capitulis et conventibus faciende simile iuramentum prestare teneantur. Quicumque autem contra suum iuramentum falsum processum vel falsam relationem fecisse repertus extiterit, talis tamquam falsarius et periurus pena amissionis beneficii sui, si quod habuerit, puniatur, et insuper, sive beneficiatus, sive non beneficiatus existat, perpetuis carceribus mancipetur; homo vero regius, si in premissis possessionariis statutionibus, metarum reambulationibus ac revisionibus sinistre vel false processerit, in facto periurii, pena capitis ac amissione omnium bonorum suorum vincatur. Quicumque vero nobilis per alium seu alios quoscumque mediantibus nostris regiis aut aliis consuetis litteris nomen suum continentibus pro homine regio coram testimonio alicuius capituli vel conventus requisitus onus huiusmodi processus assumere et exequi recusaverit, in birsagio consueto trium marcarum per comitem parochialem indilate exigendo vincatur eo facto.

IX. Stationes autem possessionarie, metarum reambulationes et revisiones aliter fieri non debeant, nisi vicinis et commetaneis huiusmodi possessionum inibi legitime convocatis, et ut fraus et dolus in talibus melius evitentur, nomina singulorum vicinorum et commetaneorum tempore premissorum processuum illuc presentialiter convenientium in litteris capitularibus et conventualibus superinde emanandis seriatim conscribantur.

X. Et ut materia discordie super facto redemptionis litterarum capitularium et conventualium, necnon super satisfactione viarum seu laborum testimonialis capitularibus et conventualibus fienda hactenus sepius suboriri consueta de cetero cesset et, succidatur, presenti ordinatione antiquam tamen et laudabilem consuetudinem imitantes statuimus, ut in omnibus locis, tam capitularibus, quam conventualibus pro qualibet littera evocatoria per se, videlicet evocatoria prima, secunda et tertia in capitulo aut conventu simul cum eorum notario et scriptore pro redemptione littere recipiantur seu solvantur singuli denarii viginti quatuor maioris monete.

Item pro qualibet littera prociamatoria denarii centum.

Item pro qualibet littera procuratoria denarii viginti quatuor.

Item pro qualibet littera prohibitoria, protestatoria et aliis similibus, si patenter emanantur, denarii viginti quatuor, si vero clause, denarii duodecim.

Item pro qualibet littera fassionali emanata privilegialiter denarii centum, patenter vero denarii viginti quatuor, clause autem denarii duodecim. Item pro qualibet littera inquisitoria sive patenta, sive clause denarii viginti quatuor.

Item de paribus antiquarum litterarum in conservatoriis requisitarum custodi seu requisitori per se denarii centum et pro redemptione littere requisite, si non habuerit multum de scriptura et patenter confecta fuerit, denarii viginti quatuor, si vero labor scribendi fuerit magnus et littera privilegialiter confecta, denarii centum.

Item de simplicibus transcriptis seu transcriptionalibus litteris patenter emanatis, ubi labor scribendi magnus non fuerit, denarii viginti quatuor, ubi autem littera fuerit proluxa aut privilegialiter emanata, denarii centum.

Item de littera statutoria, in qua contradictio facta fuerit, denarii viginti quatuor, de litteris vero statutorialibus perpetuis, in quibus contradictio facta non fuerit, recipiatur redemptio litterarum secundum quantitatem possessionis et numerum sessionum modo subscripto, videlicet de sessione una, duabus aut tribus vel quatuor in toto denarii centum, ubi autem fuerint ultra quatuor sessiones usque ad decem, pro qualibet sessione denarii triginta tres, ubi vero fuerint ultra decem usque viginti, de qualibet sessione denarii viginti quatuor; ubi autem fuerint ultra viginti usque centum, de qualibet sessione denarii duodecim; si vero fuerint ultra centum usque quaque, de qualibet sessione denarii octo. Item de litteris reambulatoriis metalibus, in quibus contradictio et evocatio facta non fuerit, denarii viginti quatuor; in reambulationibus autem metalibus, in quibus simplex consignatio vel cum hominibus regiis de curia regia transmissis similis consignatio vel finalis metarum erectio cum iuramento super terram in forma iudiciaria aut partibus concordantibus facta fuerit, pro redemptione littere denarii quadringenti. Ubi autem partibus in huiusmodi reambulationibus et demonstrationibus metalibus discordantibus causa ad curiam regiam reducta fuerit, tunc pro redemptione talium litterarum denarii ducenti. Item de communi inquisitione ordine

iudiciario commissa denarii centum.

Item de revisione possessionarie occupationis denarii centum.

Item de occupationibus possessionum hominum in sententia capitali convictorum et rerum ablationibus iudiciaria commissione mediante fiendis de rebus ablatiis ex antiqua consuetudine capitulum habebit decimam partem; pro redemptione autem littere denarii centum.

Item de estimationibus possessionariis iudiciaria commissione fiendis denarii centum.

Item de possessionariis divisionibus de singulis possessionibus divisis singuli denarii centum.

Item de expeditoria iuramentali denarii viginti quatuor.

Item de expeditoria iuramentali continente nomina coniuratorum denarii centum.

Item de solutionibus pecunialibus coram capitulis vel conventibus, vel eorum testimoniis fieri solitis capitulum seu conventus decimam et nonam partes exigere non possint, nisi quando propter discordiam partium in eorum sacristiis seu conservatoriis huiusmodi pecunie reposite fuerint; de talibus nempe de iure decimam et nonam recipere possint, ad illius tamen partis rationem, que causam dederit pecuniam huiusmodi in conservatoriis reponendi.

Personis autem testimonialibus capitulorum et conventuum pro singulis diebus, quibus in itinere fidedignitatis processerint, solvantur singuli duodecim denarii maiores, sive in propriis equis, sive in equis causantium ambulent et ducantur; ita tamen, quod in victualibus et expensis causantium et ipsos ad facta sua conducentium simul cum equis et familiaribus eorum de domo iterum in domum semper duci debeant et reduci.

XI. Preterea. ex quo in iudiciis in curia nostra regia fieri consuetis coram iudicibus ordinariis eiusdem curie ac eorum notariis supratactis littere et redemptiones earum necessario occurrunt, ideo ad tollendam cuiuslibet altercationis occasionem, que inter ipsos notarios et causantes emergi possent, antiquam consuetudinem redemptionis litterarum earundem modo subscripto duximus similiter declarandam, videlicet quod in ipsa curia nostra notariis ipsius curie iudicarie de una littera prorogatoria communi solvantur denarii duodecim;

de littera iudicali seu birsagiali similiter denarii duodecim;

de simplici littera inquisitoria similiter denarii duodecim;

de secunda evocatoria denarii viginti quatuor;

de tertia evocatoria denarii centum;

de proclamatoria denarii centum;

de littera iuramentali tertio vel sexto se alicui adiudicata denarii quatuor;

de eo, qui iurabit duodecimo vel vigesimo quinto aut quinquagesimo se, denarii centum; de communi inquisitione denarii centum;

de littera duellari denarii ducenti;

de iuramentali super caput denarii ducenti;

de prima instrumentali exhibitione denarii viginti quatuor; de secundaria et tertiaria instrumentali exhibitione cum gravamine assumpta similiter denarii viginti quatuor;

de prorogatoria respondentis cum tribus marcis denarii viginti quatuor;

de littera procuratoria patenti denarii viginti quatuor; de
littera fassionali communi denarii viginti quatuor;
de aliis litteris generalibus, videlicet prohibitoriis et similibus denarii viginti quatuor;
de prohibitoria facie ad faciem denarii centum;
de littera sententionali facti potentialis conservatori sigilli floreni decem per centum,
scriptori autem denarii ducenti;
de litteris statutoriis et reambulatoriis simplicibus denarii viginti quatuor;
de litteris autem adiudicatoriis reobtentionis possessionum seu aliarum rei'um iuxta
quantitatem possessionis seu rei reobtente habita concordia inter causantes et prothonotarios
fiat solutio.

XII. In cancellaria autem nostra regia quoad redemptiones litterarum iuridicarum et
consuetarum servetur antiqua consuetudo eiusdem cancellarie; similiter de donationibus et
confirmatoriis per sata quantitate rei donate vel confirmate erit concordandum cum cancellario
modo hactenus observato.

Quia vero in omnibus premissis redemptionibus litterarum et aliis quibuscunque solutionibus
ac birsagiorum exactionibus de numero et quantitate denariorum pro tempore currentium
sepenumero mentio facta est, gratia removendi dubii presentium serie declaramus, ut denarii
tales intelligantur, quorum singuli centum unum florenum aut valeant et representent. Et si
denarios minores pro aliquo tempore cursum habere contigerit, ad eandem rationem cum
ampliori et equivalenti numero suppleantur

XIII. Item de arestationibus mercatorum et aliorum hincinde proficiscentium, que pro debitis et
aliis excessibus propriis aut alienis in possessionibus seu locis communibus tam per
ecclesiasticos, quam seculares, nobiles et ignobiles satis frequenter fieri solent, in quibus etiam
hactenus nonnulla impedimenta et dampna ac iniurie per extra consuetudinarias huiusmodi
arestationes commissa sunt et patrata, eandem antiquam regni nostri consuetudinem
approbantes declaramus, quod nullus arestare volens in suis propriis aut fratrum suorum
condivisionalium possessionibus, terris aut officiolatibus pro quacunque causa arestationem
aliquam facere possit, alioquin pro indebito aresto in pena trium marcarum vincatur et
arestum huiusmodi indebite factum cum altero birsagio trium marcarum relaxare et liberum
permittere per comitem parochialem compellatur. Cum autem in loco communi quispiam
arestationem facere voluerit, iudex ipsius loci communis eandem arestationem coram se sic et
non aliter fieri patiat et acceptet, si videlicet arestans prius se a domino vel villico
possessionis, in qua arestatus residentiam habuit, iustitiam postulasse et huiusmodi iustitiam
aut sibi temerarie denegatam aut finaliter exhibitam fore et satisfactionem debito non
impensam extitisse litteris comitis vel vicecomitis parochialis aut iudicum nobilium vel aliis
credibilibus poterit comprobare. Dum autem hec premissa modo pretacto evidenter potuerit
comprobare, extunc dominus vel iudex aut villicus ipsius loci seu possessionis communis
arestum retinere et inter partes more in talibus consueto iudicium et iustitiam faciendo super
debitis aut aliis excessibus vel rebus coram eo rationabiliter obtentis debite satisfactionis
complementum de rebus et bonis iudicialiter condemnati aut rebus et bonis ipsius minus
sufficientibus per detentionem personalem impendere teneatur.

XIV. In casu enim, quo ipse iudex arresti pro favore aut timore cuiuscunque vel ex qualibet alia causa rationem non habente arrestum coram eo legitime factum seu fiendum retinere iudiciumque et iustitiam ac satisfactionis complementum modo superius descripto exhibere recusaverit, extunc ipse arrestatori, cuius adversarium liberum abire permiserit, pro dampno, quod per huiusmodi arrestum requirere et mediante iustitia obtinere poterat, et pro toto interesse teneatur et existat obligatus, nisi arestandus vel arestandi tantam potentiam et vim habuerint, propter quam dominus seu iudex loci communis eis resistere et eos retinere non valebit, aut alia potentia superveniens arrestatos contra voluntatem iudicis arresti violenter abduxerit; quo casu eveniente ad sui excusationem super eo, quantocius poterit, suis v cinis et commetaneis publice protestetur.

XV. Volumus autem, quod in nostris et reginalibus liberis civitatibus, opidis, villis et possessionibus mediantibus eorum iudicibus, officialibus et presidentibus quibuscunque per cives, mercatores, hospites et incolas earundem pro suis debitis, rebus et acquisitionibus quibuscunque arrestationes huiusmodi modo suprascripto et sub penis antedictis per magistrum tauarnicorum aut alios eorum superiores indilate exigendis fieri nullatenus debeant neque possint, sed in locis communibus et coram iudice communi, cum necesse fuerit, fiant arrestationes per eosdem modo superius declarato.

XVI. Iudex autem communis arrestationes huiusmodi coram eo debite et legitime factas discernens et iudicans pro suo labore et honore, si fuerit iudex per dominum possessionis constitutus aut dominus ipsemet, quadraginta denarios, si vero villicus, duodecem denarios ab homine iudicialiter condemnato pro se exigendi habeat facultatem.

XVII. Porro equitatem et iuris observantiam, quam inter regnicolas nostros vigere prooptamus, a nostra regia maiestate exordium habere demonstrare volentes presenti decreto stabilimus, quod in quocunque comitatu aliqua iura per defectum seminis quorumcunque decedentium devoluta fuerint, et de huiusmodi possessionibus manifeste non constat, an ad ius regium pertineant vel aliquos fratres generationales seu heredes feminei sexu concernant, sed inter ista duo, videlicet ius regium et ius aliorum, scilicet generationalium vel femineum dubium intervenerit, extunc homo communis nobilis et idoneus in quolibet comitatu ad id per comitem parochialem cum iudicibus nobilium et aliis nobilibus comprovincialibus in unum locum congregatis, non tamen ex baronibus, nec de potentioribus, sed de mediocribus nobilibus electus huiusmodi iura devoluta et dubiosa, et etiam alia similia, si qua contigerint, tamdiu conservet et manuteneat absque damnificatione qualibet, excepto solum, quod de proventibus consuetis huiusmodi possessionum, donec in manibus suis remanebunt, expensas moderatas capere et facere possit, de quibus tandem rationem reddere valeat et teneatur, quousque huiusmodi devolutio iurium sine herede decedentium in sede iudiciaria curie nostre regie publicata fuerit, ipsaque publicatione facta quisunque easdem possessiones et iura sibi pertinere allegaverit, in certis octavis sequentibus quantocius rationabiliter poterit, iura sua producendo easdem ad se pertinere comprobet; quod si facere poterit, iudices curie regie eidem statui mandent et faciant cum effectu. Si vero in probatione defecerit, iuri regio relinquatur; et si qui ulterius ad easdem ius habere speraverint, eas de manibus regiis legitime requirant.

XVIII. Ubi autem uxores vel filie huiusmodi hominum absque heredibus masculinis

decedentium in talibus possessionibus et iuribus remanserint, extunc possessiones eedem et iura a manibus earum occupari et auferri non debeant, priusquam de earum iuribus, videlicet an hereditarie et perpetuo ad ius femineum pertineant, aut ne, veritas inquiratur. Quod si repertum fuerit eadem iura iuri femineo non competere, extunc dictis uxoribus talium decedentium, antequam de dominio dictarum possessionum excludantur, per regiam maiestatem vel, alios, ad quos reperte fuerint esse devolute, de earum dotibus et iuribus plena satisfactio impendatur. Filiabus vero usque tempus maritacionis earum domus paterna cum quarta parte possessionum paternarum pro quarta filiali secundum consuetudinem regni nostri sequestretur et possidenda relinquatur. Postquam vero maritate et traducte fuerint, de earum iure quartalatio pecuniaria solutione mediante satisfiat. Uhi autem aliqua ex ipsis filiabus homini impossessionato maritata fuerit, dictante eadem regni nostri consuetudine in perpetuo iure et dominio huiusmodi quarte filialis possessionarie succedere debet et remanere, ita tamen, si ipsa de voluntate et consensu fratrum seu consanguineorum suorum, in quos post ipsius matrimonium huiusmodi iura sua quartalitia reverti et redundare deberent, homini, ut prefertur, impossessionato nupserit. Alioquin sive de domo paternali, sive de curiis et servitiis baronum seu maiorum nobilium, dictis suis fratribus seu consanguineis aut parentibus irrequisitis et nolentibus seu non consentientibus id fecerit, ius suum quartalitium non cum possessione, sed cum satisfactioe pecuniaria requirendi habebit facultatem.

XIX. Adiicientes statutis superioribus, quod nullus comes, banus, wayuoda seu alius officialis regius cuiuscunque denominationis et dignitatis existat, ecclesias episcopales, archiepiscopales, abbatiales, prepositales et alias quascunque regio iure patronatus disponendas, earundemque tenutas, pertinentias, decimas et possessiones intra terminos et limites sui honoris seu officiolatus absque speciali mandato regio occuare aut se de eisdem partialiter vel totaliter ingerere presumat.

XX. Verum quia ex inmoderata et superflua exactione tributaria per longiturni temporis abusum et inadvertentiam ac neglectum dispositionis superinde necessarie multa gravamina, dampna et incomoda regnicolis nostris et extraneis hominibus cum eorum rebus et mercibus in regno nostro hincinde proficiscentibus per tributarios, tam nostros regales et reginales, quam aliorum propria cupiditate nullo ad dei timorem aut equitatem habito respectu allectos illata fore hactenus ferventiorique aviditate dietenus irrogari experientia teste nostra cognovit celsitudo, ideo presenti sanctione decernimus, quod in singulis comitatibus regni nostri tempore celebrationis generalium congregationum palatinalium per palatinos pro tempore constitutos vel alios ex regia deputatione celebrandarum inquirantur a iuratis assessoribus huiusmodi congregationum numerus et loca verorum tributorum in ipso comitatu exigi solitorum et a dominis seu possessoribus eorundem tributorum petantur exhiberi littere primarie institutionis tributorum eorundem, in quibus si inventa fuerit quantitas solvendi tributi de singulis rebus solvi consueti, talis solutio moderetur et reducatur ad rationem presentis monete taliter, quod tributariis seu tributa habentibus eorum iusti proventus non decrescant, nec e contrario solutionis modus onus in tributa solvere debentium supercrescat.

XXI. Ubi quocunque autem huiusmodi littere primarie institutionis tributorum reperiri et exhiberi non poterunt, aut reperte forsitan et exhibite quantitatem solvendi tributi non expresserint,

tunc a predictis iuratis assessoribus dicte congregationis inquiratur et rescitur quantitas solutionis tributorum in quibusvis tributis ipsius comitatus de singulis rebus tributari solitis tempore antiquiori, quod humana memoria comprehendere potest, fieri consuete et retrahatur ad consuetudinem antiquam compensata qualitate, quantum iustius fieri poterit, pecunie tunc currentis, semper absque dampno et detrimento tributa exigere et solvere debentium, equitate videlicet utriusque partis semper salva. Similiter inquiratur, discutiatur et moderetur, que et ubi sint false vie et indirecte quorumlibet tributorum, et quantum longe vel prope huiusmodi vias falsas singuli tributarii obsidendi ac itinerantes in eisdem prohibendi vel impediendi iustam et consuetudinariam habuerint et habere debeant facultatem. Vias autem novas in locis, quibus vie ab olim nunquam esse consueverunt, nemo pro communi et universali transitu itinerantium in detrimentum et dampnum tributorum vicinorum in faciebus suarum terrarum adinvenire presumat, alioquin de huiusmodi viis noviter adinventis in predictis congregationibus generalibus iuxta affirmationem iuratorum assessorum huiusmodi congregationum decernatur, an pro falsis viis reputande sint vele aliter restringende et moderande. Habentes insuper et exigentes tributa ratione pontis vel navium pontes huiusmodi aut naves sub debita reformatione semper studeant conservare taliter, quod viatores et tributa solventes absque impedimento per pontes et naves eorum transitum liberum et non impeditum facere possint; id vero facere negligentes penis et gravaminibus opportunis ad debitam reformationem et conservationem suorum pontium et navium in dictis congregationibus promulgandis per comites eorum parochiales astringantur toties, quoties eorum negligentia exlgente fuerit opportunum.

XXII. Postremo antiquam regni nostri consuetudinem presenti edicto confirmantes prelatorum, baronum et nobilium regni nostri approbante conventu stabilimus et ordinamus, quod nullus prelatorum, baronum, nobilium et regnicolarum nostrorum cuiuscunque status, dignitatis et conditionis existat, quosunque infideles manifestos nostros et corone nostre ac regni nostri, necnon publicos fures, latrones ac malefactores presertim in congregationibus generalibus proscriptos in suis castris, domibus, bonis et possessionibus retinere, hospitare et conservare aut eis auxilium, hospitalitatem et favorem impendere presumat sub pena consimilis infidelitatis et furum ac latronum hospitalitatis, excepto, quod fures, latrones et alios malefactores in congregationibus generalibus proscriptos, demptis infidelibus, barones et castellani nostri in confiniis regni castra et fortalitia ac officiolatus et honores pro defensione confinium tenentes usque tempus acquirende gratie poterunt in huiusmodi castris et fortalitiis metalibus receptare et retinere.

In cuius rei memoriam firmitatemque perpetuam presentes concessimus litteras nostras privilegiales pendentis autentici sigilli nostri novi dupplicis, quo pro nunc uti rex Hungarie utimur, munimine roboratas. Datum per manus venerabilis domini Mathie de Gathalowcz, prepositi ecclesie Quinqueecclesiensis, aule nostre sumpmi cancellarii, fidelis nostri dilecti, anno domini millesimo quadringentesimo tricesimo quinto, octavo idus Martii, regnorum nostrorum anno Hungarie etc. quadragesimo octavo, Romanorum vigesimo quinto, Bohemie quintodecimo, imperii vero secundo. Venerabilibus in Christo patribus dominis Georgio Strigoniensi, Johanne Colocensis et Bachiensis canonice unitarum, Duymo Spalatensi archiepiscopi, Jadrensi sede vacante, Petro de Rozgon Agriensis, Waradiensi sede vacante,

Georgio Lepes Transsiluanensis, Zagradiensi sede vacante, Henrico Quinqueecclesiensis, Simone de antedicta Ruzgon Wesprimiensis, Clemente Jauriensis, Waciensi sede vacante, Georgio Nitriensis, Chanadiensi sede vacante, Jacobo Sirimiensis, Joseph Boznensis, Johanne Tininiensis, Vito Corbauiensis, Johanne de Domnis Segniensis ecclesiarum episcopis ecclesias dei feliciter gubernantibus, Sibinicensi, Nonensi, Scardonensi, Traguriensi, Makarensi et Pharensi sedibus vacantibus. Item magnificis Mathyus de Palocz predicti regni nostri Hungarie palatino, spectabili et magnifico Hermanno Cilie et Zagorie comite, socero nostro carissimo, totius regni nostri Sclauonie bano, comite Stephano de Bathor iudice curie nostre, Ladislao de Chaak wayuoda nostro Transsiluanensi, Johanne et Stephano de Wegle, Segnie et Modrussie comitibus, regnorum nostrorum Dalmatie et Croatiae predictorum, Desew et Ladislao de Gara Machouiensibus, Nicolao de Radwycz crucifero ordinis Prutenorum Zewriniensi banis, Johanne de sepedicta Rozgon tauarnicorum, Emerico filio Nicolai wayuode de Marczalianitorum, Johanne et Stephano de Peren dapiferorum, Paulo et Johanne Komplot de Nana pincernarum, Laurentio de Hedrehwar agazonum nostrorum magistris ac Stephano et Georgio de antelata Rozgon comitibus nostris Posoniensibus aliisque quampluribus regni nostri comitatus tenentibus et honores.

8 MARCH 1435

Sigismund, with the aid of divine mercy ever august emperor of the Romans and king of Hungary, Bohemia, Dalmatia; Croatia, Serbia, Rama, Galicia, Lodomeria, Cumania, and Bulgaria¹ to all of Christ's faithful, present as well as future, who will have notice of these presents, greetings in the Savior of all. Among all the matters which our attentive mind contemplates concerning the preservation of the welfare of our subjects, we are accustomed, by innate inclination of our nature, to turn our heart's attention particularly toward those things, with which the prince's foresight may restrain by a clearer definition of ancient custom as well as by the useful creation of new laws, the unbridled recklessness of human rashness not infrequently coupled with acts of violence, and may restore the integrity of justice, debased by the devious actions of abusers. Therefore, we wish herewith to notify all, both present and future, that recently, after we had been elected and made king of the Romans, and received the first Roman royal crown in Aachen, we then, with the advice of the electors of the Holy Roman Empire, went to Lombardy, in order to obtain the supreme imperial dignity, and received in Milan the second royal crown of the Roman Empire. Next, we visited the city of Rome and there received the imperial symbols with the usual solemnity from the hands of our most holy lord, lord Pope Eugene IV, then visited many regions of Italy and Germany, setting aside, at our discretion matters we encountered on our way regarding both the holy Roman Church as well as our empire.² Returning finally to our very own Hungarian kingdom, which had been deprived of our royal presence and was disturbed in her state and enjoyment of peace and tranquility by unjust and harmful violence, we established our first personal residence in our city of Pressburg, whence we summoned to our majesty, together with our loyal subjects, namely, the prelates and barons of this kingdom of ours, a special assembly of the nobles from every county of our kingdom. Finally, after they have gathered together, we have decided, determined, declared, decreed, and confirmed with the unanimous counsel, deliberation, and consent of these prelates and barons and nobles of ours, representing the whole body of our kingdom with full powers of those absent,³ in the interest of a proper, well-ordered and just

¹ The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of "kingdoms" that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, "Lists in the service of legitimation in Central European Sources," in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² This narrative summarizes the events of two decades: Sigismund was elected king of the Romans on 20 September 1410 by a split vote, and, after his accord with King Wenceslas IV, on 21 July 1411, unanimously; he was crowned king of Germany on 8 November 1414 in Aachen, king of the Lombards on 28 November 1431 in Milan, and emperor of the Holy Roman Empire on Whitsun, 31 June 1433, in Rome. Between 1410 and 1435 Sigismund was absent from Hungary about half the time (12 years: 1412–19, 1420–21, and 1430–34). During these years the kingdom was governed by vicars and lieutenants, initially two (the archbishop of Esztergom and the count palatine), in 1430 augmented by four more: the bishop of Eger, the judge royal, the Master of the Treasury and the treasurer (see Kovachich, *Supplementum* 1: 422–3, 449–56).

³ The clause about the diet's representing the *totum corpus regni cum plena facultate* is one of the first explicit statements of the noble deputies' claim to corporate sovereignty; see, among others, Joseph Holub,

administration of justice, which shall be rendered equally to every inhabitant of this kingdom and also for the peace and tranquility of the same inhabitants, the following decrees, statutes, and laws to last forever and to be obeyed without fail.

1. Namely, first of all, in order to destroy and remove entirely all disquieting suspicion from everyone's heart which may arise against the judges and administrators of justice of this kingdom of ours because of favor or hatred or any other reason, we have decided that henceforth for all times in our said kingdom each and every one of the judges and administrators of justice, both ecclesiastical and secular, namely those who may be elected and appointed as palatines, judges royal, Masters of the royal Treasury, royal chancellors, vice-chancellors, and the protonotaries and deputies of the said judges and the assessors of their courts, voivodes of Transylvania, *ispáns* of the Székely, bans of the Dalmatian and Croatian kingdoms, the bans of Slavonia and Mačva, also the *ispáns* and noble magistrates of any county, together with their deputies at court who are to be appointed to substitute for them, and the assessors of the county court,⁴ should at the time of their installation into these legal and jurisdictional honors and offices swear an oath into our royal hands or into that of our appointed deputies in the following words, namely: I, T., swear to God and to the Holy Mother of God, Virgin Mary, to all the saints and God's chosen ones that I will pass just and true judgment and do justice to the utmost of my ability, leaving aside and discarding any kind of request, reward, favor, love, or hatred, as I understand that according to God justice is to be done, to each litigant appearing before me, each and every one of them, without regard to person, not discerning between rich or poor. So help me God and the Blessed Virgin Mary and this wood of the life-giving cross of our Lord, Jesus Christ.⁵

2. Noble magistrates of every county must be elected and appointed from the richer and wealthier noblemen whom all the nobles of that county by common consent regard and consider suitable for that office, and those elected must not refuse the magistracy but must accept it under the penalty of 25 marks which must be pitilessly collected by the county community from those who act contrariwise, except those who are placed by the king, the queen, prelates, or barons or others into honors or offices or who receive payment as soldiers or who for other proper reason do not live permanently in the county; and those elected are bound to hold this office for at least a year and to have seals which are easily recognizable, so that they will be able to issue trustworthy documents together with the seals of other noble magistrates and *ispáns* and *alispáns*. After one year they are free to refuse the office. If they resign or are removed from office or are replaced by the community

“La représentation politique en Hongrie au Moyen Age” in *Etudes présentées à la Commission Internationale pour l’Histoire des Assemblées d’États* 18 (Louvain-Paris 1958), pp. 104-6.

⁴ The protonotaries of the higher courts and the deputies of the judges of regional and local courts were becoming ever more frequently the actual administrators of justice. They were laymen learned in the laws; see György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary] pp. 175-201 (Budapest: Akadémiai K., 1971), summarized in “Men Learned in the Law in Medieval Hungary,” *East Central Europe/L’Europe du centre-est*, 4, pt. 1 (1977), 181–91.

⁵ The text of the oath is seen as having developed over a long period, F. Kovács, “Régi magyar esküminták” [Old Hungarian oath formulae], *Magyar Nyelv* 57 (1961): 290. The last words suggest that the oaths were sworn on a cross regarded as containing a relic of the Holy Cross.

of the county's nobles, they are not to be forced against their will to accept the same office before the fifth following year.⁶ From the fines levied at the court of the county magistrates, the portion due to the judges must be divided in two equal parts between the *ispán* and the noble magistrates.

3. As our majesty perceives from the repeated complaints of the gentlemen of the realm and also from personal experience that the more powerful gentlemen of the realm oppress and harm the less powerful in many ways by new seizures of estates and acts of might,⁷ wishing to hinder by suitable means these unusual acts and new atrocities, we establish and order that wherever and whenever anyone commits new seizures of estates or lands, takes a security by violence, robs goods and chattels, cuts down forests, beats, wounds or kills men, breaks into houses and estates and pillages them, or commits other similar new acts of might, then the aggrieved, damaged and injured parties should, after having acquired our royal letter of complaint and command,⁸ go to the *ispáns* and noble magistrates of that county where these acts were committed and call upon them. These *ispáns* and noble magistrates should then establish the full and complete truth about these new seizures of estates and acts of might with the testimony of that chapter or convent that usually acts in the county, summoning the neighbors, abutters and other fellow nobles from the county in form of an extraordinary county assembly,⁹ under the penalty specified in our royal letter on this matter, to their county court together with the parties of litigation under their oath sworn by touching the

⁶ The arrangements in this passage suggest that county administration had deteriorated in the preceding decades, so that better-off nobles (those later called *bene possessionati*) were often replaced by poor nobles (*unius sessionis*). The king's efforts to remedy the situation do not seem to have born fruit. Seals of noble magistrates (from the wealthy lesser nobility) are known from the early fourteenth century onwards. Having been usually attached *en placard*, they did not survive. The earliest extant exemplars are from the late fifteenth century.

⁷“Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one. The terms *nova occupatio, nova potentia* had emerged around 1400 in royal charters (see e.g., (*Zsigmondkori Oklevéltár* [Calendar for the age of Sigismund]. Elemér Mályusz, *et al.* eds. Budapest: Akadémiai K., 1954– [=ZsO] 2, nos. 1172, 1213) and became technical terms in the subsequent years. It cannot be decided whether they denoted a special group of violent deeds, or the adjective “new” or “recent” simply referred to crimes committed since the regulations passed earlier; see **1397: 53**.

⁸ A letter of complaint (*littere querimoniales*) was a royal mandate specifying the plaint for initiating a lawsuit and ordering an extraordinary county assembly (see below).

⁹ In obvious cases of acts of might a *proclamata congregatio*, verbatim: “announced assembly,” which we translate as “extraordinary county assembly,” was summoned on royal order. This kind of jurisdiction is first attested from 1404; see Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád and the diverse dynasties], (Budapest: Magyar Tudományos Akadémia, 1899), pp. 303–6, and Elemér Mályusz, *Kaiser Sigismund in Ungarn 1386-1437*. Transl. by A. Szmodits (Budapest: Akadémiai K., 1990) p. 179. This procedure was often followed by the counties with reference to this paragraph, see e.g. MNL OL DI. 67797

relics of saints, on their faith in God and their fidelity to us and to the Holy Crown. Then, having inquired and established the truth, they should by their authority in this matter restore the occupied estates to those from whom they were illegally taken away, and defend and save them in these possessions, and completely restore and enforce the return of other violently abducted things and securities.

4. In order that they should have a trial and final judgment on the act of might in these cases, both parties are to be sent to our personal presence or to that of the count palatine or our judge royal by a set date with their letter and that of a chapter or convent describing the course of all the facts together with the names and the names of the estates of those who testify in this matter,¹⁰ and we or any other judge to whom the suit will have been entrusted shall and must pronounce final sentence without setting any further term or process of trial or extension, regardless of the absence of a party not appearing, by granting capital oath.¹¹ The parties of the suit, however, should have leave to settle without the intervention of a judge or the payment of any fine whenever they wish, for the ancient and laudable custom of our kingdom prescribes and allows free settlement to be made in such cases of act of might and others.¹²

5. Moreover, so that neither barons or judges or others who have been royal office-holders and those who have been appointed to honors by the king or the county *ispáns*, moved by greed or ill will, at any occasion unjustly burden, oppress or damage those people who are subject to their honor and jurisdiction and to whom they are bound to render justice against others, or let their deputies act in such a way, we have decided that those injured, damaged, or aggrieved persons who have suffered unjustly shall be able to find truth and prove their damages and injuries before a similar extraordinary assembly, with the testimony of the county's noble magistrate and a chapter or convent, by obtaining our letter of command which contains their complaints presented in the way mentioned above. And the noble magistrates, together with the noblemen of the same county, must carry out the law and render justice vis-à-vis these office-holders, or, following the way mentioned above, the noble magistrate or the convent or chapter must send a letter by a fixed date containing all the facts of the case to our majesty or to the judges and administrators of justice of

¹⁰ In cases involving estates, only noblemen had the right to give evidence. Since the nobility of certain witnesses was frequently contested, it was important for the court to know the principal estate (domicile) of the witnesses so that their status could be verified. Thus the use of the place of residence (estate) was a legal necessity; the form "N. of M." replaced the earlier form referring to the origin of a nobleman, by "N. *de genere* M." By the end of the fifteenth century they came to be family names and were not altered even when the family's possessions changed.

¹¹ This kind of efficient procedure was followed in cases preceded by an extraordinary county assembly (see n. 9, above). A capital oath (*iuramentum ad caput*, **Tripartitum II 32**) meant that the defendant was not allowed to counter it by his own oath. Such a decisive oath was also allowed when the plaintiff presented three favorable letters of inquest and the defendant refused to submit to a fourth one.

¹² Settling "out of court" was ancient custom, see, e.g., in the thirteenth-century *Regestrum Varadiense examinum ferri candentis ordine chronologico digestum*, János Karácsonyi, Sándor Borovszky, eds. (Nagyvárad: Capitulum Varadiense, 1903), *passim*. Bónis (*DRH*, p. 258) pointed out, however, that this custom also opened the way to forcing lesser men to settle with their powerful enemies without applying the full force of law to the trespassers.

our court so that it can be tried there, so that the case can be settled finally and without delay in the aforesaid manner. And if these barons or royal office-holders or *ispáns* exceed the power given them by their office to such an extent that against them the whole community of their subjects lodges a general complaint, then we in person, by appointing a suitable man to this particular task, will and must, based on a true written statement by the noble magistrates, the nobles of the same county, and by the chapter and convent, render justice to the community as they deserve.¹³

6. We have decided and, in order to repress the unrestrained offense of act of might, command in our present decree that if castellans or officers appointed to castles by us, the queen, the prelates, barons, nobles, or our gentlemen of the realm commit acts of might, cause damage, act against the law, or carry out other evil deeds from the castle and with the power of their masters who have granted them these castles, estates, offices, or honors, then their masters who had given them the castles, offices, or honors are obligated and bound personally and from their own properties, to give full satisfaction for all damage and injury and must clear themselves by a proper oath that they were not privy to, nor involved in, and are innocent of the acts of might committed by their castellans or officers; and if the masters wish, they are allowed to make their retainers, castellans, and officers who caused the need for satisfaction compensate for the damage which the masters suffered in giving such satisfaction by taking away their goods and chattels and seizing their estates and, if these goods, chattels, and estates are not sufficient, by arresting them in person and taking and holding them captive until all the said damages are repaid, regardless of nobility, free station, or privilege of any other status whatever, but not exceeding the amount of the damages arising out of the said payment.¹⁴

7. In order that our said officers and said *ispáns* have no opportunity to burden the nobles and the inhabitants of our kingdom living under their administration and jurisdiction by arbitrary fines, we, following in this the ancient custom of our kingdom, declare that no penalties or fines are to be exacted by any secular judge at any other time but at an assembly held according to long-established custom by the count palatine or by someone appointed by the royal majesty to hold general assemblies, except in the following cases when penalties can be collected at times other than at the general assembly:

First, to wit, for the forced retention and harm caused to tenant peasants, who after having paid the just rent and all their debts, requested leave to move to someone else's estate, the county's *ispán* with the noble magistrates (without whom he must not act in such cases) is allowed to exact the

¹³ There is no evidence that such inquiries against royal office-holders were ever held; it is, however, interesting to note that a kind of administrative court was envisaged.

¹⁴ On the responsibility of lords of castles for the deeds of their castellans (noble retainers); see Erik Fügedi, *Castle and Society in Medieval Hungary (1000-1437)* transl. J. M. Bak (Budapest: Akadémiai Kiadó, 1986), pp. 78-80. See also: István Tringli, 2014, "Mittäter oder Anstifter? Die Rolle der Helfer bei den Fehdehandlungen im spätmittelalterlichen Ungarn," In *Fehdehandeln und Fehdegruppen im spätmittelalterlichen und frühneuzeitlichen Europa*, M. Prange and Ch. Reinle, eds. (Göttingen: V & R Unipress, 2014) pp. 163–194.

penalty or fine of 3 marks without delay at any time and as often as he finds him guilty from whomever they find guilty of this according to the law, in order to let the tenant peasant who was restrained and defrauded leave freely with all his goods and with his losses recompensed.

Then, anyone who abducts by violence someone else's tenant peasant who has neither requested nor obtained leave or has requested 15 days in advance but did not obtain it, shall pay the penalty of 3 marks for this violent abduction of the tenant and shall be forced by the county's *ispán* and the noble magistrates by the penalty of another 3 marks to return the same tenant peasant. If, however, any tenant peasant secretly escapes to someone else's estate without having obtained leave to move, and he to whose estate the tenant moved refuses to return him having been called upon to do so, then the county's *ispán* must and is bound to force him to return the tenant by a fine of 3 marks.¹⁵

Then, for contempt of court the penalty is 25 marks.

Then, anyone who will have captured a thief, a robber, or any other common criminal and then deliberately releases him must pay the criminal's composition to the county's *ispán*.¹⁶

Then, if the chamber's profit is not paid by the appointed date, then after the usual letter of fines is issued by the noble magistrate to the offenders, the county *ispán* with the noble magistrate is to collect the chamber's profit together with the fine of 3 marks to be paid by the village which has not paid the tax.¹⁷

¹⁵ The guarantee of free removal of tenants from their lord's land and the prohibition of their abduction was already decreed in **15 April 1405/I:6**. Apparently there was still a shortage of labor in the mid-fifteenth century which might have encouraged illegal moves of peasants from one estate to another. It has been pointed out that lesser nobles were more vulnerable to such acts, for they could ill-afford to offer easier terms to their tenant, while greater lords could be more generous; see János M. Bak "Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline" in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, Paul Friedmann and Monique Boruin, eds., pp. 387–400 (Turnhout: Brepols, 2005).

¹⁶ The matter of bringing a captured criminal to justice was already addressed in the legislation of the eleventh century; see, e.g., **Ladislás 2:3, Ladislás 3:9, 19**. Composition (*compositio*), or man price (*homagium*) was a sum of money, which was owed by a person (or his kindred) who had killed, maimed, or otherwise harmed a man or woman, paid to the kindred (or family) of the victim. This system (the *wergeld*), widespread among Germanic peoples of the post-migration age, aimed at replacing the extended blood feuds arising from the obligation of revenge but continued in Hungarian law until early modern times. The amount paid was based on the victim's or the culprit's social and legal status and the nature of the crime. According to the **Tripartitum**, the man price of barons was 100, and of nobles and burghers 50 marks.

¹⁷ This procedure and penalty goes back to the chamber's profit's (*lucrum camerae*)—originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins—transformation by the late thirteenth century into a direct tax, but retained its name until the end of the Middle Ages. On its origins, see Boglárka Weisz, Royal Revenues in the Árpáadian Period, in: *The Economy of Medieval Hungary*, József Laszlovszky et al. eds. (Leiden-Boston: Brill, 2018) pp. 255–64.

Similarly, since we specifically recall edicts of our predecessors and also several writings of our majesty established the custom and made it usual, that according to the honorable custom of our kingdom, *ispáns* of counties or their deputies collected the ecclesiastical tithe with the penalty of 3 marks each from villages which were reluctant to pay after the lapse of the specific and customary time following the church ban, we, therefore, approving, renewing, and following this practice, command by the force of these presents that after the imposition of the ban at times usual for the individual dioceses and places, the county *ispáns* or their *alispáns* are bound to make each village which has stubbornly suffered the ban for a month and still refuses or neglects to pay the tithe, pay this tithe on the request of the tithing-men after the lapse of a month immediately, without delay and in full, to whomever it has to be paid, along with a fine of 3 marks each for the officers themselves.¹⁸

Then, when the nobles of any county are summoned to an extraordinary county assembly by royal mandate in which it is stated that they are under the penalty of 3 marks, the county's *ispán* and the noble magistrates have the right to collect without delay the said 3 marks specified in our letter from those who do not come to that assembly unless their absence is caused by illness, old age, widowhood, orphanhood, or by disability of poverty, or if they can excuse themselves reasonably on account of urgent matters.

Then, the palatine, the judge royal, and every common judge ordinary, both ecclesiastical and secular, have the right immediately after finishing a case and passing final judgment in all cases tried in the courts to give first of all satisfaction to the opposing party from his portion and also to collect the judicial fines due to him.¹⁹

8. Then, we have decided that in cases of institution, inquest, summons, and other judicial procedures which are usually done with the participation of the men and the testimony of chapters and convents, commonly known as cases of authentication, the chapters and convents should appoint no common or simple members but from the chapters only canons, or at least such who hold ecclesiastical prebends or offices, and from the convents only monks who are consecrated priests.²⁰ The persons appointed to such testimonies by chapters or convents should, before they are sent to assist and to act at institutions, inspections of boundaries, examination of estates, or

¹⁸ On the payment of tithes, see the earlier decrees, e.g., **Stephen II: [20]; Syn. Szab:40;** and **1351:6**. For an overview, see Andor Csizmadia, "Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn." *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Kanonistische Abteilung, 61 (1975), 228–257. A more detailed up to date monograph on the issue is missing.

¹⁹ The judicial fines could amount to considerable sums; they started out with 3 Marks (e.g., for a prorogation issued on the request of one party) but outstanding fines doubled every session.

²⁰ The purpose of this measure, just as the one (further below in the same article) regulating the duties of the royal bailiff, is to assure the impartiality of official witnesses at legal transactions; cf. the abolition of the authenticating function of lesser convents in **1351:3**. See also Ferenc Eckhart, "Die glaubwürdigen Orte Ungarns im Mittelalter," *MIÖG*, Ergänzungsband 9 (1913/15), 395–558, here pp. 449–62 and Elemér Mályusz, *Egyházi társadalom a középkori Magyarországon*. [Clerical society in medieval Hungary] (Budapest: Akadémiai K., 1971), p. 72 ff. on higher clergy entrusting clerics in minor orders with important tasks.

common inquests, take an oath that they will proceed faithfully and justly and will give true report or evidence in the matter. And the king's bailiff who proceeds in the aforementioned cases also must take an oath upon returning and before giving evidence or making a public report to the chapter or convent. Whoever is found to have proceeded unfaithfully and to have made a false report against his oath should be punished as a forger and perjurer by losing his prebend if he has any, and in addition, whether he has a prebend or not, by being incarcerated forever. If the king's bailiff proceeds illegally and unfaithfully in the said cases of institutions, examination or inspection of boundaries, then he will be convicted of perjury and of capital punishment, losing all his properties. Any nobleman, asked to be the king's bailiff accompanying the witness of a chapter or convent by one or more persons with our royal mandate containing his name or with any other customary type of letter, who refuses to accept and to bear the burden of proceeding and acting in this manner, is therefore under penalty of the usual 3 marks which is to be collected by the county's *ispán* without delay.

9. Institutions to estates, examinations and inspections of boundaries ought not be done except with the neighbors and abutters legally summoned there, and to prevent fraud and cheating in such cases, the names of the neighbors and the abutters who were present at the time of the said proceeding must be fully included in the reports issued by chapters and convents.²¹

10. And in order that the causes for disagreement, which until now frequently arose regarding the charges for redeeming letters issued by chapters or convents, as well as for travel expenses so that the trouble of the witnesses of the chapters or convents should cease to exist in the future and be eliminated, we order by the present ordinance, following old and, indeed, honorable custom,²² that in all places of authentication, both chapters and convents, for each letter of summons, that is the first, second, and third, 24 pennies of the larger coin²³ are to be paid and rendered to the convent or chapter, together with their notary and scribe, for redemption of the letter.

Then, for any letter of final summons, 100 pennies.

Then, for any letter of advocacy, 24 pennies.

²¹ The importance of witnesses, whose memory was often called upon, was emphasized by Erik Fügedi, "Verba volant..." in Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*. ed. J. M. Bak. London: Variorum Reprints, 1986 ch. 6. Actually, this is a rare case when a rule proclaimed by law was immediately followed by practice: records of proceeding according to this prescription abound in the time following its promulgation.

²² The fees for letters and charters issued by places of authentication and the expenses to be paid for their service as authentic witnesses were regulated earlier (in **1351:21**) but not as extensively as here. This list of charges remained a point of reference for very long time.

²³ *Moneta maior* refers to the silver coins (*denarii*), the exchange rate of which was regulated in 1427B, Additional measures relating to these coins were passed both by the king and, in his absence, by the royal council in 1430 and 1432; see *DRH*, pp. 251–57. However, the new coins were soon displaced by debased emissions. In the 1430s, the actual small coin in circulation was the *quarting*, initially worth a quarter of *denarius* but by the end of Sigismund's reign 6000–8000 of them were worth a florin (instead of 400). Under such circumstances the regulation of fines and fees in stable money was most necessary.

Then, for any letter of prohibition, protest, or similar document, if issued as letters patent, 24 pennies, if close, 12 pennies.

Then, for any letter of record, if issued as privilege, 100 pennies, if letters patent, 24 pennies, if close, 12 pennies.

Then, for any letter of inquest, whether patent or close, 24 pennies.

Then, for copies of ancient deeds retrieved from the archives, 100 pennies for the guardian or the retriever and for the redemption of the retrieved charter; if there was not too much writing and it was issued as letters patent, 24 pennies; but if the task of copying is extensive and it was issued as a privilege, then 100 pennies.

Then, for simple transcripts or for transcripts issued as letters patent for which the task of copying is not great, 24 pennies, but where the writing was long and was issued as a privilege, 100 pennies.

Then, for letters of institution when contradiction was made, 24 pennies, and for letters of institution in perpetual possession without contradiction, a redemption of the letter is to be paid according to the size of the property and the number of plots in the following manner: namely, for one, two, three, or four plots, 100 pennies; where there will be more than four plots but fewer than ten, for each plot 33 pennies; where there will be more than ten but fewer than twenty, for every plot, 24 pennies; where there will be more than twenty plots up to a hundred, for each plot 12 pennies; and where there will be any number of plots above a hundred, 8 pennies for each plot.

Then, for letters of inspection of boundaries, when no contradiction or summoning will be made, 24 pennies; but in the case of inspection of boundaries with simple conscription, or when similarly a simple conscription and final designation of boundaries is made with a royal bailiff sent from the court and an oath is sworn on the soil²⁴ in proper legal form or with the consent of the parties, for the redemption of the letter 400 pennies. Where, however, the case is sent to the royal court because the parties do not agree in such an inspection of boundaries, for the redemption of such letters, 200 pennies.

Then, for common inquests by judicial procedure, 100 pennies. Then,

for the inspection of seizure of estates, 100 pennies.

Then, for seizing the properties of men sentenced to capital punishment and the confiscation of their chattels on court order, the chapter receives according to ancient custom the tenth of things taken away; and for redemption of the letter, 100 pennies.

Then, for estimations of estates on court order, 100 pennies.

²⁴ Oath on the soil had a particular ritual. It was sworn in a pit (grave) dug at the border of the disputed property, and the swearer had to speak the oath, dressed in burial cloths, with a clog of earth held above his head; the oath- helpers stood around the pit; see Márta Belényesy, "Le serment sur la terre au moyen âge et ses traditions postérieures en Hongrie," *Acta Ethnographica Academiae Scientiarum Hungaricae* 4 (1955) 361–394.

Then, for the divisions of estates, 100 pennies from each divided estate. Then, for proof of an oath, 24 pennies.

Then, for proof of an oath containing the names of the oath-helpers, 100 pennies.

Then, from amounts paid in the presence, or with the testimony of chapters or convents, the chapter or convent has no right to take a tenth or ninth unless when such an amount is deposited in their sacristy or safekeeping because of a disagreement between the parties; from those payments they can rightfully receive a tenth and ninth at the expense of that party which caused that the amount had to be deposited in this way.

The men of the chapters and convents taken as witnesses should receive for every day which they spend on the business of authentication, 12 larger pennies, whether they ride their own horses or are taken and led on the horses of the parties; thus, they and their horses and servants are to be taken from and led home on the victuals and expenses of those in whose case they were summoned.

11. Besides, because the issuance of letters and their redemption frequently occur in course of normal trials in our royal court by the judges ordinary and their aforementioned notaries, in order to prevent occasions in which argument can arise between the notary and the litigants, we regarded it advisable to declare the old custom of the redemption of these letters in the following way,²⁵ namely, that for letters of prorogation, 12 pennies must be paid to the notary of the court of judgment;

for a letter of judgment or fine, also 12 pennies; for

an ordinary letter of inquest, also 12 pennies; for a

second letter of summons, 24 pennies;

for a third letter of summons, 100 pennies; for

a letter of final summons, 100 pennies;

for a letter on oaths taken, if the oath is granted to be sworn with two to five oath-helpers, 24 pennies;

from him who swears with twelve, twenty-five, or fifty oath-helpers, including himself, 100 pennies;

for a common inquest, 100 pennies;

for a letter on judicial combat, 200 pennies;

for a letter on capital oath, 200 pennies;

²⁵ These fees reflect old received practice of the courts; they were summarily regulated earlier in a charter of Sigismund of 21 July 1417 (*DRH*, pp. 235–7).

for the first presentation of legal instruments, 24 pennies;

for second or third presentations of legal instruments under specific penalty, similarly 24 pennies;

for letters of prorogation on summons to respond at 3 marks fine, 24 pennies;

for letters patent of advocacy, 24 pennies;

for a common letter of record, 24 pennies;

for other common letters, such as those of protest and similar ones, 24 pennies;

for a letter of protest face-to-face, 100 pennies;

for a letter of sentence in cases of act of might, to the keeper of the seal, 10 florins with 100 pennies each, and to the scribe, 200 pennies; for a letter of institution into estates and simple inspection of boundaries, 24 pennies;

for a letter of sentence on the recovery of an estate or other things, the fee should be decided by agreement between the litigants and the protonotaries according to the size of the recovered estate or chattels.

12. Regarding fees for the redemption of customary letters of sentence in our chancellery, the old custom of the chancellery is to be retained; and similarly in regard to letters of donation and confirmation, agreement is to be made with the chancellor according to the size of the granted or confirmed estate in the manner hitherto followed.²⁶

And because in all the cases of the abovementioned redemption of letters and of other payments and exaction of fines frequent reference was made to the number and quantity of pennies presently circulating, in order to remove any doubt, we declare in these presents that such pennies are meant of which 100 are equal and worth one golden florin; and if at any time smaller pennies happen to appear in circulation, then they will have to be augmented proportionately, with higher numbers of equal value.

13. Then, considering the all too frequently occurring uncustomary arrests of merchants and of other travelers for debts and other offences of theirs or of others,²⁷ by clergy and laymen, nobles and non-nobles, on their own property or that of others or in public places, by which hitherto much harassment, damage, and injury has been done and inflicted in the course of these sorts of irregular arrests, we declare, sanctioning the ancient custom of our kingdom, that anyone who intends to arrest someone is not allowed to make the arrest for any reason on the person's own or his co-proprietor brothers' estates, land, or official tenancy; otherwise, he must pay for unfair arrest a penalty of 3 marks, and the county's *ispán* must force him to end the imprisonment and to release

²⁶ The fees of the royal chancellery were regulated earlier in **1351:7**, and **1397:33**.

²⁷ On such arrests and "reprisals," see **1290:10**; and **15 April 1405/I: 8**. *Repressalia* usually meant the right of a person, harmed or injured by a foreigner, to make reprisals on any citizen whatsoever of the native country of the offending foreigner. Here the concept seems to have been widened and included locals as well, aiming at the prohibition of self-justice. It is also evidence for the increasing literacy in administration.

his prisoner with another penalty of 3 marks. If, moreover, someone wants to make an arrest in a public place, then the judge of that very place should permit and allow the arrest in his presence only if the arrester can prove with a letter of either the county *ispán* or *alispán* or of the noble magistrates or some other authentic proof that he has already sought justice from the lord or the reeve of the estate where the arrested person lives, but he was recklessly refused, or if he was given final judgment that was not satisfactory and complete, and not otherwise. Once he has clearly proven the said facts in the aforementioned way, then the lord or the judge or reeve of that public place or estate has to keep the arrested person in custody and, by administering the law and justice among the parties in the customary way, give satisfaction for debts or other offences or things proven at his bench from the judicially-seized goods and chattels of the convicted person or, if his goods and chattels are insufficient, by detaining him in person.

14. In a case, however, in which the judge of the arrest, because of fear or favor or for any other unwarranted reason, would hesitate to confirm the arrest which was or is going to be legally accomplished in his presence or would hesitate to mete out justice and judgment and give satisfaction in the manner described above, then he should be altogether liable and indebted to the arrester whose adversary he permitted to go free, for the damage which would have been sued for by the arrest, unless the person or persons who are to be arrested has such power and might that the lord or judge of the place cannot resist or arrest him or if the arrested person manages to escape from the custody with the help of external power and against the will of the judge; in such a circumstance, the judge ought to protest in his own behalf publicly as soon as possible in the presence of his neighbors and abutters.²⁸

15. We also wish that the burghers, merchants, settlers, and other inhabitants of the free cities, towns, villages, and the estates of the king and the queen should not and must not make such arrests in the abovementioned way through their judges, officials, or magistrates on behalf of debts, properties, and other claims under the abovementioned penalties to be collected without delay by the Master of the Treasury or by their other superiors; if it is necessary to make arrests, they should be made in the same abovementioned way in a public place by a public judge.

16. The judge who acts and passes judgment regarding an arrest made properly and legally in his presence has the right to exact for himself, if appointed by the lord of the estate or if he is the lord

²⁸ This paragraph is an unusually candid admission of the limits of public justice vis-à-vis powerful lords. A noble magistrate of humble origin or even the judge of a royal city was, indeed, not supposed to arrest a magnate. In these cases the king had to intervene. There is ample evidence that Sigismund was able to impose his will on all of his subjects, and did not hesitate to do so if his royal prerogative was at stake. Since the court of *specialis presentia* ceased to exist around 1429, it was at the *personalis presentia* where successful action could be implemented against violent nobles. For example, between 1433 and 1435, three powerful magnates received capital sentence for alleged misdeeds; see Pál Engel, *Királyi hatalom es arisztokrácia viszonya a Zsigmond-korban* [Relationship of royal power and the aristocracy under Sigismund] (Budapest: Akadémiai K., 1977), p. 62

himself, for his trouble and office, 40 pennies; if he is the reeve²⁹ of the community, 12 pennies from the legally convicted person.

17. Furthermore, as we greatly desire that justice and observance of the law flourish among the gentlemen of the realm and because we want to prove that these qualities have their origin in our majesty, we establish by our present decree that if in any county the rights of a deceased person escheat because of the extinction of the line and it is not clear whether such a property falls under royal right or belongs to the kinsmen or to the heirs in the female line³⁰ and there is doubt regarding these two, namely the right of the king and that of others, that is, of kinsmen and of female heirs, then those escheated and doubtful rights and any other rights which might occur in these cases must be looked after and held in trust until the devolution of the rights of such an heirless deceased owner is announced by the judicial bench in our royal court, by a suitable lesser nobleman, elected in each county by the county's *ispán*, the noble magistrates, and other nobles gathered together in a meeting from among the middle-ranking nobles and not the barons or major lords,³¹ without causing any damage, except that he is allowed to make and to spend moderate expenses from the usual income of these properties for which he must and is obliged to give account afterwards; and if after the announcement anyone should claim these estates and rights, he should go as soon as possible to one of the upcoming octavial courts³² in order to prove that he has right to these; and if he can do so, then the judges of the royal court should order and carry out institution to the estate. If however, evidence fails him, the estates and rights shall remain under royal right and whoever wants to submit claims later will have to seek his rights at law from the hands of the king.

18. Where, however, wives or daughters of men dying without male heirs are left in the estates and rights of such a man, these estates and rights ought not to be seized and taken from their hands until the truth is established about their rights, namely, whether those rights belong by heredity in perpetuity to the female heirs or not. If it is found that these rights do not belong to the female line, then, before the wife of such a deceased man is excluded from the dominion of the abovementioned

²⁹ The reeve (*villicus*) was the head of the village administration, in charge of minor jurisdiction and enforcement of royal laws, mentioned as early as in King Stephen's laws. Little is known about their status.

³⁰ While estates were usually inherited only in the male line, there were exceptions. If it could be proven that the property was purchased or acquired through defaulted mortgage, daughters and their successors in both the male and female line had rights of inheritance. Female hereditary right might have also originated in royal grant of 'son's rights' (*prefectio*) to sole surviving daughters; daughters of women so privileged enjoyed the same rights and could pass on the estate to their daughters. The sons and descendants of such a daughter might accordingly be designated "men of the female line" (*homines foeminei sexus*). On details, see e.g., **Tripartitum 1: 17–41**, *passim*.

³¹ As far as the record permits to judge, this arrangement for guardianship of estates did not become general practice. The properties were usually either seized by the crown or retained by those (widows, kinsmen) in actual possession of it.

³² Octavial courts (*octava*) refer to the session of royal courts of justice; of which here were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times

estate, she is to be given full satisfaction for her dower³³ and other rights by the royal majesty or by those to whom the rights devolved. For the daughters, however, the paternal house and a quarter of the property are to be set aside as filial quarter and kept in her possession until the time of her marriage, following the customs of our country.³⁴ After the daughter has been given away and married, she should be given satisfaction by way of a monetary payment for her rights to the filial quarter. When, moreover, one of these daughters marries a man without property, then she should enter into the possession of the filial quarter according to the same customs of our country and keep it in perpetuity, provided that she married the abovementioned man without property with the knowledge and permission of her brothers and of those kinsmen of hers to whom these rights and the filial quarter would devolve after her marriage. Otherwise, if she marries either from the paternal home or from the court and service of a baron or a major noble,³⁵ without the knowledge and permission or without asking the consent of her brothers, kinsmen or her parents, she can demand her filial quarter not in land, but as a monetary satisfaction.

19. In addition to the preceding decisions we order that no *ispán*, ban, voivode, or other royal official of whatever title or position should dare to seize the churches of bishops, archbishops, abbots, or provosts or any other churches under royal right of patronage or their lands, appurtenances, tithes, and estates within the confines of their power and authority without special permission of the king, nor should they dare to enter partly or entirely into these rights.³⁶

³³ In Hungarian customary law the widow was entitled to a part of her husband's estates in return for her "cohabitation" (*concubitus*). Dower (*dos*, *dotalitium*) was originally the "price of the bride" paid by the bridegroom's family to that of the bride, then a grant of the husband to his wife on the occasion of their marriage. The dower was usually given both in land and chattels, but the woman did not have free disposal of the land so given, which was managed together with her husband's goods. After her husband's death, the widow could keep the dower unless she remarried. In this case, the kinsmen of the deceased husband redeemed the dower from her. The term often also included those valuables that were brought by the bride in the marriage (*res parafernales*, trousseau), which remained with the wife. See Erik Fügedi, *The Elefánthy. The Hungarian Nobleman and His Kindred* (Budapest: CEU Press, 1998), pp. 24–6. In practice these claims had relevance only after the husband's death, at which time the widow's claims to immobile and mobile property had to be redeemed in money by his successors in the estate.

³⁴ The filial quarter (*quarta [filialis]*)—first mentioned in **1222: 4**—was the hereditary portion of noblewomen due from the inherited estates of their fathers. The filial quarter was, in theory, paid in cash. In practice, however, it was often given out in land. In law, the grant of the quarter in land was only valid when the woman was married to a non-noble man (*ignobilis* or *homo impossessionatus*), or as a temporary substitute for cash payment, but in fact it was more widespread. See Fügedi *The Elefánthy*, pp. 45–6, Martyn Rady, *Nobility, Land and Service in Medieval Hungary* pp. 103–7 (Houndmill, Basingstoke: Palgrave, 2000). Péter Banyó, "Birtoköröklés és leánynegyed. Kísérlet egy középkori jogintézmény értelmezésére." [Inheritance of land and the filial quarter: An attempt on the interpretation of a medieval legal concept] *Aetas* 18:3 (2000): 76–92. See also **Tripartitum I, 17-30** *passim* and elsewhere.

³⁵ The reference implies that young noblewomen served in the household of barons as ladies-in-waiting.

³⁶ The royal right of patronage was not part of the *honores* granted to officeholders and interference in ecclesiastical prebends was always seen as an abuse; see Vilmos Fraknói, *A magyar királyi hegyúri jog Szt. Istvántól Mária Teréziáig* [The right of Hungarian royal patronage from St. Stephen to Maria Theresa] (Budapest: Magyar Tudományos Akadémia, 1895), *passim*. The clause "without special

20. Then, because our eminence knows from experience that our toll collectors and those of the queen and of others, spurred by their own greed, not fearing God or respecting the law, owing to long-lasting abuse and carelessness as well as to neglect of necessary measures, have been able to cause a great deal of trouble, damage, and loss to our people and to foreigners traveling to and fro in our country with their merchandise and goods, by taking excessive and unnecessary tolls, we decree by our present statute that in every county of our kingdom sworn judges of the general assembly should ascertain at a general assembly held by the palatine currently serving or by someone appointed by the king the number and places of true tolls usually collected in that county and request the lords or owners of those tolls to present the letters about the initial establishment of the same tolls, and if in the letter the amount of the toll which is normally to be paid for each ware is given clearly, then the amount is to be adjusted and reduced to the presently circulating money, so that neither the just income of the collectors or owners of the toll be diminished nor the burden of those who pay the toll be increased.³⁷

21. Where, however, the letters about the first establishment of the tolls cannot be found and presented, or the found and presented letter perhaps does not state the amount of the toll to be paid, in that case, the said sworn judges of the aforementioned assembly are similarly to inquire and to ascertain the amount of tolls collected, and usually paid, in the past at the various tolling places in the county for certain goods subject to tolls, as far as the memory of men can recall, and adjust value of the toll to the value of the currently circulating money in the most just way without causing any loss or disadvantage to the collectors or to the payers of tolls and saving the rights of both sides. They are also bound to investigate, examine, and restrict those illegal routes and detours which are used to evade the tolls; they are also to decide how far from or close to these illegal routes the toll collectors should have and ought to have customary and just right to prohibit or hinder travelers from using these roads. Where, moreover, roads have never been established, no one may dare to create new ones across his fields for the common and general crossing of travelers, to the loss and damage to the nearby tolls; otherwise these newly created routes are to be judged by the community during the aforementioned assembly according to the reports of the sworn judges whether they are to be considered as illegal routes or to what extent their use is to be reduced

permission of the king” calls attention to the fact that protection of ecclesiastical prebend had no power against the king. Actually, at the time of this decree, five out of fourteen bishoprics and other rich prebends (such as the priory of Vrana of the Knights Hospitallers) were vacant and governed by royal administrators; see Engel, *Királyi hatalom*, p. 80.

³⁷ See the earlier regulation of tolls in **1351:7**; in the course of the fourteenth century the originally royal tolls fell into the hands of private landowners and, on the other hand, royal exemptions from them also increased (see **1397: 58**). This article legalized the practice of county assemblies which tried to clear up the situation by inquiring into the title of the tolls and their customary amounts. Such a list, drawn up by the noble assembly of Co. Nógrád, presided over by the palatine, is known from 1405 (ZsO 2, no. 3890); similar actions are recorded from 1412 and 1424. One of these documents was published by Gusztáv Wenzel, *Nyitra vármegyének XV. századbeli vámhelyei. Tanulmány hazánk közlekedési viszonyainak történetéhez* [Tolls in fifteenth-century Co. Nyitra: A study on conditions of traffic in Hungary] (Budapest: Eggenberger, 1872). In general, see Magdolna Szilágyi, “Mobility, Roads, and Bridges in Medieval Hungary,” in *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 64–80.

or restricted. Those, moreover, who collect tolls for bridges and ferries must always take diligent care to keep the bridges and ferries in good repair so that the travelers and toll-payers can cross by these bridges and ferries freely and unimpeded without any hindrance; those who neglect to do so should be forced by suitable penalties and fines issued by the county's *ispán* announced at the abovementioned assembly, as often as the negligence of the toll-collectors makes it appropriate, to make the necessary repairs and maintenance on their bridges and ferries.

22. Finally, confirming by our present charter the old custom of our kingdom, we generally establish and order, with the approval of the prelates, barons, and nobles of our kingdom, that none of the prelates, barons, nobles, or any of our gentlemen of the realm of whatever station, rank, or condition dare to receive, entertain, or keep in his castles, houses, estates, and properties or give help, hospitality, or favor to those who are manifestly disloyal to us, our crown, and our kingdom, likewise to common thieves, robbers, and criminals, particularly to those who have been proscribed in general assemblies, under the penalty of the same charge of infidelity as that of receiving thieves and robbers, except those barons and castellans of ours who hold castles and fortifications or offices and honors in the frontier regions for the defense of these borders, who are allowed to receive and keep thieves, robbers, and other criminals who were proscribed in a general assembly, but not traitors, in the castles and border fortresses until such time as they receive pardon.³⁸

In memory and in perpetual validity of which we have issued our present letters of privilege confirmed with our new authentic double seal pendant that we now use as king of Hungary. Given in the city of Pressburg, by the hand of the reverend lord Matthew of Gathalóc,³⁹ provost of the Church of Pécs, arch-chancellor of our court, and our beloved faithful servant, in the year of the Lord one thousand, four hundred and thirty-five, on the eighth of March, in the forty-eighth year of our reign as king of Hungary etc., the twenty-fifth as king of the Romans, the fifteenth as that of Bohemia, and the second as emperor; when the following reverend fathers in Christ governed the churches of God felicitously: archbishops George of Esztergom,⁴⁰ John of the canonically

³⁸Proscription, Hung. *levelesítés*): criminals (*publici malefactores*), thieves, forgers and counterfeiters were proscribed by the county, usually at the county assembly, which meant that their properties, and sometimes their lives, were forfeit; see 31 **August 1405/II: 12**. The peculiar custom of tolerating criminals in the border castles is not mentioned elsewhere, therefore, not easy to explain. It is possible that, considering the enormous burden which the defense of the southern frontier placed on the kingdom, criminals were not pursued if they were willing to serve in the castles of the defense lines. There is a possibility that some special fortified keeps are meant, for the word *metalís*, used here for the castles, also means “round tower,” but is rarely used in that sense.

³⁹Matthias/Matthew? of Gathalóc (d. 1457), chancellor 1433-37, secret chancellor 1433-39, bishop of Vác 1438-40, of Veszprém 1440-57.

⁴⁰George of Pálóc (brother of Count Palatine Matthew, d. 1439), bishop of Transylvania 1419-23, archbishop of Esztergom 1423-39, archchancellor 1438-39.

united sees Kalocsa and Bács⁴¹, and Duim of Split;⁴² bishops Peter of Rozgony of Eger,⁴³ the Oradea see being vacant, George Lépes of Transylvania⁴⁴, the see of Zagreb being vacant, Henry of Pécs,⁴⁵ Simon also of Rozgony of Veszprém,⁴⁶ Clement of Győr⁴⁷, the see of Vác being vacant, George of Nitra,⁴⁸ the see of Cenad being vacant, James of Srem⁴⁹, Joseph of Bosnia,⁵⁰ John of Knin⁵¹, Vid of Krbava,⁵² John de Dominis of Senj,⁵³ the sees of Šibenik, Knin, Skradin, Makarska and Hvar being vacant; further, when the honorable lord Matthew of Pálóc held the palatinate of our said kingdom of Hungary,⁵⁴ the respectable and honorable Hermann, count of Cilli and Zagorje, our beloved father-in-law was ban of all Slavonia,⁵⁵ count Stephen of Bátor, judge royal,⁵⁶ Ladislás of Csák, our voivode of Transylvania,⁵⁷ John and Stephen, counts of Krk, Senj and Modrus bans of our said kingdoms of Dalmatia and Croatia,⁵⁸ Desiderius and Ladislás of Gara ban of Mačva,⁵⁹ Nicholas of Redwicz from the Prussian Order of the Crusaders ban of Severin,⁶⁰ John

⁴¹ John (Buondelmonte of Florence, d. 1448), archbishop. of Kalocsa 1424-48

⁴² Duimo, archbishop of Split 1412-35

⁴³ Peter of Rozgony (d. 1438), bishop of Veszprém 1417-25, of Eger 1425-38

⁴⁴ George Lépes (of Váraskeszi, d. 1442), bishop of Transylvania 1427-42

⁴⁵ Henry (of Alben, d. 1444), bishop of Pécs 1421-44

⁴⁶ Simon of Rozgony (d. 1444), bishop of Veszprém 1428-40, of Eger 1440-44, chancellor 1441-44

⁴⁷ Clement (of Molnári, d. 1438), bishop of Győr 1417-38

⁴⁸ George (of Berzevice, son of Peter, d. 1437), bishop of Nitra 1429-37

⁴⁹ James, bishop of Srem 1419-60

⁵⁰ Joseph, bishop of Bosnia 1428-42

⁵¹ John (Ivan), bishop of Knin 1427-35.

⁵² Vito Ostoir Marinich, bishop of Krbava 1431-?.

⁵³ John (de Dominis, d. 1444), bishop of Senj 1433-40, of Oradea 1440-44.

⁵⁴ Pálóc, Matthew of (d. 1436), secret chancellor 1419-23, judge royal 1425-35, count palatine 1435-36.

⁵⁵ Hermann, count of Cilli/Celje (d. 1435), ban of Dalmatia, Croatia and Slavonia 1406-08, of Slavonia 1423-35.

⁵⁶ Bátor, Stephen of (d. 1444), master of the stewards 1417-31, judge royal 1435-39.

⁵⁷ Csák, Ladislás of (d. 1439/40), voivode of Transylvania 1426-37.

⁵⁸ Frangepán/Frankapan, John (d. 1436), count of Modrus, Krk and Senj, ban of Dalmatia and Croatia 1432-36 and Frangepán, Stephen (d. 1481), count of Modrus, Krk and Senj, ban of Dalmatia and Croatia 1432-37.

⁵⁹ Gara (Garai), Desider of (fl. 1402-38), master of the queen's horse 1408-12, ban of Mačva 1419-27, 1431-37 and Gara, Ladislás of (son of the count palatine Nicholas iunior, d. 1459), magnate, ban of Mačva 1431-42, 1445-47, count palatine 1447-58.

⁶⁰ Redwitz, Nicholas of, knight, of the Teutonic Order, captain (sometimes titled ban) of Severin 1430-35.

of the oft mentioned Rozgony was Master of the Treasury,⁶¹ Emeric, son of voivode Nicholas of Marczal Master of the Doorkeepers,⁶² John and Stephen of Pereny Masters of the Stewards,⁶³ Paul and John Kompolt of Nana Masters of the Cupbearers,⁶⁴ Lawrence of Hédervár Master of the Horse,⁶⁵ and Stephen and George of the said Rozgony *ispáns* of Pozsony⁶⁶, and many others held honors and comital offices of our realm.

CONCORDANCE

Magyar Törvénytár	DRMH
I	I
II-III	II
IV	III
V	IV-V
VI-XVII	VI-XVII
XVIII-XX	XVIII
XXI	XIX
XXII	XX
XXIII	XXI
XXIV	XXI-Esch.

⁶¹ Rozgony, John of (d. 1438), *ispán* of Sáros 1410-35, lord treasurer 1412-36, master of the treasury 1433-37.

⁶² Marcali, Emerich of (son of voivode Nicholas, d. 1448), magnate, master of the doorkeepers 1434-37, 1446-48, master of the stewards 1440.

⁶³ Perény, John senior of (son of Emerich, d. 1458), magnate, master of the stewards 1431-37, master of the treasury 1438-58, and his brother, Stephen of (d. 1437), magnate, master of the stewards 1431-37.

⁶⁴ Nána, Paul Kompolt of (d. 1441), magnate, lord butler 1429-38, judge of the Cumans 1439 and Nána, John Kompolt of (d. 1451), magnate, lord butler 1432-38.

⁶⁵ Hédervár, Lawrence of (d. 1447), master of the horse 1429-37, count palatine 1437-47.

⁶⁶ Rozgony, George of (brother of bishop Simon, d. 1457/58), magnate, *ispán* of Pozsony Co. 1423-50, judge royal 1441-46, and his brother Stephen junior (d. 1443), magnate, *ispán* of Pozsony Co. 1421-43.

EDICT OF KING SIGISMUND OF HUNGARY OF 12 MARCH, 1435

This royal edict (as Kovachich called it, *mandatum edictale*), issued a few days after the *decretum mains*, may not have been a decree passed by the same diet, but rather a decision of the royal council based on the responses Sigismund received to his military propositions (see **Prop. 1432/3**). There is no precedent for two decrees issued by same diet and this document makes only perfunctory reference to the estates. Also, it was issued in non-privilegial form. In legal collections of the early modern centuries, it is regularly referred to as a *manifestum* of the king. However, its main measures regulating military service by the major and lesser nobles remained the basis for the country's defense arrangements for a long time; hence, it is appropriate to include it among the laws of the realm.

The structure of this law is also unique for its time: the decree opens with royal promises about the crown's duties in the defense of the realm and continues in almost perfect dualist-corporate form, with the duties of the nobles in response. It essentially codifies the king's propositions of a few years earlier, however, without distinguishing between richer and poorer nobles, which may have displeased the nobility, insistent on its legal unity as one estate. Earlier editions changed the sequence of the two decrees of 1435 and called this one the fifth of Sigismund's, placing it in front of the law of 8 March 1435; also the numbering of the articles was inconsistent and had to be corrected by the editors Ferenc Döry, György Bónis, Vera Bácskai, of the *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akademiai, 1978.) [=DRH] (see Concordance).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MSS.: Three originals; two in the MNL OL DL (12674 and 25064), one in the State Archives, Sibiu (Romania); all on parchment, only the last one has still the double pendant seal (for details, see DRH, p. 278).

EDD.: Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66) 10/7: 619–21 (incomplete); *Magyar Törvénytár: Corpus Juris Hungici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896), 1:245–51; DRH, pp. 278–82.

LIT.: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789–1801), 1:462–6; József Deér, “Zsigmond király honvédelmi politikája” [Defense policies of King Sigismund], *Hadtörténelmi Közlemények* 37 (1936), 1–57, 169–202, here pp. 29–30, 32–4; András Borosy, “The *militia portalis*,” in: János M Bak and Béla K. Király, eds. *From Hunyadi to Rákóczi: War and Society in Medieval and Early Modern Hungary*. (Brooklyn, : Social Science Monographs, 1982), 63–80.

12 MARTII 1435

Nos Sigismundus dei gratia Romanorum imperator semper augustus ac Hungarie, Bohemie, Dalmatie, Croatie etc. rex, notum facimus tenore presentium significantes, quibus incumbit universis, quod nos, cuius regie celsitudinis providentia subditorum suorum et terrarum ac regnorum sue ditionis tuitioni et illese conservationi nedum introrsus, verum potius ab extraneis invasoribus officio sue dignitatis exigente se obligatam profitetur, volentes fines regni nostri predicti a partibus Bohemie et Morauie, a quibus propter ingruentiam presentis temporis ab aliquibus elapsis annis hucusque frequentiores ferventioresque ipsum regnum pertulit hostilitates, vi nostra regia reddere securiores, onus infrascriptum sponte, ymmo ex debito regali in nostras regias curas et expeditiones duximus assumendum:

I. Videlicet, ut civitates et castra subscripta: civitatem et castrum Poseniense, civitates Tirnauensem et Zakolcza, castrum Trinchiniense et alia castra ac munitiones et fortalitia in confinio Morauie et iuxta fluvium Wag situatas, quemadmodum tam in ipso ex parte Bohemie, quam in aliis omnibus confiniis et metis regni nostri ex quacunque parte apud nostras regias manus habita et in futurum, quovis eventu et casu eisdem nostris manibus applicari contingentia nostris sumptibus regalibus contra gwerram Bohemorum et alias undecunque emergentes muniemus et tutabimus sufficientibus gentibus, armis et victualibus, aliisque necessariis, tam pro conservatione et defensione castrorum ac munitionum in se, quam ad tenendos campos et defendenda circumiacentia campestria contra quosvis insultus hostiles occurrentes. Si autem tanta potentia inimicorum irreperit, quod maior foret viribus gentium nostrarum imperialium, nec ab invasione finium regni arceri et prohiberi per easdem gentes nostras imperiales posse verisimiliter videretur, extunc prelati deputati pro defensione illarum partium cum suis banderiis et viribus iuxta dispositionem de ipsis factam et observari consuetam, necnon comites singulorum comitatum pro earundem partium vel aliarum gwerras habere contingentium defensione modo simili deputatorum sub banderio regali cum baronibus, proceribus et nobilibus dictorum comitatum et eorum gentibus per modum generalis expeditionis exercituali viribus coniunctis et adunatis succurrere debebunt ad repellendos insultus hostiles supradictos.

II. Conclusum est insuper et statutum per nostram maiestatem cum prelatibus, baronibus et regnicolis nostris prenotatis, quod tempore universalis exercitus generaliter proclamati singuli barones, proceres et nobiles possessionati secundum quantitatem dominiorum ipsorum, videlicet de singulis triginta tribus jobagionibus proprias sessiones et terras more aliorum jobagionum in possessionibus, quibus resident, habentibus, ac census, collectas, munera et alia servitia dominorum cum aliis jobagionibus supportantibus unum, de centum vero tres et sic consequenter de aliis, quotquot habuerint, de singulis centum singulos tres pharetrarios equestres, ad minus videlicet arcus, pharetras, gladios et biccellos habentes et ad bellandum aptos et utiles ipsimet personaliter antecedendo ad quoslibet exercitus regni generales conducere teneantur. Hii vero, qui minus quam triginta tres habent jobagiones, suos jobagiones, quos habuerint, cum jobagionibus aliorum taliter coniungere et connumerare teneantur, quod semper de triginta tribus jobagionibus quorumcunque unus pharetrarius modo premissis armatus et dispositus ad exercitus generales transmittatur. Ceteri denique nobiles jobagionibus carentes singuli singulariter propriis in personis, hii videlicet, qui dominos habere dinoscuntur, sub quorum nominibus et expensis exercituare

solent, cum eorum dominis ac gentibus seu banderiis, alii autem huiusmodi dominos non habentes, de propriis ipsorum possessionibus, domibus et expensis cum earum comite parochiali, illis tantum exceptis, quos decrepite etatis, viduitatis aut orphanitatis et alterius consimilis impotentie causa necessaria videtur excusare, similiter pro sua facultate condecenter armati et dispositi exercitualmente proficisci teneantur. Ubi autem duo vel plures fratres indivisi et in uno victu manentes extiterint, uno eorum ad huiusmodi generales exercitus proficiscente alius vel alii remanere debent excusati. Illi vero, qui propriis in personis sub banderio et stipendio regali vel baronum procedere habebunt, preter et ultra gentes suas de honoribus aut stipendiis regalibus vel baronum secum servientes et exercituare debentes nichilominus pretactum numerum exercituantium de suis propriis possessionibus cum comite suo parochiali seu comitibus illius seu illorum comitatum, in quo vel in quibus possessiones sue existunt, expediant et transmittant ad illas partes in pro illo tempore, quibus iidem comites parochiales singulorum comitatum debebunt exercituare.

III. Preterea prelati, barones et nobiles regni nostri castra, fortalitia et munitiones habentes eorum castellanos seu alios nobiles pro custodia huiusmodi fortalitorum necessarios, similiter ipsi barones, nobiles et maiores persone seculares coram coniugibus et domesticis suis personas nobiles pro magistris curie et alias ad conservandum honorem curiarum suarum deputandi et relinquendi habeant facultatem, moderate tamen et tantummodo inevitabiliter necessarias personas in huiusmodi servitiis occupando et relinquendo.

IV. Et propterea commissum est, quod in quolibet comitatu universitas nobilium eiusdem comitatus conveniendo certum ex eis eligere debeant de mediocri statu nobilium, non ex potentioribus, qui cum iudicibus nobilium illius comitatus numerum jobagionum quorumlibet regalium, reginalium et baronum ac nobilium in ipso comitatu possessiones habentium tempore proclamationis exercitus generalis fideliter computet, dicet, conscribi faciat et registrari, par seu copiam huiusmodi registri tradendo comiti suo parochiali.

V. Item quod quilibet tam in generali exercitu regnicolarum, quam ad stipendia exercituare debens die et termino expeditioni exercituali, cui interesse debet, assignatis absque omni crastinatione in loco deputato cum omni gente sua, cum qua ad exercitum ire tenetur, constituatur. Quicumque autem ad huiusmodi generales exercitus proficisci debentes tempore proclamationis et instaurationis eorundem contumaciter ire et proficisci neglexerint, aut multum tarde terminum et locum universalis conventionis ipsius exercitus prenotatos studiose pretermittendo, ceteris exercituantibus fatigatis aut dispersis seu conflictu bellicoso iam commisso et habito supervenerint, aut tempore debito venientes et comparentes tandem ante debitam et finalem expeditionem belli occasione qualibet conficta, non habita nostra vel capitaneorum ipsius exercitus licentia, de eodem exercitu temerarie recesserint, tales expediti minime reputentur, sed eorum possessiones, pro huiusmodi non venientia vel tarditate aut temerario discessu occupentur; et de huiusmodi possessionibus occupatis per nostram maiestatem de consilio prelatorum et baronum nostrorum, quid agendum sit, deliberetur.

VI. Item quod exercituantes tempore estivo in willis et segetibus descensus facere non debeant, sed in campis vacuis, in quibus segetes pedibus equorum non conculcent neque destruant, nullaque dampna et nocumenta inferre presumant, nichil omnino preter herbas non falcatas, ligna et aquam absque debito pretio capientes seu auferentes. Pretia vero victualium cuiuslibet generis, tam pro bornibus, quam equis necessariorum in quolibet comitatu ante adventum exercituantium per

communitatem nobilium eiusdem comitatus secundum fertiliorem vel infertilem eventum temporis et anni limitentur, moderentur et taliter ordinentur, ut intuitu ipsorum exercituantium pretia victualium in nullo excrescant ultra cursum priorem et communem in foris communibus usitatum, prout cupiditate hominum fieri consuevit.

VII. Si qui vero contra premissam ordinationem in villis et aliis locis modo pretauto prohibitis descensus facere aut victualia cuiuscunque maneriei absque pretio ordinato auferendo dampna irrogare presumpserint, extunc homines dampnificati, sive nobiles sint, sive ignobiles, ad presentiam comitis parochialis et iudicum nobilium comitatus illius, in quo huiusmodi descensus et dampna facta et illata extiterint, accedendo super quantitate damnorum, que sibi illata fore conquesti fuerint, si nobiles, per se, si vero ignobiles fuerint, cum suo villico et duobus vicinis suis domui sue ex utraque parte proxime coniunctis iuramentum prestent, ipsique comes et iudices nobilium super huiusmodi dampno et iuramento ipsi conquerenti litteras eorum testimoniales tradant, vigore quarum, quamprimum ad curiam regiam in presentiam iudicum et iustitiariorum ipsam curiam iudicantium accesserit, mox absque ulteriori probatione et litium protractione eisdem conquerentibus et dampnificatis iuxta contenta litterarum predictorum comitis et iudicum nobilium illius videlicet comitatus, in quo huiusmodi dampna per quoscumque exercituantes illata fuere, quibus quidem litteris absque ulterioris probationis, requisitione ex vigore presentis constitutionis plena fides adhibeatur, ex parte cuiuslibet dampna inferentis omnimoda satisfactio dampnorum necnon expensarum pro ipsis dampnis requirendis factarum sententialiter fieri decernatur, et cum executione debita finaliter et effective per sententiam iudicariam, quam palatinus aut iudex curie pro tempore constitutus vel eorum vicesgerentes et sigilliferi litteratorie dare et proferre teneantur, comitibus vel vicecomitibus et iudicibus nobilium illorum comitatum, in quibus ipsi exercituantes, qui premissa dampna irrogasse modo antelato comprobati fuerint, possessiones et bona habere dinoscuntur, per huiusmodi litteras sententiales scribatur et demandetur, quatenus ipsi mox receptis dictis litteris sententialibus huiusmodi lesis et dampnum passis ex parte ipsorum dampna inferentium per ablationes rerum et bonorum eorumdem, et si necesse fuerit, possessionum occupationes, super omnibus in huiusmodi litteris sententialibus contentis coram testimonio alicuius capituli vel conventus omnimodam et indilatam satisfactionem teneantur exhibere.

VIII. Quicumque autem ex huiusmodi exercituantibus potentiarias seu voluntarias succensiones et combustiones aut depredationes villarum et possessionum, effractiones ecclesiarum, nobilium et virorum ecclesiasticorum propriarum curiarum et domorum invasiones et depredationes, mulierum vel virginum spoliationes, raptus et dehonestationes, hominum interfectiones, verberationes et vulnerationes et alios similes maiores et enormes actus potentiarios committere presumpserint, extunc contra tales premissis modo et ordine in illis comitatibus, in quibus huiusmodi facta potentiaria patrata fuerint, inquisita et comperta veritate in facto potentie convincantur, et ex parte eorum indilata satisfactio modo superius declarato per sententiam iudicariam impendenda declaretur et demandetur, ac per comites parochiales et iudices nobilium ipsius delinquentis et in facto potentie convicti ad executionem earundem sententiarum per occupationes possessionum, rerum et bonorum ablationes et alia in talibus fieri solita per palatinum aut iudicem curie finaliter et effective procedi litteratorie committatur et demandetur.

In cuius rei memoriam firmitatemque perpetuam presentes concessimus litteras nostras pendentis et autentici sigilli nostri novi dupplicis, quo ut rex Hungarie utimur, munimine roboratas. Datum

Posonii, in festo beati Gregorii pape, anno dornini millesimo quadringentesimo tricesimo quinto, regnorum nostrorum anno Hungarie etc. quadragesimo octavo, Romanorum vigesimo quinto, Bohemie quintodecimo, imperii vero secundo.

12 MARCH 1435

We, Sigismund, by the grace of God ever august emperor of the Romans and king of Hungary, Bohemia, Dalmatia, Croatia etc. notify by these presents all to whom it may concern that we, who profess to be bound by the duty of our royal eminence to protect and, safely maintain the subjects, territories, and countries of our dominion not only internally but even more against foreign invaders, wish to make more secure the borders of our said kingdom with our royal might from the direction of Bohemia and Moravia, whence, because of the present circumstances, this country has been exposed for several years to ever more frequent and violent attacks,¹ have decided, of our own accord and in keeping with our royal obligation, to assume the following burden as part of our royal care and concern.

1. Namely, that we will support at our royal expense against Czech or any other kind of attack and provide with sufficient men, arms, foodstuff, and everything else which is necessary for the maintenance and protection of the castles and fortifications and for campaigns to secure the neighboring fields and, defend the surrounding regions against any sort of hostile attacks the following cities and castles: city and castle of Pressburg, the cities of Trnava and Skalice, castle Trenčín, and those other castles, fortresses, and fortifications which are on the border towards Moravia, on the banks of the river Váh, and also those which are there towards Bohemia, and those situated on any of the borders and borderlands of our country on either side² both those in our possession now and those which may fall into our hands under whatever circumstance. If, however, enemies should invade our country in strength that is greater than that of our imperial forces, and we with these imperial troops of ours would not appear to be able to hold them back and to prevent them from overrunning our borders, then those prelates who have been ordered to protect this frontier region with their *banderia* and soldiers according to the arrangements made and customarily observed in this matter,³ as well as the *ispáns* of those counties which were designated in the same way to defend that frontier region or to repel any attack together with the said counties' barons, lords, and nobles, and their men, will be obligated to relieve us with joined and united

¹ Attacks by the Hussites, in response to Hungarian troops fighting in the crusade against them, began in 1428, when the troops of Prokop the Great and Prokoupek advanced as far as Pressburg. Hussites waged several campaigns in the northwestern part of the kingdom (today's Slovakia) and acquired some strongholds, such as Trnava and Tapolčiany in 1432, whence they extended their control over considerable areas. These towns were redeemed from them later for money.

² At that time the Margravate of Moravia was governed by Sigismund's son-in-law and ally, Duke Albert V of Austria (the later Albert I, king of Hungary), but some important Moravian fortresses, such as Brumov and Uherské Hradiště, were, since the 1420s, temporarily in the hands of Hungarian garrisons.

³ Hungarian prelates (the archbishops, bishops, and the prior of Vrana of the Knights of St. John) had the obligation, as "ecclesiastical barons", to mount an army under their own banner and report to the king's call, as other barons holding honors, ever since Árpáadian times. The specific arrangement of the northwestern border's defense being entrusted to the archbishop of Esztergom and the bishop of Eger was, however, recent; see **Propositions 1432/3**.

forces under the royal banner, according to the rules of the general levy, in order to repel the said hostile attacks.

2. Our majesty, together with our abovementioned prelates, barons, and gentlemen of the realm, has furthermore decided and established that when a general levy is announced, each baron, lord, and propertied nobleman is obligated to appear in person and to lead with him to the general royal army a certain number of soldiers in relation to the size of his property, namely, for every thirty- three tenant peasants who have a plot and land in peasant tenancy in the village where they live, pay rent, taxes, and dues, and render other seigneurial services, together with the other tenants, one soldier; hence, for every 100 tenant peasants, three mounted archers,⁴ and, in the same way, for each additional 100 tenant peasants whom they have, three additional equestrians who will at least have bows, quivers, sabers and daggers, and are fit and able to fight. Those, however, who have fewer than thirty-three tenant peasants, must jointly count their tenants with other tenant peasants, so that for every thirty-three tenant peasants they always send one mounted archer, armed and prepared in the abovementioned manner to the general levy. Those, however, who have no tenant peasants have to go to war in person; those among them who have masters under whose name and at whose expense they customarily go to war should serve with their masters' men and *banderia*;⁵ others who have no such masters must proceed to the army from their own properties and houses at their own expense, with their county's *ispán*, likewise properly armed and equipped according to their means, except those who are excused from service because of old age, widowhood, being orphaned, or owing to some other disability. Where two or more brothers live on undivided family property within the same household, only one of them has to go to war during such a general levy, while the other or the others are excused and may stay at home.⁶ Those, however, who serve under the banner and on the payroll of the king or of the barons, nevertheless, must also send and dispatch, besides their own men serving and fighting with them from their royal or baronial offices and stipends, soldiers armed and equipped in the abovementioned manner from

⁴ The original arrangement of the *militia portalis* in **1397:6**, the ratio was 1:20 (=5:100); the reason for the reduction of the numbers is not known. It may be worth noting that in 1397 Sigismund expressly promised to demand this kind of militia only for the impending war against the Ottomans; see Borosy, "The militia portalis."

⁵ This clause refers to those noble retainers (*familiares*), who served in the *banderia* of barons and prelates. These were a lesser nobleman who chose (or, occasionally, was forced) to accept military or administrative positions in the service of a prelate, baron or major landowner. He kept his noble privilege and was subject to his senior (*dominus*) only for service, for which he received monetary compensation and occasionally land. The laws refer to them very rarely, as in principle all noblemen were equally privileged and free (see **1351:11**), but it can be inferred. The institution resembled West European vassalage, but was less formalized (often signaled by only a handshake in the castle gateway), less mutual, and rarely passed onto descendants. See: Erik Fügedi, *The Elefánthy. The Hungarian Nobleman and His Kindred*. Budapest: CEU Press, 1998. 137-40; Martyn Rady *Nobility, Land and Service in Medieval Hungary*. Houndmill, Basingstoke: Palgrave, 2000., 110–31, and János M. Bak, "Feudalism in Hungary?" in: *Feudalism: New Landscapes of Debate*. Sverre Bagge, Michael H. Gelting, Thomas Lindkvist, eds. (Turnhout: Brepols, 2011) pp. 203-17.

⁶ In order to avoid the reduction of family estates, properties were often not divided among heirs, sometimes even for generations. See Rady, *Nobility*, pp. 45-8.

their own properties and with that county *ispán* or with those county *ispáns* where their estates lie to that region and for that time where and when the county *ispáns* of the counties in question are to be deployed.

3. Furthermore, those prelates, barons, and nobles of our realm who own castles, fortresses, or fortifications should be free to command and leave behind castellans or other noblemen needed for the protection of these types of strongholds; likewise barons, nobles, and other major secular lords may leave with their spouses and households noble persons and others as stewards of their household for the preservation of the honor of their court, but only in reasonable measure and only as many persons as are unavoidably necessary to stay home and perform these services.⁷

4. It has been ordered, therefore, that in each county the community of nobles should assemble and elect one person from the middle rank landowners, and not from the mighty ones, who, when a general levy is announced, together with the noble magistrates of the county, will count, declare, register, and hold a true list, compiled of all the tenant peasants, of the king, the queen, the barons, and nobles who have estates in that county and shall hand to the *ispán* of the county the duplicate or the copy of it.⁸

5. Then, that both those who have to go to war with the general levy of the gentlemen of the realm and those who serve for pay must present themselves together with all the men whom they are obligated to lead to the army, without delay at the designated place, on that day and date for which the campaign was announced. Moreover, anyone who should appear at such a general levy, but obstinately refuses to go and appear at the time for which the campaign is called and summoned, or, deliberately ignoring the time and place for assembling, comes and appears too late, when the other warriors have already been exhausted or have been scattered or the combat has already been held and fought, or though having presented himself and arrived on time impudently leaves the army before the proper and final settlement of the battle on any pretext, without our permission or that of the commanders of the army, is in no way to be considered as free from his obligation, but because of his absence, delay, or impudent desertion, his estates are to be seized, and our majesty will consult with the prelates and barons concerning what should be done with the estates of such a person.⁹

6. Then, that in summer time soldiers are not to quarter themselves in villages or on sown land, but in empty fields, where the horses will not trample down or spoil the crop; they should not cause

⁷In Sigismund's times the greatest lords began to organize households modelled after the king's. They created dignitaries (chancellor, marshal, and so on) from among their noble retainers and in records issued for their subjects used formulas typical for the royal chancellery. These can be seen as the first symptoms of a new social order, based on the predominance of the magnates, which was to be fully established by the end of the fifteenth century.

⁸No such register survived. A list of landowners in Co. Ung, from 1398, obviously the implementation of **1397:6**, drawn up by the noble magistrates on the king's command was studied by Pál Engel in his unpublished dissertation, "Ung megye nemesi társadalma" [Noble society in Co. Ung], Budapest, 1985.

⁹Confiscation of property was the customary punishment of deserters; a charter of Sigismund of 21 April 1411 refers to such a procedure, based on a *generale edictum* of the king.

any damage or loss, and they are not allowed to take or collect anything without paying its due price, except for uncut grass, wood, and water. In every county the community of nobles of that county ought to fix, prescribe, and determine the price of all the foodstuff needed by the soldiers and the horses before the army's arrival, according to the fertility or infertility of the year and the season, so that upon the arrival of the army the prices of foodstuff should not rise above the previous general price asked at the public market, as usually happens because of people's greed.¹⁰

7. If anyone dares to billet in villages or other prohibited places or dares to take any kind of food without paying the established price, against the aforementioned ordinance, then the wronged persons, be they nobles or not, ought to go to the court of the county *ispán* and noble magistrates or that county where that kind of billeting or damage happened or was inflicted, and swear an oath on the amount of damage done which they claim to have suffered; noblemen swear by themselves, non-nobles with their village reeve and with two next-door neighbors from either side of their house. The *ispáns* and the noble magistrates ought to issue a letter of evidence on the damage and on the oath to the claimant, by the authority of which, as soon as the plaintiff arrives at the royal court, at the bench of the judges and justices sitting there, then without further inquiry or litigation on the case, or the basis of the abovementioned letter of the *ispán* and the noble magistrates of that county where the damage had been inflicted by a soldier — since that letter, by authority of the present law, is granted full credit without requiring further proof — full satisfaction must be given in regard to the damages done by anyone to the wronged person as well as for the expenses incurred while claiming the damage in a final and valid judgment, which must be issued and given by the count palatine or the judge royal, or by their deputies and the keepers of their seals in writing. By this letter of judgment the *ispáns*, *alispáns*, and noble magistrates of those counties where estates and goods of those soldiers lie who have been proven guilty in the abovementioned way of committing the said damages are to be informed and commanded that after having read the said letter of judgment they ought to confiscate the soldiers' goods and chattels and, should it be necessary, seize their estates in the presence of witnesses from a chapter or convent and give full satisfaction without delay to the wronged and damaged party, in accordance with all the items of the letter.¹¹

8. Those soldiers, however, who violently and deliberately set fire to, burn down, or loot villages and estates, attack churches, invade, and loot residences and houses of nobles and clergy, rob, violate, and rape women and virgins, kill, beat or injure people, or commit any other similar atrocious violent act, ought to be, after proper inquiry and the establishment of the truth, indicted of act of might in the counties where they have committed these violent acts in the abovementioned way and manner, and immediate satisfaction must be given. The count palatine or the judge royal

¹⁰ Cf. 1427A, passim. It is peculiar that this decree does not refer to the earlier legislation, which it repeats in essence in this and the following article.

¹¹ This unique procedure of compensation based solely on the damaged party's oath, even if he was a peasant, was unprecedented and soon fell into oblivion. It was contrary to legal custom in many aspects: first, the oath of a non-noble was never regarded valid against that of a nobleman; second, an unfree peasant was not considered able to act at law but had to request his lord to litigate for him.

should require in writing the county *ispáns* and the noble magistrates to ensure complete and effective judgment on the person found guilty and convicted of act of might by seizing his estates, confiscating his goods and chattels, and other things customary in such cases.

For the eternal memory and force of which we have issued these presents and validated it with our new, authentic double seal pendant, which we use as king of Hungary. Given at Pressburg on the feast of St Gregory the pope, in the year of the Lord one thousand, four hundred thirty-five, in our forty-eighth regnal year in Hungary, etc., the twenty-fifth as king of the Romans, the fifteenth in Bohemia and as emperor the second.

CONCORDANTIA CONCORDANCE

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Magyar törvénytár	DRH /dDRMH
Pr.	Pr.-I
I	I
II-IV	II
V-X	III-VIII

LAW OF KING ALBERT (1437-40) OF HUNGARY

29 May 1439

Shortly after the death of Sigismund, a group of barons “elected” his son-in-law, Duke Albert of Austria, as king of Hungary. The main opponent to the accession of Albert in Hungary seems to have been Queen Barbara, but Sigismund had her incarcerated shortly before his death, thus the accession of their daughter Elizabeth’s husband was unproblematic. Nevertheless, the barons compelled the “elected king and queen” to issue a set of election promises—just as Sigismund had done in 1387, and as was to become general practice at Hungarian successions—in which a number of centralizing reforms were rescinded and the role of the “royal council”, that is, of the magnates holding baronial offices, was enhanced. (Undated, between 17-31 December, 1437; edited from a sixteenth-century copy in Wilhelm Wostry, *König Albrecht II. (1437–1439)* (Prag: Rohliček, 1907) pp. 145–49; repr. with corrections in J. M. Bak, *Königtum und Stände in Ungarn im 14.-15. Jh.* Wiesbaden: Steiner, 1973, pp. 136–38.) However, King Albert’s long absence on imperial and Bohemian business during the following years and a major Ottoman campaign that devastated southern Hungary caused such disaffection among the nobles that a diet had to be called to pacify them. The meeting took place under circumstances very disadvantageous to the king and his barons: a popular rebellion against foreigners in Buda (on 23 May 1439) made Albert and his entourage virtual prisoners in the royal castle. This situation was well exploited by the nobility who managed to change a good number of the election promises to their own advantage, reducing the magnates’ codified influence on the central authority.

Although the decree was not issued in a full-dress privilegial form, no historian doubts its formal legal character; also, King Matthias referred to it as a *decretum* (1458:1). There is, however, an entirely new element, pointing to the gradual emergence of corporate dualism: a day after the royal edict—which was, as usual, sent in several copies to the counties (see below, MSS)—the nobility issued a promise in return, not to request further privileges and to keep the law of May 1439. This was done through a charter, signed and sealed by more than fifty individuals (see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akademiai, 1978) [=DRH], pp. 301–2). M. G. Kovachich, who edited the charter from a copy (*Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. Buda: Regia Universitas, 1790, p. 232), compared the pair of the royal diploma and the nobility’s “charter in return” to a “mutual pact and convention” as between parties to a contract. A few months later this procedure was repeated in an even more explicitly “contractual” style, however this time not with county deputies, but merely with magnates. The decree about a general tax for a major campaign against the Ottomans of 17 September 1439 begins with the decision of the king and his council and continues with the obligation of several dozen barons, prelates and major nobles, some of whom sealed the charter next to the king’s seal, to support the measure and help levy the subsidy (see *DRH*, pp. 304–07) See: Pál Lővei, “*Sokpecsétes oklevelek a 14-15. századi Magyarországon*” [Charters with several seals in Hungary of the 14.15th C.] *Ars Hungarica*, 39/2 (2013), 137-144.

The numbering of the articles 1439: 23–34 in the older editions is illogical. Döry and the others

editors of *DRH* introduced a new count, which we follow. (See the Concordance).

MSS.: Eight authentic originals survived: in Hungary MNL OL DL. 103590, 88151, 13381/1-2, 59249, 64340, copies sent to known or unknown counties, all on parchment, two still having their pendant seals; one in Zagreb (Državni Archiv, Doc. Med. Varia 256), one in Košice (City Archives, Coll. Schwartzenbachiana 220) both on parchment with seals broken or lost; and the transcript included in the charter of the nobles (Vienna, State Archives, Ung. Urkk. 96). For details, see *DRH*, pp. 285 and 301.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Stephanus Katona, *Historia critica regum Hungariae*. 42 vols. (Pest: Weigand, 1779-1817), 13:882–900; Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66), 11: 244–56; *Magyar Törvénytár: Corpu Juris Hungici*, Dezső Márkus *et al.* eds. (Budapest: Franklin, 1896), 1:278–99; *DRH*, pp. 283–304. The nobility's charter was first edited by Martinus Georgius Kovachich, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum* . . . (Buda: Regia Universitas, 1790), pp. 228–30; now in *DRH*, pp. 302–3.

LIT.: Wostry, *König Albrecht II.* (<https://archive.org/details/knigalbrechtii00wostgoog>) 2:146 sqq.; Dezső Szabó “Albert királyválasztása” [Election of Albert to king], in *Fejérfataky Emlékkönyv &c.* (Budapest: Franklin, 1917) pp. 312–25; Ferenc Eckhart, *Magyar alkotmány- és jogtörténet* [History of Hungarian Law and Constitution] (Budapest: Politzer, 1946), p. 42; Elemér Mályusz, “A magyar rendi állam Hunyadi korában” [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957): 46-123, 529-602, here pp. 70–74; János M. Bak, *Königtum und Stände in Ungarn im 14.-15. Jh.* (Wiesbaden: Steiner, 1973), pp. 39–41.

Nos Albertus dei gratia Romanorum rex semper augustus ac Hungarie, Bohemie, Dalmatie, Croatie etc. rex et dux Austrie etc. memorie commendamus tenore presentium significantes quibus expedit universis, quod excellentissimo principe domino Sigismundo, Romanorum imperatore ac prefati regni Hungarie etc. rege, patre nostro carissimo laudande memorie tempore noviter preterito deo celi, cuius nutui humana fragilitas nequit obviare, volente viam universe carnis ingrediente nobisque divina favente clementia in regimen et solium ipsius regni Hungarie votive succedentibus prelatorum et baronum necnon procerum et nobilium regni nostri cetus et universitatis idemptitas nostrum regium conspectum adeundo et libertates ipsius regni nostri, quibus ipsi prelati, barones et nobiles eorumque predecessores temporibus divorum regum, presertimque condam serenissimi principis domini Lodouici regis felicis recordii, predecessoris nostri freti fuere et gavisii, in quampluribus suis articulis diminutas esse recitantes et nostram regiam serenitatem super reformatione status dicti regni nostri precibus et instantia propulsantes infrascriptos articulos et in eis contenta nostris litteris inseri et conscribi facere, approbare et in eisdem se per nos illibate conservari humillime supplicarunt; nosque promisimus, ymmo promittimus bona fide, quod articulos infrascriptos tenere et adimplere volumus et debemus.

I. Primo quod antiquas leges et consuetudines huius regni et libertates regnicolarum ecclesiasticorum et secularium cuiuslibet status ad priorem suum modum et statum, quantum de iure et cum honore eorundemque prelatorum et baronum ac regni nobilium consilio et auxilio possumus, reducemus, reintegrabimus et reformabimus, et de cetero in eisdem manutenebimus et conservabimus.

II. Insuper quod regia maiestas palatinum regni antiqua consuetudine ipsius regni requirente eo, quod idem palatinus ex parte regnicolarum regie serenitati, et ex parte ipsius regie serenitatis regnicolis iudicium et iustitiam facere potest et tenetur, ex consilio prelatorum ac baronum et regni nobilium pari voluntate eligat.

III. Item quod regia dignitas pro tuitione regni et confiniorum ipsius conservatione hominibus suis exercituantibus de stipendio regali dispositiones faciat, sic quod regnicolas ipsi stipendiati exercitantes non predentur. Exercitus vero generalis regnicolis tamdiu, donec huiusmodi stipendiati exercitantes adversariis resistere poterunt, non proclametur. Ubi autem ipsi exercitantes regnicolas predati fuerint, tunc tales pronuncientur ad instar aliorum patratorum actuum potentiariarum. Dum vero necessitate urgente exercitum generalem proclamari contigerit, tunc nobiles regni ultra metas et confinia regni ex quacunque parte eiusdem regni inviti more exercitantium non ducantur antiqua eorum libertate requirente.

IV. Item quod novitates et nocive consuetudines introducte aboleantur et destruantur.

V. Item alienigenis et forensibus hominibus, cuiuscunque nationis et linguagii existant, officia in ipso regno nostro non commitemus, nec castra, fortalitia, metas, possessiones, honores, prelaturas, baronias, comitatus vel quascunque ecclesiasticas vel seculares dignitates ad tempus vel imperpetuum extraneis vel forensibus, nisi hominibus Hungaris conferemus, quodque prelati et barones homines extraneos et forenses non conservent.

VI. Item de triecsimis, lucro camare, montanis, urburis, cusionibus monetarum, camaris salium eorundemque comitibus necnon mardurinis, quinquagesimis et quibuscunque officiolatibus in arendam vel amministrative seu aliter quovis modo similiter hominibus idoneis, corone Hungarie suppositis et non extraneis liberam disponendi facultatem more consueto habeamus.

VII. Item lucrum camare in regno Hungarie, quinquagesimam in partibus Transsiluanensibus ac mardurinas in regno Sclauonie exigi consuetas exigi more alias ab antiquo consueto faciemus, reducendo ad statum tempore prefati condam domini Lodouici regis observatum.

VIII. Item prelati et barones duas dignitates, honores, baronias, scilicet seculares et ecclesiasticas simul tenere non valeant, nec homo secularis, sive vir ecclesiasticus dignitates ecclesiasticas occupative servare possit.

IX. Item nullus mercatorum forensium et extraneorum, cuiuscunque nationis existat, ad mercandum seu forizandum in medium regni, sed ad loca tempore pretacti condam domini regis Lodouici ad forizandum ac emendum et cambiendum deputata negotiationes suas peracturus more consueto accedat.

X. Item quod monetam auri et argenti in valore et cursu, quibus pro nunc existit, sine consilio prelatorum, baronum et regni nobilium non immutabimus, sed cudantur obuli in eadem lega, qua ipsi maiores denarii cuduntur, quorum obulorum duo unum integrum denarium valeant; et quod penes dominum archiepiscopum Strigoniensem et magistrum tauarnicorum unus fidelis et idoneus vir in probatorem huiusmodi cusionis monete, auri scilicet et argenti deputetur.

XI. Item monete et pecunie extranee atque sales forenses in regnum non inducantur et nec acceptentur; celerius, quantum potest.

XII. Item quod dispositio pro serenissima principe domina Elizabeth regina et eius status honoris conservatione ex quo est heres huius regni, fiat ubicunque vult in regno, sic tamen, quod ipsa domina regina honores et officiolatus suos non extraneis et alienigenis, sed incolis huius regni, quibuscunque maluerit, conferendi et collatos, dum sibi placuerit, ab eis secundum suum arbitrium habeat facultatem auferendi.

XIII. Item dum in exercitibus et pugnibus seu quibuscunque rixis cum inimicis regni committendis Hungaros aliquos de hostibus capitivare vel aliquid aliud lucrari contigerit, tunc ipsi Hungari huiusmodi captivos et lucrum, exceptis notabilibus personis vel capitaneis ipsorum exercituum inimicorum regie maiestati in captivos pertinentibus, quos nos ab ipsis captivantibus pro donis condignis recipere valeamus, pro se retinendi vel vendendi aut ecclesiis perpetue servitutis iugo tradendi et donandi habeant potestatem.

XIV. Item quod in defensionibus et conservationibus metarum et confinium huius regni consiliis regnicolarum utemur,

XV. Item honores seculares absque quolibet consilio hominibus istius regni Hungarie et non advenis liberum arbitrium conferendi et ab eisdem auferendi habeamus.

XVI. Item possessiones et iura possessionaria non forensibus, sed bene meritis incolis tamen regni et corone Hungarie subiectis iuxta eorum merita et obsequia et non pro pecunia conferemus.

Perpetuas vero venditiones vel impignorationes iurium regalium et corone nec cum consilio, neque sine consilio quorumcunque faciemus.

XVII. Item quod proscriptiones seu dispositiones super metis et graniciebus inter Hungariam et Austriam prius facte in suo robore perdurent. De metis vero et graniciebus inter Hungariam et Moraviam quicquid de consilio eorundem prelatorum, baronum et regni nobilium de iure facere debemus, libenter faciemus.

XVIII. Item quod in possessionibus et bonis nobilium et ecelesiarum seu quarumcunque secularium et ecclesiasticarum personarum violentas exactiones victualium, procuraciones hospitalitatum et alias quascunque aggravaciones preter voluntatem invitantium non faciemus nec fieri permittemus, nec in domibus et locis prelatorum, baronum et in aliarum quarumcunque secularium et ecclesiasticarum personarum pro tractatibus habendis et aliis quibuscunque negotiis disponendis ipsis invitatis morabimur aut eos expensis, victualibus, curruum et sarcinatum vecturis, nunciorum et familiarium ac quorumcunque ad nos et de hoc fiat provisio pertinentium procuracionibus ultra eorum spontaneam voluntatem in aliquo gravabimus, sicut abusive et contra eorum voluntatem ab aliquo tempore retroacto fieri erat inchoatum.

XIX. Item ecclesie et ecclesiastice persone a taxis non diu abusive introductis libere et absolute relinquuntur, servitia tamen exercitualia more alias consueto facere teneantur.

XX. Item quod de maritacione filiarum nostrarum agemus cum consilio prelatorum et baronum ac nobilium regni nostri Hungarie, necnon cognatorum et proximorum atque subditorum regnorum et ducatum nostrarum.

XXI. Item quod ecclesiastica beneficia vacatura non faciemus neque permittemus per seculares occupari personas.

XXII. Item quod habitationem nostram hic in Hungaria more aliorum regum faciemus et continuabimus.

XXIII. Item quod procuratores nostre regie et reginalis maiestatum in sede iudiciaria una cum iudicantibus sedere non possint, sed inter causantes tempore, quo videlicet causa ipsarum regie et reginalis maiestatum agitur, stare debeant. Litteras etiam per causidicos in ipsa sede exhibendas per se non conspiciant, nec tractent suis manibus, nisi magistri iudicantes.

XXIV. Item in facto possessionum per regiam aut reginalem maiestatem aut eorum procuratores a talibus, qui perprius in dominio earum extiterunt, recaptivandarum et iuri regio acquirendarum, quas regalis seu reginalis maiestates iure mediante vigore huiusmodi recaptivationis sibi appropriare non possent, contra tales, qui sic indebite et absque iure impediti et expensis fatigati fuerint, ipse maiestates in estimatione talium possessionum ad instar aliorum similia facientium regnicolarum convincantur. Et similiter, si quipiam aliqua iura possessionaria nomine iuris regii pro se impetrarent et eadem ipsi iuri regio pertinere comprobare non valerent, in estimatione eorundem, si vero tales impetrantes ante decisionem cause in facto huiusmodi iurium impetratorum mote se de dominio ipsorum iurium ac de proventuum eorum perceptione occupative seu alio quovis modo intromitterent, nec tandem iuridice sibi appropriare possent, contra partem lesam seu litigantem et expensis fatigatam in facto potentie, prout ordo iuris requirit, convincantur.

XXV. Item iuxta requisitionem regnicolarum nostrorum nos unacum eisdem operabimus, quod despotus Rascie et comes Cilie ceterique magnates, dominia, videlicet possessiones, castra, fortalitia, civitates, opida et alia bona in hoc regno Hungarie habentes et tenentes huiusmodi castra, fortalitia, opida civitates et possessiones non advenis et forensibus, sed Hungaris hominibus pro honore dare debeant.

XVI. Item honores et officia nostra illis regnicolis nostris Hungaris, quibus voluerimus, more ab antiquo consueto iuxta huius regni nostri Hungarie consuetudinem conferemus.

XVII. Item quod nullus nobilium regni pro quibuscunque factis per quemcunque preter talem, contra quem sententia capitalis iuridice lata fuerit, possit detineri seu quoquomodo captivari.

XXVIII. Item quod nobiles tam jobagiones habentes, quam non habentes decimas dare non teneantur antiqua eorum libertate requirente.

XXIX. Verum quia frequenti querela regnicolarum nostrorum, ymmo quadam palpabili experientia teste nostra perceptit celsitudo per nonnullas novas possessionum occupationes et potentiariorum actuum illationes eisdem regnicolas, inferiores videlicet a potentioribus multipliciter opprimi et gravari, ideo volentes insolentis et novis attemptionibus per remedia opportuna viam precludere statuimus et ordinavimus, sicuti etiam in decreto maiori antefati domini Sigismundi imperatoris alias Posonii de unanimi prelatorum et baronum ac potiorum huius regni nobilium consilio assensuque et voluntate edito aperte continetur, quod quandocunque et ubicunque fuerint facte nove possessionarie aut terrarum occupationes, potentiarie vadiationes seu rerum et bonorum ablationes, succisiones silvarum, interemptions, vulnerationes et verberationes hominum, domorum et possessionum invasiones et depredationes ac alii similes novi actus potentiarii maiores, extunc lesi et dampnum et iniuriam passi impetratis litteris nostris regalibus querimonialibus et preceptoris, comites parochiales et iudices nobilium comitatus illius, in quo facta huiusmodi patrata extiterint, accedant et requirant. Qui quidem comites et iudices nobilium cum testimonio capituli vel conventus illi comitatus deservire soliti a vicinis et commetaneis ac nobilibus comprovincialibus sub certis penis in huiusmodi nostris litteris regalibus declarandis in sedem eorum iudiciariam per modum proclamate congregationis partibusque litem habentibus convocatis ad fidem eorum deo debitam fidelitatemque nobis et sacre corone observandam tactis sanctorum reliquiis prestitam super huiusmodi novis occupationibus possessionariis et aliis actibus potentiariis plenam et indilatam requirant veritatem, qua requisita et inventa possessiones occupatas auctoritate in hac parte eis attributa mediante restatuant eisdem, a quibus fuerant indebite occupate, ipsosque in dominio earundem protegant et conservent, alia vero bona et vadia potentialiter ablata absque defectu reddant et restitui faciant. Super facto autem potentie in talibus commisse partes utrasque discussionem et sententiam finalem recepturas ad certum terminum mediantibus eorum et dicti capituli vel conventus litteris seriem totius facti experimentibus ac propria et possessionum factum huiusmodi attestantium nomina continentibus in personalem presentiam nostram regiam aut palatinalem seu iudicis curie nostre transmittant, ubi absque ulterioris termini et litigionarii processus observatione et continuatione, etiam partis non venientis absentia non obstante, nos vel iudex alius, ad quem causa transmissa fuerit, iuramentum capitis decernendo tandem finalem sententiam proferemus et proferre tenebitur. autem huiusmodi attestationem vicinorum commetaneorum ac aliorum nobilium comprovincialium fieri de et ablatiis

lesis et dampnificatis satisfactionem impendi non eisdem omnino resistendo, extunc talis in illo termino, ad factum seu causa huiusmodi per comitem ac capitulum seu rescribetur, in facto potentie convictus pronuncietur seu eo facto. Volumus etiam et presentibus decernimus, ut premissorum executio seu causa per modum proclamate exinde mota sive vertens nec nostris regalibus seu alibus, neque prelatorum seu baronum quorumcunque, etiam regni nostri tenentium litteris, nec videlicet ratione exercituali, neque conservationis castri cuiuscunque possit prorogari, sed eadem causa in uno termino ad hoc finaliter .

XXX. Item quod quilibet patrator novorum actuum potentiariorum, qui coram regia maiestate aut palatino seu iudice curie nostre regie per querulantes personaliter reperietur, in continenti sine ulla prorogatione ullaque cautela adinventata super omnibus sibi obidendis ipsi querulanti debeat respondere, alioquin contra tales tamquam absentes ipsa congregatio generalis detur. Partes tamen litigantes, quandocunque voluerint, absque requisitione iudicis et onere solutionis birsagiorum liberam concordandi habeant facultatem, quemadmodum antiqua et laudabilis regni nostri consuetudo huiusmodi concordiam in quibuscunque factis potentialibus et aliis libere fiendam dictat et consentit.

XXXI. Redemptiones autem litterarum et adduones testimoniorum capitularium seu conventualium, et qualiter aut quomodo false vie tributorum custodiantur, in eodem statu, quo in ipso decreto domini Sigismundi imperatoris et regis continentur, relinquuntur.

XXXII. Item alia facta potentiaria minora, pro quibus videlicet proclamata congregatio non datur, in tribus terminis seu octavis finaliter in iudicio concludantur, sic videlicet, quod duas evocationes precedentes trina forensis proclamatie subsequatur. In factis autem seu acquisitionibus quarumcunque possessionum similiter duabus evocationibus et trina forensi proclamatione precedentibus pars adversa respondere teneatur, tali modo, quod si aliqua litteralia instrumenta apud se habere asseruerit, tunc semel sine onere, binis autem vicibus cum oneribus iudiciorum absque confidentia ulterioris prorogationis exhibere teneatur; aut si ad primurn terminum exhibitionis non venerit, tunc etiam duo termini, et si ad secundum non venerit, tunc unus terminus compleatur, causaque in facto possessionario mota finem sortiatur effectivum. Si vero pars adversa sua litteralia instrumenta apud manus alienas habere asseruerit, tunc eidem pro requisitione huiusmodi suorum litteralium instrumentorum unus annus assignetur, ut contra adversarium in facto ipsorum instrumentorum terminus compleatur sic, quod elapso ipso anno in primo termino iuridice assignato dicta instrumenta sua exhibeat, vel si exhibere nollet aut non posset, tunc absque ulteriori prorogatione ipsa causa similiter finem sortiatur effectivum. Si vero in acquisitione alicuius possessionis tres vel quatuor aut quinque sive plures persone, unius tamen et eiusdem generationis in causam fuerint attracte, non obstante absentia et non venientia unius vel duorum aut plurium, aut si ex ipsis unus vel duo aut plures in exercitu aut in conservatione confiniorum seu castri vel aliis quibuscunque servitiis regalibus fuerint constituti, tunc ratione horum causa in facto talis possessionis mota nullatenus prorogari possit, sed in eadem causa cum uno vel pluribus eorundem in propriis residentibus termini legitimi simul compleantur. Ubi autem omnes huiusmodi in causam attractos nullo penitus eorum in propriis remanente in notabilibus regni vel regiiis servitiis occupari contigerit, extunc causa ipsa dempto facto proclamate congregationis generalis ad ulteriorem terminum more alias consueto poterit prorogari.

XXXIII. Item quecumque persona ecclesiastica aliquem nobilem in presentiam cuiuscunque iudicis ordinarii citaverit vel evocaverit, et si idem nobilis contra ipsam personam ecclesiasticam ordine iudiciario in sententia convictus fuerit, tunc gravamina maiora incurrere non possit idem nobilis, nisi homagium suum, scilicet emendam capitis sui precise eodem modo, sicuti ipsa ecclesiastica persona, et de dampnis tam ex parte ecclesiasticarum, quam secularium personarum iudex dampnum patienti satisfactionem impendere teneatur.

XXXIV. Item decrevimus, prout etiam per certos predecesores nostros reges decretum fuisse intelleximus, quod pro funeribus hominum per aliquem vel aliques interemptorum archidiaconi seu plebani parochiani, prout hucusque de mala consuetudine fuit observatum, nullam solutionem pecuniariam recipere valeant sive possint.

Nos itaque huiusmodi petitionibus ipsorum prelatorum, baronum, nobilium et regnicolarum nostrorum aures exaudibiles regio cum favore inclinantes suprascriptos articulos quoad omnes suas continentias et clausulas mera nostra auctoritate et potestatis plenitudine ex certaque nostre maiestatis scientia, necnon de consensu et beneplacito prefate domine Elizabeth regine, consortis nostre predilecte presentibus nostris litteris inseri fecimus, ipsos prelatos, barones, nobiles et regnicolas nostros premissis libertatibus in eisdem articulis superius expressis perhenniter fruituros et gavisuros committendo. Addicimus preterea ac nostro et pretacte domine regine, consortis nostre nominibus spondemus, quod memoratos regnicolas nostros et totum regnum nostrum in quibuscunque eorum necessitatibus non deseremus, sed fidefiter et toto posse nostro pariter cum eisdem ipsum regnum ac preassertos omnes regnicolas nostros ab omnibus emulis defensabimus ac in cunctis, tam premissis, quam etiam in aliis singulis bonis et laudabilibus ac iustis antiquis consuetudinibus eorum et regni nostri Hungarie predicti inviolabiliter semper et ubique tenebimus et conservabimus effective.

Quicumque autem hominum, cuiuscunque status et conditionis existant, hec ipsa, que in superioribus continentur, quavis illicita occasione impugnare molirentur, contra omnes et quoslibet tales ad eorum proterviam domandam et compescendam pariter cum eisdem regnicolis nostris, prout et ipsi omnes universaliter id ipsum se facturos sponponderunt, operabimur toto posse, presentium litterarum nostrarum, quibus secretum sigillum nostrum, quo ut rex Hungarie utimur, appensum est, vigore et testimonio mediante. Datum Bude, feria sexta proxima ante festum sancte Trinitatis, anno domini millesimo quadringentesimo tricesimo nono.

29 MAY 1439

We, Albert, by the grace of God ever august king of the Romans, and king of Hungary, Bohemia, Dalmatia, Croatia, etc. and Duke of Austria etc.,¹ entrust to memory notifying through these presents all to whom it may concern, that when in time recently past, by the will of the God of heaven, whose command human frailty cannot resist, the most excellent prince lord Sigismund, emperor of the Romans and king of the said kingdom of Hungary etc., our most dear father of blessed memory, went the way of all flesh,² and we, favored by divine grace, according to our prayer, succeeded to the governance and the throne of the same kingdom of Hungary, then the body and unified community³ of prelates, barons, lords, and nobles of our realm approached our royal presence and told us that those liberties of the same kingdom of ours, which these prelates, barons, and nobles and their ancestors relied upon and cherished in the time of the holy kings, and especially under the late most serene lord King Louis of blessed memory, our predecessor,⁴ were infringed upon in many respects, and they urged and most humbly entreated our royal serenity with urgent requests to reform the state of the said realm of ours, and to have the following articles and what is contained in them inserted and written down in a charter of ours, approved and to keep them in these said liberties. And so we promised; furthermore, we promise in good faith that we desire and feel obligated to maintain and fulfill the following articles.

1. First, that we shall restore, renew, and reform the ancient laws and customs of this kingdom and the liberties of the gentlemen of the realm both ecclesiastical and secular, of whatever station, to their prior form and station and, henceforth, preserve and maintain them in these as far as we shall be able to do so by law, in honor and according to the aid and counsel of the same prelates, barons, and nobles of the kingdom.

2. Furthermore, that the royal majesty shall choose a palatine of the kingdom, with the unanimous counsel of the prelates, barons, and nobles of the realm as required by ancient custom of the same

¹ Albert of Habsburg (born 1397), son of Albert IV, Duke of Austria, succeeded his father in 1404. Assuming government in 1411 as Albert V, Duke of Austria, he received the margraviate of Moravia in 1422 as a Bohemian fief from Sigismund whose daughter, Elizabeth, he married on 28 Sept. 1421. The couple was “elected” king and queen of Hungary on 18 December 1437 and crowned on New Year’s Day 1438. His wife’s claim to the throne of Hungary was not accepted by the estates. While Albert was crowned by the archbishop of Esztergom with the “Crown of St. Stephen,” Elizabeth was crowned, as queens as consorts usually were, by the bishop of Veszprém with a private crown. She was not considered a reigning queen, therefore, this decree bears only Albert’s name, while the election patent was still issued and signed by both the future queen and the king. Albert was elected King of the Romans (as Albert II) on 18 March 1438 and king of Bohemia by the Catholic majority of barons on 5 May 1438.

² Sigismund of Luxemburg died on 9 December 1437 in Znojmo (Bohemia).

³ *Cetus* (Class.: *coetus*) was frequently used for the community of the nobility of the realm.

⁴ The references here and in several subsequent articles (e.g., art. 7, 9) to King Louis I imply the opposition of the diet (and the barons) to the “harmful novelties” of Sigismund (see explicitly art. 4, below). Here, of course, the immediate reference is to the decree of **1351**.

kingdom,⁵ because the palatine is empowered and required to render judgment and justice to the royal majesty on behalf of the gentlemen of the realm, and to the gentlemen of the realm on behalf of the royal majesty.

3. Then, that the royal eminence shall make provision from the royal income for his soldiers for the safety of the kingdom and the preservation of its borders, so that the paid soldiers will not pillage the inhabitants. A general levy of the gentlemen of the realm ought not be proclaimed, as long as these paid soldiers are able to resist the enemy. When, however, the soldiers plunder the gentlemen of the realm, such men should be sentenced like other perpetrators of act of might.⁶ When it happens by urgent necessity that a general levy is proclaimed, the nobles of the kingdom, from whatever part of the kingdom they may come, should not be led on campaign beyond the borders and confines of the kingdom, as their ancient liberty⁷ requires.

4. Then, that novelties and harmful customs that were introduced should be abolished and eliminated.

5. Then, we shall not entrust offices in our kingdom to aliens and foreign men, of whatever nation and language they might be; nor shall we confer castles, fortifications, borderlands, estates, honors,

⁵ Older literature saw in this article the introduction of the elective character of the highest officer of the realm, even though attempts of the nobility to have a say in its selection are already reflected in earlier laws, e.g. in **1290: 5**. Norbert C. Tóth has recently demonstrated that the practice was at least a hundred years older. Ever since the election of Nicholas Zámbocki at a diet in 1342 (of which no decree survived), the palatine used the title *palatinus regni Hungariae*; see “Az ország nádora” [The palatine of the *ország*] in *Középkortörténeti tanulmányok 7*, Attila Kiss P., Ferenc Piti and György Szabados, eds. pp. 439-50 (Szeged: Szegedi Középkorász Műhely, 2013). The term *ország/regnum* meant in the Middle Ages not only the kingdom but also the great men of the country or even the entire enfranchised nobility. J. Holub (“La représentation politique en Hongrie au moyen âge,” *Etudes présentées à la Commission Internationale pour l’histoire des assemblés d’états*, 18 [1958], 84) put it thus: “Qu’etait ce *regnum*?...aux XI^e–XII^e siècles, il designait les notables qui conseillaient le roi dans la gestation de ses affaires.”. On the problems and the development of this term, see László Peter, “Antecedents of the Nineteenth Century Hungarian State Concept”, D. Phil. Thesis, Univ. of Oxford, 1966, espec. pp. 410ff.

⁶ The general levy, was defined last in **1397:6** obliging all nobles to take up arms if the king’s and the barons’ *banderia* cannot repel the enemy; certain excuses are listed and so is the arrangement for arming the so-called *militia portalis* -- for which, see András Borosy “The *militia portalis* in Hungary before 1526,” in János M Bak and Béla K. Király, eds. *From Hunyadi to Rákóczi: War and Society in Medieval and Early Modern Hungary*. Brooklyn, N. Y.: Social Science Monographs, 1982) pp. 63–80. The trespasses of the army are discussed in detail in **1427A:1–4**. -- “Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. “Criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one (sc. rape). Lesser violent acts were classified as “minor,” but no decree specified the precise nature of these crimes. Both of these delicts were repeatedly condemned in this *decretum*, suggesting the increase of lawlessness during the years of interregnum.

⁷ Cf. **1222:7**, as renewed in **12 March 1435/II:6**.

prelacies, baronies, counties, or any ecclesiastical or secular dignities temporarily or in perpetuity on strangers or foreigners, only on Hungarians; and that prelates and barons should not keep strangers or foreigners in their service.⁸

6. Then, regarding the thirtieths, the chamber's profit, mines, mining dues, the minting of coins, chambers of salt and their counts, as well as the *mardurina*, the fiftieths,⁹ and other offices,¹⁰ we should have the right of free disposition to grant these in farm, administration or in any other way, by approved custom, to suitable men subject to the Crown of Hungary, and not to strangers.¹¹

7. Then, we shall cause the chamber's profit, usual in the kingdom of Hungary, the fiftieth, usual in Transylvania and the *mardurina*, usual in the kingdom of Slavonia, to be collected as of old

⁸ Mályusz (p. 72) pointed out that in contrast to the election patent, which had only stipulated that such offices should not be granted to foreigners without the council's approval, this article imposed an absolute prohibition and underlined it with the clause "only Hungarians." See also *ibid.* p. 556, n. 418.

⁹ The thirtieth (*tricesima*) was a customs duty on import and export that developed out of different types of urban and market tolls; the chamber's profit was a direct tax, introduced after the royal mint ceased to profit from repeatedly issuing coins of lesser value by the early fourteenth century at the latest. Dues of mining of metal and salt, as *regalia*, were the most important incomes of the royal treasury. The *mardurina*, (marten-fur tax) was collected, primarily in Slavonia. Originally it was levied in kind but since the late eleventh century it was expected in cash. In the first third of the thirteenth century it was fixed at twelve Friesach pennies after each *mansus*. After the exemption of the nobles of Slavonia from royal taxation in 1351, the *mardurina* became the tax imposed on tenant peasants and *hospites*. In general, see: Boglárka Weisz, "Royal Revenues in the Árpadian Age" in József Laszlovszky *et al.* eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 255–64 and Árpád Nógrády, "Seignorial Dues and Taxation Principles in Late Medieval Hungary" *Ibid.*, pp. 265–78. The "fiftieth" was an old type of tax, collected in Transylvania (see art. 7, below). Not much is known about this tax, apparently rendered by mainly Romanian shepherds living on the lands of Transylvanian nobles, in cattle or sheep; see György Székely, "Az erdélyi románok feudalizálódása" [Feudalization of Romanians in Transylvania], in *Idem*, ed. *Tanulmányok a parasztság történetéhez Magyarországon a 14. században* (Budapest: Akadémiai, 1953), pp. 240–77, here p. 244; for its earlier history, see Ferenc Eckhart, *A királyi adózás története Magyarországon 1323-ig* [History of royal taxation in Hungary to 1323] (Arad: Réthy, 1908), pp. 12–13. It is to be distinguished from the *quinquagena-tax* introduced by King Sigismund on the authorization of the Council of Basle, but not collected regularly in Hungary.

¹⁰ The word *officiolatus* meant something similar to the *honor* (see n. 31, below), only for lesser officeholders; that is, it implied the income from the office as well as the administrative and judicial tasks. This is a rare reference to what may have been, albeit marginal, venality of offices in medieval Hungary, for which there is no firm evidence.

¹¹ This article was changed in a similar sense as art. 6; the formulation "subjects of the Crown of Hungary" may have been chosen in order not to exclude the (German) burghers of royal cities from farming the royal revenues (cf. Mályusz, p. 72).

according to ancient custom, reducing these to the status observed in the time of the aforesaid late King Louis.¹²

8. Then, prelates and barons should not be permitted to hold two dignities, honors, or baronies, at the same time,¹³ whether secular or ecclesiastical, nor are secular or ecclesiastical men permitted to hold ecclesiastical dignities by way of occupation.

9. Then, no foreign or outside merchant, of whatever nation he may be, should go to transact business, market, or trade in the middle of the kingdom, but should do so by approved custom at the places that were designated for trade or buying and exchange in the time of the aforementioned lord King Louis.¹⁴

10. Then, that we shall not change the presently existing value and duration of validity of the gold and silver coinage without the counsel of the prelates, barons and nobles of the kingdom; but halfpennies should be struck in the same alloy as that of the large pennies, in which two halfpennies should equal one whole penny;¹⁵ and that one faithful and suitable man should be assigned to the lord archbishop of Esztergom and the Master of the Treasury as inspector of the minting of coinage, that is, of gold and silver.¹⁶

¹² This article was addressed against the increased taxation under Sigismund, about which, however, few details are known. We know, for example, that the chamber's profit, previously paid in silver pennies, was under Sigismund collected at the rate of a gold florin from every five *portae*.; (*Porta* was the taxation term for a *sessio jobagionalis*, Hung. *telek*., a complex made up of a plot in the village, arable land, and rights to commons assigned to one or more tenant peasant.) On Sigismund's taxation see Mályusz, "Rendi állam" p. 114; also Idem, *Kaiser Sigismund in Ungarn 1386-1437*. Transl. by A. Szmodits (Budapest: Akadémiai K., 1990), p. 246

¹³ Cf. **1222:30**.

¹⁴ No legislation of Louis I on this matter is known. The measures implied here are more similar to the grant of right of staple to towns other than Buda by Sigismund, which was, however, rescinded in the decree of **15 April 1405/I:11**.

¹⁵ In the decree of **1427B** and again on **20 January 1432** (see *DRH*, pp. 255–57) Sigismund had decreed the same exchange rate for pennies. The quality of the smallest coins (*obulus*), worth half a penny needed regulation as they had lost their value, so that they were called in Hungarian *fillér* (from German *Viertel*) meaning a quarter. In the 1430s copper *quartings* ("farthings") were issued, of which 6000-8000 were worth a florin, instead of the previous 400 (cf. **8 March 1435: 10-13**). The attempt here is to return to the old exchange rate. -- The election pact was here, once again, changed in favor of the nobility by granting the diet the right of approving the coinage (cf. Mályusz, p. 71), a major right of estates in all medieval parliaments, but one which did not become reality in Hungary until much later.

¹⁶ According to the cameral contracts of the fourteenth century, the archbishop of Esztergom (because of his claim to the *pisetum*, an addition to the archbishopric's claim to the title of royal revenues—on which, see Frigyes Kahler, "Das pisetum-Recht," *Debreceni Déry Múzeum Évkönyve* 1986 (Debrecen: Déry Múzeum, 1987) 181-91—and the Master of the Treasury had an agent each for supervising the coinage (see e. g., the cameral contract of **1342: 2**). This article seems to have aimed at having a deputy of the diet also involved in the minting. Nothing is known about the implementation of this demand.

11. Then, foreign coinage, money, and salt from abroad must not be brought into the kingdom and should not be accepted;¹⁷ and let this be attended to as quickly as possible.

12. Then, that provision for the most serene princess lady Queen Elizabeth and for the preservation of the honor of her station, whence she is the heir of this kingdom, should be made wherever she wishes in the kingdom;¹⁸ with this exception, that the lady queen should not have the power of conferring her own honors and offices on strangers and foreigners, but only on inhabitants of this kingdom, whomever she prefers, and of removing these from them according to her own will.

13. Then, if, while engaged in wars and battles or any other conflicts with enemies of the kingdom, Hungarians happen to capture any of the enemy or anything else of value, then those Hungarians should have the right to retain their captives or plunder for themselves, or to sell or to give or donate to churches into the yoke of perpetual servitude, except for notable people or commanders among the captives who are enemies of the royal majesty, whom we should have the right to acquire from their captors in return for suitable gifts.

14. Then, that regarding the defense and preservation of the borders and boundaries of this kingdom, we shall take counsel with the gentlemen of the realm.¹⁹

15. Then, we should have the right freely without any counsel²⁰ to confer secular honors on, and to remove them from men of this kingdom of Hungary, and not on newcomers.

16. Then, we shall not confer estates and proprietary rights on foreigners, but on deserving inhabitants of the kingdom and subjects of the crown of Hungary according to their merits and

¹⁷ Cf. 15 Apr. 1405/I:20; 5 Aug. 1405/II:8; 1427A:8.

¹⁸ Elizabeth of Luxemburg, only offspring of Sigismund and Barbara of Cilje, born in 1409, was by unwritten Hungarian custom regarded as heiress of the kingdom or rather, as the suitable transmitter of dynastic claims by marriage. Her father obtained the throne as the spouse of a reigning queen (Mary), now it was Elizabeth's husband who *de facto* (if not *de iure*) inherited the kingdom. It has been recently pointed out that this kind of transmission of inheritance through the female line (even where succession of women was not accepted) was much more widespread in medieval Europe than hitherto noted; see Armin Wolf, "Prinzipien der Thronfolge in Europa um 1400," in *Vorträge und Forschungen* 32 (1987): 233-78. The queen's properties were extensive for she took over her mother's domains (for these, see Pál Engel, *Királyi hatalom és arisztokrácia viszonya a Zsigmond-korban* [Relationship of royal power and the aristocracy under Sigismund] (Budapest: Akadémiai K., 1977, pp. 197-99), apparently as a temporary arrangement. Shortly after this decree, on 11 June 1439, she was generously provided for by her husband with estates that were more modest than Barbara's, but still included at least nine castles and their appurtenances (see, József Teleki, *A Hunyadiak kora* [The Age of the Hunyadi] [Budapest: Magyar Tudományos Akadémia, 1853], 10: 43-55).

¹⁹ In contrast to the election patent, the baronial council was left out from this article; see Mályusz, "Rendi állam," p. 71, n. 107.

²⁰ While art. 5, above, merely stipulated the exclusion of "foreigners" from all offices, here the exclusive prerogative of the king to make exceptions on his own was codified, clearly reducing baronial control on this matter; see Mályusz, "Rendi állam," pp. 72-73, nn. 113-4. Whether the expression *advena* ("newcomer") means here something different from the foreigners, otherwise generally described as *forenses*, is unlikely.

services and not for money.²¹ We also shall not sell in perpetuity nor shall we mortgage the rights of the king and the crown, either with or without the counsel of anyone.

17. Then, that decisions and arrangements made earlier on the borders and boundaries between Hungary and Austria should remain in force. Regarding the boundaries between Hungary and Moravia, we shall gladly do whatever we ought legally to do, according to the counsel of the prelates, barons, and nobles of the realm.²²

18. Then, that we shall neither make nor permit to be made forced exactions of supplies, demands for hospitality, or any other oppressions in the estates and goods of nobles and churches or any secular or ecclesiastical person, against their will; nor shall we remain uninvited, against their will, in the houses or places of prelates, barons, or any other secular or ecclesiastical persons for the purpose of holding meetings or conducting other business; nor shall we oppress them with expenses, provisions, the supply of carts, the transporting of baggage, or the requirements of messengers, retainers, or others belonging to us in any way beyond their free will, as had become the abusive usage, against their will, for some time.²³

19. Then, churches and ecclesiastical persons are to be freed and absolutely relieved from taxes abusively introduced not long ago, but, nevertheless, they are required to perform military service as was customary of old.²⁴

20. Then, that concerning the marriage of our daughters, we shall act with the counsel of the prelates, barons, and nobles of our kingdom of Hungary, as well as of our relatives, kinsfolk, and the subjects of our kingdoms and duchies.²⁵

21. Then, that we shall not keep ecclesiastical benefices vacant or permit them to be occupied by secular persons.

²¹ While neither Sigismund, nor, as a matter of fact, Albert, were able to stop giving away estates from the dangerously shrunken royal domain, it became usual that the king mortgaged these properties and even if he was unable to recover them (which was usually the case), at least some of the monetary burden on the royal purse was thus alleviated. The last major portion of the royal domain—some twenty to twenty-five royal castle estates—was lost to private lords under Albert. See: Engel, *Királyi hatalom*.

²² Since Albert was duke of Austria and margrave of Moravia, the border between his realms needed special attention by the Hungarian estates. The “previous arrangements” mentioned here are not known, for these borders seem not to have been disputed ever since the mid-fourteenth century.

²³ The *descensus violentus*, the forced exaction of hospitality (*droit de gîte*), was prohibited as early as in **1222:3**, but seems to have become a renewed abuse under Sigismund.

²⁴ Since 1397, the churches were obligated to pay half of their income to the royal treasury (see **1397: 63**). This “extraordinary measure for the duration of the present war” seems to have remained in force until Sigismund’s death. For the military obligations of the prelates, see **12 March 1435/II:1**, with note 3.

²⁵ The demand of the estates for a voice in the marriage of the king’s daughters (Albert and Elizabeth had two daughters, Anna, born 1432, who later married William, Duke of Saxony, and Elizabeth, born 1437, queen of Poland 1454–1505) implies that the diet assumed that their husbands might claim rights to the throne of Hungary; see note 18, above

22. Then, that we shall take up residence and maintain it here in Hungary as other kings have done.

23. Then, that at such times when a case of the royal majesties is being heard, the advocates of the majesties of the king and queen cannot sit on the judicial bench with those judging, but must stand among those pleading cases.²⁶ They should not look at records presented to the bench by the opposing parties, nor should they take them in their hands; only the judging masters²⁷ may do that.

24. Then, in cases of such estates which are disputed by the king's or queen's majesty or their advocates in order to recover them for the royal right²⁸ from such men who previously had dominion in them, if the king's or queen's majesty cannot appropriate for themselves through legal process by way of this action of recovery, their majesties should be convicted, just as any other gentlemen of the realm doing the same things in the estimated value²⁹ of these estates in favor of

²⁶ Cases between the king (or the queen) and gentlemen of the realm were judged as a rule by the count palatine, whose bench, like all central courts (with the exception of that of the Master of the Treasury), consisted of members of the royal council. Under Sigismund, some of the king's advocates were at the same time influential royal councillors, such as Stephen Arany (fl. 1426–42, royal councillor, *ispán* of Nógrád, Hont and Gömör 1435–37) and were entitled, by this fact, to judge in cases where the king himself was an interested party. See also. Elemér Mályusz, “Die Zentralisationsbestrebungen König Sigismunds in Ungarn” in *Études historiques* (Budapest : Akadémiai Kiadó, 1960), 1, pp. 317-58, here p. 350; Idem, *Kaiser Sigismund*, pp. 233-34.

²⁷ This reference is to the *magistri protonotarii*, those practically trained lawyers who became in the fifteenth century ever more frequently the actual judges on royal and palatinal courts of justice; cf. György Bónis, “Men Learned in the Law in Medieval Hungary.” *East Central Europe/L'Europe du centre-est*, 4, pt. 1 (1977), 187. The expression “masters of judgment” seems to be the verbatim translation of their Hungarian name (*ítélőmester*), which, however has not been recorded before the sixteenth century.

²⁸ Royal right (*ius regium*) was an ambiguous term, apparently referring to royal claims to any estate which, though not actually possessed by the king, was assumed to belong to him in the absence of any evidence to the contrary. Actions were moved by or in the name of the crown against persons accused of “hiding royal rights” (*celatores iurium regalium*) i.e., allegedly usurping a royal claim. The concept in its initial form emerged in the fourteenth century as a legal device for expanding royal power and was amply developed later by Sigismund's legal experts. Any landowner could be the victim of such a process and those who could not prove the legality of their dominion ran the risk of losing it, even if it happened to be their ancestral home. The danger could safely be averted only by a new royal confirmation of ancient rights. Such charters were sought for and were issued indeed in great number, as a kind of reward for services, by Sigismund's chancellery since the 1410s. They either contained a “new royal grant” (*nova donatio regia*) on the ancient property, or invested the privileged person in advance “with all royal rights that might be hidden in it.”

²⁹ Estimation (*estimatio, estimatio*) meant an estimate of the value of immovable and movable property, usually on the traditional basis (*estimatio communis*), but occasionally a tenfold (*estimatio perennalis*) valuation for immovable property. The low common estimation assured kinsmen's and even neighbors' and abutters' ability to purchase (alienated or judicially-seized) property, and also reduced the burden placed on families having to pay the so-called filial quarter in money, which was likewise calculated by reference to the common estimation. -- The “filial quarter,” first mentioned in 1222:4, was the hereditary portion of noblewomen due from the inherited estates (see property rights) of their fathers. The filial quarter was, in theory, paid in cash. In practice, however, it was often given out in land. In law, the grant of the quarter in land was only valid when the woman was married to a non-noble man (*ignobilis* or *homo impossessionatus*), or as a temporary substitute for cash payment, but in fact it was more widespread. Antal Murarik, in *Az ősiség alapintézményeinek eredete* [Origin of the basic institutions of aviticitas] (Budapest:

those who have thus been harassed and burdened with expenses unwarrantedly and unlawfully. And similarly, those who may request for themselves any proprietary rights under the title of royal right and are not able to prove that it belongs to royal right should be convicted in its estimated value in the same way; and if such claimants enter into the dominion of these rights or the income from them by occupation or any other way before the case regarding these requests has been decided, and then they can not appropriate them legally for themselves, they should be convicted of act of might against the injured or litigant party burdened with expenses, as the order of law requires.

25. Then, according to the request of the gentlemen of the realm, we shall strive together with them that the despot of Serbia and the count of Cilje³⁰ and other magnates (namely, those lords who have and hold possessions, such as estates, castles, fortifications, cities, towns, and other properties in this kingdom of Hungary) should not give such castles, fortifications, towns, cities, and estates as honors to newcomers and foreigners, but to Hungarians.

26. Then, we shall maintain the custom of conferring our honors and offices in the usual way, according to the ancient customs of our kingdom of Hungary, on those of our Hungarian gentlemen of the realm whom we wish.³¹

Sárkány, 1938), pp. 163–192) saw it as having derived from Roman Law, in particular from the *Lex Falcidia* (cf. Inst., Bk. II, tit. 22). According to the Corpus Iuris Civilis of Justinian the rights of female children were the same as those of male children when a man died intestate. But the descendants of females had been entitled to a smaller portion of the estate than those descended from the males in the earlier Teodosian Code (5.1.4.), where the legacy granted to grandchildren in the female line was reduced by a fourth part (*pars quarta*) in favor of the agnates. Justinian specifically abolished this provision (Inst. Bk. III. tit. 1, c. 16). The discussions concerning this institution in medieval Hungary were summed up by Ferenc Eckhart, “Vita a leányegyedről” [Debates on the Filial Quarter], *Századok*, 66 (1932), 408–415; see also József Holub, “La ‘quarta puellaris’ dans l’ancien droit hongrois,” *Studi in memoria di Aldo Albertoni* (Padua: Milani, 1935), III, 275–297. See now, Péter Banyó, “Birtoköröklés és leányegyed. Kísérlet egy középkori jogintézmény értelmezésére.” [Inheritance of land and the filial quarter: An attempt on the interpretation of a medieval legal concept] *Aetas* 18:3 (2000): 76–92 and Martyn Rady *Nobility, Land and Service in Medieval Hungary* (Houndmill, Basingstoke: Palgrave, 2000), pp. 103–7

³⁰ George Branković, (1377–1456, Serbian despot [ruler] from 1427) and Frederick, count of Cilje, Ortenburg and Zagorje (d. 1454), the queen’s uncle, counted among the largest landowners of the realm. Both of them being foreigners, they were—with good reason—suspected, more than others, of having officials of foreign birth in their service.

³¹ Unlike his predecessors who conferred royal *honors* (a combination of courtly, baronial offices with that of one or more country *ispán* including the collection of royal revenue in the assigned counties, typical for the Angevin age) “in the usual way,” Sigismund appointed royal castellans who probably were not entitled to keep the entire revenue of their *honor* for themselves. This article of law aimed at suppressing this new usage. Actually, it soon fell into abeyance. See. Pál Engel, “A honor. (A magyarországi feudalizmus birtokformáinak kérdéséhez)” [The *honor*: Regarding the question of property in Hungarian feudalism]. *Történelmi Szemle*, 34 (1981), 1–19 here p. 14; English summary as “Honor, castrum, comitatus. Studies in the Government System of the Angevin Kingdom.” in *Questiones Medii Aevi Novae* 1 (1996): 91–100.

27. Then, that no nobleman of the kingdom can be detained or held captive in any way by anyone for any deed excepting those against whom a capital sentence has been passed by law.³²

28. Then, that nobles, having tenants or not, must not be required to pay tithes, in accordance with their ancient liberties.³³

29. As our majesty perceives from the repeated complaints of the gentlemen of the realm and also from personal experience that the more powerful gentlemen of the realm oppress and harm the less powerful in many ways by new seizures of estates and acts of might, wishing to hinder by suitable means these unusual acts and new atrocities, we establish and order, just as is also clearly contained in the *decretum maius* previously published by the said former lord Emperor Sigismund in Pressburg with the unanimous counsel, will and assent of the prelates, barons, and greater nobles of our kingdom,³⁴ that wherever and whenever anyone commits new seizures of estates or lands, takes a security by violence, robs goods and chattels, cuts down forests, beats, wounds or kills men, breaks into houses and estates and pillages them, or commits other similar new acts of act of might, then the aggrieved, damaged, and injured parties should, after having acquired our royal letter of complaint and command, go to the *ispáns* and noble magistrates of that county where these acts were committed and call upon them. These *ispáns* and noble magistrates should then establish the full and complete truth about these new seizures of estates and acts of might with the testimony of that chapter or convent that usually acts in the county, summoning the neighbors, abutters, and other fellow nobles from the county in form of an extraordinary county assembly,³⁵ under the penalty specified in our royal letter on this matter, to their county court, together with the parties of litigation, under their oath sworn by touching the relics of saints, on their faith in God and their fidelity to us and to the Holy Crown. Then, having inquired and established the truth, they should by their authority in this matter restore the occupied estates to those from whom they were illegally taken away, and defend and save them in these possessions, and completely restore and enforce the return of other violently abducted things and securities. In order that they should have a trial and final judgment on the act of might in these cases, both parties are to be sent to our personal presence or to that of the count palatine or to our judge royal by a set date with their letter and that of a chapter or convent describing the course of all the facts, together with the names and

³² This habeas corpus rule was first decreed in **1222:2**.

³³ The exemption of nobles from paying the tithe was contained in a now lost edict of Sigismund of 23 June 1405, referred to in a charter of 1 August 1421, see *DRH*, pp. 216–17. In 1415, Pope John XXIII confirmed this exemption based on the service of the nobles “in the defense of the faith,” see Josephus Nicolaus Kovachich, *Monumenta veteris legislationis Hungaricae* (Claudiopolis: Collegium, 1815). 2:8–9. -- The reference to nobles without tenant peasants (*jobagiones*, Latinized from Hung. *jobbágy*, peasants under seigniorial jurisdiction holding land in tenure but personally free) indicated that a great number of legally noble men lived on the level of peasants. Later they were called “nobles with one plumbtree.” See: Rady, *Nobility, Land and Service*, pp.20-4.

³⁴ With the exception of the reference to Sigismund’s *decretum maius*, this art. repeats **8 March 1435:3–4**; the last sentence of art. 4 wandered to the end of the following article.

³⁵ At an extraordinary county assembly (*proclamata congregatio*), in major criminal cases county nobles were gathered in a single place and examined under oath.

the names of the estates of those who testify in this matter, and we or any other judge to whom the suit will have been entrusted shall and must pronounce final sentence without setting any further term or process of trial or extension, regardless of the absence of a party not appearing, by granting capital oath. If anyone does by outright obstruction not permit that evidence of this kind be given by neighbors and abutters or other fellow nobles concerning losses and outrages committed and that satisfaction for losses inflicted be paid, then such a man, in that term to which a deed or case of this kind is assigned by the *ispán* or chapter or convent, shall be pronounced and regarded as convicted by that fact in the deed of act of might. We wish also and we decree by the present statute that the conclusion of the aforesaid matters or a suit of this kind initiated or heard at an extraordinary county assembly cannot be delayed for any reason, not even by a charter of our royal self or of the queen or of any prelate or baron or of those barons guarding the borders of the kingdom, or by reason of a military campaign, or of the defense of any castle; the case must be concluded finally in the one term appointed to it.

30. Then, that any perpetrator of recent acts of act of might, who, when personally confronted by the plaintiffs in front of the royal majesty or the palatine or our judge royal, must reply substantively, without any delay or frivolous evasion to all matters brought against him by the plaintiff; otherwise, a general assembly must be granted³⁶ against such men even if they are absent. The parties of the suit, however, should have leave to settle without the intervention of a judge or the payment of any fine whenever they wish, for the ancient and laudable custom of our kingdom prescribes and allows free settlement to be made in such cases of act of might and others.³⁷

31, Payments for letters, arrangements for the testimony of chapters or convents and how or in what way the illegal roads avoiding customs should be guarded, should be left in the same state as they are contained in the same decree of the lord Emperor and King Sigismund.³⁸

32. Then, other minor cases of acts of might, namely those for which an extraordinary county assembly is not granted, must be concluded in three terms or octavial courts by judgment; thus, namely, that a threefold proclamation at market days must follow the two prior summons:³⁹ In matters regarding estates or their acquisition, the opposing party must be required to reply after two summons and a threefold proclamation in the same way, in such a manner, that if the said party claims to have any written instruments with him, then he must show them at the first term without, or at the second time with, the burden of a fine without expectation of further delay; or if

³⁶ This formula seems to mean “give permission to hold an extraordinary county assembly,” but is not otherwise known from records of the royal chancellery.

³⁷ Settlement “out of court” seems to have been a widely used conclusion of lawsuits.

³⁸ Reference to **8 March 1435/I**:10–12, 20–21.

³⁹ Octavial courts (*octava*) were the sessions of royal courts of justice; there were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George’s (23 April), St. James’s (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. Summons were first delivered to the respondent at his noble residence, giving notice of a lawsuit. If the respondent failed to attend court, then he would be summoned again. If he still failed to attend, the *citatio trineforensis* (announced on three fairs) was issued.

the said party does not come to the first term to present them, then two more terms, and if he does not come to the second, then one more term must be granted, and the case moved in the matter of possession must be brought to an effective end. However, if the opposing party asserts that he has his written instruments in the hands of someone else, then one year must be granted to him for the recovery of such written instruments of his, so that the term may be completed against the adversary in the matters of the instruments; thus, when the year granted has elapsed, he must show his said instruments in the first judicial term, and if he is unwilling or unable to show them, then without further delay the case must be brought to an effective end in the same way. However, in the acquisition of any estate, if three, four, five, or more persons of one and the same kindred⁴⁰ have been summoned to the case, notwithstanding the absence or non-arrival of one, two, or more, or if one, two, or more of them are serving in the army or in the guard of the borders or of a castle or in any other royal service, then, for this reason, by no means should the case initiated in such a matter of a possession be postponed, but judicial terms must be similarly completed in the same case with one or more of those who reside at home. However, where it happens that all such men summoned to a case are occupied in the royal service or affairs of the realm with none of them remaining at home, then, unless the case pertains to an extraordinary general assembly, it can be delayed to a later term as is the usual custom.

33. Then, if any ecclesiastical person should cite and summon any noble to the presence of any justice ordinary, and, if that noble should be convicted with a sentence against that ecclesiastical person by the order of law, then that noble cannot incur greater penalties than his composition, namely the price of his head in precisely the same manner as the ecclesiastical person,⁴¹ and the judge is required to order compensation for the losses as much on behalf of ecclesiastical persons as of secular ones.

34. Then, just as we understand that some of the kings preceding us also decreed,⁴² we have decreed that no archdeacon or parish priest may or should take any payment in money for the funerals of men killed by a person or persons, as has become usual until now by evil custom.

⁴⁰ Note the assumption of joint property of (or at least common interest in) estates by several members of a kindred. As each defendant (and also claimant) had to be summoned three times, they could prolong a lawsuit almost infinitely by remaining absent alternately on some excuse. There is ample evidence for this practice.

⁴¹ Composition (*compositio*), or man price (*homagium*) was a sum of money, which was owed by a person (or his kindred) who had killed, maimed, or otherwise harmed a man or woman, paid to the kindred (or family) of the victim. This system aimed at replacing the extended blood feuds arising from the obligation of revenge continued in Hungarian law until early modern times. The amount paid (the *wergeld*) was based on the victim's or the culprit's social and legal status and the nature of the crime. The man price of barons was 100, and of nobles and burghers 50 marks. (A mark was a measure of silver—and sometimes of gold—often the unit of fines. Since the late thirteenth century the Buda mark [~245.54 gr.], belonging to the Troyes-mark type, was standard in Hungary.) Composition and *homagium* became blurred in practice with the fine of the head and to a lesser extent the fine of the tongue.

⁴² Cf. 1351:1.

Having turned our listening ears⁴³ with royal favor to these petitions of our prelates, barons, nobles, and gentlemen of the realm, we have caused, therefore, the above articles in regard to all their contents and clauses to be inserted in our present charter entirely by our own complete authority and fullness of power in accordance with our specific understanding of our royal majesty,⁴⁴ as well as with the assent and approval of the said Lady Queen Elizabeth, our beloved consort, and shall permit our prelates, barons, nobles, and gentlemen of the realm to enjoy and to cherish eternally the aforementioned liberties described in those same preceding articles. Furthermore, we add and promise in our name and in that of the said lady queen, our consort, that we shall not abandon our said gentlemen of the realm and our entire kingdom in any of their exigencies, but we shall defend this realm and its inhabitants, together with them, faithfully and with all our might against all enemies; and we shall keep and preserve them effectively and inviolably, always and everywhere, in all the aforesaid and other good, praiseworthy and just ancient customs of theirs and of our said kingdom of Hungary.

If any man, moreover, of whatever station and condition he may be, dares to attack those things which are included in the above by any illicit act, we shall act with all our might against any and all such men, together with our gentlemen of the realm, as they have conjointly agreed to do, to restrain and harness their insolence, by the force and testimony of these presents to which our privy seal that we use as king of Hungary⁴⁵ is appended. Given at Buda, on the Friday before the feast of the Holy Trinity in the year of the Lord one thousand, four hundred and thirty-nine.

⁴³ Cf. e. g., Ps. 16:6, 30:3; Prov. 5:1.

⁴⁴ *Ex certa nostre maiestatis scientia* is a recurrent phrase of royal charters, but its exact meaning is not clear. The translation we chose is probable, not certain, but renders the traditional sense of the words, which is something like “according to our understanding of our authority...” Zsuzsanna Teke’s interpretation in: *DRH*, p. xix, according to which this clause was to refer to the king’s special jurisdiction (*absoluta potestas*) does not explain its use here

⁴⁵ Albert was the only king of Hungary in the late Middle Ages who did not have a great seal of majesty. This puzzling fact has not been explained yet in a satisfactory way. (Cf. Elemér Mályusz, “A kancelláriai tevékenység Albert király uralma alatt, 1438–1439” [Activity of the chancellery under King Albert], in *Opuscula classica mediaevaliaque in honorem J. Horváth composita*, ed. János. Bollók [Budapest: ELTE BTK Latin nyelvi tanszék, 1978], pp. 287.

CONCORDANCE 1439

<i>MTvt/CJH</i>	<i>DRH /dDRMH</i>
I-XXIX	I-XXIX
XXX-XXXI	XXX
XXXII	XXXI
XXXIII-XXXVII	XXXII
XXXVIII	XXXIII
XXXIX	XXXIV

COMPILATION OF LAWS IN HUNGARY

before 1440

This collection of legal prescriptions has come down to us through a transcript by King Wladislas I on 20 July 1440, wherein it follows the *decretum* of Andrew III of 1298. Therefore, we decided to call it “ante 1440.”

After the initial publication of this collection by Kovachich in 1798, legal historians were quick to note that this text did not form part of the laws of 1298, and some historians (e.g., Bartal) suggested that it may have originated in the early fourteenth century in connection with the judicial reforms of King Charles I (see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1445* (Budapest: Akademiai, 1978) [=DRH], pp. 73–79). The proposal of Kiss (dating it to the age of Andrew III) was challenged by Szilágyi, suggesting c. 1312–5. Gerics, expertly addressing general issues of legal practice in late thirteenth-century Hungary, argued for a later date but certainly before the mid-fourteenth century. Thus c. 1300 was accepted by Bónis *et al.* for their DRH (pp. 387–96) and following it, in the printed DRMH 1.

Pál Engel, however, started out with a skeptical mind and noted a number of points (some already queried by the editors but “explained away,” e.g., in notes 8, 9, 21) that do not allow a dating before the end of the fourteenth century; see his “Az ‘1300 körüli’ tanácsi határozat keletkezéséhez” [On the origin of the decision in council of ‘c. 1300’], now in his, *Honor, vár, ispánság: Válogatott tanulmányok* [Honor, castle, county: Selected studies], ed. Enikő Csukovics (Budapest: Osiris, 2003, pp. 638–48). Considering the legal and administrative development during the age of the Anjou and of King-Emperor Sigismund, the detailed instructions for the inquest, the reference to the *lucrum camerae*, the mentioning of more than one judge in the king’s court, the assumption of the existence of a regular court of the *vicecomes* and of county archives—taken all together suggest a *terminus post quem* of at least 1382 but rather later. Strictly speaking a *terminus ante quem* is only 1440, but the list of fines (regulated in greater detail in 1435) and the fact that the *prelati et barones* passed this decision (apparently in the absence of the ruler) makes a date in the “early fifteenth century”—for example during the captivity of Sigismund in 1401—most likely. Engel did not address in detail the conspicuously “early” regulation of the migration of tenant peasants, typical for Sigismund’s age, but mentioned it as an additional reason for late dating.

The purpose of the text having been copied “seamlessly” after the *decretum* of 1298 into the *libellus* of 1440 remains, however, an open question. Clearly, someone (in the royal chancellery?) intended to make a relatively recent decision of the royal council appear as “good old law” (of Andrew III). The *cui prodest* still begs the question.

The text published here follows the critical edition in DRH, where additional literature and commentary—some of it now out of date—can also be found.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MSS: (Transcript of 1440), OL D1. 13894.

EDD: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. Pest: Regia Universitas, 1789–1801 pp.144–192; *DRH*, pp. 387–396.

LIT: Georgius Barta, *Commentariorum ad historiam status Hungariae... libri XV* (Pozsony: Wigand, 1847), pp. 208–210, I. R. Kiss, “III. Endre király 1289/99. évi törvénye” [The Law of King Andrew III of 1298/99], *Emlékkönyv Fejérpataky László* (Budapest: Franklin, 1917), pp. 262–278; Lóránt Szilágyi, “III. Endre 1298. évi törvénye” [The Law of Andrew III of 1298], *Annales Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae: Sectio historica.*, 1 (1957), 135–171; József Gerics, “Über das Rechtsleben Ungarns um die Wende des 13–14. Jahrhunderts”, *ibid.*, 17 (1976), 45–80. Pál Engel, “Az ‘1300 körüli’ tanácsi határozat keletkezéséhez” as above.

COMPILATIO ANTE 1440

De Inquisitionibus

I. Primo notandum est, quod de inquisitionibus in factis potentie, homi[cidii], iniuriarium, furti, latrocinii et aliorum similium fiendis per prelatos et barones taliter est decretum, quod in quolibet comitatu duodecim nobiles conscientiosi et fide digni per dominum regem sunt eligendi, ex quibus tamen duodecim nobilibus quatuor debent esse in iudices nobilium, qui nobiles prestitis prius ad f[idem eorum] de[o debitam iuramentis super] omnibus factis et causis in ipso comitatu in facto premissorum emersis [et] exo[rtis] diligenter ... mandatum simul inquirendo sciscitarent deum h[abentes] pre oculis. Demum reversi ... veritate sub sigillo per dominum regem eis dato et collato ipsius inquisitionis seriem eidem domino regi rescribere teneantur, qua inquisitione visa tandem iudex ordinarius eiusdem cause in termino per ispos nobiles deputato iudicium et iustitiam inpertiri debeat, nulla alia inquisitione super hiis amplius fienda ... Sed reus vel ille, contra quem fuerit querimonia, solum bis debet evocari et tandem tertio proclamari per nobiles supradictos, et sic universe cause in factis premissis emergere vel exorte in tertio termino omni dissimulatione remota debent terminari.

II Omnia etiam instrumenta in curia regia per dominum palatinum vel iudicemcurie aut alios iudices ordinarios in factis criminalibus adiudicanda coram dictis duodecim iuratis nobilibus in sede vicecomitis deponi debent. Et de iuramento cum quocunque personis prestito non plus nisi quadra[ginta denar]ii possint extorqueri per iuratos supradictos.

III Preterea notandum est, quod si quis nobilium vel alterius cuiusvis status et conditionis hominum in factis potentie, calumnie, exhibitionis falsarum litterarum et aliorum gravaminum iudicialium fuerit innodatus, tunc possessiones talium per iudices vel homines iudicum non debent spoliari, sed portio possessionaria ipsius convicti pro iudice et parte adversa coram uno ex predictis iuratis debet occupari et tamdiu per eosdem absque desolatione est possidenda, quousque dictis iudici ordinario et parti adverse per ipsum convictum iuxta deliberationem [bar]onum satisfactio inpendetur. In birsagiis etiam minoribus tanta portio, quanta pro ipsis iudiciis debebit, modo premissis est occupanda et usque tempus satisfactionis nichil plus preterquam veros redditus ipsius possessionarie portionis iudex et pars adversa possint extorquere.

IV Item si quis aliquem non casualiter, sed potentialiter et ex concepta malitia interfecerit, tunc per dominum regem eidem gratia non fieri debet, nisi ex voluntate fratrum et proximorum ipsius interfecti, sed talis reus plecti debet vindicta capitis, si apprehendi poterit, sin autem, tunc possessionarie portiones sue occupari debent. Si autem casualiter aliquis interfectus fuerit, tunc rex eidem interfectori gratiam facere possit, [tali] tamen modo, ut secundum deliberationem baronum proximis interfecti satisfactio inpendatur, et si satisfacere nollet vel non posset, tunc gratia sibi in nullo suffragetur. Insuper omnibus coram iudice in factis potentie, calumpnie et aliis hiis similibus convictis nulla gratia per dominum regem est fienda, nisi prius parti adverse satisfactio inpendatur. Si quis autem fratrem suum uterinum, patrualemvel generationalem seu condivisionalem interemerit, tunc possessionaria portio eiusdem interfectoris vel homicide propria in portionem suam cessa vel cedenda heredibus vel posteris ipsius interfecti perpet[uo] de]volvatur.

V Item si quis nobilis alterius res potentialiter in campis vel extra villam receperit, et ratione huius in facto potentie convictus extiterit, tunc talis reus res in decuplo seu decies se ad predictas res ablatas extendentes solvere tenetur. De quibus primo res principales ipsi leso in toto restituantur et tandem residuitas earundem in duas rectas partes dum iudice ipsi leso dividatur, cuius recta medietas similiter ipsi leso ex integro assignetur. Et altera medietas, portio videlicet ipsius iudicis in tres partes dividatur, et ipsa tertia pars iuratis p[ertineat], et due [partes] ipsius medietatis iudici ordinario proveniant. Si vero res suas ad premissa se extendentes non haberet, tunc ipse reus debet captivari et de prescriptis iuxta deliberationem baronum se debeat emendare. Si autem ipse res in villa vel curia reperte fuerint, tunc in facto potentie, ut est premissum, convincatur et puniatur.

VI. Item quicumque nobilium lucrum camere iuxta regni consuetudinem ab antiquo approbatam facta dicatione et termino congruenti sibi assignato solvere non curarent, tunc possessiones vel possessionarie portiones talis vel talium, de quibus premissa solutio facta [nondum] extitisset, presente uno vel duobus iuratorum tamdiu per comitem camerarum regalium debet occupari, quousque dicta solutio lucri camere plenarie simul cum iudicio marcarum trium fuerit persoluta; ipsamque possessionem idem comes camere sine desolatione veros proventus ipsius possessionis percipien[do] medio tempore valeat conservare.

Item si aliquis homo cuiusvis status honorem seu officiolatum ex parte prelatorum et baronum et aliorum quorumcunque hominum tenens res alicuius hominis potentialiter receperit, tunc dominus talis honorem tenentis ipsi iniuriam et dampnum patienti satisfactionem inpendere teneatur mod superius expresso; ipse dominus talis rei famuli sui sibi solus de premissis ex parte eiusdem satisfactionem habere possit. Officiales etiam dominorum regalium et reginalium simili modo facere teneantur.

Item In Factis Possessionum Ordine Iudiciario Acquirendarum
Modus Infrascriptus Est Observandus:

VII. Item quicumque aliquam possessionem vel possessiones seu portiones vel particulas possessionarias ordine iudiciario acquirere intendit, tunc ipsam possessionem trina vice recaptivare debet, et ratione prioritatis termini ac de partium voluntate ipsa causa differri non possit, sed partibus in presentia iudicis comparentibus in causam attractus omni occasione postposita respondere teneatur. Ad exhibitionem instrumentorum tres termini et non plures assignari debent, unus videlicet sine gravamine et duo cum gravamine, quilibet scilicet cum iudicio trium marcarum assignari debeant, et sic intra unius anni revolutionem quelibet causa finaliter terminetur. Medio autem tempore, quecunque pars voluerit, potest concordare. Actor etiam exhibitionem instrumentorum suorum solum tribus vicibus semper cum gravamine iudiciorum regalium valeat prolongare.

VIII. Item in ultimo termino iudicia in processu iuris emersa partes deponere teneantur. Et si quis cum pecunia vel rebus deponere nequiret, tunc possessione cum fructuosa et populosa iudici et parti adverse satisfacere teneatur; et idem convictus, per quem ratione previa possessio datur, adversam partem et iudicem in dominio eiusdem possessionis tamdiu, quousque ab eisdem in premissa pecunia seu iudicio redimetur, conservare teneatur.

IX. Item si quis nobilium possessionem seu possessiones aut particulas suas possessionarias necessitate prepeditus vendere vel impignorare aut a se alienare intenderet, tunc primo et principaliter easdem vel ipsam fratribus et hominibus sue generationis vel condivisionalibus vel commetaneis aut vicinis suis tali modo vendere possit, ut talem possessionem seu portionem possessionariam, cuius fructus, proventus et utilitates ad unam marcam se extendunt per anni circulum seu circa, puta pro decem marcis, cuius vero ad duas, pro viginti marcis et sic successive emere debeant. Et ipsam venditionem primitus coram dictis iuratis ipsis fratribus, hominibus generationalibus, commetaneis aut vicinis suis notificare teneatur, et si ipsam pro pretio prescripto emere vellent, bene quidem, alioquin eam, quibuscunque aliis maluerit, vendendi habeat facultatem.

X. Item, si cuiuscunque nobilis possessiones ratione suorum excessuum vel [gra]vaminis ad manus iudiciarias ac partis adverse devenerint, tunc easdem ipse vel alii, quibus congruit, a manibus eorundem iuxta regni consuetudinem ab antiquo conservatam redimere possint, videlicet unum aratrum terre pro tribus marcis, ecclesiam cum campanili pro quindecim marcis et sine campanili pro decem marcis, et sic de singulis.

XI. Item quincunque nobilis possessionem vel possessiones seu portiones suas possessionarias alicui hominum vendidisset et ipsum in facto huius possessionis expedire assumpsisset, et tandem talis possessio ab ipso emptore per formam iuris per quemcunque requi[rer]etur, tunc talis expeditor et sui successores modis omnibus emptorem et suos successores secundum suum assumptum in perpetuum expedire tenebuntur in facto possessionario prenotato.

De Rusticis et Jobagionibus

XII. Item quilibet rusticus seu jobagio alicuius nobilis, si voluerit, de possessione domini sui habita licentia et iusto ac consueto suo terragio consueto persoluto ad possessionem alterius nobilis vel alias, quo sibi placuerit, cum omnibus suis rebus libere se causa commorandi transferre valeat.

XIII. Item nullus equester et homo pedester, cuiuscunque conditionis existat, aliquod pondus non habens seu non deferens [ullo] in loco tributi vel alias aliquod tributum dare teneatur.

XIV. Item [si] quicunque homo seu advena de extraneis regnis ad istud regnum se transferret moraturum, ab eodem et suis bonis apud ipsum habitis tempore sue translationis in nullo loco aliquod tributum exigatur.

XV. Item si quis rusticus seu jobagio alicuius nobilis se de ipso domino suo ad alium nobilem transferre vellet moraturum, ab eodem rustico modo simili tempore translationis sue seu jobagione [in nullo loco] aliquod tributum accipiatur.

XVI. Item de victualibus prelatorum et baronum aut nobilium quorumcunque per quascunque partes, per quelibet tributa deferendis nullum tributum exigatur.

XVII. Item si quis nobilis sine herede masculino ab hac luce decesserit, cuius possessiones de iure ad manus regias sunt devolvende, tunc ius ratione quarte filialis filie vel sororis eiusdem decessi eisdem filiabus et sororibus cum possessione in uno loco et in uno ambitu debet extradari perpetuo possidendum.

Ceterum si homines capitulorum vel conventuum ad reambulandum, recaptivandum, estimandum, necnon statuendum aliquam possessionem vel alios iudiciarios processus exercendos iuxta regium mandatum aut iudiciariam commissionem palatini vel iudicis curie regie seu alterius cuiusdam iudicis ordinarii transmissi fuerint, tunc homines vel testimonium ipsius capituli vel conventus in propriis equis laborantes et transeuntes a die egressionis usque diem reversionis et adventus ipsorum ad propria qualibet die viginti quatuor denarios, si autem ipsi homines seu testimonia in equis conductorum transierint, tunc ab eisdem conductoribus qualibet die duodecim [denarios] et non plures valeant extorquere, semper tamen in expensis conductoris transeun- do. Pro emanatione [vero] litterarum super premissis processibus emanandarum non plures, nisi centum simul cum notario eorum exigere possint, excepti litteris recaptivatoriis possessionum et aliis, de quibus etiam, sicut usque nunc duodecim denarii sunt exacti, sic in futurum debeant extorqueri.

Item cancellarii domini regis de litteris in factis possessionariarum collationum privilegialiter, seu patenter emanandis exactionem pro redemptione ipsarum litterarum infrascriptam debeant observare: quod de litteris possessionarias collationes vel libertates quascunque denotantibus simul cum scriptore ipsarum litterarum duas marcas, de confirmationeque litterarum quarumcunque semper de una littera privilegiali confirmatorie emananda cancellarius unam marcam et scriptor suus centum denarios, de litteris autem, mediantibus quibus per regiam maiestatem quibuscunque gratie in factis potentie, calumnie, furticinii, latrocinii et exhibitionis falsarum litterarum vel aliis vindictam capitis tangentibus facte fuerint, unam marcam cum scriptore possint extorquere. De aliis vero litteris minutis, videlicet evocatoriis, inquisitoriis, recaptivatoriis, preceptoriiis et aliis similibus, de patentibus viginti quatuor denarios, de [clau]sis duodecim de[narios] debent extorquere.

COMPLIATION BEFORE 1440

Regarding Inquisitions

1 First, it should be noted that the prelates and barons decided that for inquisitions in cases of acts of might,¹ manslaughter, assault, theft, robbery, and similar delicts, the lord king shall select twelve conscientious and trustworthy noblemen in every county, out of these twelve noblemen four should be[come] county magistrates,² and they, after having sworn an oath on their faith to God, shall in the aforementioned cases that happened or occurred in the county...inquire into the facts and cases of the delicts mentioned above ... according to their mandate, always keeping God in their minds.³ After their return ... they shall be bound to report to the lord king the course of the inquisition under the seal given and entrusted to them by the same lord king.⁴ The justice ordinary⁵ of the case, after he has seen the inquisition, shall render

¹ “Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one

² The peculiar Latin formulation (*debent esse in iudices nobilium*)—which Gerics (*ibid.*, p. 51f.) believes to be derived from the grammar of the Psalms—can be understood in two ways. Either that four of the twelve nobles would be made county magistrates by the king who had selected them, or that four of the twelve were to be elected as magistrates by their fellow nobles. Of course, the present reading may have originated in scribal error, inserting the unusual *in*, in which case the more traditional translation (“four of them should be”), implying an existing body of county officers (see, e.g., 1290: 3), would be warranted. Actually, the institution of the twelve nobles is not known otherwise.

³ The reference is to what was known as common or simple inquest (*inquisitio communis* or *simplex*), a procedure for obtaining material proof in which abutters, neighbors, and other nobles from the county (*comprovinciales*) swore an oath on their faith and “fidelity to the Holy Crown” regarding the truth of their testimony, usually in matters of property rights. The inquest, as ordered by a higher court, was usually held where the disputed estate was located or the criminal act perpetrated. The inquest took over the role of establishing the truth once ordeals were discontinued in the later thirteenth century. See Erik Fügedi “Verba volant... Oral Culture and Literacy among the Medieval Hungarian Nobility.” in *Idem, Kings, Bishops, Nobles and Burghers in Medieval Hungary*, ch. VI. (London: Variorum, 1986).

⁴ Nothing is known about such seals “given by the king.” Actually, written reports on inquests and similar legal actions were usually composed and submitted by the places of authentication (chapters and convents charged with these tasks). On these, see Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary’s *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66-73.

⁵ This, in Roman law common, term seems to be meant the judge of the given case. In late medieval Hungary it usually referred to the justices of the royal court (palatine, judge royal, master of the treasury), but here the case itself seems to have had its own justice ordinary, hardly one of the high justices. Gerics (“Rechtsleben”, p. 47f.) understands this passage to refer to a judge who administered justice in the

justice and judgment at the term set by these noblemen without any further inquisition in the case ... The defendant or he against whom the complaint was lodged, should be cited only twice and at the third term be publicly summoned by these nobles so that all suits opened or started in the cases mentioned above shall be terminated at the third term without delay.⁶

2 All records of criminal cases⁷ tried in the king's court, or by the lord palatine or the judge royal or other justices ordinary⁸ are to be deposited before the same twelve jurors at the seat of the *alispán*.⁹ And the above- mentioned jurors should not exact more than forty pennies for an oath sworn with whatever number of persons.¹⁰

3 Furthermore, it should be noted that if a nobleman or a man of whatever estate and condition, has been fined by a judge for acts of might, frivolous prosecution,¹¹ presentation of forged documents or other infractions, his possessions shall not be wasted by the judges and the judges' men, but a portion of the defendant's possessions shall be occupied on behalf of

course of exercising another office, e.g., an *ispán*, (head of the county) in contrast to a *judex delegatus*, a judge commissioned *ad hoc*, which was the usage in the Árpáadian age.

⁶ The limitation to three citations has its antecedents as far back as in **Ladislav III: 26** and **Coloman 64**. The third, public *proclamatio* (often qualified as *triforensis*,) was meant as the last call, issued at three consecutive market days after which judgment was passed regardless of the defendant's appearance. In fact, summonses up to six times were not unusual as late as the fifteenth century and were abolished finally in the *decretum* of **29 May 1439: 32**; cf. Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Arpad and the diverse dynasties], (Budapest: MTA, 1899), , pp. 198–199.

⁷ The distinction of "criminal cases" points to a development of legal thinking, maybe even the influence of learned (Roman, canon) law.

⁸ The judge royal (*judex curiae regis*, Hung. *országbíró*): originally the officer in charge of the royal court (*comes curialis regis*) and thus the head of household servants, he acquired high judicial functions once the count palatine became the itinerant judge of the entire country (c. 1200). From then on, the judge royal passed judgment in the name of the king (*presentia regis*) and soon acquired extensive jurisdictional functions, with a notarial and legal staff, including a *vicejudex curiae regis*, residing in Óbuda. The judge royal (or justiciar) held a separate court in the royal curia, where he tried cases of the nobility. The reference to other royal justices, not known before the fourteenth century was one of the reasons of Engel's revised dating the **Compilatio**.

⁹ The *alispán* (*vicecomes*) was the deputy of the county's *ispán* usually a noble retainer (*familiaris*) of the *ispán* and the actual administrator of the county. During the fourteenth century, when several counties were granted as honors, the *alispán*, joined by the noble magistrates, handled the financial and military matters of the county and chaired the county court; see Martyn Rady, *Nobility, Land and Service in Medieval Hungary* (Houndmill, Basingstoke: Palgrave, 2000), pp. 114–115. Archives of the counties developed in the course of the fourteenth century, first from the list of proscribed criminals.

¹⁰ Oath (*iuramentum*) was a mode of proof that survived in Hungary until the nineteenth century and was sworn by one or both litigants supported by a number of oath-helpers, as defined by the judge depending on the value of the case and the status of the oath-helpers.

¹¹ Frivolous prosecution (*calumnia*) meant unfounded and vexatious litigation (Hung. *patvarkodás*). Such offenses as prosecuting the same case in two different courts, thus seeking satisfaction twice (*via duplex*), or claiming an obligation already settled (*dupplici sub colore*) were classified as *calumnia*. Anyone so convicted had to pay his man price. Prior to the fifteenth century, the term might include *astatio falsi termini* whereby a litigant appeared in court instead of another person, without a letter of attorney (q.v.), or summoned an adversary to a false term so as to mislead him and the court, thus obstructing the administration of justice.

the judge and the opposing party in the presence of the aforementioned jurors and kept by them without wasting until the judge ordinary mentioned before and the opposing party have been satisfied according to the judgment of the barons. For minor fines¹² as well, only a portion is to be occupied in this way as pertains to the judges themselves and until such time as satisfaction is given; the judge and the opposing party shall, exact no more than the true income of that portion of the possessions.¹³

4 Then, if anyone kills someone not by accident but violently with premeditated malice¹⁴ the lord king shall not grant him pardon unless the victim's brothers and kinsmen consent. Rather, such a culprit shall suffer capital punishment¹⁵ if apprehended; if not, portions of his possessions shall be occupied. If someone is killed by accident, the king shall be free to pardon that killer [but] in such way that the kinsmen of the victim shall receive satisfaction according to the decision of the barons. If he will not or cannot give satisfaction, pardon shall be of no use to him. Furthermore, those convicted by a judge for act of might, frivolous prosecution, or similar infractions shall not be pardoned by the lord king unless the injured party receives satisfaction. If someone, however, kills his brother, his cousin, his kinsman, or divisional kinsman,¹⁶ what was or would have been the killer's inheritance shall go in perpetuity to the heirs and descendants of the victim.

5 If a nobleman takes away by violence the goods of another nobleman in the fields or outside a village and is for this act convicted of act of might, such a culprit shall be bound to pay tenfold or ten times¹⁷ the value of the aforesaid stolen items. Out of this the entire loss of the injured party is first to be made good; the remainder is to be divided evenly into two parts by the injured party with the judge and one of these even halves is also to be granted entirely to the injured party. The other half, the portion of the judge, is to be divided into three parts, one of which pertains to the jurors and two parts of this half to the justice ordinary. If the culprit does not have sufficient

¹² *Birsagium* is the latinized form of the Hungarian word *bírság*, meaning “fine”, procedural as well as punitive.

¹³ The collection of fines and the seizing of possessions was regulated in detail in the decree of **c. 1320**.

¹⁴ Cf. **Stephen I: 14**. The distinction between what in modern terms would be premeditated murder and accidental manslaughter seems to have been refined in Hungarian legal practice under the influence of Italian glossators; see György Bónis, *Középkori jogunk elemei: Római jog, kánonjog, szokásjog* [Elements of our medieval law: Roman Law, Canon Law, and customary law] (Budapest: Közgazdasági, 1972), p. 103.

¹⁵ Capital punishment (*sententia capitalis*) implied the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary.

¹⁶ Divisional kinsman (*frater condivisionalis*) was a person entitled to a share in inherited property, stemming from the custom that landed property should be partitioned equally among sons or among nearest male relatives in the paternal line (*aviticitas*) as decreed in **1351 Pref.** See Pál Engel, “Erbteilung und Familienbildung.” in ...*The Man of Many Devices, Who Wandered Full Many Ways... Festschrift in Honor of János M. Bak*, Balázs Nagy and Marcell Sebők, eds. (Budapest: CEU Press, 1999), pp. 411–421.

¹⁷ Both words (*Decupplo* and *decies*) mean “tenfold”; the passage may imply a tenfold fine or ten times the value of the stolen goods.

means for the above stated arrangement, then he shall be arrested and redeem himself of the aforesaid according to the decision of the barons. If; however, things are discovered from within a village or a manor house¹⁸ which were taken by an act of might this shall be judged and punished as written above.

6. Then, if any noble fails to pay the chamber's profit¹⁹ as approved by the ancient custom of the realm once its assessment and due date have been conveniently set for him, the possessions or part-possession of such a person or persons for which the said payment has not yet been made shall be occupied by the count of the royal chamber²⁰ in the presence of one or two of the jurors until the chamber's profit and a three-mark fine²¹ are fully paid; during that time the count of the chamber shall keep the possession without wasting and shall collect its just revenue.

Then, if a man of whatever estate who holds an office or a commission either from the barons, the prelates, or anyone else, takes away someone's goods by violence, the lord of such an officeholder is obliged to give satisfaction to the injured and aggrieved person in the manner set out above; the lord can demand satisfaction only from this culpable retainer for the aforementioned matter.²² The officers of the king and the queen, moreover, are to be dealt with in a similar manner.

Similarly On Matters Of Acquiring Possessions By Judicial Process The Following Procedure Is To Be Observed

¹⁸ By this time the word *curia* ("court") had come to be used for the residence of lesser noblemen as well as for that of the king and the magnates.

¹⁹ The chamber's profit (*lucrum camerae*) was originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins; by the early fourteenth century, it had become a direct tax but retained its name until the end of the Middle Ages. See: Boglárka Weisz, "Royal Revenues in the Árpáadian Period," in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 255–64, and Csaba Tóth, "Minting, Financial Administration and Coin Circulation in Hungary in the Árpáadian and Angevin Periods," *Ibid.*, pp. 279–94. This is the only reference to nobles paying this tax. In medieval Hungary, noblemen were exempt from all taxes and dues.

²⁰ *Comites camerae* were officers in charge of regalian revenues, based on a private contract with the crown. Most of them were foreign merchants or money lenders. These arrangements are known from the cameral contracts of the 1340s, see **1342**.

²¹ Textual reconstruction based on a parallel passage in **1342: 19**. The mark was a measure of silver (and sometimes of gold), often the unit of fines. Since the late thirteenth century the Buda mark (~245.54 gr.), belonging to the Troyes-mark type, was standard in Hungary.

²² The article aims at defining the liability of a lord (*dominus*) for the misdeeds of his retainer (*famulus, familiaris, serviens*), as well as the lord's jurisdiction over his retainer from whom alone he can claim satisfaction. The institution of *familiaritas*, by which lesser noblemen accepted service with greater landowners but retained their noble liberties, save in matters regarding their service, was a new but quickly-growing feature of Hungarian society around 1300. The employment of retainers, especially as castellans of baronial castles, was becoming widespread; see Rady, *Nobility*, pp. 48-53, Erik Fügedi, *The Elefánthy. The Hungarian Nobleman and His Kindred* (Budapest: CEU Press, 1998), *passim*, and István Tringli, "Mittäter oder Anstifter? Die Rolle der Helfer bei den Fehdehandlungen im spätmittelalterlichen Ungarn," In *Fehdehandeln und Fehdegruppen im spätmittelalterlichen und frühneuzeitlichen Europa*, M. Prange and Ch. Reinle, eds. (Göttingen: V & R Unipress, 2014) pp. 163–194.

7 Then,, if someone wants to acquire a possession or possessions, or portions or parcels of a possession through the judicial process, that possession is to be reclaimed three times,²³ and the case cannot be postponed either because of an earlier citation²⁴ or by the will of the parties, but the person summoned in the case has to respond without any delay when the parties have appeared before the judge. For the presentation of charters three dates and no more are to be set, one without and two with a fine, which shall be set specifically at three marks each; this every case is to be definitely settled within one year.²⁵ During that time either party, if he wishes, may come to terms. The plaintiff may also delay his presentation of his charters only three times by paying in each instance the royal fine²⁶ for it.

8 Then, on the last day in court the parties have to deposit the fines imposed during the lawsuit. If someone cannot pay them in money or goods, the judge and the opposing party are to be given satisfaction in fertile and populated land; and the defendant who has in this way relinquished a possession is bound to leave the control of that possession to the judge and the opposing party until he redeems it from them in money or the fine as already mentioned.²⁷

9 Then, if a nobleman pressed by necessity intends to sell, mortgage, or alienate his possession, possessions, or part-possession, he has to sell them or it first and foremost to his brothers, clansmen, divisional kinsmen, neighbors, and abutters²⁸ in this manner: a possession or portion of a possession that yields an annual return, income, and profit of around one mark is to be valued at ten marks, one with two marks at twenty marks, and so forth,²⁹ and is to be sold for that. And this sale is to be announced before the said jurors to the brothers, clansmen, neighbors, and abutters, and if they want to buy it for this price, that is fine, otherwise he shall have the right to sell to whomever he wishes.

10 Then, if the possessions of any nobleman come into the hands of a judge or an opposing party because of a transgression or fine, then he or other suitable persons shall be able to redeem

²³ *Recaptivatio* was the technical term for raising a legal claim to a property not in the claimant's possession. When the claim was rejected three times by the actual possessor, the later could be cited to court to defend his title; Hajnik, *Bírósági szervezet*, p. 194

²⁴ *Prioritas termini* meant that a party was unable to attend a term in court because of a previously received summons to another court or in another case. A person empowered by such a party would appear instead of him for the *assumptio termini*; see Hajnik *op.cit.* p. 240.

²⁵ Attempts at shortening the judicial process were as old as legislation in Hungary and kept propping up many times across the centuries.

²⁶ The *iudicium regale* amounted to six marks, i.e., double that of the common fine; Hajnik, *Bírósági szervezet*, p. 442.

²⁷ See art. 2, above.

²⁸ On the development of this matter see Alajos. Degré. "A szomszédok öröklése és a szomszédi elővásárlási jog kialakulása" [Inheritance by neighbors and the development of the right of neighbors to first refusal], in *Illés emlékkönyv*, pp. 122–141.

²⁹ This kind of estimation was highly advantageous for the preferential buyers and was called *aestimatio communis* in contrast to the fifty-fold value of the annual income, the *aestimatio prerennalis*. In modern Hungarian the expression is still current that something "is worth so much even among brothers," which may refer to the former practice

them according to the ancient custom of the realm, namely one plough land for three marks,³⁰ a church with a bell tower for fifteen, without a bell tower for ten, and so on in every case.³¹

11 Then, if any nobleman has sold his possession or possessions or part-possessions to a man and had agreed to be a guarantor in matters of this possession, and later this possession is claimed by someone from the buyer in a lawsuit, then the guarantor and his descendants have to appear as guarantors according to his agreement in perpetuity in matters regarding the said possession.³²

Concerning Peasants and Tenants

12 Then, any peasant or tenant peasant³³ of a nobleman shall, if he wishes, be free to move with all his things from his lord's possession to that of another nobleman or to another place of his choice in order to take up residence, once he had received leave and paid the just and usual rent.

13 Then, any man mounted or on foot of whatever estate having no load with him and carrying nothing³⁴ shall not be forced to pay a toll at toll stations or anywhere else.

³⁰ *Aratrum* (=plough): usually referring not to the tool but to the size of land that--customarily--could be cultivated by one plough team. It has been estimated at very different sizes from 50 to 150 ha; the best argued being ca. 126 hectares, containing 150 *jugera* (Hung. *hold*, a measure of Roman origin but in the Middle Ages of very varied size; a "royal hold" was ca. 0.84 ha)

³¹ These legal estimations were highly traditional, remaining unchanged for centuries regardless of market values. They appear in thirteenth-century charters as well as in formularies of the fourteenth and fifteenth centuries (see Bónis, *Középkori jogunk elemei*, pp. 165–176) and also in the early sixteenth-century **Tripartitum** (Pars I, tit. 133).

³² The duty of a vendor to remain liable for the defense of the property he sold (or even of partners in an exchange or division of inheritance) against later claimants, was expected by custom (Gerics, "Rechtsleben," p. 54). This paragraph regulates the duty of *expeditio* (also called *evicto*, employing a Roman legal term) and limits it to cases in which liability is explicitly assumed by the vendor; see Bónis, *op.cit.*, p. 98f

³³ Tenant peasant (*jobagio*, from Hung. *jobbágy*) was the status of the majority of the agrarian population in medieval and early modern Hungary (down to 1848). They were personally free, obliged to render dues in kind, money and labor to the lord of the land on which they lived. Their plots were de facto heritable, though not their property. Tenant peasants had the right to move (or to be moved) to another lord, once their dues were paid. The prohibition of their being hindered from doing so was mainly in the interest of the lesser nobility, whose peasants were sometimes moved (or lured) to the estates of greater landlords who were able to offer better conditions. The most often cited regulation of this right was in King Sigismund's *Decretum maius*, **1435/I:7**. For a summary of the issue, see János M. Bak, "Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline" in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, (Turnhout: Brepols, 2005), pp. 387–400.

³⁴ This passage is hardly legible in the original. The reading proposed by Kovachich--*secum ad deferendum, impediatur*, that is, "with him for transfer, shall [not] be importuned," also makes good sense. The conjecture in the *DRH* with [*ullo*] is somewhat unusual. On road tolls in general, see Magdolna Szilágyi, "Mobility, Roads, and Bridges in Medieval Hungary," in *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 64–80.

14 Then, if any man or foreigner wishes to move from his country to this realm in order to take up residence, no customs duties shall be collected from him at any place at the time of his arrival.

15 Then, if a peasant or a tenant of a nobleman wishes to move from his lord to another nobleman in order to take up residence, similarly no tolls shall be collected from this peasant or tenant at any place at the time of his transfer.

16 Then, no toll shall be collected for the foodstuffs of prelates, barons, and noblemen whatsoever who transport them through any toll station.

17 Then, if a nobleman should die without a male heir so that his possessions would by law revert to the king,³⁵ then the portion due as the filial quarter³⁶ to the daughter or sister of the same deceased is to be given to the daughter or sister in one piece of land in one location, to be possessed in perpetuity.

Finally, if men of chapters and convents³⁷ are sent out for surveying, revindicating, assessing, or granting institution into a property,³⁸ or for any other judicial task by royal mandate or

³⁵ Cf. **1222: 4** and **1231: 5**.

³⁶ The “filial quarter,” first mentioned in **1222:4**, was the hereditary portion of noblewomen due from the inherited estates (see property rights) of their fathers. The filial quarter was, in theory, paid in cash. In practice, however, it was often given out in land. In law, the grant of the quarter in land was only valid when the woman was married to a non-noble man (*ignobilis* or *homo impositus*), or as a temporary substitute for cash payment, but in fact it was more widespread. Antal Murarik, in *Az ősiség alapintézményeinek eredete* [Origin of the basic institutions of *aviticitas*] (Budapest: Sárkány, 1938), pp. 163–192) saw it as having derived from Roman Law, in particular from the *Lex Falcidia* (cf. *Inst.*, Bk. II, tit. 22). According to the *Corpus Iuris Civilis* of Justinian the rights of female children were the same as those of male children when a man died intestate. But the descendants of females had been entitled to a smaller portion of the estate than those descended from the males in the earlier Teodosian Code (5.1.4.), where the legacy granted to grandchildren in the female line was reduced by a fourth part (*pars quarta*) in favor of the agnates. Justinian specifically abolished this provision (*Inst.* Bk. III. tit. 1, c. 16). The discussions concerning this institution in medieval Hungary were summed up by Ferenc Eckhart, “Vita a leánynegyedről” [Debates on the Filial Quarter], *Századok*, 66 (1932), 408–415; see also József Holub, “La ‘quarta puellaris’ dans l’ancien droit hongrois,” *Studi in memoria di Aldo Albertoni* (Padua: Milani, 1935), III, 275–297. See now, Péter Banyó, “Birtoköröklés és leánynegyed. Kísérlet egy középkori jogintézmény értelmezésére.” [Inheritance of land and the filial quarter: An attempt on the interpretation of a medieval legal concept] *Aetas* 18:3 (2000): 76–92 and Martyn Rady *Nobility, Land and Service in Medieval Hungary* (Houndmill, Basingstoke: Palgrave, 2000), 103–

³⁷ Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary’s *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66–73

³⁸ *Reambulatio* was the formal establishment of property limits in the presence of neighbors (who had the right to contradict disputed claims); *revindicatio* was a claim of land (see above, art. 8); *estimatio* the

judicial commission from the palatine, the judge royal or any other judge ordinary, these men of the convent or chapter or associates of the bishop shall collect twenty-four pennies per diem from the day of their departure to the day of their return or arrival if they ride their own horses. If, however, these men or associates ride the horses of the requesting party, then they shall collect twelve pennies from that party and no more, provided that they travel always at the expense of the requesting party. Moreover, for the issuing of charters arising from the said matters no more than one hundred pennies shall be collected including the [cost of the] notary, except for charters for the revindication of possessions and others for which hitherto twelve pennies were collected and shall be collected in the future as well.

Then, the chancellors of the lord king are to observe the following fees for the redemption of charters of privilege or letters patent concerning donations and possessions: for charters concerning grants of possessions or containing any liberty, two marks together with the [cost of the] scribe; for any confirmation after the issue of a confirmation of privilege, one mark for the chancellor and one hundred pennies for his scribe; for those charters in which the lord king grants pardon for acts of might, frivolous prosecution, theft, robbery, presentation of forged charters, or other capital offenses, they can collect together with the scribe one mark. For minor letters such as summonses, inquisitions, revindications, mandates,³⁹ and the like, twenty-four pennies for letters patent and twelve pennies for letters close are to be collected.⁴⁰

assessment of the value (cf. above, art. 10). Institution (*introductio* or *statutio*) was the procedure required to validate the acquisition of property. Grantees of royal donations or new owners of purchased, pledged or exchanged estates were expected to take possession of the land within a year, with the assistance of a royal bailiff specified in the charter, and witnessed by a specified place of authentication in the presence of abutters and neighbors.

³⁹ *Litterae evocatoriae* were formal summonses to court, gradually replacing the citation in person (Hajnik, *Bírósági szervezet*, p. 200); *litterae inquisitoriae* mandated inquiries into the facts (*ibid.*, p. 287; cf. above, art 1); *litterae praeceptoriae* were judicial mandates ordering, for instance, the transfer of a case from an ecclesiastical to a secular court (*ibid.*, pp. 117, 196); and *litterae recaptivatoriae* were issued for the procedure of claiming property (see above, art. 8).

⁴⁰ The fees listed here for charters of the royal chancellery were established in detail by King Sigismund in his *Decretum Maius* (**8 March 1435: 11**).

CORONATION PATENT OF KING WLADISLAS I (1440-44) OF HUNGARY

20 July 1440

The background history of this coronation patent is only tangentially similar to that of 1439, insofar as Wladislas I agreed to a set of conditions at his election in Cracow, and these obligations were to be included in a decree issued at his inauguration. But Wladislas's election was not accepted by the widowed queen Elizabeth. Her party decided to place Albert's posthumously born son, Ladislas, on the throne and crowned the infant on 14 May 1440 with the traditional "Crown of St. Stephen," cunningly removed from its custody in Visegrád. Thereupon the adherents of Wladislas—the so-called soldier barons and a good part of the lesser nobility— assembled in Buda, confirmed the election in Cracow and declared the coronation of the Habsburg child null and void (29 June 1440; see Stephanus Katona, *Historia critica regum Hungariae*. 42 vols. (Pest: Weigand, 1779-1817), 13:70; cf. János M. Bak, *Königtum und Stände in Ungarn im 14.-15. Jh.* (Wiesbaden: Steiner, 1973), n. 27, p. 102. However, before proceeding to crown their own candidate on 20 July 1440 in Székesfehérvár the estates had to bridge the gap caused by the lack of the venerated crown of the kings of Hungary. In the dietal decision of 17 July 1440 (Bak, *Königtum*, pp. 141-43), the nobility declared that the force, efficacy, and mystery of the crown did not rest in the object itself but "in the will of the *regnum*" and transferred all power to the reliquary crown of St. Stephen which was to be used for the inauguration of king Wladislas I. Three days later the king issued this coronation patent, in which parts of the charter of the estates were repeated.

MS.: a unique original from the possession of a nobleman of Co. Ung, now MNL OL DI. 13894; a somewhat careless contemporary copy on two pieces of parchment sewn together, the seal is missing but its cord survived (for details see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akadémiai, 1978) [=DRH] p. 309).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Stephanus Katona, *Historia critica regum Hungariae*. 42 vols. (Pest: Weigand, 1779-1817), 13:101–02; Johannes Nicolaus Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801), 1: 474–500; Idem, *Sylloge decretorum comitialium regni Hungariae* (Pest: Trattner, 1818) 1:60–73; DRH, pp. 308-134

LIT.: Ferenc Eckhart *A szentkorona-eszme története* [History of the Idea of the Holy Crown]. (Budapest: Magyar Tudományos Akadémia, 1941), pp. 96–99; Lóránt Szilágyi, "III. Endre 1298. évi törvénye" [The law of Andrew III of 1298] *Annales Universitatis Scientiarum Budapestinensise Rolando Eötvös nominatae. Sectio historica* 20 (1957), pp. 135-41; Elemér Mályusz, "A magyar rendi állam Hunyadi korában" [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957): 46-123, 529-602, here pp. 7579;

Josef Deér, *Die heilige Krone Ungarns* (Wien: Böhlau Nachf., 1966), pp. 231–39; Jan Dąbrowski, *Władisław Jagiełłończyk w Węgrzech* [W. J. in Hungary] (Warszawa: Gebethner & Wolff, 1923); János M. Bak, *Königtum und Stände in Ungarn im 14.-15. Jh.* (Wiesbaden: Steiner, 1973), pp. 42–7; Idem, “Ein – gescheiterter – Versuch Ungarn zum Ständestaat zu verwandeln” in: *Ecclesia, cultura, potestas. Studia z dziejów kultury i społeczeństwa. Księga ofiarowana Siostrze Profesor Urszuli Borkowskiej OSU*, ed. Paweł Kras, pp. 451–64 (Cracow: Societas Vistulana, 2006).

20 IULII 1440

Wladislaus dei gratia Hungarie, Polonie, Dalmatie, Croatie, Rame, Seruie, Galitie, Lodomerie, Comanie, Bulgarieque rex etc., Lithwanieque princeps supremus et heres Russcie ad perpetuam rei memoriam. Presse feliciter et pro[desse] salubriter auctore domino cunctis nostris subditis cupientes, quamvis omnium opiffice largiente ampla undique manus nostra concluderit et sibi commissa regat dominia, quibus intrinseca principatus sublimitate de [---] extrinsecus oblata regnorum fastigia minime nos appetere opus esset, vocati tamen novissime et assumpti dispositione, ut creditur, superna ad huius regni circumquaque emulorum atriti insultibus gubernacula, eam in primordio operam accuratius agere instituimus, illamque diligentiam primitialiter pro subiectorum utilitate et eque bono statu apud eos gerentes decrevimus, per quam et eorum desiderio propensius satisfiat et commoditas profutura uberius subsequatur, ut eo facto illic amplior nostre solertie benivolentia appareat, ubi multo desiderio expectati intensiore studio inviti ex debito cogimur, sicut pro inter subditos penitus volentes discrimina conculcare, fovere iustitiam et impunitam licentiam delinquentium obvio remedio refrenare. Sane cum nuper post obitum condam serenissimi principis domini Alberti Romanorum ac Hungarie etc. regis per universitatem dominorum prelatorum et baronum, comitum, militum, procerum et nobilium huius regni sibi, secundum quod eiusdem regni undique emulorum vicinato turbati exposceret necessitas, de novi regis confestino presidio providere cupientium efficaci vocatione et electione ad suscipienda huius regni gubernacula primum invitati et demum multa instantia etiam perducti fuisset, tam[en, quia tempore inter]medio corona illa, [cum] qua reges Hungarie per prius coronari soliti fuere, per dominam Elizabeth reginam, prefati condam Alberti regis relictam de castro Wissegradiensi propter multum incautam conservationem eiusdem clandestine sublata fuerit, tamen nunc ipsi prelati, barones, comites, milites, proceres et nobiles eiusdem regni in multitudine tam maxima, quantam precedentium regum coronationis tempore in memoria hominum non comprehendit, ad nos congregati, profitentes denuo se rectores idoneos festina gubernatione carere non posse iteratoque electionem nostram pretactam uno animo approbantes et confirmandos consequ[enterque] alia corona beatissimi regis Stephani, apostoli et patroni huius regni in theca reliquiarum capitis eiusdem alta veneratione conservata, eque egregii operis et pretiosa solempniter coronari fecerunt ipsoque sacro dyademate insigniri, omne robur et omnem efficaciam ipsius prioris corone hac vice et etiam in perpetuum, si ea recuperari non poterit, in hanc modernam transfundendo, committendoque nobis in decreto omnem regie potestatis plenitudinem et artem principatus dirigendam. Quibus in dei nomine feliciter peractis subsequenter ipsa universitas regni nostri prehabitis inter se communiter m[ul]tis [tractatibus supplicantes] sibi de generali dispositione, per quam et nociva refoventur et utilia conserventur, indebiteque commissa emendentur, per nos provideri, exhibuerunt et obtulerunt nostre celsitudini quendam libellum in sui contenti tenore per eos, ut dicebant, diligenter masticatum, certos articulos constitutionum et dispositionum ex litteris condam Andree filii tertii Bele regis et Lodouici dominorum Hungarie regum predecessorum nostrorum, item ex quibusdam aliis litteris olim prelatorum, ecclesiasticorum et nobilium regni tempore coronationis condam alterius Andree regis Hungarie dicti de Venetiis emanatis extractos et exceptos in se continentem, supplican[tes celsitudini nostre una]nimiter et humiliter, ut ex quo eedem constitutiones modo, prout in ipso

libello seu registro continentur, eorum bono statui convenientes fore atque ad utilitatem eorum et totius regni conducere posse viderentur, easdem quoad omnem continentiam innovantes confirmare dignemur. Cuius quidem libelli sed et constitutionum pretactarum tenor sequitur et est talis:

LIBERTATES ET CONSTITUTIONES REGNI HUNGARIE EX LITTERIS ANDREE REGIS, FILII TERTII BELE REGIS EXTRACTE:

CONSTITUTIONES PER PRELATOS ET BARONES AC NOBILES REGNI HUNGARIE TEMPORE CORONATIONIS ANDREE REGIS DICTI DE VENETIIS FACTE SECUNTUR IN HUNC MODUM:

SECUNTUR NUNC LIBERTATES ET ORDINATIONES REGNO HUNGARIE DATE ET CONCESSE ULTRA LIBERTATES, QUAS CONDAM DOMINUS REX ANDREAS, FILIUS TERTII BELE REGIS DEDIT ET CONCESSIT PREDICTO REGNO, QUAS ETIAM IPSE DOMINUS LODOVICUS REX CONFIRMAVIT. TENOR AUTEM DICTE CONFIRMATIONIS IPSIUS LODOVICI REGIS SEQUITUR PER OMNIA IN HEC VERBA:

Nos igitur humillimis et devotis prectate universitatis regnicolarum nostrorum supplicationibus instantius propulsati, quia ex eorundem assertionibus manifestis constitutiones, libertates et ordinationes superius specificatas veterum provida dispositione conditas ad utilitatem et bonum statum ipsorum cooperari posse verisimiliter cognovimus, libenter eorum voto admissionem concessimus prectasque seu supranotatas constitutiones, libertates et ordinationes eo sensu, prout ad utilitatem rei publice christiane proficiunt, quoad omnes ipsarum continentias, clausulas et articulos, precipue vero intentionem supradicti Lodouici regis, quantum ad articulos per eum moderatos et mutatos acceptamus, aprobamus, ratificamus easque nichilominus ex certa nostra scientia huic regno nostro innovantes perpetuo vallituras confirmamus, et decernentes et committentes per hec scripta, ut huiusmodi constitutiones, libertates et ordinationes tam per modernos et futuros prelatos, quorum interest et intererit, quam etiam universos barones, iudices, milites et proceres amodo in posterum successivis semper temporibus universis inviolabiliter observentur et executioni debite demandentur. Quas et nos per omnia observare et immutabiliter observari debere statuimus variatione sine omni; quodque ultra hec premissa ad dictorum regnicolarum nostrorum instantiam eis nunc ex novo annuimus et declaramus:

I. Ut nullus virorum nobilium regni huius possessiones habentium vel non habentium decimas dare teneatur, prout etiam itidem in decreto supranorninati Alberti regis perhibetur contineri, sed quilibet talium nobilium, dum eis per maiestatem regiam precipitur, contra emulos huius regni dimicando huiusmodi decimarum debita sanguinis sui effusione et virili defensione recompensare teneatur.

II. Statuimus preterea et presenti decreto stabilimus, ut si aliquem ex baronibus aut nobilibus huius regni nostri Hungarie possessiones et bona aliorum baronum seu nobilium aut etiam ecclesiarum pro pignore vel qualitercunque occupata detinentem et possidentem temporis per successum infidelitatis notam contra coronam eiusdem regni incurrere contigerit, extunc illi, quos perpetuitas huiusmodi possessionum et bonorum inpignoratorum vel ocupatorum concernit, fideles existendo propter delictum eiusdem infidelis huiusmodi iure perpetuitatis eorum non priventur, sed semper talismodi ius perpetuitatis ipsorum salvum permaneat, idemque, dum eis placuerit, prosequi

valeant atque possint, consuetudine horum in contrarium hucusque tempta non obstante; quam scilicet et singula preteritis hactenus temporibus secundum eandem consuetudinem et in premissorum contrarium acta, facta iudicataque atque gesta revocamus et revocata esse committimus per hec scripta.

III. Ceterum decernimus, ut dum et quocumque per affutura tempora aliquem rusticum seu jobagionem baronis vel nobilis cum presbitero seu clerico quocumque rixare vel contendere, aut inter eos vituperia et minas simpliciter vel etiam subsecutis verberibus in thabernis vel aliis locis suspectis sive dampnorum illatione[s] vel in factis profanis suboriri contigerit, extunc talis presb[iter] vel cl[ericu]s [rusticum] seu jobagionem in sedem spiritualem non aliter, nisi prius petita [iustitia] a domino talis rustici citare et in causam convenire possit; sed petita prius iustitia huiusmodi, si tandem de iudicio domini eiusdem rustici contentari noluerit, vel si ipse dominus talis rustici sibi iustitiam facere recusaverit, ipsum rusticum in presentiam episcopi vel vicarii dyocesiani liberam citandi habeat facultatem.

IV. Postremo per nos ac universitatem pretactorum regnicolarum nostrorum conclusum vetusta consuetudine exigente declaramus, ut nullus omnino hominum indigenarum vel forensium cuius[cumque] nationis et conditionis existat], sine licentia nostra aut successorum nostrorum regum Hungarie aliquas bullas vel scripta papales vel concilii aut delegatorum ab eis sive factum beneficiorum, sive penarum aut litium quarumcunque exprimant, ad hoc regnum nostrum et intra eius limites inportare aut se de quocumque beneficio vigore earundem intromittere vel etiam quemcunque regnicolarum nostrorum citare seu extra regnum in causam atrahere presumat. Si quis autem huiusmodi bullas vel rescripta inportaverit vel inportatas executioni nobis inconsultis demandare presu[m]pserit, su]perinde observata puniatur. Illud tamen quibuslibet indulgemus, ut in lite seu causa quacunque forum spirituale concernenti in hoc regno nostro et in presentia iudicum ordinariorum eiusdem mota et ventillata, finita huiusmodi lite seu causa liberam ad curiam apostolicam vel concillium appellandi habeant facultatem.

Ut autem premissarum constitutionum et confirmationis series robur obtineat perpetue firmitatis, presentes concessimus litteras nostras privilegiales. In cuius rei memoriam firmitatemque perpetuam presentes concessimus litteras sigilli nostri, [quo ut rex Hungarie] utimur, appensione munitas. Datum in Albaregali in festo beati Elie prophete, anno domini millesimo quadringentesimo quadagesimo.

JULY 20, 1440

Wladislas, by the grace of God king of Hungary, Poland, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, Bulgaria, etc., grand prince of Lithuania and heir of Russia,¹ for the perpetual memory of this matter. Since it is our wish to preside happily over and to bring healthy prosperity to all our subjects with God's guidance, although, because of the intrinsic majesty of our lordship, we had no need to strive for the heights of rulership offered from without since our hands enclosed and ruled dominions far and wide, bestowed by the Maker of all; nonetheless, having been recently called by a command from on high, so we trust, to the governance of this kingdom which has been worn down by attacks of enemies on all sides, we have decided and chosen as our first and foremost task to exert ourselves for the advantage of our subjects and for conditions equally favorable to all of them, by which both their desires would be more fully satisfied and future benefits would accrue more fruitfully, so that, in that fashion, the benevolence of our care would be more apparent there where the strong desire for us and the great zeal exerted for our invitation obligates us as if we were indebted, desiring. . .² to eliminate thoroughly conflicts among the subjects, to foster justice, and to restrain the unbridled license of lawless men by readily available remedy. Recently, after the death of the former most serene prince lord Albert, king of the Romans and of Hungary etc.,³ when we had been first invited and then by many entreaties convinced to undertake the governance of this kingdom, because necessity implored it from a neighbor of this kingdom troubled by enemies on all sides,⁴ we were brought with great urgency

¹ Wladislas (Władisław III of Poland, called Jagiełłończyk) succeeded his father, Władisław II Jagiełło (Jogaila), king of Poland, formerly grand prince of Lithuania, in 1434; his title as “heir of Russia” rested on the Lithuanian rulers’ claim to western Russian territories. The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, “Lists in the service of legitimation in Central European sources ,’ in Lucie Doležalova ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² Some 15 letters are missing. (There are several gaps in the text which the editors have filled in if the context allowed unequivocal emendation. We have not noted every lacuna.)

³ King Albert died in an epidemic that broke out in the camp while planning a campaign against the Ottomans, on his way to Vienna on 27 October 1439.

⁴ With the fall of Serbia (its last major fortress, Smederevo, capitulated on 18 August 1439) the Ottoman Empire reached the southern Hungarian border virtually along its entire length. In the spring and summer of 1440, Sultan Murad besieged Belgrade, the linchpin of the Hungarian defense system, for many months. The Ottoman threat was the main reason that a major part of great lords and nobles looked for a king who could defend the country. Albert’s widow, Elizabeth, was still pregnant when a delegation of the Hungarian estates, consisting of five barons, was sent to Poland in January 1440, to invite King Wladislas III to the throne, then considered vacant. Having won him for the plan, the delegates, in the name of the estates, elected him king of Hungary in Cracow on 8 March. It is worth noting that he was the first king of Hungary who was in no way related to any of his predecessors. Though his father, Wladislas, in 1386 had married Hedwig/Jadwiga (d. 1399), the younger daughter of King Louis I of Hungary, Wladislas III himself was born in 1424 from the fifth marriage of the king with Zofia (Sonka) Holczańska.

by the effective summons and election of the lord prelates and barons, counts, knights, lords, and nobles of this kingdom assembled to provide for the urgent protection of a new king. However, because meanwhile that crown, with which the kings of Hungary have been accustomed to be crowned previously, was secretly taken from the castle of Visegrád by the lady Queen Elizabeth, widow of the said former King Albert, owing to the very careless watch on it,⁵ nonetheless, now the prelates, barons, counts, knights, lords, and nobles of the kingdom, having been assembled in our presence in greater numbers than the memory of men records for the coronation of any previous king, stated again that they could not be suitable guardians if they lacked auspicious rule and approved anew and confirmed unanimously our aforesaid election and consequently⁶. . . with another crown, equally precious and of equally remarkable work, of the most blessed King Stephen, apostle and patron of this kingdom, preserved with great veneration on the reliquary of his head, have caused us to be solemnly crowned and to be honored with that sacred diadem, while transferring all the force and all the efficacy of the previous crown to this new one as a substitute—and if that cannot be recovered, in perpetuity⁷—and committing to us in a decree complete royal power and the means to govern the polity. When these things had been done felicitously in the name of God, the community of our kingdom held extensive common discussions among themselves and requested us to provide for them a general decision by which harmful things can be altered, useful features preserved, and unlawfully committed deeds corrected. Then they have shown and offered to our highness a certain booklet;⁸ they had, as they said, diligently chewed over the text of this which contained certain articles of the constitutions

⁵ The queen's lady-in-waiting, Helene Kottaner, managed to get hold of the crown, smuggled it out of its custody in the castle Visegrád in February 1440 (see *Die Denkwürdigkeiten der Helene Kottanerin*, Karl Mollay, ed. [Wien: Bundesverlag, 1971]; Engl. transl.: Maya B. Williamson, *The Memoirs of Helene Kottaner* [Woodbridge, 1998]) and delivered it to Queen Elizabeth in Komarno, where Ladislav (Posthumus) was born on 22 February 1440.

⁶ Some 28 letters missing or illegible.

⁷ See the charter of 17 July 1440 in Bak, *Königtum*, pp. 141–43. It is noteworthy that in spite of the sophisticated legal construct of the diet, based on the late Roman or Byzantine notion of the *lex regia* about the ultimate right of the *populus* to transfer power to the prince (see Walter Ullmann, *Law and Politics in the Middle Ages* [Ithaca, NY: Cornell Univ. Press, 1975], p. 56f.), the estates chose a diadem symbolically connected to the founding holy king of the country. (On crowns placed on head-reliquaries of saintly kings, such as Emperor Frederick II's or the Czech "Crown of St. Wenceslas," see Bak, *Königtum*, n. 37, p. 105–06 with literature. On the Székesfehérvár reliquary crown, which played a role in an earlier interregnum, see **1386**.) Much was made of this declaration of "popular sovereignty" (e.g., by Deér, pp. 244 ff.; cf. Bak, *Königtum*, p. 44), but in fact it was, as Deér correctly formulated it, nothing but "an emergency solution." It should also be noted that the construct did not stand up against political realities and symbolical tradition: after the death of Wladislav, when Ladislav V (Posthumus) came of age, the estates tacitly recognized his coronation and annulled the acts of Wladislav (see **1453**).

⁸ This *libellus* may have been an older collection of laws, or was compiled for this occasion from different sources, including a formulary (see **Compilatio ante 1440**). The selection of the texts was certainly well considered, for it contained long forgotten texts that favored the position of lesser nobles.

and dispositions from charters of the former king Andrew, son of King Béla III,⁹ and of Louis,¹⁰ our predecessors as lord kings of Hungary, also extracts and excerpts from certain other charters of former prelates, ecclesiastics, and nobles of the kingdom originating from the time of the coronation of the former other Andrew, called the Venetian.¹¹ They begged our eminence unanimously and humbly that we deign to confirm by renewing the contents of these constitutions as they are comprised in this booklet or register, which seem to be useful for their good state and which could lead to their greater utility and that of the entire kingdom. And the content of this booklet and also of the abovementioned constitutions follows here and runs thus:

THE LIBERTIES AND CONSTITUTIONS OF THE KINGDOM OF HUNGARY TAKEN FROM THE CHARTERS OF KING ANDREW, SON OF KING BELA III: ¹²

THE CONSTITUTIONS MADE BY THE PRELATES AND BARONS AND NOBLES OF THE KINGDOM OF HUNGARY AT THE TIME OF THE CORONATION OF KING ANDREW, CALLED THE VENETIAN, FOLLOW IN THIS WAY:¹³

THERE FOLLOW NOW THE LIBERTIES AND ORDINANCES GIVEN AND CONCEDED TO THE KINGDOM OF HUNGARY BEYOND THOSE LIBERTIES WHICH THE FORMER LORD KING ANDREW, SON OF KING BELA III, GAVE AND CONCEDED TO THE AFORESAID KINGDOM, WHICH THE LORD KING LOUIS HIMSELF HAS CONFIRMED. THE TEXT OF THE SAID CONFIRMATION IN ALL THINGS BY KING LOUIS FOLLOWS IN THESE WORDS:¹⁴

We, therefore, strongly urged by the most humble and devoted pleas of the said community of our gentlemen of the realm, since from their manifest claims we recognized that the constitutions, liberties, and ordinances specified above founded by the provident disposition of the ancients are most likely to be able to contribute to the utility and good state of the same community, have freely acceded to their prayer and approve the said abovementioned constitutions, liberties, and ordinances with the purpose that they might enhance the well-being of the Christian commonwealth; we approve all their contents, clauses, articles, and especially the intention of the abovementioned King Louis inasmuch as we accept the articles changed and altered by him, and we ratify and confirm them as valid for this kingdom, as well as renew them in accordance with

⁹ That is, the Golden Bull of **1222**.

¹⁰ That is, the decree of **1351**.

¹¹ The description is erroneous: the decree was not Andrew III's coronation decree (**1290**) but one passed by a diet in **1298**, augmented by a number of legal norms which are now seen as having originated around 1400 (**Comp. ante 1440**).

¹² Here follows the copy of **1222:1–30**. The final clause on the right of resistance and the dating were omitted.

¹³ Complete copy of **1298** and—without any transition—of **Comp. ante 1440**, the origin of which seems not to have been known (cf. Szilágyi, p. 138).

¹⁴ Copy of **1351**, without preamble, transcript and concluding formulae of **1222**, containing all the additional articles **1351:1–25**.

our specific understanding of our royal majesty,¹⁵ by decreeing and committing through these presents that these constitutions, liberties, and ordinances must be inviolably observed and duly implemented by present and future prelates, whom it concerns and will concern, and also by all barons, judges, knights, and lords in posterity in all succeeding times forever. And we also decree that they be observed in all things just as we shall be required to observe them immutably without any change; in addition to the aforesaid we promise anew and declare at the request of our said gentlemen of the realm:

1. That no nobleman of this kingdom, whether holding estates or not, should be required to pay tithes, just as is also demonstrated to be contained in the decree of the above named King Albert,¹⁶ but any noble, when he is directed by the royal majesty, is required to pay the debts of such tithes by fighting against the enemies of this kingdom with the spilling of his blood and with manly defense.¹⁷

2. In addition, we order and establish by the present decree that if it happens that any baron or noble of our kingdom of Hungary, while holding the estates and goods of other barons or nobles or of churches in security or in any other way, should in the course of time be convicted of an act of infidelity against the crown of this kingdom, then those to whom the perpetual right of such mortgaged estates or pledged goods pertains should, if they are faithful subjects of ours, not be deprived by the crime of this traitor of their heritage, but such a right of perpetuity must always remain intact, and they should have the right and the means to enforce it, as long as it pleases them, notwithstanding that usage which has been recently introduced against these customs; for we revoke and order to be held revoked herewith that usage and all and every act that has been undertaken, judged, or performed in previous times according to that usage and in infringement of the above.¹⁸

¹⁵ *Ex certa nostre maiestatis scientia* is a recurrent phrase of royal charters, but its exact meaning is not clear. The translation we chose is probable, not certain, but renders the traditional sense of the words, which is something like “according to our understanding of our authority...” Zsuzsanna Teke’s interpretation in: *DRH*, p. xix, according to which this clause was to refer to the king’s special jurisdiction (*absoluta potestas*) does not explain its use here.

¹⁶ The exemption of nobles from paying the tithe was contained in a now lost edict of Sigismund of 23 June 1405, referred to in a charter of 1 August 1421, see *DRH*, pp. 216–17. In 1415, Pope John XXIII confirmed this exemption based on the service of the nobles “in the defense of the faith,” see Josephus Nicolaus Kovachich, *Monumenta veteris legislationis Hungaricae* (Claudiopolis: Collegium, 1815). 2:8–9.

¹⁷ The connection between the nobility’s exemption from the tithe and their military service was explicitly mentioned in a papal letter of 1415 (see n. 32 to **1439**); freedom from taxation also followed from the early medieval understanding of *servitium* and *libertas*; see Jenő Szűcs, “Az 1267. évi dekrétum es háttere” [The decree of 1267 and its background], in *Mályusz Elemér Emlékkönyv* [Festschrift Elemér Mályusz] Éva H. Balázs, Erik Fügedi, Ferenc Maksay eds., (Budapest: Akadémiai K., 1984), pp. 341–94, esp. p. 351; on the assumption that the nobles’ belonging to the kings’ *familia* was the basis of their judicial immunity and freedom from taxation.

¹⁸ The existence of such practice under Sigismund’s reign can indeed be documented.

3. We further decree that while and whenever in future it happens that any peasant or tenant of a baron or noble fights or brawls with any priest or cleric, or that there arise among themselves insults and threats or also subsequent brawls in taverns or other places of ill-repute or the inflicting of damages or profane deeds, the priest or cleric may not charge and summon the peasant or tenant to a spiritual court unless justice has first been sought from the lord of such a peasant, and not otherwise. But if justice was first sought in this way, if in the end he is not satisfied with the judgment of the lord of that peasant, or if the lord of such a peasant declines to render justice to him, then he should be free to summon that peasant into the presence of the bishop or the vicar of the diocese.¹⁹

4. Finally we declare, on the decision of ours and the community of our said gentlemen of the realm, in conformity with ancient custom, that no man, native or foreign of whatever nation or condition he may be, may presume without our license or that of our successors as kings of Hungary to bring into our kingdom or within its borders any bulls or letters issued by popes, councils, or their delegates regarding benefices, penalties, or cases of any kind or to interfere with any prebend on their authority or to summon any one of our people²⁰ or to prosecute him in a case outside the kingdom. If anyone brings in bulls or rescripts of this kind or presumes to recommend their importation for implementation without consulting us, let him be punished for what he has done. However, we grant this indulgence to anyone that in any trial or case in our realm pertaining to a court spiritual, and moved and argued in the presence of a justice ordinary, when a trial or case of this sort has been concluded he may have leave to appeal to the apostolic court or to the council.²¹

In order that the contents of the preceding constitutions and confirmations may hold the force of perpetual validity, we have granted these presents. For the memory of which and for its perpetual validity, we concede that these presents be fortified by appending our seal which we use as king of Hungary. Given in Székesfehérvár on the feast of the blessed prophet Elijah, in the year of the Lord one thousand, four hundred and forty.²²

¹⁹ This article extends the general rule of *res sequitur reum* to a special case which previously seems to have been handled differently. This article grants the right to seigneurial courts to prosecute in the first instance injury-trials which were earlier handled immediately by courts spiritual. It can be seen as an advance for the secular landlords.

²⁰ The measure seems to apply to all subjects, hence it appeared better to translate *regnicolae* here as “people” and not, as usual, as “gentlemen of the realm,” that is, the political nation of enfranchised nobles.

²¹ Cf. **8 April 1404/I**.

²² The only surviving copy lacks the usual eschatocol, although the elaborate *arenga* would suggest that originally a full-dress privilege was issued.

**LAW OF KING WLADISLAS I OF HUNGARY (1440-44)
OF 1443 (MARCH OR APRIL)**

According to Elemér Mályusz in “A magyar rendi állam Hunyadi korában” [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957) p. 83, the assembly, in which this decree was issued, must have taken place in the first days of April or, according to Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akadémiai, 1978) [=DRH], p. 318, n. 1, at the end of March. It cannot be considered a diet, for no delegates of the counties seem to have been present. In the face of imminent Ottoman threats, the king called together his leading generals, his council and some major lords in order to prepare a campaign, the so-called long campaign, deep into the Balkans. Its legal significance is above all the introduction of “terminal summons” (*evocatio cum insinuatione*), a procedure modeled after similar canonical legal practice, which was to enhance the swift administration of justice against widespread violence in the country.

MS.: Contemporary copy on paper, damaged and faulty; MNL OL DL. 80798.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

ED.: DRH, pp. 317–23.

LIT.: Elemér Mályusz, “A magyar rendi állam Hunyadi korában” pp. 46-123, 529-602, here pp. 83–84, 100–12.

Wladislaus dei gratia Hungarie, Polonie, Dalmatie, Cruatie etc. rex, Lythwanieque princeps supremus et heres Russie ad futuram memoriam. Cum a primevo ingressu nostro in hoc regnum avidi semper et sumpme diligentes fuerimus ad ea exercenda precipue, per que attriti regni eiusdem incomoda potuissent competentius celeriusque submoveri, preter multos in id factum quesitos attemptatosque modos novissime vocatis ad hunc locum in presentiam nostram magnificis fidelibus nostris Nicolao de Wylak et Johanne de Hunyad, partium nostrarum wayvadis Transsilwanarum, festinam pro eorundem adventu prelato-rum et baronum, millitum ac procerum regni huius convocationem fieri iussimus eo animo eoque propensito, ut adhibenda eiusdem regni necessitatibus opportuna proviso ampliori deinceps mora et negligentia non traheretur, sed ut de prefatorum wayvadarum nostrorum consilio, communi tandem omnium aliorum baronum nostrorum et procerum pretactorum deliberatione subsequente concluderetur tempestius, quomodo, quo denique ordine horrenda regni huius, tum ex paganorum, tum christianorum insultantium parte hactenus perlata turbatio reici fugarique posset atque tolli. Ob quam rem venientibus iuxta vocationem nostram pretactam diebus hiis in hunc locum memoratis wayvadis nostris concurrentibusque nichilominus ad istam previa ratione promulgatam congregationem multis aliis baronibus, spiritualibus et secularibus, sed et pluribus militibus et proceribus huius regni nostri, copiosos ad rem pretactam cum eisderum tractatus transsegimus, finaliterque in nomine domini, cuius nutu reguntur universa et diriguntur, ad certas regno eidem nostro et eorundem iudicio utiles conclusiones devenimus, quarum ordo et tenor sequitur in hunc modum:

I. Primo et principaliter, ut in estate proxime affutura pro regni huius defensione et reparando statu notabilis armorum exercitus instauretur, pro eiusque institutione et instauratione opportuna per totum regnum nostrum generaliter pecunialis contributio fieri debeat sub modis et ordine ac conditionibus et penis, qui seu que in aliis litteris nostris ad singulos comitatus regni nostri transmissis distincte notificatae sunt et expressate.

II Sed ut tam in huiusmodi exercituali progressu, quam in aliis agendis sive contra emulos paganos, sive alios quoscunque nocivos regni hostes et oppressores instaurandis eo liberius quietiusque et diligentius procedatur, quo citius a singulorum cordibus alterni odii et oppressionis seu dampnificationis materia secludatur, conclusum est, et determinatum, ut quicumque inter nostros fideles hiis disturbiorum temporibus sua propria presumptione, demptis donationibus per infidelitatis notam factis, alterius fidelis nostri bona occupavit et illicite detinet, talis coram testimonio capituli vel conventus, ut hactenus moris fuit, per litteras nostras regias ad instantiam querulantium modo premissis et dampnificationum emanandas quanto citius ammonetur, ut hinc ad infra quindecimum diem festi beati Georgii martiris proxime affuturi singula huiusmodi bona modo, quo pretangitur, usurpata illis, a quibus illicite ac propria auctoritate occupata sunt, restituere et remittere teneatur dilatione et difficultate sine omni quatenus in progressu exercitus prenotati, ubi pro defensione fidei expediendaque de inimicis crucis Christi ultione sincere fidelium certabit devotio, nullus talis appareat, qui suis notoriis criminibus, ab omnipotenti deo oppressorum contra se precibus provocato iram potius, quam adiutorium mereatur. Qui si fecerit, bene quidem, alioquin quilibet talis alienorum bonorum occupator ad instantiam huiusmodi oppressi vel oppressorum presenti insinuatione vim evocationis peremptorie ex nunc prout ex tunc

obtinente hic Bude coram iudicibus deputandis octavo die festi Penthecostes proxime affuturi per se vel procuratorem tanquam legitime et peremptorie, ut pretangitur, evocatus absque spe ulterioris termini obtinendi comparere teneatur rationem detentionis huiusmodi occupatorum bonorum redditurus efficacem. Quo quidem adveniente termino, ipsisque partibus iuxta formam premissorum comparentibus, si ex efficacibus documentis ibidem iudicialiter compertum fuerit ipsum, qui ratione occupationis quorumcunque bonorum accusatus fuerit, ad eadem bona, que detinet, efficax ius habuisse et habere liciteque eadem per ipsum detineri, extunc talis in iure suo illese relinquatur. Ubi autem illicite occupasse et detinere compertus fuerit et ammonitus modo premissis ipsa restituere noluerit, extunc mox sine omni ampliori exceptione aut dilatione sententie capitali, pene facti potentialis subiciatur et ipsorum bonorum detentorum possessione privetur indilate, bonaque ipsa illi, ad quem pertinent, adiudicentur sententialiter et restituantur. Nec autem in premissis casu cuiuspiam dictarum partium amplior ad comparendum et respondendum terminus assignari valeat; quin ymo communi deliberatione statutum est, ut prefatus terminus nec per ingressum in exercitum et neque quocunque alio modo aut--- prolongari valeat, sed quod in absentia alicuius dictarum partium non venientis ad partis comparentis instantiam iudex prefatus dispositionem et determinationem prefatam nichilominus prosequatur, effectus sententieque modo premissis late et diffinitis extiterunt, illi duo capitanei nostri, qui pro defensione eius partis regni nostri, ex qua antefata lis orta fuerit, subscripto ordine deputabuntur ---- reum et condemnatum in premissis iuxta reuisionem antelati iudicis facere debeant omni favore procul moto.

III. Quia autem usque ad hoc tempus maxima causa huiusmodi oppressionum et occupationis bonorum alienorum ex eo accidisse creditur, quod littere et mandata nostra regia, que ex iusta causa vel ad instantiam aliquorum vel querimoniam iuridice actenus exire et emanare contingit, per aliquot barones, dignitarios et officiales nostros regales, seu ipsorum vicesgerentes plerumque levipense et inexecuta manserunt, idcirco prefatorum prelatorum, baronum, militum et procerum regni nostri nunc in antefata congregatione existentium communi deliberatione et ordinatione commissum est et statutum, ut hinc in posterum quilibet regnicolarum nostrorum, cuiuscunque dignitatis aut conditionis existat, litteras et mandata nostra regia, dummodo ex iusta causa et iuridice exeant et emanent, prout aliorum regum predecessorum nostrorum temporibus solitum fuit, sine omni repugnantia sub pena infrascripta observare et exequi toto posse teneatur. Quicumque autem id facere contempnerent, nisi celeriter per nuncium fidedignum aut litteras efficaces se super non observatione huiusmodi mandatorum in presentia nostra ac prelatorum et baronum nostrorum apud nos pro tempore presentium se excuset, si fuerit simplex nobilis aut vicesgerens baronis aut dignitarii, seu comitis alicuius, possessiones seu bona ac res eiusdem mox ad mandatum nostrum occupentur, de eisdemque domini ipsorum lesis et iniuratis, si ad quantitatem dampnorum se extenderint, digne satisfactionis dupplum impendant, cuius una pars in sortem dampnorum, altera vero pro iniuriis illatis cedat. Si vero possessiones eiusdem rei ad valorem dampnorum prefactorum se non extenderint, tunc eiusdem rei persona ad manus iniuriati et dampnificati assignetur. Vel ubi autem idem dominus suus, cuius scilicet familiaris ipse reus extiterit, id facere non valeret aut ob favorem eiusdem recusaret, extunc statim excuset se efficaciter per suas litteras, quod huiusmodi dampnificatio non fuit cum voluntate sua, coopereturque omni posse pro persone talis dampnificatis et dampnatis reis condemnatoris

detentione, ac quod amplius talem nocivum hominem et sub suo nomine et in eius familiaritate non conservet; ab honoreque seu officiolatu suo in continenti per dominum suum deponatur, licet ad talem honorem sine gratia nostra de cetero venire deputatis valeat.

IV. Si vero prelatus aliquis aut baro sive dignitarius aut comes seu alter officialis regalis mandatorum nostrorum notorius contemper aut transgressor extiterit, extunc super eo nicholominus, sicuti habuimus et habemus, ita efficacius ex deliberatione prefata de cetero habeamus potestatem eundemque a sua dignitate vel baronia, honore seu officiolatu sine omni eiusdem contradictione amovere, stetque in arbitrio et voluntate nostra, quo ordine eum coripere volumus et punire.

V. Preterea ut eo citius cuiuslibet oppressionis et dampnificationis inter subditos nostros occasio adimatur, conclusum est et determinatum, quod omnia fortalitia ----atum, munitiones ecclesiarum seu monasteriorum aut aliorum locorum quorumcunque, que sub nostra obedientia hiis disturbiorum temporibus absque utilitate et defensione regni aut necessitate notabili regnicolarum nostrorum erecta facteque et constructe sunt, de quibus inter fideles nostros spolia, dampna seu nocumenta committuntur, et que tantas pertinentias aut proventus consuetos, ut de eisdem tueri possent, non habentes de bonis aliorum regnicolarum nostrorum conservantur, hinc infra quindecimum diem festi beati Georgii martiris proxime affuturi deleantur et distrahantur, possessionesque talium huiusmodi spolia de ispo fortalitia committentium pro nostra maiestate per banum aut comitem seu capitaneum occupentur, quibus occupatis prius lesis et dampnificatis in eisdem possessionibus satisfactione inpensa, relique ad nostrum mandatum conserventur.

VI. Item quod partes illas, puta versus Cassouienses, Sczepusienses, Zolienses, Trinchinienses, Zaladienses et Castriferrei, in quibus videlicet certorum forensium insultus pullulat, confestim per opportunos modos mittantur et preficiantur duo et duo capitanei cum dispositione decreti, qui ab ipsorum insultantium hostium infestationibus regnicolas nostros in partibus illis, ad quas singuli eorum missi fuerint, toto posse liberare defensareque tenantur, ac etiam inter regnicolas nostros alterna spolia mutuasque dampnificationes agere non permittant, ymo lesis et dampnificatis iustitiam et satisfactionem durante ipsorum officio facere studiosius curent, sententiasque et mandata nostra regalia seu iudicum per nos previa ratione deputandorum fideliter et sine favore aut odio quorumcunque observari compellant et suo modo exequantur. In casu autem, quod ipsi capitanei nostri ad hec omnia facienda vel aliqua gravamina ex eis peragenda potentes cum suis armatis gentibus aut sufficientes non essent, extunc nos ac subscripti prefati barones, milites et proceres seu hii, quos ex eisdem ipsi requisierint, ipsos sine dilatione, totiens quotiens necessarium fuerit, adiuvare, singuli etiam regnicole nostri sub ipsorum capitaneatu existentes in eorum succursum mox, postquam hoc commiserint, insurgere sub pena occupationis possessionum ipsorum debeant et teneantur.

VII. Item quod iidem capitanei de cetero super bonis nostrorum fideleium per quempiam census vulgo hold inponere aut inpositos exigere non permittant, quodque de illis dampnis et iniuriis, quos et que regnicole nostri, partem scilicet nostram facientes sibi ipsis mutuo inter se hucusque intulerint irrogaverintque et fecerint, eisdem, quibus huiusmodi dampnificationes et iniurie illate

existunt, libera plenaque iuxta consuetudinem huius regni iuridice requirendi concedatur et remaneat facultas et iustitia ex parte talium damnatorum cuiusmodi non denegetur.

VIII. Insuper ex quo nos unicuique regnicolarum nostrorum, quantum in nobis fuerit, suum ius ministrare et illesum relinquere parati sumus, propterea ut et nos iuribus nostris regalibus ex parte ipsorum regnicolarum nostrorum fraudari non videamur, conclusum est et determinatu--

1443 (MARCH OR APRIL)

Wladislas by the grace of God king of Hungary, Poland, Dalmatia, Croatia, etc., grand prince of Lithuania, and heir of Russia,¹ for future memory. Because ever since our first entry into this kingdom we have always been most eager and diligent in pursuing, in particular, those things by which the troubles of this weakened kingdom could be more suitably and more quickly removed, after having attempted several measures, consequently, having first summoned just recently our distinguished loyal subjects Nicholas of Ujlak/Ilok and John Hunyadi, voivodes of our Transylvanian regions,² to this place into our presence, we have ordered that an urgent assembly be held on the occasion of their arrival by the prelates and barons, knights, and lords of this kingdom with that thought and intention in mind that proper provision for the necessities of this kingdom should not be retarded by further delay and negligence, but that we should decide swiftly with the counsel of our aforementioned voivodes and then with the subsequent deliberation of all our other said barons and lords in what way and in which order the terrible disturbances of this kingdom from the attacks of both pagans and Christians hitherto endured should be resisted, held off, and stopped. For this reason after our said voivodes have come according to our said summons at this time to this place and when many other barons, spiritual and secular, as well as many knights and lords of our kingdom have come together to an assembly proclaimed for the above reason,³ we accomplished much in treating of the said business with them, and finally in the name of the Lord, by whose will all things are ruled and governed, we arrived at certain decisions useful in our judgment and theirs for that kingdom of ours, the order and content of which follow in this manner:

1. First and principally, that in the coming summer for the defense and recovery of the state of this kingdom a great military army must be established, and for its proper institution and establishment a financial contribution must be levied generally throughout our whole kingdom in the form and

¹ Wladislas (Władisław III of Poland, called Jagiełłończyk) succeeded his father, Władisław II Jagiełło (Jogaila), king of Poland, formerly grand prince of Lithuania, in 1434; his title as “heir of Russia” rested on the Lithuanian rulers’ claim to western Russian territories. The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, “Lists in the service of legitimation in Central European Sources” in Lucie Doležalova ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² Nicholas of Újlak, (alias of Galgóc, son of ban Ladislas, d. 1477), ban of Mačva 1438–72, voivode of Transylvania 1441–65, king of Bosnia 1471–77, and János Hunyadi (d. 1456), ban of Severin 1439–46, voivode of Transylvania 1441–46, governor of Hungary 1446–52, count of Beszterce, captain general 1453–6, were the mightiest magnates of Hungary in their time. Besides the voivodate of Transylvania which was their most important office after 1441, they held jointly a number of other honors including all the frontier castles from Severin to Belgrade, and were thus responsible for the defense of the kingdom along its entire southeastern border.

³ Mályusz (p. 83) has demonstrated that this was not a diet proper, for the lesser nobles did not attend.

order and under the conditions and penalties which have been clearly promulgated and described in our other letters sent to all the counties of our kingdom.⁴

2. But in order that both the campaign of this army and other actions against pagan enemies or any other vicious fiends and other oppressors of the kingdom might be done more boldly, smoothly, and efficiently, so as to eliminate more quickly reasons for mutual hatred, oppression, and harm from the hearts of all men, it has been concluded and determined that any one of our loyal subjects who in these times of troubles by his own audacity has occupied and illegally keeps the goods of another loyal subject of ours, with the exception of grants made on the basis of high treason, must be warned as soon as possible with the testimony of a chapter or convent, as has been the usual custom, by means of our royal charters to be issued upon the request of those complaining and who suffered damage in the said manner, from now until the fifteenth day of the next feast of Saint George the Martyr,⁵ that he is required to restore and to return without any delay or hindrance all the goods wrongfully acquired in the abovementioned way to those from whom they were taken illegally, while acting solely on his own authority. Moreover, where the devoted faithful will fight sincerely to defend the faith and to exact vengeance from the enemies of the cross of Christ, no such man may take part in the campaign of the said army, who by his notorious crimes would more deserve anger than help from almighty God moved by the prayers of the oppressed against him.⁶ If he does make restitution, all is well; otherwise any such usurper of the goody of others is required, in accord with the present notice by a terminal summons,⁷ on the complaint, new or outstanding, of the oppressed person or persons to appear, in person or through an advocate without the hope of obtaining a further term on the eighth day of the next feast of Pentecost⁸ here at Buda in front of judges to be appointed, in order to render an acceptable reason for holding the usurped goods. If the man accused of usurping properties, when the term opens and the parties appear according to the said form, is found from proper records by law to have and to have had, proper rights to those properties which he holds and that they are legally held by him, then such a man

⁴ One of these letters, sent to the county of Közép Szolnok, has survived, unfortunately mutilated like the copy of the decree and therefore also having no date (see *DRH*, p. 318, n. 1). However, on 11 April 1443, the king issued an additional order, raising the demanded contribution to one gold florin (MNL OL DI. 65057). The tax seems to have been collected, as we have records about parts of it being handed over as *dispositio* (stipend for soldiers) to Hunyadi and Újlaki (Mályusz, p. 111).

⁵ May 8.

⁶ Note the implication that victory is seen as granted by God to the righteous, hence the sinful would endanger the success of the campaign; the idea behind this is may be the equation of war and battle with ordeal, a common idea in the Middle Ages. It may also be derived from the concept that a *bellum iustum* may not be successfully waged by the impious, which may go back through St. Augustine to Roman reflections on civil wars during the first century B.C.; for some apposite comment, see Paul Jal, *La guerre civile a Rome* (Paris: Presses universitaires de France, 1963), pp. 473–88.

⁷ This seems to be the first known instance of such a summons, which came to be known *citatio cum insinuatione*—which we translate as “terminal summons”—meaning that after this summons the case would be adjudicated whether the party appeared or not. The deadline here would have been 17 June.

⁸ 16 June.

should be left unmolested in his right. However, if he is found to have usurped and holds something illegally and after being warned in the said manner is unwilling to restore it, then at once without any further excuse or delay he Will be subject to capital punishment, the penalty for an act of act of might, and will be deprived at once of the continued possession of the properties usurped, and the properties themselves will be adjudicated at law and restored to whomever they belong. In the aforesaid case none of the said parties should be granted a further term for appearing and answering; and, furthermore, it has been decided by common deliberation that the said term cannot be prorogued by joining the army or by any ether means . . .,⁹ but in the absence of any on the request of the party present, the said judge must make the said decision and disposition. Once a sentence has been given and pronounced in the said way, then those two captains of ours, who are responsible for the defense of that part of our kingdom in which the preceding case arose, will be appointed by the following procedure,¹⁰ in order to enforce the culprit and the condemned in the foregoing according to the requirement of the said judge unmoved by any favor.¹¹

3. Since hitherto the most important cases of oppression and usurpation of properties of others seem to have happened because our royal letters and mandates, which until now were issued and sent out by law for a just reason or at the instance or complaint of someone, have been taken lightly or remained unexecuted by certain barons, dignitaries, and royal officials of ours, or by their deputies, therefore it has been decreed and ordered by common deliberation and decision of the said prelates, barons, knights, and lords of our kingdom now gathered in the above mentioned assembly that from now on into the future anyone of our gentlemen of the realm, of whatever dignity and condition he may be, should be required to observe and to follow with all his ability without any reluctance, under the penalties written below, our royal letters and mandates, insofar as they are issued and sent out for just reasons and by law, just as was customary in the times of the other kings, our predecessors. Any man who is found to be in contempt of this, be he a simple noble or a deputy of a baron or office-holder of any *ispán*, his estates or properties and possessions should be occupied on our order, and from these their lords¹² should pay double the proper amount

⁹ Lacuna of some 10 letters.

¹⁰ In the same way as Hunyadi and his colleague Nicholas of Újlak were responsible for the defense of the south (see above, note 2), other parts of the kingdom were committed to other persons who in the 1430s began to be titled “captains” or “captains-general” (*capitaneus generalis*). The title *capitaneus* has been used for the commanders of the most important royal castles. The new captains-general held their office in pairs (cf. below, art. 6) and were invested with exceptional authority, including the appointment of the *ispáns* in the counties of their areas.

¹¹ Lacuna of some 20 letters; another lacuna at the end of the same sentence (of some 8 to 10 letters) does not seem to distort the meaning.

¹² This is a rare occasion when the dependence of noblemen on their more powerful fellows is being legally admitted. In fact, a great number of noblemen with limited means joined (or, occasionally were forced into) the service of barons or large landowners. They did not lose their noble privileges and were subject to their *seniores* only in matters of service. This kind of *familiaritas* was, however, also a road to social mobility. *Familiares* (noble retainers) often followed their seniors into higher offices as their deputies. The laws refer to it very rarely, as in principle all noblemen were equally privileged and free (see **1351:11**), but it can be inferred. The institution resembled West European vassalage, but was less formalized (often signaled by

of compensation for damages and injuries if they suffice for the amount of losses, and one part should go to the share of the damaged party and the other for the injuries sustained, unless he quickly excuses himself by a suitable messenger or the proper letter regarding his contempt of such an order of ours in our presence and in that of our prelates and barons who accompany us at that time. If, however, his estates do not cover the value of the aforementioned losses, then his person must be given over into the hands of those injured and robbed. If, however, his lord, namely whose retainer the accused is, is not able to do this or refuses for favor of him, then at once he must properly excuse himself through his letter, stating that the loss caused was not at his will and he will do his best to arrest the person of such an evildoer who scorns the one who suffered the loss, and that he would not keep any longer such a harmful man under his name and in his retinue; and he should be immediately deposed from his honor or office that he holds, by his lord, even if he would be eligible to receive such an honor without our grace.¹³

4. If any prelate, baron, dignitary, *ispán*, or other royal official happens to be notoriously in contempt or in transgression of our orders, then, regarding this person, just as we used to have and still have, the more effectively we should now have, based on the above deliberation, the power to remove this man from his dignity or barony or honor without any objection from him, and it should be according to our judgment and will in what way we wish to seize and punish him.

5. Furthermore, in order that the cause of any oppression or damage among our subjects might be more quickly removed, it has been agreed to and decided: that all fortifications...¹⁴ defenses of churches and monasteries or of any other places under our obedience which were built, made, and constructed in these times of troubles and do not serve the defense of the kingdom or important needs of our people, or which, lacking such appurtenances or regular revenues from which they can be kept, are maintained from the properties of other subjects of ours, must be destroyed and demolished between now and the fifteenth day of the next feast of St. George the martyr,¹⁵ and the estates of those who committed the said plunderings from these fortifications ought to be seized for our majesty by a ban or *ispán* or captain, and after these properties have first been seized and compensation has been made for damages and losses on the estates of others, the remainder must be kept for our disposal.

6. Then, that two captains each should be sent and placed in charge by suitable means ordered by a decree immediately to those regions, namely to those of Košice, Špis, Zvolen, Trenčín, Zala, and Vas, in which the attacks of certain foreigners are increasing. They will be required to free and to

only a handshake in the castle gateway), less mutual, and rarely passed onto descendants. See: Erik Fügedi, *The Elefánthy. The Hungarian Nobleman and His Kindred* (Budapest: CEU Press, 1998) pp. 137–40; Martyn Rady *Nobility, Land and Service in Medieval Hungary* (Houndmill, Basingstoke: Palgrave, 2000), pp. 110–31, and János M. Bak, “Feudalism in Hungary?” in: *Feudalism: New Landscapes of Debate*. Sverre Bagge, Michael H. Gelting, Thomas Lindkvist, eds. (Turnhout: Brepols, 2011) pp. 203–17.

¹³ The text is corrupt and partly illegible.

¹⁴ Lacuna of about 5 letters.

¹⁵ 8 May.

defend with all their might our gentlemen of realm against the insults of the attacks of those enemies in those regions to which each of them was sent, and that they shall not permit further plundering and mutual harm to be done among our gentlemen of realm, but rather that they should take care zealously to render justice and compensation for damages and losses during their term of office, and that they should compel the observance and the fulfillment in the prescribed way of the sentences and orders of our royal selves or of judges to be appointed by us on the above grounds faithfully and without favor or hatred of anyone.¹⁶ However, in case our captains are not powerful enough or have sufficient armed men to do all these things or to rectify other complaints rising from these, then they can ask us and the said barons, knights, and lords undersigned,¹⁷ and then we and the said barons, knights, and lords written below or those whom they would ask among them must and are required to assist without delay, as often as is necessary, as well as all our gentlemen of the realm living under their captaincy after they have been asked, under the penalty of the confiscation of their estates.

7. Then, that these captains must not permit any man to impose or to demand in the future the rents commonly called *hold*¹⁸ on the properties of our loyal subjects, and those who suffer such damages and wrongs, should be granted free and full faculty and the right to proceed legally according to the custom of this kingdom against those who cause, conjure up or do such damages and wrongs among our gentlemen of realm, namely those belonging to our party, mutually among themselves, and justice against such evil-doers must not be denied to any man.

8. Furthermore, just as we are prepared to administer his own law to every one of our gentlemen of realm as far as it is up to us and to leave him unmolested, therefore, so that we ourselves should

¹⁶ The fighting to which reference is made here was the civil war between the followers of King Wladislas and the infant King Ladislas V. The war broke out in summer 1440 and lasted, with interruptions, until after Wladislas' death in 1444. The greater part of the kingdom with the capital was controlled by Wladislas, but extended regions of northern and western Hungary (as listed here), including many royal cities and mining-towns, remained faithful to his rival. After his mother's death in December 1442, Ladislas' case was supported by his distant cousin and guardian, Emperor Frederick III of Germany who, of course, largely depended on German and Czech mercenaries. Hence the many allusions, as here, to the enemy as "foreigners" in the contemporary propaganda of Wladislas' party.

¹⁷ Since the surviving copy is truncated, the signatories referred to are not known. The original may have been similar to the charters of 1440 with their 94 and 78 signatories and seals; see Pál Lővei, "Sokpecsétes oklevelek a 14.–15. századi Magyarországon" [Charters with many seals in 14th-15th C. Hungary] *ars hungarica* 29 (2013) 137–44.

¹⁸ The term *hold* does not seem to refer here to the Hungarian measure of land, but to an exaction of tribute, widespread in Bohemia, the name of which probably goes back to the German term *Huldigung*, homage; see Hugo Toman, *Husitské válečnictví za doby Žižhovy a Prokopovy &c.* [Hussite warfare under Žižka and Prokop], (Prague: Král. České Spolenost Nauk, 1898), pp. 62–4. Thus, this type of forced exaction, probably comparable to the *descensus violentus* of the Hungarian sources, may have been introduced to Hungary by the Czech Hussite troops who occupied the northern counties for decades.

not appear to be defrauded of our royal rights by those same gentlemen of our realm, it has been decided and determined...¹⁹

¹⁹The surviving copy ends here in mid-sentence.

LAW OF KING WLADISLAS I OF HUNGARY (1440-44)

OF 18 APRIL, 1444

This decree originates from a diet held by King Wladislas I in April 1444 and aimed at restoring order and strengthening royal authority after years of open civil war between the Habsburg and Jagiello factions.

It seems to have been issued in different forms, by the king and by the estates. The text refers to 218 aristocrats and nobles who had committed themselves, just as the king did, to observe the articles, and had sealed an exemplar with their seals. No such sealed exemplar survived. Two of the surviving originals issued under the king's seal contain the clause and the list of names, the third omits both. All three, however, contain art. 32, added after the dating clause, in which the decision of the estates about foreign office-holders is contained. It is presumed that the *reversalis* of the noble estates was issued a few days later and added to some copies of the royal diploma.

MSS.: Three originals: two on parchment, one with royal pendant seal, MNL OL DI. 13827, one with royal seal on simple cue, Archives of the Archabbey Pannonhalma, Caps. 1044; one on paper, damaged, with royal seal *en placard*. (For details, see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301– 1457*, (Budapest: Akademiai, 1978) [=DRH], p. 325.)

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ http://archives.hungaricana.hu/en/charters/search
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EDD.: Josephus Nicolaus Kovachich, *Monumenta veteris legislationis Hungaricae* (Claudiopolis: Collegium, 1815) 1: 30–55; Idem, *Sylloge decretorum comitialium inclyti regni Hungariae, quae in vulgato corpore juris hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui parte, manca referebantur et oblivion postliminio, recenter erepta sunt.* . . (Pest: Trattner, 1818) 1: 74–93; DRH, pp. 325–37.

LIT.: Elemér Mályusz, “A magyar rendi állam Hunyadi korában” [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957): 46–123, 529–602, here pp. 66, 84, 536–7; Pál Engel, “János Hunyadi: The Decisive Years of His Career, 1440–1444,” in János M Bak and Béla K. Király, eds. *From Hunyadi to Rákóczi: War and Society in Medieval and Early Modern Hungary* pp. 103–24 (Brooklyn, N.Y.: Social Science Monographs, 1982). pp. 103–24; Jan Dąbrowski, *Władisław Jagiełłończyk w Węgrzech* [W. J. in Hungary] (Warszawa: Gebethner & Wolff, 1923), pp. 138 ff.

18 APRILI 1444

Nos Wladislaus dei gratia Hungarie, Polonie, Dalmatie, Croatie etc. rex Lithwanieque princeps supremus et heres Russie ad universorum notitiam harum serie volumus pervenire, quod quamvis hoc preterito tempore, quo pravis pravorum ausibus multa variaque in regno isto nocumenta viguere, sepius quesita sit via, per quam eiusmodi nociturnitatibus, turbinibus quoque, sed et tot periculis, tot denique dissensionibus et malorum generibus, que pululasse obtigisse et efluxisse iam sub oculis visa sunt, continuatio et occasio clauderetur; quia tamen effrene mentis dissoluta manus cohiberi non facile patitur, quanto mollius incautiusque parabatur reprimi, tanto diuturnior malis peiora iungens perdurabit. Nunc autem, cum in dies magis magisque huius regni turbatio succresceret, visum est communi omnium voto eo celeriori remedio occurrere, quo et amarior tot malorum dilatio sentiretur. Ob hoc post novissimum reditum nostrum ab expeditione exercituali, quam adversus paganos Turcos felicibus divino munimine potiti triumphis transegimus, generali convocatione promulgata convenit prelatorum, baronum, militum et regnicolarum nostrorum in hunc locum multitudo tam magna, quam maior vix umquam in simili congregatione visa fuit, quibus per hos plures iam dies in tractatibus mutuis residentibus, tandem domino volente una nobiscum pro reintegranda pace et concordia mutua agendaque tutela regni huius ad infrascriptos articulos firmissime sub penis infrascriptis observandos devenerunt.

I. Primo, ut recto ordine a capite inceptum videatur, statutum est, ut pro ampliori et validiori potentia et facultate nostra ad nostros regendos quilibet prelatorum, baronum, nobilium et regni procerum nunc hic presentium et etiam absentium, qui scilicet sub nomine et obedientia nostris se hucusque gesserunt et gerent, obligent se nobis per eorum proprias litteras sigillis eorum, quibus utuntur, appensis pro fidelitate observanda, et quod nobis viventibus nullum alium pro rege Hungarie preter nos habebunt et nominabunt, nobisque in omnem eventum assistent et adherebunt. Qui vero pro aliquo fratre suo nunc absente responderet, talis frater absens infra unum terminum sibi per nos deputandum teneatur advenire modo simili nobis se obligaturus.

II. Item, sicut predecessores nostri reges Hungarie habuerunt, conclusum est, ut imposterum omnimodam facultatem auferendi omnes honores et officiatus nostros habeamus, toties quoties et quandocumque voluerimus, et illis, quibus maluerimus, regnicolis tantuna et non alienigenis, conferre valeamus, omnisque dignitarius et officialis huiusmodi honores, dignitates et officiatus, puta palatinus palatinum, wayuoda wayuodatum, banus banatum, cancellarius cancellarium, comites comitatus et quoslibet alios honores et officiatus ad statim ad manus nostras regias :resignet per nos hiis, quibus voluerimus, distribuendos. Preterea ordinatum est, ut camere salium nostrorum regalium, tam in partibus Transsilvanensibus, quam Maramorosiensibus sicuti alii officiatus ad manus nostras regias remittantur disponende per nos de eisdem illis, quibus voluerimus.

III. Item, quia lucrum camere de dicto regno nostro Hungarie, proventus mardurinarum de regno nostro Sclavonie et proventus quinquagesimales de partibus nostris Transsilvanensibus communi omnium regnicolarum nostrorum contributione pro sustentatione curie regie ac defensione regni agenda instituti et dispositi fuerant, et nec ab aliquo regum, predecessorum scilicet nostrorum

iidem proventus a corona regia in toto vel in parte alienari debere potuissent, idcirco conclusum est, ut huiusmodi proventus alienati rursus ad coronam regni reintegrentur, et non obstante exemptione qualicunque aut remissione eorundem per quemcunque regum facta, de omnium possessionibus, puta tam nostris regalibus et reginalibus, quam ecclesiasticorum prelatorum baronum et procerum regni ac aliorum possessionatorum hominum exsolvantur integre sine defectu..

IV. Item de cameris salium tam Traussiluanarum, quam Maramorosiensium partium, de foclinis et montanis urbium, de proventibus tricesimalibus, civitatum ac Comanorum, Philisteorum et Iudeorum conclusum est, ut quia neque nos, neque nostri predecessores reges cuiquam relaxare perpetue, aut pro pignore locare, seu quomodolibet aliter a corona alienare potuimus et potuerunt, ideo debeant corone reappropriari et in manibus nostris resignari.

V. Item conclusum est, quod omnes et singuli ex prelatis, baronibus ac nobilibus regni nostri universas possessiones et bona ac proventus decimales et alios, que minus iuste et ex eis aliquis tenet seu occupavit et usurpavit hiis disturbiorum temporibus ab hiis, qui nobis fideles fuerunt et partem seu adherentiam nostram tenuerunt, eisdem fidelibus nostris remittere et resignare teneantur; et etiam illa, que nos illicite et minus iuste cuiquam donavimus, remittantur, ac etiam illis, qui usque in presentem diem venerunt ad fidelitatem nobis, bona eorum, etiam si cuiquam per nos donata fuissent, restituantur, et nos contentemus illos, cui ipsa donaveramus., ex nunc vel quocunque modo, aut promittamus, quod successive de hiis, que devolventur ad coronam, eos contentabimus.

VI. Item quod illi etiam omnes, qui ex parte alia nobis adversa infra festum Penthecostes proxime venturum nobis ad fidelitatem venerint, tales etiam sub preacta conclusione quoad restitutionem bonorum ipsorum contineantur, sed contententur, ut supra. Qui autem usque ad terminum preactum nobis ad fidelitatem venire non curaverint, tales in perpetua nota infidelitatis remaneant et bona ipsorum hiis, quibus voluerimus, conferre valeamus, nec amplius iidem ad gratiam admittantur.

VII. Item, quia ex variatione monete notabilia, ymmo indicibilia regno huic detrimenta provenisse visa sunt., idcirco ad obviandum huiusmodi periculis statutum est, ut nullus ex prelatis et baronibus aut regnicolis nostris monetam quamcunque cudat, nec cudere vel cudi facere presumat et valeat, sed solum nos in locis seu cameris, ubi ab antiquo moneta cudi solita fuit, ipsam monetam cudi faciamus, nec nos habeamus facultatem indulgendi cuiquam ipsam cusionem monete sub qualicunque colore, et quod lega ipsius monete, in qua cudi inchoabitur, non possit per nos immutari absque voluntate et scitu regnicolarum nostrorum. Contra premissa autem faciens notam infidelitatis seu falsarii incurrat.

VIII. Item moneta talis cudatur, ut centum denarii et ducenti oboli dentur et cambiantur pro uno floreno auri sub pena premissa.

IX. Item de factis potentiariis conclusum est, quod nos ab illo, cui officia maiora vel minora, puta sive palatinum sive banatum, vel iudicatum curie aut comitatum contulimus vel contulerimus, talem obligationem recipiamus, quod nec ipse solus iniurias, dampna et nocumenta aut occupationes bonorum faciat, nec fieri per quempiam sub suo officiolatu et honore consentiat seu permittat, nec in hac parte alicui faveat. Quod si talis dignitarius vel comes huiusmodi facta illicite perpetrasset vel aliis in faciendo consensisset aut favorem impendisset vel patentes non emendasset

compertus fuerit, extunc talis mox ipso honore privetur et privatus intelligatur, nec amplius ad tale officium recipi aut promoveri valeat. In iudiciis autem, que wayuoda, banus vel aliquis comes in sua provincia fecerit, curn transmitti in curiam nostram petuntur, teneatur semper delferre appellationi seu transmissioni in curiam nostram regiam, et, talis causa in curiam nostram deducta in primo termino, ad quem devenerit, terminetur et ipse wayuoda sive banus vel comes tandem adiudicationem curie nostre exequi teneatur. Quod si idem wayuoda, banus aut comes in dispositione pretacta non perstiterit, aut contra premissa cuipiam favorem exhibuisse visus et compertus fuerit, extunc ultra prernissam privationem honoris sui in facto potentie sit convictus; et quod lesis et dampnificatis de propriis eorum bonis satisfactio impendatur. Premissa tamen libertatibus antiquis ecclesiarum non obsistant.

X. Item in quoleibet comitatu eligantur per communitatem quatuor probi homines ex nobilibus illius comitatus penes comitem et iudices nobilium, qui cum comite ac ipsis iudicibus nobilium et communitate querulantibus iudicium ministrent et dent litteras oportunas. Si qui autem ex ipsis electis actus potentiarios commiserint, tales iudicio comitis et iudicum nobilium ac communitatis subiaceant.

XI. Item iudicia in facto possessionum fiant iuxta consuetudinem regni.

XII. Item omnia fortalitia et castella in parte nostra, ex quibus spolia, nocumenta, exactiones censuum vulgo hold dictorum, furta et alia maleficia commissa sunt, de novo erecta distrahantur et aboleantur.

XIII. Item omnia iudicia et sententie iin disturbiiis preter illa, que, ubi partes presentes fuere, habita sunt, revocentur et revocata intelligantur.

XIV. Item omnes statutiones de bonis aliorum facte, quarum donationes supra revocate sunt, vigoribus careant, demptis tamen illis, quarum donationes licite per nos de propriis nostris vel devolutis facte sunt.

X.V. Item quod nullus ex baronibus aut nobilibus secularibus ecclesias episcopales vel abbatias auit preposituras seu alias quascunque amplius occupatas teneat, et nec imposterum titulo gubernationis aut iure patronatus vel alio quocunque colore se de huiusmodi ecclesiis intromittat, salvo qui ex fundatione ius patronatus habent.

XVI. Item quod illi, qui pecunias taxe anni preteriti recollectas habuerunt et pro se retinuerunt, ipsas pecunias reddant sub penis pretactis.

XVII. Item quod in progressu regali nostro vel exercituali, vel ad curiam nostram vel ad alia quecunque loca nullus baronum vel aliorum in villis aut opidis, in quibus descensus facient, dampna aliqua inferat, nec in domibus nobilium descendat. Quodsi quicunque huiusmodi dampna intulerint et descensum fecerint, tales mox una evocatoria evocentur in curiam nostram ad proxiimam octavam, et sive compareat evocatus, sive non, in eodem termino causa sententialiter terminetur.

XVIII. Item de restitutionibus jobagionum sine licentia recedentium teneatur antiqua consuetudo et pena.

XIX. Item quicunque aliis de parte nostra intulerint dampna extra servitia nostra vel regni nostri in domo persistendo, coram iudicibus prefatis iuxta consuetudinem regni per dampnificatos in causam attrahi valeant et per eosdem iudices iuxta iudicata ad satisfactionem compellantur.

XX. Item quicumque hiis disturbiorum temporibus possessiones aliorum indebite occupaverunt, usque festum Penthecostes proxime venturum easdem remittant et absque subterfugio resignent. Quod si non fecerint, evocentur ad proximam octavam, et sive compareant, sive non, sententia finalis in eadem octava terminetur. De factis autem potentiariis post pridierum nostrum decretum commissis modo simili usque dictum festum Penthecostes lesis et dampnificatis satisfactio impendatur. Quod si qui non fecerint, similiter ad proximam octavam evocentur et in eadem octava causa sententialiter terminetur.

XXI. Item redemptiones litterarum et solutiones testimoniorum capituli vel conventus fiant secundum decretum condam domini imperatoris.

XXII. Item quod tributa omnia, que tam per condam dominum Albertum regem predecessorem nostrum, quam per nostram maiestatem donata essent, revocentur et revocata habeantur.

XXIII. Item quod comes parochialis in possessionibus nobilium non descendat, et si descenderit, dampna non inferat; quod si fecerit, in facto potentie convincatur, demptis solummodo antiquis consuetudinibus et exactionibus birsagiorum.

XXIV. Item quicumque prelatorum, baronum et regni nobilium in presentia nostre maiestatis personali aut palatini seu iudicis curie nostre durante presenti congregatione repertus et per quemcunque citatus fuerit, teneatur super patris post decretum anni iam elapsi respondere ad obiecta. Quodsi presumptione ductus comparere rennerit, extunc mox contra talem sententia detur et emanetur.

XXV. Item quicumque prelatorum, baronum et regni nobilium aut aliorum possessionatorum hominum occupationes possessionum aut spoliaciones, sive nobilium captivaciones aut interemptions, sed et alia similia facta amodo deinceps perpetraverint, tales per hominem nostrum regium presente testimonio capituli vel conventus ad primam octavam cum insinuatione evocentur; ipsique patraores huiusmodi actuum potentiariorum ad ipsam octavam venire teneantur; et ipsis partibus comparentibus fiat iudicium partes inter easdem, causaque huiusmodi nec ab eadem octava per litteras regias aut per alium quemcunque modum ulterius differatur. Si vero evocatus non comparuerit, non obstante ipsius absentia, sententia capitalis cum amissione bonorum suorum contra talem pronuncietur et emanetur; sententiamque ipsam exequantur tandem presentibus hominibus nostris et capitularibus seu conventualibus, si necesse fuerit, comites parochiales et alii premissis modo deputati sine omni negligentia.

XXVI. Item quod universe cause, que in ultima octava tempore predicti condam Alberti regis habite erant et vertebantur, in eodem statu, in quo tunc existebant, in octavis festi beati Jacobi apostoli proxime venturi inchoentur et verti debeant iuxta antiquam consuetudinem regni.

XXVII. Item quod tempore istorum disturbiorum quecunque littere sub quacunque forma verborum sub sigillis capitulorum vel conventuum illorum, qui per manus potentum tunc fuissent, emanate extitissent, tales cassate et vigoribus cariture habeantur.

XXVIII. Item quod nullus omnino hominum gentes forenses et extraneas ad hoc regnum nostrum causa inferendi malum inducat sub pena amissionis capitis et omnium bonorum suorum.

XXIX. Item quod nullus prelatorum, baronum et regni procerum preter consensum nostrum cum quibuscunque hominibus nobis et regno nostro adversantibus treugas inire presummat.

XXX. Item quod quicumque in premissis non prestiterit et monitus per litteras nostras se non emendaverit, talis pro ipso facto in pena facti potentialis convincatur. Et quod quicumque mandatis

nostris regiis, licitis tamen et iustis, non paruerit et monitus se non excusaverit, in simili pena convincatur ipso facto.

XXXI. Ut autem iidem nostri fideles subnominati exinde primum a nobis certitudinem sumpmant, presentium tenore et vigore in verbo nostro regio iureiurando promittimus, nos ea omnia, que in prescriptiis articulis notificata et declarata sunt, ex nostri parte irrefragabiliter observare velle et tenere per aliosque, qui forsitan in hac parte rebelles comperti fuerint, cum adiutorio, consilio et assistentia ipsorum infranominatorum fidelium nostrorum teneri facere et, observari, et quod ad inferendas penas preactas singulis talibus, qui hiis premissiis repugnare presumpserint, toto posse cum eisdem nostris fidelibus intendemus, et si opportunum fuerit, procedemus, in omnem eventum eis in hac parte indivisibiliter assistemus faciemusque et exequentur etiam alia omnia, que nobis cum eorum consilio in hac re et circa eam incubuerint facienda.

In quorum omnium premissorum testimonium presentes concessimus litteras sigilli nostri, quo uti rex Hungarie utimur, appensione munitas. Datum Bude, decimo octavo die mensis Aprilis, que est sabbatum proximum post festum Pasce domini, anno eiusdem millesimo quadringentesimo quadragesimo quarto.

XXXII. Intelligatur etiam conclusum in premissis, quod nec perpetuitates, nec beneficia, nec officiolatus, sed neque castellanatus alienigenis conferamus, immo et collata talibus ab eisdem auferamus, excepto episcopatu Transsilvanensi per nos domino Matheo Polono collato. Hec dispositio facta est per prelates, barones, milites, proceres et nobiles infrascriptos suis et communitatis totius regni Hungarie predicti nominibus et personis non obstante, si per prius in quocunque decreto huius contrarium fuisset. Datum ut supra.

Et nos Simon de Rozgon episcopus Agriensis, regie maiestatis sumpmus cancellarius, Johannes Waradiensis, Mathias Wesprimiersis, Petrus Chanadiensis, alter Petrus Waciensis et Demetrius Tininiensis ecclesiarum episcopi, Georgius despotus Rascie, Laurentius de Hedrehwara regni Hungarie palatinus, Nicolaus de Wylak et Johannes de Hwnyad wayuode Transsilvanenses, Michael Jakch de Kwsal alias similiter wayuoda Transsilvanensis, Georgius de Rozgon iudex curie domini regis et comes Psoniensis, Ffranko comes Cetine, regni Sclauonie banus, Emericus de Hedrehwara banus Machouiensis, Stephanus de Bathor alias similiter iudex curie regie, Ladislaus de Palowcz magister curie domini regis, Emericus, Ladislaus, et Stephanus de Pelsewcz, Johannes de Peren comes de Vgocha, Simon de dicta Palowcz magister agazonum regalium, Michael Orzaag de Gwtl 1 sumpmus thesaurarius domini regis, Paulus filius bani de Alsolindwa, Henricus filius wayuode de Thamasy comes de Posega, Joliannes senior de Peren, Simon Zudar de Olnod magister pincernarum regalium, Johannes Orzaag de Gwth predicta magister thauarnicorum regalium, Stephanus de Homonna, Ladislaus de Zechen comes Neugradiensis, Johannes Kompolth de Nana, Ladislaus filius wayuode de Lewa, Johannes de Korogh, Stephanus et Detricus Poharnok de Berzeuicze comites Hewesienses, Nicolaus et Paulus de Peren, Ladislaus Rykalff comes Liptouiensis, Silvester de Thorna, Georgius filius Lorandi de Serke, Ladislaus de Nazpal, Nicolaus et Dominicus de Kyswarda, Akus de Chap, Ladislaus de Naghmihal, Paulus et Philipus de Zekchew, Ladislaus iunior et Petrus Jakch de Kusal, Ladislaus Pethew de Gerse comes Zaladiensis, uterque Johannes Fforgacz dicti de Gymes, Rupertus de Thar, Paulus de Hedrehwara,

Emericus filius Johannis et, Ders filius bani de Zerdahel, Nicolaus Anthimi de Thapson, Nicolaus, filius Lorandi de Berzencze, Nicolaus de Beltevk, Ffranli de antefata. Gwth, Gregorius Bado et Pangracius de Dengeleg vicewayuode Transsiluanenses, Johannes de Somos, Michael de Beel, alter Michael: de Cyl, Ladislaus de Zenthmihal, Georgius Orros, Dernetrius de Parn., Ladislaus de Thold, Petrus Zopa, alter Petrus Thwz de Lak, Michael Etre, Nicolaus filius Draag, Ladislaus Tythews de Bathmonostra,, Ladislaus de Zeche, Andreas de Anual, Thomas Zyrke, Sandrinus de Helemba, Simon de BcdogAzzonfalwa, Michael Poharnok, Georgius de Sebes, Johannes de Zana, alter Johannes de Solyag, Michael de Izmen, Path de Gywla, Michael Pooch, Johannes de Kallo, Nicolaus de Zakal, Petrus de Ugra, Nicolaus Sobonya, Andreas de Kozar, Ladislaus de Maroth pridem banus Machouiensis, Raphael Herczeg electus ecclesie Boznensis, Michael abbas Simigiensis, Clemens de Thapan., Sebastianus de Zend, Nicolaus de Zenthmihal, Michael de Philpes, Briccius de Gych, Nicolaus Nyakathlan de Thythews, Georgius Orros de Seryen, Johannes et Thomas filii Ipoliti de Gywrke, Petrus de Tetetlen, Stephanus Danch de Maczadonya, Georgius de Maryas, Thomas Chirke de Poly, Gywla de Ratold, Georgius de ZenthJanits, Bernardus de Dengeleg, Johannes de Apay, Nicolaus Kwn de Kessenew, Johannes de Scepus, Ladislaus de Myske, Stephanus de Bayon, Nicolaus de azdyan, Petrus de Pap, Johannes de Ina, Ladislaus filius Mathei dc Menche, Johannes de Chaan, Colomanus de Dewregd, Paulus Paznan, Daniel de Kustan, Ladislaus de Paka, Ladislaus de Tetetlen, Ladislaus de Horth, Georgius de Rohman, Petrus de Hangon, Stephanus de Janusy, Michael Barowcz de Wislas, Martinus prepositus de Posega, Michael de Gench, Johannes filius Stephani de Zenthmihal, Georgius de Rathan, Nicolaus de Zombor, Gregorius Josa de Galya, Ladislaus de Chepon, Georgius de Gergellaka, Ladislaus de Somos, Ladislaus de Rohman, Ladislaus de Zelemyr, Gaspar de Were, Simon de Hutichyna et Mathias de Klisich de regno Croatie, Demetrius de Thapaz, Georgius de Megyurechya, Egidius de Peder, Johannes de Zytha, Ladislaus litteratus de Pethke, Albertus litteratus de Zenthmarthon, Johannes de Bakta, Sandrinus de Kewde, Mathias de eadem, Stephanus de Dombo, Andreas de Stanch, Sebastianus de Kolyn, Ladislaus Gagan de Gywrky, Ladislaus Hernad de Hernadfalwa, Michael de Monak, Matheus de Tofev, Nicolaus de Alak, Jacobus de Pelys, Andreas de Lukafalwa, Petrus Fanch de Gordwa, Laurentius de Keer, Jacobus de Leztemeer, Vincentius de Ruzka, Ladislaus de Irsa, Stephanus de Laczk, Ladislaus filius Abrahe de Gerla, Nicolaus filius Petri de Zenthlelek, Dionisius de Zeech, Blasius de Bewren, Ladislaus de Myske, Elias de Kecczer, Nicolaus Warias, Georgius Orzag de Gwth, Marcus de Nadan, Ladislaus de Monostor, Georgius de Wicza, Gaspar et Georgius de Hathna, Benedictus de Lykwa, Bartholomeus abbas de Borsmonostra, Georgius prepositus Scepesiensis, Stephanus filius Georgii de Telekes, Michael Aztalnok de Herman, Benedictus de Zempes, Sigismundus de Chap, Benedictus de Bewken, Laurentius de Cheged, Ladislaus de Bolyan, Petrus de Kemend, Petrus de Berenthe, Benedictus de Wamos, Ladislaus de Nytazeg, Georgius de Domanhyda, Johannes de Lyzka, Jacobus de Rypak, Oswaldus Feyer, Jacobus de Chepen, Dionisius de Wag, Johannes Bak de Berend, Valentinus de Magofalva, Blasius de Dobo, Martinus de Pethenye, Johannes filius Viti de Mohora, Johannes de Kalna, Laurentius de Kallo, Paulus de Zerdahel, Georgius de Bathor, Johannes de Wask, Clemens de Kesy, Andreas de Jakabfalwa, Johannes Kewtheu de Kewthewgyan, Andreas de Kohar, Ladislaus de Wesen, Petrus de Basky, Zorardus de Zenthersebeth et Ladislaus de Thapalowcz, ceterique proceres et regni nobiles in presenti congregatione constituti fatemur omnia

et singula superius descripta quoad omnes eorum articulos de nostro communi consilio, deliberatione et assensu acta et conclusa fuisse et esse, et propter hoc ea omnia, que superius describuntur, promittimus bona fide inviolabiliter observare et per alios, qui hiis premissis in parte vel in toto contraire vellent, omni modo et via opportunis totis viribus observari facere, presentium, quibus iuxta sigillum reale sigilla nostra appensa sunt, testimonio mediante. Datum ut supra.

18 APRIL, 1444

We, Wladislas, by the grace of God king of Hungary, Poland, Dalmatia, Croatia, etc., grand prince of Lithuania and heir of Russia, wish to bring to the knowledge of all by these words that even though in this time just past, when, owing to the distorted daring of the depraved, many, and varied harmful things thrived in this kingdom, means have frequently been sought by which the continuance and opportunity for harm, turmoil, numerous dangers, and as many dissensions and kinds of evils, which our eyes have seen to grow, spread and overflow,¹ can be stopped; because a dissolute hand led by an unrestrained mind does not easily tolerate being restrained, and the more gently and carelessly repression is pursued, the longer will the worsening evil last. Now, therefore, since every day upheaval in this kingdom grows more and more, day by day, it seems that the more bitterly felt the spread of evil is, the quicker will a remedy be sought by the common assent of all. Hence, after our recent return from a military campaign, which we conducted against the heathen Turks with happy victories granted by divine help,² when a general assembly was called, a greater multitude of our prelates, baron's, knights, and gentlemen of the realm came together than had ever been seen in such an assembly. After having held mutual discussions through these many days, they finally, by the Lord's will, agreed as one with us that for the sake of restoring peace and mutual concord as well as for the safety of this kingdom, the articles written below should be kept most firmly under the penalties written below.

1. First, so that things might be undertaken in a proper manner starting at the beginning, it has been decided that in the interest of our fuller and stronger power and capacity to rule our subjects, any one of the prelates, barons, nobles, and lords of the kingdom here present now and also those absent—namely those who so far have acted and act subject to our name and obedience—should promise us by their own charters with their seals, which they use, appended as proof of fidelity, that as long as we live they will have and name no one else except us as king of Hungary, and that they will assist and stand by us in every event.³In the case of those who promise on behalf of an

¹ On the civil war that raged almost continuously from the election of Wladislas I to the issuing of this decree, see n. 15 to **1443**.

² The so called “Long Campaign,” led by the king and János Hunyadi, started on 22 July 1443 and lasted unusually long: the army did not return to Belgrade until 25 January 1444. The Hungarian and allied forces reached the passes of the Balkans beyond Sofia and defeated Ottoman armies in three major battles, but the campaign, while a military feat of great moral success, brought no tangible gains; see: Ferenc Szakály, “Phases of Turco-Hungarian Warfare before the Battle of Mohács, 1365–1526,” *Acta Orientalia Acad. Sc. Hung.* 23 (1979): 88–91; John V. Fine, *The late medieval Balkans: A critical survey from the late 12th century to the Ottoman Conquest* (Ann Arbor: Univ. of Michigan Press, 1987), pp. 548–51; c:f. pp. 478– 79

³ A formal profession of allegiance demanded from all present and obviously directed against the infant King Ladislas’ party. This practice of appending the seal of a great number of barons and nobles was rare; this *decretum* is one of the most often cited ones; see Pál Lóvel “Sokpecsétes oklevelek a 14-15. századi Magyarországon”[Charters with multiple seals in 14.-15. C. Hungary], *Ars Hungarica* 39/2 (2013), 137– 44.

absent brother, the absent brother is required to come to us within the term determined for him by us in order to bind himself to us in a similar manner.

2. Then, it has been resolved that henceforth we have, just as the kings of Hungary our predecessors had, every right to withdraw all our honors and offices, as often and whenever we wish, and of conferring them on whomever we prefer, provided they are residents of the kingdom and not aliens.⁴ And every dignitary and official must immediately resign his honors, dignities, and offices, as, for example, the palatine the palatinate, the voivode the voivodeship, the ban the banate, the chancellor the chancellery, the *ispáns* the counties, and any other honors and offices into our royal hands for distribution by us to whomever we prefer. It was also ordained that the chambers of our royal salts, both in Transylvania and in Marumureș, must be surrendered into our royal hands as with the other offices, for distribution by us to whomever we wish.

3. Then, because the chamber's profit of our said kingdom of Hungary, the revenues of the mardurina of our kingdom of Slavonia, and the fiftieth revenues of our Transylvanian regions⁵ were instituted and allocated by the common contribution of all our gentlemen of the realm for the sustenance of the royal court and for the defense of the kingdom, and these revenues could not be alienated from the royal crown in whole or in part by any of the kings, our predecessors, therefore, it has been resolved that such alienated revenues must be returned to the crown of the kingdom,⁶ and, notwithstanding any reduction granted them by any of the kings, they must be paid from all estates, both those of the king and the queen as well as those of ecclesiastics, prelates, barons and lords of the kingdom and other men of property without fail and in entirety.

⁴ In this context *regnicola*—usually referring only to the enfranchised nobility—clearly emphasizes the opposite of “foreigners.”

⁵ The chamber's profit was a direct tax, introduced after the regular diminishing of the value of coins was abandoned. The *mardurina*, originally a marten-pelt tribute, levied in Slavonia, was changed into monetary tax as early as the eleventh century. It was fixed at twelve Friesach pennies after each manse. After the exemption of the nobles of Slavonia from royal taxation in 1351, the *mardurina* became the tax imposed on tenant peasants and *hospites*. On the salt revenue, one of the major incomes of the royal treasury, see István Draskóczy, “Salt Mining and the Salt Trade in Medieval Hungary from the mid-Thirteenth Century until the End of the Middle Ages,” in: *The Economy of Medieval Hungary*, József Laszlovszky et al. eds. (Leiden-Boston: Brill, 2018) pp. 205–18 and János M. Bak, “Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter”, in R. Schneider, ed., *Das spätmittelalterliche Königtum im europäischen Vergleich*. Sigmaringen: Thorbecke, 1987, pp. 347-87

⁶ The use of both forms of reference to the crown in one paragraph is worth noting: *corona regia* (royal crown) is the older formulation implying the exclusive rights of the king to the power and property attached to the kingship; the other, *corona regni* (crown or the realm) came to be used in the fifteenth century with the intention of implying that the *regnum*, that is, the community of the estates was the depository of these rights and properties; see János M. Bak, *Königtum und Stände in Ungarn im 14.-15. Jh.* (Wiesbaden: Steiner, 1973), pp. 33–5; Idem, “Corona,” in *Lexikon des Mittelalters* 3:256 (München: Artemis, 1988) with literature. On the inalienability of royal rights and possessions, see **1222:16**, and the discussion in James R. Sweeney, “The Decretal *Intellecto* and the Hungarian Golden Bull of 1222,” in *Album Elemér Mályusz* (Bruxelles: Librairie Encyclopédique, 1976), pp. 89–96.

4. Then, it has been resolved that the chamber of the salt-works of Transylvania and in Marumureș, dues of mines and mining,⁷ and the revenues of the thirtieth,⁸ the cities, the Cumans, the Philistines,⁹ and the Jews¹⁰ must be returned to the crown and resigned into our hands because we cannot, nor could the kings our predecessors, cede these in perpetuity to any man, or use them as collateral, or in any way alienate them from the crown.

5. Then, it has been resolved that each and every prelate, baron, and noble of our kingdom is required to return and to hand over to our loyal subjects all estates and goods as well as revenues from tithes and other sources, which any of them holds by defective right and illicitly, or in these times of troubles has occupied and usurped from those who were faithful to us and held fast to our cause or adherence; and also those things, which we gave illicitly and by defective right to anyone, must be returned; and the properties of those who up to the present day have come to pledge fidelity to us must be restored, even if they have been given by us to someone else, and we shall compensate those, to whom we had given those things, now or in any other way, and we promise that we shall compensate them in due course from those properties which devolve to the crown.¹¹

6. Then, that all those who, from the other party opposing us, come to our fidelity before the next feast of Pentecost,¹² shall also be included in the aforesaid resolution in regard to the restoration of properties, and shall be compensated, as above. Those, however, who do not care to come to

⁷ Mining dues (*urbura*), were to be paid to the treasury by the owner or exploiter of mines of metals; 1/10 of gold, 1/8 of silver and other metals.

⁸ The thirtieth (*tricesima*) was customs duty on import and export that developed out of different types of urban and market tolls. On its history, see Zsigmond Pál Pach, *A harmincadvám eredete* [The origin of the thirtieth customs] (Budapest: Akadémiai Kiadó, 1990), Idem “A harmincadvám az Anjou-korban es a 14–15. század fordulóján,” [The thirtieth-toll in the Angevin Period and at the turn of the 14th and 15th centuries] *Történelmi Szemle* 41 (1999), 231–277. On royal revenues in the later Middle Ages, see Bask, *Monarchie im Wellental*, passim.

⁹ In Hungarian Latin, the Biblical name Philistine denoted the Jász/ As tribes, a seminomadic people who settled in Hungary in the thirteenth or early fourteenth century in the north of the Great Plain, close to the Cumans. Both people were long considered royal subjects of free status and owed the royal treasury an annual tax, paid in cash as well as in kind. See: Nora Berend, *At the gate of Christendom. Jews, Muslims and “Pagans” in medieval Hungary, c. 1000–c. 1300* (Cambridge: Cambridge University Press, 2001) esp. pp. 68–73 and András Pálóczi Horváth, *Pechenegs, Cumans, Iasians. Steppe Peoples in Medieval Hungary* (Budapest: Corvina, 1989).

¹⁰ Jews in Hungary, as in many other medieval kingdoms, lived under the protection of the royal chamber, for which they paid a regular fee that was frequently farmed out by the king. This article intends to recover this income for the crown, which in 1453 amounted to some 4000 gold florins; see Berend, as above esp. pp. 149–55.

¹¹ After the virtual dissolution of the royal domain, royal grants could only entail land that escheated to the crown, when all male heirs in a given clan had died out.

¹² 31 May 1444.

pledge fidelity to us by the aforesaid date should be treated as perpetual infidels,¹³ and we shall have the right to confer their possessions on whomever we wish, nor may they be admitted to grace again.¹⁴

7. Then, owing to the variation of coinage, considerable—nay, indescribable—harm appears to have been caused to this kingdom. Therefore, to preclude such dangers, it has been ordered that no prelate or baron or any of our gentlemen of the realm may mint or presume or attempt to mint or cause to be minted any money, but we alone may cause money to be minted in places or in chambers where of old money has been customarily minted, nor shall we be able to grant the right to mint money by any means to anyone; and that the alloy of the money, once it has begun to be minted, cannot be changed by us without the will and knowledge of our gentlemen of the realm Anybody acting against the foregoing will incur the charge of infidelity or forgery.¹⁵

8. Then, money should be minted so that 100 pennies and 200 half-pennies should be given and changed for one gold florin under the above penalty.¹⁶

9. Then, concerning acts of might,¹⁷ it has been resolved that we should take such a pledge from all those on whom we have conferred or will confer major or minor offices, be it the palatinate or

¹³The charge of infidelity (*nota infidelitatis*) was a charge for specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. That meant loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary..

¹⁴ Since the beginning of the civil war both parties had generously rewarded their followers with estates confiscated from partisans of the other party. Many lords changed side during the war for different reasons but, in spite of promises made here and also later, they often did not succeed in recovering their lost possessions. Exceptionally we have evidence that they did: a charter of Wladislas I of 12 July 1444 (MNL OL DI. 13788) refers to this law when restoring the estates of Michael Nodlar.

¹⁵ On the attempts at rescinding private minting, see Márton Gyöngyössi, "Főúri pénzverési jogosultak a 15. századi Magyarországon" [Magnates with right to minting in the Hungary of the 15th C.] *Századok* 150 (2016) 341–368.). Still, in 1441, King Wladislas invested some of his partisans with the right of minting, which had been a royal monopoly at all times (cf. Mályusz, p. 11). This unprecedented measure might have contributed to the monetary disorder which, though otherwise unknown, is referred to here and is plausible in view of the fact that most of the gold and silver mines were held by Ladislas' captains.

¹⁶ The same exchange rate was fixed in **1427B**, cf. also **1439:8**. This was an attempt to restore the equivalence of the gold florin and the florin as money of account.

¹⁷ Act of might (*potentia, factum/actum potentiae*) was: a term for delicts, committed by noblemen, against persons and property in a violent manner. "Criminal cases" falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one (incl. rape).

banate, royal judgeship or the office of *ispán*, that neither they themselves will cause injuries, losses, harm, or occupation of goods, nor will they consent or permit such to be done by anyone subject to their office or honor, nor will they favor anyone in this respect. If such a dignitary or *ispán* is found to have perpetrated such illicit deeds or to have consented to or favored others doing them or not to have punished those committing such deeds, then he shall be deprived of his honor and considered as such, and he is not again to be received or promoted to such an office. Furthermore, when a transfer to our court is sought in the case of trials which a voivode, ban, or any *ispán* may hold in his presence, the latter are required to refer the appeal or transfer to our royal court, and such a case brought to our court must be completed in the first term in which it comes, and then the voivode, ban, or *ispán* is required to implement the judgment of our court.¹⁸ If that voivode, ban, or *ispán* does not abide by the aforesaid decision or he is seen or found to have shown favor to someone contrary to the foregoing, then in addition to the abovementioned deprivation of his honor he should be convicted of act of might, and compensation must be given to the damaged and injured party from his own goods. Nevertheless, the foregoing provisions should not restrict the ancient liberties of churches.¹⁹

10. Then, in every county, four trustworthy men must be elected by the community from the nobles of that county to join the *ispán* and the magistrates,²⁰ who with the *ispán* and the magistrates and the community will render judgment to plaintiffs and will issue the appropriate documents. If anyone of those elected commits acts of act of might, he should be subject to the judgment of the *ispán*, the magistrates, and the community.

11. Then, trials concerning estates must be conducted according to the custom of the kingdom.²¹

12. Then, all fortifications and castles newly constructed in our domain from which plundering, destruction, exaction of the rents commonly called hold,²² thefts, and other evil deeds were committed must be razed and destroyed.

¹⁸ This measure was a significant attempt at introducing appeal as an ordinary judicial procedure. Earlier the lower (provincial or county) courts were not obligated to transfer cases to the royal court, except on a specific mandate (*introductoria cause*) from the chancellery.

¹⁹ The meaning of this clause is not clear, but may refer to the *privilegium fori* of clergy to be tried in courts spiritual. But does not really make sense here.

²⁰ Mályusz (pp. 65–6) demonstrated that this clause was introduced on the initiative of the delegates from Co. Somogy, in western Hungary. The activity of such elected nobles in the neighboring county, Zala, is documented for the years 1444 and 1445 (*ibid.*). The noble magistrates (Hung.: *szolgabíró*) were administrative and judicial assistants of the *ispán* or *alispán*, elected by the county's nobles, usually four in every county.

²¹ Cf. **1439:32**.

²² The term *hold* does not seem to refer here to the Hungarian measure of land, but to an exaction of tribute, widespread in Bohemia, the name of which probably goes back to the German term *Huldigung*, homage; see Hugo Toman, *Husitské válečnictví za doby Žižhovy a Prokopovy &c.* [Hussite warfare under Žižka and Prokop], Praha: Král. České Spolenost Nauk, 1898, pp. 6264. Thus, this type of forced exaction, probably

13. Then, all judgments and sentences which were passed during these troubles are revoked and held as revoked, except those which were passed in the presence of the litigants.²³

14. Then, all measures taken concerning the goods of those whose donations were revoked above²⁴ shall be null and void, except for those whose grant was legitimately made by us from our own properties or those devolved to us.

15. Then, that no baron or secular noble may occupy any longer episcopal churches, abbasies, or priories, or any other churches, nor henceforth may he interfere with such churches by a claim to secular protection²⁵ or right of patronage or any other title, except those who from the foundation have the right of patronage.

16. Then, that those who had money collected for the tax of the last year and have retained it for themselves must return the money under the abovementioned penalties.²⁶

17. Then, that no baron or any other person should cause any damage in the villages or towns where he takes lodgings during our royal travels or military campaigns or on his way to our court or elsewhere, nor should he billet in the houses of nobles. If, however, anyone does inflict such losses and exacts hospitality, he should be summoned with one summons to our court for the next octavial term,²⁷ and, whether the person summoned appears or not, the case must be concluded with a sentence in the same term.²⁸

18. Then, concerning the recovery of tenant peasants absconding without license, the ancient custom and punishment must be followed.²⁹

comparable to the *descensus violentus* of the Hungarian sources, may have been introduced to Hungary by the Czech Hussite troops who occupied the northern counties for decades.

²³ This clause refers to the procedures *in contumaciam*, ordered in **1443: 2**.

²⁴ Cf. above, art. 5 and 6.

²⁵ Secular protector (*gubernator*) was the official title of lay administrators appointed by the king to major ecclesiastical benefices in case of a vacancy. During the civil war, a number of churches were occupied by Wladislas' adherents who pretended to be their protectors and refused to hand them over to the lawful claimant.

²⁶ During Wladislas' reign, the tax was mostly collected by the captains-general and other magnates who had it exacted without mercy but were seemingly not so eager to hand it over to the treasury. (See Mályusz, p. 111 f.)

²⁷ At this time, the four usual octavial terms—sessions of the royal courts—were those of Epiphany (from 13 January), St. George (from 1st May), St. James (from 1st August) and Michaelmas (from 6 October).

²⁸ Damages caused by the military were regulated previously in **1439: 3 and 18**. Here and in the following, attempt is made to shorten trial in matters of damages. Cases were usually dragged on across several terms by various judicial instruments, contradictions and repeated prorogation.

²⁹ Tenant peasants (*jobagiones*, Latinized from Hung. *jobbágy*) were peasants living on the lands of their lords, owing dues (in money, kind and some labor) and subject to their jurisdiction, but personally free. They were allowed to change lords, once they paid their debts and obtained license. On this right, see **1397:6; 15 April 1405: 14–16**, but those laws do not contain the clause about the duty to return illegally

19. Then, those not in our service, nor that of our kingdom, who remained at home, but inflicted damages to others who are on our side,³⁰ may be prosecuted by the damaged party before the aforementioned judges, according to the custom of the kingdom, and should be compelled by the same judges to give satisfaction in accordance with the judgment.

20. Then, any men who in these times of troubles have occupied the estates of others improperly must remit and resign them without subterfuge before the next feast of Pentecost. If they do not do this, they must be summoned to the next octave, and, whether they appear or not, a final sentence must be given in that octave. Concerning acts of act of might committed after our previous decree, compensation for damages and losses must similarly be paid before the said feast of Pentecost. Culprits who fail do so must be summoned similarly to the next octave, and the case must be terminated with a sentence in the same octave.

21. Then, fees for charters and payments for testimonies of a chapter or convent should be paid according to the decree of the late lord emperor.³¹

22. Then, that all tolls, which were granted by the late lord king Albert, our predecessor, and by our majesty, are revoked and must be kept revoked.³²

23. Then, that no *ispán* of a county should sojourn on the estates of nobles, but if he does, he should not cause harm; if he does so, he must be convicted of an act of act of might unless there exists some ancient custom or he is collecting fines.

24. Then, if any prelate, baron, or noble of the kingdom, who in the personal presence of our majesty or of the palatine or of our judge royal during the present assembly has been identified and accused by someone, he is required to reply to the accusations on what was done after last year's decree.³³ If, guided by presumption, he refuses to appear, then a sentence against such a man must be given and pronounced.

absconded tenants. This right was also abused by landlords, luring or removing tenants in times of labor shortage. See: János M. Bak “Servitude in the medieval kingdom of Hungary (a sketchy outline).” in *Forms of servitude in Northern and Central Europe: decline, resistance, and expansion*, ed. Paul H. Freedman and Monique Bourin, 387–400 (Turnhout: Brepols, 2005).

³⁰ The measure seems to aim at lords who did not join either party but tried to remain neutral, an attitude always dangerous in a civil war. The last sentence makes sense—considering the wording of relevant charters (e.g., MNL OL DI. 13782)—if the word *iudicata* is emended to *iuramenta*.

³¹ There are many examples known (see *DRH*, p. 331, n. 3) in which usurped possessions were returned; also, several charters of the royal chancellery survived that refer to this article, pass summary judgment, and emphasize that the usurpation happened after this decree (*ibid.* n. 4).

³² See **8 March 1435: 10–12, 20–21** and **1439:31**. On tolls, see Magdolna Szilágyi, “Mobility, Roads, and Bridges in Medieval Hungary” in *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 64–80.

³³ On the *descensus*, (originally hosting the king and his entourage or the high officers, like the *droit de gîte*, later became a financial extraction) see **1439:8**; for the collection of fines (*birsagia*), as an exceptional case of exacting hospitality, see *ibid.* art. 7.

25. Then, if any prelate, baron, or noble of the kingdom or any other men of property who henceforth in the future should occupy or plunder estates, or capture and kill nobles, or commit other similar deeds, must be summoned by final summons through our royal bailiff in the presence of a witness from a chapter or convent to the first octave; these perpetrators of acts of act of might are required to come personally to that octave; and when the parties have appeared, a trial should be conducted, and such a case may not be prorogued beyond that octave by royal letters or any other means. If the man summoned does not appear, notwithstanding his absence, a capital sentence with the loss of his goods must be passed and pronounced against him; our bailiffs and the men of the chapter or convent, or, if necessary, the *ispán* of the county and others deputed in the aforesaid manner must execute that sentence without any negligence.³⁴

26. Then, that all cases which were conducted and treated in the last octave in the time of the said late King Albert must be resumed at whatever stage they were then and continued in the next octave of the feast of St. James the Apostle,³⁵ according to the ancient custom of the realm.

27. Then, that any charters issued in whatever form of words in these times of troubles under the seals of any chapter or convent, which was in the hands of some powerful man, must be regarded as canceled and without force.³⁶

28. Then, that no man may bring in any foreigners or strangers to our kingdom in order to inflict evil under the penalty of the loss of his head and all of his goods.³⁷

³⁴ Terminal summons (*citatio cum insinuatione*) was a summons issued with the clause that judgment would be passed even in the absence of the summoned party, used particularly against perpetrators of acts of might. It followed two summons, when the cited party did not appear. This institution, introduced in 1443, became general practice after 1444 (see the examples of charters referring to this decree in *DRH* p. 332, n. XXV/1), so much so that in 1447 in a suit at the king's court, extensive debate was held as to whether a certain act of might was perpetrated before or after the issue of this law (MNL OL DI. 14067).

³⁵ 1 August 1444.

³⁶ It cannot be even surmised to what extent the ecclesiastical places of authentication (chapters and convent acting in a notarial capacity) were influenced by those secular lords who promoted themselves to their protectors (cf. above note 24). There is evidence for quite open misuse of such power. For example a papal letter tells us how Nicholas of Perény (alias of Rihónó, d. 1444.), Wladislas' captain in Kežmarok/Késmárk, ousting the chapter of Spišská Kapitula/Szepeshely from its seat and obtaining its seal, compelled a canon to forge two documents for him in the chapter's name. One attesting that the late George of Somos, a local lord, had mortgaged to him his castle and all of his estates, and another testifying that he was duly introduced to the same goods. The canon was punished by excommunication, but was later absolved by Pope Nicholas V; see Pál Lukcsics, *XV. századi pápák oklevelei* [Charters of fifteenth-century popes] (Budapest: Római Magyar Intézet, 1931), no. 997. See: Ferenc Eckhart, "Die Glaubwürdigen Orte Ungarns im Mittelalter." *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, "Administering the Law: Hungary's Loca Credibilia." in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35.

³⁷ In view of what was said about king Ladislas' "foreign" support" (see **1443**, note 15), virtually all of his followers were threatened with capital sentence by the force of this article.

29. Then, that no prelate, baron, or lord of the kingdom may presume to make treaties without our knowledge with anyone who is an enemy of ours and of our kingdom.³⁸

30. Then, that anyone who does not obey the foregoing and does not mend his ways after having been warned by our letters will be convicted for this action of an act of might. And he who does not follow our legitimate and just royal orders and, after having been warned, does not excuse himself will also be convicted of the same penalty for his failure.

31. In order that our loyal subjects named below might be confident in us, we promise by the words and force of these presents and swear by our royal word, that we will observe unswervingly on our part and to make others, who perhaps have been found rebels in this matter, observe all those things which were announced and set out in the foregoing articles and to cause them to be held and observed with the help, counsel, and assistance of our loyal subjects named below, and that we intend to inflict the aforementioned penalties on all those who presume to reject these foregoing with all our power, together with our faithful servants. And, if it is suitable, we shall proceed in any event to assist, achieve, and fulfill together with them all other things which are incumbent on us and related to this matter with their counsel.

In witness of all the foregoing we have granted the present charter validated by the appending of our seal, which we use as king of Hungary. Given at Buda, on the eighteenth day of the month of April, which is the next Saturday after the feast of Easter, one thousand, four hundred and forty four.

32.³⁹ It is also understood to be included in the preceding that we shall not confer donations in perpetuity, benefices, offices, or castellanies on foreigners, and shall even remove those conferred on such men from them, with the exception of the bishopric of Transylvania conferred by us on the lord Matthew the Pole.⁴⁰ This decision has been passed by the prelates, barons, knights, lords, and nobles written below⁴¹ in their own names and that of the said community of the whole kingdom of Hungary, notwithstanding if earlier there was something contrary to this in any decree. Given as above.

³⁸ Apart from several major campaigns led by the king in person or his generals, the civil war was fought by local potentates who often made treaties with the other side. So on 22 November 1443 John of Rozgony, one of the leaders of Frederick's party in West Hungary, dissolved his former truce with the brothers of Gerse, ardent partisans of Wladislas, and he even informed them obligingly that he would henceforth make himself a perfect nuisance to them (*vobis scire damus non velle tenere ulterius aliquam treugam, sed in omnibus quibus nos possumus vobis ac partem vestrarum faventibus nocere seu contrarium facere*, MNL OL DL 92955).

³⁹ This paragraph was obviously inserted after the initial issue of the decree in privilegial form.

⁴⁰ Matthaenus Polonus, that is, Matthew of Łabiszyn/Labischin (often referred to erroneously as "de la Bischino"), was bishop of Transylvania 1444–61.

⁴¹ Only the better known signatories are identified below.

And we, Simon of Rozgony, bishop of Eger and arch chancellor of the royal majesty,⁴² bishops John of Oradea,⁴³ Matthias of Veszprém,⁴⁴ Peter of Cenad,⁴⁵ the other Peter of Vác⁴⁶ and Demetrius of Knin,⁴⁷ George, despot of Serbia,⁴⁸ Lawrence of Hédervár, palatine of the kingdom of Hungary,⁴⁹ Nicholas of Újlak⁵⁰ and János Hunyadi,⁵¹ voivodes of Transylvania, Michael Jakcs of Kusaly, former voivode of Transylvania⁵², George of Rozgony, judge royal and *ispán* of Pozsony⁵³, Franko count of Cetinje, ban of the kingdom of Slavonia,⁵⁴ Emerich of Hédervár, ban of Mačva,⁵⁵ Stephen of Bátor, former judge royal,⁵⁶ Ladislás of Pálóc, Master of the Royal Court,⁵⁷ Emerich, Ladislás and Stephen of Peigo, John of Perény, *ispán* of Ugocsa,⁵⁸ Simon of the said Pálóc, Master of the Royal Horse,⁵⁹ Michael Ország of Gút, chief treasurer of the lord king,⁶⁰ Paul, son of the ban of Alsólendva, Henry, son of the voivode, of Tamási, *ispán* of Pozsega,⁶¹ the elder

⁴² Simon of Rozgony (d. 1444), bishop of Veszprém 1428–40, of Eger 1440–44, chancellor 1441–44.

⁴³ John (de Dominis, d. 1444), bishop of Znojmo 1433–40, of Oradea 1440–44.

⁴⁴ Matthias of Gatalóc (d. 1457), chancellor 1433–37, secret chancellor 1433–39, bishop of Vác 1438–40, of Veszprém 1440–57.

⁴⁵ Peter (Himfi of Remete), bishop of Cenad 1438–57.

⁴⁶ Peter (Agmándi of Kecset, d. 1450), bishop of Vác 1440–50, chancellor of the queen 1440, chancellor 1445–50.

⁴⁷ Demetrius (Csupor of Monoszló, d. 1480), bishop of Knin 1438–57, of Zagreb 1457–58, of Győr 1466–80

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⁴⁸ Đurađ (Geogre) Branković (1377–1456) was the Serbian Despot from 1427 to 1456.

⁴⁹ Hédervár, Lawrence of (d. 1447), master of the horse 1429–37, count palatine 1437–47.

⁵⁰ Újlaki, Nicholas (d. 1477) ban of Mačva 1438–72, of Slavonia 1457–65, voivode of Transylvania 1441–65 (with interruptions), king of Bosnia 1471–77.

⁵¹ Hunyadi, János (John, d. 1456), ban of Severin 1439–46, voivode of Transylvania 1441–46, governor of Hungary 1446–52, count of Beszterce, captain general 1453–56.

⁵² Kusaly, Michael Jakcs of (1406/51), magnate, ispan of the Székely 1427–37, voivode of Transylvania 1440–41.

⁵³ Rozgony, George of (brother of bishop Simon, d. 1457/58), magnate, *ispán* of Pozsony Co. 1423–50, judge royal 1441–46.

⁵⁴ Tallóci, Frank (d. 1448), ban of Severin 1436–9. ban of Croatia and Slavonia 1444–6.

⁵⁵ Hédervár, Emerich of (son of Count Palatine Lawrence, fl. 1438–78), magnate, ban of Mačva 1442–45, *ispán* of the Székely 1453–54, master of the doorkeepers 1459/63.

⁵⁶ Bátor, Stephen of (d. 1444), master of the stewards 1417–31, judge royal 1435–39.

⁵⁷ Pálóc, Ladislás of (son of Emerich, d. 1470), master of the court 1439–46, judge royal 1446–70.

⁵⁸ Perény, John junior of (son of Peter, d. 1452/53), magnate, *ispán* of Ugocsa.

⁵⁹ Pálóc, Simon of (son of Matthew, fl. 1415–59), master of the horse 1438–55. ⁵⁹

⁶⁰ Ország, Michael, of Gút (d. 1484), lord chief treasurer 1436–37, 1440–53, count palatine 1458–84.

⁶¹ Tamási, Henry of (son of voivode John, d. 1444), magnate, master of the doorkeepers 1423–34, *ispán* of the Székely 1437 and of Pozsega.

John of Perény,⁶² Simon Cudar of Ónod, Master of the Cupbearers,⁶³ John Ország of the said Gút, Master of the Royal Treasury,⁶⁴ Stephen of Homonna,⁶⁵ Ladislás of Szécsény, *ispán* of Nógrád,⁶⁶ John Kompolt of Nána,⁶⁷ Ladislás, son of the voivode, of Léva,⁶⁸ John of Kórógy,⁶⁹ Stephen and Detricus Pohárnok of Berzevice, *ispáns* of Heves,⁷⁰ Nicholas and Paul of Perény,⁷¹ Ladislás Rikalf, *ispán* of Liptó,⁷² Sylvester of Torna,⁷³ George son of Roland of Serke, Ladislás of Necpál, Nicholas and Dominic of Kisvárda, Akusius of Csap, Ladislás of Nagymihály, Paul and Philip of Szekcső, Ladislás jr. and Peter Jakcs of Kusaly, Ladislás Pető of Gerse, *ispán* of Zala⁷⁴, both Johns Forgács of Gimes, Rupert of Tar, Paul of Hédervár, Emerich, son of John and Ders son of the ban, of Szerdahely, Nicholas Antimus of Tapsony, Nicholas son of Roland of Berzence, Nicholas of Bélték, Frank of the aforementioned Gút, George Bodó⁷⁵ and Pancracius of Dengeleg⁷⁶, vice-voivodes of Transylvania, John of Samos, Michael of Bóly, the other Michael of Cil, Ladislás of Szentmihály, George Orros, Demetrius of Pány, Ladislás of Told, Peter Zopa, the other Peter

⁶² Perény, John senior of (son of Emerich, d. 1458), magnate, master of the stewards 1431–37, master of the treasury 1438–43, 1445–58.

⁶³ Cudar, Simon, of Ónod and Makovica (d. 1462), magnate, lord butler 1441–56, master of the doorkeepers' 1458–62.

⁶⁴ Ország, John, of Gút (brother of Michael, d. 1457), master of the treasury 1443–44, *ispán* of the Székely 1454–57.

⁶⁵ Druget, Stephen, of Homonna (fl. 1411–66), magnate.

⁶⁶ Szécsény, Ladislás of (d. 1460), magnate, *ispán* of Nógrád and Hont.

⁶⁷ Nána, John Kompolt of (d. 1451), magnate, lord butler 1432–38.

⁶⁸ Léva, Ladislás of (son of Peter Cseh, d. 1467), magnate, *ispán* of Bars.

⁶⁹ Kórógy, John of (son of Philip, d. 1456), magnate, judge royal 1440, ban of Mačva 1448–56.

⁷⁰ Berzevice, Detritus Pohárnok of (brother of Stephen, fl. 1405–44), knight, *ispán* of Heves Co.; Berzevice, Stephen Pohárnok of (d. 1460), knight of the household, master of the queen's horse 1431, of the queen's doorkeepers 1438–39, *ispán* of Trencsén, Borsod and Heves.

⁷¹ Perény, Nicholas of (alias of Rihνό, d. 1444), knight, master of the stewards 1437, royal captain of Kežmarok/Késmárk 1440; Perény, Paul of (alias of Rihνό, brother of Nicholas, fl. 1430–75), knight, royal captain of Kežmarok/Késmárk 1440.

⁷² Rikalf, Ladislás (of Tarkó, fl. 1410–47), knight from Sáros Co., *ispán* of Liptó.

⁷³ Most of the following, non-baronial, signatories—nobleman from the counties—are known only as delegates at the diets of the mid-fifteenth century. They are listed and, if possible, identified in Pál Engel, *Magyarország világi archontológiája 1301–1457* [Secular archontology of Hungary 103–1457] vol. 1, pp. 514–26 (Budapest: História, 1996).

⁷⁴ Gerse, Ladislás Pető of (d. 1455/56), magnate, *ispán* of Vas and Zala 1424–48.

⁷⁵ Bodó, Gregory, of Györgyi (d. 1459), knight from Tolna Co., retainer of Nicholas of Újlak and of János Hunyadi, vice-voivode of Transylvania, *alispán* of Tolna 1447, castellan of Buda 1451–55, master of the treasury 1458–59.

⁷⁶ Dengeleg, Pancrace alias George of (d. 1444), knight of the household, Hunyadi's brother-in-law, vice-voivode of Transylvania 1441–44.

Tuz of Lak, Michael Etre, Nicholas Drágfi, Ladislás Töttös of Bátmonostora, Ladislás of Szöcsény, Andrew of Hanva, Thomas Csirke, Sandrinus of Helemba, Simon of Boldogasszonyfalva, Michael Pohárnok, George of Sebes, John of Zana, the other John of Sólyag, Michael of Izmény, Pat of Gyula, Michael Pecs, John of Kálló, Nicholas of Szakoly, Peter of Ugra, Nicholas Szobonya, Andrew of Kozár, Ladislás of Marót, former ban of Mačva,⁷⁷ Raphael Herceg, bishop-elect of Bosnia⁷⁸, Michael, abbot of Somogyvár, Clement Tapán, Sebastian of Szend, Nicholas of Szentmihály, Michael of Fülöpös, Briccius of Gic, Nicholas Nyakatlan of Töttös, George Orros of Serjén, John and Thomas, sons of Hyppolit of Györke, Peter of Tetétlen, Stephen Danes of Macedonia, George Máriási, Thomas Csirke of Pólyi, Gyula of Rátót, George of Szentjános, Bernard of Dengeleg, John of Apagy, Nicholas Kun of Besenyő, John of Szepes, Ladislás of Miske, Stephen of Bajon, Nicholas of Osgyán, Peter of Papi, John of Ina, Ladislás son of Matthew of Menche, John of Csány, Coloman of Dörögd, Paul Pázmány, Daniel of Kustán, Ladislás of Paka, Ladislás of Tetétlen, Ladislás of Hort, George of Rohmány, Peter of Hangony, Stephen of Jánosi, Michael Barocz of Vizslás, provost Martin of Požega, Michael of Gencs, John, son of Stephen, of Szentmihály, George of Ráton, Nicholas of Zombor, Gregory Józsa of Gallya, Ladislás of Csépán, George of Gergelylaka, Ladislás of Somos, Ladislás of Rohmány, Ladislás of Zelemér, Caspar of Vere, Simon of Hutichyna and Matthias of Klišić from the kingdom of Croatia, Demetrius of Tapász, George of Megyericse, Giles of Peder, John of Zytha, the learned Ladislás of Petke, the learned Albert of Szentmárton, John of Bakta, Sandrinus of Réde, Matthias from the same place, Stephen of Dombó, Andrew of Sztáncs, Sebastian of Kolyn, Ladislás Gógán of Gyürky, Ladislás Hernád of Hernádfalva, Michael of Monok, Matthew of Tófő, Nicholas of Alag, James of Pilis, Andrew of Lukafalva, Peter Panes of Gordova, Lawrence of Kér, James of Lesztemér, Vincent of Ruszka, Ladislás of Irsa, Stephen of Laczk, Ladislás, son of Abraham, of Gerla, Nicholas, son of Peter, of Szentlélek, Dennis of Zech, Blaise of Berény, Ladislás of Miske, Elias of Kecczer, Nicholas Varjas, George Ország of Gút, Mark of Nadány, Ladislás of Monostor, George of Vica, Caspar and George of Hatna, Benedict of Likva, Bartholomew, abbot of Borsmonostor, George, provost of Szepes, Stephen, son of George of Telekes, Michael Asztalnok of Hermán, Benedict of Zempes, Sigismund of Csap, Benedict of Bökény, Lawrence of Csegöd, Ladislás of Polyán, Peter of Kemend, Peter of Berente, Benedict of Vámos, Ladislás of Nyitraszeg, George of Dománhida, John of Liszka, James of Ripak, Oswald Fejér, James of Chepen, Dennis of Vág, John Bak of Berend, Valentine de Makófalva, Blaise of Dolor, Martin of Petenye, John, son of Vitus of Mohora, John of Mlena, Lawrence of Kálló, Paul of Szerdahely, George of Bátor, John Vaski, Clement of Keszi, Andrew of Jakabfalva, John Köte of Kötegyán, Andrew of Kollár, Ladislás of Verseny, Peter of Bask, Zoárd of Szentersébet, Ladislás of Tapalóc, and the other lords and nobles of the kingdom constituted in the present assembly acknowledge all things described above as far as all their articles have been and are made and concluded from our common council, deliberation and assent, and because of this we promise to observe inviolably in good faith all things, which are described above, and to cause them to be observed by others, who might wish to act against the preceding articles in part or in whole, in every way and by the way of all

⁷⁷ Marót, Ladislás of (son of John senior, d. 1446/47), magnate, ban of Mačva 1397–1410, 1427–8.

⁷⁸ Raphael Herceg of Szekcső (d. 1456), bishop of Bosnia 1444–50, archbishop of Kalocsa 1450–56.

appropriate force, by witness of those present, whose seals are appended next to our royal seal.
Given as above.

LAW OF THE DIET OF HUNGARY OF 7 MAY, 1445

After the disaster at Varna, about which only incomplete news reached Hungary during the winter of 1444/45, the magnates established first an informal and soon after a formal council of regency. In their meeting in February 1445, they called a diet for 4 April at Pest. The deliberations began only in late April and the decree was not issued until 7 May 1445. Waiting for definite news of the fate of King Wladislas, the estates issued the *decretum* in their own name and decreed, among others, that a seal of the realm be cut. While the original was issued under the seal of several magnates, the surviving copies are sealed by this corporate seal. Even though the decree did not formally name captains for the regional enforcement of its measures, the magnates entrusted with its implementation acquired such a position. In July 1445 a meeting in northern Hungary—representing the powerful magnate Giskra, the counties of present-day Slovakia and the cities of Upper Hungary—passed decisions about the implementation of this decree.

MSS.: Three originals: one on parchment (MNL OL DL. 13848/1), one on paper (MNL OL DL. 13848/2) and another on paper in the City Archives of Trenčín (Cista 3., Fasc. 10, No. 12), all three sealed with the SIGILLUM REGNICOLARUM REGNI HUNGARIAE; *en placard*, see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akademiai, 1978) [=DRH]. p. 339.)

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801), 2: 9–36; Johannes Nicolaus Kovachich, *Sylloge decretorum comitialium inclyti regni Hungariae, quae in vulgato corpore juris hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui parte, manca referebantur et oblivion postliminio, recenter erepta sunt*. (Pest: Trattner, 1818), 1: 94–107; *Magyar Törvénytár: Corpus Juris Hungici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896), 1:302–07; DRH, pp. 338–48.

LIT.: Nándor Knauz, *Az országos tanács és az országgyűlések története, 1445–1452* [History of the royal council and the diets between 1445 and 1452] (Pest: Eggenberger, 1859), pp. 20–27; Gyula Gábor, *A kormányzói méltóság a magyar alkotmányjogban* [The dignity of regent in Hungarian constitutional law] (Budapest: Athenaeum, n.d. [1932]), pp. 46–7; Elemér Mályusz, “A magyar rendi állam Hunyadi korában” [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957): 46-123, 529-602, here pp. 85, 543, 559–60; János M. Bak, *Königtum und Stände in Ungarn im 14.-15. Jh.* (Wiesbaden: Steiner, 1973), pp. 49–51; Joseph Held, *Hunyadi: Legend and Reality* (Boulder, Co.: East European Monographs, 1985), pp. 113–8.

7 MAII 1445

Nos universi prelati, barones, milites, nobiles ac civitatenses regnicoleque regni Hungarie in presenti generali congregatione Pestiensi pro reformanda pace et reipublice utilitati eiusdem regni insimul congregati presentium serie ad universorum volumus notitiam devenire, quod cum occulto dei iudicio regnum hoc Hungarie, quod Christi fidelium propugnaculum existit, ex sui intrinseca divisione et guerrarum intestina concitatione hiis temporibus cepisset fluctuare et in casus periculosissimos pro dolor devenire, ita quod patrimonium Jesu Christi, ecclesie videlicet et ecclesiarum prelati ac barones unacum nobilibus utriusque sexus et incolis ipsius regni nostri per paganos aliasque circumadiacentium regionum nationes, sed et per intraneos inquietos malefactores in omnium facultatum suarum invasione et vastatione, prede continue, incendiorum et aliorum maleficiorum utniversorum commissione tantam passi fuere oppressionem et dampnificationem, quod nisi altissimi dei gratia celeris provisionis remedio humanis etiam sollicitationibus occurrentibus fuerit opportune provisum, regnum hoc ad extremam devenire cernebatur periclitationem, maxime considerato casu illo magis periculosiori, qui dei ex permissione regie maiestati anno proxime elapso ex causa fidei et Christiane defensionis cum regnicolis contra paganos Turcos, videlicet istius regni nostri atrocissimos et infestissimos emulos usque ad fines regni Bulgarie penes Nigrum Mare proficiscenti et conflictum cum paganis ipsis facienti taliter acciderit, quod usque ad septimum mensem conflictus sui nulla de eius reditu haberi potuit certitudo. Ne tamen per huiusmodi divisionem nostram et intestinam guerram maiora pericula et graviora mala nobis et ipsi regno per eiusdem anichilationem subsequi contingat, inter nos variis hincinde habitis tractatibus respectibusque et difficultatibus ad talem devenimus concordie unionem, quod si supradicta regia maiestas usque octavum diem festi sancte Trinitatis proxime venturum non redierit, aut de vita sua per nostrum nuncium ea de causa nunc ad Poloniam transmissum plena et indubitata certitudo reportata non fuerit, extunc omnes universaliter illustrissimum principem dominum Ladislaum natum condam domini nostri Alberti regis Hungarie, si et in casu, quo nohis eundem cum sacra regni huius corona restituere et in mediim nostri dominus rex Romanorum, in cuius manibus ad presens consistunt, dare voluerit dederitque et de facto assignaverit, in verum et legitimum regem Hungarie et dominum nostrum assumemus et pro rege habebimus et tenebimus vita semper sibi comite in futurum. Casu autem, quo eorundem restitutio et in medium nostri assignatio nobis fuerit recusata, in nullo sibi, scilicet Ladislao principi volumus esse obligati; quin ymo huius regni moderno statu et necessitate requirentibus providebimus de rege et principe, cuius sub regimine ipsum regnum a suis periculis et oppressionibus valeat opportune liberari et in statu tranquillo et pacifico permanere. Et ut huiusmodi dissensionis et divisionis nostre multiplicata materia sopiatur, malaque predicta in antea non committantur et pax pristina reformetur, subscriptas dispositiones effective observandas in hac generali nostra congregatione duximus proinde ordinandas,

I. Primo dispositum est, quod omnes occupationes castrorum possessionumque et terrarum, generaliterque aliorum quorumlibet iurium et bonorum, sive vigore donationum per regiam vel reginalem maiestates, vel propria temeritate seu expugnatione per quoscunque, Hungaros scilicet, Bohemos, Polonos, Thewtunicos seu cuiuscunque alterius linguagii homines quorumcunque a

tempore inceptionis presentium guerrarum facte usque ad octavum diem dicti festi sancte Trinitatis hiis, apud quos tempore inceptionis huiusmodi guerrarum eedem extiterunt, sub pena perpetue infidelitatis remittantur; et signanter hii, qui in presenti congregatione sunt presentes, promittant se velle remittere et presenti ordinationi parere et obedire effective, ut sic inter eos mutuus amor et fraternalis dilectio odio et rancore exclusis vigeat et permanere dinoscatur,

II. Item quod omnes donationes post mortem dicti condam comini Alberti regis de possessionibus regalibus et ad regium ius spectantibus per regiam vel reginalem maiestates facte firmari vel infirmari differantur usque ad tempus coronationis regis.

III. Item de actibus potentiariis hiis temporibus disturbiorum perpetratis iudicium similiter ad illud tempus differatur, exceptis dumtaxat interemptionibus hominum, possessionum occupationibus, litteralium instrumentorum ablationibus ac virginum et honestarum dominarum dehonorationibus, de quibus iudicium et iustitia petentibus ministretur per iudicem competentem.

IV. Item omnia fortalitia in ipso disturbio erecta usque ad octavum diem prefati festi sancte Trinitatis per eos, qui ea erexerunt vel nunc possident, sub pena infidelitatis deponantur; in partibus tamen regni Sclauonie penes fluvium Zawa et Transsiluanis ac Posega fortalitia propter metum Turcorum facta, si que ex eis deponi debeant, relinquuntur voluntati nobilium partium earundem et deponenda sub predictis penis deponantur, exceptis quinque castris, videlicet castro Palatha Nicolai wayuode in comitatu Albensi ac Werewcze Emerici filii wayuode de Marczali in regno Sclauonie, necnon Wamus Ernerici de Pelsewcz in comitatu de Borsod, item Nana Johannis de Kompolth in Hewesiensi et Pelsewcz Nicolai et Stephani de eadem Pelsewcz in Gewmeriensi comitatibus existentibus et de eorundem propriis domibus fabricatis, que castra ipsis dominis unanimi et pari consensu tenere et habere permisimus atque relinquimus. Ita tamen, quod ipsa castra de propriis proventibus conserventur et ceteris nulla spolia, dampnificationes seu quascunque molestias de eisdem inferant, neque ad labores huiusmodi castrorum aliorum jobagiones, ecclesiasticorum virorum videlicet aut nobilium, seu aliorum possessionatorum hominum compellant. Qui si contrarium fecerint, ad primas octavas cum insinuatione evocentur et contra eosdem in eisdem octavis sententia capitalis facti potentialis decernatur et castra ipsa distrahantur sub pena predicta.

V. Item qui contumacia ducti predicta fortalitia deponenda infra prefixum tempus non deposuerint, procedatur contra ipsos tanquam contra infideles regni, pro quorum rebellionem conterenda ex ista parte Ticie et Transdanubium dominus Nicolaus wayuoda cum ceteris dominis et nobilibus ac civitatensibus partibus in eisdem existentibus, ex alia autem parte Ticie dominus Johannes wayuoda et versus Cassouiam domini Georgius de Rozgon, Johannes Giskra comes de Saros et Ernericus de Pelsewcz cum Cassouiensibus et aliis civitatensibus, in terra autem Mathie domini Michael Orzag et Pangracius similiter cum dominis et nobilibus ac civitatensibus earundem partium sunt electi et deputati; ita tamen, quod si illi domini electi alicuius favore allecti premissa non facerent, tunc tales electi in premissa pena convincantur.

VI. Item omnes cause litigiose a tempore decreti anno proxime preterito facti tam finaliter terminate, quam etiam pendentes vigore permaneat et prosequantur in suo cursu, omnesque et singule clause ad octavas festi beati Jacobi apostoli proxime venturi prorogentur.

VII. Item, quod hii, qui pecunias regni pro tutela et defensione eiusdem annis proxime preteritis contra Turcos dispositas levarunt et nulla servitia exinde pro utilitate ipsius regni impenderent sibipsis easdem usurpando, in pena facti potentialis et amissione omnium bonorum et

possessionum suarum convicti permaneant. Stipendiarii vero ipso anno preterito exercituantes de dampnis, nocentibus et malorum perpetrationibus in eorum processibus per eos commissis per hos, quibus eadem intulerunt, iudicialiter conveniri valeant compellanturque iidem ad satisfactionem per iudicem suum.

VIII. Item cusiones monetarum exnunc cassari debeant in omni loco usque ad regis voluntatem sub pena communi regni ab antiquo statuta et decreta.

IX. Item de cusionibus monetarum prescriptarum, sed et aliis quibusvis proventibus regalibus, in quibuscunque rebus consistant, qui de salariis et provisionibus baronibus, capitaneis atque gentibus ad tuitionem et defensionem regni et confiniorum deputatis resultabunt, quispiam hominum, cuiuscunque status et dignitatis existat, se quomodolibet intromittere non presumat, sed talismodi proventus fisco regio reserventur et amministrentur.

X. Item si qui absque iudicio in captivitatem devenissent per Hungaros, Thewtunicos sive Bohemos ex quacunque parte, et in eadem captivate pro liberatione ipsorum castra, civitates, possessiones aut alia bona qualiacunque, sive etiam obsides dedissent aut conventionem pecuniariam fecissent, sin etiam si aliqui amici et fratres pro eisdem captivis fideiussores extitissent et pro eadem fideiussoria cautione castra et possessiones ipsorum pro eisdem assignassent fide aut litteris obligatoriis, aut qualicunque forma seu colore mediante se ad hec obligassent, absque omni solutione remittere debeant et teneantur, excepto eo casu, quo si quipiam causa fraternitatis aut amicitie pro sui capitis seu possessionum redemptione quibuscunque pecuniam propriam sponte accomodassent seu mutuassent, quod mutuum creditoribus eorundem omnino refundere teneantur.

XI. Item quod nullus hominum, cuiuscunque status et dignitatis existat, in antea possessionum occupationes, spolia, vastationes et quascunque alias oppressiones per se vel per alium facere audeat sub pena potentiarii actus, amissionis scilicet capitis et bonorum; super quo querulanti fiat debita amministratio et executio iustitie per iudicem in primis occurrentibus octavis, et propter nullam causam prorogari valeat, quin in eisdem primis octavis leso iustitia impendatur et sententia capitalis emanetur.

XII. Item quicunque post emanationem litterarum prelatorum et baronum pridem Albaregali de et super conventionem eorundem et regnicolarum in presentem congregationem factam spolia, vastationes et quoruncunque malorum perpetrationes commiserunt, ad primas octavas cum ammonitione et insinuatione evocentur et in eisdem octavis sententialiter causa terminetur. Qui autem de huiusmodi spolio et malorum perpetrationibus convicti extiterint, pena infidelitatis, ut littere convocationis pretacte continebant, innodentur et puniantur.

XIII. Item quod si imperator Turcorum venturus est, ut famatur, extunc teneantur omnes et singuli totius regni possessionati homines et cuncti civitatenses in propriis personis exercitualmente procedere contra ipsum iuxta antiquam consuetudinem et libertatem regni Hungarie.

XIV. Item omnes episcopatus, abbatie et cetera beneficia ecclesiastica vacantia manibus laycalibus et quibusvis aliis iniustis detentoribus inde exclusis conferantur personis idoneis et benemeritis dilatione sine ulteriori, non tamen alienigenis, sed tantum regnicolis. Et quod omnes decime et alii proventus ecclesiastici solvantur et restituantur prelatibus et personis ecclesiasticis, quibus alias de iure solvi consueverunt; hoc expresso, quod ipse abbatie et quecunque alie prelature religiose professis suorum ordinum et non aliis conferri debeant.

XV. Item quod disponatur unum sigillum, in quo sit signetum crucis, sicuti signetum regni Hungarie, et illud sigillum servetur in civitate Budensi, ut querulantes habeant sub illo sigillo litteras querimaniales, et procedatur iustitia secundum quod decet usque coronationem regis.

XVI. Item quod nullus presbiterorum regularium vel secularium atque clericorum sive laicorum huius regni per viam simplicis querele in quibuscunque causis ad curiam Romanam ex regnicolis quempiam citare et vexare presumat, sed prius hic in regno coram iudicibus eorum ordinariis, videlicet coram episcopo loci in cuius dyocesi moram trahit, et ab episcopo ad suum metropolitanum trahere possit in causam.

XVII. Item quod omnia tributa et theolonia tam terrestria, quam navalia a tempore decessus et mortis condam bone memorie domini Alberti regis Hungarie ex cuiuscunque et qualicunque donatione vel commissione erecta, instituta et acquisita deleantur et deponantur, et de cetera ab exactionibus eorundem omnes et quilibet prorsus et per omnia sub penis et notis prenotatis cessent et abstineant, cessareque et abstinere debeant et teneantur.

XVIII. Item quod omnes mercatores et negotiatores tam intranei, quam extranei seu forenses libere tute pacificeque et secure per queque et universa loca et civitates regni iuxta antiquam consuetudinem cum suis rebus et mercimoniis hincinde procedere valeant omnium et singulorum cuiuscunque gradus, officii et dignitatis atque conditionis hominum absque impedimento, invasione et dampnificatione, iustis tamen tricesimis et tributis suis in antiquis et consuetis locis semper persolutis.

XIX. Item quod quicumque hominum, cuiuscunque conditionis et status existat, post emanationem litterarum convocationalium prelatorum et baronum pridem in Albairegali congregatorum ad sua fortalitia atque castra homines advenas seu forenses, cuiuscunque linguagii existant, introduxisset et assumpsisset, per eosque spolia, vastationes, invasiones et rapinas fecisset; et commisisset, ac faceret et committeret in futurum, sententiam capitalem et amissionem omnium bonorum suorum, sed et notam perpetue prout in premissis litteris in Albaregali, ut predicatur, emanatis continetur, incurrat.

XX. Item quod quilibet exercituans aut viator in possessionibus aliorum quorumcunque pro se aut pro equis suis victualia pro pretio condigno ad arbitrium vendentium limitato emere debeat. Alioquin, si in huiusmodi victualium aut quarumcunque aliarum rerum receptione violentiam fecerit aut fieri permiserit, in facto actus potentialis eo facto convincatur fiatque super eo iudicium et ministratio iustitie in primis occurrentibus octavis passo dampnum querulanti.

XXI. Item quod tam prelati, quam barones regni nostri, qui ex dispositione et antiqua consuetudine tempore generalis exercitus *banderia* levare consueti sunt, cum eorum banderiis tempore huiusmodi exercitus prompti esse debeant et parati, ut et alii regnicole eo diligentiori advertentia se ad exercituandum promptos habeant et conservent.

XXII. Item quod quilibet possessionatorum hominum jobagiones suos iusto terragio deposito et aliis debitis iustis persolutis ad aliorum possessiones recedere volentes semper dimittere teneantur sub pena alias in decreto condam domini Sigismundi imperatoris Romanorum ac huius regni Hungarie etc. regis desuper edito contenta. Et eonsimiliter de restitutionibus jobagionum violenter abductorum teneantur modus et pena in eodem decreto contenti.

XXIII. Item quod ministratio iudicii et iustitie de occupationibus possessionum tempore huius disturbii, hominum interemptionibus et virginum ac honestarum dominarum deflorationibus ac

litteralium instrumentorum ablationibus, prout superius in quodam articulo continetur, intelligatur in primis occurrentibus octavis, ut de novis actibus potentiariis sententialiter fieri debendis.

Ut autem hec omnia et quevis premissorum singula debitam efficaciam et robur obtineant firmitatis ab omnibusque et singulis effective observentur, nos prelati, barones, nobiles proceres, civitatenses et incole regni huius Hungarie predicti singuli singulariter et universi universaliter promittimus fide nostra christiana mediante observare et toto posse nostro facere observari, harum litterarum nostrarum, quibus uniuscuiusque sigilla nostrum appendi fecimus, vigore et testimonio mediante. Datum et actum in civitate Pesthiensi secundo die festi Ascensionis domini, que fuit septima Maii, anno eiusdem millesimo quadringentesimo quadragésimo quinto.

7 MAY 1445

We, all the prelates, barons, knights, nobles, townsmen, and gentlemen of the realm of the kingdom of Hungary gathered in the present general assembly at Pest for the restoration of peace and the profit of the commonwealth of the same kingdom, wish to make known to all, that by the inscrutable judgment of God this kingdom of Hungary, which is the bulwark of Christ's faithful,¹ owing to internal division and the passions of internecine war, began in these times to be shaken and has, alas, fallen into a most perilous state, so that the patrimony of Jesus Christ, namely, the churches and the prelates of the churches, as well as the barons, nobles of either sex, and the inhabitants of our kingdom have suffered so many invasions and devastations, continual plundering in every possible way, losses by arson, and many other kinds of evils not only from pagans and other nations of surrounding regions but also from lawless native evil-doers, that unless swift remedy is provided by the grace of God most high and also by concurrent human effort, this kingdom may very well fall into final decline. Above all, this very dangerous situation has been considered, that by the permission of God last year, the royal majesty, for the cause of the faith and the defense of Christians with the gentlemen of the realm set out for the borders of the kingdom of Bulgaria as far as the Black Sea against the pagan Turks, these most violent and outrageous enemies of this kingdom of ours, and seven months after the battle with the pagans took place² it has not been possible to receive certain knowledge of his return. To avoid that, through this dissension and internecine war of ours, greater dangers and worse evils come upon us and the kingdom, leading to its extinction, we have reached among ourselves through various discussions, considerations, against all obstacles such an agreement of concord that, if the aforesaid royal majesty will not have returned before the eighth day after the next feast of the Holy Trinity,³ or full and certain knowledge of his life is not brought by our messenger sent now to Poland concerning this matter, then we all together will accept the most illustrious prince lord Ladislas,

¹ The notion of Hungary as the “bulwark” of Christianity goes back to 1250 when King Béla IV, in his letter to Pope Innocent IV, hinted at his lonely fight *propter bonum Christianitatis* against the Mongols. Similarly, Louis I was admonished by Pope Gregory XI to continue being a defender of Christendom, and Sigismund was addressed by Pope John XXIII in 1410 as *athleta invictissimus orthodoxae fidei*. However, as József Deér pointed out in “Die Entstehung des ungarischen Nationalbewusstseins, *East Central Europe/l'Europe de centre-est*, 20-23 (1993-6) 11-53; briefly also summarized in his “Le sentiment national hongrois au moyen age,” *Nouvelle Revue de Hongrie* 19 (1936). This idea was for a long time restricted to the ruler, and did not refer to the nation until the later Middle Ages. It became a commonplace in the rhetoric of the chancellery under Matthias Corvinus; hence, the formulation here may count as an early example of this perception of a “Hungarian mission.”

² The battle of Varna, in Bulgaria, on 10 November 1444, where the Hungarian army was routed by Sultan Murad II and King Wladislas I killed. Cf. B. Tsvetkova, *La bataille mémorable des peuples* (Sofia: Sofia-Presse, 1971), with previous literature; also John W. Fine Jr., *The late medieval Balkans: A critical survey from the late 12th century to the Ottoman Conquest* (Ann Arbor: Univ. of Michigan Press, 1987), pp. 548–50.

³ 30 May 1445.

born of our late lord Albert, king of Hungary, as the true and legitimate king of Hungary and our lord, and we shall consider and hold him as king for the future while life is granted to him, provided and if the lord king of the Romans, in whose hands he is at present, is willing to hand over and will hand over and in fact entrusts him to us and restores him to our midst, together with the Holy Crown of this kingdom.⁴ In the case of refusal of his being returned and entrusted to our midst, we wish not to be obligated to him, namely Prince Ladislas, in any way; moreover, we shall provide such a king and prince for the requirements of the present state and needs of this kingdom under whose rule the kingdom can suitably be freed from its dangers and oppressions and remain in a peaceful and tranquil condition. And in order that the manifold cause of our dissension and division may be removed and that the said evils may not be committed henceforth, but the earlier peace be restored, we in this general assembly of ours have formulated the decisions written below to be observed effectively and ordained henceforward.

1. First, it has been decided that all occupations of castles, estates, and lands, and generally of any other rights and goods, whether by a grant from the king's or the queen's majesty, or by his own boldness and violence by anyone, whether Hungarian, Czech, Pole, German, or one of any other language, perpetrated from the time of the beginning of the present wars up to the eighth day after the said feast of the Holy Trinity,⁵ must be handed over to those whose they were at the time of the beginning of the wars, under penalty of perpetual infidelity;⁶ and, in particular, those who are present at this assembly must promise to be willing to hand them over and thus effectively fulfill and obey the present command, so that mutual love and affection can flourish and be sustained among them, eliminating hatred and rancor.

⁴ Having left Hungary for Austria with her infant son, on 25 February 1441, Queen Elisabeth pledged the Hungarian crown for 8000 gulden to King Frederick III of Germany, then head of the House of Habsburg, who, after her death in December 1442, became also the guardian of Ladislas "Posthumus." Cf. the introduction to **20 July 1440**.

⁵ That is, from the beginning of the civil war in summer 1440 to 30 May 1445.

⁶ The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. agreement, peace). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate.. This article was frequently quoted during the subsequent months in cases against powerful lords, forcing them to return usurped possessions. The governing council of the realm issued several final summonses based on this and the following articles (see e.g., MNL OL Dl. 13846, 13851, 13857, 66910).

2. Then, that the confirmation or cancellation of all grants made after the death of the said late lord King Albert by the king's or the queen's majesty⁷ from the royal estates or from those pertaining to royal right must be delayed until the time of the coronation of a king.

3. Then, similarly, trials regarding acts of act of might perpetrated in these times of troubles must be deferred to that time, with the exception, of course, of killing of men, occupation of estates, theft of written instruments, and rape of virgins and honest matrons, concerning which, trial and justice must be administered to those seeking it by an appropriate judge.⁸

4. Then, all fortifications built in these troubles must be demolished by the eighth day after the said feast of the Holy Trinity⁹ by those who built them or now hold them, under penalty of infidelity. However, the fortifications built for fear of the Turks in the regions of the kingdom of Slavonia along the Sava River, in Transylvania,¹⁰ and in Požega, if they are among those which must be demolished, may be left by the will of the nobles of those same regions while those that must be demolished should be demolished under the aforesaid penalties, except for five castles, namely Palota of the voivode Nicholas in Co. Fejér,¹¹ Verőce of Emeric of Marczal, son of the voivode, in the kingdom of Slavonia,¹² Vámos of Emeric of Pelsőc in Co. Borsod,¹³ Nána of John of Kompolt in Co. Heves,¹⁴ and Nicholas of Pelsőc and Stephen of Pelsőc in Co. Gömör,¹⁵ built by these same lords around their own homes, which castles we permit and grant leave to these

⁷ Namely: Wladislas I Jagiello and Queen Elizabeth of Luxemburg.

⁸ “Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one (incl. rape).

⁹ 30 May 1445.

¹⁰ Later evidence implies that in response to Ottoman raids, a number of places were fortified by local lords in the southern parts of the kingdom, mostly between the Sava and Drava Rivers. However, no such construction work is known from Transylvania.

¹¹ The still extant castle of Várpalota, in Co. Veszprém, was owned by Nicholas Újlaki, (d. 1477) ban of Mačva 1438-72, of Slavonia 1457-65, voivode of Transylvania 1441-65 (with interruptions), king of Bosnia 1471-77.

¹² Verőce, today: Vitrovica in Croatia; Emeric Marcali (d. 1448), was the son of voivode Nicholas, magnate, master of the doorkeepers 1434–37, 1446–48.

¹³ Vámos, today Sajóvámos, in Co. Borsod, Emeric Bebek of Pelsőc (d. 1448), was a magnate, *ispán* of the Székely 1438–41, voivode of Transylvania 1446–8.

¹⁴ Nána, today Kisnána, in Co. Heves. Remnants of castle Nána have been recently excavated. John Kompolti of Nána (d. 1451) was lord butler 1432–38.

¹⁵ Pelsőc in Co. Gömör, today: Plegivec, Slovakia. Nicholas Bebek of Pelsőc (fl. 1421–46) was *ispán* of Gömör in 1440, his brother Stephen (d. 1451) was, ban of Mačva 1447–48.

lords to hold and to keep by unanimous and equal consent. However, these castles must be maintained from their own revenues without being used for despoiling or causing damages or any other molestations to others and without compelling tenants of others, namely of clergy, or nobles, or other men of property, to work for these castles. Whoever acts contrary to this must be summoned by terminal summons to the first octavial court, and a capital sentence must be passed against them in the same octave, and their castles must be razed under the aforesaid penalty.¹⁶

5. Then, those who, guided by obstinacy, do not demolish the aforesaid condemned fortifications within the set time must be prosecuted as infidels against the kingdom. To quell their rebellion on this side of the Tisza and in Transdanubia¹⁷, the lord voivode Nicholas¹⁸ with the other lords, nobles, and townsmen living in those parts, on the other side of the Tisza the lord voivode John,¹⁹ and towards Košice the lords George of Rozgony,²⁰ John Giskra *ispán* of Sáros,²¹ and Emeric of Pelsőc,²² with the citizens of Košice and other towns, in the land of Mátyusföld²³ the lords Michael Ország²⁴ and Pancrace,²⁵ similarly with the lords, nobles, and townsmen of these regions have been elected and appointed in such a way that if these elected lords do not carry out the foregoing,

¹⁶ Terminal summons (*citatio cum insinuatione*) was issued—usually after three attempts at summoning a party—with the clause that judgment would be passed even in the absence of the summoned party, used particularly against perpetrators of acts of might, introduced in 1443. Octavial court refers to the term of the session of royal courts of justice; there were usually four annually, beginning on or around the eighth day after a major feast—such as Epiphany (6 January), St. George’s (23 April), St. James’s (25 July), and Michaelmas (29 September)—and lasting 30–40 or more days. St. George’s and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times t. -- In 1452 Governor Hunyadi referred to this passage (or to **1446:2**) in a mandate ordering the razing of the castle of the noble family of Martonfalva (MNL OL Dl. 88266).

¹⁷ The central and western parts of the kingdom are meant.

¹⁸ Újlaki, see n. 11, above.

¹⁹ John/János Hunyadi (d. 1456), ban of Severin 1439–46, voivode of Transylvania 1441–6, governor of Hungary 1446–52, count of Beszterce, captain general 1453–6.

²⁰ George Rozgonyi (d. 1457/58) was a magnate, *ispán* of Pozsony Co. 1423–50, judge royal 1441–46.

²¹ Giskra or Jiskra, Jan (of Brandys/Brandeis, d. 1470/71), Czech mercenary leader, captain general in northeastern Hungary.

²² See n. 13, above.

²³ Mátyusföld is a region in the west-northwest of the kingdom of Hungary (now Slovakia, called *Matúšova zem*), so called after the oligarch Matthew Csák (1260–1321) whose territory it was; in 1387 first mentioned as *terra Matthei*.

²⁴ Ország, Michael, of Gút (d. 1484), was lord chief treasurer 1436–7 and 1440–53, count palatine 1458–84.

²⁵ Pancrace of Szentmiklós (fl. 1432–57), was captain of Queen Barbara, *ispán* of Liptó, captain general in northwestern Hungary 1445.

having chosen to favor anyone, then such elected men must be convicted of the foregoing penalty.²⁶

6. Then, all court cases from the time of the decree made in the year just past either finally terminated or still pending should remain open and be prosecuted in due course, and each and every case should be delayed until the octave of the next feast of St. James the Apostle.²⁷

7. Then, that those who in the years just past had collected the revenues of the kingdom intended for its safety and defense against the Turks and have rendered no services from them for the benefit of the kingdom but usurped them for themselves must remain convicted of the penalty of an act of might and the confiscation of all their goods and estates. The paid soldiers of the same past year ought to be summoned judicially, concerning damages, harm, and evil perpetrated during their campaign, by those whom they harmed and be compelled by their judge to pay compensation.²⁸

8. Then, the minting of coinage must cease from now on in every place until the king orders otherwise under the penalty of the country established and decreed of old.²⁹

9. Then, no one, of whatever station and dignity he might be, may presume to interfere in any way with the minting of the said coinage or with any other royal revenue of whatever form which remains after paying the salaries and provisions due to barons, captains, and their men for the safety and defense of the realm and its borders,³⁰ but such revenues ought to be reserved for and administered by the royal fisc.

10. Then, if anyone who has without trial fallen into captivity of Hungarians, Germans, or Czechs belonging to either side, and while in captivity for the sake of liberating himself has given away castles, towns, estates, or any other goods, even if they have given hostages or made agreements to pay, and even if any of their friends or kinsmen have acted as guarantors for these captives and have transferred on their behalf by trust or letters of obligation as guarantees of bonds any castles or estates, or have obligated themselves in any way or form whatsoever, are and ought to be

²⁶ The list of the elected captains and their regional jurisdiction has been critically evaluated by Kovachich (*Supplementum*, 2: 20–24). It has been debated, whether Giskra was from the outset one of the captains, or was named only in the Szina regional meeting, as the *de facto* lord of northern Hungary. One of the original charters lists him among the captains, two others do not; however, since the record of the Szina meeting (MNL OL DI, 105552), which otherwise gives the best text of the decree, included Giskra, the editors of *DRH* opted for that version; see also Mályusz, pp. 559–60.

²⁷ 1 August 1445.

²⁸ Cf. **1439:3** and many other decreta.

²⁹ Cf. **1444:7**; counterfeiting money was regarded one of the cases for the charge of infidelity.

³⁰ On the amounts paid to the major barons, who had to hire troops for the defense of the realm, we have some indication in a “reform proposal” submitted in 1453 to King Ladislas V. That plan foresaw six thousand florins to the commander-in-chief, Hunyadi, 4,600 florins to the palatine and 1,400 florins each to the commanders of the southern defense; see János M. Bak, “Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter” in R. Schneider, ed. *Das spätmittelalterliche Königtum im europäischen Vergleich*. (Sigmaringen: Thorbecke, 1987), pp. 347–87, here p. 361–2.

released without any payment, except in that case in which someone has pledged his own money or taken a loan from anyone of his own free will for the sake of kinship or friendship for the redemption of his own head or estates, because then he is required to repay the loan to his creditors without fail.

11. Then, that no one, of whatever station or dignity he might be, should dare himself or through others to carry out henceforth occupations, plundering, wasting of estates, or any other attacks under the penalty of an act of might, namely the loss of his head and goods. In such cases the justice due to the plaintiff should be administered and done by a judge in the first octave that occurs and may not be delayed for any reason, but recompense for the damage must be rendered in the first octave and a capital sentence passed.³¹

12. Then, anyone who commits plundering, wasting, and any other evil deed after the issue of the charter of the prelates and barons at their and the gentlemen's of the realm recent meeting at Székesfehérvár,³² regarding the present assembly, must be warned and cited with terminal summons to the first octave, and the case must be terminated with a sentence in the same octave. Those who are convicted of such plunder and perpetration of evil must be held and punished by the penalty of infidelity, as contained in the charter of the said assembly.³³

13. Then, that if the emperor of the Turks is about to invade, as is rumored,³⁴ then each and every man of property of the whole realm and all the townsmen are required in person to set out on campaign against him according to the ancient custom and liberty of the kingdom of Hungary.³⁵

14. Then, all vacant bishoprics, abbacies, and other ecclesiastical benefices must be released from lay hands and other illegal usurpers and conferred on suitable and meritorious persons without further delay, not on aliens, however, but only on inhabitants of the kingdom.³⁶ And that all tithes and other ecclesiastical revenues should be paid and restored to prelates and ecclesiastical persons, to whom they are usually required to be paid by right, but with this specific provision, that abbacies

³¹ Cf. **1445:23**

³² The invitation to the diet was issued on 8 February (see Mályusz, pp. 84–5); that *regnicolae* here means explicitly the lesser nobles (or their deputies), suggested by Mályusz (*ibid.*) is now supported by the emended text of the decree, as printed in DRH, p. 345.

³³ In a case before the council of regency the counsel for Ladislav of Marót (d. 1446/47), ban of Mačva, expressly noted that the accused committed his alleged crimes before the deadline set in this article; hence, the attempt of the diet to curb violence seems to have had a beneficial result.

³⁴ No Ottoman attack is known from this year, rather an unsuccessful siege by Hunyadi and his allies of Little Nicopolis on the Lower Danube in September 1446. Actually, no major Ottoman campaign reached Hungary's borders until after the fall of Constantinople in 1453.

³⁵ Cf. **1397:6**, **1439:3**, and Proposition. **1432/3: 1, 4**.

³⁶ Cf. **1444:32**.

and any other monastic prelaties should be conferred on those professed in their own orders and not on others.³⁷

15. Then, that a single seal be cut, on which there should be the sign of the cross, as the sign of the kingdom of Hungary,³⁸ and that seal be kept in the city of Buda so that plaintiffs may have letters of complaint under that seal and that justice may proceed suitably until the coronation of the king.

16. Then, that no regular or secular priest or cleric or layman of this kingdom may presume to harass or to summon to the Roman curia by way of a simple complaint in any case against any gentleman of the realm, but in the first instance the case should be brought to the court of his justice ordinary here in the kingdom, that is, before the bishop of that place in the diocese of which he resides, and from the bishop to the metropolitan.³⁹

17. Then, that all tolls and customs established both on land and water, instituted and acquired by anyone or in any kind of grant or commission since the time of the passing and death of the late lord King Albert of Hungary of good memory, must be abolished and canceled, and henceforth everyone should cease and desist, and is obliged and compelled to cease and desist from exacting them in any way under the said charges and penalties.⁴⁰

18. Then, that all merchants and traders, both native and alien or foreign, should be able to proceed freely, safely, peacefully, and securely to and from each and every place and city of the kingdom with their goods and merchandise without obstruction, harm, or damage from anyone of any rank,

³⁷ Mályusz pointed out (pp. 48–49) that through this measure the diet wished to assure the implementation of **1439:19**, which aimed at abolishing Sigismund's practice of diverting ecclesiastical revenues for government expenditures. The diets did not object to the emperor-king's anti-Roman policies, but wished to restore the domestic position of the prelates; hence, the military "obligation" was, in fact, perceived of not as a burden on the churchmen, but rather' as their right to field ecclesiastical banderia, and thus be equal to secular magnates.

³⁸ This was the only article of this decree that found its way into Werbőczy's **Tripartitum** (Pars II, tit. 14: 36) and the *Corpus Iuris Hungarici*. The cutting of a seal of the *regnum*, independent of king or regent was a significant symbolic act in the development of corporate political ideas. The design of the seal followed that of the seal cut by the council of barons in 1401, during Sigismund's captivity, of which several good impressions survived. The cross—actually the double cross—was regarded as the sign of the kingdom since the thirteenth century and featured also on the seal of the *regnicolae*, cut in 1386. See: Lajos Bernát Kumorowitz, "Die Entwicklung des ungarischen Mittel- und Großwappens," in *Nouvelles études historiques publiées à l'occasion du XII^e Congrès International des Sciences Historiques* (Budapest: Akadémiai K., 1965) 2:319–56.

³⁹ Cf. **1440:4–6**.

⁴⁰ Cf. **1444:22**. The measures decreed here seem to have been interpreted in a rather extended manner; Mályusz (p. 543, n. 366) cites a case, where a nobleman suspends his grant for a market because of this paragraph. The charter of a meeting of several counties in Szina in July 1445 also includes all, even urban, tolls in the prohibition.

office, dignity, or condition, according to ancient custom, so long as they always pay their thirtieths and customs duties in the ancient and customary locations.⁴¹

19. Then, that anyone, of whatever condition and station he might be, who, after the issue of the call to the assembly of the prelates and barons recently gathered in Székesfehérvár, introduced and admitted to his fortifications and castles alien or foreign men of whatever language, and caused and committed plunderings, devastations, invasions, and robberies with them, or causes and commits these in the future, incurs a capital sentence and: the loss of all his goods, as well as the charge of perpetual infidelity, just as is contained in the said charter promulgated in Székesfehérvár, as was mentioned before.⁴²

20. Then, that any soldier or traveler should be able to buy supplies for himself and for his horses at a just price set by the decision of those selling. Otherwise, if he causes or permits the causing of violence in taking such supplies or any other goods, he shall be convicted immediately of an act of might, and a trial and administration of justice should be instituted against him at the complaint of the harmed party at the first occurring octave.⁴³

21. Then, that the prelates and barons of our kingdom, who by arrangement and ancient custom usually supply *banderia* at the time of a general levy,⁴⁴ must be prompt and prepared with their *banderia* at the time of such a levy, so that the other gentlemen of the realm might prepare and keep themselves more ready with diligent attention for campaigning.

22. Then, that any man of property is at all times obliged to dismiss his tenant peasants after a just payment of rent and of other just debts when they wish to leave for the estate of others under the penalty contained in the decree of the late lord Sigismund, emperor of the Romans, king of this kingdom of Hungary, etc., on this matter. And similarly they are required by the means and penalty contained in that decree to return tenants violently abducted.⁴⁵

⁴¹ Mályusz (p. 560) sees in this measure, suspending the commercial limitations of **30 May 1439:9**, a minor victory for the urban delegates present at the diet. Actually, the deputies of royal cities were most active in the diets of the interregnum; their counsel was sought even at the election of the regent, see András Kubinyi “Zur Frage der Vertretung der Städte im ungarischen Reichstag bis 1526,” in: Idem, *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer1998) pp. 65-102. -- The thirtieth (*tricesima*) was a customs duty on import and export that developed out of different types of urban and market tolls. The “usual places” are listed in **1498: 34**. Exemption of minor items from the customs duty had not been previously decreed.

⁴² See above, n. 24.

⁴³ Cf. **30 May 1439:3**, with reference to earlier legislation.

⁴⁴ *Banderia*, (from the Italian *bandiera*, ‘banner’) were troops supplied by the king, the queen, the barons and prelates (later also by other major landowners) in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars)

⁴⁵ The right of tenant peasants (*jobagiones*, free men in seignorial dependence) to move from owas guaranteed ever since the thirteenth century. In general, see János M. Bak, “Servitude in the Medieval Kingdom of Hungary (A Sketchy Outline)” in Paul Freedman and Monique Bourin, eds. *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*. Turnholt: Brepols, 2005. (Medieval

23. Then, that the administration in the first occurring octave of law and justice concerning occupation of estates, killing of men, rape of virgins and honest matrons, and theft of written instruments in these times of troubles, as contained in the article above, must be understood so that final sentences have to be passed just as for new acts of might.⁴⁶

In order that all these things and any of the foregoing receive the required efficacy and force of validity and be observed effectively by each and every person, we the prelates, barons, nobles, lords, townsmen, and inhabitants of this said kingdom of Hungary singly and together universally promise by our Christian faith to observe inviolably and to cause to be observed with all our might, by means of the strength and testimony of these our letters, to which we have caused the seals of every one of us to be appended.⁴⁷

Given and enacted in the city of Pest on the second day of the feast of the Ascension of the Lord, which was the seventh day of May, in the year one thousand, four hundred and forty-five.

Texts and Cultures of Northern Europe 9), pp. 387–400.. Cf **1397:68** and **1405:14–16**. This time the Judge Royal Ladislav of Pálóc ordered a special investigation of tenants hindered in their movement, see MNL OL DI. 13943 of 29 July 1446.

⁴⁶ See articles 2 and 11, above.

⁴⁷ This clause referred to a way of sealing as used on the decree of **1444**, and must have been used on some of the now lost originals. By the time the surviving copies were issued, the new seal (**1445:15**) was ready and applied to the charter; however, the sealing clause was not corrected to match the actual situation, save on the one copy, now in Trenčín, which has *sigillo universitatis regni Hungariae consignatarum* at this place.

LAW OF THE DIET OF HUNGARY OF

13 JUNE, 1446

This decree, passed in a diet that met in early June, 1446, consists of three parts: the first five articles contain the intention of the “Hunyadi-party” to elect John of Hunyad regent of the kingless country; the following nine articles define the limits of the regent’s power and jurisdiction; in a paragraph connecting the two (and also in the eschatocol) and then the elected regent accepts the office with the limitations imposed upon him. Actually, the “program” of Hunyadi’s adherents, as Elemér Mályusz, in “A magyar rendi állam Hunyadi korában” [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957): 87) calls it, was apparently already circulated before the meeting (a copy of these articles survived as MNL OL Dl. 55325). The final text was issued by the regent under his own seal.

The text of this *decretum* was transcribed verbatim into the decree of 1447; that version was also considered for the edition.

MSS.: One original, on parchment with pendant seal (missing), MNL OL Dl. 13938; two transcripts in the text of 1447 and a copy of Artt. I–V separately (see above). For details, see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akadémiai, 1978) [=DRH], p. 354.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ http://archives.hungaricana.hu/en/charters/search
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EDD.: Martinus Georgius Kovachich, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. (Buda: Regia Universitas, 1790), pp. 253–61; Johannes Nicolaus Kovachich, *Sylloge decretorum comitialium inclyti regni Hungariae, quae in vulgato corpore juris hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui parte, manca referebantur et oblivion postliminio, recenter erepta sunt*. (Pest: Trattner, 1818) 1:108–16; Henrik Marczali, *A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungarorum* (Budapest: Athenaeum, 1901), pp. 260–65; DRH, pp. 354–59.

LIT.: Nándor Knauz, *Az országos tanács és az országgyűlések története, 1445–1452* [History of the royal council and the diets between 1445 and 1452] (Pest: Eggenberger, 1859), pp. 40–46; Gyula Gábor, *A kormányzói méltóság A magyar alkotmányjogban* [The office of regent in Hungarian constitutional law] (Budapest : Athenaeum, n.d. [1932]), pp. 49–53; Elemér Mályusz, “A magyar rendi állam Hunyadi korában” [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957) pp. 46–123, 529–602 here pp. 87–8, 113–4, 561; Joseph Held, *Hunyadi: Legend and Reality* (Boulder, Co.: East European Monographs, 1985) pp. 120–4.

13 JUNII 1446

Nos Johannes de Hwnyad pro illustrissimo infante Ladislao nato condam Alberti regis electo regni Hungarie gubernator generalis et waywoda Transsiluanus notum facimus presentium tenore quibus incumbit universis, quod cum universitate dominorum prelatorum, baronum et nobilium ac aliorum singulorum possessionatorum hominum huius regni Hungarie iuxta dispositionem et ordinationem eorundem nuper in civitate Albaregali factam in hanc presentem sollempnem congregationem amplissime coadunata eas res modosque, quibus divina gratia suffragante tot diebus totque annorum curiculis alternis insidiis et mutuis persecutionibus acerrime contra sese fine dato pacem reformare et caritativi sibiinvicem commorari possent, avidissime exquirere cepissent, tandem post multos habitos labores partibus ad tam salubre necessariumque opus non sine divine miserationis gratia inter se unitis pari consensu ad articulos infrascriptos observandos concordarunt. Quorum tenor verbalis hic est:

I. Primo, quod eligent et deputabunt unum gubernatorem.

II. Secundo, quod universi prelati, barones et quivis alii castra, castella, fortalitia, civitates, opida, possessiones et queque iura possessionaria, necnon episcopatus, abbatias, preposituras decimasque et quevis beneficia ac iura ecclesiastica per ipsos hiis gwerrarum temporibus occupatas et usurpata remittent et, resignabunt. Civitates etiam, quas hactenus capitanei tenuissent, pristino earum statui, dispositioni, custodieque et conservationi earum proprie remittent, ipsique capitanei excipient manus et gentes ac familiares eorum de eisdem; quique ex huiusmodi occupatoribus. ac capitaneis in hac congregatione presentes forent, interim non redent de eadem, donec huiusmodi remissionem et resignationem efficient suo modo. Quodque universa castra, castella, fortalitia hiis disturbiorum temporibus erecta durante presenti congregatione diruantur et deleantur, demptis hiis, que in confinibus pro defensione regni sunt erecta et etiam, que in preterita Pestiensi congregatione certis personis indulta fuere et concessa, ac que universitas comitatuum, in quo eadem erecta sunt, pro sui defensione stare censuerit et voluerit; nec interim hii, qui huiusmodi fortalitia erexerunt vel pre manibus habent, qui scilicet hic presentes forent, recedent, donec eadem deponi facient et delere.

III. Tertio, quod omnes domini barones honores et officiolatus eorum, quos habent, in presenti congregatione deponent, manibusque et dispositioni ac distributioni aliorum dominorum prelatorum, baronum et regnicolarum libere et sine contradictione committent et assignabunt.

IV. Quarto, quod universa alia, que in hac conventiom pro pace, utilitate et comodo regni statuentur, concludentur et disponentur, firmiter observabunt in eisdemque persistent, ac eis obedient et parebunt.

V. Quinto, quod omnes tractatus, confederationes et vincula inter quoscumque prelatos, barones et regnicolas in alterutrum et, mutuo fide mediante vel aliter quomodocunque facte et ordinate, que scilicet utilitatem regni et reipublice impedirent, casse, annullate et inanes habeantur, et quod ipsi domini prelati et barones in omnibus pro utilitate regni regnicolis assistent et contra omnes statuta et ordinationes regni infringentes insurgent toto iuxta posse.

Quibus quidem articulis modo premissis inventis et confectis ad contentaque eorundem observanda singulis singulariter, tam scilicet maioribus, quam minoribus in forma ad hec ordinata iuratis unanimi et pari omnium voto et consensu nos licet inmeritos ad onus huiusmodi gubernationis elegerunt, idem humeris nostris imposuerunt exercendum. Cumque quamvis inviti iuramento tamen modo quo supra prestito astricti effugere non valentes iuxta vires nostras paratum serviendi animum obtulissemus, sicut ipsis dominis prelati et baronibus placuit, volumus, ut limitatam habuissemus viam et modum, quibus et officium gubernationis huiusmodi et debitam eiusdem regni huius tuitionem exerceremus et etiam non excederemus modum, quo vel in minimo contra prefatum iuramentum laxasse manum cerneremur. Eapropter iidem domini prelati, barones et nobiles universi post maturam eorum superinde factam deliberationem articulos infrascriptos limitationem petitam in se continentes nobis presentarunt hanc seriem verbaliter continentes:

VI. Gubernator eligendus habeat tantam auctoritatem, quam haberet regia maiestas, dempto quod donationes perpetuales possessionum facere non possit ultra limitationem infrascriptam, nec etiam quempiam sine scitu consilioque et requisitione regnicolarum nota infidelitatis proscribere, nec etiam infidelibus ratione transgressionis statuti in presenti congregatione fieri notam infidelitatis incurrentibus aliisque quibuscunque infidelibus similiter sine requisitione prelatorum, baronum et regnicolarum gratiam facere queat, sed nec archiepiscopatus, episcopatus et abbatias maiores absque scitu, voluntate, consensu et collaudatione consiliariorum suorum conferre valeat.

VII. Item gubernator manebit, ubicunque voluerit, in castris, civitatibus et opidis regalibus aut reginalibus, omniaque castra, civitates, opida et queque tenuta regales aut reginales sibi, dum et quandocunque ac quotienscumque voluerit, liberum prestant ingressum; stabuntque cum eodem tempore celebrationis iudicii octavarum duo prelati ecclesiastici et alii duo barones seculares una cum palatino et iudice curie ac sex nobiles ad id deputandi. Medio autem tempore unus prelatus et unus baro et duo nobiles manebunt cum eodem, cum quibus querelas et necessitates audiet regnicolarum; quorumque consilio eisdem faciet relationem. Ultra autem hos consiliarios de prelati, baronibus, militibus et nobilibus huius regni incolis tot et tantos, quot et quanti sibi necessarii fore videbuntur, poterit penes se conservare consiliumque requirere ab eisdem.,

VIII. Item de proventibus regalibus, quibus ipse gubernator ac sui consilarii utantur, et de dispositione ipsis fieri committitur iudicio dominorum prelatorum et baronum, quibus de qualitate proventuum regalium plenior constat certitudo.

IX. Item gubernator ipse proficisci debet et exercituari, dum necesse fuerit, exigente magnitudine rei per se contra hostes.

X. Item ipse dominus gubernator hiis, qui fideliter sacre regni corone servierint, de illis possessionibus, que deinceps ad sacram coronam pure legitimeque sine cuiuspiam alterius iure per defectum, seminis, item propter delationem falsarum litterarum, propter cusionem falsarum monetarum et fabricationem falsi sigilli, necnon propter inductionem extranee potentie in hoc regnum ac positionem ignis in eodem fuerint devolute, in quibus scilicet possessionibus triginta. due sessiones et non plures fuerint vel fieri poterint, et etiam in quibus infra eundem numerum triginta duarum sessionum fuerint vel fieri poterint, facere valeat donationes. Si vero civitates, opida et possessiones ultra numerum prescriptarum triginta duarum sessionum etiam prescriptis modis ad sacram coronam fuerint devolute, illas parti seu dividere in triginta duas sessiones non valeat et sub nomine triginta duarum sessionum de illis facere cuiuspiam donationem, sed huiusmodi

omnes civitates, opida et possessiones indivise ipsi sacre corone reserventur.

XI. Item dominus gubernator, si cui donationem premissa modo semel fecerit, amplius eidem donare non valeat. Et cum donationes, castrorum, civitatum, opidorum ac possessionum et similium ad ius regium dumtaxat spectare dinoscantur, igitur ipse dominus gubernator quibuscunque donationes premissa modo fecerit, illi tempore suo teneantur accedere ad dominum regem pro earum confirmatione obtinenda.

XII. Item possessiones illorum, quorum propter delationem falsarum litterarum aut cusionem falsarum monetarum vel alio quovis modo superius expressato ad coronam fuerint devolute, quousque per iudices suos competentes iudicialiter secundum antiquam et approbatam regni consuetudinem sententiati fuerint, occupare et donationem de eis facere non valeat quovismodo.

XIII. Item valeat in absentia consiliariorum facere relationem et expeditionem in occurrentibus causis, que si iudicialiter fuerint, et huiusmodi relatio inventa fuerit contra consuetudinarium, huiusmodi relatio et expeditio per iudices ordinarios regni valeat emendari, prout temporibus regum fieri consueverit.

XIV. Item ut si quid de proventibus regalibus ab expeditionibus regni remanserit, valeat dominus gubernator castra, civitates, opida et possessiones regias impignoratas nomine regio redimere de eisdem, et ea corone reappropriando domino regi reservare, quorum proventus similiter pro expeditione regni exponantur.

Nos igitur huiusmodi potestatis nostre gubernationis limitatione ab eisdem dominis prelati, baronibus et nobilibus regni modo premissa articulata recepta, iuxta eandem obtulimus eisdem omnem diligentiam, sollicitudinem et curam nostram, facereque et exercere officium gubernationis huiusmodi melius, ut possumus, atque sicut iuramento modo quo supra promisimus, limitationem et articulos suprascriptos in nullo excedere velle. In quorum testimonium presentes litteras nostras eisdem dominis prelati, baronibus et nobilibus regni universis sigillo nostro, quo ut waywoda Transsilvanensis utimur, inpendenti comunitas duximus concedendas. Datum in amplissima prelatorum, baronum et regnicolarum congregatione generali in campo Pestiensis celebrata, feria secunda infra octavas Penthecostes, qui fuit tredecima Junii, anno dornini millesimo quadringentesimo quadragésimo sexto.

JUNE 13, 1446

We, János Hunyadi, regent-general of the kingdom of Hungary and voivode of Transylvania, on behalf of the most illustrious heir-elect Ladislas, born of the late King Albert,¹ notify all to whom it may concern, by the contents of these presents, that when the community of lord prelates, barons, nobles, and other individuals who are property-owners of this kingdom of Hungary were all brought together into this present solemn assembly, according to the decisions and orders of the same men recently passed in the city of Székesfehérvár,² they had most avidly taken up the enquiry into the ways and means by which, with the assistance of divine grace, they might be able to restore peace and maintain charity among themselves, by ending so many days and so many cycles of years of attacks most bitterly prosecuted mutually against one another. Finally, after much labor at such salubrious and necessary work, not without the divine grace of compassion and united among themselves in common agreement, they agreed to observe the articles written below. The verbal form of these is this:

1. First, that they will elect and appoint a regent.
2. Second, that all prelates, barons, and others who seized and usurped castles, residences, fortifications, cities, towns, estates, and any property rights, and also bishoprics, abbasies, priories, tithes, and any benefices or ecclesiastical rights during these times of wars will hand these over and resign them³ They will also return the cities, which the captains had held until now, to their former conditions, that is, to their own government, custody, and maintenance, and the captains will remove their troops, men, and retainers from them; any of these usurpers or captains who are present at this assembly must not leave it until they have carried out such a surrender and resignation.⁴ And that all castles, residences, and fortifications built during these times of troubles must be demolished and razed while the present assembly lasts, with the exception of those which were built on the borders for the defense of the kingdom, those granted and conceded to certain persons in the previous assembly at Pest,⁵ or those which the community of the counties in which they were built chooses and wishes to keep for their defense, and those who built or now hold

¹ See the introduction to **20 July 1440**. Calling Ladislas a *rex electus* implied that at this time his 1440 coronation was not (yet) seen as valid.

² A diet was held in early spring 1446; its decrees, issued on 14 March survived only in a badly mutilated copy (see *DRH*, pp. 34952), which we omitted.

³ There are indeed several cases known from the months following this diet in which usurped rights and estates were returned to their legal owners (see the examples listed in *DRH* p. 355, n. II/1 and in Mályusz, p. 88, n. 177). Bónis (*DRH*, 355) assumed that the diet issued another decree about restitution as well, for in a reference in a sentence of the council of regency from 6 August 1446 the obligation of returning estates is more elaborate; see also Knauz, p. 53.

⁴ Cf. **1445:5**.

⁵ Cf. **1445:4**.

fortifications of this kind, namely, those of them who are present here, must not leave until they arrange that they be demolished and razed.⁶

3. Third, that all the lord barons should lay down their honors and offices, whatever they hold, and commit and assign them freely and without objection, in the present assembly into the hands of the other lord prelates, barons, and gentlemen of the realm for their decision and distribution.

4. Fourth, that in all respects they will firmly observe, adhere, and obey what will be decided, concluded, and ordered in this assembly for the peace, order, and advantage of the kingdom.

5. Fifth, that all treaties, confederations, and ties among any prelates, barons, and gentlemen of the realm on either side made and arranged in any way- by mutual oath or otherwise, namely those which might be against the interests of the kingdom, must be considered cancelled, annulled and void, and that the lord prelates and barons will assist the gentlemen of the realm in all things for the order of the kingdom and rise up with all their might against all those infringing the statutes and laws of the kingdom.

When these articles were devised and composed in the manner stated above, and when all in attendance, both those of greater as well as those of lesser rank, swore individually in the form prescribed for such matters,⁷ to observe the contents of these articles, they then, by unanimous vote and common agreement, elected us, although unmerited, to the burden of government and upon our shoulders the exercise of this burden.⁸ Since we, although unwilling, were bound by oath in the manner described above and unable to flee, have turned our soul, according to our strength, toward service, as it pleased the same lord prelates and barons, we wish to limit the ways and means by which we exercise this office of regency and the protection of this realm, and we shall not exceed the means nor shall we be deemed to have in the least relaxed our hand contrary to the aforesaid oath. Therefore, the same lord prelates, barons, and all the nobles after their mature

⁶ A letter of protection by Hunyadi for the family Rikolf of Tarkő (MNL OL Dl. 68996, 68997 of 6 August 1447) suggests that many nobles were in fact forced to raze their illegal castles.

⁷ The text of this oath in the vernacular survived in the Codex Nádasdy and belongs to the stock of early Magyar vernacular official texts, ed. by *Martinus Georgius Kovachich*, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801), 2:44. A literal English translation of the main formula is, in comparison to the elegant archaic language of the original, rather pedestrian: "God so help you, the Holy Virgin so win you mercy, God's all saints so support you, the holy body of God so may lead you to salvation at the moment of your death, the earth so received your corpse and so not eject it on the third day, your seed may so multiply, so you may see God's holy countenance on Judgment Day and avoid eternal hell" The oath formulated in the Pest diet became a point of reference in subsequent years, and was used, for example, in the treaty of alliance sworn between Hunyadi, Újlaki and Palatine Ladislas of Gara in 1450 (MNL OL Dl. 14379).

⁸ The election took place on 5 June 1446. Apparently the first five articles were passed preceding this date, the rest after it

deliberation hereon have presented to us the articles written below containing the limitation sought in them in the following words:

6. The regent to be elected will have such authority as the royal majesty would have, except that he should not be able to make perpetual grants of estates beyond the limitation written below, or to proscribe any man by the charge of infidelity without the knowledge, counsel, and request of the gentlemen of the realm, nor should he be able to grant pardon to those incurring the charge of infidelity by reason of transgression of a statute made in the present assembly or to any other infidels without the request of the prelates, barons, and gentlemen of the realm, and neither may he confer archbishoprics, bishoprics, and the greater abbacies without the knowledge, will, agreement, and approval of his councilors.

7. Then, the regent may stay wherever he wishes in castles, cities, and towns belonging to the king and queen, and all castles, cities, towns, and royal estates belonging to the king or the queen will offer him free entry while and whenever and as often as he wishes; and two ecclesiastical prelates and two other secular barons, together with the count palatine and the judge royal and six appointed nobles, should accompany him at the time of holding octavial court. At other times, one prelate, one baron, and two nobles should stay with him, with whom he will hear the complaints and cases of the people, and with whose counsel he will issue legal instruments.⁹ Over and above these councilors, he should have the right to keep with him and include in his council such and so many prelates, barons, knights, and nobles of this realm, which and as many he finds necessary.

8. Then, the decision regarding what part of the royal revenues the regent and his council should use and have assigned to them should be entrusted to those prelates and barons who have more definite knowledge of the nature of the royal revenues.

9. Then, the regent should himself set out and fight against enemies, if it appears necessary, according to the seriousness of the matter.

10. Then, the lord regent should be able to make grants to those who faithfully serve the Holy Crown of the kingdom from those estates which henceforth devolve to the Holy Crown clearly and legitimately owing to the lack of an heir, because of proffering false documents, minting counterfeit money or the making of false seals, or because of the introduction of a foreign power

⁹This meant that the regent was not authorized to pronounce sentence in person, a royal prerogative, but only to hear the cases, and even in this judicial function he was to be assisted by a small council of four persons representing the estates. The charge of infidelity (*nota infidelitatis*) was made for specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property-- Artt. 10 and 12, below, list some of these) usually punished by capital sentence. (*sententia capitalis*). That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate. Octavial courts were the sessions of the royal courts, usually four times a year beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days.

into this kingdom or committing arson, if no one has a right in them and these estates have and can have no more than thirty-two plots, and also those estates in which there are and can be less than the said number of thirty-two plots. If cities, towns, and estates with more than the said number of thirty-two plots also devolve to the Holy Crown in the foregoing manner, he should not be able to cut or divide them into portions of thirty-two plots and make grants from them under the heading of thirty-two plots, but all such cities, towns, and estates must be reserved undivided to the same Holy Crown.¹⁰

11. Then, the lord regent may not grant anything further to the same man whom he once granted something in the aforementioned manner. And, since grants of castles, cities, towns, estates, and similar possessions are known to belong to the royal right, the lord regent may make grants to anyone in the preceding manner, but they should come at the proper time to the lord king to receive confirmation of them.

12. Then, those estates which devolve to the crown because of their owners' proffering of false documents, minting of counterfeit money, or any other reason expressed above should not be seized and given away unless the accused have been judged at law by the appropriate judges according to ancient and approved custom of the kingdom.

13. Then, in the absence of the councilors he may issue reports and mandates in cases coming before him, but, if they are legal matters and such a report is found to be against customary law, then the report and the document may be amended by the justices ordinary of the kingdom, as was customary in the times of the kings.¹¹

14. Then, that if anything remains from the royal revenues after covering the expenses of the kingdom, the lord regent may redeem with it mortgaged royal castles, cities, towns, and estates and preserve them for the lord king to be re-appropriated to the crown, with their revenues being similarly utilized for the affairs of the kingdom.

We, therefore, having received this limitation on our power of regency from the lord prelates, barons, and nobles of the kingdom specified in the above manner, offer to them according to it our every diligence, solicitude, and care, and we promise to use and exercise the office of regent in this way as well as we are able, and as we have promised by our oath above, to wish. in no way to exceed the limitation and the articles above. In witness of which we found it proper to grant the lord prelates, barons, and nobles of the kingdom these presents completed by appending our seal,

¹⁰ It is noteworthy that several clauses of these articles, defining the new institution of regent, found their way into Werbőczy's **Tripartitum** (Pars II, tit. 14). Note also that customary law is regarded as overriding certain legal decisions, for this, see Martyn Rady, *The Customary Law in Hungary: Court, Texts, and the Tripartitum* (Oxford: OUP, 2015).

¹¹ The procedures referred to here are instruction (*relatio*) and the issuing (*expeditio*) of judicial mandates, written by the chancellor on the basis of the parties' statements at law.

which we use as voivode of Transylvania. Given at the fullest general assembly of prelates, barons, and gentlemen of the realm held on the field of Pest, on the Monday within the octave of Pentecost, which was the thirteenth of June, in the year of the Lord one thousand, four hundred and forty-six.

LAW OF THE DIET OF HUNGARY OF 25 MARCH, 1447

As the proem of this decree describes, the estates had postponed the detailed regulation of government under the regency from the election diet of 1446 to one planned for Whitsun 1447. However, the diet met already in the spring and passed a fairly inclusive decree on 25 March. By transcribing the decree of 1447, expressly confirming the validity of decisions from the preceding diets, and including a number of long-term measures (such as fees for records, and so on), the nobility seems to have aimed at a general codification of its newly-acquired powers. This decree may, therefore, count as one of the earliest elaborate statements about corporate government (*Ständestaat*) in fifteenth-century Hungary. Many articles aim at reducing the power of the magnates, some limit clerical jurisdictions, and a few intend to curtail burgher liberties, thus, clearly expressing the political priorities of the county nobility.

MSS.: One original (MNL OL DI. 80877), from the Zichy family archives, on parchment, the pendant seal (originally on a simple cue) is now lost; one transcript by the collegiate chapter of Pozsony/Pressburg from 18 May 1447 (MNL OL DI. 14071).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801), 2: 52–102; Johannes Nicolaus Kovachich, *Sylloge decretorum comitialium incliti regni Hungariae, quae in vulgato corpore juris hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui parte, manca referebantur et oblivion postliminio, recenter erepta sunt*. (Pest: Trattner, 1818), 1: 116–35; Imre Nagy III *et al.*, eds., *Codex diplomaticus domus senioris comitum Zichy de Zich et Vásonkeö* (Budapest: Magyar Történelmi Társulat, 1895) [henceforth: *Cod. dipl. Zichy*] 9:155–59; Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akadémiai, 1978) [=DRH], pp. 361–73.

LIT.: Nándor Knauz, *Az országos tanács és az országgyűlések története, 1445–1452* [History of the royal council and the diets between 1445 and 1452] (Pest: Eggenberger, 1859), pp. 57– 66; Gyula Gábor, *A kormányzói méltóság a magyar alkotmányjogban* [The office of regent in Hungarian constitutional law] (Budapest : Athenaeum, n.d. [1932]), pp. 54– 57; Elemér Mályusz, “A magyar rendi állam Hunyadi korában” [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957): 46-123,529-602, here pp. 89–90, 114.

25 MARTII 1447

Prelati, barones, nobiles et proceres regni Hungarie universi ad futuram rei memoriam. Quoniam in novissima nostra Pestiensis congregatione generali circa festum Penthecostes proxime elapsam celebrata certos articulos, qui tunc magis necessarii et utiliores conductioni pacis fore videbantur, in formam decreti sub nostre universitatis et magnifici domini Johannis de Hwnyad gubernatoris sigillis redigi feceramus, alios vero certis ex causis suspendendo prorogamus, ut maior circa illos et maturior fieret circumspeditionis ruminatio; nunc itaque divino nutu tam super prescriptis prioribus articulis decretatis, quam etiam modernis in hac nostra conventionem uno voto et voluntate convenimus et concordavimus, illosque articulos, tam scilicet prius decretatos, quam nunc moderatos in unum redigi et ordinari volumus et volumus articulatim. Quorum quidem prius decretatorum articulorum primus is est, quoci universi prelati ..

Aliorum vero articulorum in hac nostra conventionem moderatorum et concordatorum primus articulus talis est:

I. Quod gubernator proventus regales percipiet et pro utilitate regni fideliter dispenset.

II Item si gubernator de celebranda congregatione generali per aliquem comitatum requisitus fuerit, potestatem habebit huiusmodi congregationes generales celebrari facere per palatinum.

III. Item iuxta dispositionem in priori Pestiensis congregatione nostra factam omnes cause super actibus potentiariis in disturbiali tempore patratas ad tempus coronationis regis suspendantur, demptis hiis, que emergerunt post congregationem certorum prelatorum et baronum anno tertio circa festum beate Dorothee virginis in Alba factam inter homines utriusque partis commissi, super quibus actibus potentiariis iustitia expeti poterit et ministrari.

IV Item honores comitatuum parochialium perpetualiter in antea non conferantur.

V. Item nemo prelatorum, baronum et regnicolarum forenses et extraneos ad sua castra, fortalitia et tenutas in offensam quorumcunque inducere debeat sub pena infidelitatis.

VI. Item nullus prelatorum vel quorumcunque hominum beneficia ecclesiastica et honores hominibus extraneis conferat, sed incolis huius regni tantum.

VII. Item nullus baronum et regnicolarum fures, latrones, spoliatores aut quoscunque notorios malefactores apud se aut in suis castris, castellis, possessionibus et tenutis teneat aut conservet, alioquin nobiles comitatus illius, in quo huiusmodi malefactores per quempiam conservari reperti fuerint, universaliter in loco sedis iudicarie congregati huiusmodi malefactores vel malefactorem esse promulgaverint et pronuncciaverint, litterasque eorum superinde sub sigillis comitis vel vicecomitis et iudicum nobilium emanari fecerint, mox gubernator vel ille, qui per universitatem nobilium ad id requisitus fuerit, universas possessiones huiusmodi malefactoris vel malefactorum conservatoris occupandi et tamdiu conservandi habeat facultatem, donec idem gratiam pro se poterit impetrare. Si autem malefactor ipse nobilis fuerit et possessionatus, per universitatem nobilium eiusdem comitatus modo prehabito promulgatus et proscriptus, similiter omnibus suis iuribus possessionariis usque ad gratiam impetrandam privetur per gubernatorem vel alium per universitatem nobilium addeputandum.

Ipsum autem malefactorem, sive sit nobiliis, sive ignobilis, universi cuiusvis status et conditionis homines spoliandi resque et bona eiusdem auferendi tamquam proscripti hominis liberam habeant potestatem, nec unquam propter hoc iudicio debeant conveniri.

VIII. Item neque dominus gubernator, neque bani exercitum generalem promulgare debeant, nisi cum tanta et tam magna inimicorum multitudo supervenerit, ad cuius resistantiam ipse gubernator de proventibus regalibus ac *banderia* prelatorum et baronum ac cetera dispositiones et stipendia a viris ecclesiasticis more consueto debentia non sufficerent. Alias autem idem gubernator de proventibus regalibus ac *banderiis* prelatorum et baronum et ceteris dispositionibus exercituare teneatur. Nobiles etiam in exercitu generali non ulterius, nisi usque ad confinia regni vel metas transire teneantur more ab antiquo consueto.

IX. Item persone laycales contra personas ecclesiasticas in facto potentie vel calumpnie convicte non debeant pro ipso facto potentie vel calumpnie in pena vel sententia capitali ac amissione possessionum et bonorum aggravari, sed solummodo in eorum homagiis, quemadmodum ipse persone ecclesiastice contra seculares convinci solent. Damnum tamen illatum ultra id debet refundi effective.

X. Item si aliquis regnicolarum contra dominum gubernatorem aut totum regnum in aliquo insurgeret, extunc ipse gubernator contra talem exercitum generalem aut totum comitatus, quot sibi sufficere videbuntur, insurgere faciet et promulgabit.

XI. Item constitutio capitaneatum in congregatione priori Pestiensi facta est abolita.

XII. Item littere annuales ecclesiis et viris ecclesiasticis ulterius non dentur.

XIII. Item si littere et litteralia instrumenta alicuius per Turcos, Bohemos, Thewtunicos vel quoscunque alios hiis disturbiorum temporibus combuste vel ablata forent, et id cum vicinis et commetaneis suis ac nobilibus sui comitatus declarare posset, extunc talis suis iuribus possessionariis, in quorum dominio existeret vel tunc extitisset, non privetur, nisi si quis aliqua causa rationabili posset iuridice obtinere.

XIV. Item quod quatuor octave continue celebrentur et nulla alia de causa prorogentur, nisi ratione exercitus generalis, nec etiam cuiuscunque cause propter conservationem castrorum aut confinium regni seu custodiam eorundem valeant prorogari.

XV. Item quicunque hominum ulterius interemptions, vulnerationes, mutilationes, combustiones litterarum et ablationes earundem, invasiones domorum seu alia similia notabilia mala perpetraverint, aut post decretum Pestiense in anno proxime transacto editum perpetrassent, tales mediante litteris nostris aut domini gubernatoris vel palatinalibus seu iudicis curie regie ad primas octavas cum insinuatione evocentur, in quibus sine omni dilatione iudicium inter partes ministretur.

XVI. Item quod statuta tam in Pestiensi predicta, quam Albensi civitatibus edita in suis vigoribus permaneant, demptis hiis, que per modernas constitutiones immutabuntur.

XVII. Item nullus omnino prelatorum, baronum et regnicolarum pro quibuscunque debitis vel factis arrestationes seu vagiationes facere debeat, qui si fecerint et ex huiusmodi vagia

recipientibus quipiam interempti, lesi vel dampnificati fuerint, tales tanquam latrones censeantur, et nec propter hoc per quempiam iudicum iudicialiter valeant condemnari.

XVIII. Item domus dominorum prelatorum et baronum ac nobilium et ecclesiarum in civitate Budensi habite dicari non debeant, sed hospites in eisdem domibus existentes iuxta eorum facultatem dicari possunt.

XIX. Item comites vel vicecomites nunquam aliquod vagium vel birsagium sine iudicibus nobilium per universitatem nobilium transmissis exigere possint. Qui si sine eisdem exigere voluerint, lesionem, interemptionem vel damnificationem et iniuriam, si quam ibidem passi fuerint, sufferant, nec unquam iudicio lesorem superinde valeant convenire.

XX. Item comites vel vicecomites et iudices nobilium birsagia non exigant, nisi in congregatione generali, nec etiam alibi extra sedem eorum iudiciariam iudicium facere possint, sed nec nobiles sui comitatus vel jobagiones ipsorum eisdem comiti vel vicecomiti victualia dare teneantur.

XXI. Item omnia theolonia post obitum imperatoris facta et indulta aboleantur, sed et alia theolonia, que propter conservationem pontium fieri concessa sunt, si huiusmodi pontes bene non conservantur, similiter aboleantur. Insuper ut a clericis et ecclesiasticis viris ac peregrinis, necnon rebus et victualibus nobilium, que non mercandi causa deferuntur, nullum penitus tributum exigatur.

XXII. Item si dominus alicuius tributi de eo, que sint false vie sui tributi, literatorie docere non poterit, extunc illud discernendum committitur iudicibus nobilium illius comitatus, in quo ipsum tributum existit.

XXIII. Item lucrum camere non prius, quam tempore ab antiquo solito dicari debeat, et cum moneta currenti exigatur, nullusque cogatur cum florenis auri facere eiusdem solutionem.

XXIV. Item comites vel vicecomites et iudices nobilium aliique omnes iudices pro qualibet marca birsagiali centum denarios recipere teneantur.

XXV. Item in capitulis et conventibus redemptiones litterarum solvantur et recipiantur iuxta dispositionem in decreto condam Sigismundi imperatoris expressam, et similiter solutiones viarum testimoniis capitularibus vel conventualibus fiende fiant iuxta eandem dispositionem, videlicet [= **8 Martii 1435: X**].

Capitula autem et conventus in premissis contrarium facientes per regiam maiestatem aut gubernatorem consiliariosque deputatos priventur eo facto, nec unquam huiusmodi loca valeant sigillum habere ultra.

XXVI. Item nobiles vel ignobiles, qui ulterius castra, fortalitia seu domos dominorum suorum quomodocunque alteri tradiderint, infideles habeantur, idemque dominus, cuius sic castrum traditum fuerit, huiusmodi traditorem ubicunque capiendi habeat potestatem.

XXVII. Item si dominum regem quocunque tempore decedere contingat, extunc domini prelati et barones in electione novi regis inter se dispares esse non debent, sed de singulis comitatibus certos nobiles convocari facientes cum eisdem unanimiter faciant electionem.

XXVIII. Item quod singulis annis ad festum Penthecostes omnes prelati, barones, magnates et nobiles regni, demptis nobilibus nullum jobagionem aut minus quam viginti jobagiones habentibus, in eodemque loco et die gubernator ipse officium sue gubernationis ceterique barones et consiliarii honores et officia ipsorum deponant tractentque ibidem utiliter de factis regni.

XXIX. Item quod omnes fassiones per quoscunque in captivitate vel aliter invite et coacte facte similiter cum litteris superinde confectis casse habeantur.

XXX. Item de litteris statutoriis resignatarum possessionum vel castrorum seu quorumcunque iurium possessionariorum hiis disturbiorum temporibus occupatorum capitulum vel conventus non plus quam unum florenum auri recipiat vel valorem floreni.

XXXI. Item si quis castra aut castella seu possessiones etc. resignatas iterum occuparet, penam infidelitatis incurrat et per suum iudicem superinde sententietur.

XXXII. Item cum partialitas sit mater discordie et guerrarum, ob hoc statuimus, ut nullus ex regnicolis nostris, cuiuscunque status existat, pro questu principis, cum principem pari voluntate electum habeamus, directe vel indirecte, palam vel occulte aliquibus forensibus principibus seu aliis cuiusvis status hominibus preter voluntatem communitatis regnicolarum de medio eorundem se excipiendo adherere et partialitatem in hoc regno praticare seu facere quoquomodo presumat. Qui si, quod absit, presumpserit contra communitatem, nota perpetue infidelitatis eo ipso sit aggravatus, cui nec rex, nec gubernator preter scitum et voluntatem ipsius communitatis gratiam facere valeat atque possit.

XXXIII. Item quanta mala et discordie ex provisionibus ecclesiarum katedralium collegiatarumque et aliarum dignitatum et beneficiorum ecclesiasticorum per sedem apostolicam preter presentationem nostram factis in hoc regno exorta fuerunt et sunt, peroptime claret. Proinde statuimus, ut nullus omnino clericorum seu religiosorum virorum absque presentatione et nominatione regis vel nostra aliquam ecclesiam katedralem vel quodcunque beneficium ecclesiasticum sibi per sedem apostolicam conferri et se in eisdem confirmari facere, ac etiam aliquem regnicolarum ad curiam Romanam seu extra hoc regnum, nisi per viam appellationis citare audeat. Quoquomodo contrarium facientes infideles et exules regni habeantur.

XXXIV. Item gubernator nulli sententionato aut proscripto seu alicui malefactori gratiam facere valeat, nisi prefixo termino in talibus consueto leso et parti adverse satisfactio impendatur. Quibus quidem sententiatis et aliis pretactis nullus hospitalitatem teneat aut eos defendat quoquomodo; qui si fecerint, similem notam maleficii incurrant eo facto.

XXXV. Item quia hactenus propter frequentem variationem et depravationem monetarum in exactione decimarum diverse controversie fieri consueverunt, ideo gratia removendi huiusmodi controversiarum statuimus, ut deinceps omnes decime tam vinorum, quam bladorum, que usque modo in pecunia secundum consuetudinem dyocesium uniuscuiusque archiepiscopatus et episcopatus solvi consueverunt, de rebus ipsis in specie eisdem dominis prelati et hiis, quibus huiusmodi decime de iure vel consuetudine debentur, exsolvantur, videlicet quod de frugibus et bladis in campo in capetiis et manipulis congregatis sine fraude

ac dampno aliquali in ipsis capetiis et manipulis decime ipse persolvantur. Pecora autem et cetera animalia per villanos vel alios quoscunque ad Ioca agrorum, in quibus huiusmodi decime iacuerint, infra tempus consuetum uniuscuiusque ville hactenus in talibus observatum nullatenus admittantur, alioquin hii, quibus huiusmodi dampna fuerint irrogata, eadem valeant iure mediante recuperare. Et cum plures esse perhibeantur dyoceses, in quibus hactenus de pullis et ceteris animalibus, necnon rebus decime solvi fuerunt consuete in eadem rebus, igitur decrevimus, ut deinceps in illis dyocesibus et locis de prescriptis rebus in specie decime ipse persolvantur.

XXXVI. Item nobiles tam jobagiones habentes, quam non habentes decimas et lucrum camere solvere non teneantur, prout ab antiquo fuit observatum.

XXXVII. Item cusio monete reduci debeat, ad priorem statum, prout decretatum et ordinatum per nos fuerat in novissima nostra congregatione Pestiensi, ita quod singuli ducenti denarii unum florenum auri valeant et representent, cuius scilicet monete tertia pars argentum existat, que nunquam immutari possit, nisi cum consensu totius communitatis; nullaque alia moneta intra ambitum regni cudi et etiam cursum habere possit, qua tum lucrum camere, quam etiam alii proventus ab antiquo in moneta parva solvi consueti solvantur. Ad cuius quidem monete cusionem et intentamenta prudentes et experti ac fideles homines de civitatibus per totam communitatem regnicolarum eligi et deputari debeant, qui favore vel timore seu aliqua ambitiositate quorumcunque magnatum et potentum huiusmodi monetam vilificare, depravare et immutare nullatenus presumant. De quibus tempore suo tota communitas regnicolarum, vel hii, quos ipsa communitas ad id deputaverit, rationem recipere valeant atque possint. Ubi autem ipsi, qui ad huiusmodi cusionem monete fuerint deputati, contra premissa seu aliquod premissorum fecerint, extunc pena alias in talibus consueta irremissibiliter plectantur.

XXXVIII. Item nullus archiepiscoporum et episcoporum vel eorum vicariorum de iudicio seculari se intromittat, sed solum, quod ad forum ipsorum ecclesiasticorum spectat, contractet.

XXXIX. Item gubernator ecclesias vacantes tempore debito cum consiliariis deputatis personis idoneis iuxta traditam sibi potestatem conferat, ne eedem per longam vacationem ad irrecoverabile dampnum incidant et ruinam, et neque ipsas ecclesias vacantes per manus laycales faciat occupare, possessionesque et bona earundem detinere. Volumus autem, ut ecclesias religiosorum virorum vacantes et vacaturas idoneis et religiosis viris habitum illius ordinis habentibus, cuius ipse ecclesie vacantes et vacature existunt seu extiterint, conferat atque donet.

XL. Item in exercituali progressu spoliationes, rapine et exactiones victualium ac iniuste verberationes hominum non committantur. Nam si per quempiam huiusmodi spoliationes, rapine et verberationes hominum fuerint perpetratae, fiat contra eos evocatio cum insinuatione, quarum veritate comperta in primis octavis tales in facto potentie convincantur. Exactores vero victualium tam exercituando, quam etiam alias quocunque proficiscendo, cuiuscunque status et preeminentie existant, similiter evocentur cum insinuatione; quorum veritate comperta tales condemnentur ad valorem victualium ablatorum ac expensas in prosecutione huiusmodi cause per actorem factas cum solius iuramento recipiendas. |

XLI. Item potentes vel magnates tam in progressu exercituali, quam alias per regnum hincinde peragrantes in domibus nobilium sive locupletum aut pauperum non descendant.

In quorum omnium et singulorum premissorum robur atque testimonium presentes litteras sigillo nostre universitatis fecimus communiri. Datum Bude, in festo Annunciationis virginis gloriose, anno domini millesimo quadringentesimo quadragesimo septimo.

MARCH 25, 1447

All the prelates, barons, nobles, and lords of the kingdom of Hungary, so that this matter may be remembered in the future. In our last general assembly at Pest, around the past feast of Pentecost,¹ we caused certain articles, which now seem to be even more necessary and useful for the maintenance of peace, to be set out in the form of a decree under the seals of our community and of the excellent lord regent János Hunyadi, while we postponed certain others for definite reasons, namely, that; there might be greater and more mature consideration applied to them. Now, therefore, by divine guidance we have met and agreed with one voice and one will to both the previously written and agreed upon articles as well as the ones now adopted in our assembly, and we wished and do wish to collect in one place and ordain point by point these articles, that is, the previously decreed and the now adopted ones.

Of the articles previously decreed, this is the first. ...²

The first article of the others adopted and agreed upon in our assembly is this:

1. That the regent should collect the royal revenues and dispense them faithfully for the needs of the realm.
2. Then, if the regent is requested by any county to hold a general assembly, he will have the right to have the palatine call such general assemblies.
3. Then, according to the decision made in our previous assembly at Pest, all cases concerning acts of act of might committed in the times of troubles should be suspended until the time of the coronation of the king,³ save those committed by men of either party after the assembly of certain prelates and barons held in Székesfehérvár three years ago around the feast of St. Dorothy the Virgin;⁴ for these acts of act of might justice may be sought and administered.
4. Then, the honor of county *ispán* may, henceforth, not be conferred perpetually.⁵

¹ 13 June 1446

² Here follows a verbatim transcript of **1446: 2–14**, without, of course, the inserted declaration of elected regent (after art. 5); also, expressions referring to the election in the future tense were changed to past.

³ Cf. **1445:3**. The formulation suggests that the child-coronation of Ladislas in 1440 was at that time still not accepted as valid.

⁴ The meeting was held on 8 February 1445, in preparation of the diet of that year; summary proceedings were ordered against perpetrators of acts of might in **1445:12**.

⁵ While a few prelates acquired the position of “perpetual *ispán*” of the county of their see as early as Árpáadian times, the honors (barons entrusted with the *ispán*’s office in one or more counties) of secular lords usually remained limited to the “king’s pleasure.” However, some of them were held, at least in practice, by magnate families. The *ispán* of Varazdin was appointed, for example, by the counts of Cille who were perpetual lords of the town.

5. Then, none of the prelates, barons, or gentlemen of the realm is permitted to bring in foreigners and aliens to his castles, fortifications, and holdings in order to attack anyone, under penalty of infidelity.⁶

6. Then, no prelate or any other person may confer ecclesiastical benefices and honors on foreigners, but only on inhabitants of this kingdom.⁷

7. Then, no baron or gentleman of the realm may keep with him or protect in his castles, residences, estates, and holdings thieves, robbers, plunderers, or any notorious criminals; otherwise the community of the nobles of that county in which such criminals have been found to be protected by anyone, assembled at the county's court, will denounce and declare him or them as a criminal or criminals and will issue a letter to be sent out under the seals of the *ispán* or the *alispán* and the noble magistrates. Whereupon the regent or someone who will have been requested for that task by the community of nobles will have the power of occupying all the estates of such a protector of a criminal or criminals and of keeping them until such time as he is able to ask for mercy for himself. If, however, the criminal denounced and proscribed in the said manner by the community of nobles in the same county is himself a noble and a man of property, he must similarly be deprived of all his estates by the regent or by someone else appointed to that task by the community of nobles until he asks for mercy. However, regarding the criminal himself, whether he is a noble or not, anyone of any station and condition should have the freedom to plunder his possessions and take his goods as those of a proscribed man, without ever being summoned to judgment for that.

8. Then, neither the lord regent nor the bans ought to raise a general levy, unless so many and such a great multitude of enemies invade, that the forces of regent himself from the royal revenues, with the *banderia* of the prelates and barons and other income and pay usually due from ecclesiastical persons are not sufficient to resist them. Otherwise the regent is required to campaign from the royal revenues, with the *banderia* of the prelates and barons and from other military revenues.

⁶ Cf. **1445:9**. The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. agreement, peace). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate..

⁷ This demand of the nobles has been repeatedly expressed ever since King Sigismund's times (see, e.g., **1397:48**) and was also codified in **1445:14**.

Nobles, however, have to proceed with a general levy only to the borders of the realm and not farther, according to ancient custom.⁸

9. Then, laymen convicted of act of might or frivolous prosecution⁹ against ecclesiastics must not be sentenced to a capital penalty or sentence or the loss of estates and goods for that crime of violence or frivolous prosecution, but only to the payment of their composition,¹⁰ just as clergy themselves are customarily convicted in suits against laymen. However, the damage caused must be completely compensated for.

10. Then, if any gentleman of the realm rises up against the lord regent or the whole kingdom in any matter, then the regent will raise and call against the usurper a general levy or a levy from as many counties as he deems sufficient.

11. Then, the institution of captaincies established at the previous assembly at Pest is abolished.¹¹

⁸The restriction of the noble levy goes back as far as **1222:7**. The major armed force of the country consisted, since the fourteenth century at the latest, of the troops fielded by the king, queen, barons, and prelates, called *banderia* (Ital *bandiera*=flag). Nevertheless, the less professional noble levy was also frequently mobilized, in which theoretically all noblemen were to serve under the command of the county *ispán*. For details, see **Propositions 1432/3**.

⁹*Calumnia* meant in medieval Hungaro-Latin not the Classical notion of libel, but “frivolous prosecution,” unfounded and vexatious litigation (Hung. *patvarkodás*). Such offenses as prosecuting the same case in two different courts, thus seeking satisfaction twice (*via duplex*), or claiming an obligation already settled (*dupplici sub colore*) were classified as *calumnia*. Anyone so convicted had to pay his man price (see composition). The term also included *astatio falsi termini* whereby a litigant appeared in court instead of another person, without a letter of attorney, or summoned an adversary to a false term so as to mislead him and the court, thus obstructing the administration of justice. *Potentia, factum/actum potentiae*; “act of might,” was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, and the killing or assaulting of one. Lesser violent acts were classified as “minor,” but no decree specified the precise nature of these crimes.

¹⁰On capital punishment see n. 6, above.. Cf. **1439: 38**. Composition (*compositio*), or man price (*homagium*) was a sum of money, which was owed by a person (or his kindred) who had killed, maimed, or otherwise harmed a man or woman, paid to the kindred (or family) of the victim. This system, widespread among Germanic peoples of the post-migration age, aimed at replacing the extended blood feuds arising from the obligation of revenge but continued in Hungarian law until early modern times. The amount paid (the *wergeld*) was based on the victim’s or the culprit’s social and legal status and the nature of the crime. According to the **Tripartitum.**, the man price of barons was 100, and of nobles and burghers 50 marks. Composition and *homagium* became blurred in practice with the fine of the head and to the “fine of the tongue.” There are examples for the application of this measure, e.g., in a charter of Judge Royal Ladislás of Pálóc of 28 November 1453, see: MNL OL DI. 14754..

¹¹ See **1445:5**

12. Then, annual letters¹² for churches and ecclesiastics may no longer be given.

13. Then, if the charters and written instruments of anyone are burnt or taken by Turks, Czechs, Germans, or by any others in these times of troubles, and he is able to prove this with his neighbors, abutters, and the nobles of his county, then such a man must not be deprived of the property rights which he holds and has held, unless someone else is able to obtain them through reasonable cause by law.

14. Then, that the four octaves¹³ should be held without interruption and may be delayed for no other reason than that of a general levy, nor is the proroguing of cases of anyone permitted because of the guarding of castles or the borders of the realm.

15. Then, whoever commits or did commit killings, woundings, mutilations, burning and theft of charters, invasions of houses or other similar major crimes, after the publication of the decree enacted at Pest in the previous year must be cited by terminal summons¹⁴ by way of our letter or that of the lord regent or of the palatine or of the judge royal to the first octave, at which session a judgment must be handed down to the parties without delay.

16. Then, that both the aforesaid statutes issued in Pest and those of Székesfehérvár¹⁵ should remain valid, except for those which will be changed by new constitutions.

17. Then, no prelates, barons, or gentlemen of the realm at all are permitted to make arrests or take pledges for any debt or deed, and if they do this and are killed or maimed or harmed by anyone

¹² These *litterae annuales* were special royal permissions allowing the grantee to call on the services of any place of authentication for a year, without having to seek a royal mandate every time. Such annual letters were granted to ecclesiastical bodies ever since the mid-fourteenth century; see Georgius Fejer, *Codex diplomaticus Hungariae ecclesiasticus ac civilis*, 11 vols. in 43 pts., (Budapest: Regia Universitas, 1829–66), 8/2:612–15, 9/1:208, 9/3:573 from 1344 and 1366. The measures seeking their abolition do not seem to have been successful, for the practice is included in the **Tripartitum** (Pars II, tit. 50) as still existing in the sixteenth century.

¹³ Octavial courts was the term for the session of royal courts of justice; there were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days.. Evidence suggests that during the interregnum octavial court sessions were not held regularly

¹⁴ The reference is to the decree of **1446**. Terminal summons was issued after three or more previous personal citations, with the clause that judgment would be passed even in the absence of the summoned party (used particularly against perpetrators of acts of might). The regent and his council issued many mandates and passed capital judgment against violent offenders in the years 1447–48 on the basis of this decree (see *DRH* p. 364, n. XV/3). However, charters from 1449 ff. seem to refer to another, now lost, decree on the same matter; see *ibid.*

¹⁵ The statutes referred to are **1446** and another dietal decree, which survived only in fragments, from (March) 1446 (see *DRH*, pp. 349–52).

during such a pledge-taking, they should be treated as robbers, and nobody should be legally condemned for that¹⁶ by any judge.

18. Then, the houses of the lord prelates, barons, nobles, and churches in the city of Buda must not be assessed for portal tax, but burghers living in these houses can be assessed according to their means.

19. Then, *ispáns* and *alispáns* should never exact any pledges or fines without the presence of noble magistrates delegated by the community of nobles. If they attempt to do so without these officers, let them suffer the injury, death, loss, or damage that they have sustained while doing so, nor should the person injuring them be ever prosecuted by judgment for it.

20. Then, *ispáns*, *alispáns*, and magistrates may not exact fines except in a general assembly¹⁷ nor conduct a trial anywhere away from their court of law. The nobles of their county or their tenants are not required to give victuals to the *ispán* or *alispán*.

21. Then, all tolls established and tolerated after the death of the emperor are abolished; and other tolls which were permitted to be levied for the maintenance of bridges are similarly abolished if those bridges are not well maintained. Furthermore, no toll at all can be demanded from clerics, ecclesiastical men, or pilgrims, nor on the goods and victuals of nobles which are not carried for the sake of selling.¹⁸

22. Then, if the owner of any toll is unable to give written proof of the existence of illegal roads circumventing his toll, then the matter must be submitted for decision to the noble magistrates of the county in which the toll is located.

23. Then, the chamber's profit may not be assessed any earlier than the time when it is usual as of old and should be paid in the usual currency; no one may be compelled to make payment of it in golden florins.¹⁹

¹⁶ See the earlier prohibitions of violent extraction of pledges: **31 August 1405:2, 5; 8 March 1435:4; 1439:29** and **1445:11**.

¹⁷ See the regulation for collecting fines in (**1320**). Noble magistrates (*szolgabíró*), usually four in every county, became the assistants of the *ispáns* and at the same time representatives of the noble county ever since the late thirteenth century.

¹⁸ This article is the renewal of **1444:22, 1445:17, 8 March 1435:21, Comp. ante 1440:17, and 1379:40**.

¹⁹ The chamber's profit was a direct tax, introduced in the thirteenth century, replacing the income from minting ever less valuable coins. The only "legal" regulation concerning the time of paying the chamber's profit was in the cameral contracts of the fourteenth century, where it is prescribed that the tax must be paid 15 days after its assessment, see. **1342**. The stipulation of not levying taxes except in the current coinage was frequently decreed, but in the 1410s it seems to have been a practice to demand the tithe in gold florins; see Elemér Mályusz, *Kaiser Sigismund in Ungarn 1386-1437*. Transl. by A. Szmodits (Budapest: Akadémiai K., 1990), pp. 246–48.

24. Then, *ispáns* or *alispáns* and magistrates and all other judges are required to accept one hundred pennies for a mark of fine.²⁰

25. Then, fees for letters may be paid and received in chapters and convents according to the disposition expressed in the decree of the late emperor Sigismund, and similarly payments for expenses of witnesses of chapters and convents may be made according to that ordinance, namely. . . (= 8 March 1435: 10).

Chapters and convents acting contrary to the aforesaid are to be immediately deprived of their seals by the royal majesty or the regent and his appointed councilors, nor may such places ever have a seal again.

26. Then, nobles or non-nobles who in future surrender castles, fortifications, or houses of their lords to another in any way at all must be considered traitors, and that lord whose castle was thus surrendered will have the power of capturing the traitor anywhere.

27. Then, if it should happen that the lord king dies at any time, then the lord prelates and barons must not be divided among themselves in the election of a new king, but by summoning specific nobles from every county should hold a unanimous election with them.²¹

28. Then, that every year at the feast of Pentecost, all prelates, barons, magnates, and nobles of the kingdom, except those nobles who have no tenant or fewer than twenty tenants, at the same place and day at which the regent himself must surrender the office of his regency and the rest of the barons and councilors their honors and offices,²² shall have useful discussion about the affairs of the kingdom.

29. Then, that all declarations made by anyone in captivity or otherwise involuntarily or by coercion should be held void and so should any charter issued on the matter.

30. Then, a chapter or convent may not take more than one gold florin or the value of a florin for a letter of institution²³ regarding estates or castles or any other property rights surrendered after they had been occupied in these times of troubles.

²⁰ Considering the exchange rate defined in art. 37, below, this measure made a “mark of fines” equal to a half florin, while the silver mark usually had the value of four florins.

²¹ While the decree of **1440** (and the dietal decision preceding it) stated that the power of the crown rested in the will of the estates, there was no previous law about the nobility’s right to participate, by delegates, in the “election” of a king. This article set the stage for the mass participation of nobles in the election of Matthias Hunyadi (Corvinus) in 1458.

²² Cf. **1446:3**; this formulation puts in writing a practice, which must have been observed for some time, namely, that the poor nobles did not attend the diets. Regent Hunyadi referred to this article in his call for a diet on 12 April 1448; see *Cod. dipl. Zichy*, 9: 184.

²³ Letters of introduction or institution were documents issued by a place of authentication (a chapter of convent serving in lieu of notaries) about the procedure in which the royal or palatinal bailiff (frequently a nobleman selected by the owner), accompanied by a witness of the chapter formally introduced the new owner into a property.

31. Then, if anyone reoccupies castles, residence, estates, and the like, which have been surrendered, he will incur the penalty of treason and will be sentenced for this by his own judge.

32. Then, since inequity is the mother of discord and wars, therefore we have ordered that no one from our subjects, of whatever station he might be, may presume in any way, in search for a prince—since we have a prince elected by common agreement—directly or indirectly, openly or secretly, to adhere to any foreign prince or anyone of any estate against the will of the community of the gentlemen of the realm in order to stir up or foster inequity in this kingdom. He who, God forbid, would act against the community will by that act incur the charge of perpetual treason, and neither the king nor the regent ought or can grant him pardon without the knowledge and will of the community.

33. Then, it is exceedingly clear how many evils and discords have arisen and are arising in this realm from provisions of cathedral and collegiate churches and other ecclesiastical dignities and prebends by the apostolic see without our presentation. Therefore we have ordered that without the king's or our presentation and nomination no cleric or monk should in any way dare to be assigned to any cathedral church or any other ecclesiastical benefice or to cause himself to be confirmed to them by the apostolic see, or to cite any gentleman of the realm to the Roman curia or outside the kingdom, except by the way of appeal. Those acting against this in any way will be regarded as infidels and exiled from the kingdom.²⁴

34. Then, the regent may not grant pardon to any sentenced, proscribed, or other criminal, unless his injured and wronged adversary has received satisfaction within the term usual in such cases. No one may give hospitality to the sentenced or other aforementioned men or defend them in any way; whoever does so will incur a similar charge of criminality by that very deed.

35. Then, because up to this time, on account of the frequent variations and degradation of coinage, various controversies have commonly arisen in the collection of tithes, therefore, for the sake of removing disputes of this kind, we have ordered that all tithes both in wine and in grain, which have been customarily paid up till now in money according to the diocesan custom of every archbishopric or bishopric, should be paid from the goods themselves in kind to the lord prelates and to those to whom tithes of this kind must be paid by right or by custom, namely, so that the tithes should be paid from the fruits and grains of the field in stacks and sheaves gathered without any fraud or loss in these stacks and sheaves. Neither peasants nor anyone else may admit cattle and other animals to fields in which tithes of this kind lie before the customary time hitherto observed in each village in such matters; otherwise those, on whom losses are inflicted by such acts, may recover them by law. And since it is understood that there are several dioceses in which up to now the customary tithes have been paid from poultry, other animals, and goods, therefore we have decreed that in those dioceses and places tithes must be paid in kind from the abovementioned goods.²⁵

²⁴ See **1440:4**, going back to the *Placetum regium* of **4 April 1404**.

²⁵ The issue of rendering the tithe in kind or money goes back to the thirteenth century (see **1222:20** with n. 29), and came up in **1351:6** and in **1397:46**. On the traditional mode of its collection, see **Syn. Szab. 40**.

36. Then, nobles, having tenants or not, are not required to pay tithes and the chamber's profit, just as has been observed from old.²⁶

37. Then, the minting of coinage must be returned to its prior state, as in the decree and ordinance made by us in our last assembly at Pest, so that two hundred pennies will always be valued at and will be equal to one gold florin; the third part of this coin must be silver, and this can never be changed, except with the consent of the whole community; and no other coinage can be minted and have currency within the borders of the kingdom, except coins of small change with which both the chamber's profit and other revenues are customarily paid as in ancient times.²⁷ For the minting and maintenance of this coinage, prudent, expert, and faithful men must be chosen and appointed from the cities by the whole community of the gentlemen of the realm, who will never presume to make such coinage worthless, to devalue and to change it because of favor or fear or for seeking popularity with any magnate and powerful man. From these people the whole community of gentlemen of the realm, or those whom the community has appointed to that duty, should and must receive an account at the proper time. Where the men who are appointed to the minting of coinage act against the foregoing in general or particular, they will be irrevocably punished with the penalty customary in such cases.

38. Then, no archbishop, bishop, or his vicar may interfere with any secular trial, but may only conduct cases pertaining to their ecclesiastical courts.²⁸

39. Then, the regent, with those appointed to his council, should confer vacant churches within the appropriate time on suitable persons according to the power invested in him, lest they fall into irrecoverable loss and ruin due to long vacancy, and he may not cause those vacant churches to be taken or their estates and goods to be occupied by lay hands. We also wish that he confer and give the churches of monastic orders that are or will become vacant to suitable regular clergy having

and 1397:17. There is no up-to date monograph on tithing in Hungary; for the time being, see Andor Csizmadia, "Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn", *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Kan. Abt. 61 (1975) 228–257.

²⁶ The exemption of nobles from paying the tithe was contained in a now lost edict of Sigismund of 23 June 1405, referred to in a charter of 1 August 1421, see *DRH*, pp. 216–17. In 1415, Pope John XXIII confirmed this exemption based on the service of the nobles "in the defense of the faith," see Josephus Nicolaus Kovachich, *Monumenta veteris legislationis Hungaricae* (Claudiopolis: Collegium, 1815). 2:8–9. Cf. also see 1439:28. On their exemption from the chamber's profit no decree survives; while 1351:12 explicitly codified its opposite. There is sporadic evidence for both practices, but poor nobles seem to have been increasingly obligated to pay the chamber's profit; see Lajos Thallóczy, *A kamara haszna (Lucrum camerae) története...* [History of the chamber's profit in the context of taxation in Hungary (Budapest: Weiszmann, 1879), pp. 83, 92.

²⁷ The measure seems to aim at demanding payments in the pennies of which 100 was worth a gold florin as the exchange of the florin of account could not be restored. See also in 1458 Sz.

²⁸ Cf. 15 April 1405:14. The issue of clerical interference with secular justice was a European-wide issue throughout the Middle Ages.

the habit of that same order to which the vacant churches and those becoming vacant belong or will belong.²⁹

40. Then, in the course of a general levy, no plundering, robbery and exaction of victuals, or unjust beating of people may be committed. If such plundering, robbery, and beatings of people is perpetrated by anyone, let him be finally summoned, and when the truth has been discovered, he should be convicted at the first octave of act of might. Those exacting victuals either for military use or for any other campaign, of whatever station and eminence they are, must similarly be finally summoned; when the truth of the accusation has been found, they must be condemned for the value of the victuals taken and the expenses incurred in the prosecution of the case by the plaintiff on his oath alone.³⁰

41. Then, henceforth powerful men or magnates traveling through the kingdom on a military expedition or otherwise must not exact hospitality from the houses of nobles, whether rich or poor.³¹

We have caused these presents to be fortified with the seal of our assembly³² for the force and testimony of all the foregoing. Given at Buda, on the feast of the Annunciation of the Glorious Virgin, in the year of the Lord one thousand, four hundred and forty-seven.

²⁹ Cf. **1445: 14** and **1446: 6**; there is, however, no known Hungarian case of imposing an abbot of another order on a religious house. The transfer of monasteries or convents from one order to another (for example, from conventual to observant Franciscans), which happened frequently, does not seem to have been meant here.

³⁰ See **1445:7** and **20**.

³¹ See **1444: 17**.

³² The original was apparently sealed by the seal cut according to **1445: 15**.

LAW OF KING LADISLAS V OF HUNGARY

OF 29 JANUARY, 1453

Since Ladislas V was not formally elected or crowned king at any diet, he did not issue a coronation patent, similar to those of his father and grandfather. Rather, after his release from the guardianship of Emperor Frederick III, he approved in decretal form the submissions and requests of the barons and nobles, who had gathered at a diet in Pressburg. This decree does not contain the usual detailed confirmation of noble privilege, yet assures the estates of their liberties and of the integrity of the realm, besides containing several measures that were necessary after the long interregnum. Remarkably, Ladislas always referred to this decree as that of the “prelates and barons” (*e.g.*, in the charters MNL OL DI. 73119, 88272). The delegates seem to have planned to regulate details in a diet at Székesfehérvár, which, however, never took place.

MS.: A single original, on parchment with privy seal *en placard*, MNL OL DI. 44653.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: *Magyar Törvénytár: Corpu Juris Hungici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896), 1:310–15 (erroneously dated 6 February 1453); Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akadémiai, 1978) [=DRH], pp. 373–7.

LIT.: Elemér Mályusz, “A magyar rendi állam Hunyadi korában” [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957): 46-123, 529-602, here pp. 95–6; János M. Bak, *Königtum und Stände in Ungarn im 14.-15. Jh.* (Wiesbaden: Steiner, 1973), pp. 52–3.

Nos Ladislaus dei gratia Hungarie, Bohemie, Dalmatie, Croatie etc. rex, Austrieque et Stirie dux, necnon marchio Moraviae memorie commendamus per presentes, quod cum nobis novissime de manu, potestate et educatione domini Friderici imperatoris Romanorum exeuntibus prelati, barones et nobiles regni nostri Hungarie generali conventionione primum nuper Vienne ad nos congregati, relictis omnibus dissensionibus nos verum et naturalem eorum regem et dominum devota fidelitatis oblatione concordi animo honorassent, recognovissent et suscepissent, consequenterque possessionem huius regni nobis grata oblatione reddentes invitassent nos et conduxissent in hanc civitatem nostram Posoniensem pro faciendis ordinationibus, que pro conservando statu et pace ipsius regni opportune videbantur, tandem inter alia, que hincinde concorditer expedita sunt, prefati prelati, barones et nobiles universi exhibuerunt nobis concorditer et presentarunt articulos infrascriptos desiderantes et supplicantes, ut eos et in eis contenta rata habere, admittere et nos observaturos promittere dignaremur. Quorum quidem articulorum tenor sequitur in hec verba:

I. Primo. dominus rex iurabit, quod regnum suum Hungarie cum suis regnicolis in omnibus et singulis iuribus, libertatibus et legibus ac approbatis consuetudinibus inviolabiliter conservabit, in quibus predecessores sui, puta dominus Sigismundus imperator avus et dominus Albertus pater sui idem regnum et eius regnicolas tenuerunt et conservaverunt, et quod metas regni Hungarie non alienabit, sed pro posse defendet et alienata recuperabit.

II. E converso domini prelati, barones et nobiles ac proceres ceterique fideles regni sui Hungarie universi et singuli, sed et deputati nobiles hic Posonii existentes iuramentum prestare debeant et teneantur eidem domino nostro regi super observanda fidelitate et obedientia.

III. Preterea conclusum est, quod dominus noster rex extraneis dignitates ecclesiasticas et seculares ac honores, officiolatus vel perpetuitates conferre non debeat usque dietam Albaregalensem, quam idem dominus rex cum celebrare voluerit, quadraginta diebus prius litteris suis mediantibus ipsis regnicolis promulgare teneatur, ut ipsi in eadem dieta Albensi possint et valeant interesse; et tandem ea, que in hac parte in ipsa congregatione prelatorum et baronum ac regnicolarum deliberata fuerint et conclusa, firmiter observabit.

IV. Item dominus noster rex omnibus et singulis regnicolis ac aliis cuiusvis status et conditionis hominibus ad coronam regni Hungarie pertinentibus, hiis videlicet, et qui presentes sunt et absentes, super omnibus et cunctis offensis et excessibus, qualitercunque et quibuscunque modis contra suam regiam serenitatem et eius coronam a tempore obitus condam domini Alberti regis felicis recordationis usque ad presentem diem illatis et perpetratis plenam gratiam facere dignetur et modis omnibus indulgere. Ita tamen, quod neque presenti, neque in posterum quocunque temporum in processu idem dominus noster rex de eisdem reminisci velit, neque imputare, et neque possit modis quibuscunque, et super hiis litteras suas gratiosas singulis, qui maluerint, dare dignetur.

V. Item quod idem dominus rex omnes donationes condam serenissime domine Elizabeth regine matris sue et etiam condam domini regis Polonie pro quorumcunque parte et quibuscunque

ac quavis ratione factas revocabit et cassabit et committet omnino viribus carituras, excepta dumtaxat per eandem dominam reginam ecclesie Albensi facta.

VI. Item quod omnia nova castella in hiis partibus superioribus erecta et habita a die presenti usque ad quindecim dies inmediate sequentes, in partibus autem inferioribus existentia usque ad octavum diem medie quadragesime, demptis illis, que sunt erecta ex indiulto regum aut sub sigillo communitatis regnicolarum, sub pena infidelitatis deponantur et deponi teneantur. Qui si fecerint, bene quidem, alioquin contra eos, qui non fecerint, detur sententia in Albaregali.

VII. Item castra, castella, possessiones et portiones possessionarie ac terre et alia iura, ecclesiastica videlicet et secularia, [per] quoscumque absque rationabili causa occupata usque ad predictum diem medie quadragesime sub pena premissa remittantur per detentores eorum.

VIII. Item quod donationes per dominum gubernatorem [iuxta] vigorem decreti facte in suis vigoribus confirmentur.

IX. Item quod insinuationes in suis vigoribus remaneant.

X. Item taxe inconsuete ulterius non fiant quovismodo aut quacunque ratione.

Nos [igi]tur acceptis articulis prenotatis maturaque super eis deliberatione prehabita eosdem admisimus atque super primo eorundem solito more regale corporaliter prestitimus iuramentum, quoad s[ecundum vero] e converso nos ab eis omnibus simile iuramentum suscepimus super fidelitate et obedientia. nobis observari debenda, ceteros autem omnes descriptos articulos et singulum eorum invi[olabiliter ob]servare, complere et exequi promittimus et volumus cum effectu. In quorum omnium testimonium presentes litteras nostras eidem universitati prelatorum, baronum ac nobilium regni nostri Hungarie [duximus concedendas]. Datum Posonii, feria secunda proxima ante festum Purificationis beate Marie virginis, anno domini millesimo quadringentesimo quinquagesimo tertio, regni autem [nostri anno] tredecimo.

JANUARY 29, 1453

We, Ladislas, king by the grace of God of Hungary, Bohemia, Dalmatia, Croatia, etc., duke of Austria and Styria, and margrave of Moravia,¹ wish to be remembered through these presents that, after we had been released from the hand, custody, and upbringing of the lord Frederick, emperor of the Romans, the prelates, barons, and nobles of our kingdom of Hungary, recently gathered in a general assembly with us for the first time in Vienna, honored, recognized, and accepted us as their true and natural king and lord with an avowed offering of fidelity in a spirit of concord, having laid aside all dissension, and consequently, returned the state of this realm to us as a voluntary oblation, they invited and escorted us to this our city of Pressburg to make the arrangements which seemed proper for preserving the state and peace of the realm;² finally, among the other things done by agreement at this place, all the said prelates, barons, and nobles unanimously compiled and presented to us the articles written below, desiring and entreating us to deign to approve, accept, and promise to observe them. The content of these articles follows in these words:

1. First, the lord king will swear that he will preserve his kingdom of Hungary inviolably and its gentlemen of the realm in each and every one of the rights, liberties, laws, and approved customs in which his predecessors, namely his grandfather, the lord emperor Sigismund, and his father the lord Albert, held and kept the kingdom and its gentlemen of the realm, and that he will not alienate the borders of the realm of Hungary but will defend them with all his might and he will recover what had been alienated.³

2. In return, the lord prelates, barons, nobles, lords, and the other loyal subjects of his realm of Hungary, individually and collectively, and also the delegated nobles who are here at Pressburg must and are required to swear an oath to observe faith and obedience to our same lord king.

3. Furthermore, it has been resolved that our lord king must not confer ecclesiastical and secular honors, offices, or perpetual donations on foreigners until the diet of Székesfehérvár, which the lord king must announce by means of his letters to the gentlemen of the realm forty days in advance of when he will wish to hold it, so that they could be able to and may take part in the same diet at

¹ Ladislas used the style which all Habsburg rulers had since 1282, regardless of whether they actually reigned in Austria or Styria.

² After several years of negotiation and, finally, threatened by an alliance of Austrian, Czech and Moravian estates and the powerful counts of Cilli/Cilje, on 4 September 1452, Emperor Frederick released his nephew Ladislas into the hands of Ulrich of Cilli. He was greeted by the Hungarian magnates on 7 October and at the end of the year accepted Hunyadi's resignation from the regency. King and barons agreed on several governmental reforms, such as the separation of major and a minor (secret) chancellery, with their own seals and courts of law (the "special" and the "personal royal presence," for which see the Glossary). The estates tacitly dropped the constitutional claims enunciated in the decree of 1440.

³ This summary promise became the model for the "constitutional oath" of subsequent kings of Hungary; see Bak, *Königtum*, p. 53.

Székesfehérvár;⁴ and, finally, that he will observe firmly that which was deliberated and resolved in these matters in this assembly of prelates, barons, and gentlemen of the realm.

4. Then, our lord king should deign to grant full pardon and complete indulgence to each and every gentleman of the realm and others of any station and condition belonging to the crown of the realm of Hungary, namely both those who are present and those absent, regarding all and any crimes and excesses inflicted and perpetrated by any means and by anyone against his royal peace and his crown from the time of the death of the late lord King Albert of happy memory until now. This should be done so that neither in the present nor at any time in the future should our lord king wish or be able to remember these matters or blame anyone for them, and to those who so wish he should deign to grant particular letters of pardon.⁵

5. Then, that the lord king should revoke, declare void, and deprive of all validity all grants of his mother, the late most serene lady queen Elizabeth, and also those of the late lord king of Poland⁶ The wording of this article implicitly denies the legitimacy of Wladislas I's Hungarian kingship, even if by cancelling the donations of both sides in the civil war of 1439–43 it appears to be impartial. made in favor of anyone, for whatever reason, except the one granted to the church of Székesfehérvár by the lady queen.

6. Then, that all new residences built and inhabited in these upper regions of the country ought and must be razed between the present day and fifteen days immediately following it, and those in the lower regions before the eighth day of the middle of Lent⁷ under pain of treason, except those which were built by permission of kings or under the seal of the community of gentlemen of the realm. For those who do this, all is well; but against those who do not comply, sentence will be passed in Székesfehérvár.⁸

7. Then, castles, residences, estates, parts of a property right in land, and other rights, namely both ecclesiastical and secular, usurped by anyone without reasonable cause must be handed over by their occupiers before the said day of the middle of Lent under pain of the aforementioned punishment.⁹

⁴ The oft-mentioned diet at Székesfehérvár never materialized; see Mályusz, p. 96. The formal obligation of the king to send out invitations forty days in advance was codified here for the first time. The stipulation that the kings should observe the future decisions of a diet sounds peculiar and suggests that the royal chancellery did not care to scrutinize this document before its issuance.

⁵ Such pardons were, in fact, issued, with reference to this article; see e.g., MNL OL DI. 102842 of 31 January 1454 in favor of a certain Oswald of Bucsán.

⁶ The wording of this article implicitly denies the legitimacy of Wladislas I's Hungarian kingship, even if by cancelling the donations of both sides in the civil war of 1439–43 it appears to be impartial.

⁷ The relevant dates are 13 February and 14 March 1453.

⁸ On razing the castles, see **1446: 2**.

⁹ While the royal chancellery issued summons and threatened trespassers with the charge of infidelity on the basis of this decree (see MNL OL DI. 14665, 14761, 83242, 88272), legal practice rested more frequently on older and more detailed regulations. The problematic standing of the present decree is obvious

8. Then, that grants made by the lord regent empowered by decree should be confirmed in their validity.¹⁰

9. Then, that terminal summons should retain their validity.¹¹

10. Then, unusual taxes must no longer be levied in any way or for any reason.

We, therefore, having received the above articles, accepted them after mature deliberation, and on the first of them we have offered a corporal oath by the usual royal custom, and in regard to the second article we have in return received a similar oath from all of them on faith and obedience to be observed to us, and for each and every one of the remaining articles written above, we promise and we wish actively to observe, fulfill, and follow inviolably. In witness of all this we have commanded our present charter to be granted to the community of prelates, barons, and nobles of kingdom of Hungary.

Given at Pressburg, on the Monday before the feast of the Purification of the Blessed Virgin Mary, in the year of the Lord one thousand, four hundred and fifty-three, the thirteenth year of our reign.

from an order of King Ladislav of 6 May 1453 in which he expressly mandates that judgment be passed “not according to the said decree of Pressburg, but according to the ancient custom of the realm,” where ancient custom is defined as “old law” (*antiqua lex*); MNL OL DI. 73119.

¹⁰ See 1446:10–11.

¹¹ These short-term “terminal summons” (issued after three or more previous citations and implying that judgment would be passed even in the absence of the accused) were last regulated in **1447:14** and **40**.

**LAW OF KING LADISLAS V OF HUNGARY
OF 25 JANUARY 1454**

This last extant decree of King Ladislas V, aimed at the preparation of a major campaign against the Ottomans, who had taken Constantinople the year before, survived only in a mandate of the king addressed to the nobles of Co. Szabolcs. Since the king was at the time of this meeting in Prague, the diet was most likely called and presided over by Hunyadi. A few months later (probably in March 1454) a diet discussed the propositions sent by the king but its decree did not survive (see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akademiai, 1978) [=DRH], p. 431). The last known diet of Ladislas was held in January 1455, when additional arrangements were made for the campaign, but its decree did not survive, save in fragmentary references (see *Ibid.*, pp. 384– 86.)

MS.: Original on paper, with rests of a signet seal *en placard*. MNL OL DI. 55565, from the family archives of the Kállay family.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ http://archives.hungaricana.hu/en/charters/search
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EDD.: *Magyar Törvénytár: Corpus Juris Hungici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896) 1:317–25; *DRH*, pp. 378–83.

LIT.: Elemér Mályusz, “A magyar rendi állam Hunyadi korában” [The Hungarian corporatist state in the age of the Hunyadi]. *Századok* 91 (1957): 46-123,529-602, here pp. 97, 118; Joseph Held, *Hunyadi: Legend and Reality* (Boulder, Co.: East European Monographs, 1985), pp. 148–54.

25 JANUARI 1454

Ladislaus dei gratia Hungarie, Bohemie, Dalmatie, Croatie etc. rex, Austrieque et Stirie dux, necnon marchio Moraue, fidelibus nostris universis prelati, baronibus, nobilibus et alterius cuiusvis status et conditionis possessionatis hominibus in comitatu de Zabolch constitutis et existentibus salutem et gratiam. Crebrarum a dudum invalescentium novitatum notabilium hominum fidedignorum huius regni nostri Hungarie pericula formidantium patefactione edocti sumus luculenter, quomodo perfidissimus imperator Turcorum potentissima paganorum coadunatione solito multiplicata in finale exterminium firma intentione machinatur hoc regnum nostrum Hungarie subintrare. Proinde nos vigili advertentia in animo revolventes, ne velud olim hoc regnum nostrum Hungarie ex Tartarorum invasione improvisa advertentia regnicolarum in flebilem ruinam fuerat positum et in presentiarum inevitabili cursu dicti imperatoris Turcorum et campestri conflictu indispositos, quod deus avertat, nos contingat periclitari et totius huius regni machina sacra religione christiana imbuta penitus diruatur, quemadmodum etiam in proximis diebus evolutis exemplari intuitu civitati Constantinopolitane per eundem imperatorem Turcorum illatum fore iam experti sumus manifeste; quapropter predicti fideles nostri prelati, barones, nobiles et proceres dicti regni nostri Hungarie unacum certis electis nobilibus hominibus singulorum comituum eiusdem regni nostri, quibus per alias litteras nostras nuper superinde dederamus in mandatis, in hac civitate nostra Budensi hiis diebus congregati super eo, qualiter huiusmodi imperatoris Turcorum invasio prestolanda valeret tutius evitari, uniformem habentes tractatum et deliberationem, nos cum eisdem validam expeditionem exercitualem ad natalem patriam nostram altissimo propitio defendendam adversus paganorum insultus decrevimus instaurandam, presentibus litteris nostris sub certorum articulorum inclusionibus subnotandis vobis notificandam, videlicet:

I. Quod primo spectabilem et magnificum Johannem de Hwnyad, perpetuum comitem Bystriciensem infra presentis anni integri revolutionem capitaneum generalem instituimus huiusmodi exercitus nostri instaurandi.

II. Item disposuimus, quod e medio dictorum prelatorum, baronum, necnon etiam nobilium et procerum regni nostri certi eligantur, qui videre debeant, quot *banderia* nostra regalia de proventibus nostris regalibus poterunt elevari, qui et ulterius provideant, qualiter ipsi proventus nostri regales in cameram nostram regalem aministrentur, et qualiter e camera iidem proventus dispensentur, quodque honores baroniarum tenentibus, qui scilicet more alias consueto ipsorum *banderia* exercitualiter soliti fuerunt elevare, de eisdem proventibus nostris regalibus eorum stipendia extradentur, et cum eorum banderiis prompti sint exercituare.

III. Item domini archiepiscopi, episcopi, prepositi et capitula ac abbates, et alii dignitates et honores ecclesiasticos maiores tenentes, quemadmodum tempore condam domini Sigismundi imperatoris et regis, avi nostri consueti fuerunt, cum ipsarum banderiis ac numero lancearum exercituare teneantur, ita videlicet, quod quarumcunque ecclesiarum seu personarum

ecclesiasticarum proventus per inimicos extitissent minorati, iuxta limitationem electorum hominum predictorum etiam huiusmodi exercitatio earundem ecclesiarum sive personarum ecclesiasticarum cum tanto defectu minoretur. Quod etiam alie persone ecclesiastice dignitates et honores ecclesiasticos minores tenentes, quorum nomina eorum in registro nostro exercitacionis scripta non existunt, secundum conscientiosam limitationem electorum hominum predictorum iuxta quantitatem proventuum earundem personarum ecclesiasticarum exercituare teneantur.

IV. Item in quibuslibet comitatibus tot probi et fidedigni homines potiores per communitatem nobilium eorundem comitatum eligantur, quot in eisdem comitatibus iudices nobilium habentur, qui unacum eisdem iudicibus nobilium comitatus, in quo connumeratio fieri debet, prestitis iuramentis per eosdem connumeratisque portis jobagonalibus ad rationem et numerum lucri camere faciendum, de centum portis jobagonalibus tam ecclesiasticarum, quam secularium personarum quatuor equites pharetrarios et duos pedites similiter pharetras et clipeos ac cuspides habentes ad exercituandum hac vice tantum, et usque ad metas et termines regni nostri Hungarie et non ulterius disponant. Ac in quolibet comitatu per eandem universitatem nobilium e medio ipsorum unus idoneus conductor belli illius comitatus eligatur, qui cum eisdem hominibus exercituantibus connumeratis ad generalem capitaneum exercitus tempore debito teneantur accedere. Universi etiam nobiles regni nostri jobagiones non habentes per singula capita aut cum dominis ipsorum iuxta limitationem electorum hominum teneantur exercituare. Et qui equester vel pedester proficisci debeant, vel qui propter paupertatem, senium vel infirmitatem exercituare non possunt, iidem electi homines discernant et disponant. Pro personis vero filiorum magnatum parvulorum homines armati, pro aliis vero pueris et orphanis iuxta ipsorum facultatem consimiliter homines exercitantes transmittantur.

V. Universi autem magnates, barones, milites, nobiles et proceres dicti regni nostri, maiores scilicet et minores ab invicem divisi per singula capita propria hac vice exercituare teneantur. In castris ex pluribus castellanis sufficiat unum remanere cum tot personis, quot pro conservatione talis castri sufficientes fore iudicaverint electi homines prenotati, alii personaliter debebunt exercituare.

VI. Item in domibus notabilium nobilium unus nobilis pro provisorio curie possit remanere, ita tamen, quod quicumque modo predicto remanserint, teneantur homines suos exercitantes connumeratos transmittere. Ex nobilibus vero et aliis maioribus filios aut fratres indivisos habentibus sufficiat unum ad exercitum proficisci antiqua consuetudine observata.

VII. Item quod jobagiones exercitantes nobilium in pluribus comitatibus possessiones habentium electi homines connumeratores talium comitatum erga et penes dominos ipsorum in illum comitatum, ubi tales domini eorum residentiam facerent personalem, transmittant. Qui quidem nobiles seu domini cum talibus hominibus eorum exercituantibus, si voluerint, sub banderio dominorum ipsorum accedant et proficiscantur, qui etiam rationem de numero et personis talium suorum exercituantium generali capitaneo dare ac de eisdem respondere tenebuntur.

VIII. Item quilibet exercituans tam maior, quam minor teneatur in propriis expensis tam in eundo, stando et redeundo proficisci, nullusque audeat aliquas res vel victualia absque competenti solutione recipere. Si qui autem violenter in aliquibus locis aliquas res vel victualia receperint,

ductor exercitus talis comitatus dampnificato ex parte dampnificantis teneatur impendere satisfactionem indilatam. Et si ipse dampnificans unde satisfaceret, non haberet, caput eiusdem in manus dampnificati debeat assignari per ductorem belli comitatus prenotatum. Quod si ductor talis belli facere non posset propter persone talis dampnificantis maioritatem, aviset superinde capitaneum generalem, qui teneatur dampnificato satisfacere. Alioquin dampnum passus valeat dampna sua acquirere iure mediante secundum contenta decreti dominorum prelatorum et baronum.

IX. Item omnes libere civitates tani nostre regales et reginales, quam dominorum despoti et comitis Cillie ac aliorum magnatum, necnon totum regnum nostrum Sclauonie, de quibus lucrum camere nostre solvere non consuevissent, modo premissis connumerari debeant, et similiter Philistei, Comani, Walahii et Tartarii connumerati debeant exercituare.

X. Item omnes celebrationes octavarum et iudiciorum tam ecclesiastice, quam seculares usque descensum exercitus nostri in proximo consurgendi cessare debeant. Post descensum vero presentis exercitus, aut si huiusmodi exercitus levare non debuerit, omnes octave, signanter festi beati Georgii immediate sequentis usque finem celebrentur. Quodque jobagiones quorumcunque usque ad festum sancti Martini proxime affuturum nullo modo deducantur hincinde moraturi.

XI. Disposuimus insuper, quod quicumque tam prelatorum ac virorum ecclesiasticorum, quam baronum ac magnatum, necnon nobilium, possessionatorum hominum predictam dispositionem et ordinationem in toto vel in parte observare et adimplere nollent vel non curarent, extunc tales dicti electi connumeratores in [eo mox] admonere debeant, ut pro defectu huiusmodi non perfectionis dispositionis et ordinationis predictorum pro quolibet equite sedecim florenos auri et pro quolibet pedite decem florenos usque quintumdecimum diem diei amonitionis eorundem computandum capitaneo nostro generali dare et solvere debeant et teneantur. Qui si non solverint, extunc ductor exercitus talis comitatus una cum electis hominibus et iudicibus nobilium ipsius comitatus, ubi talismodi dispositiones infringerentur seu non perficerentur, illas portiones possessionarias, de quibus ipse dispositiones perfecte non fuerint, occupare occupatasque tamdiu, donec per hos, quorum redemptioni eadem magis competunt, pro dictorum sumpma et quantitate florenorum redimantur, conservare valeant atque possint.

XII. Quodque premissa dispositio exercituali ad aliquam pecuniariam solutionem nullatenus et per nullum modum per quempiam convertatur. Quod si per aliquem factum fuerit, penam sententie capitalis incurrat ipso facto.

XIII. Item exercituantes illi, qui scilicet de exercitu furtive recedunt, si nobiles fuerint, possessiones eorum amittant, si vero ignobiles, pene capitali subiaceant. Et similiter illi, qui a dominis ipsorum dispositionem habuerint vel pecuniam eorum levaverint, cum eisdemque proficisci noluerint, eandem sustineant penam capitalem.

XIV. Preterea quia premissam dispositionem exercitualement contra antiquam consuetudinem et libertatem tam ecclesiasticarum personarum, quam etiam aliorum regnicolarum nostrorum, maiorum scilicet et minorum propter presentis validissimi belli apparatus dicti imperatoris Turcorum in huius regni invasionem, quod deus avertat, faciendam pro eiusdem regni, natalis scilicet solii nostri regii et patrie paterne defensione et conservatione inpresentiarum levare

opportuit et promulgari, ideo nos et ipsi prelati, barones, ceteri nobiles et proceres dicti regni nostri spondemus et fide nostra christiana prestita etiam cum nostri et ipsorum prelatorum ac banonum sigillorum inpressionis roboratione promittimus et pollicemur, quod a modo et deinceps nullo unquam tempore talem inconsuetam exercituationem promulgabimus et faciemus, neque ipsi facient et promulgabunt, sed tam nos, quam ipsi prelati, barones et proceres regni nostri penes dictam antiquam consuetudinem exercituationis semper permanebimus et ipsi permanebunt.

XV. Item pro compeendis quarumcunque nociturnitatum generibus disposuimus, ut preacti electi homines in singulis comitatibus unacum iudicibus nobilium omnibus querulantibus super quibuscunque factis potentiariis et etiam possessionum occupationibus ex parte in causam attractorum, habita prius superinde diligenti inquisitione compertaque sufficienti rei veritate, absque dilatione et terminorum protractione iudicium et itustitiam querulantibus teneantur exhibere, comesque parochialis iuxta huiusmodi iudicium modo premissa faciendum teneatur mox satisfactionem indilatam et plenariam ex parte huiusmodi in causam attractorum lesis ministrare, Quod si ipse comes parochialis ex quacunque causa facere nollet, extunc talis comes parochialis honore suo privetur, causaque huiusmodi modo preacta adiudicata in curiam nostram regiam per eosdem iudices transmittatur, ubi in primis octavis celebrandis fine conclusivo absque ulla prorogatione ulteriori terminetur. Ubi si ipsi comites vel vicecomites parochiales nobilibus et quibusvis possessionatis aut ignobilibus hominibus quevis facta potentiaria, iniurias, nocumenta et dampna quoquomodo fecerint ad se pertinentibus facere permiserint, tunc iidem electi homines et iudices nobilium talis comitatus ipsos comites et vicecomites premissa patentes in eo, ut ipsi in prima die sedis iudicarie super talismodi actibus potentiariis, dampnis atque iniuriis lesis et dampnificatis omnimodam impendere debeant satisfactionem, amoneant. Qui si id facere recusaverint, tunc ipsi electi et iudices nobilium seriem huiusmodi non satisfactionis in litteris eorum conscribi facere et ad primas octavas tunc celebrandas transmittere, iudexque ordinarius octavis in eisdem contra tales comites et vicecomites litteras sententiales lesis et dampnificatis dare et eisdem executioni demandare debeant et teneantur.

Quocirca fidelitati vestre precipimus et mandamus, quatenus mox postquam preacti homines electi dicti comitatus Zabolcz hic Bude inpresentiarum constituti hinc vestri in medium cum presentibus revertentur et prevenerint, ad locum vestre sedis iudicarie universaliter congregati iuxta contenta dispositionum nostrarum unacum dictis prelati, baronibus et electis hominibus per vos deputatis ceterisque nobilibus et proceribus dicti regni nostri in superioribus articulatis conscriptarum vos cum celeritate more exercituantium tam expedite disponatis et apromptuetis, ut dum et quamprimum annotatus comes Johannes generalis capitaneus exercitus nostri prenotati vobis scripserit, in continenti cum apparatu exercituali fulciti, previo ductore belli ipsius comitatus vestri modo preacti vestri de medio eligendo ad loca, que idem capitaneus noster generalis duxerit notificanda, ad resistendum predictorum inimicorum nostrorum insultibus proficisci valeatis. Aliud sub penis predictis et nostre indignationis facere non ausuri in premissis.

Datum Bude, in festo Conversionis beati Pauli apostoli, anno domini millesimo quadringentesimo quinquagesimo quarto.

Ad relationem dominorum prelatorum et baronum cons[iliariorum]

JANUARY 25, 1454

Ladislás, by the grace of God king of Hungary, Bohemia, Dalmatia, Croatia, &c., duke of Austria and Styria, and margrave of Moravia, grace and greetings to all our faithful prelates, barons, nobles, and landowning men of any other station and condition assembled and living in the county of Szabolcs.¹ We understand from news that has proved to be true, passed on to us by trustworthy noble men who fear for this our Hungarian kingdom, that the most perfidious emperor of the Turks is scheming to attack this our Hungarian kingdom with a very powerful force of pagans, far greater than expected, in order finally to extirpate it.² Hence we, searching in our mind for a way to guard against this, lest—as before, when this our realm of Hungary was brought to pitiful ruin by the unexpected invasion of the Tartars—the inappropriate response of the gentlemen of the realm and our unpreparedness to open battle against the said emperor of the Turks, may, God forbid, lead us into such danger that the edifice of this whole realm, deeply imbued with the holy Christian faith, may be destroyed, just as we are well aware that most recently has been done, as a warning example to us, to the city of Constantinople by the same emperor of the Turks,³ called our said faithful prelates, barons, nobles, and lords of our said realm of Hungary along with certain elected nobles from every county of our kingdom, to whom we had recently given mandates by our letters, to gather in this our city of Buda during these days and hold common discussion and deliberation concerning that matter,⁴ as to how such a threatened invasion by the emperor of the Turks could be more safely avoided. We, along with them, have decreed the launching of a major campaign to defend the land of our birth, with the help from up high, against the attacks of the pagans about which we notify you by our present charter, including certain articles in it, namely:

1. That first we appoint the notable and distinguished János Hunyadi, perpetual count of Beszterce,⁵ as captain-general for one full year from now to raise our army.⁶

¹ As noted above, the surviving text is the copy sent to the noble community of Co. Szabolcs in northeastern Hungary.

² Actually, during the following summer Sultan Mehmed II besieged unsuccessfully Smederevo, the residence of George Branković, despot (ruler) of Serbia. Hunyadi led a campaign into Serbia and defeated the rear-guard of the Ottomans at Kruševac on 2 October 1454.

³ Constantinople fell to the Ottomans on 29 May 1453.

⁴ The exact dates of the diet are not known.

⁵ Hunyadi was given the title of *comes perpetuus* by the young king. Although this title had been borne by other prelates and barons who were perpetual *ispáns* of a county, this time the title was to be similar to German-imperial title of *Graf*. That is why we chose to translate it not by the otherwise-used Hungarian term, but rather by the European-style “count.” Actually, it was Hunyadi’s son, King Matthias I, who legalized the existence of such formal titles, when he created several perpetual comital families and in 1487 (Peace of St. Pölten) wrote about *barones naturales*, in contrast to *barones ex officio*; see Erik Fügedi, “The Aristocracy in Medieval Hungary,” in Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*, ed. J. M. Bak. (London: Variorum Reprints, 1986), ch. 4, p. 14.

⁶ This meant that he was charged with both hiring a mercenary force and commanding the *banderia*—troops supplied by the barons and prelates-- and the comital contingents. Hunyadi’s right to dispose of the royal

2. Then, we have decided that from the said prelates, barons, nobles, and lords of our realm certain men should be elected who should see how many of our royal *banderia* can be raised from our royal revenues and who should further attend to the manner in which our royal revenues are to be administered in our royal Chamber, how the same revenues should be dispensed from the Chamber, and that stipends should be paid to those holding baronial honors,⁷ that is, those who by approved custom usually raise their own *banderia* for campaign, and that they should be prompt in coming to campaign with their *banderia*.⁸

3. Then, the lord archbishops, bishops, provosts, chapters, abbots, and others holding the greater ecclesiastical dignities and honors are required to come on campaign with their *banderia* or a number of lances, just as they used to in the time of the late lord king and emperor Sigismund, our grandfather,⁹ however, in such a manner that the contingents of churches and ecclesiastics whose revenues were diminished by the enemy shall be suitably reduced according to the estimation of the said elected men.¹⁰ Also other clergy holding the smaller ecclesiastical dignities and honors, whose names are not recorded in our military register,¹¹ are required to participate in the campaign in accordance with the careful estimation by the said elected men according to the size of the revenues of these same clergy.

4. Then, in every county as many proven and trustworthy powerful men as there are magistrates should be elected by the community of nobles of that county, who, with the magistrates of the county in which a census must be taken, having sworn oaths after enumerating the tenant plots in the way as is done for the chamber's profit,¹² should send, for every one hundred tenant plot belonging to both clergy and laymen, four mounted archers and two foot-soldiers¹³ similarly armed

revenues was challenged by the king's propositions in (March) 1455, but the diet confirmed the captain-general's powers against the young king's opposition (see *DRH*, p. 432, n. III.1).

⁷ This decision is an attempt of the estates to gain control over the royal finances, a recurring program of the diet, but rarely successful until the early sixteenth century; see Elemér Mályusz, "Les débuts du vote de la taxe par les ordres dans la Hongrie féodale," *Nouvelles études historiques* 1:55–82, and György Bónis, "Ständisches Finanzwesen in Ungarn im frühen 16. Jahrhundert," *ibid.* 83–103, esp. 83f.

⁸ "Approved custom" refers to the tradition as contained e.g., in **Propositions 1432/3**.

⁹ See **8 March 1435:1** and **1439: 19** and the **Propositions 1432/3**.

¹⁰ By this time the southern regions of the country had suffered so much from some sixty years of Ottoman incursions that, for example, the bishop of Bosnia, once one of the richest prelates of the kingdom, was now one of the poorest. Another indicator of the devastation of the region is that by the 1450s virtually all fourteen Franciscan convents of southern Hungary and Croatia had disappeared.

¹¹ The "register" is clearly what we know as **Propositions 1432/3**.

¹² As prescribed e.g., in **8 March 1435:4**. Magistrates (*judices nobilium*) were noblemen elected by their fellows to assist the *ispán* and represent the noble community; there were usually four in every county. The chamber's profit was a direct tax that replaced, ever since the thirteenth century, the royal income from annual re-issue (and devaluation) of the currency.

¹³ This quota is higher than the earlier ones for the *militia portalis*: **1397:6** had stipulated 5, but **12 March 1435:2** only 3 mounted archers for every 100 tenants. In general, see András Borosy, "The militia portalis in Hungary before 1526," in eds. János M. Bak and Béla K. Király, *From Hunyadi to Rákóczi. War and*

with bows, shields, and spears for a campaign at this time only and only as far as the borders and confines of our kingdom of Hungary.¹⁴ In every county the community of nobles must elect from among themselves one suitable war-leader for that county who must go to the captain-general of the army with the enumerated fighting men at the required time.¹⁵ All the nobles of our realm who do not have tenants are required to campaign singly or with their masters at the direction of the elected men. And the same elected men should decide and direct who should set out on horseback or on foot, or who cannot campaign because of poverty, age, or infirmity. Soldiers should be sent in place of the small children of the magnates, and similarly for other children and orphans, according to their capacity.¹⁶

5. Each and every magnate, baron, knight, noble, and lord of our said realm, both the greater and the lesser who hold separate properties,¹⁷ must this time campaign in person. It should be sufficient for one of the castellans to remain in every castle with so many men as the aforesaid elected men will have judged sufficient to guard such a castle; the others must campaign in person.¹⁸

6. Then, in the houses of the greater nobles one nobleman may remain as the steward of the court with this proviso, that whoever remains for this reason is still required to send his enumerated men to camp.¹⁹ It is sufficient, for one to set out on campaign from among the nobles or other greater men who live together with adult sons or brothers,²⁰ in observance of ancient custom.

7. Then, armed tenants²¹ of nobles holding estates in several counties should be sent by the men elected as enumerators of such counties to their lords in that county where such lords make their personal residence. Those nobles and lords may, if they wish, come and set out with these men

society in late medieval and early modern Hungary. East European Monographs, 104, (Brooklyn: Brooklyn College, 1982), pp. 63–80.

¹⁴ The restriction to serve only within the territory of the realm, earlier valid only for the noble general levy, is new and is in contrast to **Propositions 1432/33:5**

¹⁵ By the law of **8 March 1435:4** the *ispán* was entrusted with the command of the county's levy, which seems to have been established custom (see also the "historical" argument in **Propositions 1432/3:2**). The reason for the change proposed here is not known.

¹⁶ Cf. **Propositions 1432/3:2, 6**, and **8 March 1435/I: 3**

¹⁷ Note the assumption of still undivided kindred-properties. As all sons were entitled to an equal portion of an inherited estate, with the paternal house usually going to the youngest, division was often postponed for another generation or more. From a legal point of view, brothers or cousins who lived on still undivided estates were considered to form one family.

¹⁸ Cf. **1397:6** and **8 March 1435/I:5**.

¹⁹ Cf. **8 March 1435/I: 4–5**.

²⁰ See above, n. 18.

²¹ The wording here (*jobagiones exercitantes*) is one of the few explicit references to peasant tenants actually going to war in the so-called portal militia. Whether this was always the case, or landlords hired soldiers according to their holdings is debated; see Borosy, "The militia portalis."

under the banner of their masters, who then will be required to give account of the number and person of such men and answer for them to the captain-general.²²

8. Then, every soldier, whether rich or poor, is required to travel at his own expense in going, in camp, and in returning, and none should dare to take any goods or victuals without adequate payment. If anyone should take violently any goods or victuals anywhere, the leader of the troops of that county must assure that compensation is given without delay to the plaintiff on behalf of the trespasser. And if the trespasser does not have the means to pay compensation, his head should be placed in the hands of the plaintiff²³ by the war-leader of that county. If that war-leader is unable to do so, because of the high status of the trespasser, he then should inform the captain-general, who must compensate the plaintiff. Otherwise the plaintiff may recoup his losses at law according to the contents of the decree of the lord prelates and barons.²⁴

9. Then, all free cities belonging to the king and the queen, to the lord despot and to the count of Cilje²⁵ or other magnates as well as the people of the entire realm of Slavonia, who do not customarily pay our chamber's profit,²⁶ must be enumerated in the aforesaid manner, and similarly Philistines, Cumans, Vlachs, and Tartars²⁷ must be also enumerated and join the campaign.

²² On the noble retainers (*familiars*), lesser noblemen who joined (or were forced to join) more powerful nobles serving in their lords' armies, or acting in administrative and legal positions; see Erik Fügedi, *The Elefánthy. The Hungarian Nobleman and His Kindred* (Budapest-New York: CEU Press, 1998) and János M. Bak, "Feudalism in Hungary?" in: *Feudalism: New Landscapes of Debate*. Sverre Bagge, Michael H. Gelting, Thomas Lindkvist, eds. (Turnhout: Brepols, 2011) pp. 203-17.

²³ This archaic formulation means capital punishment, (*sententia capitalis*), which meant loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates..

²⁴ This procedure has been regulated many times, see, e.g., **1427B:2; 8 March 1435/I:8-9; 1445:7, 20; 1447:40.**

²⁵ George / Đurađ Branković (1377-146) was despot (ruler) of Srebia and Ulrich II (1406-56), his son-in-law, the last princely count of Cilje/Cilly were among the greatest landowners of the kingdom in their times.

²⁶ The inhabitants of Slavonia usually paid the *mardurina*, a tax originally rendered in marter pelts, monetarized at least since 1231 instead of the direct tax called *lucrum camerae* that replaced royal income from devaluating the money in the thirteenth century, but retained its name until the end of the Middle Ages.

²⁷ Cumans and Jász/As (probably Alans, called by this Biblical name) settled in Hungary in the thirteenth century and kept certain liberties for centuries in return for military service. See Nora Berend, *At the Gate of Christendom: Jews, Muslims and 'Pagans' in Medieval Hungary, c. 1000-c.1300* (Cambridge: Cambridge University Press, 2001) esp. pp. 68-75. It is not quite clear, which people are meant under "Wallachs," most probably those who lived in the border districts between Severin (Szörény) and Timișoara. They were subject to royal border fortresses and registered for military service. (In a list from around 1430 there were 643 *kenezi*, i.e., local leaders, 2066 peasants and 108 other servants in the three districts of Mehadia, Halmas and Ilidia.) Tartars are mentioned occasionally in the early fifteenth century along with Cumans and Jász; they probably lived in the same region, but nothing is known about their origin and date of settlement in the Hungarian Plain.

10. Then, all sessions of octavial and other courts, both ecclesiastical and secular, must be suspended until the disbanding of the army of this imminent campaign. After the disbanding of the present army—or if such an army need not be levied at all—all octavial sessions should be held until their business is completed, particularly the one at the feast of St. George now following.²⁸ No peasant tenant of anyone should be moved to a new home until the next feast of St. Martin.²⁹

11. We have further decided that anyone, whether prelate, clergy, baron, magnate, noble, or landed resident, who is unwilling or hesitant to observe and fulfill in whole or in part the said arrangement and order, then the said elected enumerators must quickly warn such men, that for the damage caused by failure to perform the said arrangement and order they must and are required to give and to pay to our said captain-general sixteen florins of gold for every horseman and ten florins for every foot-soldier by the fifteenth day of the warning. If they will not pay, the leader of the army of that county with the elected men and the magistrates of that county where such arrangements are infringed upon or not performed, can and should occupy appropriate parts of his possessions for which the arrangements were not met and keep them occupied until such time as they are redeemed by those who are more prepared to redeem them for the said amount and quantity of florins.

12. And that the said military service may not be commuted to any monetary payment at any time and by any means by anyone. If that is done by anyone, he should immediately incur the penalty of capital sentence.³⁰

13. Then, those soldiers who leave the army secretly, if they are nobles, should lose their estates; if they are non-nobles they should be subject to a capital penalty. And similarly those who make an arrangement for their lords or raise their money, if they are unwilling to set out with them, should sustain the same capital penalty.³¹

14. Furthermore, because the preparation of the very powerful machinery of war by the said emperor of the Turks for the invasion of this kingdom, God forbid, demanded that for this one time the aforesaid military arrangements be made and promulgated for defense and preservation of the kingdom, namely, of our royal throne and ancestral land, against ancient custom and the liberty of both ecclesiastics and our other gentlemen of the realm, the greater and the lesser alike, therefore, we and the prelates, barons, other nobles, and lords of our said realm vow, promise, and pledge with the offering of our Christian faith and also with the strength of the impression of our seals and those of the prelates and barons that never in any way or at any time will we or they promulgate

²⁸ 1 May 1454.

²⁹ 11 November 1454. This clause may have had something to do with the mobilization of tenant militiamen, see above, notes 13, 21.

³⁰ On capital sentence, see n. 23, above.

³¹ Cf. **Prop. 1432/3:12**, but here more specified penalty.

and arrange such an unprecedented campaign, but both we and the prelates, barons, and lords of our realm will always persist in the said ancient custom of campaigning.³²

15. Then, to repress any kind of harmful deeds we have ordered that the said elected men in every county with the magistrates must render justice and sentence to all plaintiffs regarding any acts of act of might and occupations of estates on behalf of the damaged party, after having held proper enquiry and sufficiently established the truth in the case without delay and protraction of terms. The *ispán* of the county is required to exact at once full and immediate compensation for losses, according to such a judgment made in the said manner on behalf of the damaged party.³³ If the *ispán* of the county is unwilling to do so for any reason, then such an *ispán* should be deprived of his office and the case decided in the said manner should be sent to our royal court by the magistrates, where it will be brought to a conclusive end in the first octave held without any further prorogation. If *ispáns* or *alispáns* of counties commit or allow the commission of acts of act of might, injuries, harm, and damage of any kind by nobles, gentlemen of the realm, or non-nobles, then the same elected men and the magistrates of such a county should warn the *ispáns* and the *alispáns* committing the aforesaid that they must pay compensation for such acts of act of might, losses, injuries, and damages caused in any way on the first day of the county court's session. If they refuse to do this, then the elected men and the magistrates must and are required to have the facts of such non-compensation written down in their letter and to send it to the first octave held, and the justice ordinary ought and will in that octavial court grant a letter of sentence for the damages and losses against such *ispáns* and *alispáns* and will order its execution.³⁴

Therefore, we have ordered and mandated your fidelities that after your said elected men of the said county of Szabolcs at present here at Buda return and arrive home with the present charter, you should assemble at the seat of the county court, and, according to the contents of our arrangements written in the above articles issued together with the said prelates, barons, and elected men chosen by you along with the other nobles and lords of our said realm, you must arrange and make ready quickly in the customary way of campaigning, so that when and as soon as the said Count János, the captain-general of our said army, writes to you, you will be able to set out equipped for war, with the war-leader of your county previously elected in the said manner from your midst, to the place which our captain-general will designate, to resist the attacks of our said enemies. Do not dare to act otherwise under the said penalties and the risk of our indignation.

Given at Buda, on the feast of the Conversion of St. Paul the Apostle, in the year of the Lord one thousand, four hundred and fifty-four. On the instruction of the lord prelates and barons of the council.

³² It may be worth noting that Sigismund promised a similar return to “ancient custom” half a century earlier (1397:6).

³³ A charter of King Ladislás of 15 May 1454 (Imre Nagy III *et al.*, eds., *Codex diplomaticus domus senioris comitum Zichy de Zich et Vásonkeö* (Budapest: Magyar Történelmi Társulat, 1895) 9:437), addressed to the elected men of Co. Bodrog in a matter of compensation, suggests the implementation of this ordinance.

³⁴ Several charters of the subsequent years refer to this decree ordering the procedure set out in the last article, e.g., Nagy, *Cod. dipl. Zichy*, 9:459; MNL OL DI. 61662, 88302, 90015, 15108, 93265

LAW OF REGENT MICHAEL SZILÁGYI OF HUNGARY

([24 January] 1458)
(1458Sz)

After the election of Matthias Hunyadi on 24 January 1458, when the young king was still in Prague, where Ladislas V had taken him as a kind of hostage in the fall of 1457, his uncle, Michael Szilágyi of Horogszeg, issued a decree as regent for the minor ruler.

MSS.: One damaged paper original with seal en placard, MNL OL Dl. 15209, two sixteenth century copies in the Codd. Festetics and Nádasdy (see Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*, (Budapest: Akadémiai K. 1989) [=DRH Matth.], p. 83).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801), pp. 134-5 (excerpt); *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus et al. eds., (Budapest: Franklin, 1896), 1: 327-35; *DRH Matth.*, pp. 83-7.

LIT.: Vilmos Fraknói, *Szilágyi Mihály, Mátyás király nagybátyja* [M. Sz., uncle of King Matthias], Budapest: Franklin, 1913, pp. 63, 66-8; Gyula Gábor, *A kormányzói méltóság a magyar alkotmányjogban* [The office of regent in Hungarian constitutional law]. Budapest: Athenaeum, n.d. [1932], pp. 86-9; György Bónis, *A jogtudó értelemiség a Mohács előtti Magyarországon* [Men learned in the law in Hungary before Mohács] (Budapest: Akadémiai K. 1971), pp. 245-46.

[24 IANUARI] 1458

DECRETUM GUBERNATORIS MICHAELIS SZILÁGYI

Nos Michael Zylagy de Horogzeg nomine et in persona illustris principis domini Mathie Dei gratia Hungarie, Dalmatie, Croatie etc. electi regis, gubernator in eisdem regnis constitutus etc. memorie commendamus per presentes, quod nobis una cum dominis prelati, baronibus, nobilibus et proceribus regni Hungarie universis circa festum Circumcisionis Domini proxime preteritum in hanc civitatem Pestiensem convenientibus et pro faciendis ordinationibus, que pro conservanda pace et statu utilitateque et comodo pretactorum regnorum et partium eis subiectarum opportune et perutiles videbantur, tractantibus relictis sopitisque et sedatis omnibus et singulis guerris et dissensionibus in alterutrum previis rationibus exortis et suscitatis inter alia, que hinc inde concorditer expedita sunt, prefati domini prelati, barones, nobiles et proceres universi exhibuerunt nobis concorditer et presentarunt articulos infrascriptos petentes et desiderantes, ut eos et in eisdem contenta rata habere, admittere et per nos ac prefatum dominum nostrum Mathiam electum regem observaturos promittere dignaremur.

Quorum quidem articulorum tenor sequitur in hec verba:

I. Item primo quod omnes ecclesie occupate ac possessiones et bona earundem ac prelatorum et barronum ac nobilium possessiones seu portiones possessionarie similiter occupate, tempore scilicet, quo non fuerunt octave iudicialiter celebrate, hoc est a tribus annis citra, remittantur usque quindecim dies; ita quod occupatio talis probetur per attestaciones vicinorum et commetaneorum ac nobilium comprovincialium, prout consuetum est in proclamata congregatione; et si occupatas remittere noluerint, extunc sine ulteriori processu convincantur in facto potentie et dominus gubernator possit occupari facere possessiones et bona talis convicti et propriam personam eiusdem captivari.

II. Item quod dominus rex contra omnes et quoslibet inimicos et devastatores huius regni hoc regnum Hungarie de suis proventibus regalibus protegere et defensare teneatur, ita videlicet quod si idem dominus rex ab insultibus ipsorum inimicorum huius regni cum ipsis proventibus protegere non posset vel non valeret, extunc prelati et barrones ceterique viri ecclesiastici huius regni, banderia seu gentes ipsorum iuxta limitationes divorum regum huius regni in hac parte factas levare et insurgere debeant et teneantur. Si autem cum eisdem etiam ipsis inimicis resistere non possent, extunc universi nobiles et alterius cuiusvis status possessionati homines exercituantium more, prout aliorum regum Hungarie temporibus fuit, procedere et permanere teneantur.

III. Item quod de omnibus illationibus damnorum et iniuriarum et aliorum malorum generibus a festo beate Katharine virginis in anno Domini millesimo quadringentesimo quinquagesimo sexto preterito usque hec tempora per quoscumque patratorum et commissorum iuxta ordinationem et conclusionem prelatorum et barronum ac regnicolarum huius regni Hungarie pridem in generali congregatione hic Bude facti in comitatu quolibet iudicium et iustitia celebrari teneantur. Hoc est contra libertatem regiam et palatinale officium, igitur id ipsum permaneat in antiqua consuetudine.

IV. Item quod ipse quatuor octave singulis annis celebrari teneantur et nunquam pro aliqua ardua causa pretermittantur excepto, quando erit generalis exercitus et nulla alia causa prorogentur.

V. Item quod nunquam dominus noster rex et neque dominus Michael Zilagy gubernator huius regni pro quacunque causa seu negotiis quibusve arduissimis aliquam taxam seu solutionem pecuniariam per iobagiones regnicolarum seu alios nobiles petere valeat atque possit.

VI. Item quod universa fortalitia seu castella per quoscumque in quibusvis comitatibus erecta et constructa, ex quibus spolia et depredationes committuntur, diruantur exceptis, que ad utilitatem ipsius comitatus sunt. Ita quod si aliqui moniti per nobiles illius comitatus in sede iudiciaria infra quindecim dies non diruerent, extunc tales notam infidelitatis incurrant eo facto et dominus rex vel gubernator tales ut infideles punire valeat et quodcunque fortalitium in aliquo comitatu remanere debebit, extunc tale fortalitium vigore et testimonio litterarum capituli vel conventus et iudicis nobilium illius comitatus, in quo tale fortalitium esset erectum, remanere valeat.

VII. Item quod ipse dominus rex neque dignitates ecclesiasticas neque aliquos honores, officiolatus vel perpetuitates, hominibus extraneis dare et conferre valeat.

VIII. Item de castris et aliis bonis extraneis hominibus donatis rex faciat recuperandi diligentiam.

IX. Item quod iudices ecclesiastici neque archiepiscopi et episcopi vel eorum vicarii iudicare valeant, nisi dotes et res paraffernales, iura quartalitia, factum decimarum, efusiones sanguinum et verberationes ecclesiasticorum et mulierum necnon testamenta, causas matrimoniales et de periurio, prout in canonibus expressum est.

X. Item quod nullus omnino hominum de sacerdotibus ac nobilibus neque telonia, et neque decimas prout vetus regni consuetudo requirit, exigere debeat.

XI. Item quod dominus noster rex et ipse dominus Michael gubernator ex parte omnium et quorumlibet fratrum ac familiarium ipsorum omnibus querulantibus absque omni favore debitam iustitiam ac omnimodam satisfactionem impendere teneantur et nec per aliquos fratres vel familiares ipsorum aliqui regnicole huius regni quovismodo opprimantur.

XII. Item quod pecunie nove cudantur, quarum ducenti pro floreno et obuli earundem quadringenti habeantur et nunquam mutantur.

XIII. Item quod universi regnicole et homines possessionati singulis annis ad festum Pentecostes ad opidum Pestiense per singula capita congregari teneantur et si qui se rationabiliter excusare non poterint, talium possessiones per dominum gubernatorem vel dominum regem occupentur

XIV. Item quod universe civitates murate ac castra regalia ad manus prefati domini Michaelis gubernatoris statim resignentur.

XV. Item quod universi possessionati homines de eorum possessionibus ad possessiones aliorum obtenta licentia iustoque terragio deposito et aliis solitis debitis persolvatis iuxta antiquam consuetudinem huius regni absque omni litigionario processu pacifice et tute secureque permittere debeant. Si autem aliqui permittere nollent, extunc comites vel vicecomites et iudices nobilium illius comitatus huiusmodi iobagionem cum sex marcis eliberare teneantur, prout antiqua consuetudo requirit. Si autem aliqui hominum comitibus obedire noluerint, tunc regia maiestas vel eius gubernator possessiones talium occupare et tamdiu tenere valeat, donec huiusmodi iobagio cum duodecim marcis eliberabitur

XVI. Item ad hoc, quod littere preceptorie proclamate congregationis generalis vires integras habeant, iuramentum ad caput deponendum conclusum est, ut adminus sex commetanei, totidem vicini ac duodecim nobiles comprovinciales attestati habeantur. Ubi autem defectus pluralitatis commetaneorum fuerit, suppleatur talis defectus per vicinos tantumdem numeri.¹

Nos itaque petitionibus dictorum dominorum prelatorum, barronum, nobilium et procerum regni universorum iuri consonis inclinati articulos prescriptos et singulum eorum inviolabiliter observare, complere et exequi per nos et per prefatum dominum Mathiam regem electum promittimus et volumus cum effectu.

In quorum omnium premissorum testimonium presentes litteras nostras eidem universitati dominorum prelatorum, barronum ac nobilium regni Hungarie predicti duximus concedendas.

Datum in Pest vigesima quarta die congregationis supradicte anno Domini millesimo quadringentesimo quinquagesimo octavo.

1458 [24 JANUARY]

REGENT MICHAEL SZILÁGYI'S DECREE

We, Michael Szilágyi of Horogszeg,¹ in the name and person of the renowned prince, lord Matthias, by the grace of God elected king of Hungary, Dalmatia, Croatia, etc., designated governor in these same kingdoms, etc. wish to be remembered by these presents that at the recent feast of the Circumcision of the Lord² we met together in this city of Pest with all the prelates, barons, nobles and lords of Hungary and discussed the measures that would seem appropriate and most useful for keeping the peace, the good state, welfare and benefit of the aforementioned kingdoms and the provinces subjected to them putting aside, calming, and ceasing from, each and every instance of war and strife that had arisen and been undertaken against each other for reasons in the past, among the affairs which were, with full agreement, settled at this time and place,³ the said lord prelates and barons, nobles and lords, presented and gave us in common accord the following articles, asking us and wishing that we accept and confirm them and their content and to deign to promise their observance on our part, as well as on the part of the aforementioned lord Matthias, king-elect.

¹ Michael Szilágyi of Horogszeg was the king's uncle as the brother of Matthias' mother, Elisabeth. His family goes back to a fourteenth century lesser noble clan that received major donation under Sigismund. Michael served in the army of János Hunyadi who married his sister. During Hunyadi's regency, he became commander of Belgrade, and after his death the senior member of the Hunyadi clan. He and his sister engineered the election of Matthias by mobilizing the military force of the HunyadiSzilágyi estates and making a pact with the influential Gara clan. As a guarantor of this agreement, Michael was made regent for the minor king, but held that position only for about six months. In October 1458, Matthias arrested him, for he conspired with rebels against the king, and released him only in June 1459. In November 1460, Szilágyi, at that time commander of the southern frontier, fell into Ottoman captivity and was executed by Sultan Mehmed II in 1461.

² 1 January 1458.

³ This reference is to the settlement of the civil war following the death of King Ladislas V. On 12 January 1458 Michael and Elisabeth Szilágyi agreed in Szeged with the palatine, Ladislas of Gara, and his wife, Alexandra, Duchess of Teschen, to offer the crown to Matthias, guaranteeing properties and influence of both parties. However, the contract was to be valid only after an oath in front of cardinals Carvajal and Szécsi. That was never done, probably because the prelates, on the pope's prodding, did not wish to assist in binding Matthias's hand; see András Kubinyi, "Szécsi Dénes bíboros prímás" [Primate Dyonisius Cardinal Szécsi], in *Entz Géza nyolcvanadik születésnapára: Tanulmányok*, (Budapest: OMVH, 1993), pp. 101-02; repr. in Idem, *Főpapok, egyházi intézmények és valóság a középkori Magyarországon* (Budapest: METEM, 1999), pp. 139-455. The agreement was also to be strengthened by Matthias's marrying the palatine's daughter, Anna of Gara, which, however, did not come to pass, for the young king arrived home engaged (for political reasons) to Catherine of Podebrady; József Teleki, *A Hunyadiak kora Magyarországon* [The Era of the Hunyadi in Hungary]. 12 volumes (Pest: Emich, 1852-57) 10:565-9.

The text of these articles is as follows:

1. First, that all seized churches and their estates and property belonging to them, as well as the estates or portions of the estates of prelates, barons and noblemen that were similarly seized in the period when no octave courts were held, that is, during the past three years,⁴ shall be returned within fifteen days, provided, that these occupations be proven with the testimony of neighbors and abutters and fellow noblemen of the county, as it is usual in extraordinary county assemblies;⁵ and if they should refuse to return these seized properties, they shall be condemned in the act of might without any further process, and the lord governor should be able to confiscate the properties and goods of such a condemned person and arrest him in his person.⁶

2. Then, that the lord king must protect and defend, in accord with his royal revenues, this kingdom of Hungary from all enemies and plunderers of this kingdom, thus that, if the lord king could not or would not be able to protect it with those resources from the attack of those enemies of the kingdom, then the prelates and barons and other ecclesiastics of the realm are required to arm and mobilize their *banderia*, that is, their men, according to the directions made in this respect by the holy kings of this kingdom. However should they be unable to repel the enemy even with these forces, then all noblemen and men of property of whatever station are required to go to camp and stay there in a soldierly manner, as it was the custom in the times of other kings of Hungary.

3. Then, that sentence and justice shall be delivered in every county in every case of damage, injury, and any other kind of crime, committed and done by anyone since the last feast of Saint Catherine the Virgin⁷ in the year of one thousand four hundred and fifty-six, in accordance with the orders and decisions passed at the recent diet held here, in Buda⁸ with the prelates, barons and other gentlemen of the realm of this kingdom of Hungary. This is against the privilege of the king and the count palatine; hence, this matter shall remain as ancient custom prescribes.⁹

⁴Octave court (*octava*) was the term of the session of royal courts of justice; there were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times. Apparently, the attempts of **1454:15** to restore regular administration of justice were frustrated in the upheaval after 1456 and court sessions were for years not resumed.

⁵Extraordinary county assembly (*proclamata congregatio*): in major criminal cases county nobles were gathered in a single place and examined under oath. Abolished in the judicial reforms of 1486.

⁶Cf. **1447:7**.

⁷25 November.

⁸See 1454:15.

⁹The last sentence contradicts the content of the preceding ones. Apparently, the nobility requested an expansion of the counties' jurisdiction, but in the final formulation of the decree, the governor (probably in

4. Then, that the four octave courts shall be held every year and never be missed for any other important reason, except when the general levy is called, neither shall they be postponed for any other reason.¹⁰

5. Then, that neither our lord king, nor lord Michael Szilágyi, governor of this realm, may demand any kind of tax or monetary payment from the tenant peasants of the gentlemen of the realm or of other nobles for any reason or action however urgent.¹¹

6. Then, that every fortification and castle erected and built by anyone in any county, from which looting and devastation was committed shall be razed, except those that are useful for that county. Thus those who, warned by the nobles of the county at the county court, do not demolish them within fifteen days, shall therefore by that action fall into the charge of infidelity and the lord king or the governor should have the right to punish such persons as faithless persons. And if a fortification in a county is to remain intact, it should remain intact with the force and testimony of letters of that chapter or convent and the noble magistrate of that county where the fortification was built.¹²

concert with Palatine Gara and the barons) cancelled this decision. It is an interesting example of internal contradictions, shedding some light on the procedure of legislation, cf. also June **1458:43**.

¹⁰ This promise was often given, e.g. in **1447:36** and **1453:10**, but rarely held.

¹¹ Cf. **1446:6**; **1453:6**. The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. agreement, peace). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate.

¹² Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, "Die Glaubwürdigen Orte Ungarns im Mittelalter." *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, "Administering the Law: Hungary's *Loca Credibilia*." in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66–73; now also T. Kőfalvi, "Places of Authentication (*loca credibilia*)," *Chronica* 2 (2002), 27–38. Noble magistrates were nobles elected by the county nobility to assist the *ispán* or *alispán* and at the same time represent their fellows.

7. Then, that the lord king may not give or grant either ecclesiastical honors nor other offices and positions or perpetual rights to foreigners.¹³

8. Then, that the king should diligently attempt to recover the castles and other properties granted to foreigners.

9. Then, that no ecclesiastical judge – archbishop, bishop or their vicars – may pronounce a sentence in cases other than dowries and paraphernalia, filial quarters, tithes, beating and blood shedding of clergy and women, wills, matrimonial matters, and perjury, as has been stated in the canons.¹⁴

10. Then that absolutely no one ought to exact either tolls or tithes from priests and noblemen (as is required by ancient custom of the realm).¹⁵

11. Then, that our lord king and lord governor Michael are required to administer justice and give satisfaction on behalf of any of their kinsmen or noble retainers¹⁶ to every complainant without

¹³ Almost verbatim repetition of **1453:3**.

¹⁴ Cf. **1447:38** and its precedents, expanded by listing the cases where courts spiritual should have jurisdiction. Cases pertaining to the filial quarter were sometimes regarded as *causae mixtae*, for they implied property issues as well, which were, as a rule, not within the jurisdiction of courts spiritual. The filial quarter (*quarta filialis*) was the hereditary portion of noblewomen due from the inherited estates of their fathers. The filial quarter was, in theory, paid in cash. In practice, however, it was often given out in land. In law, the grant of the quarter in land was only valid when the woman was married to a non-noble man (*ignobilis* or *homo impossessionatus*), or as a temporary substitute for cash payment, but in fact it was more widespread. Antal Murarik (*Az ősiség alapintézményeinek eredete* [Origin of the Basic Institutions of Aviticitas] [Budapest: Sárkány, 1938], pp. 163–192) saw it as having derived from Roman Law, in particular from the *Lex Falcidia* (cf. *Inst.*, Bk. II, tit. 22). According to the *Corpus Iuris Civilis* of Justinian the rights of female children were the same as those of male children when a man died intestate. But the descendants of females had been entitled to a smaller portion of the estate than those descended from the males in the earlier Teodosian Code (5.1.4.), where the legacy granted to grandchildren in the female line was reduced by a fourth part (*pars quarta*) in favor of the agnates. Justinian specifically abolished this provision (*Inst.* Bk. III, tit. 1, c. 16). The discussions concerning this institution in medieval Hungary were summed up by Ferenc Eckhart, “Vita a leányegyedről” [Debates on the filial quarter], *Századok*, 66 (1932), 408–415; see also József Holub, “La ‘quarta puellaris’ dans l’ancien droit hongrois,” *Studi in memoria di Aldo Albertoni* (Padua: Milani, 1935), III, 275–297. See now, Péter Banyó, “Birtoköröklés és leányegyed. Kísérlet egy középkori jogintézmény értelmezésére.” [Inheritance of land and the filial quarter: An attempt on the interpretation of a medieval legal concept] *Aetas* 18:3 (2000): 76–92 and Erik Fügedi *The Elefánthy. The Hungarian Nobleman and His Kindred*. (Budapest: CEU Press, 1998) pp. 45–6, Martyn Rady, *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000), pp. 103–7.

¹⁵ On the exemption of nobles from tolls, see **Comp. ante 1440:17**, repeated regularly; on the exemption from the tithes, see **1439:19**. The exemption of clergy has not been decreed in any surviving Hungarian law, but was generally accepted in medieval Europe.

¹⁶ The formulation is somewhat puzzling. Neither King-elect Matthias nor Governor Szilágyi had brothers alive (Ladislas Hunyadi was executed by King Ladislas in 1457; of Szilágyi's brothers Oswald died before 1452 and Ladislas is assumed to have been killed by the Brankovići some time before 1455). The expression *fratres* may have, however, meant the male members of the extended kindred of the Hunyadi. The most

any favor; and their kinsmen or noble retainers may not oppress anyone among the inhabitants of this realm¹⁷ in any way.

12. Then, that new coins should be minted, whose value should never change: two hundred should equal one florin; four hundred obols should equal one florin.¹⁸

13. Then, that all gentlemen of the realm and men of property are required to gather together each year on the feast day of Pentecost, in person, in the city of Pest,¹⁹ and the lord governor or the king may confiscate the properties of those who cannot excuse themselves with good reason.²⁰

14. Then, that all walled cities and royal castles should be immediately returned to the hands of the aforementioned lord governor Michael.²¹

15. Then, that every man of property is bound to allow his tenant peasants, once they have received permission, rendered the lawful ground rent, and paid their other customary debts, to move from his estate to the estates of others in peace, safety and impunity, and without any litigation in accordance with the ancient custom of this realm. If someone should be unwilling to allow this,

important persons among these were John Geréb of Vingard, Szilágyi's brother-in-law (thus the king's uncle) who was a military commander in the civil war preceding Matthias' accession, and Sebastian Rozgonyi, brother-in-law of the Pográc of Dengeleg brothers. Noble retainers (*familiars*) were lesser nobleman who chose (or, occasionally, were forced) to accept military or administrative positions in the service of a prelate, baron (q.v.) or major landowner. They kept their noble privilege and were subject to his senior (*dominus*) only for service, for which they received monetary compensation and occasionally land. The laws refer to them rarely, as in principle all noblemen were equally privileged and free (see **1351:11**), but it can be inferred. The institution resembled West European vassalage, but was less formalized (often signaled by only a handshake in the castle gateway), less mutual, and rarely passed onto descendants. See: Fügedi, *The Elefánthy*. pp. 137–40; 199; Rady. *Nobility, Land and Service*, pp. 110–31,

¹⁷ *Regnicola* seems to mean here not only the “gentlemen of the realm” (the legally enfranchised nobility), as usual, but all subjects of the kingdom, just as e.g., in **1405/II:2**, where they are paralleled to *plebicolares*.

¹⁸ Cf. **1447:37**, with the added claim never to change this exchange rate.

¹⁹ The plan to hold the diet regularly at Pentecost did never materialize. The earliest known diets met at the feast of St. Stephen the King (August 20), see **1222:1**, but from the fourteenth century onwards no regular date seems to have been observed. Although regular diets were held in the following years, they met at various dates (see also **1458:37**).

²⁰ That nobles were to attend under penalty sheds light on the reverse side of their right to appear at the diet *viritim* (on which they often insisted): the long stay in Buda (or wherever else) placed considerable burden on less well-off nobles, who, therefore, chose not to attend the diet, or leave early. The regent in fact referred to the punishment decreed here in an invitation to Matthias's first diet in May 1458, see Iván Nagy *et al.*, eds. *Codex diplomaticus domus senioris comitum Zichy de Zich et Vásónkő*. (Budapest: Magyar Tudományos Akadémia, 1907-31), 10:9.

²¹ This measure was already decreed in a decree (now lost) of 1455; see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest.: Akadémiai Kiadó, 1978), pp. 384-5. There must have been many castles usurped during the civil strife of 1456-57, of which we know that Buda was held by the Gara, Székesfehérvár probably by the Újlaki family, and many castles of Upper Hungary were in Jiskra z Brandísa's hands

the *ispán* or *alispáns* and the noble magistrates of the pertinent county shall free such a tenant peasant with six marks, as is required by ancient custom. And if some people should disobey the *ispáns*, his royal majesty or his governor shall have the right to occupy the estate of such a person and keep it, until such a tenant peasant is freed with twelve marks.²²

16. Then, it was decided, in order to give full power to those letters of command²³ issued at the extraordinary county assembly which order a capital oath,²⁴ that at least six abutters, the same number of neighbors and twelve noblemen from the county must attest to them. And where the number of abutters is insufficient, the deficiency should be filled by the same number of neighbors.²⁵

Thus, we, yielding to the just request of the said lord prelates and barons and all the noblemen and lords, promise and fully intend on our part and on the part of the said lord king-elect Matthias, to keep, fulfill, and execute each and every one of the articles written above.

In witness of all these aforesaid matters, we decided to grant our present letter to the community of the lord prelates, barons, and noblemen of our said kingdom of Hungary.

²²This prohibition became referred to as the “statute of King Sigismund” (cf. *DRH Matth.* p. 87, n. XV/2); namely his *Decretum maius*, **1435/I:7**. However, the fines were raised: from three to six and twelve Marks, respectively. Tenant peasant (*jobagiones*, from Hung. *jobbágy*) was the status of the majority of the agrarian population in medieval and early modern Hungary (down to 1848). They were personally free, obliged to render dues in kind, money and labor to the lord of the land on which they lived. Their plots were de facto heritable, though not their property. Tenant peasants had the right to move (or to be moved) to another lord, once their dues were paid. The prohibition of hindering them to do so was mainly in the interest of the lesser nobility, whose peasants were sometimes moved (or lured) to the estates of greater landlords who were able to offer better conditions. For a summary of their fate, see János M. Bak, “Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline” in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005)

²³Letters of command (*littere preceptorie*) were mandates issued in a great variety of matters of administration or law.

²⁴Oath (*iuramentum*) was a mode of proof that survived in Hungary until the nineteenth century and was sworn by one or both litigants supported by a number of oath-helpers, as defined by the judge depending on the value of the case and the status of the oath-helpers. There were also special oaths, such as the oath sworn on the soil (*iuramentum super terram*, **1435/I:10**) or the capital oath (*iuramentum ad caput*, see e.g. **1386:Preamb.**, **1435/I:4,6**, **3 1458/I: 16**; **5 II 32**) that the defendant was not allowed to counter by his own oath. Such a decisive oath was also allowed when the plaintiff presented three favorable letters of inquest (based on an inquiry testified by a witness of a convent as place of authentication and a royal bailiff sent out for that purpose) and the defendant refused to submit to a fourth one.

²⁵On the role of the abutters and the *comprovinciales* at common inquests, see Erik Fügedi, “Verba volant... Oral Culture and Literacy among the Medieval Hungarian Nobility,” in Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*. ed. J. M. Bak. (London: Variorum Reprints, 1986), ch. VI, pp. 6-8.

Given in Pest, on the twenty-fourth day of the aforesaid diet, in the year of the Lord one thousand four hundred and fifty-eight.



King Matthias I Corvinus from Corvina manuscript c. 1470

LAW OF KING MATTHIAS I (CORVINUS) OF HUNGARY OF 1458

(1458 [June 8])

In spite of the ordinance of the regent Michael Szilágyi in January 1458, Matthias wanted to issue his own inaugural decree and, therefore, after his return to Hungary, he invited the estates to a diet in Pest. The invitations were issued for 28 May, but we have no evidence that the assembly began on that day; hence, the exact date of this decree—in the text dated “on the twelfth day” of the diet—remains conjectural.

In return for the king's oath about not collecting additional taxes (Art. 44), the deputies at the diet swore an oath, also in the name of those absent to observe the decree; see Iván Nagy et al., ed. *Codex diplomaticus domus senioris comitum Zichy de Zich et Vásónkő*. (Budapest: Magyar Tudományos Akadémia, 1907-31), 12: 256 (of 31 July, 1458).

MSS.: Four surviving originals; two on parchment, one with seal pendant (MNL OL DI 15252/2), one with seal *en placard* (MNL OL DI 15252/1), two on paper, one with extant (MNL OL DI 15252/3) and one with lost seal *en placard* (City Archives, Bardejov, Slovakia, No. 1058).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Martinus Gorgius Kovachich, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. (Buda: Regia Universitas, 1790), pp. 298-330; Johannes Nicolaus Kovachich, *Sylloge decretorum comitialium inclyti regni Hungariae, quae in vulgato corpore juris hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui parte, manca referebantur et oblivion postliminio, recenter erepta sunt*. (Pest: Trattner, 1818), pp. 135-61; Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*, (Budapest: Akadémiai K. 1989) [=DRH Matth.], pp. 88-106.

LIT.: Vilmos Fraknói, *Matthias Corvinus, König von Ungarn (1458-1490)* (Freiburg i. Brsg: Herder, 1891), pp. 57-88; Lajos. B. Kumorowitz, “Mátyás kiraly pecsétjei” [Seals of King Matthias], *Turul* 46 (1932): 5-19, György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary]. (Budapest: Akadémiai K., 1971), pp. 246-47, see also “Men Learned in the Law in Medieval Hungary.” *East Central Europe/L’Europe du centre-est*, 4, pt. 1 (1977), 181–191.

[8 IUNII] 1458

Nos Mathias Dei gratia rex Hungarie, Dalmatie, Croatie etc., memorie commendamus per presentes, quod cum nobis quoque, ut ceteris regibus Hungarie divinitus regnandi tempus obvenisset et totius regni nostri corpore unum sentiente ad huius maiestatis fastigium fuisset sublimati, tandem habita generali conventionem in hac civitate nostra Pesthiensi prelati, barones, nobiles et proceres regni nostri universi inter alia, que pro bono statu et pace ipsius regni nostri hinc inde concorditer expedita et agitata sunt, exhibuerunt nobis concordiam animo et presentarunt articulos infrascriptos, desiderantes et supplicantes, ut eos et in eis contenta rata habere, admittere et nos observaturos promittere dignemur.

Quorum quidem articulorum tenor sequitur in hec verba:

I. Conclusum est, ut decretum condam serenissimi domini Alberti regis quoad omnes articulos preter articulum dumtaxat prosecutionis causarum plurimarum evocationum et trine forensis proclamationis exprimentem in suo vigore debeat remanere. Et quod regia maiestas antiquas leges et consuetudines huius regni sui et libertates regnicolarum eiusdem ecclesiasticorum scilicet et secularium et alterius status hominum ad statum et modum priorem, quantum de iure et cum honore suo ac prelatorum et baronum ac regni nobilium consilio et auxilio poterit, reducere, reintegrare et reformare, et tandem de cetero regnicolas in eisdem conservare teneatur et manutenere.

II. Atque maiestas regia pro tuitione regni et confiniorum eiusdem conservatione hominibus suis exercituantibus de stipendio regali dispositiones faciat sic, ut regnicole ab illis exercituantibus non afficiantur preda. Si autem afficerentur aliquo tempore, tales exercituantes veluti patratores actuum potentiariarum reputentur et super spoliis, rapinis et victualium exactionibus et verberationibus hominum per eos exercituantes in progressu exercituali commissis, fieri debeat evocatio cum insinuatione contra eosdem, qui veritate comperta in primis octavis in facto potentie convincantur instar aliorum patratorum actuum potentiariarum contra actores in causa; neque tales exercituantes in domibus nobilium condescendant. Exercitus vero generaliter regnicolis interim, donec huiusmodi stipendiarii exercituantes inimicis resistere poterunt, non indicetur, nisi tunc, cum tante et tam magne inimicorum multitudini supervenire contingeret, cui dominus rex de proventibus regalibus ac ex concurrentia banderiorum prelatorum et baronum et stipendiariis a viris ecclesiasticis more alias consueto debentibus resistere non posset, promulgetur. Alias autem dominus rex de proventibus regalibus et de banderiis prelatorum et baronum et ceteris dispositionibus ecclesiasticarum personarum exercituare teneatur. Nobiles regni in exercitu generali non ulterius, quam usque ad confinia et metas regni exercitualmente proficiscantur, ubi si inimici defuerint, solummodo per quindecim dierum spatium et non amplius in exercitu tali moram facere teneantur antiqua consuetudine regni requirente.

III.=1439:IV.

IV.=1439:V.

V.=1439:VI.

VI.=1439:VII.

VII.=1439:VIII.

VIII.=1439:IX.

IX.=1439:X.

X.=1439:XI.

XI.=1439:XIII.

XII.=1439:XIV.

XIII.=1439:XV.

XIV.=1439:XVI.

XV.=1439:XVI.

XVI.=1439:XVII.

XVII.=1439:XVIII.

XVIII.=1439:XIX.

XIX.=1439:XXI.

XX.=1439:XXIII.

XXI.=1439:XXIV.

XXII.=1439:XXVI.

XXIII.=1439:XXVII.

XXIV.=1439:XXVIII.

XXV.=1439:XXIX.

XXVI.=1439:XXX.

XXVII. Preterea, ut multimodis actibus potentiariis et novis attemptationibus via precludatur, statutum est et ordinatum, ut etiam preter et extra octavas evocationes breves super omnibus actibus potentiariis ab anno Domini millesimo quadringentesimo quinquagesimo quarto patris possint fieri sub sigillo iudicatus specialis presentie regie proxime sculpendo, pro eodemque certum prothonotarium impresentiarum constituendum. Ita videlicet, quod idem prothonotarius domino rege ubicunque in regno suo procedente hic Bude semper perseveret et insuper sex prudentes et nobiles viri ex proceribus regni deputentur, qui et in rebus regiis agendis consilio pro arbitrio regio adhereant, quorum etiam opere et ingenio dicta iudicia pretextu dictarum brevium evocationum fienda continue exequantur. Huiusmodi autem evocationes breves fiant ad

tricesimum secundum diem a die evocationis per hominem regium et testimonium fiende computandum, ad quem diem evocatus coram iudice debeat comparere; quodque littere regales super huiusmodi evocationibus emanande, si infra sexagesimum secundum diem execute non fuerint, deinceps viribus careant et cum illis evocatio fieri de cetero non valeat, prout antiquitus est observatum. Et dominus rex teneatur dictis sex nobilibus viris oportunitate sallarium disponere, ut ratione premissorum residentiam facere valeant. Insuper huiusmodi iudicia per nullas litteras regias prorogatorias pro quorumcunque parte emanandas dempta solummodo illorum parte, qui superius notificati sunt, possint prorogari. Atque ordinatum est, ut partes litigantes, quandocunque voluerint, absque requisitione iudicis et onere solutionis birsagiorum liberam inter se concordandi habeant facultatem.

XXVIII.=1447:XXV.

XXX.=1439:XXXIV.

XXXI. Item quod omnia fortalitia post decessum domini regis Alberti in quibuscunque comitatibus in detrimentum eorundem comitatum per quoscunque erecta usque ad festum beati Michaelis archangeli proxime venturum sub pena perpetue infidelitatis diruantur, demptis illis, que regia maiestas erecta esse voluerit pro necessitate regni cum consilio prelatorum et baronum.

XXXII. Item quod omnia castra, civitates, opida, vine, terre et quelibet portiones possessionarie et iura possessionaria similiter post decessum domini Alberti regis intra ambitum regni Hungarie per quoscunque occupata usque dictum festum beati Michaelis archangeli nunc venturum similiter sub pena perpetue infidelitatis illis, quorum sunt, remittantur, alioquin evocentur tales detentores cum evocatione brevi.

XXXIII. Item quod omnia castra, civitates, opida et quecunque iura, videlicet tricesime, tributa, quinquagesime, lucrum camere, proventus mardurinales et alie quecunque proprietates ad sacram coronam regiam ab antiquo pertinentia post obitum dicti domini Alberti regis a corona sacra indebite et sine iure alienata et erga quorumcunque manus sub quocunque titulo habita et existentia usque prefixum festum beati Michaelis archangeli nunc venturum manibus regiis remittantur, resignentur et reintegrentur sub eadem pena perpetue infidelitatis.

XXXIV. Item quod decime tam frugum et bladorum, quam vinorum sub qualibet dioecesi in quibuscunque comitatibus cum frugibus et bladis ac vinis in specie solvantur, hiis scilicet, quibus huiusmodi decime de iure debentur, frugesque et blada in campo in capetiis et manipulis congregata, sine fraude usque festum Assumptionis virginis Marie in quolibet anno sub custodia decimas solvere debentis relinquantur. Et si decime usque ipsum festum non levarentur per decimatores, et in campo ex eis decimis deperire contigerit, nullam propterea litem questionem is, cuius est decima, movere possit, neque ecclesiasticum interdictum imponere valeat. Statutum etiam est, quod huiusmodi decime integraliter in frugibus, bladis et vinis extradentur, nulleque occupationes horreorum et cellariorum per aliquos fieri debeant, sicut in aliquibus terris abusive facere consueverunt.

XXXV. Item iudices ecclesiastici de foro seculari et facto possessionario se non intromittant et si quispiam episcoporum factumulare adiudicaverit, vincatur in facto potencie, videlicet emenda capitis. Ubi autem aliquis vicariorum se intromiserit de facto seculari, ex parte talis archiepiscopus vel suus episcopus iustitiam facere teneatur. Tamen causas super dote et rebus paraffernalibus, iuribus quartalitiis, facto decimarum, dispositione testamentaria, vulneratione, verberatione clericorum et feminarum, et item super matrimonio ac periurio motas iudicandi habeant facultatem.

XXXVI. Item quod calumpniantes pauperes clerici convicti solvere non potentes captiventur et in carcere serventur.

XXXVII. Item conclusum est, ut in singulis festivitibus Penthecostes omni anno congregatio generalis omnium regnicolarum per singula capita fienda per regiam maiestatem publicetur et celebretur et celebrari mandetur.

XXXVIII. Item si aliquis regnicolarum maior vel minor aliqua presumptionis audacia ductus partialitatem practicaret et contraheret aut coniurationem aliquam in periculum et scandalum persone regie et regnicolarum facere attemptaret contra maiestatem regiam, nota perpetue infidelitatis ipso facto sit aggravatus, cui dominus rex preter voluntatem communitatis regnicolarum nequaquam gratiam facere valeat atque possit; universitasque fidelium regnicolarum in auxilium regium et suppressionem ac extremam perditionem talis persone temerarie partialitatem facientis per singula capita ad terminum illum, quem regia maiestas deputaverit, mox insurgere et procedere teneatur sub vinculo corporalis iuramenti generalis superinde prestiti.

XXXIX. Item quod dicationes lucri camere temporibus statutis iuxta modum et consuetudinem ab antiquo observatam fiant, atque de capitibus dicarum non plus, quam duo denarii exigere possint.

XL. Item comites vel vicecomites sive iudices nobilium nunquam aliquid vadium nisi per universitatem nobilium comitatus transmissi exigere possint; alioquin lesionem, interemptionem et dampnificationem, si quam ibidem passi fuerint sufferant equo animo, nec unquam lesorem superinde valeant in causam convenire.

XLI. Item comites vel vicecomites et iudices nobilium birsagia non exigant nisi in congregatione generali iuxta antiquam consuetudinem.

XLII.=1447:XIV.

XLIII.=1447:VII.

XLIV. Item quod, prout dominus rex prestitit iuramentum, quod nullo unquam tempore super regnicolas et iobagiones regnicolarum taxa unius floreni vel medii floreni aut alie exactiones indebite ex quacunque ratione per dominum regem vel ad eum pertinentes petantur vel imponantur preter lucrum camere et alios proventus ex antiqua consuetudine regni exigere solitos.

XLV. Item quod castra, tenutas et possessiones regnicolarum per Bohemos et forenses occupatas et violenter ablatas, dummodo ex culpa notabili amissa non fuerint, dominus rex, si eadem vel easdem reobtinere poterit a manibus alienis, hiis, quorum existunt, restituat; hoc excepto, quod si ex traditione propria et inductione extraneorum hominum vel propter malam custodiam aliquis castra amiserit, ea dominus rex pro se valeat reservare.

XLVI. Item, quia ecclesie regularium personarum, videlicet abbatie prepositure diversorum ordinum ex improvidentia et incuria patronorum ad extremam desolationem et ruinam sunt redacte, igitur ordinatum est, ut regia maiestas provideat de comodo ecclesiarum talium desertarum cooperantibus reverendissimis dominis archiepiscopis et episcopis, quatenus fiat visitatio et reformatio ordinum regularium et ecclesiarum earundem, ne diruantur.

XLVII. Ordinatum etiam est, quod dominus noster rex omnes abbatias et preposituras quorumcunque ordinum regularium idoneis viris regularibus cappatis et in regula ordinis peritis conferat, tamquam verus patronus et nemo alter. Donationes autem super iure patronatus quoad ecclesias regularium personarum predictarum per quoscunque reges quibuscunque facte nullius sint vigoris et viribus omnino cariture pronuntientur, preter illas ecclesias, quas fundaverunt certi fundatores, quorum corpora in ipsis ecclesiis existunt tumulata.

XLVIII. Item quod quicumque vel partem dominorum regis Mathie vel premortui Ladislai regi fovendo regnicolis aliqua dampna intulerint, relaxentur illis et hoc usque ad electionem ipsius domini Mathie regis et gubernatoris Michaelis fratris eiusdem. Excipiantur dumtaxat illi, qui non pro aliqua partium istarum guerras inchoaverint et regno regnicolisque dampna et nocumenta intulerint.

Nos igitur acceptis articulis prenotatis maturaque super eis deliberatione prehabita eosdem et omnia in eis contenta rata habuimus et admisimus, omnesque eos et singulos eorum inviolabiliter observare, complere et exequi promittimus et volumus cum effectu.

In quorum omnium testimonium presentes litteras nostras eidem universitati prelatorum, baronum et nobilium regni nostri duximus concedendas.

Datum in Pesth duodecimo die diei congregationis supradicte anno Domini millesimo quadringentesimo quinquagesimo octavo.

[8 JUNE] 1458

We, Matthias, by grace of God king of Hungary, Dalmatia, Croatia, etc. commend to memory by these presents that, when the time had come for us, as it had for the other kings of Hungary, to reign with divine favor and when, with the unanimous agreement of our entire realm, we had been raised to the summit of this majesty, a diet was held here in our city of Pest.¹ All our kingdom's prelates, barons, nobles, and lords, in addition to discussing and deliberating harmoniously at that diet matters concerning the good state and peace of our kingdom, with common accord offered and presented to us the following articles, and beseeched and requested that we deign to accept, confirm, and promise to observe these articles and their provisions.

The content of these articles is as follows:

1. It was decided that every article in the decree of the late, most serene lord, king Albert,² should remain in force, except for the article concerning the method of summons for prosecution of multiple cases and the provision for proclamation at three fairs.³ And that the royal majesty must restore, put aright, and reform the ancient laws and customs of this realm of his and the liberties of the gentlemen of the realm, that is of the ecclesiastics, the laymen, and men of other estates, to their prior state and condition as far as it can be done justly and fairly, with the counsel and aid of the kingdom's prelates, barons, and noblemen; and henceforth he must defend and keep the gentlemen of the realm in that state.

2. And that the royal majesty should make provision from the royal income for his men who fight to protect the realm and to defend its borders thus that the gentlemen of the realm do not suffer from the looting of these soldiers. And moreover, if they do so suffer at any time, such soldiers should be regarded as perpetrators of acts of might⁴ and should be cited with terminal summons

¹ Matthias was elected on 24 January 1458 and arrived in Buda on 14 February; where he was enthroned in the church of Our Lady (for the crown of Hungary was in the hands of Frederick III of Habsburg). He counted his regnal years from that date; see Radu Lupescu, "The Election and Coronation of King Matthias," in: *Matthias Corvinus, the King. Tradition and Renewal in the Hungarian Royal Court 1458- 1490. Exhibition Catalogue* (Budapest: Budapest History Museum, 2008), pp. 191-5.

² See **1439:32**. The articles repeated from that decree, even if in slightly changed formulation, will not be reprinted below. Significant minor additions are included in the notes.

³ It is not clear, why the detailed procedure described in **1439: 32** seems to have been abolished. Summons were first delivered to the respondent at his noble residence, giving notice of a lawsuit. If the respondent failed to attend court, then he would be summoned again. If he still failed to attend, the *citatio trineforensis* (announced on three fairs) was issued. There is no evidence that this practice would have been abandoned.

⁴ "Act of might" (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, "criminal cases" falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between "major" and "minor" acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing

for the looting, robbing, confiscation of food, and physical violence committed by them while on campaign; and, once the truth has been established, they should be condemned at the first octave for the crime of act of might against the plaintiff, as in cases of other perpetrators of acts of might. Nor shall such soldiers billet in the houses of nobles. No general levy shall be called for the gentlemen of the realm as long as these paid soldiers are able to withstand the enemy, unless the enemy attacks in such size and number that the lord king is unable to resist them by relying on his revenues and the aid of the *banderia* of the prelates, barons, and the customary and obligatory paid soldiers of the clergy. Otherwise the lord king must wage war out of the royal revenues and with the *banderia* of the prelates, and barons, and the other stipendiaries of the clergy. The noblemen of the realm in a general levy shall not go further than the borders and boundaries of the kingdom. If the enemy is not at hand, they are obligated, as the ancient custom of the realm requires, to remain under arms for fifteen days but not longer.⁵

3=**1439:4**

4=**1439:5**⁶

5=**1439:6**

6=**1439:7**⁷

7=**1439:8**⁸

8=**1439:9**

9=**1439:10**

10=**1439:11**⁹

11=**1439:13**¹⁰

12=**1439:14**

the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one.

⁵ This article repeats **1439:3**, augmented by arrangements in **1447:8** and **40** and the limitation contained in **Prop. 1432/33: 5**.

⁶Cf. also **1444: 2, 10, 32** and **1445:19**.

⁷ The king interpreted this article in a wider sense, when he cancelled exemptions from the chamber's profit (a direct tax that originated from the old practice of exchanging better moneys for worse ones) granted after the death of King Louis; see MNL OL DI 201357 of 24 April 1459, *DRH Matth.*, p. 93, n. VI/3.

⁸ The **1439** text is augmented by a prohibition of clergy to hold secular offices.

⁹ The text does not repeat the monetary details of Albert's decree, but refers solely to the laws of Sigismund. In Regent Szilágyi's decree of January **1458Sz:12** the exchange rate was set at 200d for the florin, as in **1447:37**.

¹⁰ The measures about the king's right to captives taken in war is here, in contrast to **1439:13**, limited to campaigns in which no stipends were paid.

13=**1439:15**

14-15=**1439:16**

16=**1439:17**¹¹

17=**1439:18**

18=**1439:19**

19=**1439:21**

20=**1439:23**¹²

21=**1439:24**

22=**1439:26**

23=**1439:27**¹³

24=**1439:28**¹⁴

25=**1439:29**¹⁵

26=**1439:30**

27 Furthermore, in order to block the way of various acts of might and new delicts¹⁶ it was decided and ordered that besides and beyond the octaves, short summons should be available for all those acts of might committed since the year of our Lord one thousand four hundred and fifty-four, issued under the seal (to be cut forthwith) of the royal court of special presence, for which court a protonotary ought to be appointed straightaway.¹⁷ Thus, when the king is travelling somewhere in

¹¹ The article omits, logically, Albert's promise about the preservation of the borders to Austria, which Matthias could, of course, not guarantee.

¹² Here and in several subsequent articles the text of **1439** was altered by referring to the practice “in the times of the late King Sigismund,” even if no specific law of Sigismund is known to regulate the issue.

¹³ Augmented by a passage from **1435/I: 6**.

¹⁴ Augmented by the words: *nisi nobiles vineam vel agrum in alieno territorio tenentes, qui solvere debent* (“excepting those nobles who hold vineyards and arable land on someone else's property, for they have to pay”). This suggests rental arrangements by noble landowners, which was widespread among nobles with no tenants, who were thus exempted from taxes for their own land, but not for that rented elsewhere (cf. also Reg **1467:1**).

¹⁵ The article allows prorogation in cases of nobles on diplomatic missions or in the border fortresses; cf. **1435/I: 3, 6**.

¹⁶ Whether there was some precise legal meaning attached to the frequently used expressions “new delicts,” or “new acts” or they merely intended to refer to crimes committed in the recent past, is not clear.

¹⁷ This new court with its power to cite accused parties on short notice, thus avoiding the delay of several months from one octave court—held four times a year—to another, was to be a successor of the “special royal presence,” a central court of justice which existed from ca. 1376 to c. 1430. Now it came to be professionalized insofar as the presiding secret chancellor was assisted by protonotaries (in Hungarian: *itélőmester*, “master of sentencing”, practical lawyer who became ever more important in the courts, see

his country, the same protonotary should always stay here in Buda, and from among the lords of the realm, six nobles, men with legal expertise, should be commissioned who, when matters of the crown are at issue, would deliberate together in place of royal judgment, and by whose work and wisdom, trials arising from the said short summons may be regularly conducted.¹⁸ These short summons should be issued to the thirty-second day counted from the citation by the royal bailiff and the witness,¹⁹ at which time the cited party must appear publicly before the judge; and if the royal letters issued in such summons will not have been executed within sixty-two days, they shall lose their force and no one may be summoned with them, as has been ancient custom. And the lord king must grant a decent salary to the said six noblemen so they can establish residence for the abovementioned reasons. Moreover these trials may not be postponed by any royal letter of prorogation issued for anyone, except those who have been indicated above.²⁰ And it was also ordered that the litigant parties may reach an agreement freely any time they wish, without summoning a judge and, without the burden of paying fines.²¹

28=1447:35²²

Bónis, *A jogtudó értelmiség, passim*). In fact, Matthias entrusted this court to the humanist poet, nephew of Bishop John Vitéz of Sredna, Janus Pannonius.

¹⁸*Proceres* are usually listed besides barons and nobles and may refer to those great men of the realm, who did not have court offices, but belonged to the group of magnates. We translate it as “lords.” The first jurors (as we may call them) of this court were indeed duly elected by the diet, though we know the name of only one, Magister Andrew of Torda; see Bónis, *A jogtudó értelmiség* p. 247.

¹⁹The royal bailiff (*homo regius*) was the executive officer of a royal judge, who delivered summonses and assisted in the process of trial and punishment; also, an officer of the king, count or other lords, who performed similar tasks. It seems that in lawsuits bailiffs were selected by the litigants from among the nobles of their counties. Royal clerks were also commissioned as specially delegated royal bailiffs with powers more extensive than regular royal bailiffs.. The other person, referred to here as *testimonium*, was the witness sent by as place of authentication. Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary’s *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Martyn Rady Nobility, *Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66-73; now also T. Köfalvi, “Places of Authentication (*loca credibilia*),” *Chronica* 2 (2002), 27–38.. Citations for the thirty-second day, based on this law, were in fact issued, however, not only to the court of special presence but also to that of personal presence (a court presided over by a magnate). For examples see I Iván Nagy et al., ed. *Cod. Dipl. Zichy* 10: 5, 31, 41, and 152 as well as in MNL OL DI 33040.

²⁰ See Art. 25 (with n. 15), above.

²¹ The right to settle out of court was ancient custom, and often confirmed; e.g., **1435/I:4, 1439:30**.

²² The fees to be paid for records are repeated from Sigismund's and Albert's decrees, specifying that they have to be counted in the money of that time. At the end, a sentence is added about poor clerics trespassing

29=**1439:33**

30=**1439:36**

31 Then, that every fortification built after King Albert's death²³ by anyone in any county for the detriment of that county should be demolished by the coming feast of Saint Michael the Archangel²⁴ under penalty of perpetual taint of infidelity,²⁵ except for those that the royal majesty, with the advice of the prelates and barons, may wish to have constructed for the needs of the realm.

32 Then, all castles, cities, market towns, villages, lands, any portions of property, and proprietary rights, similarly seized by anyone within the kingdom of Hungary after the death of the late King Albert, must be returned to their owners by the aforementioned feast of Saint Michael the Archangel under penalty of perpetual taint of infidelity, otherwise these usurpers will be cited with short summons.

33 Then, that all castles, cities, market towns or rights of whatever kind, that is, the thirtieth, tolls, the fiftieth, the chamber's profit, the *mardurina*²⁶ and any other proprietary rights that were unjustly and unlawfully alienated from the holy royal crown after the death of the said King Albert, be they in anyone's hands by any title, should be remitted, surrendered, and restored to the king's hands under the same penalty of perpetual taint of infidelity by the above set date of the coming feast of Saint Michael the Archangel.²⁷

34 Then, that the tithes of produce, grain, as well as of wine shall be paid in every diocese and every county,²⁸ in kind with produce, grain, and wine, to those whom the tithes belong bylaw; each

these regulations who are to be handed over to the archbishop and incarcerated for life (see also Art. 36, below).

²³ 27 October 1439.

²⁴ 29 September 1458.

²⁵ The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. agreement, peace). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate..

²⁶ The thirtieth (*tricesima*) was a 5 % custom duty for imports and exports; the chamber's profit (*lucrum camerae*) a direct tax that replaced in the twelfth century the royal income from annual change and devaluation of the money; the fiftieth was a special tax paid by the Vlach (Romanian) settlers in Transylvania, as far as known, in sheep, and the *mardurina* a direct tax mainly of the inhabitants of Slavonia, originally rendered in marten pelts, but at least since 1231 (see **1231: 20**) in money.

²⁷ Cf. **1444:2** and **4**. The return of royal properties and revenues was also included in **1458Sz:1** and **14**.

²⁸ The rendering of the tithes in kind was first mentioned in the decree of **1351: 6**, repeated in **1397:65-66**, and many times after. It seems to have remained a point of contention between bishops (and tithe-farmers)

year the produce and grain, collected into shocks and sheaves, shall be kept under the guard of the tithe-payer without fraud until the feast of the Ascension of the Virgin Mary.²⁹ And should the tithe-collectors not collect the tithe by that feast and should some of the tithe perish in the field, the owner of the tithe may not initiate any litigation and may not impose ecclesiastical ban. It was also ordered that such tithes shall be given wholly in produce, grain, and wine, and no one may seize granaries and barns, as was accustomed to happen, illicitly, in certain locations.

35 Then, that ecclesiastic judges should not interfere with cases pertaining to a secular court or concerning property issues;³⁰ should any bishop pass judgment in a secular case, he shall be condemned in the act of might, namely in his composition.³¹ Moreover, should any vicar interfere with a secular case, his archbishop or bishop shall deliver justice on his part. They shall, nevertheless have the right to pass judgment in cases of dower and paraphernalia,³² filial quarter,³³ tithe, last wills, injury and beating of priests and women, as well as in cases concerning matrimony and perjury.

and peasants paying the tithe as well as their overlords. See: Andor Csizmadia, “Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn.” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 61 (1975), 228–257. A more detailed monograph on the issue is still missing.

²⁹ 15 August.

³⁰ The delimitation of the jurisdiction of courts spiritual was a general feature in all medieval Europe. The conflict arose usually concerning cases based on a sacrament (such as marriage) or connected to the protection of orphans and widows, but implying property rights, which were regarded as strictly secular matters.

³¹ The bishop's composition was set at 100 marks silver, equal to that of the barons of the realm, cf.

Tripartitum I:9.

³² Dower (*dos, dotalitium*) was originally the “price of the bride” paid by the bridegroom’s family to that of the bride, then a grant of the husband to his wife on the occasion of their marriage. The dower was usually given both in land and chattels, but the woman did not have free disposal of the land so given, which was managed together with her husband’s goods. After her husband’s death, the widow could keep the dower unless she remarried. In this case, the kinsmen of the deceased husband redeemed the dower from her. The term often also included those valuables that were brought by the bride in the marriage (*res parafernales*), which remained with the wife. See Erik Fügedi *The Elefánthy. The Hungarian Nobleman and His Kindred*. Budapest: CEU Press, 1998, 24–6.

³³ The filial quarter (*quarta [filialis]*) was the hereditary portion of noblewomen due from the inherited estates of their fathers. The filial quarter was, in theory, paid in cash. In practice, however, it was often given out in land. In law, the grant of the quarter in land was only valid when the woman was married to a non-noble man (*ignobilis* or *homo impossessionatus*), or as a temporary substitute for cash payment, but in fact it was more widespread. Antal Murarik (*Az ősiség alapintézményeinek eredete* [Origin of the Basic Institutions of Aviticitas] [Budapest: Sárkány, 1938], pp. 163–192) saw it as having derived from Roman Law, in particular from the *Lex Falcidia* (cf. *Inst.*, Bk. II, tit. 22). According to the *Corpus Iuris Civilis* of Justinian the rights of female children were the same as those of male children when a man died intestate. But the descendants of females had been entitled to a smaller portion of the estate than those descended from the males in the earlier Teodosian Code (5.1.4.), where the legacy granted to grandchildren in the female line was reduced by a fourth part (*pars quarta*) in favor of the agnates. Justinian specifically abolished

36 Then, that poor priests who are convicted of calumny and are unable to pay (the fine), should be arrested and detained in jail.³⁴

37 Then, it was decided that the royal majesty must call and hold, and order to be held, a diet of all the gentlemen of the realm in person every year on the feast of Pentecost.³⁵

38 Then, if anyone among the gentlemen of the realm, be he of major or minor status, moved by reckless daring, should devise and organize a revolt or attempt some plot, with danger and scandal to the person of the king and the gentlemen of the realm, he should by that action incur the penalty of perpetual taint of infidelity, and the lord king may not and can not pardon such a person without the consent of the community of the gentlemen of the realm; all loyal gentlemen of the realm are required, by force of their personal sworn oath, to take arms at once and march forth in person on the date set by the royal majesty, for the purpose of aiding the king in the suppression and final destruction of the person who rashly causes a revolt.³⁶

39 Then, that levying the chamber's profit shall be done on the usual date, in the ancient manner and custom, and no more than two pennies may be collected for the tallies.³⁷

this provision (*Inst. Bk. III. tit. 1, c. 16*). The discussions concerning this institution in medieval Hungary were summed up by Ferenc Eckhart, "Vita a leánynegyedről" [Debates on the filial quarter], *Századok*, 66 (1932), 408–415; see also József Holub, "La 'quarta puellaris' dans l'ancien droit hongrois," *Studi in memoria di Aldo Albertoni* (Padua: Milani, 1935), III, 275–297. See now, Péter Banyó, "Birtoköröklés és leánynegyed. Kísérlet egy középkori jogintézmény értelmezésére." [Inheritance of land and the filial quarter: An attempt on the interpretation of a medieval legal concept] *Aetas* 18:3 (2000): 76–92 and Fügedi *The Elefánthy*, pp. 45–6; Martyn Rady, *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000), pp. 103–7..

³⁴ *Calumnia* refers here, as usual in medieval Hungary, not to the Roman legal term for calumny but the offense which we translated as frivolous prosecution (Hung.: *patvarkodás*), i. e., unfounded and vexatious litigation. Such offenses as prosecuting the same case in two different courts, thus seeking satisfaction twice (*via duplex*), or claiming an obligation already settled (*dupplici sub colore*) were classified as *calumnia*. Anyone so convicted had to pay his man price. The term might include *astatio falsi termini* whereby a litigant appeared in court instead of another person, without a letter of attorney or summoned an adversary to a false term so as to mislead him and the court, thus obstructing the administration of justice. -- The reference to a jail (*carcer*) here, just as in Art. 28, above, implies the existence of ecclesiastical jails, but no information is known on these.

³⁵ For the demand to hold regular diets at Pentecost, see Jan. **1458:13**, but the date did not become general practice

³⁶ For the charge of infidelity. See abover, n. 25/ **1447:10**, refers explicitly to rebellion or conspiracy; in 1458 the measure may have aimed at possible opponents of the king, who then in the Summer of 1458 in fact conspired to depose him and offered the throne to Frederick III, who claimed the kingdom also by "hereditary right," see Karl Nehring, *Matthias Corvinus, Kaiser Friedrich III. und das Reich. Zum hunyadisch-habsburgischen Gegensatz im Donauraum*, 2d ed. (Munich: Oldenbourg, 1989), p. 14.

³⁷ Earlier regulations for the levy of the chamber's profit (from **1351:4-5** onwards) did not contain "usual dates." The *capita dicarum* (in Hung.: *rovásnyél*, "rod of assessment") were some kind of tallies. Lajos Thallóczy described one that survived, (by the courtesy of Károly Tagányi) in "Adatok a magyar pénzügyi kezelés történetéhez" [Data on Hungarian administration of finances], *Magyar Gazdaságtörténeti Szemle*

40 Then, the *ispáns* or *alispáns* or the noble magistrates may not accept any pledge, unless sent on a mission by the community of nobles of the county; and should they suffer insult, death or damage on this instance, they should endure it with patience, and may not sue the offending party on this account.³⁸

41 Then, the *ispáns* or *alispáns* and the noble magistrates should collect fines only at the county assemblies, in accordance with ancient custom.³⁹

42=**1447:14**

43=**1447:7**⁴⁰

44 Then, that, as the lord king has sworn under oath, neither the lord king nor his men may at any time levy or demand the tax of one or of half a florin or other unlawful exaction from the gentlemen of the realm for any reason, or from the tenant peasants of the gentlemen of the realm, except the chamber's profit and other revenues that used to be collected according to the ancient custom of the realm.⁴¹

45 Then, that the lord king shall return the castles, tenancies and estates of the gentlemen of the realm, occupied and taken with force by the Czechs and other foreigners – unless they were lost by carelessness – to those to whom they belong, if he can recover them from alien hands; with this exception: if someone handed over the castle voluntarily or under the influence of foreigners or lost it due to improper custody, those castles the lord king may keep for himself.⁴²

(1895): 119-20. The object, found by coincidence in a sixteenth century file, was a 5 cm long piece of thin wood. — On the fee of 2d for the assessment, see also **1478:4, 1481:6**.

³⁸37. Cf. **1447:19**. The measure seems to aim at limiting the right of the county's officials in imposing burdens (in the form of sureties), unless acting with the authorization of the community of the county. **1447:29** mentioned also fines, which are here omitted

³⁹Cf. **1435/I: 7** and **1447:20**.

⁴⁰The text here adds a vague clause that seems to have altogether cancelled the strong wording of the measure, by stating: *Nihilominus in hiis antiqua consuetudo regni firmiter observetur* (“None the less, the old customs of the realm should be strictly observed in these matters”). In all likelihood, this clause was added by the barons or the royal chancellery to the text of 1447:7 that gave the county nobility considerable powers in fighting acts of might. Even though the present paragraph was less radical inasmuch as it transferred the powers to the king's appointee, the barons may have found it still too strong and managed to have the contradictory clause inserted. This is another case, where the surviving text reflects the politicking during which the dietal submission, though globally approved by the king, was altered before the decree's final issue (cf. also **1458Sz: 3**)

⁴¹ Apparently, the king swore an oath at the diet, but not, as was usual at coronation diets, on the liberties of the realm in general, only on not levying taxes, in particular. As became usual, he did not keep his word. The one-florin subsidy “against the Turks” was levied in the fall of 1458, some time before 9 October

⁴² The reference to Czechs is mainly to the ex-Hussite brethren under Jan Jiskra z Brandísa, who, ever since the death of King Albert, held considerable territories in northern Hungary in the name of and loyal to the Habsburg party. Matthias succeeded in “buying out” Jiskra and hiring some of his troops only in 1462 (actually, they became the core of the king's later, famous mercenary army). Other foreigners holding Hungarian territory were the Austrians: Frederick III held at that time the cities of Sopron (Ödenburg),

46 Then, because monastic churches, that is, abbeys and chapters of canons of orders of whatever sort are on the verge of final destruction and decay due to the inadvertence and carelessness of their patrons, it was, therefore ordered that the lord king, with the cooperation of the most reverend lords archbishops and bishops should provide for the good state of these desolated churches, and that visitation and reform of the monastic orders and their churches should take place, so that they do not deteriorate.⁴³

47 It was also ordered that the lord king alone, as a true patron, should grant all abbeys and chapters of canons of each and every order to suitable religious men wearing the monastic habit and knowledgeable in the rules of the order. Moreover the donation of right of patronage over the churches of the said monastic men, given by any king to anyone shall be declared invalid and entirely null and void,⁴⁴ except for those churches founded by specific founders, whose bodies are buried in those same churches.⁴⁵

48 Then, amnesty is given to anyone, belonging to the party of lord king Matthias or that of the late lord king Ladislas,⁴⁶ who caused any damage to the gentlemen of the realm, provided that such damages were inflicted before the election of the lord king Matthias and his uncle, governor Michael.⁴⁷ But those who undertook feuds for neither of these parties and caused damage and losses to the realm and to its gentlemen, are exempt from this amnesty.⁴⁸

Kismarton (Eisenstadt), Kőszeg and Rohonc (Rechnitz), of which he released only Sopron in the 1463 peace treaty.

⁴³ On the condition of monasteries in late fifteenth-century Hungary, see E. Mályusz, *Egyházi társadalom a középkori Magyarországon* [Clerical society in medieval Hungary] (Budapest: Akadémiai K., 1971), pp. 211-54

⁴⁴ Several prelatures were occupied by secular lords; so, for example, the counts of Celje/Cilli held the bishopric of Zagreb by a grant from Queen Elisabeth (of Luxemburg) from 1440. Nicholas of Újlak held the abbey of Szekszárd occupied, and placed his own retainer at the head of the abbey of Petrovardin. On Nicholas, see Tamás Pálosfalvi, "Mikós Újlaki," in: *Matthias Corvinus, the King. Tradition and Renewal in the Hungarian Royal Court 1458-1490. Exhibition Catalogue* (Budapest: Budapest History Museum, 2008, pp. 267-8

⁴⁵ This is a reference not only to the so-called clan monasteries (some of which were founded as early as in the eleventh century as cultic centers of a noble lineage), but also to royal abbeys entrusted to secular *commendatores*; see Egyed Hermann, *A katolikus egyház története Magyarországon 1914-ig* [History of the Catholic church in Hungary until 1914], (Munich: Aurora, 1973), p. 199. Sometimes the royal right of high patronage was also given away to private lords; so, for example, the baronial family of Szécs (Szécsi) obtained the royal foundation of Szentgotthárd (a Cistercian abbey) from Sigismund, and its members were regularly buried there, see Elemér Mályusz, *Das Konstanzer Konzil und das königliche Patronatsrecht in Ungarn* (Budapest: Akadémiai K., 1959), pp. 104-7

⁴⁶ Ladislas V (Posthumus) of Habsburg.

⁴⁷ That is, the period between the death of Ladislas V on 23 November 1457, and the election of Matthias Hunyadi on 23 January 1458.

⁴⁸ In fact, the king did not observe the restriction expressed in this article, and granted immunity for all violent deeds during the disturbances of 1457-58 to the Saxons of Transylvania; see *DRH Matth.*, p. 105, n. XLVII/1.

We, therefore, having received the aforementioned articles, and after mature deliberation on them, have confirmed and accepted them and all their contents and promise and intend to keep, carry out, and execute each and every one of them without any infringement.

In witness of all these, we decided to issue these presents to the entire community of our kingdom's prelates, barons, and nobles.⁴⁹

Given in Pest, on the twelfth day of the aforementioned diet, in the year of the Lord one thousand four hundred and fifty-eight.

CONCORDANCE

Kovachich *Vestigia*, Kovachich *Sylloge* DRH Matth, dDRMH

I—II	I
III-IV	II
VIII	
VIIV	
VII V—VI	
VIII VII	
IX VIII	
XXI	

⁴⁹ There is no sealing clause and the surviving originals are sealed in different ways (see above) but all as letters patent, which was not rare with Matthias's decrees. In 1458, however, the king simply did not yet have a great seal of majesty Lajos Bernát Kumorowitz, "Mátyás király pecsétjei" [Seals of King Matthias], *Turul* 46 (1932): 5-19 here p. 7

XI	X
XII	XI
XIV	XII
XV	XIII
XVI	XIV—XV
XVII	XVI
XVIII	XVII
XIX	XVIII
XX	XIX
XXI	XX
XXII	XXI
XXIII	XXII
XXIV	XIII
XXV	XXIV
XVI—XXVII	XXV
XXVIII	XXVI
XXIX—XXXIV	XXVII
XXXIV—XXXVIII	XXVIII
XXXIX	XXXIX
XL	XXX
XLI	XXXI
XLII	XXXII
XLIII	XXXIII
XLIV—XLV	XXXIV
XLVI—XLVII	XXXV
XLVII	XXXVI
XLVIII	XXXVII

XLIX

L

LI

LII

LIII

LIV

LV

LVI

LVII

LVIII—LIX

LV

XXXVIII

XXXIX

XL

XLI

XLII

XLIII

XLIV

XLV

XLVI

XLVII

XLVIII

**LAW OF KING MATTHIAS I (CORVINUS) OF HUNGARY
OF 5 JANUARY 1459**

King Matthias had called the diet in order to discuss the defense of the realm, the recovery of the Holy Crown, and negotiations with King Stephen Thomas of Bosnia. The urgency of defense was due to the fact that in August 1458, the important fortress of Golubac on the lower Danube fell into Ottoman hands, and the king's campaign in the fall did not relieve it. Turkish incursions increased, and the king intended to levy an extraordinary subsidy, but seems to have found it necessary to obtain the approval of the estates. The urgency may also explain why only four deputies were invited from every county. It was a special feature that at this occasion the towns were requested to send their seals with their deputies, probably because the king wanted them to confirm an agreement on subsidies. Several invitations to cities and counties have survived, see Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*, (Budapest: Akadémiai K. 1989) [=DRH Matth.], p. 107, n. 1.

The decree's main thrust is to strengthen the levy and the portal militia. There is, however, no evidence that an army organized according to these arrangements would have been called up within the subsequent year, for which the decree was to have validity.

MSS.: Two originals on paper, one (MNL OL D1 15205) with fragments of a seal *en placard*, the other (Košice City Archives, Additamentum Schramianum 19184) damaged, unsealed; one simple copy (MNL OL D1 31701).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Martinus Georgius Kovachich, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. (Buda: Regia Universitas, 1790), pp. 335-47; Johannes Nicolaus Kovachich, *Sylloge decretorum comitialium inclyti regni Hungariae, quae in vulgato corpore juris hungarici, hactenus, aut penitus desiderabantur, aut aliqua sui parte, manca referebantur et oblivion postliminio, recenter erepta sunt*. (Pest: Trattner, 1818), pp. 161-78; *DRH Matth.*, pp. 107-18.

LIT.: András Borosy, "The *militia portalis* in Hungary before 1526" in: János M. Bak and Béla K. Király, ed. *From Hunyadi to Rákóczi: War and Society in Medieval and Early Modern Hungary* (Brooklyn: Social Science Monographs, 1982), pp. 19-22; *Magyarország hadtörténete* [Military history of Hungary], ed. Ervin Liptai, 2d ed., (Budapest: Zrínyi, 1990) 1:111-6; Lajos Bernát Kumorowitz, "Mátyás király pecsétjei" [Seals of King Matthias], *Turul* 46 (1932): 5-19.

5 IANUARIII 1459

Nos Mathias Dei gratia rex Hungarie, Dalmatie Croatie etc. significamus tenore presentium quibus expedit universis, quod cum hiis diebus post labores nostros regios bellicos pro disponendis rebus nostris et regni negotiis, per nos consumptos de partibus inferioribus regni nostri in hanc civitatem nostram Zegendiensem feliciter venissemus, tandem habita generali congregatione prelati, barones, nobiles ac de unoquoque comitatu quatuor electi cum plena facultate missi totum regnum representantes inter alia, que pro bono statu et pace ac defensione ipsius regni nostri hincinde concorditer expedita sunt, exhibuerunt nobis concordi animo et presentaverunt articulos infrascriptos, desiderantes, ut eos et in eis contenta rata habere, admittere et nos observaturos promittere dignaremur.

Quorum quidem articulorum tenor sequitur in hec verba.

I. Dispositum est, quod serenissimus princeps dominus Mathias Dei gratia rex Hungarie, dominus noster gratiosissimus banderia sua pro custodia persone sue et tutela regni sui iuxta facultatem suam levare teneatur; et quod universa oppida, possessiones et provincie regales ubilibet intra ambitum regni adiacentia, demptis dumtaxat civitatibus et oppidis illis regalibus, que cum eorum ingeniis bellicis labores belli sufferunt, connumerentur ad numerum singulorum viginti iobagionum modo infrascripto, et regia maiestas facultatem habeat constituendi eos sub banderio, quo voluerit bellaturos. Prelatorum vero iobagiones sub propriis eorum banderiis secundum connumerationem exercituare tenebuntur, nobiles vero ecclesiarum exercituare teneantur more antiquitus consueto, et non secundum connumerationem.

II. Item nobiles regni Sclavonie secundum connumerationem reliquorum regnicolarum exercituare teneantur.

III. Item quod omnes prelati, videlicet archiepiscopi, episcopi ac maiores abbates et prepositi, sicuti tempore condam domini Sigismundi regis cum eorum banderiis et numero lancearum exercituarunt, ita et in presentiarum exercituare teneantur. Minores vero abbates et prepositi, capitula et conventus ceterique viri ecclesiastici possessionati secundum connumerationem iobagionum suorum modo infrascripto exercituare debeant. Si qui autem ex ipsis in eorum proventibus defecissent, illi secundum quantitatem proventuum eorum banderia sua levare teneantur, quos dominus rex videre debeat.

IV. Tandem barones seculares, quibus dominus rex ad levanda eorum banderia de proventibus regalibus sallaria dare tenetur, huiusmodi banderia eorum cum exercituantibus ex iobagionum suorum connumerandorum resultantibus integrare non debeant, sed ipsos exercituantes iobagionum connumeratorem preter banderia sua faciant exercituare et huiusmodi exercituantes in singulis comitatibus sub ductoribus belli dare teneantur.

V. Exinde universi barones et nobiles ac possessionati homines ubilibet intra ambitum regni constituti, tam scilicet maiores, quam minores iuxta premissam connumerationem, utpote de

singulis viginti iobagionibus censum domino suo solventibus cum uno armigero equite bene armato, gladio, clipeo, pharetra et arcu vel lancea fulcito exercituare teneantur. Excipiantur tamen inquilini vulgo seller de huiusmodi connumeratione.

VI. Atque lucrum camere iuxta antiquam consuetudinem et non secundum connumerationem premissam temporibus solitis ad numerum portarum dicetur. Per hocque Rutheni, Wolachi et Sclavi, qui alias lucrum camere solvere non consueverunt, ad solutionem eiusdem lucri camere non compellantur.

VII. Demum dominus rex eligat connumeratores nobiles ex eodem comitatu, qui connumerationem facere teneantur, recusantem autem pena quinquaginta marcarum puniat et ab eo irremissibiliter exigi faciat. Preterea dominus rex capitaneum eligat comitem proprii comitatus vel alium fidelem, quem maluerit, cui dicti connumeratores ipsorum registra assignent atque etiam paria registri huiusmodi connumerationis modo simili regie maiestati dare teneantur.

VIII. Subinde dum dominus rex contra potentiam inimicorum banderium suum levare voluerit et cum prelati et baronibus suis levare fecerit, tunc universi regnicole secundum connumerationem predictam exercituare teneantur, et id arbitrio regis subiiciatur, quando erit necessarium. Et quodsi dominus rex universos comitatus ad tres menses in toto vel in parte exercituare iusserit, id fiat pro voluntate et arbitrio suo, in presenti uno anno ad tres menses tantum.

IX. Expost quando dominus rex cum prelati et baronibus suis personaliter ad exercitum qualemcunque modo prenotato sua banderia et dictorum suorum prelatorum et baronum levando proficiscitur, extunc etiam universi nobiles regni, maiores scilicet et minores cum eorum gentibus exercitibus connumeratis personaliter cum eodem domino rege iuxta consuetudinem antiquam usque metas regni tantum, unusquisque secundum suum posse ire teneatur; et dum ipse dominus rex de huiusmodi exercitu redire voluerit, regnicole ipsi cum eodem redire valeant. Si vero ultra et extra metas huius regni personaliter exercituare voluerit, universitas nobilium iuxta consuetudinem regni ultra ipsas metas cum eo exercituare non teneantur, sed gentes ipsorum connumerate sub conductu capitaneorum illac, quo regia maiestas voluerit, infra dictos tres menses integros et non amplius exercituare teneantur.

X. Denique si castrum Nandoralbense et alia castra finitima cis flumina Danubii et Zawe et in eorum littoribus adiacentia multitudo inimicorum circumvallaverit et dominus rex banderia sua levare voluerit, ac prelatorum et baronum suorum banderia levare fecerit, tunc omnes regnicole personaliter secundum connumerationem ad defensionem eorundem castrorum ire teneantur.

XI. Item nobiles iobagiones non habentes iuxta facultatem et fidelem revisionem electorum connumeratores levantur. Simples vero et pauperes facultatem exercituandi in personis et rebus non habentes numero decem unum pharetrarium idoneum modo pretacto bene dispositum mittere teneantur cum expensis ad tres menses. Nobiles vero inferiores, qui pauciores quam decem habent iobagiones, connumerentur cum nobilibus, qui nullum habent iobagionem. Iobagiones siquidem eorum connumerentur cum iobagionibus aliorum nobilium usque ad numerum viginti. Et si aliquis nobilium decem habuerit iobagiones, personaliter ad exercitum ire teneatur.

XII. Insuper si aliqui regnicolarum in diversis comitatibus iobagiones habuerint, tales iobagiones legitima revisione dictorum connumeratores electorum connumerentur, et certificati venire

debeant ad comitatum, in quo dominus talium iobagionum commoratur, et sub comite illius comitatus exercituare teneantur.

XIII. Exhinc si quispiam nobilium iobagiones habentium ab aliquo prelato vel barone ad numerum lancearum aut aliter pecunias levaverit, extunc exercituantes suos de connumeratione iobagionum suorum resultantes preter et ultra numerum exercituantium ad pecuniam acceptam levantium teneatur facere exercituare sub conductu capitanei illius comitatus.

XIV. Deinde si homines connumeratores et ductores belli singulorum comitatum in eorum prescriptis expeditionibus fraudem vel favorem sive pactationem aliquam gratia relinquendi aliquos ab exercituatione commisisse reperti fuerint, et in eo legitima certitudo experietur, tales in homagio eorum convincantur eo facto.

XV. Item si dominus rex ac prelati et barones huiusmodi levationem exercitus, dum necessitas evenerit, modo et ordine prenarratis facere non vellent, extunc neque regnicole preter formam antique libertatis et decreti exercituare teneantur compellanturque.

XVI. Demum quia connumeratores in propriis eorum expensis huiusmodi connumerationem facere debent, ob hoc ab exercituatione personali eximantur, de connumeratis tamen eorum iobagionibus exercitari facere tenebuntur.

XVII. Ceterum nullus regnicolarum tam maiorum, quam minorum aliquam pecuniam cuiuscunque numeri aliquibus capitaneis vel ductoribus belli gratia remissionis alicuius de exercitu vel relaxationis alicuius ab exercituatione dare presumat, alioquin tam dans, quam etiam recipiens in facto potentie et sententia capitali convincatur.

XVIII. Item iobagiones tam regales, quam aliorum quorumcunque a die, quo presens constitutio in sede iudiciaria cuiuslibet comitatus promulgata fuerit, usque integram dicti exercitus anni revolutionem causa commorandi hincinde non deducantur; quodsi factum fuerit extunc ductor belli sive comes talis comitatus cum pena decreti sex marcarum talem iobagionem pristino domino suo reddat sine omni protelatione et favore.

XIX. Insuper quod occupationes possessionum secundum formam decreti Pesthiensis remitti et acquiri debeant.

XX. Item quia quamplurimi Wolachi, Rutheni et Sclavi fidem Wolachorum tenentes rustici, qui alias ad lucrum camere regie numerari asueti non fuissent, tales tam regales, quam aliorum ad presentem exercitum connumerari debeant, et insuper, prout et quemadmodum alias exercituare consueti sunt, exercituare teneantur. Excipiantur tamen Comani, Philistei et Tartari, qui iuxta antiquam consuetudinem exercituabunt, secundum quod Saxones.

XXI. Item quia Comani et Philistei per officiales regios de possessionibus prelatorum, baronum et nobilium potentialiter abducuntur, itaque in talibus agatur, secundum quod fuit consuetudo temporibus antiquorum regum.

XXII. Subsequenter dominus rex omnes octavas et breves evocationes continue iuxta decretum celebrare et iudicare per prothonotarium et iudices deputatos faciat, et non prorogentur, nisi tempore levationis exercitus supradicti secundum formam decreti Pesthiensis, et sigillum

specialis presentie sue dandi ad conservandum, cui maluerit, cum idem sue maiestatis est, habeat facultatem.

XXIII. Item servientes nobilium, videlicet aratores, fabri, prediales et sartores, victum et amictum de curiis nobilium habentes ad connumerationem predictam non computentur, etiamsi nobilis esset. Provisor curie, quorumcunque nobilium una persona nobilis ab ingressu exercitus supportetur. Sed et senescali, dapiferi, pincerne supportentur in propriis personis. Et quia castra regnicolarum sine provisione relinqui non possunt, igitur castris in eisdem secundum necessitatem eorundem iuxta estimationem connumerorum electorum castellanus vel castellani relinquuntur; ex duobus enim castellanis unus remittatur, alter exercituare compellatur. Preterea sunt plures nobiles, qui quodammodo statum baronie, seu alium honestum statum ultra ceteros nobiles habent, tales pro honestiori statu suarum uxorum nobiles in numero iuxta estimationem dictorum connumerorum in domibus suis relinquere poterunt. Omnium tamen talium castellanorum et nobilium, senescali, dapiferi, pincerne, provisionis curie per connumeratores ante connumerationem in huiusmodi eorum officio repertorum ex quacunque causa domi remanentium iobagiones connumerentur per connumeratores prenotatos.

XXIV. Insuper magistri prothonotarii et sex assessores iurati iudicantes et procuratores regii exercituare non teneantur, sed quilibet eorum pro se mittat unum pharetrarium; et quod eorum iobagiones connumerentur, atque iudices nobilium ab ingressu exercitus non remittantur, sed exercituare teneantur.

XXV. Item ex pluribus fratribus in uno victu existentibus unus eorum pro aliis exercituare possit; et qui stipendium receperit, per hoc fratres sui non sint exempti a presenti exercituatione, sed unus eorum exercituare teneatur modo premissis.

XXVI. Ceterum nullus exercituantium in domibus quorumcunque nobilium descendere ausus sit, nisi affuerit voluntas illius nobilis. Et quod omnes exercituanes universa victualia in descensibus ipsorum secundum priorem cursum victualium, in quo vendebantur, priusquam exercitus illac veniret, usque ad locum deputatum, ubi constitui debent, emere et comparare teneantur; constituti tandem in loco deputato emant et comparent victualia pretio, quo poterunt. Ubi autem, prout hactenus sunt asueti, ipsa victualia sine solutione quipiam receperint, extunc tam descendentes in domibus nobilium preter voluntates eorum, quam victualia diripientes iuxta formam decreti Pesthiensis puniantur.

XXVII. Item quicumque regnicolarum exercituantium cuiuscunque status et preeminentie existat, nobilis scilicet et ignobilis, de exercitu supradicto clandestine vel aliter qualitercunque recesserit, talis omnia bona et caput amittat eo facto, absque tamen pena domini talis recedentis, si fuerit idem sine dolo et fraude, super quo idem dominus ipsius recedentis prestare debeat iuramentum, quod recessit sine voluntate sua.

XXVIII. Deinde vidue, orphani, debiles ac membris orbat, senes, pueri et alii quilibet, quod tali defectu tenentur, quod personaliter exercituare non possent, tales non teneantur exercituare, pro personis tamen eorum propriis singuli eorum mittere teneantur, quorum etiam iobagiones, sicuti ceterorum, connumerentur. XXIX. Tandem regnicole teneantur post agnitionem litterarum regiarum infra viginti quinque dierum spatia secundum connumerationem insurgere, et illac, quo

rex iusserit, procedere ita, ut ipso vigesimo quinto die in loco deputato constituentur et a die illa, in qua illinc constituentur, prefati tres menses debeant computari.

XXXI. Item quod a festo Circumcisionis Domini proxime preterito usque ad aliud festum Circumcisiones Domini in alia revolutione annuali venturum et non ulterius regnicolas dominus rex ad levandum exercitum connumeratura compellat.

XXXI. Preterea si tam magna potentia inimicorum contra hoc regnum veniret, quod dominus rex cum potentia sua ac prelati et baronibus suis et exercitacione premissa dispositionis dictorum inimicorum potentie resistere non possit, extunc universitas regnicolarum per singula capita cum equitibus et peditibus eorum insurgere et penes dominum regem exercitacione venire debeant tamdiu, donec necessitas exposcerit.

XXXII. Postremo si aliquis baronum spiritualium vel secularium, necnon regnicolarum major, vel minor premissa facere non vellet, notam perpetue infidelitatis incurrat, sed heredes eiusdem propter huiusmodi notam infidelitatis ius proprium non amittant, nec propter hec iidem heredes infideles habeantur.

Nos igitur acceptis articulis prenotatis maturaque super eis deliberatione prehabita eos et omnia in eis contenta, cum ad utilitatem rei publice commodumque regni nostri ac precipuam defensionem eiusdem ab universis hostibus utiliter et integerrime complecti videbantur, rata habuimus et admisimus, omnesque eos et singulos eorum inviolabiliter observare, complere et exequi promittimus et volumus cum effectu.

In quorum omnium testimonium presentes litteras nostras universitati prelatorum, baronum et nobilium regni duximus concedendas.

Datum Zegedini predicta in congregatione generali, in vigilia festi Epiphaniarum Domini, anno eiusdem millesimo quadringentesimo quinquagesimo nono

5 JANUARY, 1459

We, Matthias, by the grace of God king of Hungary, Dalmatia, Croatia, etc., make known to all whom it may concern by these presents that, in these days, when, after completing royal military efforts to put in order our affairs and those of the realm, we felicitously arrived in this, our city of Szeged from the southern parts of our realm,¹ a diet was then held. The prelates, barons, and four nobles elected from every county with full authority and representing the entire realm, in addition to discussing harmoniously matters concerning the good state, peace, and defense of our kingdom, with common accord offered and presented to us the following articles, and beseeched us that we deign to accept, confirm, and promise to observe these articles and their provisions.

The content of these articles is as follows:

1 It was ordered that the most serene prince, lord King Matthias, by the grace of God king of Hungary, our most gracious lord, shall levy his *banderia*² for the protection of his own person and for the defense of his realm to the best of his abilities; and all the royal market towns, estates and provinces, located anywhere within the realm – with the exception only of those royal cities and towns that take part in the burdens of warfare with their military skills³ – shall be enumerated in the manner described below, for every twenty tenant peasants⁴, and the royal majesty shall have the right to assign them to *banderia* as soldiers wherever he wishes.⁵ The tenant peasants of the

¹Matthias returned to Szeged from a minor campaign on the southern border, which brought no results.

²*Banderia*, (from the Italian *bandiera*, ‘banner’) were troops supplied by the king, the queen, the barons and prelates (later also by other major landowners) in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars). Here, apparently, the so-called *militia portalis* (soldiers mobilized according to the number of tenant holdings) is also included into the *banderia*. They usually were sent to war under the command of the county *ispán*; (see below, Art. 4). In general, see Borosy, “The militia portalis.”

³The role of towns in military technology is documented in several charters, in which the towns supply cannon and other siege weapons partly of their own, partly the king's, entrusted to their care, see József Teleki, *A Hunyadiak kora Magyarországon* [The Era of the Hunyadi in Hungary]. 12 volumes (Pest: Emich, 1852-57), 11: 226, 348-9, 570; also: Zoltán I. Tóth, *Mátyás hadügyi politikája* [Military policies of King Matthias I] (Budapest: Élet, 1912), p. 21; more recently: András. Kubinyi, “Városaink háborús terhei Mátyás alatt” (German resume “Kriegslasten unserer Städte unter König Matthias Corvinus”), in *Házi Jenő Emlékkönyv*, pp. 155-67 (Sopron: Soproni Levéltár 1993).

⁴Tenant peasant (*jobagio*, from Hung. *jobbágy*) was the status of the majority of the agrarian population in medieval and early modern Hungary (down to 1848). They were personally free, obliged to render dues in kind, money and labor to the lord of the land on which they lived. Their plots were de facto heritable, though not their property. Tenant peasants had the right to move (or to be moved) to another lord, once their dues were paid. The prohibition of their doing so was mainly in the interest of the lesser nobility, whose peasants were sometimes moved (or lured) to the estates of greater landlords who were able to offer better conditions. For a summary of their fate, see János M. Bak, “Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline” in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005).

⁵ Cf. 1435/II: 4; 1454:9.

prelates will be obliged to go to war with their own *banderia*, according to the enumeration while the nobles of the churches must go to war in accord with ancient custom and not according to the enumeration.⁶

2 Then, noblemen of the kingdom of Slavonia must go to war according to the enumeration of the rest of the gentlemen of the realm.⁷

3 Then, that all prelates, that is, the archbishops, bishops, major abbots, and provosts must go to war just as they did in the time of the late king Sigismund, so must they now do: with their *banderia* and contingents of their lances. Minor abbots and provosts, chapters and convents, and other propertied ecclesiastics, however, must go to war according to the enumeration of their tenant peasants as described below. However, should the income of anyone decline, that person must raise his *banderium* in proportion to his income, which the lord king must examine.⁸

4 Furthermore, the lay barons, to whom the lord king is obliged to pay a salary from the royal revenues for raising their *banderia*, must not use these *banderia* to complete the number of soldiers coming from among their enumerated tenant peasants, but they should send the enumerated soldier-tenant peasants to war separately from their *banderia*, and these soldiers must serve under the command of the commander in each county.⁹

5 Moreover, all the barons, noblemen, and men of property, both of minor and major status, wherever they live in the realm, must go to war in accordance with the aforementioned enumeration, that is, with one well-armed mounted soldier, equipped with sword, shield, quiver, and bow or lance, for every twenty tenant peasants who pay rent to their lord. The landless peasants, called *zsellér*, however, are exempted from the enumeration.¹⁰

⁶ Lesser noblemen, who held their land (*predium*) from the church, were called *nobiles prediales*. *Prediales*, who were not all dependent on churches, enjoyed many of the rights of “true nobles,” such as freedom of taxation, immunity from local justice, and inheritable possession, but they were not immediately under royal jurisdiction and their properties escheated not to the crown, but the ecclesiastical body from which they held it. They could not take part in the life of the county, were not represented at the diet, and had no right to acquire additional noble (unencumbered) property or to keep tenant peasants. This “mediated” position placed them between commoners and true nobles on the social scale, see Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 79-84.

⁷ Cf. **1454:9** and above, n. 2.

⁸ The reference is to the Register of King Sigismund (**Prop. 1432/3: 21**), codified in **1435/II: 1** and **1439: 19**. However, the king granted exemption to some of the people of the nuns of Óbuda in the same year (MNL OL DI 15381 and 19220).

⁹ Cf. **1397:6; 1435/II: 2; 1454:4**.

¹⁰ Cf. **1397:6**; the ratio of soldiering peasants was changed in the subsequent laws (e.g., **1435/II:2 , 1454:4**), and the 20:1 became the standard for the rest of the Middle Ages. In the older literature one finds references to this law as the origin of the well-known Hungarian word for light cavalryman, *huszár* (hús=twenty). This is an error, for the word comes from a much older Southern Slav word meaning “robber, highwayman,” and is used in this meaning in a Hungarian charter of 1378 as well as several times in the earlier fifteenth century; see, *A magyar nyelv történeti etimológiai szótára* [Historical-etymological dictionary of the

6 The chamber's profit shall be exacted according to the ancient custom on the usual dates, by the number of *portae* and not according to the aforementioned enumeration.¹¹ Accordingly, the Ruthenians, Vlachs, and Slavs, who hitherto did not customarily pay the chamber's profit, are not bound to pay the same chamber's profit.¹²

7 The lord king in addition, shall choose noblemen from the same county as enumerators, who must accomplish the enumeration, and he shall punish the reluctant ones with a fine of fifty marks and shall without exception collect it from them. Moreover, the lord king shall choose the county's own *ispán* or some other loyal man of his choice as commander,¹³ to whom the said enumerators shall hand over their register and they must similarly hand over to the royal majesty another copy of this register.¹⁴

8 Further, when the lord king wishes to call to arms his *banderia* against the forces of the enemy and makes his prelates and barons call to arm theirs, all the gentlemen of the realm must go to war according to the aforesaid enumeration, and it should be up to the king's decision when this is

Hungarian language] (Budapest: Akadémiai K., 1970), 2: 174.— Due to the partible inheritance and other factors, the number of landless peasants (*inquilini*) increased in the later Middle Ages; many of them lived on tenant peasants' plots and supplied the wage labor in times of seasonal employment. See István Szabó, "Hanyatló jobbágyság a középkor végén" [Decline of tenant peasants at the end of the Middle Ages], in Idem, *Jobbágyok, parasztok: Értekezések a Magyar parasztság történetéből*, István Für, ed. (Budapest: Akadémiai K. 1976) pp. 167-200.

¹¹The chamber's profit (*lucrum camerae*) was originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins; in this form first mentioned in **1231**, but certainly earlier than that date. By the late thirteenth century, by which time the original way of gaining this income has been abandoned, the chamber's profit had become a direct tax but retained its name until the end of the Middle Ages; see Lajos Thalóczy, *A kamara haszna (Lucrum camerae) története...* [History of the chamber's profit (*lucrum camerae*) in the context of taxation in Hungary] (Budapest: Weiszmann, 1879). In around 1459 the royal income from this tax was ca. 40 thousand gold florins, to be increased by the reforms of Matthias to almost 400 thousand; see János M. Bak, "Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter", in R. Schneider, ed., *Das spätmittelalterliche Königtum im europäischen Vergleich*. (Sigmaringen: Thorbecke, 1987), pp. 347-87, here 360.

¹² Cf. **1454:9**, however, Slavs and Ruthenians are not mentioned there, nor in the Register of Sigismund (**Prop. 1432/33**), where only the Vlachs are listed among the soldiering people. Medieval Hungarian usage referred to those Slavic *hospites* of proto-Slovak and Ruthenian origin who were settled in the Carpathian region ever since the thirteenth century as *Sclavi et Rutheni*. After the ebbing of the Western settlers in the fourteenth century, Slavs from the neighboring regions were granted the same rights of *jus theutonicum* as the earlier German migrants; see Z. Ács, *Nemzetiségek a történelmi Magyarországon* [Nationalities in historic Hungary], (Budapest: Kossuth K., 1984); Leslie S. Domonkos, "The Multiethnic Character of the Late Medieval Hungarian State," in *Transylvania: The Roots of Ethnic Conflict*, J. F. Cadzow, A. Ludanyi, L. J. Éltető, eds. pp. 53-5 (Kent, OH: Kent State Univ. Press, 1983).

¹³The royal commission of enumeration and command was an innovation; earlier (e.g., **1435/II :2, 4;** **1454:4**) these tasks were left in the hands of the counties. However, this new custom did not last, and soon the old system was resumed, see 1463:8 (*DRH Matth.*, p. 135) and Suppl. 1464: 2 (*Ibid.*, p. 153).

¹⁴One of these royal commissions for nobles in Co. Veszprém survived in the National Archives (MNL OL DI 102541), and expressly refers to the diet at Szeged; see *DRH Matth.*, p. 112, n. 2.

necessary. And if the lord king orders all the counties to go to war for three months, partly or wholly, this may take place in accord with to his will and decision, but only for three months in this present year.¹⁵

9 Moreover, when the lord king, calling to arms his own *banderia* and those of the prelates and barons, goes personally to any campaign together with his prelates and barons, then all the nobles of the realm, that is, the major ones as well as the minor ones, must go with the lord king personally, together with their enumerated troops, according to the ancient custom of the realm only to the borders of the realm, each one to best of his ability; and when the lord king wishes to return from such a campaign, the gentlemen of the realm may return with him. And if he personally wishes to campaign across and beyond the borders of this realm, the community of nobles, in accordance with the custom of the realm, are not obligated to campaign with him; the enumerated troops, however, must go to war under the command of their commanders wherever the lord king wishes, within the said three months, but not longer.¹⁶

10 Next, should a great number of enemy forces besiege the fortress of Belgrade and the other, nearby fortresses located near to and on the banks of the rivers Danube and Sava¹⁷ and should the lord king wish to call to arms his own *banderia* and those of the prelates and barons, all of the gentlemen of the realm must go personally to defend those fortresses according to the enumeration.

11 Then, nobles having no tenant peasants should be called to arms in accordance with their wealth and the loyal inspection of the elected enumerators. Nobles who are poor and of humble station and who are unable to wage war in person and with their resources, are obliged to send, for every ten tenant peasants, a suitable archer, equipped in the aforesaid manner, with expenses for three months. Minor nobles, who have less than ten tenant peasants, shall be enumerated with those nobles who have no tenant peasants at all. Their tenant peasants shall be enumerated with the tenant peasants of others up to twenty. And if a nobleman has ten tenant peasants he must go to war in person.¹⁸

¹⁵ The limitation of service to three months seems to have been an innovation, for the Register of Sigismund (**Prop 1432/3: 5**;) spoke of only 15 days which the noble levy is obligated to spend at the border and this was also repeated only a year earlier, see **1458:2**. It is worth noting as a comparison that in Western Europe the typical obligation was merely six weeks or 40 days, cf. e.g. Heinrich Mitteis, *Lehnrecht and Staatsgewalt*, pp. 602-6 (Weimar: Böhlau Nachf., 1958).

¹⁶ Cf. **1454:4**, where, however, the restriction of campaigning beyond the borders applies to all troops, not only the noble *banderia*. The clause about the right of the nobles to return from” campaign when the king does, goes back, in essence, to the Golden Bull, where the law seems to imply military service only under the king's command” (**1222:7**).

¹⁷ On the significance of these border fortifications, see Ferenc Szakály, “The Hungarian-Croatian Border Defense System and its Collapse,” in Bak-Király, *From Hunyadi*, pp. 141-58; and specifically on Belgrade, Géza Perjés, *The Fall of the Medieval Kingdom of Hungary: Mohács 1526-Buda 1541*, pp. 48-9 (Boulder, Colo.-Highland Lakes: Social Science Monographs-Atlantic Research, 1989).

¹⁸ Due to the great number of freemen with noble privilege (probably more than 5 percent of the population) many of them were poor, some without any subject tenant peasants (so-called “one plot nobles,”

12 Furthermore, if some of the gentlemen of the realm have tenant peasants in different counties, such peasants shall be counted with lawful inspection by the said elected enumerators, and must go, so certified, to that county where the lord of the tenant peasants dwells, and go to war under the command of the *ispán* of that particular county.¹⁹

13 Moreover, if any nobleman who has tenant peasants should receive money from some prelate or baron for a number of lances or otherwise, he must send the soldiers coming from the enumeration of his tenant peasants to war under the command of the captain of that county, in addition to the soldiers he arms from the money he receives.²⁰

14 Next, should it be discovered that the enumerators and captains of certain counties have committed a fraud or favor or made an agreement in order to leave someone out of the army, and should this act be confirmed by lawful evidence, these people shall immediately be condemned to their composition.²¹

15 Then, if the lord king, the prelates, and the barons should not wish to call to arms their soldiers in the aforesaid manner in cases of emergency, then the gentlemen of the realm, in accordance with their ancient liberty and what has been decreed, shall not be obligated and forced to go to war either.²²

16. Furthermore, because the enumerators must conduct this enumeration at their own expense, therefore, they are exempted from going to war in person; however, they are obligated to perform military service through their enumerated tenant peasants.

17 In addition, let no one of the gentlemen of the realm, be he of major or minor status dare offer money of whatever amount to the commanders or to the military leaders for the purpose of sending someone back from the army or exempting him from campaigning; both – he who gives and he who accepts the money – shall be condemned in an act of might to capital sentence.²³

or “nobles with one plumbtree”). The laws took only gradually cognizance of this fact during the fifteenth century, see e.g. **1435/II:2; 1454:4**.

¹⁹ Cf. **1454:7**. Here the *portalis militia* is to serve under the county’s flag, in contrast to what was written above in Art. 2.

²⁰ See above, art. 4 and **1454:7**.

²¹ No such penal clause was decreed in earlier laws about the enumeration.

²² The reference is, once again, to the tradition codified in the Golden Bull, **1222:7**.

²³ “Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. “Criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one (sc. rape). .Capital sentence. (*sententia capitalis*): meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim’s heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate

18 Then, from the day this decree is announced at a county's seat²⁴ until the final end of the year of the military campaign no tenant peasant, neither of the king nor of anyone else, is to be taken from one place to another in order to settle there; if this is done, the military leader or *ispán* of that county shall return such a tenant peasant to his former lord with the decreed fine of six marks without any delay or favor.²⁵

19 Furthermore, that occupied estates must be returned and received according to the terms of the decree of Pest.²⁶

20 Then, because there are a great number of Vlach, Ruthene, and Slav peasants belonging to the faith of the Vlachs who have not in the past customarily been registered for the royal chamber's profit, they must be enumerated for the present levy, whether they are the king's or anyone else's peasants, and they are bound to go to war as they have customarily done. The Cumans, Jász, and Tartars, however, will do military service according to the ancient custom followed by the Saxons.²⁷

was confiscated, with a portion of it going to the adversary -- Cf. **1454: 12**, where, however, the reference is not to bribes to the commissioners, but rather the redemption of military service by payment is prohibited.

²⁴This is a rare reference to the way decrees were promulgated, clearly assuming that a certain time may pass between the issue of the law and its promulgation in the counties.

²⁵The main reason behind the one-year moratorium of peasant tenants' transfer was obviously their military obligation, as decreed above. On the fines for forcible removal of peasants, see **1435/I:7** and **1454: 10**. Tenant peasants were often removed or lured from estates of lesser nobles to those of great landowners, who would offer better conditions; see Bak, "Servitude."

²⁶This is a reference to **1458:27**.

²⁷Cf. **1454:9**; Cumans and Jász/As (probably Alans, called by this Biblical name) settled in Hungary in the thirteenth century and kept certain liberties for centuries in return for military service. See Nora Berend, *At the Gate of Christendom: Jews, Muslims and 'Pagans' in Medieval Hungary, c. 1000-c.1300*, (Cambridge: Cambridge University Press, 2001) esp. pp. 68-73 and 87-92. It is not quite clear, which people are meant under "Wallachs," most probably those Orthodox Romanians who lived in the border districts between Severin (Szörény) and Timișoara. They were subject to royal border fortresses and registered for military service. (In a list from around 1430 there were 643 *kenezi*, i.e., local leaders, 2066 peasants and 108 other servants in the three districts of Mehadia, Halmas and Ilidia.) Tartars are mentioned occasionally in the early fifteenth century along with Cumans and Jász; they probably lived in the same region, but nothing is known about their origin and date of settlement in the Hungarian Plain. and above, n.

9. Slavs and "Ruthenes" refer to settler from the near-by Slavic lands, who came to Hungary mainly after the ebb of Western immigrants and enjoyed the same *hospes*-privileges. As to the Saxons (Germans in Transylvania), their military service was regulated as early as 1224 in the *Privilegium Andreanum* where it is stated that five hundred knights (*militēs*) shall serve the king within the kingdom, while one hundred shall serve if the king personally leads an external campaign, or in his absence only fifty on an expedition outside the kingdom (see Franz Zimmermann-Carl Werner, eds. *Urkundenbuch zur Geschichte der Deutschen in Siebenbürgen* Band 1, (Hermannstadt: Michaelis, 1882), p. 34.

21 Then, because royal officials take Cumans and *Jász* from the estates of the prelates, barons, and nobles by force, the legal process in these matters should be the same as was customary in the times of the ancient kings.²⁸

22. Furthermore, the lord king shall see to it that all the octaves and assizes of short summons be held and concluded regularly according to the law by the protonotaries and their deputy judges, and shall not to be prorogued, except at the time of a levy of the aforementioned army, in accordance with the measures of the decree of Pest;²⁹ and the royal majesty shall have the right to give the seal of his special presence for keeping to whomever he chooses, because it belongs to his majesty.³⁰

23 Then, the servants of noblemen, that is, the plowmen, carpenters, house-servants and tailors, who receive their food and clothing from the mansions of the nobles, shall be exempted from the said enumeration, even if they might be nobles.³¹ One noble shall be exempted from going to war as the mayor-domo of every nobleman. Also, the seneschals, masters of the table and the cupbearers shall be personally exempted. And because the fortifications of the gentlemen of the realm cannot be left unguarded, one or more castellans, as necessary, shall be left behind in these fortifications, upon the estimation of the elected enumerator; out of two castellans, one shall be left behind and the other shall be made to go to war.³² Moreover, there are many noblemen, who, in some way, are in a baronial or otherwise distinguished state, exceeding that of other nobles; these men, because of the higher estate of their wives, can leave behind a number of nobles in their

²⁸ The military duties and taxes of the Cumans and the *jász* were not to be alienated from the crown (see **1444:4**). However, they seem to have been forced or lured to move to the estates of nobles; the diet protested against their recovery, which may have been pursued with greater vigor after Matthias had organized the office of *provisor curiae castri regiae* in Buda (in Hungarian: *udvarbíró*) and entrusted him with administering the crown properties, including the Cuman lands, cf. András Kubinyi, “A budai vár udvarbírói hivatala” [Office of the proctor of the court in castle Buda] *Leveltári Közlemények* 35 (1964): 67-98. The palatine remained the judge of the Cumans, an office he had held from the mid- thirteenth century.

²⁹ This is a reference to **1458:27**.

³⁰ See Kumorovitz, p. 7. Instead of a distinct seal for the court of special presence (cf. 1458:27), only a general judicial seal was cut in 1459 and not two, as in the times of Ladislas V, when the two “presences” used different seals. Since the court of special presence was presided over by the secret chancellor, its records were usually sealed with the secret seal (very rarely with the judicial one, used for the personal presence, which, however, never used the *sigillum secretum*). The king made good use of the right decreed here, to select his judge for the new court: he did not name protonotaries, but first the poet Janus Pannonius as *locumtenens*, then (in 1459) Peter of Sár, as chancellor, later *locumtenens*. Peter kept this position until 1464 (when the courts were reorganized, see below, 1464:4-6) and established its writing office, which then became the “lesser chancellery,” see, Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary] pp. 246-50. (Budapest: Akadémiai K., 1971), see also “Men Learned in the Law in Medieval Hungary.” *East Central Europe/L’Europe du centre-est*, 4, pt. 1 (1977), 181–191

³¹ This is an interesting rare insight into the living conditions of poor nobles, who apparently took service with their better-off fellows, even as household employees and artisans.

³² Cf. **1435/II:3; 1454:5-6**.

houses, according to the estimation of the said enumerators.³³ The tenant peasants, however, of all these castellans, nobles, seneschals, masters of the table, cupbearers, and mayor-domos, who were found in these offices by the enumerators prior to the enumeration and remaining at home for whatever reason, shall be enumerated by the said enumerators.

24 In addition, the master protonotaries, the six sworn assessors, and the royal solicitors do not have to go to war, but each one of them shall send an archer instead; and their tenant peasants shall be enumerated as well; and the noble magistrates shall not be excused from campaign, but must go to war.³⁴

25 Then, where several brothers dwell in one household, one may go to war in place of the rest; but if one brother draws pay, his brothers are not therefore exempted from the present campaign, but one of them must go to war in the aforesaid manner.³⁵

26 In addition, no one among the soldiers should dare to lodge in the house of any sort of nobleman, unless it is the wish of the said nobleman. And that all the soldiers, before arriving at the place where they are to be deployed, must buy and obtain all provisions in their quarters at the old price for which it was sold before the army arrived there. After arrival at the appointed place they may buy food at the price they can get.³⁶ And as for those who seize food without payment – although this has been customary practice in the past – as well as those who lodge in the houses of nobles against their will, and those who rob food, they should be punished in accord with the provisions of the decree of Pest.³⁷

27 Then, if any man serving in the army, regardless of his rank and position, that is, noble or non-noble, deserts the aforementioned army secretly or in any other way, such a man should, because of his action, lose all his chattels and his head, but without punishing the lord of that man who

³³ This is, in fact, the first time that a decree expressly defines the social status of barons, regardless of office-holding; on this, see Erik Fügedi, “The Aristocracy in Medieval Hungary: Theses”, in Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*. ed. J. M. Bak. (London: Variorum Reprints, 1986), ch. IV, pp. 13-14.

³⁴ Protonotaries (*prothonotarius*, Hung. *ítélőmester*, “master in sentencing”) were lawyers who acquired legal training in the secular Hungarian courts. From the mid-fifteenth century they presided over court sessions in an increasing number of cases together with noble assessors, see György Bónis, *Jogtudó értelmiség* and “Men Learned in the Law” (as n. 30, above). The royal solicitor represented the interests of the crown mainly in matters of property in the courts. Magistrates (*iudices nobilium*) were members of the county nobility assisting the county *ispán* and representing their fellows, usually 4 in every county.

³⁵ Cf. **1435/II: 2**, and **1454:6**. Note the assumption of still undivided kindred-properties. As all sons were entitled to an equal portion of an inherited estate, with the paternal house usually going to the youngest, division was often postponed for another generation or more. From a legal point of view, brothers or cousins who lived on still undivided estates were considered to form one family.

³⁶ This clause betrays a remarkable realism by the legislator, aware of the fact that at the assembly point of the army food-prices will inevitably rise. Cf. **1435/II:6**

³⁷ Reference is to **1458: 2**, where the punishment for such deeds is that for acts of might (see n. 23, above).

deserts, if it happened without fraud and cheating, in which case the lord of the deserting man must take an oath that he left without his permission.³⁸

28 Furthermore, the widows, orphans, sick, and disabled, the old, the children, and any other people who have such handicaps that they cannot go to war in person, such persons shall not campaign, but they are obligated to send someone else instead of their own person; and their tenant peasants, like those of others, shall be enumerated.³⁹

29 Moreover, the gentlemen of the realm must rise and go where the king orders, in accordance with the enumeration, within twenty-five days of taking notice of the royal letter, so that they arrive at the appointed place on the twenty-fifth day; and the said three months must be counted from the day of their arrival.⁴⁰

30. Then, that the lord king may summon the gentlemen of the realm for the levy, according to the enumeration, in the period of time within the year between the last feast of the Circumcision of the Lord to the next feast of the Circumcision of the Lord, but not later.⁴¹

31 Furthermore, if an enemy of such enormous force should come against the realm that the lord king could not resist the power of the said enemy with his own forces and with those of his prelates and barons together with the army set up in accordance with the said decree, then each and every one of the community of the gentlemen of the realm must rise, with their cavalymen and foot-soldiers, and go to war at the side of the lord king for as long as is necessary.⁴²

32 Finally, if any of the ecclesiastic or lay lords or the gentlemen of the realm, be he of major or minor estate, should be unwilling to fulfill the aforesaid duties, he would be punished with perpetual charge of infidelity, but his heirs would not lose their rights and they would not be regarded as faithless.⁴³

We, therefore, having received the aforementioned articles, and after mature deliberation on them, because they seem to pertain thoroughly to the utility of the commonwealth and the advantage of our realm and the strong defense of it from all enemies, have confirmed and accepted them and all their contents, and promise and intend to keep, carry out, and execute each and every one of them without any infringement.

In witness of all these, we grant these our presents to the community of the prelates, barons, and the noblemen of the realm. Given in Szeged, at the aforementioned diet, on the eve of the feast of the Epiphany of the Lord, in the year of the Lord one thousand four hundred and fifty-nine.

³⁸ Cf. **1435/II:5** and **1454:13**

³⁹ Cf. **1435/I:5; 1454:13.**

⁴⁰ Cf. **1435/II:2; 1454:4.**

⁴¹ That is, from 1 January 1459 to 1 January 1460.

⁴² This measure of a “general mobilization” seems to aim at the suspension of the thirty-day limit in dire emergency.

⁴³ Cf. **1351:10, 19.**

CONCORDANCE

Kovachich <i>Vestigia</i>	Kovachich <i>Sylloge</i>	DRMH Matth/dDRMH
I	I—IV	I
II	V	II
III	VI—VIII	III
IV	IX	IV
V—VI	X—XI	V
VI-VII	XI-XII	VI
VIII—IX	XIII-XIV	VII
X	XV—XVI	VIII
XI	XVI—XVII	IX
XII	XIX	X
XIII-XVI	XX-XXIII	XI
XVII	XXIV	XII
XVIII	XXV	XIII
XIX	XXVI	XIV
XX	XXVII	XV
XXI	XXVIII	XVI
XXII	XXIX	XVII
XXIII	XXX	XVIII
XXIV	XXXI	XIX
XXV—XXVI	XXXII-XXXIII	XX
XXVII	XXXIV	XXI
XXVIII	XXXV	XXII
XXIX—XXXII	XXXIV—XXXIX	XXIII

XXXIII	XL	XXIV
XXXIV	XLI	XXV
XXXV—XXXVII	XLII—XLIV	XXIV
XXXVIII	XLV	XXVII
XXXIX	XLVI	XXVIII
XL	XLVII	XXIX
XLI	XLVIII	XXX
XLII	XLIX	XXI
XLIII	L	XXXII

LAW OF KING MATTHIAS I (CORVINUS) OF HUNGARY (1458-90)
OF 28 MAY, 1462

After long negotiations with Emperor Frederick III, Bishop John Vitéz of Sredna was able to sign on 3 April 1462 a preliminary treaty about the release of the Holy Crown in return for Matthias's agreeing to Habsburg's right of inheritance and the emperor adopting him "as his son." (This agreement was the basis for the Treaty of Wiener Neustadt of 1463/64.) Apparently, Bishop John insisted that in such an important matter all *regnicolae* should be consulted; he therefore convinced the king to call a diet. The invitation went out for 9 May 1462 and the preamble of the decree suggests that it opened on that day. However, the Venetian ambassador Pietro Tomasi reports that the king arrived from Vác only on 18 May to Pest, and indeed, there exists a charter of Matthias dated 14 May 1462 from Vác. Hence, it is more likely that the diet started around 20 May, codified the peace treaty (on 28 May), granted the extraordinary levy necessary for both the ransom of the crown and the agreement with Jan Jiskra, and issued a short decree not connected to the political situation. It defines the oft-quoted cases of infidelity, and the competence of courts spiritual.

MSS.: No original survived, only seven sixteenth-century copies, one signed by Christopher Kubinyi jr. (MNL OL DI 13382), the others in the manuscript codices of Hungarian laws (see Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*, (Budapest: Akadémiai K. 1989) [=DRH Matth.], p. 123).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus et al. eds., (Budapest: Franklin, 1896), 1:338-43; *DRH Matth.*, pp. 123-27.

LIT.: Karl Nehring, *Matthias Corvinus, Kaiser Friedrich III. und das Reich. Zum hunyadisch-habsburgischen Gegensatz im Donauraum*, 2d ed. (Munich: Oldenbourg, 1989), pp. 18-20; György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary] p. 252 (Budapest: Akadémiai K., 1971), see also "Men Learned in the Law in Medieval Hungary." *East Central Europe/L'Europe du centre-est*, 4, pt. 1 (1977), 181-191; Elemér Mályusz, "A magyar társadalom a Hunyadiak korában" [Hungarian society in the age of the Hunyadi], in *Mátyás király emlékkönyv születésének ötszázéves fordulójára*, Imre Lukinich, ed. pp. 309-434, here 366-8 (Budapest: Franklin, s.d. [1940],).

28 MAII 1462

Nos Mathias Dei gratia rex Hungarie, Dalmatie, Croatie etc. significamus per presentes, quod cum his diebus, in presenti scilicet generali congregatione universorum prelatorum, baronum, procerum et nobilium regni nostri in hac civitate nostra Budensi quinto decimo die festi beati Marci evangeliste celebrata una cum eisdem multa et magna disposeremus ad meliorandum statum regni nostri predicti opportuna inter alia iidem prelati, barones, proceres et nobiles unanimi omnium voto obtulerunt et presentaverunt nobis quosdam articulos antiquam legem et consuetudinem ipsius regni nostri innovantes et declarantes ordine infrascripto in hec verba:

I. Articuli, in quibus iuxta antiquam consuetudinem regni evocatio sine procrastinatione extra octavas fieri potest in presentiam personalem regie maiestatis, ubicunque fuerit intra ambitum regni.

Primus articulus. Invasores castrorum et domorum seu inhabitationum nobilium, in quibus personaliter resident, si verberationes sive vulnerationes aut cedes sive spolia rerum in talibus domibus conservari solitarum fecerint.

Item violenti abductores litterarum aut litteralium instrumentorum.

Item incendiarii et inductores exterorum hominum spoliatorum et erigentes se contra reverentiam regie maiestatis et litteras iuridicas aut fidei publice, quas salvum conductum vulgariter Gleyt appellamus.

Item interfectores nobilium et qui nobiles capiunt et captos detinent, vulneratoresque ipsorum nobilium, presertim euntium ad congregationem regnicolarum vel octavas aut sedem iudiciariam vel inde exeuntium.

Item depredatores totalis possessionis alicuius cum effractione ecclesie.

Item violenti stupratores virginum aut corruptores honestarum mulierum.

Hi omnes evocari possunt in personalem presentiam regis ad terminum longiorem vel breviorum secundum distantiam locorum e quibus huiusmodi evocatio fieri debet. Ita tamen, quod longior terminus triginta duos dies non excedat, brevior vero terminus infra quindecim dies non descendat, et talismodi evocatio fiat solummodo per testimonium capituli vel conventus illius comitatus vel vicini, unde predicta evocatio fieri debet. Et quia firmitus est iudicium, quod plurimorum sententiis roboratur, interesse debeant iudicio huius evocationis prelati et barones, qui tunc in curia domini regis erunt constituti, et dilationem habeant sive prorogatione solummodo illi, qui occupati erunt in castris finitimis, item, qui erunt in exercitu generali aut particulari pro regni utilitate instaurando, item qui erunt occupati in ambasiata regis vel regni pro communi bono. Verumtamen qui sub confidentia talismodi prorogationis aliquem ex preactis actibus fecerit, et se absentaverit a iudicio, huiusmodi prorogatione se defendere non valeat, et talismodi evocatio fiat solum deinceps pro actibus premissis a primo die presentis congregationis generalis in posterum patrandis. De occupationibus vero a tempore electionis domini nostri Mathie regis factis fiat restitutio, cui si

occupator non obediverit aut impediverit, quominus fieri valeat et perficiatur, evocetur ut supra declaratur. Item proclamata congregatio detur secundum formam decreti quondam domini Sigismundi imperatoris et regis.

Item quatuor octave annuatim sine intermissione celebrentur.

II. Articuli, qui concernunt notam infidelitatis et in quibus et non aliis possint per dominum regem possessiones et bona delinquentium alicui donari seu conferri.

Primus. Evidenter se erigens contra statum publicum regis et corone. Item

qui conficit falsas litteras vel eis evidenter utitur in iudicio.

Item qui sculpit falsum sigillum vel eo utitur.

Item cutores falsarum monetarum vel eis scienter et publice in magna quantitate negotiationes exercentes.

Item occisor consanguinei sui usque ad quartum gradum consanguineitatis inclusive.

Item incendiarii publici villarum et possessionum.

Item introductores exterorum hominum spoliatorum aut stipendiariorum ad disturbandum statum internum regni.

Item erigentes se et opposcentes sua potentia contra litteras iuridicas et sententias iudicum ordinariorum post secundam evocationem et probationem.

Item violatores litterarum fidei publice vel salvi conductus, dum evidenter fuerint convicti.

Item traditores castrorum vel propriorum dominorum, dum evidenter fuerint convicti.

Item occisores vel vulneratores iudicum ordinariorum regni, presertim dum sunt in officio publico.

Item occisores adversariorum in loco iudiciorum publicorum vel palatinalium.

Item publici heretici adherentes damnate heresi.

Item incestuosi et corruptores consanguinearum suarum usque ad quartum gradum consanguinitatis dum fuerint evidenter convicti et proscripti.

III. Articuli forum spirituale concernentes:

Primus. Omnes cause circa mysteria et defectus sacramentorum.

Item cause in facto fidei et cause heresium sive suspectorum de heresi. Item cause testamentorum et earundem accessoria.

Item cause matrimoniales et accessoria earundem, specialiter vero dotis, rerum paraphernalium, donationum propter nuptias et iuris quartaliti, si non intentetur pro hereditate possessionaria adipiscenda.

Item cause decimarum realium et personalium et accessoria earundem. Item cause usurarum.

Item cause viduarum et miserabilium personarum, si non agitur pro possessionibus et prediis adipiscendis.

Item cause fidei violate et omnium periuriorum et cause, quarum finis tendit ad correctionem pro peccato.

Item omnes cause, in quibus quis incidit in sententiam excommunicationis hominis vel canonis.

Quibus quidem articulis premissis modo premissis nobis presentatis supplicaverunt nobis dicti prelati, barones, proceres et nobiles regni nostri, ut eosdem articulos regio consensu approbantes dignaremur deinceps facere observari. Nos itaque supplicationibus eorundem prelatorum, baronum, procerum et nobilium predicti regni nostri inclinati predictos articulos et quemlibet eorum acceptantes et approbantes decrevimus deinceps inviolabiliter observandos observabimusque et observari faciemus cum effectu.

In quorum omnium premissorum testimonium presentes litteras nostras secreti sigilli nostri, quo ut rex Hungarie utimur, munimine roboratas universitati dictorum prelatorum, baronum, procerum et nobilium predicti regni nostri duximus concedendas.

Datum Bude, vigesimo die congregationis generalis supradicte, anno Domini millesimo quadringentesimo sexagesimo secundo.

28 MAY, 1462

We Matthias, by the grace of God king of Hungary, Dalmatia, Croatia, etc. announce by these presents that in these days, namely, during the general assembly held with all the prelates, barons, lords, and nobles of our kingdom, in our town of Buda, on the fifteenth day of the feast of St. Mark the Evangelist,¹ we have taken action in concert with those aforementioned on many important matters appropriate for the betterment of the state of our said kingdom; among others, these same prelates, barons, lords, and nobles presented and handed to us with their unanimous consent certain articles renewing and clarifying the ancient laws and customs of this our kingdom, which are listed here in order with the following content:

1 Instances in which according to the ancient custom of the realm summons without delay² may be issued outside the octave terms to the personal presence of the royal majesty, wherever he may be within the confines of the kingdom.³

The first article: If the invaders of castles, houses or dwellings of nobles in which they actually reside, commit beatings, cause wounds, inflict death, or steal property customarily kept in such residences;

Likewise, for those who forcefully take away charters or written documents; Likewise, for arsonists and those who introduce plundering foreigners, and act against the king's authority, and against legal documents of public trust commonly referred to as safe conduct, in the vernacular called *Geleith*;⁴

Likewise, for killers of noblemen and those who capture and detain nobles, as well as those who injure nobles, particularly those going to or returning from a general assembly, an octave or a county court;

¹ May 9; on the contradictory evidence about the date, see above.

² Here *evocatio sine procrastinatione*, is identical with the *evocatio brevis* of earlier decrees, that is a summons requiring the respondent to attend court within 32 days (or at the next octave term.), usually issued in respect of violent crimes. The short summons was often combined with a terminal summons issued with the clause that judgment would be passed even in the absence of the summoned party, used particularly against perpetrators of acts of might.

³ The *personalis presentia regia*, court of royal personal presence emerged as early as the thirteenth century. In the first third of the fourteenth century it was augmented with the court of the special personal presence. The court of the personal presence functioned on a regular basis from 1435 and it was led by the chancellor. After 1464, when it was united with the court of the special personal presence, it became the main royal court of justice, issuing sentences under the king's judicial seal. Its head was a chancellery protonotary, the *locumtenens personalis presentie* (later simply: *personalis*) who presided over an ever more professionalized judicial staff. See: Imre Hajnik, *A királyi bíróság személyes jelenléte és ennek helytartója a vegyesházi királyok korában* [The personal presence of the royal court and its locumtenens in the age of the diverse dynasties] (Budapest: MTA 1892), esp. pp. 18-9. As its judges were prelates and barons, it strengthened the influence of the aristocracy in the administration of justice.

⁴ The vernacular word for the *salvus conductus* is supposed to be the German *Geleit*.

Likewise, for those who ravage someone's entire village and break into the church in that place;

Likewise,, for those who violently rape virgins or seduce honorable women.

All these persons may be summoned to the court of the king's personal presence within a longer or shorter time limit, depending on the distance of the locality whence they are summoned, thus that the longest time limit may not exceed thirty-two days and the shortest time limit may not be under fifteen days; such summons must be served only with the authentication of a convent or chapter from the very same or an adjoining county where the said summons has to be made.⁵ And since that judgment is stronger which is confirmed by the sentence of more persons, all those prelates and barons who happen to be present at the king's court at the time must participate in the judgment given in such cases; delay or deferral is allowed only for those serving at fortified border sites or who are engaged in either a general levy or particular campaign for the welfare of the realm; deferral is also granted for those who in the interest of the general good are on a diplomatic mission for the king or the kingdom. However, those who, counting on such a delay, commit one of the said deeds and stay away from trial, shall not be protected by such a prorogation, and such summons may apply only to those aforementioned deeds which will be committed in the future, beginning with the first day of this general assembly. Regarding the seizures of property which took place since the election of our King Matthias, said property must be returned to its previous occupant and if the seizer refuses to comply or hinders that the restoration be done or performed, he shall be summoned in the above stated manner. Then, extraordinary county assemblies shall be called according to the decree of King Sigismund.⁶

Furthermore, each year (without interruption) the four octave courts must be held.⁷

⁵ Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, "Die Glaubwürdigen Orte Ungarns im Mittelalter." *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, "Administering the Law: Hungary's Loca Credibilia." in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35.

⁶ See 1435/I:3, 6. Extraordinary county assembly (*proclamata congregatio*): in major criminal cases county nobles were gathered in a single place and examined under oath. Abolished in the judicial reforms of 1486. See István Tringli, "Megyék a középkori Magyarországon." [Counties in medieval Hungary] in *Honoris causa. Tanulmányok Engel Pál tiszteletére*, ed. Tibor Neumann and György Rácz, (Budapest– Piliscsaba: MTA TTI–PPKE BTK, 2009), pp. 487–518.

⁷ Octave court (*octava*) refers to the session of royal courts of justice; there were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times

2. Instances which concern conviction for the charge of infidelity and in which cases alone the estates and goods of culprits can be granted or transferred by royal right to another person:⁸

First those who patently rise against the public state of the king and the crown; Then,

those who forge false documents and use them as evidence in a court of law;⁹ Then,

those who cut and use a forged seal;¹⁰

Then, those who mint counterfeit money, and knowingly and publicly use them in large quantity for business;¹¹

Then, those who murder a blood relative within four degrees of kinship;¹²

Then, those who are known arsonists of villages or estates;

Then, those who introduce pillaging foreigners and mercenaries to cause unrest in the kingdom;¹³

Then, those who rebel and oppose on their own authority letters of judgment or sentence passed by justices ordinary after being twice summoned and reprimanded;

⁸ The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes—defined here in greatest detail among the decretal—against the person of the king or the interests of the realm. It was usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. agreement, peace). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate. However, in the later Middle Ages, the king had not too many estates to give away, besides those of condemned “unfaithful” and those whose line got extinct.

⁹ Cf. **1351:9**

¹⁰ Cf. **1446:10**.

¹¹ Cf. **1405/I: 18; 1444:7**. However, this is the most explicit inclusion of counterfeiting into the major felonies, see Márton Gyöngyössi, “Coinage and Financial Administration in Late Medieval Hungary (1387–1526)” in József Laszlovszky *et al.* eds., *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 295–308.

¹² The reckoning of kinship in Hungarian law followed the canon legal system, see Erik Fügedi, *The Elefánthy. The Hungarian Nobleman and His Kindred*. (Budapest: CEU Press, 1998) pp. 6-18.

¹³ This article aims above all at those who collaborated with the Czech (formerly Hussite) bands that devastated northern Hungary during the preceding decades. Matthias managed to pacify the region just before this decree was issued by negotiating a peace with Jan Jiskra z Brandýsa. As an example of implementing this article, the charter of 30 September 1462 survived, in which Matthias granted properties confiscated from such men to his commander in northern Hungary, with reference to this decree; see MNL OL DI 15772.

Then, those who, once publicly condemned, disrespect letters of public trust or safe conduct;¹⁴

Then, those who betray a castle of their own lords, once publicly condemned;

Then, those who kill or wound judges ordinary of the king, especially when they act in an official capacity;

Then, those who kill their opponents in a public court of law or a palatinal court;

Then, those public heretics who adhere to a condemned heresy;¹⁵

Then, those who commit incest and seduce their female relatives within the fourth degree of kinship,¹⁶ once they have been publicly condemned and proscribed.

3 Instances pertaining to courts spiritual:¹⁷

First. All cases concerning offenses against the divine mysteries or the sacraments;

Then, cases of faith, of heresy, and suspicion of heresy;

Then, cases concerning last wills and related matters;

¹⁴See, above, n. 3.

¹⁵The secular prosecution of heresy had been conceived as a duty by some European rulers from the twelfth century, even though it did not feature in known Hungarian statute law: in general, see Gordon Leff, *Heresy in the later Middle Ages, the relation of heterodoxy to dissent* (Manchester: Manchester University Press, 1967); for illustrative documents: Jeffrey B Russell, *Religious Dissent in the Middle Ages* (New York: John Wiley, 1971) Part VI: 125-38, No. 24-28. The Byzantine tradition of secular attention to heretical groups and thought was long-standing: Jacques Jarry, *Heresies et factions dans l'empire byzantin* (Cairo: L'Institut français d'archéologie orientale du Caire, 1968) esp. 3: 225ff.

¹⁶Roman law had been concerned primarily with prohibiting marriage between persons closely related by blood (Joseph A.C. Thomas, *Textbook of Roman Law* [Amsterdam: North-Holland, 1976] 423-25; Susan Treggiari, *Roman Marriage: Iusti Coniuges from the time of Cicero to the time of Ulpian* [Oxford: Oxford University Press, 1991] 37-39): the incest prohibition varied (as to degree of prohibited relationship) as a function of contemporary custom (so, explicitly, *Digest* 23.2.29; see F. de Martino, "L'ignorantia iuris nel diritto penale romano," *Studia Doc. Hist. Iuris* 3 [1937] 387ff. at 405). With the institutionalization of Christian authority in the fourth century, however, incest was defined more frequently and more rigorously (*Codex Iustinianus* 5.5), partly on the basis of Mosaic Law (*Leviticus* 20:11-21). The present definition (the fourth degree of relationship; marriage to, for example, a paternal uncle or aunt's great-grandchildren) was relatively liberal; elsewhere in Europe, the seventh degree of relationship was prohibited (Georges Duby, *Medieval Marriage: Two Models from Twelfth-Century France* Baltimore: Johns Hopkins University Press, 1978, pp. 17-18; 25ff.). For these degrees of kinship relationship, see Isidore of Seville *Origines* 9.6.28.

¹⁷On the cases pertaining to courts spiritual, see **1458Sz:9**. However, this article contains a slightly wider range of matters.

Then, matrimonial cases and related matters, especially dowers and paraphernalia, nuptial gifts, and the filial quarters, unless the lawsuit concerns acquisition of inheritable property;¹⁸

Then, cases involving the tithing of goods and persons, and related matters;

Then, cases of usury;

Then, cases relating to widows and the wretched poor, if not connected to a lawsuit concerning the acquisition of estates and properties;

Then, cases of breaking an oath and all perjurers, also cases which aim at the correction of sinners;

Then, all cases in which someone falls under excommunication, whether by secular ruling or by canon law.

The said prelates, barons, lords, and nobles of our kingdom presenting to us the above articles in the above explained manner beseeched us to deign to assure the observance henceforth of these decrees by giving our royal approval to them. We therefore, acceding to the request of the same prelates, barons, lords, and nobles of our said kingdom, accepted and approved the above-named articles, each and every one of them, and we ordered that they be observed without infringement and we also shall adhere to them and make them observed effectively.

In witness to all of the above, we have decided to grant these our presents, confirmed by the affixing of our secret seal which we use as king of Hungary,¹⁹ to the community of the aforementioned prelates, barons, lords and nobles of our said kingdom.

Given at Buda on the twentieth day of the said general assembly in the year of the Lord one thousand four hundred and sixty-two.

¹⁸ Issues of property were always reserved to the secular courts.

¹⁹ Matthias seems to have used the secret seal (though as seal pendant) even on privileged charters, such as the 1486 decree. As there is no surviving original, it is unknown whether this time the seal was pendant.

**CORONATION DECREE OF KING MATTHIAS I (CORVINUS)
OF HUNGARY (1458- 90)
OF 6 APRIL, 1464)**

After extended negotiations with Frederick III, the crown of Hungary was returned to the kingdom on 24 July 1463. However, Matthias delayed his coronation until after his successful campaign in Bosnia, where he captured some 60 castles and virtually divided the country between himself and the sultan. The invitation to the coronation diet went out in January 1464 for Palm Sunday (25 March), in Székesfehérvár, but did not begin until 29 March. The traditional coronation decree, confirming the ancient privileges, contained this time a number of additional points, mostly favorable to the estates who were able to use the king's need for financial and military support. The compromise included the king's acquiescing in the barons' and prelates' right to control the chancery in return of the estates' granting him free hand in finances.

In return, the diet agreed to mount a force (a horse for every 10 *portae*) and to pay additional subsidies for the continuation of the war. A royal command to Co. Heves, containing these decisions, dated the same day as the decree (but not issued in privilegial form, for it was of temporary validity), survived in one original, see Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*, (Budapest: Akadémiai K. 1989) [=DRH Matth.], p. 152-55.

MSS.: Two originals on eight and six folios, respectively, one sealed with violet seal pendant (MNL OL DI 15678/1), the other's seal is lost (MNL OL DI 15678/2).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ http://archives.hungaricana.hu/en/charters/search
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EDD.: *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus et al. eds., (Budapest: Franklin, 1896), t 1: 342-59; *DRH Matth.*, pp. 142-59.

LIT.: Vilmos Fraknói, *Matthias Corvinus, König von Ungarn (1458-1490)* (Freiburg i. Brsg.: Herder, 1891), pp. 103-15; György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary] (Budapest: Akadémiai K., 1971), pp. 253-54, 262; András Kubinyi, "Stände and Staat in Ungarn in der zweiten Hälfte des 15. Jahrhunderts," *Bohemia* 31 (1990): 312-25; repr. in Idem, *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer, 1998) pp. 292-307.

6 APRILIS 1464

\Commissio propria domini regis.

Mathias Dei gratia Hungarie, Dalmatie, Croatie, Rame, Servie, Gallitie, Lodomerie, Comanie, Bulgarieque rex universis Christi fidelibus presentibus pariter et futuris, presentium notitiam habituris salutem in omnium salvatore.

Cum laudabilis felixque sit res publica illa, in qua bene institute leges dominantur, decet igitur reges et principes, in quorum manibus populorum urbiumque ius est, non modo armis populum sibi creditum fortiter tueri, sed etiam in iuribus, libertatibus et constitutionibus utilibus conservare.

Proinde ad universorum notitiam harum serie volumus pervenire, quod prelati et barones regni nostri ac nobiles potiores, qui ad concludendum in negotiis regni nostri in congregatione generali, quam hiis diebus pro felici coronatione nostra in Alba Regali celebravimus, deputati fuerant, accedentes nostrum regium in conspectum, necessitatibus illis, quibus hoc regnum nostrum nunc urgeretur, per omnia declaratis, exhibuerunt nobis quedam privilegia condam excellentissimorum principum dominorum Lodovici regis Hungarie ac Sigismundi imperatoris Romanorum et similiter regis Hungarie etc. predecessorum nostrorum felicium recordationum decreta et instituta eorundem et dicti regni nostri continentia, ac insuper quosdam articulos, quos ipsi prelati, barones et nobiles regni nostri in predicta congregatione pro communi utilitate et pace denuo fecissent, supplicantes unanimiter maiestati nostre, ut eadem et eosdem acceptare, et approbare ac de verbo ad verbum transsumi facere et simulcum libertatibus et institutionibus in eisdem conscriptis, ac etiam simulcum decreto condam potentissimi domini Andree regis per ipsum dominum Lodovicum in huiusmodi suo privilegio confirmato auctoritate nostra regia innovantes pro utilitate regni nostri perpetuo duratura et valituros stabilire et confirmare, confirmataque observare dignaremur. Quorum quidem privilegiorum, unius videlicet dicti domini Lodovici regis tenor talis est:

Lodovicus etc. [DECRETUM LODOVICI I REGIS 11 DECEMBRIS ANNO 1351]

Alterius vero, scilicet annotati domini Sigismundi imperatoris et regis tenor sequitur in hec verba:

Sigismundus etc. [DECRETUM SIGISMUNDI REGIS 8 MARTII ANNO 1435]

Articuli autem prenotati hanc continent formam:

I. Primo, quod nos hoc regnum nostrum Hungarie et omnes eius ad idem pertinentes incolas in omnibus et singulis bonis et antiquis libertatibus, consuetudinibus et iuribus, quibus hoc regnum utebatur temporibus predecessorum nostrorum, conservabimus et tenebimus, et quod decreta condam dominorum Lodovici et Sigismundi regem simulcum decreto domini Andree similiter regis per ipsum dominum Lodovicum regem confirmato confirmabimus et cum hiis infrascriptis articulis observabimus.

II. Item quia novimus nos et noverunt omnes domini prelati et barones nostri, novit etiam tota communitas regni, quomodo et qualiter propter indebitam custodiam et provisionem sacre corone ipsa corona fuit ab hoc regno alienata, in cuius alienatione irrecuperabilia dampna et indicibilia

spolia et multas incomoditates hoc regnum passum est, et tandem post multos labores et fatigas et graves expensas ipsa corona ex pecuniis communitatis regni novissime est redempta, nos ergo volumus et debemus de pari consensu et voluntate dominorum prelatorum et baronum et regni nostri nobilium hoc in loco providere circa debitam custodiam et conservationem ipsius corone sacre locum alias consuetum et personas ad id idoneas, ne, quod Deus avertat, ipsa corona iterato ab hoc regno alienetur.

III. Preterea quod nos aliquem vel aliquos ex regnicolis sine prelatorum consilio et baronum regni nota seu crimine infidelitatis dampnare non valeamus.

IV. Breves etiam evocationes de cetero pro nullis actibus et commissis fierent, ex parte tamen iam evocatorum fieret iudicium secundum contenta litterarum evocatoriarum.

V. Ceterum omnes quatuor octave annuatim celebrentur, excepto casu, quo contingeret fieri exercitum generalem per omnes regnicolas; et si etiam nos in factis et negotiis regni particularibus extra Budam occuparemur octave non prorogentur. Iudices quoque maiores sive ordinarii pariter cum eorum vices gerentibus in celebratione huiusmodi octavarum interesse semper tenerentur. Deinceps quoque evocationes cum insinuatione ad ipsas octavas fierent, in quibuscunque negotiis et factis post obitum condam domini Alberti regis illatis et perpetratis, que etiam evocationes cum insinuatione possent emanari sub sigillis omnium iudicum ordinariorum regni nostri.

VI. Prorogationes autem nostre temporibus ipsarum octavarum nemini suffragari valerent, nisi solum illis, qui castra in confinibus regni et signanter in regno Bozne tenerent, vel qui essent eotunc occupati in bello, aut qui progredierentur in legationibus nostris et regni nostri per provincias extraneas. Et si aliqui sub forma alterius istorum trium articulorum limitatorum prorogationes sibi acquirerent et ita non occuparentur in penis alias in talibus fieri solitis, hoc est in emenda lingue convincerentur.

VII. In facto vero interemptionis nobilium et occupationis possessionum ablationis litterarum et litteralium instrumentorum domorumque et curiarum nobilium, ubi personaliter residerent, invasionis nulla amplior in istis tribus articulis limitatis, nisi a tempore evocationis prime octave in tertiam octavam fieri possit prorogatio, nec ipsi occupati infra huiusmodi eis datam prorogationem cum aliquibus litigare valeant.

VIII. Si occupatus duos vel tres vel plures fratres indivisos haberet, quorum nomina in prorogatione exprimerentur et non occuparentur in rebus in dictis tribus articulis expressis, talibus non occupatis non observetur prorogatio, exceptis rebus factum possessionum et exhibitionem litterarum concernentibus.

Ille vero, qui occupatus fuerit in negotiis predictis cum eis condemnari non possit, qui in talibus non essent occupati.

IX. Sales extranei in regno nostro et confinibus regni nostri non vendantur sub pena ablationis eorundem, sed ubique sales nostri regales cursum habere debeant. Illorum autem possessiones et bona, qui ablationem huiusmodi salium extraneorum non paterentur, occupari debeant et teneri infra satisfactionem de dampnis nostris exinde secutis.

X. Omnia castella post obitum condam domini Alberti regis in hoc regno nostro constructa usque festum Penthecostes proxime venturum sub pena perpetue infidelitatis distraherentur, exceptis solummodo castellis que in partibus inferioribus contra incursus Thurcorum, ac que in comitatibus Bachiensi et de Bodrog et in aliis comitatibus regni nostri confinia tenentibus constructa essent, et etiam dempto castello Iohannis Thwz ac illis, que antiquis temporibus et etiam tempore condam domini Sigismundi imperatoris fuerunt castella, et tandem rupta et iterum in alio loco constructa essent, remaneant pro utilitate regni.

XI. Item quicumque a nobis donationem iuris regii super aliqua vel aliquibus possessionibus impetraverint in bonis aliorum, si bona impetrata iuri regis pertinere debere probare non posset, ac etiam litigantes, qui aliquo iure super bonis litigarent et bona huiusmodi suo iuri ordine iudiciario applicare non possent, propter indebitam inquietationem possessoris contra eundem possessorem in communi estimatione ipsorum bonorum convincantur.

XII. Omnium et singulorum bona, que a tempore obitus dicti condam domini Alberti regis per quoscumque minus iuste occupata essent, per eorum detentores infra octavum diem festi Nativitatis beati Iohannis Baptiste nunc venturi illis, quorum sunt, remittantur, et detentores vigore litterarum nostrarum vel aliorum iudicum ordinariorum per nostrum hominem et capituli aut conventus testimonium ad remittendum occupata bona ammoneantur, et si ammoniti non remitterent, evocentur cum insinuatione ad proxime futuras octavas; ex parte quorum fieret iudicium et iustitia sine prorogatione.

XIII. Regnum nostrum Sclavonie et partes Transsilvanie in omnibus antiquis bonis libertatibus, consuetudinibus et iuribus suis conserventur.

XIV. Viri seculares contra viros ecclesiasticos in nullo facto et lite seculari possent magis aggravari, quam viri ecclesiastici aggravarentur contra seculares.

XV. Tributum in una et eadem possessione in pluribus locis exigi non possit, sed in uno tantum loco, etiam possessoribus tributi quantumcunque inter se discordantibus. Et quod in omnibus locis tributorum tributum secundum antiquum modum exigeretur; facientes autem contrarium amitterent dominium tributi. Tributarii vias falsas nec in terris aliorum, nec extra antiquam consuetudinem custodire valeant; et propter non solutionem tributi quisquam impediri non possit extra metas possessionis, ubi tributum exigeretur. Nullum tributum vel vadum posset esse contra antiquam consuetudinem et legem regni nostri.

XVI. Convictorum hominum bona quoad portiones iudiciarias tam nos, quam iudices nostri ordinarii non aliter, nisi more alias consueto conferre valeamus aut valeant.

XVII. Item preter factum testamenti, matrimonii, dorum et rerum paraffernalium, periurii, verberationis et spoliationis clericorum et mulierum, et preter illas alias causas, que profane non essent, in foro spirituali nulla causa tractaretur.

XVIII. Et quod nos ad simplicem querimoniam aliquorum vel etiam in propriis factis nostris bona aliquorum occupare non faceremus, nisi prederet sufficiens cognitio cause secundum antiquam consuetudinem in talibus fieri solitam, et quod nos etiam factum nostrum regium ordine iuris prosequamur.

XIX. Si qui prothonotarium, vicepalatinum, banum, vicebanum, comitem vel vicecomitem, vel alias iudices ordinarios regni nostri tempore sedis iudicarie vel alias sine causa verberarent, interficerent aut captivarent, habita superinde probatione legitima, in nota et pena perpetue infidelitatis convincerentur.

XX. Et quia nonnulli essent ex regnicolis, quorum iura et litteralia instrumenta per inimicos et potentes ablata fuissent, igitur si tales ablationem huiusmodi iurium et litteralium instrumentorum ac id, quod ipsi et predecessores eorum in dominio bonorum et possessionum, quas tangerent littere ablate, pacifice perstitissent et ipsos concernerent, per vicinorum et commetaneorum suorum ac nobilium comprovincialium attestaciones comprobare possent, talibus omnibus nos huiusmodi bona sua titulo nove nostre donationis daremus et conferremus.

XXI. Item quod per omnes comitatus regni nostri fiat iudicium generale more aliis temporibus scilicet antiquis consueto.

XXII. Item quod nos faceremus cudere unam bonam monetam in lega et pondere monete condam domini Sigismundi imperatoris, que curreret per totum dominium nostrum vita nostra comite sine aliqua permutatione et haberet duos obulos, et huiusmodi moneta nostra in cunctis censibus lucri camere et decimis ubique recipiatur.

XXIII. Et quod nos omnes donationes predecessorum nostrorum regum et nostras proprias super quibusvis bonis et possessionibus factas exceptis donationibus condam domini Ladislai regis et etiam nostris, quas de lucro camere, quinquagesima, tricesimis et proventibus marturinalibus cuiquam fecissemus aut fecissent confirmare debeamus. Teneatur autem quilibet omnes litteras donacionales condam domini Ladislai regis, immediati predecessoris nostri et etiam nostras a prima die Aprilis infra revolutionem unius integri anni ad confirmationem reportare. Si qui vero non reportarent, littere eorum non maneant in vigore.

XXIV. Decime solvantur in omnibus et singulis comitatibus secundum modum quo unusquisque cum prelato suo superinde haberet vel fecisset, aut deinceps faceret dispositionem, in quarum exactione et solutione teneretur dispositio et decretum annotati domini Sigismundi imperatoris et regis. Ita tamen, quod si ad requisitionem dicatoris decimarum rusticus iuraret et dicator huiusmodi iurato crederet, non amplius, nisi iuxta iuramentum iurantis dicare valeat. Et ubi iurato rustico dicator non crederet, liberam acervum examinandi habeat facultatem, qui si plus invenerit, superfluitatem auferre valeat; si autem iuxta verbum rustici repertum fuerit, pro indebita revisione acervi unus florenus auri per dicatorem rustico solvatur quem si dicator solvere recusaret rusticus auferre valeat equum dicatoris.

XXV. Diebus dominicis et in festivitibus beate Marie virginis in hoc regno nostro et eius partibus nullum forum celebretur, exceptis dumtaxat propter bonas causas foris dominorum archiepiscopi Colocensis et episcopi Waradiensis, que in aliquibus bonis eorum celebrantur.

XXVI. Cusores falsarum monetarum et florenorum ac falsificatores eorundem publice infamati habita prius debita superinde revisione per barones regni nostri puniantur condigna pena.

XXVII. Quicumque ex regnicolis salvum conductum nostrum infringeret prius recognita causa tales et non domini talium in nota et pena perpetue infidelitatis convincantur.

XXVIII. Postremo si tempore exercitus vel alias quocumque aliqui in domibus et curiis nobilium aut personarum ecclesiasticarum preter voluntatem eorum descenderent aut ecclesias confringerent, tales evocentur ad octavas cum insinuatione, ex parte quorum si agens voluerit non aliter, nisi mediante via communis inquisitionis impenderetur iudicium et iustitia. Similiter et ex parte illorum, qui tempore exercitus facerent dampna, pro ablatione rerum tale iudicium impendatur.

Unde nos ad supplicationem prefatorum prelatorum, baronum et nobilium regni nostri annotatis privilegiis et decretis iam factorum dominorum Lodovici regis ac Sigismundi imperatoris et similiter regis, necnon et articulis premissis quos iidem prelati, barones et nobiles denuo fecissent, acceptis et susceptis, eadem et eosdem presentibus litteris nostris de verbo ad verbum transsumpta et insertos, quia in utilitatem regni nostri et pro totius eiusdem rei publice tranquillitate facta et dispositi esse videntur, simul cum omnibus libertatibus et institutionibus in eisdem conscriptis, ac etiam simulcum decreto prenotati domini Andree regis per dictum dominum Lodovicum regem confirmato approbamus et ratificamus, ac innovantes perpetue duratura et valituros confirmamus, nosque omnia in eisdem contenta cum moderatione articulorum predictorum observaturos obligamus presentis scripti nostri patrocinio mediante.

In cuius rei memoriam firmitatemque perpetuam presentes litteras nostras pendentis et autentici duplicis sigilli nostri munimine roboratas duximus concedendas

Datum per manus reverendissimi in Christo patris, domini Stephani Colocensis et Bachiensis ecclesiarum canonice unitarum archiepiscopi, locique eiusdem Colocensis comitis perpetui, aule nostre summi cancellarii, fidelis nostri sincere dilecti, anno Domini millesimo quadringentesimo sexagesimo quarto, octavo Idus Aprilis, regni nostri anno septimo, coronationis vero primo, venerabilibus in Christo patribus dominis Dyonisio de Zeech cardinali Strigoniensi, eodem domino Stephano Colocensi archiepiscopis, Ladislao Agriensis, Iohanne Waradiensis, Nicolao Transsilvaniensis, Zagrabiensi sede vacante, Iohanne Quinque Ecclesiensis, Alberto Wesprimiensis, Augustine Iaurinensis, Vincentio Vaciensis, Alberto Chanadiensis, Thoma Nitriensis, Boznensi sede vacante, Urbano Sirmiensis, Marco Tininiensis, Segniensi sede vacante, Nicolao Modrusiensis ecclesiarum episcopis ecclesias Dei feliciter gubernantibus. Item magnificis Michaele Orzag de Guth regni nostri Hungarie predicti palatino, Emerico de Zapolya regni Bozne gubernatore, Nicolao de Wylak et Iohanne Pangracz de Dengeleg wayuodis Transsilvanis, comite Ladislao de Palocz iudice curie nostre, eodem Emerico de Zapolya Dalmatie et Croatiae necnon Sclavonie regnorum nostrorum et prefato Nicolao de Wylak Machoviensi banis, honore banatus Zewriniensis vacante, Iohanne de Rozgon thavarnicorum, Benedicto de Thwroc z ianitorum, Andrea Pongracz de prefata Dengeleg pincernarum Stephano de Peren et Ladislao de Bathor dapiferorum, Paulo de Dombo et Ladislao de Wesen agazonum nostrorum regalium magistris, Andrea Pawmkyrher comite Posoniensi aliisque compluribus regni nostri comitatus tenentibus et honores.

6 APRIL, 1464

At the king's own command.

Matthias, by the grace of God king of Hungary Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania and Bulgaria¹ [sends] greetings in the name of the Savior of all to all Christians, both those living and to come, who take notice of these presents.

Because that commonwealth is praiseworthy and fortunate wherein the rule of law is well-established, it therefore befits kings and rulers who hold in their hands the legal rights of peoples and cities not only to defend courageously with arms the people entrusted to them, but also to preserve them in their rights, freedoms, and beneficial laws.²

We therefore wish all to have notice by these presents that the kingdom's prelates, barons, and distinguished nobles, who were elected to be present at the general assembly which convened recently by reason of our happy coronation, so that they might deliberate on the kingdom's affairs, presented themselves to our royalty. They declared publicly the needs presently felt in our kingdom and pointed out to us some of the charters of our predecessors of happy memory, the once illustrious ruler, lord Louis, king of Hungary, and lord Sigismund, Holy Roman Emperor and similarly king of Hungary, which contain the laws and ordinances of these kings and of our said kingdom. They also presented certain articles, for the common good and peace, which the same prelates, barons, and nobles of our kingdom had newly prepared in the aforesaid assembly. They unanimously beseeched our royalty to accept those charters and articles, to sanction them and to have them copied verbatim; and that all those freedoms, and decrees included in them, together with the decree of the once powerful King Andrew³ which were confirmed by the same lord Louis' charter be reaffirmed by our royal authority and by reaffirming be perpetuated and continuously upheld by us so that they may endure and remain in force forever for the good of the kingdom. The content of those privileges, as stated in the decree of the aforementioned lord King Louis is as follows:

Louis, etc.⁴

¹The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of "kingdoms" that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, "Lists in the service of legitimation in Central European Sources" in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

²The *arenga* elaborates on the *arma et leges* topos of Justinian's laws. Cf. Cicero, *Pro Milone* 11: *silent enim leges inter arma...*; Albinovanus Pedo, *Ad Liviam* 185 (= Livy 34.6.6.). The Ciceronian formulation became a commonplace in Latin literature (cf. August Otto, *Die Sprichwörter der Römer*, Leipzig: Teubner, 1890, p. 192); what is notable is the clear correspondence of the present text with Cicero, suggesting direct knowledge of the Ciceronian oration.

³ 1222.

⁴ See 1351.

And the other, namely that of the said King and Emperor Sigismund, follows in these words:

Sigismund, etc.⁵

And the said articles have these words:

1 First, that we shall protect and maintain our kingdom of Hungary and all of its inhabitants in all those rights and freedoms, customs and laws, singly and collectively, which this kingdom made use of in the time of our predecessors. And that we shall reaffirm the decrees of the late kings Louis and Sigismund along with the decrees of former King Andrew which were confirmed by King Louis and that we shall uphold them together along with the following articles.

2 Then, since we know, as do all of our prelates, barons and the entire community of the realm, by which means and which manner our Holy Crown came to be taken from the kingdom, that with its passage to foreigners this kingdom has suffered irreparable and unspeakable ravages and considerable inconvenience, and that finally this same crown has been redeemed only recently, after much toil, effort, and substantial expenditure of public monies.

We therefore, ought and wish with the unanimous consent and will of our lord prelates and barons and our kingdom's nobles, to provide here a specially designated place and suitable personnel for the necessary guarding and care of the Holy Crown, so that this crown may never again – may God save us from it – be taken from this kingdom.⁶

3 Furthermore, that we may not without the counsel of the kingdom's prelates and barons arrest any gentleman of the realm for the crime or offense of the charge of infidelity.⁷

4 Short summons in addition, may not be given for any action or offense, but for a person summoned, judgment should be given according to the contents of the letter of summons.⁸

⁵ See **1435/I**.

⁶ The reference is to the theft of the Holy Crown from Visegrád in 1440 by Queen Elisabeth's lady-in-waiting, Helene Kottanerin (see *Die Denkwürdigkeiten der Helene Kottanerin*, Karl Mollay, ed., Vienna: Bundesverlag, 1971. (A passage of this memoir was translated into English by M. C. Bijvoet, "Helene Kottaner: The Austrian Chambermaid," in Katharina M. Wilson, ed. *Women Writers of the Renaissance and Reformation*, Athens, Ga.: Univ. of Georgia Press, 1987, pp. 327-49). It having remained in the hands of Frederick III and was not only used as a political tool against Matthias but finally costing the country several castles and a sum of 80 000 gold florins in ransom. The guard of the coronation jewels was reorganized only after Matthias's times, see Kálmán Benda, Erik Fügedi, *Tausend Jahre Stephanskrone*, (Budapest: Corvina, 1988) pp. 77-103.

⁷ Cf. **1446:6; 1458:38**. The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property, defined in detail in **1462: 2**) usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates.

⁸ Short summons to the thirtieth day, regardless of the sessions of octave courts, of which here were usually four annually, beginning on or around the eighth day after a major feast, such as Epiphany on 6 January, St. George's on 23 April, St. James's on 25 July, and Michaelmas on 29 September, lasting 30–40 or more

5 In the future all four seasonal octave courts must be held annually except in the event of a general levy of all inhabitants of the kingdom. And if we are engaged in our kingdom's specific affairs and business outside of Buda, the four octave courts must not be postponed. When such octave courts are held, the superior judges and judges ordinary must also be present along with their substitutes.⁹ In regard to the acts and offenses committed and done after the death of the late King Albert, henceforth terminal summons are to be issued to the octave courts. These terminal summons may be issued under the seal of any judge ordinary of our kingdom.¹⁰

6 As for our granting any postponements at those octave courts, none may enjoy them except those who are in the fortified border sites notably those who maintain castles in the kingdom of Bosnia or those who at that time are engaged in war or those who are representing the crown or the kingdom on a diplomatic mission in a foreign kingdom. And those who acquire a postponement by claiming to come under one of these three precisely described conditions but are not occupied thus, should be convicted in their fine of the tongue.¹¹

7 In cases in which nobles are killed, property is occupied by force, deeds and documents are taken away, and in which the homes and courts of nobles are attacked, no further postponement for any of the three specified reasons can be granted, except a postponement from the first to the third octave. Nor may those persons who enjoy such a prorogation take action against anyone else during the period of postponement.¹²

8 If the person who is thus engaged has two, three or more brothers with undivided property and their names appear in the letter of postponement whereas they are not engaged in any of the

days. Were opposed by the nobility. On the other hand, the many reasons that hindered the regular observance of four octaves made such swift administration of justice necessary, and it was, in fact, gradually accepted even by its opponents, see e.g., **1471:28** and **1474:12, 15**

⁹ Cf **1447:14** and **1458: 42**. It is significant that the decree specifies the need to hold the royal court sessions regardless of the king's presence in the capital.

¹⁰ Terminal summons, issued after the serving of summons and then summons pronounced on three fairs, were introduced in **1443:2** and **25**, but it was not specified which court was to issue them. It is assumed that until 1464 terminal summons were authorized only by the keeper of the king's judicial seal; this was here expanded to all the justices ordinary of the realm. By specifying the time period since the death of King Albert this article implies (as do some others, e. g., Artt. 10, 12 below) that between 1439 and 1458—during which time a double election took place, civil war waged, and a minor king ruled—a kind of ex-lex obtained in the kingdom.

¹¹ Cf. **1351:25**, **1439:29, 30, 32** and **1458:42**. The fine usual for certain procedural trespasses, such as unfounded litigation, unsubstantiated excuses, and so on, amounted to 100 gold florins and the suspension of the case, and was called fine of the tongue (*emenda lingue*) a judicial fine for procedural faults, causing the suspension of the trial. Until the culprit paid the fine, his ability to sue at court was suspended, "his tongue tied").

¹² This seems to be a unique and unusual stipulation, not contained in similar laws about prorogation (e. g., **1471:28**, **1486:6**), for it was in fact quite frequent that extension of terms was granted when a party had to attend to other legal matters.

three specified ways, the latter do not qualify for postponement, except in matters concerning property and the presentation of documents.

However, the person engaged in one of the aforementioned occupations may not be tried together with those who are not similarly engaged.

9 Salts of foreign countries may not be sold by anyone inside our kingdom or in its border areas under penalty of confiscation, but everywhere our own royal salts must be sold. As for those who do not permit such foreign salts to be confiscated, their properties and goods must be seized and held until they have made reparation for the damages they have caused us.¹³

10 All castles in our kingdom which were built after the death of the late King Albert must be demolished before next Pentecost Day¹⁴ under penalty of perpetual taint of infidelity. Exceptions are made for those castles which were built in the south against Turkish attacks and for those built in Bács and Bodrog counties, and in other border counties in our kingdom; excepted also is the castle of John Tuz¹⁵ as well as those castles which were built in earlier ages and also in the time of the late lord Emperor Sigismund, but were later destroyed and reconstructed elsewhere; these should remain for the welfare of the realm.

11 Then, those who request from us the bestowal of royal right to some estate¹⁶ and can not prove that the requested property does come under royal right, as well as those litigants who by some right attempt to claim someone else's property but cannot demonstrate their claims according to the law, these, because of the unjust disturbance of the possessors, are to be convicted in the common estimate of the said property.¹⁷

¹³ The salt monopoly was one of the major incomes of the crown, see István Draskóczy, "Salt Mining and Trade in Hungary from the mid-Thirteenth Century until the End of the Middle Ages" in József Laszlovszky *et al.* eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 205–18. At the time of this decree, it may have been almost half of all the regular revenue, amounting to more than 100 thousand gold florins; see János M. Bak, "Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter", in R. Schneider, ed., *Das spätmittelalterliche Königtum im europäischen Vergleich*. Sigmaringen: Thorbecke, 1987, pp. 347-87, here pp. 358-63. Cf. **1405/I:20; 1439:11 and 1458:10.**

¹⁴ 20 May 1464.

¹⁵ John Tuz of Lak, royal treasurer in 1458-59, ban of Slavonia and Master of the Doorkeepers until 1470, had recovered the castles of Rakonok and Medvedgrad (Co. Somogy) in these times. The exemption referred obviously to Lak, built by John's father and counting as the family's own castle. John was a close friend of the royal family, which may explain the decision.

¹⁶ Royal right (*ius regium*) was an ambiguous term, apparently referring to royal claims to any estate which, though not actually possessed by the king, was assumed to belong to him in the absence of any evidence to the contrary. Actions were moved by or in the name of the crown against persons accused of "hiding royal rights" (*celatores iurium regalium*) i.e., allegedly usurping a royal claim.

¹⁷ Estimation of the value of immovable and movable property was usually done on the traditional basis (*estimatio communis*, see **Tripartitum**: I 133), but occasionally a tenfold (*estimatio perennalis*) valuation for immovable property was used. The low common estimation assured kinsmen's and even neighbors' and abutters' ability to purchase (alienated or judicially-seized) property, and also reduced the burden placed

12 All and every estate unjustly seized after the aforesaid late King Albert's death must be returned to their rightful owners by the time of the octave of the feast day of St. John the Baptist.¹⁸ And the usurpers shall be warned by one of our men and one of a chapter or convent through a letter of ours or of one of the judges ordinary that they shall return the seized properties. And if they do not return them upon receipt of the warning letter, they have to receive terminal summonses to the next following octave court where judgment and justice will be given to them without postponement.¹⁹

13 Our kingdom of Slavonia as well as Transylvania will be protected in their traditional freedoms, customs and laws.

14 In secular trials of laymen against clergy, laymen may not be punished more severely than the clergy would be punished for offenses against laymen.²⁰

15 Tolls may not be collected in several locations on one and the same estate but only in one location, even if the owners of the toll do not agree with each other. And the toll must be collected in each customs place according to ancient tradition; those who act otherwise will lose their right to collect tolls. Toll collectors may not guard illegal routes either in the land of others or against ancient tradition; and they may not disturb anyone for nonpayment outside the estate where they have a right to collect tolls. No toll or ferry-fee may exist where it is against our kingdom's old customs or laws.²¹

on families having to pay the filial quarter in money, which was likewise calculated by reference to the common estimation.

¹⁸ 1 July 1464.

¹⁹ Legal actions (summonses, inquests &c.) were usually executed by a royal bailiff (or the bailiff of one of the justices)—a nobleman from the county or, occasionally sent out from the court—and a witness of a place of authentication. These were members of cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary's *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35. On ocatvial courts and terminal summonses, see above, notes 10 and 8. Cf. also **1458:32**.

²⁰ Cf. **1439:33, 1447:9**.

²¹ The collection of road-tolls was regulated in several decrees from **1351:8, 15** onward, see, e.g., **1435/I:20-21; 1447:22**. However, the stipulation of only one toll per estate is new here and the limitation of guarding the illegal routes (i.e., such routes as avoided legitimate tolls) is more elaborate than in earlier laws. On these matters, see Magdolna Szilágyi “Mobility, Roads and Bridges in Medieval Hungary” in József Laszlovszky *et al.*, eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 64–80.

16 Neither we nor our judges ordinary have the right to dispose of the property of convicted persons, as far as the portion given to judges is concerned, other than in the customary manner.²²

17 Then, the ecclesiastical courts must not try cases other than those of wills, marriages, dowries, and paraphernalia, perjury, assault or molestation of clergy or of women, and other cases which are not secular in nature.²³

18 And that we should not occupy anyone's property upon the simple complaint of individuals or in our own interest unless the appropriate legal review of the case has been carried out in accordance with the ancient custom appropriate in such instances, and that we shall try our own royal cases according to the order of the law.²⁴

19 Those who at the time of a trial or at any other time without due cause assault, kill or arrest a protonotary,²⁵ vice-palatine, ban, vice-ban, *ispán* or *alispán* or any of the kingdom's judges ordinary, upon lawful proof will be convicted and punished for perpetual taint of infidelity.²⁶

20 And since there are gentlemen of the realm whose rights and documents were seized by enemies and by powerful persons, if their neighbors, abutters, and the nobles living in that same county can testify that they lost their rights and documents and that they and their predecessors had been undisturbed owners of the estate and the property to which the seized documents refer, then we shall award these persons their estate as a new donation.²⁷

²² Cf. **1435/I:7** The king and the judges of the royal courts had the right to temporarily seize possessions in lieu of fines, and, consequently, grant these to others; Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial system and procedural law under the kings of the Árpád and the diverse dynasties], (Budapest: Magyar Tudományos Akadémia, 1899), p. 448.

²³ These cases were detailed in **1462:3**.

²⁴ Cf. **1435/I:3** and its repetitions.

²⁵ Bónis (*Jogtudó értelmiség*, p. 292) suggests that the right word here should be *palatinum*, for he believed that the protonotaries, i.e., the learned judges of the higher courts, did not enjoy such extensive personal protection until later (see **1471:14**), while the justices ordinary of the royal court did so at least since 1415—see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1457*, (Budapest: Akadémiai, 1978) [=DRH], p. 402—and also **1462:2**. On the other hand, the reference to the justices ordinary covers the palatine; hence, this would be tautological. Since the law extends protection also to the *vicecomites*, clearly less important judges than the protonotaries, Bónis's objection is at least debatable.

²⁶ Personal protection of judges (and other officers of the court: see also **1471:14**) derived ultimately from the sacrosanct rights of the *tribuni plebis* of the Roman Republic, rights extended to (and claimed by) the Roman emperors in their civil and judicial capacities; see Theodor Mommsen, *Römisches Staatsrecht* ed. 3 (Leipzig: Hirzel, 1887) 2 301-306, 782; 948ff.; Mason Hammond, *The Augustan Principate* (Cambridge, MA: Harvard University Press, 1968) pp. 79-87.

²⁷ Cf. **1447:13**; the stipulation refers implicitly to what was called a common inquest, (*inquisitio communis*) a procedure for obtaining material proof. Abutters, neighbors, and other nobles from the county (*comprovinciales*) swore an oath on their faith and “fidelity to the Holy Crown” regarding the truth of their

21 Then, that in each county of our kingdom a public court of law should be maintained, particularly so since this is a very old custom.²⁸

22 Then, that we shall have good money minted, with the same grade and weight as the money of the late Emperor Sigismund which will remain current without any changes during our entire reign until the end of our day, and it should have the form of two obols; and this money must be accepted as payment of the chamber's profit and the tithes.²⁹

23 That we shall deign to confirm all gifts which our royal ancestors and we have conferred regarding property and estates (except for those donations which the late King Ladislas or we conferred from the chamber's profit, the fiftieth, the thirtieth and the income from the *mardurina*).³⁰ But everyone is required to present all letters of donation from the late King Ladislas, our immediate predecessor, as well as ours for confirmation within a calendar year beginning on the first day of April. As for those who do not present them, their letters of donation will not be in force.³¹

testimony, usually in matters of property rights. The inquest, as ordered by a higher court, was usually held where the disputed estate was located or the criminal act perpetrated. See Erik Fügedi, "Verba volant... Oral Culture and Literacy among the Medieval Hungarian Nobility" in Idem., *Kings, Bishops, Nobles and Burghers in Medieval Hungary* (London: Variorum, 1986), ch. VI.. On the meaning of *donatio nova*, which was a confirmation of ancient property, see József Illés, "A *nova donatio* jogi természeté" [Legal Character of *nova donatio*], in *Notter Antal Emlékkönyv* (Budapest: Szent István Társulat, 1941), pp. 634-44; now Pál Engel, "Nagy Lajos ismeretlen adományreformja" [An unknown reform of donations by Louis the Great] *Történelmi Szemle* 39 (1997), 137-58, repr. in: Idem, *Honor, vár ispánság &c.* [Honor, castle, ispán's office: Selected studies], ed. Enikő Csukovits (Budapest: Osiris, 2003) pp. 527-54.

²⁸ Counties held courts of law (called *sedria*, abbreviated from *sedis iudiciaria*), judging matters of local interest, mostly appeals from manorial courts ever since the thirteenth century. Presided over by the *ispán* (or usually the *alispán*), consisted of the noble magistrates (*szolgabíró*) and a notary.

²⁹ Matthias observed this law by minting good new money in three denominations between 1462 and 1464 (with the double cross on their reverse, see e.g., *Corp. Num. Hung.* Nos. C219, 220, 222), but their value began to deteriorate soon thereafter, so that a monetary reform became necessary in 1468, when new silver pennies (with the Madonna on them, see *Ibid.* No. 235 sqq.) were introduced and their exchange rate set at 100d for the florin. However, these were less valuable, and the treasury protected the enforced exchange rate between overvalued silver and devalued gold by controlling the silver coin emission. When, around 1480, this could not be maintained, the silver mint at Baia Mare was closed down; see András Kubinyi, "Wirtschaftsgeschichtliche Probleme in den Beziehungen Ungarns zum Westen am Ende des Mittelalters," in *Westmitteleuropa—Ostmitteleuropa. Festschrift F. Seibt* (Munich: Oldenbourg, 1992), pp. 170-74. Now see also: Márton Gyöngyössi, "King Matthias' Mint – the Great Monetary Reform," in: *Matthias Corvinus, the King. Tradition and Renewal in the Hungarian Royal Court 1458-1490. Exhibition Catalogue* (Budapest: Budapest History Museum, 2008) pp. 285-7. Cf. **1427B**, **1439:10**, **1444:8**, and **1458:9**.

³⁰ These royal revenues included the direct tax called *lucrum camerae*, originally the king's profit from devaluing the coins; the thirtieth was a 5 % customs duties on export and import; the fiftieth a special tax of Transylvanian Romanians, and the *mardurina* that of inhabitants of Slavonia (originally rendered in marter pelts).

³¹ Cf. **1458:4**. However, Matthias granted several exceptions to this measure with the clause *non obstante...* to his followers, see *DRH Matth.* p. 148, n. XXIII/2.

24 The tithe must be paid in each and every county by each person according to the agreement he had made or will make with his own prelate, and it must be exacted and paid in accordance with the ruling and decree of the said lord King and Emperor Sigismund,³² in the following manner: if the peasant swears an oath upon the request of the tithe assessor and the assessor believes the oath giver, then payment must be effected according to the oath given and not more than that. And if the assessor does not believe the peasant giving the oath, he may freely examine the stack and if he finds more than the sworn amount, he may confiscate the excess. But if he finds the same amount as the peasant swore to have, then the assessor must pay the peasant a gold florin for the needless examination. And if the assessor is reluctant to pay this, then the peasant has the right to confiscate the horse of the assessor.

25 On Sundays and on the feast days of the Blessed Virgin Mary there may be no fairs in any part of our kingdom; exception is granted, for good reason, to the lord Archbishop of Kalocsa and the lord Bishop of Oradea, for fairs held anywhere on their properties.³³

26 Minters of forged coins or florins or those who falsify money should be, after thorough investigation, suitably punished by the barons of the kingdom.³⁴

27 If any gentlemen of the realm interferes with our letter of safe conduct, he and not his master will be condemned after due legal inquiry for the crime of perpetual taint of infidelity.³⁵

28 Finally, those who at the time of a campaign or at any time billet in the dwellings and courts of nobles or ecclesiastics without their consent or who break into churches, must be cited to the octave court by terminal summons. Those summoned (if the accusers so wish) will be judged and given sentence only by common inquest. Likewise those who cause damages at the time of a campaign shall similarly be judged and sentenced for the theft of things.³⁶

³² Cf. **1411** and its predecessors as far back as the eleventh century. A detailed regulation of collecting the tithe in Co. Zala, referring to this article, also survived, MNL OL DI 45172. The tithing man's horse seems to have been a kind of security at the tithing. In general, see: Andor Csizmadia, "Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn." *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 61 (1975), 228–257. A more detailed monograph on the issue is still missing.

³³ The prohibition of Sunday fairs goes back to St. Stephen (**Stephen 1:7**), even though the name of the day in Hungarian still refers to it as the day of the fair (*vasárnap*, from *vásár*=fair). The exemption granted the two bishops may have been a personal favor to the king's two most trusted counsellors, Archbishop Stephen (of Varda) of Kalocsa was one of the king's leading diplomats and Bishop John (Vitez of Sredna) of Oradea, his former tutor and his father's confidant.

³⁴ Cf. **1446:12** and **1462:2**. The implication is that these crimes belong to the bench of the personal royal presence, a court that functioned on a regular basis from 1435 and it was led by the chancellor. After 1464, it was united with the court of the special personal presence, and became the main royal court of justice, issuing sentences under the king's judicial seal. Its head was a chancellery protonotary, the *locumtenens personalis presentie* (later simply: *personalis*) who presided over an ever more professionalized judicial staff.

³⁵ Cf. **1462:2**.

³⁶ This short summary of several earlier laws against damages caused by the levy (cf. **1405/II:1**; **1435/II:6**; **1454:8**) simplifies somewhat the procedure in such lawsuits.

Therefore we, upon the entreaty of the aforesaid prelates, barons, and nobles of our kingdom, after receiving and accepting the said privileges and decrees of the stated lords King Louis and of Emperor and King Sigismund along with the above articles which these same prelates, lords, and nobles have newly prepared, have copied them and incorporated them word for word in these presents of ours since they appear to have been prepared and arranged for the benefit of our kingdom and for the peace of the entire commonwealth, with all the freedoms and rulings which they contain as well as the decrees of the aforesaid King Andrew and confirmed by the said lord King Louis, we approve and ratify them, and so that they might perpetually endure, we fully confirm them. And we pledge by the protection of these presents to observe all the contents in these texts, including the amendments in the aforementioned articles.

For the perpetual memory and confirmation of this, we have decided to grant these presents corroborated by affixing our pendant and authentic double seal.

Given by the hand of our most reverend father in Christ lord Stephen, archbishop of the canonically united bishoprics of Kalocsa and Bács and perpetual *ispán* of the county of Kalocsa, our loyal and esteemed chief chancellor of our court,³⁷ in the year of our Lord fourteen hundred and sixty-four, April sixth, the seventh year of our reign and the first year of our coronation. In the presence of the most reverend fathers and lords in Christ, Cardinal Dennis of Szécs of Esztergom³⁸ and the said lord Stephen of Kalocsa, archbishops; Ladislás of Eger³⁹, John of Oradea⁴⁰ and Nicolas of Transylvania⁴¹, bishops; the episcopal see of Zagreb in vacancy; John of Pécs⁴², Albert of Veszprém,⁴³ Augustin of Győr⁴⁴, Vincent of Vác⁴⁵, Albert of Csanád⁴⁶, Thomas of Nitra⁴⁷, bishops; the see of Bosnia vacant; Urban of Srem⁴⁸, Mark of Knin⁴⁹, bishops, Senj's seat being

³⁷ Várdai, Stephen (d. 1471) archbishop of Kalocsa 1456–71, high chancellor and secret chancellor 1464–71, cardinal 1467.

³⁸ Szécsi, Dennis (d. 1465) bishop of Nitra 1438–39, of Eger 1439–40, archbishop of Esztergom 1440–65, cardinal 1440, chancellor 1453–65.

³⁹ Hédervári, Ladislás (d. 1468) bishop of Eger 1447–68.

⁴⁰ Vitéz (of Sredna), John (d. 1472) bishop of Oradea 1445–65, archbishop of Esztergom 1465–72, secret chancellor 1453–64, high chancellor 1464–71.

⁴¹ Zapolya, Nicholas of (d. 1468) bishop of Transylvania 1461–68.

⁴² Csezmicsei, John (called Janus Pannonius, d. 1472) bishop of Pécs 1460–72, Neo-Latin poet.

⁴³ Vetési, Albert (d. 1486) bishop of Nyitra 1457–58, of Veszprém 1459–86.

⁴⁴ Salánki, Augustin (d. 1465) bishop of Győr 1447–65.

⁴⁵ Szilasi, Vincent (d. 1473) bishop of Vác 1450–73.

⁴⁶ Hangácsi, Albert (d. 1466) bishop of Cenad 1458–66.

⁴⁷ Himfi (of Döbrönte), Thomas (d. 1482) bishop of Nitra 1464.

⁴⁸ Urban, bishop of Srem 1464–68.

⁴⁹ Mark, bishop of Knin 1464–66.

vacant, and Nicolas of Modrus⁵⁰, bishops, who in good fortune govern God's churches. Then, the eminent Michael Ország of Gut, count palatine of our said Hungary⁵¹, Imre of Zapolya, governor of our kingdom of Bosnia⁵², Nicholas Újlaki⁵³ and John Pongrác of Dengeleg, voivodes of Transylvania⁵⁴, count Ladislas Pálóci, our judge royal⁵⁵, the same Imre of Zapolya, ban of Dalmatia, Croatia and Slavonia; the said Nicholas Újlaki, ban of Mačva; the office of ban vacant in Srem; John Rozgonyi, our Master of the Treasury⁵⁶; Benedict Turóci, of the Doorkeepers⁵⁷; the said Andrew Pongrác of Dengeleg, of our Butlers;⁵⁸ Stephen Perényi⁵⁹ and Ladislas Bátori⁶⁰, of the Stewards; Paul Dombói⁶¹ and Ladislas Versenyi⁶², of our Horse; Andrew Baumkircher, *ispán* of Pozsony⁶³, and many others holding our kingdom's honors and titles.

⁵⁰ Nicholas, bishop of Modrus 1464–80.

⁵¹ Ország (of Gút), Michael (d. 1484) master of the doorkeepers 1453–58, count palatine 1458–84.

⁵² Zapolya (a. k. a. Zápolya, Szapolyai), Imre of (d. 1487) chief treasurer 1459–64, governor of Bosnia, ban of Dalmatia, Croatia and Slavonia 1464–65, *ispán* of Spiš 1465, count palatine 1486–87.

⁵³ Újlak, Nicholas of (alias of Galgóc, son of ban Ladislas, d. 1477), ban of *Mačva* 1438–72, voivode of Transylvania 1441–65, king of Bosnia 1471–77.

⁵⁴ Pongrác (of Dengeleg), John (d. 1476) master of the stewards 1459–61, voivode of Transylvania 1462–76 (with interruptions).

⁵⁵ Pálóci, Ladislas (d. 1470) judge *royal* 1446–70.

⁵⁶ Rozgonyi, John (d. 1471) voivode of Transylvania 1450–61, master of the treasury 1459–70, judge royal 1470–71.

⁵⁷ Turóci (of Ludbreg), Benedict (d. 1465) master of the doorkeepers 1462–65.

⁵⁸ Pongrác (of Dengeleg), Andrew (fl. 1456–65) lord butler 1462–64.

⁵⁹ Perényi, Stephen (fl. 1450–89) master of the stewards 1461–65, master of the horse 1468–69, master of the treasury 1471–76.

⁶⁰ Bátori, Ladislas (d. 1466) master of the stewards 1464–66.

⁶¹ Dombói (or Dombai), Paul (fl. 1444–87) master of the horse 1460–64.

⁶² Versenyi, Ladislas of (fl. 1443–64), knight, royal castellan of Damásd 1458, master of the horse 1463–64.

⁶³ Baumkircher, Andreas (d. 1471) *ispán* of Pozsony Co. 1457–65.

REGISTER OF KING MATTHIAS I (CORVINUS) OF HUNGARY (1458-90)

(1467 [before 1 April])

Register attached to these presents)

[Reg 1467]

This fragmentary document survived as an enclosure to the king's letter sent 1 April 1467 to the counties Pozsony and Veszprem about a diet held from 21 February 1467 to late March. (The king's letter about new customs duties, decided at the same meeting, addressed to Košice and Prešov is dated 24 March, see Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*, (Budapest: Akadémiai K. 1989) [=DRH Matth.], 169-71) The letter and the decree reflect an important step in Matthias's fiscal reform: the change of the old “chamber's profit” to a new direct tax, the “levy of the royal fisc.” This was not merely a change of name (which did not, in fact, become current) but rather an attempt at reducing the number of those who enjoyed exemption from the old tax. The decree's special interest lies also in the fact that it defines the term “nobleman” and imposes the tax on all those, who, according to the judgment of the time, were not “true nobles.” However, even though there were references to it in the administration of finances, it is not clear, whether it was meant to be a generally valid law, because—as the king himself admitted in a charter (exempting Andreas Baumkirchner and his family from paying the new tax)—“it has not been promulgated for perpetual validity ... and hangs in a way in uncertainty” (*nondum perpetua editione publicatum sed aliquantulum quasi in incerto pendet*, 28 May 1467, MNL OL DL. 100 776).

MSS.: a simple copy in a cartulary, Slovak Central Archives, Bratislava, Arch. cap. Poseniensis, Cod. No. 84, foll. 13r-14v; a paper transcript by the cathedral chapter of Veszprém of 25 April 1467, Episcopal Archives, Veszprém, Misc. 61. (film in MNL OL DF 200513).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Martinus Georgius Kovachich,, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. (Buda: Regia Universitas, 1790), pp. 375-7; Johannes Nicolaus Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801), 2: 182-7; Stephanus Katona, *Historia critica regum Hungariae*. 42 vols. (Pest: Weigand, 1779-1817), 15:208-11; Igatius Batthyany, *Leges ecclesiastici regni Hungariae et provinciarum adjacentium*. 3 vols. (Alba-Carolina: Typis episcopalibus, 1785–18270), pp. 504- 07; *DRH Matth.*, pp. 165-68.

LIT.: LajosThallóczy, *A kamara-haszna (lucrum camerae) története ...* [History of the chamber's profit (*lucrum camerae*) in the context of taxation in Hungary], (Budapest: Weiszmann, 1879), pp. 94-96; András Kubinyi, “Die Statsorganisation der Matthiaszeit,”in: Idem, *Matthias Corvinus* (Herne: Schäfer, 1999) 5-96, here pp. 52-64.

REGISTRUM PRESENTIBUS LITTERIS ADIUNCTUM

[ante 1 Aprili] 1467

I. Item primo, quod omnes solvant, sed clerici de fundis clericalibus tantum et nobiles regni de fundis nobilitaribus tantum non solvant lucrum camere seu tributum fisci regalis.

Nobiles autem regni intelligantur, qui habent meram nobilitatem a regibus seu privilegium nobilitatis huiusmodi, sive tales sub nomine regio, sive sub ecclesiis, sive sub quacunque alia iurisdictione degant. Alii autem omnes solvant ubique, sive sint nobiles castrenses sive prediales ecclesiarum, qui non habent privilegium nobilitatis a regibus sive cives liberarum civitatum sive Cumani sive Philistei, Rwtheni, Tortoni, Walachi, sive cuiuscunque alterius condicionis vel secte preter Walachos, qui loco lucri camere in Transsilvania solvant centesimam.

Ab ista solventium regula excepti intelligantur duo: qui de domibus dominorum suorum terrestrium vivunt nec colunt terram propriam in numero civium vel rusticorum loci quales sunt, qui elimosina conservantur in domibus vel mercenarii vel agricole dominorum vel quicunque artifices seu servitores, qui de manibus dominorum suorum sustentantur. Si autem per se vivunt vel terram suam colunt, cuiuscunque artificii sint vel exercitii, solvere teneantur.

II. Item solutio fiat per portas ita, quod si in uno integro fundo seu sessione cum terra ad eundem unum fundum pertinenti sub una porta unus habitat, solvat denarios XX. Si autem duo unum fundum et unius fundi terram sub una porta habitantes obtinent, ambo solvant ad rationem unius et porte et medie. Quodsi plures fuerint, puta tres, solvant ad rationem unius et medie porte. Si vero quatuor duarum et deinceps qualitercunque terra inter eas divisa sit, quia hoc ad dominum terrestrem pertinet. Qui autem solus tenet terram duorum fundorum vel plurium, solvat pro duabus vel pluribus portis; liberis semper inquilinis in villis vel opidis exterioribus, qui non utuntur aliqua particula terre, videlicet qui nec terrestri domino quitquam solvunt.

III. Nobiles regni profugi ante Turcos et similes, ubicunque habitent, ut nobiles sint a tali solutione exempti, nisi se tradiderint sub iura eorum, in quorum terris commorantur, quod ultimum volumus generaliter ubique intelligi.

IV. Si rex lucrum camere dedit in concambium, rescindatur contractus vel contentetur ille alio modo secundum arbitrationem prelatorum et baronum.

V. Prelatis autem ecclesiarum, qui sub certo numero gentium exercituare tenentur, quibus lucrum camere hac ratione cognoscimus relaxatum, fiat per regem recompensatio vel competens alleviatio in onere, secundum quod arbitrabuntur inter dominum regem tales prelati et barones.

VI. Item dicator emittatur in principio anni, scilicet intra octo dies Ianuarii et non habeat dicator salarium trium florenorum pro singulo equite, ut hactenus, sed minus, prout fuerit competens. Et semper dicet cum iudice nobilium et faciat tot dicas, quot portiones sunt in unaquaque possessione nec plures nec pauciores.

VII. Singule autem dice redimantur duobus denariis tantum. Et si inter dicandum fuerit oborta aliqua differentia, puta de domibus desertis vel de numero portarum et similibus, stetur iuramento villici vel officialis. Ceterum villicus, apud quem dicator voluerit descensum, gaudeat immunitate, sed prebeat hospitium dicatori. Ne tamen possit ab eo nimis angariari, hoc est unam pintam vini communem, unum panem vulgo kalacz, unum pullum, unum quartale Budensem de avena, sive sit alia mensura tantundem continens. Completa vero dicatione dicator deponat se in loco sedis iudicarie illius comitatus et intra quindecim dierum exigat dicata. Et si quis allegaverit sibi factam esse iniustitiam, stetur asseverationi iudicis nobilium, nisi dicator deferat iuramentum conquerenti. Post quindecim dies cum birsagiis trium marcarum super contumaciam dicata exigantur et sedes nobilium ipso quintodecimo die teneantur omnino cum litteris birsagialibus comitem vel vicecomitem adversus contumaces, alioquin per se vadat exceptis de iniustitia dice querulantibus, que corrigatur, ut dictum est supra.

VIII. Item non minus, quam decem portis sit unus villicus et quod pluribus villicis in possessione una dimittatur una porta et illi omnes exhibeant unam hospitalitatem. Et si inde orietur differentia inter villicos, in sede nobilium ratificetur etc.

REGISTER ATTACHED TO THESE PRESENTS

1467 [BEFORE 1 APRIL]

1 Item, the first, that all should pay, but the clergy from ecclesiastical lands and the kingdom's nobles from noble lands, but only from these, do not pay the chamber's profit or the levy of the royal fisc.¹

The kingdom's, nobles are understood to be those who hold pure nobility from the kings or an appropriate privilege of nobility and live under the jurisdiction of either the king, or of the churches, or of some other authority. All others, whoever they are, however, pay, whether they are nobles of the castles² or predial nobles of churches,³ who do not hold a noble privilege from the

¹ The chamber's profit (*lucrum camerae*)—for a short while under Matthias called *tributum fisci*—was originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins; in this form first mentioned in **1231**, but certainly earlier than that date. By the late thirteenth century, by which time the original way of gaining this income has been abandoned, the chamber's profit had become a direct tax but retained its name until the end of the Middle Ages; see Lajos Thalóczy, *A kamara haszna (Lucrum camerae) története...* [History of the chamber's profit (*lucrum camerae*) in the context of taxation in Hungary] (Budapest: Weiszmann, 1879). In around 1459 the royal income from this tax was ca. 40 thousand gold florins, to be increased by the reforms of Matthias to almost 400 thousand; see János M. Bak, "Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter", in R. Schneider, ed., *Das spätmittelalterliche Königtum im europäischen Vergleich*. (Sigmaringen: Thorbecke, 1987), pp. 347- 87, here p. 360. The emphasis of this crucial sentence of the decree is that clergy is obligated to pay the tax for land they may hold besides their prebends, and nobles for properties rented, mortgaged, etc., other than then their "noble estates." It was also possible that, for example, a non-noble priest held inherited servile land, or a nobleman moved to a plot under seigniorial jurisdiction, in which case they had to pay taxes for these holdings. Noble exemption from direct taxes goes back to at least 1342, the first regulation of the chambers' profit. See also **1447:36** and **1458Sz:5**.

² The social group of "castle nobles"—a survival of sorts of the early medieval *jobagiones castri*—was a stratum above the tenant peasants but below the "true nobles." Especially in northern Hungary (today's Slovakia), they were called thus (while in the south they usually became mostly *prediales* of ecclesiastical lords, such as the bishop of Zagreb, see below), were organized in "seats," similar to the noble county, had tenant peasants, and were obligated to military service. Throughout the late Middle Ages, the crown attempted to tax these semi-privileged nobles, while they refused to pay. Frequently the compromise was made that they—just as the nobles without tenant peasants and the *prediales*—paid the half of the extraordinary subsidy; see Antal Fekete-Nagy, "Az országos és particularis nemesség tagozódása a középkorban" [Division of national and 'particular' nobility in the Middle Ages], in: *Domanovszky Emlékkönyv*, pp. 159-84; György Bónis, *Hűbériség és rendiség a középkori magyar jogban* [Feudalism and corporatism in medieval Hungarian law]. (Kolozsvár: Erdélyi Tudományos Intézet, n.d. [1947] rperr. Budapest: Közgazdasági és Jogi Könyvkiadó 2000), pp. 181-216, 331-87.

³ On the *prediales* see the preceding note and Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 79-84.

kings, or burghers of free cities,⁴ or Cumans, Jász, Ruthenes, Tartars, Vlachs, or people of any other condition or group, with the exception of those Vlachs, who in Transylvania pay the hundredth instead of the chamber's profit.⁵

From this payment two kinds of people are to be exempted: those, who live in the houses of the lords of the land and do not cultivate their own plot as one of the townspeople⁶ or peasants of the community, and those who receive board in the house of their lord, or are paid soldiers or husbandmen of their lord or any type of craftsmen or servants, who obtain their livelihood from the hands of their lord. However, if they live on their own or till their own land, they have to pay, even if they are craftsmen or the soldiers of someone.⁷

2 Then, this payment should be made according to *portae*⁸ thus that if one (family) lives on one full-sized plot or tenancy and on the land pertaining to the same one plot with one gate, he

⁴The taxation of the free royal cities seems to have been a compromise offered to the nobility by the king (Kubinyi, p. 16), but in fact, Matthias never planned to subject his cities to the direct tax. Several individual exemptions have survived, see *DRH Matth.*, p. 166, n. 1/2. In the king's letter to the cities (of 24 March, as referred to above) nothing is said about their duty to pay the chamber's profit, only about the other part of the reform, the renaming of the thirtieth customs' duty as "crown's levy" (*vectigal corone*), and the appointment of Sigismund Ernuszt of Csáktornya (*bishop of Pécs 1473-1504, chief treasurer*) as the general administrator of the new revenues.

⁵ On the formerly free warrior groups of Cumans and others, see Hansgerd Göckenjan, *Hilfsvölker und Grenzwächter im mittelalterlichen Ungarn* (Wiesbaden: Steiner, 1972) and Nóra Berend, *At the gate of Christendom. Jews, Muslims and "Pagans" in medieval Hungary, c. 1000–c. 1300* (Cambridge: Cambridge University Press, 2001). By this time, the majority of Cumans were peasants, their captains being their landlords. The estates tried to tax them, but the king collected their taxes for himself, through the *provisor* of the Castle of Buda (see András Kubinyi, "A budai vár udvarbírói hivatala 1458-1514" [Office of the provisor of the court in castle Buda], *Levéltári Közlemények* 35 (1964) 67--98. — Certain Romanian settlers were obligated to pay a special tax usually referred to as the "fiftieth." The reference here to a "hundredth" is unique, and may even be a scribal error.

⁶The reference to townsfolk, *cives*, is to the dwellers of both cities and those non-privileged market towns (*oppida*) that enjoyed more or less liberties. Towns, even the walled ones, had, of course vineyards and plow land in and around them, owned by the citizens.

⁷House servants and members of the lords' households were always exempt from the chamber's profit, see e. g., **1351: 5; 1397: 30; 1411: 3.**

⁸*Porta* was the taxation unit in the medieval Hungarian countryside, originally referring to one tenant plot (*sessio*) with one gate (*porta*). By the later Middle Ages frequently several families lived on one plot (sometimes in order to avoid taxation), often with landless peasants (*inquilini*). István Szabó, in *Tanulmányok a parasztság történetéhez* [Studies on the history of the Hungarian peasantry], (Budapest: Teleki Pál Tud. Int., 1942) pp. 13-14 found that in some parts of the country one third or less of the tenant peasants held a full virgate, while quarter-virgaters amounted to up to 40-50% of the rural population. On the other hand, there is evidence for peasant tenants with sufficient land to their name to have moved together precisely in order to avoid paying the portal tax separately; on these problems see now András Kubinyi, "Wüstungen, Zersplitterung der Bauernhufen und Wirtschaft in den Besitzungen der Magnatenfamilie Garai in Ungarn," *Festschrift Othmar Field*, pp. 367-77 (Graz-Wien: Leykam, 1987). See also István Szabó, "Hanyatló jobbágyság a középkor végén" [Decline of tenant peasants at the end of the Middle Ages],

pays 20 pennies. If, however, two live on one plot and that plot has one gate, both pay at the rate of one *porta* and a half. If there are more, say three, they (each) pay at the rate of a *porta* and a half. If, however, four or more are on two (plots), the land is to be divided among them (for purposes of payment of taxes), [for that pertains to the lord of the land]⁹. He, who holds alone a tenancy of two plots or more, pays for two or more *portae*. Excepting always those landless peasants in the villages or outskirts of market-towns,¹⁰ who do not use any particular plot, those, to wit, who do not pay anything to the lord of the land either.¹¹

3 Nobles of the kingdom who fled the Turks, and similar persons, are exempt from any such payment wherever they live, unless they have commended themselves into the hands of those on whose land they stay, which we wish to be understood as final.¹²

4 If the king grants the chamber's profit in exchange, the original agreement must be cancelled or in some other way satisfied, according to the judgment of the barons and prelates.¹³

5 The prelates of churches who are obligated to send a certain number of soldiers to war and for whom, because of this reason, the chamber's profit is known to have been waived, should be recompensed by the king or their burdens suitably reduced, according to the agreement between the lord king and such prelates and barons.

6 Then, the tax-assessor is to be sent out at the beginning of the year, namely in the first eight days of January, and the tax-assessor should not receive, as hitherto, a salary of three florins

in Idem, *Jobbágyok, parasztok: Értekezések a Magyar parasztság történetéből*, István Für, ed. pp. 167-200 (Budapest: Akadémiai K. 1976).

⁹ The text is obscure, but the meaning in context is clear: multiple occupants on two plots of land will pay prorated shares of the tax. A clarifying phrase (e.g., *unum fundum duarum terrarum habitantes*) appears to have dropped out of the first clause, while the final clause ("for that pertains ...") seems to be either a scribal intrusion or the conclusion of a separate, missing provision. Actually, the crown's attempt to counteract the move of tenants to one plot in order to avoid taxation, was not successful.

¹⁰ The text is unclear. In medieval Hungary, *oppida* usually meant semi-privileged market-towns, but here seem to refer rather to settlements outside or at the outskirts of the villages. There is evidence that cottars and landless peasants lived on the outlying parts of the settlements, see Ferenc Maksay, *A magyar falu középkori településrendje* [Settlement structure of medieval Hungarian villages] (Budapest: Akadémiai K., 1971), p. 127.

¹¹ Due to the partible inheritance and other factors, the number of landless peasants (*inquilini*) increased in the later Middle Ages; many of them lived on tenant peasants' plots and supplied the wage labor in times of seasonal employment. See István Szabó, "Hanyatló jobbágyság a középkor végén" [Decline of tenant peasants at the end of the Middle Ages], in Idem, *Jobbágyok, parasztok: Értekezések a Magyar parasztság történetéből*, István Für, ed. pp. 167-200 (Budapest: Akadémiai K. 1976)

¹² There is evidence for noblemen falling into the status of tenant peasants after having lost their land to the advancing Ottomans; settled on servile plots, they came to be subject to taxation.

¹³ That is: the king is obliged to have the approval of the prelates and barons should he give (in exchange for other property) to another party the right to collect the chamber's profit (or the new "levy"). In which case, the original terms of collection (as specified in this document) would no longer be valid. See *DRH Matth.*, p. 167 n. IV/1; cf. also 1481:4., above.

for each horse, but less, as is appropriate. And he should always make assessment together with the noble magistrate, and make as many assessments as there are parts of every possession [or: village], neither more nor less.¹⁴

7 For every assessment only two pennies should be paid. And if some kind of disagreement emerges with the assessor, be it about deserted houses or the number of *portae* or something similar, the oath of the reeve or official should be decisive. Furthermore, the reeve, with whom the assessor wishes to billet may be exempt, but should host the assessor. However, it should not be allowed to overly burden him beyond one pint of common wine, one bread commonly called *kalács*,¹⁵ one hen, and one Buda quartal of oats¹⁶ or some other measure containing the same amount. After the completion of the assessment, the assessor should betake himself to the seat of the court of that county and collect the tax within fifteen days. And if someone alleges that he suffered injustice, the noble magistrate should decide unless the tax-assessor defers the oath to the complainant. After fifteen days the taxes are to be exacted by the fine of three marks for contempt. And on that same fifteenth day county court is to be held on the letters of fines and the *ispán* or *alispán* [sent out] against the tax-delinquents, or else, he [the tax-collector] should go alone, excepting the cases of those who complain about injustice in the assessment, which have to be remedied as defined above.¹⁷

8 Then, that there should be one reeve for each 10 and not fewer *portae* where there are several on one estate, one *porta* is to be deducted and all [the reeves] together should offer one hospitality. Conflicts caused because of this [arrangement] amongst the reeves should be settled in county court, and so on.¹⁸

¹⁴This was in fact received practice for centuries, see e. g., **1411:4**; and **1470:1**.

¹⁵*Kalács* (a Slavic loan word) was—and still is—the name of a higher quality bread, usually from fine (white) meal, baked for festive occasions in a round form, mostly with a hole in the middle.

¹⁶A quartal (in Hungarian: *véka*) of Buda was ca. 13.4 liter, approximately 10 kg of grain.

¹⁷Most of these arrangements were included in earlier decrees about assessment and taxation (e. g., **1351: 5**, **1397:30**; **1411: 3**, and so on), however, the reeves were not earlier obligated to offer hospitality to the tax-collectors (see **1411:1**).

¹⁸Nothing is known of the arrangement described here establishing the number of reeves on larger estates (villages?). *Ratificare* (ratify?) is unusual; here. The surviving text may be incomplete.

CONCORDANCE

Kovachich <i>Vestigia</i> ;	,	<i>DRH Matth</i> ; DRMH
Kovachich		
<i>Supplementum</i>		
I—III		I
IV		II
V		III
VI		IV
VII		V
VIII		VI
IX		VII
X		VIII

LAW OF KING MATTHIAS I (CORVINUS) OF HUNGARY (1458-90)

OF 18 SEPTEMBER 1471

The diet was called by the king in response to the conspiracy headed by Archbishop John Vitéz and his nephew, Janus Pannonius, the poet-bishop, which arose as a protest against Matthias's foreign policy and authoritarian regime. In order to secure the support of a wide stratum of nobles, Matthias invited all nobles to a general assembly on St. Giles's Day (1 September) to Buda. The nobility utilized the king's precarious position and requested the confirmation of several of its traditional privileges augmented by articles that strengthened the noble counties' jurisdiction. The king not only consented to the articles, but called them "a true decree to be observed by all." The estates, in return, declared their loyalty to the king, and sent a letter to Cracow confirming Matthias's legitimacy against the Polish claimant and supporter of the rebels, Prince Casimir, son of King Casimir IV (Central State Archives, Warsaw, Akty metyrki koronej publ. Nr. 12 of 21 September 1471).

MSS.: Only sixteenth century and later copies, on paper: MNL OL D1 13382, 83793,274352, and in the Codices Esterhazy, Kollar and Nádasdy; see *DRH Matth.* p. 192.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus et al. eds., (Budapest: Franklin, 1896), 1:358-73; Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490* (Budapest: Akadémiai K. 1989) [=*DRH Matth.*], pp. 190-202.

LIT.: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801) 2:229; Vilmos Fraknói, *A Hunyadiak és Jagellók kora 1440-1526* [The age of the Hunyadi and the Jagiello 1440-1526] Budapest: Franklin, 1896, pp. 224-46; György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary]. pp. 258, 292 (Budapest: Akadémiai K., 1971), see also "Men Learned in the Law in Medieval Hungary." *East Central Europe/L'Europe du centre-est*, 4, pt. 1 (1977), 181– 191; Lajos Bernát Kumorowitz, "Mátyás király pecsétjei" [Seals of King Matthias], *Turul* 46 (1932): 5-19.

18 SEPTEMBRIS 1471

Nos Mathias Dei gratia, rex Hungarie, Bohemie etc. notum facimus tenore presentium universis, quibus expedit, quod cum nos occurrentibus variis undique negotiis hanc conventionem generalem omnibus prelati, baronibus ac nobilibus de regno nostro ediceremus tractaremusque maturius cum eis super ipsis, iidem prelati, barones et nobiles cupientes se certis libertatibus et privilegiis fulciri, sive quod in decretis preteritis ita sufficienter expressa non habebantur, exhibuerunt et presentaverunt nobis articulos infrascriptos:

I. Primus est, quod nos singulis annis circa festum Ascensionis Domini de consilio prelatorum et baronum nostrorum edicamus generalem conventionem omnibus regnicolis nostris et hoc, si necessitas exigat.

II. Secundus est, quod nec nos, nec iudices curie nostre aut prelati et barones absque ordine iudiciario nobiles regni detineamus sive detineant, dempto eo, si aliqui nobilium factores fuerint et alias servitio suo non completo ab eorum dominis recesserint, quia tunc detineri possunt. Ex parte vero officialium teneatur modus in decreto condam Sigismundi regis expressus.

III. Tertius est, quod in facto decimarum teneatur modus ille, qui exprimitur in decreto nostro Albe tempore coronationis nostre edito, dempto illo, quod si in aliquo comitatu nobiles voluerint adiungere unum nobilem et plebanum similiter unum de illo comitatu dicatori decimarum tempore dicationis eundem de mala dicatione, si faceret, suo episcopo accusaturos; qui si non fecerint, nihilominus dicator procedere possit.

IV. Quartus est, quod camere salium nostrorum regalium teneantur in illis locis, in quibus tempore domini Sigismundi regis tenebantur, et sub modo et libertatibus tunc solitis; que etiam in metis [et] in illis locis fiant, unde commode percipi possit.

V. Quintus est, quod deinceps iudicium generale non celebretur, nisi secundum antiquam consuetudinem regni nostri.

VI. Sextus est, quod tam regalia, quam baronum et aliorum omnium nobilium regni nostri castra finitima, in partibus scilicet superioribus et inferioribus, sive in regnis Dalmatie, Croatie et Sclavonie et in partibus Transylvanis habita ad conservandum Hungaris, personis scilicet dignis et idoneis et non forensibus collocentur.

VII. Septimus est, quod in exercituatione et levatione banderiorum prelatorum et baronum nostrorum ac exercitus generalis regnicolarum teneatur idem modus, qui fuit tempore quondam domini Sigismundi regis, et qui in bonis destructi haberentur, agatur cum eis iuxta exigentiam bonorum suorum.

VIII. Octavus est, quod nos utamur quatuor vel quinque sigillis, videlicet bulla aurea et dupplici, secreto, iuridico et anulari.

IX. Nonus est, quod si tempore exercitus vel alias quocumque tempore aliqui in domibus et curiis nobilium aut personarum ecclesiasticarum preter voluntatem eorum descenderent et dampna committerent, vel iam commisissent, aut cimiteria seu ecclesias confringerent aut iam confregissent, tales evocentur ad octavas cum insinuatione. Ex parte quorum, si agens voluerit, non aliter, nisi per viam communis inquisitionis iudicium et iustitia impendatur. Que etiam circa finem prefati decreti nostri tempore coronations nostre editi in parte tacta sunt.

X. Decimus est, quod nos ad simplicem querimoniam non faciamus occupari bona aliquorum, sed in occupatione agatur semper iuxta consuetudinem regni nostri ordine iudiciario. Nec etiam occupentur donata bona a manibus possidentium donec ordo iuris decernat de dominio rei donate, ad quem pertinere debet; et hactenus male occupata bona simpliciter remittantur.

XI. Undecimus est, quod nos de cetero, nullam dicam sive taxam preterquam lucrum camere generaliter a regnicolis propter aliquam causam exigamus aut exigere faciamus preter eorum voluntatem et consensum.

XII. Duodecimus est, quod nos nullas litteras adiudicatorias in sede regni emanatas cassemus, sed data gratia agentibus in primis octavis tunc occurrentibus huiusmodi litteras adiudicatorias ad invalidandum vel roborandum iubeamus exhiberi, ut in talibus moris est, possessionibus et aliis bonis interim apud manus vigore litterarum ipsarum adiudicatoriarum possessorum remanentibus. Et si in contrarium huius, hucusque aliquid actum fuisset, revocemus. Nec etiam tales littere nostre, si que contra leges et antiquam consuetudinem regni nostri emanate essent, vires habeant. Preterea non imputetur iudicibus regni nostri, si tales littere non observabuntur in iudicio.

XIII. Tredecimus est, quod nos duo beneficia ecclesiastica uni person non conferamus, et si contulerimus, de eisdem beneficiis duobus aut pluribus personam eadem habentem tempore exercitus secundum antiquum modum exercituari faciamus iuxta posse ipsius.

XIV. Quartus decimus est, quod magistri protonotarii, unicuique faciant iustitiam sub pena consueta, et nec ipsi, nec eorundem assessores procuratores esse possint. Ubi autem adversus eos et eorum iudicium regie maiestati aut baronibus per aliquos acclamatum fuerit, regia maiestas cum baronibus suis iudicium examinet, et si acclamatio contra veritatem facta reperitur, acclamatores puniantur premissa pena consueta.

XV. Quintus decimus est, quod honorem comitatus nullus, nisi nobilis tenere possit.

XVI. Sextus decimus est, quod nullorum iobagiones indebite abducantur sub penis in decreto dicti quondam domini Sigismundi regis contentis. Et si comites ac vicecomites et iudices nobilium comitatus alicuius indebite abductos iobagiones ad requisitionem querulantis non reducerent gravamine consueto, honore suo priventur. Ubi autem aliqui iobagiones suos libere non dimitterent, teneantur omnes nobiles contra tales insurgere in adiutorium comitis, maxime si idem ad compellendum tantam non habeat facultatem. Preterea si solus comes parochianus contra ius legesque regni abduceret iobagiones, modo simili honore sui comitatus privetur

XVII. Decimus septimus est, quod tantum ille cause in foro et sede spirituali tractentur et iudicentur, que in dicto decreto nostro tempore coronationis nostre edito continentur et alie non. Et ubi contrarium acceptaretur, pro habendo superinde remedio petatur regia deliberatio.

XVIII. Decimus octavus est, quod nos ius patronatus omnium ecclesiarum vel monasteriorum sigilla habentium auferamus ab omnibus et pro nobis retineamus, quia multe incommoditates eveniunt ab eis regno et regnicolis, quod suos patronos fovent et sigillo suo in favorem illorum libere uti non possunt.

XIX. Decimus nonus est, quod nullus penitus regnicolarum sive sint clerici, sive seculares, contra libertatem regni, qua a tempore quondam sanctissimi Stephani regis illibate utitur, directe omisso medio conquestum a curia Romana contra quempiam reportare possit, sed quilibet prius hic in regno coram suis iudicibus ordinariis ius suum prosequatur, et ita tandem, si voluerit, per viam appellationis causam suam introducat. Quibus contra facientes beneficiati suo beneficio priventur, non beneficiati autem et laici penam capitis luant.

XX. Vigésimus est, quod in bonis ac nundinis et foris regnicolarum factores nostri quascunque res ab aliquo sine solutione et competenti pretio occupare et auferre non valeant.

XXI. Vigésimus primus est, quod pedites et equites nostri sive tempore exercitus, sive alias in eorum progressibus victualia sine pretio auferre non possint. Et si in contrarium huius fieret attemptatum, extunc capitanei eorundem peditum vel equitum debita pena puniantur. Ubi autem nobis pro dampno per ipsos illato querimonia porrigeretur, per eos satisfactionem impendere faciamus de dampno premissio.

XXII. Vigésimus secundus est, quod capitula et conventus in redemptionibus litterarum et executionibus viarum observent illum modum, qui in prefato decreto quondam domini Sigismundi regis continetur. Ubi si ille modus non observaretur, et superinde comprobatio per attestaciones nobiliurn illius comitatus per modum communis inquisitionis sive congregationis generalis facta dari possit, contra facientes sua amittant beneficia.

XXIII. Vigésimus tertius est, quod nos bona indebite occupata reddi et restitui faciamus illis, quorum sunt.

XXIV. Vigésimus quartus, quod viri ecclesiastici neque maiores, neque minores deinceps dicentur aut aliqua taxa graventur; tamen illi ex eis, qui exercituare tenentur, id faciant secundum antiquum modum.

XXV. Vigésimus quintus est, quod tributa in locis suis exigantur secundum antiquum modum, tempore dicti scilicet domini Sigismundi regis observatum.

XXVI. Vigésimus sextus est, quod nulla fassio invite facta vel facienda vires habeat, postquam veritas ostenderit, sive docuerit eam invite fuisse factam.

XXVII. Vigésimus septimus est, quod bona post coronationem nostram per quempiam occupata infra tricesimum diem a die datarum presentis decreti computandum remittantur; et si aliqui non

remiserint, tales in facto potentie convincantur et in primis octavis contra tales sententia diffinitiva per iudices ordinarios decernatur absque ulteriore prorogatione.

XXVIII. Vigésimus octavus est, quod omnes illi, qui per se nobiles regni nostri maiores vel minores sine iusta causa interfecerint aut per alios interficere fecerint, brevi evocatione in presentiam nostram evocentur ordine infrascripto. Quod videlicet actor extrahens litteras evocatorias a nobis cum capituli aut conventus et nostro hominibus contra illum, contra quem huiusmodi littere evocatorie extracte sunt, procedere non valeat, nisi prius huiusmodi litteras una die tempore sedis iudicarie illius comitatus, ubi id fieri debebit, more consueto in ipso loco sedis nobilibus illius comitatus invicem constitutis publice presentare debeat, ab eisque petat unum nobilem, coram quo fiat ipsa evocatio; et facta executione superinde litteras tam capituli aut conventus, et comitatus pro sui parte extrahat. Qui quidem in causam attractus a die evocationis infra vigésimum quintum diem coram nobis, ubi eotunc, in regno nostro Hungarie Deo duce constituemur, constitui teneatur secundum formam et vim insinuationis iudicium et iustitiam accepturus. Ita tamen, quod in causam attractus suam innocentiam nunquam iuramento, sed communi inquisitione aut duellari certamine expurgare valeat. Tandem ipse in causam attractus, si convictus fuerit, pro ipso homicidio non possessionem aut possessions, aut portions possessionarias amittat, sed pena mortis sui proprii capitis puniatur, et preter voluntatem agentis nulla redemptio capitis fieri valeat. Ubi autem contra ipsum in causam attractum minus iuste et sine causa dicto ordine iuris processum fuerit, et ipse communi inquisitione aut duellari certamine suam innocentiam purgaverit, agens contra eundem in causam attractum in emenda capitis pro indebita inquietatione convincatur et iudex super ipsa emenda capitis de iuribus possessionariis ipsius agentis in causam attracto satisfacere valeat, ubi nulla sit portio iudicaria.

XXIX. Vigésimus nonus est, quod castella infrascripta, videlicet in comitatibus Simigiensi castellum Zenyer, [in Zempliniensi] castellum Zropko, in Maromarwsiensi castellum Dolha, in de Bereg castellum Gellyenes Ladislai Wpory, in Zempliniensi castellum Abara eiusdem Ladislai Wpory, in eodem Zempliniensi castellum Czeeke, in de Posega castella Knesewcz et Farklewcz Blasii Hwzar, in de Walko castellum Lanka sub nota perpetue infidelitatis infra viginti quinque dierum spatia a die datarum huius decreti computando distrahantur et penitus aboleantur.

XXX. Tricesimus est, quod nos ad supplicationem comitatus Simigiensis tributum in Chorgo in eodem comitatu Simigiensi habito exigi solitum distrahi debere concessimus, ita ut peramplius illic tributum non exigatur.

XXXI. Tricesimus primus et postremus est, quod presens decretum ab omnibus sub penis in eodem articulariter specificatis observetur, et quod ad singulos comitatus scribatur et deferatur idem decretum ad locum sedis iudicarie singulorum comitatum, quod in singulis conventionibus nobilium intersit; et comites vel vicecomites ac iudices nobilium ipsorum comitatum omnes et singulos articulos in eodem expressos in illis rebus, in quibus ipsos tangunt, inviolabiliter observent et per alios observari faciant. Omnes autem contrarium facientes iidem comites vel vicecomites et iudices nobilium tamquam communis iustitie defensores puniant penis in ipso decreto expressis. Et si qui a nobis in contrarium decreti pro eorum partibus litteras extraxerint, eodem non observentur. Ceterum, si aliquibus ipsi comites vel vicecomites et iudices nobilium in

aliquo contrarium decreto facerent, pro tali eorum facto et perpetratione malorum et illatione dampnorum evocentur in curiam nostram cum insinuatione, ubi vigore litterarum nostrarum in contrarium decreti a nobis ipsis transmissarum nunquam se defendere valeant, sed convincantur in facto potentie.

Quibus exhibitis iidem prelati, barones et nobiles regni nostri supplicarunt nobis, ut eosdem articulos ratos et gratos habentes admittere et approbare dignaremur. Unde nos admissa supplicatione eorundem huiusmodi articulos, quia iidem non mediocriter communi utilitati regni nostri conferre cernebantur, presentibus litteris nostris de verbo ad verbum inscriptos ratos et gratos habentes, admittimus et approbamus ac ab omnibus pro vero decreto regni teneri volumus. Nos etiam similiter tenebimus harum nostrarum litterarum vigore et testimonio mediante.

Datum Bude, feria quarta proxima ante festum beati Mathei apostoli et evangeliste, anno Domini millesimo quadringentesimo septuagesimo primo, regnorum nostrorum anno Hungarie etc. quarto decimo, coronationis octavo, Bohemie vero tertio.

18 SEPTEMBER, 1471

We, Matthias, by the grace of God king of Hungary, Bohemia,¹ etc. make known to all to whom it may concern by these presents that when, because of diverse matters emerging everywhere,² we announced this present diet to all our kingdom's prelates, barons, and noblemen and held mature deliberation with them about those matters, these same prelates, barons, and noblemen, desiring to be secure in certain particular privileges and liberties, which they considered not to have been set forth adequately in previous decrees, presented and handed over to us the following articles:

1 The first is, that we shall call a diet every year at the time of the feast of the Ascension of the Lord³ for all of our the gentlemen of the realm, if it is necessary.

2 Second, that neither ourselves, nor the justices of our court, nor the prelates shall have the liberty to arrest nobles without due process of law, except, if any of them is a steward and leaves his lord without completing his service; in which case he can then be arrested.⁴ As for the officeholders, the process set forth in the decree of the late King Sigismund shall be maintained.⁵

3 Third, that in the matter of tithes, that rule shall be maintained which is set forth in the decree issued in Székesfehérvár on the occasion of our coronation,⁶ except that if in a particular county, the nobles should wish to assign to the tithe collector some nobleman or in similar fashion, a parish priest⁷ from that county in the time of tithe-collecting who would accuse him before his

¹ The Czech royal title appeared for the first time in the decree of 1470 [after 24 November], *DRH Matth.*, pp. 182-9, after Matthias's election to the throne of Bohemia by the Catholic estates on 3 May 1469.

² The understatement of "diverse matters" refers, of course, to the conspiracy headed by John Vitéz, which had called Prince Casimir to Hungary in order to depose Matthias. Two days after the issue of this decree the prince declared war on Matthias and the tragic course of events, which led to the downfall of Archbishop John and the death of Janus Pannonius in the spring of 1472, began.

³ Annual diets were regularly promised by Matthias as well as his predecessors. The date proposed here, *Ascensio Domini*, precedes Pentecost (stipulated in **1458Sz: 13** and **1458:37**) by 10 days. However none of these fixed dates were kept.

⁴ Cf **1458: 23**; **1468:7**, and their antecedents. This article empowers the judges to enforce the dependence of noble retainers (*familiares*) on their *domini*, despite their noble liberty. The noble retainer was a lesser nobleman who chose (or, occasionally, was forced) to accept military or administrative positions in the service of a prelate, baron or major landowner. He kept his noble privilege and was subject to his senior (*dominus*) only for service, for which he received monetary compensation and occasionally land. The institution resembled West European vassalage, but was less formalized (often signaled by only a handshake in the castle gateway), less mutual, and rarely passed onto descendants. See Erik Fügedi, *The Elefánthy. The Hungarian Nobleman and His Kindred*. (Budapest: CEU Press, 1998), pp. 137–40, and Martyn Rady, *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 110–31. See also: János M. Bak, "Feudalism in Hungary?" in: *Feudalism: New Landscapes of Debate*. Sverre Bagge, Michael H. Gelting, Thomas Lindkvist, eds. (Turnhout: Brepols, 2011) pp. 203-17.

⁵Cf. **1435/I:6**

⁶ **1464: 24.**

⁷ The deployment of a noble controller, or the attachment of a noble magistrate to the tithe-collector was decreed earlier but no mention was made of a *plebanus*. (In the thirteenth-fourteenth century, *plebanus* was

bishop for improper tithing if he acted so; nevertheless, if they did not do that, the tithe-collector can proceed in his duties.

4 Fourth, that our royal salt chambers shall be kept in the same places as they used to be in the time of the lord King Sigismund,⁸ and in a manner and with the privileges as were customary then; and they shall be located on the borders and in such places where salt is easy to obtain.⁹

5 Fifth, that general assizes are no longer to be held, unless in accordance with the ancient custom of our kingdom.¹⁰

6 Sixth, that the defense of the border fortifications, be they the king's or the barons' or belonging to any other noble of the realm, namely those, in the upper or lower lands¹¹ or in the

the name for the priest of a parish which, exempted from the archdeacon's jurisdiction, had the right to collect tithes. For similar arrangements and the office of the *pievano* in Italy, see Robert Brentano, *Two Churches. England and Italy in the thirteenth century* (Princeton: Princeton University Press, 1968), pp. 68-76; on the origins of this system, see Guido Mengozzi, *La citta italiana nell'alto Medio Evo* ed. 2. (Firenze: La Nuova Italia, 1973), pp. 223ff. In the fifteenth century the term was used generally for a parish priest. The measure decreed here did not last long, for in 1481, no priest is mentioned among the possible controllers of the tithe-collectors.

⁸ Cf. **1405/I: 20**, **1405/II: 8**, also **1427A:8**.

⁹ The Codex Cassoviensis has here *in metis et locis*, meaning both the border posts and other locations, which makes better sense. The location of royal chambers of salt changed over times so that for the fifteenth century, András Kubinyi in "Königliches Salzmonopol und die Städte des Königreichs Ungarn" in *Stadt and Salz im Mittelalter*, ed. Wilhelm Rausch (Linz: Wimmer, 1988), pp. 213-32, counted sixty-six places, which at one time or another housed a salt distributing chamber. Most of them were in market towns, a quarter in royal cities, and a few in ports; see also István Draskóczy, "Salt Mining and Trade in Hungary from the mid-Thirteenth Century until the End of the Middle Ages" in József Laszlovszky *et al.* eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 205–18.

¹⁰ General assizes held by the palatine, often for several counties together were resented by the nobility partly for reasons of expenses. After several protests they were finally abolished in Matthias's *Decretum Maius* (**1486:1**).

¹¹ "Upper Hungary" meant today's Slovakia; "Lower Hungary" the southern borderlands, between Srem and Severin, with Timisoara at its center.

kingdoms of Dalmatia, Croatia, and Slavonia as well as in Transylvania, shall be entrusted to Hungarians, that is, to deserving and appropriate persons and not to foreigners.¹²

7 Seventh, that for military service and mobilization of the *banderia* of the prelates and our barons and the general levy of the gentlemen of the realm, the same procedure shall be observed as that in the time of the late lord King Sigismund;¹³ and if any suffer damage in their properties, they shall have action at law in accordance with the exigencies of their property.¹⁴

8 Eighth, that we shall use four or five seals, namely the golden seal, the double, the secret, and the judicial seals, and the signet ring.¹⁵

9 Ninth, if anyone billeted, in time of military campaign or at any other time, in the houses or mansions of nobles or ecclesiastics without their permission, should cause, or has caused, damage, or should break into, or has broken into cemeteries or churches, such a person should be summoned into the octave court with terminal summons.. And if the plaintiff so demands – but only in the process of common inquest – sentence and justice must be rendered on their behalf, as it is also mentioned at the end of our said decree issued at our coronation.¹⁶

10 Tenth, that we shall not seize anyone's properties upon a simple complaint, but always proceed according to the ancient custom of the realm, by due process of law in matters of occupation. Donated properties are not to be confiscated from the hands of their possessors until

¹² Cf. 1439: 5 and 1444: 2, 32, also 1458:4. This time, as the border castles are mentioned in particular, the diet's opposition was aimed probably at those mercenary captains, who, as the famous Czech František Hag, held castle and county Trencsén until his death at the siege of Sabač in 1476. There were also a number of Polish and Austrian lords who held their castles as allods and Matthias could not dislodge them at his will, such as Vitovec, former captain of Ulrich of Cilli, who in spite of earlier decrees was allowed to keep the county of Zagorje (MNL OL DI. 33195), just as Friedrich Lamberger retained the Medjumurje, and Andrew P(B)aumkircher Császárvára. In the North, Arva and Likava could be recovered from the Pole Peter Komorowski only in 1474. See: Tamás Pálosfalvi, "Vitovec János. Egy zsoldoskarrier a 15. századi Magyarországon" [Jan Vitovec: the career of a mercenary in fifteenth-century Hungary] *Századok*, 135. (2001) 429–472.

¹³ Cf. **1435/II:1-2** and **Prop:1**.

¹⁴ On the basis of this decree Matthias issued several specific orders of mobilization, mainly against the Polish troops of Prince Casimir; see *DRH Matth.*, p. 194, n. VII/2.

¹⁵ On the use of seals in the chancelleries of Matthias, see András Kubinyi, "Die Statsorganisation der Matthiaszeit," in: Idem, *Matthias Corvinus* (Herne: Schäfer, 1999) 5-96, here 3–44. This article aims particularly against the king's use of his Bohemian royal seal (and chancellery personnel) in matters Hungarian. Kumorowitz (pp. 9-10) notes several cases—actually, all after this dietal decree—in which Matthias used one of his four or five Bohemian seals on charters for Hungarian subjects (1472: MNL OL DI 17337; 1478: MNL OL DI 18107). At least of one case is known in which upon the grantee's request the Czech seal was replaced by a Hungarian (Kumorowitz, p. 18)

¹⁶ Cf. **1464:28** and its antecedents, as far back as **1405**, also **1468:8**.

possession of the donated estate is decided by lawful process; and unjustly seized properties shall be returned unconditionally.¹⁷

11 Eleventh, that henceforth we shall not levy or cause to be levied in general any tax or contribution for any reason from the gentlemen of the realm without their will and consent other than the chamber's profit.¹⁸

12. Twelfth, that we shall not annul letters of sentence issued in the royal court but, when pardon is granted to the litigant parties, we shall order that these letters of sentence be presented at the next octave court in order to be annulled or confirmed, as it is customary in these matters; in the meantime, by the force of the same letter of sentence the estates and other properties shall remain in the hands of their possessors. And if any action occurred to the contrary, we shall cancel it.¹⁹ Nor should any of our letters issued contrary to the laws and ancient customs of our realm have force. Moreover, judges of our kingdom are not to be blamed if they disregard such letters when passing judgment.²⁰

13 Thirteenth, that we shall not give two benefices to one person,²¹ and if we so gave, in times of campaigns we shall compel the person holding two or more benefices to perform military service in the ancient fashion according to his ability.²²

¹⁷ Cf. **1464:18**.

¹⁸ The right of the estates to approve taxes or the king's promise, not to levy them at all, was contained in virtually every decree of Matthias, beginning with **June 1458:44**. However, a more elaborate control of the estates over royal finances emerged only after Matthias's reign. The king's pardon for John Vitéz on 19 December 1471 suggests that the estates did approve a tax or a subsidy in 1471, in the amount of 80d per *porta*. This was indeed collected in some counties (see MNL OL DI 65105), but may not have been a national taxation, only a fine in lieu of participating in the general levy. In general, see Kubinyi, "Staatsorganisation," pp. 52-64.

¹⁹ Cf. 1468:17. (*DRH Matth.*, p. 178.)

²⁰ In spite of Matthias's claim (e.g. in the Preface to the *Decretum Maius* of **1486**) to have "always contemplated" issuing laws of perpetual validity, in the Romanist sense of the prince's legislative power, the estates insisted on what they regarded as ancient custom and demanded that the king observe it. A gloss in the so-called Somogyvár Formulary, quoted in Franciscus Döry, Georgius Bónis, Vera Bácskai, *Decreta Regni Hungariae. Gesetze und Verordnungen Ungarns 1301-1457* (Budapest Akadémiai 1976) p. 54 sheds light on the perception of the times regarding the validity of legal enactments. This gloss, copied in the times of King Matthias (even if reflecting legal thinking that was valid earlier as well), suggests that ancient custom (which it equates with *lex*) was the most firm basis of judgment, as statute law by the prince may not have been known to all. Without a hierarchy of laws, it was up to the judge to choose between custom, ancient law, and recent statutes in his deliberations. Even parties in a suit seem to have the right to do so. On this, see the reflections of Zsuzsanna Teke in the Introduction to *DRH Matth.*, pp. 37-38.

²¹ This demand goes back to at least the Golden Bull of **1222** but was rarely observed, especially when a *honor* included both a baronial, court office and one more county *ispán* posts. See also **1458:7**.

²² The implication here is that holders of multiple benefices should equip *banderia* (or whatever size of troops they are required to) according to their obligations in all their prebends.

14 Fourteenth, the protonotaries shall, under the usual penalty, render justice to each person, and neither they, nor their fellow-judges, can be solicitors. And should someone bring accusation against them or against their sentence to the royal majesty or to the barons, the royal majesty shall examine the sentence with his barons, and if they found that the accusation is false, the accuser shall be punished with the said usual punishment.²³

15 Fifteenth, that the office of county *ispán* is not to be held by other than a nobleman.²⁴

16 Sixteenth, that under the penalty declared in the decree of the late lord King Sigismund,²⁵ no one's tenant peasants shall be unlawfully abducted. And if the *ispán* and *alispán* and the noble magistrates of any county should not return someone's unlawfully abducted tenant peasants, along with the usual fine, upon the complainer's request, they shall be deprived of their offices. Should anyone not dismiss his tenant peasants freely, all nobles are bound to rise up in aid of the *ispán* against such a person, especially if he did not have the power to force these men. Moreover, if the county *ispán* himself abducted tenant peasants contrary to the justice and law of the realm, he shall similarly be deprived of his office.²⁶

²³ The jurors sitting with the protonotaries could have been arbiters selected by the litigants, if the judges acted as arbitrators, or noble jurors if they sat as one of the royal benches. The “usual” punishment may refer to that for contempt of court, 25 marks according to **1435/I:7**.

²⁴ Cf. **Comp. ante 1440: 7**, but this stipulation was not mentioned later and we know of no non-noble *ispán*, only of some *alispáns*. However, strictly speaking, the king's able treasurer, the Viennese converted Jew, John Ernuszt, who became *ispán* in Co. Turóc, was not a nobleman, even if he received an estate from the king; see Johann Christian. Engel, *Geschichte des Ungarischen Reiches* (Halle: Gebauer, 1797), p. 193; more recently: I. Madzsar, “Ernuszt János és haza Budán” [J E. and his house in Buda], *Századok*. 52 (1918): 56-71. The mercenary captain Hag (see above, n. 12) did not even obtain a royal grant, only mortgaged properties, and still held the comital office of Trencsén. It was also—erroneously—believed by some contemporaries that István Bode of Szeged, count of the chamber of salt and *ispán* of Co. Csongrád (later mayor of Buda) was not a nobleman (see András Kubinyi, “Budai és pesti polgárok családi összeköttetései a Jagelló-korban” [Family connections of burghers of Buda and Pest in the Jagiello age], *Levéltári Közlemények* 37 [1966]: 264-68).

²⁵ This prohibition became referred to as the “statute of King Sigismund” (cf. *DRH Matth.* p. 87, n. XV/2); namely his *Decretum maius*, **1435/I:7**. However, the fines were raised: from three to six and twelve Marks, respectively. Tenant peasant (*jobagio*, from Hung. *jobbágy*) was the status of the majority of the agrarian population in medieval and early modern Hungary (down to 1848). They were personally free, obliged to render dues in kind, money and labor to the lord of the land on which they lived. Their plots were de facto heritable, though not their property. Tenant peasants had the right to move (or to be moved) to another lord, once their dues were paid. The prohibition of hindering them doing so was mainly the interest of the lesser nobility, whose peasants were sometimes moved (or lured) to the estates of greater landlords who were able to offer better conditions. For a summary of their fate, see János M. Bak, “Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline” in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005)

²⁶ Cf. **1458Sz :15**.

17 Seventeenth, that only those cases should be tried and adjudicated in ecclesiastical courts and sees as were included in the said decree issued at our coronation, and no others. And if a case is so tried in contravention of this, the king's decision for remedy shall be requested.²⁷

18 Eighteenth, that we shall deprive everyone of the right of patronage over churches and monasteries bearing a seal and keep it for ourselves, because much trouble for the realm and its inhabitants arose from those who thus favor their own patrons and, due to that favor shown, are incapable of the free use of their own seal.²⁸

19 Nineteenth, that no gentleman of the realm, be he ecclesiastic or layman, should, contrary to the freedom of the realm that has been enjoyed since the time of the most holy late King Stephen, lodge a complaint against anyone directly at the Roman curia bypassing the intermediate court, but each one should first seek his justice here in the realm before his ordinary, and only thereafter, if he so wishes, take his case to the curia by appeal. Those who act contrary to this, shall lose their benefices if they are beneficed; and those who are not, or are laymen, shall be punished with capital punishment.²⁹

20 Twentieth, that our stewards may not seize or confiscate any type of goods from anybody on the estates, fairs, and markets of the gentlemen of the realm, without payment and proper price.³⁰

21 Twenty-first, that neither in times of campaigns nor while travelling on other business, may our foot soldiers and cavalymen confiscate food without payment. And if they should attempt to act otherwise, the commander of the foot soldiers or cavalymen shall be punished with suitable

²⁷ See **1464:17**.

²⁸ Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary’s *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35. Royal attempts at banning the abuse of the authentic seal by the *loca credibilia* go back to at least **1351: 3**, when lesser convents lost the right to authenticate private legal transactions. During the upheavals of the mid-fifteenth century several chapters and convents, formerly under royal control, came into the hands of secular lords, and even Matthias granted the right of patronage over such royal churches to his followers, thus reducing the central supervision of the notarial functions in these institutions.

²⁹ Cf. the *Placitum regium* of Sigismund, **1404/I**. The imputation that this restriction originated in the times of St. Stephen was not mentioned in the earlier laws, but was, of course, typical of medieval perceptions about ancient law and custom. Cf. also **1440:4**; **1445:16** and **1447: 33**.

³⁰ Cf. the regulations about purchases for the army in **1439:18**, repeated in **1458:17**.

punishment. Moreover, should a complaint be submitted to us as to the damage they caused, we shall take care that satisfaction be given by them for the said damage.³¹

22 Twenty-second, that chapters and convents shall keep the regulation included in the aforementioned decree of the late lord King Sigismund concerning the charges for the redemption of letters and for travel.³² Should that regulation not be observed, and this can be proven by the nobles of the said county through means of common inquest or at the county assembly, violators shall lose their benefices.

23 Twenty-third, that we shall cause unlawfully seized estates to be returned and restored to those to whom they belong.³³

24 Twenty-fourth, that henceforth ecclesiastics, be they major or minor, should not be burdened by any tax or levy; those, however, who are bound to render military service, shall do so in the ancient manner.³⁴

25 Twenty-fifth, that tolls shall be exacted in their usual places in the old manner, that is, as was customary in the time of lord King Sigismund.³⁵

26 Twenty-sixth, that no recognizance, made unwillingly, shall be binding, when the truth emerges and demonstrates that it was made unwillingly.³⁶

27 Twenty-seventh, that properties seized by anyone after our coronation shall be returned within thirty days calculated from the date of the present decree; and whoever does not return

³¹ This regulation has been repeated ever since the early fifteenth century, e.g. **1405/II: 1**, or **1435/II:6** down to **1464:28**.

³² The detailed arrangements in **1435/I: 10**, repeated in **1458:28** became the point of reference for centuries.

³³ The obligation to return seized property was already decreed in the early twelfth century (**Colo: 32**) but became a repeated clause of fifteenth-century laws, see e.g. **1435/I: 3**, **1439:29**, and **1458:1**.

³⁴ Even though ecclesiastical exemption from taxes was long accepted custom, Matthias (just as his predecessors) did tax the clergy for the extraordinary costs of war. On 9 April 1471, for example, he ordered the abbot of Lekér (Co. Bars) to pay 20 golden florins for the war against the infidel (heretical) Czechs under penalty of the seizure of the abbey's lands, see MNL OL DI 17205 and Kovachich, *Supplementum*, 2: 210-11.

³⁵ See. **1435/I: 20-21**.

³⁶ This was, of course, a basic legal tenet (cf. **1447:29**) enforced in classical Roman law by a variety of procedural actions (*calumnia*; oath-taking; false accusation) and protection of the legal persona of the *testis idoneus*: the witness who gives evidence freely, without compulsion or undue influence. See Adolf Berger, *Encyclopedic Dictionary of Roman Law* (Philadelphia: American Philosophical Assoc. 1953) 735-56, s.v. "testis"; Joseph A. C. Thomas, *Textbook of Roman Law*, pp. 86, 256, 318.

them, shall be condemned of an act of might and the judges ordinary shall pass final sentence in the next octave court without further delay.³⁷

28 Twenty-eighth, that all of those who killed nobleman, be they major or minor, without just reason, or caused them to be killed by others, shall be summoned to our presence with a short summons in the following manner: namely, that the plaintiff, after receiving the letter of summons from us, should not proceed with a man of the chapter or convent or with our man against the person against whom he received the letter of summons, unless first, he presents that letter on the day of the meeting of the court of that county where this ought to be transacted, in the customary fashion, publicly, in that very place to the assembled noblemen of that county, and requests of them a noblemen, in whose presence the summons shall served; and once the summons is made, he shall receive a letter about it from the chapter or the convent and the county. And the defendant is required to appear before us within twenty-five days, wherever we shall be staying, with God's guidance, in our kingdom of Hungary,³⁸ to receive sentence and justice by the content and power of the summons. Nonetheless, the defendant shall not have the right of proving his innocence by oath, only by common inquest or by judicial combat. Moreover, he who was accused, if convicted, shall not lose his estate or estates or parts of his estates for that murder, but shall be punished with death and the loss of his head; redemption of his head will not be granted without the agreement of the plaintiff. However, if the accused was charged unjustly and contrary to the order of law and if he proves his innocence by common inquest or by judicial combat, the plaintiff must be condemned in his compensation for unjust harassment; and beyond the composition the judge shall have the right to give satisfaction to the defendant from the property rights of the plaintiff, and no judicial part is to be given from it.³⁹

29 Twenty-ninth, that the following castles: the castle of Szenyér in County Somogy, the castle of Sztropkó in Zemplén, the castle of Dovhe in Máramaros, László Upori's castle of Gelénes in Bereg, the same László Upori's castle of Abara and Cejkov in Zemplén,⁴⁰ Blaise

³⁷ Cf. above, Art. 23. The king actually issued commands in pursuance of this article, e.g., on 24 September 1471 he ordered that the estates of the brothers Horka of Korcsva in Co. Ung, seized by Thomas of Kisezra, be returned to their lawful owners, see MNL OL DI 223415.

³⁸ This expression refers to the court of personal royal presence that functioned on a regular basis from 1435 and was led by the chancellor. After 1464, when it was united with the court of the special personal presence, it became the main royal court of justice, issuing sentences under the king's judicial seal. Its head was a chancellery protonotary, the *locumtenens personalis presentie* (later simply: *personalis*) who presided over an ever more professionalized judicial staff.

³⁹ In spite of the abolition of the short summons in **1464:4**, this efficient form of administration of justice did not vanish. Bónis (*Jogtudó értelmiség*, p. 263) argues that the stipulation of **1468:2** (*DRH Matth.*, p. 174-5), according to which occupied estates had to be returned within fifteen days, opened the way to the factual re-introduction of this procedure, and there is evidence that the court of personal presence held sessions between octaves in the 1460s. This paragraph allows short summons to the court of personal presence in the case of the killing of nobles, but now the county court is included into the procedure of citing the culprit, intending perhaps to reduce the nobility's resistance to the new form of judicial efficiency.

⁴⁰ László Upori was a nobleman from Co. Zemplén, *ispán* of Máramaros.

Huszár's castles of Kneževac and Frkljevci in Pozsega, and the castle of Lanka in Co. Valkó,⁴¹ must be demolished and destroyed completely within twenty-five days of the date of the present decree, under the punishment of perpetual taint of infidelity.

30 Thirtieth, that upon the request of the county of Somogy, we order that the toll customarily exacted in Csurgó, in the county of Somogy, be abolished thus that this toll never be exacted again there.⁴²

31 Thirty-first and last, that the present decree be obeyed by everyone, under the punishments specified in its articles, and that this decree be copied for each county and delivered to the seat of the court of each county, so it might be at hand for every assembly of the nobles, and that the *ispáns* or *alispáns* and the county magistrates of the counties inviolably keep, and cause others to keep, each and every one of the articles included in it, for the cases to which they pertain.⁴³ The said *ispáns* or *alispáns* and the county magistrates, as defenders of the common justice, should punish all those acting against it with the punishments specified in this decree. And if anyone should receive a letter from us that is contrary to the decree, it shall not be valid. Furthermore, should the *ispáns* or *alispáns* and the county magistrates themselves act in any respect contrary to the decree, in return for such action, commission of crimes and infliction of damages, let them be summoned with terminal summons to our court, where they may not defend themselves with our letter given to them contrary to the decree, but let them be condemned for acts of might.

When these articles were presented, the same prelates, barons, and nobles of the realm begged us to deign to accept, confirm, and considered approved these articles. We, therefore, accepted their petition and, because we considered these articles as specified to serve the common good of our realm in no small measure, we have had these articles copied verbatim into our present letter; we have accepted, confirmed, and considered approved these articles which we wish to be regarded by all as a true decree of the realm. We, by the force and testimony of these, our presents, shall so regard these articles.⁴⁴

⁴¹ Of these castles we know about Szenyér that it was a minor stronghold in the hands of a robber, John Antimus, who was duly convicted (see Iván Borsa, "Egy középnemesi család a középkori Somogyban" [A moyenne noble family in medieval Co. Somogy], *Somogy megye múltjából* 11 [1980]: 30), and of Stropkov that it was in the hands of Polish highwaymen. The others must have had similar reputations.— The list has minor faults, mainly in the punctuation, in *DRH Matth.* p. 201, which we have tacitly corrected.

⁴² The market town of Csurgó was the property of the Hospitallers' Priory of Vrana; thus, perhaps the claims of an absentee lord was the reason for the local nobility's opposition to the toll.

⁴³ It is indicative of the immense loss of charters in the kingdom of Hungary that no original of this decree, which must have been sent out in at least some fifty copies, survived.

⁴⁴ Cf. the similar penal clauses in the decrees of **1439** and **1444**

Given in Buda, on the Wednesday prior to the feast of St. Matthew the Apostle and Evangelist, in the year of the Lord one thousand four hundred and seventy-one, in the fourteenth year of our reign as king of Hungary etc., in the eighth year of our coronation and in the third year of our reign as king of Bohemia.

LAW OF KING MATTHIAS I (CORVINUS) OF HUNGARY (1458-90)

OF 2 OCTOBER, 1474

This decree is in fact a resolution of the estates, approved by the king. Engaged in Bohemian affairs, where Wladislas of Jagiello was invited to the throne by the Hussite estates, Matthias called several diets which either did not take place (such as the one on December 1473) or had to be held in his absence. The diet that assembled on or around 21 September 1474 in Buda had been called by Matthias from Troppau (in Silesia, today Opava, in the Czech Republic), but he was unable to return to Hungary, having been surrounded in Wrocław by Polish troops. The barons and the county nobles, nevertheless, felt empowered to pass decrees and issue them under the king's name. Although Matthias is reported to have been “shocked” by the news of the diet (so the Elector of Saxony wrote on 28 September, see *Fontes rerum Austriacarum* 2:26, pp. 290-1), he may have been surprised only by certain specific decisions, but the diet was altogether legitimated by him. In a charter of 13 February 1475 (MNL OL DI 81774), he referred to the decree of 1474 as *de consensu nostro speciali editum*.

A special charter confirming the decree, was issued under the king's seal, probably one left in Buda, and dated in Buda (*DRH Matth*, p. 219) while Matthias was still absent. The text, however, expressly emphasized royal authorization, which may have been given by the king in advance.

MSS.: One damaged original on paper (with many lacunae, which have been amended in *DRH Matth*. and will not be noted in our text), with twelve different, mostly damaged, seals *en placard*, Zagreb, Croatian National Archives, Documenta medievalia varia No. 475.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus *et al.* eds., (Budapest: Franklin, 1896), 1: 372-9; Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*, (Budapest: Akadémiai K. 1989) [=*DRH Matth.*], p. 213-18.

LIT.: Johannes Nicolaus Kovachich, *Notitiae preliminares ad Syllogem decretorum comitialium*, (Pest: Trattner, 1820) pp. 253-54; Erik Fügedi, “Mátyás király jövedelme 1475-ben” [The Income of King Matthias in 1475], *Századok* 109 (1982): 485-506; János M. Bak, “Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter,” in

R. Schneider, ed., *Das spätmittelalterliche Königtum im europäischen Vergleich*. Sigmaringen: Thorbecke, 1987, pp. 347-87; now see also István Draskóczy, “King Matthias’ Revenue and the Royal Treasury,” in: *Matthias Corvinus, the King. Tradition and Renewal in the Hungarian Royal Court 1458-1490. Exhibition Catalogue* (Budapest: Budapest History Museum, 2008), pp. 283-4.

2 OCTOBRIS 1474

Nos prelati et barones ac electi nobiles regni Hungar[ie] in presenti congregatione Budensi [c]ongregati totum idem regn[um] representantes, significamus tenore presentium, quibus expedit un[iversis, quod cum] nos hiis diebus de voluntate et mandato serenissimi principis et domini, domini Mathie Dei gratia Hungarie, Bohemie etc. regis domini nostri naturalis in hanc civita[tem Budensem] ad tractandas diversas res regni et presertim factum defensionis fidei contra Turco[s], qui idem regnum Hungarie diversis prediis et spoliis affecerunt et in futurum fortius, quam a[lias unquam] dilacerare pretendunt, concernentes convenissemus factaque et negotia atque necessitudinem prefati regni Hungarie diutius inter nos pertractassemus, devenimus tandem communiter in in[frascriptos] articulos, quos sicuti nunc pro utiliori statu, comoditate et necessitate totius ipsius regni Hungarie ac incolarum eiusdem utiliter convenire cognovimus, ita communi volunt[ate et] parili consensu conclusimus et finaliter determinavimus.

I. Primo, quod subsidium unius floreni auri pro defensione dicti regni Hungarie contra Thurcos de singulis portis per tot[um regnum] modo infrascripto detur, quod per nos ac regnicolas inclusum et determinatum de omnibus bonis tam domini nostri regis et domine genetricis sue, quam etiam nostris et aliorum [quorumcunque] possessionatorum hominum etiam qualitercunque exemptorum, necnon de civitatibus regalibus irremissibiliter persolvatur et nemini relaxetur. Si qui autem aliqui exempti istud [subsidium] non redderent, extunc neque alii solvere teneantur.

II. Secundo, quod sales pro huiusmodi subsidio modo infrascripto omnibus nobis verissime persolvantur.

III. Tertio, quod e[ligantur] per nos duo notabiles viri vel plures ad camaras salium in Transsilvaniam et Maromorosium, ad quorum manus dominus thesaurarius omnes sales, qui i[n cameris] sunt, sine omni difficultate assignari faciat et assignet. Quos quidem sales idem dominus thesaurarius teneatur deduci facere tam in aquis, quam super terras in exp[ensis] regiis ad camaras filiales, ubi dicti electi viri teneantur distribuere comitatibus secundum numerum portarum. Qui autem ire voluerint per se in curribus propriis, ad ca[meras] Transsilvanensem vel Maromorosensem, habeant liberam facultatem et illis solvantur sales tam pro expensis, quam etiam laboribus et numero portarum. Postquam autem isti viri electi, cer[tos] reddiderint comitatus, quod sales in manibus eorum sunt, eo facto incipiatur exactio presentis subsidii, prius tamen fiat connumeratio iuxta modum inferius specificandum.

IV. Quarto, q[uod] de quolibet comitatu ad dispositionem presentis subsidii eligantur duo nobiles potiores ad computandum et connumerandum universas et singulas portas omnium possessionatorum hominum, prout mo[ris] erat temporibus divorum regum secundum consuetudinem lucri camere, ita ut porte numerentur et non fumus neque sessiones deserte et alia loca deserta numerentur. Isto declara[to], quod si ob metum huius subsidii ad aliorum domus post congregationem presentem se contulissent, per hoc non sint supportati, nisi illi, quibus facilitates ad solvendum non suppetarent, que v[ideant] secundum conscientias eorum connumeratores deputandi.

V. Quinto, quod ipsi nobiles electi connumeratores stipendia sua habeant a domino thesaurario ad rationem regie maiestatis.

VI. Sexto, quod quamvis lucrum c[amere] anni futuri sit relaxatum etiam modo ex novo relaxetur.

VII. Septimo, si regia [maies]tas vel hoc regnum a sanctissimo domino papa vel ab aliis principibus Christianis pro facto fidei subsid[ium] habeat, sive non, usque ad annum integrum nulla exercituaione vel alio gravam[ine q]uocunque impediatur regnicole. Si autem contingerit imperatorem Turcorum cum sua potentia adven[ire], obligentur regnicole more ab antiquo consueto exercituare.

VIII. Octavo, quod istud subsid[ium] non alias nisi contra Thurcos exponatur.

IX. Nono, quod illi comitatus, qui singulos viginti quinque denari[os] solverunt, presens subsidium ad numerum illorum exactorum [denariorum solvant].

X. D[ecimo, quod] octave infra annum integrum non celebrentur, maxime ex eo, quia maior pars regni vel quasi totum regnum erit in exercituaione contra Thurc[os et etiam propter labores presentis] subsidii.

XL. [Undecimo, quod] bona quorumcunque post recessum dicti domini regis [o]ccupata per quoscunque remittantur. Si autem aliquis talium occupantium rebellaret in hac parte, [tunc person]a regie maiestatis bona talis presentem dispositionem contempnentis occupare possit, [b]onaque [occupata ill[is] reddantur, a quibus fuerunt occupata.

XII. Duodecimo, quod super invasionibus domo[rum e]t possessionum ac interemptionibus et verberationibus nobilium post recessum domini nostri regis commiss[is] et perpetratis, vel etiam in futurum fiendis persona regie maiestatis faciat iustitiam, prout in[for]matum est a domino rege.

XIII. Tredecimo conclusum est universaliter per nos, quod tale subsidium per conn[umeratinem] salium regalium vel alie exactiones amplius nullomodo fiant.

XIV. Decimo quarto, quod iobagiones quorumcunque usque ad annum integrum non dimittantur. Si autem aliqui eorum salientes recesserint, [vel] non habita licentia et iusto terragio eorum minime deposito aliqui eosdem deduxerint, tales reddantur suo domino iuxta antiquam consuetudinem cum gravaminibus consuetis.

XV. Decimo quinto, quod ex[ercituantes] descendentes contra Thurcos vel etiam alias utantur in expensis propriis et non cum spoliis, sicuti usque modo fecerunt; neque etiam in domibus nobilium descensum facere audeant. Ita [tamen], quod si aliqui contra hunc articulum fecerint, evocentur brevi evocatione coram regia maiestate vel in absentia regis coram persona sua.

XVI. Sexto decimo conclusum est per nos, ut nos pre[lati et] barones faciamus dicere decimas iuxta antiquam consuetudinem regni, ita videlicet ut recipiatur iuramentum a quocunque homine et ultra non dicetur aliquis; et huiusmodi decime e[xigantur] iuxta decreta condam serenissimorum regum Hungarie Lodovici et Sigismundi.

Quos quidem articulos et omnia in eis contenta per nos, ut premissum est, unanimi voluntate conclusos [tamquam utiles] et pro presenti necessitate dicti regni Hungarie et pro re publica ipsius convenientes acceptavimus et approbavimus, immo nominibus et in personis universorum regnicolarum dicti regni accep[tamus] et approbamus observabimusque, quantum in nobis est, per omnes regnicolas huius regni cuiuscunque status, condicionis et linguagii existant, observari faciemus. Harum litterarum [nostrarum], quibus sigilla nostra sunt apposita, vigore et testimonio mediante.

Datum Bude, die dominico proximo ante festum beati Francisci confessoris, anno Domini millesimo quadringentesimo septua[gesimo quarto.]

2 OCTOBER, 1474

We, Hungary's prelates, barons and elected noblemen, representing the entire realm in the present diet convened in Buda, make known to all to whom it may concern through these presents that recently, when we assembled here in this city of Buda, by the will and order of the most serene prince and lord, lord Matthias, by the grace of God king of Hungary, Bohemia, etc., our natural lord, to discuss various matters of the realm, especially the defense of the faith against the Turks – who have been ravaging and plundering this kingdom of Hungary in different ways and will devastate her even more forcefully in the future – and, after having deliberated among ourselves at length about the affairs, business, and needs of the said kingdom of Hungary, we finally agreed on the following articles which we believed would be beneficial to the better state, advantage and needs of this entire kingdom of Hungary and her inhabitants, we finally agreed on and defined them in common agreement and uniform accord.

1 First, that for the defense of the said kingdom of Hungary against the Turks one golden florin of subsidy is to be given from every *porta* in the entire realm in the following way: That we and the gentlemen of the realm agreed upon and decided that it is to be paid without exception from the estates of our lord king and the lady, his mother,¹ as well as from our estates and other exempted men of property, and by the royal cities, and no one should be exempt from payment.² However, if any exempted man did not pay it, then the others should not be obligated to pay either.³

2 Second, that as a compensation for this said subsidy, salt shall be given to all of us in the manner described below.⁴

¹ Elisabeth Szilágyi held at that time still a great part of the enormous Hunyadi family wealth, castle Mukačeve with Co. Bereg, the town of Debrecen, and a great number of market towns and villages mostly in eastern Hungary (see Bálint Hóman, Gyula Szekfű, *Magyar történet*, [Hungarian history] 4th ed., 2:560 and map between pp. 423-28 (Budapest: Kir. M. Egyetemi Nyomda, 1942). She died in 1483 and bequeathed these properties to John Corvin, her illegitimate grandson.

² The cities, apparently not represented at the diet, protested against this infringement on their liberties, and the king granted many of them exemption from the subsidy; see the charters quoted in *DRH Matth.*, p. 214 n. 1/2. See also, András Kubinyi, “Zur Frage der Vertretung der Städte im ungarischen Reichstag bis 1526,” in: Idem, *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer, 1998) pp. 65-102.

³ This “escape clause” was one of the reasons why this time (as in many other instances) much less was collected than expected; see András Kubinyi, “Die Staatsorganisation der Matthiaszei,” in: Idem, *Matthias Corvinus* (Herne: Schäfer, 1999), pp. 5-96, here 52-63.

⁴ Salt was, as everywhere in medieval Europe, a rare commodity and an early royal monopoly; also, it was used to pay soldiers (see **1405/I:20** and **1471:4**). The intent of this measure may have been to give the estates some control over the most important royal income, the salt monopoly, see István Draskóczy, “Salt Mining and Trade in Hungary from the mid-Thirteenth Century until the End of the Middle Ages” in József Laszlovszky *et al.* eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 205–18.. No wonder that the king, once he returned from Silesia cancelled its implementation.

3 Third, that two or more respected men shall be elected by us to the salt chambers of Transylvania and Maramureș, into whose hands the Lord Treasurer⁵ should surrender all the salt in the chambers, or have it surrendered to them without any hindrance. And the same Lord Treasurer shall be required to have this salt transported by land and water to the subsidiary chambers at royal expense,⁶ where the said elected gentlemen are obliged to distribute it among the counties according to the number of the *portae*. Those, however, who want to go to the chambers in Transylvania and Maramureș with their own carts, are allowed to do so, and salt shall be given to them for their expenses and labor, as well as for the number of *portae*. Moreover, after those same elected men will have notified their counties that the salt is in their hands, exaction of the present subsidy should forthwith begin, but first a census must be conducted in the manner described below.

4 Fourth, that for dealing with the present subsidy two substantial noblemen shall be elected in every county to assess and count each and every *porta* belonging to all propertied men, as was the custom in the times of the former kings in regard to the chamber's profit: so that the gates shall be counted, but not the smoke, nor the deserted plots, nor other abandoned places⁷ – but with this provision: if anyone, fearing this subsidy, moved to someone else's house after this present diet, he should not be exempted, unless his means are insufficient for payment, which resources the counting men should examine according to their conscience.⁸

⁵ The Lord Treasurer between 1467 and 1476 was Sigismund Ernuszt, of Csáktornya), (d. 1504) bishop of Pécs 1473-1504, the engineer of Matthias's monetary and fiscal reforms.

⁶ The salt monopoly was one of the major incomes of the crown. At the time of this decree, it may have been almost half of all the regular revenue, amounting to more than 100 thousand gold florins; see Bak, "Monarchie im Wellental," pp. 357-60. Cf. **1405/I:20**; **1439:11** and **1458:10**. The location of royal chambers of salt changed over times so that for the fifteenth century, András Kubinyi in "Königliches Salzmonopol und die Städte des Königreichs Ungarn" in *Stadt and Salz im Mittelalter*, ed. Wilhelm Rausch (Linz: Wimmer, 1988), pp. 213-32, counted sixty-six places, which at one time or another housed a salt distributing chamber. Most of them were in market towns, a quarter in royal cities, and a few in ports.

⁷ The chamber's profit, (*lucrum camerae*) was originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins. By the late thirteenth century, by which time the original way of gaining this income has been abandoned, the it had become a direct tax but retained its name until the end of the Middle Ages..It amounted to 20d per tenant plot (*porta*). The precise prescription here—plots or *portae* instead of hearths—may imply that in the preceding years (1471-72) taxes were levied on every family (household, *feux*), as Erik Fügedi in "Das Königreich Ungarn 1458-1490" in *Schallaburg, '82. Matthias Corvinus and die Renaissance in Ungarn (1458-1541)*. 8. Mai-1. November, 1982 (Vienna: Niederösterreich. Landesausstellung, 1982) p. 490) assumed. Considering that by this time often 3 or 4 families lived on one plot, the portal tax was raised to 30 or 40 denarii according to the number of household. In the 1470s the treasure counted on some 400m thousand florins, more than half of the regular income from this tax. See Kubinyi, "Die Staatsorganisation," pp. 52-64.

⁸ By 1474 many estates in Lower Hungary were seriously depopulated and ravaged by Ottoman raids ever from the early fifteenth century. A typical example for this is a 1478 conscription of estates in Co. Valkó along the River Drava, in which more than half of the plots lacked a building on them, and besides 45 inhabited villages, 50 deserted ones were recorded, see István Szabó, "Magyarország népessége az 1300- as és 1526. évek között" [Population of Hungary between the 1330s and 1526], in Kovacsics, József, ed.

5 Fifth, that the elected census takers shall receive payment from the Lord Treasurer at royal expense.

6 Sixth, although the chamber's profit for the coming year has already been remitted, it shall also be cancelled anew.⁹

7 Seventh, whether the royal majesty or the realm receives subsidy from His Holiness the Pope or from other Christian princes for the defense of the faith,¹⁰ or not, the gentlemen of the realm shall not be burdened with military service or with any other duty whatsoever for an entire year. If, however, the Turkish Emperor should happen to attack with force, the gentlemen of the realm would be required to go to war in accordance with ancient custom.

8 Eighth, that this subsidy shall be used only against the Turks, and not otherwise.

9 Ninth, that those counties that used to pay twenty-five pennies each, should pay this present subsidy according to those terms.¹¹

Magyarország történeti demográfája (Budapest: Közgazdasági és Jogi K., 1963), pp. 65-66. In the late fifteenth century, the number of families living on one tenant plot, originally regarded as necessary and sufficient for a household, often increased to four or more (see **Reg. 1467**). István. Szabó (*Tanulmányok a parasztság történetéhez* [Studies on the history of the Hungarian peasantry], pp. 13-14 (Budapest: Teleki Pál Tud. Int., 1942) found that in some parts of the country one third or less of the tenant peasants held a full virgate, while quarter-virgaters amounted to up to 40-50% of the rural population. On the other hand, there is evidence for peasant tenants with sufficient land to their name to have moved together precisely in order to avoid paying the portal tax separately; on these problems see now András Kubinyi, "Wüstungen, Zersplitterung der Bauernhufen und Wirtschaft in den Besitzungen der Magnatenfamilie Garai in Ungarn," *Festschrift Othmar Field*, pp. 367-77 (Graz-Wien: Leykan, 1987). The number of cottars is difficult to judge, but early sixteenth-century sources register some 16-20% *inquilini* in the villages and around 25% in the agrarian towns, suggesting an immigration of the poorer peasants into market-towns. The differentiation among those legally classified as "cottars" was considerable; laws about the obligation of some cottars to pay taxes implies that they held land as farmers, see Szabó, *Tanulmányok*, pp. 25-30.

⁹ As Fügedi ("Mátyás király," p. 490) pointed out, the perception of contemporaries that Matthias frequently collected the portal tax (chamber's profit) and the subsidy more than once a year—a statement that survived in the literature until our days—was not altogether accurate. Kubinyi (in "Staatsorganisation," pp.58-9) counted together all known instances of tax collection during Matthias's fifty years of reign and found that in the over-all average the king levied taxes 1.3-times a year, which means that double taxation happened every third year!

¹⁰ This was regularly stipulated at the levy of war taxes, ever since **1397:63**, and, considering the enormous expense the country had to cover for the defense of the southern border, the fisc could not help keeping it, *faute de mieux*, in the majority of cases.

¹¹ There is no evidence on this type of tax; maybe the chamber's profit (usually 20d) was collected in a somewhat higher amount to make up for lost assessments since November 1473, the last date of taxation.

10 Tenth, that octave courts shall not be held for an entire year, particularly because most of the realm and almost the entire kingdom will be on military service against the Turks and also because of the burden of the present subsidy.¹²

11 Eleventh, that all the estates, seized after the departure of the said lord king,¹³ shall be returned by everyone. However, should any such usurper resist this matter, the royal majesty shall have the right to seize the estate of those disobeying the present decree, and to restore the seized properties to those from whom they had been seized.

12 Twelfth, that the court of personal presence of the royal majesty now and in the future shall render justice in accordance with the orders of the lord king in cases where, after the departure our lord king, the mansions and estates of noblemen were attacked or nobles were killed or beaten.¹⁴

13 Thirteenth, we unanimously decided that such a subsidy through the accounting of royal salt, or other levy of taxes should not occur in the future in any way.¹⁵

14 Fourteenth, that no one has to release his tenant peasants for a whole year. If someone among these peasants, however, runs away or is taken away without permission and payment of the proper rent, these men should be returned to their lords according to the ancient custom, along with the usual fine.¹⁶

¹² It is to be noted that, while in Art. 7 the estates tried to avoid mounting a general levy, here they acknowledged the fact that no courts will be held because of the campaign. The suspension of regular sessions of the octave courts was usual in wartime (e.g. **1454:10, 1458:4**). This was, among others, the reason for the judicial reforms, such as the short summons and so on, see **1464**.

¹³ Matthias had left for the Silesian campaign on 29 May 1474.

¹⁴ There are several citations known which refer to this article and summon culprits *extra octavam* to the court of personal presence (e.g. MNL OL DI 81774, 103776). By this decision the estates in fact readmitted the short summons against which they had protested in 1464 (see above, with n. 6).

¹⁵ This was promised by the king and even the regent ever since 1458, and, of course, never kept. Matthias levied taxes after this decree already in 1475, and annually thereafter (see n. 9, above).

¹⁶ Cf. **1405/I:6** and its many repetitions. There is still no good monograph on the issue of the free movement of tenants in medieval Hungary, especially one that would differentiate between the peasants' right to change lords and the forcible abduction of working hands. It seems that both the well-off tenants (in search of better economic possibilities) and the poorest peasants (in search of livelihood) moved around, much more than other rural folk in late medieval Europe. The prohibition of detaining tenants was aimed probably at lesser nobles, who could not offer such advantageous deals (reduction of dues, etc.) as the great landowners, while the measures against abduction were aimed at the aristocracy's abusing their military might. See, András Kubinyi, "Horizontale Mobilität im spätmittelalterlichen Königreich Ungarn," in Gerhard Jaritz, A. Müller, ed. *Migration in der Feudalgesellschaft* pp. 113-39 (Frankfurt-New York: Campus, 1988); briefly also in János M. Bak "Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline" in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruïn, pp. 387-400 (Turnhout: Brepols, 2010).

15 Fifteenth, that soldiers, serving in a campaign against the Turks and in other cases as well, should live on their own means, not by plundering, as they have done before; they shall not dare billet in the houses of noblemen. Should any one act contrary to this article, he should be summoned with short summons to the royal majesty, or, in his absence, to the court of personal presence.¹⁷

16 Sixteenth, we decided that we, lord prelates and barons, would see to the exaction of tithes in accordance with the ancient custom of the realm, that is, that an oath should be exacted from every single man and no one should pay a tithe beyond that (declaration of oath); and these tithes shall be collected according to the decrees of the late most serene kings of Hungary, Louis and Sigismund.¹⁸

We have accepted and approved by our common will these articles and all their contents, decreed by us, as stated above, as useful for the present needs of the said kingdom of Hungary and for the commonwealth thereof; moreover, we shall accept and approve them in the name and person of all the gentlemen of the realm in the same kingdom and will keep them as far as we are able and will make all gentlemen of the realm, of whatever state, rank and tongue, keep them. By the force and witness of these presents of our, to which our seals are appended.¹⁹

Given in Buda, on the Sunday preceding the feast of St. Francis the Confessor, in the year of the Lord one thousand four hundred and seventy-four.

¹⁷ Cf. **1471:21** and its predecessors since the early fifteenth century.

¹⁸ Cf. **1351:6, 1411:5-6, 1435/I:7.**

¹⁹ Not all seals can be identified. Six seem to have been of ecclesiastics, among them Urban of Nagylucse, at this time provost of St. Nicholas in Székesfehérvár and officer of the Treasury (later bishop of Győr 1481-6, of Eger 1486-91, Chief Treasurer 1479-90), and Nicholas Bátori, bishop of Vác;(1474-1506); of the six other seals of secular barons, those of Michael Ország of Gút, (*lord chief treasurer 1436-37, 1440-53, count palatine 1458-84*), *Imre* Zapolya (a. k. a. Szapolyai chief treasurer 1459-64, governor of Bosnia, ban of Dalmatia, Croatia and Slavonia 1464-65, ispán of Spiš 1465, count palatine 1486-87); Stephen Bátori, (judge royal 1471–1493, voivode of Transylvania and ispán of the Székely 1479–1493); and Matthew of Marót, (ban of Mačva, 1469–1476) can be more or less unequivocally identified; see DRH Matth., p. 213. On some of them, see the section on “Potentates around the king,” in: Matthias Corvinus, the King. Tradition and Renewal in the Hungarian Royal Court 1458-1490. Exhibition Catalogue (Budapest: Budapest History Museum, 2008), pp. 266-73.

**LAW OF KING MATTHIAS I (CORVINUS) OF HUNGARY (1458-90)
OF 29 MARCH, 1478**

This decree displays nicely the procedure of the estates' agreeing to the taxation, in return submitting their requests (later to be called *gravamina*) and the king approves them. Matthias invited the counties to the diet from his Austrian headquarters (Korneuburg, 22 December 1477) for St. Valentine's Day, 1478. At that date, cases pending before the court of the personal presence were also to be heard. Since this was in fact done, we have definite evidence that a fair number of counties had sent their deputies to Buda, combining the attendance at the diet with other legal matters (see the charters quoted in *DRH Matth.*, p. 236, n. 4).

MSS.: Four contemporary copies on paper, MNL OL D1 65961,103817, 88600, and 45713.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Ignatius Batthyany, *Leges ecclesiastici regni Hungariae et provinciarum adjacentium*. 3. vols. Alba-Carolina: Typis episcopalibus, 1785–1827, pp. 513-4 (excerpt); *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus et al. eds., (Budapest: Franklin, 1896), 1: 378-87; Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*, (Budapest: Akadémiai K. 1989) [= *DRH Matth.*], pp. 237-43.

LIT.: Elemér Mályusz, "A magyar állam a középkor végén," [The Hungarian state at the end of the Middle Ages], in: *Magyar Művelődéstörténet*, ed. Sándor Domanovszky, et al. 2: 58, 61 (Budapest: Kir. M. Egyetemi Nyomda, n. d. [1942]); Erik Fügedi, "Mátyás király jövedelme 1475- ben" [The Income of King Matthias in 1475], *Századok* 109 (1982): 485-506, here p. 490 now see also István Draskóczy, "King Matthias' Revenue and the Royal Treasury," in: *Matthias Corvinus, the King. Tradition and Renewal in the Hungarian Royal Court 1458-1490. Exhibition Catalogue* (Budapest: Budapest History Museum, 2008), pp. 283-4.

29 MARTII 1478

Nos Mathias Dei gratia rex Hungarie, Bohemie etc. memorie commendamus per presentes, quod redeuntibus iam pridem nobis dato divinitus nobili triumpho et felici victoria de bello Austrie in hanc urbem nostram Budensem, convenientibus ibidem tunc in dieta generali fidelibus nostris universis prelati, baronibus ac proceribus et electis omnium comitatum regni nostri nobilibus tractantibusque eisdem de hiis, que utilitatem bonam pacem et tranquillum statum ipsius regni precise concernerent, quibus sic diutius laborantibus volventibusque et revolventibus rebus et negotiis defensionem et conservationem regni respicientibus iidem domini prelati et barones ac nobiles antedicti inter ceteras eorum laudabiles ordinationes presentarunt nobis certos articulos, utpote infrascriptos supplicantes humiliter nostre maiestati, ut eosdem articulos acceptare et ratificare eosque et eorum quemlibet ex innata nostra benignitate conservare dignaremur.

I. Quorum quidem articulorum primus talis est:

Serenissime princeps!

Quamvis a magno tempore satis simus gravati, tamen considerata opportuna necessitate, attenta etiam petitione maiestatis vestre nuper per suos fideles oratores, in presenti congregatione facta, confisi insuper in benignitate eiusdem, ut deinceps inantea nos benevolentia sua regia prosequetur nobisque dominus gratiosissimus et benignissimus existat ac etiam in omnibus consuetudinibus antiquis nos gratiose conservabit, contribuimus hoc anno presenti maiestati vestre de singulis portis iobagionum nostrorum florenum unum cum lucro camere computandum.

II. Secundus articulus. Item ut maiestas vestra eo melius necessitati sue ac libertati et restaurationi regnorum suorum providere defensionique contra insultus Thurcorum magis intendere possit, pollicemur in sequentibus quinque annis, scilicet a futuro festo Circumcisionis Domini, anni videlicet eiusdem millesimi quadringentesimi septuagesimi noni similiter contribuere vestre maiestati de singulis portis iobagionum nostrorum, prout infra notabitur, simul cum lucro camere maiestati vestre computandum florenum unum.

Hoc tamen declarato, quod prima contributio exigatur in festo Circumcisionis Domini proxime futuro, relique autem usque ad completionem quinque annorum integrorum semper in festivitatibus beati Martini exigantur.

Ita videlicet quod maiestas vestra dignetur acceptare articulos infrascriptos:

III. Primo quod istis annis sequentibus prelati, barones, proceres, nobiles et quicumque regnicole huius regni sub quacunque occasione contra quoscunque inimicos vestre serenitatis et regni sui exercituare non teneantur; excepto dumtaxat, si Romanorum et Thurcorum imperatores ac Polonie et Bohemie reges ac bassa Romanie dum cum exercitu imperiali hoc regnum maiestatis vestre

personaliter invadere contigeret; quodsi aliquo casu accideret, tunc quilibet regnicolarum iuxta antiquam regni consuetudinem exercituare teneatur et nec aliquis se ab ingressu exercitus huiusmodi, pecuniis exonerare et redimere possit.

IV. Item dicatio presens et futura hoc modo fiat, quod nobiles unius sessionis, domus allodiales nobilium et presbyterorum ac familiares eorundem, qui expensis dominorum suorum nutriuntur, villici quoque et nimium pauperes non dicentur neque loca deserta nec molendina.

De capitibus dicarum duo denarii et non plures recipiantur et neque villicus neque villa expensas dicatoribus dare teneatur.

Pro uno floreno centum denarii recipiantur et non ultra.

Inquilini autem illi dicentur, qui terras arabiles sessionum vel vineas proprias colunt, alii vero non dicentur.

V. Pretera in omni comitatu adiungatur semper dicatori unus idoneus, qui cum iuramento teneatur videre et facere secundum contenta presentis decreti ea, que et serenissimo domino regi ac ipsi comitatui iusta sunt; et insuper in una sede iudiciaria ad hanc rem deputanda teneantur in quolibet comitatu omnes villici importare capita dicarum a tribus annis integris et cum iuramento et etiam in registro ipsi comitatui presentare; et ea domino regi comitatus ipse fideliter conscribere debeat.

VI. Item quia hoc regnum serenitatis vestre super omnia alia gravamina et oppressiones per exercituantes equites et pedites ad ultimam desolationem et exacerbationem magnam in tantum devenit, quod iam pauperes incole regni huius vix vite necessaria habere possunt, humillimis et devotis precibus supplicamus maiestati vestre, ut eadem consideratis nostris obsequiosis fidelitatibus, attentis etiam desolationibus regni sui, ut idem aliqualiter respiret et vires suas pristinas recuperet, dignetur tenere talem modum et viam, ne deinceps ipsi incole huius regni per ipsos exercituantes – quemadmodum hactenus – oppressionem et desolationem patiantur neque per labores castrorum finitimorum et exactiones victualium opprimantur demptis edificationibus castrorum Kewy, Posasyn et Haram, que si reparabuntur, comitatus illis propinqui adiumento esse debebunt; et quod exercituantes in domibus nobilium et allodiis non descendant.

VII. Item quod infra istos prescriptos quinque annos per omnes comitatus huius regni congregationes generales seu iudicia universalia in comitatibus fieri solita non celebrentur propter inopiam ipsius regni demptis comitatibus Posega, Walko, Sirimiensi, Baranya ex alia parte Drawe tantum, Chanadiensi, Themesiensi, in Zarand et Orodiensi, in quibus diversa furticinia, latrocinia, mutilationes hominum venditiones, decollationes aliaque multiplicia malorum genera committi dicuntur, propter que iudicia generalia non omittantur, sed celebrentur; ita videlicet, quod in pretactis iudiciis pecunie descensuales non exigantur, sed neque birsagia, insuper etiam factum possessionum in ipsis iudiciis non iudicetur. Preteritis autem istis annis huiusmodi congregationes generales non aliter, nisi consilio dominorum prelatorum et baronum ac procerum regni celebrentur.

VIII. Item pro possessionibus et bonis occupatis sive per donationem regiam sive alio modo commissis possint fieri contra occupatores breves evocationes et procedatur contra eos iuxta regni consuetudinem ordine iuris. Si vero tempore statutionis contradictores legitimi apparuerint, impetrator talis possessionis non debet introire nec permanere in dominio possessionis. Quodsi ausu temerario factum fuerit, procedatur contra eum ordine iuris per breves evocationes et vincatur talis in estimatione illius possessionis vel bonorum, sicuti antiquitus fuit.

IX. Item quod serenitas vestra ad simplicem querimoniam quorumcunque possessiones et bona nobilium occupari facere non permittat.

X. Item quod maiestas vestra absque iuris ordine maiorem vel minorem non captivet, nisi eos, quos iura regni consueta captivari permittunt; neque aliquem ex prelatibus, baronibus, proceribus et nobilibus huius regni exulet vel captivet sine sententia et consilio dominorum prelatorum, baronum, procerum et nobilium, sicuti antiquitus erat consuetum.

XI. Item quod iudicia octavalia in sede banorum Machoviensium amodo imposterum non celebrentur et quod iudicia in facto possessionum infra revolutionem duorum annorum preteritorum facta reportentur ad octavas in presentiam dominorum prelatorum, baronum ac magistrorum prothonotariorum et electorum nobilium regni ad discussionem et revisionem.

XII. Item quod breves evocationes in omnibus articulis prius superinde per regiam maiestatem et dominos prelatos et barones, proceresque regni editis tam sub palatinali quam comitis Stephani de Bathor sigillis emanari et iudicari possint, sicut sub sigillo personalis presentie regie maiestatis et quod reverendissimus dominus Colocensis necnon magnifici domini palatinus et comes Stephanus de Bathor ac prelati et barones ad iudicium et iudicandum nunc in presenti congregatione electi vel saltem eorum media pars semper in iudicio tam octavarum quam etiam brevium evocationum interesse debeant et eorum auctoritate et presentia quelibet causa saltem gravis diffiniri.

XIII. In adiudicatione siquidem brevium evocationum et octavarum talis teneatur modus, quod videlicet inter ipsas quattuor octavas hactenus celebrari solitas octave festi beati Michaelis archangeli cunctis causantibus regni nostri communiter more alias consueto absque omni occasione adveniendi celebrari debeant, pro ceteris autem tribus octavis pronunc certis rationibus obmissis taliter conclusum est, ut vice, loco et terminis octavarum pretermisissarum iudicia brevium evocationum vigesimo quinto die festorum ad hoc ab antiquo deputatorum, utpote beatorum Georgii, Iacobi et Epiphaniarum Domini inchoando sequentibus aliis viginti diebus ferialibus sine intermissione continuentur.

XIV. Item quod serenitas vestra ea omnia que pro restauratione et conservation regni sui articulatim in hoc registro sunt conscripta, benigne acceptare et roborare atque considerata fidelitate nostra nos in omnibus consuetudinibus et libertatibus antiquis secundum decreta predecessorum regum serenitatis vestre, quorum decreta tempore coronationis sue Albe confirmavit, tenere et conservare dignetur gratiose.

XV. Item in dicationibus decimarum teneatur antiquus modus, ut dicatores debeant contentari iuramentis rusticorum; ubi autem voluerint valeant examinare acervos cum birsagiis consuetis. Insuper ubi decime cum pecuniis exiguntur, iudices nobilium deputentur cum dicatoribus, qui vadant, si volunt, in eorum propriis expensis et non decimatorum et fideliter attendant dicationes. Ubi vero dicatores iniuste dicare vellent, iudices nobilium desistant ire cum eisdem; si vero rusticus aliquis iuramentum prestiterit, tunc dicator rusticum sic iuratum amplius vexare vel dicare non possit, nisi in tantum, sicuti prestitit iuramentum. Ex quo autem in quibusdam comitatibus dicatores decimarum rusticos, qui pro eorum frugibus iuramentum prestiterint, ratione huiusmodi iuramenti talem rusticum iuratum in duabus capetiis frugum dicare consueverunt, id amplius nequaquam facere queant, si non fuerit consuetudo.

Quibus quidem articulis, per eosdem prelatos, barones ac nobiles comitatum regni antedictos nostre maiestati – ut premissum est – presentatis, cum ad humillimam supplicationem eorundem nobis porrectam, tum etiam ex eo, quod predictos articulos ad bonam pacem et tranquillum statum utilitatemque dicti regni nostri ordinatos esse conspeximus, eosdem articulos acceptavimus et ratificavimus dictosque prelatos, barones, nobiles et eorum quemlibet in eisdem conservare polliciti sumus, immo acceptamus et ratificamus pollicemurque harum nostrarum vigore et testimonio litterarum mediante.

Datum Bude predicta in Dominica Quasimodo anno Domini millesimo quadringentesimo septuagesimo octavo.

29 MARCH, 1478

We, Matthias, by the grace of God, king of Hungary, Bohemia, etc, wish to be remembered through these presents that, after we had returned from the war in Austria with the help of God in noble triumph and happy victory¹ to this our city, Buda, and all our faithful prelates, barons, lords, and the nobles elected by all the counties of our kingdom assembled there in a diet and discussed those things which directly concern the benefit, peace, and undisturbed state of the same kingdom, and exerted themselves to discuss and debate at length matters and affairs regarding the defense and protection of the realm, the same lords prelates, barons, and aforementioned nobles submitted to us, among other commendable dispositions, the particular articles which are listed below, beseeching humbly our majesty to deign to accept and confirm these same articles and to maintain each one of them by our inborn benevolence.

1 The first of those articles is this:

Most serene prince!

Although we have been considerably burdened for a long time, nonetheless, considering the present necessities and taking into account your majesty's request, recently made by your envoys in the present diet and, moreover, trusting in your benevolence that henceforth you will grant us your royal goodwill and will be our most benevolent and benign lord and will graciously keep us in all our ancient customs, we shall pay your majesty this year one florin for every *porta* of our tenant peasants, counted together with the chamber's profit.²

2 Second article. Likewise, we promise, so that your majesty might better meet his needs and look after the freedom and restoration of his kingdoms and better provide for the defense against the raids of the Turks, that in the next five years, that is from the next feast of the Circumcision of the Lord³ in the year of one thousand four hundred and seventy-nine, we shall

¹ Matthias had attacked Emperor Frederick III in his hereditary lands in mid-1447 and stood before Vienna, when negotiations were arranged by Pope Pius II. These finally lead to a peace treaty, signed on 1 December 1477 in Korneuburg and Gmünden, respectively (see Karl Nehring, *Matthias Corvinus, Kaiser Friedrich III. und das Reich. Zum hunyadisch-habsburgischen Gegensatz im Donauraum*, 2d ed. (Munich: Oldenbourg, 1989), pp. 89-95).

² It was usual ever since King Sigismund's time to combine the "extraordinary" subsidy with the chamber's profit, a traditional direct tax that grew out of the revenue from devaluating the money. It amounted usually to 20d, thus the one florin extra tax was in fact only 80d. On all this, see, e.g. András Kubinyi, "Die Statsorganisation der Matthiaszeit," in: Idem, *Matthias Corvinus* (Herne: Schäfer, 1999) 5-96, here pp. 52-60.

³ 1 January.

similarly pay your majesty one florin for every *porta* of our tenant peasants, counted together with the chamber's profit as noted below.

With this provision, however: that the first tax should be collected on the next feast of the Circumcision of the Lord⁴ and the rest should always be collected, until the entire five-year-term is over⁵ on the feast of St. Martin.⁶

Your majesty should thus deign to accept the following articles.

3 First, that in the following years the prelates, barons, lords, nobles, and other gentlemen of the realm of whatever kind shall not be required to go to war on any occasion and against any enemies of your majesty and your realm, unless the Roman or the Turkish emperor or the kings of Bohemia and Poland or the pasha of Romania⁷ should personally attack your majesty's realm with an imperial army; should this circumstance occur, then every gentleman of the realm shall be required to go to war according to the ancient custom of the realm and no one may redeem and buy himself off with money from military campaign.⁸

4 Then, that the current and the future tax collection should be transacted thus that nobles possessing one plot, the households and servants who live on the expense of their lords on the allod of the nobles and priests, and the reeves, and the very poor should not be taxed, neither should abandoned sites and mills. Two pennies and no more shall be exacted for the tallies; neither the reeve nor the village shall be required to pay the expenses of the tax collectors.⁹

⁴ Actually, the king demanded the subsidy for 1479 as early as 12 December 1478; MNL OL DI 230011.

⁵ 11 November.

⁶ The fact that Matthias engineered the approval of the diet in advance for five years was not of major importance, for the diets usually granted the king's demands anyhow, and if they would not, the royal council did.

⁷ The measure's meaning is that if the sultan or the beylerbey of Rumelia, i. e., the commander-in-chief of the European army of the Ottoman Empire, would attack, the levy can be called, but not if merely the lesser beys or pashas of the frontier region conduct forays into the country.

⁸ This last clause may refer to the arrangement included in the military ordinance of 6 April 1464 (*DRH Matth.*, pp. 152-5), which allowed the redemption of military service at the rate of 10 gold florins for every mounted soldier (that was to be armed and mobilized after every 12 *portae*). This was unusual in Hungary, but may have been useful for the king, who by that time proceeded aggressively with building up his professional army (see Gyula Rázsó, "The Mercenary Army of King Matthias Corvinus," in János M. Bak and Béla K. Király, eds., *From Hunyadi to Rákóczi: War and Society in Medieval and Early Modern Hungary*. (Brooklyn, N.Y.: Social Science Monographs, 1982), pp. 125-40, esp. pp. 127-28). Now also: Tamás Pálosfalvi, "King Matthias' Army," in: *Matthias Corvinus, the King. Tradition and Renewal in the Hungarian Royal Court 1458-1490. Exhibition Catalogue* (Budapest: Budapest History Museum, 2008), pp. 295-7.

⁹ The stipulations follow the traditional modus of collecting the chamber's profit, see e.g., **1351:5; 1411:3**. The mention of mills is unusual and unclear. As to abandon plots, see the examples in András Kubinyi,

One florin shall be exchanged for one hundred pennies and no more.¹⁰

Those *zsellérs* shall be taxed moreover, who have plow-land on their tenement or cultivate their own vineyard; others, however, shall not be taxed.¹¹

5 Furthermore, a suitable nobleman shall be regularly assigned to the tax collector in every county, who shall be required by oath to take care of and do what is just for the most serene lord king and the county according to the content of the present decree; and in addition, every reeve in every county shall be required to deliver the tallies¹² of three full years to a county court session designed for this purpose and to present them to the county with an oath and a register; and the county shall be required faithfully to compile a list of these for the lord king.

6 Then, because this realm of your majesty, in addition to other grievances and oppressions, has arrived at a state of final destruction and great misery, because of the cavalymen and the foot soldiers, so that the poor inhabitants of the realm can hardly meet the necessities of life, therefore we humbly and deferentially pray that, considering our compliant faithfulness and taking into account the devastation of your realm, in order that it may somehow recover and regain its former strength your majesty deign to take the appropriate measures so that henceforth the inhabitants of the realm will not suffer violence and demolition from the soldiers as they have suffered hitherto,¹³ and they shall not be burdened with the construction of fortifications and supplying food, except for the fortifications of Kevi, Pojejena and Haram/Palanka,¹⁴ which, if they are renovated, ought to receive help from the adjacent counties, and that the soldiers should not be billeted in the houses and allods of the nobles.

“Wüstungen, Zersplitterung der Bauernhufen und Wirtschaft in den Besitzungen der Magnatenfamilie Garai in Ungarn,” *Festschrift Othmar Field*, pp. 367-77 (Graz-Wien: Leykan, 1987).

¹⁰ This official exchange rate was not always observed; see Márton Gyöngyössi, “Coinage and Financial Administration in Late Medieval Hungary (1387–1526)” in József Laszlovszky *et al.*, eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 295–308.

¹¹ Due to the partible inheritance and other factors, the number of landless peasants (*inquilini*) increased in the later Middle Ages; many of them lived on tenant peasants’ plots and supplied the wage labor in times of seasonal employment. See István Szabó, “Hanyatló jobbágyság a középkor végén” [Decline of tenant peasants at the end of the Middle Ages], in *Idem, Jobbágyság, parasztság: Értekezések a Magyar parasztság történetéből*, István Für, ed. pp. 167-200 (Budapest: Akadémiai K. 1976)

¹² The *capita dicarum* (in Hung.: *rovásnyél*, “rod of assessment”) were some kind of tallies. Lajos Thallóczy described one that survived, (by the courtesy of Károly Tagányi) in “Adatok a magyar pénzügyi kezelés történetéhez” [Data on Hungarian administration of finances], *Magyar Gazdaságtörténeti Szemle* (1895): 119-20. The object, found by coincidence in a sixteenth century file, was a 5 cm long piece of thin wood.

¹³ The complaint about the excesses of the soldiers is recurrent; see, among others, **1405/II:1**; **1435/II:6**; and **1454:8**.

¹⁴ The reason for expressly naming these three castles—Kevi in Co. Keve (today: Kovin in Croatia), Pozsaszin, in Co. Krassó (today: Pojejena in Romania) and Haram in Co. Krassó (today: ruins near Banatska Palanka in Serbia)—may have been that they were taken at some time by the Ottomans and destroyed; however, we know this for certain only about Keve/Kovin

7 Then, that because of the poverty of the realm, during the aforementioned five-year period the general county assemblies and the customary common assizes should not be held in any county of the realm except for the following counties: Pozsega, Valkó, Szerém, Baranya (only on the far side of the River Drava), Csanád, Temes, Zaránd and Arad,¹⁵ in which various thefts, robberies, maimings, selling of men, beheadings and a multitude of other misdeeds are said to be committed; thus those counties should not omit the common assizes, but hold them in such a way, however, that in these courts neither billeting funds,¹⁶ nor fines should be levied; moreover, cases concerning estates should not be judged in these courts. After these years will have passed, moreover, such general county assemblies should not be held other than with the counsel of the lord prelates, barons, and the lords of the realm.

8 Then, in cases of seizure of estates and properties, committed either on the basis of royal grant or otherwise, short summons should be issued against the occupants, and they should be prosecuted at law according to the customs of the realm. And if on the occasion of introduction legal objectors should appear, the requestor of such property ought not enter nor establish ownership on the property. And if this is done out of arrogance, that person shall be prosecuted with due process of law by short summons, and such a man shall be condemned in the estimated value of those estates or properties, according to ancient practice.¹⁷

9 Then, that your majesty should not allow the seizure of estates and properties of noblemen upon anyone's simple complaint.¹⁸

10 Then, that your majesty should not arrest anyone, whether of major or minor status, without due process of law, except those who can be arrested according to the customs of the realm, and should not exile or arrest any prelate, baron, lord or noblemen of the realm without the

¹⁵ The burdens placed on the counties by the palatinal assizes was a recurrent complaint. It was finally abolished in the *Decretum Maius* (**1486:1**). The counties listed are located on the southern border regions of the country, where, apparently, public safety deteriorated considerably.

¹⁶ This term refers to those expenses, which the palatine and his entourage levied, and goes back to the ancient right of hospitality (*droit de gîte*), the *descensus* of the eleventh century. While no specific amount is known, it may have been identical with the sums paid for exemption from holding such assemblies.

¹⁷ Short summonses were issued with the stipulation of the summoned party appearing in court within 32 days or the next regular (so-called octavial) session. It was often combined with "terminal summons" (*citatio cum insinuatione*), implying that the case would be decided even if the party did not appear in court.

-- Objection to an institution, that is the act of introducing a new owner into a property granted to him, was called *repulsio*, an action by a party in physical possession of a property, which had been adjudged in court to another, by which he might impede the institution with ritual violence (with a drawn sword or similar weapon). This had the consequence of forcing the matter back into court for a retrial. *Repulsio* could only be performed once. Cf. **1405/II: 2; 1435/I:3; 1439:29; 1464:7, 12, and 1471:23.**

¹⁸ Cf. **1464:18; 1471:10.**

sentence and counsel of the lords prelates, barons, lords, and noblemen, as has been the custom from ancient times.¹⁹

11 Then, that henceforth in the future no octave court be held in the seat of the bans of Mačva and that the sentences concerning cases of properties, passed in the last two years, shall be returned for consideration and review before the lords prelates, barons, the masters protonotaries, and elected nobles of the realm.²⁰

12 Then, that short summons in the case of every article issued earlier by the royal majesty and the kingdom's prelates, barons, and lords²¹ may be issued and treated under the seal of the palatine,²² of count Stephen Bátori,²³ and of the personal presence of the royal majesty,²⁴ and that the most reverend lord archbishop of Kalocsa,²⁵ and the honorable palatine and count Stephen Bátori, and those prelates and barons who were elected in this diet to judge and to pass sentence, or at least half of them, ought to be present at the octave courts and the courts of short summonses, and at least every important case ought to be decided with their opinion and in their presence.²⁶

¹⁹ This *habeas corpus* clause goes back, of course, to Art. 2 of the Golden Bull of 1222, but was repeated regularly in later decrees, e.g., in 1439:27 and 1471:2.

²⁰ This measure aimed at reducing the regional power of the Újlaki family. Nicholas of Újlak, king of Bosnia, formerly a close companion of János Hunyadi, died in 1477, and his son, Lawrence, while not inheriting the royal title, kept the banate of Mačva. The cancellation of the special octave court in the banate ended the jurisdiction of the ban over the neighboring counties. See: András Kubinyi, "A kaposújvari uradalom és a Somogy megyei familiárisok szerepe Újlaki Miklós birtokpolitikájában" [The role of the estate of Kaposújvar and the retainers from Co. Somogy in the property policies of Nicholas of Újlak/Ilok,] *Somogy megye múltjából* 4 (1973): 33.

²¹ This measure extends the use of the short summons, earlier objected to by the estates, to all of the leading royal judges and thus virtually cancels the preceding decisions. By calling it a "custom of the realm" and allowing its use against usurpers as well, the innovation seems to have been generally accepted. Nevertheless, it was soon abolished in 1486:2.

²² The count palatine was Michael Ország of Gút (1458-1484), on him, see Tamás Pálosfalvi, in: *Matthias Corvinus, the King. Tradition and Renewal in the Hungarian Royal Court 1458-1490. Exhibition Catalogue* (Budapest: Budapest History Museum, 2008), p. 267.

²³ Stephen of Bátor (Mori) was judge royal between 1471 and 1493, see Richárd Horvát in *Matthias Corvinus, the King*, p. 268

²⁴ The court of the personal presence functioned on a regular basis from 1435 and it was led by the chancellor. After 1464, when it was united with the court of the special personal presence, it became the main royal court of justice, issuing sentences under the king's judicial seal. Its head was a chancellery protonotary, the *locumtenens personalis presentie* (later simply: *personalis*) who presided over an ever more professionalized judicial staff.

²⁵ The archbishop of Kalocsa was Gabriel of Matucsina from 1472 to 1478.

²⁶ Cf. 1464:5 with the difference that even half of the expected barons and prelates can constitute a quorum in the court.

13 In the matter of short summonses and octave courts the following should be the rule: among the four octaves hitherto normally held,²⁷ the octave of the feast of St. Michael the Archangel²⁸ ought to be held in the customary fashion for every litigant of our realm, disregarding any devisable excuse; however, instead of the other three octaves, neglected at present for certain reasons, we decided that instead of the cancelled octaves, on their sites and dates, courts of short summons should be held beginning with the twenty-fifth day of the feasts fixed for this purpose in the past: namely, the feasts of St. George, St. James, and the Epiphany of the Lord,²⁹ and last continuously for twenty-five weekdays without interruption.

14 Then, that your serenity should kindly deign to accept and confirm what is written in this register article by article for the restoration and preservation of this realm and to give due account to our loyalty and to deem graciously to keep and maintain us in all our ancient customs and liberties, in accordance with the decrees of your serenity's royal predecessors, which you confirmed in Szekesfehervar on the occasion of your coronation.³⁰

15 Then, in the matter of the collection of tithes the ancient method should be maintained, namely, that the tithe-collectors must be content with the oath of the peasants; and if the collectors wish, they shall be free to examine the rick under the usual fines. Moreover, where the tithes are exacted in money,³¹ county magistrates shall be sent with the tithe-collectors, who, if they wish, go at their own expense and not at the tithe-collector's, and they shall faithfully watch the tithe-collectors. And where the tithe-collectors might wish to exact the tax unjustly, the noble magistrates should not go with them. And if some peasant takes an oath, the tithe-collector may not harass the oath-taking peasant further nor exact more than the amount for which the peasant took the oath. And because, in some counties, the tithe-collectors have customarily exacted, on the

²⁷ Traditionally, there were four *ocatava* courts annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times. The present article can be seen as a step towards a more continuous session of the royal courts of justice.

²⁸ 6 October.

²⁹ 24 April, 25 July, and 6 January.

³⁰ The decree of 6 April **1464**

³¹ In spite of repeated decrees about rendering the tithe in kind only (see e.g. **1351:6**, **1411:5**), it seems to have become general to pay it in coin. In **1447:35** this practice was abolished because of the frequent disagreements around the value of coins. **1458:34** repeated the original rule of payment in kind, but **1464:24** left the mode of tithing open to agreement with the bishop. Here, the traditional way is once again emphasized, only to be replaced by a compromise in **1478:15**, accepting both forms, and finally, in **1481** tacitly dropping the collection in kind altogether. — Otherwise, the stipulations just repeat the traditional procedure, codified first in the eleventh century (**Syn. Szab.: 40**). See: Andor Csizmadia, "Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn." *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 61 (1975), 228–257. A more detailed monograph on the issue is still missing.

pretext of this oath, two shocks from the peasants swearing an oath as to their grain, they may not do it any more, unless it was the custom.

These articles, as mentioned above, being presented to our majesty by the aforementioned prelates, barons, and noblemen of the counties of our realm, we accepted and confirmed them, because, first, of their most humble prayer directed to us, and second, because we regarded these aforementioned articles as set out to the good peace, tranquil state, and benefit of our realm; and we have promised to maintain the said prelates barons, noblemen in each one of them; indeed, we accept, confirm and promise this by the force and testimony of our present letter.

Given in the aforementioned Buda on the Sunday of Quasimodo, in the year of the Lord one thousand four hundred and seventy-eight.

LAW OF KING MATTHIAS I (CORVINUS) OF HUNGARY (1458-90)

OF 15 JULY, 1481

This decree was passed on a diet held during a brief truce between Frederick III and Matthias, from 31 May to 15 July, 1481. While most of its paragraphs deal with the ways and modes of tithing, it also contains limitations of different burdens on the county nobility, such as fees and expenses for assizes.

MSS.: 4 originals or contemporary copies, on paper. Two in Budapest: one fragmentary (MNL OL DI 32331), and one complete (MNL OL DI 26359); one in the archives of Košice, and one in the National Archives of Croatia (for details, see *DRH Matth.*, p. 245-46).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: Ignatius Batthyany, *Leges ecclesiastici regni Hungariae et provinciarum adjacentium*. 3. vols. Alba-Carolina: Typis episcopalibus, 1785–1827, pp. 514-9 (excerpt); *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus et al. eds., (Budapest: Franklin, 1896), 1:388-97; Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458-1490*, (Budapest: Akadémiai K. 1989) [=*DRH Matth.*], pp. 246-51.

LIT: Andor Csizmadia, “Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn.” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 61 (1975), 228–257.

15 IULII 1481

Nos Mathias Dei gratia rex Hungarie, Bohemie etc. memorie commendamus tenore presentium significantes, quibus expedit, universis, quod nos una cum dominis prelati et baronibus ac proceribus et electis omnium comitatum regni nostri nobilibus totum hoc regnum nostrum Hungarie representantibus in presenti dieta seu convention generali hic Bude nobiscum constitutis super bono communi et reformatione status omnium tam spiritualium quam etiam secularium personarum maiorum scilicet et minorum earundem et regni ipsius defensione et debita eiusdem conservatione diutius laborantes et mature tractantes communi omnium eorundem dominorum prelatorum, baronum procerumque et regnicolarum nostrorum voto et unanimi voluntate inter cetera et alias bonas ordinationes dispositionesque et statua in hos infrascriptos tandem et perpetuo duraturos convenimus articulos:

I. Imprimis, quod domini prelati et ceteri ecclesiastici decimas habentes de nullis aliis rebus preterquam vinis, frugibus, agnellis, apibus, milio, siligine, ordeo et avena iuxta antiquam regni consuetudinem decimas exigant.

Quodque deinceps omnes alie inordinate exactiones, quas decimatores eorundem dominorum prelatorum et ceterarum ecclesiasticarum personarum, temerarie facere consueverunt, cessare debeant nec ullo pacto imposterum fiant.

II. Item quod ad nobiles uxoresque et familiam eorundem ratione non solutionis decimarum; propter rusticos et iobagiones eorundem interdictum ecclesiasticum per ipsos dominos prelatos aut decimatores eorum non imponatur, nisi ipsi sint causa notoria, propter quam rustici et iobagiones decimas solvere recusarent.

III. Item quod Rasciani et ceteri huiusmodi scismatici ad solutionem decimarum non astringantur et neque per comites parochiales instar aliorum ad huiusmodi decimarum solutionem compellantur.

Quodque ad Christianos, in quorum medio tales scismatici morantur, aut econtra ratione ipsorum scismaticorum et non solutionis decimarum interdictum ecclesiasticum non imponatur.

IV. Item quod si qui Christiani cum prefatis talibus Rascianis et scismaticis societatem sive contractum habuerint et araturas sive alias agriculturas pari auxilio fecerint, de parte fructuum Christianis cedenti decime solvantur, de reliqua vero parte talibus scilicet schismaticis cedenti tales decime non exigantur.

Hoc tamen adiecto et per expressum declarato quod tales Rasciani sive scismatici non censeantur et neque sint in perpetuum ab huiusmodi decimarum solutione exempti, sed tantummodo per aliquos annos et interim, quoad scilicet bono modo se tales alienigene et transfuge in regno Hungarie et dominiis sacre corone subiectis firmabunt et ut talium transfugarum exemplo etiam alii ditioni Turcorum subiecti ad veniendum tanto promptiores efficiantur, quanto tales, qui iam venerunt, tanta prerogativa se conspexerint donatos.

V. Item quod centum regales denarii ubique pro uno aureo recipiantur quodque pro quatuordecim capetiis unus aureus aut centum denarii tantummodo exigantur, prout est consuetum.

VI. Item quod de capitibus dicarum a villicis nil exigatur, sed facta plenaria decimarum solutione decimatores teneantur aut illa dicarum capita reddere aut aliter per litteras illos villicos committere expeditos.

VII. Item quod decimatores deinceps non apud villicos, sed apud plebanos parochiales descendant.

Verumtamen villicus loci, ubi scilicet decimatores ipsi aut prandium aut cenam fecerint, teneatur illis mittere duo fercula duos cubulos sive duo quartalia Budensia avene, duas tortas sive duos panes circulares et duas pintas vini.

Hoc etiam adiecto quod villici villarum vicinarum, in quibus scilicet tales decimatores prandium aut cenam non fecerint, nihil eisdem decimatoribus solvere teneantur, sed totaliter exempti habeantur ex eo potissimum, quod illi etiam alias in exactione et collectione ipsarum decimarum satis laborare habent.

VIII. Item quod nullus prelatorum deinceps possit decimas suas arendare.

Quodsi quispiam eorum gravi compulsus necessitate locare coactus fuerit, conductor sive arendator ille non presumat ordinationem et limitationem sive continentiam decreti quondam serenissimi regis Sigismundi imperatoris transgredi, sed dicare debeat iuxta illud decretum et secundum quod unusquisque dominorum prelatorum aut aliarum ecclesiasticarum personarum decimas habebentium cum suo comitatu concordavit.

Quodsi arendator seu conductor ille his stationibus et dicto decreto quondam serenissimi domini Sigismundi imperatoris contraverint, homo per comitatum electus cum decimatore deputatus plenam exnunc datam habeat facultatem illum captivandi et regie maiestati presentandi.

Regia vero maiestas de illa pecunie summa pro qua ille tales decimas conduxit, illi prelato satisfacere et respondere, illum vero conductorem male et contra statuta decretaque dicantem castigare habebit.

IX. Item quod nullus prelatorum aut decimatorum ratione decimarum usque festum Purificationis Marie virginis ponat interdictum, sed imprimis circa festum beati Nicolai confessoris ammoneat quemlibet ad solutionem et tandem circa prefatum festum Purificationis Marie virginis contumaces et solvere recusantes subiciantur interdicto ecclesiastico.

Ubi vero vina non procreantur, sed tantummodo fruges et blada, ibi tales decime exigantur temporibus hactenus solitis et consuetis.

Prima autem decimarum solutio fiat ad festum Nativitatis Domini, reliqua vero ad predictum festum Purificationis Marie virginis.

X. Item quia multe hactenus differentie et inordinationes in decimarum dicatione et earundem exactione fuerunt, statutum igitur et diffinitum est, quod dum tempus huiusmodi dicationis decimarum adventaverit prelatusque ad eam mittere voluerit, debeat prius nobilibus illius comitatus in sede eorum iudiciaria significare.

Qui quidem nobiles teneantur unum bonum et probum de medio eorum eligere iustum et conscientiosum et prelato non suspectum et cum ipsis decimatoribus ad expensas ipsius prelati mittere.

Idem vero homo per ipsos nobiles electus publice in ipsa sede iudiciaria iuramentum prestare debeat, quod scilicet tam prelato quam etiam incolis illius comitatus fidelis erit nec quicquam sinistre et perperam sive iniuste pro aliqua parte fieri permittet quodque neutri parti favorabilior erit.

Qui quidem decimator si non debite et iuxta visionem atque iudicium ipsius hominis hoc modo electi dicaverit prefatisque ordinationibus et dispositionibus temerarie contravenerit, idem homo electus illos dicatores relinquere et amplius cum eisdem procedere non audeat.

Quodque si prelatus requisitus non emendaverit et non rectificaverit, conclusum est, ut quandocumque id regie maiestati ex legitima et sufficienti probatione constiterit, habita prius iusta et diligenti super his inquisitione, ex quo in prioribus decretis super ipsarum decimarum exactione talibus penitus nulla pena inflictata est, de nostra et omnium prelatorum et baronum procerumque regnicolarum communi et unanimi voluntate tales hanc penam perpetuo duraturam patiantur, quod talis prelatus vel alia ecclesiastica persona nunquam decimas suas de cetero cum pecuniis exigere possit, sed eas de rebus illis, quas terra produxerit, in specie recipere et colligere teneatur, ita tamen quod ex utraque parte sine fraude et calumpnia cum veritate et iustitia res agatur.

XI. Item quod decime cum gravaminibus solitis et consuetis et non aliter exigantur.

XII. Item quod decime ipse secundum decretum et consuetudinem atque ordinationem seu dispositionem, quam unusquisque dominorum prelatorum cum suo comitatu habet, exigantur.

XIII. Item quod si quispiam hominum in exactione decimarum regie maiestati iniuste conquestus fuerit, diffinitum est et conclusum, quod comperta veritate et visa illius iniusta querela eo facto talis in emenda lingue convincatur.

XIV. Item conclusum et diffinitum est, quod nos rex Mathias prefatus a festo beati Martini confessoris proxime venturo usque ad aliud festum similiter beati Martini immediate sequens in corpore regni nostri Hungarie generale iudicium celebrari non faciamus.

Interea autem domini prelati et barones, ceterique regni proceres providere et de alio modo cogitare habebunt, quo malefactores extirpentur.

Quodsi fiet, nos tandem huiusmodi generale iudicium non solum non celebrare pollicemur, verum etiam insuper ita deponemus et abolebimus, quod nunquam amplius in ipso regno nostro celebretur.

XV. Item quia illis donationibus, quas nos Mathias rex prefatus servitoribus nostris de illis bonis, que ad sacram coronam sive per infidelitatis notam sive defectum seminis aut alia ex quacunque causa devolvuntur, facere consuevimus, multi tempore stationis contradicere soliti sunt, conclusum et dispositum est, quod talibus donationi nostre, contradicentibus terminus unius anni deinceps prefigatur et interim in dominio talium bonorum relinquuntur.

Elapso autem anno uno illo die, quo statutio donationis nostre fiebat, iura et privilegia sua coram nobis producere debeant.

Quibus productis si illos contradictores ius plenum habere compererimus, ipsos in pacifico dominio ipsorum bonorum perpetue relinquemus.

Si autem producere non possent aut non curarent, extunc donatio ipsa vigorem habeat et illi, cui donaverimus, statuantur fructusque possessionum collatarum infra id temporis perceptos; ipsi contradictores restituere teneantur.

Quodsi iura et privilegia sua apud manus alienas fore allegaverint, dimidio anno ante termini prefigendi completionem nobis revelare teneantur.

Nos vero tales, apud quorum scilicet manus fuerint, ad eorum iurium et privilegiorum restitutionem compellere et astringere per omnia remedia habeamus.

XVI. Item quia in presenti dieta seu conventionione plurimi regnicole conquesti sunt, quod capitula et conventus sigillis utentes in emittendis eorum testimoniis incolas regni ultra dispositum eis salarium gravarent et ad vota eorum taxarent, conclusum itaque super hoc et diffinitum est, quod comitatus, in quo deinceps id fieri continget nobis Mathie regi prefato rescribere sub firmo iuramento teneatur nosque tales inordinationes rectificare atque eos, qui tales inordinationes temere committere presumpserint, taliter punire et castigare habeamus, quod etiam ceteri ab eis exemplum capiant.

XVII. Item quod prelati ecclesiarum et eorum vicarii citationes et monitiones generales non expressis illorum nominibus, contra quos huiusmodi citationes vel monitiones peterentur, dare non debeant neque etiam personas laicas et seculares pro levibus causis et presertim illis, que ecclesiasticum forum non concernunt, advocare.

Sed cum citationes aliquas, vel etiam monitiones ad alicuius instantiam decernunt expressis illorum citandorum vel monendorum nominibus et causis, pro quibus citari vel moneri debent, decernant et pro levibus causis citationes non decernant, sed unumquemque sive ecclesiasticorum sive laicorum ad suum patronum remittant.

Si vero aliquae essent cause, mere ecclesiasticum forum concernentes, in his unusquisque ecclesiasticarum vel secularium personarum coram ordinario suo primum prosequatur, et deinde si contentus illius iudicio non fuerit, ad suum metropolitanum appellet et sic consequenter.

In decernenda tamen citatione et monitione ab unoquoque iuramentum de calumpnia exigatur.

Quos quidem articulos nos rex Mathias prefatus per nos ac dictos dominos prelatos et barones necnon proceres et electos nobiles modo premissis de beneplacita omnium voluntate et consensu pro bono communi tam spiritualium quam etiam secularium generaliter confectos acceptamus, approbamus et perpetuo duraturos observaturosque ratificamus harum nostrarum vigore et testimonio litterarum mediante.

Datum Bude in festo Divisionis apostolorum anno Domini millesimo quadringentesimo octuagesimo primo, regnorum nostrorum Hungarie etc. anno vigesimo quarto, Bohemie vero tredecimo.

15 JULY, 1481

We, Matthias, by grace of God, king of Hungary, Bohemia, etc. wish to be remembered and make known to all to whom it may concern by these presents that we, together with the lords prelates, barons, lords, and the noblemen elected from all the counties of our realm who, representing this our entire kingdom of Hungary, appeared with us here in Buda at this diet, that is, in general assembly, exerted ourselves at length and held mature deliberations concerning the common good and betterment of the state of every person, be he ecclesiastic or layman, of major or minor status, as well as concerning the defense and proper preservation of the realm; after due deliberation, we agreed with the common desire and unanimous will of the said lord prelates, barons, lords, and gentlemen of the realm, among other good orders, measures, and statutes, on the following articles which are to remain valid for ever:

1 Above all, that the lord prelates and other ecclesiastics receiving tithes should not collect tithes on anything other than wine, grain, lambs, bees, millet, rye, barley, and oats according to the ancient custom of the realm.¹

Also, henceforth all those unjust tithe-collections, recklessly and commonly practiced by the tithe-collectors of the same lords prelates and other ecclesiastics, must cease and should not occur in the future by any means.

2 Then, the lord prelates or their tithe-collectors should not impose an ecclesiastical interdict upon the noblemen, their wives or family on the pretext that their peasants and tenant peasants did not pay the tithe unless for the well-known cause that the peasants and tenant peasants refused to pay the tithe.

3 Then, that the Serbs and other such schismatics shall not be required to pay tithes, neither should they be forced by the county *ispáns* to pay the tithe following the example of others.²

Also, no ecclesiastical interdict shall be imposed upon Christians among whom such schismatics dwell, and vice versa, because the schismatics do not pay their tithe.

4 Then, if any Christians form a partnership or make agreement with these aforementioned Serbs and schismatics to perform jointly tillage and other agricultural work, the tithe must be paid from the part of the crop or produce belonging to the Christians; from the rest, however, that is,

¹ This has been codified many times, ever since **1222:20**, but in all likelihood, the tithe was paid in coin in most of the cases.

² The issue of tithing non-Catholics came up earlier in regard to the Vlach (Romanian) inhabitants of Transylvania. Their being forced by Bishop Lépes to pay the tithe may have been one of the causes of the peasant uprising of 1437 (see Joseph Held, "The Peasant Revolt of Babolna 1437-38," *Slavonic Review* 36 [1977]: 25-38, esp. pp. 29-31.) With the advance of the Ottoman Turks on the Balkans the number of Orthodox who fled to Hungary from Serbia, which became finally part of the Ottoman Empire in 1459, increased to an extent which called for special regulations. The assumption of joint tillage between Catholics and Orthodox may suggest the existence of communal farming in certain villages.

from the part belonging to the schismatics, tithe shall not be demanded. But with the following express provision: that these Serbs or schismatics are not to be regarded as being eternally exempted from paying tithes, nor should be eternally exempted, but only temporarily; that is, until these foreigners and refugees shall regain their wealth and health in Hungary and in the lands belonging to the Holy Crown, so that, following the example of these refugees, other people living under Turkish rule would be the more willing to come here the more they see what great privileges those have received who already came here.³

5 Then, that one hundred royal pennies shall be accepted as one golden florin and only one golden piece or one hundred pennies shall be exacted for fourteen ricks, as is customary.⁴

6 Then, that nothing shall be exacted from the reeves for the tallies, but when the tithes are fully paid the tithe-collectors shall be required to return the tallies⁵ or otherwise declare these reeves quit by a letter.⁶

7 Then, that henceforth the tithe-collectors shall not lodge at the reeves but at the parish priests.

³ Kings of Hungary encouraged the immigration of southern Slavs, both lords and warrior-peasants (the *vojniki*), ever since the early fifteenth century. The Hungarian-Croatian border defense system, built up under King Sigismund and his barons (Pipo Scolari, the brothers Tallóci, etc.) was based on the cooperation of the garrisons of fortified castles and experienced swift mobile troops. Most of the latter were recruited from among the Serbs and other Slavs who took refuge in Hungary, frequently under the command of their lords (such as the Jakšić, the Belmošević, the descendants of Prince Fružin, and others). They supplied troops well versed in guerilla warfare against the marauding Ottoman auxiliaries; see Ferenc Szakály, “The Hungarian-Croatian Border Defense System and Its Collapse” in János M. Bak and Béla K. Király, eds. *From Hunyadi to Rákóczi: War and Society in Medieval and Early Modern Hungary*. (Brooklyn, N.Y.: Social Science Monographs, 1982), pp. 141-58, esp. 144-45; and András Kubinyi, “The Road to Defeat,” *ibid.* pp. 169-70.

⁴ The official exchange rate remained 100d for 1 florin but there is evidence that in practice a few pennies agio was granted for the coins gold content. This is already conscious monetary policy, combining the exchange rate with appropriate regulation of emission; see Márton Gyöngyössi, “Coinage and Financial Administration in Late Medieval Hungary (1387–1526)” in József Laszlovszky *et al.*, eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 295–308.

⁵ Up to Matthias's reign it seems to have been usual to charge 2 pennies for the tallies (last so decreed in June **1458:39**), but already in 1470 a royal mandate and a dietal decree stipulated that nothing be charged for them, i. e., for the assessment and accounting of the tithe (see *DRH Matth.* . p. 183 n.1 and p. 186).

⁶ The tithe collector either issued a writ or returned the tallies to the village elder to acknowledge receipt of the tithes due. The *capita dicarum* (in Hung.: *rovásnyél*, “rod of assessment”) were some kind of tallies. Lajos Thallóczy described one that survived, (by the courtesy of Károly Tagányi) in “Adatok a magyar pénzügyi kezelés történetéhez” [Data on Hungarian administration of finances], *Magyar Gazdaságtörténeti Szemle* (1895): 119-20. The object, found by coincidence in a sixteenth century file, was a 5 cm long piece of thin wood.

However, the reeve of the place, where the tithe-collectors have dinner or supper, is required to serve them two dishes of meal, two cubits or two quarts of a Buda measure of oats, two milk-loaves or two round loaves of bread, and two pints of wine.

With this provision: that the Reeves of the neighboring villages, that is, where these tithe-collectors do not have dinner or supper, shall not be required to pay anything to the tithe-collectors but shall be totally exempted, the more so as they have quite enough work with the exacting and collecting of the tithes.⁷

8 Then, that henceforth no one among the prelates may farm out his tithes.

If some prelate, pressed by great need, should be forced to farm out the tithe, the contractor or farmer shall not dare to contravene the orders, rules, and content of the decree of the late most serene lord King and Emperor Sigismund,⁸ but ought to collect the tithes according to that decree and according to the agreement made between each lord prelate, or other ecclesiastic entitled to the tithes, and his county.

If the contractor or tithe-farmer should act contrary to these orders and the decree of the said late most serene lord Emperor Sigismund, the person elected by the county and sent with the tithe-collector shall have the right, granted to him herewith, to arrest and hand him over to the royal majesty.

And the royal majesty will be required to give satisfaction and account to the prelate for the whole amount for which all the tithes were farmed, and to punish the contractor who collected tithes wrongly and contrary to the order and the decree.

9 Then, that no prelate or tithe-collector shall impose an interdict because of the tithes until the feast of the Purification of the Virgin Mary,⁹ but first shall warn everyone at the feast of St. Nicholas the Confessor¹⁰ to pay, and only then shall those stubbornly refusing to pay be subject to ecclesiastic interdict at the time of the said feast of the Purification of the Virgin Mary.

And where vine does not grow, but only grain and wheat, these tithes shall there be collected at the hitherto customary times.

The date of the first payment of tithes, however, shall be on Christmas Day, and the rest on the aforementioned feast of the Purification of the Virgin Mary.

⁷ The categorical prohibition of farming out the tithe seems to have been mere ideology, for it was customary at least since the fourteenth century, and the next sentence realistically admits that it “may occur.” See Csizmadia, “Die rechtliche Entwicklung.”

⁸ 1411:5-6.

⁹ 2 February

¹⁰ 6 December.

10 Then, since much disagreement and discord has occurred in the exacting and collecting of tithes, it has therefore been decided and ordered that when the time of such exacting of tithes approaches and the prelate wants to send out somebody to do it, he must first make declaration to the noblemen of the county at their court of justice.

The noblemen then should be required to elect a good and honest, just and conscientious man from among themselves who is trusted by the prelate, and send him with the tithe-collectors at the same prelate's expense.¹¹

The man elected by the nobles must publicly swear an oath in the same county court that he will be faithful to the prelate as well as to the inhabitants of the county, and that he will permit nothing unjust or wrong to occur to the disadvantage of any party, and that he will not favor one party to another.

If the tithe-collector should exact the tithe incorrectly and not in accordance with the view and decision of the man so elected, and if he should act recklessly contrary to the said orders and regulations, the elected man should leave the tithe-collectors and ought not dare to accompany them further.

If the prelate to whom appeal was made does not redress and correct the fault, we decided by common and unanimous will of ourselves and all the prelates, barons, lords, and gentlemen of the realm, that, as soon as this situation comes to the royal majesty's knowledge through lawful and sufficient evidence – because in earlier decrees concerning the collection of collecting tithes no punishment whatsoever was imposed upon these people – they shall be punished, after a just and adequate inquest, with this perpetual punishment: that such a prelate or other ecclesiastic henceforth may not collect his tithes in cash at any time, but he must accept and collect them in kind, in such fruits as the land yields,¹² thus, moreover, that both parties shall proceed frankly and justly, without any dishonesty and false statement.

11 Then, that the tithes shall be collected with the usual and customary fines and not otherwise.

12 Then, that the tithes shall be collected according to the decree and custom and in accordance with the agreement and decision made between each lord prelate and his county.¹³

¹¹ Cf. **1471:3**. Apparently the delegation of a *plebanus* (parish priest) proved to be a short-lived arrangement and the procedure returned to custom followed earlier and to the traditional mode similar to the assessment and exaction of the chamber's profit.

¹² It is peculiar that tithing in kind is specified as "perpetual punishment," while the levy of the tithes in money has been prohibited ever since **1222** (see n. 1, above).

¹³ The wording of this paragraph is noteworthy for medieval conceptions about valid rules, as it combines law, custom, and specific agreement between lord and subject without any hierarchy. Also, the strength of the county as a local unit of administration is apparent, for the prelates are supposed to make arrangements with each of them and not with their entire diocese. Hungarian dioceses usually contained four or more counties.

13 Then, it was decided and ordered that if someone unjustly lodged a complaint with the royal majesty concerning the collecting of tithes, and if the truth comes to light, and his complaint proves unjust, he must be immediately convicted to the fine of his tongue.¹⁴

14 Then, it was decided and ordered that we, the aforementioned king Matthias should not hold general assizes in the territory of our kingdom of Hungary from the next feast of St. Martin the Confessor¹⁵ until the following feast of the same St. Martin.

In the meantime, however, the lord prelates, barons, and the other lords of the realm shall be required to ensure and devise other means to root out criminals.

If this is done, we not only promise not to hold general assizes, but we shall also abolish and eradicate it so that general assizes would never again be held in our kingdom.¹⁶

15 Then, because frequent objections were made at institutions against grants that we, the aforementioned King Matthias, used to make to our servants from those estates that escheat to the Holy Crown due to the charge of infidelity or default of issue or some other reason, we decided and ordered that for those who object to our donations, a year's deadline should be fixed, and until that date they shall be left in the dominion of such estates.

When that year expires, however, on the date when the institution to our donation was made, they shall be required to present publicly their rights and letters of privilege to us.

If they present those and we find that the contradictors have full rights, we shall leave them in the perpetual dominion of these estates.

However, should they be unable or unwilling to present their claims, the donation shall maintain its validity and those to whom we have given it shall be granted institution; and the contradictors shall be required to refund the revenues exacted during that time from the granted estates.

But if they assert that their rights and letters of privilege are in the hands of others, they must so inform us half a year before the fixed deadline.

And we shall be required to compel and force by every means those who have them in their hands to return these rights and privileges.¹⁷

¹⁴The fine of the tongue, (*emenda lingue*) was a judicial fine for procedural faults, amounting to 100 florins and causing the suspension of the trial. Until the culprit paid the fine, his ability to sue at court was suspended, "his tongue tied."

¹⁵ 11 November.

¹⁶ On the opposition of the estates to general assizes and the concomitant expenses, see **1464:21**. They were finally abolished in the *Decretum Maius* (**1486: 1**).

¹⁷ This goes back at least to **1435/I:17**.

16 Then, because in this present diet or assembly many gentlemen of the realm complained that the chapters and convents bearing seals burden the inhabitants above the fixed fees¹⁸ and exact charges from them according to their will, it was therefore decided and decreed in this matter that the county where such a thing henceforth should occur, must write, under a firm oath, a notice about it to us, the aforementioned King Matthias, and we shall be required to redress these irregularities and punish and discipline those who recklessly presume to commit such irregularities, so that others may take an example from them.

17 Then, that the prelates of churches and their vicars must not issue general citations and warnings in which the names of those against whom these citations and warnings are issued are not indicated; nor shall they summon laymen for matters of minor importance and especially for such matters as do not pertain to an ecclesiastic court.

But when, upon someone's request, they order any sort of citation, as well as warning, they must do so with the indication of the names of those who are being summoned or warned and with the indication of the case in which they are to be summoned or warned. And in matters of minor importance they shall not order citations but shall send each person, whether ecclesiastic or lay, to his own lord.

But if some matter should belong purely to an ecclesiastic court, every ecclesiastic or layman should first seek justice publicly before his ordinary,¹⁹ and then, should he not be satisfied with the decision, he should appeal to his archbishop, and so forth.

On the occasion of ordering the citation or warning, everyone must swear an oath concerning frivolous prosecution.

These articles, drawn up for the common good of matters spiritual as well as secular, by us and the said lord prelates, barons, and nobles elected in the aforesaid manner, with the good will and agreement of all, we, the said King Matthias, accept, validate, and confirm, by the force and testimony of this present charter, will be observed and remain valid for all time.

Given in Buda, on the feast of the Division of the Apostles, in the year of the Lord one thousand four hundred and eighty-one, in the twenty-fourth year of our reign as king of Hungary, etc. and in his thirteenth year as king of Bohemia.

¹⁸ The reference is to the list of fees in **1435/I:10**, which was repeated several times later (e. g., **1458:28**, **1486:75**).

¹⁹ The *ordinarius* here refers to the bishop's judicial deputy in his court spiritual.

LAW OF KING MATTHIAS I (CORVINUS) OF HUNGARY (1458-90)

OF 25 JANUARY, 1486)

Decretum maius

Even if the king's claim to have “always contemplated” issuing a set of laws for his realm may have been unfounded, Matthias followed the European trend when he attempted to summarize royal legislation and customary law in a formal code. Around Christmas, 1485, after the successful siege of Vienna, the king returned to Hungary and called a diet. The details of the diet's preparations are described by the court historian, Antonio Bonfini (*Decades*VII), but he did not have first hand information, as he was absent from Buda in 1486. The king seems to have consulted with his chief officials, the treasurer, judge royal, and palatine-designate, and invited the nobility to New Year's Day, 1486. The diet began on or around that day and sat for more than three weeks. After the election of the new palatine on 24 January, the law-book was issued. It soon acquired the designation of *Decretum Maius*, especially, once it was printed in Leipzig in 1488 (and again in 1490). Bonfini, writing probably in 1492, found it appropriate to—more or less correctly—paraphrase it article by article (*loc. cit.* 6–71), which he did not do with any other law of Matthias. It has been suggested that this decree, which makes extensive use of older legislation and summarizes, with some additions, the legal development of the preceding decades, was compiled by Thomas of Drág, (whom Bonfini calls with Humanist Classicism *praetor regni*), judge of the bench of personal presence—on whom see Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary]. (Budapest: Akadémiai K., 1971) pp. 256–57—probably with the help of a lawyer trained in Roman law.

While it was an attempt at a more or less systematic code for “everlasting” validity, and many of its arrangements of legal procedure were repeated by Matthias’ successor, they did not become standard for quite a long time, especially due to the end of the independent kingdom and the division of the country for 150 years after 1526.

MSS.: Two originals in book-form, their seals lost (MNL OL D139323 and 283736) and an authentic copy from 1492 (*Ibid.* 26360).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD.: *Constitutiones incliti regni Hungariae*, Leipzig: Moritz Brandis, 1488 (2d ed. *Ibid.*: Conradus Kachelofen, 1489/90); *Magyar Törvénytár: Corpus Juris Hungarici*, Dezső Márkus et al. eds., (Budapest: Franklin, 1896), 1:402–69; Ferenc Döry, György Bónis, Géza Érszegi, Zsuzsanna Teke, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1458–1490*, (Budapest: Akadémiai K. 1989) [=DRH Matth.], pp. 265-310.

LIT.: Antonio Bonfini, *Rerum Ungaricarum decades*, I. Főgel, B. Iványi, L. Juhász, eds. 4/1 pp. 129–34 (Budapest: Magyar Tudományos Akadémia, 1941) Cf. Péter Kulcsar, *Bonfini magyar történetének forrásai es keletkezése* [Sources and development of Bonfini's Hungarian history], pp. 198–202 (Budapest: Akadémiai K., 1973); György Bónis, *Középkori jogunk elemei* [Elements of our medieval law], (Budapest: Közgazdasági és Jogi K., 1972), pp. 77–82; Idem, “King Matthias the Legislator,” *The Hungarian Quarterly* 6 (1944) 699–710; Vilmos Fraknói, *Matthias Corvinus, König von Ungarn (1458–1490)* (Freiburg i. Brsg.: Herder, 1891), pp. 233–72; Imre. Hajnik, *Bírósági szervezet és perjog az Árpád- és a vegyesházi királyok alatt* [Judicial structure and procedural law under the kings of the Árpád and the diverse dynasties], (Budapest: Magyar Tudományos Akadémia, 1899)); János M. Bak, “Tradition and Renewal in the *Decretum Maius* of King Matthias,” in *Matthias Rex 1458–1490: Hungary at the Dawn of the Renaissance* <http://renaissance.elte.hu/wp-content/uploads/2013/09/Janos-M.-Bak-Tradition-and-Renewal-in-the-Decretum-Maius-of-King-Matthias.pdf>. (See now below under Studies to medieval Hungarian laws) -- On the *editio princeps*, see Cs. Csapodi, M. Vértesy, *Catalogus incunabulorum que in bibliothecis publicis Hungariae asservantur*, Intr. by E. Soltész; G. Sajó, ed., Budapest: Akadémiai K., 1970, 1: 1074–75.

25 IANUARIII 1486

Mathias Dei gratia Hungarie, Bohemie, Dalmatie, Croatie, Rame, Servie, Gallitie, Lodomerie, Comanie, Bulgarieque rex necnon Silesie et Lucemburgensis dux marchioque Moravie et Lusatie ad perpetuam rei memoriam.

Decet reges et principes, qui superna dispositione in supreme dignitatis specula constituuntur, non solum armis, verum etiam legibus esse decoratos et bonorum stabiliumque potius institutorum rigore quam absolute potentie vel dampnande abusionis severitate populos subiectos et simul imperii sui habenas moderari.

Proinde ad universorum notitiam volumus pervenire, quod postquam nos maximo et inexpectato Dei munere ac eiusdem inefabili incomprehensibilique providentia ad hoc regie dignitatis fastigium (licet immeriti) sublimate fuimus, semper in animo volvimus, semper cogitavimus et cordi semper habuimus, ut eas inordinationes et perditas abusiones, que in hoc regno predecessorum nostrorum serenissimorum dominorum regum et nostra etiam tempestate hactenus, potissimum vero in iudiciis fuerunt, abolere et extinguere ac statuta decretaque ita salutaria, ita stabilia condere possemus, que ad laudem et gloriam imprimis redemptoris nostri ac deinde nostrum ac totius regni nostri honorem, salutem, commodum et tranquillitatem condita plane dinoscerentur, queque pro legibus et iure scripto perpetuo haberentur nec unquam illa pro arbitrio variare aut novas et contrarias leges cuiquam ferre liceret, prout hactenus in cuiuslibet novi regis assumptione factum fuisse non est obscurum fecissemusque satis huic sancto proposito et desiderio nostro, nisi urgentissimis ipsius regni nostri necessitatibus, potissimum in orarum finiumque eiusdem rectificatione simul etiam atrocissimorum hostium exterminatione, quibus regnum ipsum refertum invenimus, prepediti fuissimus.

Adeo quippe fines regni partim per Bohemos, partim Alemanos, partim Turcorum continuas incursiones, partim vero vicinas alias nationes et quidem omnes inimicas distracte occupateque fuerunt, ut nil prorsus preter corpus regni et id quoque diversis – ut prefertur – hostibus refertum dilaceratumque restabat, quibus rebus effectum est, ut huicemodi salutare propositum, licet admodum necessarium in aliud tempus differre sumus coacti. Et maxime quia sperabamus, quod postquam hostes prefatos, qui pluribus annis regnum ipsum ferro et igne vastaverant et qui illud tanquam hereditarium tenere posse iam non dubitabant (sic enim in illo pedem fixerant, ut iam connubia etiam facere et affinitates cum regnicolis contrahere ceperant) superarem pacem, otium et simul quietem e vestigio comparare et eiusmodi desiderium commodius complere possemus.

Verumtamen sive operatione inimici generis humani, qui bonis salutaribusque votis semper insidiatur, sive pravorum hominum suggestione et ineffrenata dominandi libidine effectum est, spes et opinio nos in hac parte fefellit. Nam postquam cum Dei auxilio hostes ipsos exterminavimus et oras finesque regni omni ex parte gravissimis licet laboribus, expensis et multorum nostrorum cede non modo rectificavimus, verum etiam plurimum undique extendimus et dilatavimus iamque id, quod cordi semper habuimus, complere molimur, ecce serenissimus dominus Fridericus Romanorum imperator et dux Austrie etc., quem perinde ac patrem carissimum semper coluimus et observavimus et cui omnibus in rebus gratificari studuimus, bellum nobis, sic – ut premittitur – longis gravissimisque armis et fessis et exhaustis indixit et continuo regnum

nostrum invasit illudque gravi et irrecuperabili iactura, incendio, spolio et diversis aliis execrandorum malorum generibus affecit, quo factum est, ut rursus (licet inviti) arma capere et nos regnumque nostrum defendere ac vim vi propulsare coacti sumus sicque sexennio huiusmodi bello nos vacare oportuit.

In quo quidem bello eo deventum est, quod rebus nostris Deo favente et iustitiam simulque iniuriam nostram ex alto prospiciente non solum nos et regnum nostrum ab ipsa imperiali celsitudine, a qua sic provocati sicque lacessiti fuimus, tutati sumus, verum etiam illum in Austria, patria scilicet sua hereditaria agentem adorsi Viennam, civitatem celeberrimam et eius provincie caput et solium semestri fere obsidione cinctam expugnavimus et deinde maiorem eius totius provincie partem similiter subiugavimus subiugassemusque et eius reliquias, nisi domesticis insolentiis et querelis revocati fuissetus.

Sed dum hiis rebus vacamus, dum successus nostros urgemus, dum fortunam simulque victoriam prosequimur, magna interea propter longam absentiam et occupationem nostram homicidarum, furum, latronum, predonum, falsariorum, incendiariorum et similium sceleratorum oritur in regno multitudo ita, ut non viator nec frater a fratre nec hospes ab hospite tutus esset.

Propter quod et simul, ut tandem prefatum desiderium nostrum explere tranquillitatie regnicolarum, prout semper optavimus, consulere possimus, in hoc regnum nostrum, ad cuius regimen divina – ut premisimus – dispositione assumpti sumus, frequenti regnicolarum pulsati lamentatione descendimus generalemque dietam hic Bude celebrandam cunctis prelatis, baronibus, proceribus et aliis nobilibus instituimus, ubi cum eisdem una ceterisque de quolibet comitatu electis nobilibus et universum hoc regnum representantibus ad laudem imprimis Dei et eius genitricis virginis Marie sanctorumque regum, patronorum scilicet huius regni et deinde pro nostro et totius regni honore, salute, bono statu, utilitate, comodo et tranquillitate in subscripta capitula et articulos pro legibus et iure scripto perpetuo duraturos et observandos pari et unanimi omnium voluntate, consilio et assensu convenimus et concordavimus.

I. Quorum quidem capitulorum sive articulorum primus est: Imprimis diffinitum et conclusum est, quod iudicium generale sive palatinale aboleatur et amodo nullo unquam tempore celebretur.

Sed tamen ne per hoc malefactoribus male agendi data concessaque videatur licentia, ordinatum est, quod si quando comitatus aliquis a latronibus, furibus, homicidis, incendiariis, falsariis et aliis huiusmodi flagitiosis sentiret se molestari et tales malefactores ibi multiplicari cognosceret regia maiestas ad petitionem illius comitatus annuere et eidem liberam concedere facultatem debet, quod illos cum comite exquirere et exterminare possit et valeat.

II. Item quia in celebrationibus proclamatarum congregationum plurime enormitates et inaudita scandala, pericula etiam inopinata ex improvise fieri solent, ad tollendum igitur huiusmodi periculosum et extra hoc regnum inauditum iudicium vel potius corruptelam pari universorum regnicolarum voluntate, consilio et deliberatione statutum et diffinitum est, quod amodo nullo

unquam tempore huiusmodi proclamate congregationes celebrentur, sed penitus cessent et perpetuo abolite sint et habeantur.

Item conclusum est, quod etiam breves evocationes consimiliter cessent et aboleantur.

III. Item quod singulis annis, nisi intercesserit legitima et gravis aliqua regie maiestatis aut regni necessitas infallanter sive regia maiestas agat in regno suo sive non, celebrentur due octave videlicet sanctorum Georgii et Michaelis ita videlicet quod illarum celebratio seu primus dies aut terminus incipiat statim vigesima die post festa prefata. In quibus duo adminus ex iudicibus ordinariis interesse debeant, ceteri vero si propter urgentes aliquas necessitates interesse nequeunt, vices gerentes eorum nichilominus interesse debeant et teneantur. Eorum autem loco, qui interesse non poterunt, regia maiestas alios ex dominis prelatiis et baronibus substituere debeat. Sine tamen presentia prefatorum duorum iudicum ordinariorum octave ipse non debeant neque possint celebrari; durent autem quousque necessarium videbitur.

Item diffinitum est, quod in Transsilvania et Sclavonia similiter singulis annis due alie octave videlicet Epiphaniarum Domini et sancti Iacobi celebrentur et similiter vigesima die huiusmodi festivitatum inchoentur et durent, quousque necessarium videbitur.

IV. Item quia finalis causarum decisio, potissimum vero in facto possessionario per varios hinc inde terminos variasque dilationes in longum serpere consuevit adeo, ut interdum vix in una hominis etate finaliter causa terminari posset, propter quod partes laboribus et expensis vehementer gravantur et nonnunquam ad extremam inopiam devenire coguntur, quamobrem conclusum est, ut amodo universe cause etiam in facto possessionum ac iurium possessionariorum coram quovis iudice deinceps movende absque omni prorogatione et dilatione semotaque omni exceptione in quatuor octavis finaliter terminentur.

V. Item ordinatum est, quod causantes sive litigantes in omni causa concordandi liberam habeant facultatem. Iudex vero eos inhibere neque pro pace seu concordia quicquam ab eis extorquere possit.

VI. Ceterum ex quo ordinatum est, quod universe cause in facto iurium possessionariorum movende in quatuor terminis sive octavis finaliter terminari debeant, idcirco statutum et diffinitum est, quod evocationes cum insinuatione, que super factis potentiariis, dampnorum illationibus aliisque nocumentis et iniuriis fuerint, in primis octavis post factam evocationem celebrandis finaliter terminentur. Si vero in facto possessionario fuerint et maxime si iurium et litteralium instrumentorum exhibitionem necessario requirere dinoscerentur, usque ad secundas octavas, sed non amplius pro huiusmodi privilegiorum productione differri possint et valeant. Evocationes vero cum insinuatione, in quibuscumque factis fuerint, sub sigillis omnium iudicum ordinariorum tam scilicet regiorum quam palatinalium et iudicis curie atque etiam banorum Sclavonie, Croatie et Dalmatie, sed et waywode Transsilvanie libere decernantur.

VII. Ulterius quia solent plurimi se a facie iuris prorogationum suffragio impune absentare et partem adversam iustam contra se actionem habentem longo litium processu gravare, quod malum

ut amodo tollatur et unicuique iustitia debito tempore administretur, statutum est et sancitum, quod prorogationes regie maiestatis temporibus octavarum nemini suffragari valeant, nisi hiis, qui extra fines et oras regni Hungarie in castris et in servitiis vel in legationibus regiis vel regni fuerint vel occupabuntur in bello et ad illud cum ceteris una tempore debito proficiscentur. Illis etiam qui extra fines regni in castris – ut preferitur – fuerint, in tribus tantummodo octavis eiuscemodi prorogationes observentur, in quarta autem respondere et iuri stare teneantur. Preterea si duo vel etiam plures fratres indivisi fuerint et eorum pater aut eo mortuo frater maior natu domi fuerit, ceteri vero fratres vel eorum alter sive in bello sive in castris – ut preferitur – extra regnum occuparentur, prorogationes illis similiter non observentur. Si tamen fratres divisi fuerint, obtenta prorogatione frui possint et gaudere. Si qui autem huiuscemodi prorogationes a regia maiestate false impetrare presumpserint, hoc est, si vel fratres suos in bello vel in castris extra regnum aut in legationibus occupatos finxerint, in emenda lingue eo facto convincantur. Pro qua quidem pena personaliter, si presentes fuerint, si vero absentes, procuratores per iudicem, coram quo res agetur, capiantur et immediate pena ipsa ab eisdem irremissibiliter extorqueatur.

VIII. Item quia in executionibus faciendis magni refert, qualiter se homines regii habeant et quales illi sint, idcirco ordinatum est, quod in quolibet comitatu comes cum universitate nobilium teneatur ex potioribus nobilibus et personalem inibi residentiam facientibus decem vel duodecem aut octo vel eo plures aut pauciores iuxta comitatus exigentiam eligere et illi dumtaxat debeant et possint ad faciendas inquisitiones, evocationes statutiones et alias executiones cum testimonio capituli vel conventus proficisci, qui onus illud infra unum annum integrum supportare teneantur. Quamprimum autem eligentur, sicuti electi capitulares et conventuales ita et illi in sede iudiciaria iuxta subscriptam formam, iuramentum deponere teneantur. Et si qui onus eis impositum suscipere recusaverint, in viginti quinque marcis per comitem confestim et irremissibiliter exigendis convicti habeantur eo facto. Cum vero de aliqua executione revertentur, sicuti testimonium capituli vel conventus in capitulo vel conventu, ita et ipsi similiter in capitulo vel conventu iuramentum prestare debeant et teneantur, quod id, quod viderunt, fecerunt, audierunt, resciverunt et executi sunt, suo modo fatebuntur. Si qui vero ipsorum falsitatem aliquam quacumque ex causa commisisse reperti fuerint, honorem et humanitatem perdidisse censeantur et insuper in viginti quinque marcis per comitem immediate et irremissibiliter exigendis convincantur eo facto; quodque de cetero nunquam testimonium de aliqua re neque intra neque extra iudicium sine speciali gratia regie maiestatis facere valeant.

IX. Item quia in quolibet comitatu nobiles, qui ceteris et condicione et facultatibus reperiuntur inferiores, pro iudicibus nobilium eligi consueverunt, quo fit, ut plurime levitates timore, favore et premio per illos committuntur, eam ob rem statutum est, prout etiam temporibus condam serenissimi domini Sigismundi imperatoris et aliorum regum observatum fuisse plane constat, quod deinceps non tales, sed boni et digni beneque possessionati nobiles in quolibet comitatu ex residentibus eligantur. Quicumque vero sic electi assumere onus illud recusaverint, in quinquaginta marcis immediate et irremissibiliter per comitem exigendis convincantur eo facto. Qui quidem iudices nobilium arma et sigilla cognoscibilia habere debeant et teneantur.

X. Item quia per homines capitulorum et conventuum, qui pro testimoniis transmittuntur, pro favore, pretio, dono, odio, timore et complacentia plurime et incredibiles enormitates tam in

fassionibus quam etiam litterarum emanationibus committi solent, hoc vero ex eo potissimum fieri consuevit, quia non canonici, sed rectores altarium vel capellani et frequenter etiam scolares et mendicantes et quidem tales ad executiones mittuntur, qui facillime corrumpi possunt, idcirco – ut huic malo debita provisione occurratur – statutum est, quod in omni loco capitulari et conventuali teneantur canonici et fratres in manibus prelati vel vicarii sui iuramentum de servanda in executionibus iustitia deponere, quodque deinceps nemo alius de capitulo nisi canonicus, de conventu vero, nisi frater in sacerdotio constitutus ad executiones mittantur. Hi vero seriatim transmitti debeant. Et quodcumque ab aliqua executione revertuntur, que executi sunt, sub iuramento referant. Pro via autem et redemptionibus litterarum teneatur ille modus et ordo, qui tempore condam domini Sigismundi imperatoris tentus fuit et qui etiam in presenti decreto inferius est declaratus. Cum autem pro aliqua evocatione vel inquisitione facienda vel alia quacunque re emittuntur, inquisitionem ipsam cum homine regio, qui bonus et conscientiosus atque bene possessionatus esse debeat, facere debeant singillatim tam a nobilibus quam ignobilibus et ab omnibus etiam aliis, quos habere poterit. Antequam tamen inquiret, strictissimum iuramentum ab eis exigere teneatur, quod quicquid ab eis interrogabit, fideliter et veraciter confitebuntur. Postmodum vero nominatim unde scilicet sint et si ignobiles fuerint, cuius sunt iobagiones, cuius etiam condicionis et item quid de re, de qua inquit, quilibet ipsorum scire confitebitur, de verbo ad verbum singulorum scilicet attestationem scribere debeat et teneatur. Si qui vero huiusmodi ordinationis transgressores reperti fuerint, tanquam periuri et falsarii atque communis boni communisque iustitie proditores eorum beneficiis eo facto privati sint et habeantur et prelati eorum aliis illa conferre teneantur neque eis quoquo modo gratiam facere valeant.

XI. Item quia propter incuriam et negligentiam abbatum et prepositorum regularium, potissimum vero constitutionum non observantiam conventus eorum multum inordinate, dissolute et scandalose vivere ac in emanationibus litterarum et in inquisitionibus faciendis plurimas enormitates et falsitates committere solet, idcirco de regie maiestatis voluntate et dominorum prelatorum, baronum et procerum ceterorumque regnicolarum communi consilio conclusum et diffinitum est, quod amodo abbatias, et preposituras conventuum regularium, potissimum vero sigilla habentium, nulli alii, nisi religiosi eius ordinis, cuius abbacie vel prepositure fuerint, tenere possint. Quodque ipsi abbates et prepositi simul cum omnibus eorum fratribus regularem vitam iuxta ordinis sui statuta servare teneantur.

XII. Item quod episcopi, in quorum dioecesi huiusmodi abbates et prepositi fuerint, teneantur eosdem atque etiam eorum conventus bis singulis annis personaliter visitare. Si autem maioribus occupati vel absentes fuerint, per ipsorum vicarios et prepositos aut alios bonos et doctos viros ecclesiasticos hoc nichilominus facere teneantur. Et si abbates, vel prepositi ipsi regulam eorum non observare vel alias malam vitam ducere aut etiam episcopis suis inobedientes fore dinoscuntur, deponantur per eosdem et melioribus eorum beneficia conferantur. Ex conventu etiam fratrum, si qui mali et inobedientes fuerint, per visitatores eiciantur. Nam si abbates et prepositi boni erunt, fratres boni fiant, necesse est. Sicque neque in litterarum emanationibus neque aliis in rebus falsitas committi poterit.

XIII. Item solent nonnulli in evocationibus ponere: de consensu et voluntate t(alis) et t(alis), quod directe contra Deum et eius iustitiam fore dinoscitur. Quis enim scire potest, an consenserint vel

quod commissum dicitur fuisse, voluerint. De occultis siquidem et intentione preter Deum nemo recte iudicare potest. Idcirco statutum est, quod deinceps nunquam tales evocationes decernantur. Nunquam etiam uxores, matres, filie et sorores nobilium evocentur, nisi forte causa et ratione talium iurium possessionariorum moveretur, que illas equaliter concernere dinoscerentur. Cum clausula tamen prefata, hoc est: de consensu et voluntate et instigatione t(alis) et t(alis) nullo unquam tempore evocari debeant. Quod si fieri contingeret, per iudices ordinarios et magistros prothonotarios nunquam observentur nunquam etiam admittantur.

XIV. Item de communibus inquisitionibus celebrandis ordinatum est, quod pro partium evidentiori iustitia communis inquisitio sicuti hactenus, ita etiam imposterum celebrari possit. Celebrari tamen debeat tali ordine, quod quotienscunque eiusmodi inquisitio fieri debebit, per utramque partem uno die in sede iudiciaria eiusdem comitatus celebretur. Preterea quod testimonium capituli vel conventus et regii homines iidem pro qualibet parte, et non diversi fiant. Quodque singuli attestantes singillatim iurare et per ipsius capituli vel conventus atque regios homines de negotio, de quo experiri volent, interrogari et examinari debeant. Et item quod tempore inquisitionis sive attestations huiusmodi partes causantes interesse non valeant, sed per ipsos regios et capituli vel conventus homines excludantur et remotis illis seorsum – ut prefertur – quilibet interrogari et examinari debeat. Ad huiusmodi autem attestacionem faciendam periuri, infames et qui honorem et humanitatem perdiderunt, preterea ignobiles, etiamsi possessionati fuerint, per regiam maiestatem non nobilitati, acceptari et admitti non debeant.

Item quod in oculata revisione modus et antiqua consuetudo servetur.

Item quia hactenus propter inordinatam celebrationem communium inquisitionum interdum favore vel odio, interdum vero metu partium plurima periuria et quidem evidenter commissa sunt, ad evitandum igitur et conterendum huiuscemodi animarum laqueos et simul ad tollendam hanc pestiferam peccandi occasionem diffinitum est, quod tametsi in superiori articulo satis declaratum sit, qualiter inquisitionum et aliorum etiam iuridicorum processuum executiones fieri debeant, tamen ut magis huiuscemodi dampnanda periuria cessent et extinguantur, in executionibus ipsarum inquisitionum talis ordo servetur, quod dum ex reportatione inquisitionum querele sic, prout facte fuerint, reperientur, non reus – prout hactenus consuetum extitit – se purgabit, sed actor suo et coniuratorum suorum, paucorum scilicet vel plurium iuramentis iuxta rei exigentiam et iudicis deliberationem actionem fulciet et confirmabit Ita videlicet, quod si actio pro dampnis fuerit, iudex iuxta qualitatem, quantitatem et exigentiam dampnorum secundum regni consuetudinem actori iuramentum iudicabit. Et si actor ipse inquisitionem pro sui parte reportabit, causamque obtinebit, reus in facto potentie amodo non convincatur, sed eius loco in viginti quinque marcis, puta in centum aureis, immediate persolvendis ac inter iudicem et actorem equaliter dividendis eo facto convictus sit et habeatur et insuper dampnificato damna persolvere et de illis plenariam satisfactionem impendere teneatur. Casu vero quo in factis eiusmodi dampnorum tempore inquisitionis fassiones attestantium dispares fuerint, iudex decernere habebit, an actor pro dampnis sibi illatis iurare, vel reus se purgare debebit.

XV. Ceterum diffinitum est, quod amodo imposterum nemo in facto potentie, etiamsi quis commissa per ipsum mala vel in iudicio vel etiam alias proprio ore confiteretur, nisi in his subscriptis casibus

convincatur, puta: propter invasionem domorum nobilium, item occupationem possessionum et utilitatura atque pertinentiarum earundem ac detentionem nobilium sine iusta causa, preterea vulnerationem verberationem vel interemptionem nobilium. In his vero casibus taliter iudex procedere debet: Quod si actor pro sui parte inquisitionem modo et ordine supranotato reportaverit, in ampliorem rei verificationem, si partes voluerint, causam ipsam ad communem inquisitionem decernat. Si vero reus ipsam inquisitionem acceptare recusabit, extunc actor, pro maiori verificatione actionis sue, iuxta regni consuetudinem hactenus in hac parte observatam, ad caput illius adversarii iurare habebit. Si autem partibus volentibus ipsa causa immediate prescripta communi inquisitione diffiniatur et ipsa communis inquisitio pro parte actoris pure et simpliciter reportabitur, sententia pro parte actoris feratur. Si tamen reportatio ipsa dispar fuerit, iudex ex attestantium fassionibus decernat, uter illorum, actor scilicet, vel reus iuramentum deponere debet. Ubi vero in his prescriptis casibus, factum scilicet potentiarium tangentibus castellani, officiales aut alii familiares vel iobagiones dominorum vel aliorum quorumcunque regnicolarum delinquent et quoscunque offenderent, eorum domini propterea penam facti potentie non incurrant, sed super innocentia, quod scilicet non de eorum voluntate malum illud sit patratum – prout iuri et iudici consonum videbitur – se purgare debent. Verumtamen si tales apud eorum dominos remanerent, ex parte eorundem ipsi domini meram iustitiam iuxta iuris equitatem facere et administrare tenebuntur. In aliis autem casibus, puta dampnorum et iniuriarum illationibus et ceteris similibus modus et ordo prescriptus observetur.

XVI. Ceterum quia tempore attestationis, communis inquisitionis, oculate revisionis, statutionis et restatutionis necnon estimationis iurium possessionariorum per partem convictam hactenus nonnunquam repulsiones in contemptum iudicii et iustitie fieri solite sunt, pro quibus prima vice in una marca auri, secunda vero in duabus id facientes iuxta consuetudinem hactenus observatam convincebantur, quare, ut huiusmodi violentorum et iuris iustitieque turbatorum temeritas debito remedio compescatur, statutum et sancitum est, quod quicumque imposterum – cuiuscunque status et condicionis existat – qualitercunque et in quacunque causa, etiam sententie capitalis id facere presumpserit, contra partem adversam in facto potentie et insuper, si in causa statutionis vel restatutiones aut estimationes fuerit, in estimatione illorum iurium possessionariorum, que statui vel restatui aut estimari debuerunt, si vero id tempore communis inquisitionis vel oculate revisions continget, similiter in facto potentie, preterea in amissione cause convincatur et convictus habeatur eo facto.

XVII. Item ordinatum et conclusum est, quod trine forenses proclamationes, que hactenus in facto possessionum et iurium possessionariorum, preterea in exhibitionibus litterarum et litteralium instrumentorum atque etiam in facto obligationum, ceterisque aliis causis fieri solite sunt, cessent et deinceps nullo unquam tempore fiant, sed penitus aboleantur, quandoquidem abusio et corruptela potius quam lex dici potest.

In obligationibus vero talis modus servetur, quod secundum quod se quisque obligavit, facta legitima evocatione, in primis octavis iudicium et iustitiam recipiat et ad hoc vigore presentis decreti astrictus habeatur.

XVIII. Item quia in duellorum dimicatione plurime hinc inde fraudes committi possunt, raro enim illi, inter quos illud fit iudicium, per se decertant, sed pugiles conducunt, qui nonnunquam dono, favore et promissis corrumpuntur, sique partem suam quantumvis iustam, quandoquidem non ipsimet decertare consueverunt, succumbere patiuntur, quare statutum est, quod amodo illud iudicii genus extra hoc regnum in mundo inauditum perpetuo aboleatur et in factis potentiariis iuriumque possessionariorum fieri nunquam debeat. Duellum siquidem tunc solummodo fieri deberet et ad hoc ordinatum extitit, quando omnis probatio deficeret. In factis vero potentiariis et possessionariis partes probationes semper habent et etiam alioquin, iudicium duelli ad curiam regiam militarem et non ad sedem iudiciariam pertinet. Accedit, quod in iudiciis specialis presentia regie maiestatis semper interesse, litteras etiam sigillare debet, is vero ut plurimum spiritualis esse consuevit, intererunt preterea archiepiscopi, episcopi et plures alii spirituales et idcirco non convent, ut in sede iudiciaria duellum decernatur. Proinde his et plurimis aliis bonis respectibus rationabilibusque ex causis hoc iudicii genus perpetuo aboleatur et nunquam decernatur, nisi in causis, in quibus omnis probatio deficeret, ut si solus a solo in itinere nullo spectante spoliaretur vel quicumque alter alteri sine alicuius testimonio commodaret aut aliquid ad secretas aures diceret et aliter neque spoliolum neque creditum neque etiam verba prolata probari possent. In quibus casibus huiusmodi duellum decerni quidem potest, non tamen in sede iudiciaria, sed in curia militari regie maiestatis. Ad illam siquidem – ut prefertur – et non ad sedem iudiciariam, eiuscemodi genus iudicii pertinere plane dinoscitur.

XIX. Ceterum ex quo decisio quarumlibet causarum etiam in facto possessionum et iurium possessionariorum deinceps movendarum pro regnicolarum quiete et communi equitate ad quatuor tantummodo octavas – ut prefertur – restricta est et reducta, statutum est, quod quilibet in causam ratione iurium possessionariorum attractus in primis octavis proclametur, quo evocatio ipsa magis ad eius notitiam perveniat. Et per magistrum, coram quo causa ipsa mota fuerit, debeat fieri – ut moris est – signatura. Et si non comparebit in primis octavis, in nullo onere seu birsagio vincatur. Si vero neque in secundis neque in tertiis comparebit, teneatur solvere birsagium ab antiquo consuetum. In quartis autem octavis sive compareat et se causamque suam defendat sive non; causa ipsa iuxta vim premissi articuli non obstante quavis allegatione finaliter terminetur et diffiniatur.

XX. Item conclusum et ordinatum est, quod deinceps nullus omnino magistrorum prothonotariorum private in hospicio extra scilicet tabulam seu sedem iudiciariam regie maiestatis causam aliquam sive ratione possessionum sive actuum potentiariarum sive aliorum quorumcunque negotiorum motam vel movendam adiudicare et sententias ferre audeat, sed universe cause tam maiores quam minores in sede iudiciaria in presentia certorum iudicum ordinariorum discutiantur. Quodque nulle prorsus littere, potissimum in causis arduis et que finalem rerum decisionem contingunt, per magistrum alias extrudentur, nisi in sede iudiciaria, ubi prius alta et intelligibili voce publice perlegantur et deinde pro maiori cautela et evidentia iustitie ultra sigillum, quo ipse magister prothonotarius illas muniet, alius etiam magister prothonotarius se subscribere debeat et teneatur ita, quodsi causa coram regiis prothonotariis agatur, prothonotarius palatinalis, si vero coram illo, regius aut iudicis curie ad litteras manum apponere et se subscribere teneatur.

XXI. Item quia nonnulli se a iudicio et iurisdictione banorum, wayvodarum, comitum et vicecomitum parochialium eximi et solummodo iudicio et iudicatu regie maiestatis preservari procurarunt, sub cuius exemptionis confidentia ceteros plurimis dampnis, iniuriis, oppressionibus, nocumentis et aliorum malorum generibus impune afficere consueverunt, quare statutum est, quod universe huiusmodi exemptiones hactenus qualitercunque concesse et per quoscunque impetrate demptis dumtaxat perpetuis comitibus, qui ex vetustissima divorum regum ordinatione solius regie maiestatis iudicio reservati intelliguntur, revocentur, cassentur et nullius vigoris aut firmitatis habeantur. Merito quippe concessa immunitate et gratia privari debent, qui illa abutuntur. Et si imposterum per quospiam similes exemptiones et gratie forte impetrarentur, ille quoque vigore presentis decreti nullius vigoris intelligantur.

XXII. Ceterum quia ex parte illicite occupationis illorum bonorum et iurium possessionariorum, que per regiam maiestatem servitoribus et aliis fidelibus suis donantur, vane querele et clamores non solummodo apud maiestatem suam, verum etiam in universo regno fieri consueverunt, causantur enim plurimi, quod quamprimum bona aliqua a sua celsitudine per suos aut alios impetrantur, illa protinus nullo habito scrutinio, an scilicet iuste et legitime maiestas sua donare potuit, occuparent et non obstante illorum contradictione tenerent, quare statutum est et sancitum, quod amodo si quibus bona aliqua per regiam maiestatem quocunque nomine et titulo donata fuerint et contra iura, decreta et consuetudinem regni quacunque arte dominium illorum non obstante etiam contradictorum inhibitione capient, comes per contradictores requisitus teneatur e vestigio illos ammonere, quo manus suas de illis excipiant. Et si ad primam eius requisitionem et ammonitionem id facere recusaverint, secundo per eosdem contradictores requisitus teneatur vigore presentis decreti scita prius veritate illos captivare et de illis bonis eicere et insuper ad solutionem communis estimationis eorundem bonorum per omnia remedia compellere. Ad cuius rei executionem si comes per se impotens esset, comitatus per ipsum requisitus penes eundem insurgere et ei opportuno favore, subsidio et auxilio assitere debeat et teneatur. Si vero adeo potentes fuerint, ut comes etiam cum auxilio comitatus id facere non potest, regia maiestas per comitem avizata bona ipsa occupari facere teneatur.

XXIII. Item conclusum est, quod si deinceps aliqua bona a regia maiestate impetrata fuerint et impetrans insteterit, ut ea regia maiestas nomine suo occupare faceret simulque procuraret, ut littere donationales scriberentur, quasi illa de manibus suis regiis collata essent, eiusmodi littere donationales quoad illam clausulam: de manibus regiis nullius vigoris et firmitatis sint et habeantur et quod neque per comites, sed neque in octavis per iudices ordinarios et magistros prothonotarios observentur.

XXIV. Ulterius quod universa bona, possessiones et iura possessionaria, que ab anno proxime transacto, videlicet millesimo quadringentesimo octogesimo quinto usque in presentem diem festi Epiphaniarum Domini anni eiusdem millesimi quadringentesimi octogesimi sexti inclusive per regiam maiestatem quibuscunque donata sunt, si et in quantum illa contra iura, decreta et antiquam consuetudinem regni occupata sunt, illorum detentores et occupatores requisiti prius et moniti cum litteris regiis aut palatinalibus infra spatium unius mensis integri a die requisitionis et monitionis

computando remittere debeant et teneantur. Alioquin comes cum aliis nobilibus illius comitatus penes eum eligendis et deputandis illis, quorum fuerunt reddere in eisdemque illos conservare debeat. Si autem detentores illi potentes fuerint, comes vero ad hoc exequendum impotens et insufficiens, comitatus vigore presentis statuti insurgere et in hac parte ipsi comiti assistere debeat et teneatur. Illi autem detentores, si ex regia donatione in bonis illis ius sibi acquisitum fuisse sperabunt, iure regni requirere debeant. Si vero detentores adeo potentes fuerint, ut comes etiam cum auxilio totius comitatus id facere non potuerit; regia maiestas per comitem avizata occupari, et premissa exequi facere debeat et teneatur.

XXV. Ceterum quia fieri solet, quod nonnulli bona et possessiones suas necessitate cogente pignori obligant et eadem tempore medio venditis etiam aliis rebus suis, licet redimere vellent et ad hoc pecunias paratas haberent, tamen illi, quibus obligarunt, immemores salutis et honoris remittere nollent, sed ad octavas eius rei decisionem differrent, ut scilicet interea fructus illarum percipere valeant. Propter quod nonnunquam eiusmodi possessiones et bona ab ipsis pauperibus et eorundem heredibus perpetuo alienantur, ex quo pecunias utcumque ad id dispositas aut expendere coguntur aut casu amittunt. Ut igitur illorum feneratorum malitia compescatur et horum inopum indempnitati consulatur, statutum et sancitum est, quod quodocumque eiusmodi feneratores per aliam partem iuridice et legitime requisiti pecunias eorum levare vel illis levatis bona impignorata reddere et remittere noluerint, sed causam ad octavas distulerint in primis octavis causa ipsa diffiniri et sic adiudicari debeat, quod sine ulla solutione bona illa remittantur et per iudicem statim restatuantur et insuper fenerator ille in tanta summa pecuniarum, in quanta bona illa sibi obligata fuerunt, contra partem alteram convincatur eo facto.

XXVI. Ceterum quia quotiescunque bona aliqua aut iura possessionaria sive per defectum seminis sive aliter ad coronam et consequenter collationem regie maiestatis devolvi contingunt, plurimi insurgere et bona ipsa iure ad eos devoluta acclamare soliti sunt sicque regie celsitudinis aures non modo importunes clamoribus obtundunt, verum etiam maiestatem suam maioribus intentam, ne se de illis intromittat, prohibent, turbant et impediunt, illis etiam quibus maiestas sua bona huiusmodi donat, ne sibi statuam, contradictionis velamine obviant, hoc vero idcirco maxime facere consueverunt, ut interea quoad iure determinabitur, an ad regiam maiestatem vel alios bona ipsa sint devoluta, fructus, proventus et alias illorum utilitates impune percipere possint, quare presenti decreto sancitum est, quod in quocumque comitatu aliqua iura per defectum seminis quorumcunque decedentium devoluta fuerint et de huiusmodi possessionibus manifeste non constabit, sed dubium erit, an ad ius regium vel aliquos fratres de genere decedentis seu heredes feminei sexus pertineant, extunc regia maiestas infra huiusmodi rei dubie decisionem bona illa occupari et ad manus alicuius probi et idonei hominis, quem scilicet maiestas sua ad hoc deputabit, tanquam ad manus communes et fideles dari et assignari facere debeat, qui interim – quoad dubium illud solvetur et causa finaliter decidetur – cum solitis et iustis proventibus teneat. Si quid autem ultra solitum et ordinatum census extorsit, illi, cui post cause decisionem bona ipsa cedent, reddere debeat et teneatur. Hoc adiecto, quod si qui bona ipsa ad eos devoluta fuisse affirmaverint, infra unum integrum annum, prout etiam in sequenti articulo tangetur sive celebrentur octave sive non, teneantur coram palatino iura sua producere et docere bona ipsa ad eos pertinere. Quod si facere poterunt, palatinus eisdem statuere mandet et faciat cum effectu. Si autem in probatione

defecerint, dentur et assignentur eadem bona ad manus illorum, quibus per regiam maiestatem fuerunt donata et si qui ulterius ad illa ius habere speraverint, eadem de manibus regii requirant legitime. Ubi autem uxores vel filie huiusmodi hominum absque herede masculino decedentium in illis possessionibus remanserint possessiones eadem a manibus eorum occupari et auferri non debeant, priusquam de earum iuribus, videlicet an hereditarie et perpetuo ad ius femineum partineant, an ne, veritas inquiratur. Quam quidem veritatem femine ipse infra unum annum – ut preferitur – ostendere debebunt et tenebuntur. Et si repertum fuerit easdem possessiones iuri femineo non competere, extunc dictis uxoribus talium decedentium, antequam de dominio illarum excludantur, per regiam maiestatem aut alios, ad quos reperte fuerint devolute vel etiam quibus maiestas sua easdem possessiones forte donaverit, de earum dotibus et iuribus plenaria satisfactio impendatur. Filiabus vero usque ad tempus maritacionis earum domus paterna, cum quarta parte possessionum paternarum pro quarta filiali secundum antiquam consuetudinem regni sequestretur et possidenda relinquatur. Postquam vero maritate et traducte fuerint, de earum iure quartalicio pecuniaria solutione mediante satisfiat. Ubi autem alicuius filia vel soror sive de curia alicuius baronis vel nobilis sive etiam de propria domo paterna vel aliunde undecunque cum consensu et voluntate patris aut fratris homini impossessionato nupserit, illius puella in quarta illa puellari per ipsum patrem aut fratrem nobilitari debeat. Si vero sine consensu et voluntate patris aut fratris id fecerit, in portione sua puellari non nobilitetur, sed tamen pecuniaria solutione eidem satisfieri debeat. Et in hoc casu ius suum quartalitium non cum possessione, sed cum pecuniaria satisfactione requirendi habebit facultatem, prout et quemadmodum huiusmodi consuetudo et ordinatio etiam hactenus conservata fuisse plane dinoscitur.

XXVII. Preterea ordinatum est, quod si cui per regiam maiestatem bona et possessiones et quecumque alia iura possessionaria sive per defectum seminis sive nomine iuris regii aut alio quocunque titulo donata fuerint et tempore statutionis contradicetur, impetrans contradictioni parere et locum dare teneatur et illorum dominium contra ipsam contradictionem non capiat. Sed tamen si contradictor de recenti in possessionem illorum bonorum se ingressit et prius illorum dominium non habuit – prout etiam in superiori articulo tactum est – infra unius anni integri spatium a die datarum litterarum donationalium computando sive interea celebrentur alique octave sive non, teneatur contradictor coram regia maiestate aut palatino vel magistris suis prothonotariis ad id deputatis iura sua producere, rationem contradictionis reddere et simul ostendere bona illa optimo iure ad se pertinere. Alioquin elapso termino per regiam maiestatem aut palatinum vigore presentis statuti eiciatur de bonis illis et assignentur illi, qui impetravit. Et insuper idem contradictor compellatur ad integram restitutionem quicquid utilitatis interea ex illis bonis percepit. Si vero bona ipsa etiam prius apud manus contradictoris fuerint, impetrans iuxta prescriptos articulos in octavis vigore presentis decreti de manibus eiusdem iure requirere debeat.

Item dos uxorum qualitercunque decedentium salva semper maneat, et illa nunquam fraudentur.

XXVIII. Item quia inter prelatos ceterosque viros ecclesiasticos ac nobiles nonnunquam lites et controversie suboriri consueverunt et pars partem omni via, modo et arte gravare laborat, pro tranquilliori igitur statu et comodo regnicolarum, ne scilicet pars in partem in hoc casu habeat imperium, statutum est, quod si prelati et alii viri ecclesiastici contra nobiles in presentia cuiuscunque iudicis litem moverint, pro re et causa, pro qua scilicet agetur, lite ipsa pendente sine

certa scientia regie maiestatis interdictum in eos ponere vel contra ipsos sententiam excommunicationis ferre non debeant, ne potius ex passione, quam equitatis amore tulisse eam videantur. Et si prelati vel alie ecclesiastice persone in presentia alicuius iudicis iuris ordine convicti fuerint, in eadem gravamina, quibus adversarios onerare intendebant, eo facto incidant.

XXIX. Item quia mercatores et negotiatores ceterique pauperes, qui aut questus gratia aut pro necessaria victuum acquisitione vel etiam pro aliis ipsorum rebus per regnum hinc inde proficisci habent, per varias arestationes multipliciter gravari, impediri, molestari et dampno irrecuperabili affici consueverunt, ordinatum itaque est et sancitum, ut amodo perpetuis semper successivis temporibus talis in arestationibus modus servetur, quod si quispiam causabitur alium sibi debere (nisi debitum fuerit liquidum, hoc est, nisi debitor fuerit apertus et manifestus, qui vulgari et materno sermone zembevalo ados nuncupatur, is enim etiam in communi loco arestari poterit) non protinus illum vel alium aut alios pro suo arbitrato debeat arestare, sed prius teneatur rem ad aures comitis illius comitatus, in quo debitor fuerit, deferre, qui vigore presentis decreti tenebitur e vestigio dominum debitoris ammonere et simul requisitum facere, quo illum iuri detineat. Et si creditori non satisfaciet, teneatur sub pena duodecim marcarum gravis ponderis per comitem exigendarum ad primum diem iuridicum ad sedem iudiciariam actori responsurum adducere. Ubi si ille defendere se et expurgare non poterit vel dictus dominus suus eum in secundo termino iuridico presentare et statuere non curabit, comes ipse teneatur, et sit obligatus de bonis eiusdem domini sui actori non solummodo de sorte capitali, verum etiam de universis expensis per creditorem vel actorem factis ex integro satisfacere. Si vero debitor seu reus per dominum suum detentus in sedem iudiciariam transmissus ibique convictus fuerit, idem dominus suus iuxta iudiciariam deliberationem et commissionem comitis de rebus et bonis debitoris tam – ut prefertur – de summa capitali quam etiam expensis factis satisfacere debeat et teneatur et ad hoc per comitem compellatur. Cui quidem reo si facultates ad satisfaciendum non sufficient, imprimis res, quas habuerit, dentur et estimentur creditori et tandem caput quoque illius tradatur in manibus dicti creditoris. Si autem alicubi in hac parte comiti non parerent ita, quod iuxta vim presentis decreti debitum suum facere non permetteretur, sed cogeretur rem ad aures regias deducere, extunc dominus possessionis, in qua scilicet ipsi comiti refragabitur, in viginti quinque marcis per regiam maiestatem irremissibiliter extorquendis convincatur eo facto. Et nichilominus teneatur maiestas sua et ad hoc sit obligata de quantitate et summa debita creditori vel actori simul cum expensis per ipsum factis sine ulla prorsus dilatione satisfacere ad integrum.

XXX. Item statutum est, quod dum prelati, barones et quicumque alii nobiles, sive ad regiam maiestatem vel eius curiam sive ad bellum vel quocumque alias et sive in rebus privatis sive publicis proficiscentur, sine dampno, nocumento, iniuria et impedimento aliorum regnicolarum semper et ubique proficisci debeant et teneantur.

XXXI. Item quia regnicole per progressum et descensum militantium plurimum hactenus – ut prefertur – gravati et dampnificati fuerunt, statutum itaque est et sancitum, quod tam gentes regie quam aliorum quorumcunque regnicolarum tam scilicet equites quam pedites que per regnum proficisci habebunt, teneantur deinceps ubique pretia omnium victualium tam scilicet equis quam

hominibus convenientium persolvere et nusquam dampnum inferre presumant. Quodsi aliqui non regie, sed aliorum contravenerint, illarum dominus pro dampnis irrogatis ob iniuriam et iacturam passo iure requiratur. Si vero regie fuerint, tenebitur semper maiestas sua cum illis aliquem bonum et bene possessionatum hominem suum deputare, qui cum eis procedat et nusquam dampnum inferri patiatur. Et si aliter facere presumpserit atque pro dampnis et iniuriis querela ad regias aures deducta fuerit, teneatur maiestas sua ex parte illius talem tantamque iustitiam et satisfactionem impendere, quod non solummodo dampna illata, sed etiam expense, quas dampnificatus sive querulans fecerit, refundantur. Ne autem occasione solutionis et pretii victualium differentiam seu contentionem aliquam oriri contingat, diffinitum est, quod tam regiis, quam etiam aliorum gentibus ad bellum profecturis teneantur ubique locorum victualia dare et administrare iuxta registrum, et limitationem regie maiestatis, quam tunc maiestas sua, iuxta temporis condicionem facere et ductoribus huiuscemodi gentium suarum dare debebit et eorum pretia gentes ipse similiter iuxta continentias eiusdem registri seu limitationis sine difficultate semper persolvere debeant et teneantur. Ceterum quia nonnullae gentes, potissimum vero levis armature sive huzarones hoc facere consueverunt, quod post descensum exercitus aut etiam expirato stipendio eorum non in bonis propriis ipsorum, sed aliorum iacent seque reficiunt et plurima istius dampna, molestias et alia nocumentorum genera impune committunt, statutum itaque et diffinitum est, quod tales amodo nusquam in bonis aliorum manere seu iacere possint, sed teneantur ad propria redire et ibi, si volent, nova stipendia expectare. Quodsi qui forte temere aliud attemptare presumerent et hii, in quorum bonis agerent, moleste ferrent, debeant comiti illius comitatus significare et eum requirere, quo illas removeat. Ille vero e vestigio teneatur eas ammonere, quod recedant et dampna irrogata persolvant et si non paruerint, eos captivet et personas ad castigandum regie maiestati transmittat; de rebus vero et bonis suis et familiarium suorum, dampna illata rectificet et persolvat. Si autem comes per se ad hoc impotens et insufficiens erit, comitatus penes eundem insurgere teneatur. Si autem comes tepidus vel negligens fuerit et dampnificatus querelam regie maiestati porrexerit, debeat et teneatur maiestas sua de propriis bonis et rebus ipsius comitis versa illa dampna rectificare et etiam expensas refundere et insuper gentes ipsas de possessione querulantis removeare.

XXXII. Item quia Veneti et Poloni omni arte omnique via, technis conati sunt et semper conantur ad terras et dominia, ad sacram coronam pertinentia pedem inferre et illa usurpare, prout etiam aliquam partem de facto usurparunt, proinde statutum est et sancitum sub nota perpetue infidelitatis, ut nemo regnicolarum audeat illis aut eorum alicui castra, fortalitia, civitates, oppida et possessiones aut alia bona immobilia vendere, inscribere, impignorare, commendare, donare vel aliter qualitercunque dare vel assignare.

XXXIII. Item quia officiales et servitores dominorum ex confidentia, quam in eorum dominis locatam habent, plurimis dampnis, iniuriis, molestiis et impedimentis certos afficere consueverunt, quare ut eorum temeritas et licentia compescatur et simul ut etiam eorum domini providentiores efficiantur, sancitum est et conclusum, quodsi qui nobiles et possessionati castra vel alia officia ab ipsorum dominis tenuerint malaque ex illis perpetraverint, teneantur eorum domini scita prius veritate ad requisitionem comitis, sub quo fuerint, lesis iustitiam administrare et satisfactionem impendere, commissaque omnia rectificare. Si vero eiusmodi malorum patratores non fuerint in

officiolatu aliquo constituti, sed stipendium dumtaxat ab eorum dominis habuerint et in propriis suis domibus manserint aut aliter dominis ipsorum serviverint et sic mala huiusmodi commiserint, ipsimet teneantur coram comite suo comparere, iuri stare et se expurgare. In hoc autem casu talium domini non debeant neque audeant se de illis intromittere neque eos defendere, sed ad comitem predictum eos remittere teneantur. Si qui vero aliter facere presumerent, convincantur eo facto in dupplo homagio illius servitoris et nichilominus comes servitorem illum captivare et ex parte sua leso debitam iustitiam administrare teneatur. Domini vero huiusmodi servitores suos, qui scilicet alios dampnificabunt aut aliqua mala perpetrabunt sive etiam qui factures fuerint et commissa sibi bona male dispensabunt vel non data bona ratione aufugient, non obstante privilegio et immunitate nobilitatis libere ubicunque poterunt, captivare et ad satisfactionem astringere possint et valeant. Si quis tamen servitorem captivabit et ille causabitur se iniuste captum facta contra dominum evocatione in primis octavis causa discutiatur et iustitia capto ex parte domini sui administretur.

XXXIV. Preterea si cuius servitor vel factor aufugiet et alterius domini servitio se subiciet, requisitus et ammonitus dominus novus per priorem teneatur illum e vestigio licentiarum et a se dimittere; alioquin in dupplo homagio servitoris illius convictus sit et habeatur eo facto. Et nichilominus si nullo modo dimittere voluerit, evocetur per lesum ad octavas primum celebrandas, ubi eidem ex parte illius plenaria et condigna iustitia administrari debeat.

XXXV. Ulterius de tributorum et teloniorum exactionibus ordinatum est, quod per totum hinc annum usque ad futurum scilicet festum Circumscisionis Domini comites quorumlibet comitatum cum certis et potioribus nobilibus illorum comitatum quotquot loca teloniorum in illo comitatu habentur et si illud pro pontibus aut aggeribus vel in terra arida aut aliter exigitur et item quot ulnarum tam pontes quam aggeres illi existunt, regie maiestati fideliter rescribere teneantur, ut tandem maiestas sua cum dominis prelatis et baronibus possit et debeat limitare, quantum quisque in suo tributo ab itinerantibus exigere valeat. Si qui vero postea ultra huiusmodi limitationem amplius aliquid extorquere et huic sanctioni contravenire non formidarent, teneatur comes cum electis nobilibus rectificare et levis tam de exactis quam etiam de expensis satisfacere. Si vero incorrigibiles fuerint, prohibeat comes, quod usque ad gratiam regie maiestatis ulterius ibi tributum exigere non presumant et insuper provideat, quod interea libere, et sine ulla tributi solutione locum illum quilibet pertransire possit. Tales vero pertranseuntes comes ab illis transgressoribus defendere teneatur. Si qui autem comites per se telonia in illo comitatu, in quo officium tenent, habent, vicinorum aliorum duorum comitatum comites debeant tributa illius comitis conspiciere et illorum rationem et causam atque qualitatem – ut prefertur – regie maiestati rescribere.

XXXVI. Item a rusticis uxores de aliis villis ducentibus deinceps nullum prorsus tributum exigatur. Quodque a sartoribus et rasoribus, non quadraginta denarii, prout hactenus solutum fuit, sed dumtaxat tantum, quantum ab aliis artificibus et viatoribus exigitur, in locis tributorum exigatur.

XXXVII. Adicientes statutis superioribus, quod nullus comes, banus, wayuoda seu alius officialis regius cuiuscunque denominationis et dignitatis existat, ecclesias episcopales, archiepiscopales, abbatiales, prepositales et alias quascunque regio iure patronatus disponendas, earundemque tenutas, pertinentias, decimas et possessiones in tres terminos et limites sui honoris seu officiolatus

absque speciali mandato regio occuare aut se de eisdem partialiter vel totaliter ingerere presumat.=8
Martii 1435: XIX

XXXVIII. Ut autem officiales et comites nostri pretacti nobiles et incolas regni nostri sub suo honore et iudicatu constitutos indebitis birsagiorum exactionibus gravandi occasionem non habeant, antiquam in hac parte consuetudinem regni nostri imitando declaramus, quod nullus iudicum secularium iudicia seu birsagia extorquere possit, nisi tempore congregationis palatinalis vel alterius per regiam maiestatem ad congregationes generales celebrandas deputati in singulis comitatibus celebrande secundum consuetudinem ab antiquo observatam, exceptis casibus infrascriptis, quibus etiam extra tempus dictarum congregationum generalium birsagia exigi debite possint.

Primo videlicet propter violentam retentionem aut dampnificationem jobagionum petita licentia, iusto terragio deposito allisque suis debitis persolutis ad alterius possessionem se transferre volentium, quo casu comes parochialis cum suis iudicibus nobilium, absque quibus nullum in talibus processum facere debet, ab hiis, qui in hoc casu culpabiles legitime inventi fuerint, iudicium seu birsagium trium marcarum toties quoties et quandocunque culpabiles inventi fuerint, sine expectatione extorquere potest, jobagionem retentum seu dampnificatum cum omnibus bonis suis, dampnis etiam recuperatis liberum abire permitti faciendo.

Item si quis jobagionem alterius non petita nec obtenta licentia, vel petita sed non obtenta ante dies quindecima huiusmodi petite licentie potentialiter abduxerit, talis pro abductione violenta jobagionis huiusmodi birsagium trium marcarum solvet et eundem jobagionem cum aliis tribus marcis birsagialibus per comitem parochialem cum iudicibus nobilium restituere compellatur. Si vero jobagio aliquis non obtenta licentia sed furtive ad possessionem alterius recesserit et idem, ad cuius possessionem accesserit, requisitus reddere recusaverit, extunc ad restitutionem ipsius jobagionis fugitivi comes parochialis talem cum birsagio trium marcarum compellere debeat et teneatur.

Item violator sedis iudicarie birsagium viginti quinque marcarum persolvat.

Item quicumque furem vel latronem aut aliquem publicum malefactorem captivaverit et eum de captivitate sua voluntarie abire permiserit, solvere debet comiti parochiali homagium malefactoris prenotati.

Item ubicunque lucrum camere tempore debito solutum non fuerit, comes parochialis cum iudicibus nobilium de qualibet villa non persolvente post emanationem litterarum birsagialium per iudices nobilium contra tales dari solitarum exigere debeat ipsum lucrum camere cum birsagio trium marcarum.

Consimiliter quia certa scientia meminimus nostrorum predecessorum litteris et per nostram maiestatem frequentius litteratorie ex laudabili consuetudine regni nostri precipi solitum esse et usitatum fore decimas ecclesiarum de singulis villis decimas persolvere post interdictum ecclesiasticum certo consueto tempore observari commissum recusantibus per comites parochiales aut vices suas gerentes exigi debere cum singulis tribus marcis, ideo presentis ordinationis et statuti vigore eandem consuetudinem ratam habentes, innovantes et imitantes committimus, quod post interdictum ecclesiasticum in singulis diocesibus et locis temporibus

hucusque solitis impositum de singulis villis, que per unius mensis spatium huiusmodi interdictum ecclesiasticum animo indurato tollerando easdem decimas persolvere recusaverint seu non curaverint, mox elapso ipsius mensis spatio comites vel vicecomites parochiales per decimatores requisiti decimas easdem cum singulis tribus marcis birsagialibus pro se indilate exigendis eis, quibus solvi debent, absque dilatione et defectu persolvi facere teneantur.

Item quodocunque nobiles alicuius comitatus vigore litterarum regalium per modum proclamate congregationis sub pena trium marcarum in eisdem litteris regalibus expressa convocati fuerint, quicumque ad illam congregationem non venerint, nisi egritudine, senio, viduitate, orphaneitate, paupertatis impotentia, absentia remota vel eorum arduis negotiis rationabiliter se excusare potuerint, comes parochialis et iudices nobilium predictas tres marcas in dictis litteris nostris expressas indilate exigere possunt.

Item palatinus et iudex curie et ceteri iudices ordinarii ecclesiastici et seculares universa iudicia in causis coram eis vertentibus aggregata statim ipsis causis finitis ac per sententiam finalem conclusis primo parti adverse de sua portione satisfactionem impendere teneantur et ad partem suam iudiciariam cedentia exigendi liberam habent facultatem.=8 Martii 1435: VII.

XXXIX. Item quia de violentis indebitisque colonorum sive rusticorum abductionibus varii clamores varieque querele varie etiam lites et controversie oriuntur, proinde statutum est, quod universi coloni ab uno anno usque ad presentem diem festi Epiphaniarum Domini per quoscunque indebite et contra consuetudinem regni abducti ad requisitionem comitis eorum dominis restituantur. Si qui enim non restituerint, in homagio coloni convincantur eo facto, cuius medietatem comes pro se, reliquam vero medietatem pro illo, cuius fuit colonus, exigere teneatur. Et comites hoc in quolibet comitatu et in bonis quorumlibet exquirant et exequantur. Imprimis autem incipere debeant in bonis regie maiestatis et illustrissime domine regine, deinde vero in aliorum bonis. Deinceps autem nemo aliorum iobagiones violenter et contra consuetudinem regni sub pena sex marcarum abducere, nemo etiam sub eadem pena iobagiones suos iuxta consuetudinem regni abire volentes aliqua excogitata calumnia retinere audeat ita, quod pauperes liberam et manendi et discedendi habeant facultatem. Si quispiam autem causabitur suos violenter et indebite abductos, comes illius comitatus cum electis regiis et aliis bonis hominibus discernat et si querelam iustam agnoverit, abductos reddi faciat et penam premissam a violento extorqueat. Si qui autem imposita calumnia vel aliqua excogitata novitate suos retinuerint, puta si tunc solummodo taxam ad eos imposuerint, quando illos velle abire cognoverint vel longo tempore ante imposuerunt et nondum exegerunt et hoc maxime, ut illos hoc pretextu semper obnoxios allegare et exinde retinere possent, in pena premissa, hoc est sex marcis per comitem immediate et irremissibiliter exigendis eo facto convincantur. Taxam etiam extraordinariam si qui exigere volent, infra sexaginta dies exigant, alioquin postmodum taxa ipsa calumpniosa intelligatur.

XL. Ceterum quamvis ab eo tempore, quo regia maiestas divina dispositione ad regiam dignitatem sublimata est, in omni dieta, in omni conventu, in omni denique congregatione regnicolarum tractatum semper fuerit de solutione decimarum, qualiter scilicet et quo ordine ille solvi deberent, plurime etiam superinde constitutiones facte extiterunt, nunquam tamen adhuc modus et via reperta est, quod partes contente fuissent et querele cessassent. Et idcirco etiam in presenti dieta, licet multum diuque tam a regia maiestate quam etiam regnicolis super hoc cogitatum fuerit, melior

tamen et convenientior via et modus reperiri non potuit quam fuit tempore coronationis regie maiestatis repertus, eam ob rem statutum est et conclusum, quod amodo perpetuis successivis temporibus decime ipse solvantur et exigantur iuxta dispositionem tempore prefate coronationis regie maiestatis factam. Hoc tamen adiecto, quod quodocunque decimatores in aliquo comitatu exigere volunt, unum aut duos ex hiis nobilibus, quos regia maiestas in omni comitatu deligere habebit, ad expensas episcopi vel capituli secum ducere teneantur, qui imprimis provideant, quod decime ipse ubique iuste et bono modo exolvantur, deinde quod decimatoribus iniustas et superfluas decimas dicare non permittant, qui quidem decimatores si eis non parebunt, teneantur episcopo vel capitulo rescribere et eum avisare. Et si ille vel illud non providebit et non rectificabit, teneantur regie maiestati significare, que pro bono communi et regnicolarum quiete pro sua gratia et clementia hoc onus subire debeat, quod tam ex parte episcopi vel capituli quam etiam decimatorum talem iustitiam faciat, quod comitatus bene et merito contentus esse valeat. Interim vero exactio decimarum cessare debeat et eius occasione episcopi interdictum ponere non valeant.

XLII. Item ordinatum est, prout etiam per serenissimum quondam dominum Sigismundum imperatorem ordinatum fuisse constat, quod decimatores iuramentis decimantium contentari debeant et si contentari noluerint, acervum liberam examinandi habeant facultatem. Qui si plus invenerint quam rusticus dixerit, superfluitatem auferant et ultra hoc iustam eidem decimam ad solvendum imponant. Si vero iuxta dictum rustici comperient, rustico pro dampno in subversione acervi illato, unum aureum e vestigio solvere teneantur. Quem si solvere recusarent vel difficultarent, rusticus ipse equum decimatoris libere auferre valeat. Quod ut facilius et comodius facere possit, presenti decreto cavetur, quod decimatores antequam acervum examinare incipiant, equis descendere et in domo vel in curia rustici decimantis illos ligare teneantur.

XLIII. Item quod in diocesi Agriensi rustici animalia dicata solummodo usque ad festum sancti Michaelis archangeli servare teneantur. Et si postmodum ipsa animalia casualiter perierint, rustici ipsi propterea nullo modo gravari debeant, sed tamen iurare teneantur, quod non eorum culpa neque malitia et neque voluntate perierunt.

XLIV. Item solent nonnulli in certis comitatibus tempore decimarum in possessionibus suis unum hortum cum bladis, frugibus et item unum cellarium cum vinis pro se retinere et decimas provenire debentes pro se exigere. Et quia huiusmodi abusio contra sanctorum regum ordinationem inducta esse dinoscitur, sic enim per illos ordinatum fuisse constat, quod villici dumtaxat et hii quoque propter labores, servitia et expensas, quas in colligendis decimis ipsis facere habent, relaxarentur, proinde statutum est, quod huiusmodi abusio sopiatur et perpetuo abolita intelligatur ita, quod nullus hortus nullumque cellarium dominis terrestribus in decimatione relinquatur. Renitentes vero et transgressores comes per remedia opportuna constringat, qui si tepidus fuerit aut simpliciter facere recusaverit, regiam maiestatem superinde aviare debeat, que tandem illos compellere teneatur.

XLV. Item conclusum est, quod si qui regnicolarum – cuiuscunque status et condicionis existant – super decimis cum quibuscunque personis et a quocunque tempore in curia Romana hactenus litigassent vel etiam in presentiarum litigarent, causas ipsas amodo cessare ibi faciant et usque ad

primum diem mensis Maii, festum beatorum Philippi et Iacobi apostolorum proxime venturum, ad hoc regnum in sede iudiciariam regie maiestatis discutiendas revocare teneantur. Ad quem quidem terminum si qui revocare et coram regia maiestate comparere neglexerint, ea ad partis comparentis instantiam non obstante illorum contumacia vel absentia, quod iustum fuerit, decernere et causam ipsam finaliter terminare et tam de sumpna et dampno capitali, quam etiam de expensis sententiam ferre atque eam debite executioni vigore presentis decreti demandare debebit.

XLV. Ceterum ordinatum est, quod deinceps nemo omnino regnicolarum neque pro decimis neque pro aliis quibuscunque rebus in dicta curia Romana litigare presumat. Si qui autem dominorum prelatorum aut alie ecclesiastice persone, cum quibuscunque regnicolis aut econtra vel ratione exemptionis vel etiam super eo, utrum iuste et integre decime eis solvi debeant vel alio quocunque modo super decimis aut etiam aliis rebus quibuscunque lites movere vel motas prosequi voluerint, id eis coram regia maiestate libere, sed nusquam alias liceat, que ex suscepti regiminis officio unicuique iuxta allegata et approbata, quod iustum fuerit, decernere habebit. Hoc tamen per expressum declarato, quod causas decimarum non alii iudices regni, nisi sola regia maiestas personaliter semper discutere valeat atque possit.

XLVI. Item quod regia maiestas ad simplicem querelam – quantumvis gravem et enormem – bona regnicolarum non faciat occupare. Sed accepta querela scribat ad comitem et electos nobiles illius comitatus eisdemque committat, ut querelam resciant et regie maiestati fideliter rescribant. Que tandem ex illorum attestacione videat, cognoscat et deliberet, quid illis faciendum erit et an bonorum occupationem vel aliam penam merebuntur.

Item quod regia maiestas neminem regnicolarum sine baronum et prelatorum consilio, nota vel crimine infidelitatis damnare debeat.

XLVII. Conclusum est, quod nemo regios infideles ad castra, munitiones, civitates vel alia loca sua acceptare et ibi conservare atque defendere audeat. Si quispiam tamen infidelium ex confidentia ad aliquem dominorum vel amicorum suorum confugeret, eum ille suscipere et infra duodecim dies, sed non ulterius, apud se et in domo sua impure conservare possit. Et si ille vel pro gratia obtinenda vel ad ostendendam obedientiam aut etiam innocentiam suam declarandam venire ad regiam maiestatem voluerit, is eum secum una, si volet, ad suam maiestatem – ubicunque fuerit – ducere vel etiam cum litteris et hominibus suis mittere sub salvo conductu regie maiestatis, qui omnibus talibus vigore presentis decreti exnunc datus et concessus intelligitur, libere valeat, libere etiam pro illo supplicare, laborare et intercedere pro gratia possit. Verumtamen si gratia ipsa a maiestate sua impetrari et obtineri non poterit, rursus ad castra, munitiones, civitates, oppida vel alia loca et bona sua ilium suscipere et admittere nullo modo audeat. Quod si qui forte aliter facere attentarent, huiusmodi castrum, munitio, civitas, oppidum, possessio sive locus, ad quem scilicet tails infidelis acceptaretur, eo facto ad regium fiscum devolvatur et extunc devolutus intelligatur, de quo regia maiestas vigore presentis sanctionis liberam pro suo arbitratu disponendi habeat facultatem.

XLVIII. Ceterum si in bonis aliquorum fures, latrones, homicide, incendiarii et monetarum sive litterarum vel etiam manuum alienarum falsatores fuerint et domini huiusmodi bonorum requisiti per comitem illos de bonis suis non expulerint, teneatur comes mittere ad capiendum eosdem

malefactores. Et si rustici sive incole possessionum, in quibus tales fuerint, contra homines comitis insurrexerint et eis resisterint, quominus illos capere possint, comes possessionem non statim occupet, sed teneatur secundo maiori manu maiorique potentia ad illam mittere et tam prefatos malefactores quam etiam rusticos illos capi facere. Ubi si officiales domini loci illius simul cum rusticis vel etiam seorsum cum aliis suis complicitibus insurrexerint et illos capi non patientur, promiserint tamen quod illos in sede iudiciaria coram comite iuri statuent, homines comitis parere et contenti esse debebunt et in hoc casu comes possessionem non occupet. Verumtamen si illos neque capere patientur neque – ut prefuritur – statuere promiserint, possessionem ipsam usque ad gratiam regie maiestatis occupare debeat et teneatur. Si vero dominus talis loci in hoc casu contra comitem vel eius homines personaliter insurrexerit et obsteterit, ne prefati malefactores vel etiam rebelles illi rustici capi possint et neque illos – ut premissum est – in sede iudiciaria statuere promiserit vel si promiserit et non fecerit, possessio ipsa, in qua hoc fieri continget, fisco regio in perpetuum applicetur et ad illud vigore presentis decreti exnunc devoluta intelligatur, quam regia maiestas vel pro se retinendi vel etiam aliis donandi liberam habeat facultatem.

XLIX. Item quod si aliquae minere auri et argenti, salis vel alie fodine in possessionibus nobilium vel aliorum possessionatorum temporum processu reperirentur absque debita competentique recompensa per regiam maiestatem non auferantur. Sed si illas, maiestas sua habere voluerit, pro possessionibus illis, in quibus huiusmodi minere habebuntur, alias eque utiles et fructuosas dare debeat. Alioquin tantummodo ius regale seu urburas ad fiscum pertinentes percipi faciat et possessiones ipsas simul cum omnibus suis utilitatibus, proventibus et iuribus eisdem nobilibus pacifice possidendas relinquat.

L. Item conclusum est, quod iudicium et iudicatus comitum Zagorie in Varasino hactenus celebrari solitum aboleatur et amodo nullo unquam tempore celebretur, quodquee causantes in illo comitatu ad sedem seu iudicium banorum Sclavonie, spectare debeant et teneantur.

LI. Item si qui hominum – cuiuscunque condicionis et preeminentie existant – deliberative homicidium perpetraverint, omni redemptione semota interficiantur. Et si tales homines fuge presidio se defensaverint – ubicunque et quandocunque reperti fuerint – eandem penam incurrant, observato tamen iuris ordine. Et comes vel vicecomites et iudices nobilium illius comitatus, ubi talis homicida repertus fuerit, ipsam iustitiam, iuxta regni consuetudinem administrare teneantur. Et nemo tales in castra et domos suas sub pena de infidelibus et aliis malefactoribus superius expressa acceptare et admittere audeat. Si vero homicidium non ex preconcepta malitia neque animo deliberato, sed casualiter aut aliter inopinate acciderit occisor cum propinquis occisi liberam concordandi habeat facultatem.

LII. Item difinitum est, quod si quipiam causantium sive coram palatino vel iudice curie, sive ceteris iudicibus ordinariis ecclesiasticis vel secularibus tempore octavarum in birsagiis sive iudiciorum oneribus convincerentur, ad solutionem huiusmodi onerum seu birsagiorum statim in fine litis per iudicem compellantur. Et si per sententiam finalem causa concludetur, primo parti adverse de sua portion de bonis convicti satisfactionem impendere teneatur et deinde ad partem suam iudiciariam cedentem – prout etiam hactenus observatum fuit – liberam exigendi habeat

facultatem. Similiter etiam si qui coram comitibus parochialibus in sede iudiciaria in aliquo onere convincerentur, infra quindenam facta prius ammonitione solvere teneantur. Et si facere non potuerint vel simpliciter noluerint, comites ipsi ad tanta bona et possessiones, que onus seu birsagium equivalent, liberam descendendi habeant facultatem.

LIII. Item quia nonnulli causas suas etiam exigui momenti de sede et iudicio banorum, wayvodarum, comitum et vicariorum, aliorum etiam iudicum ordinariorum in curiam regiam provocare consueverunt, ut scilicet partem adversam longioribus gravioribusque litibus, laboribus, expensis, iniuriis et dampnis afficere ut vel sic gravare possint, pro quiete itaque et relevamine regnicolarum et potissimum oppressorum et pauperum communi consilio, voluntate et assensu dominorum prelatorum, barorum, ceterorumque regnicolarum statutum et sancitum est, quod si quispiam de cetero causam aliquam de presentia cuiuscunque iudicis in curiam regie maiestatis provocaverit ibique iudicium prius factum approbatum fuerit, in dupplo birsagio, in quo convictus propter appellationem intelligitur, convinci debeat eo facto et immediate per iudicem suum ordinarium irremissibiliter extorqueatur

LIV. Ceterum solent nonnunquam partes in causis et in iudiciis succumbentes eorum iudices calumniare, infamare et in eos iniuriose invehi, quasi eis non esset iustitia per illos administrata, propter quorum iniquam et dampnandam vociferationem plurima scandala et alia malorum genera plerumque suboriuntur. Proinde ad compescendam illorum linguam communi omnium sententia decretum est, quod nemo omnino magistris prothonotarios infamare aut in eos iniuriose invehi audeat, sed si quis iniustum sibi iudicium factum putaverit, ab illorum presentia et iudicio cum honestate, honore et reverentia ad regiam maiestatem aut palatinum seu iudicem curie aut eorundem palatini et iudicis curie vices gerentes appellare debeant. Quod si quispiam premissa facere non formidaverit et linguam non compescuerit atque infamiam, qua magistris ipsos aut eorum alterum afficiet, probare non poterit, extunc vigore presentis decreti in ea pena de facto vincatur, qua magistris ipsi convinci deberent, si obiecta in eos aut alterum eorum probari possent.

LV. Preterea ordinatum est, prout etiam per serenissimum condam dominum Lodovicum regem diffinitum fuit, quod si quis nobilium ordine iudiciario sive in facto potentiario, succubitus duelli sive in pena calumnie vel delationis exhibitionisque falsarum litterarum aut sententie capitalis sive alio quocunque facto in presentia palatini et iudicis curie aut alterius cuiuscunque iudicis convictus fuerit, iudex cause talem convictum captivare et tribus diebus causa pacis et concordie detinere debeat. Et si concordare nequiverint, extunc ad manus adversarii ad infligendam sibi penam a iure statutam et debitam iuxta regni consuetudinem assignet. Qui si huiusmodi convicto mortem vel aliam penam a iure – ut preferitur – statutam intulerit, a iudice et parte adversa sine solutione alicuius pecunie vel gravaminis absolutus habeatur. Quodque filii, fratres, proximi, uxores, sorores et consanguinei eiuscemodi convicti et condempnati pro illius excessu non debeant aggravari ita, quod neque proprie possessiones et portiones illius, neque alia bona demptis dumtaxat illis rebus, que apud ipsum tempore captivationis reperientur, per iudicem auferantur, sed omnino in filios et heredes sive generationes suas condescendant illique in eisdem omnibus bonis, possessionibus,

domibus, et iuribus possessionariis salvi, liberi et quieti permaneant. Hoc tamen adiecto, quod si premissis modo convictus et condemnatus cum suo adversario qualitercunque concordare poterit, id ei semper facere liceat et pro huiusmodi concordia iudex nullum prorsus birsagium aut aliquam aliam solutionem vel ab ipso convicto vel etiam parte adversa capere et exigere possit, sed libere et absque ulla penitus solutione concordiam et pacem ipsam facere valeant.

LVI. Item quod filius pro delictis et excessibus patris et econtra nec in persona nec in possessionibus aut aliis rebus condempnetur aut aliter puniatur.

LVII. Ulterius quod episcopi, capitula, abbates, prepositi, conventus et cetera ecclesie possessionate cum tribus litteris inquisitoriis super possessionibus acquirendis, nisi regia maiestas destinatis probis viris, quos maluerit, experiatur et informetur inter nobiles et ecclesias possessionem aliquam nec acquirere nec retinere possint, nisi cum litteris privilegialibus. regie maiestatis aut iudicum vices gerentium sue maiestatis, prout hec etiam tempore condam serenissimi domini regis Lodovici decreta et observata fuisse dinoscuntur.

LVIII. Item ordinatum insuper est prout etiam in decreto serenissimi domini Sigismundi imperatoris continetur, quod violator sedis iudicarie in birsagio viginti quinque marcarum irremissibiliter extorquendarum convincantur eo facto.

LIX. Item ordinatum est, quod minuti conventus et presertim conventus de Zenthjog, deinceps ab emanatione litterarum cessent et omni careant firmitate.

LX. Item ordinatum est, quod regia maiestas cum consilio et voluntate dominorum prelatorum et baronum suorum debeat in quolibet comitatu aliquem baronem vel alium notabilem et bene possessionatum hominem, qui scilicet sufficiens et idoneus videbitur, in comitem parochialem preficere et ille teneatur ex eodem comitatu et non aliunde notabilem, item aliquem, pro vicecomite vel vicecomitibus eligere. Qui omnes iuxta subscriptam iuramenti formam iuramentum comes coram regia maiestate, vicecomites vero in ipso comitatu prestare teneantur.

LXI. Item solent plerumque exercitantes in eorum progressibus, ecclesias propter commeatus sive victualia et alias res per colonos pro securitate ad easdem collatas Dei et hominum timore postposito violare et inde non solum victualia necessaria, sed etiam alia omnia bona eorundem colonorum surripere et ibi alia etiam enormia et dictu quoque nefanda impune committere. Quare ut eorum temeritas et detestanda licentia compescatur, sancitum est, quod amodo nemo omnino sive eques sive pedes fuerit et sive cum exercitu sive aliter qualitercunque iter facere habeat, hostia ecclesiarum infringere vel aliter ecclesias prophanare aut victualia vel aliquas alias res inde violenter excipere audeat. Ubi vero deinceps contraventum fuerit, si capitaneus eiuscemodi copiarum nobilis fuerit tam iura sua possessionaria quam etiam alia omnia bona sua amittat et ad fiscum regium devoluta sint et habeantur eo facto. Si autem eiuscemodi transgressores ignobiles fuerint, comburantur. Hanc vero executionem supremus capitaneus exercitus facere teneatur. Qui si neglexerit vel forte ipsemet sanctionem istam transgredietur, avizata regia maiestas superinde pro sua gratia et iustitia atque innata clementia executionem fieri demandet. Et si gentes ille maiestatis sue fuerint, ecclesiam reconciliari faciat, si vero aliorum fuerint, illi, quorum erunt,

huiusmodi reconciliationem facere teneantur. Hoc adiecto, quod si tales exercituantes victualium inopia laboraverint, plebanus aut iudex aut villicus loci ecclesiam aperire et illis gentibus coram illo, quem capitaneus earundem copiarum ad id deputaverit, pro iusto, digno et convenienti pretio et solutione victualia de ecclesia dare teneantur.

LXII. Item quod gentes huiusmodi in ipsarum progressu in domibus nobilium nusquam descendere et neque res et bona colonorum sive rusticorum de domibus et curiis nobilium violenter auferre presumant. Transgressores vero eandem penam quam violatores ecclesiarum incurrant eo facto.

LXIII. Ceterum quia archidiaconi, vicearchidiaconi et plebani propter eorundem insatiabilitatem non contenti iustis et veris ipsorum proventibus quandam detestandam et extra hoc regnum inauditam corruptelam, potissimum vero in comitatu Simigiensi induxisse dinoscuntur, videlicet, quod dum contingit aliquem quocunque modo interfici, etiamsi testatus decedat, sepultura illi in ecclesia et etiam in cimiterio interim negatur, donec ultra omnia funeralia et alia pro locorum consuetudine et diversitate in talibus fieri solita una marca argenti vel quatuor aurei solventur. Que res quia non solummodo abusus et corruptela, verum etiam quoddam sacrilegii et simonie genus merito censerit potest, eam ob rem presenti decreto statutum est, quod amodo deinceps eiusmodi exactionis genus ubique et signanter in dicto comitatu Simigiensi cesset et perpetuo aboleatur et nemo archidiaconorum, vicearchidiaconorum et plebanorum eorumque vices gerentium sub pena amissionis beneficiorum extorquere presumat, prout etiam hoc tempore quondam serenissimi domini Karoli regis Hungarie etc. in prefato comitatu Simigiensi per bullas apostolicas ad petitionem et instantiam eiusdem domini regis cassatum et extinctum fuisse ex eisdem bullis in presenti congregatione regnicolarum publice perlectis manifeste dinoscitur.

LXIV. Item quia ex comitatibus sepe numero universitas nobilium interdum pro rebus totius comitatus, interdum vero iussu regie maiestatis nuntios et electos nobiles ad maiestatem suam mittere solet, nonnulli autem sunt tam scilicet spirituales quam etiam seculares domini, item nobiles, abbates, prepositi, capitula et conventus, qui instar aliorum de bonis ipsorum expensas huiusmodi nuntiis et electis dare recusant et se ab huiusmodi expensarum contributione penitus subtrahunt, qua in re universitati nobilium et potissimum, qui inferioris condicionis existunt, non mediocri iniuria inferri dinoscitur, quare presenti decreto sancitum est, quod amodo omnes et singuli – cuiuscunque status et condicionis possessionati homines existant et in quocunque comitatu constituentur – expensas per communitatem disponendas de bonis et possessionibus suis ad ratam sive sortem eorundem in medium communitatis semper persolvere et persolvi facere debeant et teneantur demptis tamen illis dominis prelatiis et baronibus, ceterisque possessionatis, qui tempore congregationis ad regiam maiestatem nominatim et personaliter per litteras vocabuntur. Verumtamen alias cum scilicet factum comitatus agitur, quilibet contribuere teneatur. Renitentes autem comes illius comitatus etiam cum gravaminibus in talibus fieri solitis, hoc est cum onere trium marcarum levis ponderis, compellere debeat et teneatur.

LXV. Item quia ad sedem iudiciariam nobilium quorumlibet comitatum causantes et nonnulli alii qui sedem ipsam ingrediuntur, cum familiaribus et iobagionibus armatis et quidem maiori, quo possunt, numero intrare ac ceteros armis vel multitudine terrere solent, quare tum ex eo, quod deinceps quilibet in huiusmodi sedem iudiciariam quiete, libere et sine omni metu et periculi

suspicione intrare et ibi honeste, pacifice et absque omni prorsus impedimento perseverare possit, tum vero ne leges et iura inter arma silere videantur, conclusum est, quod tam nobiles, quam etiam eorum familiares et iobagiones sedem iudiciariam ingressuri arma omnia – cuiuscunque generis existant – in hospitiiis deponere et inermes in ipsam sedem ingredi debeant ut ibi non armis, sed iure contendendum noscant. Transgressores vero si ignobiles fuerint, comes arma eorundem auferat et insuper eosdem in ciponem ponat ibique duobus diebus et totidem noctibus absque esu et potu detineat. Si vero nobilis extiterit, modo simili arma auferat et insuper unam marcam gravis ponderis ab eodem extorqueat.

LXVI. Item quia in nundinis et foris ebdomadalibus, preterea in tabernis plurime hominum interemptiones, vulnerationes, verberationes et item multe rixe et infinita aliorum malorum genera committi consueverunt, furor siquidem ubique arma ministrat, idcirco ut deinceps etiam huic malorum generi debita provisione occurratur, consimiliter statutum est, quod omnes et singuli – cuiuscunque condicionis existant – ad nundinas, fora et tabernas proficiscentes arma omnia in hospitiiis deponant et inermes ad emendum et vendendum et bibendum proficiscantur, ibique pena sub eadem vivant et commorentur.

LXVII. Item quia in superioribus articulis, quanta comes parochialis in executione iustitie agere habeat, plane declaratur, ut autem debito modo et sine aliquo impedimento officium suum exequi valeat, statum et diffinitum est, quod quicumque contra comitem aut vicecomitem in eiusmodi executionibus insurgerent et eidem vim inferre presumerent sicque ipsam coercerent, quod iustitiam, quam executioni demandare deberet, exequi non posset, extunc tales scita tamen prius mera rei veritate nota infidelitatis multentur. Si vero servi vel rustici fuerint ipsos domini eorundem sub pena viginti quinque marcarum in manus comitis ad dignam eisdem penam infligendam dare et assignare teneantur et insuper de innocentia, quod scilicet non de eorum voluntate et commissione id factum sit, iuxta regni consuetudinem se purgare debeant et teneantur. Si autem servi vel rustici perpetrato facinore aufugerint, comes pro iniuria eidem illata illos perquirat nichilominusque domini eorum – ut prefertur – de innocentia se purgare teneantur.

LXVIII. Item quia de iudicibus ordinariis frequenter mentio fieri solet et dubitatur a plurimis, qui sint et intelligantur iudices illi, idcirco declaratur hic per expressum, quod iudices ordinarii sunt: imprimis palatinus, deinde iudex curie et postmodum secretarius cancellarius, si presens fuerit sin autem non locum tenens, hoc est, qui sigillum iudiciale regie maiestatis pro tempore tenet. Appellantur autem iudices ordinarii, quia quamlibet causam discutere et ipsi soli eorumque vices gerentes ad sedem iudiciariam non vocati intrare et etiam alios, si quos pro testimonio aut alia re volent, advocare possunt. Isti autem subscripti videlicet magister tavernicorum, magnus senescalcus, banus Dalmatie, Croatie et Sclavonie et wayvoda Transsilvanus non censentur iudices ordinarii et idcirco ad sedem iudiciariam regie maiestatis non vocati intrare non debent neque tenentur; sed tamen ex quo sunt iudices et officiales iurati, si quando sponte intrare voluerint sive regia maiestas presens fiat sive non, admitti et locum honorificum semper habere debebunt. Quorum etiam protonotarii et in iudiciis vicesgerentes similiter admitti debebunt. Neminem tamen ad ipsam sedem iudiciariam sine permissione et annuentia predictorum trium iudicum ordinariorum vocare poterunt. Hoc per expressum declarato, quod prefati iudices ordinarii etiam in absentia regie maiestatis sine istis aliis omnia iudicia libere facere possunt. Ut autem iudicia

cum honestate, gravitate et maturitate, sine scilicet aliquo rumore, tumultu, strepitu et turbatione celebrari possint, statutum est, quod fores domus iudicarie semper pateant et nemo, nisi vocatus, intrare audeat. Alioquin transgressor penam alias superinde decretam, hoc est centum aureorum incurrat, pro quibus statim capiat et in turri manca usque ad restitutionem teneatur.

LXIX. Item solent procuratores lucri gratia plurimarum personarum causas suscipere et satis negligenter ad earum defensionem attendere nullumque casum facere, si quando eorum principales in birsagiis convincerentur et hoc potissimum ex eo, quod antiqua consuetudine huiusmodi birsagia tempore dumtaxat celebrationis iudiciorum generalium, extorqueri solebant. Cum vero huiusmodi iudicia generalia – prout superius tactum est – abolita sint et deinceps nunquam celebrentur, idcirco ordinatum est, quod deinceps nullus procuratorum, plurium quam quatuordecim personarum causas suscipere et supportare audeat. Ubi autem in birsagiis convincentur, statim post finem litis et cause decisionem de bonis et possessionibus sui principalis tam ad partem iudicis quam etiam adversarii statuatur.

LXX. Item quod omnes cause et lites, que hactenus super quibuscunque rebus et negotiis mote sunt, eodem ordine et processu iuris – quo hucusque consuetum fuit – prosequi, terminari et finiri debeant, ita videlicet quod prescripti articuli solummodo de futuris et non de preteritis confecti intelligantur.

LXXI. Item conclusum est, quod si qui – cuiuscunque condicionis sive scilicet ecclesiastice sive seculares persone existant – causarentur privilegia sua per Turcos, Bohemos, Polonos, Alemanos aut alios quoscunque hostes et emulos ablata aut igne consumpta et perdita fuisse vel etiam si quispiam ecclesiasticorum allegaret ecclesiam suam apud manus laicales – prout nonnunquam factum est – diu tentam fuisse et tunc per ipsos laicos iuribus et privilegiis spoliata vel aliter defraudata fuisse, si tales ad litteratorium mandatum regie maiestatis vel requisitionem aliorum iudicum ordinariorum cum nobilibus illius comitatus, in quo bona illa, super quibus iura et privilegia amissa causabantur, in rebus a sexaginta annis circa ita actum esse comprobare poterunt, eiusmodi comprobatio et attestatio nobilium semper et in omni iudicio pro principali et capitali privilegio teneatur et reputetur.

LXXII. Item quod seculares persone contra ecclesiasticas in iudicio in maiori onere non convincantur, quam ecclesiastice contra seculares convincerentur.

LXXIII. Item ordinatum est, ut omnis scrupulosa suspicio, que contra iudices et iustitios regni et item comites, vicecomites, iudices nobilium atque etiam electos nobiles ceterosque officiales de favore vel odio concipi posset, de cordibus quorumlibet removeatur, iuxta decretum serenissimi condam domini Sigismundi imperatoris statutum et sancitum est, quod perpetuis semper successivis temporibus omnes iudices et iustitiosi huius regni tam ecclesiastici quam seculares qui videlicet in palatinum, iudicem curie regie magistrum tavernicorum cancellarium aut vicecancellarium, in protonotarios seu vices gerentes iudicum pretactorum et etiam assessores eorundem, banum Sclavonie, wayvodam Transsilvanum et in comites quorumlibet comitatuum ac iudices nobilium eligentur et assumentur, eorundem vices gerentes et substituti tempore assumptionis ipsorum ad huiusmodi officia in conspectu regie maiestatis iuramentum honestum

de servanda fidelitate et administranda iustitia prestare debeant. Vicecomites tamen et iudices nobilium coram suo comitatu huiusmodi iuramentum prestare teneantur.

Forma vero iuramenti, sequitur in hec verba: ego t(alis) iuro per Deum vivum et gloriosam Dei genitricem virginem Mariam et per omnes sanctos et electos Dei, quod omnibus coram me causantibus et in omni negotio, quod ad officium meum pertinebit, absque cuiusvis persone, divitis scilicet et pauperis acceptione, prece, premio, favore, timore, odio, amore et complacentia remotis et postpositis – prout secundum Deum et eius iustitiam faciendum cognovero – iustum et verum iudicium, iustitiam atque executionem omnibus in rebus pro meo posse faciam. Sic me Deus adiuvet et omnes sancti!

LXXIV. Ceterum ne in redemptionibus litterarum capitularium et conventualium necnon super satisfactione viarum seu laborum, quos testimonia capitulorum et conventuum in executionibus facere habent, discordiam oriri contingat, conclusum est, quod in hac parte servetur limitatio tempore serenissimi condam domini Sigismundi imperatoris facta et tandem per regiam maiestatem tempore felicis coronationis confirmata.

LXXV. .Et ut materia discordie super facto redemptionis litterarum capitularium et conventualium, necnon super satisfactione viarum seu laborum testimonialis capitularibus et conventualibus fienda hactenus sepius suboriri consueta de cetero cesset et, succidatur, presenti ordinatione antiquam tamen et laudabilem consuetudinem imitantes statuimus, ut in omnibus locis, tam capitularibus, quam conventualibus pro qualibet littera evocatoria per se, videlicet evocatoria prima, secunda et tertia in capitulo aut conventu simul cum eorum notario et scriptore pro redemptione littere recipiantur seu solvantur singuli denarii viginti quatuor maioris monete.

Item pro qualibet littera prociamatoria denarii centum.

Item pro qualibet littera procuratoria denarii viginti quatuor.

Item pro qualibet littera prohibitoria, protestatoria et aliis similibus, si patenter emanantur, denarii viginti quatuor, si vero clause, denarii duodecim.

Item pro qualibet littera fassionali emanata privilegialiter denarii centum, patenter vero denarii viginti quatuor, clause autem denarii duodecim. Item pro qualibet littera inquisitoria sive patenta, sive clause denarii viginti quatuor.

Item de paribus antiquarum litterarum in conservatoriis requisitarum custodi seu requisitori per se denarii centum et pro redemptione littere requisite, si non habuerit multum de scriptura et patenter confecta fuerit, denarii viginti quatuor, si vero labor scribendi fuerit magnus et littera privilegialiter confecta, denarii centum.

Item de simplicibus transcriptis seu transcriptionalibus litteris patenter emanatis, ubi labor scribendi magnus non fuerit, denarii viginti quatuor, ubi autem littera fuerit prolixa aut privilegialiter emanata, denarii centum.

Item de littera statutoria, in qua contradictio facta fuerit, denarii viginti quatuor, de litteris vero statutorialibus perpetuis, in quibus contradictio facta non fuerit, recipiatur redemptio litterarum secundum quantitatem possessionis et numerum sessionum modo subscripto, videlicet de sessione una, duabus aut tribus vel quatuor in toto denarii centum, ubi autem fuerint ultra quatuor sessiones usque ad decem, pro qualibet sessione denarii triginta tres, ubi vero fuerint

ultra decem usque viginti, de qualibet sessione denarii viginti quatuor; ubi autem fuerint ultra viginti usque centum, de qualibet sessione denarii duodecim; si vero fuerint ultra centum usquequaque, de qualibet sessione denarii octo. Item de litteris reambulatoriis metalibus, in quibus contradictio et evocatio facta non fuerit, denarii viginti quatuor; in reambulationibus autem metalibus, in quibus simplex consignatio vel cum hominibus regiis de curia regia transmissis similis consignatio vel finalis metarum erectio cum iuramento super terram in forma iudiciaria aut partibus concordantibus facta fuerit, pro redemptione littere denarii quadringenti. Ubi autem partibus in huiusmodi reambulationibus et demonstrationibus metalibus discordantibus causa ad curiam regiam reducta fuerit, tunc pro redemptione talium litterarum denarii ducenti. Item de communi inquisitione ordine iudiciario commissa denarii centum.

Item de revisione possessionarie occupationis denarii centum.

Item de occupationibus possessionum hominum in sententia capitali convictorum et rerum ablationibus iudiciaria commissione mediante fiendis de rebus ablatis ex antiqua consuetudine capitulum habebit decimam partem; pro redemptione autem littere denarii centum.

Item de estimationibus possessionariis iudiciaria commissione fiendis denarii centum.

Item de possessionariis divisionibus de singulis possessionibus divisis singuli denarii centum.

Item de expeditoria iuramentali denarii viginti quatuor.

Item de expeditoria iuramentali continente nomina coniuratorum denarii centum.

Item de solutionibus pecunialibus coram capitulis vel conventibus, vel eorum testimoniis fieri solitis capitulum seu conventus decimam et nonam partes exigere non possint, nisi quando propter discordiam partium in eorum sacristiis seu conservatoriis huiusmodi pecunie reposite fuerint; de talibus nempe de iure decimam et nonam recipere possint, ad illius tamen partis rationem, que causam dederit pecuniam huiusmodi in conservatoriis reponendi.

Personis autem testimonialibus capitulorum et conventuum pro singulis diebus, quibus in itinere fidedignitatis processerint, solvantur singuli duodecim denarii maiores, sive in propriis equis, sive in equis causantium ambulent et ducantur; ita tamen, quod in victualibus et expensis causantium et ipsos ad facta sua conducentium simul cum equis et familiaribus eorum de domo iterum in domum semper duci debeant et reduci.

LXXVI. Preterea. ex quo in iudiciis in curia nostra regia fieri consuetis coram iudicibus ordinariis eiusdem curie ac eorum notariis supratactis littere et redemptiones earum necessario occurrunt, ideo ad tollendam cuiuslibet altercationis occasionem, que inter ipsos notarios et causantes emergi possent, antiquam consuetudinem redemptionis litterarum earundem modo subscripto duximus similiter declarandam, videlicet quod in ipsa curia nostra notariis ipsius curie iudiciarie de una littera prorogatoria communi solvantur denarii duodecim;

de littera iudicali seu birsagiali similiter denarii duodecim;

de simplici littera inquisitoria similiter denarii duodecim; de

secunda evocatoria denarii viginti quatuor;

de tertia evocatoria denarii centum;

de proclamatoria denarii centum;

de littera iuramentali tertio vel sexto se alicui adiudicata denarii quatuor;

de eo, qui iurabit duodecimo vel vigesimo quinto aut quinquagesimo se, denarii centum;

de communi inquisitione denarii centum;
de littera duellari denarii ducenti;
de iuramentali super caput denarii ducenti;
de prima instrumentali exhibitione denarii viginti quatuor; de secundaria et tertiaria instrumentali exhibitione cum gravanine assumpta similiter denarii viginti quatuor;

de prorogatoria respondententi cum tribus marcis denarii viginti quatuor; de littera procuratoria patenti denarii viginti quatuor;
de littera fassionali communi denarii viginti quatuor;
de aliis litteris generalibus, videlicet prohibitoriis et similibus denarii viginti quatuor;
de prohibitoria facie ad faciem denarii centum;
de littera sententionali facti potentialis conservatori sigilli floreni decem per centum, scriptori autem denarii ducenti;
de litteris statutoriis et reambulatoriis simplicibus denarii viginti quatuor;
de litteris autem adiudicatoriis reobtentiois possessionum seu aliarum rei'um iuxta quantitatem possessionis seu rei reobtente habita concordia inter causantes et prothonotarios fiat solutio.

LXXVII. Statutiones autem possessionarie, metarum reambulationes et revisiones aliter fieri non debeant nisi vicinis et commetaneis huiusmodi possessionum inibi legitime convocatis. Et ut fraus et dolus in talibus melius evitetur, nomina singulorum vicinorum et commetaneorum tempore premissorum processuum illuc principaliter convenientium in litteris capitularibus et conventualibus superinde emanandis seriatim conscribantur.

LXXVIII. Postremo conclusum est, quod regia maiestas prescriptam ordinationem quoad omnes articulos, clausas, capitula et puncta per quoscunque inconcusse observari faciat. Transgressores vero sic emendet, puniat et castiget, quod regnicole sicuti eam ipsam ordinationem pari et unanimi omnium consensu, voluntate et consilio maturaque deliberatione fecerunt, ita omnes maiestati sue gratias meritas agere valeant.

Quos quidem articulos sive capitula nos Mathias rex prefatus cum supradictis dominis prelati, baronibus, proceribus et ceteris nobilibus electis, totum scilicet hoc regnum representantibus et in presenti generali dieta nobiscum existentibus matura prehabita deliberatione quoad omnes eorum continentias de eorundem dominorum prelatorum, baronum, procerum et totius regni consilio, voluntate et assensu pro perpetuo ipsius regni decreto et statuto ac pro lege necnon iure scripto tenendos et duraturos sancimus, stabilimus, auctorisamus, autenticamus et confirmamus atque ad eorundem observationem universos successores nostros reges et item totum hoc regnum sic obligamus, ut nullo unquam tempore neque scilicet in novorum regum electione vel coronatione, sed neque in dietis seu congregationibus generalibus vel particularibus regnicolarum quicquam ex illis variare seu immutare liceat, sed in omnibus clausulis et punctis inconcusse et inviolabiliter observetur.

In cuius rei memoriam firmitatemque perpetuam articulos ipsos in presentem libellum conscriptos et insertos de eorundem dominorum prelatorum, baronum et nobilium ac totius regni voluntate et consilio secreti sigilli nostri, quo ut rex Hungarie utimur, appensione fecimus communiri.

Datum per manus reverendi in Christo patris domini Ioannis episcopi ecclesie Waradiensis, aule nostre secretarii cancelarii, dilecti et fidelis nostri anno Domini millesimo quadringentesimo octogesimo sexto in festo Conversionis beati Pauli apostoli, regnorum nostrorum anno Hungarie etc. vigesimo nono, Bohemie vero decimo septimo. Venerabilibus in Christo patribus dominis Ladislao Gereb, electo et confirmato ecclesie Albensis Transsilvane, apostolice sedis legato, Strigoniensi sede vacante, Petro Colocensi archiepiscopo, Gabriele cardinali Agriensis, prefato Iohanne Waradiensis, Osvaldo Zagrabiensis, Sigismundo Quinque Ecclesiensis, Urbano electo et confirmato Iaurinensis, summo thesaurario nostro, Alberto Wesprimiensis, Iohanne Chanadiensis, Nicolao Waciensis, fratre Gregorio Nittriensis, Iohanne Sirimiensis et Matthia electo Boznensis, ecclesiarum episcopis ecclesias Dei feliciter gubernantibus.

Item spectabili et magnificis Emerico de Zapolia comite perpetuo terre Scepusiensis et predicti regni nostri Hungarie palatino, comite Stephano de Bathor iudice curie nostre et wayvoda Transsilvano, Matthia Gereb regnorum nostrorum Dalmatie, Croatie et Sciavonie, Laurentio duce de Wylak, Machoviensi, Andrea de Zokol et Francisco de Harazth Zewreniensi banis Ladislao de Pakos thavernicorum. nostrorum, Wilhelmo comite Zagorie dapiferorum, Georgio de Thwroc, pincernarum, Ladislao Orzagh de Gwth agazonum nostrorum regalium magistris, Paulo de Kynys Themesiensi et Nicolao Banfy de Lyndwa Posoniensi, aliisque quam pluribus regni nostri comitatus tenentibus et honores.

25 JANUARY 1486

Matthias, by the grace of God king of Hungary, Bohemia, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria, Duke of Silesia and Luxemburg and Margrave of Moravia and Lusatia,¹ for the everlasting memory of the matter.

It is fitting that kings and princes who by heavenly decree are placed at the summit of the highest office, be adorned not only by arms but also by laws and that the people subjected to them, as well as the reins of authority, are restrained by the strength of good and stable institutions rather than by the harshness of absolute power and reprehensible abuse.

Therefore, we wish to make known to all, that after God's greatest and most unexpected gift and His ineffable and incomprehensible providence raised us (though unmerited) to this pinnacle of royal dignity, we have always kept in mind, always considered, and always had as our heart's concern, how we could abolish and eradicate those disorders and wretched abuses, especially in the administration of justice, which have occurred in this kingdom in the time of the most serene lord kings, our predecessors, and even up to our own time, and how we could establish statutes and decrees of a salutary and firm nature, which would be recognized as manifestly established, in the first instance, for the greater glory and praise of our Redeemer and, secondly, for the honor, salvation, benefit and peace of ourselves and our entire kingdom and which are to be acknowledged as statute and written law, binding forever; and no one should be allowed to change them at his own discretion or pass new statutes and laws contrary to them, as is known to have happened to this day each time a new king has ascended the throne; and we would have fulfilled satisfactorily this sacred purpose and desire of ours, had we not been detained by the most urgent needs of this kingdom of ours, above all in the restoration of its borders and frontiers as well as the destruction of the most cruel enemies whom we found to have overrun it.

For the borderlands of our kingdom were, by the invasions partly of Czechs, partly of Germans, partly by the constant incursions of Turks and other neighboring nations, so devastated and occupied by all these enemies, that nothing was left except the heartland of the country and even that was invaded by various enemies, as mentioned above; and because of these circumstances we were forced to postpone this beneficial and altogether necessary intention of ours to another time. Mainly because we hoped that once we had conquered the forenamed enemies who were for many

¹ The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of "kingdoms" that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, "Lists in the service of legitimation in Central European sources," in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45. Here, Matthias added the lands he had occupied, even when only temporarily, in the course of his campaigns against George Podebrad.

years destroying the kingdom by fire and sword and who had begun to trust that they could keep it forever (for they had taken such a foothold that they began to enter marriages and become kin with our subjects), then we could acquire that peace, leisure, and calm in which we could fulfill our desire more easily.

However, either because of the machinations of the enemy of the human race who always plots against good and noble intentions or because of the inclination of wicked persons and their unrestrained lust for power, our hope and expectation in this matter deceived us. For now that we have, with God's help, destroyed the enemy, and have been able not only to reestablish but even largely to extend and expand our borders on all sides though at the cost of much effort, expense and the death of many our own and were planning to accomplish what we have always held as our heart's concern, then the most serene lord Frederick, Emperor of the Romans and Duke of Austria, etc., whom we had always revered and esteemed as our dear father and whom we had always tried to please in all matters, declared war on us when, as mentioned before, we were tired and exhausted after long and heavy warfare, and he invaded our kingdom immediately, causing severe and irreparable damage, burning, and ravaging, and committed various other accursed evil deeds. Thus it happened that (against our own will) we were forced to take up arms again to defend ourselves and our kingdom, returning force against force and thus engage ourselves in a six-year war of this sort.

This war then reached the point where, with the help of God who from above saw our just cause and the injustice inflicted upon us, we were able not only to defend ourselves and our kingdom against his imperial highness who had thus provoked and wounded us, but attacking him while he was present in his own hereditary domain of Austria, after almost a half-year long siege, we captured the renowned city Vienna, the chief town and capital of his province. Thereafter we conquered the larger part of the entire province and would have conquered the rest had we not been called to return by disorders and complaints at home.²

But while we were occupied with these matters, while we pressed on our successes and followed up our good fortune and victory, because of our prolonged absence and preoccupation, such a great number of murderers, thieves, brigands, bandits, forgers, arsonists, and similar evildoers rose up in our kingdom that no traveler could be safe, nor brother from brother, nor stranger from stranger.

For this reason and in order that at the same time we may fulfill our said intention and secure peace, as we have always wished, for our subjects, who have besieged us with their frequent lamentations, we returned to this kingdom at whose governance, as already mentioned, we have been placed by divine disposition and we have ordered all our prelates, barons, lords and other nobles to hold a common general assembly here in Buda,³ where with them and with the rest of

²The narrative introduction summarizes Matthias's Ottoman and Czech wars from 1468 to 1486, the Polish incursions, and, in particular, his conflict with Emperor Frederick III; for these see Karl Nehring, *Matthias Corvinus, Kaiser Friedrich III. und das Reich. Zum hunyadisch-habsburgischen Gegensatz im Donauraum*, 2d ed. (Munich: Oldenbourg, 1989), *passim*.

³The main political reason for calling the diet may have been the election of a new count palatine.

the nobles who were elected by each county and who represent the entire kingdom, above all for the greater glory of God and His mother Mary and of the holy kings the patrons of this kingdom;⁴ thereafter for the honor, benefit, advantage, prosperity and peace of ourselves and of the entire kingdom, with equal and unanimous will, advice and participation we have concluded and agreed on the following chapters and articles which are to be kept in force and respected forever as statute and written law.

1 Of which articles the first is this. First of all, it was decided and concluded that the general assizes or palatinal courts of law be abolished; in the future they may never be held in any place.⁵ However, so that it may not appear that we are granting and giving leave to evildoers for committing evil, it was ordered that if any county should notice any bandits, thieves, murderers, arsonists, forgers or any similar evildoers disturbing it and recognize that these evildoers multiply there, the royal majesty is obligated at the request of that county to grant it the right and ability, together with the *ispán*, to search out and destroy them.

2 Then, since unexpectedly too many irregularities and shocking scandals as well as unforeseen accidental dangers have often arisen in the practice of extraordinary county assemblies,⁶ therefore, for the purpose of abolishing this dangerous and outside this kingdom unheard of way of administering or rather corrupting justice, it was decided and ordered by the unanimous will, advice and consent of all gentlemen of the realm⁷ that from this time on such extraordinary county assemblies may never at any time be held, but that they must cease completely and be and remain forever abolished.

Then, it was decided that short summons be similarly discontinued and abolished.⁸

⁴ It is noteworthy that the divine legitimation combines the Virgin Mary and the Hungarian royal saints in one sentence. An indication for the cult of Mary under Matthias may be the fact that the new money minted by the king after 1471 had the Madonna with the inscription PATRONA VNGARIE on its obverse, see Schallaburg, '82. *Matthias Corvinus and die Renaissance in Ungarn (1458-1541)*. 8. Mai-1. November, 1982 (Vienna: Niederösterreich. Landausstellung, 1982). pp. 220-21; now also: Márton Gyöngyössi, "King Matthias' Mint – the Great Monetary Reform," in: *Matthias Corvinus, the King. Tradition and Renewal in the Hungarian Royal Court 1458-1490. Exhibition Catalogue* (Budapest: Budapest History Museum, 2008) pp. 285-7.

⁵ This measure finalized the repeated demand of the counties (see **1464:21, 1471:5, 1478:7, 1481:14**) not to hold general assizes (usually presided by the palatine, hence their double name). Cf. Imre Hajnik, *Bírósági szervezet*, pp. 74-75.

⁶ Extraordinary county assembly (*proclamata congregatio*): in major criminal cases county nobles were gathered in a single place and examined under oath. See István Tringli, *Le contee in Ungheria nel periodo degli Angiò*. In: *L'Ungheria angioina*. A cura di Enikő Csukovits. (Bibliotheca Academiae Hungariae – Roma, Studia 3. Rome: Viella, 2013) pp. 139–178. Their abolition seems to have been observed, while not all other reforms survived the king.

⁷ *Regnicola* (verbatim: inhabitant of the kingdom) was used to describe the enfranchised nobles of the country; we translate it as gentleman of the realm.

⁸ Short (or final) summons (*citatio brevis*) were summons requiring the respondent to attend court within 32 days (or at the next octave term), usually issued in respect of violent crimes. The short summons was

3 Then, that (unless some legitimate and important matter of the king or of the kingdom intervened) two octave courts must be held each year, regardless of whether the royal majesty is present in the kingdom or not, namely on the feast days of St. George and of St. Michael, in such a manner that their first session or first day begins promptly on the twentieth day following the said feast days,⁹ at which sessions at least two of the judges ordinary¹⁰ must be present; as for the others, if they cannot attend because of some urgent need, their deputies are obligated to be present. In place of those who are unable to attend, the royal majesty must designate others from among the prelates and barons. Without the said two judges ordinary, however, these octave courts cannot and must not be held; and they must be held as long as it appears necessary.

Then, it was decided that in a similar way, in Transylvania and in Slavonia two other octave courts must be held each year, namely those of Epiphany and of the Feast of St. James. They shall likewise begin on the twentieth day after these feast days and be held as long as it seems necessary.¹¹

4 Then, since final sentence, especially in cases of ownership, has been hitherto by various terms and diverse prorogations become so lengthy that sometimes a case can hardly be completed within a lifetime and thereby placing heavy burdens of travail and cost on the parties, sometimes driving them into extreme poverty; therefore, it was decided that in the future all cases, also those pertaining to estates and property rights, regardless of by which judge they were initiated, must henceforth be settled within four octave terms without any prorogation or delay and excluding any exceptions.¹²

often combined with a terminal summon. Although they were summarily abolished here, they apparently continued to be used. The county nobles resented these swift judicial procedures, and it is possible that Matthias agreed to their being abolished in order to win support for his bastard son's, John Corvin's election to the throne. In practice, the short summons were not discontinued even after 1486, see György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary] (Budapest: Akadémiai, 1971), p. 265.

⁹ Octavial courts (*octava*), the session of royal courts of justice; used to be held four times annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Now only the latter were to be continued.

¹⁰ On the justices ordinary see Art. 68, below.

¹¹ The octave courts of St. George's and Michaelmas came to be called "complete and great" (*integra et magna*) later in the century. The dates for octave courts in Slavonia and Transylvania (6 January and 25 July, respectively) were decreed here for the first time, although such courts were held there ever since the late fourteenth century, only their dates were set by the ban or the voivode (see Hajnik, *Bírósági szervezet*, pp. 210, 213–4). It is worth noting that the four dates were set so that judges and dignitaries (or even actors) could attend all without missing another.

¹² The fight against delay in judicial procedure was a constant matter; first appearing in 1351, and many times later. It is well known that these attempts remained futile well into modern times.

5 Then, it was ordered that the opposing or litigating parties may be free to reach an agreement in every law suit. The judge, moreover, may not forbid them to do this nor may he extort anything for their concord or agreement.¹³

6 Moreover, since it was ordered that all cases pertaining to property rights must be finally concluded within four terms or octaves, therefore, it was ordered and decided that terminal summons which pertain to acts of might, damages and other torts and injuries must be settled definitively at the first octave court following the delivery of the summons. However, if they pertain to matters of estates and particularly if they make the producing of titles or of documents necessary, then because of the producing of such letters of privilege, they may be prorogued until the second octave session, but not further. Terminal summons¹⁴ concerning whatever case may be ordered under the seal of every judge ordinary, that is, by royal, or palatinal judges or the judges of the royal court, as well as of the bans of Slavonia, Croatia, and Dalmatia and also of the voivode of Transylvania.¹⁵

7 Further, since many persons have been able to avoid unpunished the court of justice by taking advantage of prorogations while the opposing party who has a just case against them is often burdened by the long duration of the suit, in order that in the future this evil may cease and everyone receive justice in due time, it has been established and sanctioned that no one may enjoy any prorogations from the royal majesty at the time of an octave court except those who serve in castles beyond the borders and frontiers of Hungary, in affairs or embassies of the king or the kingdom, or are engaged in war and have gone to war with the others at the prescribed time. Those who (as previously mentioned) are in castles outside the kingdom's borders may benefit from such prorogations for only three octave terms; at the fourth they must answer and stand trial. Furthermore if two or more brothers have undivided property and their father, or if he is dead, the older brother, remains at home while the other brothers or any one of them are engaged in war or in castles outside the kingdom (as mentioned before) then no prorogations may be granted. If, however, the brothers have the estate divided among them, then they may receive and enjoy the prorogation. Those who acquire such prorogations from the royal majesty under false pretense, that is, if they pretend that their brothers are engaged in war outside the kingdom or in castles or embassies, they must be perforce convicted of the fine of their tongue. For this punishment the judge hearing the case is to seize them in person if they are present or their lawyers if they are absent and force them to pay immediately without remission.¹⁶

¹³ Almost verbatim identical with **1435/I:4**, **1439:30** and **1458:34** and has been customary as far back as known. (Bonfini, *loc. cit.*, did not find it relevant to mention this article.)

¹⁴ Terminal summons (*citatio cum insinuatione*) was issued once the party did not respond to three previous summonses. It implied that judgment would be passed even in the absence of the person summoned. Its use had been limited to the court of personal presence, but widened already in 1445, and here to all major courts.

¹⁵ These arrangements summarize in essence the judicial practice of the preceding decades, see e.g., **1464:5**.

¹⁶ Cf. **June 1458:42**, **1459:22**, **1462:1**, **1464:4-8**, which are summarized here and made somewhat more stringent.

8 Then, as it is of great importance to the performance of legal acts how the king's bailiffs¹⁷ behave and what kind of persons they are, therefore, it was ordered that in each county the *ispán* with all the nobles present is obligated to select from among the more substantial nobles who personally reside in the county ten to twelve persons or eight or more or less, according to the needs of the county, and only these persons may and must go out with the witness of the chapter or convent to carry out inquisitions, summons, institutions, and other legal acts; and they must bear this burden for an entire year. As soon as they are chosen they must take an oath at the court of the county as do the chosen representatives of the chapters and convents according to the prescribed model. And those who refuse the burden placed upon them are to be fined perforce twenty-five marks which the *ispán* must collect without delay or remission. When they return from any kind of legal act, they are obligated to give sworn testimony, just as the representatives of the convent or chapter are required to do in the convent or chapter house, of what they saw, did, heard, learned, and enacted in proper order. If indeed any of them are proven guilty of any kind of fraud, committed for any reason, they are to be considered as having lost their honor and personal dignity, and, in addition, the *ispán* must sentence them perforce to an immediate and not remittable fine of twenty-five marks; and from that time on they may never again testify in any matter neither in nor out of court without the king's special pardon.¹⁸

9 Then, as in some counties it is customary to select for magistrate such nobles who are known to be inferior to the others in ability and wealth; as a result of which practice, it happens that out of fear, favor or for payment they commit a great deal of levity, therefore, it was decided that henceforth not such people, but only upright, deserving, and wealthy landed nobles should be selected from among those who reside there, as is well known to have been the custom during the reign of the late most serene lord Emperor Sigismund and of other kings. However, if anyone among those selected in this manner shuns to accept this burden he must be sentenced perforce to pay the *ispán* fifty marks without delay or remission. These magistrates are required to have and must use distinct coats of arms and seals.¹⁹

10 Then, since the men who are sent out by chapters and convents as witnesses have frequently committed for favor, money, gifts, hate, fear or complacency, many and unbelievable irregularities both in their testimonies and in the issuing of letters; and this situation has happened mainly

¹⁷ The king's bailiff, *homo regius* (or *homo* of any other judge) was the executive officer of a judge, who delivered summonses, arranged inquests, and assisted in the process of trial and punishment. He was usually commissioned by the parties of a suit from among the better-off nobles of the county (see Art. 9), but occasionally sent out from the king's court. He was usually accompanied by a witness from a place of authentication, see n. 21, below.

¹⁸ See above, here, however, the elected nobles, as jurors on the bench of the magistrate, had a different role from the king's bailiff. It may have been Matthias's intention to strengthen the role of the lesser nobility in the counties, but this is not quite unequivocal. The obligation to serve was decreed in regard to the county magistrates already in **1435/I:8**.

¹⁹ Cf. **1435/I:2**; however, the fine of magistrates' refusal to serve has been doubled here. There is evidence for the seals of the magistrates in the later fifteenth century, but it is unknown, how many of them had one; the county as a corporation, did not have its own seal until the sixteenth century.

because, instead of canons, frequently altar directors, chaplains and even students and mendicants and other easily corruptible persons of this sort are sent out to perform legal acts; therefore, in order to stop this evil by suitable means, it was decided that in every chapter or convent the canons and monks must swear an oath to the prelate or his vicar that they will observe justice while performing legal acts, and also, that henceforth from the chapters only canons and from the convents only monks in priestly orders may be delegated. And they must be sent out in sequence. And when they return from legal acts which they have completed they must give account under oath. For their travels and the redemption of letters they must adhere to the manner and order which was observed in the days of the late lord Emperor Sigismund and which is also explained subsequently in the present decree. When they are sent out to serve a summons, to inquests, or for any other matter, they must conduct the inquest together with the king's bailiff who must be a good, conscientious, and well-endowed person, from each person separately, both from nobles and not nobles and any other person they can get to testify. Before the inquest, however, the strictest oath must be taken from them that they will answer in good faith and truthfully to everything asked from them. Thereafter, their names, whence they come and, if they are not nobles, whose tenants they are, and what their station is, must be recorded in writing; then, each person's statement in regard to the matter of the inquest must be recorded whatever he knows, that is, the individual testimonies word for word. Those, however, who are found to transgress this order must perforce lose their prebends as perjurers, forgers, and betrayers of the common good and common justice, and their ecclesiastic superiors are obligated to confer these on others, while they may in no way be pardoned.²⁰

11 Then, because of the lack of care and negligence of abbots and priors of canons regular, especially of those who do not observe the rule of their order, their convents live in a very disorderly, dissolute, and scandalous manner, and also commit a great many irregularities and frauds in issuing documents and conducting inquests. Therefore, by the will of our royal majesty as well as the joint counsel of the prelates, barons, lords, and other gentlemen of the realm, it has been concluded and decided that in the future abbeys and priories of canons regular and particularly of those with authentic seal may not be held by anyone who is not a religious of the same order to which the abbey or priory belongs. And that the abbots and priors together with all their monks must live a monastic life in keeping with the rule of their order.²¹

²⁰ Cf. **1435/I:8**; on the procedure of inquest and the observance of these prescriptions (esp. of noting all the details of the witnesses, which was by no means as systematically observed as the law prescribes), see below, Art. 14, and Erik Fügedi, "Verba volant..." in Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*. ed. J. M. Bak. (London: Variorum Reprints, 1986), ch. IV, pp. 6-8.

²¹ Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, "Die Glaubwürdigen Orte Ungarns im Mittelalter." *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, "Administering the Law: Hungary's

12 Then, that the bishops to whose diocese these abbeys and priories pertain, must visit them and their convents twice a year personally. If they are engaged in more important matters or are absent, they must still accomplish this through their vicars and provosts or other upright and learned ecclesiastics. And if it is ascertained that abbots or priors are not keeping their rule or otherwise lead a bad life or else are found not to obey their bishops, then they should be deposed by the visitors and their benefices conferred on more deserving persons. Evil or disobedient monks shall also be expelled from the convent by the visitors. For if the abbots and priors are good, the monks must also necessarily be good. Thus, no fraud can be committed in the issuing of documents or in other matters.²²

13 Then, there are some who would place the following expression into a summons: “by the consent and will of so and so” which appears clearly to be against God and His justice. For who could know whether a person agreed to or willed that which has been committed? No one but God can judge correctly about a secret or an intention.²³ Therefore, it was decided that henceforth no such summons may ever be made. Nor may the wife, mother, daughters or sisters of a nobleman be summoned unless the case and lawsuit happens to pertain to such property rights which apply to them equally. And the aforementioned clause, namely “with the will, order, and urging of so and so,” must never be used to summon them. And if it should still happen, the judges ordinary and the protonotaries must not pay attention to it and must never permit it.²⁴

Loca Credibilia.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35. The concern about the conditions in these convents and chapters was a continuous one, see e.g. **1351:3, 1435/I:8**. At this time, the usurpation of monasteries and collegiate chapters by great lords during the interregna, on the one hand, and the depopulation of many a convent, on the other caused special concern. In the late fifteenth century there were 15 cathedral chapters, 9 collegiate chapters and 23 Benedictine, Premonstratensian and Hospitaller convents that served as places of authentication.

²² Visitation was stipulated under Matthias as early as in **1458:46**. In 1489 the king, together with the papal legate, issued orders for the reform of all orders and specified thirteen issues for visitation, see a László Erdélyi, P. Soros, *A Pannonhalmi Szt. Benedekrend története* [History of the Benedictine Order of Pannonhalma-Martinsberg] (Budapest: Szt. Benedekrend, 1902-16) 3: 1905, No. 87. Medieval visitation records survived, e. g., for the cathedral chapter of Esztergom from 1397, or for the Benedictine houses from 1508 (for the latter, see Géza Érszegi, “Alltagsleben und Sachkultur ungarischer Benediktinerkloster im Spätmittelalter,” in *Klösterliche Sachkultur des Spätmittelalters*, pp. 195-215 (Vienna: Akad. d. Wiss., 1980).

²³ This comment as to God’s ability to discern is based on Scripture, often cited in moralizing discourse: 1 *Samuel* 16.7 and *Hebrews* 4.12 (cf. similar statement at *Jeremiah* 11.20 and 20.12).

²⁴ The prohibition of implying consent and, thus, to be accessory to the crime, is an interesting legal doctrine illustrating the application of (Roman) civil law principles to public and criminal law. In this instance, the doctrine of implied consent may be traced to Roman civil law on (1) consensual contracts (see Justinianian *Institutes* 3.22 with Moyle’s commentary, pp. 431-33). Cf. Adolf Berger, *Encyclopedic Dictionary of Roman Law* (Philadelphia: American Philosophical Society, 1953), p. 408, s.v. *consensus*); (2) the doctrine of intent to commit a crime (the *mens rea*), as expressed, for example, in the intent to commit theft, *animus furandi* (Gaius *Institutes* 3.197ff.; *Digest* 9.2.41.1; see Joseph A. C. Thomas, *Textbook of Roman Law* [Amsterdam: North-Holland, 1976] 1, pp. 354-55).

14 Then, regarding the practice of common inquests we decided, that in order to help clarify the just cause of each party, common inquests could be held hereafter, as hitherto. However, they have to be held so that whenever the inquest is needed, both parties must have it carried out on the same day at the same county's court. Besides, the witness of the chapter or convent and the king's bailiff must be the same for both parties and not different ones. Each witness must take an oath separately and be interrogated and heard separately by the witness of the chapter or convent and the king's bailiff concerning the matter which they intend to uncover. And then, the litigating parties must not be present during such an inquest or interrogation but must be excluded by the king's bailiff and the witness of the chapter or convent and only in their absence must each witness be questioned and heard (as mentioned before). Moreover, perjurers, persons of ill-repute, and those who lost their honor and personal dignity, further, non-nobles even those with property, but whom the king did not ennoble, may not be accepted and admitted to such testimonials.²⁵

Then that in matters of view the way and mode of ancient custom be observed.²⁶

Then, since hitherto the disorderly administration of common inquests brought about many, often very evident, perjuries because of favor or hate, sometimes for fear of the litigating parties; therefore, in order to avoid and eliminate these traps of souls and also to remove this dangerous opportunity to commit sin, it was concluded that although the above article defines clearly enough how the inquests and other legal procedures should be administered, nevertheless, in order that such perjuries may cease and be eradicated as soon as possible, the following order must be kept in the administration of those inquests: if it becomes clear from the result of the inquest that the complaints prove to be true, then not the defendant must clear himself as it has been customary until now, but the plaintiff should support and strengthen his case with the sworn statements of a greater or lesser number of oath-helpers depending on the nature and seriousness of the matter and the judge's decision. Namely, if the lawsuit is about damages, then in accordance with the customs of the realm, according to the nature, quantity and quality of the damages, the judge shall order the plaintiff to swear an oath. And if the plaintiff can present testimonies in his favor and wins the lawsuit, the defendant must not be arrested afterwards for an act of might²⁷ but instead shall be

²⁵ The group of those excluded from rendering testimony is worth noting. Hungarian customary law regarded property holding and noble status so closely connected that the **Tripartitum** uses *impossessionatus* and *ignobilis* as synonymous terms (e. g. **I: 29 § 7**). Royal grant of land or even mere royal consensus to purchased land was seen—even without explicit reference to it—as granting noble status. The restriction seems to be part of a trend which gradually closed off the ranks of nobility and—implicitly— those, whose “word” was worth credit.

²⁶ The inspection of locales, possessions, etc., the prerequisite for the inquest is meant. The *oculata revisio* was a more stringent procedure than a general inquest: neighbors, abutters, and fellow nobles of the county were heard under oath, and if it vindicated the plaintiff, it counted as full proof, without additional oath. (Hajnik, *Birósági szervezet*, pp. 299-300).

²⁷ “Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial (abolished in this decree). A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that

sentenced to an immediate payment of a fine of 25 marks or 100 gold florins²⁸ which is to be divided evenly between the plaintiff and the judge, and in addition, restitution must be made to the person harmed to full satisfaction. If in such a lawsuit about damages the testimonies of witnesses differ from each other, it is the judge's duty to determine whether the plaintiff should swear about the damages caused or the defendant should clear himself.

15 Furthermore, it was decided that in cases of acts of might, no one may be convicted on the basis of his own confession whether at the court of law or elsewhere, except in the following cases, namely for attacking the homes of nobles, then for seizing their estates, benefits and appurtenances, for detaining nobles without just cause, further for wounding, beating or killing any nobleman. In these cases the judge must precede in the following manner: if the plaintiff can produce evidence in the manner and order described above, then, for better proof of the matter he should submit the case to common inquest if the parties so desire. If the defendant is reluctant to accept the inquest, then the plaintiff should swear upon the head of his adversary in order better to prove his action according to the custom of the realm in this matter.²⁹ If by the will of both parties, the lawsuit can be decided by means of common inquest and that common inquest ends clearly and simply in favor of the plaintiff, then the judgment shall be awarded to the plaintiff. But if the testimonies do not agree, then the judges must decide on the basis of the testimonies of the witnesses whether the plaintiff or the defendant should be made to swear the oath. And if in the above described cases which pertain to acts of might, castellans, officials or other retainers or tenant peasants of the lords or of any other gentleman of the realm were the culprits and offended someone, then the lords should not be condemned for an act of might, but must clear their names as to their innocence, namely, that the crime was not committed in accord with their will as it appears suitable to the law and the judge. Nevertheless, if such persons remain with their lords, the lords must administer true justice on their behalf according to the equity of the law. In other cases, however, such as those regarding damage, injury and the like, the manner and order prescribed above is to be observed.

16 Furthermore, since hitherto at times of rendering testimony, common inquests, inspections, institutions and renewed institutions as well as at evaluations of property rights the losing party frequently resisted in contempt of the court and of justice, and was by the prevailing custom fined one mark of gold in the first case and two for the second time therefore, in order to restrain the rashness of such disturbers of law and justice by suitable means, it was decided and ordered that

were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one.

²⁸The exchange rate of 25 marks silver=100 gold florins was usual ever since the fourteenth century.

²⁹Once the general assizes were discontinued, the plaintiff had the right— after a general inquest, in which his claim was proved and supported by suitable number of oath-helpers—to swear a *iuramentum ad caput* and the defendant was not allowed to counter it by his oath. Such a decisive oath came to be allowed also when the plaintiff presented three favorable letters of inquest and the defendant refused to submit to a fourth one. The major innovation in this article was that in cases of acts of might the capital oath could be simply ordered against the defendant, provided that the plaintiff produced the letters of inquest; see also Hajnik, *Birósági szervezet*, pp. 314-15.

if in the future any one of any estate or condition dares to do this in whatever way and for any case even in that of capital punishment, then he must be convicted at once for the act of might against the opponent, and, furthermore, if this took place in regard to institution, renewed institution or evaluation, then he is to be fined at the value of the property right that was to be given institution, renewed institution or was to be evaluated; and if it took place at a common inquest or inspection, he be likewise condemned right away for an act of might and the loss of the lawsuit and is to be regarded as condemned.

17 Then, it was decided and ordered that the practice of proclamation at three fairs which until now has been done in cases of estates or property rights, further for the producing of letters and instruments, for legal obligations, and other suits, cease and never be practiced again but altogether abolished, for this can only be considered abuse and corruption rather than law.³⁰

In regard to obligations the following rule should be practiced: whoever obligated himself should receive by the force of the present decree sentence and justice at the first octave court after lawful written summons.³¹

18 Then, since the waging of judicial combats gives rise to much fraud, for those who have to fight this ordeal seldom fight for themselves but hire fighters³² who often accept gifts, favors, and promises, and since they are not usually dueling for themselves, even allow their party, however

³⁰ The abolition of summons on three fairs that usually followed two unsuccessful summonses, was already decreed in Matthias's inaugural law, **June 1458:1** (expressly against **1439: 32**), apparently without success.

³¹ According to Bónis (*Középkori jogunk elemei*, p. 97), the term *obligatio* in medieval Hungary meant mortgaged property—one meaning (among many) of *obligare/obligatio* in classical Roman legal terminology. *Obligatio* (and the older term, *subsignatio/subsignare*) in the sense of real property used as security referred to two procedures in Roman public law. Usually: private property registered with public authority as a security for an owed obligation (what in English is commonly known as a “performance bond”); less commonly, private property registered with public authority for public funds advanced for some purpose. See, in general, *Digest* 13.7.16.1; 44.7.1; 50.17.205; Fritz Schulz, *Classical Roman Law* (Oxford: Oxford University Press, 1951), pp. 401-5; Theodor Mommsen, *Gesammelte Schriften* I (Berlin: Weidmann, 1905), pp. 96-114; III (1907), pp. 145-52. The present context, however, concerns legal documents in general; the sense of *obligationes* here may include property recorded as real security, but need not be so restricted. *Obligatio* may mean simply (as elsewhere: Antal Bartal, *Glossarium mediae et infimae latinitatis Regni Hungariae*, (Budapest: Magyar Tudományos Akadémia, 1901; rept *ibid.*, 1981), p. 448: *obligatio* = chirograph) any document properly signed and presented for a legal purpose (cf. Cicero *II Verrines* 1.137). Cf. also **1397:51**.

³² The anachronistic procedure of judicial combat was to be restricted by this article to cases, where no other proof could be adduced. (By the late fifteenth century duel did not feature in the judicial procedure of any other European country, save in matters of honor.) The champions (called *pugil*) received impressive sums for their service: on April 3, 1323, the town of Szatmár promised to pay 3 Marks silver in case of victory to its professional fighter, see see Iván Nagy and Gyula Nagy, eds. *Anjou-kori okmánytár. Codex Diplomaticus Hungariae Andegavensis* (Budapest: Magyar Tudományos Akadémia, 1879-1920), 2: 71. Cf. Blazovich László and Géczy Lajos, eds. *Anjou-kori oklevéltár. Documenta res Hungarican tempore regum Andegavensium illustrantia* 7 (Budapest-Szeged 1991) No. 93.

just, to fail, therefore, it was decided that this kind of judgment, which is unheard of elsewhere in the world, be forever abolished and have no place in cases of acts of might or property rights. The only time that judicial combat may be appropriate and it was defined for that purpose is when all evidence is lacking. However, in cases of act of might and property rights, the parties always have evidence; furthermore, ordering a judicial combat is in the jurisdiction of the royal military court³³ and not of the courts of law. Additionally, the judge of the special presence of the royal majesty³⁴ is always required to be present at the court of law and must seal the letters, and he is usually an ecclesiastic; archbishops, bishops and other ecclesiastic persons are also present and thus it is not fitting in a court of law to consider judicial combat as a sentence.³⁵ Therefore, because of this and many other good reasons and beneficial viewpoints, this kind of ordeal is to be banned forever except for those cases where all evidence is lacking, such as when one person robs another person alone on the road without anyone seeing it, or if a person makes a loan or tells a secret to the ears of another person without any witnesses and there would be nothing to prove the robbery, the loan, or the spoken words. In these cases a sentence to judicial combat is permitted, however, not at the court of law but at the royal military court. For it is well known, as mentioned before, that such a decision belongs to the latter rather than to the court of law.

19 Furthermore, in consequence of the decision that in the interest of justice and the peace of all gentlemen of the realm, all decisions in future cases pertaining to estates and property rights be, as was said before,³⁶ limited and restricted to only four octave court sessions, it was decided that all defendants summoned in cases of property rights be proclaimed at the first octave court so that they may be better informed of the summons. And the judge before whom the case was opened must endorse it as is customary.³⁷ And if the defendant does not appear at the first octave court, he may not be burdened with any dues or fines. But if he will not appear at the second nor at the third

³³ It has been widely assumed that the royal military court existed at least since the fourteenth century—see Ágnes Kurcz, *Lovagi kultúra Magyarországon a 13-14. században* [Chivalric culture in 13th-14th C. Hungary], p. 55 n. 90, (Budapest: Akadémiai Kiadó, 1988)—but no evidence about it survives preceding this decree.

³⁴ The two royal courts, those of the special and the personal presence, were united under the name of *personalis presenciac* in 1464. Its presiding judge was for a while inconsistently called *personalis presencie regie in iudiciis locumtenens* or chancellor of the personal presence; finally, the former term or simply *personalis* became accepted.

³⁵ Ecclesiastical persons were not supposed to participate in judgments connected with blood.

³⁶ See Art. 4 above

³⁷ The *signatura*, to which reference is made here, was in practice ever since the late fourteenth century and was the consequence of increased volume of judicial documents, see György Bónis, “A kúriai irodák munkája a XIV. és XV. században” [Operation of curial offices in the 14th-15th C.], *Levéltári Közlemények* 34 (1963): 197-243, here pp. 224-29. They were brief notes about the progress of the case, sometimes written on the bottom of a letter (e. g., of prorogation), finally acquiring their regular place on the left side of the dorso, written across. Bónis (*loc. cit.* p. 224) gives an example from 1349 which contains the brief information that “the plaintiff did not appear, the defendant was represented by his lawyer certified by palatinal letter of advocacy and the case was postponed to the next octave.” These notations were indeed written by the protonotaries, as stipulated here (*loc. cit.*, p. 228).

octave court, he must pay the fine according to ancient custom. On the fourth octave, however, the case has to be decided and finished according to the terms of the aforementioned article, whether the defendant is present and defends his case or not, notwithstanding any verbal argument.

20 Then, it was decided and ordered that henceforth no protonotary may dare to pass a decision or pronounce sentence privately in his home outside of the royal bench³⁸ or court of the royal majesty in any matter, whether in lawsuits about estates or acts of might or any other lawsuit that is pending or to be initiated; instead every case, large or small, must be examined at the court of law in the presence of the other judges ordinary.³⁹ The protonotaries may not issue any letters, especially those which pertain to important matters and final decisions, anywhere else but the court of law, where they must be read out publicly in a loud and clear voice, and for additional safety and public testimony, the letters must not only be confirmed by the judge's seal and signature, but shall also be signed by another judge, in such a manner that, if the case is in the court of the judge royal, then the judge of: the palatine, and if it is before the latter than the protonotary of the king or the judge royal must add his handwriting and signature to the letter.⁴⁰

21 Then since some persons have procured exemptions from the jurisdiction of the bans, voivodes, county *ispáns* or *alispáns* so as to belong solely under the jurisdiction and judgment of the royal majesty, and – presuming to be secure under this exemption – have caused others much damage and injury, oppression, and other evil and harmful deeds unpunished, therefore, it was ordered that all such exemptions received until now by anyone, excepting the hereditary *ispáns* of whom it is known that they belong only under the jurisdiction of the royal majesty by very old rulings of the holy kings, are to be revoked, annulled, and be without force or consequence. For it is proper to revoke exemptions and privileges from those who abuse them. And if in the future, someone may procure similar exemptions and privileges, those must be regarded as invalid by the force of the present decree.⁴¹

³⁸ The word *tabula* is used here for the first time for the royal judicial bench. It became the standard expression for the royal courts: *Tafel, tábla*; hence, the widespread denomination for Hungarian noble judges, *táblabíró* (judge of the *tabula*), and, by extension, for the legalistic-parochial style of the eighteenth- nineteenth century.

³⁹ Bónis (“Kúriai irodák,” p. 242) summarizes the central role of the protonotaries (masters in sentencing) as follows: “He was the first to be addressed by the parties, he handed out the charters and writs, he was paid the fee for them and—as the sources frequently admit—the presents assuring his benevolence.” On the careers of protonotaries in the royal courts, several examples are quoted in Bónis, *Jogtudó értelmiség, passim*.

⁴⁰ There is extensive archival evidence for countersignatures by one or more protonotaries at the court. Imre Szentpétery (*Magyar oklevéltan* [Hungarian diplomatics], pp. 179-80, Budapest: MTT, 1930) lists a number of signatories, including cases where the fellow protonotary corrected the original record.

⁴¹ Exemption or immunity from comital (or other local) jurisdiction was as old as the aristocracy in Hungary and went back to the eleventh century. Matthias's attempt at reducing these positions to the *comites hereditarii* may have been one more measure aimed at winning the sympathy of the lesser nobility. On the other hand, he increased their number by granting the title to Emeric of Zápolya for Szepes, John Ernuszt for Turóc, and allowing Nicholas Banfi, *ispán* of Pozsony, the use of a red wax seal, and so on, while earlier only a few bishops enjoyed this right for the county of their see. In his later years, in turn, the king attempted

22 Furthermore, since the illicit seizures of estates and property rights bestowed by the royal majesty on his servitors and other followers have been causing many complaints and protests not only to the royal majesty but all over the kingdom—for many complain that as soon as the king’s followers or others obtain from his highness some property, they take possession of it ignoring any protest and keep it before an examination can determine whether his majesty can grant the property justly and legally—therefore, it was decided that henceforth all those who received property from the royal majesty under any name or title, and take forceful possession by any means even against the protests of the opposing parties contrary to the rights, laws, and customs of the realm, will have to be warned by the *ispán* upon the request of the opposing parties to keep their hands off of it. And if they refuse to do so upon his first request and warning, on the second request of the opponents he must, after proper verification, arrest and expel them from the said property by the force of the present decree and in addition use all means to exact payment from them in the amount of the common evaluation⁴² of that property. If the *ispán* is not powerful enough to execute this alone, then upon his request the county must rise to assist and support him with suitable means. As for those who are so powerful that the *ispán* cannot evict them even with the help of the county, then his royal majesty is obligated, after notification by the *ispán*, to seize the said property.⁴³

23 Then, it was decided that henceforth if anyone should obtain from the king any property and ask the royal majesty to seize it in his own name and arrange that the letter of donation be formulated in such manner as if the royal majesty were to grant it from his own hand, such letter of donation with the clause “by the king’s hand” shall have no force or validity and is to be honored neither by the *ispáns* nor by the judges ordinary or the protonotaries at the octave courts.⁴⁴

24 Moreover, all those properties, estates and property rights which the royal majesty has granted to anyone during the year of one thousand four hundred and eighty-five until the present feast day

to abolish some of the perpetual comital titles, stripping even a few bishops of it (see András Kubinyi, “A megyésispánok 1490-ben és Corvin Janos trónörökösödésének problémái” [The county *ispáns* in 1490 and the problems of the inheritance of the throne by John Corvin], *Veszprem megyei múzeumok közleményei* 16 [1982]: 169-71). Whether any of these decisions ever became reality is, considering the strength of the aristocracy, highly doubtful. On Matthias's attitude to the aristocracy and the nobility, see also Erik Fügedi, “The Aristocracy in Medieval Hungary: Theses”, in Idem, *Kings, Bishops*, ch. IV, pp. 14-15.

⁴² Judicial estimation (*estimatio*) was the assessment of the value of immovable and movable property, usually on the traditional basis (*estimatio communis*, see **Tripartitum** I 133), but occasionally a tenfold (*estimatio perennalis*) valuation for immovable property was used. The low common estimation assured kinsmen’s and even neighbors’ and abutters’ ability to purchase (alienated or judicially-seized) property, and also reduced the burden placed on families having to pay the filial quarter in money, which was likewise calculated by reference to the common estimation.

⁴³ Note the assumption of powerful men, able to resist the *ispán* and the county posse even under the centralized and strong government of King Matthias. Cf. **1439: 24, 1471 : 22**.

⁴⁴ Taking possession of donations granted directly “from the royal hand” seems to have been easier than others, therefore, grantees insisted on this procedure; a parallel to this arrangement can be seen in **1439:24**, which prohibited that the royal fisc should pursue litigations in lieu of a grantee, thus limiting the advantages gained by proximity to the court.

of the Epiphany in one thousand four hundred and eighty-six,⁴⁵ inasmuch as anyone seized them contrary to the rights, laws, and ancient customs of the realm, their usurpers and occupants must return these properties after being notified and warned by means of the king's or the palatine's letter within a month from the date of the notification or warning. Otherwise the *ispán* with the aid of nobles to be chosen and appointed from the county must return the property to its previous owners and defend them in their rights. If, however, the usurpers are powerful and the *ispán* is unable and insufficient to complete this, the county must and is obligated to rise and assist him in this matter. Should the detainers believe that they have acquired some right by the king's donation, they must seek that right according to the laws of the kingdom. However, if the detainers are so powerful that the *ispán* with the help of the entire county is not able to do this, then after notification by the *ispán*, the royal majesty is obligated to have the estates seized and the aforesaid accomplished.⁴⁶

25 Furthermore, since it occurs that some persons, pressed by necessity, mortgage their properties and estates and although after some time they want to redeem them from the sale of their other possessions, and have the necessary cash, yet the lenders, forgetting their own salvation and honor, refuse to return them and instead refer the matter to the octave court for judgment so that they may enjoy the income during the interval. The estates and properties of those poor people and their heirs are because of this forever alienated, and the money they have saved for this purpose they are compelled to spend or by chance lose it. In order to restrain the viciousness of such usurers and provide compensation to the poor, it was decreed and decided that if any such usurer who, challenged legally through the court by his opponent, refuses to accept the money or after accepting refuses to return the mortgaged properties and wants to refer the case to the octave court, then the case must be concluded at the first octave by ordering that the same properties must be returned without any payment, and that the judge should command their immediate return, and, in addition, that the usurer must be fined perforce the amount equal to the loan obligation on the properties in favor of the plaintiff.⁴⁷

26 Furthermore, since sometimes when for default of issue⁴⁸ or for other reason properties and property rights devolve to the crown and consequently become subject to donation by the royal

⁴⁵ 6 January 1485 to 6 January 1486; this passage suggests that the diet indeed opened in the first week of January, 1486.

⁴⁶ Cf. **June 1458:22, 11, 14:1464**, and their predecessors.

⁴⁷ While mortgaging property was a general practice (and not a "last resort" of some impoverished men, as the text might suggest), problems arose, when the creditor did not return the mortgaged property once the mortgage was paid. This led to innumerable lawsuits, for which there is ample evidence in the records.

⁴⁸ Default of issue (*defectus seminis*, often just *defectus*) meant the lack of legitimate (male) heirs among the co-inheriting kinsmen after the death of a nobleman, unless one of the daughters was preferred (see below, n. 50)). Considering the wide circle of relatives with inheritance rights, *defectus* was crucial for the escheat of property to the crown and thus becoming available for donation with the ever decreasing royal domain.

majesty, many persons come forth and loudly proclaim that those rights have devolved to them, by which they not only deafen the ears of the royal highness with their unwelcome clamor but detain his majesty from more important tasks, and hinder, trouble, and prevent him from acting in this matter and also oppose, under the pretext of objection, that those upon whom his majesty bestows such properties obtain institution.⁴⁹ They do this in order to enjoy unpunished the fruits, revenues, and other profits until the court decides whether those rights have devolved to the royal majesty or to others. Therefore, it was ordered by the present decree that if in any county an escheat occurs for default of issue of a deceased person and it is not unequivocally known but rather doubtful whether such an estate should belong to the royal right, to the relatives of the deceased, or to heirs on the female side,⁵⁰ then, until the uncertain matter is decided the royal majesty must assign the estate to be seized and placed in the service of the community and loyal men, namely into the hands of an honest and able person whom the royal majesty will appoint for this task, who shall keep the customary and just income until the doubt is resolved and the case reaches final judgment. Anything that he might extort in excess of the customary and just rent he is obligated and compelled to return to that person who receives the property after the case is decided. In addition, claimants to the property have to present their rights to the palatine and bring proof that those rights belong to them within the course of one year (as described in the following article), whether an octave court is held or not. If they are able to prove this then the palatine shall order and arrange for institution to be granted. However, if they fail the proof, the properties must be given and handed over to those on whom the royal majesty had bestowed them; and those who hope to have right to them must seek it from the royal hands by lawful means. Where in the estate of persons without male heirs wives and daughters remain, property should not be taken from their hands and seized until the truth is discerned concerning their rights, namely whether it pertains by heredity and perpetual right to the female line or not. The same women must and are obligated to demonstrate the truth within a year's time as stated above. If it is found that these estates do not pertain to the female line, then before the wives of these heirless men are excluded from the dominion over those estates, they must be fully compensated in regard to their dower and other

⁴⁹ Institution (*introductio* or *statutio*) was the procedure required to validate the acquisition of property. Grantees of royal donations or new owners of purchased, pledged or exchanged estates were expected to take possession of the land within a year, with the assistance of a royal bailiff specified in the charter, and witnessed by a specified place of authentication in the presence of abutters and neighbors. Institution could be thwarted by anyone present who made contradiction or *repulsio*, i.e., opposed the execution (see below Art. 27). Moreover, any interested party could object to the institution by announcing his protest (*prohibitio*) within two weeks, thus initiating a lawsuit.

⁵⁰ Women were usually entitled to inherit only movable goods or landed property that had been bought for cash. Nevertheless, some landed property was defined at the time of its donation by the king as being inheritable by the owner's daughters as well as his sons. Property which was inherited by daughters in this way might be referred to as descending through the female line. The sons and descendants of such a daughter might accordingly be designated "men of the female line" (*homines foeminei sexus*). Moreover, by preference (*preferentia in filium, in heredem masculinum*, Hung. *fiúsítás*), a royal privilege by which the king "promoted" the daughter (or daughters) of a nobleman without male heirs in the third (since 1397 fourth) degree, women can be authorized to inherit the paternal fortune just as if they were men, starting a new kindred.

rights by the royal majesty or those who proved to be the heirs of the estate or to whom the king might bestow the estates. The daughters, however, should be given until their marriage the paternal house and a quarter of the land should be set aside and granted them in possession under the title of filial quarter⁵¹ according to the ancient custom of the realm. After they are married and given away, their filial quarter should be compensated in the form of money. And if the daughter or sister of anyone is married to a landless man, either from the court of a baron or noble or from her paternal house or from elsewhere, with the consent and will of her father or brother, then she must be left in the possession of her filial quarter by right of nobility. If, however, she acted without the will and consent of her father and brother, then she must not receive the right of nobility to her filial quarter, but should be compensated in money. In this case she may not claim the release of the filial quarter in property but in money, for it is common knowledge that this custom and order has been hitherto observed.⁵²

27 Moreover, it was ordered that if his royal majesty confers property and estates or any other kind of property right upon someone either because of default of issue, by royal right⁵³ or any other title, and there is contradiction at the time of institution, the requestor shall defer to and admit the contradiction and shall not take possession against that contradiction. But if the contradictor took possession of those rights recently and had not possessed them before, the contradictor – as

⁵¹The “filial quarter,” first mentioned in **1222: 4**, was the hereditary portion of noblewomen due from the inherited estates (see property rights) of their fathers. The filial quarter was, in theory, paid in cash. In practice, however, it was often given out in land. In law, the grant of the quarter in land was only valid when the woman was married to a non-noble man (*ignobilis* or *homo impossessionatus*), or as a temporary substitute for cash payment, but in fact it was more widespread. Antal Murarik, in *Az ősiség alapintézményeinek eredete* [Origin of the basic institutions of *aviticitas*] (Budapest: Sárkány, 1938), pp. 163–192) saw it as having derived from Roman Law, in particular from the *Lex Falcidia* (cf. *Inst.*, Bk. II, tit. 22). According to the *Corpus Iuris Civilis* of Justinian the rights of female children were the same as those of male children when a man died intestate. But the descendants of females had been entitled to a smaller portion of the estate than those descended from the males in the earlier Teodosian Code (5.1.4.), where the legacy granted to grandchildren in the female line was reduced by a fourth part (*pars quarta*) in favor of the agnates. Justinian specifically abolished this provision (*Inst.* Bk. III. tit. 1, c. 16). The discussions concerning this institution in medieval Hungary were summed up by Ferenc Eckhart, “Vita a leánynegyedről” [Debates on the Filial Quarter], *Századok*, 66 (1932), 408–415; see also József Holub, “La ‘quarta puellaris’ dans l’ancien droit hongrois,” *Studi in memoria di Aldo Albertoni* (Padua: Milani, 1935), III, 275–297. See now, Péter Banyó, “Birtoköröklés és leánynegyed. Kísérlet egy középkori jogintézmény értelmezésére.” [Inheritance of land and the filial quarter: An attempt on the interpretation of a medieval legal concept] *Aetas* 18:3 (2000): 76–92 and Martyn Rady *Nobility, Land and Service in Medieval Hungary* (Houndmill, Basingstoke: Palgrave, 2000), 103–7.

⁵² Repeats essentially **8 March 1435:17**. The complicated procedure was necessitated by the custom of virtually unlimited inheritance within the patrilinear kindred (*aviticitas*), on which, see **1351; 1435/I: 17**, Erik Fügedi, “Kinship and Privilege,” *History & Society* 2 (1994): 59–72, and Martyn Rady *Nobility, Land and Service*, pp. 22–7.

⁵³ Royal right (*ius regium*): an ambiguous term, apparently referring to royal claims to any estate which, though not actually possessed by the king, was assumed to belong to him in the absence of any evidence to the contrary. Actions were moved by or in the name of the crown against persons accused of “hiding royal rights” (*celatores iurium regalium*) i.e., allegedly usurping a royal claim.

mentioned in the preceding article – must present his rights to his royal majesty or to the palatine or to his protonotary commissioned to the case within one full year after the date of issue of the letter of donation, regardless whether an octave court was held or not, and give reason for his contradiction and, at the same time, make evident that those properties belong to him by better right. Otherwise his royal majesty or the palatine will expel him from those properties by the force of the present statute and give them to those who obtained them. Moreover, the contradictor has to be forced to refund whatever profit he had made in the interim from those properties. However, if the contradictor possessed the properties beforehand, the requester must, in accordance with the present decree, seek his right in the octave courts from his hands.⁵⁴

Furthermore, the dower of wives should remain intact in case of the death in whatever way of the husband, and they are never to be deprived of it.⁵⁵

28 Then, since suits and conflicts often emerge between the prelates or other clergy and noblemen, and one party strives to burden the other in every way, means, and fashion, it was ordered for the more peaceful state and well being of the gentlemen of the realm (that is, that neither party could seize control over the other)⁵⁶ that if prelates or other clergy proceed against nobles in the court of any judge, then, in the matter of the lawsuit, while the case is pending, they are not allowed to impose an interdict upon the laymen or pronounce a sentence of excommunication against them, without the royal majesty's definite knowledge, so that it may not appear that the sentences were pronounced out of passion rather than love of justice. And if prelates

⁵⁴ Cf. above, Art. 22. It seems that, lacking a central register of landholdings, royal grants or court decisions frequently included properties that had rightful owners or legitimate heirs. Owing to the great number of inheriting kinsmen, the latter may have been numerous. Contradiction became formalized as *repulsio*, an action by a party in physical possession of a property, which had been adjudged in court to another, by which he might impede the institution with ritual violence (with a drawn sword or similar weapon). This had the consequence of forcing the matter back into court for a retrial. *Repulsio* could only be performed once. Its details and its abuse are discussed in the **Tripartitum II: 73-74**.

⁵⁵ This goes back as far as **1222:12**. Dower (*dos, dotalitium*) was originally the “price of the bride” paid by the bridegroom’s family to that of the bride, then a grant of the husband to his wife on the occasion of their marriage. The dower was usually given both in land and chattels, but the woman did not have free disposal of the land so given, which was managed together with her husband’s goods. After her husband’s death, the widow could keep the dower unless she remarried. In this case, the kinsmen of the deceased husband redeemed the dower from her. The term often also included those valuables that were brought by the bride in the marriage (*res parafernales*), which remained with the wife. See Erik Fügedi, *The Elefánthy. The Hungarian Nobleman and His Kindred* (Budapest: CEU Press, 1998) pp. 24–6.

⁵⁶ The clause refers to the Canonical-Romanistic principle of *par in parem non habet imperium*: within his realm, the king has no equal in authority—based on Romanistic interpretations of *Digest* 2.1.3 & 4.8.4 (see Pennington, *The Prince and the Law* [1993], pp. 20ff., 212-215). It was used also by Bracton: *De legibus et consuetudinibus Angliae* f.5b Woodbine's edition: II, p. 33); see Fritz Schulz, “Bracton on kingship,” *English Historical Review* 60 (1945): 136-76; Brian Tierney, “Bracton on Government,” *Speculum* 38 (1963): 295-317, here 302-3. Bónis (*Középkori jogunk*, p. 121) mentions that this principle was quoted as early as 1337 by Archbishop Csanád, see Nándor Knauz, Lajos Crescens Dedek, eds., *Monumenta ecclesiae Strigoniensis*. 3 vols. (Esztergom: Horak, 1874-1924), 3: 296. Otherwise the article repeats in essence **1351:1** and its later version, **1439:32**.

or other clergy should be condemned by due process of law by any judge, then they should fall immediately under the same penalty as that which they intended to impose on their opponents.

29 Then, since merchants and traders and other poor people, who have to travel back and forth in the country to make profit or obtain the necessities of life or even for other reasons, are frequently imposed, hindered, and irked by various arrests and suffer irreparable damages, it was therefore ordered and stated that henceforth always in the future the process concerning the arrests should be as follows. If someone complains that another man is indebted to him – except when the debt is manifest, that is, the debtor is open and obvious, who, in the vernacular and mother tongue is called a *szembevaló adós*,⁵⁷ who can be arrested in public places – he is not allowed to arrest him or someone else or others on his own but first shall report it to the *ispán* of that county in which the debtor lives, who, by the force of the present decree, is bound to reprimand the lord of the debtor immediately and ask him to bring the debtor into court. And if he does not satisfy the creditor, he has to be taken to the county court on the first day of the session under the penalty of twelve heavy marks, to be exacted by the *ispán*, to answer the plaintiff. If he could not defend or exonerate himself or his said lord would not take care of taking or hauling him to the second judicial term, the *ispán* is bound to fully satisfy the plaintiff from the properties of his lord and not only for the capital, but also for all the costs incurred by the creditor or the plaintiff. And if the debtor or defendant, having been arrested by his lord and hauled into court, is condemned, his lord ought and is obliged, in accordance with the sentence and the instructions of the *ispán*, to make satisfaction from the goods and properties of the debtor for, as said above, the capital and the costs, and he shall be held to do so by the *ispán*. And if the defendant's wealth would not be enough for the satisfaction, first and foremost the goods he owns shall be given to the creditor at an appraised value, then his head shall be given to his creditor as well. And if someone should not obey the *ispán* in this respect, that is, if he would not be allowed to exercise his duty laid upon him by this statute, but would be forced to carry the case before the king, the lord of the estate – that is, in which the *ispán* was hindered – shall be immediately condemned to twenty-five marks, indispensably exacted by the royal majesty. Nonetheless his majesty shall be required and bound in the same way to satisfy the creditor or plaintiff fully and without hesitation for the indebted amount and the costs made by him.⁵⁸

30 Then, it was decreed that when prelates, barons, or any other nobles are traveling to the royal majesty, to his court, to war, or to any other place on either private or public business, they shall make their way at all times and places without damaging, wronging, harming, and hindering other inhabitants of the realm.⁵⁹

⁵⁷ The Hungarian words mean verbatim: “debtor face to face.”

⁵⁸ Follows in spirit the law **8 March 1435:13-16** and **1447:17**, but entrusts the *ispán*, rather than the “judge of the place” with enforcing payment, raises the penalties from 5 to 12 Marks, and includes the possibility of appeal to the royal court (the hindrance of which is punished by 25 Marks). Thus, the article institutes altogether a stronger protection for creditors.

⁵⁹ Repeats **1405/II:1**, however, without the stiff penalties listed there.

31. Then, since the gentlemen of the realm (as mentioned before) have been suffering from much imposition and damage caused by the marching and accommodation of soldiers, it was therefore decided and decreed that henceforth the king's men, as well as those of other gentlemen of the realm, cavalymen and foot-soldiers alike, who go across the country, shall everywhere pay the price for the fodder of the horses, as well as the victuals for the men and dare never to cause damage. If not the king's men, but those of others should contravene this, the lord of those men is required to answer at law for the wrong and damage. If they are the king's men, then his majesty shall be always bound to send a good and well-endowed man of his with them, who shall accompany them and prevent them from causing any damage. And if he should dare to act contrariwise, and some complaints would reach the king's ears, his majesty shall give justice and satisfaction to such an extent that not only those damages, but the expenses paid by the injured or the complainant are indemnified. In order to avoid any kind of conflict and quarrel that may emerge concerning payment for the price of food, it was decided that food everywhere shall be given and supplied to the king's men and those of other gentlemen of the realm going to war according to the register and price list that his majesty shall compile in accordance with the conditions of the time and give it to the commanders of troops, and that prices shall always be paid by the troops according to the said royal register and price list without any demur. Furthermore, since it is the custom of some troops, especially of the light cavalry, that is, the hussars,⁶⁰ that after the dismissal of the army or when their pay expires, they idle and do not return home, but stay on someone else's property and commit there damages, wrongs, and other harmful deeds with impunity; therefore, it was decided and ordered that henceforth these troops shall not stay and idle on the properties of others, but return home, and if they like, wait there for new pay. If anyone dares to act otherwise, and those, on whose properties they stay, are disturbed, the latter should report to the *ispán* of the county and ask him to expel them. And he is bound to reprimand them and tell them to leave and to pay for the damages caused; and if they should not obey, he shall arrest them and send them to the royal majesty for punishment and he should recompense and repair the caused damages from their goods and properties and from those of their retainers.⁶¹ If the *ispán* himself is unable and incapable to do so, the county is required to rise up in his aid. If, moreover, the *ispán* is inattentive or negligent and the wronged person presents his complaints to his royal majesty, his majesty must repair all the damages and recompense the expenses from the *ispán*'s own goods and chattels, and, in addition, expel the people from the complainant's estate.⁶²

32 Then, since the Venetians and the Poles have been and do not cease endeavoring in every way and by all means to gain a foothold in the lands and territories belonging to the Holy Crown

⁶⁰ Hussars (Hung: *huszár*) were light cavalymen, equipped with sabers and only lightly armed. They played an increasing role in the Hungarian armies, mainly as a counterweight to the Ottoman spahi cavalry. By the close of the Middle Ages some hussars were fitted with armor..

⁶¹ It is unclear, how this was to be achieved, considering that the unpaid soldiers, mercenaries or others, had hardly any property from which damages could be refunded, nor did they have retainers. The measures were probably to be applied to a wider circle of soldateska than mention before.

⁶² The article summarizes the measures about damages inflicted by the army and related issues, cf. **1405/II:1, 1435/II:6-8, 1454: 8, 1471:28**, and Art. 30, 44, &c, below.

and to usurp them as they in fact have usurped some parts, therefore, it was decided and ordered that no one among the gentlemen of the realm should dare, under the penalty of perpetual charge of infidelity, to sell, transfer, mortgage, offer, donate or give away or convey in any other way, castles, fortifications, cities, market towns, and estates or other immovable property to them or to any one of them.⁶³

33 Then, since the officers and retainers of lords, using the confidence bestowed upon them by their lords, are causing considerable damage, injustice, harassment, and hindrance, therefore it was decided and ordered – in order to restrain their recklessness and licentiousness – that if nobles and landowners, who are granted fortifications and other offices by their lords and commit misdeeds from there, their lords are required, having first found out the truth, upon the request of the *ispán*, under whose authority they are, to administer justice and give satisfaction to the injured and to repair all damage caused. However, if the culprits of such misdeeds were not entrusted with any office, but merely receive salary from their lords and stay in their own house or serve their lords otherwise and commit such misdeeds, they themselves must appear before the *ispán*, stand in court and exonerate themselves. In this case, however, their lords must not and should not dare to intercede on their behalf and defend them, but they should be left to the said *ispán*. Those who would dare to act otherwise shall be condemned perforce for the double composition⁶⁴ of that servitor, nevertheless the *ispán* must seize the servitor and administer justice to the injured on his behalf. And the lords are free to arrest these retainers of theirs and make them pay compensation, regardless of their privilege of nobility, namely those, who cause damage to others or commit other misdeeds, or if as stewards poorly manage the properties entrusted to them or escape without account. However, if someone arrests his own retainer and he says that he is imprisoned

⁶³ The prohibition of alienation of Hungarian property to foreigners has a long history, ever since **1222:26**. The particular reference here is perhaps to those lords of the southern and northwestern frontiers, who collaborated with Italians and Poles. One such case was that of John (Ivan) Frankopani, who in 1480 handed over the island of Krk to the Venetians, see Iván Nagy, Albert B. Nyári, eds. *Magyar diplomáciai emlékek Mátyás király korából* [Hungarian diplomatic documents from the age of M.] 2: 407-21 (Budapest: MTA, 1875-78); also Borislav Grgin, “The Frankapani and King Matthias,” M. A. Thesis, Central European University, Budapest, 1994, pp. 50-67.

⁶⁴ Composition (*compositio*), or man price (*homagium*) was a sum of money, which was owed by a person (or his kindred) who had killed, maimed, or otherwise harmed a man or woman, paid to the kindred (or family) of the victim. This system, widespread among Germanic peoples of the post-migration age, aimed at replacing the extended blood feuds arising from the obligation of revenge but continued in Hungarian law until early modern times. The amount paid (the *wergeld*) was based on the victim’s or the culprit’s social and legal status and the nature of the crime. The man price of barons was 100, and of nobles and burghers 50 marks. Composition and *homagium* became blurred in practice with the fine of the head and to a lesser extent the fine of the tongue.

undeservedly and sues his lord, the case must be judged in the first octave and justice must be rendered to the imprisoned by his lord.⁶⁵

34 Moreover, if someone's retainer or steward escaped and entered the service of another lord, the new master shall make him leave and dismiss him immediately upon the request and warning of the old one, otherwise he shall be straightaway regarded as being condemned in the double composition of that servitor. Similarly, if he would not dismiss him on any account, the complaining party shall sue him at the next octave court, and ought to receive there full and proper justice on his part.⁶⁶

35 Furthermore, concerning the exactions of duties and tolls it was decreed that in the course of the next year, that is until the next feast of the Circumcision of the Lord,⁶⁷ the *ispáns* in every county shall, with a certain number of the better-off nobles of the county, report to the royal majesty the number of toll-collecting places in that county and whether the toll is exacted on bridges or on banks or on dry land or in some other way, and then report the length of the bridges and banks in yards, so that his majesty, together with the lord prelates and barons, can determine how much can be exacted from travelers at anyone's toll-place.⁶⁸ And if anyone henceforth should

⁶⁵ Cf. **1435/I:6**, **1458:23**, **1471:2** and Art. 34, below. This article distinguishes clearer than any other decree two kinds of noble retainers (*familiares*): those who act as castellans and similar household officers of their *domini*, and those (probably the better-off), who have their own mansions, receive a stipend (obviously in money) from their seniors for which they perform other (military, administrative, and so on) duties; In general, the noble retainer was: a lesser nobleman who chose (or, occasionally, was forced) to accept military or administrative positions in the service of a prelate, baron (q.v.) or major landowner. He kept his noble privilege and was subject to his senior (*dominus*) only for service, for which he received monetary compensation and occasionally land. The laws refer to it very rarely, as in principle all noblemen were equally privileged and free (see **1351:11**), but it can be inferred. The institution resembled West European vassalage, but was less formalized (often signaled by only a handshake in the castle gateway), less mutual, and rarely passed onto descendants. See: Julius Szekfű, "Die Servienten and Familiaren im ungarischen Mittelalter," *Ungarische Rundschau*, 2 (1912): 524-57; György Bónis, *Hűbériség és rendiség a középkori magyar jogban* [Feudalism and corporatism in medieval Hungarian law], pp. 214-44 (Kolozsvár: Erdélyi Tud. Int., n. d. [1947], repr. Budapest: Közgazdasági és Jogi Könyvkiadó, 2000); Erik Fügedi, *The Elefánthy*, pp. 137-40; Martyn Rady *Nobility, Land and Service*, pp. 110-31, and János M. Bak, "Feudalism in Hungary?" in: *Feudalism: New Landscapes of Debate*. Sverre Bagge, Michael H. Gelting, Thomas Lindkvist, eds. (Turnhout: Brepols, 2011) pp. 203-17.

⁶⁶ The status of some stewards and retainers must have fallen, when a law prescribes that they ought to be returned to their *domini*, just as runaway servile peasants. Still, their noble status is honored insofar as the retainer, if he finds the arrest unwarranted, has the right of appeal to the royal court.

⁶⁷ 1 January 1487. (This date is an additional indication that the diet in fact opened on New Years Day 1486.)

⁶⁸ Cf. **1351:8**; **1435/I:20-21**, **1464:15**, and **1471:25**. The oft-repeated general prohibition of illegal tolls is here augmented by the duty of the *ispán* to secure free passage. On road tolls, see Magdolna Szilágyi, , *On the Road: The History and Archaeology of Communication Networks in East-Central Europe* (Budapest:

dare to exact something more beyond this regulation and thus contravene the present decree, the *ispán* with the elected nobles should be required to redress this and to compensate the injured parties for the exacted amount as well as for the expenses. If they should be incorrigible, the *ispán* should forbid the exaction of tolls there until his majesty's pardon, and, moreover, make sure that in the meantime everyone can pass that place free and without any charge. Moreover, the *ispán* is required to protect those crossing the tolls from the violators of the decree. And if the *ispáns* themselves would possess tolls in the county where they hold their office, the *ispáns* of two bordering counties must examine the tolls of that county, and to report in writing, as we said above, to his majesty the title, cause, and quality of those tolls.

36 Then, henceforth no toll of whatever kind is to be exacted from peasants when they bring their wives from another village.⁶⁹ Also, from tailors and cloth-cutters 40 pennies should not be demanded at the toll-places, as has been the custom to the present time, but only the amount exacted from other craftsmen and travelers.⁷⁰

37 In addition to the preceding decisions we order that no *ispán*, ban, voivode, or other royal official of whatever title or position should dare to seize the churches of bishops, archbishops, abbots, or provosts or any other churches under royal right of patronage or their lands, appurtenances, tithes, and estates within the confines of their power and authority without special permission of the king, nor should they dare to enter partly or entirely into these rights.⁷¹

38 In order that our said officers and said *ispáns* have no opportunity to burden the nobles and the inhabitants of our kingdom living under their administration and jurisdiction by arbitrary fines, we, following in this the ancient custom of our kingdom, declare that no penalties or fines are to be exacted by any secular judge at any other time but at an assembly held according to long-

Archaeolingua 2014) esp. pp. 91-106 and Eadem, "Mobility, Roads and Bridges in Medieval Hungary" in József Laszlovszky *et al.*, eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 64–80.

⁶⁹ The earlier regulation, **1351:17**, decreed this exemption only for noblemen.

⁷⁰ The background of the abolished discrimination may have been the fact that cloth cutters and tailors travelled with valuable merchandise in their packs and were thus susceptible to higher tolls.

⁷¹ This paragraph and the next are verbatim borrowed from **8 March 1435:19**. The royal right of patronage was not part of the *honores* granted to officeholders and interference in ecclesiastical prebends was always seen as an abuse; see Vilmos Fraknói, *A magyar királyi hegyúri jog Szt. Istvántól Mária Teréziáig* [The right of Hungarian royal patronage from St. Stephen to Maria Theresa] (Budapest: Magyar Tudományos Akadémia, 1895), *passim*. The clause "without special permission of the king" calls attention to the fact that protection of ecclesiastical prebend had no power against the king. Actually, at the time of this decree, five out of fourteen bishoprics and other rich prebends (such as the priory of Vrana of the Knights Hospitallers) were vacant and governed by royal administrators (see Pál Engel, *Királyi hatalom es arisztokrácia viszonya a Zsigmond-korban* [Relationship of royal power and the aristocracy under Sigismund] (Budapest: Akadémiai K., 1977), p. 80).

established custom by the count palatine or by someone appointed by the royal majesty to hold general assemblies,⁷² except in the following cases when penalties can be collected at times other than at the general assembly:

First, to wit, for the forced retention and harm caused to tenant peasants, who after having paid the just rent and all their debts, requested leave to move to someone else's estate, the county's *ispán* with the noble magistrates (without whom he must not act in such cases) is allowed to exact the penalty or fine of 3 marks without delay at any time and as often as he finds him guilty from whomever they find guilty of this according to the law, in order to let the tenant peasant who was restrained and defrauded leave freely with all his goods and with his losses recompensed.

Then, anyone who abducts by violence someone else's tenant peasant who has neither requested nor obtained leave or has requested 15 days in advance but did not obtain it, shall pay the penalty of 3 marks for this violent abduction of the tenant and shall be forced by the county's *ispán* and the noble magistrates by the penalty of another 3 marks to return the same tenant peasant. If, however, any tenant peasant secretly escapes to someone else's estate without having obtained leave to move, and he to whose estate the tenant moved refuses to return him having been called upon to do so, then the county's *ispán* must and is bound to force him to return the tenant by a fine of 3 marks.⁷³

Then, for contempt of court the penalty is 25 marks.

Then, anyone who will have captured a thief, a robber, or any other common criminal and then deliberately releases him must pay the criminal's composition to the county's *ispán*.⁷⁴

Then, if the chamber's profit is not paid by the appointed date, then after the usual letter of fines is issued by the noble magistrate to the offenders, the county *ispán* with the noble magistrate is to collect the chamber's profit together with the fine of 3 marks to be paid by the village which has not paid the tax.⁷⁵

Similarly, since we specifically recall edicts of our predecessors and also several writings of our majesty established the custom and made it usual, that according to the honorable custom of our kingdom, *ispáns* of counties or their deputies collected the ecclesiastical tithe with the penalty of

⁷² As these assizes were abolished by Art. 1, above, the measure does not quite make sense.

⁷³ The guarantee of free removal of tenants from their lord's land and the prohibition of their abduction was decreed as early as in **15 April 1405/I:6** and may have been even older custom. Apparently there was still a shortage of labor in the mid-fifteenth century which might have encouraged illegal moves of peasants from one estate to another. It has been pointed out that lesser nobles were more vulnerable to such acts, for they could ill-afford to offer easier terms to their tenant, while greater lords could be more generous; see János M. Bak "Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline" in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, eds. Paul Friedmann and Monique Boruin, (Turnhout: Brepols, 2005) pp. 387–400.

⁷⁴ The matter of bringing a captured criminal to justice was already addressed in the legislation of the eleventh century; see, e.g., **Ladislav 2:3, Ladislav 3:9, 19**.

⁷⁵ This procedure and penalty goes back to the beginnings of the transformation of the chamber's profit to a direct tax; see **1342**.

3 marks each from villages which were reluctant to pay after the lapse of the specific and customary time following the church ban, we, therefore, approving, renewing, and following this practice, command by the force of these presents that after the imposition of the ban at times usual for the individual dioceses and places, the county ispáns or their alispáns are bound to make each village which has stubbornly suffered the ban for a month and still refuses or neglects to pay the tithe, pay this tithe on the request of the tithing-men after the lapse of a month immediately, without delay and in full, to whomever it has to be paid, along with a fine of 3 marks each for the officers themselves.⁷⁶

Then, when the nobles of any county are summoned to an extraordinary county assembly by royal mandate in which it is stated that they are under the penalty of 3 marks, the county's ispán and the noble magistrates have the right to collect without delay the said 3 marks specified in our letter from those who do not come to that assembly unless their absence is caused by illness, old age, widowhood, orphanhood, or by disability of poverty, or if they can excuse themselves reasonably on account of urgent matters.

Then, the palatine, the judge royal, and every common judge ordinary, both ecclesiastical and secular, have the right immediately after finishing a case and passing final judgment in all cases tried in the courts to give first of all satisfaction to the opposing party from his portion and also to collect the judicial fines due to him.⁷⁷

39 Then, because the violent and unjust removal of serfs⁷⁸ and peasants caused various outcries, various complaints and various law-suits and conflicts, therefore it was ordered that every serf; who was taken unjustly and contrary to the custom of the realm, from a year ago to the Feast of the Epiphany of the Lord of this year,⁷⁹ shall be returned to his lord upon the *ispán*'s notice. Those

⁷⁶ On the payment of tithes, see the earlier decrees, e.g., **Stephen 2: [20]**; **Syn. Szab:40**; and **1351:6**.

⁷⁷ The article is borrowed verbatim from **8 March 1435: 7**. The judicial fines could amount to considerable sums; they started out with 3 Marks (e.g., for a prorogation issued on the request of one party) but outstanding fines doubled every session.

⁷⁸ The text of the decree here uses the late classical term *colonus* for the first time in a Hungarian law (except once in Coloman's law) to designate a *jobagio* (from Hungarian *jobbágy*), personally free peasants subject to their lords in terms of rent in kind and money, free to move from one estate to another. (Actually, the term already appears in a royal mandate of 30 November 1470: see Martinus Georgius Kovachich, *Supplementum ad vestigia comitorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801), 2:209-10, for cotters or servants, who live in their lords' mansions.) Whether this was merely a borrowing in Humanist style or rather implied increased dependence of the tenants, similar to the servile *coloni* of Roman law (e.g., *Codex Theodosianus* 11.17.1 [332 A.D.]; Roth Clausen, *The Roman Colonate*, (New York: Columbia University Press, 1925), pp. 17-30) cannot be ascertained. Measures restricting the personal freedom of peasants were not introduced until much later in the century, but, as Bónis (*Középkori jogunk*, p. 86) remarked, such a change in terminology may have facilitated the imposition of higher seigniorial dues and controls. In which case, the adoption of Roman law terminology may well have had a practical—that is, social, legal, and economic—effect in Corvinus' realm.

⁷⁹ 6 January 1485-6 January 1486.

who would not return them shall be immediately condemned in the composition of the serf, half of which is to be exacted by the *ispán* for himself and the other half for that lord who previously owned the serf. The *ispáns* shall detect and execute this in every county and on everyone's properties. They shall, however, begin with the properties of the royal majesty and of the lady queen, and then with the properties of others. Henceforth no one shall dare to take another lord's tenant peasant violently and contrary to the custom of the realm under the penalty of six marks; also, let no one dare, under the same penalty, to hold back his tenant peasants who, according to the custom of the realm, want to leave, with some devised accusation so that the poor have the right to stay or to move. If someone disputes that his tenant peasants were taken violently and unjustly, the *ispán* of that county, together with elected royal and other respectable men, shall inquire, and if he finds the complaint just, he shall cause the men taken away to be given back, and exact the aforementioned fine from the violent culprit. However, those who hold back their tenant peasants with an unjust accusation⁸⁰ or with some devised new thing, such as levying some tax on them when it becomes known that they wish to leave, or, having levied one long ago, but not yet collected it, mainly in order to be able to state on this pretext that they are indebted and for this reason hold them back, shall be condemned so forth in the said fine, namely six marks, directly and without exception exacted by the *ispán*. The extraordinary tax, if it is to be collected, shall be collected within sixty days, otherwise henceforth that tax should be regarded as an unfounded accusation.⁸¹

40. Furthermore, although the paying of the tithes has been discussed in every diet and in every assembly and meeting of the gentlemen of the realm since the time when the royal majesty by divine plan was raised to royal eminence, namely, how and in which way they are to be paid, and several decrees were passed about it, no ways and means were ever found that would have satisfied all parties and stopped the complaints. Therefore, although his majesty and the gentlemen of the realm have been thinking about it long and much in this present diet as well, but could find no better and more proper ways and means than those found at the coronation of the royal majesty, it was decided and ordered that henceforth in the future the tithe is to be paid and collected in accordance with the regulation made at the coronation of the royal majesty.⁸² Adding, however, that when tithe collectors want to collect in a county, they must be accompanied, at the expense of the bishop or the chapter, by a noble or two from among those nobles who will be selected in every

⁸⁰ The expression *calumnia* is rarely used in its Classical meaning of unjust, construed accusation, see Antal Bartal, *Glossarium mediae et infimae latinitatis Regni Hungariae*, (Budapest: MTA, 1901, repr. *ibid.*, 1981), p. 91. In general it meant in medieval Hungary, frivolous prosecution, unfounded and vexatious litigation (Hung. *patvarkodás*). Such offenses as prosecuting the same case in two different courts, thus seeking satisfaction twice (*via duplex*), or claiming an obligation already settled (*dupplici sub colore*) were classified as *calumnia*. Anyone so convicted had to pay his man price. Term might include *astatio falsi termini* whereby a litigant appeared in court instead of another person, without a letter of attorney, or summoned an adversary to a false term so as to mislead him and the court, thus obstructing the administration of justice..

⁸¹ For the prohibition of forcibly removing tenants see Art. 38, above.

⁸² See **1464:24** and its successors: **1471:3**, **1478:15**, and **1481:1-4, 7-12**.

county by the royal majesty,⁸³ and who shall, first and foremost, make sure that the tithe is paid fairly and in good order everywhere. They shall not allow the tithe collector to collect unjustly and exceedingly, and if the tithe collector should not obey them, they are required to write and report to the bishop and the chapter. And if he or the chapter should not take care and rectify the matter, they must alert the royal majesty, who, for the public good and for the peace of the gentlemen of the realm, by his grace and benevolence shall carry the burden of rendering such justice on behalf of the bishop and the chapter, as well as on behalf of the tithe collectors, so that the county should be satisfied well and deservedly. In the meantime, however, the collection of tithes must be suspended, and on this occasion the bishops must not impose an interdict.

41 Then, it was ordered that just as it is known to have been ordered by the most serene lord Emperor Sigismund, the tithe collectors must be contented by the oath of the tithe payers and if they are not satisfied, they shall be free to examine the rick. If they find more than was said by the peasant they shall take the surplus and, moreover, impose the payment of the just tithe. However, if they find that it was declared correctly by the peasant, they shall immediately pay him one golden piece for the damage caused by overturning the rick. If they are unwilling to do so or raise difficulties, the peasant should have the right to immediately take the tithe collectors' horse. We order by the present decree that, in order to make this easier and more convenient, the tithe collectors must dismount from their horses and tie them in the tithe-payer's house or court before they start examining the rick.⁸⁴

42 Then, that in the diocese of Eger peasants are required to take care of the animals submitted as tithe only until the feast of St. Michael the Archangel.⁸⁵ And if the animals should happen to perish after this date, the peasants shall not be burdened in any way because of this, but swear an oath that the animals did not perish because of their fault, ill will, or intention.⁸⁶

43 Then, in some counties there are some people who, at the time of the tax-collection, keep for themselves a yard with wheat and cereals and then a cellar with wine, and collect the tithe from there for themselves.⁸⁷ And since this abuse seems to have spread in contrast to the orders of the

⁸³ Previous laws prescribed that the county delegate a nobleman (or a magistrate, or a parish priest) to control the tithe-collector. The royal appointment of these men is an innovation, but fits nicely into Matthias' ecclesiastical policy, which made the best use of the king of Hungary's traditional right of patronage over the bishoprics and royal churches.

⁸⁴ Cf. **1411:5-6** and **1435/I:7**. This arrangement about the tithe-collector's horse as a kind of surety is new (and did not remain the practice; by 1492 it was changed to the deposit of 1 florin) and peculiar. It is, however, worth noting that the law designates the peasant's house and yard (*domus, curia*) with the same words that were used for noble residences.

⁸⁵ 29 September.

⁸⁶ It is not known, why this measure was specified to be valid for one diocese. A few years later, this rule was expanded for the entire country.

⁸⁷ The issue was mentioned already in **1458:34**, albeit rather cryptically (as the *occupatio* of gardens and cellars). Apparently, the cheating did not cease, and the prelates at the diet asked for remedy. This abuse of hiding part of the produce from the tithe-collectors, seems to have been serious, as the king expressly issued a letter on 24 April 1486 to Bishop Oswald of Zagreb underlining the importance of the payment of the

holy kings for it is known that they decreed only the reeves to be exempted, and even then only because of the work, service, and expenses inherent in the collecting of tithes,⁸⁸ therefore, it was ordered that this abuse must end and be regarded as abolished for ever, so that no yard and no cellar shall be left to the lords of the land for the collection of the tithes. The *ispán* shall force the unyielding and the violators of the decree with proper measures, and if he himself should be sluggish or directly refuse to do so, the royal majesty must be informed, who then is held to force them.⁸⁹

44 Then, it was ordered that if any gentleman of the realm of whatever station and condition has been litigating for some time or is still litigating with any person whoever before the curia in Rome in the matter of tithes, he must stop the suit there and is required to bring it for trial to the royal majesty's judicial court in this kingdom by the first of May, that is, by the next feast of Sts. Philip and James the Apostles.⁹⁰ If they were reluctant to withdraw it and to appear before the royal majesty, he will be required, upon the request of the appearing party – regardless of the other party's stubbornness and absence – to order what is just and to bring the case finally to an end and to pronounce judgment concerning the amount of capital and damage, as well as the expenses, and, by the force of the present decree, to command the proper execution of the judgment.

45 Furthermore, it was ordered that henceforth no one among the gentlemen of the realm should dare to litigate before the said curia in Rome in the matter of tithes or in any other matter.⁹¹ And if some of the lord prelates or other ecclesiastics want to initiate a lawsuit or want to continue the initiated lawsuit against any of the gentlemen of the realm, or vice versa, either by the right of exemption, or regarding whether the tithes should be paid to them justly and wholly, or in other way in the matter of tithes or in any other case, they can do it before the royal majesty, but nowhere

tithe *integre, pure and absque omni diminutione* (Croatian Nat. Archives, Zagreb, Archivum archiep. Zagrabien. 59.); cf. *DRH Matth.*, p. 292, n. 2.

⁸⁸ Actually, the known decrees of the “holy kings” on this subject (e. g., **Syn.Sz. 40**) do not specify the exemption of the *villicus*/reeve; the first surviving mention of it is in **1351:5**.

⁸⁹ The intervention of the county *ispán* in assuring the correct tithing was decreed earlier, e. g., in **1411:6**.

⁹⁰ The claim of the royal courts of justice to treat cases of tithing was an innovation, although it may have had precedents based on the extensive royal rights of patronage. It is not known, whether the secular courts succeeded in this attempt, which may have been triggered by a specific case of appeal to Rome. The enumeration of matters pertaining to courts spiritual (in **1462:3**) included of course, issues connected with the tithes, as was typical of medieval and early modern societies in Christian Europe: see Joseph Goy, “The tithes in France and elsewhere,” in Emmanuel Leroy. Ladurie, and Joseph Goy, *Tithe and Agrarian History from the Fourteenth to the Nineteenth Centuries*, pp. 14-23, esp. pp. 18-19 on Hungary (Cambridge: Cambridge University Press, 1982). However, the following article restricts the unusual royal claim to jurisdiction over the tithes to the court of personal presence; earlier (e. g., in **1471:19**) appeal was allowed to the papal curia. See briefly in Andor Csizmadia, “Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn.” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 61 (1975), 228–257. A more detailed monograph on the issue is still missing.

⁹¹ The prohibition of taking cases directly to Rome goes back in essence to the *Placetum regium* of Sigismund (**1404/I**). **1440:4** spells out the procedure of appeal to the Roman curia.

else; who, by the duty originating in the royal office he assumed, will be required to order for everyone, according to the statements and evidence presented in the lawsuit, what will be just. It is understood, however, that cases concerning tithes can never be dealt with by other judges of the realm, except by the royal majesty personally.

46 Then, that the royal majesty should not confiscate the properties of the gentlemen of the realm on a simple complaint, no matter how grave and extraordinary it may be,⁹² but upon receiving the complaint should write to the *ispán* and elected nobles of that county to examine and report the complaint faithfully to the royal majesty who shall examine, investigate, and determine from their testimony what to do in the case and whether they deserve confiscation of their property or other punishment.

Then, that the royal majesty shall not sentence any of the gentlemen of the realm for the crime of infidelity without the council of barons and prelates.⁹³

47 It was decided that no one shall dare to harbor persons faithless to the king in his castle, fortification, city or in other place and keep them there and give shelter to them. However, if one of these faithless men, out of trust, should run to one of his lords or friends, he can receive him and keep him with him in his house unpunished for twelve days, but not longer. And if that person wanted to go to the royal majesty to gain pardon or to declare his fidelity or to prove his innocence, his host is free, if he wants, to take him with him or to send him there under the protection of the royal majesty's letter of safe conduct – which, by the force of the present decree, is to be regarded as given and granted to all such persons – with his letter and men, to pray, act, and intercede for mercy on his behalf. However, if he was unable to obtain and gain pardon for him, in no way should he dare to let him return to his castles, fortifications, cities, market towns or into any other place and property, and give him shelter there. If someone might dare act otherwise, that castle, fortification, city, market town, estate or place where such a faithless man is harbored shall immediately devolve upon the royal treasury and shall be immediately regarded as devolved upon it, and the royal majesty shall, by the force of the present decree, freely have it at his disposal at his will.⁹⁴

48 Furthermore, if thieves, robbers, murderers, arsonists, forgers of money, letters, and other people's handwriting stayed on someone's property and the lord of that property, called upon by the *ispán*, did not expel them from his property, the *ispán* must send his men to seize those

⁹² Cf. **1464: 18, 1471:10, 1478:9**, and their predecessors. This article confirmed that the king granted the counties the right to decide about the merit of such complaints by common inquest, which had been the custom of the realm for some time before. The confiscation of properties for the fisc was usual procedure, mostly performed by a member of the court (*miles curiae*), see András Kubinyi, "Die Staatsorganisation der Matthiaszeit," in: Idem, *Matthias Corvinus* (Herne: Schäfer, 1999) 5-96, here p. 10.

⁹³ Cf. **1439:27**.

⁹⁴ Cf. **1405/II: 9, 1435/I: 20**. The article may have been triggered by events following the 1471 rebellion against the king.

evildoers. And if the peasants or the inhabitants of the estate, in which these evildoers stay, rose against the *ispán*'s men and resisted them, the *ispán* shall not seize the estate immediately; instead, for the second time, he must send a larger troop and force to seize the said evildoers, as well as those peasants. If the officers of the lord of that place resisted together with the peasants or with other accomplices of theirs and did not allow them to be seized, but promised to bring them into the county court to stand trial before the *ispán*, the *ispán*'s men should obey and should be satisfied with this, and in this case the *ispán* should not seize the estate. However, if they neither allowed them to be seized, nor, as we said above, promised to present them, the *ispán* must and should be required to seize the estate until the royal majesty's pardon. And if in this case the lord of such place rose personally against the *ispán* and his men and resisted them so that the said evildoers and revolting peasants could not be seized and he did not promise to bring them, as we said above, to the county court, or if he promised but fails to do so, the estate, in which this occurs, shall devolve upon the royal treasury perpetually, and by the force of the present decree shall be immediately regarded as devolved upon it; and the royal majesty shall have the freedom either to keep it or to confer it on others.⁹⁵

49 Then, that if in course of time deposits of gold, silver, salt or other minerals should be found on the estates of nobles or other proprietors, the royal majesty shall not confiscate them without proper and suitable compensation. However if his majesty wishes to acquire them, he shall give other estates bringing the same revenue and income, in exchange for the estates where these metals were found. Otherwise he should cause the royal dues and the royal portions of the *urbura* to be collected, but allow the nobles to keep these estates with all their revenues and incomes undisturbed.⁹⁶

50 Then, it was decided that the court and jurisdiction of the *ispáns* of Zagorje, held hitherto usually in Varaždin, be abolished and never held again and that the litigants in that county be held and obligated to turn to the court or the justice of the bans of Slavonia.⁹⁷

⁹⁵ Essentially identical with **1447:7** repeated in **1458: 43**. Note the assumption of armed peasants assisting their lord in retaining allegedly unjustly held property, for which there are several cases recorded. István Szabó (*A középkori magyar falu* [The medieval Hungarian village] Budapest: Akadémiai K., 1969, p. 182) knows of the confiscation in 1470, in the village of Újváros (Co. Szabolcs) of 6 daggers, 6 battle-axes, 3 lances and a sword and shield from the houses of 24 tenant peasants after a conflict between their lords (see MNL OL DI 55928). In the fourteenth century a nobleman was cited to court "with his 105 tenant peasants" for acts of might (*Ibid.* p. 156).

⁹⁶ This regulation goes back to the mining reforms of Charles of Anjou from 1327, see Ferenc Döry, *et al. DRH*, pp. 80-1, codified later in **1351:13** and repeated in **1405/II:13**

⁹⁷ County Zagorje (today in Slovenia) was at the southwestern border of the medieval kingdom. The abolition of the count's court was in the interest of the local nobles, who in the beginning of the fifteenth century had fallen under the jurisdiction of the powerful family of the counts of Cille (Cillei, Celjski), later of those of John Vitovec (taken away from them by Matthias and granted to John Corvin in the 1480s) and have now been returned to the judicial authority of the viceroy, the ban, see Tamás Pálosfalvi, "Vitovec János. Egy zsoldoskarrier a 15. századi Magyarországon"[J. V., a mercenary-career in 15th C. Hungary] *Századok* 135. (2001) 429–472.

51 Then, if any men, of whatever station and eminence, commit intentional homicide, they shall be executed without redemption. And if any of these men seek safety in flight, they shall be punished with the same punishment wherever and whenever they are found, but not without due process of law. And the *ispán* or the *alispán* and the noble magistrates of the county, where the victim is found are required to administer justice according to the custom of the realm. And no one shall dare to give shelter to these men and let them into his castle and house, under the aforementioned penalty for the unfaithful and other evildoers.⁹⁸ However, if the homicide was not committed out of deliberate wickedness and intentionally, but rather happened accidentally or otherwise unexpectedly, the killer should be free to make peace with the relatives of the victim.⁹⁹

52 Then, it was established that if litigant parties, during the octave courts before either the palatine or the judge royal or other judges ordinary, be they ecclesiastic or lay, are condemned to fines or to judicial payments, the judge shall compel them to pay those payments or fines straightaway at the end of the trial. And if the case is closed with a final judgment, the judge must first satisfy the winning party from his part of the properties of the condemned and after that he is free to exact what is due as his judicial fee, as has been the custom. Similarly, if someone is condemned to some payment before the *ispán* of the county in the county court, he is bound to pay it within fifteen days after the first warning. And if they should not be able or not willing to do so, the *ispáns* are free to seize as much of property or estate as equals the value of the payment or fine.¹⁰⁰

53 Then, since many people are wont to carry their cases, even of minor importance, to the royal court from the court and judgment of the bans, voivodes, *ispáns* and their deputies, and to that of other judges ordinary, in order to despoil and burden their opponents with lengthy lawsuits, fatigue, expenses, injustice, and damage, it was decided and ordered with the common counsel, will, and consent of the lord prelates, barons, and the other gentlemen of the realm, for the peace and relief of the inhabitants of the realm, especially the oppressed and the poor, that henceforth if someone appeals a case from the court of any judge to the royal court and the previous judgment is upheld there, he must immediately be condemned to a double fine, in which he shall be regarded as condemned because of the appeal, and this fine must be exacted immediately and indispensably by his judge ordinary.¹⁰¹

⁹⁸ On the procedure against killers, see **1471:28**. On the prohibition of harboring such criminals, see above, Art. 47-48.

⁹⁹ The distinction between “premeditated murder” and “accidental manslaughter” appears in Hungarian laws as early as in **Steph I: 14**, but does not feature in the subsequent centuries, except in urban statutes.

¹⁰⁰ Sigismund had limited the cases in which fines could be collected outside the general assizes (**1435/I: 7**), but with the abolition of these, the immediate exaction of *birsagia* (fines) was only a logical consequence.

¹⁰¹ Appeal proper was not usually allowed in medieval Hungary. The first case for it was codified for the towns under Sigismund (**1405/I:4, 12**) who were allowed to appeal not only to their “mother-city” (whose law they used), but also to the Master of the Treasury, that is, to a central court of towns. Later, appeal from the county to the royal court became also accepted practice. There was also the notion of *transmissio* from one royal court to another, which later was extended to the county courts, and not differentiated from appeal

54 Furthermore, since parties losing a case and judgment frequently slander, vilify, and attack falsely their judges as if they had not administered justice to them, and because of their shameful and reprehensible clamor scandals and other troubles are wont to emerge,¹⁰² therefore, in order to restrain the tongue of such people it was decreed by the common decision of all, that no one should dare at all to calumniate the masters protonotaries¹⁰³ and inveigh against them unjustly, but rather if someone believes that he has been judged unfairly, he should appeal to the royal majesty or to the palatine or to the judge royal or to the deputies of the palatine and the judge royal honestly, respectfully, and politely. If someone should dare to commit the aforesaid deeds and not control his tongue, and will be unable to prove the calumny he uttered against the masters or one of them, he shall, by the force of the present decree, fall immediately under the same penalty as that which the masters would be condemned if the charges against them or one of them could be proven.

55 Moreover, it was decreed that, as the late most serene lord King Louis had ordered, if anyone among the nobles is condemned in a process of law by the palatine or the judge royal or any other judge to defeat in judicial combat in cases of act of might, frivolous prosecution, false court appearance or use and proffering forged documents or for any other capital offense, the judge of such a case must seize that condemned man and hold him for three days to allow peace and order to be restored between the parties. And if they do not reach agreement, then he, according to the custom of the realm, must hand over the condemned man into the hands of his adversary to inflict on him the penalty as required by law. And if the plaintiff causes the death of the condemned party or inflicts any other penalty required by law, then the latter shall be released without any payment or attachment of his property by the judge and the plaintiff. And the sons, brothers, kinsmen, sisters, wife, and relatives of such a condemned and sentenced man should not be made liable for his crimes, so that the judge should not confiscate the condemned man's own estate and parts of estate or other properties of his, only the belongings that were found in his presence when he was seized; rather, all these [goods] shall descend to his sons and heirs or to his kindred, and they shall remain free, safe, and undisturbed in all these properties, estates, houses, and property rights. It is further added that if a man condemned and sentenced in the above manner somehow is able to come to an agreement with his adversary, he should be free to do so at any time, and the judge shall exact and demand no fine or other payment at all from the condemned or sentenced man for such an agreement, but the agreement or peace shall be made freely and without any payment.¹⁰⁴

(Bartal, *Glossarium* p. 671). The present decree wished to stop appeal in minor cases, implicitly allowing it in major ones (Hajnik, *Bírósági szervezet*. pp. 421-8.).

¹⁰² Verbal attack on judgments passed—essentially identical with contempt of court—was prohibited in Barbarian law; Roman legal tradition did not concern itself with such procedural matters (cf. John A. Crook, *Law and Life of Rome*, London: Thames & Hudson, 1967, pp. 68-97). The issue was summarily addressed in Sigismund's *Decretum Maius* (**1435/I:7**), where mere contempt of court (*violator sedis*) was penalized heavily, by 25 Marks; see also **1471:14**.

¹⁰³ Protonotaries (*prothonotarius*, Hung. *ítélőmester*, "master in sentencing") were lawyers who acquired legal training in the secular Hungarian courts. From the mid-fifteenth century they presided over court sessions in an increasing number of cases; see below, Art. 68.

¹⁰⁴ Almost verbatim identical with **1351:9**.

56 Then, that a son should not be condemned and punished, either in person or in estates or in other property for the crimes and trespasses of his father, and vice versa.¹⁰⁵

57 Furthermore, bishops, chapters, abbots, provosts, convents and other propertied ecclesiastics may not acquire any estate, with three letters of inquiry concerning the estates to be acquired, unless the royal majesty examines them and gathers information through trusted men selected by him, about the case among the nobles and men of the church, and unless letters of privilege from the royal majesty or judges acting on his behalf are granted, just as, according to our knowledge, these things were done and ordered in the time of the late lord King Louis.¹⁰⁶

58 Then, it was ordered moreover that anyone who shows contempt of the court shall be immediately condemned to a fine of twenty-five marks, to be exacted without exception, as the decree of the late most serene lord Emperor Sigismund states on this subject.¹⁰⁷

59 Then, it was ordered that small convents especially that of Szentjobb, must cease from issuing letters and these shall be without authority.¹⁰⁸

60 Then, it was ordered that the royal majesty is required to appoint in every county, with the counsel and will of the lord prelates and barons, a baron or other respected and wealthy propertied man who seems to be able and suitable to the post of county *ispán*; and the latter must also select a respected man from that county but not from elsewhere as *alispán* or *alispáns*. And all of them must swear an oath according to the model form written below; the *ispán* before the king, the *ispáns* in the county itself.¹⁰⁹

¹⁰⁵ Cf. **1351:19**.

¹⁰⁶ Cf. **1351:20**.

¹⁰⁷ Cf. **1435/I:7**.

¹⁰⁸ The right to authentication was taken from a number of lesser convents already in **1351:3**, repeated in **1397:28**. The expressly named Benedictine convent of Siniob/Szentjobb—founded in the late eleventh century, and for a while guardian of the arm-relic of St. Stephen; hence its name which means the Holy Right Hand—recovered its right to act as a place of authentication only through the offices of John Vitéz, in the 1450s administrator of the abbey, and retained it even under its subsequent administrator, Peter of Várad, until the latter's falling out of grace (see I. Bodor, “Reneszánsz stíluselemek a Mohács előtti magyar pecséteken” [Renaissance stylistic elements on pre-Mohács Hungarian seals], *Művészettörténeti Értesítő* 31 (1982): 104 n. 10). That Szentjobb was given royal commission just a few days after the issue of the present decree, on 1 February 1486, which was duly performed and reported to the king (MNL OL DI 46035), shows that such a decree needed some time to be observed.

¹⁰⁹ The point of this paragraph was to assure that every county had its own *ispán*, preferably from the local nobility with an *alispán* likewise from there, while the king tended to name his retainers from the court to head several counties who then—in contravention of this article—frequently appointed men of their own choice from outside the region as *vicecomites*, see Kubinyi, “A megyésispánok” pp. 169-79. — For the formula of the oath, see below, Art. 73 (going back to the *Decretum Maius* of Sigismund).

61 Then, it often happens that soldiers on campaigns break into churches, without regard to fear of God or men, for food, victuals, and other things taken there by tenant peasants for the reason of safety,¹¹⁰ and they steal from there not only necessary victuals, but also all other properties of the tenant peasants and commit unpunished other terrible deeds, too horrible to describe. Thus, in order to curb their rashness and detestable licentiousness, it was ordered that henceforth no one at all, be he cavalryman or foot-soldier, while on campaign with the army or otherwise, should dare to force open the doors of churches or to desecrate the churches in any way or to take away food or other things from there with force. And if henceforth anyone contravenes this, and if the captain of such companies is a nobleman, he shall be deprived of all of his property rights as well as his other properties, and these shall devolve immediately upon the royal treasury and shall be regarded as such.¹¹¹ However, if the violators of the decree are not noblemen, then they shall be condemned,¹¹² and it is the duty of the captain-general of the army to carry out this execution. If he fails to do so or violates this decision himself, the royal majesty, after being informed, shall order the execution by his grace, love of justice, and inborn clemency. And if the soldiers belong to his royal majesty, he shall reconcile the church, and if they belong to others, then he, whom they belong to, shall make such a reconciliation. It is added that if such soldiers are short of food, the parish priest or the reeve or the village judge of the place must open the church and, in the presence of a person designated for this by the captain of the troops, give food from the church to the people at a fair and proper price and payment.

62 Then, that troops of this sort on their march should not at any time dare either to billet in the houses of noblemen or to take with force the goods and chattels of the tenant peasants or rustics from the houses and residences of the nobles. The violators of this law shall be immediately condemned with the same sentence as the profaners of churches.

63 Moreover, it has come to our knowledge that archdeacons, subdeacons, and parish priests, out of insatiability not being satisfied with their just and decent revenue, established such a wretched and outside this kingdom unheard-of abuse, especially in the county of Somogy, that should it transpire that someone is killed in whatever way, even if he dies testate, they refuse burial in the church and even in the cemetery until, in addition to all the burial fees and other matters customary in such cases according to the various local customs, a silver mark or four golden pieces

¹¹⁰ It was general practice to use the parish church—quite often the only stone building in the village—as a safe storage place for foodstuff and valuables, see Szabó, *A középkori magyar falu*, pp. 195-97.

¹¹¹ Measures against plundering troops were passed several times before, beginning with **1279:9**, **1298:10**, **1427A** and also in **1458:18**, **1464:28**, **1471:21**. However, the punishment prescribed here and in the following paragraph is more severe than the earlier ones were, although the king—supreme commander of the soldiery—hardly intended to enforce it. These measures aimed at winning the support of lesser nobles, often the victims of the soldateska's plundering.

¹¹² The word “to burn” here means merely “to condemn,” and is probably derived from the ordeal by hot iron, where the person “burned” was found guilty; see Bartal, *Glossarium*, p. 142. The verb (*comburare*) and derived noun (*combustio*) are so used in other, similar documents: see (e.g.) Marko Kostrenđić (ed.), *Lexicon Latinitatis medii nevi Iugoslaviae*, 1: 248 (Zagreb: Academy of Sciences, 1973).

are paid.¹¹³ Therefore, since these practices can be regarded not only as abuse and corruption but also, correctly, as a kind of sacrilege and simony, it was ordered by the present decree that henceforth this kind of exaction should cease and be abolished in perpetuity everywhere, and especially in the said county of Somogy, and no archdeacon, subdeacon, and parish priest or his vicar shall dare, under the penalty of losing their prebend, to extort it, as had been cancelled and abolished by apostolic bulls in the county of Somogy in the times of the late majestic lord Charles, king of Hungary, etc. upon the request and urging of the same lord king, as was made clearly evident from the bulls publicly recited in the present meeting of the gentlemen of the realm.¹¹⁴

64 Then, since the community of nobles often sends envoys and elected nobles from the counties to his majesty, either in matters of the county or upon the royal majesty's command, but there are many lords, both ecclesiastics and laymen, as well as nobles, abbots, provosts, chapters, and convents who are unwilling to pay, in accordance with their wealth, for the expenses of such envoys and elected men as others do,¹¹⁵ and they absolutely avoid contributing to such expenses, causing obvious and considerable injustice to the community of nobles and especially to those who are not so well-off, therefore, it was ordered by the present decree that henceforth men of property, each and every one of them, whatever their station or wherever they dwell, are required to pay and cause to be paid to the community the expenses set by the community from their properties and estates, in appropriate proportion or share, with the exception of those lord prelates, barons, and other men of property who are individually and personally invited by letter to the royal majesty at the time of a diet.¹¹⁶ However, when it concerns a matter of the county, everyone shall contribute. The *ispán* of the said county shall and must force the unyielding to obey even under the penalty of the fine customary in such cases, namely three light-weight marks.¹¹⁷

65 Then, since litigant parties and many others who are going to a lawsuit in the county court of the nobles of various counties usually enter with their armed noble retainers and tenant peasants,

¹¹³ Cf. **1351: 2**, **1397: 27**, and **1439: 34**, where this practice is prohibited in general. Why exactly Co. Somogy was singled out in this article is not known.

¹¹⁴ The bull of Pope Benedict XII, *Cum contingit interdum*, was issued on 13 August 1335, but does not refer to Co. Somogy; see Knauz-Bebek, *Monumenta Strigoniensia*, 3: 265, No. 399. It is worth noting that a copy of the bull (one of which is still preserved in the archives of the cathedral chapter at Esztergom, No. 44, 2, 5) was apparently available at the time of the diet and presented to the assembly. This is a rare evidence of the use of archival records in the deliberations of a Hungarian diet.

¹¹⁵ Regular county taxation did not become practice until the seventeenth century, but occasional local levies were collected, e. g., for the expenses of palatinal courts of justice or of deputies' travel to the diet. In one instance, János Hunyadi had to order the officers of Co. Szabolcs to pay the travel costs of the deputies, see Ferenc Eckhart, *Magyar alkotmány- és jogtörténet* [History of Hungarian law and constitution]. (Budapest: Politzer, 1946), p. 111.

¹¹⁶ Matthias issued an order in this spirit to the city of Košice on 5 April 1487 (MNL OL DI Film 270638) specifying that they do not have to make any payment to the county, for they are travelling on the king's behest. Apparently the same nobles had to pay for other expenses, if the trip was not made on the king's invitation.

¹¹⁷ There were two kinds of Marks, the heavy, equal 4 gold florins, and the lightweight one, equal one florin.

if they can, with a great number of them, and try to intimidate others with arms and multitude; therefore, it was decided in order to ensure that everyone can enter such a court calmly, freely, without fear or sense of danger, and stay there decently, peacefully, and without any hindrance, on the one hand, and in order that it may not appear that among arms justice and laws are silent,¹¹⁸ on the other, that nobles, as well as their noble retainers and tenant peasants when they are about to enter the county court shall leave all their weapons of whatever sort at their lodgings and shall enter the court unarmed so that they may know that they should fight not with arms but with law. If non-nobles trespass this rule, the *ispán* shall take away their weapons and, moreover, shall put them in the stocks and leave there hungry and thirsty for two days and as many nights. And if the trespasser is a nobleman the *ispán* shall take his weapon in the same way and also exact from him one heavy-weight mark.

66 Then, because many cases of killing, wounding, beating of men, many quarrels and innumerable different troubles occur at fairs and weekly markets and also in taverns, as anger always takes up arms;¹¹⁹ therefore, in order to stop henceforth such troubles with suitable measures, it was similarly ordered under the same penalty that each and everyone, be he of whatever station, who is going to a fair, a market or a tavern shall put down all his weapons in his lodgings¹²⁰ and shall go to buy and sell, and drink unarmed, and should dwell and sojourn there.

67 Then, as it is clearly stated in the preceding articles what the county *ispáns* are to do while administering justice, therefore, in order to enable them to fulfill their duty properly and without any hindrance, it was decided and ordered that those who revolt against the *ispán* or the *alispán* during such administration and dare to interfere with him by force and compel him not to administer the justice that he is supposed to, they shall be condemned – as soon as the truth of the matter is known – for taint of infidelity. And if they are servants or tenant peasants, their lords must give and hand them over, under the penalty of twenty-five marks, into the hands of the *ispán* so they can obtain their deserved punishment and they ought and must as well, according to the custom of the realm, prove their innocence, namely, that it was not committed in accord with their will and instructions. And if the servants or tenant peasants, flee after committing the crime, the

¹¹⁸ Cf. Cicero, *Pro Milone* 11: *silent enim leges inter arma...*; Albinovanus Pedo, *Ad Liviam* 185 (= Livy 34.6.6.). The Ciceronian formulation became a commonplace in Latin literature (cf. August Otto, *Die Sprichwörter der Römer*, Leipzig: Teubner, 1890, p. 192); what is notable is the clear correspondence of the present text with Cicero, suggesting direct knowledge of the Ciceronian oration.

¹¹⁹ A phrase from (ultimately) Vergil, *Aeneid* 1.150.

¹²⁰ This medieval Hungarian version of the rule about “leave your guns outside the saloon” is surprising only in that it did not find its way into earlier Hungarian decrees. On the other hand, this decree suggests a serious attempt at an over-all regulation of social conflicts, covering a much wider field than, for example, Sigismund's *Decretum Maius*. This prohibition against arms in a social setting has many parallels: for example, the Roman tradition that no command could be given to the army within the city's limits (the *pomerium*), hence, in theory, citizens inside the city should be unarmed (Aulus Genius *Attic Nights* 15.275; Theodor Mommsen, *Römisches Staatsrecht* vol. 3, (Leipzig: Hirzel, 1888), pp. 386-87).

ispán, because of the insult inflicted, shall cause them to be hunted down, but nevertheless their lords must, as we said above, prove their own innocence.¹²¹

68 Then, because the judges ordinary are often talked about and a great many people are in doubt who are those justices and who are meant by them, therefore we clearly state here, that judges ordinary are: first of all, the palatine, then the judge royal and finally, if he is present, the secret chancellor, and if he is not, then his deputy, that is, the one who keeps the king's judicial seal at that time.¹²² They are called judges ordinary, because they can try any case, and they and their deputies are the only ones who can enter a court without being invited and can summon others, if they want to, for testimony or for any other matter. And the following persons, that is, the Master of the Treasury, the chief seneschal, the ban of Dalmatia, Croatia and Slavonia, and the voivode of Transylvania are not to be regarded judges ordinary, therefore they cannot and need not enter the royal majesty's judicial court without being invited.¹²³ However, those of them who are judges and sworn officials, if they wish to enter voluntarily at any time, whether the royal majesty is present or not, they shall be admitted and given a place of honor. Their protonotaries and judicial deputies shall be similarly admitted. However, they ought not, without the permission and approval of the said three judges ordinary summon anyone to the same court. It is here stated expressly that the aforementioned judges ordinary can freely pass sentences in any case without the others even in the absence of the royal majesty. We decreed, in order that the judicial trials be conducted with honesty, graveness, and maturity, that is, without any noise, clamor, disorder, and disturbance, that the doors of the court shall be always kept open and no one shall dare to enter without being invited.¹²⁴ Trespassers shall be punished as elsewhere decreed, that is of one hundred golden pieces, for which they shall be immediately arrested and kept in the ruined tower until they pay the sum.¹²⁵

¹²¹ Cf. **1462:2**, where, however, the fine is different and the procedure simpler.

¹²² See above, Art. 18.

¹²³ This systematic description of the high justices of the realm goes back to the 1430s, when the urban appeal court of the Master of the Treasury went out of court and settled in the city of Buda, reducing thus the circle of the royal high justices to the ones named here. The courts of the voivode and the bans were always separate from the central royal courts of justice; cf. Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1445*, (Budapest: Akadémiai Kiadó, 1978) [=DRH], pp. 400-1.

¹²⁴ The usual arrangement was that the cases were “called out” at which time the parties could enter the room where the court tried the case; however, since the proceedings were to be “public,” the doors were kept open, only the entry restricted to the interested parties and authorized persons, in order to avoid disturbance; see Hajnik, *Bírósági szervezet*. pp. 228-34.

¹²⁵ The Ruined Tower was the name of the dungeon in Castle Buda; see András Kubinyi, “Rabok feliratai a budai Csonkatoronyban” [Prisoners' inscriptions in the Ruined Tower of Buda], *Budapest régiségei* 18 (1958): 519-25.

69 Then, it is a custom among advocates that they accept cases of many people for gain and they defend them negligently and do not care if their clients are fined mainly because by ancient custom these fines were used to be exacted during the time of general assizes. Since these general assizes, however, as we mentioned above, are now abolished and never be held again,¹²⁶ therefore, it was ordered that henceforth no advocate should dare to accept and handle the case of more than fourteen people.¹²⁷ And if someone is condemned to fines, these shall be immediately exacted after the end of the trial and the decision of the case, from the properties and estates of the client both for the judge and for the opposing party.¹²⁸

70 Then, that any case or lawsuit started in any matter or case shall be prosecuted, treated, and ended according to the judicial order and process which was customary until now, that is, in a way that the aforementioned articles shall be regarded as made for future cases and not for the past.¹²⁹

71 Then, it was decided that if persons of whatever station, be they ecclesiastic or laymen, should plead that their letters of privilege were taken away by Turks, Czechs, Poles, Germans or by other enemies and fiends, or that they were burnt or lost, or if one of the ecclesiastics should state that his church was in the hands of laymen for a long time, as sometimes happens, and he was then deprived by the laymen of his rights and letters of privilege or otherwise defrauded, then these people, upon the written order of the royal majesty or upon the call of other judges ordinary can prove with the nobles of the county where those properties are located for which the loss of rights and letters of privilege are argued, regarding things going back in time approximately sixty years, that this is the way it happened, such confirmation and noble testimony shall be always accepted, and regarded in all courts as a complete and authentic privilege.¹³⁰

¹²⁶ See above, Art. 1.

¹²⁷ The connection between the limitation of one lawyer's clients and the abolition of the general assizes seems tenuous, but one may conjecture that it had something to do with the collection of fines. Previously, if advocates, taking too many clients, performed their task laxly and their clients were fined, this may not have caused major harm because payment was not due until the next general assizes. With the new regulation fines were collected right away, thus a careless advocate put his client at an immediate disadvantage. Cf. Hajnik, *Bírósági szervezet*, pp. 174-80, 446-47; Eckhart, *Magyar alkotmány- és jogtörténet*, pp. 389-91; E. Varga, "A hivatásos ügyvédi osztály kialakulása" [Development of the professional class of advocates], in *Domanovszky Emlekkönyv*, pp. 625-42; András Kubinyi, "'Írástudás és értelmiségi foglalkozásúak a Jagelló korban'" [Literacy and professionals in the Jagiello age], *Magyar Herald* 1 (1984): 186-208.

¹²⁸ See above, Art. 52.

¹²⁹ The principle of excluding the retroactive validity of a law is, of course, a Roman legal tradition going back to the earliest Roman law code, the XII Tables of the mid-fifth century B.C., which stipulated that new legislation (on a given topic) replaced any earlier pertinent legal enactment; legislation therefore began *ab initio* and was thus not (in general) retroactive: see Livy 7.17.12 (cf. 9.34.6-7); Wolfgang Kunkel, *An Introduction to Roman Legal and Constitutional History* ed. 2 (Oxford: Oxford University Press, 1973), pp. 23-34. Bónis (*Közepkori jogunk*, p. 79) points out this article as another proof of the influence of learned law on this decree.

¹³⁰ Cf. **1464: 20**; the sovereignty of the noble assembly in the county to decide about matters of property and privilege was a cardinal feature of medieval Hungarian culture; cf. Erik Fügedi, "Verba volant... Oral

72 Then, that laymen shall not be condemned more severely in cases against ecclesiastics than the ecclesiastics are in cases against laymen.¹³¹

73 Then, it was decided and ordered in accordance with the decree of the late most serene lord Emperor Sigismund, in order to remove from everyone's heart all anxious suspicion that could arise against the judges and the justices of the realm, as well as against the *ispáns*, *alispáns*, noble magistrates and the elected nobles and other officials, that all the judges and justices, both the ecclesiastics and the laymen who are elected or appointed palatine, judge royal, Master of the Treasury, chancellor or vice-chancellor, or protonotaries or deputies of the aforementioned judges, ban of Slavonia, voivode of Transylvania, and *ispán* and noble magistrate of any county or designated as their deputies, shall take an honest oath in the presence of the royal majesty, when being inaugurated, to keep their allegiance and administer justice. The *alispáns* and the noble magistrates, however, must take their oath before their county.

The model form of the oath is the following: I, So and So, swear by the living God and by the glorious mother of God, Virgin Mary, and by all the saints and elect of God that I shall administer just and proper judgment, justice and execution according to my ability to all who litigate before me and in every case belonging to my office, to every person, to rich and to poor without selection, putting aside and disregarding any request, prize, favor, fear, hatred, love and compliments, as I understand should be done in accordance with God and His justice. So help me God and all the saints!¹³²

74 Then, in order to avoid disagreement regarding the charges for redeeming the letters issued by chapters and convents as well as for travel expenses and for the trouble of the witnesses of the chapters or convents, it was decided that in this matter those tariffs shall be kept that were defined in the times of the late most serene lord Emperor Sigismund and were confirmed by the royal majesty on the occasion of his happy coronation.¹³³ (=8 March 1435: 10.)

75.¹³⁴ And in order that the causes for disagreement, which until now frequently arose regarding the charges for redeeming letters issued by chapters or convents, as well as for travel expenses so that the trouble of the witnesses of the chapters or convents should cease to exist in the future and

Culture and Literacy among the Medieval Hungarian Nobility," in Idem, *Kings, Bishops, &c* ch. VI, pp. 9-10. The stipulation of sixty years as the reasonable "memory of men" is an interesting hint at collective memory, clearly counting on transmission of memorable events (such as introduction, *perambulatio*, and so on) to a second generation.

¹³¹ Cf. Art. 28, above and its predecessors.

¹³² Almost verbatim identical with **1435/I:1**

¹³³ 114. Cf. **1435/I: 10** and **1458: 35** (Matthias confirmed Sigismund's decree already at his enthronization, not at the 1464 coronation). After the introductory words the decree repeats verbatim Sigismund's ordinance on the tariffs continued in Art. 75 and 76.

¹³⁴ This article is almost verbatim borrowed from **8 March 1435: 10**. This Sigismundian list remained a point of reference for a long time. The detailed list indicates all the legal transactions in which the witnesses of the places of authentication (see n. 20, above) had to participate.

be eliminated, we order by the present ordinance, following old and, indeed, honorable custom, that in all places of authentication, both chapters and convents, for each letter of summons, that is the first, second, and third, 24 pennies of the larger coin¹³⁵ are to be paid and rendered to the convent or chapter, together with their notary and scribe, for redemption of the letter.

Then, for any letter of final summons, 100 pennies.

Then, for any letter of advocacy, 24 pennies.

Then, for any letter of prohibition, protest, or similar document, if issued as letters patent, 24 pennies, if close, 12 pennies.

Then, for any letter of record, if issued as privilege, 100 pennies, if letters patent, 24 pennies, if close, 12 pennies.

Then, for any letter of inquest, whether patent or close, 24 pennies.

Then, for copies of ancient deeds retrieved from the archives, 100 pennies for the guardian or the retriever and for the redemption of the retrieved charter; if there was not too much writing and it was issued as letters patent, 24 pennies; but if the task of copying is extensive and it was issued as a privilege, then 100 pennies.

Then, for simple transcripts or for transcripts issued as letters patent for which the task of copying is not great, 24 pennies, but where the writing was long and was issued as a privilege, 100 pennies.

Then, for letters of institution when contradiction was made, 24 pennies, and for letters of institution in perpetual possession without contradiction, a redemption of the letter is to be paid according to the size of the property and the number of plots in the following manner: namely, for one, two, three, or four plots, 100 pennies; where there will be more than four plots but fewer than ten, for each plot 33 pennies; where there will be more than ten but fewer than twenty, for every plot, 24 pennies; where there will be more than twenty plots up to a hundred, for each plot 12 pennies; and where there will be any number of plots above a hundred, 8 pennies for each plot.

Then, for letters of inspection of boundaries, when no contradiction or summoning will be made, 24 pennies; but in the case of inspection of boundaries with simple conscription, or when similarly a simple conscription and final designation of boundaries is made with a royal bailiff sent from the court and an oath is sworn on the soil¹³⁶ in proper legal form or with the consent of the parties, for

¹³⁵ *Moneta maior* refers to the silver coins (*denarii*), the exchange rate of which was regulated in **1427B**. Additional measures relating to these coins were passed both by the king and, in his absence, by the royal council in 1430 and 1432; see F. Döry *et al.* *DRH*, pp. 251–57. However, the new coins were soon displaced by debased emissions. In the 1430s, the actual small coin in circulation was the *quarting*, initially worth a quarter of *denarius* but by the end of Sigismund's reign 6000–8000 of them were worth a florin (instead of 400). Under such circumstances the regulation of fines and fees in stable money was most necessary.

¹³⁶ If one can trust later evidence, such an oath was quite a ceremony. The witness to the ownership of a piece of land (or to its being part of a community) stood in a pit, raised his three fingers and swore to his life on the condition of the disputed land. It was eternalized by a famous ballad of the poet János Arany,

the redemption of the letter 400 pennies. Where, however, the case is sent to the royal court because the parties do not agree in such an inspection of boundaries, for the redemption of such letters, 200 pennies.

Then, for common inquests by judicial procedure, 100 pennies. Then, for the inspection of seizure of estates, 100 pennies.

Then, for seizing the properties of men sentenced to capital punishment and the confiscation of their chattels on court order, the chapter receives according to ancient custom the tenth of things taken away; and for redemption of the letter, 100 pennies.

Then, for estimations of estates on court order, 100 pennies.

Then, for the divisions of estates, 100 pennies from each divided estate. Then, for proof of an oath, 24 pennies.

Then, for proof of an oath containing the names of the oath-helpers, 100 pennies.

Then, from amounts paid in the presence, or with the testimony of chapters or convents, the chapter or convent has no right to take a tenth or ninth unless when such an amount is deposited in their sacristy or safekeeping because of a disagreement between the parties; from those payments they can rightfully receive a tenth and ninth at the expense of that party which caused that the amount had to be deposited in this way.

The men of the chapters and convents taken as witnesses should receive for every day which they spend on the business of authentication, 12 larger pennies, whether they ride their own horses or are taken and led on the horses of the parties; thus, they and their horses and servants are to be taken from and led home on the victuals and expenses of those in whose case they were summoned.

76¹³⁷ Besides, because the issuance of letters and their redemption frequently occur in course of normal trials in our royal court by the judges ordinary and their aforementioned notaries, in order to prevent occasions in which argument can arise between the notary and the litigants, we regarded it advisable to declare the old custom of the redemption of these letters in the following way,¹³⁸ namely, that for letters of prorogation, 12 pennies must be paid to the notary of the court of judgment;

“The false witness” (1852); see Márta Belényesy, “Le serment sur la terre au moyen age et ses traditions posterieures en Hongrie,” *Acta Ethnographica Academiae Scientiarum Hungaricae* 4 (1955) 361–394.

¹³⁷ This list of payments is borrowed from **8 March 1435:11** and was referred to several times later as well.

¹³⁸ These fees reflect old received practice of the courts; they were summarily regulated earlier in a charter of Sigismund of 21 July 1417 (F. Döry *et al.* *DRH*, pp. 235–7).

for a letter of judgment or fine, also 12 pennies; for
an ordinary letter of inquest, also 12 pennies; for a
second letter of summons, 24 pennies;
for a third letter of summons, 100 pennies; for
a letter of final summons, 100 pennies;
for a letter on oaths taken, if the oath is granted to be sworn with two to five oath-helpers, 24
pennies;
from him who swears with twelve, twenty-five, or fifty oath-helpers, including himself, 100
pennies;
for a common inquest, 100 pennies;
for a letter on judicial combat, 200 pennies;
for a letter on capital oath, 200 pennies;
for the first presentation of legal instruments, 24 pennies;
for second or third presentations of legal instruments under specific penalty, similarly 24 pennies;
for letters of prorogation on summons to respond at 3 marks fine, 24 pennies;
for letters patent of advocacy, 24 pennies;
for a common letter of record, 24 pennies;
for other common letters, such as those of protest and similar ones, 24 pennies;
for a letter of protest face-to-face, 100 pennies;
for a letter of sentence in cases of act of might, to the keeper of the seal, 10 florins with 100 pennies
each, and to the scribe, 200 pennies; for a letter of institution into estates and simple inspection of
boundaries, 24 pennies;
for a letter of sentence on the recovery of an estate or other things, the fee should be decided by
agreement between the litigants and the protonotaries according to the size of the recovered estate
or chattels..

77 No institution of properties, inspection and revision of boundaries is to be conducted
otherwise than with the legal invitation of the neighbors and abutters of such an estate. And in order
better to avoid fraud and deceit in such cases, the names of the individual neighbors and abutters
who appear as principals during the said proceedings are to be written, one by one, into the letter
issued by the chapter or convent about them.

78 Finally, it was decided that the royal majesty must cause all the articles, clauses, chapters, and
points of the aforementioned orders to be kept inviolably by everyone. And he shall correct,

punish, and chastise violators in such a way that the gentlemen of the realm, issuing these orders with the unanimous and concurrent will, counsel and mature deliberation of all of us, can render suitable gratitude to his royal majesty.

We, the aforementioned King Matthias, together with the aforementioned lord prelates, barons, lords, and other elected nobles representing the entire realm, attending us during the present general diet, after mature deliberation, with the counsel, will, and approval of the said lord prelates, barons, lords, and the whole realm, sanction, establish, validate, verify, and confirm these articles or chapters to be kept and remain perpetually as decree, statute, law, and written right for the entire said realm regarding all their content; and we oblige all our royal successors and also the entire realm to observe them, so that no part of them be ever changed or altered at any time, neither at the election or coronation of kings nor at the diets, namely the general or partial assemblies of the gentlemen of the realm, but rather all clauses and points shall be kept firm and intact.

For the memory and perpetual force of this matter, we have ordered with the will and counsel of the lord prelates, barons, nobles, and the whole realm, that to these articles, having been collected and incorporated into the present document, be affixed our secret seal that we use as king of Hungary.

Given in Buda, by the hand of the reverend father in Christ, lord John, bishop of the church of Oradea, private chancellor of our royal court,¹³⁹ our beloved servant, in the year of the Lord one thousand four hundred and eighty-six, on the feast of the Conversion of St. Paul the Apostle, in the twenty-ninth year of our reign as king of Hungary, etc. and in the seventeenth year as king of Bohemia.

When the reverend fathers in Christ and lords Ladislás Geréb, confirmed bishop-elect of Alba Iulia in Transylvania, legate of the Apostolic see,¹⁴⁰ the see of Esztergom being vacant, Peter, archbishop of Kalocsa,¹⁴¹ the bishop cardinal Gabriel of Eger,¹⁴² the said John of Oradea,¹⁴³ Oswald of Zagreb,¹⁴⁴ Sigismund of Pécs,¹⁴⁵ Urban, confirmed bishop-elect of Győr, our chief

¹³⁹ Vitéz (of Sredna), John (d. 1472) bishop of Oradea 1445-65, archbishop of Esztergom 1465-72, secret chancellor 1453-64, high chancellor 1464-71.

¹⁴⁰ Vingárti Geréb, Ladislás, bishop of Transylvania 1475–1501.

¹⁴¹ Váradi, Peter (d. 1501) archbishop of Kalocsa 1480-1501, secret chancellor 1479-84.

¹⁴² Rangoni, Gabriel (b. 1420, d. 1486) bishop of Transylvania 1472-75, of Eger 1475-86, chancellor 1472-86, cardinal 1477.

¹⁴³ Filipec, John (b. 1431, d. 1509) bishop of Oradea 1476-90, secret chancellor.

¹⁴⁴ Laki Túz, Oswald, bishop of Zagreb 1466–99.

¹⁴⁵ Ernuszt (of Csáktornya), Sigismund (d. 1504) bishop of Pécs 1477-1504, chief treasurer.

treasurer,¹⁴⁶ Albert of Veszprem,¹⁴⁷ John of Cenad,¹⁴⁸ Nicholas of Vác,¹⁴⁹ friar Gregory of Nitra,¹⁵⁰ John of Srem¹⁵¹ and Matthias bishop-elect of Bosnia¹⁵² were felicitously governing the churches of God. And when the honorable and respected Imre of Zapolya, perpetual *ispán* of Szepes and palatine of our said kingdom of Hungary,¹⁵³ count Stephen Bátori, our judge royal and voivode of Transylvania,¹⁵⁴ Matthias Geréb, ban of Dalmatia, Croatia and Slavonia,¹⁵⁵ Lawrence, duke of Újlak, ban of Mačva,¹⁵⁶ Andrew Szakolyi¹⁵⁷ and Francis Haraszi¹⁵⁸ bans of Severin, Ladislas Paksi, Master of the Royal Treasury,¹⁵⁹ William, count of Zagorje, Master of the Table,¹⁶⁰ George Thuróci, Master of the Cupbearers,¹⁶¹ Ladislas Ország of Gút, Master of the Royal Horse,¹⁶² Paul Kinizsi, *ispán* of Temes,¹⁶³ Nicholas Bánfi of Lendva, *ispán* of Pozsony,¹⁶⁴ and many others held comital and other offices of our realm.¹⁶⁵

¹⁴⁶ Nagylucsei, Urban (d. 1491) bishop of Győr 1481-86, of Eger 1486-91, lord chief treasurer 1479-90.

¹⁴⁷ Vetési, Albert (d. 1486) bishop of Nitra 1457-58, of Veszprém 1459-86.

¹⁴⁸ Szokoli (or Szakolyi), John (fl. 1459-93) bishop of Cenad 1466-93.

¹⁴⁹ Bátori, Nicholas (d. 1506) bishop of Srem 1468-74, of Vác 1474-1506.

¹⁵⁰ Gregory, friar, bishop of Nitra 1486-91.

¹⁵¹ Vitéz, John, junior (d. 1499) bishop of Srem 1483-89, of Veszprém 1490-99.

¹⁵² Várdai, Matthias (fl. 1460-88) bishop of Bosnia 1486-88.

¹⁵³ Zapolya (a. k. a. Zápolya, Szapolyai), Imre of (d. 1487) chief treasurer 1459-64, governor of Bosnia, ban of Dalmatia, Croatia and Slavonia 1464-65, *ispán* of Spiš 1465, count palatine 1486-87.

¹⁵⁴ Bátori, Stephen, judge royal 1471–1493, voivode of Transylvania and *ispán* of the Székely 1479–1493.

¹⁵⁵ Geréb (of Vingárd), Matthias (fl. 1461-92) ban of Dalmatia, Croatia and Slavonia 1483-89.

¹⁵⁶ Újlaki, Lawrence, duke (d. 1524) son of King Nicholas, ban of Mačva 1477-92, judge royal 1518–24.

¹⁵⁷ Szokoli (or Szakolyi), Andrew (fl. 1480-91) ban of Severin 1486-90

¹⁵⁸ Haraszi, Francis (d. 1522) ban of Severin 1480-90.

¹⁵⁹ Paksi, Ladislas (fl. 1476-87) master of the treasury 1482-87.

¹⁶⁰ Zagorje, William count of (fl. 1463-96) master of the stewards 1482-89

¹⁶¹ Thuróci, George, master of the cellarers 1488–92.

¹⁶² Gúti Ország, Ladislas master of the horse 1484–1492.

¹⁶³ Kinizsi, Paul, *ispán* of Temes and captain general of the lower parts of the kingdom, 1478–1494.

¹⁶⁴ Bánfi (of Alsólendva), Nicholas (d. 1500) *ispán* of Pozsony Co. 1466-87, master of the doorkeepers 1490-1500.

¹⁶⁵ Such lists of spiritual and secular officeholders have been attached to most of the privilegial charters ever since the mid-thirteenth century.

JAGELLONIAN HUNGARY (1490–1526)

LAW OF KING WLADISLAS II OF HUNGARY (1490-1516)

OF 1492 (2 FEBRUARY ?)

Even though on 15 July 1490, the diet elected Wladislas (II) Jagello and on July 31 he accepted the election conditions at Farkashida (Vlčkovce in Slovakia, earlier Farkašin; German: Farkaschin, Wolfsbruck)—see: András Kubinyi, “Die Wahlkapitulationen Wladislaws II. in Ungarn (1490),” in: Rudolf Vierhaus (ed.), *Herrschaftsverträge, Wahlkapitulationen, Fundamentalgesetze*, pp. 140–62 (Göttingen: Vandenhoeck u. Ruprecht, 1977), text in Henrik Marczali, *A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungarorum* (Budapest.: Athenaeum, 1901), pp. 307-11; repr. in János M. Bak, *Königtum und Stände in Ungarn im 14.-15. Jh.* (Wiesbaden: Steiner, 1973), pp. 152-4—and on 18 September of the same year was crowned in Székesfehérvár, no coronation decree is known. Although the issue of such a *decretum* has been argued on the basis of charter references by Tibor Neumann, “II. Ulászló koronázása és első rendeletei; egy ismeretlen országgyűlésről és koronázási dekrétumról” [The coronation and first ordinances of Wladislas II: on an unknown diet and coronation decree], *Századok* 142 (2008) 317--37), no original or copy survived, thus the decree of 1492 remains the first known piece of legislation of the king.

A diet opened in Buda on February 2 1492 after the king’s return from an important peace treaty with the Habsburgs. and ended before 27 March. The decree with 108 articles and—a unique case—eleven special articles for Slavonia is referred to as “*Decretum maius*,” even though it is less systematic collection of decision than the ones of Sigismund and Matthias so called, but contains a great number of their decretal, mostly in verbatim repetition. At the end some articles are clearly in response to single complaints of the estates.

This *decretum*, as several others of the Jagellonian decades, contains so many repetitions of earlier legislation, that we have not reprinted them here. Moreover, we omitted not only those that are verbatim identical of earlier legal texts (marked as =) but also those that are repeated with minor, stylistic, changes (marked as ≈). For the omitted articles, we added, for information’s sake, the rubrics of the *Corpus Iuris*, even though they are later additions.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MSS: A copy on parchment in book form with seal pendant in the Hungarian National Archives, MNL OL DL. 39325.

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., vol. 1 Budapest: Franklin, 1896. Pp. 472–562.

LIT: Tibor Neumann, “II. Ulászló koronázása”(as above); Idem, “Békekötés Pozsonyban, országgyűlés Budán ... “[Peace treaty in Pressburg – diet in Buda: a chapter of Jagiello-

Habsburg relations 1490-92] *Századok* 145 (2011) pp. 309-15; András Kubinyi, Historische Skizze Ungarns in der Jagellonenzeit, in: Idem, *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer 1998) pp. 323-66.



**St. Ladislas presents Wladislas II and his children (Anna and Louis) to the Virgin Mary (1511-12)
Museum of Fine Arts, Budapest**

DECRETUM PRIMUM WLADISLAI II. REGIS DE ANNO 1492

Commissio propria domini regis.

Nos Wladislaus, dei gratia Hungarie, Bohemie, Dalmacie, Croacie, Rame, Servie, Gallicie, Lodomerie, Comanie Bulgarieque rex, necnon Slesie et Lucemburgensis dux, marchioque Moravie et Lusacie etc. significamus tenore presencium, quibus expedit, universis: Quod cum post obitum serenissimi principis condam domini Mathie regis, predecessoris nostri bone memorie, atque exinde post vocacionem et assumptionem nostram ad regimen huius regni Hungarie superna dispositione factam multas et gravissimas hostilitates, que cervicibus huius regni incubuerant, maximas eciam domesticas simultates et interna dissidia, que omnia iam hoc regnum in ultimum periculum trahere et precipitare videbantur, divino auxilioⁱ consilio dominorum prelatorum et baronum eiusdem regni nostri conplanassemus, et facta atque inita pace et concordia sub certis condicionibus primum cum serenissimo principe domino Maximiliano, Romanorum rege etc., qui preter ceteros periculo huius regni iminebat, aliis demum hostibus forensibus fuis fugatisque, domesticis vero et intestinis bellis differentiisque et dissensionibus sedatis, omnia in pacem concordiamque reduxissemus, placuit tandem eisdem dominis prelati et baronibus regni, ut pro habendis tractatibus pro eorum ceterorumque regnicolarum futura quiete necessariis ad festum Purificacionis beatissime Marie virginis proxime preteritum unam dietam seu convencionem generalem ad hanc civitatem nostram Budensem universitati regnicolarum nostrorum indiceremus. Cum itaque convenissent et plurima pro felici statu eiusdem regni tractassent et ordinassent, inter alios tractatus aliasque dispositiones nonnullos tandem nobis articulos de antiquis legibus, decretis et consuetudinibus eiusdem regni excerptos et communi omnium consilio et deliberacione relectos et de novo eciam pro temporis conditione et rerum statu conceptos obtulerunt, supplicantes humiliter, ut articulos huiusmodi ratos, gratos et acceptos habere atque pro eisdem et ceterorum regnicolarum consolacione totiusque regni quiete regia nostra auctoritate approbare, autorizare et confirmare dignaremur. Quorum quidem articulorum series sequitur in hunc modum:

I. Inprimis quod regia maiestas regnum Hungarie cum ceteris regnis, scilicet Dalmacie, Croacie, Slavonie et partibus Transsilvanis ac provinciis sibi subiectis dominosque prelatos et barones, omnes ecclesias ecclesiasticasque personas ac nobiles et civitates, necnon ceteros incolas et inhabitatores eorundem regnorum et parcium Transsilvanarum conservabit in antiquis iuribus, privilegiis, immunitatibus et consuetudinibus approbatis, in quibus scilicet per divos condam reges conservati quibusque gavis et usi fuerunt, ita quod nullas prorsus novitates, quemadmodum quondam dominus Mathias rex, in eorundem detrimentum et oppressionem et contra huiuscemodi antiquas libertates ipsorum sub aliquo quesito colore introducat, introductas vero per eundem condam serenissimum dominum Mathiam regem aboleat. Contribucionem autem seu taxam unius

ⁱ *auxilio* desideratur

floreni nulla ratione exigit, sed antiquis iustis, ordinariis et consuetis proventibus regalibus sit contenta

II. Item quod bona et alia quecumque iura aliorum per condam dominum Mathiam regem felicis recordacionis et reginalem maiestatem ac eciam per alios quoscumque male et preter viam iuris usque ad hec tempora quomodocumque ocupata visis et examinatis iuribus talium remittat et faciat eciam per alios remitti hiis, quorum exstiterunt.

III. Item quod coronam regni a manibus dominorum prelatorum et baronum nulla causa vel quesito colore, nulla eciam industria vel arte auferat, sed permittat et paciatur, quod iuxta veterem consuetudinem ac libertatem ipsorum certi de medio eorum per ipsos unanimiter ad hoc eligendi et deputandi illam teneant et conservent, quodque castrum Wysegradiense pro conservacione ipsius corone ab antiquo deputatum ad manus ipsorum conservatorum eiusdem corone dari et assignari faciet.

IV. Item quod Moraviam necnon Slesiam et Lusaciam utramque a corona et regno Hungarie non alienabit, sed infra tempus redempcionis iuxta inscripciones et obligaciones alias in dieta Olomucensi factas ad ipsam coronam Hungarie semper tenebit. Et si forte maiestatem suam absque herede legitimo decedere contingeret, ita providebit in vita, quod eciam post obitum suum ab eadem corona et regno infra tempus redempcionis sub aliquo colore vel via non alienabuntur. Et insuper elaborabit et efficiet, quod sex civitates iuxta pacta et disposicionem in predicta dieta factam, instar illarum aliarum provinciarum, se eidem regno et corone Hungarie inscribent et obligabunt, et superinde literas eorum dabunt et emanari facient, illasque maiestas sua ad domum thavernicalem corone Hungarie reponi et assignari faciet. Si vero successu temporum prefata dominia a corona et regno Hungarie, per illos, quibus iuxta inscripciones et obligaciones superinde factas competit, redimerentur, extunc illa totalis sumpma pecunie ad manus conservatorum corone ad Wysegrad penes coronam pro regni necessitate conservanda assignetur, tandemque ad defensionem et utilitatem regni iuxta voluntatem et consilium dominorum prelatorum et baronum exponatur et convertatur. Et de ipsa pecunia preter voluntatem et consilium ac liberum et expressum consensum eorundem dominorum prelatorum et baronum nulla ratione disponatur quitpiam vel agatur.

V. Item quod maiestas sua pro maiori parte in Hungaria maneat, ut comodius faciliusque regni necessitatibus consulere et providere possit.

VI. Item quod dum in Hungaria manebit, consiliarios, cancellarios, thesaurarium, cubicularios, dapiferum, pincernam, comites camerarios et generaliter omnes officiales maiores vel minores Hungaros teneat et habeat, prout eciam tempore condam serenissimi domini Ladislai regis felicis memorie consuetum et observatum exstitit.

VII. Item quod quando de rebus et negociis regni Hungarie aut parcium sibi subiectarum agetur, non cum aliis, preterquam cum Hungaris consiliariis tractet et consultet, et alios forenses aliasque naciones ad talem consultacionem non admittat.

VIII. Item quod wayvodatum Transsilvanensem et comitatum Siculorum ac Themesiensem, preterea banatum Sclavonie, Dalmacie et Croacie, necnon Zewreniensem, Nandoralbensem et de Jaycza aliaque loca et castra finitima, necnon civitates regales non aliis, preterquam Hungaris pro officiolatu regia maiestas dare et conferre valeat, bene tamen meritis.

IX. Item quod possessiones et iura possessionaria non forensibus, sed bene meritis, incolis tamen regni et corone Hungarie subiectis iuxta eorum merita et obsequia conferantur. Regia autem maiestas habeat liberam facultatem conferendi usque ad centum jobagiones proprio motu, quibuscumque voluerit; ultra autem centum conferat cum consilio prelatorum et baronum suorum, prout continetur in literis iuramentalibus sue maiestatis.

X. Item quod in celebracionibus octavarum iudices regni Hungarie ordinarii personaliter intersint, nisi ex causa legitima et arduis negociis regni prepediti fuerint vel alter illorum fuerit Ipsi autem vel eorum vices gerentes ac coassessores liberam, plenam et omnimodam habeant facultatem omnibus causantibus, maioribus et minoribus, cuiuscumque status et condicionis seu dignitatis existant, absque omni timore veram et sinceram iuxta regni antiquam et approbatam consuetudinem iusticiam aministrandi. Et quod regia maiestas vel domini prelati et barones neminem iudicum compellant vel astringant in favorem alicuius consuetudines et communem observanciam ac iuris ordinem immutare seu perturbare.

XI. Item quod ad simplicem querelam vel sinistram suggestionem regia maiestas neminem regnicolarum suorum, cuiuscumque status seu condicionis, existat, in personis, possessionibus seu quibuscumque rebus aliquo modo preter viam iuris et parte non audita impediatur.

XII. Item quod regia maiestas neque motu proprio, neque ad quorumcumque delacionem contra quempiam regnicolarum, cuiuscumque status seu dignitatis, aliquam occasionem nocendi sive in personis, sive in rebus concipiat et exquirat.

XIII. Item quod regia maiestas neminem regnicolarum sine prelatorum et baronum consilio nota seu crimine infidelitatis dampnare valeat.

XIV. Item quod universa castra, castella, opida, ville seu possessiones et piscine ac queque iura possessionaria per quoscumque post obitum condam serenissimi domini Mathie regis a sese qualitercumque occupata infra festum Ascensionis domini proxime venturum sub nota perpetue infidelitatis eisdem, a quorum manibus occupata sunt, per eosdem occupatores remittantur. Ubi vero ipsi occupatores contrarium facere ausu temerario presumpserint, extunc ipsi occupatores violenti per regium aut palatinalem, vel iudicis curie regie ac capituli et conventus homines illi comitatu deservientes, in quo huiusmodi iura possessionaria, puta castra, castella, opida, ville, necnon piscine seu queque iura possessionaria alia occupata haberentur personaliter amoniti, aut si personaliter reperiri nequeunt, de domo habitacionis ipsorum, in qua personalem facerent residenciam, amoniti remittere teneantur. Si autem casu in eodem contrarium facere attemptaverint, ad tricesimum secundum diem diei evocacionis exhinc fiende evocentur, et regia maiestas aut alii iudices ordinarii, quorum vel cuius auctoritate iidem occupatores amoniti et evocati fuerintⁱⁱ literas suas sentencionales contra tales, tamquam iudicialiter condemnatos dare et emanari, ac eas execucioni demandari facere, et nihilominus bona illa taliter occupata vigore eiusdem late sentencie a manibus illorum reoccupari et illis, quorum fuerunt, reddi; reliqua vero omnia bona talis violenti occupatoris, tamquam infidelis eadem regia maiestas liberam, cuicumque voluerit, conferendi habeat facultatem. Prius tamen maiestas sua de huiusmodi dampnis ex bonis et possessionibus occupatoris leso plenam impendere faciat satisfaccionem.

ⁱⁱ *teneantur* desideratur

XV. Item quod omnia castella seu fortalicia per quoscumque intra ambitum huius regni Hungarie et aliorum regnorum eidem subiectorum post obitum et mortem eiusdem domini Mathie regis, hoc tempore scilicet et ratione guerrarum erecta et ordinata, per hos, qui ea fecerunt et construxerunt, infra tempus prefixum sub premissa nota infidelitatis aboleantur et distrahantur, demptis dumtaxat illis, que pro defensione fidelium contra Thurcos et ceteros inimicos regni in confiniis regni erecta sunt et constructa. Quodsi quipiam ex eis ea distrahere nollent, extunc bona illa et possessiones, ubi dicta fortalicia erecta sunt, modo simili regia maiestas libere conferre valeat, quibuscumque voluerit, tamquam infidelium.

XVI. Item quia plures sunt in regno, qui post mortem condam domini Mathie regis temeritate propria aliis, in domibus eorum quiete morantibus, plurima dampna, nocumenta et iniurias irrogare et inferre presumpserunt, propterea statutum est, quod huiusmodi dampna, nocumenta et iniurias, sive in personis, sive in bonis et rebus quomodocumque passi in occasione talium dampnorum, nocumentorum et iniuriarum eos, qui irrogarunt, iudicio convenire et ab eisdem sua dampna, nocumenta et iniurias iure mediante reaquirere libere possint et valeant. Ita, quod postquam tales evocati fuerint, in primis octavis ex parte eorum absque qualibet dilacione iudicium aministretur.

XVII. Item quod regia dignitas pro tuicione regni et confiniorum ipsius conservacione hominibus suis, tam officiolatus eiusdem tenentibus, quam et aliis exercituantibus de stipendio regali dispositiones faciat, sicque regnicolas ipsi stipendiati exercituanes seu officiales confinia tenentes non predentur. Ubi autem ipsi exercituanes seu officiales ac stipendiarii regnicolas depredati fuerint, tunc tales pronuncientur instar aliorum patratorum actuum potenciariorum, ex parte quorum per iudices ordinarios regni iudicium et iusticia aministretur modo et ordine in articulo sexto immediate sequenti denotatis.

XVIII. Item quod exercitus generalis dominis prelati, baronibus, necnon regnicolis aliisque possessionatis cuiuscumque condicionis hominibus tamdiu, donec officiales et stipendiati regales exercituanes adversariis resistere poterunt, non proclametur. Dum vero necessitate urgente exercitum generalem proclamari contigerit, tunc iidem domini prelati et barones banderiatu regnique nobiles ultra metas et confinia regni ex quacumque parte eiusdem regni inviti more exercituancium non ducantur antiqua eorum libertate requirente, demptis illis, qui stipendia regalia levarent.

XIX. Item quod difficultatibus, que in modo exercituandi sepius evenire possent, via precludatur, declaratum est et statutum, quod quandocumque maiestas regia extra hoc regnum suum pro suo proprio comodo vel utilitate privata exercituare voluerit, tunc domini prelati et barones ac nobiles regni, ceterique possessionati homines inviti cum sua maiestate ire non teneantur, neque ipsorum homines mittere, et nec debeant quovis modo ad hoc compelli, nisi si officiales regie maiestatis fuerint, aut stipendium a maiestate sua ad huiusmodi exercitum levaverint. Quando autem contigerit, quod hostes aut inimici qualiscumque nacionis bello aut exercitu regnum hoc vel eius confinia hostiliter invaserint, interim, quosque officiales et stipendiarii regales huiusmodi hostibus et inimicis resistere sufficiunt, maiestas regia exercitum generalem indicere et promulgari facere non debeat. Verum si tanta fuerit hostium potencia, quod viribus dictorum officialium et

stipendiariorum regalium illis resistere non sufficiens sit,ⁱⁱⁱ maiestas regia exercitum generalem necessario indicare et promulgari facere habebit. Si regia maiestas aut palatinus, vel generalis capitaneus regni pro tempore constitutus ad huiusmodi generalem exercitum personaliter proficiscetur, tunc etiam domini prelati et barones banderia habentes levatis banderiis eorum, ceteri vero barones et nobiles modo inferius declarato et ordinato ire teneantur usque ad metas et terminos regni et non extra, antiqua ipsorum libertate requirente, demptis, ut premissum est, officialibus et stipendiariis regalibus supradictis.

XX. Item quod in huiusmodi exercituali expeditione materia cuiuslibet contencionis et coaccionis excludatur, statutum est et ordinatum, quod sub unoquoque banderio integro quadringenti, sub medio vero ducenti homines exercituantes, pro una medietate armigeri, pro alia autem levis armature vulgo hwzarones nuncupati esse debeant Ceteri vero barones banderia non habentes iuxta honoris et facultatum ipsorum exigenciam ac numerum jobagionum ipsorum exercituare debebunt. Nobiles siquidem et ceteri possessionati homines minoris status de singulis viginti portis seu sessionibus jobagonalibus integris unum equitem decentem, nobiles autem unius sessionis, utputa jobagiones non habentes, de singulis decem domibus seu curiis similiter unum equitem exercituantem, adminus lanceam, clipeum ac arcum manualementem, et si fieri poterit, loricam etiam habentem mittere tenebuntur.

XXI. Item sunt etiam domini duces in hoc regno, videlicet illustrissimi domini Johannes Corvinus et Laurencius de Wylak, sunt preterea comites perpetui et liberi, utputa spectabiles et magnifici domini Stephanus de Zapolya terre Scepusiensis, necnon Johannes et Sigismundus de Bozyn et de Sancto Georgio cum fratribus eorum, ac comites de Frangapanibus et de Korbavia, qui instar baronum banderia habentium secundum exigenciam facultatum et numerum jobagionum ipsorum exercituare tenebuntur.

XXII. Domini si damna intulerunt; quomodo de his satisfactio impendatur?

Add Si autem huiusmodi dampna inferentes homines regni extranei vel forenses fuerint, ex parte talium regia maiestas plenam satisfaccionem impendere teneatur, servatis condicionibus prenotatis. Si qui autem voluerint eorum causam ratione huiusmodi damnorum in curia regia prosequi, valeant atque possint instar aliorum actuum potenciariorum. Ubi autem dampnificati falsum prestitisse in eo casu reperti fuerint iuramentum, tamquam falsarii, periuri^{iv} et calumpniatores puniantur.

XXIII. Nullæ gentes, post finitum bellum, in aliorum bona condescendant.

XXIV. De damnis, per castellanos, seu officiales arcium patris.

XXV. Item quod mete inter Hungariam et Austriam ab antiquo tempore habite per condamque Mathiam regem de novo rectificate et recuperate in eodem statu per maiestatem regiam

ⁱⁱⁱ *sit* deest

^{iv} *Mendose: periurii*

relinquantur et teneantur. Et quod de metis inter Hungariam et Moraviam, necnon Poloniam similiter rectificandis maiestas regia decernat, quid pro utilitate regnorum melius sit faciendum.

XXVI. Item quod lucrum camere in regno Hungarie, quinquagesimam in partibus Transsilvanis ac mardurinas in regno Sclavonie exigi consuetas maiestas regia more^v ab antiquo consueto, temporibus videlicet condam dominorum Sigismundi et Alberti regum, exigi faciat. Ubicunque autem idem lucrum camere tempore debito solutum non fuerit, comes parochialis cum iudice nobilium de qualibet villa non persolvente, post emanacionem literarum birsagialium per iudices nobilium contra tales dari solitarum exigi debeat lucrum camere cum birsagio trium marcarum sine omni exempcione.

XXVII. Item quod tricesime exigantur regie maiestati iuxta antiquam consuetudinem, sicuti temporibus dominorum Lodovici, Sigismundi et Alberti regum, in locis alias consuetis. De minutis autem rebus infra valorem unius floreni tricesimatores nullam tricesimam exigere presumpmant. Illas vero tricesimas, que domino Stephano de Zapolya, comiti perpetuo terre Scepusiensis et regni Hungarie palatino ac aliis dominis sunt impignorate, usque tempus redempcionis earum exigi facere habeant et debeant modo antedicto in locis consuetis.

XXVIII. Item quod in possessionibus et locis ecclesiarum et nobilium, seu quarumcumque ecclesiasticarum vel secularium personarum violentas exactiones victualium, procuraciones hospitalitatum et quaslibet alias aggravaciones preter voluntatem invitancium maiestas regia non faciat^{vi} nec per alios fieri permittat. Sed neque in domibus et in locis prelatorum et baronum ac aliarum quarumcumque secularium et ecclesiasticarum personarum pro tractatibus habendis et aliis quibuscumque negociis disponendis, ipsis invitatis, morabitur, aut eos expensis, victualibus, curruum et sarcinarum vecturis, nunciorum et familiarium ac quorumcumque ad suam maiestatem pertinencium procuracionibus ultra eorum spontaneam voluntatem in aliquo gravabit, sicut abusive et contra eorum voluntatem tempore prefati condam domini Mathie regis erat inchoatum.

XXIX. Item quod amodo et deinceps nemo archidiaconorum, vicearchidiaconorum et plebanorum, eorumque vices gerencium sub pena amissionis beneficiorum marcam illam argenti vel quatuor aureos ultra omnia funeralia alias de funere interfectorum abusive recipere consueta^{vii} exigere presumpmat, prout hoc tempore dominorum Caroli, Lodovici, Sigismundi et Alberti regum per bullas apostolicas ad instantem petitionem eorundem regum cassatum et extinctum fuisse manifeste dinoscitur. Ab interfectoibus autem liberam habeant exigendi facultatem.

XXX. Item conclusum est, quod ubicunque ac in quorumcumque, tam dominorum prelatorum et baronum, quam eciam nobelium^{viii} seu aliorum possessionatorum, cuiuscumque condicionis existant, hominum terris territoriisque et metis, alique minere auri vel argenti, cupri, ferri aut quevis metalla et fodine reperirentur, demptis fodinis salium, que solius regie maiestatis dominio et usui reservate essent, hii et horum heredes, in quorum possessionum terris invenirentur, fodinas

^v *more desst*

^{vi} *mendose: faciet*

^{vii} *mendose: consuetos*

^{viii} *mendose: add.: possessionum*

et montana huiusmodi fodere colereque et successivis semper temporibus laborari facere, ac usus et fructus eorum percipere valeant atque possint. Ita tamen, ut iura regalia seu urbure iuri regio pertinentes exhincque provenientes, consuetudine aliarum fodinarum requirente, regie maiestati fideliter administrentur. Quodque forent plerique ex dominis prelati, baronibus et pocioribus nobilibus huius regni, qui ex divorum predecessorum regum Hungarie donacione et annuencia in terris eorum propriis fodinas auri, argenti, cupri, ferri ac aliorum metallorum diversorum, exceptis fodinis, ut premissum est, salium, colerent et laborari facerent, illi secundum indulta donacionesque et annuenciam prescriptorum regum contentaque privilegiorum suorum libere et absque omni impedimento colere atque laborari facere, ac earum proventus capere valeant atque possint.

XXXI. Item monete seu pecunie extranee in regnum non inducantur et nec acceptentur. Contrarium autem facientes pena alias consueta mulctentur, demptis in confinibus regnorum commorantibus.

XXXII. Item quia nonnulli sunt^{ix} in hoc regno negociatores et alii varie nacionis homines, qui facultates regni ultra modum exhauriunt, thesaurum ipsius regni, aurum scilicet et argentum de eodem regno exportando et ipsum regnum eisdem destituendo, ut igitur publice utilitati et communi bono dicti regni consulatur, statutum est communi omnium dominorum prelatorum, baronum et regnicolarum consilio et deliberacione, ut nullus omnino hominum, cuiuscunque status, nacionis vel condicionis existat, aurum vel argentum conflatum et non redactum in monetam auream vel argenteam tantummodo, quacunque ex causa de regno exportare possit seu audeat. Si qui autem contra huiusmodi statutum venire vel facere presumpserint, quicunque tales, ut prefertur, aurum et argentum exportantes invenerit, extunc ipsi invenientes plenam et omnimodam ab eisdem exportantibus huiusmodi aurum et argentum ac alias res eiusdem cum detencione eciam persone proprie habeant vigore presentis statuti sive decreti auferendi et recipiendi facultatem.

XXXIII. Item, quia palatinus regni Hungarie antiqua regni consuetudine requirente ex parte regnicolarum regie serenitati, et e converso e parte ipsius regie maiestatis regnicolis iudicium et iusticiam facere habet et tenetur, regia maiestas ipsum palatinum ex consilio prelatorum et baronum et regni nobilium pari voluntate eligat. Et ut omnis suspicio, que contra ipsum palatinum et alios iudices et iusticiarios ipsius regni de favore vel odio aut quomodocunque concipi possit, de cordibus quorumlibet penitus removeatur et tollatur, semper successivis temporibus omnes et singuli iudices et iusticiarii istius regni, tam ecclesiastici quam seculares, qui videlicet in palatinum, iudicem curie regie, magistrum thavernicorum regialium, cancellarium vel vicecancellarium regalem, in prothonotarios vel vices gerentes iudicum pretactorum, ac eciam assessores eorundem in iudicio, in wayvodam Transsilvanarum, comitem Siculorum, banum regnorum Dalmacie, Croacie, banum Sclavonie, banum Machoviensem ac comites quorumlibet comitatuum et iudices nobilium eligentur et assummentur, eorundemque in iudicatu vices gerentes, substituti et assessores, tempore recepcionis eorundem ad huiusmodi honores et officia administracionis iudicii et iusticie, in manibus regiis vel deputatorum ab ipsa maiestate regia

^{ix} CJH: *adsunt*

iuramentum prestare teneantur per formam infrascriptorum. Forma vero iuramenti sequitur in hec verba:

Ego T. iuro per deum vivum et gloriosam dei genitricem virginem Mariam, et per omnes sanctos et electos dei, quod omnibus coram me causantibus et in omni negotio, quod ad officium meum pertinebit, absque cuiusvis persone, divitis scilicet et pauperis acceptione, prece, premio, favore, timore, odio, amore et complacencia remotis et postpositis, prout secundum deum et eius iusticiam faciendum cognovero, iustum et verum iudicium et iusticiam, atque executionem in omnibus rebus pro meo posse faciam. Sic me deus adiuvet et omnes sancti.

Hoc declarato, quod palatinus, postquam eligitur, coram regnicolis iuramentum in forma prescripta manifeste prestare teneatur.

XXXIV. De iudiciibus nobilium, in singulis comitatibus eligendis.

XXXV. Abolitio iudicii generalis palatinatus.

Add.:... Casu autem, quo aliqui pociores de eodem comitatu hoc habere et petere nollent, communitas nobilium ipsius comitatus liberam a regia maiestate petendi habeat facultatem.

XXXVI. Abolitio proclamatarum congregacionum.

XXXVII. Duellorum abolitio.

XXXVIII. Trineforenses proclamaciones tollantur.

XXXIX. Item minuti conventus, et presertim conventus ecclesie de Zenth Jog deinceps ab emanacione literarum cessent et omni careant firmitate.

XL. Octavae duae singulis annis celebrentur.

Add..... Litere vero iudiciales de conservatorio per magistros semper ad fortunam levari debeant.

XLI. Octavae duae in Transsilvania et Sclavonia celebrentur.

XLII. Iudices regni ordinarii et qui ad iudicium intrare possint.

XLIII. Personæ et iuramentum regii et capituli hominum.

XLIV. Item quia propter negligenciam prepositorum regularium et abbatum habencium sub se loca conventualia sigillis testimonialibus utencia plurimi errores et scandala quamplurima in emanacionibus literarum fieri contingunt, eo presertim, quod ipsi prepositi et abbates parum auctoritatis in monachos suos sub se degentes quantum ad conservacionem sigilli habere dinoscuntur, paciunturque non tot personas, quot merito nomine conventus uti possent, sed longe pauciores sub se degere, illi vero in dispendium regnicolarum sigillis eorum libere abutuntur; ob hoc, ut alias prava abusio deinceps cesset regnicolisque tucior cautela prebeat, conclusum et

ordinatum est, quod de cetero ipsi prepositi regulares et abbates sigilla testimonialia habentes teneantur et sint astricti decem vel octo personas religiosas, sacerdotes illius ordinis, vel adminus septem et non pauciores in eorum monasterio tenere et conservare, et una cum eisdem in emanacionibus literarum solertem diligenciam adhibere. Utque iidem prepositi et abbates liberius sua auctoritate frui possint, statutum est, quod amodo deinceps predicti monachi vel fratres cuiuscumque ordinis sigillis utentes sub potestate et auctoritate ipsorum prepositorum et abbatum suorum fore intelligantur, eosque iidem prepositi vel abbates iuxta eorum demerita castigandi habeant facultatem. Ita, ut si quid erroris in emanacionibus quarumcumque literarum fieri contingat, extunc prior et custos talis loci pro tali errore puniatur pena prenotata. Ut autem omnis suspicio de cordibus dubitancium evellatur, placuit, ut nomina ipsorum fratrum, videlicet prioris et custodis in fine quarumlibet literarum ante datarum earundem serius concribantur.

XLV. Item quia nonnulli clerici et alterius condicionis plerique homines, tam nobiles, quam et ignobiles in curiam Romanam, vel dum aliquis legatorum sumpmi pontificis in hoc regnum Hungarie missus introiret, incolas huius regni, presertim simpliciores, exquisitis quibusdam occasionibus, interdum eciam calumpniosis, in curiam Romanam vel presenciam ipsius legati citare et eos lite mediante, magis ac magis urgentes et vexantes ad solucionem alicuius sumpme compellere, sicque suam vitam criminose nonnumquam per phas et nephas alere et sustentare consueverunt, propterea, ut talium sceleratorum lucro gaudencium illicitus questus et via calumpniandi cesset in posterum, per barones, proceres et communitatem tocius regni huius ordinatum est et statutum, quod deinceps nullus omnino hominum quempiam ratione alicuius negocii in curiam Romanam aut presenciam cuiusvis legati citare presummat, nisi prius coram suo ordinario diocesano, archiepiscopo vel episcopo, aut eius vicario in causam convenire et cum eo iuridice procedere, tandemque dum aliqua parciam iusticiam sibi vel denegatam, aut alias se indebite aggravari^x et condempnari sentiret, causam huiusmodi in curiam Romanam aut presenciam ipsius legati per viam appellacionis et non aliter provocare deducereque et prosequi possit atque valeat. Contrarium autem facientes debita pena puniantur.

XLVI. Item quod preter factum testamenti, matrimonii, dotum et rerum paraffernalium ac iurium quartaliorum, periurii, verberacionis et spoliacionis clericorum et mulierum, et preter illas alias causas, que prophane non essent, in foro spirituali nulla causa tractetur et e converso. Casu autem, quo aliquis iudicum ecclesiasticorum causam non ad suum forum spectantem coram se reciperet et ad literas preceptorias in presenciam iudicis secularis competentis non transmitteret, extunc talis iudex ecclesiasticus beneficio sit privatus et regia maiestas beneficium sive officium illius alteri conferre possit ipso facto. Iudices autem ecclesiastici in hoc casu intelligantur vicarii vel officiales prelatorum. Si autem iudex secularis causam aliquam per iudicem ecclesiasticum in suam presenciam transmissam forum ecclesiasticum concernere agnoverit, rursus in presenciam ipsius iudicis ecclesiastici remittere debeat et teneatur.

XLVII. *Nona pars frugum et vinorum a colonis exigantur.*

XLVIII. *Ecclesiastici personae decimam et nonam in bonis suis exigant.*

XLIX. Et quod omnium et singulorum jobagiones, tam videlicet regales, quam et reginales seu dominorum prelatorum, baronum et nobilium, qui in terris aliorum dominorum vineas haberent vel ararent, modo simili nonam partem ipsorum vinorum et frugum, aut akones consuetos, cum muneribus solitis domino terrestri dare et persolvere teneantur. Ubi vero aliqui huiusmodi solucionem non facerent vel facere negligerent quovis modo, extunc hereditates ille, de quibus eandem solucionem facere tenerentur, eidem domino terrestri perpetuo remaneant ipso facto. Isto tamen declarato, quod si aliqui^x populorum regalium vel reginalium aut aliorum quorumcumque super huiusmodi nonis vel akonibus libertates allegantes habere conquerentur, inter tales et dominum terrestrem per iudices ordinarios regni in primis octavis iudicium et iusticia administratur.

L. *Nobiles decimas dare non teneantur.*

LI. Item solent nonnulli regnicole in eorum causis contra sese, potissimum in facto possessionario motis, servatis pertransitisque legitimorum terminorum et litium processibus, literarumque tandem ac aliorum cunctorum probabilium documentorum hincinde pro finali conclusione huiusmodi negocii produccionibus factis, in ultimo cause termino, dum eciam iudices ordinarii sedis iudiciarie regni magistrique prothonotarii et iurati eiusdem sedis assessores suam tulissent sententiam, earundemque parcium altera se in huiusmodi causa deficere et succumbere agnosceret, ac litere adiudicatorie exinde vel iam emanate et extradate extitissent, aut post latam et pronuncciatam sententiam extradari deberent, procuratores eorum revocare et causam condescendi facere velle aut novum iudicium impetrare, vigore cuius partem alteram ab execucione literarum adiudicatoriarum sepius prohiberent, ut sic eorum iustis iuribus privarentur. Propterea statutum est, ut amodo imposterum huiusmodi causantes nonnisi lite pendente et causa nondum decisa procuratores eorum revocare et causam condescendi facere possint. Novum autem iudicium impetrent semper, si voluerint. Verumtamen eius vigore partem alteram ab execucione late sentencie literarumque adiudicatoriarum superinde emanandarum extraccione vel extradacione iudices ordinarios vel eorum prothonotarios nequaquam valeant inhibere. Ymo et ipsa pars triumphans huiusmodi literas adiudicatorias, non obstantibus ipsis literis novi iudicii sic impetratis, debite execucioni demandari facere, pars denique ipsum novum iudicium impetrans, habita execucione dicte late sentencie, suam causam vigore ipsius novi iudicii, dum voluerit, execucioni demandare et idem prosequi possit.^{xi} Casu vero, quo altera parcium sive racione iurium possessionariorum, sive aliorum quorumcumque negociorum per non venienciam, eo quod fortasse certis suis negociis prepedita comparere nequiret, sentencionaliter quoquomodo convinceretur, extunc talis pars, sic per non venienciam convicta et novum iudicium impetrare, et tam iudices ordinarios ac prothonotarios eorundem ab extradacione literarum adiudicatoriarum sentencionalium, quam et partem adversam ab extraccione et execucione earundem literarum semper, dum voluerit et poterit, inhibere valeat atque possit.

LII. Item quod omnes cause, in quibus per regiam maiestatem nova iudicia impetrata fuerint, in primis octavis inter omnes alias causas leventur et iudicentur.

^x CJH: *maneant perpetuo*

^{xi} CJH om.

LIII. Ceterum licet in generali novo decreto ante obitum serenissimi principis dicti condam Mathie regis per ipsum dominum Mathiam regem ac universos dominos prelatos, barones et regni nobiles ordinatum fuerint, ut in singulis comitatibus regni ex nobilibus pocioribus certi iurati eligerentur, qui in sedibus iudiciariis talium omnium comitatum iudicia facere, necnon inquisitiones, amoniciones, statuciones, metarum reambulaciones et alias cunctas iudiciarias execuciones perficere et peragere deberent; tamen, quia hoc et id ipsis regnicolis admodum onerosum esse visum est, ex eo, quod ipsi ad easdem sedes iudiciarias dictorum comitatum in presenciam annotatorum iuratorum electorum pro habendo causancium iudicio singulis tredecim aut quindecim diebus accedere et iuri stare cogentur; pro eo eciam, quod cum ipsi huiusmodi iuratos electos ad aliquas execuciones faciendas adducerent, multis exhinc fatigiis et expensis plurimum gravarentur, propterea conclusum est, ut de cetero electio et officium talium iuratorum electorum nobilium cesset omnino et aboleatur, sed comes ac vicecomes et iudices nobilium comitatum regni in ipsis sedibus iudiciariis iudicia administrare, alias eciam execuciones sive iudiciarias commissiones, puta inquisitiones, evocaciones, statuciones, amoniciones, metarum reambulaciones et alios quoslibet iudiciarios processus homines regii cum testimoniis capitulorum aut conventuum iuxta modum et ritum, ante predictum novum ultimum decretum prefati condam domini Mathie regis in talibus observatum exequi perficereque et celebrare debeant et teneantur.

LIV. *Causæ iurium possessionarium in quatuor octavis terminentur.*

Add.: ... Ita videlicet, quod pars in causam attracta ad exhibenda iura sua, quibus se defendere voluerit, ultiores octavas eciam cum onere habere nullo modo valeat, sed in ipsis quatuor octavis omni ulteriori processu iuridico semoto sua privilegia exhibere teneatur.

LV. Item in causis racione illacionis dampnorum, ceterorum nocumentorum, iniuriarum ac actuum potenciarum minorum motis, eciamsi patratore ore suo proprio coram suo iudice confiteretur, nemo deinceps in facto potencie, sed solum in solucione huiusmodi dampnorum illatorum et expensis actoris eidem tantummodo persolvendis, insuper pro premissis actibus potenciarum in viginti quinque marcis gravis ponderis, centum florenos auri facientibus, inter iudicem et actorem equaliter dividendis convincatur, et per iudicem ad solucionem statim compellatur.

LVI. In causis vero maioribus, scilicet racione invasionis domorum nobilium sine iusta causa, occupacionis possessionum et pertinenciarum earundem, detencionis nobilium sine iusta causa, verberacionis et vulneracionis ac interempcionis nobilium motis, in hiis taliter iudex procedere habebit: Quodsi actor pro sui parte inquisitionem modo et ordine supranotato reportaverit, in ampliorem rei verificacionem, si partes voluerint, causam ipsam ad communem inquisitionem decernat. Si vero reus ipsam inquisitionem acceptare recusabit, extunc actor pro maiori verificacione accionis sue iuxta regni consuetudinem hactenus in hac parte observatam ad caput illius adversarii iurare habebit. Ita tamen: si adversarius ille sive in causam attractus in eodem comitatu, ubi mala sunt patrata, propriam personalemque et continuam facit residenciam, ubi autem talis in causam attractus in aliis partibus seu provinciis regni personaliter facit residenciam, ac in eius ausencia huiuscemodi mala patrata sunt et commissa, tunc iuxta contenta literarum inquisitoriarum propter suam innocenciam se iuramento expurgabit. Ex parte denique familiarium et suorum jobagionum vigore prefati articuli fiat iudicium et iusticia lege regni requirente.

LVII. *Repulsionum pœna.*

LVIII. *Evocationibus cum clausula “De consensu et voluntate...” locus non detur.*

Add.: ... demptis tamen, si tales persone, que huiusmodi patratores malorum et totam eorum familiam auxilio et consilio gubernarent et dirigere haberent ac tutarentur.

LIX. *Donatarius bona, in quibus contradictio facta est, pro se occupare non ausit.*

LX. *Bonorum impetrator suo nomine sibi collata bona occupet.*

LXI. *Donatarius nomine suo proprio trahat litem.*

LXII. Item si quippiam quorumcumque regnicolarum aliqua iura possessionaria nomine iuris regii pro se impetrarent et eadem ipsi iuri regio pertinere comprobare non valerent, in estimacione talium iurium possessionariorum impetratorum, si vero tales impetrantes ante finalem decisionem cause in facto huiusmodi iurium impetratorum mote se in dominium iurium impetratorum ac proventuum eorundem percepcione occupative seu alio quovis modo intromitterent, contra partem lesam seu litigantem et expensis fatigatam in facto potencie convincantur.

LXIII. *De donationibus regis per defectum seminis devolutibus.*

LXIV. Item dotes uxorum qualitercumque decedencium eciam iuridice interimendorum semper salve maneant et illese.

LXV. *De bonis pignoratis et pœna fœneratorum.*

LXVI. Item palatinus et iudex curie ac ceteri iudices ordinarii, ecclesiastici et seculares universa iudicia seu birsagia in causis coram eis vertentibus aggregata statim ipsis causis finitis ac per sentenciam finalem conclusis primo parti adverse de sua porcione satisfaccionem impendere teneantur et tandem ad partem suam iudiciariam cedentem exigendi liberam habeant facultatem.

LXVII. *Violationis sedis pœna.*

LXVIII. *Concordandi libera facultas in omnibus causis.*

LXIX. *Prothonotarii in hospitis nullas causas judicent.*

LXX. *Iudices regni ordinarios diffamantium pœna.*

LXXI. *Quibus prorogationes suffragentur?*

LXXII. *Appellans male ad iudicem superiorem in duplo convincitur.*

Add Hoc tamen expresso, quod si in dicta sede iudiciaria prefatorum comitatuuum alicui parti iuramentum sola sua in persona deponendum adiudicatum fuerit, extunc pars illa a tali adiudicacione appellare non possit.

LXXIII. Preterea quia prefati comites et vicecomites, quando cause in dicta curia regia vel approbate, vel autem emendate ad ipsos remittuntur, quod iudicium factum iuxta iudiciariam commissionem iudicis sui ordinarii exequantur, frequenter autem favore partis adverse vel aliquo alio respectu huiusmodi execucionem facere negligunt, itaque quod pars pro parte, cuius huiuscemodi iudicium factum sit, iure suo non frustretur, statutum est et ordinatum, quod postquam ipsi comites et vicecomites cum literis iudicis remittentis requisiti fuerint, execucionem ipsam infra quindecim dies a die ipsius requisicionis facere absque aliqua iusta et rationabili causa neglexerint, extunc tales comites et vicecomites in viginti quinque marcis gravibus per iudicem,

cuius mandatum executi non fuerint, indilate et irremissibiliter exigendis convincantur eo ipso. Verum quia cause de sede iudiciaria iudicum nobilium quorumlibet comitatum per appellacionem ad curiam regiam recepte usque modo semper ad octavas transmitti et in eisdem solummodo octavis revideri discutique et determinari consueverunt, per hocque maiorum causarum in ipsa scilicet curia regia inchoatarum discussiones et revisiones sepe sepius vel negligi aut obmitti et in posteriores octavas non sine gravi dispendio parcium differri debuerunt, eapropter, ut parcium ipsarum indulgeatur fatigiis et expensis, litibusque brevius finis imponi possit et valeat, statutum est et ordinatum, quod amodo deinceps quelibet cause de ipsa sede iudiciaria nobilium comitatum quorumcumque medio eciam tempore ad quoscumque terminos competentes, hoc est extra octavas per appellacionem ad prefatam curiam regiam recipi et transmitti in eisdemque terminis per iudices suos ordinarios, in quorum scilicet presenciam transmittuntur, hic Bude revideri discutique et determinari possint et debeant. Item quia nonnulli in causam attracti causas tam ratione iurium possessionariorum, quam eciam aliorum quorumcumque negotiorum contra eos motas soliti fuerunt usque modo frequenter variis subterfugiis exquisitis longe protrahere et actores laboribus et expensis indebite gravare, presertim vero cum actor causam suam iam per observaciones legitimorum terminorum ac cunctorum iurium et probabilium documentorum suorum exhibicionem cum gravibus suis laboribus et expensis coram suo iudice ordinario usque ad finalem conclusionem in tantum deduxisset, quod in eadem causa solummodo iudicium finale fieri, sive sententia proferri et pronunciarum deberet, tunc in causam attractus videns se succumbere, nec aliter causam ulterius differri posse, calumpnia excogitata literas expeditorias contra actorem se habere allegando et per hoc causam suam adhuc in alias tunc affuturas octavas prorogari et differri procuraret. Quapropter, ut talibus calumpniis debito remedio occurratur, statutum est et sancctum, quod amodo deinceps, quicumque in causam attractus in primo responsionis sue termino literas expeditorias se contra actorem habere allegaverit, ad exhibendas et producendas easdem octavas tunc quamprimum sequentes habere possit. Dum autem post terminorum legitimorum observaciones, hoc est tempore finalis conclusionis cause, ipse in causam attractus huiusmodi literas expeditorias se habere allegaverit, tunc nisi illas in continenti exhibeat et producat, nullas penitus alias octavas futuras ad producendas et exhibendas easdem habere possit.

LXXIV. *De convictione in capitali causa.*

LXXV. *Comites parochiales et vicecomites in executione iudicii non impediuntur.*

LXXVI. *Seculares persone contra ecclesiasticas personas in maiori onere non convicantur, quam ecclesiastice contra seculares convincerentur.*

LXXVII. *Ecclesiastice persone cum tribus literis inquisitoriis possessiones nec requirere, nec retinere possint.*

LXXVIII. *De inmutatione literarum ablatarum sive combustum.*

LXXIX. *Sedem iudicariam armati non intrent.*

Add.: ... Ingredientes vero nobiles vel alios cuiuscumque status homines ad sedem iudicariam cuiuscumque comitatus intra ambitum regni vel de eadem sede ad propria regredientes in ipsa sede aut in eodem itinere quicumque turbare, molestare, verberare vel interficere presumpserint, nota infidelitatis alias consueta convincantur.

LXXX. Item quicumque furem vel latronem aut alium quemcumque malefactorem publicum captivaverit et eundem de captivitate sua voluntarie abire permiserit, comiti parochiali homagium illius malefactoris, lesis vero dampnum irrogatum restituere debeat et teneatur. Si vero comes parochialis talem malefactorem in suas manus traditum abire permiserit, extunc ipse comes homagium eiusdem malefactoris illi, qui sibi ipsum malefactorem tradiderit, solvere et leso de dampnis suis satisfacere debeat et teneatur. Vicecomites autem quorumlibet comitatuum semper esse debeant de eodem comitatu ex pocioribus nobilibus.

LXXXI. *De modo captivatione publicorum malefactorum.*

LXXXII. *De homicidio voluntarie et deliberate.*

LXXXIII. *Nemo regios infideles ad loca sua acceptare et ibi conservare audeat.*

LXXXIV. Item quod mercatores forenses et extranei, cuiuscumque nationis existant, ad mercandum seu forizandum in medium regni ad loca alias consueta, ad forizandum et emendum ac cambiendum deputata negociaciones suas peracturi accedant.

LXXXV. *Nobiles et ecclesiastice persone ad loca tributorum ire non teneantur.*

Add.: Contrarium facientes in pena solucionis homagii vivi talis impediti convincantur. ...

... Contravenientes pena predicta puniantur.

LXXXVI. *Exemptio certarum rusticorum et fabrorum de tributibus.*

Add.: Et insuper ab hominibus fruges ad loca molendinorum deferentibus nec in eundo, nec in redeundo tributum exigere valeat. Et nichilominus vina, fruges et alia victualia et muneralia dominorum terrestrium per quecumque loca tributorum ad domos vel curias dominorum suorum deferentes nullum tributum solvere teneantur, neque ad solucionem tributariam compellantur pena sub predicta.

LXXXVII. *De tributis, falsis viis etc.*

Add.: ... ita tamen, quod nemo in terris aliorum vias falsas stare et custodire audeat. Ubi autem aliqui in pontibus vel navibus propter malam conservacionem eorum dampnum patientur, extunc huiusmodi dampnum passis per hos, quorum pontes et naves sunt, de dampnis satisfaccio impendi debeat.

LXXXVIII. Ceterum quia nemo regnicolarum in preiudicium vadorum privilegiatorum falsa vada et oclulta tenere et conservare potest, neque debet, ob hoc decretum et ordinatum est, quod amodo de cetero nullus omnino regnicolarum vada navesque et carinas oclultas aut sinistras pertranseuntibus sive transvadantibus tenere et conservare audeat sub pena amissionis illius possessionis, in qua id, ut premittitur, in preiudicium vadorum privilegiatorum fieri contingeret. Si qui autem mercatorum vel itinerancium comperti fuerint sinistra vada et oclulta pro se procurasse deprehensique fuerint per illa loca traiecisse, eadem regula illis observetur, que de non solventibus et pertranseuntibus iustum theolonium intelligi possit.

LXXXIX. Item quod nullus arestare volens in suis propriis aut fratrum suorum condicionalium, vel dominorum suorum possessionibus, terris aut officiolatibus pro quacumque causa arestacionem aliquam facere possit, alioquin pro indebito aresto in pena trium marcarum vincatur et arestum huiusmodi indebite factum cum altero birsagio trium marcarum relaxare et liberum permittere per comitem parochialem compellatur. Alioquin, si comes favore forsitan

cuiuspiam in hac re executionem facere negligeret et tepidus foret, pars arestata aut ipsius dominus terrestris vel ipsum arestantem, vel loco illius alium seu alios, quos poterit, colonos ipsius ville seu possessionis, ubi transgressor presentis statucionis moram traxerit, tamdiu, donec ille sic, ut premittitur, indebite arestatus simulcum rebus suis libere dimittetur, sibique pro huiusmodi indebito aresto de birsagiis sex marcarum supradictis satisfactum fuerit, in loco communi arestare atque ipsa birsagia vel coram domino terrestri aut suo officiali iudiceque et iuratis civibus illius loci communis, ubi talis arestacio facta fuerit, iuridice requirere et reobtinere valeat atque possit, ipseque dominus terrestris aut suus officialis vel iudex et iurati cives ex parte ipsorum arestatorum de prescriptis birsagiis sex marcarum satisfaciendi habeant facultatem. In aliis autem factis et negociis, &c. ...

XC. Ceterum sunt nonnulli villici sive iudices et officiales, presertim in bonis et possessionibus dominorum prelatorum et baronum, qui, dum aliqui coram eis contra nobiles occasione aliquorum debitorum vel aliarum rerum conqueruntur, ad instanciam ipsorum querulancium jobagiones talium nobilium vel captivant, vel autem cum rebus et bonis eorum arestant, sicque ipsi nobiles contra privilegium et libertatem nobilitatis illorum iudicio astare plerumque coguntur. Et quia villici sive iudices aut officiales villarum, opidorum vel civitatum aut eciam domini terrestres talium locorum in talibus causis in nobiles nullam iurisdictionem exercere habent, ideo statutum est et decretum, quod amodo deinceps in nullo loco pro nobilibus sive occasione debitorum, sive quarumcumque aliarum rerum arestum fieri possit, neque ipsi nobiles per se in ipsorum personis vel rebus quovis modo impediri seu arestari valeant. Si qui autem aliquid accionis contra aliquos nobiles se habere pretendunt, hii id coram comite parochiali et iudicibus nobilium vel aliis iudicibus ordinariis talium nobilium prosequantur. Ex parte quorum ipsi comes et iudices nobilium aut alii iudices ordinarii iudicium et iusticiam ac debite satisfaccionis complementum iuxta legitimas comprobaciones ipsius actoris de regni consuetudine administrare et exhibere tenebuntur. Ubi vero aliqui contra huiusmodi statutum pro aliquo nobili jobagionem suam detinere et res suas arestare fecerint, extunc tales in vivo homagio ipsius detenti jobagionis et estimacione rerum arestatarum convincantur. Et simili modo, si ipsum nobilem in persona propria detineri vel proprias res suas arestari procuraverint, convicti habeantur.

XCI. Arestacio per cives

Add.: ... Et sic arestaciones modo premissis tantummodo fieri valeant et non aliter, demptis si quipiam vulnera, lesiones, mortem, incendia et alia similia enormia perpetrarent manifeste, in quibus casibus ex parte eorundem, si presentes sunt et comprehendi possunt, iudicium et iusticia impendatur et eisdem debita pena infligatur iure mediante.

XCII. De debitore manifeste

XCIII. Colonum non dimittendis pœna

Add demptis hiis, qui in libertatibus manserunt. Illi namque sic libertati non aliter, quam si^{xiii} tempore recessus ipsorum de omnibus censibus, tam ordinariis, quam extraordinariis medio tempore infra libertatem ipsorum fieri debendis dominis eorum satisfacciant, abire permittantur, ita

^{xiii} si desideratur

tamen, quod si quitquam edificii illic infra tempus libertacionis fecerint, de eisdem libere disponere possint iuxta iudicum vel villicorum, ubi moram traxerunt, estimacionem.

XCIV. Abductionis jobagionum pœna

Add.: Ita tamen, quod nemo jobagionem alterius petita, sed non obtenta licencia, absque iuris et iusticie administracione, aliis eciam suis debitis minime persolutis, post illos eciam quindecim dies habite licencie sub pena solucionis viginti quinque marcarum, partim comiti, partim vero causantibus persolvendarum violenter abducere audeat et neque possit. Similiter hoc idem de comitibus vel vicecomitibus parochialibus intelligatur, si iidem sub confidencia officiolatus eorum violentas commiserint jobagionum abducciones, qui eidem pene et gravamini subjacere debeant.

XCIV. Literarum in capitulis taxa

XCVI. Item quia super literis in locis capitularibus et conventualibus et interdum eciam in curia nostra extra octavas transsumptis et exemplatis, ac tandem huiusmodi transsumptis in iudicio a parte contra partem productis multociens parte illa, contra quam producuntur, impugnante disceptaciones varie et exinde de earum viribus dubietates oriuntur, ad excludendum igitur et tollendum disceptaciones et dubietates huiusmodi statutum est et decretum quod sive huiusmodi litere in dictis locis capitularibus et conventualibus vigore quarumcumque literarum preceptoriarum, sive autem in dicta curia nostra sub nostro secreto vel iudiciali, aut alterius cuiuscumque iudicis ordinarii sigillo extra terminos octavarum transsumpte et exemplate existant, quando per aliquam partem ipsa transumpta in iudicio producuntur, altera parte eadem transumpta impugnante et eis fidem non adhibente, teneatur pars producens ad verificanda huiusmodi transumpta originales literas exhibere.

XCVII. Item ex quo frequenter occurrere consuevit, quod mulieres, presertim uxores baronum pociorumque et aliorum nobilium in causis earum, per ipsas scilicet contra alios, aut per alios contra ipsas motis vel movendis pro constituendis procuratoribus ad loca capitularia vel conventualia, aut propter loci distanciam et viarum discrimina aut propter alias rationabiles causas personaliter comode accedere nequeunt, vel autem propter muliebris sexus fragilitatem simul et honestatem ire verentur, ideo statutum est, quod quando huiuscemodi mulieres coram duobus canonicis aut fratribus conventualibus de eisdem locis capitularibus aut conventualibus ad earundem mulierum petitiones propter hoc transmissis procuratores constituunt, huiusmodi constitucio vigorosa sit, litereque capituli vel conventus superinde emanate in quolibet iudicio acceptentur et eis plena fides detur tamquam aliis literis procuratoriis. Hoc tamen expresso, quod hii, qui ad audiendam huiusmodi constitucionem procuratoriam mittuntur, pro via plus exigere non valeant, quam in execucionibus evocacionum vel inquisicionum, de literis quoque tandem ad eorum relacionem in capitulo vel conventu emanatis solummodo recipiatur, quantum de aliis procuratoriis literis recipi et exigi consuevit, et nullo modo plus.

XCVIII. Literarum minoris cancellariæ taxa

XCIX. Literarum maioris cancellariæ taxa

C. Quia sicuti et quemadmodum hactenus Pestiensis et Pilisiensis comitatus, ex quo prope Budam sunt, comites non habuerunt, sic nec in futurum comites habere debeant.

CI. Item quod regia maiestas ac officiales eiusdem falcaciones, messes, cumulaciones et importaciones feni per vim, uti compulsive exercebant, amplius fieri non debeant.

CII. Item quod illa dampnabilis libertas, civitati Wyssegradiensi per condam dominum Mathiam regem concessa, ea videlicet, quod nemo de quocumque excessu, sed et debito cuiuspiam iuri stare de civibus ipsius civitatis deberet, omnino extincta abolitaque, ac inanis et vana habeatur.

CIII. Item si que civitatum huius regni locum deposicionis et permutacionis apud se fieri debere et superinde privilegia habere causaretur, extunc illa vel ille civitates iuxta contenta privilegiorum suas causas coram suo iudice ordinario prosequi valeat atque possit.

CIV. Item quodsi qui populorum seu jobagionum regalium vel reginalium, aut aliorum quorumcumque super frugum et vinorum nonis vel akonibus libertates habere allegancium conquererentur, inter tales et domimum terrestrem per iudices ordinarios regni in primis octavis iudicium et iusticia adminstretur.

CV. Item intelleximus ex relacione dominorum prelatorum, baronum et nobilium, quod domus ipsorum, quas in civitate nostra Budensi habent, quasque magis propter opportunum eorum condensum, dum ad curiam regiam frequentandam adveniunt, ibidem tenent, ab antiquis temporibus ab omni taxa et quavis solucione in medium civium prefate civitatis nostre Budensis facienda per divos reges, predecessores nostros exempte et libertate fuissent, sed a certo tempore cives predictae civitatis quandam exaccionem super predictas domos ipsorum facere cepissent, prout eciam facere contenderent. Igitur de consilio dictorum dominorum prelatorum, baronum et nobilium statuimus et presenti consulto nostro perpetuo duraturo ordinavimus, quatenus amodo deinceps dicte domus prefatorum dominorum prelatorum et baronum ac nobilium nulli taxe, nulli penitus solucioni in consorcium dictorum civium civitatis nostre Budensis fiende sint obnoxie et obstricte, sed sicut olim eedem domus libere fuerunt, ita imposterum ab omni taxa, ab omnique solucionis genere exempte, libere et immunes habeantur, neque dicti domini prelati et barones ac nobiles racione predictarum domorum suarum in consorcium prefate civitatis nostre quitquam solvere tenebuntur. Salvo illo permanente, quodsi aliqui inquilini fuerint in domibus prefatis, illi secundum consuetudinem predictae civitatis nostre pro merito quisque, iuxta limitacionem iudicis et iuratorum civium eiusdem civitatis, et hoc intelligi volumus eciam de aliis civitatibus nostris regalibus, solucionem facere teneantur. Ita tamen, quod amplius non graventur, quam ceteri inquilini aliorum civium in eadem civitate residencium.

CVI. Ablate domus previa racione hiis, quibus indebite recepte sunt, restituantur. Si autem indebite detentores talium domorum aliquos labores et edificia super eisdem fecissent, extunc hii, quibus tales domus restituentur, de huiusmodi edificiis et laboribus iuxta limitacionem proborum satisfacere teneantur.

CVII. Preterea universorum dominorum prelatorum, baronum et procerum cunctorumque nobilium huius regni pari voto et unanimi voluntate statutum est, ut deinceps in perpetuum quicumque regnicolarum, cuiuscumque status et condicionis existat, post decessum alicuius regis Hungarie occupaciones castrorum, castellorum, civitatum vel oppidorum, villarum seu possessionum, incendia, spolia vel quascumque rapinas et alia quecumque mala comitterent, tales raptores, incendiarii, spoliatores et occupatores bonorum quorumcumque et malefactores perpetue

infidelitatis pene subiaceant^{xiii} et perpetui infideles regni habeantur eo facto; et quod nec regia maiestas, eiam cum consilio dominorum prelatorum et baronum, imo nec ipsum totum regnum talibus malefactoribus gratiam faciendi habeant facultatem, sed iugo perpetue servitutis et rusticitatis subiecti reatus sui penam lugeant sine fine.

CVIII. Item quia contigit iam pluries fieri, quod quando occurrentibus regni negociis admodum arduis ac communi omnium dominorum prelatorum et baronum nobiliumque regni consilio tractandis et concludendis maiestas regia necessitate id suadente universis ipsis dominis prelatis et baronibus atque nobilibus dietam seu convencionem generalem ad certum diem indixit et promulgavit, tunc cunctis nobilibus communiter vel alias, iuxta mandatum regie maiestatis, pluribus eiam ex prefatis dominis prelatis et baronibus ad diem prefixum convenientibus et congregatis certi domini prelati et barones in veniendo ad ipsam dietam ita graves se exhibuerunt, quod non ad ipsum diem prefixum, sed eo elapso post quindecim vel viginti dies venerunt, quorum expectacio convenientibus et congregatis ad eundem diem prefixum adeo fuit onerosa, quod consumptis eorum expensis, tedio affecti, negociis regni nondum expeditis, imo eiam propter absenciam ad diem prefixum non veniencium eis neque publicatis nobiles mediocres et pauperes de ipsa dieta discedere coacti fuerunt. Quapropter, ut comodum reipublice et commune bonum regni propter talium dominorum modo premissis non veniencium tarditatem non negligatur, neque eiam quovis modo turbetur, statutum est et sancitum unanimi ipsorum omnium dominorum prelatorum et baronum ac nobilium consilio et deliberacione, quod amodo deinceps, quandocumque et quocienscumque generalem regia maiestas dietam dictis dominis prelatis et baronibus ceterisque regnicolis indixerit et promulgaverit, tunc non venientes ad diem prefixum, ultra quatuor dies post ipsum diem prefixum proxime et immediate sequentes non expectentur. Qui si infra eosdem quatuor dies venerint, bene quidem, alioquin mox lapsis eisdem quatuor diebus, maiestas regia cum hiis, qui presentes fuerint in ipsa dieta, negocia regni, quorum occasione dietam indixerit, coram se recipere concludereque et determinare valeat atque possit. Non venientes vero et non comparentes, non obstante eorum absencia, omnia per comparentes conclusa pro rato habere teneantur.

Articuli autem nobilium regni Sclavonie in decreto presenti secundum deliberacionem regie maiestatis ac dominorum prelatorum et baronum regnique nobilium inserti sequuntur hoc modo:

I. Item quod regia maiestas, veluti in primo articulo presentis decreti continetur, inter cetera sua regna dictum regnum Sclavonie in antiquis eorum libertatibus, privilegiis et consuetudinibus conservare pollicitus est, sic eos pollicetur in eisdem libertatibus et immunitatibus omnibus conservare.

II. Item si maiestas sua incolis regni sui Hungarie quibuscumque ex racionibus nunc et temporum in successu aliquas soluciones fieri statuerit, extunc talium solutionum medietatem in regno suo

^{xiii} mendose: *subiacere*

Sclavonie iuxta ipsorum consuetudinem semper et usque ad hec tempora observatam exigere habeat et teneatur.

III. Item camere salium in illo regno fiant, prout tempore condam divi Sigismundi regis, ubicumque necessarium fuerit, fiant tamen secundum hoc,^{xiv} ut eciam dispositum est in Hungaria.

IV. Item quod camerarii in domibus incolarum sales querere non valeant sed si eosdem in campo aut foris, vel nundinis invenire poterint, eosdem auferendi liberam habeant facultatem. Querant tamen, sed sine calumpnia et coram iudicibus nobilium illius comitatus. Particulas seu minutas salium auferre non valeant.

V. Sales quarumlibet camerarum regalium, tam que ducuntur navibus, quam curribus, ac eciam maritimi, quos scilicet maritimos sales pauperes illius regni propter eorum inopiam pecuniarum defectum solent pro bladis permutare, libere emere, vendere et eisdem uti possint. De quibus maritimis salibus trecesime maiestati regie proveniunt, ita tamen, quod dum sales regales deficerent et camerarius regnicolis sales dare nequiret, et non aliter.

VI. Item vina, blada et animalia cuiuscumque generis persolutis tricesimis et tributis iustis et consuetis, quo volunt et poterunt, libere abigi et vendi^{xv} possint.

VII. Item tricesime exigantur iuxta antiquam consuetudinem, sicuti temporibus dominorum Lodovici, Sigismundi et Alberti regum, in locis alias consuetis. De minutis autem rebus infra valorem unius floreni tricesimatores nullam tricesimam exigere presumptant.

VIII. Item quod regia maiestas omnia iura et privilegia illius regni Sclavonie a divis regibus, sue scilicet maiestatis predecessoribus eidem concessa confirmare dignetur.

IX. Item ut comites non possint procedere ad quascumque execuciones, nisi de sede et commissione ac literis preceptorii regnicolarum et sedis, prout ab antiquo fuit observatum.

X. Item in requisicionibus et rectificacionibus castrorum, castellorum, opidorum, villarum seu possessionum aliorumque cunctorum iurium possessionariorum per quoscumque post obitum dicti condam Mathie regis a sese qualitercumque occupatorum servetur idem modus, prout in regno Hungarie in articulo superinde confecto declaratus est.

XI. (Vide supra Art. 16)

Add Et hoc fiat eodem modo, sicut in regno Hungarie.

Nos igitur, qui regnum nostrum prefatum et cetera eciam dominia et principatus nostros non minus legibus ac statutis, quam pace et armis regere ac gubernare cupimus, acceptis huiusmodi articulis, sed et eorundem regnicolarum nostrorum huiusmodi supplicacionibus exauditis et admissis, prescriptos articulos videntes et considerantes iustos et honestos esse, de verbo ad verbum, sine immutacione et diminucione aliquali presentibus inscriptos et insertos laudavimus et approbavimus, ratosque et gratos ac acceptos habentes pro prefatis regno et regnicolis nostris pro perpetuo ac stabili decreto valituros confirmavimus, imo laudamus, approbamus, ratificamus et confirmamus, promittentes in omnibus clausulis, articulis, capitulis et punctis observare et facere observari presentis scripti patrocinio mediante. Datum Bude predicta, in prefata generali omnium

^{xiv} hoc deest.

^{xv} mendose: *vendere*

regnicolarum convencione et dieta, per manus reverendi in Christo patris, domini Thome episcopi ecclesie Jauriensis, sumpni et secretarii cancellarii nostri, fidelis nobis dilecti, anno Domini millesimo quadringentesimo nonagesimo secundo, regnorum nostrorum Hungarie ect. anno secundo, Bohemie vero vigesimo primo. Venerabilibus in Christo patribus dominis Petro archiepiscopo Colocensi, Agriensi sede vacante, Osvaldo Zagrabiensis, Valentino electo Varadiensis, Ladislao Gereb Albensis Transsilvane, Sigismundo Quinqueecclesiensis, prefato Thoma Jauriensis, Johanne Wesprimiensis, altero Johanne Chanadiensis, Nicolao de Bathor Waciensis, Anthonio electo Nitriensis, Stephano Sirimiensis et Luca Boznensis ecclesiarum episcopis, ecclesias Dei feliciter gubernantibus. Item spectabili et magnificis Stephano de Zapolya, predicti regni nostri Hungarie palatino ac terre Scepusiensis comite perpetuo, comite Stephano de Bathor iudice curie nostre ac waywoda Transsilvano et comite Siculorum, Paulo de Kynys comite Themesiensi ac parcium inferiorum regni nostri capitaneo generali, Laurencio de Wylak Machoviensi, Ladislao de Egerwara regnorum Dalmacie, Croacie et Sclavonie, Francisco Balassa de Gyarmath et Georgio de Chwla Zewreniensibus banis, Ladislao Orzagh de Gwht agazonum, altero Ladislao de Lossoncz thavernicorum, Petro Gereb de Wyngarth et Nicolao Banfy de Lyndwa ianitorum, Emerico de Peren dapiferorum et Georgio de Thurocz picernarum nostrorum regalium magistris, honore comitatus Psoniensis vacante, ceterisque regni nostri comitatus tenentibus et honores.

Item preter predictos articulos in presenti nostro decreto articulariter inscriptos domini prelati, barones, proceres et nobiles regni nostri Hungarie predicti et alios plures articulos, tam ratione decimarum, quam ecclesiasticorum beneficiorum ac collacionis comitatum et ceterorum negociorum in scriptis nostre maiestati presentarant presenti decreto inserendos. Sed quia iidem domini prelati, barones et regni proceres super huiusmodi articulis certis ex causis et rationibus debitam atque perfectam deliberacionem ad presens facere nequierunt, pro eo deliberacionem ac finalem conclusionem articulorum huiusmodi ad futuram dietam seu convencionem generalem circa festum beati Michaelis archangeli nunc venturum, aut aliam quamprimum fiendam et celebrandam de voluntate predictorum dominorum prelatorum et baronum et regni procerum predictorum duximus prorogandam, eo modo, ut tunc, in dicta scilicet dieta seu convencione generali futura premissos articulos nunc rationibus premissis indefinite et sine finali conclusione relictos coram nobis assumpmere, ac veluti nobis ac eisdem dominis prelatis, baronibus et regni proceribus pro utilitate huius regni nostri comodius utiliusque videbitur et fieri poterit, finaliter concludere et sicuti alios articulos predictos presenti nostro decreto inscriptos approbavimus et ratificavimus, sic et eos, de quibus nunc mencio habetur, et in quibus ad presens deliberacio perfecta et conclusio fieri nequivit, prout tunc in eadem convencione ventura super eisdem concordabitur, acceptabimus, approbavimus literisque nostris superinde conficiendis ratificabimus, ymo ratificare et modo premissis approbare promittimus, harum nostrarum literarum vigore et testimonio mediante. Datum loco, die et anno supradictis.

FIRST DECREE OF KING WLADISLAS II, 1492

We, Wladislas, by the grace of God king of Hungary, Bohemia, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria,¹ as well as Duke of Silesia and Luxemburg and Margrave of Moravia and Lusatia etc. notify by these presents all whom it may concern, [1] that when after the death of the most serene prince the late lord King Matthias, our predecessor of blessed memory, and then after our having been called by divine disposition to and assumed the governance of this kingdom of Hungary we—by divine aid and the counsel of the lords prelates and barons of the same kingdom of ours—eliminated the many and most serious enmities that have set upon the neck of this kingdom and also the most serious domestic rivalries and internal strife, which all seemed to bring and cast this kingdom into extreme danger; and having first made and concluded peace and concord under certain conditions with the most serene prince lord Maximilian, king of the Romans etc.,² who among others threatened this country,³ and then having dispersed and routed other foreign enemies, and having restored all to peace and concord by settling the domestic and internal wars, quarrels, and dissensions, [2] then it pleased the same lords prelates and barons of the kingdom that we call a diet or general convention of the community of our gentlemen of the realm⁴ to treat upon all that is needed for their future peace and also that of all other gentlemen of the realm to the feast of the Purification of the Holy Virgin Mary just passed in our city of Buda.⁵ [3] Thus, when they came together and discussed and ordered many things for the happy state of this kingdom, among some other discussions and decisions they finally presented to us certain articles taken from the ancient laws, decrees, and customs of this kingdom, collected by common consent and the decision of all and now adapted to the conditions and state of things of our times. [4] They humbly requested that we deign to hold these articles as agreed, pleasing, and accepted, and to approve, authorize, and confirm them by our royal authority for the

¹ The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. By 1490 none of them were under Hungarian control, but the list in the royal style survived until the end of the kingdom in the twentieth century; see János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerized Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² Peace between Maximilian and Wladislas II was signed in Pressburg on 7 November 1491. It restored to the king of the Romans the territories that Matthias had conquered in Austria. Additionally, Wladislas paid 100 000 florins in reparations, and promised inheritance rights to the Habsburgs (as stipulated in 1463) in the event of his own death without a male heir.

³ The reference is to Wladislas’s brother, John Albert, who tried to make good his claims to the throne of Hungary by arms and gave them up only at the end of 1491.

⁴ *Regnicola* meant in medieval Hungary a member of the enfranchised nobility and only rarely (as its verbatim meaning) any inhabitant of the country. We translate it as “gentleman of the realm.”

⁵ 2 February 1492

comfort of theirs and of all other gentlemen of the realm and the tranquility of the entire kingdom. The text of these articles is as follows:

1. First, the royal majesty shall keep the kingdom of Hungary together with the other kingdoms, namely Dalmatia, Croatia, and Slavonia, as well as Transylvania⁶ and the provinces subject to it, as well as the lords prelates and barons, all churches and churchmen, nobles and towns, and moreover the other inhabitants and dwellers of the same kingdoms and Transylvania in their ancient rights, privileges, immunities, and approved customs, in which the late blessed kings kept them, and which they used and enjoyed; [1] thus he may not introduce any innovations whatsoever to their detriment and oppression and against these ancient liberties of theirs under any invented excuse, as the late Lord King Matthias did. [2] Rather, he shall abolish those introduced by the same most serene late Lord King Matthias.⁷ [3] He shall not exact the contribution or tax of one florin on any pretext, but be content with the traditional, just, ordinary, and usual royal revenues.⁸

2. Then, he should return the goods and all such [property] rights of others which were up until now occupied wrongly and unlawfully by the late King Matthias of blessed memory and her majesty the queen or anybody else, and also cause others to return them to those to whom they belonged, after having inspected and examined these rights.⁹

3. Then, he shall not take the crown of the realm from the hands of the lords prelates and barons by any reason or invented excuse, nor by any art and trick, but according to their ancient custom and liberty should allow and suffer that those unanimously elected and appointed by them from among their number to this task should hold and guard it. [1] He shall give over and assign the castle of Visegrád—traditionally designed for the keeping of this crown—to the hands of these keepers of the same crown.¹⁰

4. Then, he shall not alienate Moravia, nor Silesia and Lusatia from the crown and kingdom of Hungary, but keep them for the crown of Hungary until the time of their redemption according to

⁶ The term *regnum* was applied not only to kingdoms but also to territories (such as Slavonia, the region between the rivers Drava and Sava). Depending on the context we may translate it as “country” in the sense of Land. Transylvania was usually called *partes Transylvanicæ*, but for simplicity’s sake we write Transylvania.

⁷ This point—and likewise Arts 5, 6, 7—constituted part of the election promises of the king (the so-called Farkashida agreement)—see above. In fact, much of what follows is taken directly from Matthias’s *Decretum maius* of 1486.

⁸ The *subsidium* of one florin for every taxation unit, called *porta* (originally defined as an extraordinary tax for the war against the Ottomans) was first raised by Sigismund and then, virtually every year by Matthias, see András Kubinyi, *Matthias Rex* (Budapest: Balassi, 2008) pp. 77–9.

⁹ King Matthias confiscated, among much else, the properties of the participants in the 1467 Transylvanian uprising for the benefit of John Corvin; see e.g., Kubinyi, *Matthias*. pp. 121–2.

¹⁰ Cf. 1464:2 regulating the guarding of the crown after its recovery from Emperor Frederick III. From no later than the mid-fourteenth century the regalia were kept in Visegrád (at the bend of the Danube).

the terms of their pledge¹¹ and other obligations made in the diet of Olomouc.¹² [1] And should His Majesty die without a legitimate heir, he will arrange while alive that even after his death [these] will not be alienated under any title or pretext from the same crown and kingdom until the time of redemption. [2] Furthermore, he will strive for and bring it about that the six cities¹³ should pledge and obligate themselves in the same way as those provinces according to the treaty and decision made in the aforementioned diet. They shall moreover issue and hand over letters which His Majesty shall order to be deposited in and given to the repository of the crown of Hungary.¹⁴ [3] If, however, in the course of time the said dominions should be redeemed from the crown and kingdom of Hungary by those to whom they pertain according to the terms of the pledges and obligations made about them, then the entire sum of money is to be given to the keepers of the crown in order to be kept in Visegrád next to the crown for the needs of the realm;¹⁵ [4] and eventually it should be laid out and applied to the defense and use of the country according to the will and counsel of the lord prelates and barons. [5] And nothing should be decided or done with this money for any reason whatsoever without the will and counsel and free and express consent of the same lord prelates and barons.¹⁶

¹¹ *Inscriptio* is a term essentially equal to *impignoratio*, i.e. pledge, mortgage, an arrangement by which all or part of an estate was assigned together with its income to a creditor. Such pledging could also be ordered by a judge for the benefit of a plaintiff entitled to satisfaction or in matrimonial suits (dower, filial quarter). The contract of pledge needed to be authenticated by a place of authentication. Relatives had preemptory rights. The creditor had full rights to the usufruct of the pledged property and could pledge it further but had to return it at a set date (32 years was the usual maximum term). This practice basically followed the Roman legal institution of *pignus* and *antichresis*.

¹² The peace of Olomouc (negotiated in 1478) between Matthias and Wladislas as king of Bohemia was ratified on 21 July 1479: it was laid that both retained their titles to the kingdom of Bohemia, and that the territories conquered by Corvinus (Moravia, Silesia and Lusatia) might be redeemed only after his death.

¹³ Görlitz, Bautzen, Löbau, Kamenz, Zittau and Lauborn in Upper Lusatia.

¹⁴ *Domus tavernicalis coronæ Hungariæ* refers to a depository in the castle of Buda under the jurisdiction of the Master of the Treasury, where, as far as we know, documents and other valuables were stored. The Master of the Treasury, (*magister tavernicorum*) was one of high royal officers originally responsible for the royal court's provisioning, derived from the Hungarian name for the guards of royal magazines (*tavernici*, from Slavic *tovar*, ware). From the fourteenth century onwards, he was no longer associated with the treasury, but was rather the presiding judge of the appeal court of certain royal cities (*sedes tavernicalis*).

¹⁵ The concatenation of the actual crown jewel and the metaphoric "crown", i.e. the symbolic sovereign has been noted by—among others—Fritz Hartung, "Die Krone als Symbol monarchischer Gewalt im ausgehenden Mittelalter," now in Manfred Hellman, ed. *Corona Regni* (Darmstadt: Wiss. Buchg. 1961), pp. 1–69.

¹⁶ These territories were never regained by the Hungarian crown but remained parts of the Bohemian crownlands until 1635, when they were acquired by Saxony.

5. Then, His Majesty shall mostly stay in Hungary, in order that he can look after and provide for the needs of the kingdom more conveniently and easily.¹⁷

6. Then, while he is staying in Hungary, he should keep and have Hungarians as counselors, chancellors, treasurers, stewards, cup-bearers, cellarers, chamberlains, and generally all major or minor office holders, just as was customary and observed in the time of the late most serene Lord King Ladislas of blessed memory.¹⁸

7. Then, when something is done regarding the matters and affairs of the kingdom of Hungary or parts subject to it, he shall discuss and consult with none other than Hungarian counselors, and not admit other foreigners and other nations to such discussions.

8. Then, he shall grant and transfer as offices neither the voivodeship of Transylvania nor the office of the *ispán* of the *Székel*y and of Temes, nor the banate of Slavonia, Croatia and Dalmatia as well as of Severin, Belgrade and Jajce, nor other castles and locations on the borders, nor royal cities to any other than well deserving Hungarians.

9. Goods and property rights shall not be conferred on foreigners but on well deserving inhabitants of the kingdom and subjects of the crown of Hungary according to their merits and services.¹⁹ [1] However, the royal majesty shall have free right to grant up to one hundred tenant peasants²⁰ on his own initiative to whomever he wishes; [2] but for more than one hundred he shall make grants with the counsel of his prelates and barons, as contained in His Majesty's sworn charter.

10. Then, at the octave courts²¹ the justices ordinary of Hungary²² shall be personally present unless they or any one of them is hindered by some legitimate cause or urgent affair of the realm.²³

¹⁷ This measure had been previously included in **1439:33** in respect of King Albert, the first king of Hungary to be in possession of other kingdoms at the time of his Hungarian coronation.

¹⁸ Ladislas V Posthumus; the point here is to antedate King Matthias's times, even though the latter did not employ more "foreigners" than any other ruler. A prohibition on foreigners obtaining high dignities was mentioned as early as the Golden Bull **1222:11** and then repeated several times during the reign of Sigismund and Albert (**1397:48, 1439:5**).

¹⁹ Cf. **1222:26, 1439:16**.

²⁰ That is peasant plots; the number of peasants was the usual measure of land. A hundred tenant plots would have meant a middle-size property. In contrast to the preceding measures about foreigners, this limitation was new—and was to be rescinded in **1498:26**.

²¹ Octavial courts (*octava*) refer to the session of royal courts of justice; of which here were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times

²² In the late fifteenth century, the major royal courts were those of the count palatine, the judge royal, the Master of the Treasury, and the *personalis presentia regia*.

²³ On the mandatory presence of the judges ordinary see **1486:3**.

[1] They or their deputies and the assessors shall have free, full and entire power to administer true and genuine justice to all litigants, greater and lesser men of whatever estate, condition, and dignity, without any fear according to the ancient and approved custom of the realm. [2] The royal majesty or the lord prelates and barons shall not force or compel any judge to anyone's advantage to change or disturb the customs, common practices, and the due process of law.

11. Then, the royal majesty shall not in any way impede any of his inhabitants of the realm, of whatever state or dignity, in his person, possessions or any other belongings upon a simple request or sly suggestion, without hearing the party.²⁴

12. Then, the royal majesty shall neither of his own volition nor upon the information of anyone conceive and seek opportunity to harm in his person or property any inhabitant of the realm of whatever estate or dignity.²⁵

13. Then, the royal majesty should not condemn any of the gentlemen of the realm to the taint and crime of infidelity without the counsel of the prelates and barons.²⁶

14. Then, all castles, fortified houses,²⁷ towns, villages or estates, and fishponds and any property rights occupied by anyone in whatever way after the death of the late most serene Lord King Matthias, shall by the coming feast of the Ascension of the Lord²⁸ be returned by the same occupiers to those from whom they were taken away, under the penalty of perpetual taint of

²⁴ Cf. **1464:18**. A similar article in **1471:2** excluded those nobles who were retainers or officeholders of any lord, and allowed their arrest in the event of unfaithful service.

²⁵ Apparently Wladislas did not explicitly confirm the Golden Bull of **1222** (unless in the lost coronation decree). Nevertheless, this clause and the preceding one confirm in essence the *habeas corpus* clause contained in the Golden Bull.

²⁶ The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. agreement, peace). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate..

²⁷ The two types of housing may mean different types of residence. *Castellum*, (Hung. *kastély*, Germ. *Schloss*) is the term we used for a noble residence ("country house") that was not necessarily fortified in a military sense. The distinction between *castrum* and *castellum* is a moot point among art historians and archeologists, see e.g., György Györffy, *Civitas, castrum, castellum*,” *Acta Antiqua Academiae Scientiarum Hungaricae* 23 (1975), 331–334; or Gábor Virágos, *Noble Residences and Their Social Context in Hungary in the Thirteenth through the Sixteenth Centuries*. PhD Diss., Central European University, 2002.

²⁸ May 16 1492.

infidelity.²⁹ [1] Should, however, these occupiers presume by rash daring to do otherwise, then these violent occupiers shall be held to return them, after having been notified personally by the royal or palatinal bailiff³⁰ or that of the judge royal and the man of the chapter or convent competent for the county in which these property rights, namely castles, fortified houses, towns, villages as well as fishponds or other occupied property rights are located,³¹ or if they cannot be found personally, then at the house of their dwelling where they have personal residence.³² [2] If, however, they still act contrary in this matter, they shall be summoned for the thirty-second day from the summons issued in this matter,³³ and the royal majesty or other justices ordinary by whose authority the same occupiers have been notified and summoned, have the right to issue and hand out their letters of sentence against them as if condemned in court, and have these ordered to be executed, and moreover recover the goods thus occupied by force of the same sentence from their hands and return them to those whose they had been, and grant the rest of all the goods of the violent occupier as those of a faithless man to whomever he [the royal majesty] wants. [3] First,

²⁹ Lawlessness during interregna—to which this and the following two articles refer—is a well-known feature of medieval history, illustrated by the famous Brescia episode after Emperor Conrad II's death, when the royal castle was destroyed by the burghers "as there is no emperor." The same was decreed by King Matthias for the interregnum and civil war that followed the death of King Albert. **1464:12**.

³⁰ The *homo regius* (or *palatinalis*), was the executive officer of a judge, who delivered summonses and assisted in the process of trial and punishment; also, an officer of the king, count or other lords, who performed similar tasks. It seems that in lawsuits bailiffs were selected by the litigants from among the nobles of their counties. Royal clerks were also commissioned as specially delegated royal bailiffs with powers more extensive than regular royal bailiffs.

³¹ Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, "Die Glaubwürdigen Orte Ungarns im Mittelalter." *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, Zsolt. "Administering the Law: Hungary's Loca Credibilia." in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66-73..

³² Summons were of different kinds. Personal summons: when a nobleman was summoned on the spot for having disrupted the meeting of the diet or a trial; simple summons: delivered to the respondent at his noble residence, giving notice of a protracted lawsuit. If the respondent failed to attend court, then he would be summoned again. If he still failed to attend, a terminal summons, issued with the clause that judgment would be passed even in the absence of the summoned party (used particularly against perpetrators of acts of might) would be issued. Here short (or final) summons (*citatio brevis*) are meant; a summons requiring the respondent to attend court within 32 days (or at the next octave term), usually issued in respect of violent crimes. The short summons was often combined with a terminal summon.

³³ Although the short summons was summarily abolished by Matthias, **25 January 1486:2**, it apparently continued to be used.

however, His Majesty shall give full satisfaction to the damaged party for the losses from the goods and estates of the occupier.

15. Then, all castles and fortifications raised and built by anyone within the borders of this kingdom of Hungary and other kingdoms subject to it, because of the wars in these times,³⁴ namely after the death and decease of the same Lord King Matthias, shall be razed and demolished by those who built and erected them within a set term, under penalty of the taint of infidelity,³⁵ [1] excluding only those which have been erected and built on the borders of the kingdom in defense of the faithful against the Turks and other enemies of the realm. [2] If any of them should refuse to destroy these [the illegal ones], then the royal majesty can freely grant the goods and estates on which the said fortifications have been built to whomever he wants, as if those of unfaithful men.³⁶

16. Then, because there are many people in the country, who after the death of the late Lord King Matthias have by their own rashness dared to inflict and cause much damage, harm and injury to others peacefully staying in their houses; [1] it has therefore been decreed that those who have suffered such damage, harm, and injury either in their persons, goods or belongings in whatever way have the right and liberty to take to court those who inflicted that damage, harm, and injury, and obtain remedy at law from them for their damage, harm, and injury. [2] Justice shall be thus administered in regard to them without any delay on the first octave after the [other party] has been summoned.

17. Then, the royal highness shall for the protection of the realm and the defense of its borders make payments out of the royal income for his men, both those holding his offices and other soldiers, so that these mercenaries or officers holding the borders do not prey on the gentlemen of the realm. [1] However, such soldiers, officers or mercenaries shall be denounced like other perpetrators of acts of might³⁷ if they pillage the gentlemen of the realm,³⁸ in regard to whom the

³⁴ See Pál Engel, *The Realm of St Stephen: A History of Medieval Hungary, 895–1526*, (London-New York: I.B. Tauris 2005), pp. 346–7.

³⁵ In Hungary, the need for royal permission to build castles went back to the later thirteenth century; see Erik Fügedi, *Castle and Society in Medieval Hungary* (Budapest: Akadémiai Kiadó, 1983), pp. 48–52.

³⁶ I.e. those convicted of the charge of infidelity.

³⁷ “Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one (sc. rape).

³⁸ This matter was regulated in great detail in Sigismund’s decree of **17 March 1427(a)**. See also **29 May 1439: 3** and **21 January 1486: 30–1**.

justices ordinary of the realm shall administer judgment and justice in the way and form described in the sixth article after this one.³⁹

18. Then, the general levy shall not be proclaimed for the lord prelates, barons as well as the gentlemen of the realm, and men of property of whatever condition for as long as the officers and soldiers paid by the king can resist the enemy. [1] When, however, the general levy happens to be called up on account of pressing need, then the same banderial lord prelates and barons⁴⁰ and the nobles of the realm shall not be led in campaign against their will beyond the borders and frontiers of the kingdom from any part of the country, as their ancient liberty demands, except for those who collect royal payment.⁴¹

19. Then, in order to avoid the difficulties which often emerge in the course of campaigns, it has been decided and decreed [1] that whenever the royal majesty wishes to wage war beyond this realm of his for his own convenience or private interest, then the lord prelates and barons as well as nobles of the realm and other men of property do not have to go with His Majesty against their will, nor to send their men; they shall not be forced in any way to do this, unless they are officers of the royal majesty or have received payment from His Majesty for such a campaign. [2] If it should, however, happen that enemies or foes of any nation attack in force the kingdom or its frontiers by war or army, then while the officers and the paid soldiers of the king suffice to resist such enemies and foes, the royal majesty shall not announce and proclaim the general levy. [3] If, however, the power of the enemy is such that the strengths of the said officers and paid royal soldiers are insufficient to resist it, then the royal majesty will necessarily announce and proclaim the general levy. [4] When the royal majesty or the palatine or the captain general of the realm appointed at that time sets out personally for such a general levy, then the lord prelates and barons who have *banderia* shall also march with their flags raised, and the other barons and nobles in the way declared below, to the frontiers and borders of the realm, but not beyond, as their ancient liberty demands, except, as said above, the aforesaid officers and mercenaries of the king.⁴²

20. Then, in order that any kind of matter of contention and quarrel in the course of such a military campaign be excluded, it has been decreed and ordered [1] that there must be in any full *banderium* four hundred, in any half two hundred armed men, the half of whom should be armored and the other half light cavalry commonly called *huszár*.⁴³ [2] The other barons who do not have *banderia*

³⁹ i. e. Art 23, below p 14–5.

⁴⁰ *Banderia*, (from the Italian *bandiera*, ‘banner’) were troops supplied by the king, the queen, the barons and prelates (later also by other major landowners) in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars). Those obliged to field *banderia* were called banderial lords.

⁴¹ These limitations (as also in Art. 19) also go back to the Golden Bull of **1222:7**.

⁴² Cf. **12 March 1435:1**.

⁴³ The size of *banderia* was regulated variously (see e.g. Prop. 1432/3, DRMH 2: 149–52). That half of them should be hussars, would appear to be new. Hussars (Hung. *huszár*) were light cavalrymen, equipped with sabers and only lightly armed, these played an increasing role in the Hungarian armies,

shall campaign according to their dignity and means and the number of their tenant peasants. [3] Nobles and men of property of lesser standing shall send one well-equipped horseman after every twenty *portæ* or full peasant plots,⁴⁴ while similarly the nobles of one plot, namely those who have no tenant peasants one horseman after every ten houses or dwellings,⁴⁵ with at least a lance, shield, handbow, and, if possible, even a coat of mail.⁴⁶

21. Then, there are also dukes in this kingdom, namely the illustrious lords John Corvin and Lawrence Újlaki, moreover there are perpetual and free *ispáns*, namely the *spectabiles* and *magnifici*⁴⁷ lords Stephen Szapolyai of Spiš as well as John and Sigismund Bazini-Szentgyörgyi with their kinsmen,⁴⁸ finally the counts Frankapan and those of Krbava, who have to come to campaign to the extent of their means and the number of their tenant peasants⁴⁹ in the manner of barons having *banderia*.⁵⁰

22. *On damages caused during campaign and their satisfaction.*

= **12 March 1435:7** and **1486:30**

Adding: [5] If, however, the persons inflicting such damages are men from other countries or foreigners, the royal majesty shall be held to offer full satisfaction in regard to them under the

mainly as a counterweight to the Ottoman *spahi* cavalry. By the close of the Middle Ages some hussars were fitted with armor.

⁴⁴ On this, the so-called *militia portalis*, established in **1397: 6**, see András Borosy, “The militia portalis in Hungary before 1526,” in János M. Bak and Béla K. Király, eds., *From Hunyadi to Rákóczi. War and society in late medieval and early modern Hungary*. East European Monographs, 104, (Brooklyn: Brooklyn College, 1982), pp. 63–80.

⁴⁵ The Latin word used here (*curia*) may indicate a residence more elaborate than a simple rural house, hinting at the petty nobles’ standing; see note 41, above.

⁴⁶ The great number of nobles of one plot, who in fact lived like peasants but held fast to their legal status, gradually lost many of their privileges, such as their full exemption from taxes; see Rady, *Nobility, Land and Service*, p. 154.

⁴⁷ These intitulations were among the formal privileges of the great men of the realm.

⁴⁸ These persons were the greatest landowners in the country, each holding 14–30 castles, 17–47 towns and 200–1000 villages. John Corvin (1473–1504) natural son of King Matthias, was from 1491 prince of Slavonia; Lawrence Újlaki, duke (d. 1524) was the son of King Nicholas, ban of Mačva 1477–92, judge royal 1518–24; Stephen Zapolya (aka Szapolyai) (d. 1499) was count palatine 1492–9; John and Sigismund Szengyörgyi and Bazini, were dukes, banderial lords in 1492; the *Frangepán (Frankopan)*, were a Croatian magnate family, counts of Modrus, Krk and Senj.

⁴⁹ On the details of the military system, revising the one of Sigismund (**Prop. 1432/33**), see also **1498:20–2**.

⁵⁰ Although the expression ‘*instar*’ is somewhat obscure here, it most likely refers to aristocrats having *banderia* who did not hold high offices of the realm. By 1498, this division of the aristocrats has been set, see **1498:22**. This simply means that they field *banderia* according to their resources and not according to the 400 men allocation.

aforementioned conditions.⁵¹ [6] Whoever wishes to prosecute his case in the matter of such damages in the royal court, shall be able and allowed to do so as in regard to other acts of might.

[7] Should, however, the damaged persons be found to have sworn a false oath in this case, they shall be punished as if they were forgers, perjurers and slanderers.

23. *Judging the excesses of troops.*

= **1486:31** lines 23–42

24. *Acts of might committed by castellans or officers*

≈ **8 March 1435:6**

25. Then, the borders which have existed since ancient times between Hungary and Austria, which were recently rectified and recovered by the late King Matthias, shall be kept and retained in the same condition by the royal majesty⁵² And the royal majesty shall decide on a similar rectification of the borders between Hungary and Moravia as well as Poland,⁵³ which should be done in the best interest of the kingdoms.

26. Then, the king shall cause the chamber's profit to be collected in Hungary, the fiftieth in Transylvania, and the *mardurina* as traditionally collected in Slavonia,⁵⁴ in the same way as in ancient times, namely under the late lord kings Sigismund and Albert. [1] However, where the chamber's profit is not paid on time, the county *ispán* together with a noble magistrate shall collect the chamber's profit from the delinquent village along with a fine of three marks, following the issue of a letter of fine, as is usually issued by noble magistrates against such [delinquents] with no exceptions.

27. Then, the thirtieth shall be levied by the royal majesty in the heretofore usual places according to ancient custom, as in the times of the lord kings Louis, Sigismund, and Albert. [1] The officers

⁵¹ The reference is obviously to the (mainly Czech) paid soldiers of the king.

⁵² The reference is to seven lordships originally pledged to Frederick III in 1447 that only returned to Hungary in 1647: Szarvkő (Hornstein), Kismarton (Eisenstadt), Fraknó (Forchenstein), Kabold (Kobersdorf), Borostyánkő (Bernstein), Kőszeg (Güns), Rohonc (Rechnitz). See István Bariska, *A Szent Koronáért elzálogosított Nyugat-Magyarország 1447– 1647* [Western Hungary pledged for the Holy Crown], (Szombathely: Vas Megyei Levéltár, 2007).

⁵³ The reference to the rectification of the Hungarian-Moravian border is puzzling. Admittedly, there were frequent cross-border problems that are attested to much earlier than Matthias's rule, and there were problems already in 1467/1468 when he started the war, but none of these concerned the line of the border. The mentioning of Poland here is also obscure.

⁵⁴ The chamber's profit (*lucrum camerae*) was originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins; by the late thirteenth century, it had become a direct tax but retained its name until the end of the Middle Ages. The fiftieth (*quingagesima*) was a royal tax collected mainly from Romanians. Originally levied in kind on transhumance shepherds (based upon the number of sheep) in Wallachia but later raised from those settled in villages as well. Gradually it was transformed to a tax levied in cash. *Mardurina* (originally a marten-fur tax) was fixed at twelve Friesach pennies after each manse.

of the thirtieth shall not dare levy any thirtieth on minor things worth less than one florin.⁵⁵ [2] Those thirtieths, however, which are mortgaged to Lord Stephen Szapolyai, perpetual *ispán*⁵⁶ of Spiš and palatine of Hungary as well as to other lords, are to be collected in the aforementioned way in their usual places until the time of their redemption.⁵⁷

28. Then, the royal majesty shall not allow the forceful exaction of victuals, billeting or any other impositions on the estates and places of churches and noblemen, or any other ecclesiastical or lay person against the will of the host, nor shall he allow others to do so. [1] Nor shall he stay uninvited in the houses or places of prelates, barons or any other ecclesiastical or lay persons whomsoever, for holding meeting or discharging other business, or burden them in any way by expenses, provisioning, delivering carts and luggage, and the sustenance of emissaries, retainers or any other men of the royal majesty whomsoever, without their express approval,⁵⁸ [2] as was improperly introduced against their will in the times of the said late Lord King Matthias.

29. Then, from now on and in the future, no archdeacon, vice-archdeacon⁵⁹ or parish priest, nor their deputies, shall dare improperly exact, on pain of loss of their benefices, that mark of silver or four gold florins beyond the hitherto customary funeral fees for the interment of the victims of murders, which was, as is well known, canceled and abolished by papal bulls in the times of the lord kings Charles, Louis, Sigismund, and Albert upon the request of these kings.⁶⁰ [1] However, they have full right to collect from the murderers.⁶¹

30. Then, it has been concluded that if mines or adits of gold or silver, copper, iron or whatever metal are found—except for salt mines, which are exclusively reserved for the property and use of

⁵⁵ The thirtieth (*tricesima*) was a customs duty on import and export that developed out of different types of urban and market tolls. The “usual places” are listed in **1498: 34**. Exemption of minor items from the customs duty had not been previously decreed.

⁵⁶ On Szapolyai, see above, n. 62. As early as the thirteenth century, a few prelates and, later, some major lords were granted the title of perpetual *ispán* of a county.

⁵⁷ The sizeable amount of royal revenues in the hands of the Szapolyai family came to be a recurrent problem in the 1490s and later.

⁵⁸ The prohibition of forced *descensus* and related burdens goes back to the Golden Bull (**1222:3** and **15;**); cf. **29 May 1439: 18**.

⁵⁹ The archdeacon (*archidiaconus*): was since the end of the eleventh century the ecclesiastical administrator of a district that usually coincided with a royal county, four or more of which constituted a diocese. Later the archdeacon (also called archpriest, *archipresbiter*) moved to the episcopal see and became a (mainly judicial) administrative officer of the bishop, entrusting a part of his office to a priest of a major parish (*plebanus*) as vice-archdeacon (*vice archidiaconus*). See: Alexander Szentirmai, “Das Recht des Erzdechanten [Archidiakon] in Ungarn während des Mittelalters.” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Kan. Abt.* 43 (1957): 132–201

⁶⁰ This practice had been already prohibited in a letter of Pope Benedict XII, issued at the request of King Charles I; see **1351:2**.

⁶¹ The last sentence was not contained in previous legislation.

the royal majesty—wherever and within the borders of lands or properties of any lord prelate, baron or nobleman as well as of any other man of property of whatever condition, they and their heirs in the land of whose estates these were found are able and allowed to mine, maintain and have them exploited at all times in the future, as well as to take their usufruct. [1] They shall do so, however, in such a way that they faithfully render the regalian rights, that is the *urbura*, which belong to the royal right and emanates from it according to the custom of other mines.⁶² [2] However, there are many [persons], mostly lord prelates, barons and substantial nobles of this realm, who by the donation and permission of the previous blessed kings of Hungary, maintain and have worked mines of gold, silver, copper, iron, and other metals, again excepting salt mines as was mentioned above. They are able and allowed to maintain and have these worked freely and without any hindrance, and to keep their revenue according to the concessions, grants, and approval of the aforementioned kings and the contents of their privileges.⁶³

31. Then, foreign coins and money shall not be introduced nor accepted in the kingdom. [1] Those who act contrary shall be punished with the heretofore usual penalty, except for those who live near the borders of countries.⁶⁴

32. Then, as there are numerous merchants and other people of different nations who impoverish the resources of the kingdom by exporting its treasure, that is gold and silver, and depriving the same kingdom of these, [1] it has been decreed for the public interest and common good by the common consent and decision of all lord prelates, barons, and gentlemen of the realm that nobody at all, be he of whatever dignity, nation or condition, should dare or be able to export melted gold or silver which has not yet been rendered to gold or silver coins, for any reason whatsoever. [2] Should, however, anyone presume to do or proceed against this decree, then whoever finds such a person, namely exporting gold or silver, shall have full and unlimited right by the force of the present law or decree, to arrest them in person and take away from the exporters their gold, silver, and other belongings and to keep these.⁶⁵

33. Then, since the palatine of the kingdom of Hungary has, according to ancient custom of the realm, the right and duty to render judgment and justice in regard to the gentlemen of the realm against the royal majesty, and in turn in regard to the royal majesty against the gentlemen of the realm, the royal majesty shall choose this palatine with the counsel of the prelates, barons and nobles of the realm in equal concord. [1] In order that all suspicion that may arise over favor or

⁶² The *urbura* was the treasury's due from precious metals mined on private properties, 1/10 of gold and 1/8 of silver.

⁶³ The arrangement goes back to the mining and minting reforms of Charles I; see. **1342**. For that and the following articles cf. Csaba Tóth, Minting, Financial Administration and Coin Circulation in Hungary in the Árpadian and Angevin Periods, in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 279–94 and Márton Gyöngyössi, “Coinage and Financial Administration in Late Medieval Hungary (1387–1526)” *Ibid.* pp. 295–308

⁶⁴ Cf. **20 May 1439: 1**. For previous legislation in this matter, see e.g. **15 April 1405: 19** and **31 August 1405: 13**.

⁶⁵ Cf. **15 April 1405:15**.

hatred or anything else concerning this palatine and other judges and justices of the same realm be removed and banished from the hearts of all, in future each and every judge and justice of this realm, spiritual as well as secular; those namely who are chosen and appointed as palatine; judge royal; master of the royal treasury; royal chancellor or vice-chancellor; protonotaries or deputies of the said judges as well as their assessors in judging;⁶⁶ voivode of Transylvania; *ispán* of the *Székely*; ban of the kingdoms of Dalmatia or Croatia; ban of Slavonia; ban of Mačva, as well as *ispán* of any county and noble magistrate, and additionally their deputies, substitutes, and assessors in court, must take an oath at the time of their reception to these honors and offices of administration of justice and judgment into the hands of the royal majesty or deputies of the royal majesty in the form here written. The form of the oath follows in these words:

I, N. swear by the living God and the holy mother of God, the Virgin Mary, and by all the saints and elect of God, that I will to my ability render just and true justice and judgment as well as execution in all matters to all litigants before me and in all affairs which pertain to my office, without regard to person, to rich and poor alike, having put aside and made as naught any entreaty, price, favor, fear, hatred, love or fancy, as I will know must be done according to God and His justice. So help me God and all the saints.⁶⁷

And it is here stated that the palatine has to swear the oath in the prescribed form publicly in front of the gentlemen of the realm after his election.

34. Election of noble magistrates in the counties

= **8 March 1435:2**

35. Abolition of the extraordinary court of the palatine

≈ **25 Jan. 1486:1**

Adding: [2] In the event however that some powerful men in the same county are unwilling to have or seek [such an inquisition], the community of the nobles of the county⁶⁸ shall have the full right to apply to the royal majesty.

36. Abolition of extraordinary county assemblies

⁶⁶ Protonotaries (*prothonotarius*, Hung. *ítélőmester*, "master in sentencing") were practical lawyers who acquired legal training in the secular Hungarian courts. From the mid-fifteenth century they presided over court sessions in an increasing number of cases. See György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary] (Budapest: Akadémiai, 1971), briefly Idem, "Men Learned in the Law in Medieval Hungary," *East Central Europe/l'Europe de centre-est* 4:2 (1977) 181–191.

⁶⁷ An almost identical oath was to be sworn by judges according to **8 March 1435:1**. In subsequent decrees this formula was referred to as the "oath of Rákos."

⁶⁸ By *communitas nobilium* should be understood the periodically held county assemblies.

= **25 Jan 1486:2**⁶⁹

37. *Abolition of judicial combat*

= **25 Jan 1486:18**

38. *Abolition of proclamation at three fairs and the adjudication of obligations*

= **25 Jan 1486:17**

39. Then, it has been ordered that small convents, especially the one at Săniob, must cease issuing letters, and these shall be without authority.⁷⁰

40. *Two annual octaves shall be held*

= **25 Jan 1486:3**: lines 1–12 Adding: [6] Letters of judgment⁷¹ shall always be taken out from the archive by the protonotaries according to need.

41. *Octaves in Transylvania and Slavonia*

= **25 Jan 1486:3**: lines 13–6

42. *The judges ordinary of the kingdom and access to the court*

≈ **25 Jan 1486:68**⁷²

43. *Persons and the oath of the royal bailiffs and witnesses of the places of authentication*

≈ **8 March 1435:8–9**⁷³

44. Then, there are often many errors and scandals in the issue of letters because of the negligence of the priors of regulars and abbots, who have under them places of authentication using seals of testimony. [1] This is mainly because these priors and abbots are known to have in respect of guarding the seal little authority over the monks living under them, and they do not have sufficient persons to merit the name of a convent but much fewer. They misuse their seals freely to the

⁶⁹ The article omits the last sentence of the *Decretum maius* of Matthias on the abolition of short summons, which had not in fact taken effect.

⁷⁰ = **25 Jan 1486:59**. The right to authentication was taken from a number of lesser convents already in **1351:3**, repeated in **1397:28**. The expressly named Benedictine convent of Siniob/Szentjobb—founded in the late eleventh century, and for a while guardian of the arm-relic of St. Stephen; hence its name which means the Holy Right Hand—recovered its right to act as a place of authentication only through the offices of John Vitéz, in the 1450s administrator of the abbey, and retained it even under its subsequent administrator, Peter of Várad, until the latter's falling out of grace (see I. Bodor, “Reneszánsz stíluselemek a Mohács előtti magyar pecséteken” [Renaissance stylistic elements on pre-Mohács Hungarian seals], *Művészettörténeti Értesítő* 31 (1982): 104 n. 10).

⁷¹ *Littere iudiciales* usually mean letters of fine, but here it may refer to all types of judicial records.

⁷² The present *decretum* omits the last sentence of **1486: 68** which included a fine and incarceration.

⁷³ The present article omits a justificatory preamble of the **1435** law, and doubles the fine for refusing to serve as royal bailiff.

detriment of the people.⁷⁴ [2] Hence, that this kind of wicked misuse should cease forthwith and the people have a safer protection, it has been concluded and ordered that from now on these priors regular and abbots having authentic seals be held and made responsible for having in their monasteries ten or eight religious persons, priests of their order, or at the very least seven and not fewer,⁷⁵ and that together with them they should exhibit due diligence in the issue of letters. [3] In order that these priors and abbots may use their authority more freely, it has been decided that from now on the said monks or brethren of whatever order using seals should be regarded as being under the power and authority of these priors and abbots, and these priors and abbots should have the right to punish them according to their deserts. [4] So if there happens to be any error in the issue of any letters whatsoever, then the prior and *custos* of such a place shall be punished with the aforementioned penalty. [5] In order that all suspicion be eliminated from the hearts of the doubting, it is fitting that the names of these brethren, namely the prior and *custos*, be fully written out at the end of each letter before the date.⁷⁶

45. Then, because many clerks and people of different conditions, both nobles and ignobles, often summon people of this realm especially the simpler ones to the Roman curia—or when a legate of the pope comes to this kingdom of Hungary, into his presence,—in some contrived matters and sometimes even frivolously, calling them into the Roman curia or presence of the legate, and they attempt to force them to the payment of a certain sum by continuously pressing and harassing them with lawsuits, thus supporting and maintaining their life criminally by right and wrong, [1] it is ordered and laid down by the barons, lords and the community of this whole realm that in future the unlawful complaints and frivolous claims of these criminals, greedy for profit, cease; [2] henceforth nobody at all shall dare to summon anyone in any matter whatsoever to the Roman curia or to the presence of any legate, unless he first appears before his diocesan ordinary, archbishop or bishop or his deputy and proceeds with him at law; and finally if any of the parties feels either that justice has been denied him, or that he was otherwise improperly burdened and convicted, then he can

⁷⁴ The misuse of seals was a frequent complaint in the fourteenth and fifteenth centuries, and it normally came about due to poor supervision of the seal, particularly when the seal was used by individual clerics rather than by the chapter or convent acting as a body. Bernát L. Kumorovitz, *A magyar pecséthasználat története a középkorban* [History of Hungarian sealing practice in the Middle Ages] (Budapest: Magyar Nemzeti Múzeum, 1993), p. 79.

⁷⁵ The uncertainty of the minimal numbers of canons reflects the fact that Hungarian religious orders often had problems with recruitment. Elemér Mályusz, *Egyházi társadalom a középkori Magyarországon* [Clerical society in medieval H.](Budapest: Akadémiai, 1971) pp. 212–21 lists—based on contemporary visitations (printed in László Erdélyi, *A pannonhalmi Szent Benedek rend története* [History of the Benedictine Order in Pannonhalma], Vol. 12/b (Budapest: Szent István Társulat, 1912)—several abbeys where only one or two monks lived around 1500, The reform that started in 1500 achieved some, however limited, results before Mohács (ibid. pp. 222–35).

⁷⁶ Cf. **1486:11**.

take, move, and prosecute such a case in the Roman curia or the presence of its legate by appeal and no other way. [3] Those acting contrariwise shall be duly punished.⁷⁷

46. Then, no case shall be tried in courts spiritual except for wills, marriages, dowers, paraphernalia and filial quarter, perjury, beating and robbing clerks or women, and other matters which are not of profane character and [in respect of lay courts] vice versa.⁷⁸ [1] Should, however, any judge spiritual accept a suit not pertaining to his court and not refer it to the presence of a secular judge upon a letter of command, then such a judge spiritual shall be deprived of his prebend and the royal majesty can confer that benefice on someone else outright. [2] Spiritual judges are understood in this case the deputies and officers of the prelates. [3] If, however, the judge secular recognizes that a certain case referred to him by a judge spiritual pertains to a court spiritual, he ought and shall return it to the presence of that judge spiritual.

47. *The rendering of the ninth*

≈ **1351:6**: lines 1–9⁷⁹

48. *Exactng the ninth from church property as well*

≈ **1351:6**: lines 9–17⁸⁰

49. Then, the tenant peasants of one and all, namely those of the king as well as of the queen or the lord prelates, barons and nobles, who have vineyards or plough land in the land of other lords⁸¹ must and shall give and render in the same way the ninth part of their vine and crop, the usual *akones* and the customary dues to the lord of the land. [1] Where, however, such payments are not made or neglected in any other way, then those properties from which these payments are due shall become outright those of the lord of the land. [2] Stating finally that if any of the people of the

⁷⁷ Cf. **1486:45**. The prohibition goes back in essence to the *placetum regium* of King Sigismund, (**6 April 1404**.) and goes against the decretals of canon law, according to which the legate was ordinarius in his own legatine province, thus entitled to hear any kind of case in the first instance. (cf. Liber Extra X 1.30.1).

⁷⁸ This paragraph has a long history, see among others **1405:14** and **1462:3**. See also György Bónis, “Die Entwicklung der geistlichen Gerichtsbarkeit in Ungarn vor 1526,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Kan. Abt. 49 (1963) 174–235.

⁷⁹ The only difference to the **1351** law is that in the present article *akones consuetos*, that is the ‘usual’ due from wine (*akó* being a measure of volume approx. 54 litres), are listed as an alternative to the traditional due of the ninth, i.e. the seigneurial claim to the “second tenth” of the tenant peasants’ produce. Whether *akones* were different from the ninth of the wine is unclear.

⁸⁰ In addition to the terms of **1351:6** the threat of royal collection of dues from the subjects of reluctant lords is elaborated upon, naming the *ispán* and *alispán* as responsible for collecting in the name of the king (*comes et vicecomes nomine nostro regio*) the ninth owed by tenants to ecclesiastical landowners.

⁸¹ This refers to peasants, who—in consequence of the shortage of labor—often rented empty plots and especially vineyards, usually in the same village where they lived, and thus may have escaped some seigneurial dues.

king, the queen or anyone else claims to have exemptions from such ninth or *akones*, then justice has to be administered by the judges ordinary of the realm at the first octave court.

50. Exemption of all nobles from tithes

= **29 May 1439:28**

51. Many a gentleman of the realm, mostly in cases started against them in matters of property, once the deadlines in the process and the set terms have passed, and the letters and all other requisite documents have been thence adduced so as finally to conclude the suit, in the last stage of the case, even as the justices ordinary of the law court of the realm and the protonotaries and sworn assessors of the same court have delivered their sentence, when one of the parties realizes that he has failed and lost the case and that the resulting letters of adjudication either have been already drawn up and handed down or will be handed down once sentence is given and pronounced, are apt to recall their attorneys, wishing to have their cases declared failed, and to obtain a new trial on the strength of which they may often prevent the other party from executing the letters of adjudication, thus depriving it of its just rights. [1] For this reason it has been decided that henceforth such litigants can recall their attorneys and have the case fail only as long as a suit is pending and no decision has yet been reached. [2] However, let them obtain a new trial, whenever they wish. Yet this must in no way prevent the other party executing a sentence that has been passed, or hinder the issue of letters of adjudication or impede the justices ordinary and their protonotaries handing these out. [3] Rather, the winning party may have the letters of adjudication executed, notwithstanding any letter of new trial obtained in this way; thereafter the party which has obtained a new trial, once the sentence that has been delivered is executed, may, if it chooses, pursue its action by means of a new trial and have it carried out. [4] But in a case relating to property rights or any other business that one of the parties loses on the grounds of non- appearance—because he was unable to appear having been hindered by, say, some particular matters of concern to him—and he receives a sentence of condemnation, then such a party, having lost the case through non-appearance, shall always be able and, whenever he wishes, have the right to obtain a new trial and to prevent both the justices ordinary and their protonotaries from issuing letters of adjudication and sentence, and the other party from obtaining them.⁸²

52. Then, all such cases in which a new trial is obtained from the royal majesty are to be heard and adjudicated at the first octaves among all other cases.⁸³

53. Furthermore, although it was ordered before the death of the most serene prince the said Lord King Matthias in the new general decree by the same Lord Matthias⁸⁴ and all the lord prelates, barons and noblemen of the realm, that in every county of the kingdom certain jurors be elected from among the more substantial nobles, who in the courts of all these counties shall pass judgment as well as perform and carry out inquests, summonses, notices, institutions, perambulations of

⁸² Transcribed verbatim in **Tripartitum**. II. 77:5–9.

⁸³ Transcribed verbatim in **Tripartitum**. II. 77:10 (.

⁸⁴ **1486:8**.

boundaries, and all other legal executions; [1] but because this was seen as being very burdensome to the gentlemen of the realm, since they had to attend and appear at the same courts of the said counties before the aforementioned elected jurors, passing judgment upon litigants every thirteen or fifteen days; and also because when the same elected jurors were sent out to perform such executions they were burdened with much labor and expense, [2] it has therefore been decided that henceforth the election and the office of such elected noble jurors cease and be totally abolished. Rather the *ispán* or *alispán* and the noble magistrates of the county shall and are held to administer justice in these law courts, and the royal bailiff with the witnesses of the chapter or convent must and are held to execute, carry out, and perform other executions or legal commissions such as inquests, summons, notices, institutions, perambulations of boundaries, and any other legal procedures whatsoever, in the way and manner as were observed in such matters before the aforementioned last new decree of the said late Lord King Matthias.⁸⁵

54. *Suits about property have to be finished within four octaves*

= 1486:4

Adding: [2] In the following way: that the respondent shall under no circumstances be permitted to present his rights by which he wishes to defend himself in later octaves not even under penalty, but has to present his privileges in these four octaves, without any further legal procedure.⁸⁶

[3]-[5] ≈ **1486:6**.

55. Then, in suits moved for damages done or other harm or injury and minor acts of might,⁸⁷ even if the perpetrator has made a confession with his own mouth personally before his judge, no person is henceforth to be convicted of acts of might, but shall only be sentenced to pay for the damages which he caused and for the expenses incurred by the plaintiff (which are awarded to the latter alone), plus twenty-five heavy marks, equivalent to 100 florins, to be divided equally between the judge and the plaintiff, and he will be forced to immediate payment by the judge.⁸⁸

56. However, in major cases, namely, the breaking into houses of nobles without just cause, the seizing of their estates and the appurtenances thereof, the arrest of nobles without just cause, or the beating, wounding, or slaying of nobles, the judge will proceed in the following manner: [1]

⁸⁵ Some historians have sought to see here a deliberate reduction of the political role of the nobility, in contrast to the policy followed by Matthias. It seems however to have been the demand of the lesser nobility to be relieved of this duty. Moreover, the system introduced by Matthias was potentially less advantageous to noble litigants than the older system of royal bailiffs recruited from among those recommended by the plaintiff.

⁸⁶ Attempts at shortening legal procedure had a long history, see e.g. **1351:25**. See also Martyn Rady, “Justice Delayed? Litigation and Dispute Settlement in Fifteenth-Century Hungary.” *Central Europe*, 2 (2004): 3–14. Cf. **1492:73**.

⁸⁷ Under “minor acts of might”—included here for the first time in a surviving decree—were subsumed all those crimes that did not count as major acts of might, for the list of which see below Art. 56. Cf. **Tripartitum** II.67:5. W. failed to define the minor acts anywhere.

⁸⁸ Transcribed verbatim in **Tripartitum**. II.67:8.

that if the plaintiff for his part has presented evidence at an inquest in the manner and order aforementioned, then the judge shall send the case to a common inquest in order to clarify the issue should the parties so wish. [2] Should, however, the defendant refuse to accept this inquest then the plaintiff shall swear upon the head of his adversary⁸⁹ in order better to prove his plaint according to the custom of the realm observed in this matter. [3] But this will only apply if his opponent or the respondent has his own, personal and continuous residence in the county in which the offense was committed. [4] Where, however, such a respondent personally resides in another part or province of the kingdom, and the aforesaid offense was committed in his absence, he will be required to clear himself as innocent by an oath in accordance with the contents of the letters of inquest. [5] Finally, his retainers and tenant peasants are to be tried and justice administered according to the present article, as the law of the realm requires.⁹⁰

57. *The penalty for repulsio*

=**1486:16**

58. *On summonses with the clause “by the consent and will of N. N.”*

= **1486:13**

Adding: [3] excepting the case that such persons lead, direct and protect such evildoers and their families by aid and counsel.⁹¹

59. *Prohibition on entering estates in face of contradiction*

= **1486:22**

60. *Abolition of donations “from the royal hand”*

= **1486:23**

61. *Grantees of royal donations have to litigate in their own name*

≈ **1351:14**⁹²

62. Then, if some of the gentlemen of the realm obtain for themselves some property rights under the title of royal right, but are unable to prove that these pertain to the royal right, they shall be

⁸⁹ Swearing on the head of the adversary constituted a decisive oath on the part of the plaintiff. It is uncertain whether it was physically sworn on the opponent's 'head' (but probably not). See Imre Hajnik, *A magyar bírósági szervezet és perjog az Árpád- és vegyesházi királyok alatt* [The Hungarian Judicial System and Procedural Law under the Kings of the Árpád and Diverse Dynasties] (Budapest: Magyar Tudományos Akadémia, 1899), pp. 314–15.

⁹⁰ Transcribed verbatim in **Tripartitum** II.67:9–13.

⁹¹ This type of clause was often used in cases of acts of might in order to widen the circle of the accused often without any proof of their complicity. The clause added in 1492 wished to permit prosecution only in cases of “proven” consent.

⁹² The text of the **1351** article is formulated in the name of the king, while the present one is in the third person.

condemned to the estimation of such property rights. If such obtainers should enter into the ownership of such obtained rights or their income by deception, occupation or any other way before the final decision of the case moved in the matter of such obtained rights, then they shall be convicted of an act of might against the damaged party or litigant burdened with expenses.⁹³

63. Royal donations based on default of issue and the position of female heirs

= **8 March 1435:17–18**

64. Then, the dowers of the wives of men deceased in any way, even those who have been legally slain,⁹⁴ shall always remain intact and safe.

65. Redemption of pledged estates and penalty for usury

≈ **1486:25**

66. Then, the palatine, the judge royal and other justices ordinary, spiritual as well as secular, shall be first obliged to satisfy the opposing party immediately after the conclusion of the case and the passing of final judgment from all the judicial fees or fines accrued in the cases treated before them, and only then have the right to collect the part pertaining to the judge.⁹⁵

67. The penalty for contempt of court

≈**1486:58**⁹⁶

68. The right of the parties to make an out-of-court agreement

=**1486:5**

69. Prohibition of protonotaries from judging outside of court and the duty of judges to sign letters of judgment

=**1486:20**

70. Penalty for insulting judges

[1]-[3] =**1486:54**; [4] ≈ **1464:19**

71. Prorogations allowed only in exceptional cases

= **1486:7**⁹⁷

72. Penalty for losing a suit that has been transferred to a royal court

= **1486:53**

⁹³ Cf. **1464:11**.

⁹⁴ This refers to criminals who have suffered the death penalty.

⁹⁵ Essentially identical to **1486:52**.

⁹⁶ The fine is raised from 20 to 25 marks.

⁹⁷ The earlier law allowed the payment of the fine through an attorney; this is now omitted.

Adding: [2] Stating, however, that if in the court of the aforementioned counties someone was adjudicated to swearing a personal oath then that person cannot appeal against such a judgment.

73. Furthermore, when cases are remitted to the said *ispáns* and *alispáns*, having been approved or perchance amended, they often neglect to perform some executions out of favor for the opposite party or on account of some other regard. [1] Therefore, lest the party in respect of whom the judgment has been passed be deprived of his rights, it has been ordered and decreed that if the *ispáns* and *alispáns*, after having been requested through letters of the remitting judge, neglect to perform the execution within fifteen days reckoned from the day of the request without any just and reasonable excuse, then such *ispáns* and *alispáns* shall right away be convicted of twenty-five marks of heavy weight by the judge whose order they did not execute, to be exacted without any delay or remission. [2] As cases that were transferred from a county court and the noble magistrates to the royal court by appeal were until now always sent to the octave courts and were revised, discussed, and tried only there, and because of this the discussion and revision of the majority of cases started in the royal court had to be more and more frequently neglected or put aside or postponed to later octave courts to the serious harm of the parties; therefore, in order that the parties be spared the labor and expense, and the cases be concluded faster, it has been decreed and ordered

[3] that from now on, any case can and may be transferred to and received by the royal court through appeal from the courts of any county to a proper term even in the interim, that is outside the octaves, and revised, discussed and tried here in Buda by its justices ordinary, that is the judge to whose presence it has been transferred.⁹⁸ [4] Then, as there are many defendants who prolong the cases initiated against them concerning property rights or other matters and burden the plaintiffs unjustly with expenses and labor, often with various calculated subterfuges, and especially when the plaintiff has already conducted his case, keeping the legal terms and exhibiting all their rights and instruments before his justice ordinary with great efforts and expenses to the point that only the final decision has to be made in the case, or the sentence to be delivered and pronounced, then the defendant—seeing that he will lose the case and that he cannot delay it any further—alleges with contrived vexatiousness that he has a letter of quittance against the plaintiff, and by that has his case prorogued and postponed to another, following octave. [5] Therefore, in order that such frivolous prosecution be met by proper remedy, it has been decided and ordered that henceforth any defendant who alleges that he has letters of quittance against the plaintiff in the first stage of his response shall produce and show these at the next octave. [6] If, however, the defendant alleges that he has such a quittance once the legal terms have been completed, that is when the case is finally concluded, then he will not have any further octaves to produce and display these unless he shows and exhibits them immediately.

74. *Procedure in the case of capital punishment*

[1]-[5] = **1486:55**

[6] ≈ **1351:19**

⁹⁸ This represents an early step towards the continuous sessions of octave courts, broadened later in **1498:2, 8**.

75. *Protecting ispáns and alispáns in their executions*

≈ **1486:67**⁹⁹

76. *Equal penalty for ecclesiastical and lay persons in courts spiritual*

= **1486:72**¹⁰⁰

77. *Acquisition of estates by clergy*

= **1486:57**¹⁰¹

78. *Replacement of lost instruments*

≈ **1464:20**¹⁰²

79. *Prohibition on entering the court armed*

= **1486:65**

adding: [3] Those nobles or other men of whatever condition who dare to mob, molest, beat or kill anyone within the borders of the kingdom when going to the court of any county, or when returning home from the same, either in the court or on the journey, shall be convicted of the usual taint of infidelity.

80. Then, should anyone who has captured a thief, a robber, or any other public criminal, deliberately release him, he must pay the criminal's man-price to the county *ispán*¹⁰³ and shall restore the damage caused to the persons harmed. [1] If the county *ispán* allows such a criminal given to his hands to leave, then the *ispán* shall and must pay the man-price of the criminal to the one who handed him over, and satisfy the damaged person for his losses. [2] And the *alispán* of any county has to be always from among the more substantial nobles of the same county.¹⁰⁴

81. *The capture of criminals on any estate*

= **1486:48**¹⁰⁵

82. *On murder and unintentional homicide*

= **1486:51**

⁹⁹ Replaces “charge of infidelity” with “deserved punishment.”

¹⁰⁰ This measure goes back to at least **1439:33**.

¹⁰¹ Goes back ultimately to **1351:20**.

¹⁰² Adding the burning of instruments by Turks and Czechs, Poles and Germans as a valid reason for obtaining title of new donation.

¹⁰³ Identical to **8 March 1435:7 para 5**.

¹⁰⁴ On the *alispán* cf. **1486:60**. The connection between the two parts of the article is unclear.

¹⁰⁵ The present article omits the last sentence about the king's right to donate the confiscated properties.

83. *Hiding men unfaithful to the king*

= **1486:47**¹⁰⁶

84. Then, that foreign merchants and those from abroad, of whatever nation they may be, shall in order to conduct their affairs go to the hitherto usual places which are designated for selling, buying and exchanging when trading and selling within the country.

85. *Exemption of nobles and clergy from tolls*

≈ **1351:15**

Adding: [1] Those acting to the contrary are to be convicted to the payment of the man-price of the living of the person whom they impeded.

[2] ≈ **1351:17**

Adding: [3] Transgressors shall suffer the same punishment.

86. *Limited exemption of peasants and certain craftsmen from tolls*

≈ **1486:36**

Adding: [2] Moreover, no toll may be exacted from people carrying grain to the mills, neither going nor coming. And those who carry wine, grain or victuals and other dues of the lord of the land to the houses and courts of their lords through any toll, should not pay any toll, nor should they be forced to pay any fee, under the aforementioned punishment.

87. *Tolls, ferries and illicit routes*

≈ **8 March 1435:20–21**¹⁰⁷

Adding: [6] ... in such a way that no one should dare to block and guard such illicit routes on the lands of others. [7] Where, however, people suffer damage on bridges or ferries because of their bad repair, then those whose bridges or ferries they are, have to give satisfaction to the persons thus harmed.

88. Moreover, considering that no gentlemen of the realm is permitted or may establish and keep illicit and secret fords to the detriment of authorized fords, the following has been decreed and ordered: [1] henceforth none of the gentlemen of the realm shall at all dare to establish and keep secret or illicit fords, boats, and ferries for those traveling or crossing water to the detriment—as it was said—of the authorized fords on pain of the loss of the estate in which it happens to be. [2] If any merchant or traveler is found to have arranged for himself an illicit or secret ford and is

¹⁰⁶ The term for keeping unfaithful men is extended here to 40 days.

¹⁰⁷ In **1435** the inquiry into tolls was assigned to a general assembly and the palatine. In this law it is made the responsibility of the local authorities, i.e., *ispán*, *alispán* and noble magistrates. On illicit routes, see **1464:15**.

caught having crossed there, then the same rule shall be henceforth applied to them as is understood to apply to those who do not pay when passing through legal tolls.¹⁰⁸

89. Then, that no one wishing to arrest someone can make an arrest for whatever reason in his own, his joint-owning kinsmen's or his lord's estates, lands or [area of] office¹⁰⁹, [1] otherwise he shall be convicted of wrongful arrest to a penalty of three marks, and the county *ispán* shall compel him under the pain of another fine of three marks to free and let the arrested person go. [2] Should the *ispán* out of favor to someone neglect to act or be lax in this matter, then the arrested person or his lord of the land can arrest in a public place either the arrestor himself or instead one or more peasants¹¹⁰ of that village or estate where the transgressor of the present statute is staying. He can and may keep him until the one who—as said before—was wrongfully arrested is freely released together with his belongings and is satisfied from the fine of the aforesaid six marks. He can also and is allowed to legally recover and receive these fines either before the lord of the land or his official, judge and sworn citizens of that public place where this arrest was made. [3] And the same lord of the land or his official, the judge or sworn citizens have the right to give satisfaction to the arrested person from the aforementioned fine of six marks. In other matters however,

[4]-[8] = **8 March 1435:13(part two)-14**¹¹¹

90. Moreover, there are many reeves or judges and officials, especially on the estates and properties of the lord prelates and barons, who, when someone complains against a noble because of some debt or other matter, capture or arrest tenant peasants of such nobles together with their belongings and goods at the urging of the complainant and thus these nobles are often forced to stand trial contrary to their noble privilege and liberty. [1] But because reeves or judges and officials of villages, market towns, and cities, and even the lords of such places have no jurisdiction over nobles in such cases, it has therefore been decreed and established [2] that from now and henceforth they can make no arrest anywhere in the stead of nobles either because of debts or any other matter, nor should they dare to arrest or in any way impede nobles themselves in their persons or belongings. [3] If anyone claims to have a suit against some nobles, they have to prosecute it before the county *ispán* and the noble magistrates or other judges ordinary of these nobles. [4] The *ispáns* and noble magistrates or other judges ordinary must administer and give justice and judgment in regard to them as well as due satisfaction upon the lawful proof of the same plaintiff according to the custom of the realm. [5] Should anyone—against this statute—detain a tenant peasant and his belongings instead of some nobles then he shall be convicted to the man-price of

¹⁰⁸ For previous legislation, see **1486:35**.

¹⁰⁹ *Officiolatus* may mean both the offices to which properties or revenues were attached as well as the properties or estates themselves.

¹¹⁰ The Latin text includes here the word *colonus*, a late Antique expression for settled slaves. The term came to be used in the Jagellonian age interchangeably with *jobbágy/jobagio*. Whether that was to indicate a worsening of the status of the tenant peasants, or is merely a Classizing expression, is debatable.

¹¹¹ The **1435** law regulated these matters primarily in regard to merchants and travelers.

the living of the detained peasant and the estimation of the seized belongings. [6] Similarly, should they detain a noble or seize his belongings, they shall be convicted in the same way.¹¹²

91. *Arrest by burghers*

= **8 March 1435:15–16**

Adding: [2] And thus arrests shall be done only in this way and none other, [3] unless some should manifestly cause wounds, injuries, death, fire or other horrible things, in which case if they are present and can be apprehended, justice and judgment shall be administered in their regard and suitable punishment inflicted by law.

92. *Manifest debtors*

≈ **1486:29 lines 8–1**

93. *Penalty for withholding released tenant peasants*

≈ **8 March 1435:7 para 2**

Adding: [1] ... except for those who remain in their liberties. [2] Those thus freed are only to be permitted to leave when they have at the time of their move satisfied their lords in all dues both ordinary and extraordinary to be rendered before the time of their release, in such a way, however, that if they have built anything before the time of their release they should be able to dispose of these freely according to the estimation of the judges and reeves of the place where they are living.¹¹³

94. *Penalty for taking away tenant peasants*

= **8. March 1435:7 [3]**

Adding: [2] In such a way that no one shall dare and be allowed to violently take away a tenant peasant of another who has asked for release but not obtained it, without the administration of justice and right, and not having paid the different dues, even after the fifteenth day of the release obtained, under pain of the payment of twenty-five marks to be paid partly to the *ispán*, partly to the litigants. [3] The same is to be understood of the county *ispáns* or *alispáns*. Should they take away tenant peasants by the discretion of their office, they shall be subject to the same penalty and burden.¹¹⁴

¹¹² Cf. **15 April 1405: 7** where nobles were prohibited from arresting commoners; **8 March 1435:13–14**; and **1486: 29** on arresting debtors.

¹¹³ The addition implies that there were two steps before tenant peasants could move: the license and the payment of outstanding debts.

¹¹⁴ These articles attempt to restrict the movement of peasants reflecting the demographic changes of the late fifteenth century that caused the widespread abandonment of peasant plots; see here István Szabó, “Hanyatló jobbágyság a középkor végén” [Declining tenant peasantry at the end of the Middle Ages], in: Idem, *Jobbágyok, parasztok* (Budapest; Akadémiai Kiadó, 1976) pp. 167–200. The problem is a recurrent issue in the Jagellonian *decreta*. The right of tenant peasants (*jobagiones*) to free movement from one lord to another was in many cases rather the “right” of more powerful landowners to transfer labour force from

95. *Fees for the issue of instruments*

≈ **8 March 1435:10**¹¹⁵

96. Then, as various disagreements have arisen over letters copied and transcribed outside of the octaves in chapters and convents of authentication and also in our court, when these transcripts are later exhibited in court by one party against the other and often the party against whom these were produced attacks these, and thus doubt is raised about their force; [1] therefore, in order to remove these disputes and doubts it has been ordered and decreed that when such letters are copied and transcribed outside the octaves either in the said chapters or convents of authentication or in our court under our privy or judicial seal, or that of any of the justices ordinary, and one of the parties presents the transcript in court, but the other party attacks this transcript and does not give faith to it, then the party who presents it must also show the original letters to verify the transcript.

97. Then, as it often happens that women—especially the wives of barons, lords and other nobles—in their suits initiated by them against others or by others against them, cannot easily come in person to chapters or convents of authentication to appoint attorneys, either because of the distance of the places and the bad conditions of the roads, or any other reasonable cause, or they are afraid to go because of the frailty as well as honor of the female gender, [1] it is therefore ordered that should such women appoint attorneys before two canons or conventual brethren, sent out from the chapters or convents of authentication for that purpose at the request of the same women, then this appointment will have force, and the letters of the chapter or convent issued about this shall be accepted in any court, and full trust be given to it just as to other letters of attorney. [2] Adding, however, that those, who are sent out to hear such an appointment of attorney, should not by reason of the journey exact more than is usual in the execution of summonses or inquests, and finally they shall receive that much for the letters issued in the chapter or convent upon their report as it is usual to get and receive for other letters of attorney, and in no way more.

98. *Fees for letters issued by the lesser chancellery*

≈ **8 March 1435:11** and **1486:76**¹¹⁶

99. *Fees for letters issued by the major chancellery and the exchange rate of florins*

= **8 March 1435:12**

the less fortunate noblemen, frequently able to offer them better conditions. On this see briefly, János M. Bak, “Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline” in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005). Such dietal decisions were usually passed in the interest of the lesser nobility

¹¹⁵ With minor changes, such as 100d instead of 200d in cases of letters of perambulation where the case is taken to the royal court.

¹¹⁶ The list omits fees for letters in respect of procedures that had been abolished in the meantime (proclamation at three fairs and judicial combat), and, strangely, the one for letters of attorney.

100. Just as until now the counties of Pest and Pilis, being close to Buda, did not have *ispáns*, they should not have *ispáns* in the future either.¹¹⁷

101. Then, that the royal majesty and his officials shall no longer force the reaping, harvesting, gathering and transportation of hay, as has been done hitherto.

102. Then, that the harmful liberty that was conferred by the late Lord King Matthias to the city of Visegrád, namely that none of the burghers of that city could be made to stand trial for any misdeed whatsoever, not even for a debt, shall be taken as totally erased, abolished, and null and void.¹¹⁸

103. Then, if any city of this kingdom should plead that it has a right of staple and market and that it has privileges on that, then this city or these cities can and shall be allowed to prosecute their cause before their justice ordinary according to the content of their privilege.

104. Then, if any of the people or tenant peasants of the king or the queen or anybody else should make complaint, claiming exemptions from the ninth of grain and wine or from *akones*, then justice and judgment shall be administered at the first octave by the justices ordinary of the realm between such persons and the lord of the land.¹¹⁹

105. We understand from the report of the lord prelates, barons and nobles that their houses in our city of Buda, which they have for their suitable residence when they come to attend the royal court, have since ancient times been exempted and freed from all taxes and other payments to the burghers of our said city of Buda by the late kings, our predecessors. But a certain time ago the burghers of the said city began to raise certain payments on the said houses of theirs and they attempt to do that still. [1] Therefore, we have ordered for all time on the counsel of the said lord prelates, barons and nobles and with our present decision that, as hitherto, the said houses of the said lord prelates, barons and nobles shall not be liable or obliged to any taxes or any payments whatsoever to the community of the said burghers of our city of Buda, [2] but rather as before these houses shall be free and henceforth exempt, free and immune from all taxes and all kinds of payments. Nor shall the said lord prelates, barons and nobles be held to pay anything to the community of our said city for their said houses. [3] Excepting however that if some tenants should stay in the said houses, then they have to pay according to the custom of our said city, according to their means and by the assessment of the judges and sworn jurors of the same city, and we wish

¹¹⁷ The count palatine was traditionally the *ispán* of Pest and Pilis counties.

¹¹⁸ Visegrád obtained from King Matthias a most unusual immunity for all its citizens probably in order to enhance the status of the new royal residence there. See András Végh, “Visegrád város kárhozatos privilégiuma” [The damnable privilege of the city of V.], in Beatrix F. Romhányi et al. (eds) *Es tu scholaris: Ünnepi tanulmányok Kubinyi András 75. Születésnapjára* (Budapest: Budapest Történeti Múzeum, 2004), pp 71–6.

¹¹⁹ See above, articles 47–9. The imposition of the ninth on all peasants and citizens renting vineyards and arable land was aimed mainly against the semi-privileged *oppida* (market-towns) that had previously been exempt from this due; see Szabó, as n. 114 above.

that this be understood for our other royal cities as well, [4] but in such a way that they be not burdened more than other tenants of other burghers living in the same city.¹²⁰

106. Houses expropriated for the aforementioned reason shall be returned to those from whom they were unduly expropriated. [1] If, however, those who kept these houses unduly have done some work or building to them, then those to whom those houses are returned have to recompense these buildings and works according to the assessment of good men.

107. Furthermore, by the common vote and unanimous will of all the lord prelates, barons, lords and all the nobles of this kingdom, it has been decreed [1] that henceforth in perpetuity should any of the gentlemen of the realm, of whatever estate or condition he may be, capture castles, fortified houses, cities, towns, villages or estates, or commit arson, theft or other robbery or any other wrong after the death of any king of Hungary, then such robbers, arsonists, thieves, occupiers of whatever goods and evildoers shall be subject to the penalty of the perpetual taint of infidelity and be regarded thereby as the unfaithful of the realm. [2] Neither the royal majesty even with the counsel of the lord prelates and barons, nor indeed the entire community of the realm, shall have the right to pardon such evildoers, but they being subject to the yoke of eternal servitude and peasantry¹²¹ shall lament without end the punishment of their misdeed.

108. Then, as it has happened many times that when the royal majesty, pressed by necessity on account of the occurrence of highly difficult affairs of the kingdom that have to be discussed and decided by the common counsel of all lord prelates, barons, and nobles of the realm, has announced and proclaimed at a certain date a diet, that is, general assembly, for all the lord prelates, barons, and nobles, then when all nobles commonly or otherwise, according to the mandate of the royal majesty, and also many of the said lord prelates and barons have come together and gathered on the set date, some of the lord prelates and barons have shown themselves so tardy in coming, that they have turned up not on the set date, but on the fifteenth or twentieth day after that. Waiting for them has been so burdensome for those who came on the set date that the middling and poorer nobles have been compelled to leave the diet having used up their money and become wearied, when the affairs of the realm have not yet been settled, and indeed not even announced because of the absence of those not coming on the set day. [1] Therefore, in order that the benefit of the common weal and the common good of the realm not be neglected, nor disturbed in any way because of the tardiness of such lords in coming as said above, it has been decreed and ordered by the unanimous counsel and decision of all lord prelates, barons, and nobles, [2] that henceforth, at whatever time and as often as the royal majesty announces and proclaims a general diet for the said lord prelates, barons and other gentlemen of the realm, then those not arriving on the set date will not be waited for more than the four next and following days after the set date. [3] If they arrive within these four days, then well and good; otherwise after the lapse of these four days, the

¹²⁰ Cf. Art. 13–14. of the Buda Stadtrecht, in László Blazovich and József Schmidt, eds. *Buda város jogkönyve* [The lawbook of the city of Buda] (Szeged: Szegedi Középkorász Műhely, 2001), pp. 309–310.

¹²¹ The meaning of *rusticitas* is unclear, but was seen as the restriction on free movement and other privileges of the tenant farmers in contrast to serfs. The penalty foreseen here came to be the punishment for the rebellious peasants in 1514. See **1514:14**

royal majesty may and can hear, conclude, and decide with those who are present at the diet those affairs of the realm on account of which he announced the diet. [4] Those not coming and not arriving must regard everything decided by those who appeared as approved, notwithstanding their absence.¹²²

Here follow the articles of the nobles of Slavonia included in the present decree by the decision of the royal majesty and the lord prelates, barons and nobles of the kingdom.¹²³

1. Then, that the royal majesty, as is contained in the first article of the present decree, promised among his other kingdoms to the kingdom of Slavonia that he would preserve its liberties, privileges and customs, thus he promises to keep them in the same liberties and immunities.

2. Then, should now or in the future His Majesty order the inhabitants of the kingdom of Hungary for any reason to make some payments, then he must and shall exact a half of these payments in the kingdom of Slavonia according to their custom hitherto observed.¹²⁴

3. Then, there should be chambers of salt everywhere that is necessary, just as in the time of the late blessed King Sigismund,¹²⁵ and they shall be established in the same way as is done in Hungary.

4. Then, that the chamberlains shall not search for salt in the houses of the inhabitants,¹²⁶ but if they find it in the fields or in fairs or markets, they have free right to confiscate it. [1] However, they shall search for it without vexation and in the presence of the noble magistrates of the county. [2] They cannot take away particles, that is grains of salt.

5. They can freely buy, sell, and use for themselves the salt of the royal chambers, the salt that is carried by ships as well as by carts, and also the sea salt; for the poor of the kingdom of Slavonia exchange the sea salt for grain because of their poverty and lack of cash. [1] From these sea salts

¹²² This represents an early attempt by the county nobility to avoid the expense of long-lasting diets.

¹²³ This is the only surviving case in the medieval kingdom of Hungary when special laws were issued for Slavonia, though these do not essentially differ in their content from those in the rest of the kingdom.

¹²⁴ On the *mardurina*, see above, n. 53.

¹²⁵ Chambers of salt were traditionally in Szeged, Lippa/Lipova, Szalacs/Slacea See András Kubinyi “Königliches Salzmonopol und die Städte des Königreichs Ungarn in Mittelalter,” in W. Rausch, ed. *Stadt und Salz* (Linz: Wimmer, 1988) pp. 213–32; now also . István Draskóczy, Salt Mining and the Salt Trade in Medieval Hungary from the mid-Thirteenth Century until the End of the Middle Ages, in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 205–18.

¹²⁶ The maintenance of the salt monopoly was a major issue in the late fifteenth century and we have examples of this kind of confiscation of salt on the western and north-western frontiers of the realm. See n. above.

the thirtieth customs are paid to the royal majesty; however, [only] when the royal salt has run out and the chamberlain cannot give salt to the inhabitants, and not otherwise.¹²⁷

6. Then, they can freely export and sell wine, grain and any kind of animal wherever they want or can, once they have paid the thirtieth and the just and customary taxes.¹²⁸

7. Then, the thirtieth should be exacted in the heretofore usual places, just as in the times of the lord kings Louis, Sigismund and Albert.¹²⁹ The collectors of the thirtieth should not dare to exact the thirtieth from minor things below the value of one florin.

8. Then, that the royal majesty deigns to confirm all the rights and privileges of the kingdom of Slavonia granted by the blessed kings, the predecessors of His Majesty.

9. Then, that the *ispáns* cannot go out to executions except from the county court and by commission, with letters of command of the gentlemen of the realm and the court, as was observed since ancient times.

10. Then, in the recovery and restoration of castles, fortified houses, towns, villages, that is estates and all other property rights however occupied by anyone after the death of the late king Matthias, the same procedure shall be followed as described for the kingdom of Hungary in the article composed on this.¹³⁰

11. = Art. 16, above.

Adding: And this shall be done in the same way as in the kingdom of Hungary.

We, then, who desire to rule and govern our said kingdom and also the other dominions and principalities of ours not less with laws and statutes than with peace and arms, having accepted these articles and having listened and agreed to these submissions of the same gentlemen of our realm; and seeing and considering the aforesaid articles to be just and honest, we, having included and inscribed them in these presents word for word without any change or impairment, do confirm and approve them as fitting and pleasing, and having accepted them, we do confirm them; and we commend, approve, ratify and confirm them as a perpetual and for all times valid decree for the said kingdom of ours and its inhabitants, promising by the protection of these presents to keep and cause them to be kept in all of their clauses, articles, chapters, and points. [1] Given in the said Buda, in the aforementioned general assembly and diet of all the gentlemen of the realm by the hands of the reverend father in Christ, Lord Thomas, bishop of the church of Győr¹³¹ and our lord

¹²⁷ The gist of this measure is puzzling. Sea salt was probably regarded as of minor value and liable to customs duties only when there was a shortage of mined salt. Alternatively, the article is poorly formulated and means that the import of sea salt was limited to times when mined salt had run out.

¹²⁸ Wine from Slavonia used to be a highly regarded export commodity, although by 1492 Ottoman raids had destroyed much of the region.

¹²⁹ For the customs offices of Slavonia, see **1498:34:4**.

¹³⁰ See above Art. 14.

¹³¹ Bakócz, Thomas, bishop of Győr 1486–1493, bishop elect of Eger 1493–1497, archbishop of Esztergom 1497–1521, cardinal priest of the title St Martin in Montibus, patriarch of Constantinople, legate

high privy chancellor, our beloved faithful, in the year of the Lord one thousand four hundred and ninety-two, in the second year of our reign in Hungary etc., in the twenty-first in Bohemia.

[2] In the time of the felicitous government of their churches of the reverend fathers in Christ, the lords Peter, archbishop of Kalocsa¹³²; and the bishops: Eger *sede vacante*; Oswald of Zagreb,¹³³ Valentine confirmed and elected of Oradea¹³⁴; Ladislav Geréb of Alba Iulia/Val Orad¹³⁵ Sigismund of Pécs¹³⁶; the said Thomas of Győr; John of Veszprém¹³⁷; another John of Cenad¹³⁸; Nicholas Bátori of Vác¹³⁹; Anthony elect of Nitra;¹⁴⁰ Stephen of Srem¹⁴¹; and Lucas of Bosnia¹⁴². [3] Likewise when the *spectabilis* and *magnificus* Stephen Szapolyai was palatine of the said kingdom of ours and perpetual *ispán* of Spiš;¹⁴³ *comes* Stephen Bátori, our judge royal and voivode of Transylvania as well as the *ispán* of the *Székely*;¹⁴⁴ Paul Kinizsi, *ispán* of Temes and captain general of the lower parts of our kingdom¹⁴⁵; duke Lawrence Újlaki, ban of Mačva;¹⁴⁶ Ladislav Egervári, ban of the kingdoms of Croatia, Dalmatia and Slavonia;¹⁴⁷ Francis Gyarmati Balassa¹⁴⁸ and George Csulai¹⁴⁹, bans of Severin; Ladislav Gúti Országh, master of the horse;¹⁵⁰ Ladislav

alater

- ¹³² Váradi, Peter archbishop of Kalocsa 1481–1501.
- ¹³³ Laki Túz, Oswald bishop of Zagreb 1466–99
- ¹³⁴ Valentine (Farkas) bishop of Oradea 1490–1495
- ¹³⁵ Vingárti Geréb, Ladislav bishop of Transylvania 1475–1501
- ¹³⁶ Csáktornyai Ernuszt, Sigismund bishop of Pécs 1473–1505.
- ¹³⁷ John Vitéz, bishop of Veszprém 1489–99.
- ¹³⁸ Szokoli, John bishop of Cenad/Csanád 1466–1493.
- ¹³⁹ Bátori, Nicholas, bishop of Vác 1474–1506.
- ¹⁴⁰ Sánkfalvai, Anthony bishop of Nitra 1492–1500.
- ¹⁴¹ Bajoni, Stephen, bishop of Srem til 1502.
- ¹⁴² Szegedi Baratin, Lucas bishop of Bosnia 1491–93, of Cenad 1493–1500, of Zagreb 1500–1510.
- ¹⁴³ Szapolyai, Stephen palatine of Hungary and judge of the Cumans, perpetual count of Spiš, 1492–99.
- ¹⁴⁴ Bátori, Stephen judge royal 1471–1493, voivode of Transylvania and *ispán* of the Székely 1479–1493.
- ¹⁴⁵ Kinizsi, Paul *ispán* of Temes and captain general of the lower parts of the kingdom, 1478–1494.
- ¹⁴⁶ Újlaki, Lawrence duke, ban of Mačva 1477–92, judge royal 1518–24.
- ¹⁴⁷ Egervári, Ladislav ban of Croatia, Dalmatia and Slavonia 1489–1492, master of the treasury.
- ¹⁴⁸ Gyarmati Balassa, Francis ban of Severin 1492, ban of Croatia 1504–05.
- ¹⁴⁹ Csulai Mór, George, ban of Severin 1492–1501.
- ¹⁵⁰ Gúti Országh, Ladislav master of the horse 1484–1492.

Losonci, master of the treasurers;¹⁵¹ Peter Vingárti Geréb¹⁵² and Nicholas Lindvai Bánfi¹⁵³, masters of the doorkeepers; Emeric Perényi, master of the stewards¹⁵⁴; and George Túróci, master of the cellarers¹⁵⁵; the honor of the *ispán* of the county of Pozsony being vacant; and others holding the offices of *ispán* and honors of our kingdom.

[4] Then, the lord prelates, barons, lords, and nobles of our kingdom of Hungary have presented in writing to our majesty besides the aforesaid articles included one by one in our present decree, also some other articles regarding the tithes, ecclesiastical prebends, the donation of counties, and other matters. [5] But as the same lord prelates, barons, and lords of the realm were on account of certain causes and reasons unable to have proper and complete discussion, we therefore command that discussion and final decision on these articles be postponed to a future diet, that is, general assembly, around the coming Michaelmas or any other one that may be done or held by the will of the aforesaid lord prelates, barons, and lords of our realm, [6] in such a way that then, namely at the said future diet, that is general assembly, the aforementioned articles that for the reasons mentioned above remain unfinished and left without final conclusion shall be raised before us, and finally concluded with us and the same lord prelates, barons, and lords of the realm, for the profit of this kingdom of ours, as may and can be most suitable and profitable. We will agree, accept and approve in that future convention also the ones just mentioned which could not be completed and concluded in the present discussion, and will ratify them by the letters to be issued on these and we moreover do promise to ratify and in the said way approve them by the force and witness of these presents.¹⁵⁶ Given at the place, date and year as above.

¹⁵¹ Losonci, Ladislasmaster of the treasury, 1460–98.

¹⁵² Vingárti Geréb, Peter judge royal 1495–1500, master of the door- keepers 1491–95.

¹⁵³ Lindvai Bánfi, Nicholas master of the cellarers 1464–67, *ispán* of Pozsony 1467–1478, master of the doorkeepers 1490–1500.

¹⁵⁴ Perényi, Emeric perpetual *ispán* of county Abaújvár, master of the stewards 1492–1504, palatine of Hungary 1504–19, ban of Croatia and Dalmatia 1512–13.

¹⁵⁵ Túróci, George, master of the cellarers 1488–92.

¹⁵⁶ On these, see the law of **1495**.

LAW OF KING WLADISLAS II OF HUNGARY (1490-1516)

OF 1495

A diet was held in Buda. The decree issued between May 9 and 8 June, first expands on the previous (1492) law, which is transcribed verbatim, adding specific details to single articles (paragraphs), then adding a number of measures on various issues, in all likelihood presented as wishes or complaints of the delegates.

MSS: Parchment original containing 19 leaves in book form; formerly in the Erdélyi Múzeum/Musaeum Transylvanicum (present location is unknown). Copies in the Codex Kollár (MNL OL 1/7, 311–31) and the Codex Rep. 71 no. 13 of the Esterházy archives (MNL OL Esterházy levéltár P108).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., vol. 1 Budapest: Franklin, 1896, pp. 563-91 (Decretum secundum)

LIT: András Kubinyi, “Historische Skizze Ungarns in der Jagiellonenzeit” in Idem, *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer, 1998) pp. 323-66; Martyn Rady, “Rethinking Jagiello Hungary” *Central Europe* 3 (2005), pp. 3–18; Idem, “Jagello Hungary,” in: DRMH IV, xi–xlvi.

DECRETUM WLADISLAI II. REGIS SECUNDUM DE ANNO 1495

Commissio propria domini regis.

Nos Wladislaus, dei gracia Hungarie, Bohemie, Dalmacie, Croacie, Rame, Servie, Gallicie, Lodomerie, Comanie, Bulgarieque rex ac Slesie et Lucemburgensis dux, necnon Lusacie et Moravie marchio memorie commendamus tenore presencium significantes, quibus expedit universis, quod cum in dieta, sive congregacione generali universorum prelatorum, baronum nobiliumque et procerum dicti regni nostri Hungarie pro die festi Purificacionis beate Marie virginis in anno domini millesimo quadringentesimo nonagesimo secundo, novissime transacto per nos eisdem indicta et celebrata ex eorundem prelatorum, baronum nobiliumque et procerum dicti regni nostri consilio quedam statuta sive decreta pro comodo et utilitate dicti regni nostri edidissemus et stabilivissemus, minime tamen pro tunc ad plenum perfecta et completa nostris literis privilegialibus inseri et inscribi facientes ipsis dominis prelatibus, baronibus, nobilibus et proceribus dicti regni nostri dedissemus et tradidissemus, defectusque quoslibet in dieta tunc per nos proxime celebranda supplere et addenda eisdem statutis nostris addere velle promissemus, tandem prefati domini prelati et barones ac universi nobiles de singulis comitatibus dicti regni nostri electi in presenti dieta sive congregacione generali, quam eisdem urgentibus necessitatibus eiusdem regni nostri ad quintumdecimum diem festi beati Georgii martiris indixeramus, nostre maiestatis venientes in conspectum, prefatas literas nostras privilegiales, ut prefertur, prenotata nostra statuta et decreta in se verbaliter continentes, necnon quosdam articulos similiter in vim statutorum et decretorum ad perfectionem et complecionem dictorum statutorum nostrorum de novo formatos et conceptos maiestati nostre exhibere et presentare curarunt, tenorum infrascriptorum, supplicantes maiestati nostre humili precum cum instancia, ut easdem literas nostras privilegiales statutaque et decreta nostra in eisdem contenta simulcum prefatis articulis ad perfectionem et supplecionem dictorum nostrorum statutorum et decretorum, ut premittitur, de novo formatis et conceptis acceptare, approbare et ratificare, ac de verbo ad verbum presentibus literis nostris privilegialibus inseri transscribereque et transsumi facere, auctoritateque nostra regia ipsis innovando pro communi bono et utilitate atque tranquillitate dicti regni nostri Hungarie perpetuo duratura et valitura stabilire et confirmare, confirmataque observare et observari facere dignemur. Quarum quidem literarum nostrarum privilegialium, ut predictum est, premissa nostra statuta et decreta in se habencium et continencium tenor talis est:

Nos Wladislaus etc. (*Vide decretum de anno 1492.*) Series autem articulorum de novo conceptorum, ut premittitur, prescriptorum nostrorum statutorum et decretorum perfectionem et complecionem in se exprimentium sequitur et est talis:

I. Item primo, ex quo in articulo secundo decreti non continetur per expressum, qualis modus et ordo debeat observari in remittendis iuribus possessionariis per serenissimum principem condam dominum Mathiam regem et reginalem maiestatem ac eciam alios quoscunque usque ad hec tempora occupatis, pro eo ordinatum est, quod sive sit regia maiestas, sive alii quicunque et cuiuscunque status et condicionis existant, ad octavas quamprimum celebrandas legitime evocentur. Et si de huiusmodi occupacionibus ibidem constiterit evidenter, tunc statim et in

continenti tam regia maiestas, quam alii quicumque talia bona occupata absque omni dilacione, eciam cum restitutione fructuum medio tempore perceptorum sub pena facti potencialis remittere teneantur. Et si tandem quid iuris circa illa bona habere pretendunt, id secundum legem et consuetudinem regni extra dominium huiusmodi bonorum occupatorum requirendi habeant potestatis facultatem. Et quod presens articulus eciam de futuris occupacionibus, si quando fieri contigerit, intelligatur, ita videlicet, quod prius et ante omnia propter indebitam occupacionem fiat iudicium et ipsi occupatores in facto potencia convincantur.

II. Item ad nonum articulum qui est de facultate regie maiestatis conferendi iura possessionaria, hoc conclusum est: Quod universe donaciones regie maiestatis contra seriem et continenciam ipsius articuli facte vel deinceps fiende vane, casse et viribus omnino cariture relinquuntur. Regia autem maiestas habeat conferendi facultatem quibuscunque personis, eciam extraneis usque centum jobagiones.

III. Item ad tredecimum articulum, qui est de condempnacione infidelium, hoc additum est: Quod si regia maiestas quempiam regnicolarum suorum nota infidelitatis condempnare voluerit, tunc universis dominis prelatiis, baronibus ac ceteris regnicolis unam generalem dietam sive congregacionem ad certum terminum instituat, ad quem eciam is, contra quem alique note infidelitatis obicientur, per literas preceptorias regie maiestatis mediantibus exhibitoriis ad aliquem conventum vel capitulum sonantibus personaliter et non per procuratoremⁱ evocari debet. Qui si venerit et se expurgare poterit, bene quidem alioquin si non venerit, vel si venerit et se expurgare non poterit, ipsa nota seu crimine infidelitatis condempnetur. Et talibus nec salvus conductus, nec eciam novum iudicium per regiam maiestatem concedatur. Si qui autem per sentenciam iudicum ordinariorum regni super aliquibus criminibus in nota infidelitatis convincerentur, ipsorum iudicum ordinariorum sententia rata maneat et firma.

IV. Articuli autem, qui concernunt notam infidelitatis, sunt isti:

= 28 Maii 1462: 2

Add.: Item mutilatores membrorum et eruitores oculorum preter banos, wayvodas et alios honores et confinia regni tenentes.

V. Item ex quo in articulo quartodecimo circa finem fit generalis mencio ex parte regie maiestatis, quod maiestas sua bona violentorum occupatorum, tamquam bona infidelium, cuicumque voluerit, liberam conferendi habeatⁱⁱ facultatem,ⁱⁱⁱ quod is articulus de collacione bonorum solummodo ad regnicolas et non forenses et extraneos personas referatur.

VI. Item ad vigesimum nonum de pedagogis hominum interfectorum, ubi continetur, quod nemo archidiaconorum, vicearchidiaconorum et plebanorum eorumque vices gerencium sub pena amissionis beneficiorum suorum marcam illam argenti, de qua in eodem articulo fit mencio, de

ⁱ desideratur: *compariturus*

ⁱⁱ mendose: *haberet*

ⁱⁱⁱ desideratur: *additum est*

funere interfectorum exigere possit, hoc additum est: Quodsi qui contrarium facerent, talium beneficia maiestas regia cuicumque voluerit, liberam conferendi habeat potestatis facultatem.

VII. Item ad articulum tricesimum octavum hoc quoque additum est: Quod loco trine forensis proclamacionis evocacio cum insinuacione decernatur preter modum de obligacionibus declaratum.

VIII. Item ad articulum quadragesimum hoc additum est: Quod tempore celebracionis octavarum maiestas regia ex officio suo teneatur tres ex dominis prelatibus et alios tres ex baronibus, necnon quatuordecim ex pocioribus et honeste condicionis nobilibus pro coassessoribus deligere et illis secundum status exigenciam de salario condigno providere.

IX. Item ad articulum quadragesimum tertium de execucionibus fidedignitatum et hominum regionum hoc conclusum est: Quod ex quo sepius fieri contingit, quod dum ipsi capitulares vel conventus ac regii homines pro execucionibus aliquilibus perficiendis necessario transmittuntur, nonnulli nobiles et possessionati ac alterius status homines contra illos insurgunt eosque aut verbali dehonestacione et plurimis iniuriis, interdum eciam vulneribus et verberibus afficiunt, quandoque eciam eos neci seu morti tradunt, contra tales vero in ipso articulo nulla pena determinata est. Quare pro utilitate regni et rei publice conservacione conclusum est, quod si quipiam tales executores iusticie iniuria quapiam vel verbali dehonestacione, in una marca auri septuaginta duos florenos auri faciente, si vero vulneribus vel verberibus affecerint, in facto potencie et sentencie capitalis, si denique mortem eisdem vel alteri illorum intulerint, in nota perpetue infidelitatis condempnentur. Si vero premissa per jobagiones et familiares quorumcunque committerentur, et illos fortasse metu pene ad bona aliorum auffugere contingeret, domini eorundem hoc casu dictis penis non dampnentur, sed teneantur innocenciam suam mediante iuramento expurgare, et ipsi profugi perquirantur ab illis, in quorum bonis comperti fuerint; et si illi eos statuere non possent, in homagiis ipsorum salva pena eisdem malefactoribus infligenda convincantur.

X. Item ad articulum quadragesimum quintum istud additum est: Quod sicut de appellacionibus ad curiam Romanam et legatos ibidem sanctitum est, ita quoque de dominis archiepiscopis in hoc regno existentibus is articulus intelligatur: Quod scilicet nullus omnino hominum per simplicem querelam, nisi per viam appellacionis de dioecesi aliquorum dominorum prelatorum causam suam in presenciam eorundem deducere possit. Hoc quoque non pretermisso, quod si quipiam prescriptum articulum simul cum presentibus transgredi ausi fuerint, tales ab accione sua et adquisicione decidant et insuper in quadraginta florenis auri per comitem vel vicecomitem et iudices nobilium irremissibiliter exigendis contra partem adversam pro expensis convincantur, si tantas res habuerint, alioquin in persona detineantur et usque debitam emendam castigentur. Cause vero, que nunc in presenciam reverendissimi domini Ursi de Ursinis legati verterentur, ipsi actores in presenciam iudicis eorum ordinarii tales causas eorum reducere teneantur.

XI. Item ad articulum quinquagesimum nonum additum est: Quod ex quo non datur ex eodem articulo plane intelligi, quali pena tales violenti occupatores bonorum et iurium per eosdem impetratorem puniantur, ob hoc ordinatum est: Quod pro huiusmodi indebita occupacione in estimacione iurium possessionariorum et insuper in dampnis illatis et interesse contra partem adversam convincantur. Si vero comes in execucionem iusticie eorum, que in ipso articulo

demandata sunt, tepidus foret, et temeritate doctus isam executionem quovis quesito colore premitteret, talis officio suo destituatur et insuper ipsam estimationem et quodlibet damnum exinde emergens parti adverse refundere teneatur.

XII. Item ad articulum sexagesimum sextum de birsagiis additum est: Quod in quolibet comitatu istud quippe observetur, quod premissis contra partem adversam legitimis citationibus et terminorum completionibus birsagiisque contra eandem per actorem extractis, tandem sive compareat citatus, sive non, nichilominus comes vel vicecomes et iudices nobilium in causis coram eis vertentibus et ad sedem iudicariam ipsorum spectantibus actori ex parte in causam attracti finale iudicium et iusticiam facere, et tandem ipsa causa finita, et non antea, ipsa birsagia in duabus pro se, in tertia vero partibus pro ipsa parte adversa extorquere valeant atque possint.

XIII. Item ad articulum sexagesimum octavum de facultate concordandi litigancium hoc quoque additum est: Quod si partes contigerit inter se concordare, tunc neque birsagia per quemcunque iudicem exigi possint ante executionem, sed post executionem libere exigantur.

XIV. Item ad articulum septuagesimum primum istud additum est: Quod illis, qui in castris finitimis fuerint occupati, temporibus^{iv} treugarum nulle prorogaciones observentur. Tempore vero guerrarum non plures, quam solum unica prorogacio observetur, si personaliter in eisdem castris fuerint constituti; alioquin si quipiam ex eisdem tempore octavarum personaliter hic in curia regia aut in domibus proprie residence reperti fuerint, prorogacio eis non servetur.^v Illis vero, qui in legacionibus regiis et regni extra regnum necessario occupabuntur, solummodo infra tempus occupationis eorundem prorogacio suffragetur.

XV. Item ad articulum septuagesimum secundum istud additum est: Quod quia sunt plerique dominorum prelatorum et baronum ac aliorum nobilium, qui exempcionum sive libertatum prerogativis se munitos fore allegantes coram comitibus vel vicecomitibus et iudicibus nobilium illius comitatus, in quo bona habere dinoscuntur, contra quoslibet, tam nobiles, quam ignobiles iudicium pro se obtinent et reportant, ipsi vero causantibus contra se iuri stare recusant, ob hoc statutum est:^{vi} Quod ipsi quoque ad instanciam quorumcumque iudicio et iudicatu ipsorum comitum vel vicecomitum et iudicum nobilium parere et obtemperare debeant et teneantur.

XVI. Item ex quo in articulo septuagesimo quinto contra illos, qui comites, vicecomites et iudices nobilium tempore executionis iudicii et iusticie turbant et impediunt, nulla pena determinata reperitur, quare sanctitum est: Quod comites, vicecomites et iudices nobilium quorumcumque comitatum nisi de sede iudicaria per universitatem nobilium cum literis eorundem exmittantur, nullas executiones facere possint. Si vero ipsi vel alter eorundem de ipsa sede iudicaria modo premissis pro aliquali executione iusticie facienda transmissus fuerit, ac in prosecutione executionis huiusmodi iusticie illos vel alterum eorundem quipiam verbali dehonoratione aut alia iniuria, vulneribusque seu verberibus affecerint, aut eum seu eos neci tradiderint, eadem regula

^{iv} recte: *tempore*

^v recte: *observetur*

^{vi} *ob hoc statum est desiderentur*

contra illos malefactores observetur, qualis de turbatoribus hominum regionum ac testimoniorum capitulorum vel conventuum superius est declarata.

XVII. Hoc tamen adiecto, quod si comites, vicecomites aut iudices nobilium proprio motu et non de sede iudiciaria ad aliquam executionem vel potius, ut frequenter iam abusive facere consueverunt, extorsionem birsagiorum sine literis sedis iudiciarie proficiscerentur et ausu temerario quempiam turbare seu molestare aut etiam in rebus damnificare presumerent, tales demptis damnis illatis in emenda capitum suorum contra partem lesam convinci debeant eo facto.

XVIII. Preterea ex quo etiam de jobagionibus fugitivis sive rusticis in eodem articulo in fine fit mencio, et contra receptatores eorundem nulla pena sanctita est, ordinatum est igitur: Quod si rusticus perpetrato facinore ad bona quorumpiam auffugerit, comes vel vicecomes aut iudices nobilium talem rusticum a receptatore expetant, et si reddere noluerit, ab eodem penam viginti quinque marcarum inter iudicem et actorem equaliter dividendarum extorquendi habeant potestatis facultatem. Si autem comes tales malefactores et profugos ad sua bona recipere auderet et ad requisicionem partis lese extradare nollet, tunc isto casu universitas nobilium cum iudicibus eandem penam viginti quinque marcarum, similiter inter iudices nobilium et partem lesam equaliter dividendarum, de bonis illius exigere possit; vel si id facere difficultaret, tunc ipse comes ratione previa in presenciam iudicum ordinariorum regni evocetur et ex parte ipsius iudicium administratur. Si autem universitas nobilium et iudices nobilium ex parte ipsius comitis iudicium facerent, et de ipsorum iudicio aliqua partium contentari nollet, tunc huiusmodi cause ad provocacionem partis in curiam regiam, in presenciam scilicet iudicum ordinariorum regni transmittantur.

XIX. Item ad articulum octuagesimum primum de furibus et aliis malefactoribus confectum, in quo id continetur, ut si qui tales malefactores de suis bonis non expulerint, tunc comes teneatur mittere ad capiendum etc. hoc additum est: Quod tales malefactores non expellantur, sed per eum vel eos, in quorum vel cuius bonis per comitem vel vicecomitem aut iudices nobilium reperti fuerint, capi et ad requisicionem eorundem vel alterius ipsorum ad sedem iudiciariam pro infligenda talibus pena adduci debeant. Si vero adducere nollent aut recusarent, in homagio talis malefactoris convincantur, et nichilominus ipsi malefactores, si postea temporum in successu capi poterunt, pena debita castigentur. Hoc per expressum declarato, quod nobiles et quivis possessionati homines privilegiati, qui liberi comites appellantur, tales malefactores castigandi habeant facultatem, et illos ad sedem iudiciariam inviti statuere non teneantur. Si autem comes vel vicecomes et iudices nobilium ac liberi comites huiusmodi malefactores eisdem presentatos vel per ipsos interceptos de suis manibus per incuriam aut voluntarie et deliberate emitterent, in emenda capitum talium malefactorum, in duabus iudici, coram quo lis inchoata fuit, in tertia autem partibus parti adverse persolvenda aggraventur, et insuper honore et officio suo destituti habeantur, nunquam ad tale vel simile officium admittendi. Emenda autem capitum dominorum prelatorum et baronum quadringentos, nobilium autem ducentos et rusticorum quadraginta florenos facere dinoscitur, antiqua consuetudine regni requirente.

XX. Item ad articulum nonagesimum, qui inter cetera pro rectificacione indebitorum arestancium ad comites sonat, appositum est: Quod ex quo duo comitatus, Pesthinensis et Pilisiensis comites et

vicecomites non habent, iudices nobilium in eisdem constituti ipsam rectificacionem cum pocioribus nobilibus facere et exercere possint.

XXI. Item ad articulum nonagesimum primum^{vii} de arestacione occasione^{viii} nobilium confectum, ex quo ibi non continetur, qui sint iudices ipsius indebiti aresti et penarum propterea exigendarum, additum est: Quod in his omnibus comes vel vicecomes et iudices nobilium illius comitatus ex parte talium indebite arestatorum et eciam eorum, qui contra presens decretum se in talibus illicitis arestis pro iudicibus constituerent, iudicium et iusticiam facere ac penam, quam promiserint, iuxta contenta ipsius articuli exigere et ipsis nobilibus iniuriam passis et eorundem jobagionibus satisfaccionem impendere teneantur. Si autem tale arestum in bonis comitum factum fuerit, universitas nobilium cum iudicibus nobilium modo premissis ex parte talium comitum iusticiam faciendi habeat facultatem. Ubi vero universitas nobilium cum iudicibus nobilium id facere difficultarent, tunc ipsi comites in presenciam iudicum ordinariorum regni legitime evocentur et ex parte illorum iusticia impendatur. Si autem per universitatem nobilium et iudices nobilium ex parte ipsorum comitum iusticia administraretur, et de eorum iudicio aliqua parciū contentari nollet, extunc causa ipsa ad provocacionem partis in curiam regiam, in presenciam scilicet iudicum ordinariorum regni transmittatur discucienda.

XXII. Item ad articulum nonagesimum tercium de jobagionibus et eorundem domibus circa finem confectum hoc quoque additum est: Quod si iuxta contenta ipsius articuli ad bona aliorum abire permissi fuerint, domos, edificia sepes et quecunque alia ligna per eosdem ibidem terris iam infixā abducere nullo modo presumant. Si autem ad bona aliquorum simul cum illis violenter abducti fuerint, illi vel eisdem rebus deficientibus domini eorundem contra tales, dampnum et iniuria passos in centum florenis auri convincantur inter iudicem et actorem equaliter dividensis.

XXIII. Item ad articulum nonagesimum quintum de redempcionibus literarum hoc additum est: Quod capitula et conventus ipsum articulum sub amissione sigillorum suorum in omnibus punctis, clausulis et articulis firmiter observare debeant.

XXIV. Item ad articulum centesimum de duobus comitatibus, Pesthiensi et Pilisiensi confectum istud adiectum est: Quod ex quo ipsi duo comitatus eorum libertati prerogativa requirente comites inter se habere non consueverunt, ut inter ipsos quoque debitus ordo observetur, ordinatum est, quod universitas nobilium illorum duorum comitatuū singulis annis ad locum sedis iudicarie alias consuetum conveniant,^{ix} ibique tempore eleccionis iudicum nobilium certos ex pocioribus nobilibus eligant,^x cum quibus iidem iudices nobilium universas et singulas causas instar aliorum comitatuū, comites vel vicecomites habencium iudicare et iudicium factum execucioni debite demandare valeant atque possint.

^{vii} recte: *nonagsimum*

^{viii} desideratur: *debitorum*

^{ix} recte: *conveniat*

^x recte: *eligat*

XXV. Item, ex quo in articulo centesimo octavo de dieta regnicolarum confecto non plane reperitur, nec apparet, qualis modus et ordo debeat observari inter regiam maiestatem ac dominos prelatos et barones consiliariosque sue maiestatis et ceteros regnicolas ad ipsam dietam confluentes, imo, ut plurimum, dum ipsi domini prelati et barones ceterique consilarii maiestatis regie conveniunt, totam diem solis verbis conterunt et absque ulla deliberacione ab invicem seperantur; quo fit, ut ipsa dieta non sine gravi eorundem et eciam ceterorum regnicolarum impensa in longum adeo protrahitur, ut nobiles mediocres et pauperes tedio affecti vel discedere, vel autem inanes et superfluas expensas facere et sic expensis admodum exhausti ad propria tandem cum ipsorum damno reverti coguntur. Quare pro evitando omni incomodo, quod de cetero exinde emergi posset, ordinatum est, ut deinceps, dum aliquam dietam per maiestatem regiam celebrari vel alia consilia inire continget, maiestas sua convocatis primum dominis prelati et baronibus ceterisque consiliariis suis, singulis diebus ad locum, ubi maiestas sua voluerit cuique ipsorum iuxta honoris et dignitatis ac status condecenciam locum honorificum deputando, semotis ceteris quibuscunque tractatibus, ante omnia causas et rationes ac necessitates suas et regni, propter quas ipsam dietam fieri instituit, eisdem dominis prelati et baronibus consiliariisque sue maiestatis proponat. Quibus intellectis ipsi quoque obmissis quibuslibet privatis eorum rebus et negociis solummodo de hiis negociis, que coram eisdem proponentur, cum moderacione et gravitate sub silencio tractent, deliberent et concludant. Si vero inter ipsos aliqua discrepancia oriretur, magister ianitorum sue maiestatis, qui una cum eisdem pro huiuscemodi negociis tractandis interesse debet, imposito silencio votum cuiuslibet singillatim exquirat, ut saltem sic, accepto voto singulorum, per sentenciam sanioris partis ad unionem et concordiam reducantur, sicque adhibita eorundem omni cura, studio et diligencia dieta ipsa per maiestatem regiam eo cicius determinetur et negocia pro tempore occurrencia facilius concludantur. Regia autem maiestas dum aliquam dietam instituere voluerit, dignetur ante spacium unius integri mensis dominis prelati et baronibus ac ceteris regnicolis terminum ipsius diete per literas suas significare.

XXVI. Item ordinatum est, quod deinceps quodcumque maiestas regia quocunque arduo negotio regni interveniente dietam indicere voluerit, non electos de comitatibus, sed singulos dominos prelatos et barones nobilesque ac proceres regni convocare dignetur. Quorum communi consilio, quicquid pro utilitate et comodo regni faciendum erit, decernatur.

XXVII. Item, quia propter educionem equorum, boum, ovium et ceterorum animalium hactenus per plerosque homines, internos scilicet et externos, fieri solitam regnicole non parvam in eisdem animalibus penuriam atque caristiam paciuntur, quare, ut huic rei debitis remediis occurratur, statutum est, quod amodo deinceps nullus omnino hominum equos, boves, oves et quevis animalia infra duorum annorum integrorum spacia a die presentis congregacionis generalis computanda quovis quesito colore extra regnum gregatim seu aliter educere et expellere audeat modo aliquali. Quodsi quipiam presentem constitutionem transgredi presumpserint, extunc comes et vicecomes quorumlibet comitatum et alii quicunque homines huiusmodi animalia auferendi, duasque partes illorum pro maiestate regia habendi, terciam denique partem eorundem pro suis laboribus retinendi habeant facultatem.

XXVIII. Item, si qui regnicolarum ad nundinas vel fora (h)ebdomadalia in hoc regno celebrari solitas et consueta talia animalia ducerent,^{xi} quod isto casu ipsi regnicole huiusmodi animalia ad nundinas et fora (h)ebdomadalia liberam pellendi habeant potestatem. Si qui autem regnicolarum pro sua necessitate ad usum tantummodo suum vel carnifices ad macella ex eisdem animalibus emerint, de eisdem nulla tricesima exigatur; prout etiam istud ab antiquo fuit observatum. Ita tamen, quod etiam ipsi emptores talia animalia pena sub premissa de hoc regno expellere non adueant modo aliquali.

XXIX. Item conclusum est, quod in omnibus comitatibus, in quibus antiqua loca sedis iudicarie mutata sunt, ad priorem et antiquum locum transferantur.

XXX. Item quod beneficia ecclesiastica, quocunque nomine censeantur, extraneis et forensibus nacionibus non conferantur. Et si quibus collata fuissent, illi per maiestatem regiam ad residenciam evocentur ad terminum per maiestatem regiam ac dominos prelatos et barones prefigendum. Et si venire recusaverint, beneficia illorum maiestas regia incolis huius regni de se bene meritis conferendi habeat facultatem.

XXXI. Item volentibus dominis baronibus consiliariisque maiestatis regie ac ceteris regnicolis in presenti dieta constitutis, repugnantibus tamen dominis prelati et viris ecclesiasticis ordinatum est: Quod si aliqui forenses homines ab aliis, quam a regia maiestate vel illis, qui in hoc regno super quocunque beneficio ecclesiastico ius patronatus, quo hactenus usi fuissent, habent, aliqua beneficia ecclesiastica pro se procurarent et huiusmodi procuracione ius sibi in eisdem contra antiquam libertatem regni vendicantes in eisdem beneficiis residere auderent aut attemptarent, quod tales omnes et singuli, si deprehendi poterunt, ad aquam proiciantur, tanquam publici libertatis regni turbatores. Quicunque autem dominorum prelatorum, baronum aut aliorum nobilium in hoc regno super quibuscunque beneficiis ecclesiasticis ius patronatus habent, quod illi, qui hactenus ipso iure usi sunt, talia beneficia ecclesiastica, super quibus huiusmodi ius patronatus habuerint, incolis huius regni et non forensibus liberam conferendi habeant facultatem.

XXXII. Item quod officia seu vicariatus ecclesiastici in nullis ecclesiis regni per quamcunque personam ecclesiasticam Italicis et forensibus personis conferantur. Alioquin sententia talium irrita et nullius vigoris habeatur.

XXXIII. Item, ex quo plurima castra et fortalicia in confinibus regni sita et adiacencia propter indebitam eorum conservacionem, non sine gravi dispendio regnicolarum manibus Thurcorum devenerunt, eorum vero, que adhuc restant, pleraque adeo desolata et ruinosasunt, hominibusque ac victualibus et ingeniis carere dinoscuntur, ut quotidie de periculo timeatur; quare, ut deinceps castris illis debita provisio fiat, dignetur maiestas regia pro illorum castrorum finitimorum conservacione de victualibus, ingeniis et aliis necessitatibus eorundem providere, officialesque non alios, quam tales in eisdem conservare, qui et bonis habundent et exercitiorum militarium sint experti. Quodsi maiestas sua idoneos officiales ad ea deputaverit, et eisdem officialibus debita provisio facta fuerit, illique aliquod ex eisdem amiserint, tanquam infideles dampnentur et bona

^{xi} desideratur: *statutum est*

illorum fisco regio applicentur. Illi autem, qui ex eisdem aliqua amiserint, rationem amissionis dare teneantur.

XXXIV. Item dignetur maiestas regia quolibet anno ab omnibus officialibus suis rationem exigere.

XXXV. Item dignetur maiestas regia exquirere illos, qui de castris finitimis et signanter de castro Nandoralbensi et Jaycza pixides, bombardas, ingenia, victualia aliasque res exportarunt, quoniam per illos indicibilia damna commissa sunt. Et si qui reperti fuerint talia commisisse, capite puniantur et bona illorum fisco regio applicentur. Si autem aliqui^{xii} de talibus rebus ac ingeniis et victualibus ad quempiam dono vel autem per empcionem scienter devenissent, talium bona, cum^{xiii} tamen iuridice fuerint convicti, ad maiestatem regiam devolvantur.

XXXVI. Item ex quo castra Thurcis finitima, ut frequenter, personis semper duabus pro officiolatibus dari consueverunt, quorum conservacio maximam custodiam et provisionem necessario requirere dinoscitur, quare ordinatum est, quod amodo de cetero huiusmodi castra et fortalicia finitima nunquam absque interessencia alterius ipsorum officialium in eisdem castris et fortaliciis pro tempore consitutorum vacua relinquuntur, sed alter ipsorum sub pena capitis semper debeat in eisdem personaliter pro illorum custodia permanere.

XXXVII. Item quia in singulis dietis et congregacionibus generalibus regnicolarum inter alias dispositiones et tractatus precipua contencio et difficultas de modo solvendi decimas agitata et intentata et extitit adeo, ut post felicem coronacionem regie maiestatis, dum maiestas sua pro comodo et utilitate regnicolarum superioribus annis generalem dietam indixisset, et in ea decretum generale communi consilio dominorum prelatorum et baronum ac regnicolarum edidisset, nec eo tunc propter difficultates et differencias, que ex parte earundem decimarum oriebantur, quitquam plene decidi potuerat, sed is articulus una cum nonnullis aliis ad presentem dietam seu convencionem generalem pro eiusdem finali conclusionem extiterat prorogatus, quare ad tollendas omnes difficultates et contenciones, que hactenus inter ipsos dominos prelatos et barones ac regnicolas de modo solvendi decimas habite fuerunt, conclusum est, quod amodo in posterum perpetuis semper successivis temporibus omnibus dominis prelatis quarumcunque ecclesiarum, tam katedralium, quam collegiatarum, non obstante quacunque prava abusione, per quoscumque et qualitercumque hactenus introducta, integre decime persolvantur et exigantur in omni comitatu secundum modum, quo unusquisque cum prelato suo superinde haberet seu fecisset dispositionem de hiis rebus tantum, de quibus hactenus ipsi domini prelati decimas exegerunt. Superfluas autem et inconsuetas decimarum exacciones inducere non debeant modo aliquali. In casu autem, quo deinceps per decimatores aliquas superfluas et inconsuetas decimaciones fieri contingeret, talis modus observetur, quod ex quo ipsi domini prelati et cetera persone ecclesiastice ipsas decimas quandocunque per homines proprios pro eorum usu proprio exigere, interdum vero quibusdam personis in arendam locare consueverunt, ob hoc, si quipiam per talem inordinatam et superfluum decimacionem decimatorum se per homines proprios ipsorum dominorum prelatorum lesos et gravatos fore pretenderent, teneantur taliter lesi significare ipsi domino prelato vel factori suo

^{xii} *alique* deest

^{xiii} *rectius: dum*

huiusmodi inconsuetam et superfluam decimacionem^{xiv} et eum superinde avisare. Qui mox exinde avisatus mittat homines suum pro rectificacione premissorum ad locum, ubi talis rectificacio fieri debebit. Et si medio ipsius aliqua rectificacio fieri poterit, bene quidem, alioquin ipsa questio ad locum et terminum sedis iudicarie illius comitatus, in presenciam universitatis nobilium deducatur, et quitquid iidem in premissis secundum deum et eius iusticiam cognoverint, in hoc et ipsi domini prelati et pars conquerens contenti esse debebunt. Et si compertum fuerit partem conquerentem per decimatores iniuste fuisse fatigatam, pro expensis partis fatigate de propriis eorundem decimatorum rebus et bonis satisfaccio administretur. Interim vero donec de premissis ad plenum decisum fuerit, interdictum ecclesiasticum ad partem conquerentem vel eorum jobagiones minime imponatur. Si autem rectificacionem istam per arendatorem fieri debere contingeret, tunc pars conquerens nec prelato, nec factori eiusdem teneatur significare, sed antequam ipse decime exigentur, arendatores ipsi per iudices nobilium vel alterum illorum admoniti sedem iudicariam ipsius comitatus intrare sint astricti, et coram universitate nobilium omnia premissa rectificare iudicioque et decisioni illorum parere et obtemperare, de expensis quoque, si comperti fuerint superfluam et iniustam fecisse decimacionem parti conquerenti omnimodam impendere satisfaccionem. Terminus autem solucionis ipsarum decimarum, sicuti alias consuetum fuit, observetur. Elapso vero termino et non prius super tales, decimas iustas et consuetas solvere negligentes interdictum ecclesiasticum imponatur, quousque per eos solute fuerint^{xv} effective. Dominis tamen terrestribus propter rusticos decimas solvere difficultantes ecclesiasticum interdictum non servetur.

XXXVIII. Item in examinacione acervorum talis modus per decimatores observetur: Quod decimatores in presenciam iudicum et^{xvi} villicorum, ubi decimas dicaverint, iuramento rustici decimas solvere debentis contentari debeant, vel si contentari noluerint, iudices vel villici talium locorum liberam habeant acervos eorundem, moderate tamen et non tali tempore pluvioso, unde ipsis rusticis aliquod damnum sequi possit, examinandi facultatem. Qui decimatores, si plus in eisdem, quam rusticus dixerit, invenient superfluitatem auferant et ultra hoc iustam eidem decimam ad solvendum imponant. Verum, priusquam acervum examinari fecerint, teneantur ante omnia in manibus eorundem iudicum vel villicorum talis loci unum florenum assignare, ut si comperti fuerint per decimatores huiusmodi acervum indebite subverti fecisse et examinasse, ipsum unum florenum manibus rustici iidem iudices et villici assignare sint astricti.

XXXIX. Item conclusum est, quod apes, agni, capreoli tempore suo, secundum consuetum modum dicentur et signentur, factaque dicacione et signacione, invito hospite, apud quem dicabuntur, non amplius, quam solummodo usque festum sancti Michaelis, et illi quidem ad fortunam decimatorum teneantur. Et si postmodum ipsa animalia casualiter perierint, rustici ipsi postea nullo modo aggravari debeant. Sed tamen iurare teneantur, quod non eorum culpa, neque malicia, et neque voluntate perierunt.

^{xiv} mendose: *docacionem*

^{xv} recte: *non fuerint*

^{xvi} recte: *vel*

XL. Item quia tempore vindemiarum plurimi vina eorum vendicioni exponere consueverunt, dum autem eorum vina vendidissent, decimatores vinorum privato eorum lucro guadentes quasdam abusivas extorsiones in plerisque comitatibus, et signanter in comitatu Simigiensi decimatores abbacie sancti Martini sacri montis Pannonie pro sigillis cereis ab eisdem venditoribus in quibusdam locis duos denarios, in alis vero duodecim extorquere sunt assueti. Quare ut tales abusiones de medio regnicolarum extirpentur, statutum est, quod amodo de cetero tales abusiones qualitercunque introducte penitus extincte habeantur; et secundum quod ab antiquo, temporibus abbatum legitimorum dicte abbacie in tali re observatum fuit, ita eadem consuetudo de cetero observetur.

XLI. Item quod in omni diocesi, ubi decime cum pecuniis exolvuntur, centum denarii sine omni addicione pro uno floreno recipiantur.

XLII. Item quod villici propter hospitalitatem, quam exhibere solent decimatoribus ad exaccionem et administracionem decimarum^{xvii}, non dicentur, nec de capitibus dicarum quitquam ab eisdem exigatur.

XLIII. Item ex quo inter dominos prelatos ab una, parte vero ex altera dominos barones et ceteros regnicolas racione et pretextu exaccionis pecuniarum Christianitatis et messorialium hactenus per ipsos dominos prelatos exactarum quedam differentia et contencio est exorta ipsique domini barones et regnicole huiusmodi exacciones contra eorundem libertatem et privilegia abusive fuisse introductas, e converso iidem domini prelati vigore efficacissimorum privilegiorum easdem exacciones fecisse, superindeque ambe partes literas et literalia instrumenta pro se habere, quas et que non in presenciarum, sed in ulteriori termino producere velle asserunt, quare pro eiusdem rei finali decisione conclusum est, quod ipsi domini prelati universas eorum literas et literalia instrumenta, quas et que super facto premissis pro se habent confectas et emanata, vel eciam ipsi domini barones et regnicole, si quas interim reperire poterunt, in octavis festi beati Michaelis archangeli proxime affuturis coram maiestate regia producere et exhibere debeant et teneantur. Quibus visis maiestas sua inter partes deliberacionem et finalem conclusionem faciendi in premissis omnimodam habeat facultatem.

XLIV. Item, quia racione exaccionis decimarum ac eciam nonarum inter dominos prelatos et barones ac alios nobiles et possessionatos homines plurime difficultates in eo exorte sunt, utrum scilicet primo decime aut^{xviii} none persolvi debeant, pro eo ordinatum est, quod sicuti hactenus consuetum fuit, ita et in posterum prius none, deinde autem decime persolvantur.

XLV. Item sunt plurima loca in confinibus regni sita, in quibus Rasciani, Rutheni, Walachi et alii scismatici in terris Christianorum habitant et de eisdem terris hactenus iuxta eorum ritum viventes nullas penitus decimas solvere consueverunt, quos tamen ipsi domini prelati ad decimas solvendas cogere niterentur. Et quia ipse decime in patrimonium Christi dedicate a Christi fidelibus et non aliis scismaticis hominibus, presertim vero illis ad vocacionem et assecuracionem regie maiestatis ac wayvodarum, banorum et ceterorum officialium, ipsa confinia regni tenencium dicta loca

^{xvii} *decimarum* desideratum

^{xviii} *mendose: ac*

incolentibus exigi solent, ob hoc ordinatum est et conclusum. Quod amodo de cetero ab ipsis Rascianis, Ruthenis, Walachis et aliis scismaticis in quibuscunque terris Christianorum residentibus nulle penitus decime exigantur.

Nos itaque supplicationibus prefatorum dominorum prelatorum, baronum et nobilium dicti regni nostri per ipsos maiestati nostre modo, quo supra porrectis exauditis clementer et admissis, prescriptas literas nostras privilegiales, ut premissum est, pretacta statuta et decreta nostra in se habentes simulcum preinsertis articulis de novo formatis acceptantes, approbantes et ratificantes, presentibusque literis nostris privilegialibus verbotenus sine diminucione et augmento aliquali inseri et inscribi facientes, easdem insuper literas nostras privilegiales et omnia, tam in eisdem, quam eciam pretactis articulis de novo conceptis contenta et specificata quia utilitatem et quietem statum predicti regni nostri tangere et concernere videbantur, pro ipsis dominis prelatis et baronibus nobilibusque eiusdem regni nostri innovantes perpetuo duraturas et valituras confirmamus, nosque omnia et singula in eisdem literis nostris privilegialibus et articulis contenta inviolabiliter observare et per alios observari facere promittimus et obligamus presentis scripti patrocinio mediante. In cuius rei memoriam firmitatemque perpetuam presentes literas nostras privilegiales appensione secreti sigilli nostri, quo ut rex Hungarie utimur, communitas duximus concedendas. Datum Bude predicta per manus reverendi in Christo patris domini Thome postulati Agriensis, aule nostri summi et secretarii cancellarii, dilecti et fidelis nostri tricessimo secundo die diei congregacionis prenotate anno Domini millesimo quadringentesimo nonagesimo quinto, regnorum nostrorum Hungarie etc. anno quinto, Bohemie vero vigesimo quarto. Illustrissimo ac reverendissimo, venerabilibusque in Christo patribus dominis Hippolito Esthensi de Aragonia, tituli sancte Lucie in Silice, Sancte Romane ecclesie diacono cardinale Strigoniensi, Petro Colocensi arciepiscopis, eodem Thoma postulato Agriensis, Osualdo Zagrabiensis, Dominico Waradiensis, Ladislao Gereb Transsilvanensis, Sigismundo Quinqueecclesiensis, Francisco electo Jauriensis, Johanne Wesprimiensis, Luca Chanadiensis, Nicolao de Bathor Waciensis, Anthonio Nittriensis, Sirimiensi sede vacante, Gabriele Boznensis, Briccio electo et confirmato Tininiensis, Christophoro Modrusiensis, Michaele electo Segniensis ecclesiarum episcopis ecclesias Dei feliciter gubernantibus. Item spectabili ac magnificis Sephano de Zapolya comite perpetuo terre Scepusiensis et dicti regni nostri Hungarie palatino comite, Petro Gereb de Wyngarth iudice curie nostre, Bartholomeo Dragfy de Belthewk wayvoda nostro Transsilvano et comite Siculorum, Joanne Corvino Oppavie et Lyphovie duce, necnon regnorum nostrorum Dalmacie, Croacie et Sclavonie, Petro de Machkas et Jacobo Gerlysthe Zewriniensibus banis, Ladislao de Egerwara thavernicorum, Nicolao Banffy de Lyndwa ianitorum, Georgio de Kanisa et Joanne Bebek de Persewcz pincernarum, Emerico de Peren dapiferorum, Joanne Ernusth de Chaktornya agazonum et Blasio de Raska cubiculariorum nostrorum regialium magistris, Josa de Som comite Thenesiensi et generali capitaneo partium regni nostri inferiorum, aliisque quamplurimis regni nostri comitatus tenentibus et honores.

SECOND DECREE OF WLADISLAS II, 1495

On the personal order of the Lord King.

We, Wladislas, by the grace of God king of Hungary, Bohemia, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania and Bulgaria¹, prince of Silesia and Luxemburg, as well as margrave of Lusatia and Moravia, notify by these presents all whom it may concern that when in the diet, that is general assembly of all lord prelates, barons, nobles and lords of the said kingdom of Hungary appointed by us on the feast of the Purification of the Virgin Mary, in the year of the Lord 1492 recently passed we proclaimed and established some statutes or decrees following the counsel of the same lord prelates, barons, lords, and nobles of the said kingdom of ours for the sake and benefit of our said kingdom. We gave and issued these for the lord prelates, barons, nobles, and lords of our said kingdom, after having had them included in our letters of privilege, even though these were not at the time at all complete or fully concluded; and we promised at that diet recently held by us that we would correct some deficiencies and would append additions to the same statutes of ours. Finally in the present diet that we proclaimed for the same urgent matters of the same kingdom of ours to the fifteenth day after the feast of St. George, the Martyr,² the said lord prelates, barons, and all nobles elected from each county, appearing before our majesty, took care to show and present our aforementioned letters of privilege, which—as said above—contain word for word our said statutes and decrees, as well as some articles newly composed and conceived which, once given the force of statutes or decrees, will complete and conclude the said statutes of ours. They besought our majesty requesting with humble insistence that we deign to accept, approve, and ratify our same letters of privilege and the statutes and decrees contained in them together with the said articles that were newly composed and conceived—as said—to complete and conclude our said statutes and decrees, and to have these included, transcribed, and copied into our letters of privilege and to affirm and confirm them by our royal authority—and as confirmed observe and have them observed—renewing them for the common good and profit and the tranquility of our said kingdom of Hungary to last and prevail forever. The content of our letters of privilege that contains and embodies our mentioned statutes and decrees is the following:

We Wladislas etc. [the decree of **1492**]

¹ The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. By 1495 none of them were under Hungarian control, but the list in the royal style survived until the end of the kingdom in the twentieth century; see János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² That is to 9 May 1495.

Here follows the text of the newly composed articles, which—as said above—completes and concludes our statutes and decrees, and it is such:

1. Then, first, in the second article of the decree it is not expressly established what way and rule shall be observed in the remission of the property rights occupied up till now by the serene prince and late lord, King Matthias and her majesty the queen, as well as by others. [1] Therefore, it has been ordained that they, be they either the royal majesty or anyone of any state or condition whatsoever, shall be lawfully summoned to the very first octave³ to be held. [2] And if the occupation is plainly proven there, then the royal majesty as well as anyone else shall immediately and forthwith remit such occupied goods together with the compensation for the fruits obtained in the meantime, without any delay under the penalty of an act of might. [3] And if they subsequently allege that they have some rights to these goods, they shall have the right to claim [them] out of possession of these occupied goods, according to the law and custom of the realm. [4] The present article shall also be understood as applying to any future occupations (if such should happen), so that first and before all else justice be administered in regard to an unjust occupation and the occupiers be convicted of an act of might.

2. Then, the following has been attached to the ninth article, which is about the right of the royal majesty to grant property rights: [1] that all donations of the royal majesty made (or to be made in the future) contrary to the text and content of this article shall remain vain, canceled, and lacking any force. [2] The royal majesty shall have the right to make donations to any person, even foreigners, up to one hundred tenant peasants.⁴

3. Then, to the thirteenth article, which concerns the condemnation of the unfaithful it has been added: [1] Should his royal majesty wish to condemn any of his gentlemen of the realm⁵ to the charge of infidelity⁶, he shall summon and call a general diet and congregation of the community

³ Octavial courts (*octava*) refer to the session of royal courts of justice; of which here were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times

⁴ While royal grants not observing the restrictions of 1492 were cancelled, this time foreigners are explicitly included as beneficiaries. The limit of 100 plots was to be rescinded in **1498:26**.

⁵ When legal documents refer to *regnicolae* (verbatim: inhabitants of the kingdom) the enfranchised nobles are meant. Our translation of “gentlemen of the realm” attempts to reflect that.

⁶ The charge of infidelity, (*nota infidelitatis*) – see below Art. 4 -- referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. (*sententia capitalis*). That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment. The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate.

of lords prelate, barons, and other gentlemen of the realm to a certain date. He, against whom the charge of infidelity is made, has to be summoned in person, and not through an attorney, through letters of command from the royal majesty via letters of exhibition addressed to some convent or chapter.⁷ [2] If he comes and can clear himself, then well and good; but if he does not appear, or if he appears but cannot clear himself, he will be condemned to the taint of infidelity. [3] Thereafter, he will not be granted safe conduct nor a new trial by the royal majesty. [4] If someone has been convicted of the taint of infidelity for some crimes by sentence of the justices ordinary of the realm, such sentence of the justices ordinary shall remain set and valid.

4. The cases which imply the charge of infidelity are these:

= **28 May 1462: 2**

Adding: [14] Then, those who mutilate someone or gouge out his eyes, except the bans, voivodes and others holding offices on the borders of the realm.⁸

5. Then, about which there was a general comment in respect of the royal majesty in the fourteenth article towards the end, [1] that His Majesty has full right to grant the goods of violent occupiers to anyone he wishes as if the goods of unfaithful persons: that this article concerning the donation of goods refers only to the gentlemen of the realm and not to foreigners and strangers.

6. Then, to the twenty-ninth concerning the toll⁹ of the murdered persons, which states that no archdeacon, vice-archdeacon, parish priest or their deputies can exact the silver mark, which is also mentioned in the same article, for the funeral of murdered persons under penalty of the loss of their benefice, it has been added [1] that if someone should act to the contrary, the royal majesty shall have full right to grant their benefice to whomever he wishes.

⁷ Letters of command would be sent to convents or chapters that acted as places of authentication. Members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, “Die Glaubwürdigen Orte Ungarns im Mittelalter.” *Mitteilungen des Instituts für Österreichische Geschichtsforschung* Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary’s *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66-73

⁸ Ban (*banus*) was the title not only of the viceroy of Croatia-Slavonia, but also of the territories south of the River Drava on the northern Balkans, by this time many of them lost to the Ottomans, and even of some commanders of border castles. The voivode was the king’s deputy in Transylvania.

⁹ *Pedagium* commonly meant a road toll for pedestrians, but here it clearly means a fee.

7. Then, to the thirty-eighth article it has been added: [1] that instead of proclamation at three fairs, a terminal summons¹⁰ has to be issued, except for the procedure described there regarding obligations.

8. Then, to the fortieth article it has been added [1] that at the time of the octave courts, the royal majesty be held *ex officio* to select three of the lord prelates, another three of the barons and fourteen of the more substantial and wealthy nobles as co-assessors, and provide a fitting salary for them according to the requirements of their estate.¹¹

9. Then, to the forty-third article concerning witnesses and royal bailiffs of executions the following has been decided: [1] that because it frequently happens that when the men of the chapters or convents as well as the royal bailiffs are sent out to perform some necessary executions, many nobles and men of property or people of other estate rise against them and insult them either by verbal abuse and various affronts, or sometimes even by wounds or beatings, occasionally even slaying them, or having them killed; against these in the said article no punishment is laid. [2] Therefore, for the good of the realm and the defense of the common weal it has been decided that if anyone verbally abuses or injures such executors of justice, he shall be condemned to one mark of gold equaling seventy-two florins; those who wound or beat them, to an act of might and capital sentence, and if they cause their death or that of any one of them, then to the perpetual taint of infidelity. [3] If the aforesaid is committed by the tenant peasants or retainers¹² of someone, and these fearing punishment flee to the estates of someone else, then their lords do not have to be condemned in the said case, but have to prove their innocence by oath; and those fugitives have to be hunted down by those in whose goods they may be found, and if they cannot present them, they shall be convicted to their man-price, without failing to inflict punishment on the evildoers.

10. Then, to the forty-fifth article this has been added: [1] inasmuch as it concerns appeals to the Roman curia and its legates, so also this article applies to the lord archbishops in this country: [2] that no one at all is permitted to bring his case to their presence, save by way of appeal from the episcopal court of one of the lord prelates. [3] Not omitting this: that if anyone should dare to transgress the aforementioned article together with these presents, they shall lose their plaint and claim. Moreover, they shall be convicted to forty gold florins against the opposing party for their expenses to be exacted unremittingly by the *ispán* or *alispán* and the noble magistrates, providing they have enough for that; otherwise they shall be detained and chastised until the debt is paid. [4]

¹⁰ The *triforensis* summons were abolished by Matthias. Terminal summons meant that the party has to appear in court in 32 days or the next octave court and the case will be adjudicated even if he does not attend.

¹¹ This demand was seen as a significant expansion of the political role of the lesser (middling) nobility, only the record show that they had little to say in the courts, and were often not even invited; see András Kubinyi “Beisitzer im königlichen Rat aus dem mittleren Adel in der Jagellonenzeit,” in: Idem, *Stände und Ständestaat im spätmittelalterlichenn Ungarn*, transl. T. Schäfer. (Herne: Schäfer, 2011), pp. 233-52

¹² The reference here is evidently to non-noble retainers, who were treated at law as similar to peasants.

[Regarding] cases which are presently before the most reverend lord legate Orso Orsini,¹³ the plaintiffs shall return these cases to their justices ordinary.

11. Then, to the fifty-ninth article it has been added: [1] that because it is not clear from the said article by what penalties the violent occupiers of goods and [property] rights shall be punished by those who obtained them, it has therefore been ordered that for such an unjust occupation, they shall be convicted to the estimation of the property rights¹⁴ and the damage caused with interest in favor of the opposing party. [2] Should the *ispán* prove to be lax in the execution of justice which is demanded from him in that article and led by rashness omits the execution under whatever pretext, then he shall be deprived of his office and moreover held to repay the estimation and whatever damage was done to the opposing party.

12. Then, to the sixty-sixth article concerning fines it has been added: [1] that in all counties this is also to be observed, that after lawful summons against an adversary party, once the terms have expired and the plaintiff claimed the fines from him, then, whether the summoned appeared or not, the *ispán*, *alispán*, and the noble magistrates before whom the case is treated and to whose court it pertains, shall nevertheless have the right and duty to give final judgment and justice in regard to the defendant, and finally when the case is completed (but not before) to collect those fines, two parts for themselves and one part for the opposing party.

13. Then, to the sixty-eighth article concerning the right of litigants to make agreement, this has also been added: [1] that if it happens that the parties agree among themselves, then no fines can be claimed by any judge before the execution, but thereafter they can be exacted.¹⁵

14. Then, to the seventy-first article this has been added: [1] that no prorogations can be granted in times of truce to those who are engaged in the border castles.¹⁶ [2] In times of war, however,

¹³ Recte: Orso Orsini, (of the famous Roman aristocratic family), bishop of Teano was papal legate to Hungary 1481–95, see Vilmos Fraknói, *Magyarország egyházi és politikai összeköttetései a Római Szent-Székkal*. I. [Ecclesiastical and political relations of Hungary with the Holy See] (Budapest: Szt. István Társulat, 1901); András Kubinyi, “Diplomáciai érintkezések a Jagelló-kori magyar állam és a pápaság között (1490–1526),” [Diplomatic relations between the Jagellonian Hungarian state and the Papacy] in István Zombori, ed. *Magyarország és a Szentszék kapcsolatának ezer éve* (Budapest: METEM, 1996), p. 121.

¹⁴ The estimate of the value of immovable and movable property, was done usually on the traditional basis (*estimatio communis*, see **Tripartitum I: 133**), but occasionally a tenfold (*estimatio perennalis*) valuation for immovable property was used. The low common estimation assured kinsmen’s and even neighbors’ and abutters’ ability to purchase (alienated or judicially-seized) property, and also reduced the burden placed on families having to pay the filial quarter in money, which was likewise calculated by reference to the common estimation. The *estimatio fori* represented the true market worth of goods.

¹⁵ The permission to settle cases out of court has a long prehistory, at least since the early fifteenth century, see e. g. **Comp. ante 1440: 8; 8 March 1435:4** repeated in **1439:30**. However, the rule of exacting fines after the judgment seems to be new.

¹⁶ Actually, border warfare did not cease even during times of truce or peace with the Ottomans; local raids and skirmishes were continuous; see András Kubinyi, “Hungary’s Power Factions and the Turkish

not more than one prorogation can be granted providing that they are personally present in those castles; otherwise, if any of them at the time of the octaves should be found here in the royal court or at their own residence, they shall not enjoy any prorogation. [3] For those, however, who are engaged abroad in important embassies of the king and country, prorogation shall be allowed as long as they are so engaged.

15. Then, to the seventy-second article this has been added: [1] that because there are many among the lord prelates, barons, and other nobles, who claiming that they are protected by prerogatives of exemption or liberty, gain and obtain justice for themselves against people of noble or non-noble estate before the *ispán* or *alispán* and noble magistrates of those counties where it is known that they have goods, yet refuse to stand trial against those who sue them, [2] it has, therefore, been decreed, that they shall and are held also to obey and comply with the justice and judgment of these *ispáns*, *alispáns*, and noble magistrates at the request of anyone.¹⁷

16. Then, as in the seventy-fifth article no fixed penalty is found against those who disturb and impede *ispáns*, *alispáns* and noble magistrates during the execution of judgment and justice, it has therefore been decided [1] that the *ispáns*, *alispáns*, and noble magistrates shall not perform executions except when they are sent out from the county court by the community of the nobles, with letters of the same. [2] If they or any one of them be sent out from the court in the said way to perform an execution of justice, and in the course of the execution of justice someone insults them or any one of them by verbal abuse, or other offense, wounding or beating, or puts him or them to death, then the same rule shall be applied in respect of these assailants as for those who attack royal bailiffs and the witnesses of chapters and convents.

17. Adding this, that if the *ispáns*, *alispáns* or noble magistrates set out on their own initiative and not from the county court to some executions, or rather (as they now often improperly do) exact fines without a letter of the court, and if they dare to vex or disturb anyone or even do damage to his belongings, then, notwithstanding the damage done, they must be right away convicted to their fine of the head¹⁸ against the damaged party.

18. Moreover, as there was a comment on fugitive tenant or other peasants at the end of the same article and no punishment was decided for those who receive them, [1] it has been ordained that if a peasant, having perpetrated a crime, flees to the goods of someone, the *ispán*, *alispán* or the noble magistrates shall demand this peasant from the one who received him. Should he not want to hand him over, then they have full right to exact a fine of twenty-five marks from him, to be divided equally between the judge and the plaintiff. [2] Should, however, the *ispán* receive such

Threat in the Jagiellonian Period (1490 - 1526),” in István Zombori, ed. *Fight against the Turk in Central-Europe in the First Half of the 16th Century* (Budapest: METEM, 2004), pp. 115–145.

¹⁷ This article has been regarded as a sign of “victory” of the county nobility against the great lords, but it is better to characterize it as a political program. Cf. Martyn Rady, “Rethinking Jagiello Hungary (1490–1526),” *Central Europe* 3 (2005): 3–18, pp. 10–17. Actually, Werbőczy quoted such charters as prime examples of “invalid privileges”; see **Tripartitum II 11:2**

¹⁸ See below Art. 19.

evildoers and fugitives on his goods and refuse to hand them over at the request of the damaged party, then in this case the community of the nobles together with the noble magistrates can exact the same fine of twenty-five marks from his goods, to be likewise divided equally between the judge and the damaged party. [3] And if that is difficult to do, then the *ispán* shall be summoned on this account into the presence of the justices ordinary of the realm and justice shall be administered by them in regard to him. [4] But if the community of the nobles and the noble magistrates pass judgment in regard to him, and one of the parties is not satisfied with their judgment, then such cases have to be transferred to the royal court, namely to the justices ordinary of the realm at the application of that party.

19. Then, to the eighty-first article, which is drawn up about thieves and other evildoers, in which it is contained that should someone not expel such evildoers from his goods, then the *ispán* has to send someone to catch them and so on, it has been added: [1] that such evildoers shall not be expelled, but shall be apprehended by him or those in whose goods they have been found by the *ispán* or *alispán* or the noble magistrates and, at the request of them or any one of them, hauled to the county court for receiving punishment. [2] If they do not want or refuse to haul them to court, they shall be convicted to the man-price of the evildoer, but the evildoers shall still be duly punished if they can be caught at a later time. [3] Declaring explicitly that privileged nobles and men of property, who are called *liberi comites*, have the right to punish such evildoers, and they do not have to bring them to the county court if they do not want to.¹⁹ [4] If the *ispáns*, *alispáns*, the noble magistrates or the *liberi comites* by carelessness or deliberately and intentionally release those evildoers who have been surrendered to them or caught by them, they shall be burdened of the fine of the head of the evildoers, to be paid in two parts to the judge before whom the suit has been opened, and in the third part to the adversary party; moreover, they shall be deprived of their honor and office, and shall never be admitted to the same or similar office. [5] The fine of the head of the lord prelates and barons is known to amount to 400 florins, of the nobles 100, and of the peasants 40, as required by ancient custom of the realm.²⁰

20. Then, to the ninetieth article, which among others is addressed to the *ispáns* for the redress for those arrested unjustly it is added [1] that as two counties, Pest and Pilis, do not have *ispáns* and *alispáns*,²¹ in these the noble magistrates together with the more substantial nobles can make and administer this redress.

21. Then, to the ninety-first article composed on nobles arrested on occasion of [debts], where it is not written who should be the judges of the unjustly arrested persons and the penalties to be inflicted, it is added: [1] that the *ispán*, *alispán* and the noble magistrates of the county must

¹⁹ The privilege of high jurisdiction, i. e., to mete out capital punishment (similar to the *Blutbann* in the medieval Empire), was granted to many lords from the mid-fourteenth century onward. They were called *szabadispán* (*liber comes*) as they had the same rights as the county *ispáns*.

²⁰ This seems to be the earliest definition of the amount of the fine of head, that is, the man-price (or composition) in a decree. In the **Triparium** the difference is that the nobles' and burghers' man-price is given as 200 florins (**II: 43, 2**, and **III: 9**).

²¹ See **1492:100** and also below Art. 24.

administer judgment and justice in regard to those arrested unjustly and also those who, flouting the present decree, took it upon themselves to be judges in such illicit arrests,²² and they shall exact the fine that they deserve according to the contents of the article, and give satisfaction to the nobles who suffered injury and to their tenant peasants. [2] If such an arrest took place on the goods of the *ispáns*, then the community of the nobles together with the noble magistrates has the right to administer justice in regard to such *ispáns* in the aforementioned way. [3] Should, however, this be difficult for the community of the nobles and the noble magistrates to do, then the *ispáns* shall be lawfully summoned to the presence of the justices ordinary of the realm and justice be passed in regard to them. [4] If, however, justice is administered by the community of the nobles and the noble magistrates in regard to these *ispáns*, and one of the parties is not satisfied with their judgment, then the case has to be transferred for discussion to the royal court, namely into the presence of the justices ordinary on the application of that party.

22. Then, to the ninety-third article (towards the end) about tenant peasants and their houses it has also been added [1] that should they be allowed to go to the goods of others in accordance with the contents of this article, they shall not dare to remove in any way houses, buildings, fences or any other wooden things erected by them there.²³ [2] If, however, they took them with themselves to the goods of others by force, then they or, if they are lacking in belongings, their lords shall be convicted to one hundred golden florins against those who suffered harm and injury, to be divided equally between the judge and the plaintiff.

23. Then, to the ninety-fifth article concerning the redemption of letters, it has been added that the chapters and convents must firmly observe that article in all of its points, clauses and articles under [pain of] losing their seals.²⁴

24. Then to the hundredth article about the two counties of Pest and Pilis this has been added: [1] that because these two counties upon the prerogative of their liberty do not have *ispáns*, in order that appropriate order be maintained among them, it has been ordered that the community of the nobles of these two counties shall gather annually at the heretofore usual place of the county court, and, at the time of the election of the noble magistrates, elect some of the more substantial nobles, with whom the noble magistrates can and may judge each and every case and, having passed judgment, make due execution, just like other counties which have *ispáns* and *alispáns*.²⁵

25. Then, because in the hundred-and-eighth article composed about the diet of the gentlemen of the realm it cannot be found clearly, nor is it apparent, what way and order should be observed

²² It is unclear to what kind of persons this passage refers.

²³ This clause clearly limits the right—or at least the possibility—of peasants moving (or being moved) from one estate to another.

²⁴ A characteristic article of these late medieval diets, containing nothing else but the confirmation of a previous piece of legislation.

²⁵ Apparently, the administration of these counties by the palatine had fallen into abeyance. See Attila Zsoldos: *Pest megye monográfiája I/2. A honfoglalástól 1686-ig* [Monograph of Co. Pest I/2. From the Hungarian conquest to 1686] (Budapest: Pest Megye Monográfia Közalapítvány, 2001).

between the royal majesty, the lord prelates and barons, the counselors of His Majesty, and other gentlemen of the realm who assemble at this diet; [1] and moreover, when these lord prelates, barons and other counselors of the royal majesty come together, they mostly waste the whole day with only talk and they depart without any decision whatsoever, [2] as a result of which the diet (not without serious cost for them and for other gentlemen of the realm) gets so long protracted that the middling and poor nobles affected by weariness are forced either to depart or to have unnecessary and needless expenses, and thus, exhausted by these expenses they finally return home with their losses. [3] Therefore, in order to avoid all inconvenience that might in future arise from this, it has been ordained that henceforth, when it happens that some diet is held or any other consultation is called by the royal majesty, then His Majesty shall before all else relate to the lord prelates, barons and counselors of His Majesty the causes, reasons and needs of his and of the country, on account of which he has decided to have the diet, first calling together the lord prelates, barons, and his other counselors, every day to a place where His Majesty wishes, and appointing to each a place appropriate to the requisites of their honor, dignity and status, with all other discussion set aside. [4] After hearing these, they shall temperately, seriously and quietly discuss, consult and decide the matters that were related to them, also setting aside any of their private matters and affairs. [5] If any discord should emerge among them, then the master of the doorkeepers of His Majesty, who has to be there with them to discuss these matters, imposing silence, shall inquire the vote of each of them one by one in order that, having the vote of each of them, they may at all events be brought to concord and agreement by the decision of the wiser party.²⁶ Thus, having applied their full care, dedication, and diligence the diet may be finished the faster by His Majesty, and the business arising at that time be easier settled. [6] And the royal majesty, when he wishes to hold a diet, shall deign to notify by letter the lord prelates, barons, and other gentlemen of the realm of the term of the diet one whole month in advance.

26. Then, it has been ordained that henceforth, whenever the royal majesty wishes to proclaim a diet because of any arduous matter whatsoever of the kingdom, he shall deign to convoke not the elected men of the counties, but all the lord prelates, barons, nobles, and lords of the realm individually.²⁷ He should decide with their common counsel whatever is to be done for the sake and welfare of the realm.

²⁶ This article aimed at shortening the diets, not only limiting the time spent waiting upon the assembly of the greater lords, but regulating the way of decision making in the “upper house” of the diet (although a formal upper chamber was not established until the seventeenth century). It is remarkable that the master of the doorkeepers serving as something like a speaker of the house or even a type of Hungarian ‘Black Rod’, should in good medieval manner decide according to the sanior pars, even though counting votes. See András Kubinyi, “A magyar országgyűlések tárgyalási rendje, 1445–1526,” [The order of debate in the Hungarian diets] *Jogtörténeti Szemle* 9/2 (2006): 3–11.

²⁷ The right of nobles to attend the diet in person was a recurrent demand of the county nobility, but did not become the rule until the 1510s. (And then, became a burden for the poorer ones and they asked to reduce their presence!) It is noteworthy, though, that the king called a diet in 1496 inviting two deputies from every county.

27. Then, since on account of the export of horses, oxen, sheep and other animals by many people, domestic and foreign alike, the people of the kingdom have hitherto suffered no little need and shortage of these animals, [1] therefore, in order that proper remedy be applied to this matter, it has been ordered that henceforth no one shall in any way dare under any pretext to lead and drive horses, oxen, sheep and any other animal out of the country either in flocks or otherwise for two full years reckoned from the day of this present general assembly. [2] Should anyone dare to transgress this ordinance, the *ispán* or *alispán* of any county as well as any other person has full right to take away such animals, giving two parts over to the royal majesty, while having the right to retain the third part for his troubles.²⁸

28. Then, should any of the inhabitants of the realm lead such animals to the markets or weekly fairs which are usually and customarily held in this country, these inhabitants of the realm shall in this case have full right to drive these animals to the markets or weekly fairs. [1] And should anyone of them buy from these animals for his needs to be used only by himself, or butchers [buy them] for the slaughterhouse, no thirtieth should be exacted from these, [2] as has been observed since ancient times.²⁹ [3] In such a way, however, that these buyers shall not dare to export such animals from the country in any way, under the aforementioned penalty.

29. Then, it was decided that in every county, where the ancient place of the county court was changed, it shall be taken back to the earlier and previous place.³⁰

30. Then, that ecclesiastical benefices, called by whatever name, shall not be donated to outsiders and foreigners. [1] And if such have been donated, they shall be called to their see by the royal majesty to a term set by the royal majesty and the lord prelates and barons. [2] Should they refuse to come, the royal majesty shall have the right to donate their benefices to well-deserving inhabitants of this kingdom.

31. Then, by the will of the lord barons, and the counselors of the royal majesty, and other gentlemen of the realm gathered in the present diet (but with the disagreement of the lord prelates and ecclesiastical persons), it has been ordered [1] that if some foreign persons obtained for themselves some ecclesiastical benefices from other than the royal majesty or those who have the

²⁸ It is not clear, what caused this temporary prohibition on animal export; the decree of **1514: 66** justified this measure by attempting to prohibit the influx of foreign money into the country. In fact, the export of cattle had been the mainstay of Hungarian foreign trade since the mid-fifteenth century; for a survey of the relevant literature, see Ian Blanchard, “The Continental European Cattle Trades 1400–1600,” *The Economic History Review*, NS, 39 (2008) 427–60; A. Fara, “An Outline of Livestock Production and Cattle Trade from Hungary to Western Europe in Late Middle Ages and Early Modern Period (XIVth– XVIth centuries)” *Crisia* 45 (2015), 87–95. and Balázs Nagy, “Foreign Trade of Medieval Hungary” in József Laszlovszky *et al.*, eds. *The Economy of Medieval Hungary* (Leiden–Boston: Brill, 2018) pp. 473– 90.

²⁹ Since the thirtieth as an export-import duty developed gradually from different tolls, some collecting posts remained within the country. Their right to collect duties is abolished here.

³⁰ The reason for this measure is not known.

right of patronage that they have hitherto exercised over ecclesiastical benefices in this kingdom, and—claiming rights in them by such acquisition against the ancient liberty of the realm—dare or seek to reside in these benefices, [2] then each and every one of them, if they can be caught, shall be thrown into water, as public disturbers of the liberty of the realm.³¹ [3] Those lord prelates, barons or other nobles who have right of patronage over some ecclesiastical benefices in this country, and who have so far used this right, have free right to donate these ecclesiastical benefices, over which they have the right of patronage, to inhabitants of this kingdom and not to foreigners.³²

32. Then, that no ecclesiastical offices, that is, vicariates³³ shall be granted to Italians and foreign persons in any of the churches of the realm by any ecclesiastical person. [1] Otherwise, the sentences of these will be invalid and have no force.

33. Then, as several castles and fortified places situated and lying on the borders of the country fell into the hands of the Turks because of their improper maintenance, not without great harm to the inhabitants of the realm, and others which hitherto remained standing are mostly so abandoned and ruined and known to lack people, provisions, and engines, that their peril is feared for daily, [1] therefore, in order that henceforth proper supply be given to these castles, the royal majesty should deign to provide for the maintenance of these border castles provisions, engines, and other necessities, and have as their officers none other than those who are rich in goods as well as are experts in military matters.³⁴ [2] Once His Majesty appoints suitable officers and these officers are provided for properly, should they lose some of these [castles], they shall be condemned as

³¹ These articles aimed at eliminating papal appointments to Hungarian benefices, a concern going back to at least King Sigismund's times (see **6 April 1404**). Actually, such appointments were quite rare (Vilmos Fraknoi, *Magyarország egyházi és politikai összeköttetései a konstanci zsinattól a mohácsi vészig* (Budapest: Szent István Társulat, 1902), p. 361). There is no evidence that the strange and cruel procedure outlined here ever took place.

³² It is significant that the disagreement of the clergy to these rather drastic measures is noted. This indicates, among others, the weakness of the—virtually non-existent—“second [clerical] estate” in the Hungarian diet. However, in 1497 King Wladislas issued a license to an Italian priest to obtain any benefice in Hungary, “notwithstanding that the lords prelates, lords and nobles have recently prohibited this in their decision.” (Kovachich, *Supplementum*, 2:294–95.)

³³ By ecclesiastical officers are meant here the ordinaries of episcopal courts.

³⁴ According to a record of the treasurer from 1511 the upkeep of the border castles amounted to 130 thousand florins, while the total income of the treasury was estimated between 200.000 and 300.000 florins (see Ferenc Szakály, “The Hungarian-Croatian Border Defense System and Its Collapse”, in János M. Bak, and Béla K. Király, eds. *From Hunyadi to Rákóczi: War and Society in medieval and Early modern Hungary* (Brooklyn, N.Y.: Social Science monographs, 1982) pp. 159–178). The royal treasury was regularly unable to cover these costs and the commanders of the castles had to advance major sums from their own. They were, if at all, then rewarded by property donations; see Géza Pálffy, “The Origins and Development of the Border Defence System Against the Ottoman Empire in Hungary (Up to the Eighteenth Century),” in Géza Dávid and Pál Fodor, eds. *Ottomans, Hungarians and Habsburgs in Central Europe: The Military Confines in the Era of Ottoman Conquest*. (Boston: Brill, 2000), pp. 3–70.

unfaithful and their goods shall be attached to the royal fisc. [3] Those who lose any of these [castles] shall be held to give explanation for the loss.

34. Then, the royal majesty shall deign to demand every year accounts from all his officers.

35. Then, the royal majesty shall deign to search for those who took away arquebuses, cannons, engines, provisions, and other things from the border castles and especially from Belgrade and Jajce, because they caused unspeakable damage.³⁵ [1] And if someone was found to have done such things, he shall pay with his head, and his goods shall be attached to the royal fisc. [2] If any of these things, engines and provisions came to someone knowingly by gift or even by purchase, the goods of such people, once they are convicted at law, shall devolve to the royal majesty.

36. Then, as most often the castles bordering the Turks are always given to two persons to be held as an office, because their maintenance is known to require great care and attention, [1] it has therefore been ordered that henceforth and in the future these border castles and fortified places can never be left empty without one of the officers who are appointed at that time to these castles and fortified places, [2] but one of them must always stay there personally for their defense, under penalty of their head.

37. Then, as in every diet and general assembly of the gentlemen of the realm, among other arrangements and discussions, particular debate and discord is raised and generated over the way of paying tithes, to the extent that [1] when in recent years the royal majesty after his joyful coronation proclaimed a general diet for the sake and convenience of the gentlemen of the realm, and issued there a general decree with the common counsel of the lord prelates, barons and the gentlemen of the realm, not only could they not decide anything clearly on account of the dissensions and quarrels that arose over tithes, but also this article together with several others was postponed to the present diet, that is general assembly, for its final resolution.³⁶ [2] For this reason, in order to remove all debate and discord that has hitherto been had among the lord prelates, barons and the gentlemen of the realm over the manner of paying tithes, it has been decided that henceforth in the future and forever thereafter the whole tithe must be exacted in every county and paid to every lord prelate of any church, either episcopal or collegiate, notwithstanding any wicked abuse that has been introduced hitherto by anyone and anyhow, according to the manner each had or made arrangement with his prelate in this matter, and only from those things from which the lord prelate previously exacted tithes. [3] They must not in any way introduce unnecessary and uncustomary payments of tithes. [4] In the event, however, that the tithe collectors henceforth collect unnecessary and uncustomary tithes, the following is to be observed: that because the lord prelates and other ecclesiastical persons sometimes cause the tithes to be exacted by their own men for their own use, at other times farm them out to other persons, therefore, should someone maintain that he has been harmed and burdened by their lord prelate's own men through such inappropriate and unnecessary tithes of the tithe collectors, then the person who has been harmed

³⁵ These two castles were at that time the major linchpins of the southern defense. Jajce was at that time already surrounded by Ottoman-held territory.

³⁶ See above, the closing passage of **1492**.

shall notify the lord prelate or his agent of this uncustomary and unnecessary collection of the tithe and advise him of this. [5] He, as soon as he is informed of this, shall send his men to correct the said things, to the place where the correction has to be done. [6] And if it can be corrected between them, well and good; otherwise the issue shall be taken to the place and term of the county court to the presence of the community of the nobles, and both the lord prelate and the complainant have to be satisfied with whatever they decide on the said matter according to God and His justice. [7] If it is found that the complainant was unjustly vexed by the tithe collectors, satisfaction has to be given from the personal goods and belongings of the tithe collectors for the expenses of the vexed party. [8] In the meantime, until full decision is made on the said matter, no ecclesiastical interdict can be imposed on the complaining party or his tenant peasants. [9] Should it, however, happen that the correction be made by the tithe farmers, then the complainant is not obliged to inform either the prelate or his agent, but before exacting the tithes, the farmers, having been given notice by the noble magistrates or any one of them, are bound to come to the county court and to correct before the community of the nobles all the above matters, to obey and comply with their judgment and decisions, and, should they be found to have collected unnecessary and unjust tithes, to give total satisfaction to the complainant for his expenses as well. [10] The time for the payment of tithes shall be observed as was heretofore customary. [11] When that time has elapsed, and not before, an ecclesiastical interdict can be imposed on those neglecting to pay just and customary tithes, until they have actually been paid by them. [12] No ecclesiastical interdict shall be imposed on the lords of the land on account of peasants who refuse to pay tithes.³⁷

38. Then, the following manner shall be observed by the tithe collectors when examining stooks: [1] that the tithe collectors must be satisfied with the oath of the peasant who has to pay the tithe, in the presence of the judge and reeve [of the place] where they assessed the tithe, or, if not content with that, the judge or reeve of these places shall have the right to examine the stooks, but only within bounds and not in rainy times, from which the peasant could suffer some damage. [2] If the tithe collectors found more in these than the peasant asserted, they shall take away the surplus and in addition impose payment of a just tithe. [3] However, before they examine the stooks, they shall before anything else give one florin into the hands of the judges or reeves of the place, so that if it is found that the tithe collectors overturned and examined the stooks unnecessarily, the judge and reeve are bound to pay that florin to the hands of the peasant.³⁸

³⁷ While the assessment and collection of the tithe had been a contested issue ever since its first regulation in the eleventh century, the present article transfers the matter to the jurisdiction of the county, since in most cases the tithes were farmed out to laymen. For previous legislation on this matter see e.g., **Stephen II:20, Syn. Szab. 40, 1411:5–6 , 6 April 1464: 24; 25 January 1486: 40–4** referring to Matthias' earlier decretal, see Andor Csizmadia, "Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn", *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Kan. Abt. 61 (1975) 228–257.

³⁸ According to King Matthias' *Decretum Maius* (1486: 41) the tithe-collector had to entrust his horse to the peasant as a security.

39. Then, it has been concluded, that bees, lambs, and kids should be tithed³⁹ and marked at the appropriate time in the customary manner; after their tithing and marking they shall not be kept longer than Michaelmas against the will of the keeper at whose place they were tithed and even then only at the risk of the tithe collectors. [1] And if after that⁴⁰ these animals are perchance lost, the peasant cannot be burdened in any way for that. [2] Yet, they have to swear an oath that the [animals] did not get lost because of their fault, malice or wish.⁴¹

40. Then, because during the wine harvest many people put up their wine for sale, and when they sell the wine, the wine-tithe collectors are accustomed to collect some wrongful payments in many counties for their own profit, especially in the county of Somogy where for the wax seals the tithe collectors of St Martin's Abbey of Szentmártonhegy [collect] at some places two pennies from these wine sellers while at other places twelve. [1] Therefore, in order that such abuses be rooted out from among the people of the realm, it has been ordered, that henceforth such abuses introduced in whatever way shall be rooted out, [2] and the same custom shall be observed as has been observed from ancient times, under the rightful abbots of the said abbey.⁴²

41. Then, that in every diocese, where the tithe is paid in cash, one hundred pennies shall be accepted as one florin without any additions.⁴³

42. Then, that the reeves shall not be taxed because of the accommodation which they give to the tithe collectors during the exaction and administration of tithes, nor shall anything be exacted from them for the tallies.⁴⁴

³⁹ The issue over which of the “fruits of the earth” were to be tithed was a recurring matter of debate: see, Csizmadia, “Die rechtliche Entwicklung.”

⁴⁰ It is unclear whether after the tithing or after Michaelmas, although the latter seems more probable (so spelled out in **1486**).

⁴¹ ≈ **25 Jan 1486:42**, where it is decreed for the diocese of Eger.

⁴² The custom of sealing the wine goes back to a mandate of Andrew II from 1226 in a suit between the abbey and the burghers of Székesfehérvár, where the king allowed the abbey to seal the wine produced in county Somogy lest it be ‘smuggled’ out by the burghers without paying the tithe. See László Erdélyi, Pongrác Sörös, eds. *A Pannonhalmi Szent Benedek Rend története* (Budapest: Stephaneum, 1902-16) vol. I. p. 61

⁴³ The payment of the tithe in kind or cash was also a contested issue for centuries.

⁴⁴ The tallies *capita dicarum* (in Hung.: *rovásnyél*, “rod of assessment”) were small wooden sticks with marks for the dues paid; several of these survived in different forms and different purposes; see Ludolf Kuchenbuch, “Kerbhölzer in Alteuropa—zwischen Dorfschmiede und Schatzamt,” in: Balázs Nagy, Marcell Sebők, eds., ...*The Man of Many Devices, Who Wandred Full Many Ways. Festschr in Honor of János M. Bak* (Budapest: CEU Press, 1999), pp. 303–25. Lajos Thallóczy described one that survived, (by the courtesy of Károly Tagányi) in “Adatok a magyar pénzügyi kezelés történetéhez” [Data on Hungarian administration of finances], *Magyar Gazdaságtörténeti Szemle* (1895): 119-20. The object, found by coincidence in a sixteenth century file, was a 5 cm long piece of thin wood.

43. Then, because some controversy and argument has arisen between the lord prelates on one side, and the lord barons and other gentlemen of the realm on the other, on account and occasion of the collection of Christians' and harvesters' pence,⁴⁵ collected until now by the lord prelates; the lord barons and the gentlemen of the realm assert that these payments were wrongfully introduced against their liberties and privilege, and conversely the lord prelates [assert] that they made these exactions upon most effective privileges, and both parties [say] that they have in their support letters and written instruments, which they want to exhibit not at this present term, but at a later one. [1] It has therefore been decided, so as to settle this matter, that the lord prelates shall and are held to produce and show to our royal majesty on the coming octave of Michaelmas all their letters and written instruments issued in the said matter that they have, and the lord barons and gentlemen of the realm [those letters] that they may retrieve in the meantime. [2] Having seen these, the royal majesty shall have full right to make decision and final judgment between the parties.

44. Then, as several difficulties have emerged between the lord prelates and barons, and other nobles and men of property in the matter of the exaction of the tithe and the ninth, namely whether the tithe or the ninth should be paid first, [1] it has been ordered, that just as it was customary hitherto, so also in the future the ninth shall be paid first and only then the tithe.⁴⁶

45. Then, there are many places situated on the borders of the kingdom, where Serbs, Ruthenians, Vlachs, and other schismatics live on the lands of Christians, and living according to their rite they have not hitherto paid any tithe whatsoever from these lands, but the lord prelates want to force them to pay the tithe.⁴⁷ [1] As the tithes, given as the patrimony of Christ, are collected from the faithful of Christ and not from other schismatic persons (especially those who live at the borders of the kingdom at the said places at the invitation and under the protection of the royal majesty and the voivodes, bans, and other officeholders), this is ordered and decided: [2] that from now on no tithe whatsoever shall be collected from these Serbs, Ruthenians, Vlachs, and other schismatics living on the lands of Christians, just as before.

So, having mercifully listened to and welcomed the humble requests of the aforesaid lord prelates, barons, and nobles of our said realm presented by them to our majesty in the above manner, we confirm the above letters of privilege of ours, which contain—as mentioned before—the aforesaid

⁴⁵ This duty seems to have been exacted from landless peasants who did not pay the tithe. While it is rarely mentioned in the sources, in the late sixteenth century it was still collected, then at the rate of 6 pence per head; see also **1498:52**. The tax is referred to in Kabos Kandra. *Adatok az egri egyházmegye történelméhez*. [Data for the history of the diocese of Eger] vol I. (Eger: Szolcsányi, 1885), pp. 392–3.

⁴⁶ This article may aim at getting the lords' share in the harvest quickly into store rather than changing the ratio of the due. The ninth was, of course, the 'second' 10 per cent (from the 90 percent left after the ecclesiastical tithes) of the peasant's harvest, though rendered usually only from grain and wine.

⁴⁷ On Orthodox communities in medieval Hungary, see Péter Rokay. "A szerbek betelepülése Délmagyarországra a XV. században" [The immigration of the Serbs into southern Hungary in the fifteenth century] in István Zombori, ed. *A szerbek Magyarországon* (Szeged 1991), 51–62.

statutes and decrees, together with the above-included newly-formulated articles, to last and be valid in perpetuity; accepting, approving and ratifying, causing to be included and inserted into our present letters of privilege verbatim without any addition or deletion whatsoever; moreover renewing our letters of privilege and all that they contain and specify therein as well as the aforesaid newly-formulated articles, because they are seen to serve the profit and tranquil estate of our aforesaid kingdom, for the same lord prelates, barons, and nobles of our said kingdom. [1] And we promise and obligate ourselves by means of these presents to impeccably observe and to cause others to observe all and everything contained in our same letters of privilege and the articles contained therein. [2] To the memory and perpetual firmity of which we decided to issue these present letters of privilege, confirming them with our privy seal that we use as king of Hungary. [3] Given in the said Buda by the hands of the reverend father in Christ Lord Thomas, proposed bishop of Eger, high privy chancellor of our court and our beloved faithful⁴⁸ on the thirty-second day of the aforesaid general congregation. [4] In the year of the Lord one thousand four hundred and ninety-five, in the fifth of our reign in our Hungary etc., and in the twenty-fourth of Bohemia. [5] In the time of the felicitous government of their churches of the reverend fathers in Christ, the lords Ippolito d'Este of Aragonia, cardinal deacon of the Roman Church of the title of Santa Lucia in Silice, archbishop of Esztergom⁴⁹; Peter of Kalocsa⁵⁰; and the bishops: Thomas proposed of Eger; Oswald of Zagreb;⁵¹ Dominic of Oradea;⁵² Ladislav Geréb of Alba Iulia;⁵³ Sigismund of Pécs⁵⁴; Francis elect of Győr;⁵⁵ John of Veszprém;⁵⁶ Lucas of Cenad;⁵⁷ Nicholas Bátori of Vác;⁵⁸ Anthony of Nitra;⁵⁹ *Srem sede vacante*; Gabriel of Bosnia;⁶⁰ Briccio elect and confirmed of Knin;

⁴⁸ Bakócz, Thomas, bishop. of Győr 1486–1493, bishop. elect of Eger 1493–1497, archbishop. of Esztergom 1497–1521, cardinal priest of the title St Martin in Montibus, patriarch of Constantinople, legate a latere.

⁴⁹ d' Este of Aragon, Ippolito, cardinal deacon of the holy Roman church, archbishop. of Esztergom 486–1497, bishop of Eger 1497–1520.

⁵⁰ Váradi, Peter (d. 1501) archbishop of Kalocsa 1480-1501, secret chancellor 1479-84.

⁵¹ Tuz (of Lak), Oswald (b. 1436, d. 1499) bishop of Zagreb 1466-99.

⁵² Dominic (Kálmáncehi), bishop of Oradea 1495–1501.

⁵³ Geréb (of Vingárd), Ladislav (d. 1502) bishop of Transylvania 1476-1501, archbishop of Kalocsa 1501-2, papal legate.

⁵⁴ Ernuszt (of Csáktornya), Sigismund (d. 1504) bishop of Pécs 147?-1504, chief treasurer.

⁵⁵ Szatmári, Francis, bishop of Győr 1495–1508.

⁵⁶ John Vitéz (Jr.) bishop of Veszprém 1489-99.

⁵⁷ Szegedi Baratin, Lucas, bishop of Bosnia 1491–93, of Cenad 1493–1500, of Zagreb 1500-1510.

⁵⁸ Bátori, Nicholas (d. 1506) bishop of Srem 1468-74, of Vác 1474-1506.

⁵⁹ Sánkfalvai, Anthony, bishop of Nitra 1492–1500.

⁶⁰ Gabriel (Polnar) bishop of Bosnia 1493–1501, bishop of Srem 1502.

⁶¹Cristopher of Modrus;⁶² and Michael elect of Senj⁶³. [6] Likewise when the *spectabilis* and *magnificus* Stephen Szapolyai was palatine of the said kingdom of ours and perpetual *ispán* of Spiš⁶⁴; *comes* Peter Vingárti Geréb, our judge royal⁶⁵; Bartholomew Bélteki Drágfi, our voivode of Transylvania and *ispán* of the *Székely*;⁶⁶ John Corvin, duke of Opava and Liptov as well as our kingdoms of Dalmatia, Croatia, and Slavonia;⁶⁷ Peter Macskási⁶⁸ and James Gerlistye⁶⁹, bans of Severin; Ladislas Egervári, master of the treasury;⁷⁰ Nicholas Lindvai Bánfi, master of the doorkeepers;⁷¹ George Kanizsai⁷² and John Pelsőci Bebek⁷³, masters of the cellarers; Emeric Perényi, master of the stewards;⁷⁴ John Csáktornyai Ernuszt, master of the horse;⁷⁵ Blaise Ráskai, master of the chamberlains⁷⁶; and Józsa Somi, *ispán* of Temes and captain general of the lower parts of our kingdom;⁷⁷ and others holding the offices of *ispán* and honors of our kingdom.⁷⁸

⁶¹ Briccio (Brizio) Brizio bishop of Knin 1492 -5, later Bishop of Chersonissos (1483--89?)

⁶² Christopher (of Ragusa), bishop of Modrus 1480–1500.

⁶³ Michael Natalicius, bishop of Senj 1495–1501.

⁶⁴ Zapolya (a. k. a. Zápolya, Szapolyai), Imre of (d. 1487) chief treasurer 1459-64, governor of Bosnia, ban of Dalmatia, Croatia and Slavonia 1464-65, *ispán* of Spiš 1465, count palatine 1486-87.

⁶⁵ Vingárti Geréb, Peter, judge royal 1495–1500, master of the doorkeepers 1491–95.

⁶⁶ Bélteki Drágfi, Bartholomew, voivode of Transylvania and *ispán* of the Székely 1494–98.

⁶⁷ Corvin, John, natural son of King Matthias I (Corvinus), prince, ban of Dalmatia, Croatia and Slavonia 1494–97, 1499–1504.

⁶⁸ Macskási Tárnok, Peter, ban of Severin 1495-1501.

⁶⁹ Gerlistye, James, ban of Severin 1495–1508.

⁷⁰ Egervári, Ladislas former ban of Croatia, Dalmatia and Slavonia, 1493-6, master of the treasury.

⁷¹ Lindvai Bánfi, Nicholas, master of the cellarers 1464–67, *ispán* of Pozsony 1467–1478, master of the doorkeepers 1490–1500.

⁷² Kanizsai, Stephen, master of the cellarers 1498–1505

⁷³ Pelsőci Bebek, John, master of the cellarers 1495.

⁷⁴ Perényi, Emeric, perpetual *ispán* of Co. Abaújvár, the master of the stewardss, 1492–1504, count palatine 1504–19, ban of Croatia and Dalmatia 1512–13.

⁷⁵ Csáktornyai Ernuszt, John, master of the horse 1493–1503, ban of Croatia and Dalmatia 1507–1510.

⁷⁶ Ráskai, Blaise, chief chamberlain, master of the treasury 1498–1518.

⁷⁷ Somi, Józsa, *ispán* of Temes and captain general of the lower parts of Hungary 1494–1508.

⁷⁸ The list of dignitaries was usually attached to privilegial charters ever since the late thirteenth century. They were not witness, the list served rather as a kind of authentication of the date.

LAW OF KING WLADISLAS II OF HUNGARY (1490-1516)

OF 1498 (2 June)

April 24—June 2: diet in Buda. Decree called *decretum minus*.

MSS: Two originals. One is a parchment booklet of five and a half leaves, its seal pendant lost, Hungarian National Archives (MNL OL Dl. 26361); another a similar booklet of ten and a half leaves with the fragment of a seal pendant, from the family archives of the Békássy family, deposited in the Hungarian National Museum (now OSZK Cod. Lat 322. ff. 18r–25v). Variants of the first are marked A, of the second, B.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., vol. 1 (Budapest: Franklin, 1896), pp. 592-641 (Decretum tertium)

LIT:

András Kubinyi, “Historische Skizze Ungarns in der Jagiellonenzeit” in Idem, *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer, 1998) pp. 323-66; Martyn Rady, “Rethinking Jagiello Hungary” *Central Europe* 3 (2005), pp. 3–18; Idem, “Jagello Hungary,” in: DRMH IV, xi–xlvii.

DECRETUM WLADISLAI II. REGIS TERCIVM DE ANNO 1498, ALIAS DECRETUM
MINUS APPELLATUM

Wladislaus, Dei gratie Hungarie, Bohemie, Dalmacie, Croacie, Rame, Servie, Gallicie, Lodomerie, Comanie Bulgarieque rex, necnon Slesie et Lucemburgensis dux ac Moravie et Lusacie marchio omnibus Cristi fidelibus presentibus pariter et futuris presencium noticiam habituris salutem in eo, qui est omnium vera salus. Gloriosissimus Deus, cuius nutu cuncta a se condita tam in ipsa superna Jerusalem, quam eciam in istis amplissimis terrarum climatibus reguntur propter hoc nos (licet immeritos) ad huius regie dignitatis culmen sive fastigium sublimavit, ut quemadmodum sua donaria nobis largissime contulit, sic nos quoque memores beneficiorum eius quieti subditorum nostrorum, quibus nos preesse voluit, salubriter provideremus, ita ut cum quibus una est nobis nascendi moriendique condicio, illis prodesse potius, quam inutiliter dominari deberemus. Deditque nobis Deus ipse duo instrumenta, quibus populum nobis subiectum regeremus, arma scilicet et iura; iura quidem, ut eos in tribus nature preceptis, scilicet honeste vivere, alterum non ledere et unicuique, quod suum est, reddi instrueremus; arma vero, ut quos timor poene legalis a malis eorum actibus non refrenaret, hos saltem vindicis gladii severitas compesceret a peccatis, et sic hominum coerceretur audacia et inter improbos innocencia tuta redderetur, et ut boni quiete viverent inter malos. Proinde ad universorum tam presencium, quam futurorum noticiam harum serie volumus pervenire, quod cum nos post felicem coronacionem nostram pro comodo et utilitate huius incliti regni nostri Hungarie binis iam post sese vicibus diversas constituciones (prout temporis necessitas et rerum condicio exposcebat) ad humillimam supplicacionem et intercessionem fidelium nostrorum prelatorum et baronum regnique nobilium edidissemus, tandem iidem barones, regnique nostri nobiles universi de singulis comitatibus eiusdem regni nostri in presenti congregacione generali, quam eisdem ad festum beati Georgii martyris novissime preteritum urgentibus arduis necessitatibus ipsius regni nostri indixeramus, constituti nostrum adeuntes in conspectum, non sine amaritudine cordis eorum nobis detegere curaveruntⁱ in hunc modum: Quod quamvis nos tempore ipsius felicitis coronacionis nostre unicuique regnicolarum nostrorum, tam magnatum et pociorum scilicet, quam inferiorum libertates eorum ipsis a serenissimo condam principe, domino Andrea rege, predecessore nostro felicitis memorie concessas, per serenissimosque principes condam dominos Lodovicum et Mathiam reges, predecessores nostros felicium recordacionum confirmatas et iam a multis retractis annis in compluribus suis articulis diminutas ad utilitatem eorum reformare et renovare, confirmareque et confirmatas observare et observari facere promiserimus, forent tamen plerique huiusmodi salubri nostro proposito et desiderio eorum se opposcentes et privatum potius, quam commne bonum sectantes, per quorum impedimentumⁱⁱ nunquam hactenus votum eorum consequi potuissent; potissimum vero, cum nos novissima ad ipsorum humilimam intercessionem ad perficiendum ea omnia, que a nobis maximo cum suspiramine expectabant, congregacionem generalem pro die festo beati Martini in anno proxime transacto preterito iudixissemus, et Deo opitulante in civitate nostra Pesthiensi celebrassemus, iidem pacis turbatores inter delecta grana

ⁱ A *cuararunt*

ⁱⁱ A *impedimenta*

frumenti zizaniam imponentes omnia subvertissent; et sic ipsi barones et regnicole nostri nichil boni una nobiscum concludentes cum iactura rerum suarum satis grandi ad propria remeare coacti fuissent. Quibus expositis iidem barones et ceteri nobiles, tam pociores, quam minores quosdam articulos super libertatibus eorum ipsis tam a prefato condam domino Andrea rege, quam eciam aliis divis regibus Hungarie concessis exaratos maiestati nostre exhibuerunt et produxerunt tenoris infrascripti, supplicantes nostre maiestati prefati barones ceterique regnicole humili precum cum instancia, ut consideratis eorum oppressionibus tranquillitati istius regni nostri, quod ab infidelibus Turcis, crucis Christi persecutoribus et ceteris eiusdem regni nostri emulis undique premeretur, consulere libertatesque ipsorum in eisdem articulis conscriptas renovare et confirmare, renovatasque et confirmatas observare et per alios observari facere dignemur. Quorum quidem articulorum tenor talis est:

I. Articulus primus. De congregacione generali deinceps celebranda.

Item, quod amodo infra quatuor annorum spacia post sese immediate consequenter affutura singulis annis ad festum sancti Georgii martyris universis regnicolis, tam scilicet prelatis, quam baronibus, ceterisque nobilibus et possessionatis hominibus per regiam maiestatem in campo Rakos una congregacio generalis indicatur et celebretur. Celebracio autem huiusmodi congregacionis in quindecim diebus expleatur. Elapsis autem ipsis quatuor annis deinceps futuris, semper successivis temporibus singulo tercio anno ipsa congregacio generalis modo premissa celebretur. Si quisⁱⁱⁱ autem dominorum prelatorum et baronum vel aliorum regnicolarum ad primum diem ipsius congregacionis venire et illic infra ipsos quindecim dies perseverare nollet, talis, si fuerit prelatus vel baro, in ducentis marcis gravis ponderis, octingentos florenos auri facientibus, si autem pociores nobiles vel mediocres seu inferiores fuerint, in centum marcis, quadringentos florenos auri facientibus, per regiam maiestatem irremissibiliter exigendis condempnentur, exceptis officialibus regie maiestatis ac dominorum prelatorum et baronum ceterorumque regnicolarum ac aliis castra finitima tenentibus vel extra regnum in legacionibus regiis et regni aut dominorum suorum^{iv} necessario recuperatis, necnon infirmis, cecis, claudis et nimium pauperibus, qui nequaquam venire possent; illis eciam, qui extra regnum hoc in peregrinacionibus necessario occupabuntur; ita tamen, quod si duo vel plures fratres indivisi fuerint, vel pater filium unum vel plures habuerit indivisos, tunc sufficiat unum illorum mittere ex se ipsis ad dietam. Si autem divisi fuerint ab invicem, per singula capita venire teneantur. Nobiles autem unius sessionis ex decem unum mittere debebunt. Si autem comites parochiales vel eorum vices gerentes sub aliqua paccione, pecuniis scilicet aut muneribus allecti facultatem darent cuipiam domi remanendi; tales modo simili in centum marcis condempnentur.

II. Articulus secundus. De celebracionibus octavarum et brevium iudiciorum necnon assessoribus eligendis et eorum salariis.

Item quod singulis annis due octave magne et integre, videlicet sanctorum Georgii martyris et Michaelis archangeli et similiter due breves, que iudicia brevia appellantur, videlicet

ⁱⁱⁱ mendose: *qui*

^{iv} mendose add: *in*

Epiphaniarum domini et festi beati Jacobi apostoli in hoc regno celebrentur. Octavarum autem celebratio sive primus dies incipiatur statim vigesimo die post festa predicta et duret per quadraginta dies. Si vero post quadraginta dies aliqua iudicia fierent, nullius sint vigoris et momenti sive in causis levatis, sive non levatis. Celebracionis vero iudiciorum brevium prima dies inchoetur vigesimo die post predicta festa et huiusmodi brevia iudicia finiantur ac durent per viginti tantummodo dies feriatos, in quibus iudicia fieri possunt; ita quod dies festi inter has viginti dies pro iudiciis dirimendis non computentur. Fiant autem evocaciones ad ipsa brevia iudicia sicut ad octavas maiores ante octo dies vel ipso octavo die diei festivitatum predictarum. In hiis autem iudiciis omnibus, tam maioribus, quam brevibus ultra iudices ordinarios eciam ex dominis prelati duo et ex dominis baronibus similiter totidem et ex regnicolis sedecim nobiles potiores et prestanciores, huius regni iuris periti, illi videlicet, qui sapientia presunt, ex omnibus quatuor partibus regni per regiam maiestatem et regnum eligantur, qui semper in iudiciis decernendis interesse debeant; ita quod in octavis integris omnes illi sedecim nobiles, in brevibus autem iudiciis solummodo octo ex ipsis mutuatis et alternatis scilicet inter sese vicibus assedere teneantur. Illis autem sedecim electis nobilibus, qui, ut premissum est, pro causis discutiendis eligentur, domini regnicole de salariis competentibus providebunt, dominis autem prelati et baronibus sic electis ceteri domini prelati et barones de ipsorum salariis providere teneantur. In Transsilvania autem et Sclavonia consimiliter due octave maiores, videlicet festorum Epiphaniarum domini et beati Jacobi apostoli, necnon duo iudicia brevia festivitatum beatorum Georgii martyris et Michaelis archangeli celebrentur. Celebratio autem ipsarum octavarum et brevium iudiciorum incipiatur quinto decimo die ante predicta festa et duret quindecim diebus post inicium celebracionis earundem octavarum et brevium iudiciorum.

III. Articulus tercius. De octavis sancti Michaelis proxime celebrandis.

Item quod ad festum beati Michaelis archangeli proxime venturum in omnem eventum octave celebrentur.

IV. Articulus quartus. De magistris prothonotariis necnon assessoribus et eorum iuramentis.

Ne autem magistri prothonotarii muneribus corrumpantur, iurent et promittant sub illo stricto iuramento de Rakos unicuique iustum, rectum et divinum facere iudicium. Et idcirco stabit in beneplacito cuiuslibet causantis, si illis munera dare velit, nec ne; verumtamen si aliquis causantium poterit hoc legitime probare, quod aliquis ex ipsis magistris cuiquam propter eiuscemodi munera falsum et iniustum fecisset iudicium, extunc talis magister capite plectatur et in amissione bonorum suorum condempnetur. Et quod domini quoque prelati et barones iudicio interesse debentes pariter cum assessoribus debeant similiter prestare iuramentum in forma sacramenti de Rakos ad faciendum omnibus sine favore vel odio iudicium iustum. Et quod de rustica stirpe progenitus officium magistri tenere non debeat nec umquam ex ignobili stirpe prothonotarius eligetur.

V. Articulus quintus. De distribucionibus literarum iudicialium.

Item quod tempore distribucionis iudicialium sive birsagiorum magistri prothonotarii per se vel per scribas substitutos data literarum evocatoriarum in registro conscribere debeant et priores

evocaciones posterioribus semper pius eleventur. Et quod una signatura vel iudicialium distribucio usque ad exitum litis durare debeat.

VI. Articulus sextus. De consuetudinibus conscribendis.

Quoniam autem magistri prothonotarii in iudiciis discernendis semper consuetudines regni allegare consueverunt, ob hoc huiusmodi consuetudines antique conscribantur, etsi que videbuntur regie maiestati ac dominis iudicibus rationabiles et legitime non abusive, nec irrationabiles, secundum eas iudicetur. Eligatur autem magister Adam per regiam maiestatem, qui easdem consuetudines conscribat, et domini regnicole illi provisionem facient, et cum eo superinde concordabunt. Supplicat eciam^v regie maiestati, ut et ipsa committat ad conscribendum et similiter illi provisionem faciat.

VII. Articulus septimus. De octo assessoribus in consilium admittendis.

Item, quod ex predictis sedecim nobilibus regia maiestas in negociis illis, que generaliter universum regnum tangere et concernere videbuntur, semper octo in consilium suum admittat. Qui quidem nobiles stricta fide semper iurare debebunt, ut omnia in eo ipso consilio fideliter et secreta ac pro communi bono et utilitate huius regni agent et tractabunt.

VIII. Articulus octavus. De quibusdam causis extra terminos octavarum et brevium iudiciorum per maiestatem regiam discutiendis.

Quamvis autem universe cause ratione actuum potenciariorum, tam scilicet maiorum, quam minorum in terminis celebracionis octavarum vel brevium iudiciorum hactenus consueverint terminari; quia tamen nobiles huius regni per magnates et potentes ac eciam inferioris condicionis homines, tam domi, quam in eorum itineribus ac aliis ocupacionibus crebro molestantur, et exinde sepe sepius diverse querimonie ad aures regie maiestatis porriguntur, maiestas autem sua limites statutorum suorum tanquam pius princeps transgredi nolens, huiusmodi querimonias hactenus vel ad ipsas octavas, vel autem breviam iudicia consuevit prorogare, quare statutum est, quod a modo de cetero universa et singula causa ratione et pretextu invasionis domorum nobilium, necnon detencionis, verberacionis et vulneracionis ac interempcionis nobilium sine iusta causa deinceps movende semper extra terminos octavales et brevium iudiciorum per regiam maiestatem, ubicunque sua maiestas constituta fuerit, decidi et terminari possint. Ita videlicet, quod tales, contra quos ratione premissorum actuum potenciariorum querele deponentur, per literas preceptorias ^{vi}regie maiestatis mediantibus literis exhibitoriis ad capitulum vel conventum sonantibus ad certum terminum per maiestatem regiam in eisdem literis suis preceptoriiis iuxta locorum distanciam prefigendum personaliter, ubicunque reperiri poterunt, ^{vii} aut de domibus habitacionum suarum ad comparendum coram sua maiestate sine ulteriori procrastinacione per testimonium ipsius capituli vel conventus amoneantur rationem reddituri. Qui si personaliter venerint et se expurgare poterint, bene quidem alioquin si non venerint, vel si venerint et se expurgare non poterint,

^v B *autem*

^{vi} A *preceptoriales*

^{vii} A *poterint*

observato semper iuris ordine, in sententia capitali ac amissione cunctorum iurium suorum possessionariorum rerumque et bonorum quorumlibet condempnentur.

IX. Articulus nonus. De causis racione dampnorum et iniuriarum post obitum condam domini Mathie regis illatarum ut in brevibus iudicentur.

Item ex quo in decreto maiori articulo sedecimo id statutum esse dinoscitur, qualiter et per quem modum dampna et iniurie temporibus disturbiorum novissime post obitum condam domini Mathie regis regnicolis illate in octavis reacquiri possint,^{viii} sed quia octavarum celebratio sepius protelatur, idcirco statutum est, quod huiusmodi iniurie et dampna tempore celebrationis brevium iudiciorum modo in eodem decreto expressato, ordine iuris acquiri possint in omnibus causis iam propterea motis vel movendis. Ita, quod si iam de facto alique exinde evocationes contra quempiam facte fuissent, non obstante tali evocatione ipsi actores partem adversam teneantur ad comprehendendum in ipsis brevibus iudiciis legitime ammonere.^{ix} Si autem ipse actor talibus evocationibus in ipsis octavis uti vellet, habeat nichilominus facultatem causam suam in eisdem prosequendi.

X. Articulus decimus. De occupacionibus castrorum et aliorum iurium possessionariorum, ut usque festum beati Michaelis archangeli remittantur et evocationes desuper facte in brevibus terminentur.

Item, quod occupaciones castrorum, castellorum, possessionum et iurium possessionariorum, que sub nomine maiestatis sue aut Mathie regis, aut post mortem eiusdem per nonnullos facte sunt, usque ad festum beati Michaelis proxime affuturum omnino remittantur sub nota perpetue infidelitatis. Si vero racione talis occupacionis iam alique evocationes facte fuissent, quod ille evocationes in brevibus iudiciis terminentur. Ita tamen, quod non obstante priori evocatione, nichilominus tales occupatores racione talium occupacionum ad comparendum in ipsis brevibus iudiciis legitime amoneantur. Et hoc, si octave magne non celebrarentur.

XI. Articulus undecimus. De conventu Zenshiog.

Item de conventu Zenshiog, ut omnino sigillum eiusdem conventus restituatur, ex quo non pro aliqua culpa, sed iuxta contenta generalis decreti inter minores conventus sigillum ab eodem conventu fuit ablatum. Supplicant igitur domini regnicole maiestati regie, ex quo eciam maiestas sua in registro suo ad omnes comitatus pridem misso hunc articulum promisit^x observare, ut dignetur ex illo conventu heremitas, quos in illum conventum imposuit, remove et abbatem regularem illius ordinis idoneum in illum conventum instituere, quia domini regnicole sigillo illius conventus carere non possunt.

XII. Articulus duodecimus. De capitulo Boznensi.

^{viii} A *possent*

^{ix} B *monere*

^x B *commisit*

Item de capitulo Boznensi, quod ex quo^{xi} totaliter destructi esse dinoscuntur, pro reformatione ecclesie illius, que in honorem sancti Petri constructa est, habeant facultatem ubique per totum regnum pro testimonio capitulari ambulare ad instar capituli Budensis.

XIII. Articulus tredecimus. De conventu de Saag.

Item quoniam comitatus Gewmeriensis et ceteri regnicole illarum parcium pro utilitate publica sigillo conventus ecclesie de Saag carere non possunt, pro eo statutum est, ut possint in dicto comitatu Goumeriensi in omnibus executionibus procedere.

XIV. Articulus decimus quartus. De falsariis literas falsas obsignantibus.

Item de falsariis, qui in capitulis vel conventibus literas falsas obsignant, ut stigma sigilli igniti in frontibus et utraque facie omium capitularium seu conventualium, qui tempore falsificacionis de conventibus vel capitulis talia agentes intererunt, inuratur et insuper beneficia talium amittantur eo facto.

XV. Articulus decimus quintus. De dominis archiepiscopis, episcopis et ceteris viris ecclesiasticis banderiatibus et non banderiatibus.

Item, ex quo domini archiepiscopi, episcopi, capitula, prepositi, abbates et Carthusienses de Leweld, necnon prior Aurane infrascripti iuxta huius regni laudabilem consuetudinem antiquam pro defensione huius regni tam ratione proventuum decimalium, quam ratione possessionum ecclesiarum suarum banderia sua secundum exigenciam proventuum et numerum jobagionum suorum levare tenentur, ob hoc ipsi domini archiepiscopi, episcopi, capitula, prepositi, abbates et Cartusienses, necnon prior Aurane eorum gentes pro defensione regni iuxta limitationem infrascriptam tenere et conservare teneantur. Cetera autem capitula, conventus, necnon abbates et prepositi ceterique viri ecclesiastici, tam religiosi, quam seculares decimas habentes secundum exigenciam proventuum suorum decimalium et numerum jobagionum suorum, illi vero, qui decimas non haberent, instar aliorum regnicolarum banderia non habencium de singulis triginta sex portis singulum unum equidem armis bene dispositum dare et tenere debeant. Si autem aliqui prelatorum et virorum ecclesiasticorum secularia iura possiderent, ea, que ab antiquo banderiata sunt, nunc quoque banderia sua habeant, et ratione illorum ultra cetera bona ecclesiarum, super quibus fundata sunt, consimiliter exercituare sint obligati. Ut autem difficultatibus illis, que de proventibus eorum banderia non habencium decimalibus et numero jobagionum suorum possent exoriri, via precludatur, conclusum est, quod in singulis comitatibus tot probi et fidedigni homines pociores per communitatem nobilium eorundem comitatum eligantur, quod in eisdem comitatibus iudices nobilium habentur, qui unacum eisdem iudicibus nobilium illius comitatus, in quo connumeratio fieri debet, prestitis iuramentis per eosdem tam de proventibus eorundem decimalibus, quam numero jobagionum suorum diligenter perquirant et in registro fideliter annotent, atque ad locum sedis iudicarie importent, et ibi per universitatem nobilium iuxta conscienciosam eorum limitationem numerus exercituancium in singulis comitatibus describatur et secundum hoc ipsi viri ecclesiastici non banderiatibus exercituare teneantur.

^{xi} desideratur: *eius canonici*

XVI. Articulus decimus sextus. De equitibus armatis per regnicolas disponendis.

Item ad vigesimum articulum maioris decreti hoc additum est, quod iam non de viginti portis, sicut in decreto continetur, sed de triginta sex portis seu sessionibus jobagonalibus unus eques bene armatus detur, demptis certis comitatibus parcium inferiorum, videlicet Posega, Walko, Sirimiensis, Bach, Chongrad, Chanad, Zarand, Thorontal, Onod, Themesvar et Bekes, qui de singulis viginti quatuor portis unum huzaronem scutum seu clipeum, necnon lanceam, loricam et cassidem sive galeam habentem, similiter nobiles unius sessionis de triginta sex portis unum equitem armatum, dare teneantur. Item hoc quoque additum est, quod sub banderiis dominorum prelatorum et baronum pro huzaronibus, qui sub medio banderio pro dimidia parte hactenus dabantur, equites armati disponantur, demptis semper comitatibus parcium inferiorum prenotatis.

XVII. Articulus decimus septimus. De officialibus regiis et stipendiariis regnicolarum extra metas regni exercituare debentibus.

Ad decimum octavum articulum in maiori decreto expressum, ubi continetur regnicolas, si quando iussu regio exercitualmente insurgunt, non debere capi, ut limites et metas regni exeant exercitualmente, hoc additum est, quod ex quo domini regnicole pro defensione regni stipendiarios de eorum jobagionibus necessario tenere habebunt, ob hoc, quociens necesse pro defensione huius regni fuerit, officiales necnon stipendiarii, tam regales, quam dominorum prelatorum et baronum, necnon ceterorum regnicolarum limites et metas regni secundum temporis et rerum necessitatem egredi exercitualmente debeant et illis nulle mete prefiniantur. Si autem cogente necessitate ultra illos stipendiatos universitatem insuper regnicolarum insurgere contingeret, tum isto casu ipsa universitas ultra limites et metas regni exercituare non teneatur.

XVIII. Articulus decimus octavus. De tempore ipsos stipendiarios disponendi et de facultate per regiam maiestatem eosdem levandi.

Ut autem regnum hoc ab insultibus infidelium et ceterorum emulorum tucius defendatur, placuit universis regnicolis quod in omni comitatu per totum regnum Hungarie gentes ipse iuxta limitationem prescriptam pro defensione regni sub nota perpetue infidelitatis usque festum beati Martini proximne affuturum ubique sine defectu disponantur et deinceps semper parate teneantur. Ita tamen, quod tales gentes sine speciali consensu ac voluntate regie maiestatis nullo pacto levari possint. Si autem infra predictum festum sancti Martini aliqua necessitas huic regno emerit, propter quam regia maiestas gentibus carere non poset, extunc maiestas sua primum officiales suos, necnon dominos prelatos virosque ecclesiasticos banderiatos et gentes tenere debentes, dominosque barones, tandem vero, si necesse fuerit, universitatem insuper regnicolarum pro defensione huius regni levare valeat atque possit. Qualiter autem et per quem modum predictae gentes levari debeant, de hoc in decreto maiori laciis continetur.

XIX. Articulus decimus nonus. De pena capitanei regii exercitum regni falsis rumoribus levandis.

Item si capitaneus regius, qui exercitum regni levaret falsis rumoribus et ex industria animoque malignandi studiose id faceret, per hocque regiam maiestatem et regnum hoc defatigaret sine necessitate racionabili, in tali casu nota infidelitati incurrat.

XX. Articulus vigesimus. De limitacione gencium per viros ecclesiasticos banderiatos levandarum.

Sunt autem isti viri ecclesiastici, qui banderia eorum ordine infrascripto semper levare et cum eisdem exercituare tenebuntur.

Archiepiscopus Strigoniensis banderia duo.

Archiepiscopus Colocensis banderium unum.

Episcopus Agriensis banderia duo.

Episcopus Waradiensis banderium unum.

Episcopus Quinqueecclesiensis banderium unum.

Episcopus Transsilvanensis banderium unum.

Episcopus Zagrabiensis banderium unum.

Episcopus Jauriensis equites ducentos.

Episcopus Wesprimiensis equites ducentos.

Episcopus Waciensis equites ducentos.

Episcopus Chanadiensis equites centum.

Episcopus Sirimiensis equites quinquaginta.

Episcopus Nitriensis equites quinquaginta.

Abbas Pechwaradiensis equites ducentos.

Abbas Waradini Petri equites ducentos.

Abbas Saxardiensis equites centum.

Abbas Sancti Martini equites ducentos.

Cartusienses de Leweld equites ducentos.

Prior Aurane banderium unum.

Abbas de Zobor equites quinquaginta.

Capitulum Strigoniense equites ducentos.

Capitulum Agriense equites ducentos.

Capitulum Waradiense equites ducentos.

Capitulum Transsilvanense equites ducentos.

Capitulum Quinqueecclesiense equites ducentos.

Capitulum Bachiense equites quinquaginta.

Prepositus Albensis maior cum capitulo suo et preposito minori eiusdem loci equites centum.

Prepositus Demesiensis equites quinquaginta.

Prepositus Tituliensis equites quinquaginta.

XXI. Articulus vigesimus primus. De banderiis regalibus et officialium suorum.

Quia autem regia maiestas ultra banderium suum regale, sub quo mille equites armati teneri consueverunt, necnon conservacionem castrorum finitimorum ac suis proventibus regalibus quosdam insuper officiales banderiatos necessario tenere habet, placuit igitur ea omnia hic seriatim annotari:

Banderium regale equites mille.

Wayvoda Transsilvanensis banderium unum.

Comes Siculorum banderium unum.

Banus Croacie banderium unum. Comes

Themesiensis banderium unum.

XXII. Articulus vigesimus secundus de dominis baronibus, qui cum viris ecclesiasticis banderiatibus exercituare tenebuntur.

Sunt preterea domini barones in hoc regno, videlicet Laurencius dux de Wylak, necnon comites perpetui et liberi, spectabiles et magnifici domini: Stephanus de Zapolya comes perpetuus terre Scepusiensis, regni que Hungarie palatinus et iudex Comanorum. Item comites de Bozin et de Sancto Georgio ac comites de Frangapanibus et de Corbavia. Item dominus comes Petrus Gereb de Wyngarth iudex curie regie maiestatis, ceterique domini barones qui unacum prefatis dominis prelatibus ex officialibus banderia habentibus secundum munus officiorum suorum exercituare tenebuntur.

Despotus autem equites mille dare tenebitur.

Dux Laurencius,

dominus comes Scepusiensis,

dominus comes Petrus Gereb,

Bartholomeus Dragffy de Belthewk wayvoda Transsilvanus,

Josa de Som, comes Themesiensis,

Nicolaus Banffy de Alsolyndwa,

Georgius de Bathor,

Johannes Ernusth de Chaaktornya,

Mathias Pangaracz de Dengeleg,

Emericus de Peren,

Gabriel de Peren,

Johannes Bebek de Pelseucz,

Stephanus de Rozgon,

Anthonius de Palocz,

Johannes de Homonna,

Ladislaus de Kanysa,

Johannes de eadem, Georgius

de eadem Kanysa,

Thomas Groff comes de Bozyn,

Petrus similiter Groff de eadem,

Franciscus similiter Groff,

Nicolaus de Zeech,

Georgius Pankyrha de Zalanok,

Johannes Ellerboh de Monyorokerek,

Sigismundus Orzag de Gwth,

Sigismundus Kompolth de Nana,
Sigismundus de Losoncz,
Sigismundus de Lewa,
Blasius de Raska,
Andreas Both de Bayna,
Johannes Ongor^{xii} de Nadasd,
Johannes Banffy de Bolondoch,
Franciscus de Hedrehwara,^{xiii}
Stephanus Taxyth de Naghlak,
Franciscus Berizlo de Grabarya,
Johannes Berizlo de eadem,
Albertus de Zokol.

Despotus autem cum hwzaronibus mille,
Belmosawyth cum omnibus hwzaronibus suis.

XXIII. Articulus vigesimus tercius. De inscripcionibus sex civitatum et Lusacie.

Item quod inscripciones super sex civitatibus et Lusacia maiestas regia, prout in decreto maiori est expressum, eliberabit et omni diligencia laborabit huiusmodi literas ab illis exigere.

XXIV. Articulus vigesimus quartus. De iuramento feudi a Moravis et Slesitis, necnon Lusacia exacto.

Item quod maiestas regia dabit huic regno literas testimoniales super iuramento feudi, nuper maiestati sue a Moravis et Slesitis, necnon Lusacia facto, quod huiusmodi iuramentum fidelitatis non accepit ab eisdem tamquam rex Bohemie, sed tamquam rex Hungarie, nec tamquam subditis regni Bohemie, sed tamquam a feudatariis huius regni et ex inscripcione huic regno Hungarie legitime obligatis.

XXV. Articulus vigesimus quintus. De conservacione sacre corone.

Item quod sacram coronam huius regni domini prelati non teneant, sed solummodo domini barones et seculares.

XXVI. Articulus vigesimus sextus. De facultate regie maiestatis ultra centum jobagiones disponendi.

Item licet in decreto maiori ita prius ordinatum fuerit et conclusum, quod maiestas regia proprio motu et per se ipsam usque ad centum jobagiones conferre possit, quibuscumque voluerit, ultra vero ipsum numerum cum consilio dominorum prelatorum et baronum,^{xiv} quod dominis regnicolis videtur inconueniens et illicitum, et idcirco nolunt constringere potestatem et auctoritatem

^{xii} A *Ungor*

^{xiii} A *Hederwara*

^{xiv} A *add. etc.*

maiestatis sue in aliquo, demptis dumtaxat forensibus et externis quibus nolunt in hoc regno collaciones fieri, neque beneficiorum ecclesiasticorum, neque eciam secularium possessionum.

XXVII. Articulus vigesimus septimus. De salvo conductu infidelium.

Item quod quilibet infidelis vel maiestati regie accusatus salvum conductum a regia maiestate habeat infra quadraginta dies maiestatis sue presenciam et curiam adeundi, et interim compositis vel non compositis rebus sine omni impedimento iterato redeundi habeat facultatem.

XXVIII. Articulus vigesimus octavus. De rectificacione metarum finitimarum regni.

Item quod maiestas regia inter regna Hungarie et Polonie, necnon inter regna Hungarie et Moravie et similiter Austrie et Alemannie metas faciat rectificari et distingui, et hoc pro tollenda ulterioris dissensionis materia. Metas eciam ex parte Turcorum dignetur sua maiestas regno Hungarie reformare.

XXIX. Articulus vigesimus nonus. De tricesimis, ut in locis antiquis exigantur.

Item quia exactores tricesimarum regie maiestatis sepesepius regnicolas in hoc apprimere consueverunt, quod ipsi privato lucro eorum gaudentes non in antiquis et consuetis locis tricesimarum, neque de hiis tantummodo rebus, de quibus tricesime exigi deberent, sed eciam de minutissimis rebus, in novis per eosdem adinventis locis tricesimas non sine ipsorum regnicolarum dampno et incomodo in visceribus regni exigere consueverunt. Quare ut tales abusiones de medio tollerentur, placuit hic inferius omnia illa loca, in quibus tricesime deinceps semper exigi deberent, annotari, decernendo, ut preter ea loca subscripta tricesime nullibi locorum exigantur, sed alia omnia loca tricesimarum noviter adinventata, exceptis tantummodo tribus locis tricesimarum, videlicet Budensi, Albensi et Pathay penitus aboleantur. Postquam autem maiestas regia omnes illas tricesimas, que nunc apud manus prefati domini Stephani comitis et palatini pro pignore habentur, ab eodem redemerit, dignetur tandem maiestas sua et ipsa tria loca tricesimarum abolere. Solvantur autem tricesime de illis tantummodo^{xv} rebus, que extra regnum deferentur. Que vero extra metas non educerentur tricesime de illis nequaquam exigantur. De minutissimis eciam rebus, infra valorem unius floreni nulla tricesima solvatur, prout in maiori decreto continetur. Et quia frequenter accidit, quod ipsi negociatores cum tanta comitiva pecudes et pecora abigere consueverunt quod tricesimatoribus illis resistere non valentibus huiusmodi animalia absque solucione tricesimarum vel violenter, vel autem clandestine expellunt in diminucionem proventuum regalium, quare, ut huic malo debito remedia occurratur, sancitum est, quod quicumque de cetero in premissis culpabiles reperiri poterunt, et eorum animalia per tricesimatores auferri non poterunt, extunc tales nichilominus in estimacione huiusmodi animalium, ut premissum est, furtim vel violenter abactorum ordine iuris contra ipsum tricesimatorem convincantur.

XXX. Articulus tricesimus. Quod exactores vectigalium Hungari sint.

Item quod exactores vectigalium non fiant alii, nisi Hungari, et non forenses necque alieni.

^{xv} A *solummodo*

XXXI. Articulus tricesimus primus. Quod pecudes et pecora extra metas regni non educantur, nec equi aut equaces, et neque aurum et argentum conflatum, et de pena transgressorum.

Item, quod pecudes et pecora per regnicolas quoscumque extra metas et terminos regni non educantur, nisi usque loca tricesimarum infrascripta, in quibus permutaciones rerum fieri debebunt. Neque eciam forenses quispiam ultra ipsa loca tricesimarum vel alias ad emendum quecumque animalia cum rebus eorum venalibus ad hoc regnum audeant intrare, sed ad deputata loca veniant et in eisdem locis inter regnicolas et forenses permutaciones huiusmodi rerum et animalium fieri debeant. Equi autem de cetero non educantur, similiter et equaces. Nullus insuper hominum, cuiuscunque status et condicionis existat, aurum vel argentum conflatum, nisi in monetas redactum de hoc regno quacunquē ex causa educere presummat, prout in decreto maiori lacius continetur. Quicunque autem contra premissa vel aliquod premissorum secus facere attemptaverint, et per aliquos deprehendi poterunt, habeant tales universum huiusmodi aurum et argentum, necnon pecudes et pecora et quaslibet res talis transgressoris auferendi et insuper aurum et argentum educere volentem captivandi omnimodam potestatem. Cuius quidem auri et argenti, necnon rerum et bonorum ablatorum duas partes regie maiestati presentare teneantur, terciam autem partem pro labore suo reservent.

XXXII. Articulus tricesimus secundus. Quod nullus audeat cum forensibus in educione equorum et in extrahendo auro et argento societatem inire sub nota infidelitatis.

Item quod nullus tricesimatorum seu alterius cuiusvis status et condicionis hominum cum forensibus quibuspiam tam in educione equorum et equarum, quam eciam in extrahendo auro et argento conflato aliquo quesito colore societatem inire seu contrahere presummat sub nota perpetue infidelitatis.

XXXIII. Articulus tricesimus tercius. De locis deposicionum.

Quia autem super locis deposicionum inter civitates regales quottidie plurime lites et differentie oriri consueverunt, huiusmodi autem contenciones nonnisi ex eorum privilegiis facile discerni possunt, idcirco maiestas regia visis iuribus parcium decernat sola de hoc id, quod melius erit faciendum.

XXXIV. Articulus tricesimus quartus. De locis antiquis tricesimarum.

Loca autem tricesimarum antiqua sunt ista:

Arva est capitalis tricesima.

Trinchinium est capitalis tricesima, Zakolcza, Lewa, Belws, Bezthercze, Solna, Wyhel, Thyrnavia, Warbo sunt filiales ad eandem.

Posonium est capitalis tricesima, Oroswar, Sarendorff, Newsidel, Zarand, Malaczka, Ichuczen, Geyren, Szanffa, Zemnycza sunt filiales ad eandem. Sopronium est capitalis tricesima Rwsse, Trassenndorff, ZenthMarthon sunt filiales ad eandem.

Cassovia est capitalis tricesima, Lewchowya, Barthwa, Kesmark, Lwblyo, Stropko, Homonna sunt filiales ad eandem.

Item in Sclavonia: Zagrabia, Nedewcze, Warasd, Murayzombath sunt capitales tricesime, Zombathel loco Kewzeg, Pynkwaffewlde, Radaffalva, Hydegkwth, Raczkanysa, Wynnitze, Crapyma, Stubycza, Stanysnak, Thopoczka, Koztanicza sunt filiales ad easdem.

Nandoralba est capitalis tricesima, Kelpen, Sabacz, Arky, Berych, Zenthdemether, Racha, Pothos, Aprayocz, Wywar sunt filiales ad eandem.

Themeswar est capitalis tricesima, Karansebes est filialis ad eandem.

XXXV. Articulus tricesimus quintus. Quod nobiles de questu ipsorum, tributa solvere non teneantur.

Item quod nullus tricesimatorum ac tributariorum ac ipsorum vicesgerentes de rebus et bonis per nobiles presbiteros ac monachos ipsorumque homines ad necessaria domorum eorundem emendis aliquam tricesimam aut tributum (prout hactenus consueverunt) contra eorundem libertates exigere valeat. Si vero quispiam id faceret, nobilis aut presbiter vel monachus taliter spoliatus vel in libertate lesus domino illius tributi, si in propinquo inveniri potest, alioquin comiti parochiali illius comitatus, in quo huiusmodi tributum exigitur, querelas deponere debeat; et ille scita pius superinde mera veritate, dupplicem satisfaccionem, hoc est recepti tributi dupplum reddere querulanti teneatur sub pena duarum marcarum inter comitem et querulantem equaliter dividendarum. Tricesimator vero, si contra id excesserit, hunc huiusmodi querela contra eundem regie maiestati porrigatur. Etsi maiestas sua ex literis inquisitoriis comitis vel vicecomitis et iudicum nobilium illius comitatus, in quo talis tricesima exigitur, per ipsum tricesimatorem iniustam tricesimam exactam fuisse compererit, extunc ultra dupplum recepte tricesima, necnon expensas querulantis ipse tricesimator per maiestatem regiam acriter puniatur. Si autem ipse querulans iniustas querimonias deposuisse comperitus fuerit, modo simili contra partem adversam in duabus marcis vincatur. Quoniam autem plurime civitates et possessiones regales in hoc regno de singulis rebus eorum venalibus et mercibus per totum regnum a solutione tributi exempti et supportati esse dinoscuntur, ob hoc multo magis nobiles istius regni, quorum predecessores regnum hoc cum effusione sanguinis ipsorum acquisierunt et defensarunt, et ipsi quoque ac eorum posterii necessario defensare et protegere habent, tam scilicet pociores, quam minores, si questum aliquem facerent cum rebus venalibus, de tali questu tributum solvere non teneantur. Ita tamen, quod si aliquis nobilium quempiam rusticorum seu civium, talem videlicet, qui tributum solvere teneretur, sibi in socium assummeret et illum penes se absque solutione tributi abducere vellet, ex de hoc tributarius posset certificari, tales res venales seu mercimoniales ipse tributarius auferendi ab utroque plenam atque omnimodam habeat potestatis facultatem.

XXXVI. Articulus tricesimus sextus. Quod nemo audeat vias falsas stare et custodire in terris aliorum.

Item quamvis in decreto maiori id ordinatum fuerit et stabilitum, quod nemo in terris aliorum vias falsas stare et custodire valeret, sed quia contra transgressores huiusmodi decreti nulla ibidem pena determinata fuisse reperitur, pro eo statutum est, quod nemo tributariorum in terris seu territoriis aliorum vias falsas custodiendi et standi, in eademque via falsa itinerantibus obsistendi habeat facultatem sub pena amissionis eiusdem tributi; sed unusquisque tributa habens aliqua huiusmodi

vias falsas in propria terra et per consequens illius possessionis, in qua videlicet tributum exigitur, custodiri faciat, prout continetur in decreto.

XXXVII. Articulus tricesimus septimus. De salibus regalibus in antiquis cameris deponendis.

Item quod sales regales in cameris antiquis et non in locis noviter adinventis deponantur. Huiusmodi autem loca noviter exquisita penitus aboleantur.

XXXVIII. Articulus tricesimus octavus. De iudiciis inter nobiles et liberas civitates regales diffiniendis.

Item, quod libere civitates, videlicet Buda, Pesth, Cassovia, Poson, Sopron, Barthwa, Eperyes, Thyrnavia, necnon Lewchovia, Monsgrece et omnes alie libere civitates earundemque incole nobilibus et possessionatis hominibus iniurias aliquas seu dampna inferentes, si talis civitas seu incola et civis iniuriam et dampna inferens habuerit possessiones et iura possessionaria in aliquo comitatu, et ex illis bonis nobilem leserit seu dampnificaverit, si videlicet tales lesiones seu dampnificaciones factum minoris potencie tangere dinoscuntur, teneatur propterea in illo comitatu, ubi illa bona habet, coram comite iuri stare. Si vero talis civitas seu civis nulla iura possessionaria in aliquo comitatu habuerit, et nobilis vel aliquis homo possessionatus contra privatam personam vel certis tantummodo et non cum tota communitate seu civitate causam seu lites habuerit, extunc talis nobilis et possessionatus homo teneatur causam suam coram iudice illius civitatis agitare et prosequi. Si autem talis nobilis et possessionatus homo contra totam civitatem vel e contra civitas ipsa contra nobiles et alios possessionatos homines causam aliquam ratione actuum potenciariorum maiorum vel iuris possessionarii movere pretenderet, extunc talis causa coram personali presencia regie maiestatis, habita superinde legitima evocacione moveatur et ordine iuris terminetur. Et si aliqua parcium in huiusmodi causa contra sese in processu iuris coram ipsa personali presencia quovismodo succubuerit, si talis causa factum iuris possessionarii tangere dinoscitur, extunc talis pars non in maiori onere, quam solummodo in ducentis florenis auri convincatur. Si autem huiusmodi causa factum invasionis domorum nobilium, necnon detencionis, verberacionis, vulneracionis ac interempcionis nobilium concernere cognita fuerit, extunc potentiores huiusmodi actuum potenciariorum in sententia capitali ac amissione cunctorum bonorum suorum mobilium et immobilium condempnentur, prout hactenus fuit observatum. Casu autem, quo aliquis civis sub aliquo domino seu nobili in hoc regno vineas vel aliquas alias hereditates habuerit, et quidpiam in territorio huiusmodi deliquerit aut aliquem dampnificaverit, in tali casu idem civis teneatur coram domino illo terrestri, sub quo hereditates habet iuri stare.

XXXIX. Articulus tricesimus nonus. De abolicione libertatis civitatis Wysegradiensis.

Item quod libertas civitatis Wysegradiensis et pertinenciarum eiusdem, necnon similiter pertinenciarum castris Damas, ex quo libertati regni preiudicat, simpliciter aboleatur.

XL. Articulus quadragesimus. Quod libere civitates in suis libertatibus conserventur.

Item quod maiestas regia universas liberas civitates et alias personas bene meritas in antiquis eorum libertatibus conservare dignetur. Imo supplicat domini regnicole maiestati sue, ut quemadmodum maiestas sua iam privilegia eorum super libertatibus ipsorum confirmavit, ita in eisdem conservare dignetur.

XLII. Articulus quadragesimus primus. De solucionibus nonarum.

Item quod cives Budenses, Albenses et de Zalonkemen et alie quelibet civitates tam regales, quam aliorum quorumcunque in terris aliorum vineas habentes seu araturas facientes dominis terrestribus nonas solvere teneantur, prout continetur in decreto.

XLIII. Articulus quadragesimus secundus. De officialibus amittentibus castra finitima.

Item quoniam sunt nonnulli officiales, qui ex eorum negligencia et indebita conservacione nonnulla castra finitima amiserunt, et post amissiones tam notabiles et huic regno dampnosas non solum impunitate gaudent, sed insuper alia castra pro sallario eorum retinent, quare statutum est, ut regia maiestas absque consensu regnicolarum hiis, qui aliqua castra finitima propter ipsorum negligenciam et incautam conservacionem amississent, vel amitterent, in futurum gratiam non faciat, sed illos iuxta ipsorum demerita castiget et puniat iuxta contenta generalis decreti. Sunt autem hii, qui huic regno in amissionibus castrorum notabilia dampna intulerunt, nam condam Ladislaus de Egerwara castra Thersacz et Nerethwa, Franciscus Harazthy castrum Zozorowar, Georgius vero Popowyth consimiliter castrum Komothyn tempore maiestatis regie amiserunt.

XLIV. Articulus quadragesimus tertius. De conspicientibus castra finitima.

Item, quod singulis annis duo iudices regni, videlicet domini palatinus et iudex curie regie homines suos penes hominem regium super iuramento de Rakos de dicenda veritate et fideliter sine personarum favore ad regiam maiestatem referenda iuratos deputare debeant, qui castrorum finitimorum condiciones et status ac edificaciones vel custodias et conservaciones, necnon machinas ac ingenia et victualia atque stipendiarios iuxta disposicionem teneri debentes aliosque apifices seu artifices bis in anno revideant et maiestati regie fideliter referant: Ita quod tales conspicientes castra finitima vadant diverso tempore et non simul et ita quod homo regie maiestatis noscat, quando alii homines dominorum palatini et iudicis curie vadunt, et illi similiter ignorent, quando iste ibit, ne muneribus corrumpantur et ut eo fidelius illa valeant referre et facilius eciam cognosci possit, si falsitatem et mendacium dixerint. Si vero illi, vel alter eorum aliquas in castris finitimis negligencias et defectus, vel eciam personarum ibi constitutarum exorbitancias subticuerint et fideliter pro favore aliquorum officialium non retulerint, penam capituli subeant eo facto, et bona ipsorum universa ad collacionem regiam devolvantur. Expensas autem talibus maiestas regia dare debeat.

XLV. Articulus quadragesimus quartus. De comite Themesiensi.

Item quod comes Themesiensis ultra honorem unius comitatus, in quo castrum Themesiense situm est,^{xvi} tenere nequeat, nec aliquis comitatum a ceteris regni comitatibus amplius sequestretur. Et unusquisque comitatus suum proprium comitem de comitatu eodem aliquem ex pocioribus habeat demptis comitatibus Pesthiensis et Pilisiensis, qui comites habere non consueverunt antiqua eorum libertate requirente.

XLVI. Articulus quadragesimus quintus. Quod decedente rege Hungarie sine heredibus oratores principum non mittantur ad dietam.

^{xvi} Desideratur: *alium*

Item statutum est, quod decedente rege Hungarie sine heredibus, si quando regnum hoc regia dignitate vacare contigerit, quocienscunque universitatem regnicolarum pro eligendo novo rege convenire continget, nullus oratorum forensium, qui sepe numero plures a regibus et principibus ad seducendum dominos et universitatem advenire solent, ad ipsam convencionem admittatur, ut eo comodius de novo rege provideatur. Ipsi enim regnicole providebunt, ut ille, quem elegerint, cum honore inducatur.

XLVI. Articulus quadragesimus sextus. De officialibus infidelium.

Item si quispiam nobilium et regnicolarum castra seu fortalicia quecunque a dominis ipsorum pro officiolatu tenuerint et durante tali officiolatu domini illorum propter aliquos excessus notam infidelitatis incurrerent, cuius occasione regia maiestas aut regnum hoc huiusmodi castra sive fortalicia per vim aut aliter ab ipso officiali rehabere niteretur, illaque honori et humanitati sue, militariaque officio satisfacere cupiens regie maiestati aut regnicolis^{xvii} se et castra seu fortalicia domini sui viriliter et fideliter defensando adventus regiam maiestatem aut eciam totum regnum se opposuerit, dampnaque et nocumenta exinde ipsis regnicolis intulerit, nichilominus talis officialis notam infidelitatis non incurrat, verum de dampnis quibuscunque illatis teneatur omnibus plenariam satisfacionem impendere. Ubi vero ipse officialis, posteaquam dominus suus tali nota infidelitatis fuisset offuscatus, se in servicium illius adiunxisset et sic honorem alicuius castri vel fortalicii ab eo adeptus fuisset, tunc isto casu is articulus sibi minime videatur suffragari, sed eadem nota infidelitatis condempnetur.

XLVII. Articulus quadragesimus septimus. De Comanis, Philisteis et Ruthenis.

Item, quia Comani, Philistei et Rutheni in hoc regno commorantes in abduccionibus jobagionum et in licenciis capiendis contra libertates nobilium et statuta regni plurimas quotidie iniurias et preiudicia, indicibilesque et inauditas exacciones in educendis ipsis jobagionibus ipsis nobilibus inferunt, neque officiales maiestatis regie et eorum vicesgerentes eosdem a talibus insolenciis compescunt, quare, ut huiusmodi dissensionis materia eradiceatur, statutum est, quod ex quo ex Comanis et Philisteis ac Ruthenis ad bona nobilium nullus abire permittitur, sic neque de cetero jobagiones nobilium per officiales maiestatis regie vel dictos servilis condicionis homines in medium ipsorum causa commorandi abducantur. Si autem ipsi officiales aut predicti Philistei, Comani et Rutheni in medium ipsorum aliquos jobagiones contra presentem statucionem abduxerint, super hoc ipsi coram palatino regni legitime requirantur.

XLVIII. Articulus quadragesimus octavus. De differentiis inter nobiles ac Comanos et Philisteos exortis revidendis.

Item quoniam autem maiestas regia superioribus annis obtulerat illas dissensiones, que ratione metarum et aliarum occupacionum inter nobiles ac Comanos et Philisteos exorte sunt, velle facere rectificari, ob hoc supplicant maiestati sue domini regnicole, ut pro rectificandis ipsis metis et differentiis dignetur aliquos magistros prothonotarios deputare.

XLIX. Articulus quadragesimus nonus. De decimis.

^{xvii} regie maiestati aut regnicolis videtur esse superfluum

Item quod decime non argento aut pecuniis, sed sicut terra protulerit fruges et vina, iuxta contenta decreti condam domini Andree regis imperpetuum exigantur.

L. Articulus quinquagesimus. De quartis decimarum.

Item quod archiepiscopi et ecclesiarum prelati, capitula, conventus atque abbates plebanis ecclesiarum, hiis scilicet, quibus tenentur secundum consuetudinem hactenus observatam, de proventibus eorum decimalibus quartas solvant, et quibus non tenentur, non solvant. Si quipiam autem plebanorum circa illos quartas aliquod ius habere pretenderent, ordine iuris requirere teneantur.

LI. Articulus quinquagesimus primus. De modo recolligendi decimas et de quibus rebus decime persolvantur.

Item, quod adveniente tempore decimacionis iudex cuiuslibet ville, de qua decime recolligi debebunt, teneatur illi vicearchidiacono, ad quem spectat, significare tempus decimacionis, ut ille ammoneat decimatorem et significet eidem, quatenus veniat infra duodecim dierum spacia ad decimandum. Qui si advenerit, tandem diebus ad id necessariis decimacionem iusto modo perficiat, et unusquisque colonorum teneatur decimas ex se provenientes ad illum locum, quem decimator in facie eiusdem possessionis disposuerit, importare, et pro labore decimam partem accipiat. Si autem infra illos duodecim dies decimator non venerit, villicus seu iudex eius loci decimacionem nichilominus in campo teneatur perficere et decimas ipsas in campo ad sortem decimatoris relinquere. Si autem postea decimator advenerit, tunc iudex seu villicus ipsius ville modo antedicto pro decima parte cum colonis singulis eiusdem possessionis teneatur decimas ipsas facere importari. Ita tamen, quod si ipse decimator in importandis huiusmodi decimis facilius posset concordare cum aliquo, quod habeat super hoc facultatem, quos voluerit, disponendi. Quodsi decimator ipse de iniusta decimacione eo absente facta ipsi iudici credere nollet, iuramentum super hoc ab eo exigere valeat, et sic verbis illius acquiescat. Compositorem autem acervi solus decimator disponat et in expensis suis vivat, iudex autem ville teneatur illi decimasolvere. Quoniam autem iam sepius contenciones exorte sunt, de quibus rebus terre nascentibus decime exigi debeant, ad tollendum igitur omnes huiusmodi altercaciones placuit, ut tantummodo de hiis rebus, videlicet frugibus, vinis, siligine, ordeo, avena et spelta vulgo tenkel^{xviii} et non aliis decime per totum regnum Hungarie exigantur.

LII. Articulus quinquagesimus secundus. De pecuniis Christianitatis et messorialibus.

Item de pecuniis Christianitatis et messorialibus, que hactenus valde abusive exigebantur, taliter determinatum est, quod ex quo ipsi domini prelati et viri ecclesiastici ratione proventuum eorum decimalium gentes eorum de cetero pro defensione huius regni necessario tenere habebunt, sunt autem quamplurimi rusticorum, qui nec vineas habentes, neque eciam araturas facientes, de quibus eisdem dominis prelati decime provenire deberent, absque solucione ullarum decimarum in plerisque locis commorantur, seque Christianos esse predictis prelati ecclesiarum, sub quarum diocesibus degunt, minime recognoscunt; quare, ut de cetero, inter ipsos prelatos ecclesiarum et christicolos debitus ordo observetur, statutum est, quod amodo imposterum omnes et singuli rustici

^{xviii} B mendose *thewkel*

seu jobagiones quorumcunque, qui sive de vinis, sive de frugibus et bladis ipsorum in diocesi quorumcunque dominorum prelatorum et virorum ecclesiasticorum decimas solverint, tales nec pecunias Cristianitatis, neque eciam messoriales solvere debeant. Messores autem de porcionibus sibi pro labore eorum, ab hiis tantummodo, qui decimas huiusque solvere consueverunt, et non nobilibus, provenire debentibus decimas solvant. Pecunias autem Cristianitatis aut messoriales non solvant, nec interim porciones eorum de campo abducere seu excipere audeant, donec eorum porciones unacum rebus decimalibus colonorum decimabuntur. Illi autem, qui nec ex viris, nec frumentis seu bladis decimas solverint, pro pecuniis Cristianitatis sex tantummodo denarios solvere teneantur.

LIII. Articulus quinquagesimus tercius. De proventibus kathedraticis archidiaconorum. Item quia archidiaconi ecclesiarum proventus eorum kathedraticos a plebanis ecclesiarum valde abusive exigere consueverunt, quare, ut huiusmodi prava abusio extinguatur, statutum est, quod amodo de singulis ecclesiis, que integre vacantur, non plus, quam unus florenus, que vero medie, medius florenus et sic consequenter pecunie kathedrales ab ipsis plebanis exigantur.

LIV. Articulus quinquagesimus quartus. De decimis agnellorum et apum.

Item quia hactenus ex decem agnellis unus pro decimis ablati est, et insuper pro reliquis novem pro singulis scilicet duo denarii solvebantur, statutum est, quod amodo deinceps non amplius, quam solummodo pro singulis agnellis unus denarius persolvatur, et similiter pro apibus. Ita, quod postquam hec decimata fuerint, decimator ille infra spacium unius mensis abducere teneatur.

LV. Articulus quinquagesimus quintus. De possessionibus secularibus per viros ecclesiasticos minime impetrandis aut emendis, nec titulo pignoris retinendis et idem de bonis ecclesiarum per seculares non usurpandis.

Item quod episcopi et ecclesiarum prelati vel eorum alter pro persona sua et ecclesie sue possessiones et iura possessionaria secularia nec a regia maiestate quoquomodo impetrare, neque pecuniis eorum iure perpetuo emere et comparare aut titulo pignoris habere possint et valeant. Et e converso domini barones et seculares bona ecclesiarum pro se non usurpent, neque se de illis aliquo pacto intromittant.

LVI. Articulus quinquagesimus sextus. De viris ecclesiasticis, qui duo beneficia tenere non possunt.

Item, quod nemo ex dominis episcopis et ecclesiarum prelatis aliisque personis ecclesiasticis duas dignitates aut alia beneficia ecclesiastica eciam minutissima tenere, gubernare et uti valeat, dempto solummodo episcopo Boznensi pro tempore constituto, qui duo tantummodo beneficia ecclesiastica et non plura tenere valeat, ex quo deficit in proventibus et castra quedam finitima necessario tenere habet. Ab illis autem, qui iam de facto duo beneficia ecclesiastica vel plura haberent preter illud, quod ipsi beneficiati ex illis pro se retinere maluerint, usque festum beati Jacobi apostoli proxime venturum per maiestatem regiam auferantur et personis idoneis conferantur. Similiter eciam illa persona, que aliqua beneficia ecclesiastica, sive magna, sive parva quibuscunque personis ad curiam Romanam obligassent, infra unius integri anni spacium a data

presencium constitutionum computando teneantur ea liberare, alioquin per maiestatem regiam occupentur et personis idoneis, regnicolis scilicet et non forensibus conferantur.

LVII. Articulus quinquagesimus septimus. Ut viri ecclesiastici honores comitatum tenere non possint.

Item quod maiestas regia nemini ex ipsis dominis episcopis et prelati aliisque viris ecclesiasticis honorem vel officiolatum comitatus eciam pro tempore dare et conferre valeat, sed persone seculari benemerite et ex nobili prosapia orto ac in ipso comitatu personalem residenciam agenti honor huiuscemodi per regiam maiestatem detur et conferetur, demptis duobus comitatibus Pesthiensi et Pilisiensi, qui ex antiqua eorum libertatis prerogativa comites habere non consueverunt, quod illi in eadem libertate permaneant. Ab illis vero, quibus perpetuo aut alio quocunque iure honor alicuius comitatus hactenus collatus ex datus fuisset, per ipsam regiam maiestatem auferatur et modo premissso conferetur, nisi per sanctos reges superinde aliquas collaciones sive privilegia habuerint, quas producant, si qui habent, infra congregacionem presentem, alioquin invigoroze relinquuntur; et similiter tales honores personis secularibus conferantur.

LVIII. Articulus quinquagesimus octavus. De clericis preposituras et abbas regulares tenentibus.

Item quia sunt plures clerici preposituras et abbas regulares habentes, qui in habitu laicali vel seculari per plures annos proventus huiusmodi ecclesiarum exhauriunt, et tandem locupletes effecti in blasphemiam illius ordinis vel matrimonia contrahunt vel autem seculares presbiteri efficiuntur et sic bona ecclesiarum consumunt, quare statutum est, quod huiusmodi preposituras et abbas regulares clerici vittati vel alii seculares clerici vel presbiteri sine habitu regulari tenere non possunt, sed infra anni spacium habitum illius ordinis sub pena amissionis illius beneficii induere et assummere teneantur.

LIX. Articulus quinquagesimus nonus. Quod clerici in habitu laicali beneficia ecclesiastica tenere non possunt.

Item quod nullus clericorum secularium et laicalem habitum deferencium aliqua beneficia ecclesiastica eciam ad parvum temporis spacium in habitu tamen seculari perseverare volens tenere et gubernare valeat.

LX. Articulus sexagesimus. Quod in causis prophanis nullus citetur ad iudicium spirituale.

Item in causis seculare forum tangentibus neminem regnicolarum presbiteri vel alii quicunque citare presumant ad iudicium spirituale, sed si ignobiles sint citandi, in presencia domini terrestris, si vero nobiles, in presencia comitis vel vicecomitis et iudicum nobilium illius comitatus, in quo tales citandi commorantur, legitime requirantur.

LXI. Articulus sexagesimus primus. Quod nemo compellatur per iudices spirituales ad respondendum coram se in causis prophanis.

Item quod iudices spirituales neminem compellant ad respondendum coram se in causis prophanis sub pena excommunicacionis vel aliter. Alioquin dato, quod quispiam hominum errore vel ignorancia ductus vel metu sentencie respondeat, nullius sint momenti, et propter

excommunicacionem homagium excommunicati solvat,^{xix} quia regnicole per ipsos iudices spirituales per tales coacciones et illicitas excommunicaciones plurimum aggravantur.

LXII. Articulus sexagesimus secundus. Quod iudices spirituales factum iuris possessionarii non iudicent.

Item si aliquis iudicum spiritualium quempiam regnicolarum ratione iuris possessionarii coram se citaverit et causam factum ipsius iuris possessionarii tangere agnoscens in huiusmodi causa ad ulteriora processerit, extunc in estimacione talis iuris possessionarii coram iudicibus regni ordinariis condempnetur.

LXIII. Articulus sexagesimus tercius. Quod portatores conquestuum captiventur.

Item quia ex concessione venerabilium episcoporum, presbiterorum et diaconorum sancte Romane ecclesie cardinalium olim in consilio Constanciensi constitutorum regnum hoc in eo privilegiatum esse constat, quod nullus extrahatur extra istud regnum ad iudicia auctoritate literarum apostolicarum, nisi cum cause alique per appellacionem legitime fuerint ad sedem apostolicam devolute, sunt autem plures, qui contra libertates huiusmodi complures regnicolas tam spirituales, quam seculares vigore conquestuum turbant et molestant, quare statutum est, prout eciam in decreto maiori continetur, quod nullus extra regnum istud, nisi per viam appellacionis extrahatur, portatores autem conquestuum, sive sint spirituales, sive seculares, sive religiosi, captiventur et manibus regie maiestatis presententur ad turrim mancam pro infligenda illis pena imponendi. Quia autem sunt nonnulli, qui exempcionis privilegio a sede apostolica gaudentes nequeunt coram iudicibus spiritualibus in hoc regno commorantibus attrahi in litem, ut contra tales huiusmodi conquestus sive rescripta apostolica libere apponentur, extra tamen hoc regnum vigore ipsius non aliter, nisi modo premissis per appellacionem extrahantur.

LXIV. Articulus sexagesimus quartus. De pecuniis sigillaribus ecclesie Jauriensis et abbacie sancti Martini Sacri Montis Pannonie.

Item quia ad ecclesiam Jauriensem ex abbaciam sancti Martini Sacri Montis Pannonie nove pecunie sigillares adinvente fuisse et pro unoquoque vasa vel eciam pro una tina duodecim denarii indebite et modo abusivo exigi dicuntur, et utrum episcopus vel abbas ipsarum ecclesiarum super talibus exaccionibus aliqua iura habeant vel non, evidenter non constat, quare ad tollendum omne dubium statutum est, quod tam episcopus, quam abbas dictarum ecclesiarum iura eorundem, si que habent, super exaccionibus prenotatis, ad octavas festi beati Michaelis archangeli proxime affuturi absque ulteriori dilacione producere teneantur, quibus visis, quod iustum fuerit, decernatur.

LXV. Articulus sexagesimus quintus. De annullacione contractuum inter seculares et spirituales initorum.

Item statutum est, quod si quis regnicolarum cum dominis archiepiscopis vel ecclesiarum prelatis aut eorum altero, ceteris eciam viris ecclesiasticis in hoc regno existentibus, ratione bonorum et iurium possessionariorum quorumcunque, et presertim ad maiestatem regiam devolvendorum

^{xix} A persolvat

aliquos contractus, vel etiam aliqua obligamina huiusque qualitercunque fecisset vel faceret in futurum, tales contractus atque huiusmodi obligamina nullius sint roboris et firmitatis, ymmo universe litere in quibuscunque locis credibilibus superinde emanare et confecte, inanes habeantur, etiamsi esset consensus regius super hoc impetratus. Hoc tamen excepto, si quispiam fortassis prelatorum ad eiuscemodi ^{xx}bona iam de facto aliquas pecunias dedisset et aperte de datis per eum pecuniis constaret, tali eiuscemodi pecunie restitui debent, quibus restitutis bona illa tandem sint libera.

LXVI. Articulus sexagesimus sextus. De plebanis ecclesiarum quod invitis patronis non confirmentur.

Item quod prelati ecclesiarum invitis patronis ecclesiarum plebanos ad recipiendam investituram seu confirmationem astringere non presumant.

LXVII. Articulus sexagesimus septimus. De dominis prelati promoventibus iuvenes et inhabiles ad beneficia ecclesiastica.

Sunt preterea plerique dominorum prelatorum, et virorum ecclesiasticorum, qui in collacionibus beneficiorum ecclesiasticorum in ignominiam totius ordinis clericalis abutentes illa non personis idoneis et benemeritis, sed iuvenibus et indoctis ad eaque beneficia penitus incapacibus absque consensu regie maiestatis conferre illisque titulum huiusmodi beneficiorum ascribentes soli proventus eorundem exhaurire et in usus proprios convertere, sicque cultus divini propter tales abusiones quotidie in ecclesiis dei negligi consueverunt. Quia autem libertate antiqua huius regni requirente collaciones quorumcunque beneficiorum in omnibus ecclesiis regni, in quibus regia maiestas ius patronatus habere censeatur, ad maiestatem suam spectare dinoscuntur, quare statutum est, quod a modo de cetero ipsi Domini prelati et viri ecclesiastici in eorum ecclesiis, quibus ex provisione regie maiestatis presunt, absque annuencia et consensu regie maiestatis nulla beneficia ecclesiastica pro tempore vacantia conferre possunt. Ab illis autem personis iuvenibus atque idiotis et indoctis, quibus aliqua beneficia ecclesiastica absque consensu maiestatis regie collata fuissent, per regiam maiestatem auferantur et personis idoneis conferantur. Deinceps autem dignetur maiestas sua taliter providere, quod huiusmodi beneficia ecclesiastica, que animarum sunt sunt refocillamina, sicuti per maiestatem suam, ita etiam per viros ecclesiasticos, quibus ad hoc facultatem converterit, personis tantummodo adultis et benemeritis et non iuvenibus, neque idiotis conferantur, ut servicia divina in ecclesiis sacre corone huius regni subiectis eo fidelius peragantur.

LXVIII. Articulus sexagesimus octavus. De sinodo non redimenda.

Item quod prelati ecclesiarum sinodum, quam in eorum ecclesiis pro extirpandis viciis et plantandis moribus plebanorum in diocesibus suis constitutorum ex institutione canonica necessario celebrare habent, pro pecuniis, sicuti quidam ex eis hactenus facere consueverunt, relaxare aut plebanos eosdem propter relaxationem huiusmodi sinodi in aliquo taxare, neque etiam plebani quipiam se ipsos ab ipsa sinodo quovis modo redimere presumant.

^{xx} A huiuscemodi

LXIX. Articulus sexagesimus nonus. Quod plebani non taxentur et ecclesiasticum interdictum ad communitatem propter plebanos non imponatur

Item quoniam sunt nonnulli ecclesiarum prelati, qui iam ex quadam prava abusione plebanos ecclesiarum per impositiones taxarum pro suo libito plurimum apprimere consueverunt, illi vero plebani sub hoc onere gementes interdum calices et cetera bona ecclesiarum diripere cum illisque se ab huiusmodi taxis redimere, interdum vero egestate coacti ecclesias eorum deserere et alio aufugere coguntur, propter quod ipsi domini prelati crebro ad parochianos illorum interdictum ecclesiasticum imponere, sicque illos aggravare non verentur, quare statutum est, quod ipsi prelati ecclesiarum nunquam de cetero, nisi semel pro redemptione bullarum suarum, et hoc quidem cum moderacione debita a plebanis ecclesiarum suarum diocesum caritativum potius quam coartativum subsidium petere et^{xxi} exigere, vel eos quovismodo ad eorum libitum taxare, neque eciam propter ipsos plebanos parochianos eorundem per interdicta ecclesiastica turbare seu molestare debeant. Plebani eciam ecclesiarum taliter se gerant in eorum ecclesiis, quod bona ecclesiarum per eos non dissipentur.

LXX. Articulus septuagesimus. Quod nullus duos officiolatus tenere valeat preter palatinum, iudicem^{xxii} curie et banum Dalmacie.

Item quod nullus baronum aut nobilium regni secundum contenta decreti condam domini Andree regis duas dignitates seu officiolatus preter palatinum et iudicem curie ac banum regnorum Dalmacie, Croacie, et Sclavonie tenere possit et valeat. Hoc excepto, quod si aliquando necessitas ingrueret, propter quam merito deberent alicui persone due vel eciam tres dignitates vel officiolatus conferri, quod maiestas regia non faciet, nisi cum consensu et consilio dominorum prelatorum et baronum.

LXXI. Articulus septuagesimus primus. De causis absque literis preceptorii terminandis ac execucioni demandandis et in curiam regiam transmittendis.

Item quia sunt nonnulli vicecomites et iudices nobilium in plerisque comitatibus, qui in causis coram eisdem motis vel movendis absque speciali mandato regie maiestatis procedere vel autem vim suam tulissent sentenciam, eandem debite execucioni demandare aut interveniente appellacione in curiam regiam transmittere recusant, quare ut talium causancium parcatur laboribus et expensis, statutum est, quod comites, vicecomites et iudices nobilium universas causas sedem iudiciariam concernentes amodo de cetero absque speciali mandato regie maiestatis coram se acceptare atque causantibus ipsis observato iuris ordine ex parte quorumlibet debitam iusticiam facere, et si non fuerit appellatum ab eadem, sentenciam, quam tulerint, debite execucioni demandare, si autem appellacio intervenerit, in curiam regiam more solito transmittere teneantur sub pena amissionis officiolatum suorum.

LXXII. Articulus septuagesimus secundus. Quod nullus presummat, arma ac victualia vendere infidelibus.

^{xxi} A seu

^{xxii} mendose: comitem

Item quod officiales finitimi, necnon merciatores, ac alterius cuiusvis status et condicionis homines Turcis aut aliis quibuslibet infidelibus arma, victualia, cultellas seu quecunque ingenia sub nota perpetue infidelitatis vendere vel commutare non presumant.

LXXIII. Articulus septuagesimus tercius. Quod nullus audeat impedire eos, qui ex Turcia saliant ad hoc regnum.

Item, quod nullus officialium castra finitima tenencium, necnon alterius cuiusvis statii hominum illos, qui de dominio seu terris Turcorum ad limites huius regni vel eciam ad hoc regnum clandestine aufugerint, in personis vel rebus eorum quovis modo audeat de cetero impedire seu dampnificare sub nota perpetue infidelitatis.

LXXIV. Articulus septuagesimus quartus. De theloniis siccis quis modus observetur.

Item, quoniam in decreto serenissimi principis condam domini Lodovici regis olim eciam per condam dominum Mathiam regem tempore sue coronacionis confirmato id statutum^{xxiii} esse constat, quod tributa iniusta super terris siccis et fluvis ab infra descendantibus et supra euntibus non exigantur, nisi in pontibus et navigiis ab ultra transeuntibus persolvantur, qualiter autem et per quem modum, aut per quos et an iuste vel iniuste huiusmodi telonia in locis huiusmodi teloniorum exigantur, absque debita investigacione resciri non possunt, nec de hoc impresenciarum finalis determinacio fieri potest, pro eo conclusum est, quod in singulis comitatibus, in quibus eadem telonia exiguntur, certi pociores ex nobilibus eligantur, qui sub stricto iuramento de munero ac modo et qualitate exaccionis tributorum diligenter faciant inquisicionem et in registro fideliter conscribant, conscriptaque ad futuram congregacionem generalem proxime celebrandam coram regia maiestate, necnon dominis prelati et baronibus ceterisque regnicolis sub eorum sigillis presentare teneantur, ut hiis visis provideatur, quod pro utilitate publica melius erit faciendum.

Nos igitur, cuius interest, ex suscepti regiminis nostri officia tranquillo statui dicti regni nostri providere, supplicacionibus prefatorum baronum, procerumque et nobilium dicti regni nostri tanquam iustis et racionabilibus inclinati prescriptos articulos commune bonum ac quietum statum et utilitatem ipsius regni nostri in se continentes acceptantes, approbantes et ratificantes eosdemque articulos ac omnia in ipsis contenta immorantes perpetue valituros et duraturos confirmamus, nosque omnia et singula in ipsis specificata inviolabiliter observare et per alios observari facere promittimus et obligamus presentis scripti nostri patrocinio mediante. In cuius rei memoriam firmitatemque perpetuam presentes literas nostras privilegiales sub appensione secreti sigilli nostri, quo ut rex Hungarie utimur, communitas duximus convertendas. Datum Bude, quartagesimo die congregacionis generalis antedictae, anno Domini millesimo quadringentesimo nonagesimo octavo, regnorum nostrorum anno Hungarie etc. octavo, Bohemie vero vigesimo octavo. Venerabilibus in Christo patribus dominis Thoma Strigoniensis et Petro Colocensis ecclesiarum archiepiscopis, necnon illustrissimo ac reverendissimo Ipolito Estensi de Aragonia, sancte Romane ecclesie diacono cardinali Agriensis, Osvaldo Zagrabiensis, Ladislao Gereb Transsilvanensis, Dominico Waradiensis, Sigismundo Quinqueelesiensis, Francisco Jauriensis, Johanne Wespremiensis, Nicolao de Bathor Waciensis, Luca Chanadiensis, Anthonio Nitriensis,

^{xxiii} A *constitutum*

Sirimiensi sede vacante, Gabriele Boznensis, Briccio Thiniensis, Michaele Segniensis et Christoforo Modrusiensis ecclesiarum episcopis, ecclesias Dei feliciter gubernantibus. Item spectabili et magnifico Stephano de Zapolya comite perpetuo terre Scepusiensis, regni nostri Hungarie palatino et iudice Comanorum, comite Petro Gereb de Wyngarth iudice curie nostre, Bartholomeo Dragffy de Belthawk wayvoda nostro Transsilvanensi et comite Siculorum nostrorum, Georgio de Kanysa regnorum nostrorum Dalmacie, Croacie et Sclavonie, Petro Tharnok de Machkas et Jacobo Gerlysthye Zewriniensibus banis, Josa de Son comite Themesiensi et generali capitaneo parcium regni nostri inferiorum, officio magistri tavernicatus nostri vacante, Nicolao Banffy de Lyndva ianitorum, Emerico de Peren dapiferorum, Stephano de Kanysa pincernarum, Blasio de Baska cubiculariorum et Johanne Ernuth de Chaaktornya agazonum nostrorum regalium magistris, aliisque compluribus regni nostri officia tenentibus et honores.

Lec

ta per M. Adam.

2 JUNE 1498 (“DECRETUM MINUS”)

Wladislas by the grace of God king of Hungary, Bohemia, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria, also duke of Silesia and Luxemburg, and margrave of Moravia and Lusatia,¹ salvation to all the faithful of Christ in the present and the future who will take cognizance of these presents, in Him who is the true salvation. [1] Most glorious God, whose will governs all that He has created both in the heavenly Jerusalem and in the wide ranges of this earth, has promoted us, albeit undeservedly, to the peak or summit of this royal dignity in order that, just as He has most generously granted us His gifts, we, recalling His favors, should soundly provide for the peace of our subjects over whom He has willed us to preside, so that we, who are equal to them in birth and death, should be of advantage to them rather than rule them purposelessly. [2] And God has given us two instruments to rule the people subject to us: arms and laws. Laws in order that we teach them the three precepts of nature: namely to live honestly, not to harm others, and grant to each his due. [3] Arms, in turn, in order that those whom fear of law’s punishment does not restrain from evil deeds, should be at least deterred from sinful acts by the severity of the avenging sword, so that their audacity is repressed, innocence made safe among the wicked, and the good can live in peace among the bad.² [4] Therefore we wish to notify all both present and future by these presents that after our joyous coronation, at the humble request and intercession of our faithful prelates, barons, and nobles of our realm we did issue twice, one after the other, various laws for the benefit and welfare of our renowned kingdom of Hungary (as the necessity of the times and the state of affairs demanded),³ then finally these same barons and all the nobles of our realm from all the counties of the same kingdom of ours appeared in front of us at this general assembly which we have called for the important and urgent necessities of the realm to the feast of St George the Martyr,⁴ recently passed, and sought to disclose to us, not without the bitterness of their heart, the following: [5] Although at our joyous coronation we promised to all the gentlemen of the realm, that is both to the magnates and major lords as well as to the lesser ones, that we would for their benefit restore, renew and confirm as well as observe as confirmed and cause to be observed, their liberties granted by the most serene prince, the late Lord Andrew,

¹ The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. By 1498 none of them were under Hungarian control, but the list in the royal style survived until the end of the kingdom in the twentieth century; see János m. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalova ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² Cf. Gratian D. 4.c.1, quoted also in **Tripartitum** Prol. 6, 9. The style of the proemium with its Classical and Roman legal quotes suggests that it was drafted by Stephen Werbőczy (1458?-1541), lawyer-politician, author of the **Tripartitum**.

³ See **1492** and **1495**.

⁴ 23 April 1498.

our predecessor of blessed memory, and confirmed by the serene princes, the late Lords Louis and Matthias, our predecessors of blessed memory,⁵ several articles of which had been for many past years infringed upon, there are a good many who opposing our wholesome intention and their [the gentlemen of the realm's] desire, and seeking their own private advantage rather than the common good, on account of whose hindrances their wish could not yet be attained, [6] particularly, when we, at their most humble instance did recently call a general assembly for Martinmas of last year in order to accomplish all that they with great sighing sought from us, and held it with God's help in our city of Pest, these disturbers of the peace, sowing tares in the chosen wheat wrecked everything, so that our barons and gentlemen of the realm were forced to return home with quite some loss of expense, without having agreed anything good with us.⁶ [7] With these requests, the said barons and other nobles, major and lesser ones, produced and presented to our majesty certain articles about their liberties granted by the said late lord King Andrew and other holy kings of Hungary, with the contents as follows; [8] and the said barons and gentlemen of the realm humbly besought our majesty with devoted requests and urgency that, considering their oppressions, we should deign to have regard for the peace of our said country that is being threatened on all sides by the infidel Turks, persecutors of Christ's cross, and other enemies of the realm, and should renew and confirm, as well as observe as renewed and confirmed and cause others to observe, the liberties written up in those same articles. The content of these articles is as follows:

1. The holding of general assemblies henceforth⁷

Then, that in the four years now following a general assembly shall be annually held by His Majesty at the feast of St George the Martyr for all the gentlemen of the realm, that is the prelates as well as the barons and other nobles and men of property⁸ in the field of Rákos.⁹ [1] Such a general assembly shall be completed within fifteen days. [2] After those four years and in all future times such a general assembly shall be held every third year, in the same way.¹⁰ [3] Should,

⁵ Cf. **1222; 11; 1351; 6 April 1464**. No actual confirmation of the Golden Bull by Wladislas II "at his coronation" has survived, but may have been included in the probably lost coronation *decretum* (on which, see Tibor Neumann, "II. Ulászló koronázása és első rendeletei; egy ismeretlen országgyűlésről és koronázási dekrétumról)" [The coronation and first ordinances of Wladislas II: on an unknown diet and coronation decree], *Századok* 142 (2008) 317--37). However, many of its stipulations were included in some form in the decree of **1492**, and in the present one.

⁶ A diet was held 11 November 1497, but, after mutual recriminations between magnates and county nobles, ended without passing any decisions.

⁷ This *decretum* has, exceptionally, article numbers and rubrics in the original.

⁸ *Homines possessionati*, a term occasionally added to *nobiles* &c. is a puzzle, as men with property were in medieval Hungary by definition nobles.

⁹ The location near Pest became the regular meeting place of the diet since the late 15th C., see János M. Bak and András Vadas, "Diets and Synods in Buda and Its Environs," in: Balázs Nagy, Katalin Szende, András Vadas, eds. *Medieval Buda in Context* (Leiden-Boston: Brill, 2016) pp. 322-44.

¹⁰ Cf., e.g. **1458:13**; the date (April 23) was, however, not always observed and diets were held in the subsequent years at various times of the year.

however, any prelate, baron or other gentleman of the realm fail to appear on the first day and remain for fifteen days, then, if a prelate or baron, he shall be condemned to two hundred heavy marks equaling eight hundred gold florins and, if more substantial nobles or middling or lesser ones, one hundred marks equaling four hundred gold florins, which the royal majesty shall exact unremittingly, [4] exempting the office holders of the royal majesty, of the lord prelates and barons as well as of other gentlemen of the realm and others guarding the border castles or engaged abroad in important embassies of the king and country or of their lords;¹¹ [5] as well as the infirm, the blind, the lame and the very poor who are unable to come at all; [6] and those as well, who are by necessity occupied in travels abroad. [7] So that if two or more brothers live on a joint property or a father has one or more sons with whom he had not yet divided the property,¹² then it is enough to send one of them to the diet, [8] but if they have made mutual division, they must all come personally. [9] Nobles of one plot have to send one of every ten of them. [10]¹³ Should county *ispáns* or their deputies allow by some arrangement, lured by money or gifts, someone to stay at home, they too shall be condemned to one hundred marks.

2. The holding of octaves and short court sessions, election and salary of their assessors Then, that in this country two major and full octave courts must be held every year, namely one at St George the Martyr and another at Michaelmas; and similarly, two short ones (called short court sessions) at Epiphany and St James the Apostle. [1] The octave courts shall be held so that their first day is on the twentieth day of the said feasts and they should last forty days.¹⁴ [2] And if judgments are given after the forty days, they shall have no force or validity either in cases already opened or in those which are not. [3] The short court sessions shall begin on the twentieth day of the aforesaid feasts and these short court sessions shall only last and be concluded in twenty such

¹¹ This reference is one of the few in statute law (including the **Tripartium**.) acknowledging the fact that nobles might have “lords,” being retainers (*familiares*) of other noblemen. The institution resembled West European vassalage, but was less formalized (often signaled by only a handshake in the castle gateway), less mutual, and rarely passed onto descendants. on this see Erik Fügedi, Erik. *The Elefánthy. The Hungarian Nobleman and His Kindred*. (Budapest: CEU Press, 1998); Martyn Rady, *Nobility, Land and Service in medieval Hungary* (Houndmill, Basingstoke: Palgrave), pp. 110–131. See also below Art. 46.

¹² Noble landed property, that was according to Hungarian custom held in common by the kindred or at least by the family was occasionally—but not always—divided among brothers or kinsmen. In the later Middle Ages it was usual that estates and villages were subdivided, forming so-called *portiones possessionarie* (partitioned estates). See Pál Engel, “Erbteilung und Familienbildung.” in ...*The man of many Devices, Who Wandered Full many Ways... Festschrift in Honor of János M. Bak*, ed. Balázs Nagy and Marcell Sebök (Budapest: CEU Press, 1999), pp. 411–421. Curiously, the principles of division and the respective rights of collateral branches are not addressed in any legislation.

¹³ This distinction among nobles who all were supposed to attend the diets, enjoying the selfsame liberty (**1351**), demonstrates the significant difference within the nobility.

¹⁴ This means that the regular sessions of royal courts, called octaves, would have opened on may 13; October 19; January 27, and August 14. They lasted usually 30-40 days, but in the 16th C. they tended to be longer and came almost continuous.

weekdays when court can be held, so that holidays do not count as days for court proceedings. [4] Summonses to these short court sessions must be made¹⁵ eight days before the aforementioned feasts or on the eighth day before the feast, just as to the major octaves. [5] And to all these courts, the greater and the short ones, besides the justices ordinary of the realm, [assessors] shall be chosen by his royal majesty and the country; from among the prelates two, from among the barons the same number, and from among the gentlemen of the realm, sixteen more substantial and more distinguished nobles, familiar with the law of this realm, such who excel in wisdom, from all four parts of the kingdom.¹⁶ They have to be present when judgments are decided, [6] in such a way that at the major octaves all sixteen nobles, at the shorter court sessions only eight of them (changing and changing about places with each other) have to be present. [7] For the sixteen elected nobles, who, as said above, shall be elected for the consideration of cases, the lords gentlemen of the realm will arrange suitable salaries; for the thus elected lord prelates and barons, the other lord prelates and barons have to provide the salaries. [8] In Transylvania and Slavonia similarly two major octaves should be held, namely at Epiphany and at St James the Apostle, and two shorter octaves on St George the Martyr and at Michaelmas.¹⁷ [9] These octaves should start on the fifteenth day preceding the said days and last fifteen days after their opening, major and short court sessions alike.¹⁸

3. Holding the octaves at the next Michaelmas

Then, at the next coming Michaelmas, an octave court has to be held whatever the circumstances.

4. The master protonotaries, the assessors, and their oaths

Then lest the master protonotaries be corrupted by gifts, they have to swear and promise under the strict oath of Rákos¹⁹ that they will give to each and all just, lawful and godly judgment; and thus it will be at the pleasure of every litigant, whether he wishes to give them gifts or not. [1] If,

¹⁵ There were different types of summonses. Simple summons were delivered to the respondent at his noble residence, giving notice of a protracted lawsuit. If the respondent failed to attend court, then he would be summoned again. If he still failed to attend, a terminal summons would be issued. Short (or final) summons (*citatio brevis*): required the respondent to attend court within 32 days (or at the next octave term), usually issued in respect of violent crimes. The short summons was often combined with a terminal summons (*citatio cum insinuatione*) issued with the clause that judgment would be passed even in the absence of the summoned party, used particularly against perpetrators of acts of might. The last was abolished several times, but kept being used. The Latin here does not indicate whether the summonses had to be issued or served at this term.

¹⁶ While unusual to divide the country in parts, the text may imply something like Upper (Northern), Lower (Southern) parts and divide the middle as east and west of the Danube.

¹⁷ The “similarly” is inappropriate as the dates of the sessions are the exact opposite of those in Hungary. This regulation was soon rescinded, for Transylvania all octaves but the one before Epiphany were abolished, and in Slavonia the traditional dates for court sessions restored. See **1500:9**.

¹⁸ These court sessions would have been expected to open on 24 December, 10 July, 8 April, and 14 September, respectively. In **1500:2 [1]** the shorter octaves were suspended.

¹⁹ See **1492:33**.

however, any of the litigants can prove lawfully that any of the masters has given judgment to someone falsely and unjustly because of such gifts, then such a master should pay with his head and the loss of his goods. [2] The lord prelates and barons who have to be present in the court together with the assessors have similarly to vow in the form of the oath of Rákos, to render true justice to all without favor or spite. [3] And those born from peasant stock must not hold the office of master, and no protonotary of non-noble lineage should ever be elected.²⁰

5. Handing out of letters of fine

Then that the master protonotaries must insert either personally or through the assigned scribes the date of the letters of summons into the register when [letters of] fines or burdens are handed out.

[1] And earlier summons have to be opened before later ones. [2] And that one registration or handing out of [letters of] fines is to last until the conclusion of the lawsuit.²¹

6. Customs are to be written up

And since the master protonotaries always refer to the customs of the realm in passing judgments, [1] therefore, such ancient customs shall be written up; and if they seem to be reasonable and lawful to the royal majesty and the lord justices and not harmful or unreasonable, judgment shall be based on them. [2] Master Adam shall be chosen by His Majesty who shall write up these customs and the lord gentlemen of the realm shall provide for him and agree with him about this.²²

[3] They also petitioned that the royal majesty shall entrust [someone] to write these up and arrange for his provision.²³

7. The eight assessors have to be admitted to council

Then that the royal majesty should always admit eight of the aforesaid sixteen nobles²⁴ to his council in matters that generally seem to touch upon and concern the entire realm. [1] These nobles shall always swear by strict oath that they will do and discuss everything in the council faithfully and privily for the common good and welfare of this kingdom.

8. Some cases to be treated outside the octaves and short court sessions by the royal majesty

²⁰ On the basis of a thorough investigation of all the known protonotaries Bónis established the validity of this article, see György Bónis, *A jogtudó értelmiség a mohács előtti magyarországon*. [Men learned in law in medieval Hungary] (Budapest: Akadémiai Kiadó, 1971), p. 379.

²¹ Cf. **1500:4**.

²² Magister Adam: Adam Liszkai (later in life called Horváti, probably from an acquired estate) was a professional lawyer, whose career started under Matthias, finally becoming protonotary in the court of the personalis; see Bónis, *A jogtudó*, passim. This article is the beginning of the prehistory of the **Tripartitum**.

²³ *Alicui* is added to the later editions, however, it could refer to the same person as well.

²⁴ See **1498:2 [6]**.

Then, considering that it was usual hitherto to have all cases involving acts of might, both major and minor ones, concluded at the octaves or short court sessions, [1] yet, because the nobles of this realm, magnates and powerful men as well as those of lesser estate, are frequently molested both at home and while traveling or otherwise engaged and hence ever more various complaints reach the ears of the royal majesty, [2] His Majesty, as a dutiful prince, not wishing to transgress the limits of his own laws, used hitherto to prorogue such complaints either to the octaves or to the short court sessions. [3] Therefore it has been decided that henceforth all and every lawsuit moved on account and because of the invasion of noblemen's houses, as well as the detention, beating, wounding or killing of nobles without just cause may always be decided and concluded by the royal majesty, wherever His Majesty may be staying, outside the octaves or short court sessions.

[4] In such a way, namely that those against whom complaints are laid because of the aforesaid acts of might shall be summoned personally from wherever they may be found or from the homes where they live,²⁵ by letters of command of the royal majesty through letters of presentation written to a chapter or convent,²⁶ to a set date which the royal majesty will decide in his letter of command, according to the distance of the locations, to appear before the royal majesty without any delay, and be given notice by the testimony of that chapter or convent to render account. [5] If they appear personally and can exculpate themselves, well and good; otherwise, if they do not appear or cannot exculpate themselves, they shall be condemned to capital punishment and the loss of all their property rights, goods, and chattels whatsoever, always observing due process of law.

9. Cases regarding the damages and injuries caused after the death of the late lord King Matthias are to be judged in short sessions

Then, it is clear that it has been decreed in the sixteenth article of the *decretum maius*,²⁷ how and in what way satisfaction may be sought at the octaves for damages and injuries done to the gentlemen of the realm during the time of disturbances, most recently after the death of the late Lord King Matthias. [1] But because the holding of the octaves is frequently delayed, we have therefore decided that in all suits moved or to be moved in these matters satisfaction for such damages and injuries may be sought at short court sessions in the manner described in the same decree. [2] In a way that if earlier summonses have been actually issued against someone, the plaintiffs are obliged to give legal notice to the adversary party to appear at the short court session, notwithstanding those summonses. [3] If, however, the plaintiff wishes to apply these summonses to the octaves, he shall be free to prosecute his case at those.

10. The occupation of castles and other property rights: that they have to be returned before the next Michaelmas and summonses regarding them shall be completed at the short court sessions

²⁵ The rule of summoning a nobleman only from his residences (or personally if he is present in the county assembly) is detailed in the **Tripartium** II. 24.

²⁶ The *sonantibus* is clearly a Hungarianism (*szóló* meaning both sounding and addressing someone).

²⁷ **1495:16.**

Then, that all castles, fortified residences, estates and property rights, which were occupied in the name of His Majesty King Matthias or after his death shall be returned in their entirety before the next Michaelmas, under penalty of the perpetual charge of infidelity.²⁸ [1] If summonses are issued on account of such an occupation, these summonses shall be concluded at short court sessions. [2] In such a way, however, that such occupiers shall because of such occupations be given legal notice to appear at the short court session, notwithstanding the previous summonses. This applies when major octaves are not held.

11. The convent of Săniob

Regarding the convent of Săniob, that the seal of that convent shall be completely restored,²⁹ [1] because the seal of this convent, together with the smaller convents, was taken away not because of some fault, but according to a general decree. [2] Considering that His Majesty has in his register³⁰ previously sent to all counties promised to observe this article, the gentlemen of the realm therefore request the royal majesty that he deign to remove the hermits whom he had settled there and install a suitable regular abbot of that order, because the gentlemen of the realm cannot be without the seal of that convent.

12. The chapter of Bosnia

Regarding the chapter of Bosnia it has been decided that, because its canons are known to be completely destitute, therefore, in order to repair its church—founded in honor of St Peter—they shall have the right to go out as chapters' witnesses throughout the entire country, like those of the chapter of Buda.³¹

13. The convent of Šáhý

²⁸ Charge of infidelity (*nota infidelitatis*) was a charge for specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. That implied the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate.

²⁹ See **1492:39**.

³⁰ The reference is obviously to the text of the previous decree sent out to the counties.

³¹ The bishopric of Bosnia had since 1246 been in fact a titular see (suffragan of Kalocsa), located in Djakovo, in Slavonia, with no actual presence or income from Bosnia. The right to act as a place of authentication in the entire realm would have brought in some income from administrative fees. See also below, Art. 56.

Because County Gömör and many other gentlemen of these parts cannot in the interest of the common good be without the seal of the church of Šáhy,³² [1] it has therefore been decided that they shall have the right to act in all executions in county Gömör.

14. Forgers who seal forged charters

Regarding the forgers who seal forged letters in the chapters and convents: all those members of the chapter or convent who are present as accomplices at the time of forgery, shall be branded by a red-hot seal on their forehead and both cheeks. [1] Moreover they shall right away lose their benefices.

15. The lord archbishops, bishops, and other ecclesiastics with or without *banderia*

Because the below named³³ lord archbishops, bishops, chapters, priors, abbots, Carthusians of Lövöld³⁴ as well as the prior of Vrana³⁵ are, according to the laudable ancient custom of this realm, bound to raise *banderia* for the defense of the realm from their income from the tithe and ecclesiastical properties according to the size of their income and number of tenant peasants, [1] therefore, these lord archbishops, bishops, chapters, provosts, abbots, Carthusians as well as the prior of Vrana have to keep and supply their troops according to the regulation as follows. [2] The other chapters, convents, abbots and provosts as well as other ecclesiastical persons, both regulars and seculars, who enjoy tithe income, shall send and maintain [well-armed horsemen] according to their income and the number of their tenant peasants; while those, who have no tithe income, one well-armed horseman after every thirty-six plots, just as other gentlemen of the realm not having *banderia*. [3] If any prelate and ecclesiastical person owns secular properties from which *banderia* have of old been supplied, they should henceforth also keep *banderia* and perform military service by reason of these in addition to [the troops] based on their other ecclesiastical properties. [4] In order to obviate the difficulties arising for those without *banderia* regarding their tithe income and number of their tenant peasants, it has been decided: [5] that in every county, as many honest, reliable and substantial men should be elected by the community of the nobles of the county as there are noble magistrates in the county, [6] who, together with the noble magistrates of the county where the conscription is to be done, shall—having sworn an oath—explore exactly the income of the tithe and the number of tenant peasants and faithfully list these in a register. They shall take this to the place of the county court, where the community of the nobles shall, on the basis of their meticulous estimation, write down the number of soldiers in every county; and ecclesiastical persons without *banderia* have to serve accordingly.

³² Šáhy (Hung.: Ság, later: Ipolyság), in Co. Hont, was a Premonstratensian monastery, founded in 1235 and had acted as a place of authentication since 1255; this measure aimed at extending its jurisdiction to the neighboring county.

³³ See **1498:20**.

³⁴ Lövöld (in Városlőd, Co. Veszprém) was a fourteenth-century royal foundation with a sizeable endowment, therefore—apparently—especially obligated to supply troops.

³⁵ On the prior of Vrana, Prior of the Hospitallers in the Kingdom of Hungary, see **Tripartium II 54**.

16. Armed horsemen to be supplied by the gentlemen of the realm

Then, to the twentieth article of the *decretum maius* it has been added that a well-armed horseman is no longer to be supplied, as contained in the decree, after every twenty, but after every thirty- six *portae* or tenant plots, except for some counties of the lower regions, such as counties Pozsega, Valkó, Szerém, Bács, Csongrád, Csanád, Zaránd, Torontál, Arad, Temes and Békés, which have to raise one hussar³⁶ with an oblong or round shield, lance, armor, and steel or leather helmet, after every twenty-four *portae*. Nobles of one plot have similarly to send one armed horseman after every thirty-six plots. [1] It has also been added that in the *banderia* of the lord prelates and barons, instead of the hussars who hitherto constituted a half of their *banderia*, armed horsemen should be employed, excepting always the aforementioned counties of the lower regions.

17. Royal officers and paid soldiers of the gentlemen of the realm have to serve beyond the borders of the realm

To the eighteenth article of the *decretum maius*, where it is written that whenever the gentlemen of the realm go to war on the king's command, they shall not be forced to proceed to war outside the borders and frontiers of the country,³⁷ this has been added: [1] that, because the gentlemen of the realm necessarily have to keep paid soldiers from their tenant peasants,³⁸ therefore, whenever it may be necessary for the defense of the country, the officers and paid soldiers of the king, the prelates and barons, as well as of the gentlemen of the realm shall, as time and conditions demand, campaign beyond the borders and frontiers of the country and no limits should be set for them. [2] If, however, necessity demands that, in addition to the paid soldiers, the community of the gentlemen of the realm has to rise, then they are not obliged in this event to campaign beyond the borders and frontiers of the kingdom.

18. The occasion of deployment of paid soldiers and the king's right to raise them

In order that the kingdom is better defended against the assaults of infidels and other foes, it pleased all the gentlemen of the realm that these troops be levied and henceforth always kept ready in every county of the entire kingdom of Hungary, according to the aforementioned ratio until the next coming Martinmas, under the penalty of perpetual taint of infidelity. [1] In such a way, however, that these troops shall on no account be deployed without the explicit approval and command of the royal majesty. [2] Should, however, some pressing need arise for this kingdom before the aforesaid Martinmas on account of which the royal majesty cannot do without these troops, then His Majesty shall be able and free to deploy for the defense of the country first of all his own officers, and the banderial prelates and ecclesiastical persons who have to keep troops as well as the lord barons and, finally, if necessary, the community of the gentlemen of the realm as well. [3]

³⁶ *Hussars* were light cavalrymen, equipped with sabers and only lightly armed; they played an increasing role in the Hungarian armies, mainly as a counterweight to the Ottoman spahi cavalry.. By the close of the middle Ages some hussars were fitted with armor (see **1518 Tolna:2**).

³⁷ See **1492:18**.

³⁸ See **1492:20**.

How and in what way the said troops are to be levied is contained more broadly in the *decretum maius*.

19. The punishment of royal captains mobilizing the royal army by false rumors

Then, if a royal captain should with false rumors levy the army of the kingdom, deliberately and with evil intent, and thus exhaust the royal majesty and the country³⁹ without reasonable need, he shall in such a case incur the taint of infidelity.

20. The number of troops to be raised by the banderial ecclesiastical persons⁴⁰

These are the ecclesiastical persons who always have to raise their *banderia* and go to war with them according to the following order:⁴¹

- [1] The archbishop of Esztergom, two *banderia*
- [2] The archbishop of Kalocsa, one *banderium*
- [3] The bishop of Eger, two *banderia*
- [4] The bishop of Oradea, one *banderium*
- [5] The bishop of Pécs, one *banderium*
- [6] The bishop of Transylvania, one *banderium*
- [8] The bishop of Győr, two hundred cavalry
- [9] The bishop of Veszprém, two hundred cavalry
- [10] The bishop of Vác, two hundred cavalry
- [11] The bishop of Cenad, one hundred cavalry
- [12] The bishop of Srem, fifty cavalry
- [13] The bishop of Nitra, fifty cavalry
- [14] The abbot of Pécsvárad, two hundred cavalry
- [15] The abbot of Oradea, two hundred cavalry
- [16] The abbot of Szekszárd, one hundred cavalry
- [17] The abbot of St Martin's, two hundred cavalry
- [18] The Carthusian friars of Lövöld, fifty cavalry
- [19] The prior of Vrana, one *banderium*
- [20] The abbot of Zobor, fifty cavalry

³⁹ This is a case where *regnum* clearly means the estates (*ország*).

⁴⁰ *Banderia* (from the Italian *bandiera*, 'banner') were troops supplied by the king, the queen, the barons and prelates and by other major landowners in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars). Those obliged to field a *banderium* were referred to as banderial lords (*domini banderiat*).

⁴¹ Cf. the Sigismundian list of banderia: **Propositiones 1432/33**. This list obviously takes into account the losses in the south, such as Bosnia, Srem, and includes also the major abbeys and chapters.

- [21] The chapter of Esztergom, two hundred cavalry
- [22] The chapter of Eger, two hundred cavalry
- [23] The chapter of Transylvania, two hundred cavalry
- [24] The chapter of Pécs, two hundred cavalry
- [25] The chapter of Bács, fifty cavalry
- [26] The prior major of Székesfehérvár together with his chapter and the prior minor of the same place, one hundred cavalry
- [27] The collegiate church of Titel, fifty cavalry

21. The *banderium* of the king and his office-holders

Because the royal majesty has necessarily to keep from his royal income, besides the royal *banderium* which usually consist of a thousand armed cavalry and the maintenance of the border castles, a number of banderial lords, it is fit to list them here:

- [1] The royal *banderium* with a thousand cavalry
- [2] The voivode of Transylvania, one *banderium*
- [3] The *ispán* of the *Székely*, one *banderium*
- [4] The ban of Croatia, one *banderium*
- [5] The *ispán* of Temes, one *banderium*.

22. The lord barons who have to go to war with the banderial ecclesiastics⁴²

There are, moreover, lord barons in this kingdom, such as Duke Lawrence Újlaki, and the perpetual and free *ispáns*, the *spectabiles* and *magnifici* lords, Stephen Szapolyai, perpetual *ispán* of Spiš, palatine of the kingdom of Hungary and judge of the Cumans; [1] then the counts of Bazin and Szentgyörgy and the counts Frankapan and of Krbava; [2] further, Lord *comes* Peter Vingárti Geréb, judge of the royal majesty, and other lord barons who, together with the aforementioned banderial prelates and dignitaries, are obliged to go to war according to the number of their tenant peasants.

- [3] The despot⁴³ will be held to supply one thousand cavalry
- [4] Duke Lawrence
- [5] the *ispán* of Spiš
- [6] Lord *comes* Peter Geréb
- [7] Bartholomew Béltéki Drágfi, voivode of Transylvania
- [8] Józsa Somi, *ispán* of Temes
- [9] Nicholas Alsólindvai Bánfi

⁴² Those in the following list, who did not hold royal offices—for whom see the eschatcoll, with notes 115-43, below—are known only as “banderial lords” usually with no additional biographical data. Some (such as Bartholomew Béltéki Drágfi and others) are listed twice, in art. 21, above and art. 22, below.

⁴³ Branković, John (Jovan), despot of Serbia 1492-1502.

- [10] George Bátori
- [11] John Csáktornyai Ernuszt
- [12] Matthew Dengelegi Pongrác
- [13] Emeric Perényi
- [14] Gabriel Perényi
- [15] John Pelsőci Bebek
- [16] Stephen Rozgonyi
- [17] Anthony Pálóci
- [18] John Homonnai
- [19] Ladislav Kanizsai
- [20] John [Kanizsai]
- [21] George also Kanizsai
- [22] Count Thomas of Bazin
- [23] Count Peter, of the same
- [24] Francis, likewise count
- [25] Nicholas Szécsi
- [26] George Szalónaki Paumkircher
- [27] John Mogyorókeréki Ellerbach
- [28] Sigismund Návai Ország
- [29] Sigismund Gúti Kompolt
- [30] Sigismund Losonci
- [31] Sigismund Lévai
- [32] Blaise Ráskai
- [33] Andrew Bainai Bot
- [34] John Nádasdi Ongor
- [35] John Bolondóci Bánfi
- [36] Francis Hédervári
- [37] Stephen Nagylaki Jaksic
- [38] Francis Grabarjai Beriszló
- [39] John Grabarjai Beriszló
- [40] Albert Szokoli
- [41] And the despot with one thousand hussars⁴⁴

⁴⁴ Seems to be a repetition.

[42] Belmusavić with all his hussars⁴⁵

23. The pledge of Lusatia and the six cities

Then, that the royal majesty shall (as clearly stated in the *decretum maius*) discharge the pledge on the six cities and Lusatia and work with all diligence to extract the relevant letters from them.⁴⁶

24. The feudal oath to be received from the Moravians, the Silesians as well as Lusatia

Then, that the royal majesty shall give to this country a letter of testimony in respect of the oath of fealty sworn recently to him by the Moravians, Silesians and of Lusatia, that that oath of fealty was received by him not as king of Bohemia but as king of Hungary, and not from them as subjects of the kingdom of Bohemia but as feudatories of this kingdom, who by the force of the pledge are obligated to the kingdom of Hungary.⁴⁷

25. The keeping of the Holy Crown

Then that the Holy Crown of this kingdom shall not be kept by lord prelates but only by lord barons and laymen.⁴⁸

26. The right of the king to dispose of more than a hundred peasants

Then, although in the *decretum maius* it was previously ordered and concluded⁴⁹ that the royal majesty might on his own initiative grant by himself up to a hundred tenant peasants to whomever he may wish, but beyond that number only with the consent of the lord prelates and barons, and so on, this seems to the gentlemen of the realm inappropriate and unlawful. [1] They do not wish to constrain in any way the power and authority of His Majesty, except only in regard to foreigners and aliens, to whom they wish that neither ecclesiastical benefices nor secular properties be granted in this kingdom.

27. Safe conduct to unfaithful persons

Then that any unfaithful person or one accused before the royal majesty shall receive safe conduct from the royal majesty so that he is able to appear before the royal majesty and his court within

⁴⁵ Hussars (Hung. *huszár*) were light cavalrymen, equipped with sabers and only lightly armed, these played an increasing role in the Hungarian armies, mainly as a counterweight to the Ottoman spahi cavalry. By the close of the Middle Ages some hussars were fitted with armor Cf. **1518Tolna:2**.

⁴⁶ For the pledged cities see **1492:4**. The Latin of the present article is unclear, considering that it refers to the inclusion of these cities and territory in pledge and not their release. The issue seems not to have been settled for a while, as **1504:21** repeats this article with emphasis.

⁴⁷ Cf. **1492:4**.

⁴⁸ Guarding the Holy Crown became an issue especially after its theft from Visegrád in 1440. Following its return in 1462, the guarding of it has been regulated in **1464**. On the guards of the crown under the Jagellos, see **1492:3**; this clause transferred the responsibility to the secular lords, who kept his office until the end of the monarchy.

⁴⁹ See **1492:9**.

forty days and be free to return unimpeded, regardless of whether the matter has in the meantime been settled or not.

28. Adjustment of the frontiers of the kingdom

Then, that the royal majesty shall adjust and define the frontiers between the kingdoms of Hungary and Poland as well as between the kingdoms of Hungary and Moravia, and similarly Austria and Germany, in order to eliminate the cause of any further disagreement. [1] The royal majesty shall also deign to restore the borders siding the Turks.⁵⁰

29. Thirtieths be collected at the ancient places

Then, whereas the collectors of His Majesty's thirtieth⁵¹ are ever more accustomed to harass the gentlemen of the realm, by habitually exacting for their own profit thirtieths in the inner parts of the country, not in the ancient and usual places of thirtieths but in new places invented by them, and not on those goods from which thirtieths should be levied but on the most trifling objects, not without harm and detriment to the gentlemen of the realm, [1] therefore, in order to eliminate such abuses, it has pleased us to list below all those places where the thirtieth may always hereafter be levied.⁵² We decree that excepting the places listed below the thirtieth shall nowhere be exacted and all recently invented new locations of thirtieth collection be entirely abolished but for three locations of the thirtieth, that is in Buda, in Székesfehérvár and in Dunapataj; [2] Then, once the royal majesty has redeemed those thirtieth locations which are now in pledge to the aforesaid *ispán* and palatine Stephen,⁵³ the royal majesty may deign to abolish these three locations as well. [3] The thirtieth has to be paid only on things which are taken out of the country; on those which are not taken across the borders no thirtieth shall be levied at all. [4] On trifling things worth less than a florin, no thirtieth is to be levied, as is contained in the *decretum maius*. [5] Because it often happens that merchants drive cattle and herds either with such a large escort⁵⁴ that these animals

⁵⁰ Cf. above, Art. 23–24. “*Reformare*” the southern border with the expanding Ottoman Empire was, however, hardly a matter of legal procedure. By 1498 almost all territories south of the River Sava and parts of Crnoatia had been under Ottoman rule. See Ferenc Szakály, *Phases of Turco-Hungarian Warfare Before the Battle of Mohács (1365-1526)* (Budapest: A kaémiai K. 1979)

⁵¹ The thirtieth developed only gradually into a customs duty on exports and imports, and a few old thirtieth collecting points in the midsdt of the country survived; cf. Sándor Domanovszky, “A harminczadvám eredete” [Origins of the thirtieth toll], now in: Idem, *Gazdaság és társadalom a középkorban*, ed. Ferenc Glatz (Budapest: Goldoat, 1979), pp. 49–100; Zsigmond Pál Pach “A harmincadvám az Anjou-korban és a 14–15. század fordulóján” [The thirtieth toll in the Angevin age and at the turn of the 14th to 15th C.], in *Történelmi Szemle* 41 (3–4) 1999, 231–277. As far as can be ascertained, these were not abolished for at least another century. \

⁵² See below, Art, 34.

⁵³ Zapolya (a. k. a. Zápolya, Szapolyai), Imre of (d. 1487) chief treasurer 1459-64, governor of Bosnia, ban of Dalmatia, Croatia and Slavonia 1464-65, *ispán* of Szepes from 1465, count palatine 1486- 87.

⁵⁴ Well-armed cattle drovers (*hajdú*) were often referred to as an unruly group accompanying the cattle being exported to the West. For their participation in the 1514 uprising see **1514:60**.

are violently exported without payment of the thirtieth, the thirtieth collectors being unable to resist them, or surreptitiously, to the detriment of the royal income, therefore, in order that this ill be remedied, it has been decided [6] that if henceforth anyone is found guilty of the aforesaid and the thirtieth collectors are unable to confiscate the animals, then they are nevertheless to be convicted by due process to the estimation of these (exported, as said, by stealth or violence) animals in favor of the thirtieth collectors.

30. That the toll collectors be Hungarians

Then, that the customs collectors shall be none other than Hungarians and not foreigners or aliens.

31. No herds and flocks shall be taken out of the kingdom, nor horses or studs, nor melted gold and silver, and the punishment for transgressors

Then, that herds and flocks shall not be driven by any person of this realm across the borders and frontiers of the kingdom, but only to the thirtieth places listed below, where the exchange of wares shall be done.⁵⁵ [1] Neither shall foreigners enter the country with their merchandise to buy animals beyond the thirtieth places or elsewhere, but shall come to the designated locations and the exchange of merchandise and animals between the inlanders and the foreigners shall be transacted at the same places. [2] Horses shall henceforth not be exported, nor studs. [3] Moreover, no person of whatever estate or condition shall dare for any reason to take out of this kingdom melted gold or silver unless it is minted in coins, as contained in the *decretum maius*.⁵⁶ [4] Should someone dare to act against the aforesaid or any part of the aforesaid and can be apprehended by anyone, then that person shall have full right to take away all the gold and silver as well as the cattle, flock or other belongings of the culprit and, moreover, to capture the one who wanted to take out the gold and silver. [5] He has to hand over two parts of the confiscated gold and silver and other goods and belongings to the royal majesty; one third he can retain for his efforts.

32. That no one shall dare to enter into partnership with foreigners for exporting horses or taking out gold or silver under penalty of the taint of infidelity.

Then, that no thirtieth collector nor any other person of whatever estate and condition shall dare to enter into partnership or to contract in any form with a foreigner to take steeds or mares abroad or to export melted gold or silver, under penalty of the eternal taint of infidelity.

33. Places of staple

⁵⁵ The repeated attempt of Hungarian kings to keep trading within the borders seems to have been in vain, as it is known that cattle was driven from the country as far as Alsace, Nuremberg, and Venice. In fact, cattle was the most important export commodity of the country in the later middle Ages and early modern times, practiced by the largest landholders and the king himself, see Ian Blanchard, "The Continental European Cattle Trades, 1400-1600", *The Economic History Review*, 39/3 (1986) 427-460, here 428-431; A. Fara, "An Outline of Livestock Production and Cattle Trade from Hungary to Western Europe in Late Middle Ages and Early Modern Period (XIVth-XVIth centuries)" *Crisis* 45 (2015), 87-95. see also Balázs Nagy, "Foreign Trade of Medieval Hungary" in József Laszlovszky *et al.* eds. *The Economy of Medieval Hungary* (Leiden-Boston: Brill, 2018) pp. 473-90

⁵⁶ See **1492:32**.

Because many lawsuits and disagreements are wont to arise between the royal cities regarding the right of staple, [1] and such conflict cannot easily be decided except on the basis of their letters of privilege, [2] therefore, the royal majesty shall alone decide, after having inspected the rights of the parties, what is best to do.

34. The places of ancient thirtieths

The old locations of thirtieth collection are the following:

Orava, a chief post,

Trenčín, similarly a chief post with branches in Skalica, Illava, Beluša, Považská Bystrica, Žilina, Nové Mesto nad Váhom, Trnava, Vrbové,

[1] Pozsony/Pressburg is a chief post with branches in Rusovce, Jahrndorf, Neusiedl, Zurndorf, Malacky, Šaštín, Gajary, Stupava and Senica.

[2] Sopron is a chief post with branches in Rust, Draßmarkt, and Sankt Martin.

[3] Košice is a chief post with branches in Levoča, Bardejov, Kežmarok, Lubovňa, Stropkov and Humenné.

[4] Then in Slavonia: Zagreb, Nedelišće, Varašdin, Murska Sobota are chief thirtieth posts;

[5] Szombathely instead of Kőszeg, Pinkafeld, Rudersdorf, Kaltenbrunn, Razkrižje, Dürnbach, Krapina, Stubica, Sjeničak, Topusko, Kostajnica are its branches.

[6] Belgrade is a chief post, Kupinovo, Šabac, Jarak, Barič, Sremska Mitrovica, Rača, Poltos, Opojevci, Újvár are its branches.

[7] Timișoara is a chief post and Caransebeș is its branch.⁵⁷

35 That nobles do not have to pay tolls for their own merchandise

Then, that no thirtieth collector or tax officer or their deputies has the right to levy (as they have habitually done) any thirtieth or tax on those things and goods which nobles, priests, monks and their people purchase for their own domestic needs, against their liberties. [1] Should, however, someone do so, then the nobleman, priest or monk thus despoiled and offended in his liberty has to lodge complaint with the lord of that toll if he can be found nearby, otherwise with the *ispán* of the county where this toll is being levied; and once the truth is established, double satisfaction is to be given, that is the complainant shall be repaid twice the toll collected, with the penalty of two marks divided equally between the *ispán* and the complainant. [2] If the thirtieth collector does to the contrary, any such complaint against him has to be submitted to the royal majesty. [3] If His Majesty is convinced by the letters of inquest of an *ispán* or *alispán* and the noble magistrates of that county where this thirtieth is levied that an unjust thirtieth was exacted by a thirtieth collector, then the thirtieth collector has in addition to the double of the toll taken and the expenses of the complainant to be severely punished by the royal majesty. [4] Should, however, the complainant

⁵⁷ This list, actually the only one in medieval Hungarian records, does not for some reason include the major thirtieth posts of Transylvania, such as Brașov and Sibiu (occasionally referred to as “twentieth” posts). From Slavonia Čakovec/Csáktornya seems to be missing, and the branches there are not listed. Poltos and Újvár were near the River Sava, cannot be identified with present-day settlements.

be found to have lodged unjustified complaints, then he shall similarly be convicted of two marks against the adversary party. [5] Since many royal cities and estates in this country are known to be exempt and free throughout the kingdom from the payment of tolls on wares and merchandise sold, how much more should the nobles of this kingdom, be they the more powerful or the lesser ones, whose ancestors won and defended this realm by the shedding of their blood and who and whose descendants still have to defend and protect it, when they engage in commerce with goods for sale, not be held to pay tolls from such a business. [6] In such a way, however, that should a nobleman go into partnership with a peasant or burgher, namely one who has to pay tolls and wish to take him with him without paying toll and the toll officer is able to ascertain this, then this toll officer shall have full and complete right to confiscate from both of them the wares and merchandise for sale.⁵⁸

36. That no one dare to block or guard illicit routes on the lands of others

Then, although it was decided and ordered in the *decretum maius* that no one is permitted to block and guard illicit routes on someone else's land,⁵⁹ no definite penalty is found there for those who trespass against this law. [1] Therefore, it has been established that no toll officer is allowed to guard and block illicit routes on someone else's land or territory, and hinder travelers on these illicit routes under pain of the loss of his toll. [2] But everybody having any toll has to keep guard on these illicit routes on his own land, that is, on the estate on which the toll is being collected, as defined in the decree.

37. Royal salt has to be deposited at the old chambers

That royal salt is to be deposited in the old chambers and not at places recently invented and these newly appointed places are to be entirely abolished.⁶⁰

38. Judgments to be made between nobles and free royal cities

That if free cities—that is Buda, Pest, Košice, Pressburg, Sopron, Bardejov, Prešov, Trnava, as well as Levoča and Zagreb, and all other free cities—or inhabitants of the same—cause any loss or

⁵⁸ The confirmation of the toll-free export of commodities from noble estates reflects the increased interest of landowners in entering the market with their dues in kind and the produce of the (gradually growing) home farms. This was probably connected to rising grain prices; see Zsigmond Pál Pach, “The Development of Feudal Rent in Hungary in the 15th Century”, *Economic History Review*, 2nd ser. XIX (1966) 1–14.

⁵⁹ See **1492:87**.

⁶⁰ See András Kubinyi, “Die königlich-ungarischen Salzordnungen des mittelalters”, in *Das Salz in der Rechts- und Handelsgeschichte. Internationaler Salzgeschichtskongreß 26. September bis 1. Oktober 1990, Hall in Tirol. Kongreßakten* (Schwaz: Berenkamp, 1991). pp. 261–270. András Kubinyi, “Königliches Salzmonopol und die Städte des Königreichs Ungarn im mittelalter”, in Wilhelm Rausch (ed.), *Stadt und Salz* (Linz: Österreichischer Arbeitskreis für Stadtgeschichtsforschung, 1988). pp. 217–32. Now also: István Draskóczy, “Salt Mining and the Salt Trade in Medieval Hungary from the mid-Thirteenth Century until the End of the Middle Ages” in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 205–18.

damage to nobles and men of property, and if such a city or inhabitant and burgher that causes loss and damage has goods and property rights in any county and has from that property injured or caused loss to a noble, then they will be compelled to stand trial before the *ispán* in the county where they hold these goods, if such acts of loss or damage are considered to amount to a minor act of might. [1] But if such a city or burgher has no property rights in any county, and a noble or any other man of property has a suit or case against a private person, or against particular individuals only, and not the city or community as a whole, then such a noble and man of property will be required to pursue his claim before the judge of that city. If such a noble or man of property endeavors to initiate a suit against the whole city, or conversely the city against nobles and other men of property concerning a major act of might or a property right, such a case should follow lawful summons and be initiated and terminated by due process of law before the personal presence of the royal majesty. [2] And if either of the parties is defeated in the case against him in the course of the proceedings before the same personal presence, then if the case involves a property right, the party in question will be required to pay not the major fine, but only two hundred gold florins. [3] If, on the other hand, such a case is acknowledged to involve an act of invasion of noble houses or the arrest, beating, wounding, or slaying of a noble, the perpetrators of such acts of might shall be condemned to capital punishment and the loss of all their movable and immovable goods, as has been observed heretofore. [4] In a case where a burgher possesses vineyards or other [hereditary] properties belonging to any lord or noble in this kingdom, and he commits any offence in this territory or causes any damage to someone, in such a case the same burgher must stand trial before the lord from whom he holds the properties.

39. Abolition of the privileges of the city of Visegrád

Then, that the liberty of the city of Visegrád and its appurtenances as well as of the appurtenances of Castle Damásd,⁶¹ are straightforwardly abolished as prejudicial to the liberty of the realm.⁶²

40. The free cities be retained in their liberties

Then, that the royal majesty shall deign to keep all the free cities and other well deserving persons in their ancient liberties. [1] Moreover the gentlemen of the realm humbly beseech His Majesty that inasmuch as His Majesty has confirmed the privileges of their liberties, so may he deign to keep them in those.

41. Payment of the ninth

Then, that the burghers of Buda, Székesfehérvár and Slankamen as well as any other cities of the king or anyone else who own vineyards or arable land on someone else's land shall be obliged to pay the ninth to the lords of the land, as contained in the decree.⁶³

42. Officers losing border castles

⁶¹ Ipolydamásd, a royal castle until 1523, was often governed together with the castellanship of Visegrád. The privilege mentioned here is unknown.

⁶² See **1492:102**.

⁶³ See **1492:49**.

Then, because there are many officers, who out of neglect or of insufficient maintenance lost several frontier forts and after such major losses, so harmful to this kingdom, they not only remain unpunished but even keep other castles for salary; [1] therefore, it has been decided that the royal majesty shall not pardon without the consent of the gentlemen of the realm those who on account of negligence or insufficient maintenance have lost or lose in the future frontier forts, but shall punish and chastise them according to the contents of the general decree.⁶⁴ [2] Those who have caused major damage to the kingdom by losing castles are these: in the time of the royal majesty, the late Ladislav Egervári, who lost Trzác and Neretva, Francis Haraszti who lost Vinac and George Popović, the castle of Komotin.⁶⁵

43. Inspection of border castles

Then, that every year the two justices royal, namely the lord palatine and the judge royal, shall send together with the royal bailiff their own men, who will swear according to the Rákos oath that they will tell the truth and report to the royal majesty without favor of persons, in order to inspect twice a year the condition and state of the border fortifications, the construction works, their guarding and upkeep, as well as the war machines, the siege engines and the victuals, and the paid soldiers who have to be deployed, the builders and craftsmen and they shall report faithfully to the royal majesty. [1] In such a manner that those who inspect the border fortifications shall make their visits at different times and not together and at the same time, but separately, so that the royal bailiff may not know when the men of the lords palatine and judge royal visit, neither should they know when he visits, so that they may not be corrupted by gifts and may report the more faithfully and at the same time it will be more easily detected if they cheat or lie. [2] If they or any one of them should keep quiet about some negligence or deficiencies in the border castles or the misdeeds of persons serving in them and, favoring some officers should not faithfully report them, they shall be convicted right away to capital punishment and all their properties shall devolve to the royal [right of] donation. [3] And the royal majesty shall pay their expenses.

44. The county of Temes

Then, that the *ispán* of Temes shall hold no other honor beyond the one county in which the castle of Timișoara is located. Nor should any other county of the kingdom be separated from the other counties of the realm. [1] And every county shall have its own *ispán* from the same county, someone from among the more substantial men. [2] Excepting the counties of Pest and Pilis, which usually have no *ispán* according to their ancient liberty.⁶⁶

⁶⁴ See **1495:33**.

⁶⁵ Ladislav Egervári was an important magnate under King Matthias, then again ban of Croatia, Dalmatia and Slavonia 1489-1492, master of the treasury; Francis Haraszti (d. 1522) was ban of Severin 1480-90; Popović catellan of Komotin. All these castles were located in Bosnia, in the banate of Jajce and formed parts of the southern defense system of Hungary, which was gradually occupied by the Ottomans between 1492 and 1527. As far as one can judge, most of these accusations were connected with complicated inheritance issues and court intrigues.

⁶⁶ Cf. **1492:100**.

45. After the heirless death of the king of Hungary no emissaries of princes shall be admitted to the diet

Then, it has been decided that if this kingdom should ever, because of the death without heir of the king of Hungary, happen to be without a royal dignity, then whenever it happens that the community of the gentlemen of the realm convene for the election of a new king, none of the foreign emissaries—who used often to turn up on behalf of kings and princes in order to seduce the lords and the community—shall be admitted to that assembly, so that appropriate care will be taken in respect of the new king. [1] The same gentlemen of the realm will take care that he whom they elect be honorably introduced.⁶⁷

46. Unfaithful officials

Then, should any nobleman and gentleman of the realm hold as an office from his lord some castles or fortifications⁶⁸ and his lord during his term of office incur for some crime the taint of infidelity, by reason of which the king or this country should seek by force or otherwise to recover these castles or fortifications, but he, wishing to fulfill his obligations to his honor, calling, and duty as a soldier, manfully and faithfully defending his lord's castles and fortifications, resists the king or the entire country and thus does harm and damage to the gentlemen of the realm, [1] then such an officer shall in no way incur the taint of infidelity, but shall be held to give full satisfaction to all for any damage done. [2] Should, however, such an officer join in service after his lord has been besmirched with the taint of infidelity and receive thus from him the honor of a castle or fortification, then, in this case, this article shall not in the least be regarded as exonerating him, but he shall be condemned to the same taint of infidelity.

47. Cumans, *Jász*, and Ruthenians

Then, because the Cumans, *Jász*, and Ruthenians living in this country by abducting the tenant peasants of nobles and extracting licenses, commit every day many injuries, damages, and unspeakable and unheard-of impositions against the liberty of the nobles and the laws of the kingdom through the abduction of these tenant peasants; and the officers of His Majesty and their deputies do not restrain them from these insolent deeds; [1] therefore, in order to completely eradicate the matter of such conflicts, it has been decided that just as none of the Cumans, *Jász* and Ruthenians are permitted to move to the estates of the nobles, so neither shall the tenant peasants of the nobles be abducted by the officers of His Majesty or the said persons of servile estate in order to settle in their midst. [2] Should, however, any of these officers or the said Cumans, *Jász* or Ruthenians take a tenant peasant into their midst in contravention of the present statute, they must respond at law before the palatine of the kingdom.⁶⁹

⁶⁷ The prohibition of foreign emissaries at election diets obviously refers to the situation in 1490, but their intermittent presence at diets is known for later as well.

⁶⁸ This one more place in a legislative documents, where the fact that many noblemen were retainers (*familiares*) of more powerful lords. See above, n. 11.

⁶⁹ The Cumans and *Jász* (Jazygi, in fact Alans) were settled in Hungary in the thirteenth century; see András Pálóczi Horváth, *Pechenegs, Cumans, Iasians. Steppe Peoples in Medieval Hungary* (Budapest: Corvina, 1989) and Nora Berend, *At the Gates of Christendom: Jews, Muslims and 'Pagans' in medieval*

48. Conflicts between nobles and Cumans, and *Jász* have to be reviewed

Then, considering that the royal majesty has expressed in years past his wish to put right the conflicts that have arisen between the nobles and the Cumans and *Jász* by reason of borders and other affairs, [1] the lords gentlemen of the realm therefore beseech His Majesty to deign to appoint some master protonotaries to put right those borders and conflicts.

49. Tithes

Then, that the tithe shall for ever more not be exacted in silver or money but in grain and wine as the land produces, according to the contents of the decree of the late Lord King Andrew.⁷⁰

50. The quarter of the tithes

Then, the archbishops, prelates of churches, chapters, convents, and abbots shall render to the parish priests (to those, namely, to whom it has pertained according to custom hitherto observed) the quarter of the tithe income and they shall not render it to those to whom it does not pertain. [1] And if any priest claims to have some right regarding the quarters, he shall pursue it at law.⁷¹

51. The manner of levying the tithe and of what things tithe is paid

When the time for tithing comes, the reeve of every village in which tithe should be collected, is obliged to report the time of tithing to the vice-archdeacon responsible, so that he may warn the tithe collector and indicate to him that he should come within twelve days for tithing. [1] Then, when he has arrived, he has to do the tithing justly within the days needed for it. [2] And every peasant is obliged to deliver the tithe due from him to the place designated in that village by the tithe collector. For his labor he may receive a tenth. [3] If, however, the tithe collector does not come within those twelve days, the reeve or judge of the place shall nonetheless do the tithing in the field and leave the tithe in the field at the tithe collector's risk. [4] If the tithe collector arrives later, then the judge or reeve of the place is obliged to have the tithe delivered by the individual peasants of the village in the aforesaid manner, in return for a tenth. [5] In such a way, however, that if the tithe collector can more easily agree with someone over the carriage of these tithes, then he shall be free to do so in this matter with whomsoever he wishes. [6] If the tithe collector, being absent, does not choose to believe the judge that he has tithed properly, he shall have the right to request an oath from him and thus be content with his words. [7] The tithe collector alone shall

Hungary c. 1000-c. 1300 (Cambridge, Cambridge University Press, 2001). The Ruthenians refer to settlers in the north-east of the country. These were semi-privileged groups analogous to Romanians, living under royally appointed headmen. They were obliged to furnish a set number of troops, and often abducted or enticed peasants to them to fulfill their military quotas.

⁷⁰ Cf. **1222: 20**. The question of rendering the tithe in produce or money remained a contested issue throughout the middle Ages. See Andor Csizmadia, "Die rechtliche Entwicklung des Zehnten (Decima) in Ungarn." *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Kanonistische Abteilung*, 61 (1975), 228–257, here 234–7.

⁷¹ A quarter of the tithe income was traditionally assigned to the parish priest, but this tended to decrease especially after the separation of the chapters from their bishop. Secular jurisdiction in matters of tithes had already become general in Hungary under Matthias. Cf. *Ibid*, p. 237.

select the haystacker and he shall live on his expenses.⁷² [8] The judge of the village, however, has to render the tithes to him.⁷³ [9] Because frequent discussions have emerged concerning which fruits of the earth are subject to tithes, in order thus to avoid such quarrels, it is agreed that tithes be collected throughout the whole kingdom of Hungary from these things: namely wheat, wine, rye, barley, oats and spelt, commonly called *tönköly*, and nothing else.⁷⁴

52. The Christians' and the harvesters' pence

Then, regarding the Christians' and the harvesters' pence⁷⁵ which were previously exacted quite unjustly, it has been decided: [1] because the lord prelates and ecclesiastical persons should henceforth by reason of their tithes income maintain their troops needed for the defense of this realm, there are many peasants who, as they have neither vineyards nor such arable lands from which these lord prelates may receive the tithe, live in different places without any payment of tithes, and do not admit to the said prelates of the church that they are Christians, [2] therefore, in order to observe henceforth the proper arrangement between the prelates of churches and the faithful, it is decreed that from now on all peasants or tenant peasants of anyone whomsoever, who render tithe from either their wine or their wheat or grain in the diocese of whichever lord prelate and ecclesiastical person, have to pay neither the Christians' nor the harvesters' pence. [3] The harvesters, however, shall pay the tithe on that part that they receive for their labor, but only those who usually pay tithes of this sort, and not nobles.⁷⁶ [4] But they shall pay no Christians' or harvesters' pence; nor shall they dare to take away or remove their portions from the field until their portions are tithed together with the goods of the tenants subject to the tithe. [5] And those who pay no tithe from wine or grain, render as the Christians' pence only six pennies.

53. The *cathedraticum* income of the archdeacons

Then, because the archdeacons of churches usually exact the *cathedraticum*⁷⁷ from the parish priests in a thoroughly wrong way, [1] in order that such an evil abuse be abolished, it has been decided that henceforth no more than one florin should be exacted from these parish priests by

⁷² Cf. **1495:38**. The reference is apparently to the helper of the tithe collector who overturned and examined the stooks.

⁷³ This changes the exemption from tithe of the village officers (cf. **1495:42**).

⁷⁴ Cf. **1495: 37**. Actually (as proven by Art. 54 below), animals were also tithed.

⁷⁵ Cf. **1495:43**. This duty seems to have been exacted from landless peasants who did not pay the tithe. While it is rarely mentioned in the sources, in the late sixteenth century it was still collected, then at the rate of 6 pence per head. The tax is referred to in Kabos Kandra. *Adatok az egri egyházmegye történelméhez*. [Data for the history of the diocese of Eger] vol I. (Eger: Szolcsányi, 1885), pp. 392–3. What the “harvester’s pence”(identical with the former?) meant, is not known.

⁷⁶ The text is rather unclear, but it is possible that it refers to nobles who were engaged in wage labor.

⁷⁷ A certain sum of money to be contributed annually for the support of the bishop, as a mark of honor and in sign of subjection to the cathedral church.

way of the *cathedraticum* on churches which are called entire churches, and half a florin on every half church.

54. The tithe of lambs and bees

Then, because hitherto one lamb has been taken from every ten as tithe and for the other nine, two pennies each per head, it has been decided [1] that henceforth no more than one penny shall be paid for every lamb. And similarly for bees. [2] So that once this tithing is done, the tithe collector be held to take them away within the space of a month.

55. No secular property be obtained or bought by ecclesiastics, nor held in pledge and also that ecclesiastical goods be not usurped by laymen

Then, that no bishops and prelates of churches, nor any one of them, may or shall obtain in any way from the royal majesty lay properties or property rights for themselves and their churches, nor purchase or acquire [them] in perpetuity with their money or hold by title of pledge.[1] And in turn lord barons and laymen should not usurp church goods for themselves nor interfere with them in any way.

56. Ecclesiastics are not to hold two benefices

Then, that none of the lord bishops and prelates and other ecclesiastical persons shall hold, govern or enjoy two dignities or other ecclesiastical benefices, however small, [1] except only the presently appointed bishop of Bosnia,⁷⁸ who may hold two but no more ecclesiastical benefices because his income is low and he needs to keep certain border fortifications. [2] They shall be removed by his royal majesty from those who already in fact hold two or more benefices and granted to fitting persons before the next feast of St James,⁷⁹ except for the one they prefer to keep.

[3] Similarly, those who have assigned benefices, be they large or small, to people in the Roman curia, shall be held to release these within the course of a year from the time of these laws; otherwise they shall be seized by the royal majesty and granted to suitable persons, namely to persons of the realm and not to foreigners.

57. That ecclesiastics cannot hold the honors of counties

Then, that the royal majesty shall not give or grant, not even temporarily, the honor or office of a county to any bishop, prelate or other ecclesiastical person,⁸⁰ [1] but only to well deserving laymen, [2] descending from noble blood. [3] And an honor of this sort shall be granted and conferred by the royal majesty to those who have their personal residence in that county, [4] excepting the two counties, Pest and Pilis, which, by the privilege of their ancient liberties, customarily have no *ispán*, and they shall remain in this liberty. [5] The honor of any county previously given and granted in perpetuity or otherwise, shall be taken away by the royal majesty and conferred in the aforementioned way, [6] unless they have grants or privileges in this matter from the holy kings,

⁷⁸ Gabriel Polnár was bishop of Bosnia 1493–1501 and bishop of Srem in 1502.

⁷⁹ 25 July.

⁸⁰ Actually, the bishops of Veszprém and Esztergom already held the title of perpetual *comes* in Árpáadian times and some others were granted this title as well.

the holders of which have to present them during the present assembly; otherwise they lose their force. [7] And these dignities have to be granted to laymen.

58. Clergy holding regular priories or abbacies

Then, because there are many clerks holding regular priories and abbacies who, wearing secular or lay habit, empty over many years the income of these churches; and then enriched, they get married, dishonoring their order, or become secular priests, and thus waste the goods of the churches, [1] therefore it has been decided that beribboned or other secular clergy or priests ought not to hold such regular priories and abbacies without monastic habit. [2] But they are held to, under the penalty of losing that benefice, take and wear within a year the habit of the given order.

59. Clerks in lay habit cannot hold ecclesiastical benefices

Then, no secular priest wearing lay habit and wishing to retain it shall be allowed to hold and govern church benefices, not even for a short time.⁸¹

60. That in lay matters no one shall be called to a court spiritual

Then, no priest or anyone else shall dare to cite anyone to a spiritual court in matters pertaining to secular courts.⁸² [1] But, if non-nobles are to be summoned, then they shall be lawfully pursued before the lord of the land, and, if nobles, then before the *ispán* or *alispán* and the noble magistrates of that county in which such summoned persons live.

61. That no one shall be forced to respond to judges spiritual in lay matters

Then, that judges spiritual should not force anyone under pain of excommunication or otherwise to respond before them in matters secular. [1] Otherwise, if someone, perchance by mistake, ignorance, or fear of punishment does respond, it shall have no validity. [2] And for the excommunication the man-price of the excommunicate is to be paid, because judges spiritual greatly burden the people of the realm by such impositions and wrongful excommunications of the church.

62. Judges spiritual cannot judge matters of property rights

Then, if any judge spiritual should cite any gentleman of the realm in cases of property rights, and, realizing that the case concerns property rights, proceeds further in the matter, [1] then he shall be convicted by the justices ordinary of the realm to the estimation of the given property right.

63. That presenters of complaints have to be captured

⁸¹ This article refers to non-consecrated priests, who often received benefices and even bishoprics, like such important persons as Ladislás Szalkai (bishop of Vác 1514–20, bishop of Eger 1520–24, archbishop of Esztergom 1524–26) see e.g. András Kubinyi “Szalkai László esztergomi érsek politikai szereplése” [Archbishop L. Sz.’s political career] in Idem, *Főpapok, egyházi intézmények és vallásosság a középkori Magyarországon* (Budapest: METEM, 1999), pp. 147–60.; or George Szatmári (bishop of Veszprém 1499–1501, bishop of Oradea 1501–1505, bishop of Pécs 1505–1521, archbishop of Esztergom 1522–1524, royal-secretary 1494–1499, secret chancellor 1499–1521, arch-chancellor 1521–1524.)

⁸² Cf. **15 April 1405:14, 1464:17, 1481:17, 1486:28.**

Then, while it is well known that this kingdom has been privileged by grant of the venerable bishops, cardinal priests and deacons of the Holy Roman Church who were once present at the Council of Constance, [1] that no one may be taken to courts outside the country at the bidding of papal letters, unless some case came lawfully by appeal to the Apostolic See,⁸³ [2] yet there are many who in spite of these privileges vex and harass the people of the country, clerks as well as laymen, with complaints. [3] Therefore, it has been decided that, as contained in the *decretum maius*,⁸⁴ no one can be taken to court outside the country unless by way of appeal.[4] Those, however, who take their complaints abroad, be they priests, seculars or regulars, have to be arrested, handed over to His Majesty, and incarcerated in the Broken Tower⁸⁵ to suffer their punishment. [5] Because there are many who by privilege of the Apostolic See enjoy exemption from the judges spiritual in this country and thus cannot be sued here, complaints of this type or papal orders may therefore be brought against them. [6] Nevertheless, they cannot be sued abroad by force of these, except in the aforementioned way, by appeal.

64. The sealing fees of the church of Győr and the Abbey of Szentmártonhegy

Then, because it is said that in the church of Győr and in the Abbey of Szentmártonhegy⁸⁶ new sealing fees were devised and that they collected unjustly and wrongly twelve pennies for every pot or even cask of wine, but it is not clearly proven whether or not the bishop and the abbot of those churches have the right to these fees, [1] therefore, in order to remove any doubt it has been decided that both the bishop and the abbot of the said churches shall without any delay present at the next octave at Michaelmas the rights they have for these exactions, if they have any, after the inspection of which it will be decided what is just.

65. Contracts made between laymen and clergy are annulled⁸⁷

Then, it has been decided that should any gentleman of the realm have made or in the future make with the lord archbishops or prelates of churches, or any one of them, or other ecclesiastical person in this country any contract or other obligation of any sort regarding any goods or property rights whatsoever, and especially such that would escheat to the royal majesty, such contracts or obligations shall have no force or validity. [1] Moreover all letters issued and written in these matters at any place of authentication shall be invalid, even if royal consent had been obtained for them. [2] Excepting, however, that should perhaps any prelate have already given some money for

⁸³ See the 'Placetum regium', **6 April 1404**; and, Elemér mályusz, *Das Konstanzer Konzil und das königliche Patronatsrecht in Ungarn*. (Budapest: Akadémiai Kiadó, 1959).

⁸⁴ Cf. **1492:45**.

⁸⁵ An unfinished tower on the north-eastern part of the royal castle of Buda, built by King Sigismund after 1424, was called by the end of the fifteenth century the Broken Tower (Csonkatorony).

⁸⁶ Present-day Pannonhalma.

⁸⁷ In **Tripartium**. I:66 *contractus* is used exclusively for what is called fraternal adoption, and in all likelihood that is also meant here. The article may be aimed at Tamás Bakócz who had entered into many of these, gradually acquiring wealth through this route.

such goods, and it is well known that he gave money, then this money has to be returned, and, having been returned, these goods shall be free.

66. Parish priests shall not be confirmed against the will of their patrons

Then, that prelates of churches shall not dare to oblige parish priests to receive investiture or confirmation against the will of the patrons of the churches.

67. Lord prelates promoting youngsters and unsuitable persons to ecclesiastical benefices

There are furthermore many lord prelates and ecclesiastical persons, who, to the dishonor of the entire clerical estate, wastefully grant benefices not to suitable and well deserving persons but to young and ignorant ones, totally unsuited to these benefices, without the approval of the royal majesty; and granting title to them of benefices of this sort, they exhaust their income and use it for their own profit; and thus, because of these abuses, the divine service in the church of God is daily neglected. [1] Because, as the ancient liberty of this kingdom requires, the grant of any benefice in those churches of the country over which the royal majesty is deemed to have the right of patronage, pertains to His Majesty, [2] it has therefore been decided that henceforth the lord prelates and ecclesiastical persons shall in those churches at the head of which they by the provision of the royal majesty stand, not grant any benefices that become vacant without the consent and agreement of the royal majesty. [3] The royal majesty shall withdraw those benefices that were granted without the royal majesty's approval to young, ignorant, and unlearned persons and grant them to suitable persons. [4] Henceforth, however, His Majesty shall deign to ensure that ecclesiastical benefices of this type (which are refreshing to souls) be granted as much as by his royal majesty as by ecclesiastical persons to whom he has given this right only to adult and deserving and not to young and ignorant persons, so that the divine service be performed the more assiduously in the churches subject to the Holy Crown of this realm.

68. Synods cannot be redeemed

Then, that the prelates of churches dare not, as some hitherto have done, avoid holding synods (which they are obliged to hold according to canonical prescription for the extirpation of sins in their churches and the moral development of the parish priests stationed in their dioceses) for money, or tax in any way the priests for not holding such synods; and none of the priests shall dare to buy themselves off from these synods in any way whatsoever.

69. That parish priests be not taxed and no ecclesiastical interdict be imposed on the community because of the priest

Then, because there are several prelates of churches who are frequently wont out of evil abuse to oppress the parish priests by the arbitrary imposition of taxes,

[1] the priests, then, moaning under this burden, are sometimes forced to plunder the chalices and other goods of their churches in order to redeem themselves by this from the burden of such taxes; meanwhile, compelled by poverty they are forced to desert their churches and escape elsewhere, and the lord prelates do not shrink from imposing an interdict of the church on the parishioners

and thus to oppress them;⁸⁸ [2] it has therefore been decreed that the prelates of churches must henceforth never request or demand aid from the parish priests of their diocese, save once, for the redemption of their [papal] bulls, but that, too, in measure, more as a charitable than as a forced payment. Nor are they allowed to tax them in any way or to burden and harass their parishioners by interdict of the church. [3] And the parish priests shall so behave in their churches that the goods of the churches are not wasted by them.

70. That no one shall hold two offices save the palatine, the judge royal, and the ban of Dalmatia

Then, no baron or noble of the realm shall hold two honors or offices with the exception of the palatine, the judge royal, and the ban of the kingdoms of Dalmatia, Croatia and Slavonia according to the decree of the late Lord King Andrew.⁸⁹ [1] Except that, should at any time some necessity arise on account of which it is appropriate to grant two or even three honors or offices to one person, then His Majesty shall do so in no other way but with the counsel and consent of the lord prelates and barons.

71. Cases to be closed, sent to execution, and transmitted to the royal court without letters of command

Then, because there are many *alispáns* and noble magistrates in several counties who refuse to act in lawsuits opened or to be opened before them without a special mandate of His Majesty or, if they have passed a judgment, to ask for its proper execution or in the case of appeal to send it up to the royal court, [1] therefore, in order to spare expenses and labor for such litigants, it has been decided that henceforth *ispáns*, *alispáns* and noble magistrates are held as in all else to render due justice in all cases concerning the county court to these litigants and to whatever party (observing the rule of law) without a special royal mandate; and, if there be no appeal, to ask for due execution or, if appeal be launched, to refer in the usual way to the royal court, [2] under pain of loss of office.

72. That no one dare to sell arms and victuals to the infidel

Then, that no frontier officers, merchants and traders, or any person of whatever estate and condition dare to sell or exchange arms, victuals, knives or any equipment whatsoever to the Turks or other infidels under the penalty of perpetual taint of infidelity.

⁸⁸ It had been a recurrent problem from the mid-fifteenth century that the higher clergy overburdened the parish priests by demanding ever increasing amount of dues such as the *cathedraticum* which gradually became a fixed sum that was raised without regard for the actual income of the parish or the duty to provide hospitality at times of visitations. See Elemér mályusz: *Egyházi társadalom a középkori magyarországon*. [Clerical society in medieval Hungary]. (Budapest : Akadémiai, 1971), p. 119.

⁸⁹ Cf. **1222:30**. For the defense of the southern frontier several counties and other offices had been combined in one hand.

73. That no one dare to hinder those who flee from Turkey to this kingdom⁹⁰

Then, that henceforth none of the officers in charge of frontier castles nor any other person of whatever estate shall dare to impede or damage in any way in their persons or goods those who secretly escape from the rule or territory of the Turks to the borders of this kingdom, [1] under [pain of] perpetual taint of infidelity.

74. How dry tolls are to be treated

Then, because it is known to be ordered in the decree of the most serene prince, the late Lord King Louis, later confirmed by the late Lord King Matthias at his coronation,⁹¹ [1] that no unjust tolls should be collected from those who travel on dry land or sail up and down rivers, but only from those who cross by bridges and boats.[2] Since it cannot be ascertained without due investigation how and in what way tolls are raised at these tolling stations and by whom, and whether justly or unjustly, no final decision could be made in this matter. [3] Therefore, it has been decided that in those individual counties in which these tolls are collected, a few among the more respected nobles shall be elected who, under strict oath, shall make careful inquiry about the quantity of the tolls and the ways and means of their collection, and they shall prepare a true list of these and present under their own seals what is listed in it at the next general assembly before the royal majesty, the lord prelates and barons, and the other gentlemen of the realm. [4] Having inspected these, what is best done for the common good shall be arranged.

We, therefore, to whom it behooves by the office of government we have assumed to watch over the peaceful state of our said kingdom, being favorably disposed to the supplications of the said barons, lords, and nobles of our said kingdom as they are just and reasonable, do confirm as valid and lasting in perpetuity the aforementioned articles that concern the common weal, peaceful state and welfare of this kingdom of ours, accepting, approving, and ratifying the same articles and all that is contained within them. [1] We promise and commit ourselves to observe and cause others to observe inviolate all and every item specified in them, by the force of these presents [2] To the memory and lasting endurance of which we have directed that these present letters of privilege be issued, under our privy seal which we use as king of Hungary. [3] Given at Buda, on the fortieth day of the aforementioned diet in the one thousand four hundred and ninety-eighth year of the Lord, in the eighth year [of our reign] of the kingdoms of Hungary etc., and the twenty-eighth in Bohemia. [4] At the time when the venerable fathers in Christ, the lord archbishops Thomas of

⁹⁰ See Ferenc Szakály: “The Hungarian-Croatian Border Defense System and its Collapse.” in: János M. Bak and Béla K. Király, eds. *From Hunyadi to Rákóczi: War and Society in Medieval and Early Modern Hungary* (Brooklyn, N.Y.: Social Science Monographs, 1982), pp. 159–178; Géza Pálffy, “The Origins and Development of the Border Defence System Against the Ottoman Empire in Hungary (Up to the Eighteenth Century),” in Géza Dávid and Pál Fodor, eds. *Ottomans, Hungarians and Habsburgs in Central Europe: The Military Confines in the Era of Ottoman Conquest*. (Boston: Brill, 2000), pp. 3–70.

⁹¹ See **1351:8**, and **1464: 15**.

Esztergom⁹² and Peter of Kalocsa⁹³; as well as the illustrious and most venerable bishops Ippolito d'Este of Aragonia, cardinal deacon of the Roman Church of the title of Santa Lucia in Silice, bishop of Eger⁹⁴; Oswald of Zagreb;⁹⁵ Ladislas Geréb of Transylvania⁹⁶; Dominic of Oradea;⁹⁷ Sigismund of Pécs⁹⁸; Francis of Győr;⁹⁹ John of Veszprém;¹⁰⁰ Lucas of Cenad;¹⁰¹ Nicholas Bátori of Vác¹⁰²; Anthony of Nitra;¹⁰³ Srem *sede vacante*; Gabriel of Bosnia;¹⁰⁴ Briccio of Knin;¹⁰⁵ Cristopher of Modrus;¹⁰⁶ and Michael of Senj¹⁰⁷. felicitously governed the churches of God. [5] Then the *spectabilis* and *magnificus* Stephen Szapolyai was palatine of the said kingdom of ours and perpetual *ispán* of Spiš¹⁰⁸; *comes* Peter Vingárti Geréb, our judge royal¹⁰⁹; Bartholomew Bélteki Drágfi, our voivode of Transylvania and *ispán* of the *Székely*;¹¹⁰ George Kanizsai¹¹¹ ban of our kingdoms of Dalmatia, Croatia and Slavonia; Peter Macskási Tárnok¹¹² and James Gerlistye¹¹³, bans of Severin;;Józsa Somi, *ispán* of Temes and captain general of the lower parts

⁹² Bakócz, Thomas, bp. of Győr 1486–1493, bp. elect of Eger 1493–1497, abp. of Esztergom 1497–1521, cardinal priest of the title St Martin in montibus, patriarch of Constantinople, legate a latere.

⁹³ Váradi, Peter (d. 1501) archbishop of Kalocsa 1480-1501, secret chancellor 1479-84.

⁹⁴ d' Este of Aragon, Ippolito, cardinal deacon of the holy Roman church, archbishop. of Esztergom 486–1497, bishop of Eger 1497–1520.

⁹⁵ Tuz (of Lak), Oswald (b. 1436, d. 1499) bishoop of Zagreb 1466-99.

⁹⁶ Geréb (of Vingárd), Ladislas (d. 1502) bishop of Transylvania 1476-1501, archbishop of Kalocsa 1501-2, papal legate.

⁹⁷ Dominic (Kálmáncsehi), bishop of Oradea 1495–1501.

⁹⁸ Ernuszt (of Csáktornya), Sigismund (d. 1504) bishop of Pécs 147?-1504, chief treasurer.

⁹⁹ Szatmári, Francis, bishop of Győr 1495–1508.

¹⁰⁰ John Vitéz (Jr.) bishop of Veszprém 1489-99.

¹⁰¹ Szegedi Baratin, Lucas, bishop of Bosnia 1491–93, of Cenad 1493–1500, of Zagreb 1500-1510.

¹⁰² Bátori, Nicholas (d. 1506) bishop of Srem 1468-74, of Vác 1474-1506.

¹⁰³ Sánkfalvai, Anthony, bishop of Nitra 1492–1500.

¹⁰⁴ Gabriel (Polnar) bishop of Bosnia 1493–1501, bishop of Srem 1502.

¹⁰⁵ Briccio (Brizio) Brizio bishop iof Knin 1492 -5, later Bishop of Chersonissos (1483--89?)

¹⁰⁶ Christopher (of Ragusa), bishop of Modrus 1480–1500.

¹⁰⁷ Michael Natalicius, bishop of Senj 1495–1501.

¹⁰⁸ For Zapolya (a. k. a. Zápolya, Szapolyai), Imre see n. 76, above.

¹⁰⁹ Vingárti Geréb, Peter, judge royal 1495–1500, master of the doorkeepers 1491–95.

¹¹⁰ Bélteki Drágfi, Bartholomew, voivode of Transylvania and *ispán* of the *Székely* 1494–98.

¹¹¹ Kanizsai George, ban of Dalmatia, Croatia and Slavonia 1497–98, 1508–10

¹¹² Macskási Tárnok, Peter, ban of Severin 1495-1501.

¹¹³ Gerlistye, James, ban of Severin 1495–1508.

of our kingdom;¹¹⁴ the master of the treasury's office being vacant; Nicholas Lindvai Bánfi, master of the doorkeepers;¹¹⁵; Emeric Perényi, master of the cellarers¹¹⁶; George Kanizsai¹¹⁷ master of the cellarers; Blaise Ráskai, master of the chamberlains¹¹⁸ John Csáktornyai Ernuszt, master of the horse;¹¹⁹ and many others held honors and offices of the realm.¹²⁰

Read by Master Adam.¹²¹

¹¹⁴ Somi, Józsa, *ispán* of Temes and captain general of the lower parts of Hungary 1494–1508.

¹¹⁵ Lindvai Bánfi, Nicholas, master of the cellarers 1464–67, *ispán* of Pozsony 1467–1478, master of the doorkeepers 1490–1500.

¹¹⁶ Perényi, Emeric, perpetual *ispán* of Co. Abaújvár, the master of the stewardss, 1492–1504, count palatine 1504–19, ban of Croatia and Dalmatia 1512–13.

¹¹⁷ Kanizsai, Stephen, master of the cellarers 1498–1505

¹¹⁸ Ráskai, Blaise, chief chamberlain, master of the treasury 1498–1518.

¹¹⁹ Csáktornyai Ernuszt, John, master of the horse 1493–1503, ban of Croatia and Dalmatia 1507–1510.

¹²⁰ The list of ecclesiastical and secular dignitaries was usually attached to privilegial charters ever since the late thirteenth century. They are not meant to be witnesses, rather a kind of authentication of the date and the royal approval.

¹²¹ See n. 22.

LAW OF KING WLADISLAS II OF HUNGARY (1490-1516)

OF MAY 8, 1500

April 14—May 8: diet at Rákos Decree with 43 articles passed.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MSS: Original 11-page parchment booklet with seal pendant, MNL OL DI 22534; a similarly sealed parchment booklet of 12 pages in the archives of the City of Prešov; a booklet without seal, in the public archives of the city of Košice No.801. A fragmentary one is also preserved in Košice.

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., vol. 1 (Budapest: Franklin, 1896), pp. 641-71 (Decretum quartum)

LIT: András Kubinyi, “Historische Skizze Ungarns in der Jagiellonenzeit” in Idem, *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer, 1998) pp. 323-66; Martyn Rady, “Rethinking Jagiełło Hungary” *Central Europe* 3 (2005), pp. 3–18; Idem, “Jagello Hungary,” in: DRMH IV, xi–xlvi.

Considering that several articles merely repeat previous legislation at great length, we have omitted the text of those and summarized their contents, if necessary, referring to the location of the full text in notes.

DECRETUM WLADISLAI II. QUARTUM DE ANNO 1500

Commissio propria domini regis.

Nos Wladislaus, dei gracia Hungarie, Bohemie, Dalmacie, Croacie, Servie, Gallicie, Lodomerie, Comanie, Bulgarieque rex, necnon Slesie et Lucemburgensis dux ac Moravie et Lusacie marchio memorie commendamus tenore presencium significantes, quibus expedit universis, quod cum superioribus his diebus nobis hoc inclitum regnum Hungarie dei benignitate adipiscentibus illudque domi forisque ab omni hostilitate et inimica invasione tutum et tranquillum undique reddentibus, domini prelati et barones, ceterique proceres ac nobiles et universi regnicole nobis supplicassent, ut pro ulteriori quiete, commodo et utilitate huius regni regiminisque et status nostri felici incremento certas eciam constitutiones et decreta sanctire atque convulsam et dilaceratam, multumque diminutam illam veterem eorum libertatem eisdem innovare, restituere et graciose confirmare dignaremur, nos qui omni eo tempore, quo divina dispositione et auspicio regnum consecuti sumus, et in omnibus nostris actionibus cogitationibusque nullam magis precipuam curam gessimus gerimusque vel impresenciarum, quam quod hoc ipsum regnum et eiusdem incolas, subditos videlicet nostros fideles in tranquilla pace, sub bonis legibus, et unumquemque ordinem ac statum in antiqua sempiternaque libertate conservare possemus, eiuscemodi ipsorum petitionibus moti per hoc triennium in assecucionem huius rei pro singulo festo beati Georgii martiris singulam unam dietam et generalem omnium regnicolarum conventum in campo Rakws celebravimus, atque ad suplicationem tandem ipsorum dominorumⁱ baronum et procerum ac ceterorum nobilium certos eciam articulos, quos unanimiter concluderant, in formam cuiusdam decreti generalis redegimus. Verum quia nonnulli articuli propter temporis brevitatem et negociorum pluralitatem impedimenta in ipsis predictis dietis finiri et determinari et ad ipsum dec-retum inscribi non poterant, sed sic imperfecti et indecisi ad hanc dietam reiecti fu-erant, eam ob causam iidem articuli in presenti dieta festi beati Georgii martiris in pre-dicto campo Rakws in hunc, qui sequitur, modum conclusi et determinati extitere.

I. Imprimis quod articulus primus minoris decreti de congregacione regnicolarum intelligatur semel eciam in octavis vel brevibus iudiciis quomodolibet celebrandis.

Add.: Illis quoque, qui in gymnasiis et studio literalis sciencie preoccupati fuerint, clausula predicta modo simili semel et non pluries suffragari debebit.

II. Item super articulo secundo minoris decreti de celebracione octavarum et brevium iudiciorum limitatum et conclusum est: Quod singulis annis due octave magne et integre, beatorum scilicet Georgii martiris et Michaelis archangeli quadraginta diebus durantes iuxta contenta eiusdem decreti celebrentur. Brevia vero iudicia pro festivitibus beati Jacobi apostoli et Epiphaniarum domini hactenus celebrari solita de cetero cessent. Et illa eadem breviam iudicia super universis actibus potenciariis post obitum serenissimi principis condam domini Mathie regis etc. felicitis reminiscencie per quoscunque et quomodocunque illatis patratisque et commissis ac in futurum

ⁱ *prelatorum* desidertatur

quomodolibet committendis amodo imposterum successivis semper temporibus ad tricesimum secundum diem diei evocationis exhinc fiende computandum semper et continuo celebrari debeant iuxta consuetudinem alias in iudiciis observatam. Cause autem et evocationes ad preterita brevia iudicia festivitatum beati Jacobi apostoli et Epiphaniarum domini predictarum mote et de facto intentate in eisdem brevibus iudiciis, quorum celebratio vigesimo die festi beati Jacobi apostoli proxime venturi inchoabitur et deinde semper continuabitur, ante alias causas amodo deinceps movendas leventurⁱⁱ atque iudicentur.

III. Item quintus articulus de iudicialium distribucione, de qua hactenus non modica inter causantes contencio suborta fuerat, sic intelligendus est: Quod evocationes priores secundum formam eiusdem decreti posterioribus semper prius leventurⁱⁱⁱ atque iudicentur; ita videlicet, ut postquam cause aliquae levate exindeque communes inquisitiones vel literarum et literalium instrumentorum exhibiciones, ceterique huiusmodi causarum processus de iure subsecuti fuerint, extunc tales cause levate aut de facto adiudicate in octavis tunc proxime et immediate sequentibus ac affuturis terminoque brevium iudiciorum, ad quem scilicet reportatio seriei talismodi processus vel executionis fieri debet, rursus et iterum ante alias causas leventur et finaliter terminentur; quibus finitis et determinatis residue cause nondum levate secundum seriem registri tandem iudicentur.

IV. Item si quempiam regnicolarum literas evocatorias secundum data sua aliis priores habere, sed aliquibus negociis suis prepedientibus in prima aut secunda, sive tertia distribucionibus in octavis vel brevibus iudiciis fiendis non interesse contigerit, extunc magistri prothonotarii non obstantibus huiusmodi distribucionibus factis easdem causas vel literas evocatorias secundum data earundem in suo loco, priori scilicet aut medio, ubi decebit, semper locare et conscribi facere teneantur; et quod registrum in primis octavis aut termino brevium iudiciorum conscriptum usque ad exitum suum durare debeat. Nichilominus, si quis causancium in sequentibus octavis vel termino brevium iudiciorum signaturas aut literas iudiciales de novo facere voluerit, ut scilicet alteram partem per non venienciam aggravare, aut causam in superstitibus alicuius causantis medio tempore decedentis condescendi facere possit, liberam faciendi habet facultatem. Causa tamen ipsa loco alias in prioribus octavis aut brevibus iudiciis, in serie scilicet registri superinde conscripti denotato semper levare et adiudicari debet.

V. Item, quod copiam registri iurati assessores iudicio interesse debentes semper habeant et unicuique causanti registrum ipsum conspiceri volenti tam iidem assessores iurati, quam magistri prothonotarii ostendere teneantur.

VI. Item quod cause nobilium regnorum Dalmacie, Croacie et Sclavonie partiumque Transsilvanensium in curiam regiam per viam appellacionis transmissae et deductae coram iudice eorum ordinario, domino scilicet comite^{iv} vel^v iudice curie regie maiestatis sic determinentur, ut

ⁱⁱ mendose: *leventur*

ⁱⁱⁱ mendose: *elevantur*

^{iv} desideratur: *palatino*

^v E, K: *et*

quolibet die octavarum vel brevium iudiciorum extra omnem seriem et ordinem registri una causa alternatim discuciat.

VII. Item si aliquae cause per iudices ordinarios regni magistrisque prothonotarios et ceteros sedis iudicarie assessores adiudicate ad interessenciam aut presenciam regie maiestatis per partem in causa succumbentem et convictam deducte prorogate fuerint, tunc tempore revisionis et discussionis huiusmodi causarum prefati iudices ordinarii, magistri prothonotarii et ceteri sedis iudicarie coassessores interesse poterunt, attamen ad ulteriorem et evidenciosem earundem causarum discussionem verba facere non valebunt.

VIII. Item quod quilibet dominorum prelatorum, baronum, iudicum ordinariorum regni, magistrorum prothonotariorum ceterorumque sedis iudicarie coassessorum, cuius scilicet causa levabitur, tempore discussionis eiuscemodi cause personaliter et ultra, si fuerit iudex ordinarius, cum magistro prothonotario vicegerenteque suis, reliqua eciam familia ceteri vero cum eorum comitiva et similiter familia de sede iudicaria exire teneantur. Et quod quilibet magistrorum prothonotariorum preter unum scribam iuratum in sedem iudicariam secum importare et cum eo in sedem locare^{vi} possit. Nichilominus et alios scribas in domum sedis iudicarie valeat introducere, sed non in medium ceterorum coassessorum computare, qui silencio per omni illic astare debebunt.

IX. In Transsylvania solummodo octave festi Epiphaniarum domini, in regno Sclavonie octave iuxta antiquam consuetudinem eorum celebrentur.

X. Item pro clariori explanacione articulorum secundi sextique et septimi minoris decreti sanctitum est, quod ultra illos sedecim iuratos assessores iudicio interesse debentes ex dominis prelatis quatuor et de dominis baronibus totidem iurisperiti et prudencia ceteris prepollentes per regiam maiestatem eligantur, qui in octavis magnis et integris omnes interesse debeant, in brevibus vero iudiciis peramplius continue celebrandis solummodo duodecim ex eisdem mutuatis et alternatis inter sese vicibus assedere teneantur. Illi itaque duodecim electi per integrum medium annum et residui similiter duodecim per alium medium annum in consilium regie maiestatis semper admitti et interesse debebunt. Qui stricta fide regie maiestati et universis dominis ac regnicolis iurare super eo tenebuntur, ut ipsi in eodem consilio omnia illa, que ad fidelitatem et incrementum regie maiestatis ac libertatem et commune bonum tocius regni cedere videbuntur, fideliter tractabunt. Et illi iidem iurati electi semper et continue Bude, alternatis modo pretacto vicibus interesse ac consuetudines et iura regni, que in iudiciis allegari consueverunt, explanare et conscribi facere, ad futurasque^{vii} convenciones regnicolarum generales iuxta seriem decreti celebrandas semper coram regia maiestate ac dominis prelatis et baronibus universitateque regnicolarum exhibere et presentare teneantur. Ubi si que earundem regie maiestati ac dominis prelatis et baronibus ceterisque regnicolis racionabiles et iusta videbuntur, acceptentur et approbentur. Si que autem irrationabiles et modo abusivo confecte et conscripta dinoscuntur, per regiam maiestatem ac dominos prelatos et barones universitatemque regnicolarum in melius reformatur. Quibus tandem per omnia explanatis conscriptisque et approbatis secundum easdem et eadem iudicentur.^{viii} De

^{vi} A: *locare* – recte: *alium non possit*

^{vii} A, E: *future quoque*

^{viii} recte: *iudicetur*

salariis autem eorundem iuratorum, de medio scilicet regnicolarum electorum iidem regnicole, de dominorum autem prelatorum et baronum similiter salariis ceteri domini prelati et barones providere tenebuntur. Illi vero sedecim iurati ex quatuor partibus regni per regiam maiestatem et universum regnum eligantur. Qui singulo tercio anno, in congregacionibus scilicet regnicolarum deinceps celebrandis alterari et mutari, officiaque^{ix} sua deponere debebunt; ita tamen ut si qui illorum regie maiestati ac dominis prelati et baronibus ceterisque regnicolis ad id idonei aptique et acceptabiles videbuntur, illi rursus eligi valeant. Quicumque autem eorum ultra ipsum triennium officium tale deponere voluerit, liberam deponendi habeat potestatis facultatem. Hoc declarato, quod si tempore medio aliquis eorum nutu divino ab hac luce decesserit, extunc regia maiestas cum ceteris electis et iuratis loco illius alium, qui videbitur, eligere valeat, non exspectata congregacione generali regnicolarum prenotata. Hoc quoque non pretermisso, quod si quempiam prescriptorum viginti quatuor electorum medio tempore, dum scilicet non sua series verteretur, ad octavas vel brevia iudicia, aut in curiam regiam advenire contigerit, semper in sedem iudiciariam et consilium regie maiestatis, in medium scilicet ceterorum suorum coassessorum et coniuratorum admitti et se locare valebit. Ceteri insuper domini prelati et barones alias in consilio regie maiestatis presidentes more alias consueto in consilium sue maiestatis prenotatum semper admittantur.

XI. Item conclusum est, quod magistri prothonotarii universas literas adiudicatorias factum iurium possessionariorum, aliorum eciam notabilium negociorum tangentes post earum edicionem et conscripcionem in sedem iudiciariam importare, et ibi coram ceteris magistris prothonotariis et assessoribus perlegere, non intelligentibus autem vulgari sermone interpretare debeant, ne litere ipse aliter, quam sententia prolata fuisset, emanentur. Si vero in confeccione ipsarum literarum adiudicatoriarum adeo grandis labor inesset et occurreret, ut infra celebracionem octavarum litere ipse confici conscribique et expediri non possent, extunc magistri prothonotarii expiratis eisdem octavis expeditisque huiusmodi literis adiudicatoriis, coram predictis iuratis coassessoribus in consilio regie maiestatis iudiciisque interesse debentibus, magistris eciam prothonotariis, si qui intererunt, perlegere modoque pretacto interpretare teneantur; et si iuxta latam in ea sententiam scripte et emanate, ac per eosdem iuratos assessores admissae et approbate fuerint, ibidem in presencia eorundem iuratorum assessorum magistri prothonotarii sese subscribere scriptaque manuum suarum ad easdem literas apponere teneantur.

XII. Item quoniam per complecionem terminorum nonnulli regnicolarum, potissimum ex negligencia et inadvertencia procuratorum suorum crebro dampnificari solent et aggravari, pro eo statutum est, quod amodo imposterum magistri prothonotarii tempore distribucionis literarum iudicialium semper extradata earundem sic subscribere debent: Extradata, si tertia non est. Et ultra hec, si ex processibus seriebusque literarum huiusmodi causalium complecionem terminorum emanari debere compertum fuerit, extunc iidem magistri prothonotarii tales compleciones per fenestram alta et intelligibili voce publicare ac pronunciare, et si easdem nemo prohibuerit, tandem extradare teneantur. Prohibiciones vero facientes statim respondere debebunt.

XIII. Item articulus octavus de causis extra terminos octavarum et brevium iudiciorum per regiam maiestatem discutiendis sic limitatus et conclusus est, quod iam ammoniciones ipse super illis quinque casibus, puta verberacione, vulneracione, interempcione, indebita detencione et invasione

^{ix} A, E,: *officia quoque*

domorum seu curie nobilium per literas regie maiestatis preceptorias iuxta contenta huius articuli fiende non iuxta loci distanciam, secundum scilicet magis et minus, sicut consueverant, sed semper ad tricesimum secundum diem diei ammonicionis exhinc per literas regie maiestatis preceptorias mediantibus literis exhibitoriis ad capitulum vel conventum sonantibus fiende computandum^x de cetero fieri debeant. Amodoque imposterum non personaliter, prout hactenus solitum erat, sed per procuratorem suum, si voluerit, quisque compareat; nichilominus tamen in premissis quinque casibus, si personaliter non venerit, procuratorem suum nunquam revocare valeat.

XIV. Preterea quod uxores quorumlibet nobilium viventibus earundem dominis et maritis ratione quorumcunque actuum potenciariorum, tam premissorum quinque casuum, quam aliorum quorumlibet nec in curiam regiam evocari, nec autem in presenciam regie maiestatis per literas suas preceptorias ammoneri possint; sed domini et mariti earundem super universis actibus potenciaris legitime requirantur, nisi bona illa et iura possessionaria, de quibus eiuscemodi actus potenciaris committuntur, aut de facto commissi sunt, uxores et non maritos concernant. Nam hoc casu tam uxores, quam mariti talium, si eciam ignobiles et impossessionati forent, et in curiam regiam evocari, et in presenciam regie maiestatis semper admoneri possint. Nichilominus mulieres ipse per procuratorem solito more, ipsum scilicet, si necessarium erit, revocando, respondere debebunt. Idem eciam est intelligendum de mulieribus viduatis, que defunctis ipsarum dominis et maritis heredes et superstites habere, sed illis in tenera etate constitutis bona aliqua vel iura possessionaria ipsorum heredum possidere dinoscuntur, de quibus tandem actus potenciaris committuntur. Tales quoque infra illud temporis spacium, quo heredes et superstites earundem in adultam pervenerint etatem, semper et ammoneri et evocari possunt; tamen, ut^{xii} prefertur, per procuratorem ipsarum more alias consueto respondere tenebuntur. Et quod articulus iste^{xiii} tantummodo de actibus potenciaris post edicionem decreti minoris commissis vel committendis intelligatur.

XV. Item super articulo quinquagesimo primo maioris^{xiii} decreti super revocacione procuratorum conclusum est, quod articulus ille solummodo de longis causis, in quibus processus iuridici subsequi solent, intelligatur, super quibus quidem causis per omnia eciam observetur. In causis autem brevibus, prout in insinuacionibus et huiusmodi, in quibus videlicet processus causarum nondum intervenerunt, quilibet causancium eciam post latam et pronunciatam sentenciam procuratorem suum revocare poterit. Ita quod ipsa die, qua sentenciam pronunciabitur, absque quolibet onere causam suam inhibere et procuratorem revocare, postea vero infra octavarum celebracionem, dempta dumtaxat extrema die ipsarum octavarum, et hoc quoque, si calumpniose vel fraudulenter agere pretenderet, semper cum minori onere, sex scilicet florenorum auri, demum autem octavis eisdem expiratis cum quinquaginta marcis gravis ponderis ducentos florenos auri facientibus procuratorem suum quilibet revocare possit. Propterea quoque deliberatum est, ut iudicarie deliberaciones, que in terminis brevium iudiciorum proxime preteritis celebratorum sub

^x A , E: *computando*

^{xi} mendose: *ut tamen*

^{xii} E, Ka: *ipse*

^{xiii} mendose: *minoris*

colore huius articuli contra plerosque causantes pronunciate fuerunt, viribus destitute habeantur, proindeque huiusmodi causantes procuratorem eorum revocandi causamque suam prosequendi^{xiv} habeant potestatis facultatem. Hoc tamen interiecto, quod si quipiam causancium cum adversa parte iam de facto concordassent, eiusmodi concordie iuxta tenorem literarum superinde emanatarum in suis vigoribus relinquuntur.

XVI. Item quod universe cause in facto dotaliciorum et rerum paraffernalium amodo deinceps quomodolibet movende in octavis vel brevibus iudiciis post ammonicionem et evocacionem exhinc factam primitus celebrandis et occurrentibus extra omnem seriem et registrum levare adiudicarique possint.

XVII. *Quod universe litere impignoraticie vel inscripcionales tempore regum Sigismundi et Mathie emanate viribus destitute habeantur.*

XVIII. Item quoniam plurimi regnicolarum tam in Hungarie, quam Croacie et Sclavonie regnis partibusque Transsilvanensibus bona et iura possessionaria possident, in quibus octave in uno et eodem termino sepe numero celebrari consueverunt, quapropter statutum est, quod si in huiusmodi octavis cuiuspiam talium regnicolarum adversus causantes iuramenta in uno ac eodem termino et hic et illic prestanda adiudicarentur, extunc, si quod illorum in termino ad id prefixo deponere non poterit, in onere et gravamine ex hinc subsecutis non convincantur, sed deposito uno eorundem valeat postea in alio termino iuxta loci distanciam deponere et reliquum. Et hoc eo modo, quod postquam iuramentum unum quis deposuerit, subito teneatur accedere iudicem suum ordinarium, qui pro depositione secundi iuramenti terminum competentem mediantibus literis exinde emanatis eidem prefigat, in quo etiam termino eiusmodi iuramentum deponat, altera parte superinde prius avizata.

XIX. Item ex quo in repulsionibus, utrum cum gentibus aut per^{xv} solam ostensionem gladii fieri debeant, varie contenciones et incomoditates emergi consueverunt, ad tollendum igitur omne dubium et evitandum causancium periculum sanctitum est, quod repulsiones ipse amodo de cetero non cum gentibus et manibus violentis, sed per nudatum solum ensem vel ostensionem evaginati gladii semel tantum et non pluries iuxta contenta maioris^{xvi} decreti sub pena ibidem denotata fieri valeant. Ita videlicet, quod si actor sive pars triumphans contra huiusmodi formam repulsionis violenter in iuribus possessionariis reobtentis se locaverit, extunc in amissione cause, hoc est illorum iurium possessionariorum reobtentorum convincatur et convici debeat eo facto. E converso vero, si pars in causa succumbens et convicta cum gentibus aut violenter contra partem triumphantem se opposuerit, et ipsam ab ingressu talium iurium possessionariorum reobtentorum repulerit, eadem pena condempnetur, salva insuper serie maioris^{xvii} decreti superinde stabiliti^{xviii} remanente. Hoc adiecto, quod pars convicta et repulsionem faciens a die reobtencionis huiusmodi

^{xiv} A: *revocare causamque suam prosequi*

^{xv} recte: *et alie*

^{xvi} A *minoris*

^{xvii} A *minoris*

^{xviii} rectius: *stabilita*

iurium possessionariorum nullam penitus taxam extraordinariam super eisdem iuribus possessionariis exigere valeat; sed iustis dumtaxat proventibus eorundem infra finalem cause decisionem sit contenta, ne perinde iura ipsa possessionaria desolentur; et quod in literis repulsoriis nomina vicinorum et commetaneorum, qui eiuscemodi repulsioni intererunt, amodo deinceps semper conscribantur, ne in ipsa repulsione fraus aliqua subsequatur.

XX. *De occupationibus castrorum tempore Mathiæ regis.*

XXI. Item super articulo sedecimo de equitibus armatis per regnicolas disponendis sana deliberacione regie maiestatis dominorumque prelatorum et baronum, ceterorum eciam regnicolarum prehabita conclusum est et determinatum, quod universi regnicole tam ecclesiastici, quam seculares, qui in serie minoris decreti inter dominos prelatos et barones ceterosque banderiatos ad exercituandum non fuere computati, demptis dumtaxat egregiis Johanne Bornemyza de Berzencze thesaurario, Petro Pogan de Cheeb, Johanne Podmanyczky de Podmanyn, Georgio More de Chwla, Marco Horwath de Kamychacz, Emerico et Martino Czobor de Czobor-Zenth-Myhal, Francisco Balassa de Gyarmath, Laurencio Bradach de Lodomercz, Francisco de Harazth et Osvaldo de Korlathkew, aulicis regie maiestatis, qui de bonis et possessionibus eorum gentes pro regni defensione per se modo infrascripto conservare debebunt, universa eorum bona possessionesque et iura possessionaria in medium nobilium non banderiatorum consequenterque illorum comitatum, in quibus eiuscemodi bona et possessiones habentur, connumerare computareque et pecunias in medium eorundem ad exercituandum de illis dare teneantur, nec quisquam illorum se de cetero e medio eorundem quovis quesito colore abstrahere et excipere presumat. Universa eciam bona et quelibet iura possessionaria quorumcunque dominorum banderiatorum erga manus nobilium banderia non habencium titulo pignoris existencia et habita inter bona eorundem nobilium ad sortem conservacionis gencium modo prenarrato computentur. Si qui autem regnicolarum reluctare et in contrarium premissorum quitquam facere attemptarent, extunc per comitem vel vicecomitem parochialem illius comitatus, ubi huiusmodi contrarium committeretur, tales reluctantes per omnia opportuna remedia et presertim birsagiacionem bonorum et iurium possessionariorum eorundem ad presentem constitucionem observandam artius compellantur. Casu autem, quo comes ipse ad hoc ipsum exequendum negligens fore vel forte contrarium eiuscemodi per semet ipsum inferre dinosceretur, tunc per universitatem et gentes nobilium eiusdem comitatus idem comes puniatur. Si vero talismodi reluctantes vel de facto dampnificati aliquem superinde in causam convenirent, ex tunc contra in causam attractum in facto calumpnie convincantur. Hoc non pretermisso, quod aulici regie maiestatis modo premissis^{xix} nominatim exempti gentes eorum sic conservabunt, ut dum et quandocunque bona et possessiones ceterorum regnicolarum pro ipsarum gencium conservacione dicabuntur, eotunc eciam bona et possessiones huiusmodi exemptorum per dicatores nobilium et comitatum dicentur et pecunie dicte exigantur, exacteque tandem manibus illorum tradantur, ne coloni regnicolarum ad bona illorum racione non exaccionis pecuniarum moraturi confluant; maxime autem, ut numerus gencium subticeri celarique et diminui non possit. Quiquidem exempti gentes eorum, dum in serviciis et legacionibus regie maiestatis extra regnum hoc preoccupati non fuerint, semper circa gentes nobilium et comitatum dare et cum eisdem, quo necessarium erit,

^{xix} A pretacto

mittere teneantur. Dum autem regia maiestas in persona propria se movebit, extunc non cum gentibus nobilium, sed cum sua maiestate gentes ipsas dare mittereque debebunt. Hoc eciam declarato, quod postquam tales exempti servicio regie maiestatis renunciaverint, et in curia sue maiestatis versari neglexerint, vel forte post decessum eorum heredes et posteritates talium ad ipsarum gencium conservacionem inepti et inhabiles videbuntur, exempcio prenotata illis suffragari minime possit. Et quod coci regie maiestatis in possessionibus Zakachy et Wyd vocatis commorantes modo simili exempti sint. Attamen nemo nobilium ad bona et iura possessionaria ipsorum cocorum aliquos jobagiones de cetero transmittere debet, neque ipsi coci ceteris nobilibus per contrarium aliquos ex eorum jobagionibus peramplius mittere tenebuntur.

XXII. Conservacio gencium per dominos banderiatos pro fienda observetur secundum registrum condam domini Sigismundi imperatoris et regis.

XXIII. Item, quod ad conservacionem sacre corone regni, dum necessarium opportunumque fuerit, semper de dominis secularibus duo fideles et non plures per regiam maiestatem et universos dominos prelatos et barones ceterosque regnicolas eligantur.

XXIV. Civitatibus liberis libertates serventur.

XXV. Equi de regno non educentur

XXVI. Item circa articulum vigesimum nonum super exaccione tricesimarum est additum, quod si qui tricesimatorum amodo in futurum aliquas tricesimas in locis ad tricesimarum exaccionem in decreto minori non specificatis exigere et extorquere quoquo modo attemptaverint, extunc si quid impedimenti tales tricesimatores in rebus vel personis eorum per quempiam incurrerint, vigore presentis statuti per omnia sufferre tolerareque debebunt. Vias nichilominus falsas tricesimatores more solito pro locis antiquis tricesimarum in decreto specificatis^{xx} stare custodireque possunt.

XXVII. Nona ab omnibus colonis exignatur

XXVIII. A comitatibus ville abstracte redeant

XXIX. Item articulus quadragesimus nonus de decimis, prout in decreto minori positus est, observandus relinquatur. Sed quia super connumeracione et solucione earundem decimarum plurime differencie inter spirituales et seculares personas hactenus habite fuerunt, propterea universis differenciis partes inter easdem exinde sedatis conclusum est, quod amodo in futurum temporibus semper successivis decime dominorum prelatorum et personarum ecclesiasticarum hoc modo solvantur: Quod primum domini terrestres tam de segetibus decimari solitis, quam eciam de vinis nonas eorum solitas exigant et quitquid a nonis residuum fuerit, de illis solummodo domini prelati et ecclesiastice persone decimas colligant, et quod decime vinorum non circa festum beati Martini episcopi et confessoris, prout hactenus plerisque in locis solebant, sed tempore vindemii^{xxi} colligantur, modo et ordine in decimacionibus segetum iuxta contenta eiusdem minoris decreti fieri solito per omnia semper observato. Hoc quoque adiuncto, quod illi, qui hactenus a solucionibus decimarum semper exempti fuerunt, prout sunt nobiles unius sessionis in eorum terris propriis et prediales certarum ecclesiarum, salvis tamen iuribus ipsarum ecclesiarum, Rutheni

^{xx} mendose: *specificatorum*

^{xxi} recte: *vindemiae*

quoque regie maiestatis in Nagh-Oroszfalu residentes, eciam de cetero ad solucionem decimarum non compellantur. Hoc tamen declarato, quod si ipsi Rutheni regie maiestatis aliqua predia^{xxii} pecuniaria solutione aut alio quovis quesito colore pro se usurpassent, de quibus videlicet per prius decime solute fuissent, ipsi quoque de illis decimas solvere teneantur.

XXX. *Decimatores a colonis pullus ne exigant.*

XXXI. *Georgius electus Veszpriminsis duas dignitates tenere potest.*

XXXII. *Abbatiae secularibus non conferentur.*

XXXIII. *Cives in causis profanis ad iudicium spirituale non citentur*

XXXIV. *Fiscales ecclesiarum aboleantur.*

XXXV. *Vicarii Hungari sint.*

XXXVI. *Plebani in rebus secularibus non occupentur.*

XXXVII. *Litere ecclesie Jauriensis et abbacie Sancti Martini Sacri Montis Pannonie in sede iudiciaria regie producantur.*

XXXVIII. *Kathedratica in possessionibus et ecclesiis desolatis non exigantur.*

XXXIX. Item quod redemptiones literarum adiudicatoriarum donacionaliumque et confirmacionalium fiant iuxta contenta decreti condam domini Sigismundi imperatoris et regis. XL. *De teloniis et eorum sublacione vel moderatione.*

XLI. *A theloniorum solutione exemptionem prætendentes privilegia producant, &c.*

XLII. Item quod universi nobiles, de quorum nobilitate tributariis non constaret evidenter, a vicecomitibus et iudicibus nobilium illorum comitatum, in quibus resident,^{xxiii} literas super eorum vera nobilitate impetrent, et dum per tributarios contra formam illarum literarum tales nobiles ratione questuum^{xxiv} rerum suarum seu ceterorum quorumcunque negotiorum prepediti, vel per eosdem tributa fuerint exacta, extunc dominus tributi illius ad requisicionem talis nobilis tributarium, qui hoc ipsum attemptaverit, manibus comitis vel vicecomitis, ubi id contigerit, captum tradat et assignet de illatis satisfacturum. Si autem dominus ipse tributi id^{xxv} facere nollet aut non posset quovis modo, extunc idem dominus in centum florenis auri partim iudici et partim nobili leso persolvendis ordine iuris observato semper convincatur et convinci debeat eo facto.

XLIII. Item quod ceteri et reliqui omnes articuli in minori decreto specificati modo et ordine in eodem expressatis per omnia semper observentur.

Nos igitur prescriptos articulos de verbo ad verbum sine variacione mutacioneque^{xxvi} aliquali presentibus insertos, quia perfeccionem et complecionem premissarum aliarum constitucionum et decretorum nostrorum tangere dinoscebantur, acceptavimus, approbavimus, et ratificavimus,

^{xxii} A, E: add *aut*

^{xxiii} E: *residerent*

^{xxiv} Ka add *aut*

^{xxv} A *hoc*

^{xxvi} A *immutacioneque*

nosque eosdem et omnia in eisdem specificata inviolabiliter observare ac cum aliis observari facere promittimus et obligamus presentis scripti nostri patrocinio mediante. In cuius rei memoriam firmitatemque perpetuam presentes literas nostras privilegiales appensione secreti sigilli nostri, quo ut rex Hungarie utimur, communitas duximus concedendas. Datum in campo Rakos prenarrato, quinto decimo die diei congregacionis nostre generalis prenotate, anno domini millesimo quingentesimo, regnorum nostrorum anno Hungarie etc. decimo,^{xxvii} Bohemie vero tricesimo. Reverendissimis venerabilibusque in Christo patribus Thoma Strigoniensis, legato nato, summo et secretario cancellario nostro et Petro Colocensis ecclesiarum archiepiscopis, illustrissimo reverendissimoque Ippolito Esthensi de Aragonia, sancte Romane ecclesie diacono cardinali Agriensis, Luca Zagrabiensis, Ladislao Gereb Albensis Transsilvane, Dominico Waradiensis, Sigismundo Quinqueecclesiensis, Georgio electo Wesprimiensi, Francisco Jauriensi, Nicolao de Bathor Waciensi, altero Nicolao de Chaak electo Chanadiensi, Anthonio Nitriensi, Nicolao de Bochka electo Sirimiensi, Gabriele Boznensis et Briccio Thininiensi ecclesiarum episcopis, ecclesias Dei feliciter gubernantibus. Item spectabili et magnificis Petro Gereb de Wyngarth predicti regni nostri Hungarie palatino et iudice Comanorum, honore iudicatus curie nostre vacante, Petro comite de Bozyn et de Sancto Georgio wayvoda nostro Transsilvano et comite Siculorum, Joanne Corvino Oppavie et Lyphovie duce, necnon regnorum nostrorum Dalmacie, Croacie et Sclavonie bano,^{xxviii} Petro Tharnok de Machkas et Jacobo de Gerlysthye Zewriniensibus banis, Josa de Som comite Themesiensi et generali capitaneo parcium regni nostri inferiorum, Blasio de Raska thavernicorum, Nicolao Banffy de Lyndwa ianitorum, Emerico de Peren dapiferorum, Stephano de Kanysa pincernarum et Johanne Ernusth de Chaakthornya agazonum nostrorum regalium magistris, Petro Pogan de Cheeb comite Psoniensi, aliisque quampluribus, comitatus regni nostri tenentibus et honores.

^{xxvii} Ka *Hungarie anno decimo*

^{xxviii} A, E: om

DECREE OF 8 MAY, 1500

On the personal order of the lord King.

We, Wladislas, by the grace of God king of Hungary, Bohemia, Dalmatia, Croatia, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria as well as duke of Silesia and Luxemburg and margrave of Moravia and Lusatia¹ commend to memory by these presents announcing to all to whom it may concern [1] that when in these past days, after having by divine mercy obtained this renowned kingdom of Hungary and having completely restored it to safety and peace at home and from all enemies and hostile attacks from abroad, the lord prelates, barons, other notables, and nobles as well as all other gentlemen of the realm² humbly requested us that we also deign, for the further peace, comfort, and welfare of that kingdom as well as for the happy increase of our reign and status, to sanction certain constitutions and decrees as well as renew, restore, and graciously confirm their shattered, torn, and very much reduced ancient liberty. [2] We, who all the time since placed by divine will and command at the royal summit had and have presently in all our deeds and thoughts no greater concern than to be able to keep this same kingdom and its inhabitants, our faithful subjects, in tranquil peace under good laws, in their ancient and perpetual liberty, each according to his estate, [3] moved by these humble requests of theirs, held, for achieving this matter, in three years at every feast of St George the Martyr a diet and general assembly of all gentlemen of the realm in the field of Rákos.³ Upon the humble request of the same lord prelates, barons, notables, and other nobles we issued certain articles that they unanimously composed in the form of a general decree. [4] However, because of the shortage of time, the great number of subject matters, and other obstacles it was not possible to complete and define some articles and have them included in that decree, but they have been transferred incomplete and undecided to this diet; for this reason these very articles were concluded and defined in the present diet on the feast of St George the Martyr in the said field of Rákos in the following way.

¹ The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. By 1490 none of them were under Hungarian control, but the list in the royal style survived until the end of the kingdom in the twentieth century; see János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² Notables (*proceres*) are frequently listed in laws, probably referring to great men not holding baronial offices. When legal documents refer to *regnicolae* (verbatim: inhabitants of the kingdom) the enfranchised nobles are meant. Our translation of “gentlemen of the realm” attempts to reflect that.

³ 23 April. The “Rákos field,” near to Pest (eastern part of today’s Budapest) became the regular meeting place of the numerous noble delegates to the diet; see János M. Bak and András Vadas, “Diets and Synods in Buda and Its Environs,” in: Balázs Nagy, Katalin Szende, András Vadas, eds. *Medieval Buda in Context* (Leiden-Boston: Brill, 2016) pp. 322–44.

1. *That the rules of absence from diets*⁴ are to be also applied to the octave courts⁵

Adding: [2] The preceding clause shall also apply on one occasion and not more in respect of those who are engaged in schools and in the study of letters.

2. Then, on the second article of the *decretum minus* on the holding of octaves and short court sessions it has been defined and decreed that every year two major and full octave courts be held, at St George the Martyr and at Michaelmas, lasting forty days, according to that decree. [1] Short court sessions usually held at the feast of St James the Apostle and at the Lord's Epiphany shall cease henceforth.⁶ [2] And in respect of all acts of might⁷ done, committed, and perpetrated by whomever against whomsoever after the death of the most serene prince the late Lord King Matthias of blessed memory as well as those that may be committed in whatever way in the future, these same short court sessions shall be held continuously according to the custom heretofore observed in the courts henceforth and from now on always on the thirty-second day counted from the summons.⁸ [3] However, cases and summons moved and in fact intended for the former short court sessions of St James the Apostle and the Lord's Epiphany have to be raised and adjudicated before other cases opened later at the same short court sessions which will commence on the twentieth day of the coming St James, and which will continue always hereafter.

3. Then, the fifth article on the division of letters of fine, about which no little contention emerged among the parties, shall be understood thus: [1] That earlier summonses always have to be taken up and adjudicated before the later ones, according to the decree [2] in this way: once the case has been taken up and thereafter common inquests or the presentation of letters or written instruments and other such steps of procedure are lawfully completed, then such taken up or in fact adjudicated

⁴ See **1498:1**.

⁵ See **1498:7**.

⁶ St. George's is 23 April, St. James 25 July, Michaelmas 29 September and Epiphany 6 January.

⁷ "Act of might" (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, "criminal cases" falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between "major" and "minor" acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one.

⁸ Summons were of different kinds. Personal summons: when a nobleman was summoned on the spot for having disrupted the meeting of the diet or a trial; simple summons: delivered to the respondent at his noble residence, giving notice of a protracted lawsuit. If the respondent failed to attend court, then he would be summoned again. If he still failed to attend, a terminal summons, issued with the clause that judgment would be passed even in the absence of the summoned party (used particularly against perpetrators of acts of might) would be issued. Here short (or final) summons (*citatio brevis*) are meant; a summons requiring the respondent to attend court within 32 days (or at the next octave term), usually issued in respect of violent crimes. The short summons was often combined with a terminal summon. Although the short summons was summarily abolished by Matthias, **25 January 1486:2**, it apparently continued to be used.

lawsuits shall be taken up again and anew and finally decided before other cases at the next octaves immediately following and coming up and in the term of the short court sessions in which such lawsuits or executions shall be announced. [3] When these are completed and decided, the rest of the cases, not yet taken up, shall be judged according to the sequence of the register.

4. Then, if it happens that any of the gentlemen of the realm has letters of summons which are earlier than those of others by date, but, hindered because of his other affairs, he cannot be present at the octaves or the short court sessions at the first, second or third division, [1] then the master protonotaries⁹, regardless of such divisions, are held always to put and list these cases or letters of summons according to their dates in their place, namely in the front or in the middle, wherever it is appropriate. [2] And that the register written up in the first octave or short court session has to be valid until the end of the session. [3] Nevertheless, if any of the litigants wishes at a subsequent octave or short court session to have the entries [in the register] or letters of fine issued anew in order to be able to burden the other party because of non-appearance or have the case fail against the survivor of a party deceased in the meantime, then he shall have full right to do so. [4] Such a case, however, has always to be taken up and adjudicated in the place where it had been earlier listed at the previous octaves or short court sessions, namely in the sequence of the register that relates to it.

5. Then, that a copy of the register has to be always given to the sworn assessors attending the court. [1] And these sworn assessors as well as the master protonotaries have to show these registers to any litigant who so wishes.¹⁰

6. Then, that the lawsuits of nobles from Dalmatia, Croatia, and Slavonia as well as from Transylvania transferred and moved to the royal court by way of appeal,¹¹ have to be settled before their justice ordinary, that is the lord judge royal, in such a way that on each day of every octave or short court session one case respectively has to be treated outside the sequence and order of the register.

7. Then, if a case adjudicated by the justices ordinary of the realm, the master protonotaries, and other assessors of the court is taken and moved by the defeated and convicted party to the royal presence [1] then the said judges, protonotaries, and assessors can be present. [2] However, they are not permitted to speak at the further and more detailed treatment of the suit.

8. Then, lord prelates, barons, justices ordinary of the realm, master protonotaries, and other assessors of the court of law, if one of their cases is taken up, are obliged at the time of its discussion to leave the court personally or, if a justice ordinary, with their master protonotary, their

⁹ Protonotaries (*prothonotarius*, Hung. *ítélőmester*, "master in sentencing") were lawyers who acquired legal training in the secular Hungarian courts. From the mid-fifteenth century they presided over court sessions in an increasing number of cases. See: György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary] (Budapest: Akadémiai, 1971), also briefly Idem, "Men Learned in the Law in Medieval Hungary," *East Central Europe/l'Europe de centre-est* 4:2 (1977): 181–191.

¹⁰ Few of these registered survived and have not yet been studied in detail. However, the above articles are the most detailed descriptions of legal procedure in late medieval Hungary.

¹¹ On these see the **Tripartitum** III.1:3.

deputies and others of their retinue and others belonging to their retainers and household. [1] And no master protonotary can bring more than one sworn notary with him to the court of law and have him sit with him on the bench. [2] Nevertheless, he can bring with him other notaries into the building of the court but they cannot be counted among the other assessors [3] and they have to attend in silence all the time.

9. *Changing 1498:2 on the holding of octaves: in Transylvania only the octave court of Epiphany is to be held and in Slavonia previous custom is to be reinstated.*

10. Then, for a clearer explanation of the articles two, six, and seven of the *decretum minus*, it has been decided [1] that beyond those sixteen sworn assessors who have to be present at judgments, the royal majesty shall choose four of the lord prelates and the same number of the lord barons, experienced at law and excelling others in wisdom, who have to be present at the great and full octaves. [2] In the short court sessions, however, henceforth to be held continuously only twelve of them have to assist, changing and changing about among themselves. [3] These elected twelve have to be always admitted and present in the council of the royal majesty through the entire half year, and the other twelve during the other half of the year. [4] And they have to swear by strict oath to the royal majesty, all lords and the gentlemen of the realm, that they will treat faithfully in the council all that is thought to pertain to the loyalty to and enhancement of the royal majesty as well as the liberty and common weal of the entire kingdom. [5] And these same elected sworn men have always and continuously to be in Buda, alternating in the aforementioned way, and they have to explain and write up the customs and laws of the realm which are commonly alleged in court, and to show and present them at the future general convention of the gentlemen of the realm to be held according to the contents of the decree, always before the royal majesty, the lord prelates, barons and the community of the gentlemen of the realm.¹² [6] Then, when these appear to be reasonable and just to the royal majesty, the lord prelates, and barons as well as the other gentlemen of the realm, they shall be accepted and approved. But if any of them is recognized as being irrational or conceived and written down wrongly, then the royal majesty, the lord prelates, and barons, and the community of the gentlemen of the realm shall improve them for the better. [7] When finally all are explained, described, and approved, judgments shall be given according to them. [8] For the salaries of the sworn men chosen from among the gentlemen of the realm the same gentlemen of the realm have to provide; for [the salaries] of the lord prelates and barons, the other lord prelates and barons. [9] The sixteen sworn men shall be chosen by the royal majesty and the community of the realm from the four parts of the kingdom.¹³ [10] Every third year in the general congregation of the gentlemen of the realm held henceforth, they have to change, alter and resign from their offices; in such a way however, that those who appear suitable, capable, and pleasing to the royal majesty, the lord prelates and barons, and other gentlemen of the realm, may be reelected. [11] Whoever among them wishes to resign from his office after three years, shall have the right to resign. [12] Declaring this: if any of them in the meantime should by divine will leave this world, then the royal majesty with the other chosen and sworn men shall be able to

¹² Cf. **1498:6**, these plans lead finally to the the **Triparitum**.

¹³ Though unusual, obviously the upper (northern), lower (southern) parts of the country and the central parts separated by the Danube are meant.

choose in his place anyone who seems [suitable], not waiting for the aforesaid general assembly of the gentlemen of the realm. [13] Not bypassing also that should anyone of the said twenty-four elected men happen at a time when it is not his turn to come to octaves, short terms or the royal court, he may be admitted and seated at the bench of the royal council among his other co-assessors or sworn fellows. [14] Furthermore, other lord prelates and barons otherwise sitting in the council of the royal majesty are always to be admitted to the said council of the royal majesty, as is usual.

11. It has been decided that the master protonotaries should convey to the court all letters of judgments pertaining to property rights and also other notable affairs to the court of justice, once they have been issued and written out, and then read them out before the other master protonotaries and assessors; they shall explain them in the vernacular to those who do not understand, lest the letters are given out differently from the sentence passed. [1] Should, however, so much work be needed and necessary for the composition of these letters of judgment that they cannot be completed, written, and issued within the holding of the octaves, then the master protonotaries shall read them out and explain in the aforementioned way after the end of these octaves when the letters of judgment are completed before the said sworn assessors who have to be continuously present in the council and court of the royal majesty and the master protonotaries, if they are there.

[2] And then, when the judgment is passed, written, and issued as well as accepted and approved by the same sworn assessors, then the master protonotaries shall subscribe and append the writing of their hands to these same letters in the presence of the same sworn assessors.

12. Then, because many people frequently suffer harm and are burdened by the completion of the terms because of the negligence or inattention of their attorneys, [1] it has therefore been decided that from now on and in future the master protonotaries when handing out the letters of judgment, have to record the handing out with these words: “handed out provided there is no third party.”¹⁴

[2] And moreover: if it appears from the procedures and the text of such letters of judgment, that the completion of the term has to be decided then these master protonotaries have to announce and proclaim the completion through the window by loud and clear voice and if nobody opposes them, then hand them out. [3] Those objecting have to respond right away.

13. Then, the eighth article upon certain cases to be treated by the royal majesty outside the octaves and short court sessions was defined and concluded thus: [1] That already notices in those five cases, namely the beating, wounding, killing, illegal detention, and the invasion of houses or courts of nobles, [given] through royal letters of command and issued according to the contents of that article shall henceforth not be done according to the distance of the place (that is longer or shorter distance, as was usual) but always on the thirty-second day counting from the day the notice was issued, by royal letters of command through letters of exhibition addressed to a chapter or convent.¹⁵ [2] Henceforth and in the future anyone can appear not personally, as was usual hitherto, but, if he wishes, through his attorney. [3] Nevertheless, in the aforesaid five cases, if he does not appear personally, he can never recall his attorney.

¹⁴ The meaning is unclear. Since there is no known description of the details of court sessions, the procedures described here and above are too fragmentary to reconstruct.

¹⁵ The Latin twice has the needless word *fiendae*, which seems to be a Hungarism.

14. Furthermore, that wives of noblemen while their lords and husbands are alive cannot be summoned for any kind of act of might, be they the said five cases or any other ones, to the royal court or called to the presence of the royal majesty by his letters of command. Rather, their lords and husbands have to be sought out for any acts of might, unless the goods and property rights whence such an act of might was committed or *de facto*¹⁶ committed pertains to the wives and not the husbands. [1] For in that case, both the wives and their husbands (even if they are non-nobles and men without property) can always be summoned to the royal court and cited to the presence of the royal majesty. [2] Nevertheless, the women have to respond through attorneys, as usual, and if necessary recall them. [3] This should also be understood in respect of widowed women, who, after the demise of their lords and husbands, are known to have heirs and offspring, but of tender age, whose goods and property rights they hold, and from which these acts of might are committed; [4] these can be always warned and cited within the period before which their heirs and offspring reach adult age, but, as said, they are held to respond through attorneys, as otherwise. [5] This article is to be understood [as valid] for any act of might committed after the issue of the *decretum minus* or committed in the future.

15. Then, on the fifty-first article of the *decretum maius* regarding the recall of attorney it has been decided [1] that that article is to be understood only for protracted suits in which legal procedures are followed; in these suits it has to be always observed. [2] In the short lawsuits, just as in those with terminal summons, those namely where legal procedures were not introduced, either party can recall his attorney's statement, even after sentence is passed and announced. [3] So, that on the very day when the sentence is pronounced, he can halt his case and recall his attorney without any burden; if at a later date, providing it is within the octaves, except for the last day of the same octaves, and also should he allege that [the attorney] has acted frivolously or fraudulently, anyone can recall his attorney, and always with the minor fine, namely six gold florins; finally, however, once these same octaves are over, with fifty heavy marks equaling two hundred gold florins. [4] Therefore, it has also been decided, that judicial decisions which would have been pronounced in the short court sessions just passed on the basis of that article against several litigants be entirely without force. Henceforth all such litigants shall have full right to recall their attorney and prosecute their case. [5] Adding this: that should any litigant have in fact come to an agreement with his opponent, then such an agreement shall remain in force according to the letter issued about it.¹⁷

16. Then, that all cases concerning dower and paraphernalia moved from now on and henceforth have to be taken up and adjudicated regardless of the listing and order [of the cases] at the first held and due octave and short court session once notice and summons regarding it have been issued.

¹⁶ *De facto* may refer here to acts of might committed personally as opposed to those committed through retainers.

¹⁷ The preceding articles hint at the many ways in which court cases came to be interminable see Martyn Rady, "Justice Delayed? Litigation and Dispute Settlement in Fifteenth-Century Hungary," *Central Europe* 2 (2004), 3-14.

17. *That letters of pledge issued by King Sigismund and Matthias to foreigners are considered invalid, unless their claim can otherwise be proven.*

18. Then, because many gentlemen of the realm own goods and property rights in Hungary as well as in the kingdoms of Croatia and Slavonia or in Transylvania, where octaves are frequently held at the very same time, [1] it has therefore been decreed that if in such octaves any gentleman of the realm is judged to take an oath against his opponent at the same time here and there, and thus he cannot swear it at the fixed time, he shall not be burdened by any encumbrance or burden emerging from this. [2] But after having sworn one of them, he can swear later the other one as well at another term, according to the distance of the place. [3] And this in such a way that once someone has sworn one oath, he is bound to appear in front of his justice ordinary, who will assign a suitable term for taking the second oath through letters issued upon it; and he shall take the oath at that term after notifying the other party of it.

19. Then, because in the question of *repulsio* several disagreements and inconveniences have emerged,¹⁸ whether it has to be done with a crowd or by displaying a sword, [1] in order to remove any doubt and to avoid danger to the litigants, it has therefore been decided that such *repulsiones* henceforth and from now on may not be done with troops and a violent hand, but only by the display of a weapon or a brandished sword, and only once and not several times, according to the contents of the *decretum maius* under the penalty prescribed there;¹⁹ [2] in such a way that if the plaintiff or the winning party placed himself violently [in possession of] the recovered property rights disregarding such a kind of *repulsio*, then he shall be convicted and condemned right away to the loss of his case, that is the loss of the recovered property rights. [3] Conversely, if the losing and convicted party opposed the winning party with troops or violence, and stopped him from entering the recovered property rights, he shall suffer the same punishment, keeping, however, the sanctions contained in the *decretum maius* on this matter.²⁰ [4] Adding this: that the convicted party making *repulsio* cannot exact any special dues whatsoever from the property rights beginning from the day of the [his adversary's] recovery²¹ of the said property rights. [5] But he should be satisfied with the just income of these until the final decision of the case lest these property rights are wasted. [6] And, to avoid any fraud in such a *repulsio*, in the letters of *repulsio* the names of the neighbors and abutters shall be listed and henceforth always written up.

20. *Confirms 1498:10, on the occupation of castles and other property rights during the reign of King Matthias.*²²

¹⁸ *Repulsio* was an action by a party in physical possession of a property, which had been adjudged in court to another, by which he might impede the institution with ritual violence (with a drawn sword or similar weapon). This had the consequence of forcing the matter back into court for a retrial. *Repulsio* could only be performed once. Cf. also **1486:16** and the detailed explanation in the **Tripartitum** II 74, quoting, *inter alia*, this article.

¹⁹ Cf. **1492:57**.

²⁰ See **1492: 57 § 1**.

²¹ Recte: the loss of these rights!

²² See **1498:10**.

21. Then, on article sixty regarding the armed cavalry to be supplied by the gentlemen of the realm, after sober deliberation by the royal majesty, the lord prelates and barons as well as the other gentlemen of the realm, it has been concluded and decided: [1] that all gentlemen of the realm, both ecclesiastical and lay, who in the text of the same *decretum minus* were not counted among the lord prelates, barons, and other banderial [lords] (except however the distinguished John Berzencei Bornemissza, treasurer,²³ Péter Csebi Pogány,²⁴ John Podmanini Podmaniczky, George Csulai Móré²⁵, Mark Kamicsáci Horváth²⁶, Emeric and Martin Czoborszentmihályi Czobor, Francis Gyarmati Balassa,²⁷ Lawrence Lodomerzi Bradács, Francis Haraszti²⁸ and Oswald Korlátkövi courtiers of the royal majesty,²⁹ who have to keep troops from their goods and property rights for the defense of the country in the way described below) have to have their goods, properties and property rights enumerated and calculated in the way of non-banderial [lords], namely in those counties where they have these goods and properties, and from these they are held in company with the same [the non-banderial lords] to give money for going to war. Nor should any one of them dare to remove or excuse themselves from them [the non-banderial lords] under any color. [2] Also, all goods and whatever property rights of any of the banderial lords, kept and held in the hands of non-banderial nobles by title of pledge have to be counted among the goods of the same nobles for the sake of keeping troops in the aforesaid way. [3] Should however any gentlemen of the realm attempt to oppose this and act contrary to the aforesaid, then they have to be strictly compelled by the county *ispán* or *alispán* of that county where such contrariness is committed by all possible means and particularly by fines on their goods and property rights to observe the present constitution. [4] In the event that the *ispán* be negligent doing this or perchance commit the contrariness himself, then he shall be punished by the community and the troops of the nobles of the same county. [5] Should, however, one of the resisting persons or, indeed, persons already punished go to court, then they shall be convicted of frivolous prosecution against the defendant. [6] This not to be left aside: that the courtiers of the royal majesty, exempted by name above, have to keep their troops so that when and whenever taxes are assessed on the goods and property rights of the other gentlemen of the realm for the keeping of their troops, then also the goods and property rights of the exempt persons be assessed by the assessors of the nobles and the counties and the assessed moneys are to be raised and those paid finally given into their hands, [7] lest tenant peasants flock to stay on their goods because of the non-payment of money, but, above

²³ Berzencei Bornemissza, John, treasurer 1500, *ispán* of Pozsony Co. 1514–26.

²⁴ Csebi Pogány, Péter, *ispán* of Pozsony 1495–1500, master of the doorkeepers 1500–1501.

²⁵ Csulai Móré, George, ban of Severin 1495–1501.

²⁶ Kamizácsi Horváth, Mark, magnate, ban of Dalmatia, Croatia and Slavonia 1506–08.

²⁷ Gyarmati Balassa, Francis, ban of Severin 1492, ban of Croatia 1504–05.

²⁸ Haraszti, Francis (d. 1522) ban of Severin 1480-90.

²⁹ Most of these persons—referred to as *decempersone*—were originally delegates of the lesser nobility into the royal council, but managed to rise into the group of barons and “banderial lords.” See András Kubinyi, “Historische Skizze Ungarns in der Jagellonenzeit,” in: *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer, 1998) p. 327-8.

all, lest the number of troops be concealed, hidden, and reduced. [8] Those who are exempt, have to set out their troops always—unless they are engaged in the service or embassy of the royal majesty outside the country—to the troops of the nobles and counties and send them, together with those, wherever they are needed. [9] When, however, the royal majesty personally goes to war, then they have to set out and send their troops not with the troops of the nobles but with His Majesty. [10] Adding also this: once these exempt persons have renounced service to the royal majesty and do not attend His Majesty’s court or, perchance, after their demise their heirs and descendants be inept or unable to keep these troops, then the aforesaid exemption shall in no ways favor them. [11] And that the cooks of the royal majesty living in the villages called Nagyszakácsi and Nemesvid,³⁰ are similarly exempted. [12] Nevertheless, none of the nobles ought henceforth to send any tenant peasant to their goods and property rights, nor, vice-versa, are these cooks henceforth allowed to send any of their tenant peasants to the nobles.

22. *That the prelates and lords keeping banderia have to serve according to the law of King Sigismund.*³¹

23. Then, for the keeping of the holy crown of the realm, whenever it is necessary and opportune, two, and not more, faithful men always from among the lay lords have to be chosen by the royal majesty and all the lord prelates, barons, and other gentlemen of the realm.³²

24. *Confirms 1492:103 and 1498:33 on the privileges of free cities.*

25. *Confirms 1498:31 [2] prohibiting the export of horses.*

26. Then, to the twenty-ninth article³³ on the exaction of the thirtieth it has been added [1] that henceforth and from now on, should any customs collector attempt to exact and demand the thirtieth in any way at places not listed in the *decretum minus* then these customs collectors must by the force of this statute suffer and tolerate any obstruction in their person or belongings done by anyone.[2] However, the customs collectors can block and guard illicit routes in the usual way in favor of the ancient places of thirtieth listed in the decree.

27. *Extends the collection of the ninth of wine to all tenant peasants according to the article 1498:41.*

28. *Adds to 1498:44 that properties transferred from one county to another be returned unless valid privileges on this can be presented before 25 July 1501.*³⁴

³⁰ The name of the village Szakácsi refers to the inhabitants’ function: szakács means ‘cook’ in Hungarian.

³¹ See: **Propositions of c. 1432/33 and 1498: 15.**

³² Cf. **1498:25.**

³³ Cf. **1498:29.**

³⁴ A diet was held in 1501, but no decree survived, see Norbert C. Tóth, “Az 1501. évi tolnai országgyűlés. Adatok a királyi adminisztráció működéséhez” [The diet of 1501 at Tolna: Data to the working of royal administration], *Századok* 143 (2009)

29. The forty-ninth article on the tithe is to be implemented as written in the *decretum minus*.³⁵ [1] However, because there were many disagreements between ecclesiastical and lay persons regarding the calculation and rendering of the tithe, it has been decided in order to allay all differences [2] that henceforth and from now on, for all time coming the tithe of the lord prelates and ecclesiastical persons shall be rendered in the following way: first, lords of the land shall exact the usual ninth from the grains usually tithed as well as the vine and the lord prelates and ecclesiastical persons shall collect the tithe only from what remains after the ninth.³⁶ [3] The tithe of the vine shall be collected not around Martinmas, as was usual in most places, but at the time of the grape harvest, in manner and order always observing the tithing of grain according to the contents of the same *decretum minus*. [4] Adding that those who were hitherto exempt from rendering the tithe (such as the nobles of one plot on their own land and the *prediales*³⁷ of certain churches—keeping the rights of these churches—as well as the Ruthenians of the royal majesty living in Rușii Munți)³⁸ are not to be forced to render the tithe in the future either. [5] Stating, however, that should these Ruthenians of the royal majesty usurp for themselves any deserted village either by purchase or on any sought pretext, from which the tithe was previously paid, they too have to render the tithe as well.

30. Adding to **1498:54**, prohibiting tithe-collectors from demanding one chicken from every porta.

31. That George bishop elect of Veszprém,³⁹ secretary of the king, should be exceptionally permitted to hold two benefices for his faithful services.

32. Repeats and confirms **1498:58** on abbey to be taken away from secular priests.

33. The prohibition on courts spiritual treating matters secular (**1498:60**) is extended to the burghers of free cities.

34. Abolishes the office of *fiscales ecclesiarum*.⁴⁰

35. **1498:61** is augmented by a prohibition on employing foreigners as vicars in courts spiritual³⁵¹

36 That parish priests shall not be forced to perform secular duties such as tithe collection.

37. The term for the presentation of instruments by the bishop of Győr and the abbey of Szentmártonhegy is extended.⁴¹

³⁵ **1498: 49.**

³⁶ Cf. **1495:44.**

³⁷ *Prædiales* were conditional nobles who held land (*prædium*) under certain express terms from a lord, usually ecclesiastical ones (but also from lay lords in Slavonia). See Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 79-84.

³⁸ See **1498:47**. The placename (in Hungarian Nagyoroszfalu) suggest their ethnicity.

³⁹ George Szatmári, bishop of Veszprém 1499–1501.

⁴⁰ Apparently a short-term innovation of church administration against which, together with other issues, Stephen Werbőczy penned a protest; quoted and reproduced in Vilmos Fraknói, *Werbőczy István 1458–1541* (Budapest: Franklin, 1899), n. 50.

⁴¹ Cf. **1498:64.**

38. *That no cathedraticum be collected from churches where the community was desolated by fire or plague, or its income diminished.*⁴²

39. That letters of judgment, donation and confirmation shall be taxed according to the decree of the late Lord Emperor and King Sigismund.⁴³

40. *That tolls should be investigated everywhere by selected and sworn men, who should inspect relevant privileges and report to the king and the royal council at the coming Michaelmas.*⁴⁴

41. *That privileges of exemption from tolls and customs (except for the eight royal cities) have to be verified by the same selected men.*

42. Then, that all nobles whose nobility is not obvious to the toll collectors have to obtain from the *alispán* and noble magistrates⁴⁵ of the county of their residence a letter on their nobility. [1] And if toll collectors hinder these noblemen in contravention of the content of such letters in their trade, belongings or any other matter or exacted tolls from them, then the owner of the toll has to arrest the toll collector who attempts such a thing, on the complaint of the nobleman, and hand him over to the *ispán* or *alispán* of the place where it happened, so that he may render satisfaction for what he has done. [2] And should the owner of the toll not want or be unable to do so, then this owner has to be convicted right away to a hundred golden florins, always observing legal procedure, to be paid in part to the judge and in part to the noble who has been harmed.

43. Then, that all remaining and other articles included in the *decretum minus* shall always be observed in the way and order specified there.

We therefore accept, approve, and ratify the articles above included in these presents word for word without any change or alteration because they are recognized as completing and perfecting our said other previous constitutions and decrees. [1] And we promise and oblige ourselves to inviolably observe and cause others to observe these and everything specified in them by the force of these presents. [2] To the memory and perpetual firmity of which we decided to issue these present letters of privilege, confirming them by appending our privy seal that we use as king of Hungary. [3] Given at the said field of Rákos on the fifteenth day of our said general assembly in the Year of the Lord 1500, the tenth year of our reign in Hungary and the thirteenth in Bohemia.

[4] At the time when the venerable fathers in Christ, the lord archbishops Thomas of Esztergom [papal] legate *ex officio* and our chief and privy secretary⁴⁶, Peter of Kalocsa⁴⁷, as well as the

⁴² Cf. **1498:53**, on the measure of the *cathedraticum*.

⁴³ **8 March 1435:10–11**, repeated several times thereafter.

⁴⁴ Cf. **1498:74**.

⁴⁵ The noble magistrates (*szolgabíró*) were noblemen elected to assist the *alispán*—the actual administrator of the county—and also to represent their fellows. There were usually four in every county. The “letter of nobility” is not a known form of document.

⁴⁶ Bakócz, Thomas, bishop of Győr 1486–1493, bishop elect of Eger 1493–1497, archbishop of Esztergom 1497–1521, cardinal priest of the title St Martin in Montibus, patriarch of Constantinople, legate a latere.

⁴⁷ Váradi, Peter (d. 1501) archbishop of Kalocsa 1480–1501, secret chancellor 1479–84.

illustrious and most venerable bishops Ippolito d'Este of Aragon cardinal deacon of the Church of Rome, of Eger;⁴⁸ Lucas of Zagreb;⁴⁹ Ladislav Geréb of Alba in Transylvania;⁵⁰ Dominic of Oradea;⁵¹ Sigismund of Pécs;⁵² George elect of Veszprém;⁵³ Francis of Győr;⁵⁴ Nicholas Bátori of Vác;⁵⁵ Nicholas Csáki elect of Cenad;⁵⁶ Nicholas Bocskai elect of Srem;⁵⁷ Gabriel of Bosnia⁵⁸; and Briccio of Knin⁵⁹ felicitously governed the churches of God. [5] Further, when the *spectabiles* and *magnifici* Peter Vingárti Geréb, palatine of our said kingdom of Hungary and judge of the Cumans;⁶⁰ the office of the judge royal being vacant; Peter Count of Bazin and Szentgyörgy, our voivode of Transylvania and *ispán* of the *Székely*;⁶¹ Prince John Corvin, duke of Opava and Liptov, as well as ban of our kingdoms of Dalmatia, Croatia and Slavonia;⁶² Peter Macskási Tárnok⁶³ and James Gerlistye⁶⁴, bans of Severin; Józsa Somi, *ispán* of Temes and captain general of the lower parts of our country;⁶⁵ Blaise Ráskai, master of the treasury⁶⁶ Nicholas Lindvai Bánfi, master of

⁴⁸ d' Este of Aragon, Ippolito, cardinal deacon of the holy Roman church, archbishop of Esztergom 486–1497, bishop of Eger 1497–1520.

⁴⁹ Szegedi Baratin, Lucas, bishop of Bosnia 1491–93, of Cenad 1493–1500, of Zagreb 1500-1510.

⁵⁰ Geréb (of Vingárd), Ladislav (d. 1502) bishop of Transylvania 1476-1501, archbishop of Kalocsa 1501-2, papal legate

⁵¹ Dominic (Kálmáncsehi), bishop of Oradea 1495–1501.

⁵² Csáktornyai Ernuszt, Sigismund, bishop of Pécs 1473–1505.

⁵³ Szatmári, George, Bishop of Veszprém, 1499—1502.

⁵⁴ Szatmári, Francis, bishop of Győr 1495–1508.

⁵⁵ Bátori, Nicholas (d. 1506) bishop of Srem 1468-74, of Vác 1474-1506.

⁵⁶ Csáki, Nicholas, bishop of Cenad 1500-1514.

⁵⁷ Bocskai, Nicholas, bishop elect of Srem 1500.

⁵⁸ Gabriel (Polnar) bishop of Bosnia 1493–1501, bishop of Srem 1502.

⁵⁹ Egervári, Briccio, bishop of Knin 1492–1523.

⁶⁰ Vingárti Geréb, Peter, master of the doorkeepers 1491–95, 1499-1503 count palatine.

⁶¹ Szengyörgyi and Bazini, Peter, voivode of Transylvania 1498–1510, judge royal 1502–17.

⁶² Corvin, John, natural son of King Matthias I (Corvinus), prince, ban of Dalmatia, Croatia and Slavonia 1494–97, 1499–1504

⁶³ Macskási Tárnok, Peter, ban of Severin 1495—1501.

⁶⁴ Gerlistye, James, ban of Severin 1495–1508.

⁶⁵ Somi, Józsa, *ispán* of Temes and captain general of the lower parts of Hungary 1494–1508

⁶⁶ Ráskai, Blaise, chief chamberlain, master of the treasury 1498–1518.

the doorkeepers;⁶⁷ Imre Perényi, master of the stewards;⁶⁸ Stephen Kanizsai, master of the cellarers⁶⁹ John Csáktornyai Ernuszt, master of the horse;⁷⁰ Peter Csebi Pogány, *ispán* of Pozsony,⁷¹ and many others held honors and offices of the realm.⁷²

⁶⁷ Lindvai Bánfi, Nicholas, master of the cellarers 1464–67, *ispán* of Pozsony 1467–1478, master of the doorkeepers 1490–1500

⁶⁸ Perényi, Emeric, perpetual *ispán* of Co. Abaújvár, the master of the stewardss, 1492–1504, count palatine 1504–19, ban of Croatia and Dalmatia 1512–13

⁶⁹ Kanizsai, Stephen, master of the cellarers 1498–1505

⁷⁰ Csáktornyai Ernuszt, John, master of the horse 1493–1503, ban of Croatia and Dalmatia 1507–1510.

⁷¹ Csebi Pogány, Péter, *ispán* of Pozsony 1495–1500, master of the doorkeepers 1500–1501

⁷² The list of spiritual and secular lords was appended to privilegial charters ever since the late thirteenth century. They are not meant as witnesses, merely indicating the time of the issue by reference to the persons in office.

LAW OF KING WLADISLAS II OF HUNGARY (1490-1516)

OF MAY 8, 1504

April 24 (St George's)—May 8: diet at Rákos.

MSS: A parchment charter in booklet form of three leaves with seal pendant in the Hungarian National Archives (MNL OL DI 24781); a similar charter of three and a half leaves, its seal pendant lost, at the same depository, with the same shelf mark; a copy of four leaves, bound into the Codex Festeticus (OSZK Fol. Lat. 4355, ff. 251r–254v).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., vol. 1 (Budapest: Franklin, 1896), pp. 671-91 (Decretum quintum,)

LIT: András Kubinyi, “Historische Skizze Ungarns in der Jagiellonenzeit” in Idem, *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer, 1998) pp. 323-66; Martyn Rady, “Rethinking Jagiello Hungary” *Central Europe* 3 (2005), pp. 3–18; Idem, “Jagello Hungary,” in: DRMH IV, xi–xlvi.

This *decretum*, as several others of the Jagellonian decades, contains so many repetitions of earlier legislation, that we have not reprinted all of them. For the omitted articles, we added, for information's sake, a kind of rubric (not in the original).

DECRETUM WLADISLAI II. REGIS QUINTUM DE ANNO 1504.

Nos Wladislaus, dei gracia Hungarie, Bohemie, Dalmacie, Croacie, Rame, Servie, Gallicie, Lodomerie, Comanie Bulgarieque rex, necnon Slesie et Lucemburgensis dux, marchioque Moravie et Lusacie etc. memorie commendantes tenore presencium significamus, quibus expedit universis, quod cum nos post assumptionem ad huius regni et regie dignitatis culmen felicemque coronacionem nostram divina benignitate et dispositione factam inclitum hoc regnum nostrum Hungarie domi forisque ab omni hostilitate tutum tranquillumque reddidissemus, ac tandem ad humillimam fidelium nostrorum dominorum prelatorum et baronum ceterorumque regnicolarum nostrorum supplicacionem variis vicibus varias eciam constituciones et statuta pro felici statu et quiete ac libertate eiusdem regni nostri pro temporum necessitate et rerum condicione unacum eisdem edidissemus, quia nonnulli articuli ad complecionem et perfeccionem premissarum aliarum constitucionum nostrarum summe necessarie propter temporis brevitatem et negociorum pluralitatem hactenus finiri terminarique nequiverant, ad eorundem igitur explanacionem, ceterorum eciam dicti regni nostri Hungarie negociorum expedicionem, dum dietam seu convencionem generalem universis dominis prelatis et baronibus ceterisque regnicolis nostris pro hoc festo beati Georgii martiris proxime transacto ad campum Rakos vigore generalis decreti nostri indixissemus et ad eandem omnes convenissent, atque pro felici statu dicti regni nostri plurima ibidem nobiscum una tractassent, iidem domini barones, proceres et nobiles ceterique regnicole nostri inter ceteros eorum tractatus et conclusiones quosdam articulos de novo formatos et conceptos maiestati nostre obtulerunt, supplicantes humiliter, ut eosdem articulos ratos, gratos et acceptos habere ac pro communi bono et tranquillitate ipsius regni nostri regia nostra auctoritate approbare, ratificare et confirmare, confirmatosque observare et observari facere dignaremur. Quorum quidem articulorum series sequitur hoc modo:

I. Quoniam sepe numero fieri solet, quod regnicole de dietis et convencionibus eorum generalibus confuso fine discedunt, qui postquam ad propria remeabunt et sese separantur, alter alterius intencionem et propositum non perpendentes plerique dominorum et comitatum proprio motu aut aliorum suggestu, interdum eciam privato pro lucro contribucionem aliquam seu subsidium regie maiestati eorum de medio offerunt, quo considerato ceteri comitatus in se divisi huiusmodi oblacioni alii consenciant, alii vero contradicunt, et sic sedicione tumultuque ac dissensione inter eos suborta unus in alium diffamatorie tanquam libertatis regni turbatorem invehitur, quo fit, ut pax et concordia amorisque dileccio inter eos nusquam habetur, regia maiestas eciam tam multociens in eorum medium mittere solet, ut sepe lucrum seu fructum, quem exinde speraret, solis in expensis nuncii vel dicatores consumpant. Preterea bona et iura possessionaria illorum, qui regie maiestati ita faciendum consulunt, semper relaxantur, sicque non comodum et fructus maiestati sue, sed expensarum dumtaxat superflua posicio et regnicolis aperta manifesta que sedicio exinde reportatur. Ad extinguendum igitur et evellendum huiusmodi periculum conclusum imprimis est, quod si temporum in processu adeo gravis necessitas et periculum regno huic immineret, ut secus fieri non posset, nisi dieta generalis per regiam maiestatem ad campum Rakos, locum scilicet consuetum indiceretur, extunc si quid subsidii seu contribucionis ad evitandum et

propellendum huiusmodi regni periculum regie maiestati illic offerretur aut prestaretur, communi omnium dominorum prelatorum, baronum ac ceterorum regni nobilium consensu offeratur et prestetur, nemoque post-ea se a solutione huiusmodi subsidii vel contributionis retrahere et precavere possit. Si quispiam vero comitatum motu proprio et non de consensu et voluntate totius regni, extra scilicet convenciones regnicolarum generales contributionem aliquam seu quodcunque subsidium preter solitum lucrum camere, contra scilicet antiquam regni libertatem regie maiestati quovis modo et quovis colore exquisito offeret aut prestaret, extunc universitas nobilium huiusmodi comitatus universaliter in pena fidefragii seu periurii amissioneque honoris et humanitatis convicta et condempnata, et a consorcio ceterorum nobilium regni relegata et segregata haberetur eo facto. Qui quidem nobiles sic condempnati in convencionibus regnicolarum iuxta eorum voluntatem tanquam periuriⁱ honoreque et humanitate privati ac a consorcio ipsorum segregati, tamⁱⁱ rebus et bonis, quam personis eorum puniriⁱⁱⁱ castigarique et condempnari^{iv} valeant atque possint, nisi forsitan aliqui ex nobilibus talis comitatus condempnati sese innocentes et immunes facto aut negotio in huiusmodi exitisse esseque testimonio credibili et documento evidenti ibidem comprobare et expurgare possint.

II. Item quod honores comitatum iuxta contenta decreti minoris fiant, hoc addito, quod quilibet comes principalis iuramentum iuxta formam decreti coram regia maiestate et assessoribus sedis iudicarie eiusdem, qui tunc aderunt, prestare teneatur. Si quispiam vero illorum iuramentum huiusmodi prestare quovis modo recusaverit, talis honore ipso destituatur. Et quod vicecomitem quilibet comes parochialis de numero et cetu verorum nobilium illius comitatus, cuius honore fungitur, eligat, quem^v absque consensu et voluntate nobilium ipsius comitatus eligere nusquam valeat neque possit. Hoc quoque declarato, quod nemo exterarum nacionum et aliorum quorumcunque extra hoc regnum agencium seu residencium honores comitatum de cetero tenere et gubernare possit; ab eisdem autem, qui haberent, regia maiestas auferendi et cui maluerit, conferendi habeat vigore presentis constitutionis facultatem.

III. Honores comitatum in perpetuum non conferantur.

IV. Item in quocunque negotio et qualibet iudiciaria deliberacione repulsio iuxta contenta decreti semel fieri possit. Secundario tamen quicunque repulsionem fecerit, in nota perpetue infidelitatis convincatur, directeque et equales due partes cunctorum bonorum et iurium possessionariorum talis convicti regie maiestati, et tertia pars actori vigore huiusmodi note infidelitatis simulcum proprietate in perpetuum hereditatem cedant, regiaque maiestas quoad porcionem actoris talibus condempnatis non aliter, nisi habita cum adversa parte superinde concordia gratiam facere possit.

ⁱ A1, A2 *periurii*

ⁱⁱ *in* desideratur

ⁱⁱⁱ A1 *privari*

^{iv} A2, F *dampnari*

^v *tamen* desideratur

V. Item turbatores communis inquisitionis et oculate revisionis in facto maioris potencie de cetero semper convincantur; ita tamen, si hostiliter vel aliquo evidenti alio modo turbaretur, ut communis inquisicio seu oculata ipsa revisio celebrari non posset.

VI. Occupaciones novæ in brevibus iusdiciis adjudicentur.

VII. Item quod universe cause in facto iurium possessionariorum impignoratorum deinceps movende eciam in sede iudiciaria quorumcunque comitatum usque ad numerum centum florenorum, sed non ultra libere adiudicari possint, sine tamen penis et gravaminibus in decreto superinde specificatis, que in curia solummodo regia imponi et adiudicari valebunt. Hoc quoque adiecto, quod si pars adversa causam suam per viam appellacionis in curiam regiam deducere voluerit, liberam deducendi habeat facultatem.

VIII. Preterea nove quoque occupaciones terrarum arabilium et pratorum ac silvarum usque ad numerum decem iugerum se extendencium et non magis, post obitum prefati condam domini Mathie regis quomodolibet et per quempiam facte vel fiende in dicta sede iudiciaria comitatum requiri et adiudicari similiter possint cum addicione seu condicione prenotata.

IX. Item si quicumque comitum vel vicecomitum in factis et causis quorumcunque nobilium amodo deinceps coram eisdem motis et adiudicatis, aut in presenciam eorundem per literas iudicum ordinariorum regni remissis execucionem aliquam officio eorundem^{vi} incumbentem legitime requisiti iuxta contenta decreti facere neglexerint, extunc tales comites vel vicecomites ad tricesimum secundum diem diei evocacionis exhinc fiende computandum in curiam regiam, in presenciam scilicet iudicum ordinariorum regni legitime evocari valeant, ibique extra omnem seriem registri causa huiusmodi levare et adiudicari possit. Ubi si iidem comites vel vicecomites negotio in ipso culpabiles comperti fuerint, in centum florenis auri, partim iudici et partim actori ac insuper in expensis et dampnis in prosecutione huiusmodi factis et perceptis eidem actori dumtaxat persolvendis convincantur et convicti habeantur eo facto.

X. Regia maiestas iuxta suam voluntatem de cunctis iuribus possessionariis ad ipsam devolvendis libere disponere possit.

XI. Item quicumque regnicolarum in quocunque negotio novum iudicium impetraverit, ac partem alteram^{vii} ab execucione literarum adiudicatoriarum qualitercunque prohibuerit,^{viii} et super execucione huiusmodi novi iudicii habita prohibicione infra terminum reportacionis seriei ipsius novi iudicii literas relatorias extrahere neglexerit, sicque partem alteram in execucione talismodi literarum adiudicatoriarum perturbaverit, talis in facto calumpnie condempnetur, actorque causam suam obtentam habeat et accione sua pociatur eo facto.

XII. Quoniam sunt nonnulli ecclesiarum prelati, qui plebanos ecclesiarum diocesibus eorum subiectarum nomine charitativi subsidii taxare solent, adeo, ut interdum et calices et alia ecclesiarum bona per eosdem plebanos necessitate adurgente diripiuntur; nonnulle eciam ipsarum ecclesiarum rectore longa per tempora vacant; propterea ordinatum est, quod amodo deinceps

^{vi} A1 eorum

^{vii} mendose exteram

^{viii} A1 inhibuerit

nullus omnino dominorum prelatorum infra quatuor integrorum annorum a die electionis et confirmationis sue computandorum spacia plebanos ecclesiarum suarum quovis modo taxare possit. Transacto vero ipsorum quatuor annorum spacio semel et nunquam amplius charitativum potius, quam coartativum subsidium, iuxta videlicet proventuum plebanorum exigendum ad redemptionem bulle sue ab eisdem plebanis pro se habere et exigere valeat atque possit. Si vero infra terminum dictorum quatuor annorum talis prelatus alio beneficio vel prelatura potietur, sequens prelatus itidem facere debet.

XIII. Quod in differentia inter universitatem nobilium Albensis, Simigiensis et Zaladiensis comitatum ab una, ac capitulum ecclesie Wesprimiensis ab alia partibus pretextu solutionis quartarum plebanorum iamdudum intentata in octavis post presentem dietam primitus celebrandis coram regia maiestate iudicibusque regni ordinariis iudicium ac iusticia ac finalis conclusio celebretur et administretur.

XIV. Item quod litere prorogatorie, quorumcunque regnicolarum, qui causa studii aut servicii seu peregrinationis extra regnum hoc occupabuntur, infra illud temporis spacium, quo abinde redibunt, si fassionem et constitutionem procuratoriam ita fecerint, vigore habeantur et in iudiciis locus eis detur.

XV. Item quoniam exhibicione quarundam literarum adjudicatoriarum contra vetustam huius regni consuetudinem quedam abusio introducta esse visa et comperta extitit, ut scilicet aliquis propriam responsionem suam in iudicio factam revocare posset et valeret, ob hoc deliberatum est, ut talis abusio de cetero cesset et nunquam admittatur; omnia quoque iudicia sub colore huius abusionis qualitercunque et in quibuscunque negociis facta nullius sint vigoris atque firmitatis.

XVI. Item ex quo articuli in maiori decreto super jobagionum abduccionibus et detencionibus conscripti inter se aperte contrariari videntur, aliasque plurima et indicibilia scandala in huiusmodi abduccionibus et detencionibus jobagionum ob exiguitatem pene in decreto superinde expressate per totum fere regnum Hungarie dietim emergunt, ad extinguendum igitur tale incomodum ordinatum est, quod amodo in posterum nemo jobagionem alterius, nisi per iudicem^{ix} nobilium illius comitatus, ubi jobagio ipse residet, licenciare valeat. Et quicumque huiusmodi jobagionem in aliquo excessu vel debito reum esse asserit, extunc infra quindecim dies accepte licencie coram eodem iudice nobilium per dominum terrestrem aut officialem seu iudicem illius possessionis, ubi jobagio talis residet, iudicium et iusticia administretur. Et si facta huiusmodi iudicii et iusticie administracione se idem colonus vel jobagio de excessu aut debito sibi obiecto expurgare seu exonerare poterit, extunc ibidem in presencia dicti iudicis nobilium ad locum, quem maluerit, libere dimittetur. Quicumque autem contra formam presentis articuli jobagionem aliquem abduxerit vel indebite retinuerit, in viginti quinque marcis gravis ponderis centum florenos auri facientibus, inter actorem ab una et comitem parochialem ac iudicem nobilium illius comitatus ab alia partibus equaliter dividendis convincatur eo facto; iidemque^x comes vel vicecomes et iudex nobilium de eisdem centum florenis sibi et parti adverse de bonis mobilibus talis violenti abductoris vel^{xi}

^{ix} F *iudices*

^x A1 *idemque*

^{xi} F *et*

retentoris, si reperiri poterint^{xii}, sin autem de iuribus possessionariis eiusdem, accepta tamen primum a iudice nobilium superinde mera rei veritate, statim satisfaciendi habeat potestatis facultatem. Turbatores vero talis iudicis nobilium tempore huiusmodi licenciacionis vel iudicii et iusticie impensionis, si qui fierent, eadem pena condempnentur, qua turbatores hominum regionum et testimoniorum capitularium seu conventualium in execucione, procedencium vigore decreti condempnari solent.

XVII. Item quod per totum regnum Hungarie una et eadem mensura ad emendum et vendendum^{xiii} fruges et blada atque vina formetur, cum qua ubique in regno Hungarie emptores et venditores utantur: precium tamen iuxta locorum habundanciam et caristiam rerum emendarum et vendendarum fiat.

XVIII. Ex quo plurimi colonorum et incolarum quorumcunque dominorum prelatorum et baronum ceterorumque regnicolarum derelictis et postpositis cunctis ferme vinearum et agrorum culturis soli venacioni et aucupio insistunt, adeo ut non modo feriatii, verum eciam dominicis et aliorum^{xiv} sanctorum festivitatum^{xv}, immo et ipsa sacratissima natalis dominice diebus venaciones exercent, per quam in deum precepti sui non observacione peccare et dominos eorum terrestres proventuum ipsorum sublacione defraudare non verentur; quin potius et soli ipsi hoc infructuoso labore capti mendicitati plerumque subiciuntur; nonnulli vero victu et amictu deficientes ad extremum furtum et rapinas committendas coguntur, sicque suspendio aut aliorum pravorum supplicio crebro intereunt^{xvi}; ut igitur huic incomoditati remedio debito occurratur, statutum est, quod amodo in posterum nemo colonorum et rusticorum huius regni venaciones cervorum, damularum, fasianorum et cesareorum vulgo chazarmadara nuncupatorum quovis modo et quavis arte exercere presumat, sed unusquisque illorum culture agrorum pratorumque et vinearum ac ceteris manualibus artificiis, unde et sibi ipsis et eorum dominis terrestribus fructum et comodum reportare possit, insudare ac intendere debeat sub pena solucionis trium florenorum per dominum terrestrem talis coloni, qui venacionem et aucupia exercet, aut per eum, in cuius territorio talis colonus deprehenderetur, irremissibiliter exigendorum. Si vero uterque illorum in exigenda huiusmodi pena negligens foret, seu favore illius coloni ductus penam ipsam exigere nollet, tunc per vicecomitem et iudicem nobilium talis comitatus, ubi id fieri contingit, eadem pena solucionis trium florenorum^{xvii} a nobili seu domino terrestri, qui scilicet colono venanti vel aucupanti pepercit, vigore presentis statuti irremissibiliter exigatur.

XIX. Nobiles vina educentes a civibus Cassoviensibus et Soproniensibus non molestantur.

XX. De literis inscripcionis super sex civitatibus et Lusacia.

XXI. De iuramento feudi a Moravis et Slesitis, necnon Lusaciae.

^{xii} A2, F poterunt

^{xiii} A1 add. per regiam maiestatem

^{xiv} A2, E aliis

^{xv} E festivitatus

^{xvi} mendose interibunf

^{xvii} A2, F om. trium florenorum

XXII. Civitates Sopron et Barthfa inscripta &c. redimantur.

XXIII. Quoniam propter indebitas decimas necnon excommunicationes et interdictorum impositiones per dominos prelatos et viros ecclesiasticos ac factores eorundem, crebro eciam per eos, quibus decimas ipsorum^{xviii} arendare solent, fiendas regnicole et eorundem coloni sepenumero gravantur, que ut de cetero fieri nequeant, statutum est, quod dum et quandocunque quispiam regnicolarum vel colonorum ipsorum pretexto huiusmodi indebitarum decimarum, excommunicationum et interdictorum gravatus fuerit, extunc ipsi domino prelato cuius diocesi subesse dinoscitur, vel alie persone ecclesiastice, cui videlicet decime solvi debent, si in domo sua aut alias in propinquo reperiri poterunt, sin autem factori eorundem seu in personis ipsorum constituto primum significare teneatur. Et si satisfacionem ac recompensam per eosdem de illatis habuerit, bene quidem, alioquin ad tricesimum secundum diem diei evocationis exhinc fiende computandum tales regie maiestatis, ubicunque constituta fuerit, per literas suas preceptorias et exhibitorias, regia maiestate vero absente, locumtenentis eiusdem evocentur in presenciam, ex parte quorum indilate iudicium et iusticia ibidem administretur. Ubi si nobilis vel colonus privata in persona indebite decimatus, excommunicatus vel interdicto molestatus extitisse compertus fuerit, in homagio talis nobilis seu coloni, si vero tota possessio seu coloni eodem modo gravati fuisse comperirentur, in centum florenis auri, partim iudici et partim actori persolvendis iidem domini prelati et eorundem factores atque dispensatores convincantur.

XXIV. Prælati banderiatu exercituare tenentur.

XXV. Quod citationes in foro ecclesiastico nonnisi cum expositione amodo in posterum decernantur. Et si ex huiusmodi expositione causa ipsa profana esse aut alias forum ecclesiasticum non concernere agnita fuerit, vicarii causam ipsam eorum presenciam nullatenus acceptent sub pena in minori decreto expressata.^{xix}

XXVI. Solent nonnulli dominorum prelatorum universos plebanos diocesibus ecclesiarum ipsorum subiectos ad id coartare, ut postquam ad plebaniam eliguntur, statim episcopo eorum se presentare ipsisque iuramentum prestare ac ab eis literas superinde habere et excipere teneantur, quod in manifestam perniciem nobilium vergit, cum a tempore sancti regis Stephani liberam semper pro se plebanos eligendi habuerunt facultatem. Ideo ordinatum est, ut de cetero nemo plebanorum ad hoc^{xx} teneatur, nec quisquam illorum invitis patronis confirmetur, nam aliter coloni illius possessionis, ubi id contingit, decimas prelato eorum reddere nullatenus presumant, sed in conservacionem castrorum finitimorum decime ipse convertantur.

XXVII. Preposituræ et abbaciæ religiosis conferantur.

XXVIII. Boves, equi et alia pecora gregatim aut aliter extra regnum per neminem quovis modo educantur.

XXIX. Teloniatore nobiles in teloniis molestantes in curiam regiam evocentur.

^{xviii} A1 eorum

^{xix} A1 specificata

^{xx} A1 hoc

XXX. *Pro transimissionibus regnorum Dalmaciæ, Croaciæ, Sclavoniæ et Transsilvaniæ quatuor dies addantur.*

XXXI. Postremo, quod regia maiestas omnia decreta sua et statuta in diversas partes hactenus posita in unam formam decreti iam redigi faciat.

Nos igitur, qui regnum nostrum prenotatum in tranquilla pace sempiternaque libertate semper tenere et gubernare cupimus, prescriptos articulos de verbo ad verbum sine variacione immutacioneque aliquali presentibus insertos, quia complecionem et perfeccionem aliarum, ut prefertur, constitutionum nostrarum, aliasque commune bonum dicti regni nostri tangere et concernere dinoscebantur, acceptavimus, approbavimus et ratificavimus, immo acceptamus, approbamus et ratificamus, nosque omnia in eisdem articulis specificata inviolabiliter observare et cum aliis observari facere promittimus et obligamus presentis scripti patrocinio mediante. In cuius rei memoriam firmitatemque perpetuam presentes literas nostras privilegiales appensione sigilli nostri secreti, quo ut rex Hungarie utimur, communitas duximus concedendas. Datum in campo Rakos prenotato,^{xxi} quindecimo die diei generalis nostre congregacionis prenotate, anno domini millesimo quingentesimo quarto, regnorum nostrorum Hungarie etc, anno decimo quarto, Bohemie vero tricesimo quarto. Reverendissimis reverendisque in Christo patribus dominis Thoma tituli sancti Martini in montibus sancte Romane ecclesie presbitero cardinali Strigoniensis, summo et secretario cancellario nostro ac Gregorio de Frangapanibus Colocensis et Bachiensis ecclesiarum canonicè unitarum archiepiscopis, illustrissimo reverendissimoque domino Ipolito Estensi de Aragonia cardinali Agriensis, Luca Zagrabienis, Nicolao de Bachka Transsilvanensis, Georgio Waradiensis cancellario nostro, Sigismundo Quinqueecclesiensis, reverendissimo domino Petro tituli sancti Ciriaci in Thermis, dicte Romane ecclesie similiter presbitero cardinali Wesprimiensis, Francisci Jauriensis, Nicolao de Bathor Waciensis, altero Nicolao de Chak Chanadiensis, Sigismundo Thurzo Nitriensis, Stephano Sirimiensis et in iudiciis personalis presencie nostre locumtenente, Nicolao Keserew Boznensis et Briccio Tininiensis ecclesiarum episcopis, ecclesias dei feliciter gubernantibus. Item spectabilibus et magnificis Emerico de Peren comite perpetuo comitatus Abawywariensis, regni nostri Hungarie predicti palatino et iudice Comanorum, comite Petro comite de Sancto Georgio et de Bozyn iudice curie nostre wayvodaque nostro Transsilvano et Siculorum comite, Johanne Corvino Liptovie duce, necnon^{xxii} regnorum Dalmacie, Croacie et Sclavonie, Barnaba Belay et Jacobo Gerlysthe Zewreniensibus banis, Josa de Som comite Themesiensi et generali parcium regni nostri inferiorum capitaneo, Blasio de Raska tavernicorum, Moyse Bwzlay de Gergellaka ianitorum, Michaele de Palocz, pincernarum, Emerico Desy dapiferorum, Johanne Ernuth de Chaktornya agazonum, Gabriele de Peren et Johanne Podmaniczky cubiculariorum nostrorum regalium magistris, aliisque compluribus^{xxiii}, regni nostri comitatus tenentibus et honores.

^{xxi} A1, F *prenarrate*

^{xxii} A2, F *ac*

^{xxiii} recte: *quampluribus*.

DECREE OF 8 MAY 1504

We, Wladislas by the grace of God king of Hungary, Bohemia, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria as well as duke of Silesia and Luxemburg, margrave of Moravia and Lusatia¹, commend to memory by these presents announcing to all whom it may concern [1] that when we, after our introduction into this kingdom and to the peak of royal dignity and our felicitous coronation made by divine benevolence and disposition, restored this renowned Hungarian kingdom of ours to safety and peace from enemies at home and abroad, we did finally at the humble request of our lord prelates, barons and other gentlemen of the realm issue together with them in several turns a number of constitutions and statutes for the happy state and peace as well as liberty of that same kingdom of ours according to the needs of the time and the state of affairs; [2] as many articles could not be finalized before and the highly necessary improvement of the said other constitutions be carried to completion, because of the short time and the great weight of business, for their explanation, therefore, as also in order to expedite other affairs of our said kingdom of Hungary, we called a diet or general convention of all the lord prelates, barons and other gentlemen of our realm for the coming feast of St. George the Martyr² to the field of Rákos³ by the force of our general decree; at that all assembled and discussed there many things together with us concerning the happy state of our said kingdom, [and] the same lord barons, notables, nobles and other gentlemen of the realm⁴ brought before our majesty, among other of their discussions and conclusions, certain articles newly conceived and formulated, [3] humbly beseeching us to have these articles confirmed, granted and accepted and, for the common welfare and peace of this same kingdom of ours, to deign to approve, ratify, and confirm by our authority and, once confirmed, to observe them and have them observed The text of these articles follows thus:

¹ The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. By 1504 none of them were under Hungarian control, but the list in the royal style survived until the end of the kingdom in the twentieth century; see János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² 24 April 1504.

³ On the location of “Rákos,” a field near Pest, see János M. Bak and András Vadas, “Diets and Synods in Buda and Its Environs,” in: Balázs Nagy, Katalin Szende, András Vadas, eds. *Medieval Buda in Context* (Leiden-Boston: Brill, 2016) pp. 322-44.

⁴ The list of the members of political nation usually contains *proceres*, probably referring to the great men of the realm, not holding baronial offices and subsumes the wide stratum of nobles as *regnicolae* (verbatim: inhabitants of the realm). We translate the latter term as “gentlemen of the realm.”

1 Because it often happens that the gentlemen of the realm leave the diets and general assemblies of theirs with the outcome unclear, go back home and split up, with the one not considering the wish and opinion of the other, and a good many lords and counties, by their own decision or at the instigation of others, sometimes even for private gain, offer some tax or subsidy to the royal majesty by themselves, [1] in consideration of which other counties agree or disagree off their own back, and so in strife, confusion, and dispute the one inveighs against the other as a slanderer and disturber of the liberty of the realm, [2] hence, there is never peace, harmony, and friendly feeling among them, and the royal majesty has to send to them so often that the profit and income that might be hoped from them is used up entirely on the expenses of the emissaries or tax collectors.

[3] Moreover, the goods and property rights of those who counsel the royal majesty to act in this way are always made exempt, thus no benefit and income accrues to His Majesty but merely a needless waste of expenses and an open and manifest rupture within the gentlemen of the realm.

[4] In order to extinguish and root out this kind of danger, it has been first of all concluded that if in the course of time the country is threatened by sufficiently hard need and danger that cannot be averted except that a general diet is called by His Majesty at the field of Rákos, the usual location, then, when a subsidy or contribution is there granted and offered to the royal majesty, so as to avoid and cast aside such a danger to the realm, it has to be granted and offered by the common consent of the lord prelates, barons, and the other nobles of the realm; and no one afterwards shall be able to prevaricate about or keep back the payment of such a subsidy or contribution. [5] Should any county independently offer or grant the royal majesty any contribution or subsidy whatsoever (besides the usual chamber's profit⁵), without the consent and will of the entire country, that is outside the general assemblies of the gentlemen of the realm to the detriment, that is, of the ancient liberty of the realm, in whatever way and under whatever guise, then the community of the nobles of such a county shall be right away convicted and condemned collectively to the penalty of infidelity⁶ and perjury, the loss of honor and respect and they shall be regarded as excluded and expelled from the company of all the other nobles of the realm. [6] Nobles thus condemned may and can be freely punished, chastised and condemned in their belongings and goods as much as their persons in the assemblies of the gentlemen of the realm as perjurers, deprived of honor and standing and expelled from their midst, [7] unless by chance any one of the nobles of such a

⁵ The chamber's profit (*lucrum camerae*) was originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins; by the late thirteenth century, it had become a direct tax but retained its name until the end of the Middle Ages.

⁶ The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. agreement, peace). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate.

condemned county is able to prove by trustworthy testimony or authentic document and swear that he was and is innocent and not guilty in this business and matter.

2. Then, that the honors of counties be handled according to the *decretum minus*,⁷ [1] adding this: that all the principal *ispáns* have to swear the oath in the form of the decree before the royal majesty and the assessors of his law court then present. [2] Should, however, any of them refuse in any way to swear the oath, he shall be deprived of his honor. [3] And that all county *ispáns* shall choose the *alispán* from the number and company of the nobles of that county the honor of which they hold [4] and must and shall never choose him without the consent and will of the nobility of the same county.⁸ [5] Declaring also that henceforth no one of a foreign nation or anyone busying or residing outside this kingdom be allowed to hold and administer the honors of counties. [6] The royal majesty shall have the right by the force of the present decree to take them away from those who now hold them and grant them to whomsoever he wishes.

3. *That no comital office be granted in perpetuity.*⁹

4. That a *repulsio* in any matter or legal decision whatsoever can be done, according to the contents of the decree, only once.¹⁰ [1] Whoever does *repulsio* a second time shall be straightway convicted of the taint of perpetual infidelity, and two equal portions of all the goods and property rights of such a convicted person shall go to the royal majesty and one part, as everlasting property, to the plaintiff on the grounds of this taint of infidelity. [2] And the royal majesty must not grant pardon regarding the portion of the condemned party unless an agreement has been made with the opposing party.

5. Then, those disturbing common inquests or views in matters of major acts of might [1] in such a way that the common inquest or view cannot be held because it is disturbed in a belligerent or similarly evident fashion, must henceforth always be convicted.

6. *Seizures subsequent to the death of King Matthias have to be judged at short judicial terms.*¹¹

⁷ See **1495:44**.

⁸ The *vicecomes* (*alispán*) was in most cases the actual administrator of the county, his superior, the *comes/ispán* frequently holding several offices in court or in counties. He was usually a retainer (*familiaris*) of the *ispán*, but ever more often also “elected” by the county’s nobles.

⁹ The prohibition on granting counties in perpetuity goes back as far as the Golden Bull (**1222:16**). Nevertheless, some prelates were granted this title and office already in Árpádian times and secular lords ever more frequently in the later Middle Ages.

¹⁰ *Repulsio* was an action by a party in physical possession of a property, which had been adjudged in court to another, by which he might impede the institution with ritual violence (with a drawn sword or similar weapon). This had the consequence of forcing the matter back into court for a retrial..See **1492:57** and **1500:19** and **Tripartitum II, 73**.

¹¹ In contrast to simple summons that could be repeated twice, short (or final) summons (*citatio brevis*) was a summons requiring the respondent to attend court within 32 days (or at the next octave term, q.v.), usually issued in respect of violent crimes. The short summons was often combined with a terminal summons (*citatio cum insinuatione*) issued with the clause that judgment would be passed even in the absence of the summoned party, used particularly against perpetrators of acts of might. See **1498:10**.

7. That henceforth all cases to be moved in matters of pledged property rights up to the value of one hundred florins, but not more, can also be judged in the county courts, without, however, the penalties and fines specified in the decree,¹² which can only be imposed and assigned in the royal courts. Adding this: that if the adversary party wishes to take his case to the royal court by appeal, he shall have the right to do so.

8. Moreover, recent seizures of arable lands, meadows and woodlands up to ten plows and not more done by anyone since the demise of the late Lord King Matthias or hereafter, can similarly be brought to and adjudicated in the county courts under the aforementioned terms and conditions.

9. Should any of the *ispáns* or *alispáns* in the cases and suits of any noblemen moved and adjudicated before them or sent back to them by the judges ordinary of the realm, fail to perform any execution pertaining to their office upon lawful request according to the contents of the decree, [1] then, such *ispáns* or *alispáns* shall be summoned to the royal court to the presence of the judges ordinary of the realm to the thirty-second day, counted from the day of the issue of the summons in this matter; and this case shall be taken up and adjudicated there outside the sequence of the listing.¹³ [2] Should these *ispáns* or *alispáns* be found guilty in the matter, they shall be convicted and treated as convicted right away of a hundred florins, a part to the judge, a part to the plaintiff, as well as of the expenses caused and damages done to the plaintiff.

10. *Confirms the king's unlimited right of donation to Hungarians.*¹⁴

11. Then, if any gentleman of the realm has obtained a new trial in any matter and has prohibited the opposing party from executing any letter of judgment, but then, after that prohibition fails to take out the letters of report in respect of the execution of the new trial within the time for report of the procedure of a new trial and so obstructs the other party in the execution of the letters of judgment, such a person shall be condemned of frivolous prosecution and the plaintiff shall win his case and have possession of his claim right away.¹⁵

12. Because there are many prelates of churches who keep taxing the parish priests of their diocese under the title of charitable relief to the extent that these parish priests are forced by urgent need to pillage the chalices and other church goods, several churches remaining for long times empty without leaders, [1] it has therefore been decided that henceforth and from now on no lord prelate shall have the right to tax the parish priests of his churches in any way for four full years from the day of his election and confirmation. [2] After those four years, he shall have the right to have and

¹² See **1492:65**.

¹³ The article seems to refer to treating cases preferentially, but nothing is known about the "listing."

¹⁴ Cf. **1492:9**, **1495:2, 30**, and **1498:26**.

¹⁵ A new trial (*novum iudicium*) or retrial, was usually following a petition to the king, a *repulsio* (see n. 10 above), or a prohibition (protest against a legal action such as alienation, acquisition, donation of some property, paying of filial quartaer and dower, etc.), before, during or after its execution, made always by a third party or a the collapse of the first trial. Failure of the case can happen on a variety of grounds: following the recall of an attorney; the inability of the defendant to attend the trial on grounds which were subsequently found to excuse his absence; misjoining a suit; and having the summons improperly cast or delivered.

collect once and no more a charitable rather than forced relief from these parish priests for the redemption of his bull according to the extent of the income of the parish priests. [3] Should a prelate during the said four years obtain another benefice or prelacy, his successor has to do the same.¹⁶

13. That in the long lasting dispute between the community of the nobles of counties Fejér, Somogy and Zemplén on the one side and the chapter of the bishopric of Veszprém on the other, regarding the quarter to be paid to the parish priests,¹⁷ justice and judgment with final conclusion shall be made and rendered at the next octave before the royal majesty and the justices ordinary of the realm.

14. Then that letters of attorney¹⁸ of those gentlemen of the realm who are engaged outside the country in study, service or travel shall remain valid and be admitted in court until they return home, providing they have made a recognizance and duly appointed an attorney.

15. Because it has been seen and discovered that, against the ancient custom of this realm, a certain abuse has been introduced in the issuing of certain letters of judgment, namely that anyone was able and allowed to revoke his own response made in court,¹⁹ [1] it has therefore been decided that such an abuse has to stop henceforth and never be allowed; [2] all those judgments that were passed in whatever way and whatever case under color of this abuse shall lose their force and validity.

16. Then, because the articles of the *decretum maius* on the abduction and holding back of tenant peasants seem to plainly contradict themselves, and due to the small penalty expressed in that decree, many unspeakable scandals occur daily in almost all of Hungary in respect of the abduction and holding back of tenant peasants,²⁰ [1] in order to eliminate this problem, it has been ordered that henceforth and from now on no one shall have the right to give leave to someone else's tenant

¹⁶ Cf. **1498:69**.

¹⁷ Cf. **1498:50**. In this case the county nobles seem to have acted on behalf of the priests of their county. Lower clergy did not attend the diets in the kingdom of Hungary, where there was no "clerical estate" as in many other countries. However, churchmen—archbishops and bishops—were present in the royal council, referred to as *prelati et barones*.

¹⁸ A letter of attorney or of advocacy (*littere procuratorie*) was issued by a place of authentication (chapters or convents acting in a notarial manner), listing one or more persons as legal representatives or attorneys (usually practical lawyers, training in the court, not at universities) of someone, empowering them to act in all stages of litigation. Prelates and barons had the right to issue such letters under their own seal.

¹⁹ The article aims at prohibiting litigants from retracting their own statements, although the revocation of an attorney's statements was apparently still allowed. See **Tripartitum II 79**.

²⁰ The right of tenant peasants (*jobagiones*) to free movement from one lord to another was in many cases rather the "right" of more powerful landowners to transfer labour force from the less fortunate noblemen, frequently able to offer them better conditions. On this see briefly, János M. Bak, "Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline" in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005). Such diatal decisions were passed in the interest of the lesser nobility. See also **1492:94**.

peasant, except through the noble magistrate²¹ of that county in which the tenant peasant lives. [2] And if anyone asserts that such a tenant peasant is guilty of some trespass or debt, then the lord or his officer has to administer justice and judgment within fifteen days after that tenant peasant receives his leave, before the noble magistrate of that county where the tenant peasant lives.[3] And if, with justice and judgment done, the countryman or peasant can clear and exonerate himself of the alleged trespass or debt, then he shall be freely sent to the place which he prefers in the presence of the said noble magistrate. [4] He, however, who in contravention of the contents of the present article abducts or unwarrantedly holds back a tenant peasant, shall be right away convicted of twenty-five heavy marks,²² making one hundred gold florins, to be equally divided between the plaintiff on the one hand and the *ispán* and the noble magistrate of the county on the other; [5] that *ispán* or *alispán* and the noble magistrates shall have the right to obtain satisfaction regarding the hundred florins for themselves and the opposing party from the chattels of the one who violently abducted or held back [a tenant], if they can be found, otherwise from his property rights, but only if the noble magistrate has been first satisfied as to the full truth of the matter. [6] Should there be such persons who disturb the noble magistrate at the time when such leave is granted or in the administration of justice and judgment, they shall be convicted by the force of the decree to the same penalty as those who interfere with royal bailiffs or the witnesses of chapters and convents in their executions.²³

17. Then, that one and the same measure shall be established for the sale and purchase of wheat and grain as well as wine throughout the kingdom of Hungary and sellers and buyers shall use these everywhere in Hungary;²⁴ [1] prices should, however, be set according to the local abundance or scarcity of the bought or sold goods.

18. Because many of the peasants and other people of the lord prelates, barons and other gentlemen of the realm pursue only hunting and fowling thereby almost completely abandoning and disregarding the cultivation of fields and vineyards, so much so that they hunt not only on weekdays but also on Sundays and other saints' days, even the most holy Christmas Day, not fearing to sin by not observing God in His commands and to cheat their lords by reducing their income; moreover, they—captured by this fruitless effort—become entirely reduced to begging, indeed some of them, lacking food and clothing, are eventually forced to theft and robbery, for which they often die on the gallows or are executed otherwise; [1] in order thus to stop this nuisance by proper remedy, it has been established that from now on and in the future no tenant or other peasant of this kingdom shall dare in any way or art to hunt deer, doe, pheasant or hazel

²¹ Noble magistrates (*judices servientium, szolgabírák*) were—usually four—nobles elected by the county community as helpers of the *ispán* or *alispán*, in a way also representing the assembly of noblemen.

²² The mark was a measure of silver (and sometimes of gold), often the unit of fines. Since the late thirteenth century the Buda mark (~245.54 gr.), belonging to the Troyes-mark type, was standard in Hungary.

²³ Cf. above art. 5.

²⁴ Attempts at unifying measures were typical and usually unsuccessful throughout the Middle Ages. See István Bogdán, *Magyarországi hossz- és földmértékek a XVI. század végéig* [Measures of length and land in Hungary until the end of the sixteenth century] (Budapest: Akadémiai Kiadó, 1978), pp. 52–60.

grouse (commonly called *császármadár*), [2] but all of them must sweat and work in the cultivation of arable lands, meadows and vineyards and other handicrafts, whence both they themselves and their lords can gain income and profit, under the penalty of three florins, which shall be unremittingly collected by the lord from that peasant who pursues hunting or fowling or by him on whose land such a peasant is caught.²⁵ [3] Should either of them be lax in exacting this penalty or, favoring the peasant, be unwilling to exact it, then the same fine of three florins shall be unremittingly exacted by the *alispán* and the noble magistrate of that county where it happens from the nobleman or lord who allowed the peasant to hunt or fowl, by force of the present statute.

19. *The burghers of Košice and Sopron shall cease interfering with the wine transports of noblemen*²⁶

20. *The royal majesty shall inform his faithful about the matter of the pledge of the five cities and Lusatia*²⁷

21. *The royal majesty shall inform the estates of the matter of the oath of fidelity of Moravia, Silesia and Lusatia*²⁸

22. *The royal majesty shall redeem the city of Sopron with its county and Bardejov pledged to foreigners as well as lands allegedly occupied by Moravians in the border regions*²⁹

23. Because the gentlemen of the realm and their peasants are frequently burdened with undue tithes as well as excommunications and interdicts by the lord prelates and churchmen or their agents and often also by those to whom they farm out their tithes, [1] in order that this no longer happen, it has been decided that whenever any of the gentlemen of the realm or of their peasants is burdened under the pretext of undue tithes, excommunications or interdicts of this type, then he shall notify that prelate of whose diocese he is known to be subject or another churchman, namely the one to whom the tithes are paid, at his residence or elsewhere if he can be found nearby, and if not, then his agent or his personal representative. [2] If satisfaction and recompense is made for what they have done, then very well; otherwise they shall be summoned by letters of command and presentation³⁰ to the royal majesty (wherever he may be), or in the absence of the royal majesty

²⁵ The prohibition of peasants from hunting indicates the tendency towards restricting the freedom of commoners in Hungary. See e.g. István Szabó, *Tanulmányok a magyar parasztság történetéből* [Studies on the history of Hungarian peasantry] (Budapest: Teleki Tudományos Intézet, 1948), pp. 31–63. Such prohibitions were also widespread in medieval Europe.

²⁶ The increased commercial activity of the nobility in the late 15th century led to conflicts with the free cities that formed alliances to protect their interests, see István H. Németh, “Szabad királyi városok és nagybirtokosok konkurenciája” [Competition of free royal cities and great landowners], *Sic itur ad Astra*, 8. (1994) 1–2:5–37; Jenő Szűcs, “Das Städtewesen in Ungarn im 15–17. Jahrhundert,” in *La Renaissance et la reformation en Pologne et en Hongrie* [Studia Historica, 53] (Budapest, 1963), pp. 97–101.

²⁷ See **1498:23**.

²⁸ See **1492:4**.

²⁹ Cf. **1498: 24**.

³⁰ While *littere preceptorie* (mandates issued in a great variety of matters of administration or law) were a well known type of instrument, the term *littere exhibitorie* seems to have been another name for

to that of his deputy to the thirty-second day counted from the day of the summons in this matter, and justice and judgment shall be done on their behalf without delay. [3] When it is found that an individual nobleman³¹ or peasant was unduly tithed, excommunicated or troubled by an interdict, then these prelates or their bailiffs shall be condemned to the man-price of the nobleman or the peasant, and if indeed it is found that an entire village or all the peasants were in such a way imposed upon, then the lord prelates, their agents and bursars shall be convicted of one hundred gold florins, to be paid in part to the judge, in part to the plaintiff.

24. *On the military duty of ecclesiastics with banderia and on those without but collecting tithes.*³²

25. That summonses to courts spiritual shall henceforth be issued only with an explanation.³³ [1] And if it is recognized from this explanation that the case is of a secular nature or does not otherwise concern the court spiritual, the vicars in jurisdiction shall in no way take it before them under the penalty laid down in the *decretum minus*.³⁴

26. Many of the lord prelates are accustomed to oblige all the parish priests of their dioceses to immediately appear before their bishop after being elected to their parish and swear an oath on which they must receive and get a letter, which clearly causes damage to the nobles, as they have always had the full right ever since the time of the holy King Stephen to choose for themselves parish priests.³⁵ Therefore, it has been decided that henceforth none of the parish priests be held to do this, nor shall any of them be confirmed against the will of his patron. Otherwise, the tenants of that village where such happens shall not dare at all to render the tithe to their prelate but those tithes shall be applied to the maintenance of the border castles.

them. Letters of presentation were sent to chapters as places of authentication obliging them to issue and send letters of command to litigants. The chapter frequently included the text of the letter of presentation in the letter of command, as a consequence of which this article combines the two terms.

³¹ The exemption of nobles from paying the tithe was contained in a now lost edict of Sigismund of 23 June 1405, referred to in a charter of 1 August 1421, see Ferenc Döry, György Bónis, Vera Bácskai, eds., *Decreta regni Hungariae: Gesetze und Verordnungen Ungarns 1301–1445*, Budapest: Akademiai, 1978 [=DRH], pp. 216–17. In 1415, Pope John XXIII confirmed this exemption based on the service of the nobles “in the defense of the faith,” see Josephus Nicolaus Kovachich, *Monumenta veteris legislationis Hungaricae* (Claudiopolis: Collegium, 1815). 2:8–9.

³² See **1498: 15** sqq.

³³ At issue here is the division of cases between courts spiritual and secular. Although citations had to be explicit (see e.g., Sebastianus Vantius [d.1570], *Tractatus de nullitatibus processuum* [Venice, 1567] tit. Ex defectu citationis, no. 30), citations were frequently formulated in such general terms that matters pertaining to secular courts could be disguised as ‘spiritual.’ This abuse was widespread and had been denounced e.g., in England by William Lyndwood (d. 1446), *Provinciale (seu Constitutiones Angliae)* (Oxford, 1679), p. 315.

³⁴ Cf. **1498:60** and **63**.

³⁵ The right of patronage grew out of the original proprietary church (*Eigenkirche*), which went back to the early foundations, though hardly to the time of St. Stephen. In the later Middle Ages the right of patrons was everywhere reduced to the right of presentation.

27. Repeats **1498:58** on the reservation of abbacies for regulars, excepting the Abbey of Petrovaradin.

28. Repeats **1495:27–28**, **1498:31** and **1500:25** prohibiting the export of oxen and horses after the coming feast of St John the Baptist.

29. Toll collectors harassing nobles, against **1500: 41**, are to be cited to the thirty-second day to the royal court.

30. The greater octaves are to be extended by four days for treating cases transferred from Dalmatia, Croatia, Slavonia and Transylvania.³⁶

31. Finally, that the royal majesty shall have all of his decrees and statutes which are hitherto scattered in different places now redacted in the form of one *decretum*.³⁷

We, therefore, who wish always to keep and govern our aforementioned kingdom in quiet peace and everlasting liberty, have accepted, approved and ratify, nay do accept, approve and ratify the above written articles, having written them word for word without any change and alteration into these presents, because we deemed them, as mentioned above, to complete and perfect other statutes of ours and to concern and serve the common weal of our said kingdom. [1] And we promise and oblige ourselves by the force of these presents to observe inviolably and make others observe all that is written in these articles, [2] to the memory and lasting endurance of which we have directed that these present letters of privilege be granted and conceded, under our privy seal which we use as king of Hungary. [3] Given at the aforementioned field of Rákos, on the fifteenth day of the aforementioned diet in the one thousand five hundred and fourth year of the Lord, in the fourteenth year of our reigns in the kingdom of Hungary and the thirty-fourth in Bohemia. [4] At the time when the venerable fathers in Christ, the lord archbishops Thomas, cardinal priest of the holy Roman church with the title of St Martin in Montibus, of Esztergom, chief and privy chancellor of ours;³⁸ and Gregory Frankapan of the canonically united churches of Kalocsa and Bács³⁹; as well as the illustrious and most venerable bishops Cardinal Ippolito d'Este of Aragon

³⁶ Cf. **1500: 6**.

³⁷ Cf. **1498:6**, **1500:10**. Even though decreed several times later—**1514:63**, **1525:23**—this was not done until the later sixteenth century, and even then “unofficially.” See Andor Csizmadia, “Previous Editions of the Laws of Hungary”, in *Decreta regni mediaevalis Hungariae. The Laws of the medieval kingdom of Hungary*, vol. 1, János M. Bak, György Bónis, James Ross Sweeny, eds. and trans. ed. 2 (Schlacks: Idyllwild, 1999) pp. xx–xxi. In fact, the **Triparitum**, a “privat collection” of customary law, served as the legal Bible for centuries.

³⁸ Bakócz, Thomas, bishop of Győr 1486–93, bishop elect of Eger 1493–97, archbishop of Esztergom 1497–1521, cardinal priest of the title St Martin in Montibus, patriarch of Constantinople, legate a latere.

³⁹ Frankapan, Gregory, archbishop of Kalocsa 1504–20.

of Eger;⁴⁰ Lucas of Zagreb⁴¹; Nicholas Bácskai of Transylvania;⁴² George of Oradea,⁴³ our chancellor; Sigismund of Pécs;⁴⁴ the Reverend Lord Peter, cardinal priest of the said Roman church with the title of St Cyriacus in Thermis, of Veszprém;⁴⁵ Francis of Győr;⁴⁶ Nicholas Bátori of Vác;⁴⁷ the other Nicholas Csáki of Cenad;⁴⁸ Sigismund Thurzó of Nitra;⁴⁹ Stephen of Srem, representing our personal presence in court;⁵⁰ Nicholas Keserű of Bosnia;⁵¹ and Briccio of Knin⁵² felicitously governed the churches of God. [5] Then, when the *spectabiles* and *magnifici* Emeric Perényi was perpetual *ispán* of Abaújvár, palatine of our said kingdom of Hungary and judge of the Cumans;⁵³ comes Peter count of Szentgyörgy and Bazin, judge royal and voivode of Transylvania and *ispán* of the *Székely*;⁵⁴ John Corvin, duke of Liptov and ban of our kingdoms of Dalmatia, Croatia, and Slavonia;⁵⁵ George Kanizsai, ban of our kingdoms of Dalmatia, Croatia and Slavonia;⁵⁶ Barnabas Bélai⁵⁷ and James Gerlistye,⁵⁸ bans of Severin; Józsa Somi, *ispán* of Temes and captain general of the lower parts of our kingdom⁵⁹; Blaise Ráskai, master of the

⁴⁰ d' Este of Aragon, Ippolito, cardinal deacon of the holy Roman church, archbishop of Esztergom 1486–97, bishop of Eger 1497–1520

⁴¹ Szegedi Baratin, Lucas, bishop of Bosnia 1491–3, of Cenad 1493–1500, of Zagreb 1500-10.

⁴² Bácskai, Nicholas, bishop of Trnasyvania 1503-4.

⁴³ Szatmári, George, bishop of Oradea 1501-5.

⁴⁴ Csáktornyai Ernuszt, Sigismund, bishop of Pécs 1473–1505.

⁴⁵ Peter (Isvalies), bishop of Veszprém 1503-11.

⁴⁶ Szatmári, Francis, bishop of Győr 1495–1508.

⁴⁷ Bátori, Nicholas (d. 1506) bishop of Srem 1468-74, of Vác 1474-1506.

⁴⁸ Csáki, Nicholas, bishop of Cenad 1500-14.

⁴⁹ Thurzó, Sigismund, bishop of Nitra 1503-4.

⁵⁰ Bajoni, Stephen, bishop of Srem 1502–14.

⁵¹ Recte: Michael, Keserű, bishop of Bosnia from 1502.

⁵² Egervári, Briccio, bishop of Knin 1492–1523.

⁵³ Perényi, Emeric, perpetual *ispán* of Co. Abaújvár, the master of the stewardss, 1492–1504, count palatine 1504–19, ban of Croatia and Dalmatia 1512–13

⁵⁴ Szengyörgyi and Bazini, Peter, voivode of Transylvania 1498–1510, judge royal 1502–17.

⁵⁵ Corvin, John, natural son of King Matthias I (Corvinus), prince, ban of Dalmatia, Croatia and Slavonia 1494–97, 1499–1504

⁵⁶ Kanizsai George, ban of Dalmatia, Croatia and Slavonia 1497–98, 1508–10.

⁵⁷ Bélai, Barnabas, ban of Severin 1508–15.

⁵⁸ Gerlistye, James, ban of Severin 1495–1508.

⁵⁹ Somi, Józsa, *ispán* of Temes and captain general of the lower parts of Hungary 1494–1508.

treasury;⁶⁰ Moses Gergelylaki Buzlai, master of the doorkeepers;⁶¹ Michael Pálóci, master of the cellarers;⁶² Emeric Décsi, master of the stewards;⁶³ John Csáktornyai Ernuszt, master of the horse;⁶⁴ Blaise Gabriel Perényi⁶⁵ and John Podmaniczky⁶⁶, masters of our royal chamberlains; and many others holding counties and honors of the realm.⁶⁷

⁶⁰ Ráskai, Blaise, chief chamberlain, master of the treasury 1498–1518.

⁶¹ Gergelylaki Buzlai, Moses, master of the doorkeepers, 1500–19:

⁶² Pálóci, Michael, master of the cellarers 1505–08, master of the chamberlains, 1514–16.

⁶³ Décsi, Imre, master of the stewards

⁶⁴ Csáktornyai Ernuszt, John, master of the horse 1493–1503, ban of Croatia and Dalmatia 1507–1510.

⁶⁵ Perényi, Gabriel, master of the chamberlains 1505–26.

⁶⁶ Podmanini Podmanicki, John, banderial lord 1498.

⁶⁷ The list of spiritual and secular lords was appended to privilegial charters ever since the late thirteenth century. They are not meant as witnesses, merely indicating the time of the issue by reference to the persons in office.

DIETAL DECISION UNDER KING WLADISLAS II OF HUNGARY (1490-1516) OF 1507

This set of articles was compiled by the estates at a diet of 13 April 1507.

There is no evidence that the king would have approved these decisions and none of the manuscripts refers to it as *decretum*, nevertheless it has been included into the *Corpus Iuris*. Therefore, Ferenc Döry decided not to regard it a *decretum*, but merely as a political program of the assembled nobility similar to the several dietal decisions of the 1520s. Most of its measures repeat earlier, approved matters or proposed additions. For this reason, we decided to publish it only in Latin, without translation and annotations. Recently, Gábor Mikó found a document from the archives of Košice (Supplementum H: Acta diaetalia regni; now also in MNL OL DF 271 714) containing comments or “responses” on the propositions of 1507, suggesting that this dietal decision had been circulated in the country and was planned to be presented for approval in its presently known or changed version.

The diet of 1505 left only a decision about the election of a “national king” if Wladislas had no male heir (see János M. Bak, *Königtum und Stände in Ungarn im 14–16. Jahrhundert* [Wiesbaden: Steiner, 1973] pp. 158–9). Of the diet in 1508 whence the nobility sent a delegation to Tata, where the king and the lords had gathered and then dissolved the meeting, no formal decree survived. .

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL and DF (microfilms).

Accessible when searched by number, or date, or name of issuer @

<http://archives.hungaricana.hu/en/charters/search>

MSS: Codex Nádasdy (Eötvös Loránd University Library Budapest, Ms G 39) foll. 339r-341v [N]; another codex *ibid.* (Ms G 40) [G40]; Codex Kollár pp. 405-12 [K]; the “major Esterházy codex” foll. 500r-503v [EM]; the “minor Esterházy codex”, foll. 116v-118 v [Em]; Codex Rep. 71, no. 13 in the Hg. Esterházy Archives, pp. 21-26 [E]; Codex Festetich (OSZK Fol. Lat. 4355) pp. 528-35 [F]; and Codex Ilosvay (OSZK Fol. Lat. 4023) foll. 5v-8v [I].

ED: *Magyar Törvénytár. Corpus Iuris Hungarici*, eds. (Budapest: Franklin, 1986) pp. 693-703, as *Decretum sextum Wladislai regis* [C].

LIT: Gábor Mikó, “Ismeretlen országgyűlési emlék a Jagelló-korból. Adatok az 1507 és 1514 közötti országgyűlések történetéhez, valamint Werbőczy *Hármaskönyvének* elkészültéhez” [An unknown dietal document from the Jagello Age. Data to the history of diets between 1507 and 1514 and the writing of Werbőczy’s *Tripartitum*] *Történelmi Szemle* 56 (2014) 3:455–480. See also: Kubinyi, A. “Az 1505. évi rákosi országgyűlés és a szittya ideológia” [The diet of 1505 and Scythian ideology] *Századok* 140 (2006): 261-374. Lakatos, Bálint. “A tatái országgyűlés és diplomáciai háttere” (1508–1510) [The diet in Tata and its diplomatic background]. in: János László, ed. *A diplomácia választóján. 500 éve volt Tatán országgyűlés* (Annales Tataiensis VI.). Tata 2010, p. 59.

ARTICULI IN CAMPO RAKOS IN DIETA FESTI GEORGII MARTIRIS ANNO DOMINI
1507. REFORMATIⁱ

I. Item primo, ut iudicia et iudiciarie deliberaciones frustra de cetero ne fiant, sed actor obtento iam iure suo, quod acquisivit et causam exinde suscitatum ad finem usque perduxit, irremissibiliterⁱⁱ pociatur, statutum est, prout eciam in dieta festi beati Michaelis archangeli in anno Domini 1505ⁱⁱⁱ evoluto conclusum et per regiam maiestatem approbatum erat, quod amodo de cetero, dum et quandocumque in aliqua causa finalis executio fieri et ulterior processus in prosecutionem^{iv} ipsius cause requiri non debet, sed usque ad notam infidelitatis causa eadem deducta fuerit, et regia maiestas superinde requisita bona et iura possessionaria vel pecunias aut alias^v res in iudicio reobtentas per arma gladioque^{vi} et regia potencia, per que iudicio non parentes coerceri solent, actori reddi et restitui,^{vii} ac ipsum in dominium eorundem bonorum reobtentorum introduci et collocari facere statuerit,^{viii} extunc iudex ordinarius illius cause, coram quo causa huiusmodi ad finem deducta est, vel eciam maiestas sua, si ita voluerit, literas adjudicatorias more solito conficiet et literis in eisdem dominos palatinum aut^{ix} iudicem curie regie seu supremum et generalem capitaneum tocius regni pro tempore constitutos loco regie maiestatis requirat, qui personaliter penes huiusmodi literas adjudicatorias sub pena perpetue amissionis^x dignitatum et officiorum suorum statim gentes aut^{xi} stipendiarios eorum proprios ac dominorum et nobilium illius comitatus, ubi taliter convictus moram trahit, ac bona iudicialiter reobtentia^{xii} adiacere dinoscuntur, si sufficiunt, aliter autem vigore presentis statuti aliorum quoque^{xiii} dominorum et vicinorum comitatum, et si opus fuerit, eciam tocius regni^{xiv} levare et eiuscemodi bona seu^{xv} iura

ⁱ Em. F. N. *Articuli in campo Rakos 1507 pro festo beati Georgii martiris editi*. C. om. titulum.

ⁱⁱ C. *infallibiter*.

ⁱⁱⁱ Em. F. G40. N. 1500; E. I. K. 1507.

^{iv} C. G40. *prosecutione*.

^v Exc. C. EM om.

^{vi} F. *gladiosque*.

^{vii} Exc. C. G40. *restaurari*.

^{viii} Exc. C. mendose: *negligeret*.

^{ix} EM. et; Exc. C. om.

^x Exc. G40. *sub perpetua amissione*.

^{xi} G40. *et*.

^{xii} N. *obtentia*.

^{xiii} Em. F. I. N. *aliorumque*.

^{xiv} C. add. *Hungarie*.

^{xv} G40. I. *et*.

reobtentata expugnare et occupare,^{xvi} atque secundum formam et tenorem literarum adiudicatoriarum actori cum his, quibus congruit, etiam super eo iure, quod ratione dicta note infidelitatis sibi provenire debet, omnimodam et indilatam satisfaccionem impendere debeant^{xvii} et teneantur.^{xviii} Si qui^{xix} vero forent, qui fortassis huic convicto et temerario auxilium prestarent, tunc et ipsi in nota perpetue infidelitatis convicti habeantur, quorum bona consimiliter^{xx} idem^{xxi} palatinus vel iudex curie regie aut supremus et generalis regni capitaneus, cuius officio spectabilis et magnificus dominus Johannes de Zapolya, comes perpetuus terre Scepusiensis unacum domino palatino in presenciarum fungitur, mox et de facto occupandi et ratione suarum expensarum pro se perpetuo retinendi habeant^{xxii} facultatem. Quicumque autem dominorum aut comitatuum ad requisicionem ipsius domini palatini aut iudicis curie regie vel capitanei generalis gentes eorum, visis huiusmodi literis adiudicatoriis pro execucione earundem eo^{xxiii} mittere recusarent, tales consueta pena note infidelitatis condemnentur. Hoc per expressum declarato, quod prelibati domini palatinus aut iudex curie regie vel supremus capitaneus gentes aliorum dominorum et comitatuum in aliis casibus vel ratione aliorum negociorum preter scitum et consensum regie maiestatis levare nequaquam possint; hoc etiam addito, quod si comites vel vicecomites, gentesque et universitas^{xxiv} nobilium alicuius comitatus ad recuperacionem talium iurium seu rerum obtentaram sufficiunt,^{xxv} et iudex cause^{xxvi} ad requisicionem actoris literas suas ad eosdem exinde ita dederit, extunc iidem in execucione premissa liberam procedendi actorique^{xxvii} satisfaciendi habeant facultatem. Si quispiam vero prescriptorum trium dominorum huiusmodi rebellionem forte per se faceret et iuri parere nollet, extunc alter eorum vel duo ex illis talem rebellantem iurique non cedentem modo preallegato puniant; et hoc idem de civitatensibus et quibuslibet personis, si^{xxviii} iudicio facto non parebunt, est intelligendum et faciendum; et quod domini wayvoda Transsilvanus et comes Siculorum ac regnorum Dalmacie, Croacie et Sclavonie banus in eorundem officiolatibus simili perfruantur facultate.

^{xvi} G40. *reoccupare.*

^{xvii} EM. *debebunt.*

^{xviii} EM. *tenebuntur.*

^{xix} Exc. C. EM. om.

^{xx} G40. I. K. *similiter.*

^{xxi} Em. F. K. N. *idem.*

^{xxii} G40. I. *habeat.*

^{xxiii} Exc. C. G40. I. *illo.*

^{xxiv} G40. I. *universitates.*

^{xxv} EM. *sufficient.*

^{xxvi} Exc. C. om.

^{xxvii} C. om. *procedendi actorique.*

^{xxviii} EM. *qui.*

II. Item quicumque amodo deinceps repulsionem ordinariam non fecerit, sed actorem in dominium iurium reobtentorum immiserit, verum post statucionem vel restatucionem iterum pro^{xxxix} se eadem iura reoccupaverit, extunc per modum oculate revisionis, acceptis regio vel capituli seu conventus hominibus, mediantibus literis iudicis illius, coram quo causa ipsa^{xxx} terminata fuit,^{xxxi} actor de huiusmodi nova occupacione veritatem statim inquirat,^{xxxii} qua rescita reus ipse et sic fraudulenter agens notam de facto infidelitatis^{xxxiii} incurrat, et non expectato ampliori^{xxxiv} processu execucio contra eum^{xxxv} modo predeclarato fiat, et per ipsos dominum palatinum aut iudicem curie regie vel capitaneum generalem instar aliorum iuri non parencium puniatur, si per comites vel vicecomites agentes et universitatem nobilium comitatum puniri modo premissis non valebit.

III. Item in sublevacionem^{xxxvi} oppressorum articuli minoris decreti de iudiciorum super actibus potenciariis continua celebracione et iuratorum assessorum in consilio regie maiestatis atque iudiciis interesse debencium eleccione dudum conscripti per omnia observentur. Hoc addito, quod assessores illi in octavis maioribus sive compareant omnes, sive non, octave nihilominus ille celebrentur; verum eciam^{xxxvii} assessor ille, qui non advenerit, et octavis in eisdem interesse recusaverit, nisi iusta, gravi et notabili detineatur egritudine, in amissione honoris^{xxxviii} seu dignitatis et beneficii sui et insuper amissione officii sui assessoratus de facto convincatur et eo officio amplius nunquam utatur, et regia maiestas unacum ceteris assessoribus et consiliariis suis alium, qui videbitur, loco illius^{xxxix} statim eligat; ita tamen, ut^{xl} eisdem quoque assessoribus de eorum expensis satisfaccio impendatur. In quarum quidem expensarum sortem dominis prelati et baronibus septingenti, nobilibus vero assessoribus de medio scilicet regnicolarum electis trecenti floreni auri^{xli} ad unum integrum annum solvantur, et ad huiusmodi solucionem de singulis portis seu sessionibus jobagonalibus singuli tres denarii per totum regnum, de universis scilicet bonis et iuribus possessionariis atque civitatibus tam regie et regionalis maiestatum, quam universorum dominorum prelatorum, baronum et regni nobilium, imo eciam nobilibus unius sessionis per vicecomites et iudices nobilium comitatum de singulis curiis modo et ordine ac sub penis et

^{xxxix} K. *per.*

^{xxx} I. *illius*; G40. *illa.*

^{xxxi} Exc. C. EM. *fuert.*

^{xxxii} C. *requirat.*

^{xxxiii} Exc. C. *add premissis.*

^{xxxiv} I. G40. *ulteriori.*

^{xxxv} G40. *eundem.*

^{xxxvi} C. *sublevamine.* E. EM. G40. *sublevacione.*

^{xxxvii} C. *verumtamen.*

^{xxxviii} C. *honorum suorum.*

^{xxxix} G40. I. *ipsius.*

^{xl} I. K. G40. *quod.*

^{xli} Exc. C. EM. K. *aurei.*

gravaminibus^{xlii} super exactione pecuniarum pro gencium conservacione in decreto minori expressatis atque declaratis irremissibiliter et sine defectu exigantur, pecunieque huiusmodi^{xliii} exacte manibus duorum hominum per prefatos electos assessores eligendorum, unius scilicet baronis et alterius mediocris nobilis fideliter assignentur; quas tandem iidem duo homines assessoribus ipsis distribuere et in ventura^{xliv} dieta rationem dominis et regnicolis superinde reddere teneantur. Et nemo colonorum, qui vera nobilium regni libertate non utitur, in hac pecuniarum exactione relinquatur.^{xlv}

IV. Item quicumque dominorum aut nobilium regni huius in assessorem electus officium ipsum in se levare suscipereque nollet, si fuerit prelatus, in prelature sue, si vero baro vel^{xlvi} nobilis, in bonorum suorum amissione condemnetur. Et^{xlvii} ut iudicia ipsa commodius efficaciusque celebrari^{xlviii} et malefactores iurique inobedientes eciam per arma et gladium^{xlix} puniri possint, conclusum est, quod amodo deinceps sigillum iuridicum regie maiestatis, sub quo universe sentencie capitales alieque litere super punicionibus¹ penisque malefactorum et capite plectendorum emanari solent, persona secularis benemerita, iurisque^{li} et literarum perita teneat atque regia maiestas cum^{lii} consilio prefatorum dominorum assessorum et consiliariorum suorum ad conservandum illi conferat.

V. Item, quod regia maiestas omnia ea, que negocia huius regni concernunt, cum consilio prefatorum dominorum assessorum et aliorum suorum consiliariorum de cetero faciat, et si que preter eorum scitum faceret, nullius sint vigoris atque firmitatis. Preterea universa officia finitima, wayvodatum scilicet Transsylvaniensem, comitatum Siculorum, banatum regnorum Dalmacie, Croacie etc., comitatum^{liii} Themesiensem ac aliorum castrorum finitimorum^{liv} capitaneatum personis benemeritis cum consilio eorundem dominorum assessorum et aliorum^{lv} consiliariorum

^{xlii} E. G40. I. *gravacionibus*.

^{xliii} EM. K. *eiusmodi*; C. *eiuscemodi*.

^{xliv} C. EM. add. *postea*.

^{xlv} C. *exactione aliqua libertate gaudeat*.

^{xlvi} Em. F. N. *et*.

^{xlvii} EM. *item*.

^{xlviii} EM. G40. *celebrentur*.

^{xlix} EM. *gladio*.

¹ Exc. C. *litere punicionis*; EM. *litere punicionales*.

^{li} C. *iuriumque*.

^{lii} Em. F. N. *de*; E. EM. G40. I. K. *in*.

^{liii} Exc. C. G40. om. *scilicet ... comitatum*.

^{liv} Exc. C. add. *similiter banatum vel*.

^{lv} C. *ceterorum*.

suorum conferat. Ita tamen, ut^{lvi} hec castra finitima, videlicet Jaycza, Zewreniense, Nandoralbense, Sabacz et Zrebernik^{lvii} regia maiestas duabus semper personis pro officiolatu donet, quorum unus sub nota perpetue infidelitatis semper in castro permanere atque gentes suas, quas ibi iuxta consuetudinem hactenus observatam tenere debuerunt,^{lviii} paratas semper habere teneatur. Quibus scilicet et domino Rascie despoto, qui castrum finitimum et insigne banderium pro regni tutela tenere debet, dominus thesaurarius sub amissione bonorum suorum solutionem de eorum^{lix} salariis plenariam^{lx} semper facere teneatur.

VI. Item regia maiestas ex vetusta huius regni consuetudine vigoreque generalis decreti equites mille pro regni defensione conservare debet, quos omnes Hungaros de cetero habeat; et eorum quadringentos in curia sua regia secum teneat, sexingentos vero ad regni confinia loca scilicet magis necessaria et Thurcorum faucibus obiecta atque viciniora collocet; et quod revisiones castrorum finitimorum per palatinalem et iudicis curie homines, prout in decreto positum est, singulis annis de cetero fiant.

VII. Item, si quis dominorum aut^{lxi} regnicolarum in consilio regie maiestatis contra libertatem et commune bonum atque statuta huius regni palam publiceque et temerarie agere attemptaret, talem teneantur prescripti domini assessores in generali dieta proxime semper ventura universis dominis prelati et baronibus ac ceteris regnicolis ex nomine manifestare, quem ibidem tanquam rei publice libertatisque regni proditorem et turbatorem in rebus et persona iuxta demerita iidem puniendi habeant facultatem.

VIII. Item quicumque contra statuta decretaque regni palam et aperte egerit^{lxii} decretaque huiusmodi temerario ausu violare de cetero presumpserit,^{lxiii} prout hactenus per plures potentes fieri solitum erat, talis, si fuerit prelati aut altera persona ecclesiastica, in amissione prelature vel alterius dignitatis et beneficii, si vero baro vel nobilis, in amissione universorum bonorum et iurium suorum possessionariorum vincatur eo facto, et perpetuus regie maiestatis et regni^{lxiv} infidelis et exul habeatur; et talium prelaturas, beneficia seu dignitates vel iura possessionaria regia maiestas, cui maluerit,^{lxv} liberam donandi et conferendi habeat facultatem. Quos si^{lxvi} maiestas sua hoc modo punire, prelaturasque seu beneficia, aut dignitates vel iura possessionaria auferre et alteri

^{lvi} I. quod.

^{lvii} Exc. K. Zebernyk.

^{lviii} C. deberet.

^{lix} Exc. C. cetero. ^{lx}

Exc. C. plenarie.

^{lxi} G40. I. et.

^{lxii} Exc. C. egerint; F. N. egerunt

^{lxiii} Exc. C. E. presumpserint.

^{lxiv} Exc. C. om. et regni.

^{lxv} I. voluerit.

^{lxvi} EM. I. G40. Quodsi.

conferre donareque recusaret, extunc si mediocris persona spiritualis aut secularis id facere temptaverit,^{lxvii} per comites vel vicecomites ac^{lxviii} gentes et universitatem nobilium eiusdem comitatus, ubi talis residenciam habet,^{lxix} iuxta eorum libitum puniatur, universaque bona et res eiusdem in publicam predam convertantur. Si vero potens quisquam^{lxx} fuerit, ad huius proterviam^{lxxi} rebellionemque domandam, necnon bonorum et iurium possessionariorum, dignitatumque et beneficiorum ablacionem prefati dominus^{lxxii} palatinus ac iudex curie regie vel supremus capitaneus per universitatem nobilium illius comitatus, ubi talis aperta decreti violacio facta fuerit, requisitus, levatis premissis modo suis ac aliorum dominorum et comitatum gentibus insurgere ac sub premissa dignitatum et officiorum suorum amissione advenire teneantur.

IX. Item ad clausulam illam minoris decreti: exceptis illis, qui in peregrinationibus extra regnum occupantur etc. appositum est, ut sive in^{lxxiii} peregrinationibus, sive in serviciis, sive^{lxxiv} castris finitimis prorogacionem qui^{lxxv} semel habuerit, in eadem causa nullam de cetero habere valeat.

X. Item quod boves et equi, pecudesque^{lxxvi} et pecora de cetero gregatim^{lxxvii} aut alias nulla penitus racione educantur, sed ubicunque reperiri poterint,^{lxxviii} semper auferantur, prout eciam in decreto^{lxxix} mencio superinde facta fuit.

XI. Item quod monete extere^{lxxx} in hoc regnum et confinia eiusdem non inducantur, nec illis utantur.^{lxxxi} Contrarium facientes tam pecunias, quam alias res suas universas amittant eo facto.

XII. Item quod durantibus generalibus dietis universa iudicia in curia regia aut sedibus spiritualibus vel^{lxxxii} comitatibus cessent, ut unusquisque rebus tocius regni eo facilius intendere valeat.^{lxxxiii}

^{lxvii} E. *attentaverit*.

^{lxviii} EM. *aut*.

^{lxix} EM. *habuerit. C. tales residenciam habent*.

^{lxx} C. *quispam*.

^{lxxi} EM. *pertinenciam. Em. F. N. potenciam*.

^{lxxii} E. EM. *domini*.

^{lxxiii} C. *add. legacionibus sive*.

^{lxxiv} EM. *add. in*.

^{lxxv} C. *quis*.

^{lxxvi} C. *pecudes*.

^{lxxvii} E. G40. I. *congregatim*.

^{lxxviii} C. EM. G40. I. *poterunt*.

^{lxxix} Exc. EM. G40. I. *decretis*.

^{lxxx} C. G40. *externe*.

^{lxxxi} Recte: *utatur*.

^{lxxxii} C. *et*.

^{lxxxiii} E. G40. I. *possit*.

Preterea, si quis forte aliquem in ipsa dieta verberaret, vulneraret et libertatem diete turbaret, que nota infidelitatis est, talis personaliter citari semper poterit, ibidemque iudicium de eo^{lxxxiv} fieri valebit.

XIII. Item quod maiestas sua^{lxxxv} universa beneficia ecclesiastica, maiora scilicet et minora, ab illis, qui plura possident, auferat et unum duntaxat apud eum, quod scilicet^{lxxxvi} eligendum pro se duxerit, relinquat. Et quod universe abbacie, prepositure^{lxxxvii} et alia monasteria religiosorum (demptis duabus illis abbaciis, Saxardiensi et Pechwarardiensi, que per reverendissimum^{lxxxviii} dominum Petrum cardinalem a curia Romana liberate existunt, quasque^{lxxxix} idem vita sua durante vel infra eum terminum, quo dei munere in pontificem forte assumeretur,^{xc} possidebit) per regiam maiestatem^{xcii} viris religiosis et consequenter fratribus illius ordinis, cui ecclesia ipsa dedicata fuit, si eorum^{xciii} possessores habitum regularem eiusdem^{xciii} ordinis induere et infra festum nativitatis beati Johannis Baptiste proxime venturum assumere recusaverint, de facto conferantur.^{xciv}

XIV. Item quod inhibiciones eciam per novum iudicium illis, de cetero ne^{xcv} suffragentur, qui in octavis vel brevibus iudiciis comparuerint^{xcvi} vel comparuisse visi fuerint, aut literas procuratorias in aliqua alia causa produxerint; sed qui nec per se, neque per procuratorem comparuerint,^{xcvii} illi bene utantur inhibicione per modum novi iudicii^{xcviii} consueti.

XV. Item quod decime isto modo de cetero semper reddantur, ita ut de decem capeciis una dominis prelati pro decimis, altera vero dominis terrestribus pro nonis exigatur, octo vero colono seminanti remanebunt.

XVI. Item quod regia maiestas universas possessiones, predia, terras, sylvas, prata, fluvios, piscaturas post felicem maiestatis sue in hoc regnum ingressum per Cumanos, Philisteos,

^{lxxxiv} Exc. C. om. *de eo*.

^{lxxxv} EM. G40. I. *regia*.

^{lxxxvi} C. *videlicet*.

^{lxxxvii} C. *universas abbas, preposituras*.

^{lxxxviii} K. *reverendum*.

^{lxxxix} Exc. C. *quas*.

^{xc} C. E. EM. K. *assumetur*.

^{xcii} C. om. *per regiam maiestatem*.

^{xciii} Exc. Em. F. N. *earum*.

^{xciii} I. G40. *illius*.

^{xciv} C. *conferat*.

^{xcv} E. G40. I. *non*.

^{xcvi} Exc. C. G40. *comparent*.

^{xcvii} C. EM. *comparuerunt*.

^{xcviii} C. Em. F. N. add. *alias*.

Zege dienses aliosque regios^{xcix} et regionalis maiestatis^c colonos preter viam iuris occupata^{ci} per suum regium et palatinalem prothonotarios, visis iuribus querulancium ac iuxta attestacionem nobilium illius comitatus, ubi occupacio huiusmodi facta fuisset, priusquam brevia iudicia prenotata^{cii} incipiant, revidere, complanare^{ciii} atque eis, a quorum manibus occupata fuerunt,^{civ} reddi et remitti facere dignetur graciose.

XVII. Item quod universa iudicia post expirationem octavarum festi beati Michaelis archangeli proxime preteriti in causis et factis brevium et transmissionalium, quia regnicole ad propria maxima in parte^{cv} discesserunt, quovis modo facta contra eos,^{cvi} qui per non venienciam convicti fuerunt,^{cvii} nullius sint vigoris atque firmitatis; qui vero comparuerunt,^{cviii} factum inter partes iudicium in vigore permaneat.

XVIII. Item quod iudicia octave festi beati Georgii martiris penitus differantur simul cum brevibus brevium, et omnia brevia iudicia in proximo festo beati Jacobi apostoli presentibus assessoribus incipiantur.

XIX. Item quod metas regni ex parte Moravie, Polonie et Lusacie maiestas regia, prout in decreto continetur, rectificari faciat et maxime his temporibus maiestatis sue occupatas.

XX. Item quod maiestas regia universa statuta et decreta sua et regni sui in diversas partes hactenus posita in unam formam decreti iam redigi gratiat.

^{xcix} EM. *regie*.

^c EM. G40. *maiestatum*.

^{ci} C. G40. I. K. *occupatas*.

^{cii} F. N. om.

^{ciii} C. *revideri, complanari*.

^{civ} C. *fuerint*; E. *fuerant*.

^{cv} Em. F. I. K. *maxime*.

^{cvi} Exc. C. om. *contra eos*.

^{cvii} C. *fuerint*; E. *fuerant*.

^{cviii} G40. *comparuerint*.

LAW OF KING WLADISLAS II OF HUNGARY (1490-1516)

OF 1514

The law of 1514 had quite an adventurous prehistory. In March, Archbishop Bakócz returned from Rome, where his papal ambitions were frustrated, with a bull for calling a crusade against the Ottomans. We know now, that in late March a diet was held about the pros and cons of preaching a crusade and starting a war (see C. Tóth). Finally, on April 9, a Székly border captain, George Székely Dózsa was selected and Pest (as usual) designed for the assembly point of the crusaders. The crusade turned soon into a country-wide uprising of peasants, small-town dwellers and drovers (*hajdú*). The revolt had several centers, mainly in the middle and the east of the country, including Transylvania. The crusading armies managed to take several major castles and were defeated only with the help of the voivode of Transylvania, under the walls of Temesvár/Timișoara on 15 July. The leaders were executed in the most horrible fashion.

In response to the rebellion, a decree was drafted at the diet of October 18–November 19 in Buda. This decretum was not approved by the king—as far as can be ascertained—until spring 1515. In the meantime, Wladislas negotiated the famous inheritance agreement with the Habsburgs and the dietal text also underwent changes. The “original” decree is known from several manuscripts and was traditionally seen as a draft preceding the diet (and was published as such by Érszegi et al. *Monumenta* parallel to the *decretum*). Recently, Gábor Mikó has convincingly demonstrated that it was the version accepted by the diet (and as such known in the country) and changed in the subsequent half year. The final, approved and sealed decree dropped the plan of entrusting a captain-general with its implementation, reduced the burdens on the peasants but otherwise followed the dietal decision. The changes may have had much to do with the position of voivode John Zápolya, first celebrated as the rescuer of the country (and obviously expected to become captain-general), but having lost his prestige by a defeat suffered from the Ottomans and also due to little-known intrigues at court.

The central issue was restitution of damages and a very harsh decision to rescind the right of tenant peasants to free movement (*ad glebam adsticti*) that used to be referred to as “second serfdom.” In fact, while the condition of the tenants did deteriorate, that kind of serfdom that characterized the large estates of Eastern Europe remained restricted to a few *latifundia* in Hungary. The Ottoman advance even annulled the disarming of commoners for the last unsuccessful efforts to stop the Turkish advance (see **1526**).

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MSS: For the several surviving Mss of both the dietal version and the final *decretum*, see Géza Érszegi–Viktor Kenéz–László Solymosi, eds. *Monumenta rusticorum in Hungaria rebellium anno MDXIV* (Budapest: Magyar Országos Levéltár, 1979). pp. 247–8.

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus et al. eds., vol. 1 (Budapest: Franklin, 1896), pp. 704-41, superseded by: Géza Érszegi–Viktor Kenéz–László Solymosi,

eds. *Monumenta rusticorum in Hungaria rebellium anno MDXIV* (Budapest: Magyar Országos Levéltár, 1979) 248-83 [We print the *Monumenta* version.]

LIT: Pál Engel, *The Realm of St. Stephen...* 362-4; Martyn Rady, "Jagello Hungary," in *DRMH IV* (Idyllwild-Budapest: Schlacks-CEU Med. St., 2012) pp. xxxii-xxxiv; Norman Housley, "Crusading and social revolt," *Journal of Ecclesiastical History* 49 (1998) 1-29; G. S. Pellathy, "The Dózsa revolt: prelude and aftermath," *East European Quarterly* 21 (1987) 275-95; János M. Bak, "Delinquent lords and forsaken serfs: thoughts on war and society during the crisis of feudalism," in: *Society in Change: Studies in Honor of Béla K. Király* (New York, 1983) pp. 291-304; Gábor Barta, Antal Fekete Nagy, *Parasztháború 1514-ben* [Peasant war in 1514] (Budapest: Gondolat, 1973); Jenő Szűcs, "Die Ideologie des ungarischen Bauernkrieges," in: Gusztáv Heckenast, ed. *Aus der Geschichte der ostmitteleuropäischen Bauernbewegungen* (Budapest: Akadémiai, 1977), pp. 157-87; Norbert C. Tóth "Vita a keresztes hadjárat kihirdetéséről. Országgyűlés 1514 márciusában" [Debate about announcing the crusade: diet in March 1514], *Erdélyi Múzeum* 77 (2015) pp. 14-6.; "Az 1514. márciusi országgyűlés," in *Keresztesekből lázadók: Tanulmányok 1514 Magyarországról*, Norbert C. Tóth, Tibor Neumann, eds.. (Budapest: MTA BTK Történettudományi Intézet, 2015), pp. 31-79; Gábor Mikó, "Az 1514. évi Lukács-napi országgyűlés törvénykönyvének megszületése. A dekrétum eredeti változata" [The birth of the law of the diet at St Luke's day in 1514: The original version of the decree] *Ibid.*, pp. 271-318.



Execution of George Székely-Dózsa 1514. (Contemporary woodcut)

19 NOVEMBRIS 1514

Nos Wladislaus Dei gracia Hungarie, Bohemie, Dalmacie, Croacie, Rame, Servie, Gallicie, Lodomerie, Comanie Bulgarieque rex necnon Slesie et Lucemburgensis dux ac Moravie et Lusacie marchio memorie commendamus tenore presencium significantes, quibus expedit, universis, quod cum nos in animo nostro sepe revolvissemus considerassemusque pericula omnia, que hucusque huic Hungarie regno nostro ab infidelibus hostibus illata sunt, ruinas quoque et desolaciones castrorum finitimorum atque eciam tumultum illum nefandissimum, quem plebs rustica superiori estate intra ipsius regni nostri viscera contra optimates et omnem nobilitatem cum summa et plane inaudita crudelitate concitaverat, multorum insignium virorum cede ac multi sanguinis effusione memorabilem, omnes preterea perturbaciones alias, in quibus status eiusdem regni nostri non sine magno incommodo hucusque fluctuavit, ex ea potissimum causa manasse, quod ordo, sine quo nulla unquam res publica bene gubernata esse legitur, ab omnibus et rebus et officiis sublatus esset et per arreptam hoc pacto licenciam omnia cum maxima tocus regni oppressione prepostere et quasi confuso quodam turbine agerentur. Propterea miserati tam graves calamitates tamque acerbas clades predicti regni nostri generalem dietam et conventum universis dominis prelati et baronibus ceterisque regnicolis nostris pro festo beati Luce evangeliste proxime preterito indiximus atque celebravimus. Ad quem congregatis omnibus cum huius modi conventus causas ipsis explicassemus et cum hys nonnulla, que nobis salutem eiusdem regni nostri concernere videbantur, proposuissemus, hortati eos fuimus, ut ipsi quoque super hys omnibus consultarent et quicquid Deo imprimis optimo gratum predictique regni publico bono proficuum ac salutare foret, concluderent. Prefati itaque domini prelati et barones ac ceteri regnicole nostri accepta mente nostra cum diu multumque super hys rebus consultassent, tandem collatis sentenciis et re conclusa quosdam nobis articulos communi voto et consensu parili—demptis articulis facta criminalia et honestatem clericalem concernentibus, ad quos ipsi domini prelati consentire non potuerunt—formatos atque compositos nostre obtulerunt maiestati. Supplicantes debita cum instancia, ut eos nos quoque acceptare et approbare et litteris nostris inseri facientes confirmare eciam dignaremur. Asserentes eos tales fore, per quos rite tamen observatos et ordo rebus omnibus reduci et status tocus regni in suo splendore servari pericula quoque omnia ingruencia propelli ac adempta per hec tempora quies et securitas omnibus restitui posset. Qui quidem articuli hoc modo sequuntur et sunt tales:

I. Item quanta incommoda et sepe numero pericula in factis regie maiestatis et tocus regni sui ex inscripcione et ad tempus alienacione verorum et iustorum sacre regni corone proventuum diversis hominibus hactenus facta, subsequuta et illata fuerint, omnibus plane constat. Ut igitur illa removeri et curia negociaque maiestatis regie in statum debitum redeant et redigantur, statutum imprimis est, ut universi proventus regie maiestatis tricesime videlicet ac vigesime, fodine et omnes camere salium, fodine auri et argenti civitatesque regie de facto remittantur et computata racione, si cui sua maiestas adhuc aliqua summa tenebitur, illam cum tempore ex eisdem proventibus refundat ita, ut medietas proventuum regie maiestati cedat et reliqua medietas illi, apud quem in arenda vel pignore fuit. De tricesimis autem et civitatibus regiis apud dominum

Iohannem waywodam habitis aliter est provisum. Ex quo regie maiestati et regno multa et preclara impendit servicia et inter alia castrum Themesiense per Georgium Zekel valida obsidione cinctum eliberavit, Laurencium presbiterum debellavit et rusticanam breviter colluviem exterminavit. Proinde ut tam regia maiestas proventus suos et civitates quam eciam dominus waywoda pecunias suas rehabeat, ex pecuniis exercitualibus seu ad rationem conservacionis gencium binis post se se vicibus per annum exigendis semper decem denarii—qui in toto viginti denarios faciunt—ad manus ipsius domini waywode assignentur. Et huius modi viginti denarii de omnium dominorum et nobilium regie eciam et reginalis maiestatum atque propriis ipsius domini waywode bonis exigantur. Et mox rehabita pecunia sua capitali tam tricesimas quam eciam civitates regales dominus ipse waywoda remittere teneatur.

II. De cetero vero regia maiestas proventus suos regios sine consensu et deliberacione sui consilii ordinati nemini inscribat qualicunque necessitate adurgente. Nam si quis dominorum aut nobilium huius modi proventus regios pro se inscribi fecerit, summa illa de facto amittatur. Et insuper in estimacione talis proventus vel civitatis regie fenerator ille convincatur.

III. Ne autem super bonis et proventibus ac iuribus possessionariis regalibus dubium suboriri possit, ea hic annotare placuit.

Sunt igitur octo imprimis civitates libere videlicet Buda, Pest, Cassovia, Posonium, Tirnavia, Barthfa, Eperyes et Sopronium,

preterea Vetus Buda, Strigonium, Alba Regalis, Lewchovia, Zakolcza, Cibinium et Zegeginum,

item Comani et Philistei omnes

necnon Wyssegrad cum duabus insulis Chepel scilicet et altera Ros appellata infra Wyssegrad usque Megyer adiacentibus,

insuper Cremnicia, Sebnicia, Bistricia, Zolyom cum ceteris civitatibus montanarum ac

Rivulum Dominarum et castrum Hwzth cum quinque civitatibus et fodinis salium,

omnes preterea tricesime regnorum Hungarie et Sclavonie ac omnes camere salium in eisdem habite

necnon castra Munkach, Dyosgyewr,

item in Transsilvania Saxones regii, omnes fodine et camere salium et loca earundem fodinarum cum civitate Kolosvariensi

ac omnes vigesime et cementum ac quinquagesime partibus in eisdem Transsilvaniensibus exigi consuete,

deinde castra Gewrgen, Therch et Dewa ibidem adiacencia atque sita.

IV. Quantum autem ad damnorum per malefactores tam rusticos quam eciam nobiles partem rusticorum tenentes dominis et nobilibus illatorum refusionem et recuperacionem attinet, quia publice et magna cum multitudine illa patrata et irrogata existunt, ideo in singulis comitatibus penes vicecomites ac quatuor iudices nobilium, duodecim nobiles bone fame et honeste vite atque

condicionis per universitatem nobilium firmissimo sub iuramento obligantur, qui ad facies cunctarum domorum et curiarum nobilium accedant ibique universa damna tam in edificiis et structuris quam etiam utensilibus et supellectilibus domorum atque abduccionibus equorum, boum aliorumque pecorum et pecudum—in quantum visu considerare et etiam testimonio condigno intelligere poterunt—secundum Deum et eius iusticiam bene ponderare estimareque et limitare et dehinc universitati nobilium sub eodem iuramento referre debeant. Et tandem rustici seu coloni illarum civitatum, oppidorum, possessionum ac villarum, que damna prenotata intulisse et irrogasse dinoscuntur, in termino per universitatem nobilium ad id prefigendo domino vel nobili leso et damnum passo refundere restituereque teneantur. Illis tamen dominis, quorum castra hoc disturbii tempore propter malam conservacionem per rusticos sunt intercepta—quia non violenter, sed per dedicionem sunt occupata—restitutio damnorum in hac parte fieri non intelligatur, sed huius modi damna tolerare cogantur.

V. Si quis vero nobilium diceret res suas aureas et argenteas seu paratas pecunias, que scilicet in luce et in publico vel ad noticiam hominum non fuerunt per rusticos ablatas esse, si superinde evidens testimonium vel probabile documentum produci et afferri non poterit, iuramento mediante ab illis rusticis, qui domum suam invaserunt, eas recuperare debebit.

VI. Iuramentum autem huius modi coram ipsis vicecomitibus et iudicibus nobilium ac duodecim electis iuxta eorundem deliberacionem tempore premissis exequucionis prestare vel si eo tunc nobilis ipse prestare non posset, extunc in sede iudiciaria coram comitibus vel eisdem vicecomitibus ac universitate nobilium deponere tenebitur ita, ut unus nobilis ad decem florenos in hac parte iurandi habeat facultatem.

VII. Ubi autem rustici satisfaccionem de damnis prenotatis in termino ipsis prefigendo nobilibus impendere nollent, extunc comes vel vicecomes ac universitas nobilium eos ad satisfaccionem per omnia remedia opportuna—etiam per direpcionem et ablacionem omnium bonorum ipsorum—compellat. Si vero comes vel vicecomes cum universitate nobilium insufficiens esset, quia aut dominus colonorum resisteret aut rustici in oppido vel civitate munita rebellarent, extunc regia maiestas ad requisicionem et supplicationem comitum vel vicecomitum et iudicum ac universitatis nobilium talis comitatus amonita et requisita cum gentibus suis ac aliorum circumiacencium comitatuum et dominorum huius modi civitates et oppida villasque et rusticos ad premissam satisfaccionem compellere faciat. Et propter rebellionem illorum etiam regie maiestati tantum solvant—si habebunt—quantum nobili leso et damnificato solvere tenebuntur, primo tamen nobili fiat satisfaccio.

VIII. Item super homagiis quoque nobilium interemptorum idem est sciendum atque faciendum, ut scilicet oppida, civitates seu ville, que tempore occisionis interfuerunt et consenserunt, homagia omnium nobilium hoc tempore disturbii necatorum persolvere teneantur. Si vero rustici de alio comitatu damna huius modi vel homicidia intulisse reperientur, extunc comes, vicecomes ac universitas nobilium alterius comitatus per litteras horum comitis, vicecomitis ac iudicum nobilium requisitus teneatur ex parte illorum rusticorum lesis satisfaccionem impendere modo predeclarato.

IX. Quoniam autem nonnulli super eiusce modi damnorum rectificacione contententes etiam innocentes et innoxios ad damnorum solucionem compellere moliebantur asserentes et allegantes

duos aut tres, quinque vel sex personas non potuisse de una villa seu oppido mala patrare, si reliqua multitudo aut communitas illis non consensisset, ideo facientes et consencientes pari pena debeant puniri. Hoc licet verum sit consensu deliberato et malicioso, quia tamen rusticus unus alterius potestati non subest, ut alterum aut compellere ad male agendum aut retrahere pravis ab operibus possit et alias equitatis ratio dictat, ut rei et culpabiles puniantur, innocentes autem salvi maneant. Propterea declaratum et statutum est, quod solummodo culpabiles et rei—non autem innocentes—condemnentur sic videlicet, ut si de una villa aut oppido quatuor vel quinque aut plures comperti fuerint esse in culpa et malorum patratores, solum illi aut capitali sententia aut damnorum solutione puniantur, ceteri vero salvi maneant et illesi.

X. Ubi autem coloni et rustici inter se discordes fierent, ut duo aut quatuor, quinque vel sex etc. communitati et e converso communitas illis dumtaxat personis culpam impingeret, extunc dominus terrestris—si in propinquo est—aut officialis eius mox et sine omni dilacione iudicium et iusticiam inter tales faciat et partem illam, quam in culpa esse cognoverit aut scilicet seorsum aut coniunctim ad damnorum solutionem compellat et adstringat.

XI. Quodsi dominus ipse vel officialis facere nollet, extunc ad requisicionem et supplicacionem comitis vel vicecomitis aut universitatis nobilium talis comitatus regia maiestas bona illa et iura possessionaria talis domini vel nobilis occupari faciat usque ad iustam et debitam satisfaccionem.

XII. Ceterum ubi aliquis dominorum terrestrium bona mobilia et res dominorum aut nobilium apud manus rusticorum reperta abstulisse vel eciam proprias res rusticorum suorum hoc pretextu, ne damna illata reddere possent, diripuisse conpertus fuerit, vice versa reddere teneatur, ne damnificati domini vel nobiles in damno permittantur. Quodsi dominus ipse terrestris facere recusaret, extunc bona et iura possessionaria talis per regiam maiestatem modo prenotato occupentur et tamdiu teneantur, donec damnificatis satisfactum fuerit effective.

XIII. Et quod sub hoc colore publici malefactores non evadant, sed—prout limitatum et conclusum est—ubique puniantur, sed providendum semper est, ne innocentes condemnentur.

XIV. Item quamquam omnes rustici, qui adversus dominos eorum naturales insurrexerunt, tanquam proditores capitali pena sint plectendi, ne tamen tot sanguinis effusio adhuc sequatur et omnis rusticitas, sine qua nobilitas parum valet, deleatur, statutum est, quod universi capitanei et centuriones et decuriones concitatoresque aliorum rusticorum ac manifesti homicide nobilium, preterea violatores virginum ac mulierum omni gracia semota occidantur et ubilibet extirpentur. Ceteri autem rustici refusis et persolutis damnis ac homagiis prenotatis in personis eorum salvi maneant. Attamen ut huius modi prodicionis eorum memoria atque temporalis pena eciam ad posteros ipsorum diffundatur et transeat et quam enorme facinus sit in dominos insurgere, omne seculum agnoscat, amodo deinceps universi rustici in hoc regno ubilibet residentes demptis civitatibus liberis et muratis, que maiestati regie fideles fuerunt, et illis quoque exceptis, qui penes dominos eorum et sacram coronam regni huius in vera fidelitate perstiterunt cum aliisque sceleratis rusticis in hac sedicione non participaverunt, per hanc infidelitatis ipsorum notam amissa libertate eorum, qua de loco in locum recedendi habebant facultatem, dominis ipsorum terrestribus mera et perpetua rusticitate sint subiecti neque de cetero contra voluntatem et consensum dominorum suorum de loco in locum recedendi et se se moraturos conferendi habeant facultatem.

XV. Preterea singuli rustici uxorati—sive sessionati seu domos habitantes sive autem inquilini sint—per singulos annos dominis eorum terrestribus singulos centum denarios unum florenum auri facientes quinquaginta scilicet ad Georgii et residuos quinquaginta denarios ad Michaelis archangeli beatorum festa ubilibet solvere teneantur. Et si alicubi locorum plures quam centum denarios hactenus solvere consuevissent, talis census per hanc constitutionem diminutus esse non intelligatur.

XVI. Item qualibet hebdomada singulo uno die dominis ipsorum servire teneantur.

XVII. Item singulis mensibus singulum unum pullum dominis eorum dare sint obligati.

XVIII. Item de omnibus terre nascenciis sive metantur sive falcentur, preterea de vinis dominis ipsorum nonas seu nonam partem ultra decimas prelati eorum debitas solvere teneantur ita, ut ex decem capeciis segetum seu decem cubulis vinorum rustico octo manebunt. Quantum tamen ad decimas attinet, solummodo de illia segetibus, quibus hactenus consueverunt, decimas dare solvereque debebunt.

XIX. Item singulis annis duos anseres unum videlicet tenerum ad penthecostes et alterum antiquum ad beati Martini episcopi et confessoris festa dominis ipsorum solvant.

XX. Item de qualibet villa usque decem sessiones iobagionales continente vel eciam minus ad festum natalis Domini unum porcum saginatum, ubi vero ultra decem fuerint, de singulis decem sessionibus singulum unum porcum similiter saginatum dare teneantur ceteris eciam proventibus dominorum et nobilium ultra hec hactenus dari et percipi consuetis salvis permanentibus.

XXI. Et quod mulieres vidue—que vices iobagionum gerunt—eciam alteri nubentes preter dominorum suorum permissionem recedere nequeant. Puelle tamen et alie mulieres vidue, que apud alios habitant vel aliter vices iobagionum non gerunt, nuptui libere tradantur et recedant, filios tamen si nobiles habuerint, secum abducere non possint, immo si propter teneram etatem mater filium secum abduceret, nichilominus tamen filius ipse perfecta seu nubili etate adveniente ad habitacula sua pristina redire teneatur.

XXII. Item quod universi inquilini infra triennium ab omni solucione censuum exempti et supportati sint et interea domos pro se construere in seriemque et numerum ceterorum iobagionum se se collocare et computare teneantur. Nam aliter—si domos edificare nollent—eciam apud alios residentes censum floreni unius dominis eorum terrestribus solvere teneantur. Si autem aliqui eorum domos proprias modo quoque inhabitarent et res ultra valorem trium florenorum exceptis hereditatibus haberent, tales eciam de presenti ad solucionem censuum instar aliorum colonorum et rusticorum huius iobagionum compellantur.

XXIII. Et quod Philistei et Comani ac ceteri iobagiones regie maiestatis ubilibet residentes—demptis civitatibus liberis et muratis—tam ad censuum et munerum nonarumque solucionem quam eciam serviciorum exhibicionem instar aliorum colonorum et rusticorum huius regni de cetero teneantur et sint obligati.

XXIV. Item quod nemo de rustica progenie natus de cetero in episcopum vel archiepiscopum ob perpetuam premisse rusticane prodicionis memoriam per regiam maiestatem promoveatur et si quispiam promoveretur, nemo illi decimas dare teneatur.

XXV. Item hoc expresse nichilominus declarato, quod articulus de iobagionum ulteriori non recessu vel commigracione prescriptus et predeclaratus, quia plurime maximeque incommoditates et quotidiana fere iurgia pretextu abductionis et retencionis iobagionum hactenus suboriebantur, eque ad omnia loca ac universos iobagonalis et plebeie condicionis homines ubilibet intra limites regni huius et parcium sibi subiectarum residentes referatur et intelligatur ita, ut de cetero iobagionum amissio vel abduccio per omnia cesset perpetuoque aboleatur et extincta maneat semper. Verum de civitatibus liberis regie maiestatia et dominorum in alias civitates similiter liberis eorundem commigracio iobagionum prenotata inter se se per hanc constitutionem interdicta non intelligatur.

XXVI. Item ordinatum est, quod si quis potentum aut alterius cuiusvis status et condicionis hominum iobagiones quorumpiam manu violenta aut aliter contra dominorum suorum voluntatem abduceret, extunc ille, cuius iobagio abduceretur, acceptis penes se uno ex iudicibus nobilium ac aliis quatuor nobilibus illius comitatus, ubi iobagio abductus reperietur, qui omnes sub pena solucionis singulorum centum florenorum per comites vel vicecomites ac ceteros iudices nobilium immediate et irremissibiliter partim pro se, partim vero actori exigendorum requisiti venire tenebuntur, nisi gravi detineantur egritudine vel inevitabili prepediantur necessitate, postquam hoc et id, quod scilicet violenter et contra voluntatem suam fuisset iobagio suus abductus, sufficienter verificari et eundem iobagionem in facie talis oppidi vel talis ville constitutum nobilibus ipsis presente dicto iudice nobilium demonstrare poterit, extunc dominus ille vel nobilis amoneatur ad reddendum una cum rebus suis, qui si reddiderit nichilominus pro violencia—sufficienter tamen prius comprobata—solvat centum florenos partim comitibus vel vicecomitibus ac iudicibus nobilium, partim autem ipsi actori. Quibus solutis—si postea eundem iobagionem apud se temere retinebit—amittat locum illum, in quem iobagio ipse abductus est sive sit civitas sive oppidum sive villa sive porcio. Cuius tertia pars cedat illi, cui violencia illata est, due partes relique maneant regie maiestati.

XXVII. Si vero officialis inscio et ignorante domino suo huius modi violenciam commiserit et id verificari poterit neque dominus in ea re partes officialis sui tutatus fuerit, teneatur officialis violenciam solvere et dominus requisitus iobagionem abductum ad sua bona restituere sub pena premissa. Si autem dominus ipse in remotis ageret et officialis suus ipso inscio patraret violenciam et in retinendo illo contra amonicionem perseveraret dominusque suus ob absenciam requiri non posset, talis officialis pro violencia solvat centum florenos et pro retinendi temeritate amittat bona sua, si que habet nobilitaria. Si vero rusticus est ipse officialis, tradatur per dominum suum ad manus eius, cuius iobagio fuit per illum abductus, qui si non traderetur, amittatur locus ille, quo iobagio fuit abductus. Ubi vero diceret dominus eiusdem officialis eum ad manus tradere non posse, quia aufugisset, iuramento coram comitibus, vicecomitibus et iudicibus nobilium talis comitatus se expurget, quod postquam sibi violencia ista innotuit, detinere eum non potuit et si non iurabit, homagium illius persolvat. Domini vero prelati, si violenciam huius modi fecerint aut facere procuraverint, pro violencia solvant similiter centum florenos et si perseveraverint in retinendo iobagione abducto, quia bona ecclesie amittere non possunt, in estimacione loci illius, in quem abduxerunt, convincantur. Hoc tamen addito, quod illi vel fratribus illius, qui iobagionem alterius violenter abduci fecerat, regia maiestas ipsas duas partes bonorum suorum donare non possit, ne per hoc abduccio prenotata inulta pretereat et impunita maneat.

XXVIII. Si autem rusticus quispiam salto vel furtim discederet, ille—in cuius bonis reperietur— ad amonicionem et requisicionem domini sui per unum vel duos ex iudicibus nobilium fiendam restituere teneatur. Nam si reddere recusaverit, cum posset et hoc—modo antelato—verificari poterit, extunc penam de violenter abductis prenotatam subibit. Ubi autem abinde quoque iobagio ille furtim vel aliter discederet, super hoc—quod post amonicionem factam illum detinere non potuit—si dominus illius possessionis in propinquo erit, per se, si vero absens fuerit vel in longinquo agit, officialis suus iuramentum prestare tenebitur et si prestare noluerit, homagium illius actori persolvat et comites ac vicecomites satisfaccionem superinde modo prenotato impendant.

XXIX. Si vero civitates libere vel munitae sive Comani sive Philistei aut alii iobagiones regii in medium eorum iobagiones cuiuspiam violenter abducerent aut furtim illuc ipsi iobagiones confugerent et per iudices nobilium cum aliis quatuor nobilibus prenotatis modo antelato requisiti huius modi iobagiones abductos vel fugitivos reddere nollent, extunc iudex et iurati cives talis civitatis et ville, quia bona regia per hoc alienari non possunt, pro quolibet iobagione in ducentis florenis adversus nobilem vel alium actorem et insuper in homagiis talium iobagionum adversus comites vel vicecomites et iudices nobilium ipsius comitatus, ubi id fieri contingit, convincantur et iidem comites vel vicecomites cum iudicibus nobilium ex parte illorum satisfaccionem impendere et iobagionem reducere teneantur. Si autem etiam hac pena persoluta iobagionem reddere nollent, extunc etiam secundo et tertio ad restituendum amoneantur et quociens reddere recusarent, totiens penam prenotatam incurrant et persolvere teneantur. Si vero iobagio aufugeret, quod post amonicionem detinere illum non potuerunt, iudex et iurati cives coram ipsis comitibus, vicecomitibus et iudicibus nobilium iuramentum prestent et si non prestiterint, homagium persolvere debebunt modo predeclarato.

Super oppidis etiam et bonis ecclesiarum, quantum ad iobagiones fugitivos, idem est sciendum atque faciendum et si temerarie retinuerint, tandem in estimacione illius loci convincantur.

XXX. Et si rusticus fugitivus aut violenter abductus per dominum suum in campo vel alibi detineri poterit, libere detineatur et ad pristina sua habitacula cum omnibus rebus suis, que in manus domini sui incidere possunt, reducatur.

XXXI. Ubi autem comites vel vicecomites cum iudicibus nobilium et universitate nobilium ad restitutionem huius modi pene insufficientea fierent, extunc in loco communi penes litteras eorundem comitum vel vicecomitum et iudicum nobilium quilibet colonorum et inhabitatorum talis civitatis aut oppidi vel ville cum rebus suis arrestari et ad satisfaccionem compelli possit. Contra ipsos vero comites et vicecomites, si per se ipsos prestarent occasionem premissarum violenciarum, universitas nobilium modo predeclarato procedat et si ad ipsam exequucionem seu processum insufficientis videbitur, tunc maiestas regia superinde requisita illam peragere et peragi facere dignabitur.

XXXII. Et quod persone quoque seculares contra ecclesiasticas civitatesque liberas et iobagiones regios solummodo in pena prenotata et non in amissione possessionis aut ville convincantur.

XXXIII. Item quia nemini dubium, quod preterita affliccio rusticana peccatis nostris exigentibus permittente Deo illata est, peccata autem ex eo creverunt, quod semper impunita manserunt. Inde latrocinia, furta, homicidia, adulteria, falsarum monetarum cusiones, incendia aliaque malorum

genera multiplicata fuerunt. Propterea statutum est, quod in omnibus et singulis comitatibus huius regni prenotati vicecomites, iudices nobilium ac duodecim electi iurati, qui ad revisionem et recuperacionem damnorum fuerint deputati, firmissimo sub iuramento universos eiusce modi malefactores tam scilicet nobiles quam eciam ignobiles exquirere de illorumque nominibus experiri et in registrum conscribere et eos tandem iuxta ipsorum demerita punire debeant. Preterea de nobilibus quoque illis, qui rusticis in ipsorum premissa tumultuaria insurreccione adhererunt et partem illorum tenuerunt cum eisque participaverunt, veritatem pariter inquirant et eos omnes, qui culpabiles inventi fuerint, in registrum similiter conscribant atque sub eorum sigillis regie maiestati mittant, ut tandem iuxta seriem huius modi registri illi tanquam proscripti omnibus eorum bonis et iuribus possessionariis destituantur et ad occupacionem eiusce modi bonorum vigore donacionis regie exinde iam facte vel fiende processus amplior non sit necessarius neque requiratur, sed quilibet iuste talia bona impetrans eisdem de facto pociatur. Ne malefactores impuniti maneant et ne innocentes condemnentur! Multi enim nobilium in manus rusticorum incidentes, ne per eos occiderentur, illis adhererunt et se se subdiderunt, postquam tamen potuerunt, mox illos reliquerunt et ab eis aufugerunt et tales condemnari non debent.

XXXIV. Et quia omnes fere nobiles comitatus Maramarosiensis partem rusticorum tenuisse et cunctis eorum pravis perniciosisque actibus participasse dicuntur, ideo super illis in comitatibus de Wgocha et de Bereg fiat veritatis inquisicio prenotata.

XXXV. Et quod regia maiestas bona talium sceleratorum nobilium dominis et magnatibus—qui eciam alioquin satis habent—non conferat et si iam contulisset, huius modi collacio nullius sit firmitatis, sed illis donet, quorum fratres aut patres per rusticos occisi sunt; item illis, qui maiestati sue et regno in campis et exercitibus armata manu vel castris fideliter servierunt; preterea illis, qui ex rusticis parentibus nati sunt, sed penes ipsorum dominos et nobiles fideliter et probe servierunt eisque in ipsorum periculis astiterunt, ut eciam reliqui rustici fideliores hoc exemplo reddantur et dominis eorum de cetero fervencius obsequantur. Et si quis bene impetrata bona illis, quorum fuerunt, favore remitteret vel gratis tanquam particeps sceleris, eadem pena condemnentur.

XXXVI. Et quod gracia regia tam rusticis malefactoribus, quantum ad personas eorum, quam eciam nobilibus eisdem rusticis adherentibus et partem eorum modo antelato tenentibus, quantum ad bonorum ipsorum recuperacionem, iam forsitan facta vel fienda suffragari non possit, sed omnino iuxta eorum demerita puniantur, ut de cetero eciam alii per hoc exemplati a vera fidelitate non discedant. De reliquis quoque malefactoribus in ipsis iudiciis seu exequucionibus comitatum proscibendis idem est intelligendum, ut omnes semota gracia puniantur ceterique in posterum terreantur et ad similia perpetranda facinora se se non apponant.

XXXVII. Ubi vero eiusce modi malefactores rustici existentes de bonis aliquorum ad manus comitum, vicecomitum ac iudicum nobilium ad infligendam illis penam a iure statutam non assignarentur, dum requirerentur, extunc in homagiis eorundem convincantur serveturque modus et ordo in amonicione et requisicione huius modi, qui super capitaneorum centurionumque et decurionum etc. rusticorum punicione conscriptus est. Et preterea ubicunque et per quemcunque tales malefactores sive nobiles sive rustici existant, comprehendi poterunt, penes litteras comitum ac vicecomitum et iudicum nobilium superinde confectas omni gracia semota occidantur necarique valeant atque possint.

XXXVIII. Item quia plures nobilium per rusticos etsi non interempti, tamen capti et diversis eciam cruciatibus ac verberibus affecti fuere, ideo iidem rustici, qui vel de quibus locis hec patrarunt, homagia talium nobilium viva hoc est centum florenos auri restituere teneantur limitatione pretactorum vicecomitum et iudicum nobilium et aliorum duodecim electorum hominum mediante.

XXXIX. Et ante omnia prenominati capitanei, centuriones, decuriones concitatoresque et seductores rusticorum necnon manifesti homicide nobilium stupratoresque puellarum et violatores mulierum tempore, quo super damnis illatis exequucio fiet, per antefatos vicecomites et iudices nobilium ac duodecim electos in singulis comitatibus resciantur et consignentur atque per eos, in quorum bonis modo latitant vel si in remotis illi agerent, per officialem et si officialis quoque abesset, per iudicem et iuratos cives et si idem iudex et iurati cives essent tales malefactores, per universitatem colonorum ad intimacionem et requisicionem ipsorum vicecomitum et iudicum nobilium ac duodecim electorum ad locum sedia iudicarie comitatum ad primam scilicet sedem importentur ibique capite condemnentur.

XL. Verumtamen super capitaneis mera rei veritas inquiretur, si quispiam illorum sponte vel proprio motu capitaneatum suscepit vel autem compulsive et metu alios rusticos precessit. Nam si coactus precessit penam capitalem non meretur.

XLI. Si qui autem contrarium facere presumerent sive domini seculares ac nobiles aive autem civitates libere vel munite sive Philistei vel Comani aut alii iobagiones regii sive officiales aut oppida vel ville ecclesiarum pro quolibet tali malefactore in singulis quadringentis florenia convincantur. Et tocians, quociens requisiti ad infligendam penam dare et importare illos noluerint, in ipsa pena solucionis quadringentorum florenorum partim hys, contra quos excesserunt, partim vero comitibus, vicecomitibus et iudicibus nobilium condemnentur. Fiatque exequucio per omnia, sicuti de iobagionibus de cetero violenter abducendis et aufugiendis haberetur superius expressata.

XLII. Ubi vero quispiam talem malefactorem aufugisse et post amonicionem non potuisse comprehendere allegaret, ille iuramento decimo se, si nobilis fuerit, si ignobilis quadragesimo se iuxta scilicet homagium expurget et si non iurabit, homagium eius persolvat.

XLIII. Si qui vero comitatum cupiunt et a regia maiestate postulabunt super exquirendis et extirpandis prenarratis omnibus malefactoribus tam scilicet nobilibus quam ignobilibus, sed et illis nobilibus, qui rusticis adhererunt et partem illorum tenuerunt, iudicium generale seu palatinale per maiestatem suam celebrandum concedatur, prout habetur in decreto.

XLIV. Item quod omnes rustici, qui hoc disturbii tempore preter dominorum vel dominarum ipsorum voluntatem discesserunt, per comites ad pristina eorum habitacula simul cum rebus eorum reducantur et in huius modi reduccione servetur modus et ordo, qui in nova abductione iobagionum observabitur. De ceteris vero abductionibus iobagionum ante disturbium indebite factis, si qui lites iam habent superinde motas, servetur modus et ordo prius iuxta decretum observatus.

XLV. Ubi autem comites vel vicecomites per se ipsos essent in causa, tunc iudices nobilium cum universitate nobilium exequucionem premissam peragendi habeant auctoritatem. Et si universitas ipsa cum iudicibus nobilium ad eandem exequucionem non sufficeret, regia maiestas illam peragat peragereque faciat semper.

XLVI. Item quod waywode et beslie in partibus inferioribus constituti cessent et deleantur et si in quorum bonis infra proximum festum beatorum innocentum martirum non deponerentur, tales pro quolibet waywoda singulos quadringentos florenos persolvant et si persolutis illis adhuc tenere eos comperti fuerint, amittant loca illa seu bona, in quibus reperientur. De besliis autem comites vel vicecomites faciant proclamare, ut beslie cessent et supersedeant a rapinis atque furtis. Qui si cessaverint, bene quidem, alioquin autem per eosdem comites vel vicecomites suspendantur. Et si domini eorum contradicerent, loca ipsa, ubi habitant, pariter amittant et ea regia maiestas, cui donare voluerit, libere conferre possit.

XLVII. Et ne de cetero quispiam rusticorum sediciones in populo concitare et presertim puellas et mulieres nobiles violare presumat, sed omnem successivam posteritatem illata propterea pena terreat utque omne seculum agnoscat pariter et reminiscatur, quam detestabile, quam enorme quamve turpe vicium sit post Deum apud Hungaros virginum defloracio ac mulierum violacio, universi tales presumptuosi Deoque et hominibus detestandi latrones horrenda nece pereant et eorum quoque posteritates filii videlicet et filie ac fratres carnales ita puniantur, ut nunquam de cetero de illorum progenie iudex aut iuratus civis vel villicus in medio aliorum rusticorum aliquis eligatur nemoque in curia principis vel dominorum ac nobilium ex eis famulari unquam possit et nullus eorum ad aliquem honorem promoveatur, sed tanquam maledicte generacionis iugo perpetue servitutis et rusticitatis subiecti reatus ipsorum penam lugeant sine fine. Si vero non uxorati talia patrasse deprehendantur, eorum nichilominus patres et tota progenies premissa infamia condemnentur.

XLVIII. Domini vero prelati per eorum visitatores huiusce sceleris participes presbiteros exquiri statim et perpetuis carceribus mancipari faciant. Immo si per quospiam nobiles vel eorum famulos comprehendi poterunt, libere detineantur et ad manus prelati sui vel factoris eiusdem tradantur penam prenotatam luituri.

XLIX. Item quod universa bona et quelibet iura possessionaria quorumcunque nobilium aut per notam infidelitatis aut defectum seminis hys disturbiorum temporibus impetrata et per plerosque potentes occupata statim et de facto remittantur et eciam proventus eorum hactenus qualitercunque percepti restituantur. Et si non remitterentur proventusque non restituerentur per comites nichilominus ac vicecomites restituantur. Et insuper propter violenciam tanquam contra violentos et potencialiter detentores iudicium atque sententia decernatur habita statim superinde evocatione ita tamen, ut post remissionem bonorum donacio maneat in vigore et prosequatur regni de lege, si quispiam impetratorum inquisitionem super flagiciosis et partem rusticorum tenentibus nobilibus predeclaratam expectare noluerit.

L. Et si soli comites vel vicecomites fuerint bonorum ipsorum detentores, tunc per iudices et universitatem nobilium restitucio nichilominus peragatur. Et preterea sententia modo preallegato facta evocatione contra eos feratur.

LI. Res eciam nobilium universe—demptis illis, que in prelio sunt consequute vel recepte—sub pena minoris facti potencie ac estimacionis et valoris rerum ipsarum restituantur. Et si non redderentur, prehabita amonicione per iudices nobilium in facto ipso minoris potencie et preterea in estimacione rerum ipsarum—ut prefertur—detentores earundem convincantur et comites ac vicecomites et iudices nobilium leso satisfaccionem superinde impendant. Secundo autem si

requisiti reddere nollent, in duplo condemnentur et sic consequenter convincantur. Ubi vero comites etc. vicecomites et iudices nobilium ad exequucionem insufficientes erunt regia maiestas et supplicacionem comitum exequucionem ipsam peragat. Et si qui nobilium equos aut arma vel alias res amiserunt in bello contra rusticos, teneantur illos quoque et illa modo et sub pena premissis reddere, si reperientur. Et insuper per universos dominos prelatos et ecclesiarum rectores cunctis presbiteris diocesibus eorum subiectis, immo eciam fratribus cuiuslibet ordinis sub excommunicacionis pena committatur, ut neminem absolvant, nisi primum bona nobilium—preterquam in prelio adepta et consequuta—reddant, immo tales, qui habent, ubique publice excommunicatos denuncient.

LII. Preterea plures perhibentur ease in regno, qui aliorum bona propter damna forsitan ipsis illata vel eciam damnabilis lucri causa notabilibus pecuniarum summis taxarunt et plerosque aliorum rusticos de eorum domibus extrahentes vel aliter extra prelia captivantes pactarunt. Ne igitur coloni ipsi et rustici duplici solucione graventur, tempore revisionis et limitacionis pretactorum damnorum omnium dominorum et nobilium eciam super huius modi taxacione et pactacione per predictos vicecomites et quatuor iudices nobilium ac duodecim iuratos electos veritas inquiretur et si quid extorsisse aliqui reperientur, refundere et ad sortem damnorum omnium dominorum ac nobilium—prout limitatum ibi fuerit—deponere teneantur. Qui si reluctarentur vel iuridice forsitan aliter amoniti, restituere recusarent, tanquam contra potentes sententia maior decernatur. Et iudices ordinarii vel comites ac vicecomites cum iudicibus nobilium exequucionem contra eos peragant et si per se ipsos forsitan essent reluctantes, universitas nobilium in exequucionem procedat. Ubi vero comites vel vicecomites cum iudicibus nobilium aut ipsa universitas ad exequendum non sufficerent, regia maiestas curare dignabitur fieri omnimodam exequucionem in premissis.

LIII. Item quia multorum nobilium littere ac litteralia instrumenta hoc tempore disturbii perierunt et per rusticos incinerata vel in partes dilacerata sunt, ideo regia maiestas omnibus illis nobilibus iura eorum possessionaria nove donacionis sue titulo cum declaracione huius perniciet donare dignetur. Et quia iidem nobiles rebus eorum despoliati sunt, ideo dominus cancellarius sine redempcione litteras huius modi donacionales restituat et restitui facere velit.

LIV. Deindeque cunctorum talium bonorum metas vernali statim tempore adveniente regia maiestas per magistros prothonotarios reambulari et rectificari faciat. Et non solum huius modi bonorum, verum eciam ex parte ipsorum Comanorum et Philisteorum ac Zegediensium necnon ex parte Moravie, Austrie, Stirie, Carinthie et generaliter omnes metas regni iuxta contenta decreti pariter rectificari faciat.

LV. Item quod regia maiestas sigillum suum iuridicum seu iudiciale persone seculari bene merite iurisque et litterarum perite conferat, que semper Bude maneat et cunctas causas transmissionales atque breves brevium iudicet et littere racione brevis brevium sub sigillis omnium iudicum ordinariorum regni emanari possint. Verum evocacio seu amonicio in presenciam regiam modo hactenus observato fiat. Et cause huiusce modi per ipsam personalem presenciam iudicentur, nisi forsitan ex transmissione eiusdem fuerint in presenciam aliorum iudicum deducte.

LVI. Item de honoribus comitatum per regiam maiestatem exnunc providendum est, quia negligencia aliquando et vicio, interdum vero potencia et insolencia comitum multa incommoda

sequuntur. Et quod honor comitatus Hewesiensis iuxta contenta decreti persone seculari conferatur, quia episcopus Agriensis extra regnum moratur, qui si ad residenciam venerit vel autem ecclesia ipsa prelatum alium residentem habuerit, honor eiusce modi comitatus iterum ad ecclesiam redeat.

LVII. Item quod quilibet nobilium turres et fortalicia pro defensione persone et rerum suarum cum propugnaculis et fossatis erigere, preterea in singulis comitatibus unum castrum pro communitate nobilium cum scitu regie maiestatis construi possit.

LVIII. Item quod nonas omnes civitatenses in terris aliorum vineas habentes vel araturas facientes dominis terrestribus iuxta contenta decreti dare solveque teneantur.

LIX. Item quod preter unum beneficium nemo spiritualium et ecclesiasticarum personarum secundum decreti formam de cetero tenere vel gubernare possit et ea statim regia maiestas bene meritis conferat, aliter autem illa ad conservacionem castrorum finitimorum convertantur.

LX. Item quod presbyteri non beneficiati et scholares scholas inhabitantes arma vel pixides de cetero gerere non audeant. Nam si presbyter aut scholaris nisi extra regnum transiturus arma vel pixides de cetero tulerit eciam per rusticanam manum ablatis suis armis aut pixidibus comprehendi possit ac ad manus prelati vel archidiaconi sui, si in propinquo erit, aliter autem vicearchidiaconi vinctus assignari debebit, qui illum manibus domini prelati sui vel factoris eiusdem tradere teneatur carceribus mancipandum et gravi pena puniendum, quod si ipse vicearchidiaconus facere recusaret, extunc solus ipse per comitem vel vicecomitem captivetur et ad manus ipsius domini prelati vel eius factoris tradatur pena prenotata puniendus. Preterea quod bubulci vulgari sermone haydones nuncupati cuspides et alia arma pariter non deferant et neque rustici pixides gerere presumant, nam aliter si haydo arma gesserit, per quemcunque et ubicunque deprehendi poterit, primo castretur, secundo, si iterum arma tulerit, decoletur vel alia morte mulctetur. Rusticus vero si pixidem habuerit, dextra manu truncetur.

LXI. Item statutum est, quod pro pecudum aut pecorum conservacione in terris aliorum nemo rusticorum eciam liberarum vel aliarum civitatum regiarum domos seu casas de cetero campestrales sive tuguria communi vocabulo zallas nuncupata tenere aut conservare possit, ut per hoc malicia haydonum cesset et depereat. Nobiles autem si huius modi domos in eorum terris propriis tenuerint, custodes nichilominus uxoratos et tales quidem, qui bone fame et honeste condicionis sint, ibidem tenere debeant, ne de illorum pravis actibus mala cuiquam inferantur. Ipsi eciam cives et alii rustici in eorum terris et territoriis similiter facere teneantur. Nam aliter pecudes et pecora talium omnium et nobilium et civium ac rusticorum inibi reperienda talium comitatum, in quibus ea fieri contingeret, auferantur et insuper cuncta tuguria civium ac rusticorum in terris et territoriis dominorum ac nobilium preter eorum consensum erecta, que tempore revisionis et refusionis premissorum damnorum per rusticos nuper illatorum reperientur, per eosdem comites ac vicecomites et universitatem nobilium illorum comitatum distrahantur et si iterum erigentur, pecudes et pecora tandem auferantur. Ubi autem comites ac vicecomites cum ipsa universitate nobilium ad hanc exequucionem peragendam impotentes erunt, regia maiestas et supplicacionem amonita exequucionem huius modi peragere faciat semper.

LXII. Item quod maiestas regia illa bona, que per defectum seminis aliquorum nobilium per rusticos interemptorum ad collacionem maiestatis sue legitime devoluta esse dinoscuntur, nemini

simpliciter conferat et si contulisset, donacio ipsa nullius sit firmitatis, sed si nobilis interemptus filias habuerit, eisdem filiabus maiestas sua perpetuo donet. Si vero filiabus quoque caruerit, extunc relicte eius maiestas sua in perpetuum conferat, ita tamen ne relicta ipsa vel filia rustico nubat, nam sic—cuicumque maiestas sua voluerit—libere donet. Puella eciam nobilis, si rustico eciam patre vel fratribus consencientibus de cetero nupserit, sola quarta puellari contentetur. Et huius modi donaciones regie filiabus vel uxoribus interemptorum nobilium modo prehabito fiende fratribus condivisionalibus occisorum vel eis, ad quos de iure bona ipsa sunt devoluta, preiudicari non intelligantur, sed que ad collacionem maiestatis regie dinoscuntur rite et legittime redacta extitisse, filiabus ipsis et uxoribus illa dumtaxat erunt conferenda.

LXIII. Item quod universa decreta iam rectificentur et in unum comportentur iuraque regni scripta regia maiestas statim perlegi facere et perlecta confirmare confirmataque et sigillata ad singulos regni comitatus remittere dignetur.

LXIV. Ceterum quia plerique decimatorum tempore decimacionis vinorum omnes indifferenter nobiles et ignobiles quantumcunque exiguo et vili pro debito vel alio negotio arestare consuevisse perhibentur, arestacio autem iuxta generalis decreti formam preter unum casum ibidem declaratum fieri non potest et alias decimatoribus ipsis non iudicandi quemquam, sed decimandi dumtaxat data est facultas, propterea iidem decimatores se de cetero in negotium aresti preter factum decimarum ingerere vel immittere nullatenus presumant. Nam si non cessaverint eciam coloni talium locorum ad decimarum solucionem non compellantur, sed decime ipse per dominos terrestres in hac parte exigantur et ad castrorum finitimum reformationem convertantur.

LXV. Item quoniam plurirni beneficiariorum ecclesiasticorum aut privatis eorum pro rebus aut ceterorum consociariorum negociis expediendis in urbem proficiscuntur ibique sepe numero moriuntur et sic eorum beneficia per summum pontificem exteris nacionibus et advenis contra regni huius libertatem crebro conferuntur, ideo deliberatum est, ut amodo deinceps quilibet dominorum prelatorum ac aliorum virorum ecclesiasticorum beneficiariorum urbem petiturus, antequam itineri se submittat, teneatur de patrimonio suo in proventibus tantum maiestati regie et sacre corone sue obligare et inscribere, quantum proventus beneficii sui annualis valere dinoscitur. Si vero tantum patrimonii non haberet, teneatur—priusquam ingrediatur—litteras a summo pontifice assecutorias impetrare, quodsi eciam in urbe casu decederet, beneficium nichilominus suum in hoc regno salvum permaneat et illesum.

LXVI. Item quod monete extere in regnum non inducantur et inducte non recipiantur, sed ubicunque et apud quoscunque reperiri poterunt, auferantur. Et ut facilius et cicius huius modi pecunie eradiceantur et iterum non inducantur, boves et equi atque oves—prout in tribus iam decretis conclusum habetur—de regno non educantur, sed usque Pest dumtaxat et Albam Regalem abigantur, in quibus quidem locis vel eciam alias—ubi poterunt et maluerint—in medio regni naciones extere boves, oves et equos pecuniis Hungaricalibus emant et comparent, nam non extere naciones, sed Hungari huius modi animalia exteris in regnis vendentes pecunias alienas inducere solent. Si qui vero contrarium facerent, tam boves et equi quam eciam oves iuxta decreti formam semper auferantur.

LXVII. Item quod regia maiestas tam ad Iayczam quam Croaciam banos exnunc et de facto constituat ac debitam provisionem et ordinationem faciat, ne periculo subiciantur.

LXVIII. Et quod ad omnia castra finitima per maiestatem regiam provisores deputentur, qui ad ingenia victualiaque provideant et invigilare teneantur semper. Item quod thesaurarius regius pro tempore constitutus solo eo officio thesaurarius fungatur et penes maiestatem regiam semper maneat, ut eo commodius res et negocia sue maiestatis et regni sui dirigere et illis superintendere queat omniaque in factis publicis regie maiestatis et regni cum sue maiestatis et consilii sui deliberacione faciat.

LXIX. Item conclusum est, quod universi actus potenciarum noveque occupaciones per dominos et nobiles in alterutrum hys disturbiorum temporibus a festo scilicet beati Georgii martiris proxime preterito usque modo festum scilicet beate Elizabet vidue quomodocunque et quocienscunque illati et patrati—habita primum legitima superinde evocacione—in termino celebracionis brevium iudiciorum amodo deinceps celebrandorum ante omnes alias causas discuciantur et adiudicentur. Que quidem cause, si in eodem termino finiri non poterunt, in sequenti et tercio termino similiter de illis fiat, quod videlicet ante omnes alias causas extraque omnem seriem leventur et terminentur. Relique deinde cause iuxta decreti contenta iudicentur.

LXX. Quia vero plurimi rusticorum in confinibus regni residencium ob gravamina et servicia ipsis ob eorum demerita de presenti imposita ad extera regna videlicet Poloniam, Moldaviam Moraviamque et Austriam secedere creduntur moraturi; quod fieri ne possit, sacra maiestas regia ad eadem regna sic scribere dignetur, ut coloni et rustici illuc transeuntes moraturi semper reddantur et ad pristina eorum habitacula reducantur, immo potius nec illuc immittantur.

LXXI. Postremo quod loca, que in transacto disturbio per dominos et nobiles ad rusticorum rabiem domandam combusta et incinerata sunt, in ea parte, ubi combustio facta est, a contribucione regia atque exercituali hoc venturo triennio relaxentur.

Nos itaque premissis supplicacionibus prefatorum dominorum prelatorum ac baronum et regni nostri nobilium modo et ordine superius expressato nostre factis maiestati tanquam iustis et rationabilibus inclinati prescriptos articulos commune bonum ac quietum statum et utilitatem ipsius regni nostri in se continentes acceptavimus, approbavimus et ratificavimus, immo acceptamus et sub eisdem condicionibus, quibus editi et superius conscripti existunt, approbamus et ratificamus. Nos quoque eosdem et omnia in eisdem contenta atque specificata inviolabiliter observare et per alios eciam observari facere promittimus et obligamus presentis scripti nostri patrocinio mediante. In cuius rei memoriam firmitatemque perpetuam presentes litteras nostras privilegiales appensione secreti sigilli nostri, quo ut rex Hungarie utimur, communitas duximus concedendas. Datum Bude in festo beate Elizabet vidue tricesimo scilicet tercio die diete et convencionis generalis prenotate anno Domini millesimo quingentesimo decimo quarto regnorum nostrorum Hungarie etc. anno vigesimo quinto, Bohemie vero quadagesimo quinto.

Reverendissimis reverendisque in Christo patribus dominis Thoma tituli sancti Martini in Montibus sancte Romane ecclesie presbitero cardinali ac patriarcha Constantinopolitano et apostolice sedis de latere legato Strigoniensis, Gregorio de Frangepanibus Colocensis ac Bachiensis ecclesiarum canonice unitarum archiepiscopis necnon illustrissimo ac reverendissimo Ippolito Estensi de Aragonia sancte similiter ecclesie Romane diacono cardinali Agriensis, Iohanne de Erdewd electo Zagradiensis, Francisco de Warda Transsilvanensis, Francisco de Peren electo Waradiensis, Georgio Quinque Ecclesiensis, secretario cancellario nostro, Petro Beryzlo

Wesprimiensis, summo thesaurario nostro ac regnorum nostrorum Dalmacie, Croacie et Sclavonie bano, Iohanne Gozthon Iauriensis, Ladislao Zalkano Vaciensis, Francisco de Chahol Chanadiensis, Stephano de Podmanyn Nitriensis, Iohanne Orzagh de Gwth Sirimiensis, Michaele Kesserew de Gybarth Boznensis electis et Briccio de Egerwara Tininiensis ecclesiarum episcopis ecclesias Dei feliciter gubernantibus.

Item spectabilibus et magnificis Emerico de Peren prenotata comite perpetuo comitatus Abawywariensis, predicti regni nostri Hungarie palatino et iudice Comanorum nostrorum, comite Petro Comite de Sancto Georgio et de Bozyn iudice curie nostre, Iohanne de Zapolya comite perpetuo terre Scepusiensis, waywoda nostro Transsilvanensi et comite Siculorum nostrorum ac generali capitaneo nostro, eodem Iohanne de Zapolya et Barnaba de Bela Zewriniensibus banis, Stephano de Bathor comite Themesiensi ac parcium regni nostri inferiorum capitaneo generali, Blasio de Raska thavernicorum. Moyse Bwzlav de Gergellaka ianitorum, Iohanne Dragffy de Belthewk dapiferorum, Iohanne Banffy de Lyndwa pincernarum, Michaele de Palocz cubiculariorum, Georgio de Bathor predicta agazonum nostrorum regalium magistris et Iohanne Bornemyzza de Berzencze comite Psoniensi aliisque complurimis comitatus regni nostri tenentibus et honores.

19 NOVEMBER 1514

We, Wladislas, by the grace of God, king of Hungary, Bohemia, Dalmatia, Croatia, Rama, Serbia, Galicia and Lodomeria, duke of Silesia and Luxemburg, and margrave of Moravia and Lusatia¹ command to memory by these presents to all whom it concerns: [1] That when we often reflected in our mind and considered all the dangers caused to this kingdom of Hungary of ours by the infidel enemy, the ruination and destruction of the border castles and also that most abominable rebellion that the peasant folk stirred up last year in the very heart of this our realm against the magnates and the entire nobility, with enormous and completely unheard-of cruelty, murdering many excellent persons and shedding much blood;² furthermore, that all the disturbances that have afflicted the state of this same kingdom not without grave disadvantage to it originated mainly from the cause that order, without which, as we read, no commonwealth can be well governed, was removed from all affairs and tasks, and in consequence, with restraint set aside, everything was set on its head, as if by a whirlwind, to the very great harm of the entire country. [2] Therefore, lamenting both the severe injuries and the painful losses of our said kingdom of Hungary, we called and held a general diet and meeting of all lords prelates, barons and other gentlemen of our realm to the recently passed feast of St Luke the Evangelist,³ [3] to which, when all were assembled, we explained the reasons for this gathering and in company with them proposed certain matters which seemed to us to be for the welfare of this country of ours and encouraged them that they deliberate on these and establish what would be most pleasing to God and what would be of profit and benefit to the public good of the said kingdom. [4] The said lords prelates, barons and the other gentlemen of the realm, understanding our intent, accordingly discussed these matters much and at length; then, once they had finished, gathering their opinions, they presented to our majesty a number of articles constructed and composed with the common consent and general agreement (excepting the articles on criminal matters and those regarding the integrity of the clergy to which the lords prelates could not agree),⁴ [5] requesting with due insistence that we deign to accept and approve them and confirm them by inserting them into our letters, [6] asserting that these are such by which, providing they are properly observed, the state of the whole country can be preserved in its full

¹ The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.

² On the peasant uprising that erupted in the spring of 1514 and was defeated in July, usually referred to as that of György Dózsa (Székely), see the studies listed in the Preface, above. See also Paul Freedman, *Images of the Medieval Peasant* (Stanford: Stanford University Press, 1999), pp. 272–81.

³ 18 October 1514.

⁴ We were not able to establish anything about these issues.

splendor, all dangers repelled, and the peace and security lost during these times be restored for all. These articles follow accordingly and are such:

1. Then, it is known to all what great and frequent dangers attended and arose in the affairs of the royal majesty and the whole country by the pledging and temporary alienation of the real and just revenues of the Holy Crown of the kingdom to diverse persons, as was done hitherto. [1] In order to eliminate these and to restore and mend the court and affairs of the royal majesty, it was first decided that all revenues of the royal majesty, that is the thirtieth and twentieth, the mines and chambers of salt, the gold and silver mines and the royal cities have to be really returned. After making accounts, if the royal majesty owes any sum to anyone, that shall be repaid from these revenues over time, [2] so that one half of the revenues go to the royal majesty and the other half to him who held them in farm or pledge. [3] In respect of the thirtieths and royal cities in the hands of Voivode John,⁵ the arrangement is different, because he performed many great services to the royal majesty and the kingdom and, among much else, relieved the castle of Timișoara that was strongly besieged by George Székely,⁶ defeated the priest Lawrence,⁷ and swiftly destroyed the peasant rabble. [3] Therefore, in order that both the royal majesty receive his revenues and cities and the lord voivode his money, on the next two occasions over the year, whenever these are, ten pennies (which make twenty pennies in all) shall be assigned to the hand of the lord voivode from the war taxes, that is from the upkeep of troops. [5] And these twenty pennies have to be levied on the goods of all lords and nobles, of the majesties of the king and the queen, and from the goods of the same voivode as well. [6] And once the lord voivode has recovered his capital, he has to return both the thirtieths and the royal cities.

2. Henceforth the royal majesty shall not pledge to anyone his royal revenues without the counsel and consent of his appointed council under any necessity whatsoever. [1] For should any of the lords or nobles have these revenues pledged to himself, he shall lose this sum right away. [2] Moreover, such a usurer shall be convicted to the estimation of that revenue or royal city.⁸

3. In order to avoid doubt as to the royal revenues and property rights, it pleased us to list them here: [1] They are, first, the eight free cities, namely Buda, Pest, Košice, Pressburg, Trnava, Bardejov, Prešov and Sopron; [2] Then Ó-Buda, Esztergom, Székesfehérvár, Levoča, Skalica, Sibiu and Szeged.⁹

⁵ John Szapolyai. or Zápolya, 1490/1-1540, was voivod of Transylvania and eternal *ispán* of Szepes 1510-26, king of Hungary 1526-40, leader of the noble opposition in the 1500s.

⁶ The peasant army besieged Timișoara for almost a month before Szapolyai's troops defeated them. They capitulated on July 15 and their leaders were cruelly executed.

⁷ The priest Lawrence was commander of a peasant troop in eastern Hungary that was defeated by the nobles at the end of July and its leader burnt at the stake in Cluj.

⁸ Cf. **1439: 16**

⁹ On the free royal cities of different types, see Pál Engel, *The Realm of St Stephen*, (London: Tauris, 2001) pp. 253–54.

[3] Further, all the Cumans and *Jász*.

[4] Also: Visegrád with the two islands, that is Csepel and the one below Visegrád, all the way to Megyer, called Ros;¹⁰

[5] Moreover Kremnica, Banská Štiavnica, Banská Bistrica, Zvolen with the other mining towns

[6] and Baia Mare, the castle of Khust with the five cities and the salt mines.

[7] Beyond this, all the thirtieths in Hungary and Slavonia, as well as the chambers of salt there;

[8] and also the castles of Mukacheve and Diósgyőr.

[9] Then in Transylvania, the royal Saxons, all mines and chambers of salt and the mineheads along with the city of Cluj,

[10] and all the twentieths, the arbitrage of gold exchange,¹¹ and the fiftieth that is usually exacted in Transylvania;

[11] finally the castles of Gurghiu, Bran and Deva, located there.¹²

4. Regarding recompense and reimbursement for damages caused to the lords and nobles by evildoers, both peasants and nobles who took the side of the peasants; as they were caused and openly done by a great mob, [1] so in every county the community of nobles shall elect under strict oath twelve nobles of good repute and honest life and rank, in addition to the *alispáns* and the four noble magistrates. They should go to the place of every noble house and residence and be held to well consider, estimate and survey according to God and His justice all damage to buildings and constructions as well as to the equipment and furniture of homes, and those caused by the driving off of horses, oxen and other cattle and animals, as far as they can ascertain by sight and reliable testimony. These they then shall report under the same oath to the community of nobles. [2] Then the tenants or peasants of those cities, towns, estates, and villages which are known to have caused and done the aforementioned damages¹³ have to recompense and reimburse the lords and nobles so harmed at a term to be set by the community of nobles. [3] Recompense for damages is not granted to those lords whose castles were at the time of the disturbances taken by the peasants because of poor upkeep (as they were not seized violently but were given up),¹⁴ but they are made to bear these losses.

¹⁰ The great Danube island Csepel and the one presently called Szentendre Island were in fact the last remains of the formerly sizeable royal estates.

¹¹ *Cementum* meant the office of the chamber responsible for the mandatory exchange of gold (and consequently the income resulting from the exchange). The master of the *cementum* decided the purity of gold and consequently its price. See Márton Gyöngyössy, “Magyar pénztörténet (1000–1526)” [Hungarian monetary history (1000–1526)], in Márton Gyöngyössy (ed.), *Magyar középkori gazdaság- és pénztörténet. Jegyzet és forrásgyűjtemény* (Budapest: Bölcsész Konzorcium, 2006), p. 259.

¹² These three castles originally belonged to the *honor* of the *ispán* of the Székely, and were the last remaining royal castles in Transylvania.

¹³ On the details of this kind of collective responsibility, see below Art. 9.

¹⁴ The castles of Lipova, Şoimoş, Şimand and Gyula are known to have been given up by their commanders without a fight; see Antal Fekete Nagy and Gábor Barta, *Parasztháború 1514-ben* [Peasant war in 1514] (Budapest: Gondolat, 1973), p. 131.

5. Should, however, a noblemen maintain that peasants took his gold or silver objects or ready cash which were not clearly known about or of which people had no knowledge, [1] if no evident testimony or credible document can be produced, then he should recover these things under oath from the peasants who invaded his house.

6. This oath is to be sworn before the *alispáns*, the noble magistrates and the twelve elected men according to their decision at the time of the aforementioned examination, [1] or, if this nobleman is unable to swear it at this time, then he has to take the oath at the judicial seat before the *ispáns* or *alispáns* and the community of nobles, [2] in such a way that one nobleman can swear in this matter up to ten florins.¹⁵

7. Should, however, the peasants refuse to restore the said damages to the nobles at the term set for them, [1] then the *ispán* or *alispán* and the community of nobles shall force them to render satisfaction by every suitable means—including the confiscation and seizure of all their goods. [2] Should, however, the *ispán* or *alispán* with the noble community be unable to do this, either because the lord of the tenant peasants resists or because the peasants in a town or walled city rebel,¹⁶ then the royal majesty shall force cities, towns, villages or peasants of this type —at the request and urging of the *ispán* or *alispán*, the noble magistrates and the community of nobles— with his troops and those of nearby counties and lords to render the aforementioned due.[3] And because of their resistance, they have to pay to the royal majesty the same amount—if they have it—as to the harmed and injured nobleman; nevertheless, the nobleman shall be satisfied first.

8. Then regarding the man-price of murdered noblemen the same has to be observed and done, [1] namely that those towns, cities or villages that participated and conspired at the time of the slaughter have to pay the man-price of all the nobles who were killed at this time of trouble. [2] If, in turn, peasants of another county are found to have committed such damages and murders, then the *ispán*, *alispán* and noble community of that other county shall make the peasants render satisfaction when so requested by letters of the *ispáns*, *alispáns* and noble magistrates.

9. There are some who demand satisfaction for damages of this type and attempt to force the innocent and blameless to pay for the damages, arguing and maintaining that two or three, or five and six persons from a village or town could not have committed wrongs except with the agreement of the rest of the people or the community, so perpetrators and abettors should be punished equally. [1] While this may be true where there is deliberate and malicious consent, nevertheless, since one peasant is not subject to another in such a way that the other can either force him to evil or prevent him from doing bad deeds, and as equity anyhow demands that the guilty be punished and the innocent remain unscathed; [2] it has, therefore, been decided and decreed that only the culprits and the criminals be condemned, and not the innocents, so that if it is established that from a village or town four, five or more are guilty and evildoers, only they should suffer capital punishment or pay damages, and the others shall remain unpunished and unharmed.

¹⁵ Cf. **Tripartitum II, 32: 11**, where however, a noble's oath is said to be worth only 4 florins.

¹⁶ 'Peasants of walled cities' is a peculiar expression, considering that such cities usually enjoyed burgher rights, and thus *rusticus* is probably here intended to mean all non-nobles.

10. Should, however, the tenants and peasants disagree among themselves whether the two or four or six or more persons may pass blame onto the community, or, vice-versa, the community pass blame onto those persons, [1] then the lord of the land—if he is nearby—or his official shall there and then administer justice and judgment among them without delay [2] and the party that he finds guilty, be they individuals or a group, shall be compelled and forced to pay for the damages.

11. Should the lord himself or the official refuse to do so, then the royal majesty shall upon the request and plea of the *ispán* or *alispán* or the noble community of that county seize the goods and property rights of such a lord or noble until just and due satisfaction is rendered.

12. Furthermore, where it is discovered that a lord of the land took away the movable chattels and belongings of lords or nobles that were found in the hands of peasants, or seized the belongings of his own peasants, lest they be unable to recompense damages caused, then he has to return them in turn so that the injured lords and nobles suffer no loss. [1] Should this lord of the land refuse, then the royal majesty shall seize his goods and property rights in the aforementioned way until the injured parties receive effective satisfaction.

13. That public criminals should not with this excuse evade punishment, but—as laid down and decided— be everywhere punished; [1] but care is to be taken lest the innocent be condemned.

14. Then, although all peasants who rose against their natural lords should be punished as traitors with capital punishment, nevertheless, since such a great bloodshed would follow and the whole peasantry, without which the nobility is worth little, be extinguished, [1] it has been decided that all the commanders, centurions and decurions,¹⁷ the inciters of the peasants, the manifest killers of nobles, and those who raped virgins and matrons are to be killed without mercy and everywhere wiped out. [2] The other peasants shall, however, once they have paid for the aforesaid damages and man-prices, remain unharmed in their persons. [3] Nonetheless, in memory of this betrayal of theirs and in order that their present punishment should extend and be transmitted to their descendants and that it be known for all time what an enormous sin it is to rebel against the lords, all peasants living anywhere in this country (excepting the free and walled cities which remained true to the royal majesty, and those who kept their true faith to their lords and to the Holy Crown of this kingdom and did not take part in this rebellion with the other sinful peasants) shall henceforth because of this taint of infidelity of theirs lose their liberty that allowed them to move from one place to another, and they shall be subject to the lords of the land in full and perpetual servitude, [3] nor in future may they have the right to move from one place to another to settle there without the will and agreement of their lords.¹⁸

¹⁷ It is unclear what kind of officers are meant by these terms as they had not been used in Hungary since the early Middle Ages.

¹⁸ These two paragraphs constituted the basic principles subjecting the largely free tenant peasants (*jobbágys*) to “eternal servitude.” In fact, this “feudalization” (or “second serfdom” in Marxist discourse) was in Hungary only partial as many estates were not transformed into commercial latifundia, or were converted from arable to pasture. The article was expressly abrogated by the diet in 1530, although this provision never acquired sanction in custom; on this, see Vera Zimányi, *Economy and society in sixteenth and seventeenth century Hungary, 1526–1650* (Budapest: Akadémiai Kiadó, 1987) also János M. Bak, “Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline” in *Forms of Servitude in Northern*

15. Furthermore, all married peasants, whether they own a plot or a house, or are even landless peasants,¹⁹ have to render their lords of the land everywhere and every year a hundred pennies making one gold florin, *sc.* fifty pennies at St George's and then another fifty at Michaelmas. [1] And if more than a hundred pennies used to be anywhere paid hitherto, such a due shall not be understood as being hereby reduced.

16. Then, they have to serve every week a day to their lords.²⁰

17. Then, they are held to give their lords a chicken every month.

18. Then, they have to render from the yield of all fields, be they arable or hay fields, and their wine, besides the tithe due to their prelates, a ninth, that is the ninth part [1] so that from every ten sheaves or every ten *köböl*²¹ of wine eight remain to the peasant. [2] Regarding the tithe, they have to render the tithe only of those crops as they have been hitherto accustomed.

19. Then they should give their lords two geese annually, *sc.* a young one at Pentecost and another older one at Martinmas.

20. Then, from every village containing ten tenant peasant plots or less, a fattened pig is to be given at Christmas; and where their number is higher than ten, then one likewise fattened pig after every ten plots, [1] while the other revenues of lords and nobles should hereafter remain as previously paid and collected.

21. That widows, who take the place of tenant peasants, cannot move without the permission of their lords, even if they remarry. [1] Girls, however, and other widows who live with someone else and do not replace tenant peasants can marry and move freely, [2] but if they have sons of marriageable age, they cannot take these with them, [3] and even if the mother takes a son of tender age with her, that son has nevertheless to return to his original place of residence once he has reached full and marriageable age.

22. Then, that all landless peasants shall be exempt and free from all payment of dues for three years, during which time they are held to build their own houses and join and be counted among the company and number of the other tenant peasants. [2] For otherwise, if they refuse to build their houses, and even if they live with someone else, they have to pay the due of one florin to the lords. [3] If any of them live in their own houses and have belongings worth more than three

and Central Europe: Decline, Resistance, and Expansion, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols 2005).

¹⁹ *Inquilini* [Hung.: *zsellér*] were landless peasants and probably wage labourers but the term later acquired a more general legal meaning: persons without at least a quarter of a *porta* (*telek*), often regardless of their economic status.

²⁰ This increase in boonwork on the lord's dominical land was quite widely enforced in response to rising grain prices. The Hungarian economy was surprisingly buoyant for much of the sixteenth century.

²¹ *Köböl* is a measure of volume, originally for measuring wheat (appr. 32 kgs), but it was also used for wine, in which case it meant one seventh of the original *köböl*. István Bogdán, *Magyarországi hossz- és földmértékek a XVI. század végéig* (Budapest: Akadémiai 1978), pp. 201–11.

florins, excepting those that are inherited, they have to be forced right away to payment of dues like other tenant peasants.

23. That the Cumans and *Jász* and the other peasants of the royal majesty, wherever they live, except for the walled free cities, are henceforth to be held and obliged to render the rent, gifts and the ninth as well as the due service, just as other tenants and peasants.²²

24. Then, that nobody born of peasant stock be henceforth promoted by the royal majesty to bishop or archbishop, in permanent memory of the aforesaid peasant rebellion,²³ and should anyone be so promoted, no one is held to pay him the tithe.

25. Then this is no less expressly declared that, because hitherto many great troubles and almost daily quarrels have arisen on the pretext that tenant peasants have been abducted and retained, the article written and enacted above on the flight or movement of tenant peasants,²⁴ shall be applied to all tenant peasants and persons of plebeian estate wherever they live in this kingdom and the parts subject to it. [1] So that henceforth both the release and abduction of tenant peasants should forever be stopped and be for all time abolished.²⁵ [2] However, the movement of tenant peasants from or into the free cities of the royal majesty and of lords should not be understood as being prohibited by this decree.

²² The reduction of the formerly free nomads—on whom, see Nora Berend, *At the Gate of Christendom: Jews, Muslims and ‘Pagans’ in Medieval Hungary, c. 1000-c.1300* (Cambridge: Cambridge University Press, 2001)—to *jobbágy* status had already begun in the thirteenth century and proceeded up until the fifteenth century. See György Györffy. “A kunok feudalizációja” [Feudalization of the Cumans] in György Székely ed. *Tanulmányok a parasztság történetéhez Magyarországon a XIV. században* (Budapest: Akadémiai, 1953), pp. 248–275

²³ This clause was motivated by the fact that Thomas Bakócz, archbishop of Esztergom, who was blamed for the peasant rebellion (as he had called the crusade that turned into it) was of non-noble stock. The advance of men of low-standing to high ecclesiastical office was uncommon before the second half of the fifteenth century, members of the higher clergy usually coming from the ranks of the aristocracy. This situation clearly changed under King Matthias, when besides Bakócz several men of peasant or burgher origin became bishops: George Szatmári, Ladislas Szalkai and Peter Beriszló, all of whom also played important political roles in this period. Elemér Mályusz, *Egyházi társadalom a középkori Magyarországon* [Clerical society in medieval Hungary] (Budapest: Műszaki, 1971), pp. 183–87.

²⁴ See above Art. 14.

²⁵ Moving of tenant peasants often derived not so much from the peasants’ own initiative but rather from the need of landowners to expand their labor force; peasants were many times lured (by lower burdens) or even forcibly removed from one estate to another. See also Bak, “Servitude” (as n. 18 above). See also: Gábor Mikó, A parasztság költözési jogának szabályozása II. Ulászló király 1514. évi törvénykönyvében. Hamis értelmezések nyomában [The regulation of the right of peasant’s movement in the 1514 law of King Wladislas II: Following up some erroneous interpretations] in *Keresztesekből lázadók* 319–31.

26. Then it was ordered that if any powerful or other man of whatever estate or condition violently or in any other way abduct the tenant peasants of anyone against the will of their lords, [1] then he, whose tenant was abducted, should take with him one of the noble magistrates and four nobles of that county in which the tenant peasant is found to have been taken, and all of these have to come when requested unless hindered by serious illness or pressing need, under the penalty of a hundred florins each, to be collected on the spot and without remission by the *ispáns* or *alispáns* and noble magistrates, a part for themselves and a part for the plaintiff, after which if it can be sufficiently proved that his tenant peasant was abducted violently and against his will and he is able to show the nobles and the noble magistrate that the said tenant peasant is present in the town or village, then that lord or noble has to be given notice to return him together with his belongings.

[2] Even if he returns him, he has to pay for the act of might—if this can be sufficiently proven—a hundred florins, a part to the *ispáns* or *alispáns* and the noble magistrates, a part to the plaintiff himself. [3] If, after having paid this, he dares to keep that tenant peasant, he should lose that place whither the tenant was taken, be it a city, a town, a village or a part of it. [4] One third of it should go to the one against whom the violence was done and two thirds remain in the hands of the royal majesty.²⁶

27. Should, however, an official commit violence of this sort without the knowledge and notion of his lord and this can be proven, and the lord did not shelter his official in this matter, then the official is held to pay for the act of might and the lord has, upon request, to return the abducted tenant peasant and his goods under the aforesaid penalty. [1] If, however, the lord is far away and the official commits the act of might without his knowledge and retains the tenant despite the warning, and the lord, because of his absence, cannot be so required, then the official has to pay a hundred florins for the violence and, for the rashness of keeping hold [of the peasant], lose his noble property, if he has any. [2] If that official is a peasant, he is to be given over by his lord into the hands of him whose tenant peasant was abducted by him, and if he does not hand him over, the place from which the tenant was taken should be lost. [3] When, however, the lord of that official maintains that he cannot hand him over because he has fled, then he has to swear by oath before the *ispáns*, *alispáns* and noble magistrates of that county that, when he heard of the act of might, he was unable to arrest him; and if he does not swear the oath, he shall pay his man-price.[4] Should the lord prelates commit such an act of might or cause it to be committed, they shall likewise pay for the violence a hundred florins, and if they persevere in keeping hold of the tenant peasant, they are to be convicted to the estimation of that place whither they abducted him, since ecclesiastical goods cannot be forfeit. [5] Adding to this that the royal majesty cannot donate these two parts of his goods to the person or kinsmen of him who violently tried to abduct the peasant of another, lest the said abduction be passed over unavenged and left unpunished.

28. Should, however, a peasant leave by flight or in secret, then he, in whose goods he is found, has to return him once his lord has been given notice and so requested by one or two noble magistrates. [1] For if he refuses to return him when he was so able and this can be proven in the aforesaid way, he is to be subjected to the above-mentioned penalty for violent abduction. [2] If the tenant peasant should leave from there in secret or otherwise, then the lord of that property, if

²⁶ Cf. 1351: 16; 8 March 1435, 7, repeated in 1492: 94.

he is near-by, has to swear the oath personally, or if absent and far away, then his official, that he was unable to keep hold of him after notice was made. [3] Should [either of them] refuse to swear, he shall pay the man-price to the plaintiff, and the *ispáns* and *alispáns* render satisfaction in the aforementioned manner.

29. Should, however, free or walled cities or Cumans or *Jász* or other royal tenant peasants violently take to themselves someone's tenant peasants, or tenant peasants secretly flee there, and having been requested by the noble magistrates and the four nobles in the aforesaid manner, they do not release abducted or escaped tenant peasants of this type together with their belongings, then [1], since royal property cannot be alienated, the judge and the sworn jurors of such a city or village are to be convicted to two hundred florins for every tenant peasant in favor of the noble or other plaintiff, and, moreover, to the man-price of such tenant peasants in favor of the *ispáns* or *alispáns* and noble magistrates of that county where this has happened; and the *ispáns* and *alispáns* and noble magistrates are held to render satisfaction on their part and to bring back the tenant peasant.

[2] If, however, after paying the penalty they refuse to return the tenant peasant, they have to be given notice a second and a third time to restore him, and every time they refuse, so often do they incur the said penalty and they have to pay it. [3] Should, however, the tenant peasant escape, then the judge and the sworn citizens have to swear an oath in front of the *ispáns*, *alispáns*, and noble magistrates that they could not arrest him after the notice; if they do not swear the oath, they have to pay the price in the aforementioned way. [4] In respect of tenant peasants that have escaped, the same is to be understood and done in regard to towns and church properties; and if they rashly keep hold of them, they shall be convicted to the estimation of that place.

30. And if a tenant peasant that has escaped or been violently abducted can be arrested by his lord in the fields or anywhere else, he can be freely detained and brought back to his previous abode with all those belongings of his which his lord can get hold of.

31. If the *ispáns*, *alispáns*, noble magistrates, and the noble community are incapable of effecting a restitution of this type, then it is allowed, by letters of the same *ispáns*, *alispáns* and noble magistrates, to arrest any tenant peasant or townsman of such a city, town or village in a public place with his belongings, and force him to render satisfaction. [1] Against the *ispáns* and *alispáns*, should they be responsible for the said acts of might, the noble community shall proceed in the above mentioned manner, [2] and if they seem to be incapable of the execution or procedure, then the royal majesty shall upon their request deign to act and have it done.

32. That against ecclesiastical persons and free cities or royal tenant peasants, laymen should also be punished with the aforesaid penalty and not with the loss of estates or villages.

33. Then, no one can doubt that the recent troubles in the countryside were brought upon us by God's will in the measure of our sins, [1] and that the sins increased because they remained unpunished.²⁷ Thus robberies, thefts, killings, and acts of adultery, of the counterfeiting of money,

²⁷ The idea that the peasant revolt was divine punishment reflects in a way the mendicant preaching that partially inspired the uprising itself; see Jenő Szűcs, "Die Ideologie des ungarischen Bauernkrieges," in Gusztáv Heckenast, ed. *Aus der Geschichte der ostmitteleuropäischen Bauernbewegungen im 16.-17. Jh.* (Budapest: Akadémiai Kiadó, 1977), pp. 157–87.

of arson and other evil deeds were multiplied. [2] Therefore, it is decreed that in each and every county of this realm the said *alispáns*, noble magistrates, and the elected twelve jurors who have been named for the review and restoration of damages should under most strict oath seek out all these evildoers, both nobles and non-nobles, find out their names, and write them down in a register so that they can be punished according to their deserts. [3] Moreover, they should also find out the truth about those nobles who participated, sided with, and joined in the aforementioned seditious uprising,²⁸ and write down in a similar register all those who are found guilty and submit it under their seals to the royal majesty, [4] so that they according to the listings of this register, be deprived as outlaws of all their goods and property rights; and in respect of the occupation of such goods on the strength of a royal donation granted or yet to be granted, no further procedure is necessary nor needed, but whoever has obtained such goods justly can right away enjoy them. Lest evildoers remain unpunished and the innocent condemned! [5] Many nobles, however, who fell into the hands of the peasants joined them and became their subjects to avoid being killed, but as soon as they could, they left them and escaped; and these should not be condemned.

34. And because almost all the nobles of Máramaros county are said to have held to the peasants' side²⁹ and to have participated in all of their evil and foul deeds, [1] the same said inquest into the truth is to be held about them in counties Ugocsa and Bereg.

35. And that the royal majesty should not grant the goods of such evil nobles to the lords and magnates—who have enough anyhow³⁰—or if he has already granted them, then such a donation should have no force, but he shall give to those whose kinsmen or fathers were killed by the peasants, [1] nextly, to those who faithfully served His Majesty and the country with a mailed fist on the battlefield and the army or in the castles, [2] and moreover to those, who although born of peasant parents, served their lords and nobles faithfully and honestly and assisted them in their dangers, [3] so that by this example other peasants may render themselves more faithfully and thereafter obey their lords more fervently. [4] And if someone having obtained goods gives these over for favor or gratis to those whose they had been, he shall be punished with the same penalty as a participant in the uprising.

36. And that the royal pardon whether already granted or granted in future, should be of no use, as much for peasant wrongdoers insofar as it affects their persons as for nobles who joined these peasants and took their part in the way described, insofar as it affects the recovery of their goods; but they should be punished entirely according to their deserts so that by this example others will not henceforth deviate from true faithfulness. [1] The same is to be understood of other wrongdoers proscribed in courts of law or in the proceedings of the counties, that they all be punished without pardon, so that others tremble hereafter and do not dare to commit similar crimes.

²⁸ There is evidence of the participation of lesser nobles on the peasants' side, with, of course, George Dózsa, probably a free Székely warrior himself, at its helm. See Housley, "Crusading and Social Revolt", pp. 6–7. See also below Art. 34.

²⁹ See Fekete Nagy-Bartha, *Parasztháború*, pp. 174–76.

³⁰ Note the critical rhetoric of the lesser nobility in this interjection!

37. When, however, criminals who are peasants are not, when so requested, handed over from somebody's goods to the *ispáns*, *alispáns* and noble magistrates in order that the legally prescribed punishment be meted out, [1] then [their lords] are to be convicted in their man-price; and in the procedure of giving notice and requesting the same ways and means are to be applied as are described for the punishment of the commanders, captains and subalterns etc. of the peasants.[2] Besides, wherever such criminals, be they nobles or peasants, can be apprehended by anyone, they can, according to the letters of the *ispáns*, *alispáns* and noble magistrates, be killed without pardon and they should and can be slain.

38. Then, because many nobles, even though not killed, were captured and injured with different torments and beatings, [1] therefore these peasants or the places from which they came to do this have to pay the living man-price of these nobles, that is a hundred florins, according to the determination of the aforementioned *alispáns*, noble magistrates and the twelve elected men.

39. And before all else, the aforesaid commanders, captains and subalterns, the instigators and seducers of the peasants, as well as the manifest murderers of nobles, the violators of virgins and rapists of matrons, shall be hunted out and listed in every county by the said *alispáns*, noble magistrates and twelve elected men at the time when the proceedings regarding these damages are made. And those on whose goods they now hide, or, in their absence, their officials, or if they are not present either, the judge and the sworn citizens,³¹ or if the judge or the sworn citizens themselves were criminals of this type, then the community of the tenant peasants has to take them—upon the relation and request of the said *alispáns*, noble magistrates and twelve elected men—to the first session of the county court where they should be condemned to death.

40. Nevertheless, the full truth has to be established regarding the captains, whether they accepted command voluntarily or of their own will, or were forced by fear to lead the peasants. [1] Because, if they did so by coercion, they do not deserve capital punishment.

41. Should, however, anyone dare to act contrariwise,³² be they lay lords or nobles, or free and walled cities, Cumans and *Jász* or other royal tenant peasants, or officials, or the towns or villages of churches, they shall be convicted for every such criminal to four hundred florins. [1] And every time they refuse, after being requested, to hand them over for punishment, they shall be convicted of four hundred florins, a part to the benefit of those against whom they committed their excesses, a part for the *ispáns*, *alispáns* and noble magistrates. [2] And execution shall be done in every respect in the manner described above regarding tenant peasants who are violently abducted or have escaped.

42. When, however, someone claims that such a criminal has escaped and that he was unable arrest him after having been given notice, then he has to swear an oath; if a noble, with nine, if a peasant,

³¹ While poorly documented, there existed in many peasant villages a kind of self-government; see István Szabó, "A parasztfalu önkormányzatának válsága az újkorban" [The crisis of village self-government in modern times], in *Tanulmányok a magyar parasztság történetéből*, (Budapest: Teleki Pál Int. 1948), pp. 265–272.

³² I. e. to the measures defined in the previous articles (1514:37 sqq.)

withy thirty-nine oath helpers,³³ according to their man-price.³⁴ [1] If he does not swear, he has to pay his [the criminal's] man-price.

43. Should, however, any of the counties wish and ask of the royal majesty that all the aforesaid wrongdoers, namely both nobles and non-nobles, including those nobles who joined the peasants and took their side, be sought out and eradicated, then the holding of a general or palatinal court shall be granted by His Majesty, as contained in the *decretum*.³⁵

44. Then, that all peasants who left their lords or ladies without their permission during these disturbances shall be brought back by the *ispáns* to their former abodes with all their belongings,[1] And in returning them, the same order and manner of proceeding shall be applied as is laid down for newly abducted tenant peasants. [2] Regarding tenant peasants abducted before these disturbances, if a suit has been opened in this case, the earlier order and manner of proceeding shall be observed in the sense of the decree.

45. When, however, the case involves the *ispáns* or *alispáns* then the noble magistrates with the community of nobles have authority to carry out the said procedure. And if that community with the noble magistrates is incapable of proceeding, the royal majesty shall always act and have it done.

46. That the voivodes and *besliks*³⁶ existing in the lower parts [of the country] should cease and be removed. [1] And if those in whose properties they are do not get rid of them before the next feast of the Innocents,³⁷ they shall pay for every voivode four hundred florins each; and if, after having paid, they still retain them, they should lose those places or goods where they are found. [2] On the *besliks*, the *ispáns* or *alispáns* shall announce that they must cease and desist from plunder and theft. [3] If they cease, then all is well; otherwise they shall be hanged by the same *ispáns* or *alispáns*. [4] And should their lords resist, they shall similarly lose those places where they live, and the royal majesty have the right to freely grant them to whomever he wishes.

47. And so that no peasant dare in future to incite insurrection among the people and especially to violate noble girls and matrons, and that the punishment duly meted out deter all posterity so that all ages will equally know and recall how detestable, how enormous and how foul a sin it is before God and among the Hungarians to deflower virgins and violate matrons, [1] all those rash brigands, loathsome to God and men, shall die a terrible death, and their offspring, namely their sons,

³³ The awkward numbers come from the fact that in Latin (and Hungarian) there is an expression meaning “ten including himself”(or “forty including himself”), but none in English.

³⁴ The man-price (*homagium*) of nobles was 50 marks (200 florins); that of peasants 40 florins; cf. **Triparium I 2:2, III. 26: 6).**

³⁵ This reference to a decree is unclear, since this court was abolished (referring back to King Matthias' decree) in **1492:35.**

³⁶ *Besliks* were Turkish freelancers. Their name comes from the Turkish word *bes* meaning five (most probably after the amount they originally received for their service), and voivodes were their leaders. They were often employed on both sides of the border.

³⁷ December 28.

daughters, and brothers, be punished so that none of their kindred be ever elected a judge or sworn citizen or reeve among the other peasants, and none of them may ever serve in the court of the prince or of the lords and nobles, and none of them be promoted to any position, but should, as members of a cursed kindred lament their penalty for ever, being subject to the yoke of perpetual servitude and the peasants' lot. [2] And if unmarried men are found to have done such deeds, their forbears and their entire family should be no less consigned to the same ignominy.³⁸

48. The lord prelates, moreover, shall straightway seek out through their visitors the priests who participated in such crimes and incarcerate them for ever.³⁹ [1] Moreover, if nobles or their servants can apprehend them, they have the right to arrest and hand them over to the hands of the prelate or his steward in order to suffer the said punishment.

49. Then all goods and property rights of any nobleman, obtained by title of taint of infidelity or default of issue during these times of disturbances and occupied by some great men, shall be in fact returned right away, and the revenues of them hitherto collected in any way shall be refunded.

[1] And should they not release them nor refund the revenues, the *ispáns* and *alispáns* shall nonetheless restore them. [2] Moreover, judgment and sentence are to be rendered for the act of violence as against violent and mighty occupiers, following summons to be immediately issued in this matter, [3] in such a way however that once the goods are returned, the donation remains valid, and if someone who has obtained goods does not wish to wait for the inquest on infamous nobles who took the side of the peasants, he should proceed according to the law of the realm.⁴⁰

50. And if *ispáns* or *alispáns* themselves are holding these goods, restoration should nonetheless be carried out by the noble magistrates and community. [2] Following summons, sentence is moreover to be passed against them in the aforesaid manner.

51. All belongings of the nobles, except those acquired or received in battle, are to be returned under the penalty of a lesser act of might and estimation of their value. [1] And if they are not returned, then those keeping them should, after notice is given, be convicted by the noble magistrates of a lesser act of might and, moreover, to the estimated value of the belongings; and the *ispáns*, *alispáns* and noble magistrates shall render satisfaction to the damaged party. [2] If they refuse to return them after the second request, they are to be convicted to the double and condemned accordingly. [3] Should, however, the *ispáns*, *alispáns* and noble magistrates prove to be incapable of proceeding, the royal majesty shall perform the procedure upon the entreaty of the *ispáns*. [4] And if nobles have lost their horses, arms or other belongings in the war against the peasants, these, should they be found, shall be returned in the same way and under the same penalty. [5] Furthermore, all the lord prelates and rectors of churches should charge the priests of their dioceses, even the friars of any order, under pain of excommunication that they should not absolve anyone unless they have first returned the goods of nobles (except those acquired or

³⁸ The article sounds more a rhetorical amplification of Art. 14 (above) than an enforceable measure.

³⁹ On the inquiries especially among the mendicant orders following the uprising, see Szűcs, "Die Ideologie des ungarischen Bauernkrieges" pp. 166–7.

⁴⁰ The last clause of this article is unclear but it seems to refer to donations based on cases still sub judice.

obtained in battle); and indeed they should publicly proclaim those who keep them as excommunicate.

52. Moreover, there are reputed to be many in the kingdom, who perhaps because of the damages done to them or just for the sake of filthy lucre, exacted exorbitant sums of money on the goods of others and, having first dragged them from their homes or otherwise held them hostage outside of battle, forced compacts upon a great number of other people's peasants. [1] Therefore, lest these peasants and tenants are burdened with paying twice, the said *alispáns* and four noble magistrates and the twelve sworn jurors should, while reviewing and establishing the damages of the aforementioned lords and nobles, also inquire about such exactions and compacts. Those, who are found to have extorted from someone more than his damages, shall refund it, according to the way in which the damages done to all lords and nobles are determined. [2] Those who resist or after judicial notice fail to refund, shall be convicted as if of a major act of might. [3] The justices ordinary or *ispáns* and *alispáns* shall proceed against them and, should perchance they be reluctant to do so, then the noble community shall proceed. [4] Should the *ispáns*, *alispáns* and noble magistrates or even the noble community prove incapable of proceeding, the royal majesty shall deign to take care of the entire proceedings in these matters.

53. Then, because in this time of troubles the letters and written instruments of many nobles were lost or burned or torn up by the peasants, [1] the royal majesty shall therefore deign to grant all these nobles their property rights by title of his new donation with reference to their destruction. [2] And since these nobles were robbed of their belongings, the Lord Chancellor shall renew and make renewed letters of donation of this type without fee.

54. As soon as spring weather arrives, the royal majesty shall have the borders of all such goods perambulated and adjusted by the master protonotaries. [1] And he should not only adjust these goods, but also those of the Cumans, *Jász* and of Szeged as well as toward Moravia, Austria, Styria, Carinthia and all the borders of the realm in general, according to the contents of the decree.⁴¹

55. Then, that the royal majesty shall entrust his juridical or judicial seal to a well deserving lay person, learned in letters and the law, [1] who ought always to stay in Buda and judge all cases that have been referred and short court cases. [2] And letters for short court cases can be issued under the seal of all justices ordinary. [3] But summons or notice to the royal presence should be done as hitherto. [4] And such cases shall be judged by the judge of the personal presence, unless they end up in the court of other judges having been referred by him.⁴²

⁴¹ Cf. **1498:48**; the disagreement over the borders of Szeged and the Cumans concerned pastures around Szeged that had been used by the Cumans since the thirteenth century, until the privilege of King Matthias in 1471, which allowed the burghers of Szeged to use the pastures together with the Cumans. Later the burghers tried to expropriate for themselves the right to pasture, and the disagreement lasted for almost half a century. See László Blazovich, *Szeged rövid története* [Short history of Szeged] (Szeged: Csongrád Megyei Levéltár, 2005), p. 29.

⁴² This article aimed at passing the office of the judge of the personal presence to a legal practitioner, which also served to strengthen the minor chancellor. The measure took effect a year later with the appointment of Stephen Werbőczy to this position. György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Intellectual learned in the laws in Hungary before (the battle of) Mohács] (Budapest:

56. Then, the royal majesty shall from now on take care of the honors of county *ispáns*, [1] because many troubles stem from the negligence and sometimes from the fault and occasionally even from the mightiness and arrogance of the *ispáns*. [2] And that according to the contents of the decree⁴³ the honor of *ispán* in county Heves be granted to a layman because the bishop of Eger is staying abroad;⁴⁴ should he return to his see or should the church have another prelate in residence, then this office shall return once more to the church.

57. That any noble shall be able to build towers or fortifications with walls and a moat for the defense of his person and belongings; moreover, one castle may with the knowledge of the royal majesty be built in every county for the community of the nobles.⁴⁵

58. Then, that every burgher having vineyards or arable lands on the lands of others shall pay and render the ninth to the lord of the land according to the contents of the *decretum*.⁴⁶

59. Then henceforth no ecclesiastic or spiritual person shall hold or govern more than one benefice according to the contents of the *decretum*.⁴⁷ The royal majesty shall right away confer these [additional] benefices to well deserving persons, otherwise they shall be spent on the maintenance of border castles.

60. Then, that non-beneficed clergy and students in schools shall not henceforth venture to bear arms or muskets.⁴⁸ [1] For should a priest or student henceforth bear arms or muskets unless about to travel abroad, he can be arrested and his arms or muskets confiscated even by peasants, and, having been tied up, he shall be assigned to the hand of his prelate or archdeacon, if he is nearby, otherwise of the sub-archdeacon, who is obliged to hand him over to the hands of the lord prelate or his steward to be jailed and severely punished. Should the sub-archdeacon refuse to do so, then he alone shall be arrested by the *ispán* or *alispán* and handed to the same lord prelate or his steward for the said punishment. [2] Equally, moreover, neither the drovers, commonly called *hajdúk*⁴⁹

Akadémiai, 1971), pp. 337–39 and 405; briefly also: György Bónis, “Men Learned in the Law in Medieval Hungary,” *East Central Europe/l’Europe de centre-est* 4:2 (1977): 181–191.

⁴³ Cf. **1498:57**.

⁴⁴ Ippolito d’Este—who, as bishop of Eger, held the “perpetual *ispán*” title for the county—had left Hungary in 1496, remaining in Italy until his death in 1520.

⁴⁵ Previously royal permission was—at least de jure—required for building fortifications. Castles for “the community of nobles” were obviously meant as protection against further uprisings. It is not known whether any such castles were built.

⁴⁶ Cf. **1492:49**.

⁴⁷ Cf. **1498:56**.

⁴⁸ It is thought that many primitive muskets were in circulation in Hungary. Surviving examples suggest that these were tubes of brass or wrought iron.

⁴⁹ The *hajdú* (from Hungarian *hajtó*, ‘drover’) drove cattle—in the late Middle Ages a main export commodity of the country—to far away markets and were frequently armed. Supposedly, a good number of the *hajdúk* joined the troops of Dózsa, although their exact number is unknown. As they were experienced in fighting—a few decades later they became semi-professional soldiers—they most probably played an important role in the events. This is illustrated by the fact that at the execution of George Dózsa several of

may carry lances or other arms, nor peasants venture to bear muskets. [3] Otherwise, should a *hajdú* bear arms, anyone can arrest him anywhere; on the first occasion, he shall be castrated; on the second, if he again bears arms, be beheaded or otherwise punished with death. [4] Should indeed a peasant have a musket, his right hand shall be lopped off.⁵⁰

61. Then it was decided that henceforth no peasant or person of the free and other royal cities may keep or maintain on someone else's land houses, encampments or hovels, commonly called *szállás*, for the guarding of sheep or cattle, so that by this the wickedness of the *hajdúk* may cease and come to an end. [1] Should, however, nobles keep houses of this type on their own fields, they shall keep there guards who are nevertheless married, of good repute and honest character, so that no one may suffer harm from their evil deeds. [2] Townsmen and other peasants have to act accordingly on their own fields and lands. [3] Otherwise, the flocks and herds of such noblemen, townsmen, or peasants that are found there shall be confiscated by the *ispáns* or *alispáns* of that county wherever this happens to be; and furthermore all the hovels of townsmen and peasants that have been built on the lands of lords and nobles without their consent, which are discovered at the time when the aforesaid damages done by the peasants are investigated and refunded, shall be demolished by the same *ispáns* or *alispáns* and the noble community of that county; and, if they are again set up by them, their flocks and herds shall be confiscated. [4] Should, however, the *ispáns* and *alispáns* together with the noble community be incapable of performing this procedure, the royal majesty shall upon request always have it done.

62. Then, that the royal majesty shall not without good reason grant to anyone those goods that are known to have devolved lawfully to his right of donation because of the default of issue of any nobles who were killed by the peasants, and if he has granted them, that donation shall have no force; [1] but, if the slain nobleman had daughters, His Majesty shall make donation in perpetuity to these daughters; [2] and if he had no daughters, then His Majesty shall grant in perpetuity to his widow, [3] in such a way, however, that the widow or girl may not marry a peasant, in which case His Majesty may freely grant it to whomever he likes. [4] The daughter of a nobleman, who— even with the consent of her father or brothers—marries a peasant, shall be content with only the filial quarter.⁵¹ [5] And royal donations of this type that are made in the aforesaid way to the daughters or wives of murdered nobles should not be understood as prejudicing the co-inheriting kinsmen of the victim nor those to whom these goods devolve, but only those goods are to be granted to the daughters and wives that rightly and lawfully pertain to the royal majesty's [right of] bestowal.

his *hajdúk* were forced to eat from his burned body. See István Szabó, "A *hajdúk* 1514-ben" [The *hajdúk* in 1514], *Századok* 84 (1950), 178–198.

⁵⁰ As a matter of fact peasants were not disarmed for long and they continued to bear arms up to the 18th century. Fekete Nagy-Bartha, *Parasztháború*, pp. 294–95.

⁵¹ Cf. **1492:63**.

63. Then that all *decreta* shall finally be corrected and gathered into one, and the royal majesty deign to have the written laws of the realm read out, and having been read out, confirmed, and, once confirmed and sealed, sent out to every county of the realm.⁵²

64. Additionally, as it is said that tithe-collectors have been accustomed at the tithing of wine to indiscriminately arrest all nobles and non-nobles on account of some minor and petty debt or other business, but as arrest is not permitted according to the general decree⁵³ except in one specific instance, and, anyhow, the tithe collectors have no right to judge anyone, only to collect tithes, [1] henceforth, therefore, tithe-collectors shall not dare to interfere or involve themselves in the business of arresting but only in the matter of tithing. [2] And if they do not cease, then the tenant peasants of that place shall not be forced to render tithes, but the lords should collect the tithes and employ them for the upkeep of the border castles.

65. Then, because very many beneficed churchmen travel to the City to expedite either their private affairs or the business of their other colleagues, and quite often die there, so that their benefices are granted by the pope to foreigners and outsiders, against the liberties of this realm, [1] it has therefore been decided that from now on whosoever of the prelates and other beneficed clergy is going to the City shall, before he sets off on the journey, hand over and pledge to the royal majesty and holy crown out of the revenues of his patrimony as much as the annual income of his benefice is considered to be worth. [2] If, however, he has insufficient patrimony, he has to obtain before leaving letters of assurance from the pope that, should he happen to die in the City, his benefice in this kingdom shall nonetheless remain safe and intact.

66. Then, that no foreign money shall be introduced into the country and, if it is introduced, not be accepted; but wherever and with whomsoever it is found, it shall be confiscated. [1] And in order that these moneys can be more easily and quickly removed and not be introduced again, the oxen and horses as well as the sheep shall not be taken out of the kingdom (as has already been decided in three decrees),⁵⁴ but driven only to Pest and Székesfehérvár. [2] Foreigners shall buy and purchase oxen, sheep and horses in these places, or even others where they can and prefer in the interior of the kingdom, with Hungarian money, because not foreigners, but Hungarians who sell animals in foreign countries who bring in alien money. [3] Should anyone act contrariwise, the oxen and horses as well as sheep shall always be taken away from him, according to the content of the decree.

67. Then that the royal majesty shall right away and really appoint bans for Croatia and Jajce and make due provision and arrangement so that they do not incur danger.⁵⁵

⁵² Cf. **1504:31**,.

⁵³ Cf. **1492: 91–2**.

⁵⁴ ; **1495:27, 1498: 31, 1500:25**.

⁵⁵ Actually, there was an appointed ban of Croatia and Jajce at this time, namely Peter Beriszló bishop of Veszprém, who was appointed in May 1513 in place of Imre Perényi, because Perényi—being palatine in the same time—could not personally fulfill his duty as ban. However, until the end of 1513 Beriszló was named only *prefectus* of the banates. He was at the same time appointed as royal treasurer (cf. n. 442 below), and this article (and also the next one) probably aimed at his removal from the office of ban, which took

68. And that provisioners be appointed by the royal majesty to the border castles, who shall take care of equipment and victuals and be always alert.⁵⁶ [1] Then, that the royal treasurer presently appointed should act only in the office of treasurer and stay always with the royal majesty, so that the business and affairs of His Majesty and his kingdom be better administered and supervised, [2] and he should act in all public affairs of the royal majesty and the kingdom according to the decision of His Majesty and his council.⁵⁷

69. Then, it was decided that all acts of might and new seizures done by lords and nobles against anyone, wherever and howsoever committed and perpetrated during any of these times of troubles, that is between the past feast of St George the Martyr until now, *sc.* the day of St Elizabeth the Widow,⁵⁸ shall be discussed and adjudicated at the next coming short court session, before any other case, after relevant lawful summons has first been issued. [1] And if these cases cannot be concluded in that term, the same shall be done at the next and third term, namely, that they be opened and concluded out of sequence, before all other cases. [2] Other cases have to be adjudicated according to the *decretum*.

70. Because it is believed that many peasants from the border areas of the country, because of the burdens and services newly imposed upon them according to their deserts, moved into neighboring countries, that is Poland, Moldavia, Moravia, and Austria, in order to settle there, [1] so as to stop this happening, the holy royal majesty⁵⁹ shall deign to write to these countries that all tenants and peasants attempting to settle there be always given up and returned to their original residence, rather than being admitted there.⁶⁰

71. Finally, that those places that in the past troubles were burned down and reduced to ashes by lords and nobles in order to dampen the rage of the peasants, should in respect of those parts where the blaze was made be exempt from royal and war taxes for the next three years.

We, therefore, inclined towards the aforementioned humble entreaties of the said lord prelates, barons and nobles of our realm, submitted in the aforesaid way and manner, accept, approve and confirm the above written articles as just and reasonable, containing in themselves what is for the

place only after the death of Wladislas II in 1516. See András Kubinyi, “Beriszló Péter és budai működése” [P. B. and his activity in Buda], in idem, *Főpapok, egyházi intézmények és vallásosság*, Asztrik Várhegyi, István Zombosi, eds. (Budapest: METEM, 1999) pp. 171–185, esp. pp. 173–79.

⁵⁶ The first sentence of this article logically belongs to the previous one; the numbering of the CJH is misleading here.

⁵⁷ Peter Beriszló, the royal treasurer between 1513–16, stayed most of the time in Croatia, in his office as ban (cf. n. 55 above), and usually his deputies acted on his behalf, see Kubinyi, “Beriszló Péter”, p. 174.

⁵⁸ 19 November 1514. St Elizabeth the Widow is St Elizabeth of Hungary (1207–31), canonized in 1235.

⁵⁹ The *sacra maiestas* title is somewhat unusual, as the adjective *sacra* was not used for Hungarian kings; it must be a scribal error.

⁶⁰ We have not found any reference to such a request, and from a practical point of view, the measure itself seems somewhat naïve, although the reason behind it is manifest.

common good, peace and advantage of the same kingdom of ours, do accordingly approve and ratify them in the same terms as they were written up above. [1] We also promise and obligate ourselves by these presents to inviolably observe and have others observe all what is written and specified therein, by the means of these presents. [2] To the memory and perpetual firmity of which we decided to issue these present letters of privilege, confirming them by appending our privy seal which we use as king of Hungary. [3] Given at Buda, on the day of St Elizabeth the Widow, that is on the thirtieth day of the aforesaid diet and general assembly, in the thousand five hundred and fourteenth year of the Lord, in the fifteenth year of our reign in Hungary &c., and the forty-fifth in Bohemia. [4] With the most reverend and revered fathers in Christ, Thomas cardinal priest of the title St Martin in Montibus, patriarch of Constantinople, legate a latere, archbishop of Esztergom;⁶¹ Gregory Frankapan of the canonically united sees of Kalocsa and Bács;⁶² as well as the excellent and most reverend bishops Ippolito d' Este of Aragon of Eger, similarly cardinal priest of the holy Roman church;⁶³ John Erdódi, elect of Zagreb;⁶⁴ Francis Várdai of Oradea;⁶⁵ George of Pécs, our privy chancellor;⁶⁶ Peter Beriszló of Veszprém, our chief treasurer, ban of Dalmatia, Croatia and Slavonia;⁶⁷ John Gosztonyi of Győr;⁶⁸ Ladislás Szalkai of Vác; ⁶⁹Francis Csaholi of Cenad;⁷⁰ Stephen Podmanini of Nitra;⁷¹ John Guthi Ország of Srem;⁷² Michael Gibárti Keserű elect of Bosnia;⁷³ and Briccio Egervári of Knin,⁷⁴ governing felicitously the churches of God. [5] Further,

⁶¹ Bakócz, Thomas, bishop of Győr 1486–1493, bishop elect of Eger 1493–1497, archbishop of Esztergom 1497–1521, cardinal priest of the title St Martin in Montibus, patriarch of Constantinople, legate a latere.

⁶² Frankapan, Gregory, archbishop of Kalocsa 1504–20.

⁶³ d' Este of Aragon, Ippolito, cardinal deacon of the holy Roman church, archbishop of Esztergom 1486–1497, bishop of Eger 1497–1520.

⁶⁴ Erdódi, John, bishop of Zagreb 1511–18

⁶⁵ Kisvárdai Várdai, Francis, bishop of Vác 1509–13, bishop of Transylvania 1513–24, secret chancellor.

⁶⁶ Szatmári, George bishop of Veszprém 1499–1501, b. of Oradea 1501–1505, b. of Pécs 1505–1521, archbishop of Esztergom 1522–1524, royal-secretary 1494–1499, secret chancellor 1499–1521, arch-chancellor 1521–1524:

⁶⁷ Beriszló, Peter, bishop of Veszprém 1512–20, chief treasurer 1513–20, ban of Dalmatia, Croatia and Slavonia 1513–16.

⁶⁸ Gosztonyi, John, son of Nicholas, bishop of Győr 1509–24, vice-chancellor 1508, chancellor of the queen 1521–6.

⁶⁹ Szalkai, Ladislás, bishop of Vác 1514–20, bishop of Eger 1520–24, archbishop of Esztergom 1524–26.

⁷⁰ Csaholi, Francis. bishop of Cenad 1514–1526.

⁷¹ Podmanini Podmanicki, Stephen, bishop of Nitra, 1505–30.

⁷² Gúti Ország, John bishop of Srem 1514–20.

⁷³ Gibárti Keserű, Michael bishop of Bosnia 1502–24.

⁷⁴ Egervári, Briccio, bishop of Knin 1492–1523.

the *spectabiles* and *magnifici* Emeric Perényi, perpetual *ispán* of the said county Abaujvár, palatine of our said kingdom of Hungary, judge of our Cumans;⁷⁵ *ispán* Peter Count of Szengyörgy and Bazin, our Judge Royal;⁷⁶ John Szapolyai, perpetual *ispán* of the land of Spiš, our voivode of Transylvania and *ispán* of the *Székely* as also our captain general;⁷⁷ the same John Szapolyai and Barnabas Béla, bans of Severin;⁷⁸ Stephen Bátori, *ispán* of Temes and captain general of the lower parts of the realm;⁷⁹ Blaise Ráskai, master of the treasury;⁸⁰ Moses Gergelylaki Buzlai, master of the doorkeepers;⁸¹ John Bélteki Drágfi, master of the stewards;⁸² John Lindvai Bánfi master of the butlers;⁸³ Michael Pálóci master of the chamberlains;⁸⁴ George Bátori, master of the horse;⁸⁵ and John Berzencei Bornemissza, *ispán* of Pozsony,⁸⁶ as well as many others holding counties and other honors of our kingdom.⁸⁷

⁷⁵ Perényi, Emeric, perpetual *ispán* of Co. Abaújvár, the master of the stewardss, 1492–1504, count palatine 1504–19, ban of Croatia and Dalmatia 1512–13.

⁷⁶ Szengyörgyi and Bazini, Peter, voivode of Transylvania 1498–1510, judge royal 1502–17.

⁷⁷ See above, n. 5.

⁷⁸ Béla, Barnabas, ban of Severin 1508–15.

⁷⁹ Bátori, Stephen, *ispán* of Temes and captain general of the lower parts of Hungary 1509–23, count palatine 1519–23, Sept. 1524–July 1525, Apr. 1526–1530.

⁸⁰ Ráskai, Blaise, chief chamberlain, master of the treasury 1498–1518.

⁸¹ Gergelylaki Buzlai, Moses, master of the doorkeepers, 1500–19.

⁸² Bélteki Drágfi, John, master of the stewardss 1510–15.

⁸³ Lindvai Bánfi, John, master of the cellarers 1516–27, count palatine of Hungary 1530–34.

⁸⁴ Pálóci, Michael master of the cellarers 1505–08, master of the chamberlains, 1514–16

⁸⁵ Bátori, George, master of the horse 1505–31.

⁸⁶ Berzencei Bornemissza, John, treasurer 1500, *ispán* of Pozsony Co. 1514–26

⁸⁷ Such lists of dignitaries were added to royal charters ever since the late thirteenth century, not as witnesses but as indication of date.

Dietal decisions, 1518 after April 24

On St. George's Day in 1518, a diet opened at Rákos, but the lesser nobility left and called an armed diet for July 20 to Tolna. The aristocracy—according to the list of witnesses, some 50 prelates, barons and other magnates--stayed with the king in Buda and formulated twenty-two articles on taxes, matters of defense, judicial procedure, and the royal council, mostly already contained in earlier *decreta*. However, the king did not approve them. Thus, as they did not become law, we publish them from Ferenc Döry's transcript without translation and annotations, for the sake of completeness.

MSS. A contemporary copy in the Hungarian National Archives, MNL OL DI 31015.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio Antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

EDD: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801) 2: 398–418, based on a contemporary copy from the archives of Bardejov (now not found).

LIT: Dezső Szabó, *A magyar országgyűlések története II. Lajos korában* [History of Hungarian diets in the age of Louis II] (Budapest: Magyar Tudományos Akadémia, 1909) pp. 18–24, 229 to 232.

Constitutiones dietae festi beati Georgii anni 1518.

Articuli per dominos prelatos et barones ac proceres regni Hungarie in dieta festi beati Georgii martiris anni millesimi quingentesimi decimi octavi pro bono publico confecti etc.

Quum in dieta festi beati Georgii martiris proxime preteriti domini prelati et barones proceresque regni cum dominis regnicolis super hiis, que eisdem nomine regie maiestatis de statu eiusdem ac de necessitatibus et periculis huius regni, castrorumque finitimorum proposita fuerant, tractare cepissent, et cum ad ferendum subsidium pro evitandis huiusmodi necessitatibus et periculis ventum fuisset, dominique regnicole allegantes colonorum suorum paupertatem et oppressionem non plus, quam subsidium medii floreni se daturos obtulissent, et in hac opinione ac voluntate ex ipso conventu discessissent, post eorum discessum iidem domini prelati et barones ac proceres circumspectis rebus omnibus, postquam cognovissent necessitates et pericula regni castrorumque finitimorum tam magna et tam undique aucta esse, ut hoc dominorum regnicolarum subsidio medii floreni vitari nullomodo posse videretur, licet ipsi quoque domini sicuti et regnicole rusticos suos non libenter gravaverint satis alioquin undique gravatos, maluerunt tamen et se et suos colonos pro bono publico et pro salute tocius regni onerare, quam pati, ut et ipsi et regnicole omnes et totum regnum una per incuriam in manifestum periculum prolaberentur. Ad provisionem itaque et conservacionem ac reparacionem castrorum finitimorum, necnon ad banderii regalis erectionem, ut scilicet maiestas quoque sua regia illo instaurato ipsorum confiniorum defensionem commodius intendere possit, ad predictum subsidium medii floreni per regnicolas oblatum alium quoque medium florenum regie maiestati pro subsidio addiderunt, ordinaveruntque et obtulerunt per istum unum annum modis et condicionibus infrascriptis exolvendum, sperantes quoque ipsos regnicolas hanc ordinacionem oblacionemque dominorum pro evitando communi periculo per eosdem factam et utilem omnibus et pernecessariam non gravatim acceptaturos.

I. Ordinatum autem est, ut medietas huiusmodi subsidii regii unius floreni ad festum nativitatis beati Johannis Baptiste proxime futurum dicetur, altera vero medietas ad festum beati Martini episcopi anni presentis, ita videlicet, ut tam domini, quam comitatus pro exercitualibus et pro conservacione gencium suarum cum subsidio regio dicent pro se ipsis similiter unum florenum, medietatem eiusdem ad predictum festum nativitatis Beati Johannis Baptiste, alteram vero medietatem ad festum Martini.

II. Ut autem in dicacione et exaccione huiusmodi subsidii omnis dissipacio vitetur et expense quoque ille ac salaria, que alias in similibus subsidiis dicatoribus, vicecomitibus et iudicibus nobilium dari consueverunt, nunc in presenti subsidio ad utilitatem confiniorum convertantur, visum est dominis, et in hoc omnes concordaverunt atque compromiserunt, ut unusquisque dominorum in bonis suis in Hungaria habitis hoc subsidium per homines vel officiales suos probos et fidedignos fideliter dicari et exigere faciat, et tandem exactum ad manus tezaurarii regie maiestatis presentari.

III. Quod illi rustici omnes, a quibus pecunie exercitiales exiguntur, hoc subsidium regie maiestati solvere debeant. Illi vero, qui non solvunt pecunias exercitiales, neque subsidium hoc regium solvere teneantur.

IV. Quod hoc subsidium tam de bonis regalibus, quam reginalibus apud quoscumque habitis exigatur, ad provisionemque castrorum finitimorum exponatur.

V. Quod domini utriusque ordinis de bonis ecclesiarum atque monasteriorum, quorum patroni sunt, hoc subsidium exigi et per homines suos unacum pecuniis bonorum suorum ad manus thesaurarii regii deferri faciant.

VI. Quod capitula ecclesiarum, abbates, prepositi, moniales, omnesque alii ecclesiastici possessionati cuiuscunque ordinis ac religionis sunt, hoc subsidium de bonis suis et ecclesiarum, quibus president, exolvere debeant.

VII. Quod medietatem huiusmodi subsidii regii quilibet dominorum et aliorum omnium prescriptorum quo citius fieri poterit, de bonis suis exigi faciat et ad quintumdecimum diem festi nativitatis beati Johannis Baptiste proxime futuri ad manus thesaurarii regii mittere debeat, cum ulteriorem moram, necessitates et pericula castrorum finitimorum non paciantur.

VIII. Quod nullus dominorum quidquam sibi ex hoc subsidio retineat, nullus quidquam sibi impetret, sed totum quilibet probe ac fideliter ad manus thesaurarii ad confiniorum provisionem exponendum deferri faciat.

IX. Quod thesaurarius regie maiestatis de pecuniis huiusmodi subsidii ad manus suas perferendis absque scitu et deliberacione consiliariorum regie maiestatis nemini quidquam nec deputare, nec dare audeat, sed huiusmodi pecunias pro consilio eorundem consiliariorum ad castrorum finitimorum provisionem et ad banderii regalis erectionem et conservacionem secundum vim iuramenti, quod superinde iam prestitit, fideliter dispenset. Si quid autem vel pro avertendis diffidacionibus, que contra hoc regnum fieri ceperunt, vel ad alias regni necessitates inevitabiles ex hoc ipso subsidio dandum imperciendumve foret, id nonnisi ex consilio et decreto consiliariorum thesaurarius det et imperciatur.

X. Quoniam autem domini sperant eciam ipsos dominos regnicolas ad hanc toti regno utilem et pernecessariam ordinationem oblacionemque accedere et ab eisdem in rebus publicam salutem concernentibus non separari, propterea visum est dominis, ut postquam ipsi quoque domini regnicole ad exolvendum hoc subsidium regum de bonis suis instar dominorum consencient, eligatur in singulis comitatibus unus nobilis, probus et fidedignus, qui adiuncto homine thesaurarii, si ipsis videbitur, sin minus, solus ipse nobilis electus bona nobilium fideliter modo prenotato connumeret, pecuniasque exigit, et ad manus thesaurarii in expensis regiis, moderatis tamen et non superfluis perferat.

XI. Ceterum ordinatum est, ut regia maiestas banderium suum regale pro regni defensione erigat; domini quoque, prelati et barones ac comitatus gentes copiasque suas preparare et levare beneque et armis et militibus instructas in pleno numero ad festum Visitacionis beatissime virginis Marie proxime venturum ad loca prius deputata sub pena decreti mittere debeant; ita ut qui armigeros secundum formam decreti tenere debent, hwarones pro armigeris non mittant; interim vero gentes

dominorum et comitatum illorum, qui in presenciarum in confinibus existunt, ibidem pro eorundem defensione movere debeant.

XII. Item, ut quieti et paci oppressorum nobilium consulatur et omnis violencia compescatur, ordinatum est, ut octave et iudicia brevia suis semper temporibus celebrentur. Quinque vero casus et alii omnes actus novi potenciarii transmissionesque causarum incipiant iudicari pro festo nativitatis beati Johannis Baptiste nunc venturo, et hoc genus iudicii sine intermissione continuetur. Quidquid autem iudicatum fuerit, execuioni demandetur.

XIII. Ut autem et status regie maiestatis pro eius dignitate et pro tocius regni honore ac decore bene dirigatur, et quecumque ordinata sunt impresenciarum, queque imposterum pro bono regie maiestatis et regni ordinabuntur, execuioni demandentur, visum statutumque est, ut ultra cancellarium, thesaurarium, magistrum curie et ultra alios consiliarios, quorum quilibet suum locum habet in consilio regie maiestatis, eligantur octo consilarii, quatuor scilicet ex prelati et quatuor ex baronibus, quorum quatuor per medium annum maneant semper ad latus regie maiestatis et nunquam illinc discedant; elapso medio anno alii quatuor succedant. Quorum officium erit, ut maiestati sue in omnibus consulant fideliter et non paciantur animum maiestatis sue adhuc tenerum per quoscumque huc illucque vanis aut inutilibus suasionibus distrahi vel seduci, prospiciant honori sue maiestatis bonoque statui et decori curie eiusdem, prospiciant denique diligentissime, ut pro bono publico proque tocius regni quiete, pace, securitate ac defensione recte omnia fiantⁱ et administrentur.

XIV. Curent eciam prefati consilarii adhibita omni opera et studio, ut proventus maiestatis sue rectificentur et fideliter administrentur, ac preter omnem dissipacionem, quo necessarium visum fuerit, exponantur. Reforment iidem consilarii, que reformanda videbuntur, suppleant defectus, resecent superflua et ea faciant, quecumque ad bonum regie maiestatis et publicam utilitatem salva semper dignitate et auctoritate regia, pertinere cognoverint, provideantque, ut maiestas sua superfluum familiam non teneat, sed eam solum, que necessaria est, et cui solucio fieri possit; et illi, qui ad servicia maiestatis sue ascripti mancipatique fuerint, pro utilitate maiestatis sue et regni huius illic serviant, ubi consilariis visum fuerit, et eo tempore, quo necessitas postulabit; et si quando maiestas sua aliquem vel aliquos ad sua servicia acceptare voluerit, cum consilio dominorum consiliariorum acceptet.

XV. Erit eciam officium consiliariorum, ut ipsi expensas et soluciones, quas thesaurarius tam ad castra finitima, quam ad alias maiestatis sue et huius regni necessitates posthac facturus est, videant, limitent et moderent, et proventus maiestatis sue, undecunque fieri poterit, curent sollicite ampliare, et non paciantur illos ad usus non necessarios inutiliter profundi.

XVI. Item ordinatum est hoc quoque, ut regia maiestas bona ad se devolvenda usque ad numerum ducentorum jobagionum et infra sine consilio suorum consiliariorum cuicumque voluerit, conferre posit, ultra numerum vero ducentorum ex consilio suorum consiliariorum conferat, castra vero ac civitates aut oppida bonaque alicuius magne importancie, si que ad collacionem maiestatis sue

ⁱ mendose: *faciant*.

devoluta fuerint, ea maiestas sua pro se retineat, et usque ad futuram generalem congregacionem nemini conferat. Quo tempore maiestas sua, si visum sibi fuerit, et rebus suis expediet, poterit illa vel pro serviciis servitorum suorum conferre, vel debita sua ex illis dissolvere, si vero videbitur utilius, poterit sibipso reservare.

XVII. Item, quod maiestas sua archiepiscopatus, episcopatus, si qui vacabunt, de consilio dominorum consiliariorum conferat personis idoneis et benemeritis, qui scilicet ad servicia maiestatis sue et ad curas ac onera regni subeunda apti videbuntur; alia vero minora beneficia etiam consiliariis irrequisitis et inconsultis per se conferre possit.

XVIII. Item, quod oratores et nuncios quoscumque maiestas sua vel ad externos principes, vel ad regna dominaque sua externa, vel etiam ad quoscumque in hoc regno suo et partibus eiusdem in quibuscumque negociis et legacionibus mittere voluerit, de consilio dominorum consiliariorum mittat et expediat; rursus oratores et nuncios externorum principum et aliorum quorumcunque, quicumque ad maiestatem suam venerint, maiestas sua nonnisi presentibus ipsis dominis consiliariis audiat, et consilio eorundem illis relacionem faciat.

XIX. Item banatus et alia quevis castrorum finitimorum confiniorumque officia maiestas regia cum consilio dominorum consiliariorum conferat.

XX. Ne autem vel per aliquem errorem, vel per varias secretariorum et aliorum referendariorum relaciones ad supplicationes regie maiestati porrigendas in preiudicium iurium quorumcunque literas sibi invicem contrarias, ut hucusque sepe factum est, emanari contingat, visum est et decretum, ut deinceps omnes supplicationes et litere, quecumque venient ad regiam maiestatem vel per dominum cancellarium, vel secretarios sue maiestatis iuratos, suis temporibus coram regia maiestate presentibus consiliariis perlegantur, et non privatim, ut hucusque, sed illis in medium consulentibus expediantur, et per eosdem consiliarios quicquid de una quaque supplicatione et literis huiusmodi fieri debet, ibidem in consilio decernatur.

XXI. Ut autem ordinarius quociensque premissa omnia peragantur, visum est et statutum, ut singulis septimanis domini consilarii ter conveniant ad regiam maiestatem de rebus omnibus, que ad eorum officium pertinent, consulturi, feria scilicet secunda, quarta et sexta. Reliquos dies, nisi regni necessitates aliud suaserint, poterunt ducere feriatos.

XXII. Item, quod hec presens ordinatio dominorum non amplius, quam usque festum beati Georgii martiris proxime venturum, tempus scilicet future congregacionis generalis durare debeat; quo tempore, si ex rerum progressu ac ex eventu bona utilisque visa fuerit, poterit continuari, sin minus, poterit vel an melius reformari vel mutari.

Et hec sunt nomina dominorum prelatorum et baronum procerumque, qui prenotatos articulos composuerunt et ad eorundem observacionem compromiserunt: Thomas cardinalis Strigoniensis legatus etc. Hippolitus Esthensis cardinalis Agriensis, Georgius Quinqueecclesiensis, Franciscus de Warda Transsilvanensis, Simon Zagrabiensis, Petrus Beryzlo Wesprimiensis, banus, Johannes Gozthon Jauriensis, Ladislaus Waciensis, cancellarius, Stephanus Podmanyczky Nitriensis, Michael Kesserew Boznensis ecclesiarum episcopi, necnon Paulus prepositus sancti Sigismundi thesaurarius, Laurencius prepositus Albensis, Blasius Paxy prepositus Budensis, item Emericus de

Peren comes et palatinus etc. Georgius marchio Brandenburgensis, Johannes de Zapolya comes et wayvoda Transsilvanus, Laurentius dux de Wylak, Stephanus de Bathor, comes Themesiensis, Johannes Dragffy de Belthewk, Andreas de Bathor, Anthonius de Palocz, Stephanus de Rozgon, Franciscus et Emericus Orzag, Johannes Banffy de Lyndwa, Gabriel de Peren, Ladislaus de Kanysa, Stephanus de Peren, Franciscus de Hederwara, Wolfgangus comes de Sancto Georgio, Moyses Bozlay, Petrus de Korlathkew et Johannes Pethew, magistri curie, Johannes Bornemyza comes Poseniensis, Emericus Therek banus Nandoralbensis, Ambrosius Sarkan, Gaspar de Raska, Gabriel de Chaak, Johannes de Zokol, Benedictus de Batthyan, Gaspar de Som, Michael Podmanyczky, Franciscus Balassa, Georgius de Mekche,ⁱⁱ Ladislaus More et Franciscus de Harazth.

ⁱⁱ Recte: *Nekche*.

1518 Tolna

The diet opened at Tolna on July 25: [ended in early August]. Called by the nobility, it was apparently attended at first only by the county nobility (42 county delegates), but later the king and his council joined them and finally, with the approval of the royal council, sanctioned its decisions. An armed diet, in preparation for a campaign (that did never materialize) was called for Michaelmas.

None of the laws and dietal decisions of the reign of Louis II survived in an original, some (e.g. 1516) not at all. The age of the existing copies in private collections is difficult to decide, most of them are from the late sixteenth century. Some (or parts of them) are also known from reports of ambassadors (Marino Sanuto from Venice, various emissaries from Poland). The reliability and date of the codices is discussed by Dezső Szabó, *A magyar országgyűlések története II. Lajos korában* [History of Hungarian diets in the age of Louis II] (Budapest: Magyar Tudományos Akadémia, 1909) pp. 225-8.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archive (Collectio antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer

@ <http://archives.hungaricana.hu/en/charters/search>

MSS: A contemporary fragment MNL OL DI 36365 especially valuable as it contains an additional article (# 16) missing in all other texts; Copies: Codex Nádasdy (Budapest University Library Cod. G 39.) foll. 342r-344r [N]; Budapest University Library Cod. G40 [G40]; Esterházy Archives Codex Rep. 71 no. 13 pp. 253–61 [E]; the minor Esterházy codex, foll. 118v-120r [Em]; Codex Ilosvay (OSZK Fol. Lat. 4023) foll. 232r-234v [I]; Codex Festetich (OSZK Fol. Lat. 4355) pp. 536–40 [F].

EDD: Martinus Georgius. Kovachich, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum* (Buda: Regia Universitas, 1790), pp. 466–74; *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., vol. 1 (Budapest: Franklin, 1896), pp. 744-50

LIT: Szabó, *A magyar országgyűlések története II. Lajos korában*, pp. 25-8.

This dietal decision, as several decretal and other decisions of the Jagellonian decades, contains so many repetitions of earlier legislation, that we have not reprinted them here. For the omitted articles, we added, for information's sake, either the later rubrics of the *Corpus Iuris*, or a summary of the content.

Constitutiones dietae Tolnensis festi sancti Jacobi apostoli, anni 1518

Articuli in oppido Tholnensi per universitatem nobilium in convencione eorum particulari pro festo beati Jacobi apostoli anno Domini 1518. celebrata formati.ⁱⁱⁱ

I. Quoniam omne regnum duobus instrumentis regitur et conservatur,^{iv} scilicet armis et legibus, quorum in hoc regno nostro Hungarie neutrum habetur, unde secutum est, ut preter infinitas virgines, viduas, ^vhonestas matronas et alios utriusque sexus homines per Turcos,^{vi} Christi crucis hostes in captivitate perpetuam abductos plurima castra finitima, regno et confiniis eiusdem admodum nociva, presertim Bochacz^{vii} et Jezero in manus ipsorum Turcorum devenerunt, Jaycza solum cum Banyalwka omni presidio destitutum remansit, quod nisi mature et gentibus et victualibus reficiatur atque muniatur,^{viii} manibus eorundem Turcorum propediem venturum est; ubi vero Jaycza hostiles^{ix} in manus, quod Deus gloriosus avertat, inciderit, mox de regno Sclavonie Posegaque et Walko actum erit, quibus periclitatis eciam corpus regni internum^x simili calamitati miserieque subiacebit, insuper Carinthia, Austria et magna pars Germanie ac Dalmacie in faucibus hostium erit, et eorum prede exponetur. Ne igitur residuum quoque castrorum^{xi} finitimorum et signanter Jaycza pereat, quin pocius et Bochacz^{xii} et Jezero nobis recuperentur,^{xiii} deliberatum est, quod gentes tam dominorum prelatorum et baronum, quam eciam regni huius comitatum in pleno numero^{xiv} sub pena in decreto exinde denotata statim et sine omni mora ad ea, que^{xv} iam deputata sunt, loca mittantur. Per quarum illam partem, que Sclavoniam versus deputata est, regia maiestas auxilio eiusdem regni Sclavonie et domini bani et illustris domini Laurencii ducis victualia, quam primum fieri poterit, ad Jaycza imponi faciat. Pedites eciam per reverendissimum dominum cardinalem ac dominum palatinum nuper abductos maiestas sua regia in subsidium eiuscemodi impositionis victualium illuc transmitti et tandem ducentos ex eis in

ⁱⁱⁱ Em ,F, N: *Articuli Tholnenses in profesto beati Jacobi apostolic celebrati. Anno 1518*

^{iv} E, G40, I *observatur*

^v N om.

^{vi} E, I *Turcas*; Em, G40 *Thurcos*

^{vii} E, G40 *Bogach*

^{viii} E, Em, F , N *immuniatur*

^{ix} E, G40, I *hostibus*

^x rectius: *internum*

^{xi} F add. *ipsorum*

^{xii} E, G40 *Bogach*; I *Bogaz*

^{xiii} Em, F, N *recuperetur* ^{xiv}

E, G40, *Imodo*

^{xv} G 40 *quo*

Jayczam pro conservacione eiusdem infra illius temporis spacium, quo in expedicione generali proxime instauranda effective de eius conservacione providebitur, relinqui faciat, et post victualium impositionem tam dominorum, quam eciam regnicolarum gentes iuxta contenta decreti conservari debentes in confiniis^{xvi} regni in locis necessariis pro custodia eiusdem regni maneant, et quod omnes domini ac nobiles preter comitatus inferiorum parcium in decreto specificatos armigeras gentes mittere teneantur.

II. Item ad proximum festum beati^{xvii} Michaelis archangeli universi domini prelati et barones ac nobiles et proceres huius regni eciam unius sessionis per singula capita bellico cum apparatu Bachiam descendere, domini videlicet iuxta status eorum exigenciam pro fide et fidelitate sacre corone huius regni consequenterque maiestati regie debita meliori, quo poterunt,^{xviii} apparatu et modo, nobiles vero de singulis viginti sessionibus eorum jobagionalibus singulum unum equitem ad minus lanceam et clypeum habentem secum ducere, soli autem nobiles quinquaginta vel centum et plures jobagiones possidentes loricam galeamque vel^{xix} aliud genus armorum more hwzaronum habere debeant et teneantur.

III. Capitula^{xx} vero et^{xxi} conventus prepositique et abbates ultra gentes eorum, quas ratione decimarum conservare tenentur, alie eciam persone ecclesiastice religiose et non religiose, decimas non habentes similiter de viginti sessionibus ipsorum jobagionalibus singulum unum equitem modo premissis mittere sint obligati.^{xxii}

IV. Domine quoque sanctimoniales et alie mulieres vidue jobagiones habentes modo simili exercituari facere teneantur.

V. Item illi, qui in serviciis vel^{xxiii} stipendiis dominorum suorum fuerint preoccupati, loco eorum alios substituere, et similiter aliorum nobilium instar gentes suas mittere debebunt.

VI. Hoc declarato, quod comitatus parcium superiorum, videlicet Trinchiniensis, Arwa, Nitra, Thwroc, Lypho, Zolyom^{xxiv} et Scepusiensis pro vigesima prenotata pedites pixidarios secum ducere teneantur.

VII. *Maiestas regia raytharones et diffidatores in Moravia exterminari et debellari faciat.*

^{xvi} Em, I *confinibus*

^{xvii} C, G40, I *sancti*

^{xviii} G40 *poterint*

^{xix} C, G40, I *et*

^{xx} E *Item capitula*

^{xxi} E om. *vero et*

^{xxii} E *mittere debebunt*

^{xxiii} G 40 *et*

VIII. *Gentes in eundo ad expeditionem nocumenta inferre non presumant.*

IX. *Maiestas sua regia banderium suum regale secum erigere et Bachiam in persona sua propria descendere queat et de singulis portis singuli quinquaginta denarii exigantur.*

X. Primo quidem, ut dominus thesaurarius coram regia maiestate presentibus nunciis nostris iuramentum prestare teneatur, ut ad dicam et connumeracionem ipsius contribucionis quinquaginta denariorum neminem deputabit, neque mittet, qui aliqua pecuniarum^{xxv} summa debitoribus obligaretur, neque pro exolucione debitorum suorum illam dissipabit, sed confinia tenentibus, presertim dominis wayvode Transsilvano et comiti Themesiensi et bano Croacie, qui ex eorum officio in campis contra hostes exercituare et ad presentem quoque generalem expeditionem sese^{xxvi} precingere appromptuareque tenentur, eam iuxta quantitatem sallariorum suorum presentis anni distribuere, et deinde aliis eciam finitima castra gubernantibus de illa providere et demum banderium, ut prefertur, regium secum erigere faciat.

XI. *Penes hominem thesaurarii in singulis comitatibus per universitatem nobilium unus iuratus nobilis eligatur.*

XII. Item quintodecimo^{xxvii} die post ipsam^{xxviii} connumeracionem ipsius contribucionis eadem ubique exigatur et exolvatur, et quod iuratus ipse nobilis teneatur copiam registri^{xxix} apud se retinere et in expeditione ac convencione generali coram regnicolis producere, ut tandem super eadem contribucione recta ratio verusque calculus et computus ab ipso domino thesaurario acceptari possit.

XIII. *Super prioribus contribucionibus et universis proventibus regie maiestatis ratio detur et acceptetur.*

XIV. Item maiestas regia penes literas huiusmodi^{xxx} contribucionis ad universos dominos et quoslibet comitatus scribere dignetur, ut ad terminum prefixum, festum scilicet^{xxxi} beati Michaelis archangeli Bachiam modo prehabito exercituancium more convenire et literas ipsas dicatorum secum adducere teneantur, nam aliter ipsa contribucio maiestati sue non exolvetur. Et ne presens contribucio per homines et dicatores thesaurarii racione sallariorum et expensarum ipsorum dissipetur, prout hactenus magna in parte dissipari consuevit, quilibet dicatorum quarto dumtaxat se equitibus ad dicandum proficiscatur et preter pecunias mensuales ad ipsos quatuor equites racione expensarum et insuper in magnis comitatibus triginta duos, in mediocribus viginti quinque,

^{xxv} E, G4-0, I om.

^{xxvi} N *se*

^{xxvii} N *quinto*

^{xxviii} A om.

^{xxix} E, Em, N, I *registi*

^{xxx} A *huius*

in minoribus vero viginti florenos pro sallario eorum nullum penitus denarium accipere audeat. Super quibus iuratus ipse nobilis rationem seu^{xxxii} computum servare teneatur, nam eiusmodi^{xxxiii} superfluis expensis et sallariis unus officialium regni^{xxxiv} confinia tenencium facile^{xxxv} contentari poterit.

XV. Item vicecomites quoque, si eciam duo vel plures fuerint in uno comitatu, preter sex, et iudices^{xxxvi} nobilium tres florenos pro eorum sallariis ex ipsa contribucione pro se^{xxxvii} tollere non presumant.

XVI. *Comites aut vicecomites negligentes ab officio eorum perpetuo removeantur.*

XVII. Item hoc quoque expresse declarato, quod universa bona dominorum prelatorum et baronum, si que eciam per dominos eorum dicata iam fuissent, modo antelato ubilibet dicentur et connumerentur, et si qua solucio de illis iam vere et non fecte facta ac ea summa soluta ad castra finitima et confinia tenentibus distributa fuisse testimonio evidenti et iuramento domini thesaurarii comprobari poterit, illa eadem summa defalcetur et secundo non exigatur. Nihilominus si restancia aliqua comperta fuerit, manibus thesaurarii assignetur. Verum si tota quoque summa restituta, sed non ad castra finitima et officialibus finitimis distributa fuisset, non curata huiusmodi restitutione tocius summe, iterato exigatur et ad necessitates superius declaratas exponatur; et illi, qui solucionem fecit, regia maiestas solucionem ipsam aliunde cum tempore refundere faciat.

XVIII. *De cetero miseri et oppressi rustici ab ulteriori taxatione et continua dicacione preservarentur.*

XIX. Item istis posthabitis^{xxxviii} recurrendum est ad iudiciorum celebracionem, sine quibus arma parum valent; que licet contra potentes continue celebrari debeant, hoc tempore tamen, tum propter assessorum carenciam, tum vero expedicionis huius generalis apparatus parumper postponi et pretermitti debent. Ne nichilominus licencia male agendi cuipiam per huiusmodi iudiciorum suspensionem^{xxxix} concessa videatur utque ipsa^{xl} expedicio quocius^{xli} et securius instaurari et peragi possit, universi actus potenciarum a die presentis constitucionis per quoslibet et contra quoslibet inferendi et committendi per regiam maiestatem, ubilibet et ubicunque constituta fuerit,

^{xxxii} A et

^{xxxiii} E, I *huiusmodi*; G40 *huismi*

^{xxxiv} *mendose regnorum*

^{xxxv} G40, I om.

^{xxxvi} E, I *iudex*

^{xxxvii} A *sese*

^{xxxviii} Em, E, N *prehabitis*

^{xxxix} E, G40, I *suppressionem*

^{xl} N *ista*

^{xli} E *eo melius*

infra exitum et descensionem ipsius^{xlii} generalis exercitus more et instar brevis brevium iudiciorum, non tamen ad tricesimum secundum diem, sed iuxta duntaxat loci distanciam, ubi evocandus residet, semper adiudicentur. Alia vero iudicia generaliter tam ecclesiastica, quam etiam secularia interim cessent et suspensa habeantur.

XX. Jobagiones etiam contra decretum abducti ubique per regiam maiestatem restituantur et reddi committantur. Iudicialiter quoque^{xliii} deliberaciones iam facte per suam^{xliv} maiestatem ubilibet executioni demandentur.

XXI. Postremo, quod ad summum pontificem ac serenissimos principes, cesaream maiestatem et dominum Polonie regem oratores exnunc mittantur.

^{xlii} E, G40 *eius*

^{xliii} C, G40 *iudicialiterque*

^{xliv} A add. *regiam*

[25 July] 1518 at Tolna

Articles formulated by the community of the nobles in their partial assembly in the town of Tolna on the feast of St James the Apostle in the year 1518.

1. Because every kingdom is ruled and preserved by two instruments, arms and law, neither of which presently exists in this our kingdom of Hungary, as a result of which—besides the countless maidens, widows, worthy matrons, and other people of both sexes taken into everlasting servitude by the Turks, those foes of Christ's cross—several most imperiled border castles of this country and its frontiers, especially Bočac and Jezero, have fallen into the hands of the Turks,⁴⁵ [while] Jajce with Banja Luka remain entirely unprotected and will fall into the hands of those Turks unless they are soon refortified and supplied with men and victuals; should Jajce fall into the hands of the enemy—which the glorious Lord may avert—then the same will happen to Vukovar and Požega in the realm of Slavonia, upon which perils the internal body of the kingdom will also be exposed to similar danger and suffering; moreover, Carinthia, Austria, and a great part of Germany and Dalmatia will be in the jaws of the enemies and become their prey. Lest the rest of the border castles, especially Jajce, should fall, or even so that Bočac and Jezero be recovered for us, it was decided that the troops of the lord prelates and barons as well as of the counties of this realm be sent forthwith and with no delay under the penalty prescribed for this in the decree⁴⁶ to the locations that have been already designated. For that part of them which is sent to Slavonia, the royal majesty shall send victuals, as soon as possible, to be deposited in Jajce, with the help of the lord ban and the illustrious Lord Duke Lawrence.⁴⁷ The royal majesty shall transfer there those foot soldiers that the most reverend lord cardinal and the lord palatine⁴⁸ recently took with them

⁴⁵ These smaller castles were parts of the Bosnian line of border castles, close to Jajce. Bočac was occupied by the Ottomans before 1516; Jezero fell in 1518. In general, see Ferenc Szakály: "The Hungarian-Croatian Border Defense System and its Collapse." in: János M. Bak, and Béla K. Király, eds. *From Hunyadi to Rákóczi: War and Society in medieval and Early modern Hungary* (Brooklyn, N.Y.: Social Science monographs, 1982) pp. 159–178.

⁴⁶ Cf. **1498:18**.

⁴⁷ Újlaki, Lawrence, duke (d. 1524) son of King Nicholas, ban of Mačva 1477-92, judge royal 1518–24.

⁴⁸ Thomas Bakócz, bishop. of Győr 1486–1493, bishop elect of Eger 1493–1497, archbishop of Esztergom 1497–1521, cardinal priest of the title St Martin in Montibus, patriarch of Constantinople, legate a latere, and Emeric Perényi, perpetual *ispán* of Co. Abaújvár, the master of the stewards, 1492–1504, count palatine 1504–19, ban of Croatia and Dalmatia 1512–13.

to help deliver victuals, and two hundred of them shall remain in Jajce for its defense for the time being until, by the general levy to be soon proclaimed, effective arrangements are made for its defense; and once the victuals are delivered, the troops of the lords and the gentlemen of the realm shall keep their troops at the necessary locations in the border castles, as decreed, and all the lords and nobles must send soldiers, except for the counties of the lower parts, defined in the decree.

2. Then, all the lord prelates, barons, nobles and notables⁴⁹ of this kingdom, including those owning one plot, have each and all to muster armed for war at the coming Michaelmas at Bács:⁵⁰ the lords—as suitable to their estate [and] for their larger faith and faithfulness to the holy crown of this realm and consequently to the royal majesty—with the best possible equipment and means; the nobles should bring with them for every twenty tenant plots one such horseman who is equipped with at least a lance and shield; [1] only those nobles who own fifty, a hundred or even more tenants⁵¹ shall and must have armor and helmet or other arms like hussars.⁵²

3. Chapters and convents as well as priors and abbots are obliged, together with those ecclesiastics, regulars and seculars, who do not have tithes, to send to camp one mounted soldier after every twenty of their tenant peasants, beyond the troops they have to supply on the basis of the tithes.

4. Religious ladies and other widows having tenant peasants have to send men to war in a similar way.

5. Then those, who are in the service or pay of their lords,⁵³ have to send someone in their place and similarly send their troops, as other nobles do.

⁴⁹ The term *proceres* may have referred to great men of the realm not holding baronial offices.

⁵⁰ The location of that diet—and also the present one held at Tolna beside the Danube—was sometimes the gathering point of armies against the Ottomans. In this sense, meetings there resembled those early Polish and Czech diets that grew out of the general levy. However, no campaigns may be connected to the diets of 1518.

⁵¹ Tenant peasant (*jobagiones*, from Hung. *jobbágy*) was the status of the majority of the agrarian population in medieval and early modern Hungary (down to 1848). They were personally free, obliged to render dues in kind, money and labor to the lord of the land on which they lived. Their plots were de facto heritable, though not their property. Tenant peasants had the right to move (or to be moved) to another lord, once their dues were paid. For a summary of their fate, see János M. Bak, “Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline” in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruïn, pp. 387–400 (Turnhout: Brepols, 2005)

⁵² Hussars were, as a rule, light cavalymen without metal armor, but there seem to have been some “heavier” (if not technically “heavy”) cavalry among them who had adopted plate armor.

⁵³ This is one of the relatively rare cases when laws refer to nobles in the service of others. Noble retainer (*familiars*): were lesser nobleman who chose (or, occasionally, was forced) to accept military or administrative positions in the service of a prelate, baron (q.v.) or major landowner. They kept their noble privilege and were subject to his senior (*dominus*) only for service, for which they received monetary compensation and occasionally land. The laws refer to it very rarely, as in principle all noblemen were equally privileged and free (see **1351:11**), but it can be inferred. The institution resembled West European

6. Adding that the counties of the upper parts of the country, that is Trencsén, Árva, Nyitra, Turóc, Liptó, Zólyom and Szepes,⁵⁴ have to send for the said twenty plots foot soldiers with muskets.

7. *That the king shall defeat the Moravian rebels.*

8. *That the army should not cause damages when marching to war.*⁵⁵

9. *A special tax of 50 pennies is to be collected from every plot for the king's banderium*⁵⁶.

10. First, then, the lord treasurer has to swear an oath before the royal majesty in the presence of our delegates that he will not entrust or send out for the collection and registration of this tax of 50 pennies anyone who may be bound for any amount of money to debtors,⁵⁷ nor will he waste it on the payment of his own debts, but shall distribute it to those holding the borders, above all to the lord voivode of Transylvania, the *ispán* of Temes, and the ban of Croatia who have ex officio to fight in the field against the enemy and have to be ready and prepared for the present general levy, according to their present annual salary; then take care of the commanders of the other border castles, and finally raise the royal *banderium*.

11. *That in every county a nobleman has to be elected to accompany the treasurer's agent in assessing this tax.*

12. Then, on the fifteenth day following the assessment of this tax, it shall be everywhere collected and raised, and the elected nobleman shall keep a copy of the register with him and present it in the camp to the gentlemen of the realm, so that a full account and true calculation and computation of the same tax can be received by the lord treasurer.

13. *That previous taxes and all royal revenues have to be accounted for as well.*

14. Then, the royal majesty shall, in addition to letters concerning this taxation, deign to write to all the lords and counties that they should come together at the date set, namely the next Michaelmas, in Bács, in the aforementioned manner of going to war, and bring the letters of the tax collectors with them, for otherwise the subsidy would not be paid to His Majesty. And lest the

vassalage, but was less formalized (often signaled by only a handshake in the castle gateway), less mutual, and rarely passed onto descendants. See Erik Fügedi, *The Elefánthy. The Hungarian Nobleman and His Kindred* (Budapest: CEU Press, 1998), pp. 137–40, Martyn Rady, *Nobility, Land and Service in Medieval Hungary*. (Houndsmill, Basingstoke: Palgrave, 2000), pp. 110–31.

⁵⁴ That is today's Slovakia.

⁵⁵ Cf. **31 August 1405**, and many times later.

⁵⁶ *Banderia*, (from the Italian *bandiera*, 'banner') were troops supplied by the king, the queen, the barons and prelates (later also by other major landowners) in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars). Those obliged to field *banderia* were called banderial lords.

⁵⁷ Logically it should be creditors.

present tax is wasted by the men and tax assessors⁵⁸ of the treasurer on their salaries and expenses, as it has been up to now for the most part usually wasted, each of the receivers should strictly set off for the assessment with three other horsemen and they shall not dare, besides monthly payments for the expenses and so on of these four horsemen, to take a penny more than twenty-five florins in the larger and medium sized counties and twenty florins in the smaller ones. The sworn nobleman shall give account and computation of these, because from such excessive expenses and salaries one could easily pay one officer serving in the border castles.

15. Then that *alispáns*⁵⁹, if there are two or more in one county, shall not dare to take more than six and the noble magistrates more than three florins from this tax for their salaries.

16. *Negligent ispáns and alispáns who fail to ensure collection of the tax are to be deprived of their offices and have to pay the missing sum.*

17.⁶⁰ Then, this has been also expressly declared that all the goods of the lord prelates and barons, even if already assessed by their lords, have to be assessed and enumerated in the aforesaid way; and if the payment of these was really done and not made up and if it can be proved by plain testimony and the oath of the lord treasurers that the sum was paid and applied to the border castles and those serving on the frontier, then that amount shall be canceled and not levied a second time. Nevertheless, if some surplus is found, it shall be handed to the treasurer. If, however, the whole amount was rendered but not distributed to the border castles and to the officers of the frontier, then regardless of such a payment, the sum has to be exacted again and applied to the aforementioned needs; and he who made the payment shall be refunded by the royal majesty at some other time.

18. *That because undue burdens on the “poor and oppressed peasants,” future imposts shall be avoided.*⁶¹

19. Then, after all this, we return to the holding of courts of law (without which arms are worth but little); although these shall always be held against the over mighty, for the time being, partly because of the lack of jurors, partly because of the preparation for the present general levy, they should be postponed and suspended for a little while. [1] Nonetheless, lest this prorogation of court sessions should seem to give license to anyone to behave badly and in order that the campaign be conducted and completed more securely and safely, all acts of might,⁶² committed by anyone

⁵⁸ Here and many other places *dicatores* is used for both the assessors and the collectors of taxes.

⁵⁹ The *vicecomes* (*alispán*) was in most cases the actual administrator of the county, his superior, the *comes/ispán* frequently holding several offices in court or in counties. He was usually a retainer (*familiaris*) of the *ispán*, but ever more often also “elected” by the county’s nobles.

⁶⁰ This article is contained only in one—however, the only contemporary—copy (A).

⁶¹ **1514:1–3.**

⁶² “Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal

against anyone after the day of this constitution, shall be adjudicated by the royal majesty whenever and wherever he may stay in the manner of short court sessions (however, not on the thirty-second day but according to the distance of the residence of the accused) before the end of the present campaign and the dismissal of the general levy. [2] However, other courts of law, both secular and spiritual, have to cease for the time being and be suspended.

20. Tenant peasants anywhere abducted against the decree shall be returned and obliged by the royal majesty to be returned.⁶³ Judicial decisions already made shall everywhere be instructed for execution by the royal majesty.

21. Finally, ambassadors are henceforth to be sent to the pope and the most serene princes, the imperial majesty and the king of Poland.⁶⁴

cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one (sc. rape).

⁶³ **1514: 25–6, 30, 44.**

⁶⁴ *Exnunc* in the Latin is inappropriate here. These ambassadors were intended to ask for financial and/or military support.

1518 Bács

Based on the decisions of the diet at Tolna, an armed diet meets September 29 (Michaelmas) to ca. October 29: a field near Bács. Its decisions, though not approved by the king, remained a point of reference for the following years. The planned campaign is cancelled and an Ottoman proposal for a 3-year peace considered (approved April-May 1519).

None of the laws and dietal decisions of the reign of Louis II survived in an original, some (e.g. 1516) not at all. The age of the existing copies in private collections is difficult to decide, most of them are from the late sixteenth century. Some (or parts of them) are also known from reports of ambassadors (Marino Sanuto from Venice, various emissaries from Poland). The reliability and date of the codices is discussed by Dezső Szabó, *A magyar országgyűlések története II. Lajos korában* [History of Hungarian diets in the age of Louis II] (Budapest: Magyar Tudományos Akadémia, 1909) pp. 225-8.

MSS: Copies in six codices: Codex Nádasdy (Budapest University Library Cod. G 39.) foll. 345r-351r [N]; Budapest University Library Cod. G40 [G40]; Esterházy Archives Codex Rep. 71 no. 13 pp. 287-305 [E]; the minor Esterházy codex, foll. 118v-120r [Em]; the major Esterhazy codex [EM], and the Codex Festetich (OSZK Fol. Lat. 4355) pp. 549-63 [F].

The constitutions were slightly reworked in an, apparently expanded, council meeting in 1519 (in the CJH/MTvt erroneously listed as decisions of a diet in 1519, here below as **Appendix 1518**): the variants of that text are marked here with X.

EDD: Martinus Georgius Kovachich, *Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. Buda: Regia Universitas, 1790, pp. 475–500 from the since then missing Codex Ráday; *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., vol. 1 (Budapest: Franklin, 1896), pp. 750-73 [=CJH/MTvt], Szabó, *A magyar országgyűlések története*, pp. 237-45 [part.]

LIT: Szabó, *A magyar országgyűlések története*, pp. 29-35.

This dietal decision as several other legal enactments of the Jagellonian decades, contains so many repetitions of earlier legislation, that we have not reprinted all of them here.

Moreover, we omitted not only those that are verbatim identical of earlier texts (marked as =), but also those that are repeated with minor, stylistic, changes (marked as ≈). For the omitted articles, we added, for information's sake, the rubrics of the *Corpus Iuris*, even though they are later additions, or our own summary.

Constitutiones dietae Bachiensis anno 1518.

Tractatus et articuli in dieta et convencione generali pro festo beati Michaelis archangeli in anno Domini millesimo quingentesimo decimo octavo Bachie celebrata formati.

I. Quamquam hactenus quoque multa et multociens bona utiliaque statuta salutem et quietum statum totius regni et imprimis quidem incrementum regiminis maiestatis regie concernencia ordinata fuerint, et conclusa, quia tamen observacio et executio earum constitutionum subsecuta nunquam fuit, ideo omnia in irritum transierunt, castra finitima plurima perierunt, menia reliquorum corruerunt, innumerabiles per hec temporaⁱ tam mutua cede, tum vero hostis abductione interierunt, subsidia pecuniarum sepe numero maiestati regie prestita parum profuerunt, et breviter confuso preposteroque ordine cuncta regni et reipublice facta tam in eius defensionis expedicione, quam eciam iudiciorum celebracione processerunt. Quapropter, ut omnia et perprie et nunc quoque conclusa firma maneant et stabilia, debitumque et perfectum finem sorciantur et consequantur, communi omnium sententia deliberatum et conclusum est, quod ad executioem et finalem perfeccionem omnium negociorum regie maiestatis et regni sui duo probi et fideles de medio nobilium eligantur, unus ab ista et alter ab altera parte Danubii thesaurarii, et preterea in quolibet comitatuⁱⁱ unus pariter eligatur iuratus nobilis, qui strictissimo sub iuramento universa bona et quelibet iura possessionaria tam dominorum, quam eciam nobilium in ipso comitatu adiacencia,ⁱⁱⁱ dominorum quidem ex eo, ut rescatur numerus jobagionum, iuxta quem gentes conservare tenentur, ne in gencium eorum conservacione fraus et defectus subsequatur, nobilium vero, ut pecunie alias ad conservacionem stipendiariorum et gencium exigi consuete iuxta verum et iustum computum atque numerum primo ad manus ipsius iurati nobilis et deinde per eum manibus prefatorum dominorum thesaurariorum regnicolarum dentur et assignentur. Qui secundum ipsum verum numerum gentes iuxta formam generalis decreti pro regni defensione et confiniorum conservacione rerum bellicarum peritos conducere, domini eciam barones banderiatii et officiales quoque regii finitima tenentes iuxta numerum jobagionum suorum gentes eorum paratas habere et illas in confiniis regnorum in pleno numero conservare teneantur. Insuper domini prelati tam racione decimarum, quam eciam jobagionum ipsorum semper medietatem gencium eorum similiter in confiniis conservare et tempore manifeste necessitatis eciam alteram medietatem ad literas dominorum capitaneorum regie maiestatis, quibus subsunt, illuc mittere, officiales quoque^{iv} finitima ipsa tenentes gentes suas racione officiorum suorum conservare debentes secum et in ibi modo simili paratas tenere semper sint obligati, ne gentes, ex quibus parum utilitatis hactenus habuisse dinoscitur, de cetero frustra et infructuose teneri et conservari

ⁱ E, EM add. *persone*

ⁱⁱ E, EM add. *regni*

ⁱⁱⁱ desideratur *connumerare teneatur*

^{iv} EM *officialesque*

videantur. Ceteri autem domini non banderiatum omnes secundum formam generalis decreti, demptis decem personis, que vigore eiusdem decreti excipi possunt, et que per regiam maiestatem statim nominentur, in medium nobilium computentur.

II. Ecclesiasticorum personarum querimonia de intertentione militum.

III. Predicti duo thesaurarii auxilio circumiacencium comitatum, et si opus fuerit, auxilio totius regni executionem remissionis et administracionis peragere teneantur.

IV. Preterea, quantum ad iudiciorum et literarum aduicatoriarum executionem attinet, si causa coram regia maiestate vel personali presencia eiusdem mota et tractata ac finalem conclusionem sortita fuerit, ita ut executio armis et non iuridicis processibus fieri debeat, actor vel pars triumphans cum assessoribus pariter regiam maiestatem requirere, sibi que, ut executionem ipsam peragere faciat, supplicare teneatur, quod maiestas sua regia ex suscepti regiminis sui officio facere debet.

V. Thesaurarii executionem faciant si rex et palatinus eam facere nequierint.

VI. Domini iudices curie regie in Hungaria, bani regnorum Dalmacie, Croacie et Sclavonie ac wayvoda Transsilvano executiones iudicialiarum deliberacionum finali processu et exitu sunt perficiende.

VII. Ad reformationem negociorum et recuperacionem bonorum proventuumque regie maiestatis imprimis recurrendum est.

VIII. Domine Anne relicte quondam domini Andree Both, bani Croacie debitum suum reddendum est.

IX. Camere item salium tam in Hungaria, quam Transsilvania maiestati regie exnunc similiter remittantur, et de cetero nemini preter officiales finitimos et illis quoque moderate ac iusta limitacione consiliariorum et assessorum sales dentur, sed pecunie parate cuilibet solvantur; nemoque sales preter camerarios regios ad hoc deputatos vendicioni exponere audeat; et omnes sales externi de hoc regno et partibus sibi subiectis eiiciantur ubilibet, et infra proximum festum beati Georgii martyris extirpentur; ita quod si postea sales externi apud dominum vel nobilem pro usu vel vendicione reperti fuerint, talis dominus vel nobilis in amissione cunctorum bonorum per regiam maiestatem aut pro se retinendorum aut alteri conferendorum convincatur eo facto.

X. Rusticus vero tam maiestatis regie, quam eciam quorumcunque dominorum et nobilium in amissione pariter cunctorum bonorum suorum mobilium et immobilium condemnetur, cuius hereditas domino terrestri cedat, res vero mobiles per camerarium auferantur et regio fisco applicentur. Si vero camerarius per se ipsum ac ad se pertinentes ad auferendas eiuscemodi res non sufficerent, comes vel vicecomes comitatus advocetur, qui sub perpetua amissione officii sui advenire camerarioque assistere et auxilio adesse tenatur. Et hoc modo tertia pars comiti vel vicecomiti, due vero partes camerario consequenterque regio fisco rerum illarum mobilium cedant. Ubi autem isti quoque non sufficerent extunc duo thesaurarii executionem huiuscemodi ad scitum et literas regie maiestatis et consiliariorum et assessorum suorum peragere teneatur.

XI. Item de cameris^v fodinisque auri et argenti statutum est, quod cultores montanarum et civitates earundem in antiquis ipsorum libertatibus conserventur. Ita videlicet, ut montaniste et inhabitatores civitatum earundem de rebus quibuscunque ad necessitatem eorum ad ipsa montana deferendis nullum tributum solvere teneantur. Ab illis vero^{vi} extraneis, qui montana non inhabitant, sed victualia et alias res necessarias ad culturam montanarum undecunque deferunt, exigatur quidem tributum, sed ita moderetur, ut ab eis quoque non superfluum, sed iustum et honestum theloneum exigi videatur. Ne autem inter exemptos et tributa habentes contencio maneat, statuto per dominos consiliarios et assessores uno brevi termino, literas ipsorum exempcionales et tributales coram maiestate regia producere teneantur; et que illarum antiquiores et utiliores reperientur, ille observentur; que si non producentur, viribus in perpetuum destitute habeantur, et de cetero virtute illarum nemo utatur. Limitacio eciam iusta et honesta exaccionis tributorum eodem termino per ipsos dominos consiliarios^{vii} omnino peragatur atque finiatur.

XII. In singulis huius regni Hungarie comitatibus octo probi nobiles viri eligantur, qui tributorum siccorum et in aquis exigi solitorum, pontes eciam et repleturas habencium loca peragrare ac oculata revisione fide conspiciere debeant.

XIII. Aurum et argentum de regno non educantur.

XIV. Item quod castrum Hwzt cum cameris salium Maramarusiensium et Transsilvanensium ac tricesimis, vigesimis, quinquagesimis, cementis camerisque et fodinis auri et argenti, necnon civitatibus liberis, Saxonibusque regiis manibus thesaurarii regii pro tempore constituti, castra vero Munkach, Tata et Komaron cum curia Wysegradiensis,^{viii} Veteri Buda ac insulis Ros et Chepel appellatis, necnon oppidis Sambok, Salmar et Kezy cunctisque eorundem pertinentiis, Cumanisque et Philisteis pro sustentacione et conservacione coquine regie maiestatis ad manus provisoris Budensis assignentur. Ad quam lardis et vino de proventibus castri Munkach, usonibus vero et aliis piscibus de Komaron et Tata providere et insuper decimas Budenses et alias eciam in Syrimio provisor ipse regie maiestati pro mensa et curia sua comparare debet. Defectum autem si quis erit, iuxta limitacionem dominorum consiliariorum et assessorum thesaurarius regius supplebit.

XV. Item, ut curia maiestatis regie honeste et servitorum multitudine sit referta et decorata, universa iura patronatus omnium ecclesiarum et beneficiorum ecclesiasticorum, tam per maiestatem regiam, quam eciam serenissimum quondam dominum Wladislaum regem, genitorem sue maiestatis charissimum pie memorie cuicunque collata revocata habeantur;^{ix} et cetero cuncta

^v C *campis*

^{vi} X *tributum vero ad ipsas*

^{vii} C *add. et assessores termino assignato*

^{viii} E *curia castri Wissegradiensis*

^{ix} X *add. maiestas sua regia de cetero cuncta beneficia ecclesiastica, demptis canonicatibus et rectoratibus altarium, quibusconque sola voluerit, iuxta decretum pro festo beati Luce editum conferat.*

beneficia ecclesiastica ab illis, qui ultra unum habent, per regiam maiestatem pariter auferantur et iuxta contenta generalis decreti dividantur, ut eo plures deo graciosi servire, plures etiam gentes pro defensione regni conservare possint.

XVI. Universe prepositure, abbacie et alie ecclesie per unionem aliis ecclesiis annexe ab unione dissolvantur et per maiestatem regiam, quibus decet, conferantur.

XVII. Honores comitatum maiestas regia a dominis secularibus, qui preter unum plures habent, auferat et personis benemeritis distribuatur.

XVIII. Verum quia ad solutionem et restitutionem tot tantorumque debitorum, quibus maiestatem regiam teneri intelligimus, et eliberacionem proventuum bonorumque sue maiestatis ac reedificacionem^x castrorum finitimorum proventus ipsi regii etiam rectificati^{xi} sufficere non videntur, ideo deliberatum est, ut universi prepositi et archidiaconi, qui ratione huiusmodi beneficiorum suorum separatim a capitulo vel conventu, ubi resident, nullum onus pro regni defensione supportare dinoscuntur, preterea cunctarum civitatum, oppidorum et villarum plebani parochiales ac rectores altarium et sacellorum seu capellarum, tam in Hungaria, quam etiam Slavonia et Transsilvania constituti, quorum plerique sexaginta, quadraginta et sic consequenter vasa vinorum annuatim habere sed regni pro tutela nec unicum quidem denarium solvere solent, per regiam maiestatem ubicunque iuxta proventuum ipsorum exigenciam pro decima parte eorundem proventuum taxentur, ita ut de singulis decem florenis unus florenus maiestati regie per eos contribuatur. Ad quorum connumeracionem iuratus ille nobilis in singulis comitatibus ad exaccionem pecuniarum pro conservacione gencium dicandarum electus per regiam maiestatem deputetur atque mittatur. Prius tamen idem nobilis super ista quoque contribucione et iusta fidelique exaccione iuramentum coram homine thesaurarii regii et universitate nobilium prestare teneatur et deinde secundum iusticiam et conscienciosam limitacionem eiusdem ac parochiani iudicis et iuratorum civium contribucio ipsa decimalis indilate exigatur. Ubi vero aliqui rebellionem ducti contribucionem eandem reddere recusarent, extunc dominus prelatus, archiepiscopus scilicet vel episcopus loci eiusdem, per literas ipsius iurati hominis requisitus, reddi facere teneatur, nam aliter ex decimis suis vinorum vel frumentorum in comitatu illo, ubi rebellis ipse residet, pro regia maiestate tantum reservetur, quantum contribucio prepositi, archidiaconi vel plebani rebellis faceret. Que quidem contribucio ad reformationem castrorum finitimorum et bonorum proventuumque regionum redempcionem iuxta limitacionem dominorum consiliariorum et assessorum convertatur. Ad Slavoniam et Transsilvaniam unus de medio ipsorum assessorum adiuncto homine thesaurarii regii ad eiuscemodi contribucionem peragendam et exigendam deputetur atque mittatur. Qui quidem iuratus nobilis una cum homine thesaurarii regii pecunias ex huiusmodi contribucione collectas regie maiestati adducere et ibidem dominis consiliariis et assessoribus regnicolarum rectam racionem exinde dare teneatur.

^x Em, F, G40 *rectificacionem*; X add. *et reformationem*

^{xi} X *si etiam rectificentur*

XIX. Item quod penes thesaurarium ipsum regum de medio assessorum regnicolarum unus eligatur, absque cuius scitu thesaurarius nec introitum nec exitum proventuum regionum administret et dispenset. Ille vero assessor electus computum et rationem de omnibus teneat, ne fraus et dissipatio in proventibus regiis fiat. Et thesaurarius super eo, quod non aliter procedet, iuramentum coram regia maiestate ac dominis consiliariis et assessoribus prestet; qui si postea contrarium fecisse repertus fuerit, extunc persona ecclesiastica existens in beneficiorum ac eciam patrimoniorum iurium, secularis vero persona in bonorum pariter cunctorum suorum amissione convincatur et convictus habeatur eo facto; que maiestas regia quibuscunque voluerit, libere conferre poterit.

XX. Item quod omnium proventuum regie maiestatis introitus et exitus fideliter et sub iuramento per dominos consiliarios et assessores e thesaurario exnunc intelligatur, ut sciant postea, quantum pro exitu necessitatis superaddere debeant; et quod singulis annis thesaurarius regis et provisor Budensis super cunctis proventibus regiis dominis eisdem consiliariis et assessoribus festo Epiphaniarum domini ac diebus immediate sequentibus ad id sufficientibus rationem dare teneatur.

XXI. Item quod bani castrorum finitimorum semper in eisdem castris finitimis maneant, et unus eorum sub nota perpetue infidelitatis nunquam de castro egredi audeat; et quod ad omnia castra ipsa finitima provisos per regiam maiestatem constituentur, qui tam ad ingenia, quam eciam victualia et alia eorum necessaria modo tempore quondam domini Mathie regis observato providere teneantur.

XXII. Damna per cruciferos nobilibus illata refundantur et modo ordineque in decreto exinde edito expresso damnificatis restituantur.

XXIII. Castra quondam domini comitis Petri per dominos Franciscum et Wolfgangum Groff manibus domine relicte eiusdem quondam comitis Petri statim remittantur.

XXIV. Bona desolata nobilium in comitatu Themesiensi adiacencia per dominum comitem Themesiensem remittantur.

XXV. Abbacia Thapolcza fratri Petro, pre cuius manibus erat, de facto et immediate remittatur.

XXVI. Nobiles prediales ecclesie Saxardiensis in antiquis eorum libertatibus et iuribus conserventur.

XXVII. Cives civitatum in terris aliorum vineas habentes nonasolvere teneantur.

XXVIII. Item quia plerique dominorum ac nobilium spreto et contempto regio mandato ad hanc dietam venire neglexerunt, quorum bona et iura hereditaria, licet fisco regio applicanda forent, ex quo tamen sub pena in decreto expressa vocati sunt, ideo penam ibidem declaratam incurrisse dinoscuntur. Quam ne illusive preterisse gloriantur, maiestas regia penam dominorum, hoc est singulos octingentos florenos pro se tollere, nobilium vero, singulos scilicet quadringentos florenos, si pro se exigere noluerit, nobilibus egenis et miseris, qui mandato sue maiestatis obtemperantes advenerunt, per vicecomites et iudices nobilium cum consilio et iuxta limitationem

universitatis nobilium singulorum comitatum distribuendos donare et conferre dignetur. Si qui comitum aut vicecomitum aliquos nobiles precio domi reliquissent, in amissione officiorum et preterea pro singulis nobilibus in quadringentis florenis regie maiestati solvendis convincantur, quos maiestas regia ab illis indilate exigere faciat. Et si per quospiam premissorum contrarium committeretur, unde punicio nobilium predeclarata non permitti videretur, extunc antefati thesaurarii regnicolarum iuxta informationem per assessores eisdem superinde dandam in executione huiusmodi punicionis procedere teneantur.

XXIX. Item plerique solent dominorum et nobilium, quibus iuramenta prestanda adiudicantur, novum iudicium a regia maiestate diversis sub coloribus impetrare, et partem alteram expensis duntaxat gravare, et postea non posse in iudicio se ab ipsa iuramentali depositione preservare. Ne itaque fraus et dolus alicui patrocinari videatur, statutum est, prout eciam ex antiqua regni consuetudine per iudices regni ordinarios observatum fuisse dinoscitur, ut novum iudicium impetrans, si iustam et rationabilem causam impetracionis sue assignare et se ab ipsa iuramentali depositione, quam facere debebat, in iudicio preservare non poterit, extunc in amissione sui iuramenti, consequenterque pena exinde subsequenda de facto convincatur.

XXX. Qui propter amissionem castrorum proscripti sunt, de novo proscripti habeantur.

XXXI. De metis inter Cumanos Philisteosque et Zegedienses.

XXXII. Districtus Monostor, Sagya et Morsina &c. ad comitatum Themesiensem remittantur.

XXXIII. Oves, boves et equi de hoc regno de cetero non educantur.

Add.: Et de singulis bobus et equis singuli decem denarii ab emptore, qui scilicet illos e regno hoc educere voluerit, ultra tricesimam solitam in fiscum cameramque regiam exigantur, et ab una quoque ove vel ariete denarius unus pariter solvatur.

XXXIV. Prelati, barones et nobiles atque comitatus gentes eorum in confinibus conservare teneantur.

XXXV. Item quia fures et alii malefactores adeo multiplicati sunt, ut nec domi, nec foris nobiles ac ignobiles tuti esse possint, si qui igitur comitatum voluerint, et comites ad extirpacionem eorum negligentes fuerint, unus ex assessoribus per maiestatem regiam ad requisicionem nobilium illuc^{xii} mittatur, per quem extirpacio furum et aliorum malefactorum iuxta formam generalis decreti exequatur et effectum sociatur.

XXXVI. Item quia nobiles unius sessionis per singula capita, dum regni necessitas extrema ingrueret, insurgere tenentur, ideo racione conservacionis gencium de cetero non taxentur.

XXXVII. Ex parte nobilium Campi Zagrabiensis iudicium indilate administrari debet.

XXXVIII. Episcopus Waciensis, alias thesaurarius racionem dare teneatur.

^{xii} E illius comitatus

XXXIX. Due archiepiscopi, due episcopi, palatinus regni, iudex curie regie, wayvoda Transsilvanus et comes Themesiensis, sedecemque nominati nobiles apud maiestatem regiam iurati maneant, et in consilio regio ac iudiciis decernendis sibi assistant.

XL. Primo et ante omnia castrorum finitimorum provisioni per thesaurarium regium reddi facere teneantur.

XLI. Item quod brevia iudicia ac breves brevium causeque transmissionales ad vigesimum diem festi Epiphaniarum domini proxime venturi inchoentur; et deinde cause presertim transmissionales et breves brevium continue et sine intermissione celebrentur, et execucionem, prout iam declaratum est, finalem absque omni favore et formidine semper sorciantur. Cause vero virtute articuli Tolnensis mote et movende exnunc et de facto adiudicentur^{xiii} et unicuique iusticia administretur; et de cetero secundum iura regni scripta ad universos regni comitatus iam destinata semper adiudicentur causeque discuciantur.

XLII. Item quod ad premissa omnia firmiter observanda contemplacione boni status regie maiestatis et tocius regni sui universi nobiles, qui diete huic non interfuerunt, in sedibus iudiciariis comitatum post nobilium hinc ad propria regressum primitus celebrandis iuramentum prestare teneantur. Si^{xiv} qui autem rebellione forsitan ducti iurare rennuerent, universe talium res mobiles per alios nobiles iuratos prede exponantur, et inter sese dividantur, et insuper, si comprehendi poterunt, capite quoque plectantur atque puniantur.

XLIII. Et quod universi nobiles dominos eorum, cuiuscunque dignitatis aut condicionis existant, quos premissis constitutionibus ac remittendis et resignandis bonis et proventibus regie maiestatis palam contravenire et reluctari agnoverint, postquam hinc ad propria eos secuti fuerint, et huiusmodi reluctacio nobilibus ipsis per assessores et thesaurarios regnicolarum innotuerit, mox deserere relinquereque et eorum serviciis renunciare sub pena immediate prenarrata debeant et teneantur.

XLIV. Et predeclarata statuta usque ad dietam pro festo beati Georgii martyris in tercia revolucionem annuali venturo celebrandam durent et observentur.

XLV. Interim autem pro gencium regnicolarum conservacione per spacium duorum annorum integrorum duo floreni per universum hoc regnum fideliter et plenarie cum numero dicentur et exigantur. Regie maiestati vero in eisdem duobus annis centum et viginti denarii incluso lucro camere sue maiestatis per eosdem annos dari consueto pariter solvantur; quorum viginti ad redempcionem civitatum et tricesimarum sue maiestatis pre manibus domini wayvode Transsilvanensis in presenciarum titulo pignoris habitaram, viginti autem ad solucionem debitorum et expensarum assessorum, reliqui octuaginta denarii ad curie familieque regie maiestatis conservacionem cedant. In qua quidem dicatura et contribucione, quia ad tocius regni

^{xiii} X mote die crastinal post meridiem hora secunda adiudicentur

^{xiv} X add. et quod vicepalatinus ac viceiudex curie regie et magistri prothonotarii ex eorum officio consilio region interesse debeant

huius publica notoriaque negocia exponendum^{xv} et dispensandum est, nonnisi factores et servitores dominorum ac nobilium manifesti et nimis pauperes relaxentur, ne gencium numerus regni pro defensione minuatur et decrescat, et ne redempcione bonorum ac proventuum regie maiestatis apud dominum wayvodam, ut prefertur, habitorum ulterior mora fiat atque committatur.

^{xv} recte: *exponende et dispensande sunt*

Dietal decision [ca. October 28] 1518 at Bács

Agreement and articles formulated at the diet and general assembly held at the feast of the Archangel Michael, in the year of the Lord one thousand five hundred and eighteen at Bács.

1. Although hitherto many good and useful statutes have many a time been ordered and concluded concerning both the safety and tranquility of the entire kingdom and in particular the improvement of the governance of the royal majesty, the observance and enforcement of these constitutions never, however, followed and thus everything went awry: most of the border castles were lost; the walls of the rest collapsed; innumerable men perished in these times, as much in mutual slaughter as by being carried off by the enemy¹; the financial subsidies frequently granted to the royal majesty helped little; and, in brief, the affairs of the realm and the commonwealth were handled in a muddled and topsy-turvy manner both in regard to arrangements of defense and the holding of courts of law. [1] Therefore, in order that both previous and present decisions remain firm and stable and serve their due and entire purpose, it was resolved and concluded by common consent [2] that for the enforcement and final completion of the affairs of the royal majesty and his realm, two honest and faithful treasurers are to be elected from among the nobility, one from this and one from the other side of the Danube,² and that, moreover, in every county a sworn nobleman is to be elected, who shall survey under the strictest oath the goods and whatever property rights the lords and nobles hold in that county: in respect of the lords so that the number of the tenant peasants according to which they are held to field troops be established lest any fraud or mistake be committed in maintaining their troops; [3] in respect of the nobles so that the money otherwise customarily spent on the maintenance of paid soldiers or troops be given and assigned, according to just and true accounting, first to the hands of the sworn nobleman and through them to the aforementioned lords treasurers of the gentlemen of the realm.³[4] They [the lord treasurers] shall hire troops, experienced in military matters, in numbers according to the general decree, for the defense of the realm and preservation of the borders; the lord barons keeping *banderia* ⁴ and the

¹ In general, see: András Kubinyi, “Hungary’s Power Factions and the Turkish Threat in the Jagiellonian Period (1490 - 1526),” in István Zombori, ed. *Fight against the Turk in Central-Europe in the First Half of the 16th Century* (Budapest: METEM, 2004), pp. 115–145.

² On this arrangement, see György Bónis “Ständisches Finanzwesen in Ungarn im frühen 16. Jahrhundert,” in: *Novelles Études Historiques* (Budapest: Akadémiai Kiadó, 1965), pp. 83–103. Having studied the results of this short-term attempt at controlling the revenues by the estates, Bónis established that it did not work any better than the previous (and subsequent) royal system.

³ “Gentlemen of the realm” is our translation for *regnicolae* (verbatim: inhabitants of the kingdom), the term in legal texts referring to the wide social stratum of lesser nobility, enfranchised and expected to attend the diets.

⁴ *Banderia*, (from the Italian *bandiera*, ‘banner’) were troops supplied by the king, the queen, the barons and prelates (later also by other major landowners) in return for their landholdings. Probably

officeholders assigned to the frontiers of the kingdom shall keep their troops ready, according to the number of their tenant peasants, and deploy their full complement on the borders of the country.

[5] Moreover, the lord prelates shall by reason of their tithes and tenant peasants⁵ always keep half of their troops similarly at the borders, and at time of clear necessity, on the letters of the captains of the royal majesty under whose command they are, also send the other half there; office-holders of the frontiers are also always obliged to keep ready with them the troops which they have to hold ex officio, [6] lest the troops, which hitherto are known to have had little value, appear to be kept and supplied fruitlessly and for nothing. [7] The other lords, without *banderia*, are, according to the general decree to be counted among the nobles, excepting those ten persons who can be exempted according to the same decree and whom the royal majesty shall name right away.⁶

2. That a survey similar to that undertaken in respect of the secular lords (as Art. 1) be held on the military obligations of the lords spiritual; in the meantime their obligations should follow the arrangements of King Sigismund.⁷

3. That the noble treasurers be charged with the recovery of royal revenues and properties, if necessary using the armed forces of the counties.

4. Moreover as far as the execution of judgments and letters of judgment is concerned, [1] if the case was moved, treated, and concluded before the royal majesty or the court of personal presence,⁸ and execution is possible [only] by arms and not by judicial procedure, then the plaintiff or the winning party has together with the assessors to request and humbly beseech the royal majesty to

introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars). Those obliged to field *banderia* were called *banderial lords*.

⁵ *Jobagio* (Latinized form of Hungarian *jobbágy*) designed the legal status of the majority of peasants in medieval and early modern Hungary ever since the late thirteenth century. They were personally free, obliged to render rents in kind, money and labor to the landlords on whose land they lived, but were free to move (or moved) to other lords when all their debts was paid. See: János M. Bak, "Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline" in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005).

⁶ See **1492:20** and **1498:20–22**; that they should be now "named" implies that the identity of the ten courtiers had changed.

⁷ Cf. **Propositiones 1432–33**.

⁸ The court of royal personal presence emerged as early as the thirteenth century. In the first third of the fourteenth century it was augmented with the court of the special personal presence. The court of the personal presence functioned on a regular basis from 1435 and it was led by the chancellor. After 1464, when it was united with the court of the special personal presence, it became the main royal court of justice, issuing sentences under the king's judicial seal. Its head was a chancellery protonotary, the *locumtenens personalis presentie* (later simply: *personalis*) who presided over an ever more professionalized judicial staff. See György Bónis, "Men Learned in the Law in Medieval Hungary," *East Central Europe/l'Europe de centre-est* 4:2 (1977): 181–191.

carry out the execution. [2] The royal majesty has to do so, by virtue of the office of government he bears.

5. *That the noble treasurers have to perform executions⁹ if the king or the palatine refuses to do so.*

6. *That the same applies to the judge royal as well as to the ban of Dalmatia, Croatia and Slavonia and to the voivode of Transylvania, and the plaintiff should along with his own troops take part in the execution if necessary.*

7. *Reiterates and urges the completion of the recovery of the royal revenues, according to 1514:1*

8. *The debt owed to Lady Anna, widow of ban Andrew Bot, is to be paid.¹⁰*

9. The chambers of salt in Hungary as well as in Transylvania have similarly to be returned straightaway to the royal majesty, and henceforth salt should not be given to anyone save the officeholders of the frontier and even to them according to the modest and just appraisal of the counselors and assessors; everyone else is to be paid in cash.¹¹ And no one shall dare to put salt up for sale except the royal chamberers assigned to this. All foreign salt has to be removed from the kingdom and parts subject to it and eradicated by the next coming feast of St George the Martyr. Should thereafter salt be found with any of the lords or nobles for use or sale, such a lord or noble is to be convicted to the loss of all his goods by the royal majesty, to be retained by him or granted to anyone else.¹²

⁹ Executions here means, of course, all kinds of legal acts, not only sentence of death.

¹⁰ The crown was indebted to the widow of ban Andrew Bot for some 20.000 florins which the ban had originally loaned to Wladislas II and had in his last will of 1513 left to his wife. The king was tardy in repaying this sum, and so the widow held in exchange the castle of Diósgyőr in pledge. See Tamás Pálosfalvi, “Bajnai Both András és a szlavón bánóság. Szlavónia, Európa és a törökök, 1504–1513” [Andrew Bajnai Both and the banate of Slavonia, Slavonia, Europe and the Ottomans, 1504–13] in Ferenc Glatz, ed. *Honoris causa: Tanulmányok Engel Pál tiszteletére* (Budapest: MTA Történettudományi Intézet, 2009). pp. 251–300, esp. 288–290.

¹¹ Frontier troops were regularly paid in cubes of salt.

¹² This and the following article reiterates and stiffens the penalties in matters of the royal salt monopoly. Cf. the 1492 Slavonian Articles. See. András Kubinyi, “Die königlich-ungarischen Salzordnungen des Mittelalters,” in: *Das Salz in der Rechts- und Handelsgeschichte. Kongreßakten des Internationalen Salzgeschichtekongresses, 26. September bis 1. Oktober 1990, Hall in Tirol*, Jean-Claude Hocquet, Rudolf Palme, eds. (Hall: Schwaz, 1991) pp. 261-70, here p. 268. Now see also: István Draskóczy, “Salt Mining and the Salt Trade in Medieval Hungary from the mid-Thirteenth Century until the End of the Middle Ages,” in: *The Economy of Medieval Hungary*, József Laszlovszky et al. eds. (Leiden-Boston: Brill, 2018) pp. 205–18.

10. Peasants of the royal majesty as well as of any lords and nobles are similarly to be convicted to the loss of their movable and immovable goods [for hiding salt]. Their property¹³ should fall to the lord of the land, the chattels be taken by the chamberer and passed on to the royal fisc. Should the chamberer and the means he has be insufficient to perform this confiscation, then the *ispán* or *alispán* of the county¹⁴ shall be called upon, who must go and help the chamberer on pain of permanent loss of office; in this case, one third of these movable goods shall be given to the *ispán* or *alispán*, two thirds to the chamberer and hence to the royal fisc. And, should even these be still insufficient, then such an execution shall be done by the two treasurers with the knowledge and letters of the royal majesty, his counselors and assessors.

11. Then, regarding the chambers and mines of gold and silver, it has been decided [1] that the miners and the mining cities be retained in their ancient liberties, in such a way that the miners and the inhabitants of the mining cities shall not render any dues for things brought to the mines for their own necessities. [2] From those, however, who do not live in the mining towns but supply victuals and other necessities for mining from anywhere, tolls may be collected, but limited so that the toll taken from them does not appear excessive but just and honest. [3] In order to avoid any argument arising between the exempt and the toll owners, letters of exemption and toll shall be presented to the royal majesty within a short time to be set by the lord counselors and assessors; those found older and more apposite shall be observed; [4] those which they cannot produce, shall be forever regarded as invalid, and nobody shall apply them. [5] At the same time, the same lord counselors shall appraise and decide the just and honest amount of tolls.

12. *Eight noblemen shall examine the dry tolls, fords and bridges, and establish the amount they should charge.*

≈8 **March. 1435 20–21.**

13. *Repeats the prohibition on the export of precious metals, and charges the counselors and assessors to report on ways to improve mining at Kremnica and Baia Mare*¹⁵

14. The castle of Khust with the chambers of salt of Maramureş and Transylvania; the thirtieths, twentieths and fiftieths;¹⁶ arbitrage of gold exchange, and chambers and shafts of gold and silver;

¹³ The word *hereditas* is clearly not used here in the sense of hereditary property as the sentence suggests. Nonetheless, tenant peasants held their tenancy *de facto* for several generations even after the decree of 1514. See Bak, “Servitude,” pp. 394–400.

¹⁴ The *vicecomes* (*alispán*) was in most cases the actual administrator of the county, his superior, the *comes/ispán* frequently holding several offices in court or in counties. He was usually a retainer (*familiaris*) of the *ispán*, but ever more often also “elected” by the county’s nobles.

¹⁵ Cf. **1492:32** and **1498:31**.

¹⁶ The thirtieth (*tricesima*) was a customs duty on import and export that developed out of different types of urban and market tolls. The fiftieth (*quinquagesima*) was a royal tax collected mainly from Romanians. Originally levied in kind on transhumance shepherds (based upon the number of sheep) in

as well as the free royal cities and the Saxons, are to be handed to the presently-appointed lord royal treasurer; [1] the castles of Mukačeve, Tata and Komárom, with the house at Visegrád, Óbuda and the islands called Ros and Csepel, as well as the towns of Zsámbék, Solymár and Budakeszi with all their appurtenances, and with the Cumans and *Jász* shall be assigned to the lord steward of Buda¹⁷ for the upkeep and supply of the kitchen of the royal majesty. [2] In respect of this, the steward of the royal majesty has to provide bacon and wine from the income of the castle of Mukačeve; sturgeon and other fish from Komárom and Tata; and moreover he is obliged to collect the tithes of Buda and those of Srem for the royal table and court.¹⁸ [3] Should there be any shortfall, the royal treasurer will cover it according to the decision of the counselors and assessors.

15. In order that the court of the royal majesty be properly replete and adorned with ample services, all rights of patronage regarding all churches and ecclesiastical benefices, given to anyone by the royal majesty or the late lord King Wladislas of blessed memory, most cherished father of His Majesty, shall be considered revoked; [1] and all church benefices shall be removed by his royal majesty from those who hold more than one, and distributed, in the sense of the general decree, so that more people may serve God suitably and more troops be sustained for the defense of the realm.¹⁹

16. {17}²⁰ *That friaries, abbeys and other churches united after the death of King Matthias shall be separated, and before being granted to anyone, the debts of the king have to be paid off.*²¹

Wallachia but later raised from those settled in villages as well. Gradually it was transformed to a tax levied in cash. The twentieth was also a tax on export and import, collected at the Transylvanian borders.

¹⁷ The office of the steward of Buda (*provisor castris Budensis*) had been established by King Matthias, with the duty of administering the private estates of the king and providing for the needs of the royal court. See András Kubinyi. "A budai vár udvarbírói hivatala (1458–1541). Kísérlet az országos és a királyi magánjövedelmek szétválasztására" [The office of the steward of Buda 1458–1541. An attempt at separating the 'official' and 'private' royal incomes] *Levéltári Közlemények* 35 (1964) 67–69.

¹⁸ The separation of revenues specified for the royal court was an innovation. In neighboring Poland this was done in 1504—see Zdzisław Kaczmarczyk, Bogusław Leśnodorski, *Historia państwa i prawa Polski od połowy XV w. do r. 1795* [History of the Polish state and law from the mid-fifteenth century to 1795] (Warsaw: Państw. wyd. Naukowe, 1957) 1: 145 (quoted in Bónis, "Ständisches", p. 84, n. 12)— and may have been the model for Hungary.

¹⁹ Cf. **1498:56**.

²⁰ Article 16 is missing from the CJH and article 21 is doubled, thus there is a discrepancy between the numbering of the original text and the CJH. We indicate the numbering of the CJH in braces.

²¹ This article is also aimed against the pluralism of church benefices which had already become widespread during the reign of King Matthias, and often manifested itself in the unification of churches and abbeys. There were also other movements against this practice, the most successful of which was the reform undertaken by Matthew of Tolna at the beginning of the sixteenth century in respect of the kingdom's Benedictine abbeys. Elemér Mályusz, *Egyházi társadalom a középkori Magyarországon* [Clerical society in medieval Hungary] (Budapest: Műszaki, 1971), pp. 205-18.

17. {18} *That should any royal counselor hold more than more than one ispán's office, the excess shall be taken away and granted to deserving persons.*²²

18. {19} Because the royal revenues, even after they have been put in order, do not seem sufficient for the payment and discharge of the many enormous debts that the royal majesty is understood to owe, for the redemption of the revenues and properties of His Majesty, and for the rebuilding of the border castles, [1] it is therefore decided that all priors and archdeacons who, as is known, bear no burden for the defense of the realm by virtue of their benefices which are separate from the chapter or convent where they reside, along with the parish priests of all cities, towns and villages, and the rectors of altars,²³ chantries and chapels, in Hungary as well as in Slavonia and Transylvania, most of whom have sixty, forty or so barrels of wine a year, but render not a penny for the defense of the country, shall be everywhere taxed by the royal majesty according to their income at a tenth of their income, so that from every ten florins one florin shall be given by them to the royal majesty. [2] In respect of the assessment of this, the royal majesty shall assign and send out that sworn nobleman who was elected in every county for the exaction of the funds for the upkeep of troops. [3] First, however, this nobleman has to swear an oath in front of the man of the treasurer and the noble community regarding this taxation and its just and faithful collection and, afterwards, the contribution of the tenth shall be exacted without delay according to the judgment and scrupulous reckoning of the same and of the local judge and sworn men. [4] If, moved by some kind of refractoriness, they should refuse to render this contribution, then the lord prelate, that is the archbishop or bishop of that same place, shall be held to make them pay when requested by the letters of the sworn nobleman; otherwise as much of the wine- and grain-tithe of his in that county, where this rebel lives, shall be retained for the royal majesty as the tax of the rebellious prior, archdeacon or priest amounts to. And this tax is to be spent on the restoration of border castles and the redemption of the royal properties and revenues, according to the decision of the lord counselors and assessors. One of these assessors shall be deputed and sent to Slavonia and Transylvania, to accompany the man of the treasurer for the performance and collection of this tax. And this sworn nobleman together with the royal treasurer shall bring the moneys collected in this same taxation to the royal majesty and give true account of it to the counselors and the assessors of the gentlemen of the realm.

19. {20} Then, in respect of the royal treasurer, that from among the assessors of the gentlemen of the realm one has to be chosen, without whose knowledge the treasurer may administer or manage neither the income nor the payment of royal revenues. This elected assessor has to keep count and account of everything, lest there be fraud or waste in the royal income. And the treasurer has to

²² The practice of magnates and royal officers holding several counties as *honores* had been generally pursued since Angevin times; see Pál Engel, "Honor, castrum, comitatus. Studies in the Government System of the Angevin Kingdom." *Questiones Medii Aevi Novae* 1 (1996): 91–100.

²³ Rectors of altars were usually priests (often canons) who were in charge of the service and the income of one of the altars in major churches.

swear an oath before the royal majesty, the counselors, and assessors that he will not proceed otherwise; if he is found to have acted contrariwise, then, if an ecclesiastical person, he shall be convicted and outright regarded as convicted to the forfeiture of his benefices and even private properties; if a laymen, then similarly to the loss of all his goods; and the royal majesty shall have the right to donate these to whomever he wishes.

20. {21} Then, that the income and expenditure of all the revenues of His Majesty shall from now on be apprehended faithfully and under oath by the lord counselors and assessors from the treasurer, so that they may henceforth know how much has to be added to cover expenditure on necessities; and the royal treasurer and the lord steward of Buda²⁴ shall every year render accounts on all royal income to the lord counselors and assessors on the feast of the Epiphany of the Lord and the appropriate days immediately following it.

21. That the bans²⁵ of border fortresses shall always stay in their castles, [1] and one of them shall never leave the castle under penalty of perpetual taint of infidelity²⁶, [2] and stewards shall be appointed in all the border castles, who shall take care of war machines, victuals, and other needs (as was done in the times of the late Lord King Matthias).²⁷

22. {23} *The decree recompensing damages done during the peasant war has to be implemented²⁸ and, if necessary, poor nobles should be recompensed by the king.*

23. {24} *That the castles of Mosonmagyaróvár, Devín, Plavecký Hrad and other castles of the widow of Count Peter²⁹ have to be returned to her.*

24. *That the ispán of Temes shall return the goods of nobles harmed in the rebellion in the county.*

²⁴ The office of the steward of Buda (*provisor castris Budensis*) had been established by King Matthias, with the duty of administering the private estates of the king and providing for the needs of the royal court. See András Kubinyi. "A budai vár udvarbírói hivatala (1458–1541). Kísérlet az országos és a királyi magánjövedelmek szétválasztására" [The office of the steward of Buda 1458–1541. An attempt at separating the 'official' and 'private' royal incomes] *Levéltári Közlemények* 35 (1964) 67–69.

²⁵ The term 'ban' here designates not the major officeholders (Cf. **1492:8**), although some castles were under the command of the bans (of Slavonia, Croatia, etc.); by this time the two commanders usually assigned to every border fortification were also often called bans. Cf. **1495:36**.

²⁶ The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against noble persons and property) usually punished by capital sentence. (*sententia capitalis*):

²⁷ In contrast to the last decade of the fifteenth century, when the reign of Matthias Corvinus was regularly denounced as oppressive, his times now began to be regarded in a positive light.

²⁸ Cf. **1514:4–12**.

²⁹ Szengyörgyi and Bazini, Peter, voivode of Transylvania 1498–1510, judge royal 1502–17.

25. *That the abbey of Tapolca be returned to Peter,*³⁰ *since the bishop of Eger cannot hold more than one benefice.*

26. *That the nobles of the church of Szekszárd be returned to their traditional liberty.*

27. *That burghers have to render the ninth from vineyards in the land of others.*³¹

28. Because many of the lords and nobles, scorning and disregarding the royal command, neglected to appear at this diet, their goods and hereditary rights ought to escheat to the royal fisc, but as they were called under the penalty contained in the decree³² they shall incur the penalty defined there. [1] Lest they boast mockingly that they have got away with it, the royal majesty shall deign to collect for himself the penalty, namely from the lords eight hundred florins; from the nobles four hundred florins. However, if he does not wish to collect it for himself, he shall give and grant it to those poor and indigent nobles, who appeared on the command of His Majesty, to be distributed by the *alispáns* and noble magistrates, according to the counsel and reckoning of the noble community of every county. [2] Should any *ispán* or *alispán* allow a noble to stay at home in return for a gift, he shall lose his office and also be convicted for every nobleman of four hundred florins, which the royal majesty shall exact immediately. [3] And if anyone should act contrary to the above, on account of which it seems that the said punishment of the nobles is not performed, the aforementioned treasurers of the gentlemen of the realm shall proceed to execution of the same punishment, according to the information given them in this matter by the assessors.

29. Many lords and nobles who have been judged to swear an oath often obtain a new trial from the royal majesty under various pretexts and thus only burden the other party with expenses, but then are unable to avoid swearing the oath in court. [1] Lest fraud and deceit seem to assist someone, it has been decided (as it is known to have been observed by the justices ordinary of the realm, following ancient custom) that if anyone who obtains a new trial cannot give a just and reasonable cause for his request and for avoiding giving the oath in court that he should, then he shall be outright convicted of the failure of his oath and the punishment following therefrom.

30. *Those guilty of having lost border fortresses shall be punished and proscribed again.*

31. *On the borders between the city of Szeged and the Cumans and Jász.*

≈ 1514:54

32. *Concerning territorial adjustments in County Temes and Csongrád.*

33. *Prohibition on the export of herds of cattle and horses.*

≈**1495:27** and **1500:25, 1504:28.**

³⁰ The person of Peter is not known and in 1518, the abbey of Tapolca was administeed by Bonaventura de Silviis Silvius OP, canon of Ferrara. The bishop of Eger was Ippolito d'Este, by that time out of the country.

³¹ Cf. **1492:49.**

³² **1498:1.**

adding: In order to gain more income for the kingdom from those of foreign nations, for every ox and horse ten pennies have to be collected for the royal fisc and chamber from the buyer who wishes to take them out of the country, and one penny shall be paid for every lamb or ram, in addition to the customary thirtieth.

34. *General obligation of sending troops to the frontier.*

35. Because the number of robbers and other criminals has so much increased that nobles and non-nobles are not safe within or without their homes, [1] therefore, should any of the counties wish to root them out but the *ispáns* neglect to do so, then one of the assessors shall be sent there by the royal majesty, upon the request of the nobles, by whom the eradication of robbers and other criminals should be done and effected according to the general decree.

36. Because the nobles of a single plot are held to join the general levy in person when necessity of the realm so demands, [1] they are henceforth not to be taxed for the upkeep of troops.³³

37. *That the king shall administer justice to the margrave³⁴ against the nobles of Turopolje.*

38. *That the former royal treasurer, now chancellor, the bishop of Vác,³⁵ shall render accounts on taxes collected.*

39. *To implement all this, the two archbishops, two bishops, the palatine and his deputy, the judge royal and his deputy, and sixteen specified noblemen as well as the master protonotaries shall attend the royal council.³⁶*

40. *Their first task is to supply the frontier castles and half of them shall always attend the council.*

41. Then that short court sessions, short lawsuits,³⁷ and cases of referral shall be opened on the twentieth day of the coming Epiphany of the Lord. [1] And then these cases, particularly the

³³ While according to **1492:20** every ten poor nobles had to send one soldier, and according to **1498:2** every ten one soldier and every 36 one equestrian, here their personal participation is again implied.

³⁴ Margrave George of Brandenburg and Ansbach (1484–1543), nephew of King Wladislas, was an influential counsellor at the Hungarian court from 1506 onward.

³⁵ Ladislas Szalkai (1475–1526) was bishop of Vác 1514–20, of Eger 1520–24, finally archbishop of Esztergom 1524–26.

³⁶ The composition of the royal council constantly changed in these years according to the actual standing of the struggle between the different factions. This article raised the number of noble assessors to sixteen in contrast to the previous twelve, which meant greater influence for the common nobility. It had special importance as the king was a minor and thus the council held power on his behalf. Cf. **1498. 2** and **7**. In general, see See András Kubinyi, “Beisitzer im königlichen Rat aus dem mittleren Adel in der Jagellonenzeit”, in: Idem, *Stände und Ständestaat im spätmittelalterlichen Ungarn*, transl. T. Schäfer (Herne: Schäfer, 2011) pp. 233-52

³⁷ *Breves brevium* were lawsuits opened with short term summons and held between octave courts, largely treating upon cases of acts of might.

referrals and the short suits shall be treated continuously without a break. [2] They should always be executed (as declared before) without favor or fear. [3] Cases moved or to be moved according to the decree of Tolna shall from now on be actually adjudicated [4] and justice be administered to everyone; [5] and in future all lawsuits shall be treated and adjudicated according to the written law of the realm, sent already to every county of the kingdom.³⁸

42. Then, all nobles who did not attend the present diet shall swear an oath at the first county court [meeting] held after the return of the nobles from here to their homes on the strict observance of all the aforesaid in consideration of the welfare of the royal majesty and his kingdom. Should anyone perchance moved by refractoriness refuse to swear the oath, then all his chattels may be looted by all the other nobles who swore the oath and beyond that, if he can be caught, he shall be subject to and punished by loss of the head.

43. And that all nobles, as soon as they return home from here, shall and are obliged under pain of the immediately aforesaid penalty to immediately leave, abandon and quit the service of those lords of whatever dignity or status about whom they understand from the assessors and treasurers of the gentlemen of the realm openly oppose the above-mentioned constitutions and refuse to return and resign the goods and revenues of the royal majesty.³⁹

44. *That the decreed articles shall be valid until the next diet at St George's in three years' time.*

45. In the meantime, for two years, two florins have to be faithfully and fully levied and collected in full number throughout this realm for the upkeep of the troops of the gentlemen of the realm. And for the royal majesty in the same two years, one hundred and twenty pennies are to be paid in the same way during these years, including His Majesty's chamber's profit;⁴⁰ out of which twenty shall go to the redemption of the cities and of the thirtieth of His Majesty, presently in the hands of the lord voivode of Transylvania, under title of pledge⁴¹; twenty to the payment of the debts and expenses of the assessors; and the remaining eighty pennies to the upkeep of the court and family of the royal majesty. In respect of this levy and tax, because it is to be given and spent on the common and signal business of this whole realm, no one is exempt except for the staff and

³⁸ The reference to written law is rather puzzling, for the well-known lawbook, the **Tripartitum**, was not formally approved by the king and thus not distributed to the counties, but reached wide circles by its having been printed in Vienna in 1517; see Stephen Werbőczy, *The Customary Law of the Renowned Kingdom of Hungary* &c. Peter Banyó, Martyn Rady eds. (Budapest-Idyllwild: Dept. of Med. St. CEU-Schlacks 2006= DRMH 5), pp. xxxix–xli.

³⁹ This article suggests the widespread presence of *familiaritas*—noble retainership—and that the lesser nobility expected results from a collective *diffidatio* of sorts.

⁴⁰ The chamber's profit (*lucrum camerae*) was originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins; by the late thirteenth century, it had become a direct tax but retained its name until the end of the Middle Ages.

⁴¹ John Zápolya (aka Szapolyai) (1490/1-1540), magnate, voivode of Transylvania from 1510, king of Hungary as John I 1526-40.

servitors⁴² of lords and nobles, and also those who are plainly very poor, lest the number of troops for the defense of the country be diminished and decline, and further delay be caused and suffered in the redemption of the goods and revenues of the royal majesty which are—as mentioned—in the hands of the lord voivode.

⁴² In the sixteenth century, noble retainers (*familiares*) were ever more frequently called *servitores*, which may have implied a certain loss in their status; see Martyn Rady, *Nobility, Land and Service in Medieval Hungary*. (Houndsmill, Basingstoke: Palgrave, 2000). p. 110.

1518 Appendix

Altera redactio constitutionum dietae Bachiensis de anno 1518

I. [vide articulum VII. ut supra]

II. [vide articulum VIII. ut supra]

III. [vide articulum IX. ut supra]

IV. [vide articulum X. ut supra]

V. [vide articulum XI. ut supra]

VI. Item quod tributa sicca et arida ac in aquis ab infra et supra euntibus exigi consueta cessent et aboleantur. Ab exteris tamen nacionibus in aquis tributum iustum et honestum exigi possit.

VII. Item quod camerarius Cremniciensis ac eciam in Rivulo Dominarum constituti fodinas auri vel argenti per se et pro se colere nullatenus possint, preter illas, quas soli ipsi de novo propriis eorum impensis colere inceperunt, ita ut societatem in fodinis aliorum impensis inceptis et incipiendis habere non possint.

VIII. Item, quod iidem camerarii contra iura et libertates civitatum montanarum macella conservare, vina vel cereviasias educillare non possint. Valeant tamen, si volunt, propriis eorum famulis domesticis de proprio cellario vina cereviasiasque dare et alia victualia ministrare.

IX. Item, quod aurum et argentum secundum puritatem et precium iuxta morem et consuetudinem tempore regis Mathie observatam ad cameram regiam cambiatur et acceptetur, et tam ex parte camerariorum, quam eciam montanistarum intelligatur. Quibus premissis observatis cultores montanarum, qui aufugerant, revertentur multiplicabunturque, et decies plus de auro et argento regia maiestas atque regnum istud habebit.

X. [vide articulum XIII. ut supra.]

XI. [vide articulum XIV. ut supra.]

XII. [vide articulum XV. ut supra.]

XIII. [vide articulum XVI. ut supra.]

XIV. [vide articulum XVII. ut supra.]

XV. [vide articulum XVIII. ut supra.]

XVI. [vide articulum XIX. ut supra.]

XVII. [vide articulum XX. ut supra.]

XVIII. [vide articulum XXI. ut supra.]

XIX. [vide articulum XXII. ut supra.]

XX. [vide articulum XXIII. ut supra.]

XXI. [vide articulum XXIV. ut supra.]

XXII. Item quod execucio in causis et iudiciariis deliberacionibus eciam in Sclavonia et Transsilvania sub eisdem condicionibus et penis, quibus in Hungaria semper fieri debeat, que iam regie maiestati ac dominis et universe nobilitati declarata sunt.

XXIII. [vide articulum XXV. ut supra.]

XXIV. [vide articulum XXVI. ut supra.]

XXV. [vide articulum XXVII. ut supra.]

XXVI. [vide articulum XXVIII. ut supra.]

XXVII. [vide articulum XXIX. ut supra.]

XXVIII. [vide articulum XLI. ut supra.]

XXIX. [vide articulum XXIX. ut supra.]

XXX. [vide articulum XXX. ut supra.]

XXXI. [vide articulum XXXI. ut supra.]

XXXII. [vide articulum XXXII. ut supra.]

XXXIII. [vide articulum XXXIII. ut supra.]

XXXIV. [vide articulum XXXIV. ut supra.]

XXXV. [vide articulum XXXV. ut supra.]

XXXVI. Item de subsidio maiestatis regie et solucione domini wayvode ac debitorum expensisque assessorum verbotenus declaracio dabitur.

XXXVII. Item quod domini consilarii et assessores de victualium ad Jaycza impositione oratorumque ad summum pontificem, cesaream maiestatem ac dominum Polonie regem missione, oratorum eorundem facienda relacione et expedicione ista particulari exnunc fienda tractare concludereque debeant et teneantur.

XXXVIII. [vide articulum XXXVI. ut supra.]

XXXIX. [vide articulum XXXVII. ut supra.]

XL. [vide articulum XXXVIII. ut supra.] XLI.

[vide articulum XLII. ut supra.]

XLII. [vide articulum XLIV. ut supra.]

XLIII. Postremo, quod omnes confederaciones et obligamina cunctorum dominorum inter sese stabilita atque facta dissolvantur, ut unusquisque liberius et sincerius rebus maiestatis regie et tocius regni sui superintendere providereque possit.

Dietal decisions 1521

November 19 (St. Elisabeth's Day): diet opens in Buda. Decision with 40 articles passed. After the loss of Sabač, Zemun and, on 28 August, of Belgrade, without the royal troops unable to move for their recovery, higher war taxes are raised from a wide stratum of the society and goods, and formerly exempt poor nobles are to be taxed and a mercenary army planned. The captains of Belgrade are to be prosecuted.

None of the laws and dietal decisions of the reign of Louis II survived in an original, some (e.g. 1516) not at all. The age of the existing copies in private collections is difficult to decide, most of them are from the late sixteenth century. Some (or parts of them) are also known from reports of ambassadors (Marino Sanuto from Venice, various emissaries from Poland). The reliability and date of the codices is discussed by Dezső Szabó, *A magyar országgyűlések története II. Lajos korában* [History of Hungarian diets in the age of Louis II] (Budapest: Magyar Tudományos Akadémia, 1909) pp. 225–8.

MSS: Codex No. 3828 in the archives of the city of Bardejov; a contemporary copy in the archives of the city of Košice [K]. Codex Nádasdy (Budapest University Library Cod. G 39.) foll. 352r–358r [N]; Budapest University Library Cod. G40 [G40]; Esterházy Archives Codex Rep. 71 no. 13 pp. 262–85 [E]; the minor Esterházy codex, foll. 125r–30r [Em]; Codex Ilosvay (OSZK Fol. Lat. 4023) foll. 232r–234v [I]; Codex Festetich (OSZK Fol. Lat. 4355) pp. 573–87 [F].

EDD: *Martinus Georgius Kovachich, Vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum* (Buda: Regia Universitas, 1790) ,pp. 513–47; *Magyar Törvénytár: Corpus Iuris Hungarici*, [=MTvT/CJH]; Dezső Márkus *et al.* eds., vol. 1 (Budapest: Franklin, 1896), pp. 788–807 (dated 1522, Buda); Szabó, *A magyar országgyűlések története*, pp. 246–53 [part.]

LIT: Szabó, *A magyar országgyűlések története* pp. 47–57.

This dietal decision, as several others of the Jagellonian decades, contains so many repetitions of earlier legislation, that we have not reprinted all of them. For the omitted articles, we added, for information's sake, the rubrics of the *Corpus Iuris*, even though they are later additions.

Articuli diete generalis Budensis anni 1521. pro festo beate Elizabeth

Articuli inⁱⁱⁱ dieta et convencione generali universorum dominorum prelatorum ac baronum et regni nobilium pro festo beate Elizabeth vidue anno gracia millesimo quingentesimo vigesimo primo,^{iv} Bude, de mandato regio celebrata unanimiter editi et confecti ac per regiam maiestatem roborati.

I. Quoniam ad magni hostis magnas vires propulsandas magna pecuniarum, que nervi belli appellantur, summa conquirenda pariter et congerenda est, licet igitur rusticis et ruralibus aliisque plebee condicionis hominibus post plurimas eorum calamitates et miserias iam tandem parcendum foret, extrema tamen necessitas et imminens regni periculum cogit eos pro hac vice eciam preter solitum subsidium prestare et modo subscripto contribuere. Quapropter universi et singuli rurales et ignobiles plebeeque condicionis homines eciam in civitatibus et oppidis liberis regiis ac reginalibus ubilibet in hoc regno Hungarie partibusque sibi subiectis residentes et commorantes, insuper eciam inquilini tam in domibus propriis eorum, quam eciam apud alios habitantes, uxorati tamen et usus proprios seorsum habentes, si eciam in domibus et curiis nobilium residerent, demptis dumtaxat illis inquilinis et mercenariis, qui proprio victu et amictu dominorum suorum terrestrium utuntur, fumatim singillatimque solvant florenum unum. Insuper de quolibet vase vini integro, quod aut ex propriis vineis crevit, aut eciam precio et pecuniis quis eorum emit, quinquaginta denarios de mediocribus vero vasis vinorum, prout in partibus superioribus Cassoviam versus habentur, singulos viginti quinque denarios; de vasis autem nimis magnis, prout sunt *fwadar* ^vPosonium versus florenum unum; de vasis paulo minoribus, sicuti *drayling*, denarios septuaginta quinque solvant. Hoc declarato, quod illis in locis, quibus vina fuerunt procreata, si eciam per colonos iam vendita extitissent, contribucio prenotata iuxta iudicis et iuratorum civium ipsorum locorum fidelem conscienciosamque recognicionem et attestacionem effective reddatur atque persolvatur. Item braxatores cerevisie de magistratu eorum singillatim solvant florenum unum. Item de singulis vasis integris cerevisiarum denarios decem, de mediocribus vero vasis seu vasculis denarios quinque. Item de singulis bobus, vaccis ac aliis iumentis et equis, tam aratra currusque vehentibus, quam eciam in campis existentibus et pascentibus singillatim denarios quinque. Item de ovibus, capris, apibus et porcis singillatim denarios duos, de vitulis vero ac poledris, agnellisque et porcellis unius anni nihil contribuatur. Ceterum universi artifices

ⁱⁱⁱ Em, F, N *Articuli diete generalis Budensis anni (Em anno) 1521 profesto beate Elisabeth*

^{iv} E, G40 add. *tempore Ludovici regis*

^v K *fudar*, G40, N *fwadari*

mechanici, puta sartores, gemmifissores, aurifabri, carpentarii, lapicide, fabri, pictores, mensatores, plumbifiguli, rasores, textores, caupones, funifices, cuprifabri, barberii, macellarii, pellifices, corrigiatores, sutores, sellipari, lanifices, seripari, calcarii, curripari et cerdoneceterique mechanici artifices in civitatibus et oppidis dumtaxat residentes de singulis tabulis et officinis eorum ultra prenotatum unius floreni subsidium fumatim,^{vi} ut prefertur, exigendum solvere teneantur florenum unum. Item universi mercatores, institores, apothecarii, pannicide, boltharii et alii feneratores in liberis ac aliis civitatibus muratis residentes vigesimam partem rerum eorum mercimonialium fideliter consciencioseque contribuere teneantur. Item universi molendinatores omnium molendinorum, quocunque nomine censeantur, eciam *hamor* et *hwtha* dictorum, de singulis lapidibus molaribus seu rotis solvant singillatim florenum unum. Item universi piscatores de integro reti magno *gyalom* appellato solvant singillatim florenum unum. Preterea mercatores et pannicide extra liberas et muratas civitates habitantes de singulis eorum equis currikeris solvant singulos denarios quinquaginta. Item ecclesiarum parochialium plebani ac altariste et alie persone ecclesiastice, que gentes non conservant et pecudibus pecoribusque carent, decimam partem rerum eorum aurearum et argentearum ac pecuniarum paratarum contribuant. Item, quod Judei ubicunque et in quorumcunque bonis residentes et constituti per singula capita seu de singulis capitibus, hoc est viri et mulieres ac iuvenes, pueri et puelle solvant florenum unum, iuxta tamen rerum suarum exigenciam, ut pauperes a dicioribus in huiusmodi contribucione adiuventur. Et quod premissae omnes contribuciones pro hac vice solummodo intelligantur.

II. Quantum vero ad proventus regie maiestatis attinet, ubi sua maiestas offert omnes illos ad regni defensionem, demptis eis, que pro persona sua, pro coquina, pro curia et pro solvendis curialibus suis ac pro aliis necessitatibus suis expediendis necessarii sunt, dummodo illi liberentur ab inscriptionibus, non videtur maiestas sua regia in hac parte impedienda. Habeat in dei nomine omnes proventus suos regios pro se integros et illesos, modo conservet ex eis bandera sua regalia more predecessorum suorum Hungarie regum, ac officiales et castra finitima, que adhuc restant, provideatque sua maiestas et disponat reliquas necessitates ad futuram expeditionem generalem attinentes^{vii} una cum subsidio sue maiestati modo inferius declarato ad eandem expeditionem pariter oblato.

III. Item super rectificacione et eliberacione proventuum regie maiestatis faciat exnunc sua

^{vi} K *summatim*

^{vii} E, G40 add. *ad suam maiestatem*

maiestas rationem ponere et revideri facere, qui et quomodo proventus sue maiestatis possident, et qui iuste illos habere comperti fuerint, eis sua maiestas dignetur solutionem facere; qui autem sinistre et indebite illos possidere et presertim contra statuta regni se in eos ante festum beati Georgii martyris proxime transactum intromisisse dinoscuntur, illis nihil solvatur, sed simpliciter et de facto ab eis auferantur. Qui vero post dietam et conventionem dicti festi beati Georgii martyris eos in arendam accepissent, ex quo in ipsa dieta determinatum fuit huiusmodi proventus sue maiestatis in arendam posse locari, talibus quoque pecunie eorum restituantur; ita tamen, si constiterit evidenter summam huiusmodi arende ad facta propria sue maiestatis extitisse levatam, et non pro antiquis debitis arendacionem ipsam sibi fuisse factam.

IV. Item ad tricesimarum regie maiestatis introitum pro subsidio nunc sue maiestati oblato adiectum est, quod de singulis bobus ac vaccis et aliis iumentis ac equabus seu equis fetosis solvantur singuli denarii quinquaginta, durante tamen hac solummodo expeditione contra Thurcum instauranda,^{viii} post exitum vero ipsius belli solvantur, prout prius solitum erat, denarii viginti. Loca tamen commutationis per regiam maiestatem deputentur ad empcionem et vendicionem eorum animalium, que de regno educuntur, Nedewcze, Sopronium, Owar, Posonium, Tyrnavia, Vetuszolium et Cassovia. Ultra autem hec loca in visceribus regni tricesime de animalibus non exigantur; et quod equi masculi stante hac expeditione gregatim vel aliter vendicionis causa sub pena amissionis et ablacionis eorundem de hoc regno non educantur.

V. Item, quod maiestas regia cameras salium suorum Transsilvanensium reformari faciat in melius, ex quibus adhibita provisione et diligencia bona centum circiter millia florenorum annuatim habere poterit. Provideat tamen maiestas sua, ne sales externi in hoc regnum inducantur.

VI. Item maiestas regia monetas novissime cudi ceptas cudi faciat, ex qua proventibus suis regiis magnam summam pecuniarum adiicere valebit; ita tamen, ut sua maiestas, quemadmodum pollicita est, elaboret et efficiat, quamprimum poterit, quod huiusmodi pecunie et nove monete in Austria, Styria, Carinthia, Carniola, Bohemia, Polonie, Moravia et Slesia (!) libere currant et accipiantur. Quod si effici non posset, maiestas sua faciat cudere tales, que ubique recipiantur, et nihilominus maiestas sua bonas quoque monetas, prout temporibus serenissimorum principum dominorum Mathie et Wladislai felicis memorie regum Hungarie erat, cudi facere non omittat, ne regnum istud bonis pecuniis totaliter defecisse videatur. Et quod extranee eciam pecunie, videlicet

^{viii} B, Em *instaurata*

cruciferi ac grossi Bohemicales et Germanici seu Alemanicales, preterea *babka, haller* et *bech* ubilibet in hoc regno currant et accipiantur; et si maiestas sua regia voluerit, huiusmodi quoque pecunias extraneas cudi faciat, sub iusto tamen et solito apud illos argenti pondere. Ne autem proventus ex cusione huiusmodi novarum monetarum provenientes, qui si bene recolligantur, notabilem magnamque pecuniarum summam faciunt, dissipentur et non in regios, sed aliorum usus, prout hactenus, convertantur, et ne bone monete similiter cudende suo iusto pondere argenti fraudentur, faciat sua maiestas regia fidelem domini magistri tavernicorum hominem Bude cursoribus ipsarum monetarum semper assistere, Cremnicieque pisetarium archiepiscopi ecclesie Strigoniensis de veteri consuetudine et more alias solito pariter admittere, qui cusioni illarum superintendere et proventibus quoque sue maiestatis exinde fiendis fideliter invigilare teneantur, ne fraus et dissipatio in eis committatur.

VII. *De contribucione unius floreni fumatim sine fraude et dissipatione.*

VIII. *De exaccione et recollectione contribucionum unius floreni.*

IX. Ceterum, quia creverunt pericula, creverunt et necessitates; ex dicatura itaque et taxatione ruralium plebee (!) condicionis hominum prenarrata licet satis difficili magna moles ista belli, que nobis imminet, expediri commodeque absolvi non poterit. Cum itaque periculum, quod deus ipse misericors procul avertat, commune sit, communi eciam provisione ac subsidio propelli et averti debet. Unde visum et unanimiter conclusum est, quod universi domini prelati ac alii viri ecclesiastici seculares et religiosi pariter, baronesque et nobiles ac ceteri possessionati homines, non obstante libertatis eorum prerogativa, directam medietatem seu equalem mediam partem universorum proventuum suorum annualium^{ix} pecunialium, sive a cibionibus, sive ex piscinis morothwa dictis, sive fodinis auri, argenti, cupri, ferri, calibis aliorum metallorum, sive ex silvis glandiferis, vel undecunque aliter proveniant, ad ipsam expeditionem prenotatam pro hac una vice contribuant. Preterea de vinis quoque, tam in propriis vineis eorum procreatis, quam eciam nonalibus vel aliter precio comparatis, que adhuc festant et reperiri poterunt, de pecoribusque et pecudibus ipsorum contribucionem de rusticis superius preallegatam et expresse declaratam pari modo persolvant. Quia vero sunt plerique nobilium, qui jobagiones in certo numero possident, tamen nec promontoria, nec piscinas magnas, nec silvas glandiferas habent, et jobagiones quoque modicum nimis aut nihil ipsis nobilibus contribuant, sed eisdem arant dumtaxat et metunt, fenaque

^{ix} E, G40, K, N *animalium* Em *annalium*

falcant, et in horrea eorum cumulant, ex quibus ipsi nobiles non modicam pecuniam annuatim hauriunt, ne igitur tales absque omni penitus solucione exempti, sed aliquid subsidii ipsi quoque prestasse videantur, similiter medietatem pecuniarum, quas ex huiusmodi colonorum suorum serviciis et agricultura per annum habere consueverunt, iuxta ipsorum propriam conscienciam animosam ut quilibet equaliter onus suum supportare disnoscat (!), contribuant.

X. De nobilibus unius sessionis super vinis ac pecoribus et pecudibus eorum idem est iudicium, et insuper, si qui illorum nullos proventus annuales^x paratis in pecuniis habent, tales de personis eorum solvant singillatim florenum unum. Et quod prediales ecclesiarum, qui nobilium vices gerunt, seu pro nobilibus reputantur, instar nobilium unius sessionis contribuciones prenotatas facere teneantur.

XI. Item domini prelati racione decimarum suarum nihil teneantur contribuere, quia illarum pretextu banderia sua conservabunt. Verumtamen sunt plures persone ecclesiastice, que decimas quidem habent, gentes tamen illarum racione non conservant, et tales medietatem huiusmodi decimarum contribuere teneantur.

XII. Item officiales regie maiestatis racione officiorum suorum gentes et banderia eorum conservare debebunt.

XIII. Item quod ad dicaturam connumeracionemque et recolleccionem premissarum omnium contribucionum ac subsidii unius floreni eligantur in singulis comitatibus duo probi et fideles nobiles, qui huiusmodi subsidium ac reliquas contribuciones prenotatas, tam in bonis regie et reginalis maiestatum, quam eciam omnium dominorum ecclesiasticorum et secularium atque aliorum nobilium et cunctorum possessionatorum hominum eciam religiosorum iuxta modum et seriem ac limitacionem superius exinde factam fideliter et conscienciose connumerent, peragant et exequantur; ita tamen, quod nec comites, nec vicecomites, neque iudices nobilium pro salario eorum quicquam exinde recipiant, sed in expensis ipsorum dicatorum electorum cum eis pariter procedant; et ipsi quoque dicatores pro eorum salario non plures, quam in comitatibus maioribus ambo quinquaginta florenos, in mediocribus triginta duos, et in minoribus seu parvis vigintiquinque florenos accipiant. Et hoc ideo, quia pro communi bono et republica agitur, et quilibet pro salute quieteque propria labores subire tenetur. Expensas eciam quanto pauciores de illis contribucionibus facere possunt, tanto minores faciant, ne defectus magnus in eisdem

^x K *annales*; F *animales*

contribucionis committatur. Et quod huiusmodi contribucionem dicatores ipsi non per aliquos eorum famulos, sed in persona ipsorum totaliter peragant. Et quod iudices civitatum, oppidorum villarumque et possessionum solummodo in solucione subsidii unius floreni relaxentur, et in parvis villis illius quoque subsidii medietatem persolvant; reliquas autem omnes contribuciones instar aliorum colonorum reddant.^{xi} Item thesaurarii, comites, vicecomites ac iudices nobilium de vinis et pecoribus ac pecudibus proventusque eorum pecunialibus censum prenotatum iuxta limitacionem et ordinacionem prenarratam restituere teneantur. Qui quidem dicatores, antequam ad huiusmodi connumeracionem et dicaturam exmittentur et egredientur, coram universitate nobilium firmissimum prestent iuramentum, quod in eodem negocio fideliter procedent et nemini timore vel amore favebunt aut parcent, neminemque odio et invidia preter debitum vexabunt, et quod expensas superfluas in processu eorum non facient, subsidiumque et contribuciones ipsas nemini relaxabunt, nec quavis via aut occasione et colore illud et illas pro se vel aliis preter salarium deputatum retinebunt aut aliter dissipabunt, sed fideliter et probe dicabunt et connumerabunt, et verum ac iustum registrum et computum superinde servabunt. Habita deinde huiusmodi dicacione et connumeracione quilibet dominorum et nobilium per se vel suum hominem totam summam tam ratione proventus persone sue proprie, ac occasione vinorum pecorumque et pecudum suorum in eo comitatu, ubi connumeracio ipsa fuit, existencium, quam eciam jobagionum suorum in eodem comitatu residencium iuxta seriem registri dicatorum ad brevem unum terminum per universitatem nobilium ad id prefigendum in presenciam comitum ac vicecomitum et iudicum universitatisque nobilium absque defectu adducere et presentare, quam tandem comitatus ipse cum comitibus ac vicecomitibus et iudicibus nobilium thesaurariis regni modo subscripto eligendis et constituendis fideliter rescribere et eisdem per dicatores ipsos, auxilio tamen eiusdem comitatus transmittere, et illi quoque thesaurarii super rehabicione ac ad manus eorum assignacione literas recognicionales et expeditorias dare debeant et teneantur, ne fraus ac dolus ex aliqua parte subsequi possit. Verumtamen domini ac nobiles cuiuscunque gradus, dignitatis et condicionis existant, qui in diversis comitatibus bona et iura possessionaria habent, solucione edietatis proventuu suoru pecunaliu iuxta aniosam consciencia in eo dutaxat coitatu facere debent, ubi residenciam specialem habent.

XIV. Item pro conservacione et dispensacione thesauri ex premissis subsidio et contribucionibus congesti seu congerendi exnunc eligantur duo barones et totidem nobiles ex utraque parte Danubii

^{xi} mendose: *reddere eciam ipsi dicatores*

modo equali; et illi hoc modo electi ad fidelitatem regie maiestati et regno observandam, neque ad alias res ac necessitates velle hunc thesaurum convertere, preterquam presentis expeditionis facta et necessitates, et quod thesaurum ipsum nec pro se, nec fratribus vel dominis aut amicis, nec famulis eorum preter salarium eis deputatum accipient aut aliter dissipabunt, sed pecunias illas ad negocia regni prenotata convertent atque dispensabunt, firmissimum prestant iuramentum; in quo hoc modo erit procedendum, quod hic thesaurus congregetur ad unum locum, et thesaurarii iurent ad invicem, quod duo ex ipsis in castro interim manebunt, donec alii duo redibunt, gentesque pari modo conservent in castro, et nullus maiori comitiva altero intret ad castrum, ad cuius custodiam magna in parte nobiles servabunt, et illos quoque, quos intellexerint fidelissimos. Locus autem deputetur idoneus in medio regni Hungarie, castrum scilicet munitum et huic rei competens atque tutum.

XV. Quoniam omnibus constat premissas contribuciones et census insolitos ad vires hostiles reprimendas et arces nuper amissas recuperandas esse constitutos, constat eciam easdem contribuciones et census de cunctorum dominorum prelatorum ac baronum et regni nobilium, aliorumque possessionatorum hominum, eciam religiosorum et religiosarum^{xii} modo et ordine iam predeclarato in unum locum et ad manus ipsorum thesaurariorum regni comportandas et collocandas fore, quapropter nemo dominorum, nemo nobilium, nemo eciam aliorum possessionatorum hominum, exceptis dominis prelatis banderiatibus, qui ratione decimarum suarum gentes eorum paratas habere, demptis eciam officialibus finitimis regie maiestatis, qui ratione huiusmodi officiorum suorum gentes ipsorum paratas pariter habere et conservare semper tenentur, in hac futura expeditione personaliter interesse vel aliter exercituare prima fronte tenebitur, sed gentes de communi et publico erario, quia de salute communi agitur, ad expeditionem ipsam conduci debebunt. Ne tamen domini barones et ille quoque decem persone, qui et que iuxta contenta generalis decreti gentes per se tenere solebant, gentibus suis aut destituti, aut exercitium belli pretermisisse videantur, de publico ipso et communi erario seu thesauro non solum ad gentes suas teneri consuetas, verum eciam plures ex novo conducendas, si exercituare voluerint, per thesaurarios pecunie distribuantur.

XVI. Verum quia expeditionis ipsius moles ac progressus absque rectore, absque ductore et capitaneo absolvi ad effectumque perduci non poterit, presens eciam constitutio in fumum

^{xii} desideratur: *bonis*

convertetur et in nihilum redigetur, quod deus avertat, si executorem non habebit, certum est autem regiam maiestatem solam esse principem, regem, ducem, rectoremque et capitaneum nostrum ac executorem omnium rerum et constitutionum nostrarum, que pluribus intenta, veluti tantorum regnorum rex et dominus ad singula semper invigilare superintendereque non potest. Quapropter maiestas sua regia exnunc constituat auctoritate sua regia unum vel duos capitaneos generales, qui expeditioni prenotate sue maiestatis vice preesse gentesque tam internas, quam externas nomine maiestatis sue conducere et expeditionis huius ad processum generaliter providere, executionem eciam earum rerum, que necessarie erunt, et presertim constitutionem presentem concernere videbuntur, de mandato sue maiestatis peragere debeant et teneantur; habeantque et externis et internis de regnis ac nacionibus adductos et conductos secum in expeditione ipsa semper subcapitaneos in rebus bellicis et militaribus exercitatos et expertos, si reperient, pariter Hungaros, quorum consilio et opera procedant utanturque, et que rei illi conducibilia videbuntur, faciant. Interim tamen de externis regnis preter magistros rotarum ac capitaneos bonos et expertissimos gentes non conducant, quousque Hungaros reperient rei bellice sufficientes et aptos. Qui quidem capitanei regie maiestati super observanda fidelitate, et quod in rebus fide et executioni eorum commissis nemini parcent, sed fideliter procedent, et cum gentibus secum existentibus preter hostes regni et turbatores presentis constitutionis ac status rei publice, maiestatis regie et regni sui subversores neminem impedient, demptis in bello et expeditione ipsa delinquentibus, qui iuxta eorum demerita iuste puniendi sunt; et quod per gentes damna pro posse eorum inferri non permittent; si tamen illata fuerint, requisiti lesis et damnificatis iuxta evidencia testimonia et rei veritate comperta statim et absque subterfugio satisfaccionem impendere et reum secundum sui excessus qualitatem punire non omittent, firmissimum prestare teneantur iuramentum. Et quia capitaneorum officium erit gentes nomine, ut prefertur, regie maiestatis conducere et cum illis fideliter, ac quo minori poterunt, stipendio et salario concordare, exploratos tenere et de illis aliisque ad negocium tante expeditionis pertinentibus providere, gentes eciam conducendas modo antelato a damnorum illacione pro eorum posse custodire et preservare; propterea necessarium est de salario competenti et condigno ipsis providere, quo factis et rebus eorum officium concernentibus satisfacere valeant, ne defectum exinde sequi contingat. Hoc declarato, quod si gentes per eos conducende aut eciam proprie vel aliter capitaneatui ^{xiii} ipsorum deputate damna in eorum processu quibuspiam intulerint, mox postquam per lesos et damnificatos requisiti fuerint

^{xiii} *C alterius capitaneatui, quam*

vel alter eorum fuerit, de illatis damnis satisfacionem ut per se ipsos, aut gentes, que damna intulerint, comperta, ut premissum est, mera rei superinde veritate impendere teneantur effective. Et quod violatores ecclesiarum ac puellarum et mulierum capitali pena puniri faciant, et gentes in domos nobilium ac presbiterorum contra eorum voluntatem descendere non permittant.

XVII. Ceterum capitanei ipsi mutuam habeant cum thesaurariis regni super summa manibus eorum consignata intelligenciam, cuius respectu gentes secundum magis et minus conducere sciant. Thesaurariorum eciam ipsorum unus aut duo gentes conductas personaliter revidere et tam numerum, quam eciam apparatus earum bene considerare teneantur, ne talibus, qui non merentur, pecunie distribuantur. Et quod aliqui thesaurariorum vel homines ipsorum speciales semper et continue penes capitaneos cum certa pecuniarum summa assistere teneantur, ut per eos gentibus conducendis fiat semper solucio sine defectu, quarum eciam gencium numerum et ipsi sciant, et capitanei quoque solucionis summam pariter intelligant.

XVIII. Item, quod regna Sclavonie et Transsilvanie singulas illas soluciones, que superius declarate sunt, eque ac in Hungaria pro hac unice vice subire facereque debeant, et superinde maiestas regia quam primum oratores suos ad ipsa regna transmittere dignetur.

XIX-XX. Regia maiestas de premissis ita disponat, ut in omnibus rebus constitutionem bene provideri possit.

XXI. Ceterum maiestas regia certificet et assecurat singulos regni sui comitatus per literas suas nolle de cetero et peramplius regnum istud et eius nobilitatem simili contribucione et taxa molestare, impedire atque gravare.

XXII. Item, si quis dominorum aut nobilium vel eciam rusticorum res aliquas celaverit et abscondi fecerit, de quibus contribucio censusque solvi deberet, tales res, si reperiri poterunt, per dicatores comitatuum auferantur et ex eisdem primum contribuciones reddantur; residua vero pars partim vicecomitibus ac iudicibus nobilium, partim autem dicatoribus cedat et in usum convertatur.

XXIII. Item, quod ab illis, qui arma vel victualia ad hoc regnum deferunt, tricesime et tributa nullibi exigantur, et hoc proclametur.

XXIV. Item maiestas regia mittat suos oratores ad principes Christianos, idoneos et Hungaros, nam alia nacio de rebus regni non tantum intelligit; qui quidem oratores inter alia habeant informacionem eciam ad electores imperii ac civitates parcium superiorum pro subsidio navium, ingeniorum, armorum et pulverum ac aliarum necessitatum impetrando.

XXV. *Capitanei conducant aliquot milia gencium.*

XXVI. *Ecclesie maiores vacantes distribuentur, ut illi banderia sua erigere possint.*

XXVII-XXVIII. *De testamentis prelatorum.*

XXIX. *De taxa presbiterorum exquiratur certitudo.*

XXX. *Ad providendum de testamentis et taxa prenotata eligantur ad de medio dominorum prelatorum, baronum et regni nobilium idonei personæ.*

XXXI. *Omnia premissa infra spacium duorum mensium suum effectum sorciantur debitum.*

XXXII. *Stipendia stipendariorum qui servitutis officio satisfacere non curarunt, restituendum sunt.*

XXXIII. *Bona nobilium, qui nec ad transactam expeditionem movere non curarunt per comites pro regia maiestate occupentur.*

XXXIV. *Potenciarum actus usque ad presentem dietam commissi brevis brevium evocationum absque omni prorogacione iudicentur. Iudicia comitatuum et vicariorum infra expeditionem suspensa maneant.*

XXXV. *Iura possessionaria post Wladislai regis obitum occupata sub pena facti potencie minoris statim remittantur.*

XXXVI. *Coloni durante transacta expeditione usque modo abducti statim remittantur atque reddantur.*

XXXVII. *Item quod regia maiestas provideat efficiatque apud vicinos principes, fratres scilicet et affines suos, ne jobagiones et rustici huius regni in confinibus signanter residentes metu premissæ contribucionis ad eorum regna principatusque et dominia transmigrare paciantur. Et si qui rusticorum illuc se contulerint moraturos, item reddantur, nam aliter confinia illa procul dubio desolabuntur. De Moravia et Slesia maiestas sua hoc idem facere dignetur.*

XXXVIII. *Restanciæ pecuniarum ad gencium conservacionem dicatarum restiuantur.*

XXXIX. *Metæ inter Comanos et dominos ac nobiles erecte erigantur.*

XL. *Item quod universa castra, castella, oppida, villas, possessiones ac cuncta iura possessionaria illorum, qui castra Nandoralbense et Sabacz nuper amiserunt, tanquam infidelium vigore generalis decreti condemnatorum regia maiestas ad manus suas regias de facto accipiat et illa nemini nunc distribuat, sed salvum conductum illis, si voluerint et postulaverint, concedat; et post factum inter*

eos superinde iudicium, postquam maiestas sua regia eciam hoc modo condemnatos agnoverit, et deinde in expedicione ipsa proxime affutura et aliis quoque in rebus ac factis maiestatis sue et regno quospiam bene, fideliter utiliterque servivisse cognoverit, illis tandem maiestas sua iuxta voluntatis sue beneplacitum, si pro se non reservaverit, illa conferat, ut spe collacionis bonorum servitores animati pro republica et communi bono sue maiestatis et regni sui fervencius incumbant et contra hostes ad mortem usque decertare non horrescant.

Verumtamen, si infideles ipsi, ut prefertur, voluerint et postulaverint, maiestas regia iuxta contenta generalis decreti salvum illis conductum ad spacia quadraginta dierum concedat, infra quorum terminum in curiam sue maiestatis accedere advenireque et innocenciam ac immunitatem eorum, si quam forsitan pro ipsorum defensione se habere confidunt, declarare poterunt. Et si maiestas sua regia illos vel eorum alterum in hac parte innoxios et innocentem merito de iureque repererit, illis vel illi eciam bona sua prenotata graciose remittat. Aliter autem, si se excusare et innocentes declarare non poterint, sua maiestas penam de infidelibus declaratam illis infligere non omittat.

19 November 1521

Articles unanimously composed and drawn up at the diet and general assembly of all lords prelates, barons and nobles of the realm held by royal mandate on the feast of the blessed Elizabeth the Widow, in the year of grace 1521 in Buda and confirmed by the royal majesty.

1 {1}¹⁴ Because for the repulsion of the great force of a great enemy a great amount of money, which is called the nerve of war,¹⁵ has to be collected and amassed, although peasants, rural folk and other men of plebeian condition should finally be spared after their many calamities and miseries, the extreme necessity and imminent danger of the country forces that this time again they render and contribute, besides the usual subsidy in the following manner. Therefore each and every peasant, non-noble and man of plebeian condition, including those living and dwelling in free cities and towns of the king and the queen, everywhere in this kingdom of Hungary and parts subject to it, moreover the landless peasants, both living in their own houses or with others, but only the married ones having separate households even if they live in the houses or residences of nobles, except however those landless peasants and paid soldiers, who get their fare and cloth from their lords of the land, shall severally pay one florin per hearth.¹⁶ {2} Moreover they shall render fifty pennies for each full vessel of wine, both what comes from their own vineyards and what they buy at a price and for money; twenty-five for the middle-sized vessels of wine like those used in the upper parts around Košice;¹⁷ one florin for the very large vessels like the *Fuder* around Pressburg; and seventy-five for the somewhat smaller ones, like the *Dreiling*.¹⁸ Stating that in those places where wine is produced, even if already sold by the tenant peasants, the aforementioned contributions shall be in fact rendered and paid according to the faithful and conscientious inquiry

¹⁴ The numbering in the CJH/MTvT refers to older editions of the CJH and had been retained by its editors, hence the mixed up sequence. We, of course, follow the text of Döry but give those article numbers for easy reference to earlier editions.

¹⁵ Commonplace, going back to Cicero (*Philippica* V. 5).

¹⁶ The expression *fumatim* (verbatim ‘per smoke’) was not previously used in Hungary in contrast to e.g. France where *feux* was the unit of taxation for centuries. Its introduction here is clearly connected with the fact that the traditional unit of the *porta* had by the beginning of the sixteenth century been divided into several households. There had already been an attempt of King Matthias to collect tax *fumatim* that had been cancelled. See **1474:4**. In general, see, Árpád Nógrády, “Seigneurial Dues and Taxation Principles in Late Medieval Hungary,” in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 265–78.

¹⁷ The *cubulus* of Košice was larger than that of Buda, which was estimated at 64–80 litres.

¹⁸ *Dreiling* and *Fuder* were commonly measurements of wine and beer of various sizes (*Dreiling* was usually equal to $\frac{3}{4}$ *Fuder*). The use of German measurements is not surprising considering the German population of Pressburg and of many other towns.

and assessment of the judge and sworn citizens of those places. {3} Then, brewers of beer shall severally pay one florin by virtue of their craft. Then, five pennies for every full vessel of beer and five for the middle-sized or small vessels. {4} Then five pennies severally for each of the oxen, cattle and other draft animal and horse, both those pulling plows or carts and those kept and pastured in the fields. {5} Then, two pennies severally for sheep, goats, bees, and swine, but nothing is to be paid for calves, foals, lambs and yearling piglets. Furthermore all craftsmen, namely tailors, jewelers, goldsmiths, carpenters, stone masons, smiths, painters, cabinet makers, lead smiths, shearers, weavers, harness makers, *caupones*,¹⁹ rope makers, coppersmiths, barbers, butchers, furriers, belt makers, cobblers, saddlers, wool workers, locksmiths, lime burners, carriage makers, tanners, and other craftsmen, but only those living in cities and towns, shall pay for every stall and shop one florin besides the aforesaid one florin subsidy to be paid per hearth as said above. {6} Then, all merchants, shop-keepers, apothecaries, cloth merchants, retailers²⁰ and other dealers residing in the free and walled cities are held to contribute faithfully and conscientiously one twentieth of their merchandise. {7} Then, all millers of all kinds of mills whatever they are called, also those called *hámor* and *huta*²¹ shall severally pay one florin for each millstone or wheel. {8} Then, all fishermen shall severally pay one florin for each large net called *gyalom*.²² Moreover, merchants and cloth merchants living outside the free and walled cities shall pay for each of their draft horses severally fifty pennies. {9} Then, parish priests and mass priests as well as other ecclesiastical persons who do not maintain troops and have no cattle or flocks shall contribute one tenth of their gold and silver belongings and ready cash. {10} Then, that Jews, living and residing anywhere and in the goods of anyone, shall pay one florin per head for each head, that is men, women, youngsters, boys and girls, but only according to their means, so that the richer help the poor in this contribution. And that all the aforesaid contributions are to be understood as for this time only.

2. {10 cont.} As far as the revenues of the royal majesty are concerned, as far as they may be freed from pledges, His Majesty offers these entirely for the defense of the realm, except for those that

¹⁹ We were unable to establish the meaning of this word, which was left out of later editions of the CJH, unless, innkeepers is meant, which, however, does not fit this list. Actually, this list is the most detailed one on urban crafts in medieval Hungary; see László Szende, “Crafts in medieval Hungary” in József Laszlovszky *et al.* eds. *The Economy of Medieval Hungary* (Boston &c: Brill, 2018) pp. 369–93.

²⁰ *Boltharii* may be the Latinized form based on the Hungarian word *bolt* (shop).

²¹ *Hámor*: forging mill; and *huta*: foundry.

²² Dragnet.

are needed for his own person, kitchen, the court, the pay of the courtiers and the covering of his other necessities; His Majesty shall not appear to be impeded in this regard. He shall keep, in God's name, fully and entirely all his royal revenues, so that he may maintain from these his royal *banderia*,²³ in the manner of his predecessors, the kings of Hungary, the officers and the border castles which still stand; and His Majesty shall provide and take care of the other needs pertaining to the coming general campaign²⁴ together with the subsidy of His Majesty in the way declared below, offered likewise to the same campaign.

3. {11} Then, regarding the adjustment and release of the revenues of the royal majesty, His Majesty shall cause that accounts be rendered and inquiries made about who hold His Majesty's revenues and how; to those who are found to hold them legitimately, the royal majesty shall deign to make payments. To those, however, who keep them fraudulently and unjustly, especially those who are known to have seized them against the decrees of the realm²⁵ before the recently passed feast of St George, nothing shall be paid, but they shall be taken away from them simply and right away. Those who farmed them after the diet and assembly held on the said feast of St George the Martyr shall have their money returned, because in that diet²⁶ it was decided that revenues of that kind belonging to His Majesty could be farmed out, but only if it was clearly known that the amount of such a farm was received for His Majesty's own needs and was not done for old debts.

4. {12} Then, to the income of the thirtieth of His Majesty²⁷ there is now added as a subsidy granted to His Majesty that for each of the oxen, cows and other cattle as well as mares, that is pregnant horses fifty pennies (each) shall be paid, but only during the intended campaign against the Turk; after the end of this war, however, twenty pennies shall be paid, as was usual before. The royal majesty shall define as locations of trade for the sale and purchase of those animals that are

²³ *Banderia*, (from the Italian *bandiera*, 'banner') were troops supplied by the king, the queen, the barons and prelates (later also by other major landowners) in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a banderium varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars).

²⁴ No general campaign was called for the subsequent years.

²⁵ Here the expression *regnum* (sometime meaning verbatim the kingdom) refers clearly to the political "country", i.e., the estates.

²⁶ The April 1518 diet is meant; see **1518 Buda**

²⁷ The thirtieth (in Transylvania twentieth) was a custom's duty that developed from various market tolls. On its origins, see Zsigmond Pál Pach, *A harmincadvám eredete* [The origin of the thirtieth customs] (Budapest: Akadémiai Kiadó, 1990), and Boglárka Weisz, "Royal Revenues in the Árpáadian Age" in: Laszlovszky ed., *The Economy*, pp. 255–64.

exported from the country: Nedelišće, Sopron, Mosonmagyaróvár, Pressburg, Trnava, Zvolen and Košice. Besides these locations, no thirtieth shall be levied on animals in the interior of the country. Stallions shall not be exported for sale from this country during this campaign either in herds or otherwise, under the penalty of their loss and removal.²⁸

5. {13} Then, that the royal majesty shall cause his chambers of salt in Transylvania to be improved, from which he might with good care and diligence have annually some hundred thousand florins. The royal majesty shall take care that no foreign salt be imported to the country.²⁹

6. {14} Then the royal majesty shall cause to be minted the coins that have recently³⁰ begun to be minted, from which a great sum of money could be added to his royal revenues insofar as His Majesty shall exert himself and achieve as far as he is able—as it has been promised—that this kind of money and new coins shall circulate freely and be accepted in Austria, Styria, Carinthia, Carniola, Bohemia, Poland, Moravia and Silesia. If this cannot be achieved, His Majesty shall cause to be minted such [coins] that are accepted everywhere; and nevertheless His Majesty shall not cease to cause good coins to be also minted, as in the times of the most serene princes, Lords Matthias and Wladislas, kings of Hungary of blessed memory, lest this country seems totally to lack good money. And that also foreign moneys, namely Czech and German, that is Alemannian *Kreutzer* and *Groschen* as well as *babka*, *Heller* and *beth*³¹ shall circulate and be accepted in this country; and, if the majesty so wishes, he shall also cause such foreign moneys to be minted, but with their correct and usual silver weight. {19} Lest the revenue coming from the minting of such new coins—which, if well collected should make a significant and large sum of money—be wasted and spent not for the king’s but for others’ purpose, as happened hitherto, [1] and lest the good money minted similarly be deprived of its just silver weight, his royal majesty shall cause a faithful

²⁸ Previous (and later) decrees tried to prohibit or reduce the export of animals (cf. **1495:27–28**, **1498:31**, **1500:25**, **1504:28**, **1514:66**, **1518:Bács:33**; and **1523:53**), while cattle and horses were in fact the major export goods of medieval Hungary, see Ian Blanchard, “The Continental European Cattle Trades, 1400–1600,” *Economic History Review*, Second Series, 39 (1986), 427–60. This time the military needs seem to have prevailed.

²⁹ The inefficiency of the salt production was an issue as early as in Sigismund’s reign; see János M. Bak, “Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter” in R. Schneider, ed. *Das spätmittelalterliche Königtum im europäischen Vergleich*. (Sigmaringen: Thorbecke, 1987), pp. 347–87, here pp. 360–6. See now: István Draskóczy, “Salt Mining and the Salt Trade in Medieval Hungary from the mid-Thirteenth Century until the End of the Middle Ages” in: Laszlovszky ed. *The Economy* pp. 205–18.

³⁰ *Nova moneta*: from 1 Mark silver of 250‰ fineness 500 were minted mixed with copper, in an attempt to increase the royal income by devaluing the currency. It led to economic chaos and was to be abolished by 1525, but was rescinded only in 1526; see **1526: 39**.

³¹ *Babka* was originally a Czech coin, worth 1/3 of a *Kreutzer*. In Hungarian it became *batka* and acquired a proverbial meaning of ‘very low value’ (“not worth even a wooden *batka*”).

man of the Master of the Treasury always to assist the minters of this coin in Buda, [2] and in Kremnica that the *pisetarius* of the archbishop of the church of Esztergom³² be admitted by ancient custom and in the usual manner, who shall supervise their minting and faithfully watch over the revenues due to His Majesty from this, so that no fraud and waste occur.

7. {15} *That all the aforementioned subsidies and levies be systematically collected and spent for the needs of the planned campaign.*

8. {16} *On the manner of collecting the aforesaid levies.*

9. {17} Moreover, when danger grows, so do the needs, thus this great burden of war that threatens us cannot be eliminated and easily removed through the aforementioned taxation and levy on peasants and men of plebeian condition, however heavy it is. Since the danger—which the merciful God keep far off—is common to all, so it has to be driven off and averted with the common aid and contribution of all. Therefore, it has been seen good and unanimously decided that all lord prelates and other ecclesiastical persons, secular as well as regular, barons, nobles, and other men of property, notwithstanding the privilege of their liberty, shall contribute this one time for the aforesaid campaign, the straight half that is the equal half part of all their annual pecuniary income, coming either from *cibrio*,³³ or fishponds called *morotva*, or mines of gold, silver, copper, iron or other metallic ore, or of acorn-bearing woods or anywhere else. Furthermore they shall render their contribution in the same way as it was defined and clearly described above concerning the peasants for the wine, both produced in their own vineyards and those received as ninths or otherwise purchased for a price, as far as still ready and available, as well as for their cattle and flocks. {18} Because there are many nobles who have a number of tenant peasants but neither vineyards nor large fishponds, nor acorn-bearing woods, and the tenant peasants pay very little or nothing to these nobles but only plow, harvest, collect hay, and deliver into their barn, from which these nobles draw considerable annual income; so that they do not seem to be totally exempt from all payments, but should also render some subsidy, they shall contribute similarly the half of their income that they annually obtain from these services and fieldwork of their tenants, according to their own noble conscience, so that everyone shall carry his burden equally.³⁴

³² The *pisetarius* of the archbishop represented the prelate, who ever since the reign of Bela IV (1235–70) had the right to one forty-eighth of a mark from every mark minted.

³³ *Cibrium*—bucket tax, Latinized from the Hungarian word ‘*csöbör*’ = bucket.

³⁴ “Noble conscience” did not seem to suffice to guarantee the subsidy planned at the diet. Reportedly merely 1/10 of it could be collected in the course of the year.

10. {19} The decision is the same regarding the nobles of one plot as to their wine and cattle, and moreover, those who have no annual income in ready cash, shall pay severally for their person one florin. And that the *prediales*³⁵ of the churches, who fill the place of nobles, that is who are regarded like nobles, have to make the same aforesaid contribution as the nobles of one plot.

11. {20} Then, the lord prelates have nothing to pay by reason of their tithes, as they maintain their *banderia* for that. But there are several ecclesiastical persons who receive tithes, but do not keep troops for those; they have to render the half of these tithes.

12. {21} Then, the office-holders of the royal majesty have to maintain troops and *banderia* by reason of their office.

13. {21 cont.} Then, that in each county two honest and faithful nobleman shall be elected for the assessment, appraisal and collection of all the aforesaid contributions and subsidy of one florin, who shall faithfully and conscientiously appraise, complete and exact this subsidy and the other aforementioned contributions on the goods of the majesty of the king and the queen as well as of all lords spiritual and secular and other nobles and all men of property, including the religious, according to the way and manner and order described above on this matter, in such a way that neither *ispáns* nor *alispáns* nor noble magistrates shall receive any salary whatsoever for this, but shall proceed together with the elected tax collectors on their expenses. These tax collectors together shall receive no more for salary than fifty florins in the larger counties, thirty-two in the middle-sized ones and in the minor and small ones twenty-five. And this is so because the common good and the common weal are concerned and everyone must endure hardship for his own peace and quiet. They shall incur as small expenses from these contributions as they can, lest the contributions suffer major losses. The tax collectors shall complete [the collection of] these contributions entirely in their own person, not through their men. The judges of cities, towns, villages and estates are relieved from the payment only of the one-florin subsidy and in small villages they shall pay a half of this subsidy; they shall render all the other contributions like other tenants. {22} Then, the treasurers, *ispáns*, *alispáns*, and noble magistrates shall render for their wine, cattle and flocks as well as their pecuniary income, the said tax according to the aforesaid order and regulation. Before being sent out and proceeding with this appraisal and levying, the tax

³⁵ On the *prediales*, nobles in ecclesiastic service, see Martyn Rady, *Nobility, Land and Service in Medieval Hungary*. (Houndsmill, Basingstoke: Palgrave, 2000), pp. 82–85.

collectors shall swear a binding oath in front of the community of nobles that they will proceed faithfully in this matter and will not favor or spare anyone out of fear or love, nor will they harass anyone more than necessary out of hate or envy. Nor will they incur needless expenses while proceeding or release anyone from the subsidy and contributions. Nor will they retain anything from these for themselves or others under any pretext or color beyond the assigned salary, or be prodigal in any way, but will faithfully and honestly appraise and assess and will keep a true and just register and account of these. After this assessment and appraisal, every lord and noble shall and must bring and present without fail personally or through his man the entire amount on account of his own personal income and of his wine, cattle and flock in that county where the appraisal was done, as well as of his tenant peasants who live in the same county according to the list in the register of the tax assessors at one short term decided for that by the community of the nobles, in the presence of the *ispán*, *alispán*, noble magistrates, and the community of the nobles. Finally the county with the *ispáns*, *alispáns* and noble magistrates shall faithfully report to the treasurers of the realm, to be elected and established in the way below, and send them the money through the tax assessors with the assistance of the same county. The treasurers shall issue letters of receipt and quittance that it was handed to them and received, so that no fraud or deceit may follow on either side. Nevertheless, lords and nobles of any estate, dignity or condition who have goods and property rights in several counties shall pay half of their pecuniary income according to their noble conscience only in that county where they have their special residence.

14. {23} Then, for keeping and managing the treasure to be amassed and brought together from the said subsidy and contributions, two barons and the same number of nobles shall now be elected equally from both sides of the Danube. They, thus elected, shall swear a binding oath that they will observe good faith to the royal majesty and the country, would wish to apply this treasure to no other purpose or need than the matters and necessities of the present campaign; nor will they retain or squander otherwise this treasure on themselves or on their kinsmen, lords or friends or their servants besides the salary assigned to them, but apply and spend these moneys for the aforesaid affairs of the realm. They shall proceed so in this matter that this treasure be assembled at one place and the treasurers shall swear to each other that two of them will remain in the castle until the two others return and they will keep troops in the same way in the castle and none of them shall enter the castle—that shall be guarded mainly by such nobles and those whom they believe to be most faithful—with a larger retinue than the other. A suitable place shall be assigned in the

center of the kingdom of Hungary, a well fortified castle, fitting for this and safe.

15. {23 cont.} Because it is known to all that the aforesaid unaccustomed contributions and taxes were ordained for the repulsion of hostile forces and the recovery of the recently lost fortifications and it is also known that these contributions and taxes from [the properties] of all the lords prelates, barons, nobles of the realm, and other men of property including the monks and nuns, will be brought to and gathered in the aforesaid way and manner in one place in the hands of these treasurers of the realm, therefore, none of the lords, none of the nobles and none of the other men of property have to personally participate or in other way fight in the front line in this coming campaign, excepting the banderial lord prelates who by reason of their tithes have to keep troops ready and the officers of His Majesty at the frontiers, who also, by reason of their office always have to keep ready and maintain their troops. They have to lead the troops [hired from] the common and public treasury to that campaign, because the common safety is concerned. That it may not appear that the lord barons and those ten persons who according to the general decree³⁶ keep their own troops be deprived of their men or be left out of the military events, the treasurers shall dispense money from this public and common treasury not only for keeping their usual troops but also to hire more new soldiers who wish to fight.

16. {23 cont.} Because in fact it is impossible to overcome the difficulties and lead the progress of this campaign to success without a leader, commander and captain and the present decree would go up in smoke³⁷ and turn into nothing—which may God avert—if it does not have an executant, it is clear that the royal majesty is alone our prince, king, leader, rector and captain as well as the executant of all of our affairs and decrees, and he, who attends to many things as king and lord of so many kingdoms, cannot always watch over and oversee everything. Therefore, His Royal Majesty shall now appoint one or two captains general by his royal authority, who must and should by mandate of His Majesty head the said campaign in place of His Majesty, lead the domestic as well as foreign troops in the name of His Majesty, and generally provide for the progress of this campaign, and execute those matters that will be necessary, particularly those concerning the present decree. They shall always have and take with them to this campaign vice-captains coming from the domestic and foreign countries and nations, experts in matters military with experience in war and also Hungarians, if they can be found; they shall use and follow their counsel and help,

³⁶ Cf. 1492:2, 1498:22.

³⁷ Clearly a Hungarism: a plan can *'füstbe menni'* (go up in smoke), that is come to nothing.

and do whatever appears more expedient for that business. However, as long as they can find Hungarians adequate and able for war, they shall not hire troops from other countries, save quartermasters and good and experienced captains. {34} These captains of the royal majesty shall swear a binding oath that they will be faithful and not spare anyone in matters of trust and in the pursuit of matters in their care, but will proceed faithfully, and will not by their troops hurt anyone except enemies of the realm, disturbers of the present decree and the state of the common weal, as well as destroyers of the royal majesty and his kingdom, and, moreover, those delinquent in this war and campaign who should be justly punished according to their misdeeds. [They should also swear] that they shall not allow, as best they can, their troops to cause harm and if such be caused they will not fail upon request, immediately and without demur, to give satisfaction for the injuries and damages, according to the evidence of witnesses and the truth as it is established, and to punish the guilty as the quality of their trespass demands. {35} Because it will be the duty of the captains to hire troops in the name, as said, of the royal majesty and to agree with them faithfully on as low a salary and stipend as possible, to keep scouts and take care of them and others who are engaged in affairs of this campaign, to guard and prevent to their best the troops hired in the above way from causing damages, it is, therefore, necessary to provide them with appropriate and suitable payment by which they can fulfill their tasks and business pertaining to their duties, lest any fault follow from this. Stating this, that should the troops hired by them, or their own men, or those otherwise belonging to their captainship cause damages to anyone in the course of their march, they themselves or the men who caused the damages shall give effective satisfaction for the damages caused as soon as they or one of them is requested by those injured or damaged, once the truth—as mentioned above—has been established. {36} They shall punish by capital punishment those robbing churches and raping girls and women; and they shall not allow troops to billet in the houses of nobles or priests against their will.

17. {26} Moreover, the captains and the treasurers of the realm shall be in mutual contact regarding the sums entrusted to them, so that they are able to³⁸ hire troops according to whether the amount be greater or smaller. One or both of the treasurers shall personally inspect the troops hired and examine thoroughly both their number and equipment so that no moneys are paid to those who are undeserving. And that one of the treasurers or their appointed confidants shall always and all the time attend to the captains with a certain sum of money so that they can always pay the hired troops

³⁸ Another Hungarism: *scire* here comes from the Magyar ‘*tudni*’ that means both to know and be able to.

without fail, the number of which they should know and likewise the captains in turn understand how much they cost.

18. {27} Then, that the kingdoms of Slavonia and Transylvania³⁹ shall also for this one time be obliged to make all the payments that are declared above in equal measure to Hungary, and the royal majesty shall deign to send his emissaries to these kingdoms as soon as possible.

19–20. {28} *That the decree be observed and penalty declared for non-observance.*

21. {29} Further, the royal majesty shall certify and assure by his letters every county of the kingdom, that henceforth he does not wish to hassle, impede and burden this kingdom and its nobility with similar contribution and taxes.

22. {30} Then, should any one of the lords or nobles or even peasants hide or conceal things, from which contribution and tax has to be paid, the tax collectors of the counties shall take away these things, if they can be found, and first the contribution shall be paid from these, and the remaining portion shall be given in part to the *alispán* and the noble magistrates, in part to the tax collectors for their own use.

23. {44} Then, from those who bring into this kingdom weapons or victuals, no thirtieth or customs duties shall be levied anywhere and this shall be announced.

24. {32} That the royal majesty shall send ambassadors of his to the Christian princes, suitable Hungarians,⁴⁰ for other nationals do not understand so well the affairs of the kingdom; these ambassadors shall also provide intelligence to the imperial electors and the cities of the upper parts [of Hungary]⁴¹ in order to obtain subsidy of ships, engines, arms, and gunpowder as well as other needs.

25. {33} *That the captains shall hire several thousand troops for the defense of the frontier.*

26. {34} *That vacant episcopal sees be filled so that they can raise banderia.*

³⁹ In fact, neither of these territories were legally kingdoms; the expression is appropriate only for Croatia as part of the joint “*archiregnum*”

⁴⁰ There were several embassies sent to the German Reichstag to ask for military assistance—with limited success. The best known one included Stephen Werbőczy, who had a disputation with Martin Luther at the famous Worms diet of 1521. The emissaries were in fact always Hungarian prelates and politicians. Other embassies went to Rome and Poland.

⁴¹ It is unclear why the cities “of the upper parts” (usually referring to the cities presently in Slovakia) are included here. In later editions of the CJH the text is different but still not comprehensible.

27–28. {35–36} *That the last wills of recently deceased prelates,⁴² which promise income to the royal treasury, be attended to.*

29. {37} *That the taxes paid recently by priests shall be accounted for.*

30. {38} *That a commission of barons and nobles shall inquire about these wills, and the pledged goods of the archbishop of Esztergom be redeemed by the king.*

31. {39} *That all the provisions of the decree be completed in two months.*

32. {52} *That the pay of mercenaries of counties who did not fulfill their duties be refunded.*

33. {54} *That the goods of those absent without excuse from the campaign be confiscated.*

34. {56} *County and spiritual court sessions are to be suspended during the coming campaign.*

35. {57} *That properties seized since the death of King Wladislas [II] have to be returned.*

36. {58} *That tenant peasants removed or escaped since 1514 shall be returned⁴³*

37. {45} Then the royal majesty shall arrange and achieve with the neighboring princes, his kinsmen and relatives, that they shall not allow peasants and tenants of this country, particularly those living near the frontiers, to escape—for fear of the aforementioned levy—to their kingdoms, principalities or estates. They shall return those tenant peasants who moved there for good, lest those border regions become doubtless desolate. His majesty shall deign to do the same in regard to Moravia and Silesia.⁴⁴

38. {46} *That the residue of previous hundred-penny taxes not applied to the defense of the realm be handed over to the newly-appointed treasurers.*

39. {47} *That the border markers set up between the estates of nobles and Cumans, but later destroyed by the latter, be restored and the boundaries inspected.⁴⁵*

40. {60} The royal majesty shall in fact take into his hands all the castles, fortified houses, towns, villages, estates, and property rights of those who recently lost the fortresses of Belgrade and

⁴² The confiscation of the personal property of deceased prelates, especially that of Thomas Bakócz, archbishop of Esztergom (died in 1521) was a considerable income for the royal treasury. The personal wealth of Bakócz was estimated to be almost equal to the yearly income of the king; he had more than 40.000 florins alone in cash, which was promptly impounded after the archbishop's death.

⁴³ Cf. **1514: 25–6, 30, 44.**

⁴⁴ Cf. **1514:70.**

⁴⁵ Cf. **1498:48** and **1514:54.**

Šabac,⁴⁶ as unfaithful, to be condemned by the force of the general decree.⁴⁷ [1] He shall not donate these for the time being. The persons, however, shall receive safe conduct if they so wish. [2] Then, once the royal majesty has acknowledged them as condemned in this matter, he shall grant these [properties]—unless he retains them for himself—to those whom he may recognize as having done in the coming campaign or in other affairs faithful and useful services to His Majesty and the realm, [3] so that those who serve, motivated by the hope of [receiving] donations of goods, may attend more fervently to the affairs of the common weal and the common good of His Majesty and not shy back from fighting until death against the enemy.

If, however,⁴⁸ these aforesaid unfaithful men, wish and request, the royal majesty shall, according to the general decree, grant them safe conduct for forty days, during which time they can come to the court of His Majesty and present their innocence and blamelessness, should perchance they believe that they have something for their defense. Should the royal majesty find them or any one of them rightly and lawfully blameless and innocent, he shall graciously return them or him the aforesaid properties; otherwise, if they cannot excuse themselves and present their innocence, His Majesty shall not fail to punish them with the penalty due to the faithless.

⁴⁶ Francis Hédervári, castellan of Belgrade and Valentine Enyingi Török, commander of Sabač. They were indeed condemned for losing the castles in 1523. Hédervári's properties were confiscated but Enyingi Török finally received royal pardon. See Gusztáv Wenzel, "A Hédervári Ferenc jószágai fölötti per és ítélet 1523-ban. Adalékul Magyarország azonkori köz- és jogtörténetéhez" [The trial and sentence in the lawsuit regarding the goods of F. H. in 1523. An addition to the legal history of those times]. in *Magyar Történelmi Tár* 6. (1859) 3–82. The diet of **1525 Hatvan** demanded that Hédervári be also pardoned, but his properties were confiscated and granted to others in 1526.

⁴⁷ Cf. **1462:2**, **1495: 4**, and **Tripartitum II 12**.

⁴⁸ This last paragraph is not included in the CJH.

Dietal decision 1523

May 4 [called for April 24 (St George's)] diet in Buda [ends before. May 19]: Decree with 59 articles passed mainly aimed at the implementation of previous measures on taxes and military service.

None of the laws and dietal decisions of the reign of Louis II survived in an original, some (e.g. 1516) not at all. The age of the existing copies in private collections is difficult to decide, most of them are from the late sixteenth century. Some (or parts of them) are also known from reports of ambassadors (Marino Sanuto from Venice, various emissaries from Poland). The reliability and date of the codices is discussed by Dezső Szabó, *A magyar országgyűlések története II. Lajos korában* [History of Hungarian diets in the age of Louis II] (Budapest: Magyar Tudományos Akadémia, 1909) pp. 225-8.

Most medieval charters of the kingdom of Hungary are kept in the National Archives, Diplomatic Archives (Collectio Antemohacsiana), referred to as MNL OL DL. Accessible when searched by number, or date, or name of issuer @ <http://archives.hungaricana.hu/en/charters/search>

MSS: Codex Festetich (OSZK: Fol. Lat. 4355, pp. 589–596) [F] and a contemporary copy kept in the Hungarian National Archives (MNL OL DI 36 369). Szabó mentions a contemporary copy in the Vienna Haus- Hof- und Staatsarchiv with the title “Domino Ferdinando.”

For unknown reasons, Ferenc Döry did not include this decision into his copies. The editors printed it on the basis of the Codex Festetich and the incomplete MNL OL copy.

EDD: Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*. 3 vols. (Pest: Regia Universitas, 1789-1801) Vol 2, pp. 515–54 based on an original kept in Bardejov; *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus et al. eds., vol. 1 (Budapest: Franklin, 1896), pp. 809-25; (59 articles printed with different numbering); Dezső Szabó, *A magyar országgyűlések története* pp. 254-9 (partial).

LIT: Szabó, *A magyar országgyűlések története*, pp. 60-6; András Kubinyi, “Országgyűlési küzdelmek Magyarországon 1523–1525-ben” [Struggles in the diet in Hungary 1523–25], in Tibor Neumann and György Rácz, eds, *Honoris Causa. Tanulmányok Engel Pál tiszteletére*, pp. 125–48 (Budapest and Piliscsaba: Magyar Tudományos Akadémia Történettudományi intézet – PPKE Bölcsészettudományi Kar, 2009).

This dietal decision, as several others of the Jagellonian decades, contains so many repetitions of earlier legislation, that we have not reprinted them here. For the omitted articles, we added, for information's sake, the rubrics of the *Corpus Iuris*, even though they are later additions.

Articuli in diaeta festi beati Georgii Martyris Millesimi quingentesimi vigesimi tercii Budae celebrata pro regni tutela & quiete formati.¹

I. Quod primo et ante omnia omnes proventus regiae majestatis recte revideantur et intelligantur, quantam summam faciant, et quid aut quantum sua majestas ex eis disponere et expedire possit

II. Exigantur rationes de subsidio 100 denariorum.

III. Ita etiam ab iis, qui ex indultu regis monetam cuderunt. Qui vero id sine indultu fecerunt, poena notae infidelitatis plectantur.

IV. Exmittatur ad singulum comitatum deputatus, qui investiget, quanta summa illic repartita? quanta exacta fuerit?

V. Inquirat etiam an dicatores datam sibi instructionem observaverint.

VI. Omnes hi poena duplici mulctentur.

VII. Comites vero et vicecomites, qui jam incassatas pecunias detinent vel in usus proprios converterunt, insuper officio priventur.

VIII. Restantiae exigantur et in salaria capitaneorum, sumptus legatorum et munitionem Petrovaradini convertantur.

IX. Comites et vicecomites, qui aliquos nobiles a praesenti diaeta erga pactatam mercedem dispensarunt, officio priventur et poenam 400 florenis persolvant.

X. Eadem poena statuitur in eos, qui aliquos a praeterita exercituatione dispensarunt.

XI. De his omnibus per circulatores comitatum inquiratur, uti et de creditoribus, qui pecunias regno mutuarunt.

XII. Eruat rex quantitatem promissorum a reliquis principibus subsidiorum.

XIII. Gentes regiae et banderia statim ad confinium Temesiense descendant.

XIV. Officia Hungaris conferantur, et non exteris.

XV. Banderia, rex interteneat in confiniis.

XVI. Item quilibet dominorum, ac nobilium, et alterius conditionis possessionatorum hominum, de singulis decem sessionibus jobagonalibus, singulum unum equitem, ad minus hastam cum clypeo, vel arcum manualementem cum pharetra habentem disponat, et secum ad expeditionem ipsam

generalem, penes majestatem regiam ducat. Comitatus² vero partium superiorum; Threnchiniensis, Zolyom, Thurocz, Arva, Liphtho, et Szepes, loco equitum, pedites pixidarios secum portare teneantur.

XVII. Nobiles unius sessionis, exercituantium more, equestres, vel pedestres, et not in kocsí ad expeditionem vadant.

XVIII. Exercitantes, ne tempore progressionis in bellum, damna incolis inferant, neve in domos nobilium, ac sacerdotum condescendant.

XIX. Item regia majestas jubeat, atque committat, ut omnes domini, qui aliqua obligamina inter se habent, de facto deponant et deinceps solummodo ad fidelitatem majestati suae observandam, ad quam etiam alioquin tenentur, sint astricti atque obligati. De nobilibus quoque idem est sentiendum, atque faciendum.

XX. Subsidium duorum florenorum offertur.

XXI. Coloni, vel inquilini, qui res et bona in valore trium florenorum non habent, et alii servitores nobilium, simul cum Woynicis relaxentur.

XXII. Et in hac contributione etiam bona regie et reginalis maiestatum, (demptis³ civitatibus eorum muratis, quae aliter solvi consueverunt), una cum illis colonis, qui in curiis nobilium domus distinctas habent, terrasque, et prata, ac vineas proprias tenent⁴ atque colunt et dominis eorum ex illis fructum solvent, pari modo dicentur, ut commune periculum communi omnium dominorum, ac nobilium, colonorumque, et rusticorum subsidio (dei adiutorio accedente) propelli possit. In villa vero, ubi decem fuerint coloni, unus, et ubi quinque medius iudex relaxetur, hoc expresso quod si in villa etiam plures fuerint iudices, unus solummodo relaxetur.

XXIII. Subsidium hoc etiam ad Transylvaniam et Sclavoniam extenditur.

XXIV. Illud non ad debita solvenda, sed usus bellicos impendatur.

XXV. Res montanistica de salibus regulatur.

XXVI. Quod regia majestas meliores monetas cudi faciet, sed novam monetam quilibet acceptare debeat.

XXVII. Novam monetam, omnes in restitutione censuum et dicarum accipere debeant.

XXVIII. Item, quod nemo audeat antiquas monetas pro se cambiare, nec argentum gratia lucri ad se redimere sub poena amissionis hujusmodi argenti atque monetae, per hoc tamen emptio argenti ad usum cujuspiam necessaria prohibita esse non intelligatur.

²F Comitatus

³F demptorum

XXIX. Una marca argenti redimatur et ematur sex florenis, quinquaginta denariis, sicut prius quoque fuit constitutum. Alioquin, tam venditor, quam emptor, argentum ipsum amittat atque perdat eo facto.

XXX. *Argentum et antiquae monetae, non educantur.*

XXXI. *In redemptione antiquarum monetarum ad centum monetas antiquas supperaddantur de novis denarii decem.*

XXXII. *Merces, non pluris vendantur; quam prius venditae sint.*

XXXIII. *Obuli quoque cudantur.*

XXXIV. Item ut aurum et argentum in copia habeantur; majestas regia committat fodinas minerarum auri, et argenti, ac cupri, et aliorum metallorum, libere omnibus colere. Et de externis quoque regnis, ad culturam eorum laborantes, et montanistas advocare, et publico edicto proclamare faciat. Tandem quod et illos et modernos, in eorum libertatibus antiquis conservare; et ab omnibus impetitoribus defensare dignetur.⁵

XXXV. *Nemo pecunias aliquas, sub nota infidelitatis, cudere in regno praesumat.*

XXXVI. *Poena eorum, qui vocati ad generale bellum venire noluerint.*

XXXVII. Item praepositi, abbates, capitula, conventus, moniales, bona, et jura possessionaria secularia possidentes; hoc idem facere de personis eorum teneantur. Et de jobagionibus nihilominus eorum, prout alii possessionarii nobiles exercituare sint obligati. Ita, ut tot mittantur equites, quot sunt in capitulo canonici, et insuper, decimas quoque jobagionales praenarratas, mittere teneantur. Praepositi tamen seculares, ac aliae personae ecclesiasticae, duplex beneficium habentes, seu in dignitate constitutae; juxta limitationem dominorum praelatorum suorum, personaliter advenire sint obligati.

XXXVIII. Item de illis quoque personis ecclesiasticis banderiatas, qui aut decimas, aut alios proventus copiose habent, majestas regia ita provideat ut sibi expeditionem ad praemissam et condignum subsidium praestent.

XXXIX. *Capitanei in singulis comitatibus constituentur.*

XL. *De capitaneorum persona et officia.* XLI.

Tricesime et loca exactionis earundem. XLII.

Saxones transylvani connumerentur.

XLIII. *Actus potentiarii a 1521 commissi non obstante exercitiatione judicentur.*

XLIV. *Quae praeterea causae, non obstante exercitiatione possint decurrere.*

XLV. Ceterum novae occupationes terrarum pratorum, aquarum, sylvarum, promontiorum. et aliorum omnium jurium possessionariorum post obitum serenissimi principis quondam domini Wladislai regis felicis memoriae iam facta, atque deinceps fiendae tam in his judiciis, quam etiam in sedibus judiciariis comitatum adjudicari possint; ita videlicet, ut more proclamatae congregationis per litteras regias in comitatibus fiat primum super occupatione per vicinos, et commetaneos, nobilesque conprovinciales more solito mera premissorum veritatis inquisitio, et si occupatio facta fuisse constabit, ibidem possessio, vel terrarum occupata contradictione occupatoris non obstante per comites ac vicecomites, et iudicium restituatur actoris, et insuper occupator ratione occupationis et violentiae ad decimum quintum diem propterea in curiam regiam per litteras vicecomitum, medio iudicium personaliter vel de domo ac curia sua nobilitari ammoneatur, et erocetur, vel si actor super facta sibi restitutione, et poena centum florenorum in sede comitatus decernenda contentus, causam huiusmodi amplius prosequi noluerit, in causam tamen attractus super iudicio sibi facto non contentus, eandem causam pro emendatione sui discussionem in curiam regiam voluerit deducere, ad decimum quintum diem causa illuc transmittatur, et si iudicium, ac iudicaria deliberatio comitum, vel vicecomitum benefactum fuisse probabitur, reus, seu in causam attractus in facto minoris potentiae, seu capitali sententia ibidem vincatur, et condemnatur.

XLVI. *Metae inter Cumanos et vicinos nobiles per palatinum rectificentur.*

XLVII. *Fugitivi coloni restituantur.*

XLVIII. Item quod omnes Lutherianos, et illorum fautores, ac factioni ipsi adhaerentes, tanquam publicos haereticos, hostesque sacratissime virginis Mariae poena capitis, et ablatione omnium bonorum suorum, majestas regia, veluti catholicus princeps, punire dignetur.

XLIX. Item quod Magistri prothonotarii, sese in officium vicegerentium iudicum ordinariorum regni, videlicet; vicepalatini, et viceiudicis curiae regiae, sub amissione officiorum suorum, ingerere, et immittere, proventusque eorum tollere, nullatenus praesumant. Hoc idem est de caeteris quoque officialibus regiae majestatis intelligendum, atque faciendum, ne confusione officiorum, curia majestatis suae regiae inordinate disponatur.

L. Redemptiones literarum juxta formam generalis decreti regni accipiantur.

LI. *Litterae sententiales, facti minoris potentiae, ad florenos sex taxentur.*

LII. Item quod ad celebrationem communium inquisitionum, homines regii, vel palatinales, de curia regia contra voluntatem partium litigantium non transmittantur. Dempto casu, qui notabilem et insignem videbitur importare partibus ambiguitatem, simul et damnorum occasionem: in quo de curia regia homines libere transmitti possunt.

LIII. *Greges bovum et ovium tantum usque limites regni depelli possint.*

LIV. *Sequestrata proditorum Belgradi et Szabachii bona cum illi se hactenus non purgaverint pro caducis declarantur.*

1523

Articles composed at the diet held in Buda on the feast of St George the Martyr in 1523, for the safety and peace of the realm.

1. That first and foremost all revenues of the royal majesty shall be correctly reviewed and established: how much they make, and what and how much His Majesty can dispose and expend of these.
2. *That accounts be rendered of the subsidy of 100 pennies, of which 25 were to go to the royal majesty and 75 to the maintenance of troops.*
3. *That accounts be rendered by the minters of the 'new money'.*⁶
4. *That the amount of taxes that have been levied and collected shall be established for every county.*
5. *That the conduct of the tax collectors shall also be investigated.*
6. *That tax evaders and cheating tax collectors shall have to pay double.*
7. *That ispáns and alispáns⁷ embezzling taxes be deprived of office.*
8. *The remainder of the taxes be applied to the pay of captains, and the expenses of the emissaries to the Reichstag as well as for the repairs of Petrovaradin.*⁸
9. *That ispáns and alispáns releasing nobles from attending the diet in return for a bribe shall be deprived of their office and pay a fine of 400 florins.*
10. *That the same punishment shall be applied to ispáns and alispáns releasing nobles from military service.*
11. *That the inquiry decreed in 1521⁹ shall be completed and the income used for paying off the debts of His Majesty and for the repairs of Petrovaradin. The number of nobles and tenant peasants¹⁰ in each county shall be established.*

⁶ Cf. **1521:6**.

⁷ The *vicecomes* (*alispán*) was in most cases the actual administrator of the county, his superior, the *comes/ispán* frequently holding several offices in court and/or in several counties. He was usually a retainer (*familiaris*) of the *ispán*, but ever more often also "elected" by the county's nobles.

⁸ The castle of Petrovaradin had key importance for the southern defense line after the loss of Belgrade. After its fall in 1526, the kingdom of Hungary was left largely unprotected from Ottoman attacks, thus leading directly to the defeat at Mohács.

⁹ See **1521:38**.

¹⁰ Tenant peasant (*jobagiones*, from Hung. *jobbágy*) was the status of the majority of the agrarian population in medieval and early modern Hungary (down to 1848). They were personally free, obliged to render dues in kind, money and labor to the lord of the land on which they lived. Their plots were de

12. *That His Majesty shall ascertain the number of soldiers and cannon, and quantity of ammunition to be received from each lord.*¹¹

13. *That the royal and other banderia*¹² *shall be right away deployed on the frontiers, above all in the region of Temes.*

14. {17}¹³ *That the king and the queen shall keep only Hungarian officials, and send always two captains to border fortresses.*¹⁴

15. {18} *That the king shall keep his banderia and troops on the frontiers.*

16. {19} Any lord, noble or other man of property shall provide one horseman at least with spear and shield or a handbow and arrows for every ten tenant peasant plots,¹⁵ and lead them with him to general campaign with the royal majesty. [1] The counties in the upper parts, that is Trencsén, Zólyom, Túróc, Árva, Liptó, and Szepes, shall lead with them, instead of horsemen, musketeers.¹⁶

17. {20} *That the nobles of one plot shall go to war either as horsemen or foot soldiers but not in carriages, as often happens.*

facto heritable, though not their property. Tenant peasants had the right to move (or to be moved) to another lord, once their dues were paid. For a summary of their fate, see János M. Bak, “Servitude in the Medieval Kingdom of Hungary: A Sketchy Outline” in *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, ed. Paul Friedmann and Monique Boruin, pp. 387–400 (Turnhout: Brepols, 2005)

¹¹ It seems that this is the first time that reference to artillery is included into a legal document. On the development of firearms, see *A Millennium of Hungarian Military History*. Béla Király and László Veszprémy, eds. (Boulder, CO: Social Science Monographs, 2002) and László Veszprémy, “The State and Military Affairs in East-Central Europe, 1380-c. 1520s” in: Frank Tallett, D J B Trim, eds. *European Warfare, 1350-1750* (Cambridge: Cambridge University Press, 2010). pp. 96-109.

¹² *Banderia*, (from the Italian *bandiera*, ‘banner’) were troops supplied by the king, the queen, the barons and prelates (later also by other major landowners) in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars). Those obliged to field *banderia* were called *banderial lords*.

¹³ The numbering of the articles differs in the CJH/MTvT from that of the first printed edition by Kovachich, and is somewhat mixed up, while the manuscripts have no indication of articles at all. As usual, we print the numbering of the CJH/MTvT in braces for easy reference to previous literature.

¹⁴ Cf. **1495:36** and **1518 (Bács):21**.

¹⁵ The quota for the *militia portalis* (on which, see e.g., András Borosy, “The militia portalis in Hungary before 1526,” in eds. János M. Bak and Béla K. Király, *From Hunyadi to Rákóczi. War and society in late medieval and early modern Hungary*. East European Monographs, 104, (Brooklyn: Brooklyn College, 1982), pp. 63–80) was by this provision effectively doubled or even trebled. See **1492: 20**, and **1498: 16**.

¹⁶ Cf. **1518 (Tolna):6**.

18. {21} *That the troops shall cause no damages; those accused shall be judged by the captains.*¹⁷
19. {22} Then, the royal majesty shall order and command that all lords who have any obligations between them shall indeed set these aside and henceforth shall be bound and held only to the fidelity owed to the royal majesty, to which they are committed anyhow. The same applies and refers to nobles.¹⁸
20. {23} *A tax of two florins is decreed.*¹⁹
21. {24} *That tenants and landless peasants²⁰ having less than 3 florins' wealth, as well as household servants, the victims of Ottoman raids, and vojniks²¹ are exempted.*
22. {25} This contribution shall be similarly levied on the goods of the king and the queen, except their walled cities which pay otherwise; also on tenant peasants who own their own houses on noble properties and cultivate their own lands, fields, and vineyards rendering the fruit thereof to their lord, so that the common danger be removed—God permitting—by the common subsidy of all lords, nobles, tenants and peasants. In villages where there are ten tenants, one judge may be relieved; in villages with five, half a judge, adding that if there are several judges in a village, only one of them shall be exempt.
23. {26} *The same tax applies to Slavonia and Transylvania.*
24. {27} *That the two-florin tax shall be applied only for defense.*
25. {28} *That the income from salt and other mines shall not be defrauded and no precious metals exported.*

¹⁷ Cf. **1521:17**.

¹⁸ The article is aimed against those confederations that were concluded by several barons and prelates in the 1520s, occasionally including the queen, in order to represent their interest at the diets especially in appointment to the high offices of the realm, see Szabó, *Magyar országgyűlések, passim*.

¹⁹ In fact, the usual half florin tax was not raised to its quadruple; the 2 Fl were to paid over two years and included the so-called *lucrum camerae* (a direct tax established in the thirteenth century); see Szabó, *Magyar országgyűlések*, p. 64; see also: Árpád Nógrády, Seigneurial Dues and Taxation Principles in Late Medieval Hungary, in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 265–78.

²⁰ Due to the partible inheritance and other motives, the number of landless peasants (*inquilini*) increased in the later Middle Ages; many of them lived on tenant peasants' plots and supplied the wage labor in times of seasonal employment. See István Szabó, "Hanyatló jobbágyság a középkor végén" [Decline of tenant peasants at the end of the Middle Ages], in Idem, *Jobbágyok, parasztok: Értekezések a Magyar parasztság történetéből*, István Für, ed. pp. 167-200 (Budapest: Akadémiai K. 1976)

²¹ Vojniks were South Slavic peasant soldiers who escaped to Hungary from the Ottomans and mainly constituted the foot soldiers employed on the southern defense line.

26. {29} *That the king shall cause better money to be minted but the current ‘new money’ shall be accepted everywhere under the penalty of confiscation of goods.*

27. {30} *That the ‘new money’ shall be accepted for the payment of taxes.*

28. {31} Then that no one dare to change the old money or buy up silver for profit under the penalty of losing that silver and money; buying silver for one’s own use shall not be understood as prohibited.

29. {33} One mark of silver shall be exchanged and bought for six florins and fifty pennies, as was also decreed earlier.²² [1] Otherwise both buyers and vendors shall lose and be deprived of the silver right away.

30. {34} *Prohibition on the export of silver and old money.*

31. {35} *That the old money shall be exchanged at the royal chamber with a ten percent charge.*

32. {36} *That the price of merchandise in ‘new money’ shall not be increased from that in old money.*²³

33. {38} *That fillérs²⁴ shall also be minted and be worth half a penny.*

34. {39} In order that gold and silver be in abundance, the royal majesty shall grant the [right of] mining of gold and silver as well as copper and other metal ores freely to anyone. [1] And he shall cause workers and miners to be invited from foreign countries and this shall be publicly announced. [2] He shall deign to keep both old and new ones in the liberties and defend them from all those who would infringe them.

35. {40} *Prohibition on the minting of money by anyone, under the penalty of taint of infidelity.*

36. {41} *That this punishment applies to those failing to come to war.*

37. {42} Priors, abbots, chapters, convents, and monks who own secular goods and property rights shall do the same in respect of their persons [who do not go to war]. [1] And they are obliged to send to war like other nobles with property according to [the number of] their tenant peasants, [2] so that they shall send as many horsemen as there are canons in the chapter, moreover [one] for every ten tenant peasants as mentioned above. [3] Secular priors and other ecclesiastics who hold

²² There is no previous surviving decree on the exchange rate of silver. On the monetary reform of the 1520s see Zsolt Simon, “A zágrábi pénzverde 1525 évi számadása” [The accounts of the mint of Zagreb from 1525] *Századok* 144 (2010) 433–64.

²³ On the *moneta nova* and the dire consequences of minting this devalued money, see Márton Gyöngyössi, “Coinage and Financial Administration in Late Medieval Hungary (1387–1526)” in Laszlovszky, ed. *The Economy*, pp. 295–308.

²⁴ A *fillér* was the smallest money of exchange; its original silver content was ca. 0.3 gr.

double benefices or dignities are obliged to appear in person according to the determination of their lord prelates.

38. {42} Then the royal majesty shall arrange that those banderial prelates who have abundant income from tithes or otherwise, contribute appropriate and suitable subsidy for his aforesaid campaign.

39. {44} *That captains be appointed in every county.*

40. {45} *About the person and duties of the captains.*

41. {46} *That the thirtieth be levied at the decreed locations.*²⁵

42. {47} *That a census of the Transylvanian Saxons be made.*

43. {48} *That acts of might*²⁶ *committed after 1521 shall be adjudicated without interruption, notwithstanding the campaign.*²⁷

44. {49} *That cases pertaining to properties shall also be continuously adjudicated.*

45. {50} Furthermore, recent seizures of lands, fields, woods, waters, vineyards, and any other property right—done after the demise of the most serene prince the late Lord King Wladislas of blessed memory or henceforth—may be adjudicated both in these court sessions and in the county courts. In the following manner: first an inquest, as usual, shall be held and the truth [learned] in the counties on these seizures in the way of an extraordinary county assembly [called] by royal letters with the neighbors, abutters and nobles of the same county;²⁸ and if the seizure is proven, the seized property or land shall be returned to the plaintiff by the *ispán* or *alispán* or the noble

²⁵ Cf. **1498:34**.

²⁶ “Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, and the killing or assaulting of one (incl. rape).

²⁷ Cf. **1521:34**. In 1523 a successful campaign was organized against the pasha of Rumelia and the bey of Belgrade, led by the newly commissioned commander Pál Tomori, with a decisive battle on August 6–7.

²⁸ On the procedure of inquest and extraordinary county assembly, see Erik Fügedi, “Verba volant ... Oral culture and literacy among the medieval Hungarian nobility” in: Idem, *Kings, Bishops, Nobles and Burghers in Medieval Hungary*, J. M. Bak, ed. (London: Variorum Reprints, 1986) ch. VI.

magistrates,²⁹ notwithstanding a contradiction by the occupier. Moreover, the occupier shall be given notice and summoned personally or from his noble house or residence through letters of the *alispán* by the noble magistrate to the royal court to the fifteenth day for his seizure and violence. If the plaintiff, satisfied with the restitution and the fine of one hundred florins, to be imposed by the county court, does not wish to pursue the case any further, but the respondent, not satisfied with the judgment against him, wishes to take his case to the royal court for further treatment and adjustment, then it shall be transferred there in fifteen days. If then the judgment and judicial decision of the *ispán* or *alispán* is approved of as correct, the guilty party, that is the respondent, shall be convicted and condemned of a major act of might, that is to capital sentence.

46. {51} *That the borders between the Cumans and the nobles be adjusted by the count palatine.*³⁰

47. {52} *That fugitive or abducted peasants shall be restored.*³¹

48. {54} Then, the royal majesty, as a Catholic prince, shall deign to punish all Lutherans and their partisans as well as the adherents of their sect as public heretics and enemies of the most holy Virgin Mary by capital punishment and the forfeiture of all their goods.³²

49. {55} Then, the master protonotaries³³ shall in no way dare to interfere with or inveigle themselves into the office of the deputies of the justices ordinary of the realm, namely the vice-palatine and the vice-judge royal, and to appropriate their income under the penalty of losing their office. [1] And the same shall be applied and done in respect of the other officials of the royal majesty, lest the court of His Royal Majesty suffer disorder due to the confusion of offices.

50. {56} *That chancellery fees be collected according to the general decree.*³⁴

²⁹ *Judlium* was the standard medieval abbreviation for *judex nobilium*. However, this seems to be the only occurrence of it in a medieval *decretum*. The noble magistrates (usually four in every county) were helpers of the *alispán* and at the same time representatives of the noble community of the county.

³⁰ Cf. **1498:48, 1514:54, 1521:39.**

³¹ Cf. **1504:16, 1514:25–29, 1518 (Tolna):20.**

³² This is the first instance of persecution of Lutherans, indicating the impact of the Reformation in Hungary. Because of their German connections, the queen and the most influential man at court, Margrave George of Brandenburg were suspected of sympathies for the Lutherans. See: Markus Hein, “Maria von Habsburg, der ungarische Hof und die Reformation in Ungarn,” in: Martina Fuchs and Orsolya Réthelyi, eds. *Maria von Ungarn (1505-1558): Eine Renaissancefürstin* (Münster: Aschendorf, 2007) pp. 261–72. See also Zoklán Csepregi, “Reformation in Hungary: historiography, research problems, methodology” in: *Temp tidskrift for historie* 15 (2007) 135–58 with ample bibliography.

³³ Protonotaries (*prothonotarius*, Hung. *ítélőmester*, “master in sentencing” were lawyers who acquired legal training in the secular Hungarian courts. From the mid-fifteenth century they presided over court sessions in an increasing number of cases. See György Bónis, “Men Learned in the Law in Medieval Hungary,” *East Central Europe/l’Europe de centre-est* 4:2 (1977): 181–191.

³⁴ Cf. **1492:95.**

51. {57} *That the fee for letters of judgment in cases of minor acts of might be six florins.*

52. {58} Then, that royal or palatinal bailiffs³⁵ shall not be sent out from the royal court to common inquests against the will of the parties, [1] except for cases which seem to involve major and significant disagreement among the parties as well as payment for damages. In this case bailiffs can be freely sent out from the royal court.

53. {58} *Herds of oxen and sheep shall not be exported, nor of horses and calves.*³⁶

54. {59} *That the goods of those who had lost Šabac and Belgrade be confiscated unless they can excuse themselves.*³⁷

³⁵ The *homo regius*, i.e. royal bailiff, or *homo* of any other judge was the executive officer of a judge, who delivered summonses and assisted in the process of trial and punishment. It was prescribed that the bailiff be accompanied by a witness of a place of authentication recording the action. It seems that in lawsuits bailiffs were selected by the litigants from among the nobles of their counties. Royal clerks were also commissioned as specially delegated royal bailiffs with powers more extensive than regular royal bailiffs. That seems to have been resented by the nobility.

³⁶ Cf. **1495:27–28, 1498:31, 1500:25, 1504:28, 1514:66, 1518 (Bács):33, 1521:4.**

³⁷ Cf. **1521:40.** On 15 September 1523, the properties of Francis Hédervári, former capt ain of Belgrade, were confiscated. The diets of **1514/5** and **1526** request that he be pardoned but finally, in 1526, granted to the Bakics family. The property remained disputed for generations. See: See Gusztáv Wenzel, “A Hédervári Ferenc jószágai fölötti per és ítélet 1523-ban. Adalékul Magyarország azonkori köz- és jogtörténetéhez” [The trial and sentence in the lawsuit regarding the goods of F. H. in 1523. An addition to the legal history of those times]. in *Magyar Történelmi Tár* 6. (1859) 3–82.

Dietal decision 1525 in Hatvan

Once the king refused to approve the decisions of the Rákos diet of 1524, the nobility called an armed general assembly to the city of Hatvan (some 50 km northeast of Buda). The king first explicitly prohibited the counties to attend “as no good can come about by a new assembly,” but finally, when a delegation of lesser nobility, assembled in Hatvan around 24 June, invited him, he went to the meeting on July 3. The rather tumultuous diet again deposed the count palatine Báthori and elected the leader of the nobility, Stephen Werbőczy, as palatine. The decisions contained not much else than what had been agreed to the preceding year, but the king did not approve them this time either. The text is not included in most of the law collections, nor in the *Corpus Juris Hungarici*, but the political importance of the diet suggested its inclusion here. Annotations are kept to a minimum, considering the repetitive nature of most of the articles.

None of the laws and dietal decisions of the reign of Louis II survive in an original, some (e.g. 1516) not at all. The age of the existing copies in private collections is difficult to decide, but most of them are from the late sixteenth century. Some (or parts of them) are also known from reports of ambassadors (the Venetian Marino Sanuto, various emissaries from Poland). The reliability and date of the codices is discussed by Dezső Szabó, *A magyar országgyűlések története II. Lajos korában* [History of Hungarian diets in the age of Louis II] (Budapest: Magyar Tudományos Akadémia, 1909) pp. 225-8.

MSS: Codex Nádasdy (Budapest University Library Cod. G 39.) foll. 342r–344r [N]; Codex Festetich (OSZK: Fol. Lat. 4355, pp. 589–596) [F]

EDD: Ignatius Batthany, *Leges ecclesiasticae regni Hungariae...* (I–III. Albae Carolinae – Claudiopoli, 1785-1827)1, 595–9 [Ba] (based on a Vatican MS), Martinus Georgius Kovachich, *Supplementum ad vestigia comitiorum apud Hungaros ab exordio regni eorum in Pannonia, usque ad hodiernum diem celebratorum*, 3 vols. (Pest: Regia Universitas, 1789-1801), 3: 23–50; Szabó, *Magyar országgyűlések*, pp. 265–6 (part.)

LIT: András Kubinyi, “Historische Skizze Ungarns in der Jagiellonenzeit” in Idem, *König und Volk im spätmittelalterlichen Ungarn* (Herne: Schäfer, 1998) pp. 323–66; *Martyn Rady*, “Rethinking Jagiełło Hungary” *Central Europe* 3 (2005), 3–18; Idem, “Jagello Hungary,” in: DRMH IV, xi–xlvii; Szabó, *Magyar országgyűlések*, pp. 84–96. For the issues of defence, see András Kubinyi, “Hungary’s Power Factions and the Turkish Threat in the Jagiellonian Period (1490 - 1526),” in István Zombori, ed. *Fight against the Turk in Central-Europe in the First*

Half of the 16th Century (Budapest: METEM, 2004), pp. 115–145; Géza Pálffy, “The Origins and Development of the Border Defence System Against the Ottoman Empire in Hungary (Up to the Eighteenth Century),” in Géza Dávid and Pál Fodor, eds. *Ottomans, Hungarians and Habsburgs in Central Europe: The Military Confines in the Era of Ottoman Conquest*. (Boston: Brill, 2000), pp. 3–70.

Articuli in congregacione generali in oppido Hathwan pro festo nativitatis beati Joannis Baptiste celebrata confecti pro anno Domini 1525.^{xlix}

I. Primo, ut omnes constitutiones iam facte et modo quoque formande atque concludende effectum sorciantur et execucioni demandentur, consilium regium, quod magna in parte per exteris nationes hactenus gubernatum est, reformetur, et ut omnia in consilio regio maturo tractatu maturaque deliberacione fiant et ad effectum perducantur; nec alter consiliariorum alteri super dissidio et non concordi sententia, prout plerumque contingere solet, culpam impingere possit, et exinde debita execucio negociorum regni pretermittatur, maiestas regia de medio^l dominorum prelatorum ac baronum primarios officiales et consiliarios suos, preterea de medio quoque nobilitatis huius regni octo personas electas iuxta generalis decreti contenta in curia sua regia apud se teneat, cum quibus sua maiestas infra venturam generalem dietam pro festo beati Georgii martyris proxime venturo celebrandam omnia in consilio suo regio tractanda, aliis dominis prelatis et baronibus forsitan dissidentibus et non concordantibus decernere concludereque et execucioni demandare, officia eciam tam finitima, quam eciam interna et alia omnia mutare, distribuere, bone et utili ac maiestati sue et huic regno conducibili proficueque dispensacioni, proventuum suorum regionum superintendere atque providere, et generaliter omnia perficere dignetur. Ceteri eciam domini prelati et barones, eorum dignitate exigente, in consilio ipso regio interesse, tractare et sententias suas declarare more hactenus consueto libere valeant atque possint. Nihilominus tamen quidquid per maiestatem regiam cum prescriptis consiliariis suis, ceteri eciamsi discordes fuerint, conclusum fuerit, ratum maneat atque firmum. Nationes tamen externe in consilium regium de cetero non admittantur. Universa eciam officia tam regie, quam regionalis maiestatum, videlicet magistratus curie, cubiculariatus, tavernicatus, pincernatus, dapiferatus et agazonatus et portarii quoque maiestatum suarum, preterea castellanatus^{li} omnium castrorum, camereque salium ac auri et argenti, necnon tricesime et vigesime, cementum ac quinquagesime et honores comitatuum suarum maiestatum Hungarice dumtaxat nacionis hominibus, nobili de prosapia propagatis, et

^{xlix} F. Articuli diete in oppido Hathwan celebrate anni 1525, per regiam tamen maiestatem non confirmati, N. Articuli diete oppidi Hathwan, anni 1525.

^l Ba. loco: *de medio ... cum quibus sua maiestas add. dominos palatinum regni ac cancellarium, iudicem curie et thesaurarium sue maiestatis tamquam supremos suos consiliarios penes se accipiat. Preterea de medio quoque nobilitatis huius regni octo personas electas, iuxta generalis decreti contenta, in consilium suum regium pariter admittat, qui post maiestatem suam regiam plenariam auctoritatem habeant.*

^{li} Ba. add. *ac provisoratus.*

non forensibus per suas maiestates conferantur, prout eciam in decreto continetur. Ab illis tamen externe nacionis hominibus, qui pro nunc eiusmodi officia tenent, mox et immediate de factoque auferantur. Et de beneficiis quoque ecclesiasticis hoc idem est intelligendum, quod scilicet non advenis, sed Hungaris^{lii} per utramque maiestatem de cetero conferantur. Et quod^{liiii} maiestas sua sigillum suum anulare, reginalis vero maiestas similiter sigillum suum, si apud sese tenere non voluerit, Hungaris pariter et non forensibus conferre dignetur.

II. Ceterum, quod Fukarii et omnes naciones externe, qui thezauros regni palam exhauriunt et educunt, de hoc regno statim ablegentur et exmittantur, in eorumque locum Hungari constituentur. Naciones tamen externe, cuiuscunque linguagii existant, si maiestatibus suis et huic regno servire voluerint, ad stipendia consueta libere veniant et conducantur, attamen in confinibus regni Hungarorum more servire militareque teneantur. Lutheriani eciam omnes de hoc regno extirpentur, et ubicunque reperti fuerint, non solum per ecclesiasticas, verum eciam per seculares personas libere comburantur et bona eorum fisco regio dominisque terrestribus, ubi reperti punitique fuerint, applicentur.

III. Item, quod stipendia seu salaria Burgoni et aliis externis nacionibus deputata de cetero non reddantur.^{liv} Universi eciam proventus regii sublatis omnibus obligaminibus qualitercunque factis, manibus dumtaxat domini thesaurarii regii statim et de facto assignentur.

IV. Item, quod maiestas regia metas per dominum Stephanum Bator pridem palatinum superiori anno erectas et per Comanos ac Philisteos iterum distractas per unum ex magistris prothonotariis secundum contenta literarum suarum palatinalium exinde confectarum absque ulteriori mora rursus erigere et reintegrare, ac nondum erectas ex novo reambulare et erigi facere dignetur.

V. Item, quod occupaciones per dominum marchionem et alios potentes noviter facte eciam invitatis occupatoribus per regiam maiestatem rectificentur absque mora, sic videlicet, ut regia maiestas ad singulos regni comitatus ad quattuor partes eiusdem regni quattuor magistris prothonotarios una cum personalis presencie regie maiestatis locumtenente ac vicepalatino et viceiudice curie sue maiestatis exnunc transmitters dignetur et penes eosdem locumtenentem ac vicepalatinum et viceiudicem curie magistrisque prothonotarios universitas nobilium duas personas nobiles, quas voluerit, iurisperitas et benemeritas eligat, qui universas terras, sylvas, prata, fenilia, piscinas, piscaturasque et villas ac porciones villarum post obitum serenissimi principis quondam domini Mathie regis minus iuste et indebite ac preter iuris equitatem de manibus aliquorum occupatas et occupata, comperta superinde mera rei veritate et observata iuris equitate rectificare et quos de iure concernere agnoverint, eisdem mox et immediate reddere, alios eciam cunctos actus potenciarios pariter revidere complanareque teneantur.

VI. Et quod tam regia et reginalis maiestates, quam eciam domini prelati et barones ac nobiles universos jobagiones post insurreccionem et sedicionem rusticanam ad bona ipsorum vel

^{lii} Ba. *quod scilicet advenis et externis auferantur, Hungarisque.*

^{liiii} Ba. loco *Et quod ... dignetur* add. *Et quod sigillum quoque regie maiestatis anulare secretarius Hungarus donante maiestate sua teneat. Pari racione reginalis maiestas sigillum suum Hungarice nationis homini domino scilicet cancellario sue maiestatis benemerito conferre dignatur.*

^{liv} Ba. add. *Obligamina eciam et litere quelibet super regis proventibus cuiquam per egiam maiestatem vel dominum thesaurarium nullius sint firmitatis.*

abductos, vel saltim furtimque locatos iuxta formam et contenta decreti generalis exinde conscripti^{lv} per prefatos locumtenentem ac vicepalatinum et viceiudicem curie regie, magistrisque prothonotarios et duos electos in singulis comitatibus de facto immediateque reddi faciant.

VII. Et metas quoque regia maiestas tam ex parte Moravie, quam etiam Austrie et Styrie preter ulteriorem moram rectificari facere dignetur.

VIII. Item, quod pecudes et pecora, hoc est boves, oves, vacce et equi gregatim vel alio sub colore et coria eorundem animalium de hoc regno per hunc annum propter extirpacionem presentis monete nove et propter instantem futuramque expeditionem sub pena in maiori decreto exinde specificata non educantur neque exmittantur; et si educerentur, ubicunque reperti fuerint, modo et ordine, quo in eodem decreto continetur, auferantur, non obstantibus literis regie maiestatis superinde forsitan conficiendis, si tamen extra regnum et non ad nundinas liberas seu fora hebdomadalia in hoc regno celebranda abigantur.

IX. Item, quod tricesime, que in Nandoralba et Zalonkemen exigi consueverant, de cetero in Waradino Petri exigantur, ne arma, sales, pixides et cultelli in Thurciam deferantur.

X. Item quantus in conservacione gencium defectus tam per dominos prelatos et barones ac alios quoque comitatum nobiles hactenus fuerit commissus, omnibus constat. Ne igitur de cetero vel defectus vel negligencia in gentibus conservandis committatur, nec etiam damna per eos in transitu ac processu ipsorum nobilibus ac ignobilibus inferantur, statutum est, quod universi domini prelati et omnes viri ecclesiastici ac barones et nobiles, qui ratione bonorum suorum vel de bonis suis propriis quinquaginta equites, sive armigeros sive levis armature seu hwzarones tenere non possunt, pecunias exercitiales de bonis eorum in medium nobilium illorum comitatum, ubi eiusmodi bona adiacent, administrare teneantur. Et in quolibet comitatu unus capitaneus per universitatem nobilium eligatur, qui tam bona omnium dominorum et nobilium in illo comitatu adiacencia sub iuramento firmissimo per eum prestando dicare, quam etiam gentes militaris exercicii peritas conducere et iuxta limitationem regie maiestatis ac prescriptorum consiliariorum regionum, secundum necessitatis exigenciam illas semper in confinibus tenere et copiam registri super dicatura post rectificacionem in sede iudiciaria fienda manibus vicecomitis assignare, tempora etiam et dies conduccionis gencium atque demissionis earum ad confinia semper conscribere et nobilibus notificare debeat et teneatur, ne fraus in gentibus conservandis solucionibusque in eisdem fiendis committatur. Nobiles etiam in literis ipsorum generali capitaneo regio in partibus illis, quo gentes deputabuntur, constituto numerum gencium mittendarum rescribere, numerum etiam sessionum jobagonalium illorum dominorum, qui iuxta limitationem prescriptam per semet ipsos cogentur gentes conservare, ipsi capitaneo similiter significare teneantur, ut capitaneus ipse gentes prenotatas revidere et perlustrare sciat, ne defectus in gentibus ipsis utcunque reperiat; damna vero, si que per illas in transitu cuipiam irrogarentur, per capitaneum earum semper rectificentur atque rependantur. Quod si capitaneus ipse facere nollet, propterea iuri convenienter puniatur. Preterea idem capitaneus cum suo capitaneatu experiatur, in quantum poterit, de magnis proventibus dominorum ac nobilium ipsius comitatus, ut dum extrema

^{lv} Ba. loco *iuxta ... conscripti* add. *sub pena in decreto generali exinde conscripta*.

necessitas coegerit, et omnibus dominis ac nobilibus contra hostes regni personaliter insurgere necessarium erit, sciat capitaneus ipse, quot et quantas gentes de illo comitatu secum habere poterit. Intelligat eciam universitas nobilium, quantis gentibus unumquemque eorum iuxta exigenciam facultatis et possibilitatis ipsorum secundum limitationem eiusdem universitatis nobilium insurgere et ad bellum procedere teneatur, ut communis hostis communi omnium provisione arceatur atque dei adiuditorio propellatur. Et quod gentes universorum dominorum prelatorum ac baronum et regni comitatum, si que nondum sunt misse, sub pena in generali decreto exinde expressa exnunc ad confinia, loca scilicet eis deputata mittantur atque ibidem servantur.

XI. Quia per dominos prelatos ac viros ecclesiasticos decimas habentes super magno et superfluo onere conservacionis gencium querimonia sepe defertur, ut videlicet ultra exigenciam et quantitatem proventuum ipsorum gentes pro regni defensione conservare cogentur, que ut e medio tollatur, iuxta formam et continenciam dicti generalis decreti in singulis regni comitatibus tot probi et fidedigni nobiles per universitatem nobilium eorundem comitatum eligantur, quot in eisdem comitatibus iudices nobilium habentur. Qui una cum eisdem iudicibus nobilium, prestitis per ipsos iuramentis, tam de proventibus eorundem dominorum prelatorum et virorum ecclesiasticorum decimas habencium, quam eciam numero jobagionum suorum, a quibus decens et opportunum fuerit, diligenter experiri et eorum computum atque numerum sub ipsorum sigillis infra proximum festum beati Martini episcopi et confessoris regie maiestati ac dominis consiliariis et assessoribus transmittere teneantur. Et ut in dieta et convencione generali a modo primitus celebranda iuxta exigenciam, facultatem et proventum^{lvi} numerumque jobagionum ipsorum gencium per eos conservacio iuste et honeste limitetur; interea vero gentes suas modo, quo hactenus soliti sunt, iuxta formam ipsius generalis decreti et registrum excellentissimi principis quondam domini Sigismundi imperatoris et regis pro defensione regni conservare teneantur.

XII. Item, quod patroni ecclesiarum et tutores pupillorum bona ecclesiarum et ipsorum pupillorum pro se non computent, sed in medium nobilium numerentur, et quod bona ac iura possessionaria liberarum civitatum noviter empta in medium comitatum pro gencium conservacione connumerentur.

XIII. Item regia eciam et reginalis maiestates racione dignitatis et pariter bonorum suorum banderia sua parata semper habere dignentur. Officiales quoque finitimi tam racione bonorum suorum, quam eciam officiorum ipsorum gentes suas integre pariter conservare teneantur, prout in decreto conscriptum habetur.

XIV. Item loca per Thurcos combusta et desolata non dicentur. Libertini tamen nonnisi illi, qui victu et amictu dominorum suorum utuntur, in hac parte conservacionis gencium relaxentur. Inquilini eciam in propriis domibus habitantes ac aratra vel vineas proprias habentes dicentur, ne regni defensio in gencium conservacione et earum numero minuatur atque deficiat.

XV. Item, quod per regiam maiestatem ac dominos consiliarios regios limitentur et constituentur statim loca super proventibus regiis, ubi et de quibus officiales finitimi salaria sua rehabeant, et ad illos proventus nemo se de cetero ingerere audeat, ne officiales ipsi Bude

^{lvi} Ba. G41. *facultatum et proventuum.*

cogantur mendicare et per hoc officia eorum vacua relinquere, reliquos eciam proventus regios et curiales servitores sue maiestatis ita moderari, ne tot dissipaciones, quot hactenus fuerunt, in proventibus regiis de cetero committantur. Et quod singulis annis thesaurarius regius et provisor Budensis de cunctis proventibus regiis sue maiestati ac dominis eiusdem consiliariis et assessoribus in festo Epiphaniarum domini ac diebus immediate sequentibus ad id sufficientibus rationem et computum dare teneantur.

XVI. Item, quod cusio presentis monete de cetero cesset et regia maiestas bonas monetas, prout in principio regiminis maiestatis sue cudebatur,^{lvii} cudi facere dignetur. Verumtamen infra festum beati Laurentii martyris proxime venturum monete iam cuse more hactenus solito pro uno denario veteri, post predictum vero festum due ex eisdem novis^{lviii} pro una bona et antiqua moneta currant et accipiantur. Attamen in rebus vendibilibus maiestas regia ordinationem pridem factam atque publicatam observari faciat. Et si venditores contrarium facerent, res eorum vendibiles ac mercimonia per iudices^{lix} locorum auferantur, quorum due partes regie maiestati in civitatibus et bonis suis, in aliorum vero bonis domino terrestri cedant, et tertia pars iudicibus et iuratis civibus relinquatur. Verum, quia omnis hec penuria ac caristia rerum vendibilium et mercimoniorum, que modo regnum istud oppressit, ex cusione presentis nove monete^{lx} provenit atque crevit, plures sunt autem, qui monetas presentes cudi fecerunt, alii ex permissione regie maiestatis, alii vero propria eorum temeritate, veritas itaque est de premissis per regiam maiestatem exquirenda et recta ratio capienda ac exigenda. Qui igitur de voluntate regia monetas in vero pondere seu liga quattuor lothonum cudi fecerunt, si iustam rationem de illis dare poterunt, absoluti habeantur. Illi tamen, qui monetas ipsas adulteraverunt, et in liga trium lothonum vel aliter infra quattuor cudi fecisse comperti fuerint, non solum ad rectam rationem dandam sint obligati, verum eciam totum lucrum, quod ex huiusmodi adulteracionis fraude perceperunt, regie maiestati reddere refundereque teneantur. Qui vero propria eorum temeritate cudi fecerunt, prout in decreto quoque continetur, nota perpetue infidelitatis condemnentur. Ceterum, si qui extraneorum hominum monetas extra regnum istud cusas et fabricatas in hoc regnum de cetero importaverint, et comprehendi poterint, mox et de facto comburantur et incinerentur, pecunieque cuse ab eis auferantur. Hospites quoque et dispensatores eorum, in hoc regno, si de cetero reperti fuerint, pari pena puniantur. Ne autem fraus et dolus^{lxi} in rebus vendendis et emendis committatur, ubique per totum hoc regnum pro frumentorum ac bladorum vendicione et empicione, atque vinorum educillacione una et eadem mensura, cubulus scilicet et quartale ac pintha Budensis formetur. Verumtamen hec mensura in priorem et pristinum statum et formam, que nuper diminuta fuit, redigatur et per singulos regni comitatus omnesque civitates liberas per regiam maiestatem distribuatur. Precium tamen non equaliter, sed iuxta locorum exigenciam, prout scilicet carius vel uberius res vendibiles

^{lvii} Ba. loco *sue cudebatur* add. *domini nostri clementissimi fuerat*.

^{lviii} Ba. loco *due ... ex eisdem novis* add. *interea, quo moneta nova et bona multiplicabitur, duo ex eisdem cupreis*.

^{lix} Ba. loco *per iudices ... relinquatur* add. *ubique locorum in predam publicam convertantur*.

^{lx} Ba. *presentis cupree monete*.

^{lxi} Ba. add. *prout hactenus*.

crescunt aut deferuntur, taxetur et limitetur.

XVII. Item, quod regia maiestas testamentum reverendissimi quondam domini Georgii archiepiscopi Strigoniensis execucioni demandare et servitoribus suis solucionem facere, pecunias et res alias pro missa perpetua capitulo Strigoniensi per eum datas et relictas reddere dignetur gracie.

XVIII. Item, quod pecunie testamentarie alieque res reverendissimorum quondam dominorum Thome et dicti Georgii Strigoniensis ac Gregorii Colocensis ecclesiarum archiepiscoporum et Francisci de Warda episcopi Transsilvaniensis exnunc exquirantur et ad regni necessitates per regiam maiestatem convertantur.

XIX. Item,^{lxii} quod aurum et argentum iuxta contenta minoris decreti et sub pena ibidem denotata de hoc regno nullatenus educantur.

XX. Item, quod nobiles parcium inferiorum et signanter duodecim comitatus a Zewrinio usque ad Posegam in eorum libertatibus iuxta contenta decreti conserventur et proventus eorum de desertis restituantur.

XXI. Item, quod de cetero cause in curia regia cum processu solito regni hactenus tractari consuete in causam honoris non convertantur.^{lxiii}

XXII. Item, quod iudicia brevia statuto uno per regiam maiestatem termino more hactenus consueto celebrentur, verumtamen dolus et fraus illa, que in inhibicionibus et peregrinacionibus hactenus inter causantes et litigantes abusivo modo fieri consueverat, de cetero cesset. Ita quod inhibiciones iuste et recte fieri quidem possint, prout in decreto quoque continetur, verumtamen illis, qui vel presentes fuerint in loco iudiciorum, vel in aliis causis contra alios egerint, aut ad accionem illorum responderint, inhibicio non detur neque observetur. Peregrinacionis vero prorogacio, quia peregrinacio salutis et non fraudis causa fieri debet, penitus et in toto tollatur atque cesset.

XXIII. Item, quod omnia decreta regni per dominos consiliarios regios et assessores iuratos sedis iudicarie regie magistrisque prothonotarios infra venturam generalem dietam in unum corpus decreti redigantur, et leges quoque ac iura regni scripta interim perlegantur, et ex novo revideantur, atque revisa in eadem dieta per regiam maiestatem privilegio confirmentur.

XXIV. Item,^{lxiv} quod regia maiestas pro auctoritate sua regia comitatum honores personis idoneis ac benemeritis, et quidem talibus, qui eciam nobilibus grate videbuntur et accepte, ad supplicacionem universitatis nobilium comitatum conferre dignetur, ne nobiles ipsi per eos comites, qui eisdem contrarii sunt, et displicent, oppressionem et defectum in ipsorum iuribus paciantur.

XXV. Item, quamquam tributa sicca et arida atque super aquis et fluviis ab infra descendentibus

^{lxii} Ba. *Quod aurum et argentum de hoc regno non educantur, et si reperitur educens, ubique libere auferantur.*

^{lxiii} Ba. add articulum: *Et quod litere adiudicatorie per regiam maiestatem contra libertatem et consuetudinem sedis sue iudicarie et regni sui absoluta sua auctoritate extradari commissa et extradate nullius sint firmitatis, et adversa parti litere legitime ac iuridice contra predictas violentas literas pariter reddantur, non obstantibusque huiusmodi literis de facto et absolute emanatis execucioni demandentur.*

^{lxiv} Ba. loco articuli add. *Item quod honores comitatum regia maiestas ad supplicacionem universitatis nobilium cuiuslibet comitatus talibus personis conferre dignetur, que ipsis nobilibus placite et acceptabiles videbuntur, ne oppressionem et defectum in iure ipsorum per eosdem comites, qui eisdem displicent et contrarii sunt, quovis modo paciantur.*

et supra euntibus exigi consueta contra deum eiusque iusticiam exigi videantur et exinde in decreto quoque serenissimi principis quondam domini Ludovici regis per invictissimum principem quondam dominum Mathiam regem tempore felicis coronacionis sue confirmato constitucio quedam et abolicio eorum facta habeatur, absque debita tamen revisione, quod scilicet illorum siccum et aridum existat, et quod eorum pontem vel repleturam habeat, ac iusta racionabilique de causa exigatur, conclusio perfecta fieri non potest. Quapropter statutum est, quod in singulis regni huius Hungarie et parcium sibi subiectarum comitatibus octo probi et nobiles viri eligantur, qui strictissimo sub iuramento cuncta tributorum siccorum et in aquis quoque exigi solitorum, pontes eciam at repleturas habencium loca peragrarare perlustrareque et oculata fide conspicerere, deinde a vicinis et commetaneis eorundem theloniorum nobilibus ac ignobilibus pariter super quantitate exaccionis eiuscemodi tributorum, quantum videlicet de uno curru ac equite et pedite accipi et exigi consueverunt, et que eorum pontes et repleturas habeant, et que simpliciter sicca aridaque existant, certo cercius edoceri informarique, ac ad proximum festum beati Martini episcopi et confessoris sub eorum ac vicecomitum et iudicum nobilium sigillis regie maiestati ac consiliariis et assessoribus suis regiis fideliter conscribere; et regia maiestas ac ipsi domini consiliarii et assessores super cuiuslibet tributi tam abolicione et distraccione, quam eciam exaccione veram iustamque et honestam limitacionem et taxacionem facere et iuxta eandem limitacionem et taxacionem postea cuncti tributarii procedere theloniaque et deponere et exigere debeant atque teneantur, sub amissionis pena tributorum ipsorum.

XXVI. Item, quia omnis occasio impedimenti, qua solucio decimarum dominorum prelatorum et aliorum virorum ecclesiasticorum infra presentem dietam nuper suspensa fuerat, deo glorioso duce iam sublata est, ideo universe decime eorundem dominorum prelatorum ac aliorum virorum ecclesiasticorum more hactenus consueto ubique libere et pacifice reddantur atque persolvantur.

XXVII. Item, quamvis tricesime et civitates regie pre manibus dominorum Johannis wayvode Transsilvaniensis et Georgii fratris sui carnalis, comitum scilicet Scepusiensium in certa pecuniarum summa titulo inscripcionis habite, tam secundum contenta decreti pro festo beati Luce evangeliste in anno Domini millesimo quingentesimo decimo quarto, quam iuxta formam articulorum Bachie in anno salutis millesimo quingentesimo decimo octavo conscriptorum restituta ea capitali summa pecuniarum, pro qua apud manus ipsorum existunt, ex racionibus et causis ibidem declaratis regie maiestati reddi et remitti debeant, ne tamen ulterius maiestas regia eiuscemodi proventibus et civitatibus suis destituta maneat, sed universi proventus sui regii ad manus suas in tempore et exnunc veniant atque resignentur; ne eciam ipsi domini comites Scepusienses pecuniis eorum privari videantur,^{lxv} maiestas sua regia universa castra, castella, oppida, villas, possessiones porcionesque et quelibet iura possessionaria illustrissimi quondam Laurencii ducis ubilibet habita et adiacencia prefatis comitibus Scepusiensibus, quos eciam alioquin eadem iura possessionaria vigore cuiusdam fraternalis contractus et regii consensus exinde adhibiti concernere et eisdem adiudicata quoque extitisse perhibentur, et que maiestas sua apud se et manus suas, tanquam communes conservare, atque illis, quos de iure

^{lxv} Ba. add. *propterea conclusum est quod.*

concernere dinoscerentur, reddere pollicita fuerat, eliberare remittereque et resignare facere dignetur, cunctis suis literis donacionalibus, inscripcionalibus et impignoraticiis ac eciam statutoriis super eisdem bonis et iuribus possessionariis pro parte quorumcunque et qualitercunque hactenus confectis et emanatis^{lxvi} per omnia cassatis et annihilatis,^{lxvii} iure dumtaxat feminei vel eciam virilis sexus, si qui supersunt hominum, in eisdem bonis et iuribus possessionariis virtute tituloque sanguinis habito salvo remanente. Ideo ipsi quoque comites Scepusienses universas tricesimas ac civitates regias pre manibus eorum hactenus, ut prefertur, titulo inscripcionis pro grandi florenorum summa habitas et existentes maiestati sue regie viceversa et in recompensam premissorum quiete et absque pecuniarum solucione resignare teneantur.

XXVIII. Item, quod ad proximum festum beati Martini episcopi et confessoris per totum hoc regnum Hungarie in bonis tam regie et reginalis maiestatum, quam eciam universorum dominorum prelatorum ac baronum et regni nobilium singuli centum denarii veteres unum florenum facientes per dicatores regios connumerentur et modo ac ordine, quo in gencium conservacione fieri consuevit, incluso lucro camere maiestatis regie exigantur, quorum septuaginta quinque maiestati sue regie et residui viginti quinque denarii reginali maiestati pro subsidio et conservacione banderiorum maiestatum suarum cedant atque persolvantur. Ubi autem monete veteres et antique dari solvique non poterunt, due monete nove pro nunc currentes solvantur et accipiantur.

XXIX. Item, quod ad festum beati Georgii martyris proxime venturum una generalis dieta sub pena in generali decreto expressa in campo Rakos celebretur, in qua et decreta in unum corpus decreti modo prenarrato redigenda et leges regni conscripte revideantur, intelligantur atque confirmantur. In reliquis eciam regie maiestatis et regni sui rebus quidquid pro utilitate et comodo ac quieta conservacione eiusdem maiestatis sue et regni sui faciendum videbitur, unanimi voto decernatur atque concludatur.

XXX. Item, licet anno superiori universitas dominorum ac nobilium regie maiestati in eo supplicaverit, et exinde articulos quoque ediderit, ut maiestas sua regia illos, qui castra Nandoralbense et Sabacz amiserant, servatis in hac parte condicionibus in ipsis articulis declaratis, nota infidelitatis condemnare dignaretur, et ex eo maiestas sua regia magnificum Franciscum de Hederwara, alias banum dicti castri Nandoralbensis ipsa infidelitatis nota condemnaverit, bona eciam et iura sua possessionaria certis fidelibus suis perpetuo donaverit. Quia tamen sua maiestas alios omnes, qui^{lxviii} super amissione predictorum castrorum participes fuere et culpabiles,^{lxix} absolutos declaravit atque commisit, ideo prelibatum quoque Franciscum de Hederwara^{lxx} ad supplicacionem prefatorum dominorum et nobilium super predeclarata amissione seu^{lxxi} violenta expugnacione dicti castri Nandoralbensis absolutum reddere et inter

^{lxvi} Ba. add. *vigore presentis constitutionis.*

^{lxvii} Ba. add. *viribusque destitutis et de facto relictis.*

^{lxviii} Ba. loco *alios omnes qui* add. *certis de causis egregios Valentinum Therek ac Stephanum et Blasium Sulyok.*

^{lxix} Ba. add. *dicebantur.*

^{lxx} Ba. add. *pari racione.*

^{lxxi} Ba. add. *pocius.*

fideles suos connumerare, universaque bona sua dempto castello Podwarsa, quod idem Franciscus a se dudum vendidisse et alienasse perhibetur, sibi remittere et remitti facere dignetur.^{lxxii}

^{lxxii} Ba. post. art. XXV. add. *Item, ut curia maiestatis regie honeste ac servitorum frequentia ac multitudine sit referta et decorata, universa iura patronatus omnium ecclesiarum et beneficiorum ecclesiasticorum, tam per maiestatem regiam, quam eciam serenissimum quondam dominum Wladislaum regem, genitorem sue maiestatis charissimum pie memorie cuicumque collata revocata habeantur. Et maiestas sua regia de cetero cuncta beneficia ecclesiastica demptis canonicalibus et simplicibus archidiaconatibus ac rectoratibus altarium, quibuscumque sola voluerit, iuxta preallegatum decretum pro festo beati Luce evangeliste editum conferat. Preterea cuncta beneficia ecclesiastica ab illis, qui ultra unum habent, per regiam maiestatem pariter auferantur et iuxta contenta generalis decreti personis benemeritis distribuantur, ut eo plures Deo glorioso servire, plures eciam gentes pro regni defensione conservare possint.*

Ba. post articulum XXVI. add.

Item, quod officia cancellariatus, iudicatus curie, thesaurariatus ac magistratus curie regie maiestatis et provisoratus Budensis sua maiestas regia exnunc mutare et alios, qui in rebus et factis sue maiestatis et regni sui effective procedent et execucionem faciunt, in locum modernorum officialium prefigere dignetur.

Demum post art. XXX. add.

Item quoniam in discussione et examine cuiusdam cause alias inter dominam Euphemiam relictam quondam Joannis Bodo, ut actricem ab una, ac dominam Annam relictam quondam magnifici Moysis Buzlay veluti in causam attractam ab altera partibus racione certorum actuum potenciariorum dudum mote et ad quamdam attestacionem deducte prefata domina Anna quoddam adversus ipsam dominam Euphemiam ex iudiciaria deliberacione personalis presencie nostre contra vetustam legem et approbatam consuetudinem huius regni nostri, ut prefertur, facta prestitisse deposuisseque perhibetur iuramentum, ideo, ut vetusta lex et consuetudo ipsius regni nostri salva remaneat et inconcussa; ne eciam unus actus consuetudinem induxisse videatur, non obstante eiuscemodi iuramentali deposicione, veluti abusivo modo facta in termino iudiciorum brevium primitus celebrandorum partes inter prenotatas ex novo iudicium fiat atque celebretur; et quidquid iuxta veterem legem ac consuetudinem approbatam ipsius regni nostri secundumque Deum et eius iusticiam in hac parte faciendum videbitur, id ratum maneat atque firmum.

Articles drawn up at the general assembly held in the town of Hatvan on the feast day of the Nativity of Saint John the Baptist, in the year of the Lord 1525.

1 Firstly, so that all decrees, both those previously passed and those which are yet to be drawn up and enacted, may be put into effect and carried out, let a reform be undertaken of the royal council, which to date has been largely in the hands of foreign nations; and, so that all matters before the council shall be handled with due consideration and carried into proper effect, and so that one member of the council will not fall to blaming another when disagreement or lack of harmony arises, as regularly happens, and thus cause the proper handling of the affairs of the kingdom to be disregarded: let His Majesty the king choose his high office holders and counsellors from among the lord prelates and barons, and as well, eight persons from among the nobles of this kingdom, according to the text of the general decree,¹ whom he shall keep at his royal court; and with these persons may His Majesty, before the holding of the general diet on the coming feast day of St George the Martyr,² graciously agree to decide and settle and put into effect all those matters due to be discussed in the royal council, even where the other lords prelate and barons may be at odds and unable to come to agreement; and as well, may he deign to bestow or transfer offices both at home and abroad and all others, and to take charge of and oversee the proper dispensation of the royal incomes in a manner conducive to the good of both the king himself and the kingdom; and generally may he graciously agree to put all things in order. The other prelates and barons will be free to attend the royal council as they ever have been and to debate and put forward their views, in keeping with their position; nevertheless, anything decided by His Majesty together with the aforementioned counsellors will remain fixed and unalterable, even if the other lords dissent. As well, foreigners shall not be allowed into the royal council. Indeed, we ask that their Majesties bestow all offices pertaining to the king or to the queen, namely the masters of the court, of the chamberlains, of the cellarers, of the butlers, of the horse, and of the doorkeepers of their majesties as well as castellans of all castles, the counts of the salt, gold and silver, of the thirtieth, the twentieth, the *cementum*, and the fiftieth,³ and the office of *ispán*, only on Hungarians of noble birth and not on foreigners, as is specified in the decree.⁴ And let those foreigners who for the moment hold any of these

¹ Cf **1498: 2**; See András Kubinyi, “Beisitzer im königlichen Rat aus dem mittleren Adel in der Jagellonenzeit”, in: Idem, *Stände und Ständestaat im spätmittelalterlichenn Ungarn*, transl. T. Schäfer (Herne: Schäfer, 2011) pp. 233-52, who established that these noble council members had little if any influence on decision making.

² The diet, the last before the fall of the independent kingdom, was indeed opened on April 24, 1526. See **1526**.

³ The income from the royal monopoly on salt and precious metals was one of the main revenues of the kingdom, see e.g. István Draskóczy, “Salt Mining and the Salt Trade in Medieval Hungary from the mid-Thirteenth Century until the End of the Middle Ages” in: *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2018) pp. 205–18. The fiftieth was a royal tax collected mainly from Romanians. Originally levied in kind on transhumance shepherds (based upon the number of sheep) in Wallachia but later raised from those settled in villages as well. Gradually it was transformed to a tax levied in cash. The thirtieth, in Transylvania the twentieth, was a custom’s duty on import and export that developed out of different types of urban and market tolls. The *cementum* was an income from minting. In general, see János M. Bak, “Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter” in R. Schneider, ed., *Das spätmittelalterliche Königtum im europäischen Vergleich* (Sigmaringen: Thorbecke, 1987), pp. 347-87.

⁴ The *ispán* (comes) was the royally appointed head of the counties. By this time, the *ispáns* were mostly great lords and the actual administration was in the hands of their deputy, the *alispán* (*vicecomes*), frequently a

offices, be deprived of those offices forthwith and with immediate effect. The same holds true for ecclesiastical benefices: namely, let their Majesties henceforth confer them not on foreigners but on Hungarians. And if the king does not wish to keep the seal of his signet ring, or the queen her seal, let them likewise deign to pass it to Hungarians and not to foreigners.

2 Also, let Fuggers and all foreign nations be dismissed and banished who openly plunder the resources of the kingdom and send the monies abroad, and let Hungarians be appointed in their place.⁵ However, if foreign nations, of whatever language, do wish to serve their Majesties and the kingdom, let them freely come and enlist at the customary rates of pay. In addition, let all Lutherans be banished from the kingdom; and wherever they are found, not only ecclesiastic but also secular persons will be free to burn them, their goods being turned over to the royal fisc and to lords of the land, wherever they may be found and punished.⁶

3 Then, that the stipends or salaries of Burgio⁷ and other foreign emissaries shall not be paid henceforth. Also, let all royal revenues, without any sort of obligations attached, be turned over into the hands of the Lord Treasurer right away and in fact.

4 Then, may the Royal Majesty deign without any delay to make to be established and restored the borders erected last year by the lord Stephen Báthori former palatine⁸ and destroyed again by the Cumans and the Jász; let the task being entrusted to one of the protonotaries⁹ according to the palatine's charter, and let the borders not yet erected be perambulated and erected anew.¹⁰

5 Then, that the recent seizings by the lord margrave¹¹ and other magnates be rectified by the royal majesty without delay even against the will of the occupiers, in such wise that the royal majesty deign to send out right away to every county in the four parts of the realm four masters

retainer of the lord, but often "elected" by the nobles. Art. 24 suggests that the nobles of the county were to be given more say in their selection. The reference is to **1492:7** that repeats the exclusion of "foreigners" decreed many times before, ever since 1222.

⁵ ≈ **1524/5: 2**. On the Fuggers in Hungary, see Peter Kalus, *Die Fugger in der Slowakei* (Augsburg: Wissner, 1999) esp. 71–154; on foreign investors in general, Krisztina Arany, "Foreign Business Interests in Hungary in the Middle Ages" in Laszloszky, ed. *The Economy*, pp. 491–508. In fact, the expulsion of the Fuggers brought the country's economy near bankruptcy.

⁶ This is the most radical decision about Protestants. On its background, see Markus Hein, "Maria von Habsburg, der ungarische Hof und die Reformation in Ungarn," in: Martina Fuchs and Orsolya Réthelyi, eds. *Maria von Ungarn (1505-1558): Eine Renaissancefürstin* (Münster: Aschendorf, 2007) pp. 261–72. In general, see also Zoltán Csepregi, "Reformation in Hungary: historiography, research problems, methodology" in: *Temp tidskrift for historie* 15 (2007) 135–58 with ample bibliography.

⁷ Cf. **1424/5: 3**. On him, see Burgio, Giovanni Antonio, in: *Dizionario biografico degli Italiani* 15 (Rome 1972) pp. 913–7. Actually, his reports about Hungarian politics and warfare in the first decades of the sixteenth century are one of the best sources for the period; see Augustinus Theiner, *Vetera monumenta historiam Hungariae sacram illustrantia II 1352–1526* (Rome 1860) pp. 676–802.

⁸ Stephen Bátori was *ispán* of Temes and captain general of the lower parts of Hungary; 1509–23, count palatine 1519–25; deposed at the Hatvan diet, reinstated and served 1526–30.

⁹ Protonotaries were practically trained lawyers in the royal courts, ever more taking over the administration of justice, see György Bónis, "Men Learned in the Law in Medieval Hungary." *East Central Europe/L'Europe du centre-est*, 4 (1977), 181–91, summarizing his major monograph on the subject.

¹⁰ The Cumans and the Jász (As, in fact Alans, called by the Biblical name Philistines in medieval Hungary), originally nomadic people, settled in Hungary in the thirteenth century (see Nora Berend, *At the gate of Christendom. Jews, Muslims and "Pagans" in medieval Hungary, c. 1000–c. 1300*. Cambridge: Cambridge University Press, 2001), were by this time mostly agriculturalists, in good part subject peasants. Conflicts between the two groups, whose judge was the palatine ex officio, were recurrent.

¹¹ George of Brandenburg-Ansbach (1484–1543), was the most influential member of the Hungarian court, leader of what used to be seen as the "German party". Cf. **1524/5: 4**.

protonotaries in company with the representative of the king's presence, the vice-palatine and the vice-judge of the court; and let the body of nobles, in the presence of the same lieutenant and vice-palatine and vice-judge of the court and protonotaries, choose two noblemen skilled in the law and of meritorious service, whomever they wish. And let it be the responsibility of these to rectify all the lands, woods, meadows, hayfields, fishponds, fishing places, villages and parts of villages that were seized and occupied by certain persons after the death of the serene prince the late lord King Mathias unjustly and unduly and outside the law, once they shall have established the true facts and the rightful owners, and immediately and forthwith return them to those whom they know they legally belong to, and also review and settle all acts of might.¹²

6 And may the king and the queen as well as the lords prelate and barons and nobles cause to be returned, immediately and in fact, all those tenants who after the uprising and sedition of the peasants were abducted or secretly and stealthily moved to their estates, according to the form and content of the decree passed in regard to the matter and through the aforementioned lieutenant, vice-palatine, vice-judge, master protonotaries and the two elected [nobles] in every county.¹³

7 And may the Royal Majesty deign to rectify the borders towards Moravia as well as Austria and Styria without any further delay.¹⁴

8 ≈ **1498: 31** *Prohibition of export of cattle and horses.*¹⁵

9 Further, let the thirtieth, which by custom used to be levied in Belgrade and Slankamen, be collected in Petrovardin, lest arms, salt, small boxes (sic !) or knives be exported to Turkey.¹⁶

10 Furthermore, it is universally accepted how much has been found wanting to date on the part both of the lord prelates and barons and the county nobles in the maintenance of military levies. So, to prevent any future failure or negligence in the upkeep of troops, but also so that neither noble nor commoner should suffer loss from them when they cross their lands, it has been decided that all the lords prelate and all men of the church and the barons and nobles whose holdings or financial position does not suffice for them to maintain fifty cavalrymen, whether (fully) armed or lightly armed, or hussars, are obliged to contribute military tax from their

¹² "Act of might" (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, "criminal cases" falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one (incl. rape).

¹³ See **1514: 25**. The removal of peasants—based on their "right of free movement" *de iure* abolished in 1514—was a recurrent problem and usually a complaint of the lesser nobles whose tenants were often lured or abducted by greater landlords; see briefly János M. Bak "Servitude in the Medieval Kingdom of Hungary (A Sketchy Outline)" in Paul Freedman and Monique Bourin, eds. *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion* (Turnholt: Brepols, 2005; Medieval Texts and Cultures of Northern Europe 9), pp. 387–400. Cf. **1524/5: 8**.

¹⁴ It is not known that there would have been any problem with these borders; cf. **1524/5: 9**.

¹⁵ The repeated attempt of Hungarian kings to keep trading within the borders seems to have been in vain, as it is known that cattle was driven from the country as far as Alsace, Nuremberg, and Venice. In fact, cattle was the most important export commodity of the country in the later middle Ages and early modern times, practiced by the largest landholders and the king himself, see Ian Blanchard, "**The Continental European Cattle Trades, 1400-1600,**" *The Economic History Review*, 39/3 (1986) 427-460, here 428–31.

¹⁶ Repeats **1524/5:7**.

resources to a common war chest of the nobles of the county where their possessions lie. And in every county one man shall be chosen as captain among the nobles. He will have the responsibility, under most strict and solemn oath, first of all, to assess the wealth of all the lords and nobles lying in the county, and then to levy forces skilled in military arts and to keep them permanently on the borders as circumstances require (bearing in mind the instructions of his Royal Majesty and of the said royal counsellors); and he will place in the hands of the *alispán* a copy of the register of the census after a review of it has been held at the judicial seat. He will also make known to the nobles in writing the time of the levies on to the borders and the days they will take place, to make sure no excuse for skulduggery occurs in the enlisting or payment of the same. The nobles, for their part, will be required to state in their letters the precise number of men at arms that they intend to send to the royal captain-general responsible for those territories where the troops will be deployed, and likewise to inform the captain of the number of tenant plots of those lords who will be obliged under the aforementioned ordinance to maintain troops from their own resources so that the captain will then be in a position to inspect and review the said troops and make sure there are no shortcomings in them. And if they occasion any damages against any person in their passage, these will be compensated for and made good by the captain in all cases. And if the captain fails to do so [personally], he will be held to account and punished in keeping with the law. Furthermore, the captain and his officers will do their best to determine the greatest resources of the lords and nobles of the province, so that if the worst comes to worst and all the lords and nobles have to take to the field personally against the enemies of the realm, the captain will know how great the forces of the county are and how many troops he can call upon. The nobility too should be aware, each and every one, with what forces they are under obligation to take to the field and how many they must lead to war, in accordance with their resources, what the emergency demands, according to the determination of the same noble community, so that a common front is presented against the common foe and he is repelled with the aid of God. So in general, if there are any troops which the lords prelates and barons, and the royal counties owe, which they have still not sent, let them be sent to the border, the places assigned to them, and let them serve there, under pain of the punishment laid down in the general decree.¹⁷

11 Because frequently complaints are made by the lord prelates and ecclesiastical persons receiving tithes about the excessive burden of keeping troops, namely that they are forced to maintain troops beyond their obligation and beyond the size of their income for the defence of the realm, in order to eliminate these, in every county of the realm let so many honest and trustworthy nobles be elected by the community of nobles as there are county magistrates,¹⁸ according to the form and content of the decree of the said diet. They, together with the magistrates, after having sworn an oath, shall thoroughly assess the income of the same lord prelates and ecclesiastical persons receiving tithes and the number of their tenant peasants where it is right and proper and submit their calculations and numbers to the Royal Majesty and the lord councillors and assessors under their seals before the next feast of the blessed Martin bishop and confessor.¹⁹ Then, in the diet and general assembly held in the said way, the

¹⁷ Reference here and several times to the “general decree” are too vague to identify the exact paragraph every time. Most of the issues raised here have been treated, for example, in the dietal decision of **1518 at Bács**, but also in major decrees of King Wladislas II.

¹⁸ There were usually four noble magistrates in every county; some larger ones had more, smaller ones less.

¹⁹ That is, 11 November 1526. Alas, by that time there was no factually reigning king or council after the

troops to be maintained by them are to be justly and honestly defined according to their need, ability, and income as well as the number of their tenant peasants.²⁰ Meanwhile they are required to keep their troops for the defence of the realm as they were hitherto accustomed according to the form of the decree of the same diet and the register of the excellent prince the late lord Emperor and King Sigismund.²¹

12 Then, the patrons of churches and the guardians of wards shall not include among the own possessions the property of the churches or that of the wards, but these shall be added to the number of nobles and the goods and property rights of the cities recently acquired be added to the [contingents of the] counties for the maintenance of troops.

13 Then, may their majesties the king and queen deign to keep their *banderia*²² always ready by the reason of their dignity and their properties. The officers of the frontiers are likewise obliged to keep all their troops for the sake of their properties as well their office, as contained in the decree.

14 Then, places burnt down and laid waste by the Turks shall not be tithed. Freedmen and those who are fed and clad by their lords shall be released in this matter of the upkeep of troops. Cottars living in their own houses and having their own ploughlands or vineyards shall be tithed, lest the defence of the realm be diminished and the number of troops be wanting.²³

15 Then, that the Royal Majesty and the lords royal counsellors should immediately establish and set up a place (?) about the royal income, where and whence the officials receive their set salaries and nobody should henceforth touch these revenues, so that the officials of the [steward of] Buda be not forced to beg²⁴ and thus leave their offices empty; the other royal revenues and the servants of the royal court be so controlled that that squandering which has hitherto been done with the royal income cease. And that the royal treasurer and the steward of Buda are to be held to render appropriate account and calculations annually to the Royal Majesty and his lords counselors and assessors at the Lord's Epiphany or immediately

disaster at Mohács on 29 August.

²⁰ Since the late fourteenth century, the so-called *portalis militia* (from *porta*=peasant plot) was to be mobilized according to the number of tenant peasants. Unclear, whether armed peasants or paid soldiers were foreseen. The ratio changed over times. See: András Borosy, "The *militia portalis* in Hungary before 1526," in János M. Bak and Béla K. Király, eds. *From Hunyadi to Rákóczi. War and society in late medieval and early modern Hungary*. [East European Monographs, 104], (Brooklyn: Brooklyn College, 1982), pp. 63–80.

²¹ See **Propositio 1442/3**. It is remarkable that that register remained a point of reference for three-quarters of a century. Closer to the decree's time, see **1498: 20–22**

²² *Banderia*, (from the Italian *bandiera*, 'banner') were troops supplied by the king, the queen, the barons and prelates (later also by other major landowners) in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars).

²³ Cf. **1524/5: 8**. The decline of the wealth and status of poor peasants and the landless cottars (*zsellér*) was explored in detail by István Szabó "Hanyatló jobbágyság a középkor végén"[Decline of tenant peasantry in the late Middle Ages], "In: Idem. *Jobbágyok, parasztok*. Budapest: Akadémiai, 1976, pp. 167–200. In fact, the legal category of *inquilinus* came to be divorced from its original meaning and some "cottars" became quite well off.

²⁴ Several foreign observers (such as Marino Sanuto in his *Diarii*) mention that the king's servants frequently had to ask for victuals on—not always repaid—credit from Buda merchants for the king's table. Details are listed in Vilmos Fraknói II. *Lajos király számadási könyve 1525. jan. 12—jul. 16* [Account books of King Louis II, 12 Jan.–16 July, 1525] (Budapest: Akadémia, 1877) and Johann Christian Engel, *Fragmentum libri rationarii super erogationibus aulae Regis Hungariae Ludovici II.* (Monumenta Ungariae, Vienna 1809), summarized in József Főgel, II. *Lajos udvartartása 1516-1526* [The court of Louis II] (Budapest: Hornyánszky, 1917), esp. pp. 125–50.

thereafter.²⁵

16 Then, that that the minting of the present money by henceforth ceased and the Royal Majesty should deign to have good money, as those minted at the beginning of the reign of His Majesty, minted.²⁶ Still, until the coming next feast of St Lawrence the Martyr already minted coins be circulated and accepted in the usual way for one good and old penny, but after the said feast only two. Nevertheless, in matters of things sold the Royal Majesty should make the earlier passed and announced ordinances observed. And if traders would act contrariwise, their saleable goods and merchandizes be confiscated by the local judges of which two parts go to the Royal Majesty in cities and the royal properties, in other properties to the lords of the land, and the third part to the judges and sworn burghers. Indeed, since all these present shortages and *caristia*²⁷ of goods for sale and merchandizes which oppresses this country comes and originates from the present new money that is being minted by many who mint this money, some by royal permission and some by their own rashness, the truth of the aforesaid has to be inquired into by the Royal Majesty and accounts rendered. Then those, who made money mint by royal will in the right weight of four lots, if they can give true account of it, be absolved. Those, however, who be found to have counterfeited those moneys and in three lots or otherwise minted less than four are to be obliged not only to give true account, but also have to render and refund the Royal Majesty all the profit they made by this falsification. Those, who minted by their own rashness, be, as contained in the *decretum*, condemned to eternal infidelity.²⁸ Furthermore, those who would henceforth import moneys minted or made by foreigners outside of the country and can be caught, be right away and in fact burnt and burnt to ashes and the minted moneys confiscated. Foreigners²⁹ and their agents, if apprehended in this country, be punished in the same way. In order to avoid fraud and cheating in things sold and bought, everywhere in this kingdom the one and same measure be applied for sale and purchase of grain or wheat and the *educillatio* of wine namely a *cubulus*³⁰ and the quarter or pint of Buda. Moreover, this measure is to be restored to its prior and ancient sate and form that recently has been diminished and be distributed by His Majesty to all counties and free cities of this realm. Prices, though, are to be set and limited not equally but according to local needs, namely as goods increase or diminish becoming dearer or cheaper.

17 Then, may the Royal Majesty graciously deign to have the testament of lord George, archbishop of Esztergom executed, and to pay his retainers, and have the moneys and other things given and left by him transferred to the chapter of Esztergom (to pay) for eternal

²⁵ We admit not being able to exactly render this article in English.

²⁶ See: Márton Gyöngyössi, “Coinage and Financial Administration in Late Medieval Hungary (1387–1526)” in *The Economy of Medieval Hungary*, József Laszlovszky *et al.* eds. (Leiden-Boston: Brill, 2016) pp. 295–308. *Lot* was a medieval and modern unit of mass (weight) from 12.5 to 15.5 gr

²⁷ The word means a family banquet celebrated in Antiquity for settling disputes. It is either a scribal error or an unusual use for something else.

²⁸ See, e.g. **1492: 41** and many times elsewhere.

²⁹ The Latin has the word otherwise used for settlers, residents of the country. Here it seems to mean foreigners.

³⁰ It was a recurrent attempt in all countries of medieval Europe to introduce uniform weights and measures, which did not work out before very modern times (for Hungary, see e. g. Sigismund’s urban decree, **15 April 1405/I:1**). A *cubulus Budensis* [Hungarian *köböl*] was—according to Emma Lederer (“Régi magyar űrmértékek” [Old Hungarian measures of volume] *Századok* 57, 1923/24, 135–42)—ca. 80 litres. Others estimate it at 64 litres. Another, widely used *cubulus* “of Košice,” was larger.

masses.³¹

18 That the legacy of money and other things of the late most reverend Thomas,³² and the abovementioned George and Gregory,³³ archbishops of the churches of Esztergom and Kalocsa, as well as of Francis of Várda, bishop of Transylvania³⁴ be presently inquired into and transferred to the Royal Majesty for the needs of the realm.

19 Then, that gold and silver be in no ways taken out of the country, as laid down in the lesser *decretum* and under pain of the punishment noted there.³⁵

20 Then, that the nobles of the lower regions, especially of the twelve counties from Szerém to Pozsega, shall be maintained in their liberties according to the *decretum* and their income from the deserted places be restored.³⁶

21 Then, that henceforth cases treated in the royal court in the usual manner of the realm be not converted to cases of honor.³⁷

22 Then, that short court sessions be held within a time limit set by his majesty in the manner observed hitherto, however that the cheating and fraud that has become customary between the parties and litigants through inhibitions and peregrinations shall henceforth cease, so that just and correct inhibitions should be allowed, as it is also contained in the decree. Yet, those who were present in the court of justice or pursued [legally] others in other cases or responded to the others' action shall not be granted inhibition nor shall inhibition be allowed or taken into account. Prorogation on the grounds of peregrination, inasmuch as peregrination is undertaken for salvation and not for fraudulent causes, will be absolutely disqualified and totally denied.³⁸

23 Then, that all the *decreta* of the kingdom be edited into one volume of decrees by the royal councillors, the sworn assessors of the law courts, and the protonotaries before the next general diet; and in the meantime let the laws and rights of the realm be reread and revised afresh and once revised let them be confirmed by the royal majesty in priviledial form at that diet.³⁹

³¹ George Szatmári was bishop of Veszprém 1499–1501, of Oradea 1501–1505, of Pécs 1505–1521, archbishop of Esztergom 1522–1524, royal secretary 1494–1499, secret chancellor 1499–1521, and arch-chancellor 1521–1524.

³² Thomas Bakócz of Erdőd, was archbishop of Esztergom 1497–1521, cardinal priest of the title St Martin in Montibus, patriarch of Constantinople, legate a latere; his estates were regarded to be most valuable. At his death, 41 000 florins were given right away to the king, the rest of his silver and other treasures sold out in a hurry and reportedly for rather low prices.

³³ Gregory Frankapan was archbishop of Kalocsa 1504–20.

³⁴ Francis Kiszárdai of Várda, was bishop of Vác 1509–13, of Transylvania 1513–24, and secret chancellor.

³⁵ See **1498:31**

³⁶ The reference may be to the Slavonian articles of **1492**, but the aim of the article is unclear.

³⁷ Little is known of the chivalresque court of honor, apparently in existence ever since the fourteenth century, with very different procedure from the other royal courts of justice. See in general: <https://www.scribd.com/document/340202908/Kurcz-Agnes-Lovagi-Kultura-Magyarorszagon-a-13-14-Szazadban> [Chivalresque culture in Hungary in the 13th-14th C.] (by subscription, free trial).

³⁸ The entire paragraph is unclear, especially the last sentence that should state rather the opposite.

³⁹ Even though this demand was voiced many times before, it is strange here, as the great collection of customary law by Stephen Werbőczy, the **Tripartitum**, although not formally approved by the king, was published several years earlier, in 1517. A collection of statute law, the *Corpus Iuris Hungarici* was not completed for another century and a half, published first in 1584; see Andor Csizmadia, "Previous edition of the laws of Hungary," in *Decreta regni mediaevalis Hungariae &c.*, eds. J. M. Bak, G. Bónis, and J. R. Sweeney vol. 1, ed. 2 (Schlacks: Idyllwild 1999) pp. xvii–xxxiii. See also below, among the *Studies to medieval*

24 Then, that the royal majesty may deign to confer by his royal authority the honors of *ispán* on suitable and deserving persons and on those who are well regarded and accepted by the nobles on the request of the community of nobles, lest those nobles suffer by being oppressed and deprived of their rights by those (*ispáns*) who are hostile and displeasing to them.⁴⁰

25 *Repeats in essence 1351: 8 and 15 and 1435: 21.*⁴¹

26 Then, since every occasion of impediment which had caused the suspension of the payment of their tithe to the lords prelate and other ecclesiastical persons before the present diet has now been removed thanks to the glorious guidance of God, therefore all tithes of the lords prelates and other ecclesiastical persons should be freely and peacefully rendered and paid in the previously usual way/in the same way as hitherto customary.⁴²

27 *The royal incomes confiscated from the Zápolya brothers, who had them under their control for long are to be recompensed from the escheated goods of Lawrence of Újlak/Ilok.*⁴³

28 Then, that on the coming feast of bishop Martin the Confessor a hundred pennies making one old florin be assessed by royal tax assessors and in the way and mode as it was usual for the upkeep of troops including the chamber's profit⁴⁴ of his majesty collected on the goods of the royal and the reginal majesties as well as all lords prelate, barons and nobles of the realm; of which seventy-five shall be given and paid to his royal majesty and the remaining twenty-five to the queen for the support and maintenance of the *banderia* of the royal majesties.⁴⁵ Where, however, old and ancient money cannot be paid, let two of the present moneys be paid and accepted.

29 *Repeats Art. 23 in a more verbose form.*

30 Last year all the lords and nobles beseeched the king and issued articles calling on His Majesty to condemn as traitors those who had allowed Belgrade and Sabač to fall, in accordance with the relevant prescriptions set out in those articles, and accordingly condemned for treason the lord Francis of Hédervár, erstwhile ban of the said castle of Belgrade, and grant his goods and rights of possession to other persons of trust in perpetuity.⁴⁶ Nevertheless as His Majesty has pardoned all those others who were culpable for their part in the loss of the said

Hungarian laws.

⁴⁰ The reference to the approval of the local nobility in the choice of the *ispán* was not been decreed ever before even though it came to be practice gradually.

⁴¹ See Magdolna Szilágyi "Mobility, Roads and Bridges in Medieval Hungary", in Laszloszky, ed. *The Economy*, pp. 64–80.

⁴² Due to conflicts between the clergy and the lay lords, the diet of 1524/5 suspended the payment of the tithe. The matter was settled at the diet of Hatvan.

⁴³ Repeats **1524/5: 33**. John Zápolya/Szapolyai (c. 1490–1540) was voivode of Transylvania from 1510, king of Hungary from 1526; his brother, George was *ispán* in perpetuity of Co. Szepes and fell in the battle of Mohács as one of the army's commanders. Duke Lawrence of Újlak/Ilok (d. 1524) was the son of King Nicholas of Bosnia, ban of Mačva 1477–92, judge royal 1518–24.

⁴⁴ The "chamber's profit" was a direct tax, originally replacing royal income from the re-issue of money. On its origins, see Boglárka Weisz, "Royal Revenues in the Árpáadian Period" in: Laszlovszky, ed., *The Economy*, pp. 255–64. It became usual to include it in the more or less extraordinary taxes for defense.

⁴⁵ Another measure the realization of which was cut short by the defeat at Mohács.

⁴⁶ On this, see Gusztáv Wenzel, "A Hédervári Ferenc jószágai fölötti per és ítélet 1523-ban. Adalékul Magyarország azonkori köz- és jogtörténetéhez" [The trial and sentence in the lawsuit regarding the goods of F. H. in 1523. An addition to Hungary's legal history of those times]. *Magyar Történelmi Tár* 6 (1859), 3–82.

castles, may he, heeding the supplication of the said lords and nobles, deign to also pardon the aforesaid Francis of Hédervár for the loss [in] a violent siege of Belgrade and to number him among his friends, and to grant and have restored to him all his possessions, save the castle of Podvrško⁴⁷ the possession of which it is said the said Francis had sold and relinquished some time ago.

⁴⁷ Hung.: Podvarsa, was a country house rather than a castle in Co. Pozsega, now in Croatia.

1526

April 24 (St George's) armed diet—the last of the independent kingdom of Hungary—opened at Rákos field [ended around May 5]. The decisions and elections of the Hatvan diet (**1525 Hatvan**) were cancelled, Stephen Werbőczy and his father-in-law, Michael Somi charged with infidelity.

None of the laws and dietal decisions of the reign of Louis II survived in an original, some (e.g. 1516) not at all. The age of the existing copies in private collections is difficult to decide, most of them are from the late sixteenth century. Some (or parts of them) are also known from reports of ambassadors (Marino Sanuto from Venice, various emissaries from Poland). The reliability and date of the codices is discussed by Dezső Szabó, *A magyar országgyűlések története II. Lajos korában* [History of Hungarian diets in the age of Louis II] (Budapest: Magyar Tudományos Akadémia, 1909) pp. 225–8.

MSS: Seven manuscripts: a contemporary copy in the city archives of Košice, No. 19205 [**Ko**]; Copies in: Codex Nádasdy, Budapest University Library Cod. G. 39, foll. 374r–378r [**N**]; Budapest University Library Cod. G. 40 [**G40**]; Cod. Rep. 71, No. 13 of the Esterházy archives, pp. 339–48 [**C**]; the Major Esterházy codex foll. 195r–199r [**EM**]; the Minor Esterházy codex foll. 164v–166r [**Em**], and Codex Festetich (OSZK: Fol. Lat. 4355), pp. 625–31 [**F**].

EDD: *Magyar Törvénytár: Corpus Iuris Hungarici*, Dezső Márkus *et al.* eds., vol. 1 (Budapest: Franklin, 1896) [=MTvt/CJH], pp. 836–53; Szabó, *A magyar országgyűlések története* pp. 266–9 [part.].

LIT: Szabó, *A magyar országgyűlések története* pp. 104–10.

**Articuli in dieta sancti Georgii martyris per dominos prelatos et barones ac regnicolas
anno Domini 1526. oblatis et per regiam maiestatem roborati et confirmati.ⁱ**

I. Item, quod universi domini prelati et barones ac regnicole in presenti dieta generali festi beati Georgii martyris in campo Rakos celebrata unanimi consensu concluderunt et regie maiestati supplicarunt, ut maiestas sua dignaretur auctoritate et potestate sua, quam habet, uti omniaque ad gubernacionem regni pertinencia maturo consilio agere et administrare, tam illa, que ad proventus sue maiestatis bene requirendos at ampliandos ac recte dispensandos, quam omnia alia, que ad defensionem et libertatem et alias necessitates regni spectant.

II. Item,ⁱⁱ cum ultra electionem palatini, que per maiestatem regiam et dominos prelatos ac barones, necnon universos regnicolas iuxta formam decreti communiter fieri debet, electio omnium aliorum officialium suorum, quocunque nomine vocentur, ad maiestatem suam pertineat, poterit maiestas sua vel retinere officiales modernos, vel alios pro arbitrio suo, dum voluerit, constituere.

III. Item, quia vicio et incuria officialium sue maiestatis non parve dissipacionesⁱⁱⁱ evenire solent, que ut deinceps evitentur et cessent, statutum est, ut statim eligatur per regiam maiestatem unus probus et industrius, iustusque et constans thesaurarius, qui omnia montana, exceptis fodinis Bistriciensibus, cuius arenda per annum durabit, cameras salium et tricesimas, vigesimas, quinquagesimas, cementum, cusiones monetarum, generaliter vero omnes proventus regios teneat, gubernet et dirigat ad commodum sue maiestatis, quem regia maiestas, quo fiat securior in suo officio et constancior in proventuum administracione, assecurat usque ad dietam festi sancti Georgii martyris in tertia revolucionem annuali celebrandam, et eciam ulterius, si maiestati regie placuerit, et si ille bene servierit, ut in suo officio non turbabitur. Et huiusmodi thesaurarius regius super eo iuramentum prestare teneatur, quod universos regios proventus de manibus quorumcunque cum auxilio regie maiestatis sine favore extorquebit suisque manibus applicabit, riteque et commode dispensabit, neminique dissipacionem indulgebit, et si qui forent dissipatores, regie maiestati et consiliariis manifestabit, nihilque indignum cuiquam concedet, sed omnia, que perperam agentur, regie maiestati et consiliariis significare curabit.

IV. Item,^{iv} ut idem thesaurarius ante omnia provideat castris finitimis, et mox illa tenentibus solutionem impendere servientibusque confiniorum preter omnem moram et dilacionem

ⁱ EM. add. *in campo Rakos*; Em. F. N. Ko. habent titulum: *Articuli diete sancti Georgii in Rakos anni 1526.*

ⁱⁱ Ko. habet articulum: *Item, quod maiestas sua eligat tam thesaurarium, quam capitaneum generalem talem, qui maiestati sue placuerit et videbitur.*

ⁱⁱⁱ E. Ko. N. *dispensaciones*; Ko. add. *in proventibus sue maiestatis.*

^{iv} Ko. habet textum: *Insuper idem thesaurarius provideat castris finitimis, ad quorum provisionem, si alii proventus sue maiestatis non sufficerent, assignet subsidium per regnicolas maiestati sue oblatum.*

satisfactionem dare debeat et teneatur. Ubi autem alii proventus sue maiestatis non sufficerent, assignet subsidium per regnicolas sue maiestati oblatum.

V. Item, quod thesaurarius provideat de his, cum quibus maiestas sua iuxta desiderium regnicolarum banderium suum levare et alia ad defensionem regni atque eciam ad necessitates curie sue pertinencia disponere possit.

VI. Item, quod de omnibus proventibus regiis et dissipacionibus in eisdem factis veritas inquiratur, et quicumque reus fuerit repertus, iuxta sua demerita sine ullo favore, iure tamen et iusticia mediante puniatur.

VII. Item, ut idem thesaurarius iuxta presentis temporis exigenciam, ubi cura expeditionis negligi non debet, eligat probos et fideles factores ad sua officia et presertim, qui apparatus expeditionis sollicitent et nazados et aliasque naves fabricare, reformationemque ingeniorum globorumque et plumborum accaliorum belli seriem tangencium provisionem continuare debeant.

VIII. Item, ut maiestas regia preparet se ad expeditionem, ita ut maiestas sua banderium suum erigat et non saltem gentes suas, quibus iuxta contenta decreti tenentur, sed quanto maiorem et ampliorem gencium numerum secundum sufficienciam et quantitatem proventuum suorum potest, in promptu habeat.

IX. Item prelati quoque et barones ultra numerum gencium suarum, quas iuxta contenta decreti debent conservare, imo eciam pociores nobilium pro conservacione patrie onus belli, quo maiori poterunt apparatu, curent in se assumere, ac insuper debeant una cum tota nobilitate viritim insurgere et cum regia maiestate pariter hosti tanto proxime occurrere.

X. Item, quod universi eciam rustici^v per singula capita parati esse debeant, et si extrema necessitas postulaverit, ac maiestas regia mandaverit, per singula capita, vel si maiestas sua voluerit, quinta eorum pars bene armata insurgere et ad loca per maiestatem suam deputanda convenire debeant et teneantur; per singula tamen capita rustici non leventur, nisi in extrema necessitate.

XI. Item limitandi sunt universi domini prelati, barones et nobiles in hac ultima necessitate, iuxta eorum facultates, non quidem more solito, sed urgente necessitate, in tenendis armigeris, huzaronibus, pixidariis atque ingeniis et illorum attinenciis, aliisque omnibus bellicis apparatus, ut quo maiore poterunt, ut premissum est, curent levari apparatu.

XII. Item, ut constituciones Transsylvanienses de modo exercituandi perlegantur, et ubi modus ille bonus fore videbitur, observetur. De dominis eciam Sclavonie idem est sciendum.

^v C. rustici universi.

XIII. Item, quod preterea maiestas regia eligat aliquos ex ordine militari rei bellice et militaris discipline peritos, cum quibus sua maiestas de omnibus ad expeditionem pertinentibus tractet et consultet.

XIV. Item sollicitandi sunt tam sanctissimus dominus noster, quam alii principes Christiani pro auxilio contra hostes mittendo.

XV. Item, quia amissores castrorum finitimorum impuniti remanserunt, unde etiam plurima castra finitima perierunt, propterea statutum est, ut amissores castrorum finitimorum iuxta contenta decreti puniantur, ut alii finitima tenentes exinde admoniti fidelius et fervencius castra ipsa finitima studeant custodire; et amissoribus castrorum finitimorum maiestas regia contra decreti contenta gratiam facere non possit, vel si fecisset, nullius sit vigoris, sed potius eosdem iuxta contenta decreti puniri faciat.

XVI. Item, quoniam autem propter continuam dietarum celebrationem pauperes nobiles adeo impensis exhausti sunt, ut eorum multi propter nimias expensas bona sua impignorantes^{vi} in perpetuum deveherint rusticitatem, ideo statutum est, ut amodo deinceps non nisi magna urgente necessitate extra solitum diete terminum ad conveniendum in unum cogantur.

XVII. Item, quia dieta Hatvaniensis contra mandata regie maiestatis et libertatem regni extitit celebrata, prout etiam sua maiestas per suas literas superinde ad omnes comitatus datas certificare nos dignata est, statuimus, ut nullius sit vigoris et firmitatis, imo si ex ipsa congregacione aliquis defectus in detrimentum auctoritatis sue maiestatis ac libertatis regni secutus fuisset, maiestas sua una cum consilio suo reformare dignetur.

XVIII. Item, ex quo generalis expedicio absque generali capitaneo fieri nequit, maiestas sua regia eligat unum vel duos generales capitaneos, qui ad huiusmodi expeditionem administrandam fiant idonei.

XIX. Item de illis, qui res Bohemorum nuperrime ante castrum sue maiestatis diripuerunt, veritas inquiratur et iuxta eorum demerita illi puniantur; et eisdem Bohemis de ablatis rebus satisfactio impendatur.

XX. Item, quod octave maiores et minores iuxta contenta decreti quondam Mathie regis bone memorie suo statuto termino^{vii} semper celebrentur et durent iuxta contenta decreti quondam Wladislai regis. Item breves brevium super quinque casibus et transmissionales vigesimo die festi beati Jacobi incipiantur et continuo celebrentur. Cause vero factum iurium possessionariorum impignoraticiorum concernentes in termino celebracionis brevium iudiciorum semper iudicentur.

^{vi} C. *impignorando*.

^{vii} F. G40. *tempore*.

XXI. Item, ut solum maiestas regia et nemo dominorum prelatorum preter simplicem canonicatum beneficium conferendi habeat facultatem, non tamen externis, sed Hungaris et corone Hungarie subiectis.

XXII. Item, ut palatinus modernus et eciam futurus in iudiciis et consilio et aliis eciam omnibus, que ad officium suum pertinent, tractare et execucionem facere valeat. Statutum est denique, ut amodo deinceps non per tumultum vel alia via, et racione simplici, sed iuridice officium palatinatus auferatur, et pro tali quidem crimine, ut non saltem officio, sed et capite privetur; alias duret semper ipsum palatinatus officium vita comite. Et superinde regia maiestas literas suas dare dignetur, quas penes sacram coronam conservandas locari faciat, ne quis in futurum tumultuose contra palatinum invehi audeat.^{viii}

XXIII. Item, quia solent nonnulli dominorum sub nomine iuris patronatus ecclesiarum bona abbatum et religiosorum, fratrum atque monialium, tempore connumeracionis pecuniarum exercitualium inter bona sua facere connumerari, unde stipendarii comitatum in plerisque comitatibus essent diminuti; igitur statutum est, ut omnia huiusmodi religiosorum bona amodo deinceps in medium comitatus connumerentur, ut exinde numerus stipendiariorum augeatur, et nullus dominorum pretextu iuris patronatus huiusmodi ecclesie bona pro se connumerari facere audeat, exceptis huiusmodi beneficiis, que de bonis et hereditatibus dominorum essent fundata et excerpta.

XXIV. Item, quod reginalis maiestas, prout eciam ex sua gracia regnicolis se facturam obtulit, officia sua, quocunque nomine censeantur, Hungaris et quidem personis benemeritis iuxta contenta decreti distribuere dignetur.

XXV. Item, ut dominus cancellarius curet universas literas regias ita extradare, ut unas contra alias, prout hactenus consuetum fuit, contra regni consuetudinem nemini dare debeat.

XXVI. Item, ut omnes litere obligatorie et que contra libertatem regni externis nacionibus date essent, nullius sint vigoris et firmitatis, et de cetero sua maiestas tales literas nemini concedere dignetur.

XXVII. Item, ut maiestas sua, sicut ore suo respondit suis fidelibus regnicolis, literas proscriptionales contra Stephanum Werbewczy et Michaelem Zoby, suos infideles iubeat extradari, et ipsos proscriptos iuxta eorum demerita puniri mandet.^{ix}

^{viii} Ko. add. *Ad quem articulum licet maiestas regia consenserit, requisivit tamen tam dominos prelatos, quam barones, ne quid tale a se peterent, quod esset vel a libertate et ab antiquo ac comprobata consuetudine regni vel eciam a decreto eiusdem regni alienum.*

^{ix} Ko. loco *et ipsos ... mandet* add. *Iuxta eorum demerita puniri non negligantur.*

XXVIII. Item, ut quilibet dominorum et nobilium non banderiatu, qui ad minus quinquaginta equites ratione bonorum suorum tenere non posset, pecunias exercitiales in medium nobilium illius comitatus, ubi bona sua habet, dare sit adstrictus.

XXIX. Item metas Hungarie cum Moravis et Austrialibus regia maiestas rectificare et castra illa impignorata, ad quorum redemptionem per quondam dominum Georgium archiepiscopum Strigoniensem notabilis quedam summa pecuniarum est legata, maiestas sua redimere dignetur.

XXX. Item, ut sua maiestas metas per dominum palatinum inter Cumanos et Philisteos superioribus annis erectas et tandem per officiales maiestatis sue distractas de novo erigere faciat et nihilominus in illis locis, in quibus adhuc non esset revisio facta, dignetur maiestas sua debitam fieri facere revisionem et metarum rectificationem.

XXXI. Item, ut statim universi domini et comitatus gentes suas in pleno numero iuxta contenta decreti conservare et iuxta mandatum regie maiestatis ad loca necessaria bono modo armatas expedire et absque mora destinare debeant, ut capitaneum sue maiestatis audiant illique obediant.^x

XXXII. Item, ut gentes dominorum baronum sine heredibus decedencium ratione bonorum eorundem illi, apud quos ipsa eadem bona habentur, iuxta contenta decreti conservare sint adstricti.

XXXIII. Item, quod cum maiestatis sue regie sint consiliarii domini prelati et barones, est in arbitrio maiestatis sue retinere apud se, quos maiestas sua voluerit, tamen maiestas sua eligat etiam octo ex nobilibus et regnicolis, qui consilio maiestatis sue intersint.

XXXIV. Item, quibus litere aliquae sub sigillo Stephani Werbewczy titulo palatinali sunt emanate, ex quo idem ipse Werbewczy contra auctoritatem sue maiestatis et antiquam libertatem ac consuetudinem regni per apertam factionem in ipso conventu Hathvaniensi contra mandatum regie maiestatis celebrato se in palatinum erexerat et ex eo pretextu aliis etiam demeritis suis ita exigentibus sit nota infidelitatis iure mediante iuxta contenta decreti condemnatus, ne tamen ex hoc iura aliquorum minui contingat, propterea statutum est, ut huiusmodi literas, in quantum eodem rite et legitime existunt emanate, dominus Stephanus de Bathor palatinus sine ulla solutione pecuniaria roborare expedireque et extradare faciat.

XXXV. Item, quia dicuntur aliqui dominorum tales prerogativas habere, ut coram comitibus parochialibus in causis contra eos motis vel movendis iuri adstare nollent, dignetur^{xi} regia maiestas huiusmodi literas sive prerogativas cassare et abolere.

^x Ko. add. articulum. *Item maiestas sua presertim propter tempora periculosa voluit, quod aliqua pars dominorum consiliariorum de utraque ordine, tam prelatorum, quam baronum apud maiestatem suam remaneat, cum quibus de negociis occurrentibus et de periculis regno imminentibus propulsandis consultaret. Debet etiam facultatem (dare) regnicolis, ut si vellent, aliquos de medio ipsorum eligerent in consilium maiestatis sue admittendos, tales tamen, qui melius servicio essent addicti.*

^{xi} Ko. loco dignetur ... abolere add. *que iuxta sententiam dominorum aboleantur.*

XXXVI. Item, ut maiestas sua regia in eodem pondere et liga bonas monetas cudi faciat, sicut illo tempore, quo cuprea moneta cudi incepta^{xii} est, cudebantur; et cupream istam monetam ad cameras per suum thesaurarium cambiri faciat, ita ut tribus cupreis monetis una bona moneta cambiatur. Et locus campsonis fiat Bude, et nemo alter preter thesaurarium, quicumque ille sit, cambire valeat, et thesaurarius regius super eo, ut monetas ipsas iuxta ordinationem regnicolarum et dominorum ab omnibus cambire non permittet, iuramentum prestare debet. In emendis et vendendis rebus quibuscunque usque ad festum beati Jacobi apostoli nunc venturum per duos quilibet accipere debeat; elapso autem ipso festo nemo hominum hac ipsa moneta amplius uti presumat, nihilominus tamen thesaurarius teneatur, quousque ipsa cuprea moneta duraverit, semper cambire. Ubi vero ad ipsam campsonem portarentur alique pecunie que extra veram, ligam cuse viderentur, campsor huiusmodi monetarum recognoscat, quis illas cudi fecerit, et talis per maiestatem regiam iuxta contenta decreti puniantur, nihilominus tamen a campso recipiantur.

XXXVII. Item,^{xiii} quoniam autem in Bohemia, Slesia et Moravia monete cupree libere cudebantur, ideo si qui de huiusmodi regnis externis cupreas monetas induxerint vel induxisse comperti fuerint, ablati prius ab eisdem universis ipsorum bonis, capite plectantur.

XXXVIII. Item simili pena puniantur et illi, qui extra cameram regiam cambire vel ex hoc regno huiusmodi cupreas monetas educere deprehensi fuerint.

XXXIX. Item babka, cruciferi alieque monete externe in hoc regno currant durante generali expeditione, et amplius nemo huiusmodi monetis externis uti presumat.

XL. Item propter necessitates instantes et pericula imminencia statutum est, ut cum subsidium unius floreni per regnicolas anno preterito maiestati sue oblatum nondum sit eciam pro media parte exactum, ideo de omnibus comitatibus et de omnium bonis, ex quibus illud nondum esset exactum, extunc sine mora exigatur et ad manus thesaurarii regii fideliter administretur. Et ultra hec, ut melius possit regiis ac regni necessitatibus et defensionem subveniri, obtulerunt iidem domini prelati et barones ac regnicole se de singulis jobagionum suorum portis^{xiv} singulos

^{xii} E. loco *sicut ... incepta* est add. *in qua priores bone monete*; Ko. loco *quo cuprea ... incepta* est add. *genitoris sui pie memorie*.

^{xiii} Ko. loco art. add. *Item, quia regnicole multum instanter egerunt apud maiestatem regiam de fodinis Bistriciensibus de manibus Fucarorum auferendis, allegantes plurimas causas, quare id fieri deberet, ideo maiestas sua volens et subditis suis morem gerere et promissionem suam literis suis mediantibus factam non violare, decrevit fodinas ipsas infra unius anni integri revolutionem a Fucaris illis non auferre, verum contenta est ad preces regnicolarum suorum de fodinis ipsis post elapsum annum id facere, quod maiestati sue et huic regno erit utilius, et quod per eosdem regnicolas suos est petatum.*

^{xiv} Ko. *singulis eorum jobagionibus*.

quingenta denarios bone monete incluso lucro camere, ad festum beati Martini^{xv} proxime venturum daturos.

^{xv} F. add. *episcopi et confessoris*.

8 May 1526

Articles presented at the diet at St George's by the lord prelates, barons, and gentlemen of the realm¹ in 1526 and confirmed and approved by the royal majesty.

1. Then, all the lord prelates, barons and gentlemen of the realm decided by common consent and humbly submitted to the royal majesty at their present diet held on the field of Rákos² on the feast of St George the Martyr [1] that His Majesty shall deign to use the authority and power he has and do with mature deliberation all that concerns the governance of the realm, the proper collection, increase, and correct spending of His Majesty's revenues as well as everything else pertaining to the defense, liberty, and other needs of the realm.

2. Then, because, except for the election of the palatine—which, according to the decree has to be done jointly by the royal majesty, the lord prelates and barons and all the gentlemen of the realm³—the choice of all his other officeholders, by whatever name they are called, pertains to the royal majesty, [1] His Majesty can either retain his present officeholders or name any others at his pleasure.

3. Then, because the fault and carelessness of His Majesty's officials usually results in much waste, therefore, so that this be avoided and cease henceforth, it has been decided [1] that an honest, industrious, and just and steadfast treasurer shall be right away chosen by the royal majesty⁴ who shall hold, manage and administer for the benefit of the royal majesty all mines (except the mines of Banská Bistrica, the farm of which lasts for a year), chambers of salt, thirtieths, twentieths, fiftieths, arbitrage of gold exchange, mints, and in general all royal revenues⁵; [2] and in order that

¹ The term *regnicola* (verbatim: inhabitants of the kingdom) was used in medieval legal documents for the members of the enfranchised noble nation; we translate it as gentlemen of the realm.

² For the location "Rákos", see János M. Bak and András Vadas, "Synods and Diets in Buda and Its Environs," in: Balázs Nagy, Martyn Rady, Katalin Szende and András Vadas eds. *Medieval Buda in Context* (Leiden-Boston: Brill 2016) pp. 322-44.

³ The count palatine was by the later Middle Ages the highest officer of the realm, deputy of the king, judge and commander of the army. The claim of the assembled nobility to the right to "elect" him was raised as early as the fourteenth century but became accepted practice only in the sixteenth.

⁴ In 1518, the diet decided about a financial plan that would have given the power of finances to elected officials (see **1518 Bács:1**) but this plan failed quite soon. See György Bónis, "Ständisches Finanzwesen in Ungarn im frühen 16. Jahrhundert." In: *Nouvelles Études historiques*. Budapest: Akadémiai, 1965, vol. 1, pp. 83–103. In 1526, Elek (Alexej) Thurzó (c. 1490–1543), one of the financial advisors of Louis II accused of having introduced the failed *moneta nova*, was given the office of treasurer.

⁵ The thirtieth was by that time a custom's duty on goods imported or exported; at the Transylvanian border it was the twentieth. The fiftieth was a tax rendered originally by Wlach/Romanian shepherds, probably in kind, by this time a direct tax on members of that minority. The income from the salt mines was one of the major revenues of the crown. See: János M. Bak, "Monarchie im Wellental: Materielle Grundlagen des ungarischen Königtums im späteren Mittelalter", in R. Schneider, ed., *Das*

he be more steadfast in his office and in the administration of the revenues, the royal majesty shall assure him that he will not be disturbed in his office until the diet to be held in three year's time at St George's, or, if it pleases His Majesty and he serves well, even further. [3] And this royal treasurer has to promise under oath that he will with the help of the royal majesty exact the royal revenues from the hands of all without favor, administer them properly and justly and permit no one any waste. Should there be any spendthrifts, he will report them to the royal majesty and the counselors, and he shall not allow anyone to do anything unworthy, but will take care to report to the royal majesty and the counselors anything incorrect.

4. Then, that before all else, this treasurer shall provide for the border castles, [1] and then shall and be obliged to pay the salaries of those holding them and give satisfaction to those serving on the border without delay and hesitation. [2] Where the other incomes of His Majesty do not suffice, he shall assign them the subsidy offered by the gentlemen of the realm to His Majesty.

5. Then, that the treasurer shall according to the wish of the gentlemen of the realm provide for those things that His Majesty needs for fielding his *banderium*⁶ and other things that are necessary for the defense of the country and the needs of his court.

6. Then, that the truth shall be found out about all the royal revenues and the wasting of these, [1] and whoever should be found guilty shall be punished according to his demerits, without any favor, but by way of law and justice.⁷

7. Then, that the treasurer shall, according to the needs of the time when the management of the campaign should not be neglected, choose honest and faithful agents for their offices, [1] especially such as will be busy about campaign equipment and who should build sloops and other boats, and maintain the repair of war machines and the provision of cannon balls and bullets pertaining to the course of war.

8. Then, that the royal majesty shall ready himself for the campaign, [1] so that he field his *banderium* and not only those troops that he is held to keep ready by the contents of the decree, but as many and more as he is able to according to the sufficiency and quantity of his revenues.

spätmittelalterliche Königtum im europäischen Vergleich. (Sigmaringen: Thorbecke, 1987), pp. 347- 87 and István Draskóczy, "Salt Mining and the Salt Trade in Medieval Hungary from the mid-Thirteenth Century until the End of the Middle Ages," in: *The Economy of Medieval Hungary*, József Laszlovszky et al. eds. (Leiden-Boston: Brill, 2018) pp. 205–18.

⁶ *Banderia*, (from the Italian *bandiera*, 'banner') were troops supplied by the king, the queen, the barons, and the prelates (later also by other major landowners) in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, hussars). Those obliged to field *banderia* were called banderial lords.

⁷ Charges against royal treasurers, such the converted Jew Imre Szerencsés or Elek Thurzó were raised and dropped by the nobility at various diets.

9. Then, the prelates as well as the barons shall maintain troops beyond those they are obliged to hold by the contents of the decree; moreover, the more substantial nobles shall, to preserve the fatherland, also shoulder the burden of the war with as many as they can; [1] and, furthermore, they must rise up personally together with the entire nobility and oppose such a great enemy with the royal majesty as fast as they can.

10. Then, that also all peasants must be ready one by one; [1] and if extreme necessity demands and the royal majesty so orders, one by one, or if His Majesty so wishes, the fifth part of them, shall rise well armed⁸ and assemble wherever His Majesty designates; [2] nevertheless, peasants shall not be mobilized one by one except in extreme danger.

11. Then, all the lord prelates, barons, and nobles are in this dire necessity to be assessed according to their resources—however, not in the usual way but according to urgent need—how many soldiers, hussars, musketeers, and engines and their equipment as well as other necessities of war they have to field—so that they may all the better (as said above) be ready to join the campaign prepared.

12. Then, that the Transylvanian constitutions on military service shall be examined; and if they seem good, followed.⁹ [1] The same is to be done regarding the lords from Slavonia.¹⁰

13. Then, that besides this His Majesty shall choose some men from the soldiering order, experts in matters of war and military science, with whom he shall discuss and take counsel about everything pertaining to the campaign.

14. Then, both our Holy Father and other Christian princes are to be lobbied to send help against the enemy.

15. Then, because those who lost border castles have remained unpunished, on account of which even more border castles have been lost, [1] we therefore decided that those who lost border castles shall be punished according to the contents of the decree, [2] so that those others guarding the borders, thus warned, may guard those border castles more faithfully and zealously; [3] and the royal majesty ought not, in contravention of the decree, pardon those who lost border castles; and

⁸ Cf. the prohibition of peasants to bear arms in **1514:60**. It was never clear, whether the *militia portalis* (referring to *porta*=tenant plot), instituted in 1397, prescribing the mobilization of soldiers according to the number of plots, referred to hired soldiers or to armed peasants. See: András Borosy, “The *militia portalis* in Hungary before 1526,” in János M. Bak and Béla K. Király, eds., *From Hunyadi to Rákóczi. War and society in late medieval and early modern Hungary*. East European Monographs, 104, (Brooklyn: Brooklyn College, 1982), pp. 63–80.

⁹ Transylvanian nobles and Saxons were to field a prescribed number of warriors ever since the thirteenth century; see Elemér Mályusz, “Hungarian Nobles in Medieval Transylvania,” *History and Society in Central Europe 2* (1994) pp. 25–54.

¹⁰ Slavonian nobles seem to have served always in the same way as those from Hungary proper.

if he should do so, it shall be invalid [4] and they shall be subject to the penalty according to the content of the decree.¹¹

16. Then, because the poor nobles were so much exhausted by costs due to the continuous holding of diets that many of them, pledging their goods on account of the high expenses, came to be subject to eternal servitude, [1] it was, therefore, decreed that henceforth, unless great necessity threatens, they shall not be forced to come together, except at the usual terms of the diet.

17. Then, because the diet of Hatvan was held against the orders of the royal majesty and the liberties of the realm—as the royal majesty deigned to inform us by his letters sent to all counties¹²—we decreed that it be of no validity or force; [1] moreover, if any damage detrimental to the authority of the royal majesty or the liberty of the realm followed from that meeting, His Majesty may deign, together with his council, to repair it.

18. Then, since no general campaign can be led without a general commander, the royal majesty shall choose one or two captains general¹³ who shall be suitable to lead such a campaign.

19. Then, that the truth has to be established about those who robbed the property of the Czechs in front of His Majesty's castle and they are to be punished according to their deserts; [1] and satisfaction shall be given to the Czechs for their lost property.¹⁴

20. Then, that the major and minor octave courts shall according to the contents of the decree of the late King Matthias of blessed memory always be held and continue [1] according to the decree of the late King Wladislas.¹⁵ [2] Then short term lawsuits, the five cases [of acts of might],¹⁶ and referrals are to be started always on the twentieth day after St James's and continue uninterrupted.

¹¹ **1518 (Bács):30.**

¹² The king explicitly forbade the lords and the counties to appear at the Hatvan diet, and announced that the meeting of the nobles did not have the right to make statutes. This mandate was actually sent out to the counties before the diet of Hatvan; see Szabó, *A magyar országgyűlések*, pp. 85–6.

¹³ Paul Tomori (b. c. 1475, archbishop of Kalocsa from 1523) and George Zápolya (a. k. a. Szapolyai) (b. c. 1487) perpetual *ispán* of Szepes were charged with the general command; both fell at Mohács.

¹⁴ The carriages of Adam von Neuhaus, the Bohemian chancellor of Louis II, were robbed in front of the gates by some townsmen of Buda.

¹⁵ **1486:3, 1492:40.**

¹⁶ “Act of might” (*potentia, factum/actum potentiae*) was a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might, the traditional “five cases” of acts of might included the violent attack on noble houses, the seizure of noble estates, the unlawful detention of a nobleman, the killing or assaulting of one.

[3] Lawsuits over the pledging of property rights shall always be treated during the short court sessions.

21. Then, that only the royal majesty and none of the lord prelates shall have the right to confer benefices, except simple canonries, [1] but not to foreigners, only to Hungarians and subjects of the crown of Hungary.¹⁷

22. Then, that the present palatine as well as any future one may treat and make executions in all matters pertaining to his office, in law courts, and in the council. [1] It was further decided that henceforth the palatine may not be removed from his office by riot or for some other trivial reason, but only by due process, [2] and for such a crime for which he would lose not only the office but also the head; [3] otherwise the office of palatine shall be for life.¹⁸ [4] And the royal majesty may deign to issue his charter on this which shall be placed next to the Holy Crown;¹⁹ [5] so that in the future nobody should dare to rise in riot against the palatine.

23. Then, because several lords had at the time of the conscription of military dues, the goods of abbots, friars, and nuns written into their own goods by title of the right of patronage of churches, and so the number of paid soldiers in several counties diminished, [1] therefore, it has been decreed that the goods of all these regular clergy shall be conscribed with those of the county, so that the number of paid soldiers be increased. And none of the lords shall dare to have ecclesiastical goods of this kind conscribed with his own under pretext of the right of patronage, [2] except those benefices that were founded and taken out of the goods and hereditary property of the lords.

24.²⁰ That the majesty of the queen shall deign—as she graciously promised to do to the gentlemen of the realm—to distribute her offices of whatever name to Hungarians and indeed to well deserving persons according to the contents of the decree.²¹

25. Then, that the lord chancellor has to take care that royal letters are issued so that he does not issue to anyone one letter against another, in opposition to the custom of the realm, as has been hitherto practiced.

¹⁷ It is worth noting that “Hungarians,” i. e. ethnic Magyars and other, non-Magyar subjects of the crown are differentiated, but treated alike.

¹⁸ This article is aimed at avoiding events such as that happened at the Hatvan diet, where Palatine Báthori was deposed and Werbőczy elected.

¹⁹ The actual jewel is here predicated as a guardian of the rights of the kingdom. Already Fritz Hartung, *Die Krone als Symbol der monarchischen Herrschaft im ausgehenden Mittelalter* (Abhandlungen der preussischen Akademie der Wissenschaften, Phil.hist. Klasse Nr.13, 1940) repr. in Manfred Hellmann, ed., *Corona regni*, (Darmstadt: Wiss. Buchges. 1961) pointed out this “literal” (in contrast to the usual metaphoric) use of the notion of “crown.”

²⁰ Art 40 in the MTvt/CJH I: 853.

²¹ See **1524/25:1**.

26. Then, that all letters of obligation that were given to foreign nations against the liberties of the realm are to be null and void. [1] And henceforth the royal majesty shall not deign to grant such letters to anyone.

27. Then, that His Majesty shall, as he promised orally to his faithful gentlemen of the realm, issue letters of proscription against Stephen Werbőczy and Michael Szobi, men faithless to him²² [1] and order that these proscribed men be punished according to their deserts.

28. Then, that any of the lords and nobles not keeping *banderia*, who cannot keep at least fifty cavalry by reason of their goods, is obliged to give the military dues to the nobles of the county where he has his goods.

29. Then, the royal majesty shall deign to rectify the borders of Hungary with the Moravians and Austrians, and redeem those pledged castles, for the redemption of which the late Archbishop George of Esztergom²³ has bequeathed a significant amount of money.

30.²⁴ Then, that His Majesty will have built anew those borders that the lord palatine had built in the past years between the Cumans and *Jász*, but which were removed by officials of His Majesty, [1] and likewise in those places where the revision has not yet been done, the royal majesty shall deign to have a suitable revision and rectification of the borders carried out there.²⁵

31. Then, that all the lords and counties must immediately maintain their troops in full number according to the contents of the decree, and on the royal majesty's order send and deploy them well armed to the necessary locations without delay, [1] so that they may listen to and obey His Majesty's captain.

²² Stephen Werbőczy, (1458-1541) lawyer, politician, high court judge, author of the **Tripartitum**, and speaker for the lesser nobility, was elected count palatine at the Hatvan diet; he fled after his proscription and after 1526 supported King John I; he died as a Sultan-appointed judge in Buda. Michael Szobi (d. 1527) was his *senior* and supporter (also father-in-law), for a time delegate of the lesser nobles in the royal council. See András Kubinyi, "Stefan Werbőczy als Politiker in der Zeit vor Mohács (1526)", in: *The Man of Many Devices Who Wandered Full Many Days ... Festschrift in Honor of János M. Bak*, Balázs Nagy and Marcell Sebők, eds. (Budapest: CEU Press, 1999) pp. 558-82, here 571-4.

²³ George Szatmári was bishop of Veszprém 1499–1501, of Oradea 1501–1505, of Pécs 1505–1521, archbishop of Esztergom 1522–1524, royal-secretary 1494–1499, secret chancellor 1499–1521, and arch-chancellor 1521–1524.

²⁴ Art 41 in the MTvT/CJH I: 853.

²⁵ The Cumans and the *Jász* (As, in fact Alans, called by the Biblical name Philistines in medieval Hungary), originally nomadic people who settled in Hungary in the thirteenth century (see Nora Berend, *At the gate of Christendom. Jews, Muslims and "Pagans" in medieval Hungary, c. 1000–c. 1300*. Cambridge: Cambridge University Press, 2001), were by this time mostly settled agriculturalists, in good part subject peasants (see György Györffy, "A kunok feudalizálódása" [The feudalization of the Cumans] in György Székely, ed. *Tanulmányok a parasztság történetéhez a 14. században* (Budapest: Akadémiai 1963) pp. 248-75. Conflicts between the two groups, whose judge was the palatine *ex officio*, were recurrent.

32. Then, that the troops of lord barons who die without heirs must be maintained by those who take over their goods by virtue of these same goods, according to the content of the decree.

33. Then, that since the prelates and barons are the counselors of His Majesty, it is in His Majesty's pleasure to keep with him whomsoever His Majesty wishes; [1] however, His Majesty shall also choose eight men from among the nobles and gentlemen of the realm who shall attend His Majesty's council.²⁶

34. Then, as there are letters issued under the seal of Stephen Werbőczy, titled palatine, and as Werbőczy raised himself to the palatinate at the Hatvan diet held against the command of the royal majesty through open rupture with the authority of His Majesty and the ancient liberty and custom of the realm, and therefore—other misdeeds of his also so demanding—was according to the contents of the decree lawfully condemned of the charge of infidelity,²⁷ [1] nevertheless, lest anyone's rights may be diminished because of this, it was decided that the lord palatine, Stephen Bátori,²⁸ shall confirm, have prepared and handed out such letters, inasmuch as they were issued properly and legitimately, without any payment of fees.

35. Then, because some lords say that they have such prerogatives that they refuse to stand trial before the county *ispáns* in cases moved or to be moved against them, the royal majesty shall deign to revoke and cancel such letters or privileges.

36. Then, that the royal majesty shall have such good coins minted, of the same weight and fineness as at the time when copper coins were first minted; [1] and he shall have that copper money changed by his treasurers in the chambers, [2] so that three copper coins are exchanged for one good coin. [3] And the place of exchange shall be in Buda, and no one other than the treasurer, whomsoever he may be, be allowed to do the exchange, [4] and the royal treasurer has to swear an

²⁶ The inclusion of lesser nobles into the royal council was decreed several times and may have been reality for short periods, but their influence was minimal, see András Kubinyi, "Beisitzer aus dem mittleren Adel" in *Stände und Ständestaat im spätmittelalterlichen Ungarn*. (Herne: Schäfer, 2011) 233- 52.

²⁷ The charge of infidelity, (*nota infidelitatis*) referred to specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. (*sententia capitalis*): That meant the loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim's heirs retained his estates. If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary. This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. agreement, peace). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate.

²⁸ Stephen Bátori was *ispán* of Temes and captain general of the lower (southern) parts of Hungary 1509–23, count palatine 1519–23, September 1524–July 1525, and April 1526–1530.

oath that he will not allow others to exchange the money, according to the order of the gentlemen of the realm and the lords. [5] Until the next feast of St James, anyone may accept two in selling and buying any goods, but after that feast nobody shall dare to use that coin. [6] Nevertheless, the treasurer shall exchange it for as long as that copper money lasts. [7] If, however, any coins that appear to have been minted not in the true fineness are presented for exchange, the money changer shall find out who minted them—and these have to be punished by the royal majesty according to the decree—but they should still be accepted by the money changer.²⁹

37. Then, because in Bohemia, Silesia, and Moravia the minting of copper money was freely allowed, [1] therefore those, who import from these foreign countries copper coins, or who can be proved to have imported them, shall, after all their goods are confiscated, be beheaded.

38. Then, those who are caught exchanging these copper coins outside the chambers or taking them out of the country are to be subject to the same penalty.

39. Then, during the general levy, *babka*, *Kreutzers*³⁰ and other foreign coins may also circulate in this country; [1] thereafter nobody shall dare to use foreign coins.

40. Then, because of the present necessities and imminent dangers, it has been decreed [1] that, because not even a half of the subsidy of one florin, granted last year to His Majesty by the gentlemen of the realm, has been collected, therefore it shall be immediately collected from every county and from the goods of everyone from whom it has not yet been collected, and faithfully directed to the hands of the royal treasurer. And beyond this, in order to be able better to assist the royal needs and defense of the realm, [1]³¹ the lord prelates, barons and gentlemen of the realm have offered to give by the next coming Martinmas fifty pennies in good money for every plot of their tenant peasants, including the chamber's profit.³²

²⁹ This article aimed at liquidating the monetary “reform” of 1521, by which the silver pennies were replaced by the *nova moneta*. On the reform and its consequences, see Zsuzsanna Herrmann: “Államháztartás és a pénz értéke a Mohács előtti Magyarországon. Megjegyzések Thurzó Elek költségvetési előirányzatához”. [Budget and the value of money in pre-Mohács Hungary. Comments on the budget proposal of E. Th.] *Századok* 109 (1975) 301–336. See Márton Gyöngyössi, “Minting and Financial Administration (1387–1526),” in: Laszlovszky *et al.* eds. *The Economy* pp. 295–308.

³⁰ *Babka* was originally a Czech coin, worth 1/3 of a Kreuzer. In Hungarian it became *batka* and acquired a proverbial meaning of ‘very low value’ (“not worth even a wooden *batka*”). *Kreuzer* came from Southern Germany and were worth 1/60 of a gold florin.

³¹ In the MTvT/CJH, this is article 39.

³² By Martinmas of 1526, the medieval kingdom ceased to exist. After the defeat at Mohács on August 29 and the death of King Louis while trying to escape, some lords elected Ferdinand I, others supported John Zápolya, who was confirmed by the sultan. By 1541, Buda was taken by the Ottomans and the country divided in three parts that was to last for some 150 years. See Géza Perjés, *The Fall of the Medieval Kingdom of Hungary: Mohacs 1526 - Buda 1541*; trans. Mario Fenyő (Boulder, Social Science Monographs, 1989) online: <http://www.hungarianhistory.com/lib/warso/warso01.htm#Heading3>.

Stephen Werbőczy's *Tripartitum opus iuris consuetudinarii inclyti regni Hungariae* (1517)

The author, his work, and its historical context are discussed by Martyn Rady, “Stephen Werbőczy and the Tripartitum,” below. Its centuries long validity is discussed by László Péter, as “The Indestructible Authority of the Tripartitum,” in *DRMH* vol. 5, xiii–xxvi, reprinted below among the Studies to medieval Hungarian laws. The subjects of both essays have been further developed in Martyn Rady, *Customary Law in Hungary: Courts, Texts and the Tripartitum* (Oxford: OUP, 2015).

MSS: none known to have survived.

EDD: A comprehensive list of fifty-one editions is given by István Csekey, “A *Tripartitum Bibliográfiája*”, see Rady’s preface, n. 3.

LIT: the literature is too large to be listed here. Writings up to 1942 are in Csekey, as above. Significant new literature is cited in Martyn Rady, *Customary Law in Hungary*.

THE PRESENT EDITION: The Latin text reproduces as closely as is feasible the first edition of 1517, printed by Johann Singriener in Vienna. That edition contains a few peculiarities, not unique to sixteenth-century books, but disturbing for the modern day reader. The printer added—in no systematic way—slashes (*vergulae suspensivae*) (/) to the text, without these apparently meaning anything in terms of punctuation. We decided to omit them. Then, the ampersand (&) is frequently preceded by either a comma (,) or a colon (:), again without any grammatical or contextual significance. We eliminated these as well, occasionally inserting a comma, where we thought the meaning warranted it. While revising the Latin text, we realized that on some occasions punctuation was needed even though the printer omitted it, and in a few cases, we disregarded a period (followed by capital letter) when the grammar (especially the *verbum regens* at the end of the next sentence) clearly demanded a comma and the continuation of the sentence. Otherwise, we kept the (similarly rather haphazard) use of capital letters and the inconsistencies in titles (Tit. for Titulus and so on). Obvious typographical errors (often u for n and similar ones) were tacitly corrected as well. Common abbreviations were, of course, expanded, as far as we could, in the way the author/printer used them. No attempt was made to “normalize” the Latin—for example, in the use of æ or *e caudata* (ę)—even if the original is not consistent; only the accepted use of u and v has been normalized. The 1517 edition contains a page of ERRATA at the end of the text; these we have taken into account and made corrections accordingly. In a few cases that list itself is faulty; in these places we have inserted the right correction. However, we divided the chapters (*Tituli*) of the text (and the English translation) into paragraphs [§] that did not feature in the original. Since the older editions of the *Tripartitum* have from the eighteenth century onwards included these subdivisions and they are consistently referred to in academic literature, it seemed helpful to retain them. Finally, we added as an Appendix the three poems that were added to the legal text in the 1517 edition, even though they do not belong to the *Tripartitum* proper and were not reprinted in its later editions. Since this book was published in the lifetime of the author, we may presume that he suggested their

inclusion, for both authors were close friends of Werbőczy and two of the epigrams are dedicated to him.

The TRANSLATION follows the principles of DRMH, attempting to give a well-readable English text, trying neither to simplify the often convoluted “Humanist” Latin of the author, nor to use artificial archaisms. The problems of rendering specific Hungarian institutions and other notions in English was discussed in the general Preface to DRMH; if necessary, annotations are added. The annotations were kept to a minimum: complete comments on the text would have amounted to a history of medieval Hungarian law; that could not have been attempted here.

Titles cited in abbreviation:

Accursius. *Glossa Ordinaria ad Digestum Vetus*. (Venice: Jenson, 1478)

Azo. *Summa Aurea super Codice et Institutis*. (Lyon: Fradin, 1557) [reprinted, Frankfurt/M: Minerva, 1968].

Bartolus, *Commentaria*. 3 vols. (Basle: Froben, 1562).

Digest: Justinian’s *Digest* as in *Corpus Iuris Civilis*. vol 1, Theodor Mommsen and Paul Krueger. eds. (Berlin, 1954). English translation by Alan Watson (2 vols, Philadelphia, 1985).

Gratian, D: *The Decretum of Gratian* as in *Corpus Iuris Canonici*. vol 1, () Emil Richter and Emil Friedrich, eds. (Leipzig, 1871).

Hostiensis, *Summa Aurea*. (Lyon: Marchant, 1548).

Institutes: Justinian’s *Institutes* as in *Corpus Iuris Civilis*. vol 1, Theodor Mommsen and Paul Krueger. eds. (Berlin, 1954). English translation and introduction by Peter Birks and Grant McLeod (London, 1987).PL: J. P. Migne, *Patrologiae Cursus Completus*, Series Latina, 221 vols. (Paris, 1844– 64).

SL: *Die Summa Legum brevis, levis et utilis des sogenannten Doctor Raymundus von Wiener-Neustadt*, Alexander Gál, ed., 2 vols (Weimar, Böhlau, 1926)

ST: *The Summa Theologiae of St Thomas Aquinas*. 5 vols, (Ottawa Institutus Studiorum Medievalis Ottaviensis,, 1941–5).

Martyn Rady

Stephen Werbőczy and his *Tripartitum*

Stephen Werbőczy's reputation rests on the *Tripartitum*, the code of customary law that he presented to the diet in 1514 and had published three years later in Vienna. Until the 1848 revolution, the *Tripartitum* retained a largely unimpaired authority in respect of Hungarian noble society and its legal relations. Its principles and provisions laid down the substantive law of noble landholding, the special privileges enjoyed by the Hungarian nobility, and the practices and procedures to be followed by the royal courts. Even after the formal abolition of noble status in 1848 and the accompanying destruction of the traditional forms of noble landownership, the *Tripartitum* continued to influence Hungarian public and private law. A part of its text was thus reinterpreted to buttress Hungarian claims to statehood within the Habsburg Monarchy.¹ Other portions remained intact as law until well into the twentieth century, and one fragment even found its way into the communist Civil Code of 1959.² In token of its centrality in Hungary's history, the *Tripartitum* has altogether gone through fifty-five separate editions, not including mnemonic, rhyming and other simplified versions.³ The present edition is thus the *Tripartitum*'s fifty-sixth. [... and this online one the fifty-seventh – JMB]

Biographical Outline

Although principally remembered for his *Tripartitum*, Werbőczy was more than just a lawyer. Indeed, for four decades he stood as one of Hungary's leading politicians. It is a measure of his achievement that Werbőczy should in the course of his career have occupied some of the most important positions in the Hungarian kingdom. In 1502, he was appointed protonotary of the courts of the judge royal and voivode of Transylvania, a position which effectively handed over to him a large part of the administration of justice in the kingdom. In 1516, he was made judge of the *personalis (személynök)*, in which capacity he gave out judgments in the royal name as Hungary's highest judicial officer. In 1525, he was elected palatine by the diet, making him the king's deputy, but after a royal coup mounted the next year Werbőczy was deprived of office and forced to flee to the countryside. This probably saved his life. A few months later, the royal host, over which as palatine he would surely have been a commander, was destroyed by the Ottoman army at

¹ László Péter, "The Holy Crown of Hungary, Visible and Invisible," *Slavonic and East European Review* 81 (2003, no 3): 421—510, pp. 467-486.

² The so-called "Millennium edition," edited by Dezső Márkus as part of the *Corpus Juris Hungarici* (Budapest: Franklin, 1897), thus places in large print those passages of the *Tripartitum* which the editor considered to be still in force at the time of publication. About a quarter of the text is so printed, although on largely arbitrary grounds. See also, István Szász, *Werbőczy és a magyar magánjog*, offprint of *Acta Juridico-Politica* (vol 2, Kolozsvár, 1942), p. 36. For the relevant part of the 1959 code, see Gyula Eörsi, "Richterrecht und Gesetzesrecht in Ungarn. Zum Problem der Originalität eines Zivilrechts," *Radels Zeitschrift für ausländisches und internationales Privatrecht* 30 (1966): 117—40, p. 137.

³ A comprehensive list of fifty-one editions is given by István Csekey, "A *Tripartitum* Bibliográfiája" [The Bibliography of the *Tripartitum*], in Elemér P. Balás et al., Werbőczy István, *Acta Juridico-Politica* 2 (Kolozsvár, 1942), 141—94. Since then, the Millennium edition has been twice republished with new introductions, and two facsimile reprints of the original 1517 text have been issued, although in identical editions (ed. and introduced by György Bónis, *Mittelalterliche Gesetzbücher Europäischer Länder*, hrsg. von Armin Wolf, vol 2: Frankfurt a/M: Sauer & Auvermann, 1969; Glashütten/Taunus: Detlev Auvermann, 1971).

the battle of Mohács (1526). In the wake of the defeat, Hungary was sundered by civil war. Werbőczy rallied behind the voivode of Transylvania, John Szapolyai, whom the diet elected king in 1526, and against Archduke (later Emperor) Ferdinand of Habsburg, who was crowned king the next year. Werbőczy remained in John's service until the king's death in 1540, occupying the position of chancellor. The first secular holder of this office, Werbőczy used his position to dominate both the judicial administration and much of the domestic business of government.⁴ Shortly after John's death, the Turks occupied the central portion of the kingdom, including the seat of government at Buda. Rather than retreating eastward into the fastnesses of Transylvania, Werbőczy remained in the capital. His last months were thus spent in the service of the pasha of Buda, in the curious role of judge of the Christians and, possibly also, of the local Ottoman garrison.⁵ During the course of his career, Werbőczy also took part in diplomatic missions to Venice, Rome, Worms, Nuremberg, Vienna and, on two occasions, to Constantinople. While attending the diet of Worms in 1521, he dined with Martin Luther, finding him 'foolish and ignorant'.⁶ Werbőczy's own brief foray into theology suggests the infirmity of his judgment.⁷

Chancellery and Diet

The bald outline of Werbőczy's career hardly does justice to the man and to the measure of his influence. Although Werbőczy was a nobleman by birth, his family was of humble stock, dwelling in north-eastern Hungary on estates which now straddle Hungary's border with Ukraine. Where land was lacking, education and the law beckoned. Like several of his forebears, the young Stephen thus chose a career in the law, learning first to read Latin and then to enter minor orders as a *lector* and *litteratus*. But rather than seeking pupilage with an established attorney, Werbőczy entered royal service, being appointed in 1492 a notary in the chancellery.⁸ He was then probably about twenty years old.⁹ Until this point, his education had been slight. We know that shortly before he entered the chancellery he had spent several months at Cracow university, but Cracow had no reputation for legal studies and aspiring lawyers usually soon moved on to Vienna or northern

4 Gábor Barta, "Konszolidációs kísérlet Magyarországon a mohácsi csatavesztés után" [Attempt at a consolidation after the defeat at Mohács] *Századok* ill (1977): 635—80, pp. 653—5.

5 Miklós Istvánffy (1538—1615) records Werbőczy as holding in 1541 the rank of a kadi askar. See his *A magyarok történetéből*, trans. László Juhász (Budapest: Magyar Helikon, 1962), p. 176; for the office, see *Encyclopedia of Islam*, New Edition, vol 4, 1973—78 (Leiden: Brill), pp. 375—6.

6 Vilmos Fraknói, *Werbőczy István életrajza* [Biography of I. W.] (Budapest: Magyar Tudományos Társaság, 1899), p. 172.

7 See thus his *Decem Divinorum Preceptorum Libellus*, printed by Singrenius in Vienna in 1524. A facsimile edition was published in Budapest (MTA Irodalomtudományi Intézete) in 1988. I am grateful to Peter Sherwood for drawing my attention to this edition.

8 We do not consider it likely that Werbőczy is the "Mag Sth de W," recorded in 1483 as a conservator in the chancellery, as argued by Fraknói, *Werbőczy István életrajza*, pp. 14—17. The office of conservator was surely too elevated to be in the possession of a notary so early in his career. See György Bónis, *Középkori jogunk elemei* [Elements of our medieval law] (Budapest: Közgazdasági és Jogi Könyvkiadó, 1972), p. 160. At this point, moreover, Werbőczy evidently preferred the toponym of Kerepeczi.

9 The date of Werbőczy's birth is uncertain. In 1540, the papal nuncio put him in his eighties, but for a man who had just led an overland mission to Constantinople this is implausible. We consider it more likely that he was born in the early 1470s.

Italy, which Werbőczy evidently preferred not to do.¹⁰ Nevertheless, by choosing a career in chancellery service, Werbőczy was able to compensate for his lack of formal education. At this time, the chancellery was led by churchmen who had often completed their education in Italy, earning doctorates there in both civil and canon law. There, they had drunk deeply at the wells of humanist learning, maintaining even after their return to Hungary a correspondence with leading Renaissance scholars, and transforming the seat of the kingdom's administration into 'more an academy than a chancellery'.¹¹ As a contemporary noted, 'Plautus and Pliny were closer to their hearts than Bartolus and Baldus.'¹² Werbőczy's exposure to humanist scholarship in the chancellery may well account for the large number of classical allusions included in the prefaces to the *Tripartitum*. The ill-considered and forced manner in which these references are often rendered in the *Tripartitum*'s text (most obviously in Werbőczy's tiresome account of literary style), suggest a classical education that was superficial and not systematically obtained. Nevertheless, the lack of interest shown by the leading men of the chancellery in legal scholasticism and the practice of the law had the advantage of putting much of its business into the hands of the notaries. It is a measure of the practical knowledge of the law which they obtained in their daily routines that the foremost notaries and 'office-managers', the protonotaries, should in the 1470s have taken over as the de facto judges (or *magistri iudicantii, itélőmesterek*) in the principal royal courts, acting on behalf and in the name of the king, palatine, judge royal and voivode.¹³ It was through this route that Stephen Werbőczy came himself in 1502 to the office of protonotary of the judge royal and voivode.

Experience and aptitude were, however, insufficient for a legal career. Hungarian noble society was shot through with bonds of dependence and preferment, by which a lesser man gave his service to one greater in return for rewards, favor, cash and even land. Despite the growing professionalism of the chancellery, these bonds of service or *familiaritas* were still vital for a lawyer. We do not know what personal connections put Werbőczy's foot on the first rung of the notarial ladder, although he may have been aided by a family link to the magnate Bátori family.¹⁴ Later, he appears to have tied his fortunes to Peter, Count of St George and Bazin, while also himself acting as patron and lord to lesser men.¹⁵ It was possible, however, to serve more than one master and, in this respect, Werbőczy's choice of a second patron was decisive. By no later than 1498, Werbőczy also stood in the service of Michael Szobi, in a relationship that was both intense and enduring. Indeed, it was in this year that Szobi made the first of several donations of land to Werbőczy, recording his services in both good and

10 András Kubinyi, "István Werbőczy als Politiker vor Mohács (1526)," in Balázs Nagy and Marcell Sebők (eds), ...*The Man of Many Devices, Who Wandered Full Many Ways...* *Festschrift in Honor of János M. Bak* (Budapest and New York: CEU Press, 1999), 558–82, p. 559.

11 Bohuslav z Lobkovic to Jan Slechta. Cited in Jenő Ábel, *Egyetemeink a középkorban* [Our universities in the Middle Ages] (Budapest: MTA, 1881), p. 43.

12 Philippus Beroaldus in 1496. Cited by György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Men learned in the laws in Hungary before Mohács] (Budapest: Akadémiai Kiadó, 1971), p. 310.

13 Bónis, *A jogtudó értelmiség*, p. 261.

14 Kubinyi, "István Werbőczy als Politiker," p. 559

15 Bónis, *A jogtudó értelmiség*, pp. 331, 366.

bad times, ‘and especially in the furtherance of his suits’.¹⁶ Szobi later adopted Werbőczy as his son and heir, although there is no evidence (as is sometimes claimed) that Werbőczy married into his family.¹⁷

Michael Szobi was descended from a wealthy Transylvanian family which had risen to prominence in the middle decades of the fifteenth century, mainly in the service of John Hunyadi (governor of Hungary, 1446-53) and of his son, King Matthias Corvinus (1458-90). Following Matthias’s death and the election of the Polish Władislas Jagiello as king, Szobi lost much of his influence and standing, and moved into the ‘opposition’, acting as an elected placeman of the common nobility at meetings of the royal council. Throughout the Jagiello period (i.e., the reigns of Władislas II, 1490-1516, and of his son, Louis II, 1516-26), Hungarian politics was deeply fractured. Political divisions were, however, sufficiently intertwined with short-lived factional alliances and intrigues as to defy explanation in terms of ‘court’ versus ‘country’ or ‘pro-German’ versus ‘pro-Hungarian’. Nevertheless, in the party-politics of the Jagiello monarchy, one constant factor may be discerned: the so-called ‘national’ program which, even though its leadership consisted of great landowners, principally drew on the support of the ‘common’ or ‘lesser’ nobility of the kingdom. The national program looked back to the glorious reigns of Matthias Corvinus and of the fourteenth-century Angevin king, Louis I (1342-82), discerning (however incorrectly) in their rule the promotion of policies that served kingdom rather than dynasty. Exponents of the national program accordingly argued that the vicissitudes experienced by the Hungarian kingdom, most notably the unabated Turkish menace, had their origin in the lack of commitment shown to Hungary by its foreign rulers. Their solution was equally straightforward: to secure the election of a national king who would put Hungary’s interests first or, failing that, to master the ruler by controlling appointments to the royal council and to the kingdom’s principal offices. The organ which they chose to effect these changes was the diet, which by degrees became very much their instrument.

Since the middle decades of the fifteenth century, the diet had assumed an increasing prominence in the kingdom’s public life.¹⁸ The need to recruit armies for wars against the Ottomans and Hungary’s other neighbours, the ever-increasing requirement for fresh taxes, and the political impasses of the 1440s and 1450s, when the kingdom found itself either without a king or with an absentee child filling the role, combined to give new power and influence to the kingdom’s diet. After all, since it was the nobility which had to bear the brunt of taxation and military recruitment and whose obedience to a new king was expected, it was expedient to have its delegates participate in the most important decisions. Even during the relative domestic peace which marked Matthias’s reign, the king still

16 István Horvát, *Verbötzi István emlékezete* [Memory of I. W.], vol 2 (vol 1 never published) (Pest: Trattner, 1819), p. 124.

17 Horvat, *Verbötzi István*, p. 283; Kubinyi, “István Werbőczy als Politiker,” p. 561. Werbőczy acquired Szobi’s lands upon his death in 1527.

18 For this and much of what follows, see Martyn Rady, “Rethinking Jagiello Hungary,” *Central Europe* 3 (2005, no 1), 3-18, and J. M. Bak “Crown and Estates” In: *The New Cambridge Medieval History* vol. 7, ed. Christopher Allmand (Cambridge: Cambridge University Press, 1998), pp. 707-26.

felt it prudent to associate the diet with his legislation, although this was usually drawn up in advance without its counsel. The political crisis which attended the death without heir of Matthias, the weakness of his successor (who was selected for the role of king precisely on account of his proven incompetence), the deterioration of the royal finances and thus the need for additional taxes, were all factors which served further to entrench the diet's power and authority. During the 1490s and the first decades of the sixteenth century, diets met on at least an annual basis. Altogether about thirty are known to have convened during Władislas's reign, often overturning legislation passed just a few months before. Increasingly, the diets were attended not only by elected delegates of the nobility but also by massed and armed groups of noblemen accompanied by their retainers. Altogether, 2000 such nobles are thought to have met at the Rákos diet of 1505 and as many as 10,000 at the 1525 Hatvan diet.

It was into this political arena, marked by tumults and conspiracy, that Stephen Werbőczy was drawn. The connection between diet and chancellery was an already close one, for it was usual for chancellery notaries to draft on behalf of the council the royal propositions put to the diet and to compose the *decretum* passed at the diet's close. In Werbőczy's case, however, his own lack of education made him particularly fitted to play a role in the diet's proceeding. Not having received a university training in the law, his experience was rooted in what were seen to be Hungary's own national customs and laws. In this respect, he embodied a quite different legal tradition to that of the humanists in the chancellery who had been educated at foreign universities.¹⁹ Their training in civil law inclined them both to magnify the role of the *princeps* in law-making and to look towards the inheritors of the Roman diadem, which in the form of the Habsburg dynasty constituted the most important ally of the Jagiello rulers.²⁰ By contrast, Werbőczy's more practical training impelled him towards an older Bartolist position whereby law was considered as emerging as custom out of the will of the community.

Although elected a delegate to the diet of 1500, Werbőczy only properly made his entry into public life at the Rákos diet of 1505. In circumstances which remain obscure, he addressed the rowdy crowd of nobles. He appealed to the fatherland and drew attention to its desolation and destruction, reeling off a largely make-believe list of the territories that had been lost to it. Explanation he found in the corruption of his countrymen's warlike and 'Scythian' qualities by foreigners who sought their own profit and ease. Making it only too clear to what 'foreigners' he referred, Werbőczy then listed the great Hungarian kings of yore, before appealing to the present Polish ruler to allow upon his death the election by the diet of a truly national king who was 'not of a foreign nation and language'. Was there any other people, Werbőczy asked, which did not choose a king and lord of its own nation and blood? Werbőczy's lapse of memory in regard to the current rulers of Bohemia, Spain and the duchy of Milan suggests that his oratory gave way too easily to demagoguery. Nevertheless, rather than being arrested for treason, Werbőczy was greeted 'with clapping and shouts of approval' and rewarded by

19 Bónis, *A jogtudó értelmiség*, p. 334.

20 György Bónis, "Men Learned in the Law in Medieval Hungary," *East Central Europe/L'Europe du centre-est* 4/2 (1977): 181—91, p. 185.

the diet with a slice of tax revenue. Parts of his speech were included in the *decretum* published at the diet's close.²¹ The 1505 *decretum* subsequently served as the manifesto and rallying-point of the national program.

The demand for a national, elected ruler to succeed the present incumbent only made sense while there was no heir to the throne. In 1505, King Władislas was still without a son and recovering from a stroke that had paralyzed his right side. But the next year, his wife, Anne of Foix, was unexpectedly delivered of a male heir, the future Louis II (1516—26). Accordingly, the interest of the diet and of its spokesmen shifted: towards securing control of the office of treasurer and towards maintaining a dominant influence within the royal council through the continued appointment of elected assessors. In the proceedings of the diets which followed in the decade after 1505, we can neither trace Werbőczy's influence nor, beyond several proposals for a reform of the royal finances, establish his role within the broader trends of Hungarian politics.²² We may, however, note that in 1510, with the appointment of John Szapolyai as voivode, he retained his position as the voivode's protonotary, which implies that he had entered into Szapolyai's circle and patronage. The Szapolyai family ever presented itself as heir to the national inheritance of the Hunyadis and of King Matthias, while John himself, notwithstanding his massive personal wealth, never ceased to promote himself as the common nobility's 'king-in-waiting'. Nevertheless, Werbőczy was shrewd enough to maintain good relations with the king, receiving from him many grants of land in token of his services.²³

Compiling the Tripartitum

By the last years of the fifteenth century, substantial concerns had arisen both in the royal court and diet over the proper sources of legal authority. On the one hand, there was no agreement as to what *decreta* retained a complete validity. Moreover, in respect of individual *decreta*, their surviving texts were frequently garbled or even contradictory in their extant versions.²⁴ On the other, it was recognized that the written law could not cover every legal eventuality and that, in many cases, the decision of the courts rested on principles either of their own making or on unwritten custom. In order to give clarity, King Władislas had in 1498 authorized that the customs of the realm, as they were referred to in court, should be collected by the protonotary Adam Liszkai and submitted to him and his judges for approval. Evidently, this instruction was not fulfilled, for further orders to the same effect had to be included in the *decreta* of 1500 and 1505. In similar fashion, the king commanded in 1504 that the *decreta* issued in his name be brought together in one volume. Three years later, he extended his instruction to include all *decreta* previously published in the kingdom.²⁵

21 Henrik Marczali, *A magyar történet kútfőinek kézikönyve. Enchiridion fontium historiae Hungariae* (Budapest: Athenaeum, 1901), pp. 317—20; Istvánffy, *A magyarok történetéből*, p. 41.

22 On Werbőczy's proposals for financial reform, see Zsuzsanna Hermann, "Egy pénzügyi tervezettől a Hármaskönyvig" [From a financial project to the Tripartitum], *Századok* 115 (1981, no 1): 108—51.

23 Horvát, *Verböczi István*, pp. 159—64, 166—7, 169—72.

24 The point is made by Werbőczy in his address to the king.

25 József Illés. *Bevezetés a magyar jog történetébe. A források története* [Introduction into

We do not know when Werbőczy received his own commission to collect and publish the customary laws of the kingdom. Deferring to Werbőczy, historians have often averred that the *Tripartitum* was the product of ‘long and protracted labours’²⁶ and was thus most likely to have been begun around 1505, when the king mandated for a third time the collection of the realm’s customs. This may well be. Nevertheless, two points should be considered. First, the composition of the *Tripartitum* bears sufficient marks of haste as to suggest that it was not the product of extensive work. In places, the Latin text is jumbled even to the point of opacity; elsewhere, contradictions, non sequiturs and glaring omissions abound.²⁷ Secondly, the *Tripartitum* was always more than a collection of customary principles as expounded in the courts. Rather, it sought to fuse the written law, as rendered in the *decreta*, with the unwritten law as practiced by the courts. As Werbőczy saw it, custom and the written law were indissolubly linked. Not only might each cancel out the other, but custom also gave sanction to the enacted law. For only those *decreta* which had passed into use retained a fully legal character while, by the same token, *decreta* which had been superseded by practice lost their force: ‘for real and continuous use often invalidates a law’.²⁸ The *Tripartitum* was, thus, a quite different work to those envisaged in the royal instructions of 1498 to 1507. Instead of there being, as the king had intended, separate collections of customs and written laws, the *Tripartitum* sought ‘to join and meld together the statutes, decrees, laws and customs of the realm’ in a single compilation.²⁹

In composing the *Tripartitum*, Werbőczy relied upon several different types of material. The first of these were the *decreta*, published for the most part in Władislas’s own reign. In the so-called *conclusio*, which follows directly upon the third part, Werbőczy states that his work rested for the most part on the *decreta* published by Władislas and his predecessors. Although we may affirm that portions of the text, particularly in the second part, borrow directly from earlier *decreta*, Werbőczy was clearly exaggerating. For the lion’s share of the text may not be shown as so derived, being instead the product of Werbőczy’s own observations and research.³⁰ Nowhere, however, does Werbőczy explain how he has come to the conviction that what he has learnt truly amounted to the authentic custom and law of the realm.³¹ Unlike Beaumanoir, he does not therefore explain his epistemology, but instead insists that we take him on trust.³² This flaw would

the history of Hungarian law: The history of the sources] (Budapest: Rényi, 1910), pp. 82—5.

26 Author’s salutation, see below..

27 Most obviously, Werbőczy fails to explain what constituted “minor acts of might.” See II 68.

28 II 2:9. See also the Prologue [12].

29 Address to the King as below. See also György Bónis, “Törvény és szokás a Hármaskönyvben,” in Elemér P. Balás et al., Werbőczy István, *Acta Juridico-Politica 2* (Kolozsvár, 1942): 121—40, p. 4.

30 In several places he refers directly to personal experience: I 37:6; I 77; II 27:4—5; II 83:9.

31 David Ibbetson, “Custom in the *Tripartitum*,” in Martyn Rady (ed.), *Custom and Law in Central Europe* (Cambridge: University of Cambridge Faculty of Law, 2003): 13—23, p. 14.

32 *The Coutumes de Beauvaisis of Philippe de Beaumanoir*, trans. F.R.P. Akehurst (Philadelphia: University of Pennsylvania Press, 1992), p. 4 (Prologue, 6).

later lead to the allegation that Werbőczy had invented much of what he had written, and that he had borrowed regardlessly from civilian and other ‘non-Hungarian’ sources.³³

These allegations are largely unfair, for much of what Werbőczy wrote can be demonstrated as conforming to principles and procedures that may be independently established in surviving charters, formularies and other material. Moreover, we should not overlook Werbőczy’s own experience. By the time he presented the *Tripartitum* to the diet he had worked in the chancellery for more than two decades and had been a leading judge for twelve years. Finally, the writing of the *Tripartitum* seems most likely to have been preceded by the compilation of an extensive formulary. The work of several notaries, it brought together a mass of legal material copied mainly from instruments sent out of the chancellery, but also including documents relating directly to Werbőczy’s personal affairs as well as to Michael Szobi.³⁴ This, together with such other formularies as were commonly used by the chancellery notaries, as well as some other jottings on the principles of Hungarian law, most probably provided the raw material on which the *Tripartitum* was built. It should, however, be noted that in places Werbőczy introduced extraneous material in order to make sense of the law as he saw it. The Prologue is thus partly a pastiche of Gratian, Aquinas, current sermon literature and civilian texts, but as a largely theoretical exposition it was principally intended to prove the author’s cleverness and learning. Elsewhere, however, most notably in respect of the law of guardianship in the first part, Werbőczy borrowed his framework from the *Summa Legum*, a fourteenth-century Italian text that had been published in Cracow in 1506. In several places in the third part, his explanation relies on passages taken from Aquinas.³⁵

Even though the *Tripartitum* was largely founded on a specialist legal literature, it was not primarily intended for lawyerly consumption.³⁶ Certainly, in one place, Werbőczy introduces and solves a legal conundrum, which seems more intended for a academic debate than for a real situation.³⁷ Nevertheless, his intended audience was the nobility. In the first part, he thus addresses his readership directly in respect of the rights of the *paterfamilias*.³⁸ In the second, he

33 Joannes Kitonich, *Directio Methodica Processus Judiciarii* (Nagyszombat: Mollerus, 1619), p. 24; János Jony, *Commentatio Historico-Juridica de Origine et Progressu Juris Hunno-Hungarici*, (Lócse (no publisher given), 1727), pp. 38–40. The allegation was pressed by Joseph II’s spokesmen: see thus, József Izdenczy, *Etwas von Werbőcz*, (no place, c. 1790), pp. 20–21; László Kövesdy, *Examen Verbőczyanum* (Pest: Lettner, 1785), p. 84; anon., *Irrthümer in den Begriffen der meisten Ungarn von der Staatsverfassung ihres Vaterlandes, und von den Rechten ihrer Königs*, (Gedruckt im Römischen Reiche—no further details, 1790), p. 71.

34 Hungarian National Archive, Collectio antemohácsiana, MNL Df. 28145; see also, Ferenc Eckhart, “Formuláskönyv Werbőczy István hivatali működése köréből” [A formulary from the time of I.W. in office] *Emlékkönyv dr. viski Illés József* (Budapest: Stephanaeum, 1942), pp. 151–60.

35 Ádám Tóth, “A gyámság intézménye a római jogban és Werbőczy” [The institution of guardianship in Roman Law and W.], in Gábor Hamza (ed.), *Tanulmányok Werbőczy Istvánról* (Budapest: Professzorok Háza, 2001): 153–65, p. 161; III 8; III 22:5.

36 We do not agree with Alajos Degré who considers the work to be aimed at students of law: *A négyeskönyv perjogi anyaga* [The procedural law in the Quadripartitum] (Budapest: Sárík, 1935), p. 16.

37 I 50.

38 I 51.

dwells at length upon ‘out- of-court’ procedures, such as inquests and oath-taking, wherein nobles were more likely to be involved, while quite ignoring practices actually observed within the courtroom. The details of court praxis cannot therefore be discerned in Werbőczy’s account. The passage from the written submission of the plaint (*libellus*), to the summons, to the raising and calling of the case, through the phases of *exceptiones* and *allegationes* and interlocutory judgments, and onwards to the final judgment and execution, are thus only hinted at.³⁹ For all this was the business of lawyers, not of the noblemen who entrusted suits to their care. In this respect, it is telling that the most detailed account of procedure is given in respect of how to sack an attorney and force a case to a retrial on account of lawyerly ineptitude.⁴⁰ Nor, should it be remarked, does Werbőczy describe the various competences of the several royal courts before which noblemen might plead. Indeed, he preserves the fiction that the royal courts lay truly under the mastery of single judges, whereas in reality these were already collegiate bodies on which several dozen judges, assessors and other court officers sat.⁴¹ As Werbőczy saw it, the details of court composition were as irrelevant to his audience as the arcana of their praxis and seating-plans. For this information, we must instead rely upon later accounts.⁴²

Structure, Content and Purpose

As its name suggests, the *Tripartitum* is arranged in three parts, to which are added a prologue and several prefatory and conclusory items. Like much of this other additional material, the Prologue is intended to impress by a display of knowledge and learning. Its discussion of the relationship of written law to custom is thoroughly Bartolist and later contradicted in the earlier chapters of the second part.⁴³ It tells us little of specifically Hungarian legal institutions and is accordingly ignored in most later commentaries.⁴⁴ The three main parts of the *Tripartitum* were originally intended to follow the classical division of the law into persons, actions and things. Werbőczy partly keeps to this scheme, the first part being mainly concerned with substantive law and the second with procedural. The third part is, however, a hotchpotch, which goes off on tangents before concluding in abrupt fashion with the oath to be taken in court by Jews.

The first part of the *Tripartitum* is concerned with the principles of noble landholding and it adumbrates the twofold foundation of noble landownership. On the one hand, all land had its origin in the gift of the ruler. It was the king who first distributed property, making, by force of donation, nobles out of servitors and bondsmen. In default of heirs or in the event of infidelity, this land reverted to the ruler and so might be disposed of anew. On the other hand, property belonged to the kindred and to the extended family. Thus, when a nobleman died without sons,

39 See “Trial” in the Glossary below.

40 II.79-81.

41 The number of those sitting in judgment might on occasions exceed forty. See Bónis, *A jogtudó értelmiség*, p. 345. The collegiate composition of the royal courts is alluded to in II 42:3.

42 See thus Kitionich, *Directio Methodica*, passim. The internal workings of the royal courts are discussed by Martyn Rady, “Hungarian Procedural Law and Part Two of the Tripartitum,” in Rady, *Custom and Law*, 47—70, pp. 55—69.

43 Ibbetson, “Custom in the Tripartitum,” *ibid.* pp. 20—2.

44 Rady, “Hungarian Procedural Law,” pp. 48—52.

his estate devolved to his collateral heirs: namely, to his cousins and nephews, even at several remove. But since these might be considered to have a legitimate expectation to his goods even if he had sons (for these might die or themselves have no heirs), their consent was necessary for any alienation of property. The principle of *aviticitas*, which encompassed the rights of kinsmen in respect of any property whose descent might be traced from a single *avus* or ancestor of theirs,⁴⁵ guided the law of inheritance throughout the Middle Ages and, indeed, into the nineteenth century. It should, however, be noted that individual noblemen often sought to evade the obligations of *aviticitas*, by leaving land to their daughters or selling up without their kinsmen's consent. A large part of the first part is thus also dedicated to determining how to detect and avoid such frauds, as well as to defining the rights of daughters, widows and minors. In keeping with his scheme, Werbőczy also discusses here 'the taint of infidelity', as a consequence of which a nobleman might forfeit his land to the king.

The second part, after a brief excursion into the sources of legal authority, is largely given over to explaining judicial procedures as they affected nobles of the realm, together with a lengthy discussion of legal remedies. Some parts of Hungarian procedural law will surely be unfamiliar to students of European legal history: most notably, the *repulsio*, by which a nobleman might with drawn sword lawfully obstruct a bailiff in the execution of a court judgment, and the *reoccupatio*, which allowed a noble that had been evicted from his property to seize it back by force within a year. In most other respects, however, the judicial procedures outlined in the second part together with the remedies available at law conform to those generally followed as part of Romano-canonical procedure. This is unsurprising. From no later than the thirteenth century, a large part of the business of the courts—composing letters of summons and notice, authenticating deeds, taking depositions and witnessing the activity of court bailiffs—had been performed by the representatives of chapters and convents, the so-called *loca credibilia* (*hiteleshelyek*).⁴⁶ In the course of their work, the canons and monks introduced into Hungarian law procedures and a vocabulary with which they were familiar, thus inclining Hungarian practices towards ecclesiastical norms. Formularies intended for the use of royal courts might also contain materials relating to cases that had been brought before church courts.⁴⁷ Accordingly, the interest of church courts to avoid giving a wrong verdict by permitting a raft of legal remedies—'an essential device to protect all concerned'⁴⁸—was also taken up in Hungarian court practice.

Beside the *repulsio* and *reoccupatio*, we may thus find as remedies the *prohibitio*, *revocatio*, *condescensio*, *novum*, and so on.⁴⁹ As Werbőczy himself explained, the unjust sentence was a two-edged sword, for it 'pierces the hearts of orphans and

45 Erik Fügedi, *The Elefantly: The Hungarian Nobleman and His Kindred*, ed. Damir Karbic (Budapest: CEU Press, 1998), p. 20.

46 On the work of the *loca credibilia*, see now Zsolt Hunyadi, "Administering the Law: Hungary's *Loca Credibilia*" in Rady, *Custom and Law*, 25—35.

47 See M.G. Kovachich, *Formulae Solennes Styli*, (Pest: Trattner, 1799), pp. 399, 429.

48 Jane Sayers, *Papal Judges Delegate in the Province of Canterbury, 1198-1254* (London: Oxford University Press, 1971), p. 99.

49 See below, Glossary; also Rady, "Hungarian Procedural Law," pp. 65–9.

widows and other persons deserving of pity [and] is the pain which wounds to the depths the souls of the oppressed'. But by encouraging others to abuse the law, it was also 'the snare which casts so many into the pit of eternal damnation'.⁵⁰ On both counts, therefore, the unjust sentence was to be avoided by scrupulous regard for process and by the revision and re-revision of court judgments.

The third part includes a clutter of material which might be thought to belong more properly elsewhere: the meaning and varieties of *homagium*, the 'blameless defence' (a notion taken from Aquinas), stolen horses and so on, as well as the terms and circumstances of the peasantry's recent enserfment. Nevertheless, there is a broad purpose to the third part. However much his account is marred by the inclusion of extraneous material, Werbőczy intended here to demonstrate the relationship that bound the parts of the kingdom and its lesser jurisdictions to the central royal courts. He explains this relationship in terms of the movement of cases from Dalmatia, Croatia, Slavonia, Transylvania, the county courts and royal cities, to the central royal courts of the realm by way either of appeal, petition for retrial or transmission 'for more considered judgment'.⁵¹ It is certainly true that cases were regularly moved from these lesser jurisdictions to the courts of the royal presence, judge royal, master of the treasury and so on. Nevertheless, Werbőczy clearly erred in claiming that it was usual for *all* cases to be referred up from lesser courts to the royal courts for revision, for most of these were in fact settled at the lower instance and not transferred upon their conclusion to any higher authority. As protonotary of the Transylvanian voivode, Werbőczy must have known this. Plainly, what Werbőczy was attempting to do here was not to write the law as it stood and as he knew it, but instead to improve upon it, making refinements which fitted in with his understanding of how legal relationships ought to be.

We have already remarked that the passages on guardianship in Part One do not reflect Hungarian customs but are instead partly derivative of civilian literature. In other places as well, as for instance in his account of surety, Werbőczy clearly describes the law as he wished it to be rather than as it was.⁵² Nevertheless, Werbőczy's desire to impose his own scheme on the law involved more than just a few procedural details. It instead embraced a conception of the Hungarian nobility and of its relationship to the crown that was both radical and enduring.

Throughout the text, Werbőczy is at pains to stress the unmediated relationship between the ruler and his noble subjects. The nobleman, Werbőczy thus explains, is created by the king, for it is the ruler's gift of land that is the sign of true nobility. Accordingly, it is to the king that the land reverts if a noble line expires or if an individual nobleman is marked by the taint of infidelity. Conversely, however, the king himself is created by the nobility, for the right which belonged to the early

50 II 83:8.

51 III 3:3; thus also III 6. There is almost no literature on the legal and jurisdictional relationship in the Middle Ages of the *partes adnexae* to the *regnum*, but see now Damir Karbic, "Hungarian and Croatian Customary Law: Some Contrasts and Comparisons," in Rady, *Custom and Law*, 37—45.

52 See I 59:5. It was never a legal requirement that the names of all those whose obligations were assumed had to be individually listed in the recognizance.

Hungarians to elect their ruler, persisted. Accordingly, ‘the prince is elected only by the nobles, and nobles are created and adorned with the dignity of nobility only by the prince’.⁵³ The ‘reciprocal transfer and mutual bond’ between king and nobleman permitted no interposing institutions but presupposed an immediate link resting on the principles of fidelity, service, reward and liberty. The intensity, moreover, of the bond between king and nobleman was such that it allowed no differentiation in respect of proximity. Thus, all nobles enjoyed the same freedoms and were equal to one another. Or, as Werbőczy put it, irrespective of rank all noblemen had on account of their nobility and the estates given them by the ruler ‘one and the same prerogative of liberty, exemption and immunity; nor has any lord more nor any nobleman less liberty’.⁵⁴

Werbőczy account is ingenious, but flawed. The principle of royal election only historically applied when the king had no direct heir. Early sixteenth-century Hungary was emphatically not an elective monarchy. Moreover, as Werbőczy himself acknowledged in the same article where he affirmed the equality of all noblemen, there was a class of barons which enjoyed superior rights to the ordinary noblemen of the realm. His famous tag, *una eademque libertás*, was thus culled from a quite different context and misleadingly applied.⁵⁵ Furthermore, Werbőczy’s interest in demonstrating the unmediated bond between king and nobility compelled him to disregard the institution of *familiaritas*. For *familiaritas* might be seen to involve obligations which vitiated the personal connection between ruler and nobility. Similarly, Werbőczy omitted from his account the large class of ‘conditional’ nobles or *prediales* who mainly dwelled on church estates, holding land of an ecclesiastical lord in exchange for services.⁵⁶ And, since this would have further undermined his argumentation, Werbőczy felt it prudent not to mention the freemen who owned land but who did not qualify as noblemen.⁵⁷ Several centuries later, Werbőczy’s silence in regard to the stratum of freemen would contribute to its destruction.⁵⁸ By the same token, so we may assume, Werbőczy chose to include in the third part his largely fictional account of the transmission of cases from lesser jurisdictions to the royal courts in order to emphasize that all noblemen, irrespective of local circumstances, had equal access to the king’s judgment and grace.

For all its theoretical brilliance, Werbőczy’s construction served to restrict his intellectual vision. In order to explain the origins of Christian kingship and of land donation, Werbőczy included a description of how the early Hungarians had transferred from the community to the prince the right to distribute estates ‘together with the supreme power and government’.⁵⁹ Werbőczy’s version of the

53 I 3:7.

54 I 2:1. For the origins and context Werbőczy’s political ideas, see János Bak, *Königtum und Stände in Ungarn im 14–16. Jahrhundert* (Wiesbaden: Steiner, 1973), pp. 74–9.

55 See below note 91.

56 Martyn Rady, *Nobility, Land and Service in Medieval Hungary* (Basingstoke and New York: Palgrave, 2000), pp. 79–95.

57 They are obliquely referred to in III 26:4.

58 Gusztáv Wenzel, *Visszapillantás az előbbi magyar királyi curiának 1724–29 iki működésére* [A retrospective on the operation of the older royal court in 1724–9] (Budapest: MTA Értekezések a társadalmi tudományok köréből, 1875), pp. 13–16.

59 I 3:6; II 3:2.

lex regia should, however, have presented him with difficulties when he came to discuss the origins of legislation. For if all government had been assigned to the prince, then the nobility surely had no right to share in the making of legislation. But Werbóczy chose to skirt the problem, proposing instead a dualist construction whereby the assent of both ruler and people was necessary for a law to be passed.⁶⁰ Possibly because of this hole in his argument, but possibly also because of political considerations, Werbóczy's account makes no mention of the diet and of the legislative authority that it had so recently gathered, partly indeed at his own instigation. Elsewhere, however, Werbóczy's account served to hem in the powers of the ruler, denying him the *plenitudo potestatis* to modify the law that had previously been recognized as a royal prerogative and right.⁶¹

The Tripartitum as Law

In 1514, Werbóczy presented the *Tripartitum* to the diet. In a manner reflecting the divided sovereignty of the late medieval polity, the compilation was sent for inspection to committees appointed respectively by the king and the estates. Reserving the final right of approval to the king, the *decretum* published at the diet's close authorized Władislas, as he saw fit, to seal and distribute the *Tripartitum*.⁶² We know that Władislas gave his approval to the text even before the diet's formal dissolution, but, contrary to expectation, the *Tripartitum* neither received the royal seal nor was it distributed by the chancellery. Werbóczy later explained these omissions by reference to the many cares which beset the king and the subsequent difficulties involved in any royal succession (after a long illness, Władislas died in March 1516).⁶³ This seems unlikely, but the alternative explanation sometimes offered by historians is equally implausible: that the barons moved the king to reject the *Tripartitum* on account of the *una eademque* clause.⁶⁴ It is more probable that the *Tripartitum* encountered general criticism, as is implied in both the Address to the King and one of the appended poems in the 1517 edition,⁶⁵ and that this coincided with a brief political check on Werbóczy's ambition which obliged him to relinquish his office of protonotary of the judge royal. By the summer of 1516, Werbóczy had evidently recovered politically, being appointed in August *personalis* judge of the young king, but the momentum had by this time been clearly lost.

After making a few revisions to his manuscript to take into account the decisions of the 1514 diet, Werbóczy had the *Tripartitum* published at his own expense by the printing house of Singriener (Singrenius) in Vienna. The bound volumes were then sent to the county-seats of the kingdom for public proclamation. By the standards of modern-day, computer-aided publication, the type-setting and printing of the *Tripartitum* was achieved in record time, a mere

60 II 3.

61 II 5; II 11:1. See thus Kathleen E. Garay, "Legislation under King Matthias I (Corvinus), 1458—1490," *DRMH* 3, pp. xix—xxxv (p. xxxiv).

62 1514: 63.

63 Author's Salutation, see below.

64 Thus Illés, *Bevezetés*, p. 133. But the *Quadripartitum* drawn up in the 1550s with the aim of superseding the *Tripartitum* retained the *una eademque* formula, which it would surely not have done had the clause been controversial.

65 See below, after the text of the Trip.

forty days, but is still unlikely to have cost the author more than a few hundred florins.⁶⁶

Even before its publication in Vienna, the *Tripartitum* had acquired a certain authority. A later source avers that it was feted as ‘the *Decretum* almost immediately upon its promulgation at the diet of 1514.’⁶⁷ Indeed, only shortly after its distribution, the diet confirmed its contents as law and instructed the courts of the realm to adjudicate according to its principles and procedures.⁶⁸ The opinion still to be found that the *Tripartitum* lacked any statutory authority is thus baseless. Nevertheless, and as Werbőczy knew, a *decretum* was itself insufficient to establish a fully valid legal institution, for authority rested on application and actual use.⁶⁹ Almost certainly, this was the case, for references were made at later meetings of the diet, including the riotous Hatvan diet of 1525 at which Werbőczy was elected palatine, to the need to improve upon parts of its text and to publish a revised version.⁷⁰ But no such revision was ever approved. In the absence of any competing collection, the *Tripartitum* was thus taken up by the courts, acquiring over time its own customary reputation. The steady sanction of use is reflected in the history of the *Tripartitum*s re-publication. Following the original 1517 printing, two further editions were issued by Singrenius in Vienna in 1545 and 1561.⁷¹ A Hungarian-language version under the title of the *Magyar Decretum* was next published in Debrecen in 1565, and a second Hungarian translation in Kolozsvár in 1571 for use in Transylvania. A Croatian edition (in at least three separate print-runs) followed in 1574, and a German in 1599.⁷² There was even a partial translation into Greek, probably for the benefit of visiting merchants.⁷³ Eventually, in 1628, the *Tripartitum* was included as the first of three volumes of the *Corpus Juris Hungarici* (CJH), which for the first time published those *decreta* which were recognized as holding force in the kingdom.⁷⁴ Even before this time, however, we know that the *Tripartitum* had gathered an authority which rendered it equivalent to any other published law. The earliest surviving Hungarian case file, dating from 1588, thus records an action based on no less authority than the *Decreti Tripartiti partem secundum titulum quinquagesimum*.⁷⁵

66 The rapidity of its production is noted on the final page of the 1517 edition, in the Corrigenda (omitted from the present edition). The cost of publication is based on Rudolf Hirsch, *Printing, Selling and Reading, 1450–1550*, 2nd edition (Wiesbaden: Harrassowitz, 1974), pp. 36–40.

67 Istvánffy, *A magyarok történetéből*, p. 45. In 1517, the personalis court issued a judgment which repeats a passage of the *Tripartitum*. See thus, Hungarian National Archive, Collectio Antemohácsiana, MNL Dl. 84630, cf I 45. The *personalis* judge was, of course at this time, Werbőczy himself, so the borrowing is not unexpected.

68 1518 (Bács): 41; Illés, *Bevezetés*, pp. 178–9.

69 II 2:9.

70 Illés, *Bevezetés*, pp. 180–1.

71 These later editions are listed and described in Csekey, *A Tripartitum bibliográfiája*.

72 For the Croatian edition, see Natasa Stefanec, “Pergosics Translation of the *Tripartitum* into Slavonian,” in Rady, *Custom and Law*, 71–85.

73 Tamás Vécsey, “Werbőczy görögül” [W in Greek], *Századok* 28 (1894): 485–9.

74 For the background and history of the CJH, see Andor Csizmadia, “Previous Editions of the Laws of Hungary,” *DRMH* 1, xvii–xxxiii; now see below among the Studies to medieval Hungarian law.

75 Hungarian National Archive, Section O, Class 01 (Processus octavales), Bundle 4, no 183, fol 6v.

After the Tripartitum

In the nine years between the publication of the Tripartitum and the battle of Mohács, Werbőczy remained in high office while continuing to play an active and increasingly dangerous role in politics. In 1518, he was along with Szobi instrumental in calling a diet, apparently without royal sanction, on which occasion he delivered a rousing speech to the assembled noblemen, recalling the glorious reign of Matthias, his international repute, and the terror he inspired in his foes. Under Matthias, Werbőczy declared, the boundaries of the kingdom had been extended and after his battles the severed heads of his enemies were piled in carts. By contrast, the kingdom today was on its knees, and had fallen into decline, oppression and ignominy, with its king being only a minor.⁷⁶ For his contribution to the *decretum* published at the diet's close, the assembled noblemen voted him a fresh cash payment. Three years later, the diet elected Werbőczy treasurer on behalf of the estates, with responsibility for raising taxation and buying mercenaries. Despite methodical planning on Werbőczy's part, the tax levy yielded only a fraction of that intended.⁷⁷ In the meantime, Belgrade fell to the Turks (1521), breaching the kingdom's fortress wall.

With the Turks pressing their military advantage, the kingdom's politics fell into chaos. In the Rákos diet of May 1525, fierce verbal attacks were made on the king's main advisers and on the German influence at court, which was supposed to have grown following the king's marriage to Mary of Habsburg. Werbőczy joined in the fray, accusing the deputy royal treasurer of embezzlement and denouncing the 'half-Jews' and 'vipers' in the kingdom. When the young King Louis arrived at the diet, Werbőczy turned on him, asking why the country's laws had not been put into effect. He then pushed home his own demands: that only Hungarians be allowed in court, that the royal council follow the laws enacted by the diet, and that only good coin be minted. The *decretum* composed by a committee of the diet incorporated Werbőczy's recommendations. The diet also agreed to reconvene in July, eventually obtaining the king's consent to its reassembly. Werbőczy was now convinced that a turning-point had come. He wrote to a friend, 'The time has arrived when troubles will have their end; a new dawn awaits his royal majesty and the country'.⁷⁸

The Hatvan diet of July 1525 was the high point in Werbőczy's political career. It opened with him delivering a two-hour speech and proceeded to adopt a radical program of reform devised largely by himself. Amidst much noise, the diet acclaimed Werbőczy palatine. Respecting the popular origin of his new office, Werbőczy took the unprecedented step of officially declaring himself 'palatine *and servant* of the kingdom of Hungary' (*Regni Hungariae palatinus et servus*). And yet, Werbőczy depended on John Szapolyai no less than on the diet. The voivode of Transylvania was a magnet for all those disaffected with royal policy, including some who had previously been close to the faction gathered around the king. Werbőczy had most probably stood earlier in Szapolyai's service as protonotary

76 Eötvös Loránd University of Budapest Library, MSS, Litterae et epistolae originales, no 15, pp. 181—3.

77 Kubinyi, "István Werbőczy als Politiker," p. 570.

78 Fraknói, *Werbőczy István életrajza*, p. 199.

of his court and a personal connection evidently remained. As the papal envoy reported shortly after Werbőczy's election as palatine, 'So much is certain: that the voivode's power grows greater than the king's; the palatine is his creature... The voivode is king in fact, even though he has not yet proclaimed himself as such'. As if to hasten matters, supporters of the voivode plotted the death of the king with the aim of installing Szapolyai on the throne and having him marry Louis' widow.⁷⁹

At this critical juncture, Werbőczy made two mistakes. In 1524, the massive Újlaki inheritance passed to the crown on account of the death without heir of its last holder, Lawrence. John Szapolyai claimed the heritage on the grounds of a mutual inheritance pact concluded between his and Újlaki's family some thirty years before. Against this, it was alleged that on account of Lawrence having previously acquired the 'taint of infidelity', the pact had been voided and that the Újlaki estate thus belonged to the royal right. At the end of 1525, a further claimant appeared in the form of the new husband of Lawrence's widow, Ladislas Móré, who declared that the lion's share of the property belonged to his wife as it descended through the female line. The case which had originally been adjudicated in Szapolyai's favour was thus reopened in court, with Werbőczy presiding as palatine. Although it was expected that Werbőczy would find for Szapolyai, he instead judged in favour of Ladislas's plaint, earning thereby Szapolyai's displeasure. Secondly, Werbőczy began around this time his own persecution of the Lutherans in the northern mining towns, exaggerating their role in disturbances which had broken out there in the early months of 1526. He also impelled the Buda magistracy to arrest Lutherans in the city. Under torture, some of these named several members of the queen's entourage as their co-religionists. Louis' young queen, Mary of Habsburg, whose own beliefs were clearly heterodox, had thus to intervene, pardoning the Lutherans so accused.⁸⁰

In the space of just several months, Werbőczy had managed to alienate both Szapolyai and the pro-Habsburg faction which gathered around the queen. The reckoning was not long in coming and was indeed expected.⁸¹ In April 1526, the king summoned a diet that was packed with his own supporters. On the eve of its meeting, Werbőczy desperately sought to raise personal loans, possibly with the aim of mounting his own coup.⁸² The diet was not, however, to be prevented. Following the king's instructions, the gathered nobles denounced the Hatvan diet as illegal, dismissed Werbőczy as palatine, and demanded his trial for infidelity. A few days later, the *personalis* summoned Werbőczy and his patron Szobi to be tried by the diet. Both instead fled to their estates, where Werbőczy plotted the convocation of a new assembly. Found guilty by the diet of calling an illegal diet, of insurrection and of stealing the office of palatine, Werbőczy was spared arrest and the loss of all his estates only by the death of the king at Mohács on 29 August, 1526.

Within only a few months of Mohács, Werbőczy had returned to John

79 Ibid, pp. 199, 213.

80 Fraknói, *Werbőczy István életrajza*, pp. 224—6.

81 Kubinyi, "István Werbőczy als Politiker," p. 572.

82 Hungarian National Archive, Collectio antemohácsiana, MNL OL DI. 24281.

Szapolyai's favor. It was thus at Werbőczy's behest that Benedict Bekényi, otherwise Werbőczy's *familiáris* and author of two of the poems appended to the first edition of the *Tripartitum*, was sent to Pozsony (Bratislava) to negotiate Szapolyai's marriage to Queen Mary (she refused him outright).⁸³ Likewise, it was Werbőczy who at the diets of Tokaj and Székesfehérvár prepared the way for Szapolyai's election as king. On the occasion of the first of these, he publicly denounced his previous royal masters as being respectively 'an old woman' and 'blind', and announced that it was divine providence that had spared the voivode from the slaughter at Mohács. At the second, the acclamation of the new ruler was accompanied by a reading of the demand given in 1505 *decretum* for a 'national' king. The *decretum* was then pinned to a lance to serve as a rallying-point for Szapolyai's supporters. The next day, on 11 November, Szapolyai was crowned John I of Hungary in the cathedral of Székesfehérvár. But despite Werbőczy's efforts, many of those who had rallied to the 1505 *decretum* and acclaimed John as king still attended the coronation of Archduke Ferdinand held the next year, also in Székesfehérvár and presided over by the same bishop.

The national program hung with the fortunes of King John. Pursuing his own rights as king, however, Ferdinand sent his own armies into Hungary, forcing John to retreat to the very edge of the kingdom. As Werbőczy saw it, should Ferdinand triumph, a foreign ruler would occupy the throne, subordinating Hungarian interests to those of a much larger empire than that of the Jagiello kings. Accordingly, he accepted the inevitability of an alliance with the sultan. On 18 August 1529, Werbőczy thus stood beside John on the field of Mohács to welcome the sultan's army into the kingdom, before it moved on to eject Ferdinand's forces from Buda and to put Vienna under siege. With the weight of the Ottoman Empire now behind John, Ferdinand was readier to negotiate. During the 1530s, a number of schemes were put forward to end the conflict between John and Ferdinand. Although primarily involved over these years with restoring the kingdom's shattered government and with asserting the primacy of the chancellery in its workings, Werbőczy was also involved in a number of the embassies and meetings which sought to end the country's division. Nevertheless, the peace of Várád (1538) which Werbőczy helped negotiate, threatened the end of the national monarchy for which he had striven. By its terms, John would hold the office of ruler only during his lifetime, after which the crown would pass to Ferdinand and his heirs. As it turned out, however, upon John's death in 1540, the faction gathered around his queen, the Polish princess Isabella, repudiated the terms of the Várád peace and had John's baby son, John Sigismund, installed as his successor. In one of his last public acts on behalf of a king of Hungary, Werbőczy visited the sultan in Constantinople in order to enlist his support for the queen and royal infant. But Suleiman's support came at the price of the kingdom, the central portion of which he occupied the next year, only a few months before Werbőczy's own death in Ottoman service.

Werbőczy's reputation as a politician has always been an uneven one. Even in his own lifetime, he was vilified as self-seeking and as having sold his tongue and

83 For this and much of what follows, see Fraknói, *Werbőczy István életrajza*, pp. 241—350.

country.⁸⁴ The earliest historical verdict on his political career was equally harsh: ‘While he was alive he lamented with many tears and groans his country’s destruction and merciless servitude, which he may rightly and deservedly be accused of having brought about.’⁸⁵ Other historians have indicated his greed as evinced by the myriad of properties he acquired, and his responsibility for enshrining in law the subjugation of the peasantry.⁸⁶ In respect, however, of his career in the law, Werbőczy has always been less controversial and more valued. Although ‘a bad politician’, he was, in the words of a recent historian, ‘a good lawyer’.⁸⁷ Feted in the seventeenth and eighteenth centuries when his work was instrumental in confronting Habsburg absolutism, he was, in the words of his first biographer, Hermogenes, Bracton and Tribonian rolled into one.⁸⁸ To these, his second biographer added the name of Ulpian.⁸⁹ On the whole, it has been only Josephinists, doctrinaire liberals and Marxists who have scorned his text. Indeed, in the nineteenth and twentieth centuries, his work in ‘unifying’ the nation through the establishment of a body of ‘national law’ propelled Werbőczy into the crowded pantheon of Hungarian heroes. Even his portraiture changed. Whereas the earliest depictions had given him a chin-curtain beard and narrow moustache, later nineteenth-century versions gave him the fuller beard and features of Louis Kossuth.⁹⁰ In tribute to Werbőczy, Franz Joseph commissioned a marble statue which was completed in 1908 by the sculptor Gyula Donáth and erected in the centre of Pest beside the legal faculty of the university. The statue shows Werbőczy in vigorous pose while beneath him rests a copy of the *Tripartitum*. As the commission of Kossuth’s great adversary, it is only to be expected that the artist should have reverted to the chin-curtain beard.⁹¹

Werbőczy’s statue was pulled down by a communist gang in 1945 and has not been restored. The fifty-sixth edition of the *Tripartitum* and its first English translation, must stand instead to his memory.⁹²

84 Kubinyi, “István Werbőczy als Politiker,” p. 571.

85 Istvánffy *A magyarok történetéből*, p. 179.

86 Pál Szende, *Werbőczy* (Budapest: Deutsch, 1907), p. 8; Bálint Hóman and Gyula Szekfű, *Magyar történet*, 3rd edition, vol 2, (Budapest: Királyi Magyar Egyetem, 1936), pp. 591—2

87 Bónis, “Men Learned in the Law,” p. 191

88 Paul Wallaszky (Valaszky), *De Stephano Verbőczio icto celeberrimo dissertatio* (Leipzig: Langenhemia, 1768), p. 15.

89 Imre Palugyay (ifj), *Werbőczy István rövid életrajza* [A short biography of I. W.] (Buda: Magyar Királyi Egyetem, 1842), p. 4.

90 See thus Katalin Gönczi, “Werbőczy’s Reception in Hungarian Legal Culture,” in Rady, *Custom and Law*, 87—99, pp. 96—7.

91 The statue and circumstances of its erection are described in Endre Liber, *Budapest szobrai és emléktáblái* [Statues and commemorative plaques in Budapest], (Budapest: Székesfőváros Háziny., 1934), pp. 293—7. (I am most grateful to László Péter for providing me with the relevant pages.)

92 For technical reasons a note had to be dropped -- JMB

**Tripartitum opus iuris consuetudinarii
incltyti regni Hungariæ per magistrum
Stephanum de Werbewcz personalis
præsentie regiæ maiestatis locum
tenentem
accuratissime editum**

**Magister Stephanus de Werbewcz personalis presentie regie maiestatis
locum tenens:
lectoribus salutem**

Cum serenissimus idemque clementissimus dominus Wladislaus Hungariæ & Bohemiæ &c. Rex superioribus annis tum sua sponte permotus, tum frequentibus uniuscuiusque ordinis subditorum suorum precibus exoratus eas leges easque consuetudines quibus a longa iam temporum serie res iudiciaria hoc in regno tot inter bellorum ac seditionum æstus utcunque firmissime stetit ad iuris scripti normam ac rationem revocare decrevisset. Cæteros inter qui maiestati suæ & fide & observantia erant addicti me ultro deligendum duxit qui id muneris explerem, ut tot disiecta ac divulsa municipalium huius regni Hungariæ consuetudinum & constitutionum membra in unum velut corpus coacta & scripturæ adminiculo illustrata in omnem posteritatem propagarentur. Hanc vero ipse provinciam licet meæ imbecilitatis conscius non tam virium fidutia quam obsequendi necessitate suscepi, & quoad suppetebat facultas pro ingenioli tenuitate longis diuturnisque laboribus ad calcem usque perduxi. Cum interim regio iussu reliqui quoque Prothonotarii mihi per id temporis collegæ iudicarii insuper iurati assessores sedis iudiciariæ regiæ & plerique alii tam in divino quam humano iure diu multumque versati ad hæc omnia discutienda, recensenda & ad amussim trutinanda fuerant adhibiti, quibus ex sententia peractis in publico demum ac generali dieta & conventu dominorum prælatorum ac baronum nobiliumque & procerum regni huius universorum anno salutis humanæ quarto & decimo supra millesimum quingentesimum, rusticana seditione quæ paulo ante irrepererat excisa & sublata, ad diem divo Lucæ Evangelistæ dicatam celebrato idem princeps omnium cum flagitatione ac plausu hoc domestici iuris compendium suo ductu atque auspiciis lucubratum conceptis verbis ac viva voce comprobavit. Et regio imperio regiæque authoritatis plenitudine roboratum irrevocabili sanctione firmavit. Pollicitus insuper id ipsum opus membranis conscriptum sese regionatim per universam Hungariam muneris loco transmissurum. Sed cum prolixioris esset negotii tam ingentem legum acervum in quinquaginta & amplius exemplaria transfundi; Tot enim & plures sunt districtus ac regiones (eas nostri comitatus appellant) quas huius muneris seorsum ac separatim particeps esse oportuit. Rex interim ipse ad conventus Posonii Wienneque indictos rebus regnorum suorum exigentibus concessit, Ubi publicis privatisque cum excellentissimis principibus Maximiliano Romanorum electo Cæsare semper Augusto, ac Sigismundo Poloniae rege fratre suo germano negotiis pertractandis toto vere ac maiore æstatis parte transacta ad regnum tandem regressus in ea licet stabili fixaque hæreret sententia ut ipsa municipalia regni sui iura, primo quoque tempore in lucem

æderentur. Aliis tamen super aliis ingruentibus rebus inter eiusmodi moras divino nutu fatali vitæ perfunctus spacio ad cœlestem patriam commigravit. Sed ne hoc opus tanto studio tantisque vigiliis elaboratum ac firmissimo regiæ potestatis robore (dempta dumtaxat sigilli appensione) munitum & confirmatum in obscuro delitesceret, & paulatim oblitterata rerum memoria in nihilum redigeretur quo nihil huic quidem regno deterius nihilque perniciosius in causis præsertim discernendis iusticiaque ministranda fieri aut excogitari posset has easdem consuetudines & leges municipales nullo penitus sensu ordineque immutato sub ea qua prius formula atque contextu editæ fuerant in publicum ædendas, Utque id laciis pluribusque pateret Calcographorum industria excudendas curavi. Opto autem ut quiquis has meas lucubrationes in manus sumpserit æquus sit in me iudex bonique consulat. Nam licet quantum mediocritate valui summum in his quærendis atque explicandis studium adhibuerim qua tamen doctrina me quod exigua sermoneque haud satis perpolito esse profiteor tantum abest ut si quid in meis scriptis vel erratum quispiam emendaverit vel prætermisum adiecerit ut aut succenseam aut indigner ut eo etiam nomine sim illi (quisquis tandem is fuerit) cumulatissimas gratias habiturus. Quoniam errare sæpius ac falli proprium est hominis, & minus mirum est memoriam aliquarum rerum excidere quam omnium constare. Valete.

Wladislaus dei gratia Hungarie, Bohemiæ, Dalmatiæ, Croatiae, Ramæ, Serviæ, Galliciaë, Lodomeriæ, Comaniæ Bulgariæque rex, ac Slesię & Lucemburgensis dux, necnon Moraviæ & Lusatiæ marchio, ad perpetuam rei memoriam; cum supremus omnium rerum opifex ab ipso primordio rationalis creaturæ conditæ ac procreatæ eam in genere humano varietatem atque id discrimen esse voluerit ut pars hominum subesse, pars præesse, alii imperare, alii parere deberent. Alios quidem reges & principes qui cæteris æquo iure imperarent. Alios subditos qui illorum iussa imperia capescerent esse statuit, atque in hunc duplicem ordinem totum genus humanum sapientissime est partitus. Reges porro ipsos duabus potissimum artibus instructos atque ornatos esse voluit legibus & armis: ut armis quidem hostes propulsati procul a finibus arcerentur. Leges autem regnicolas civesque domi in officio continerent, & summos cum infimis ac mediocribus, opulentos ac potentiores cum egentioribus infirmioribusque æquo iure vivere cogerent. Hæc etenim duæ res tantopere sunt unicuique principi necessariæ ut his sublatis nihil firmum, nihil stabile, nihil inter homines concors & pacatum esse queat; adeo vero sibi invicem coherentes simulque firmissimis vinculis & indissolubilibus chatenis connexæ ut separari ac disiungi nequaquam possint. Quis enim ignorat, neque arma tunc foris quicquam prodesse cum domi plus improbi atque iniusti quam boni cives valeant & frustra iudicia ac leges implorari cum aures regnicolarum civiumque terror hostilis circumsonat. Nos itaque qui nutu ac providentia divina ad hoc sublime solium evecti, & tot terris, tot populis, tot denique potentissimis ac ferocissimis nationibus atque imperiis sumus præpositi semper ab initio principatus nostri omnes nostras curas, cogitationes, labores conatus omnia studia & consilia nostra eo direximus & contulimus ut his duabus artibus subditos nostros in pace & tranquillitate contineremus. Nam & armis (quoad per nos fieri potuit) tutos eos ab hoste præstitimus, & in iusticia administranda nihil a nobis prætermisum est quod a iusto & diligentissimo principe præstari debuerit. Et postquam huius inclyti regni Hungariæ sceptrum atque imperium benignitate dei adepti sumus & sacro eius diademate redimiti; Post belli studia, postquam regnum ipsum tam metu hostili quam seditionibus domesticis liberatum prima nobis ac precipua cura fuit ad regnum ipsum & subditos nostros pace etiam domestica & legibus firmitus & stabilius reddendum. Itaque & eo ipso tempore & postea non semel varias constitutiones & statuta partim sponte nostra propria, partim præcibus & supplicatione fidelium nostrorum dominorum prælatorum et baronum ceterorumque procerum & nobilium edidimus, saluti ac quieti libertatique ipsius regni nostri hoc pacto acuratissime consulentes; licet & antea non defuerint quædam iura regni quæ quia nulla scriptura continebantur consuetudines potius appellari poterant. Verum quia & ex huiusmodi constitutionum a nobis æditarum & illorum regni iurium diversa interpretatione magna plerumque oriebantur incommoda aliis alio prout cuique libitum

erat sensum & interpretationem earum trahentibus. Et quibusdam in iudicando vel iudicio postulando regni consuetudinem aliis constitutionum formulam sequentibus atque allegantibus, ita ut non inter eos solum, quorum causa ageretur, sed inter ipsos etiam iudices ac iurium regni consultissimos & peritissimos magna interdum super huiusmodi legum, consuetudinum et constitutionum interpretatione contentio oriretur, ut quandoque hi qui plus viribus & potentia quam legibus & iusticia fiderent tribunal iudicum magno asseclarum agmine aggressi quod ratione & legibus nequirent clamore & multitudine obtinere contenderent, & qui iure inferiores essent superiores tamen esse & vincere non iure sed tumultu ac multitudine niterentur. Neque vero iudicum & magistrorum Prothonotariorum iura regni allegantium autoritas apud illos valebat. Cum enim iura ipsa nulla scripturae firmitate fulcirentur, quicquid legum vel consuetudinum in medium proferebatur, id illi vel in contrariam sententiam trahentes, vel aliter ab aliis iudicibus & in aliis iudiciis tractum atque intellectum asserentes omnes iudicandi rationes turpissime confundebant; ita frequenter contingebat, ut in qua causa quispiam antea victoria potitus esset in eadem vel simili alter succumberet & superaretur. Cum autem his & eius generis erroribus plena ac referta essent omnia, & ex huiusmodi constitutionum & regni consuetudinum tam varia ac multiplici interpretatione tam lata calumniatoribus via pateret animique tam iudicantium quam eorum de quorum causis agerent in tantis tenebris versarentur: nos quibus nihil prius antiquiusque est quam subitos nostros in omni pace & tranquillitate conservare excitati etiam praecibus & continuis querelis praedictorum fidelium nostrorum fideli nostro egregio magistro Stephano de Werbewcz iudicis curiae nostrae Prothonotario curam omnium ipsius regni nostri iurium, legum & consuetudinum constitutionumque receptarum atque approbatarum, earum videlicet quae in ipso regno nostro & praesertim in aula nostra regia iudicandis & decidendis causis ac sententiis ferendis sequi ac observari consuevissent, in unum colligendi atque in titulos (ut fit) & capita distinguendi ut ea postea nobis oblata ac per caeteros magistros Prothonotarios: & sedis nostrae iudiciariae iuratos coassessores revisa, discussa ac diligenter trutinata in unum volumen redigerentur. Ut iam gens etiam nostra Hungarica sicut aliae omnes fere nationes & provinciae bene & sapienter institutae in iudiciis decernendis & iusticiae administratione non sola consuetudine quae plerumque mutari & labilis esse solet sed iure scripto & fidissimis litterarum monumentis illustrato niteretur. Demum nobis in praesenti conventu & congregatione generali eorundem universorum prelatorum & baronum, regni huius nobilium quam eisdem certis & arduis de causis ad festum beati Lucae Evangelistae proxime praeteritum indixeramus constitutis iidem prelati & barones ac nobiles universi nostrum accedentes in conspectum quendam libellum gentilia municipaliaque iura ac leges & consuetudines eorum vetustas & receptas continentem nostro iussu a praefato magistro Stephano collectum & conscriptum nobis obtulerunt, supplicantes ut quia ipsi eum libellum in cunctis suis clausulis, articulis & capitulis pervenerabilem Paulum de Warda praepositum sancti Sigismundi proventuum nostrorum regalium administratorem, ac magnificentum Benedictum de Batthyan huius castris nostri Budensis castellanum, necnon egregios magistros Iohannem de Ellyewelgh Palatinalem, ac Albertum de Bellyen & Paulum de Bolyar personalis praesentiae nostrae Prothonotarios, Item Stephanum Kesserew de Gybarth regni huius nostri Hungariae Vicepalatinum, Georgium de Mekche secretarium nostrum, Michaelem de Zob, ac Paulum de Dombo iurato assessores dictae sedis nostrae iudiciariae, & Stephanum Henczelffy de Pettrowcz directorem causarum nostrarum regalium perlegi, revideri, discuti & examinari faciendo super eorum legibus & approbatis consuetudinibus recto ordine & debito modo conscriptum esse agnovissent; propterea ipsum libellum & omnia in eo contenta quoad omnes clausulas, sensus, capita & articulos in formam nostri privilegii redigi faciendo admittere & approbare eisdemque & eorum heredibus ac posteritatibus pro perpetuis legibus

& consuetudinibus valiturum autoritate nostra regia & de regiaē nostrę potestatis plenitudine roborare & confirmare dignemur. Cuius quidem libelli tenor sequitur in hæc verba.

Serenissimo principi & domino, domino Wladislao dei gratia regi Hungarię & Bohemię, &c. domino suo clementissimo, Magister Stephanus de Werbewcz iudicis curię serenitatis vestrę Prothonotarius servitorum suorum humilimam commendationem. Quanquam domestica ac gentilia regni huius inclyti Hungarię iura certam in seriem formulamque & ordinem redigere, ac litterarum monumentis illustrare arduum & perdifficile ac humano prope modum ingenio maius esse videatur, Quippe cum apud nostrates eo in genere nihil hactenus extiterit, aut origine diuturnum, aut sanctione stabile, aut perenni usu ac observantia roboratum sed ex cuiusque fere principis ac regis nutu & arbitrio novę constitutiones novaque edicta per singulos nedum ætates, sed paucissimorum quoque annorum spatia emanaverint. Quę cum inter sese plerumque dissideant, & adversis quasi frontibus obluctentur in unum velut corpus convenire & coalescere haud facile possunt. Ad hoc accedit quod ea omnia quę vel forensibus in causis emergunt, vel ad iudiciorum rationem accomodantur memorię tenere supra hominis captum facultatemque videtur existere. Quę cum ita se habeant tamen maiestatis vestrę iussionibus quibus non usque quaque parere piaculum semper duxi morem gerere cupiens sarcinam meis humeris longe imparem subire non formidavi, qui proprię licet imbecillitatis conscius, Tantum enim abest ut mihi quippiam maioris industrię aut eruditionis attribuam ut meos etiam inter æquales ac eiusdem professionis studiosos me in postremis herere non inficiar. Vestrę tamen maiestatis secundissimo ductu vestrisque felicibus auspiciis rem his regionibus ad hunc usque diem inauditam, & per tot sæculorum lapsus magno dedecore sed maiori iactura neglectam aggrediar, statuta scilicet & decreta ac leges & consuetudines regni hactenus divulsa, mutila, confusa & male cohærentia in unum connectere ac conglutinare in scriptisque redacta vestrę maiestati ad communem usum provulganda, summa cum obsequendi propensitate offerre. Nec ulla est res quam vel vestra maiestas mihi maiori cum sua laude demandare, vel ego alacriori animo suscipere quivissem. Quid enim regio splendore dignius suorum subditorum quieti ac tranquillitati accomodacius prestare potuisset quam post bella & armorum strepitus quibus hostilis metus procul depellitur pacis curam gerere? quę nisi iuris moderatione contineatur stabilis firmaque esse non valet. Perspicuum est autem plus multo obesse intestinas discordias quam externa bella ac plures potentioresque republicas esse veneno domestico quam hostilibus armis subversas. Opere precium autem duxi pro maiestatis vestrę voto universas regni consuetudines ac leges & decreta dilucido, aperto ac unicuique facile exposito stilo perscribere, & in capita, titulos ac articulos redigere ut deinceps prima legum nostri regni rudimenta non ab antiquis illis fabulis quibus hactenus omne fere tempus aliis atque aliis edendis iuribus inaniter contrivimus sed ab ipso litterarum aditu ac sacrario ab ipsoque civilis disciplinę fonte depromantur in animisque cuiusque altius insideant tenatiusque radidentur. Quę quidem res (mea ut fertur sententia) eo gratior toti est futura prosperitati quo atavi progenitoresque nostri ab eiusmodi institutionibus videntur alieniores fuisse. Gens enim nostra a prima ipsa nascentis imperii origine rebus dumtaxat bellicis intenta cæteris disciplinis minus videtur incubuisse. Hungari namque a Scythicis populis progressi vel propagati relicto patrio regno in superiori quę citra ultraque Danubium diffunditur Pannonia consederunt, ac duce Atilla fines imperii longe lateque propagantes, Germanię, Italię ac Hispaniarum limites victricibus armis penetrarunt. Divo tandem rege Stephano authore velut iubare quodam cœlitus demisso superstitione ac gentilitate penitus

eliminata fidei Catholicę dogma susceperet. Nec gens aliqua postmodum aut natio (absit invidia verbo) pro reipublicę Christianę tutela & propagatione acrius aut constantius ipsis Hungaris excubuit. Qui cum omni Machometricę fęditatis barbarię in variis ancipitibusque preliis diu ac multum cum ingenti sua laude versati & (ut vetustiora pręteream) annos circiter centum supra quadraginta nunc oppugnantes, nunc repugnantes cum immanibus Thurcis cruentissima bella gessere. Et per eorum sanguinem, cędes ac vulnera reliquam Christianitatem (ne hostilis rabies velut fractis obicibus remotius sese effunderet) tutam incolumnemque reddiderunt, ea fortitudine roboraque naturę ut plerumque in armis vitam degerent. Nullis questuariis aut vulgaribus artibus dediti sola militia nobilitatem definierunt. Quo factum est ut ad leges ipsas vel exactiori cura sanctiendas, vel maturiori examine promulgandas nec ocium, nec tempus satis idoneum superfuerit. Sed iam maiestatis vestrę singulari cura ac providentia propediem fore video ut ne in hac quoque laude cęteris nationibus inferiores esse videamur. Tu inquam optime ac Christianissime rex, ut solii sublimitate cęteris omnibus pręstas ita incredibili ac prope cęlesti virtute abundas quę religionis observantia ac dei veri cultu maxime illustratur. Ideo nullę non modo actiones, sed ne cogitatus quidem tui cęlesti numine vacant. Et id ratione quidem optima. Iusti enim sumus si pietatem qua religiose deum colimus, pręsentem semper coramque habuerimus. Humana enim iustitia nisi a divina manet (quę pietas est) eam esse iniustitiam summam reor. Me etenim Cipriani gloriosissimi martiris sententia delectat: Iusticia regis (inquit) pax est populorum, tutamen patrię, munimentum plebis, protectio gentis, cura languorum, gaudium hominum, temperies æris, serenitas maris, terrę fecunditas, solatium pauperum, hęreditas filiorum & sibimetipsis spes futurę beatitudinis. Ipsa autem iustitia non tam natura quam disciplina acquiritur, & ea quidem disciplina quam nobis legum ac iuris scientia subministrat. Quam ait Euripides Hespero ac Lucifero magis esse mirabilem. Hęc inquam una virtus sola est domina omnium & regina virtutum, fundamentum perpetuę commendationis & famę. Ideo Agisileus cum de fortitudine iusticiaque rogaretur utra esset melior, nihil (ait) fortitudine indigeremus si iusti omnes essemus. Rex enim humanarum omnium ea natura est ut constantiam nullam diucius servent, sed fluctuent semper ac nutent. Fortuna quippe ipsa quam levis, quam inconstans, quam fallax sit Assiriorum, Medorum, Persarum, Macedonum Romanorumque docent imperia. Sola ipsa iusticia est, quę sibipsi constat, quę nulli mutationi subicitur, sed eadem est semper & incredibilem secum affert firmitatem. Quam ob rem maiestati vestrę communi omnium vestrorum subditorum nomine ingentes atque immortales gratias & ago & habeo quod eo legum ac constitutionum robore huius inclyti vestri regni munimenta stabilire volueritis, quę nulla unquam sit neque fortunę malignitas, nec hominum iniuria concussura. Quis enim ignorat ad salutem vitamque hominum & quietam & beatam inventas esse leges? sine quibus nec domus ulla, nec civitas, nec gens, nec hominum universorum genus stare, nec rerum natura omnis, nec ipse mundus potest. Quarum quidem quis nam primus fuerit inventor non satis constat. Hebręi sane hunc Mosen fuisse volunt. Athenienses Cecropem, ac Solonem, Argivi Phoroneum, Cretenses Minoa ac Radamanthum, Lacedęmonii Licurgum, Ægyptii Trismegistum, Persę vero Zoroastem. Sed quisquis tandem ille fuerit tale humano generi attulit munus quo maius ac salubris vix a cęlesti numine optare fas est. Sunt enim leges totius humanę vitę duces ac moderatores. Totę sint in æquitate, in prudentia, in profundissima denique sapientia constitutę; totę ad genus humanum regendum, gubernandum, defendendum excogitatę; totę ad vitam bene beateque peragendam adinventę. Iccirco nullum imperium, nulla respublica sine legibus potest esse diuturna. Arma enim imperia parant, leges parta conservant. Sunt enim leges muri ac fundamenta civitatis. In his salus bonorum, in his pacis consilia continentur. Quod stamus, quod incedimus, quod dormimus, quod denique secure vitam agimus id totum est iuris ac legum defensionis tribuendum. Quibus sublatis bonis viris aut nullus est locus in

civitate aut turpissimis semper afficerentur iniuriis. Remotanamque iusticia teste beato Augustino quid sunt regna nisimagna latrocinia?

Leges sunt quæ nos a periculis ignominiaque tuentur, quæ sicarios arcent & crassatores ac insidiarum pericula longe lateque repellunt. Quæ denique in summo nos ocio atque in summa tranquillitate custodiunt. Iccirco nihil hac quidem tempestate fieri potuit ineffabili preconio dignus, aut ad perennem gloriam consequendam efficacius. Sed nec vestris florentissimis regnis indissolubili concordie nexu stabiliendis aptius quam quod vestræ maiestatis ductu & autoritate leges ac huius regni sanctiones densissimis tenebris & caligine prius obrutæ scriptiois nitore illustratæ tanta cum vestra dignitate provulgentur. Quam quidem provinciam ubi primum mihi demandare vestra maiestas dignata est licet, ut ingenue fatear, omne studium, omnem industriam ac solertiam eo contulerim ut pro virili vestræ maiestati quam plenissime obtemperarem. SCIO tamen non defuturos qui invidiæ facibus excitati huic tanto tamque omnibus profuturo labori detrahere non desistant. Hæc est enim furentis invidiæ consuetudo utinea semperquam prestantiora accumulatio laude sunt digna viventis, ac rabidissimos morsus exacuat. Sed plane confido maiestatem vestram me facile ab teterrimis illius monstri faucibus erepturam, & ipse quoque vestro velut clipeo munitus quæcumque calumniatores vibraturi sunt iacula intrepide, vel retundam, vel sustinebo. Satis autem superque premii pro hac navata opera me arbitrabor consequutum si & patriæ cuius insita optimi cuiusque animo ingens est charitas hac in parte videbor consuluisse & maiestati vestræ cui me perpetuo dedidi ac devovi pro viribus obtemperasse, quam etiam atque etiam oro & obsecro ut has meas vigiliis vestro sacratissimo nomini dedicatas iterum atque iterum perlegere, discutere ac recensere non gravetur. Et cum ea sit operum humanorum conditio ut nihil fiat adeo politum adeove absolutum ut non in melius reformari possit pro exactissimo vestro iudicii acumine quæ vel resecanda, vel inmutanda, vel addenda duxeritis ea ita castigatissima vestræ censuræ linea corrigatis & emendetis ut æmulis ac malivolis nullus detrahendi locus relinquatur. Nemo autem id sibi persuadeat me tamen mihi autoritatis vendicasse ut novas aliquas leges afferre ac superaddere fuerim ausus, sed ea dumtaxat, quæ a maioribus meis accepi, quæque observari in pertractandis iudiciis causisque discutiendis vidi, audivi, didici, in unum quasi volumen contuli ac digessi, consilio tamen cum cæteris meis collegis & patrii iuris ac consuetudinum non ignaris prius communicato. Quod opus nunc maiestati vestræ offero & dedico eamque supplex deprecor dignetur has meas lucubrationes hilari fronte excipere & eis si digne videbuntur suam sacro sanctam autoritatem in partiri omnibusque suæ ditioni parentibus observandas proponere. Mentis autem potius effectum, quam rei quæ offertur exiguitatem maiestas vestra metiatur. Hęc enim quantulacumque oblatio ex obedientiæ sinceritatisque officina emanavit. In posterum vero quantum viribus consequi potero omni studio, cura, industria conabor ut mea obsequia maiestati vestræ usui esse re ipsa comprobentur. Voluntas certe fidesque nunquam aberit. Valeat vestra maiestas rex excellentissime diu multumque fœlix. LEges itaque et consuetudines approbatas inclyti regni Hungariæ descripturus quedam notabilia presentem materiam concernentia compendiose præmittere institui. Primo quidem de iusticia. Secundo vero de iure & divisione iuris. Tertio autem de lege & speciebus legis. Quarto quidem de consuetudine & conditionibus eius. Quinto nempe & ultimo de conditionibus boni iudicis & aliis rebus ad iudicium iustum spectantibus apposita quæstione, utrum iudex secundum allegata & probata, vel secundum conscientiam ut ipse novit iudicare teneatur? Quibus breviter prehabitis dei gloriosi adiutorio propositum aggrediar, atque municipales leges & approbatas consuetudines ipsius regni Hungariæ, quibus communiter in iudiciis utimur (prout memoria & ingenioli capacitate comprehendere potero) seriatim absolvam.

[Prologus]

De iusticia quid sit diffinitive et de eius divisione.

Iusticia igitur est constans & perpetua voluntas, ius suum unicuique tribuens, & hoc non quantum ad actum semper sed quantum ad affectum. Iusticia enim est animi dispositio & mentis affectus, qua quis dicitur iustus dum videlicet quis sine personarum acceptione & distinctione velit cuilibet quantum in se est ius suum tribuere. [§1] Item iusticia est habitus bonus tribuens cuique suam dignitatem: deo religionem, parentibus obedientiam, maioribus reverentiam, paribus concordiam, minoribus disciplinam, sibipsi castimoniam & pauperibus ac miseris compassionem operosam. [§2] Item aliter iusticia est habitus animi (communi utilitate servata) suam unicuique tribuens dignitatem, & sic est congrua dispositio animi singulis in rebus recte diudicans causas beato enim Gregorio teste in rebus humanis summum bonum est iusticiam colere & unicuique iura sua servare. Nam ubi est iusticia, ibi est omnium reliquarum virtutum concordia omnes enim virtutum species (ut inquit Hieronymus) uno iusticiæ nomine continentur cui astipulatur, versiculus ille Hesiodi Iusticia in sese virtutes continet omnes, quæ preclarissima virtutum eo splendore mortalium oculos perstringit ut affirmet Aristoteles neque hesperum, neque luciferum tantopere rutilare. [§3] DUPLEX est autem iusticia scilicet naturalis & legalis. Naturalis est constans & perpetua voluntas, ius suum (ut prenotatum est) unicuique tribuens, & sine illa nullus potest regnum dei possidere. Legalis vero dicitur lex quæ sæpe mutatur, sine qua nec gentes, nec regna diu poterunt permanere. Unde & iustum aliquid dupliciter intelligitur fieri uno modo ex ipsa natura rei quod dicitur ius naturale, alio modo ex quodam statuto inter homines quod dicitur ius positivum.

De iure, et divisionibus iuris.

Ius autem quantum ad nostrum propositum spectat tantum valet sicuti rectum, vel iustum, quod a iusticia derivatur. Et in proposito accipitur pro nostris consuetudinibus, sive scriptis, sive non scriptis. [§1] Unde ius nomen generale est & lex species iuris est. Omne enim ius legibus & moribus hoc est iure scripto & non scripto constat quod per Tullium sic diffinitur est ars sive scientia boni & æqui, secundum quam nos sacerdotes id est sacras leges & cuilibet iura sua ministrantes appellamur. [§2] Aliter autem ius dicitur collectio legitimorum preceptorum, quæ nos artant ad observandum bonum & æquum hoc est utilitatem & æquitatem sive veritatem iusticiam designantem. [§3] IUS itaque duplex est quoddam enim est ius publicum, quoddam vero privatum. Publicum est, quod principaliter ad imperium & regimen regnorum publicamque utilitatem spectat, & in sacris ac in sacerdotibus & in magistratibus consistit unde qui ledit sacerdotes, vel res sacras, vel magistratus, hoc est rectores populi ab omnibus tanquam pro crimine publico accusari poterit. Privatum vero est ius speciale quod ad singulorum hominum utilitatem pertinet. Et illud triplex est scilicet ius naturale, ius gentium & ius civile. [§4] Ius igitur naturale est commune omnium nationum eo quod ubique instinctu naturæ & non constitutione aliqua habetur quod natura omnia animalia docet & docuit. Et hoc non solum est humani generis proprium sed etiam omnium animalium. Inde descendit maris & fœminæ coniunctio, liberorum procreatio & educatio omnium una libertas acquisitio eorum quæ coelo terra marique capiuntur. Item depositæ rei vel comodatæ pecuniæ restitutio, violentiæ proximi per vim repulsio. Nam hoc, aut siquid huic simile est nunquam iniustum, sed

naturale æquumque habetur. [§5] Item alio modo ius naturale intelligitur, Quod in lege Mosayca & Evangelio continetur, quo quis iubetur alteri facere quod sibi vult fieri, & prohibetur alteri inferre quod sibi fieri nolit unde versus Quod tibi vis fieri mihi fac quod non tibi noli, Sic potes in terris vivere iure poli. [§6] Ius itaque naturale dupliciter potest considerari: uno modo in quantum consideratur homo prout habet in se naturam rationalem in qua participat cum divinis, & sic ius naturale quod cadit in homine dicitur ius divinum. Alio modo ius naturale consideratur in homine quantum ad naturam sensualitatis, in qua participat cum cæteris animalibus ut sensu motu et instinctu. Et hoc modo ius cadens in homine dicitur esse ius naturale. [§7] IUS gentium duplex est scilicet primævum & secundarium. Ius gentium primævum est, quo omnes gentes ab initio usq̄ sunt naturali ratione inductum absque aliqua constitutione gentium, ut neminem ledere &c. Et hoc a iure naturali nihil discrepat nisi ratione diversorum respectuum. Nam ius naturale & gentium pariter dicitur sed diverso respectu naturale scilicet in quantum ratione naturali est inductum, gentium vero in quantum gentes a principio orbis sine ulla constitutione alia eo usq̄ sunt. Et hoc iure status servi est integer. Quia naturali ratione omnes liberi nascebantur. [§8] Ius gentium secundarium est ius a gentibus non ratione naturali sed ratione publici boni & ad communem usum introductum. Et hoc sæpenumero discrepat a iure naturali: quia iure naturali omnia erant communia, omnes erant liberi, de iure vero gentium facta est divisio dominiorum & rerum inventa separatio. Introducta sunt bella, captivitates, servitutes & alia huiusmodi, quæ iuri naturali sunt contraria. Ex hoc etiam gentium iure omnes pœne contractus inducti sunt ut emptio, venditio, conductio & his similia. [§9] IUS autem civile est, quod quisque populus vel quæque civitas sibi propter divinam humanamque causam constituit. Et vocatur ius civile quasi proprium ius civitatis, quod tripliciter potest accipi. Primo generaliter & est quod in unaquaque civitate generaliter observatur. Secundo specialiter & est quod quisque populus vel quæque civitas sibi proprium divina humanaque causa constituit. Tertio excellenter ad excellentiam videlicet iuris Romanorum, quod etiam ius imperiale nominatur. Dum enim non exprimitur nomine huius, vel illius civitatis tunc per excellentiam tantum ius Romanorum significatur, sicuti per poetam apud Græcos Homerus, apud Latinos Vergilius subauditur. Et per apostolum in sacro eloquio alterius nomine non expresso sanctus Paulus intelligitur.

Quomodo differunt ius naturale, ius gentium et ius civile.

Sciendum itaque quod ius naturale differt ab aliis iuribus tribus modis. Primo origine, nam incepit ab exordio naturalis creaturæ. Secundo dignitate, quia ius naturale apud omnes gentes equaliter servatur, a solo deo institutum, firmum & impermutabile manens, alia vero iura, quæ populus vel civitas sibi constituit, sæpe mutantur, vel contraria consuetudine vel alia meliori lege in contrarium postea lata & introducta. Tertio amplitudine, quia iure naturali omnia communia sunt, sed iure gentium vel civili hoc meum illud tuum est. [§1] Cæterum omnes populi, qui legibus aut moribus utuntur & reguntur, partim suo proprio, partim vero communi omnium hominum iure utuntur. Hi enim, qui suo tantummodo iure & non communi gaudent, & aliquod ius sibi proprium instituunt, ius civile nominatur. Quod vero apud omnes gentes communiter observatur, ius gentium appellatur.

De iure militari et iuris prudentia.

IUS militare est belli inferendi solemnitas sederis faciendi nexus, signo dato congressio in hostem. ITEM flagicii militaris disciplina (hoc est castigatio), si locus desaratur. Item stipendiorum modus, dignitatum gradus, præmiorum honor, veluti dum corona vel torques donantur. Item præde decisio & pro personarum qualitibus & laboribus iusta divisio ac principis portio. [§1] IURIS prudentia vero est divinarum humanarumque rerum notitia, iusti atque iniusti scientia. Iusti scilicet ad faciendum, iniusti autem ad evitandum, [§2] quia non sufficit scire, quod sit iustum vel iniustum, nisi & ipsarum rerum contrariarum vel corporalium habeat quis noticiam, secundum quam iuxta varias conditiones rerum emergentium, varia etiam iura sunt statuenda.

Differentia est inter iustitiam, ius et iuris prudentiam.

Differunt autem inter se iusticia, ius & iuris prudentia. [§1] Nam iusticia est virtus scilicet moralis. Ius est eius virtutis exequutivum. Iuris prudentia est scientia illius iuris. [§2] Item iusticia est inter virtutes summum bonum, ius medium, iuris prudentia infimum. [§3] Item iusticia tribuit unicuique quod suum est, ius vero coadiuvat, iuris prudentia autem docet, qualiter illud fiat.

De diffinitionibus legis et eius conditionibus.

QUIA dictum est superius, quod omne ius, aut legibus, aut moribus hoc est iure scripto vel non scripto constat. De iure igitur scripto, id est, humana lege, breviter sciendum, quod lex diversimode describitur. [§1] Primo namque est constitutio populi, qua maiores natu cum plebibus aliquid sanxerunt. Sed hæc diffinitio proposito nostro non quadrat, quam omnis potestas constitutionis & condendæ legis, quæ olim apud populum fuerat, in presentiarum ad principem nostrum spectat, ut infra clarius dicitur. [§2] Alio modo lex est sanctio facta iubens honesta & prohibens inhonesta atque contraria. [§3] Vel aliter: est recta ratio ab equitate tracta iubens honesta & vetans inhonesta. [§4] Item secundum Papinianum & Demosthenem Lex est inventio hominis, donum dei, dogma sapientum, correctio violentorum excessuum, civitatis compositio & criminis fuga. Ex qua quidem diffinitione colligitur quod lex inventio humana est. [§5] Postquam enim multiplicato genere humano & surrepentibus viciis, in tyrannidem regna conversa sunt, necessario opus fuit leges condere, quarum primi inventores, qui fuerint in prefatione superius declaratum habes. [§6] Dicitur deinde in diffinitione legem donum dei esse. Secundum enim Chrysostomum lex dei est una legalis via, quæ nec ad dexteram, nec ad sinistram declinat. Populus ergo sine lege, qui dei dicta & legum documenta contemnit, per diversas errorum vias laqueum perditionis incurrit. Omniumque legum inanis est censura, nisi divinæ legis imaginem gerat, quia humanæ leges eatenus valent solum, quatinus non discrepant a divinis, prout & sapiens testatur inquiens. Per me reges regnant & legum conditores iusta decernunt, [§7] ideo leges humanæ emanari debent a lege divina. Nam illa respublica sola est ordinata, quæ legibus regulatis lege divina gubernatur. Lex ergo contra legem divinam nec populi assensu, nec consuetudine diuturna est valida. [§8] Tertia conditio legis ex diffinitione prædeclarata est quod sit dogma sapientum. Ubi sciendum quod sicuti principes non debent punire innocentem, ita non debent absolvere reum & facinorosum a poena & disciplina, maxime quando quis peccat in rempublicam, qui enim iustificat impium & condemnat iustum uterque abhominabilis est apud deum. [§9] Quarta legis conditio quod sit violentorum excessuum correctio. Nam ideo factæ sunt leges, ut

earum metu humana coerceatur audacia tutaque sit inter improbos innocentia. Non enim inducerentur homines ad legis observantiam, nisi esset timor poene legalis, per publicam inferenda personam. [§10] Quinta conditio legis, quod lex sit civitatis compositio. Civitas enim ab unitate civium nominatur. Ergo omnes leges etiam in hoc regno nostro ad commodum reipublicae iudices referre oportet. Nam ut ex medicina nihil debet sperari, nisi quod ad corporis utilitatem spectet quoniam eius causa instituta est, sic a legibus nil oportet colligi, nisi quod reipublicae totius communitatis conducatur, quia eius causae ad hoc sunt competae. [§11] Sexta conditio quod lex debet esse criminis fuga. Secundum enim beatum Thomam Aquinatem, leges humanae ad retrahendum homines a viciis & inducendum ad virtutes sunt factae. Nam homini inest naturaliter quidam appetitus ad virtutem, sed ipsa virtutis perfectio necesse est, ut adveniat homini per aliquam disciplinam, quae maxime per legis observantiam advenire solet. Ideo subinfert idem Thomas, quod lex est ordinatio rationis ad bonum commune, ab eo, qui curam habet communitatis promulgata estque regula vel mensura actuum agendorum vel omittendorum. [§12] Unde lex debet esse iusta, honesta, possibilis secundum naturam & secundum consuetudinem patriae, loco temporisque conveniens, necessaria & utilis; manifesta quoque, ne aliquid per obscuritatem incautum captione contineat (id est ne aliquis possit eam captiose interpretari. Si tamen ambiguum vel obscurum fuerit, eius est interpretari, qui condidit. Vel ne laqueus alicui pareatur per eam) nullo privato commodo, sed pro communi civium utilitate conscripta. [§13] Ideo autem ista consideranda sunt, quia cum leges institutae fuerint, non erit postea iudicare de ipsis, sed oportebit iudicare secundum ipsas.

Quare facte sunt leges, et de quadruplici officio legis.

QUoniam omnes leges aut divinae sunt, aut humanae. Divinae namque natura, humanae vero moribus & consuetudinibus constant ideoque haec discrepant, quoniam aliae aliis gentibus placent. [§1] Fas lex divina est, ius lex humana. Nam transire per agrum alienum fas est, quia domini est terra & plenitudo eius, ius vero non est, quia statuto aut consuetudine prohibetur. [§2] Unde quaeritur, quare factae sunt leges humanae? Et respondetur, quod ideo, ut earum metu humana coerceatur audacia tutaque sit inter improbos innocentia & in ipsis improbis formidato supplicio refrenetur audacia & nocendi facultas. [§3] QUadruplex est autem officium legis, quia omnis lex aut permittit, aut vetat, aut punit, aut imperat. Permittit aliquid, ut vir fortis & virtuosus petat premium. Vetat, ut sacrarum virginum nulli petere liceat connubium. Punit, ut qui caedem fecerit, capite plectatur. Quandoque autem imperat, ut diliges dominum deum tuum. [Unde] versus: Quatuor ex verbis virtutes collige legis Permittit, punit, imperat, atque vetat.

De statuto et municipali iure.

PRaehabita legis quidditate atque diversitate, iam de statuto dicendum occurrit. [§1] Est autem statutum, quod vulgo decretum appellamus, ius quoddam regni commune vim legis habens. Et dicitur statutum, quasi stabiliter & firmiter ordinatum, vel quasi statum publicum definiens, saepe vero appellatione quoque iuris civilis veniunt statuta. [§2] Ubi advertendum quod ius civile duplex reperitur. Quoddam commune & est illud, quod in libris iuris civilis habetur. Et istud non potest condere nisi imperator vel alius supremus princeps. Quoddam vero privatum, quod etiam ius Municipale vel statutarium dicitur. Et illud unaquaeque regio, vel provincia, vel aliquando civitas sibi constituere potest. [§3] Ius

autem Municipale est ius positivum alicuius loci. Ita dictum, quod in illo dumtaxat municipio (id est oppido) ac loco servetur. Idem & ius statutarium (ut præactum est) appellatur.

Utrum valeat statutum contra ius canonicum, vel naturale, vel divinum.

SEd querendum videtur an valeat statutum contra ius canonicum, vel naturale, vel divinum: dic, quo ad ius canonicum, si statutum est, contra libertatem ecclesiarum diuturnam vel privilegia eis concessa non valet. Idem dicendum, si circa ea fiunt statuta quæ salutem animæ respiciunt. Circa causas vero prophanas statuta civilia derogant canonibus & eos tollunt.

[§1] Quantum autem ad ius naturale vel divinum, licet statuta non possunt illud ex toto tollere, possunt tamen distinguere, ut exempli gratia, lex divina dicit indistincte: Non occides, tamen lex humana & statutum concedit homicidium in multis casibus. Idem dicendum de decimis, quæ debentur de iure divino & tamen Papa multos privilegiat super decimis non solvendis.

[§2] Concludamus ergo quod per statutum ac legem vel rescriptum non potest ius naturale vel divinum in sui universo tolli. Nec enim summus pontifex vel alius quispiam posset statuere, ut non observaretur vetus vel novum testamentum, vel quod liberi non educarentur a parentibus, sed in aliquibus casibus particularibus potest fieri ex iusta causa contra ius divinum vel naturale, ut prædo possit occidi vel fur nocturnus.

Quid sit consuetudo et que sunt necessaria ad consuetudinem firmandam.

IAM autem de consuetudine disserendum est. Ubi sciendum quod consuetudo est ius quoddam moribus institutum, quod pro lege suscipitur cum deficit lex. Nec differt scriptura, an ratione consistat quandoquidem & legem ratio commendat. Porro si ratione lex constat, lex erit omne iam quod ratione constiterit, dumtaxat quod religioni congruat, quod disciplinæ conveniat, quod saluti proficiat. Vocatur autem consuetudo quasi communis suetudo & usus hominum, quia in communi est usu. [§1] Sed clarius consuetudo (prout nostrum propositum tangit) sic diffinienda videtur: est ius quoddam moribus illius introductum, qui autoritate publica legem condere potest. Ideo appellatione iuris venit etiam consuetudo & si princeps committit, ut iudicetur secundum iura, tunc iudex poterit ferre sententiam secundum consuetudinem & statuta loci, sicut etiam econtrario appellatione consuetudinis venit ius commune. Ideo siquis in actione sua faciat mentionem de consuetudine, etiam ius commune videtur intentatum esse. [§2] Quilibet autem populus potest consuetudinem inducere localem, sed ut valeat consuetudo ac roboretur quædam sunt necessaria. [§3] Primo ut sit rationabilis. Est autem rationabilis cum tendit & accedit ad finem iuris. Finis autem iuris Canonici & divini est felicitas anime. Finis vero iuris civilis est bonum publicum. Ideo si consuetudo tendit ad felicitatem animæ, est rationabilis secundum ius Canonicum & divinum, si autem repugnat fini æterno, est irrationabilis. De iure vero civili consuetudo est rationabilis si tendit ad bonum publicum. Et quia in hoc non sunt speciales regulæ, dic quod consuetudo, quæ non est contra ius naturale, gentium vel positivum præsumitur rationabilis. [§4] Sed cum ius sit fundatum super ratione, videtur quod nulla consuetudo contra ius possit esse rationabilis. Dicendum quod consideratis

diversis rationibus potest esse consuetudo rationabilis contra legem etiam rationabilem. Unde duo contraria possunt simul esse vera, consideratis diversis finibus, ut nubere & non nubere. [§5] Secundo requiritur ut sit præscripta, idest habeat tempus debitum & per cursum illius temporis ad præscriptionem requisiti firmetur. Sed hoc est tantum de iure Canonico & neque de eo iure id requiritur nisi quando est contra ius positivum. De iure autem civili ad inducendam consuetudinem sufficit decennium, hoc est lapsus temporis decennalis, etiam in casu, qui est contra ius civile. Si autem esset consuetudo contra ius Canonicum, tunc requiritur spacium quadraginta annorum. Si tamen præter ius induceretur consuetudo etiam de iure Canonico decennium sufficere videtur. Hoc autem tempus decem annorum incipit currere a tempore primi actus celebrati a populo. [§6] Id vero quod dixi de iure civili indistincte sufficere spatium decem annorum, hoc limita nisi consuetudo induceretur in his, quæ sunt reservata principi in signum supremæ potestatis. Tunc enim non posset induci consuetudo nisi esset tantum tempus, cuius inicii memoria in contrarium non existeret. [§7] Tertio requiritur frequentia actuum, ut est communis doctorum sententia. Dic tamen quod actus frequens de se non est necessarius ad consuetudinem inducendam, sed quia per usum colligitur consensus populi, qui plerumque non potest ex uno solo actu colligi, igitur frequentia actuum est ut causa consuetudo vero ut causatum. Requiritur autem tot actus & ita notorii, ut verisimiliter transiverit in noticiam populi, non tamen actus sed tacitus consensus populi inducit consuetudinem. Unde ubicunque ex coniecturis habetur tacitus consensus populi, tunc non curatur de magna frequentia actuum. Immo aliquando ex uno actu si habuerit causam successivam & continuationem per tempus, infra quod consuetudo inducitur, ut si quis supra viam publicam pontem habuerit vel quid tale potest induci consuetudo.

Quomodo differt lex a consuetudine et de triplici virtute consuetudinis.

Differt autem lex a consuetudine tripliciter. Primo tanquam tacitum et expressum. [§1] Secundo tanquam scriptum & non scriptum, quamvis hæc non sit essentialis differentia. Nam licet lex a principe lata non esset scripta, non ideo desineret esse lex. Et si consuetudo redigeretur in scriptis, adhuc esset consuetudo ut consuetudines Feudorum, quæ redactæ sunt in scriptis. [§2] Tertio tanquam momentaneum & successivum, quia consuetudo non inducitur in instanti. Lentiori enim passu procedunt tacita, quam expressa. Nec enim sunt adeo certa, quæ ex coniecturis proveniunt, sicut ea, quæ sunt expressa, ideo consuetudo proprie non potest statim induci per populum sed successive. [§3] Consuetudo autem triplicem habet virtutem scilicet interpretativam. Est enim legum interpretis optima, ideo lege existente dubia debemus recurrere ad consuetudinem loci & si de ea apparet, non est recedendum ab illo intellectu, quem consuetudo tribuit. [§4] Secundo habet virtutem obrogatoriam, quia derogat legi quando est contra legem. [§5] Tertio habet virtutem imitativam, quia imitatur legem, ubi deficit lex.

De lege et statuto ac consuetudine contraria quid sit sentiendum.

SEd querendum occurrit ubi lex, vel constitutio & consuetudo inveniatur esse contraria, utrum nam sit servandum. Dic quod si lex præcedit & postea sequitur consuetudo contraria, tunc si consuetudo est generalis vincit legem generaliter & universaliter. Si autem consuetudo est particularis non vincit legem universaliter, sed solum in loco ubi consuetudo viget. Si vero consuetudo præcedit, lex autem subsequitur contraria, tunc consuetudo non

vincit legem, immo potius tollitur per legem sequentem. [§1] Canonistæ tamen tenent oppositum asserentes quod lex Papæ non tollit consuetudinem certi loci contrariam, si de ea non fuerit facta mentio, quia Papa non præsumitur scire contrarias consuetudines. Ex quo infertur a contrario sensu quod si civitas vel aliqua communitas facit statutum contra suam consuetudinem, tunc tollitur consuetudo, licet de ipsa non faciat mentionem, quia civitas vel populus præsumitur scire suam consuetudinem. [§2] Pono igitur duas regulas. Prima est quando præcedit consuetudo & sequitur lex generalis contraria, tollit consuetudinem præcedentem. Secunda regula, quando lex præcedit, deinde sequitur consuetudo contraria legi, tollit legem præcedentem. Quod intellige (ut supra dixi) quando est consuetudo generalis inducta a populo, qui potest legem & consuetudinem generalem inducere. Nam si esset consuetudo specialis certi loci, tunc in illo dumtaxat loco vinceret legem. [§3] Ubi vero emergit casus nec decisus lege scripta, nec consuetudine & tamen est similis legi scriptæ pro una parte, & similis consuetudini pro alia parte, quidnam sit sequendum & quidnam simile præferendum a plerisque dubitatur. Dic igitur omnes casus amplectendo, quando reperitur solum simile consuetudini, illud debet attendi, quando vero solum simile legi, tunc illud erit attendendum. Si vero reperitur simile legi & simile consuetudini, tunc primum debet inspici, utrum sit magis simile, secundo utrum sit magis rationabile & æquum. Quod si in omnibus sit paritas, tunc si sumus in materia consuetudinaria, debet attendi simile consuetudinis. Si vero sumus in materia iuris scripti, tunc attendamus simile iuri scripto.

Quid sit iudex, quid iudicium, quid causa, quid actor et reus.

SEd quoniam moderandis legibus iudices præsumunt, qui recto iudicii examine ex iurisdictione eis competente singula discutunt, ideo non videtur absurdum de ipsis quoque aliquid explicare. [§1] Ubi sciendum quod iudex dicitur quasi ius dicens, vel quia iure disceptet, id est, iustitiam ministret populo. [§2] Ius autem est obiectum iusticiæ, ideo iudicium ex vi nominis importat iusti vel iuris determinationem in causa, quæ coram iudice agitur. [§3] Causa autem dicitur a casu, quo venit. Est enim materia & origo negotii nec dum discussionis examine patefacta, quæ dum proponitur causa est, dum discutitur iudicium, dum finitur iusticia censetur. Et hoc loco iusticia appellatur quæ dicta est lex. Lex autem iuris status dicitur, quia per sententiam ius de se non constituitur, sed status iuris declaratur. [§4] In omni vero negotio, quod ad iudicium venit discutiendum, he personæ requiruntur: iudex, actor & reus. In negotio autem non notorio testes quoque necessario requiruntur. [§5] Actor itaque quasi accusator, quia ad causam vocat; reus vero a re, quæ petitur nuncupatur, etiam si non sit sceleris conscius. [§6] Testes antiquitus superstites dicebantur, eo quod super statu causæ proferebantur. [§7] Unde homines (ut inquit Aristoteles) ad iudicem confugiunt, sicuti ad aliquam iusticiam animatam.

Quot requiruntur ad iudicium ut sit actus iusticie, et de iurisdictione officioque et conditionibus boni iudicis.

UT autem iudicium sit actus iusticiæ (auctore Thoma) tria requiruntur. Primo ut procedat ex iusticiæ inclinatione. Secundo ex præsentis autoritate atque iurisdictione. Tertio ut exeat proferaturque ex prudentiæ recta ratione. [§1] Si enim iudicium aut sit contra rectitudinem iusticiæ vel per eos qui non habent ad iudicandum autoritatem, vel sine

prudentiæ examine tunc non rectum sed vitiosum & illicitum iudicium censetur. [§2] Iurisditio vero est potestas ex iure publico introducta diciturque a ditione id est potestate et iuris quasi iuris potestas. [§3] Officium autem iudicis est ius competens ipsi iudici ad ea, quæ sibi ut iudici facienda incumbunt peragenda præstitum. Differt autem officium iudicis a iurisditione sicut actio ab obligatione. Nam ut per actionem quis consequitur quod in obligatione venit, ita per officium iudicis ad effectum perducitur quo in iurisditione venit & eam deducit in actum. [§4] Ad iudicem autem præcipue spectat mature singula discutere, nec debet inferenda sententia præceps, aut subitus esse, alioquin voluntas eius præcipitata noverca iusticiæ dicitur. Nec plus uni, quam alteri parti debet favere, nec esse acceptor personarum alienamque necessitatem suam debet existimare. In primis autem passionibus animi carere, ut non moveatur præce, odio vel amore. Nam iudex etiamsi tulit sententiam iustam, tamen tenetur in foro conscientia, si id fecit potius odio, quam amore iusticiæ. [§5] Nec debet esse iudex nimis crudelis nec pius nimis, sed æquus in iudicando. In omni enim iudicio coniuncta sunt misericordia & virtus, id est iusticia, & in harum coniunctione consistit æquitas. Unde Gregorius: Omnis, qui iuste iudicat, stateram in manu sua gestat et in utroque penso iusticiam & misericordiam portat, sed per iusticiam reddit peccatis sententiam, per misericordiam peccati temperat poenam, ut iusto libramine quædam per æquitatem corrigat, quædam per misericordiam indulgeat, qui dei iudicium oculis suis semper timens & tremens in omni negotio formidat ne de iusticiæ tramite devians cadat. Ubi namque iusticia suum modum excedit, crudelitatis vitium gignit & nimia pietas dissolutionem disciplina parturit. [§6] Humanum autem iudicium quatuor modis solet perverti. Timore dum metu potestatis alicuius veritatem loqui pertimescimus. Cupiditate dum præmio animum alicuius corrumpimus. Odio dum contra quemlibet adversarium molimur. Amore dum amico vel propinquo aliquid præstare contendimus. Quæ omnia in iudice summopere sunt cavenda atque fugienda.

Utrum iudex secundum allegata et probata vel secundum conscientiam iudicare teneatur.

Nunc quæstio subiungenda est. An iudex secundum allegata & probata partium, vel secundum quod novit et ex conscientia debeat iudicare? Verbi gratia aliquis accusatur de capitali vel alio crimine, & iudex scit illum esse innocium ut quia vidit id crimen ab alio fuisse patratum, tamen testes contra eum testificantur, an condemnabit scienter innocentem? Dic quod iudicare pertinet ad iudicem secundum quod fungitur publica potestate, ideo instrui debet in iudicio non secundum quod ipse iudex novit tanquam persona privata, sed ut sibi innotescit tanquam personæ publicæ. [§1] Id autem potest sibi dupliciter innotescere vel in communi per leges scilicet publicas, divinas aut humanas, contra quas probatio non admittitur; vel in particulari per instrumenta & testes & alia legitima documenta, quæ magis sequi debet iudicando, quam illud quod ipse novit in persona privata. Ideo inquit Augustinus iudex bonus nihil ex arbitrio suo facit, sed secundum leges & iura pronunciat. [§2] In hoc tamen casu iudex debet esse valde sollicitus ut foveat partem illam, quam in conscientia sua scit esse veram, ne pereat propter defectum testium & advocatorum. [§3] Si vero eo ventum est, ut adeo validæ probationes in iudicio proferantur quæ nec repelli nec collidi valeant omni arte & studio est iudici enitendum, ut innocens convictus eripiatur. [§4] Si nulla eiusmodi via reperiri potest, quærat rationem si sine scandalo fieri potest, ut alteri causam committat, si id nequit tunc proferat sententiam secundum allegata & probata. Est enim iudicis officium magis laborare pro salute boni publici quam singularis cum & ipse in quantum iudex sit persona publica: &

bonum commune sit nobilius particulari ut habetur primo Ethicorum. [§5] Nam si iudex ferit sententiam pro innocente in iudicio tamen convicto redundaret in perniciem publicum, populus enim scandalizaretur viaque aperiretur innocentes opprimendi & noxios absolvendi. Si enim iudex vellet innocentem punire diceret se conscientia sua scire eum esse reum. Pariter & si vellet sceleratum absolvere & sic iniquis iudiciis male iudicandi aditus pateret. Fateor esse qui aliter sentiant sed hæc videtur opinio communior & æquior fore.

De duplici conscientia iudicis: videlicet rei et dicti.

SEd quia constans est Theologorum sententia quemlibet qui contra conscientiam facit peccare. [§1] Sciendum igitur quod duplex est conscientia videlicet rei & dicti. Unde iudex licet faciat contra conscientiam rei idest negotii vel facti non tamen facit contra conscientiam dicti hoc est testimonii. Aliud est enim simpliciter scire & aliud est prout debet iudex scire. [§2] Iudex autem duplicem personam representat: unam privatam, aliam publicam. Fieri autem potest ut aliquid sciat tanquam persona privata & id nesciat tanquam persona publica, sicut dicitur aliquid scire ut deus & illud nescire ut homo prout est illud testimonium Evangelicum: De die autem illa & hora (scilicet extremi iudicii) nemo scit, neque angeli dei, neque filius nisi pater solus, quod intelligitur filium nescire ut hominem, scire tamen ut deum. Idem de sacerdote confessionem audiente, qui etiam interrogatus per viam testimonii posset dicere se nescire audita in confessione quia nescit ut testis. Sic etiam iudex debet informare conscientiam suam in his quæ ad propriam personam attinent secundum ea, quæ in publico iudicio sciri possunt. [§3] His duo adiungam unum quod si sit supremus iudex ut Papa & imperator vel alius qui non adstringitur legibus tunc debet sequi veritatem. Si vero est iudex inferior tenetur secundum allegata & probata etiam contra conscientiam iudicare, nec tunc peccat quia restringitur ad id faciendum iuris autoritate. [§4] Secundum est quod si iudex sedet pro tribunali, & continget aliquem ibi coram eo aliquod delictum facere, tunc potest illum statim punire ac si probaretur per testes. Melius est enim probare aliquid per ipsum factum, quam per testes. Si vero non sedet pro tribunali tunc secus. Nam si iudex ex fenestra prætorii vel domus suæ intueatur unum quempiam interficientem & quoniam hoc homicidium vel non defertur in iudicium, vel delatum non probatur, & iudex voluerit homicidam de se ipso subicere torturæ ut veritas per illius confessionem eliciatur, certe non potest. Sola enim iudicis scientia ad hoc non sufficit ut ad torturam reus deveniat, cum ipse illud nesciat ut iudex sed ut privata persona, nec ipsius testimonium in hac parte valeat cum in una & eadem causa nemo possit esse testis & iudex. Igitur aliunde est edocendus vel per testes vel alia documenta ut possit torquere criminosum. [§5] Dubium quoque est de ministris & exequutoribus, qui sciunt testes falso iurasse vel iudicem inique iudicasse tamen coguntur a iudice innocentem interimere vel aliter punire. Unde communis est Theologorum sententia eos non debere obtemperare si pro certo id sciunt, secus vero dubitent, quia tunc excusatur propter obedientiæ bonum ideo secundum sanctum Thomam si sententia intollerabilem errorem & iniuriam contineat non debent obedire, alioquin excusarentur carnifices qui martyres occiderunt. Si vero non adeo manifestam contineat iniusticiam tunc non peccant exequendo quia sententiam superioris non habent discutere nec ipsi innocentem interimunt sed iudex cui ministerium præbent.

[Prima Pars]

De tripartita divisione Jurium et consuetudinum inclyti Regni Hungarie in Generali.

Titulus primus.

EXpeditis opitulante deo, notabilibus quę ad introductionem huius opusculi pręmittenda videbantur, iam speciatim de consuetudinibus huius inclyti regni Hungarię tractandum superest. [§1] Quia igitur omnis consuetudo iuris qua utimur vel ad personas pertinet, vel ad res, vel ad actiones. Certum est autem quod omnia iura respectu personarum prodierunt ideo dignum videtur a personarum iure exordium ceptę materię sumere, deindeque de duabus reliquis consuetudinarii iuris partibus (non directe quidem semper prępostero tamen interdum ordine prout sequitur rerum in iudiciis emergentium series & condicio requirere dinoscitur) tractare & secundum hoc pręsens opusculum tripartiri dignum duxi. [§2] IN prima siquidem eius parte de his quę ad personarum rationem spectant, nobilitatis scilicet nostrę primordio libertate, bonorum iuriumque possessionariorum acquisitione, gubernatione, divisione, venditione, alienatione, concambiali permutatione, pręscriptione, pignoratione, metali reambulatione, iurium Quartaliciarum ac Dotaliciarum solutione, bonorumque mobilium & immobilium estimatione. [§3] IN secunda vero ipsius parte de rerum ac causarum prętextu pręmissorum bonorum & iurium possessionariorum aliorumque negotiorum movendarum & suscitandarum processibus, & executionibus ac sententiarum exinde ferendarum seriebus. [§4] IN tertio tandem & ultimo opusculi membro, de causarum & actionum iudicialiarum in curiam regiam per viam appellationis ex omnibus regni comitatibus, atque de Croatia, Sclavonia & Transsilvania sedibusque spiritualibus deducendarum ac transmittendarum ordinibus & modis. Item de liberarum civitatum legibus, ac causis criminalibus & earum decisionibus, cum correquisitis semper & necessariis circa pręmissa materiis & rebus sua serie tractabitur.

De prima parte iurium et consuetudinum regni in speciali; et primo quod tam persone spirituales quam seculares, una et eadem libertate utuntur. Tit. ii.

SCIendum in primis est quod personarum de quarum iuribus & consuetudinibus nunc agitur alię sunt spirituales sive ecclesiasticę, alię vero sæculares [§1] & quamvis personę spirituales medio quarum salutem humanam dominus & salvator noster administrari instituit personis sæcularibus digniores habeantur tamen omnes domini pręlati & ecclesiarum rectores ac barones & cęteri magnates atque nobiles & proceres regni huius [sic] Hungarię ratione nobilitatis & bonorum temporalium una eademque libertatis exemptionis & immunitatis pręrogativa gaudent; nec habet dominorum aliquis maius nec nobilis quispiam minus de libertate hinc etiam una eademque lege & consuetudine ac uno & eodem iuridico processu in iudiciis utuntur homagiorum dumtaxat quantitate variantur. [§2] Nam domini pręlati & barones centum nobiles vero quinquaginta marcas pro homagiis eorum consequuntur ut infra clarius dicetur. Et hoc quoque non ratione libertatis sed prętextu dignitatis & officii pręlati utputa occasione dignitatis sacerdotii. Barones vero respectu officii quo funguntur & a principe sublimantur [§3] unde & regi propinquiores in stando vel sedendo & primi in consilio voces emittendo atque priores in rempublicam augmentando & defensionem patrię peragendo cęteris nobilibus existunt, virtuteque dignitatis & officii merito pręferuntur.

**De exordio nostre nobilitatis; et quomodo regimen in principem nostrum translatum est.
Tit. iii.**

QUanquam non historiam texere, sed consuetudines & peculiare approbatasque huius regni leges ipse describere constituerim, quia tamen universos dominos prælatos & barones ac nobiles una & eadem exemptionis & libertatis prærogativa gaudere dixi & alioquin dubitari solet a plerisque unde nobilitas nostra de qua Baronatus & omnis tandem principatus progredi solet exordium sumat: quive sint & intelligantur veri nobiles regni, ideo paucis eius nobilitatis progressum & initium declarandum statui. [§1] Ubi sciendum quod licet secundum communem peritorum sententiam nobilis ille sit sua quem virtus nobilitat in quantum tamen propositum nostrum tangit nobilitas quæ etiam liberorum nomine plerumque intelligitur primum inter Hunnos sive Hungaros post ingressum eorum ex Scythia in Pannoniam quæ nunc mutato nomine ab Hungaris illam incolentibus Hungaria vocitatur orta fuisse perhibetur hoc modo. [§2] Cum enim egressi ex Scythia Hunni una cum uxoribus filiisque & filiabus ac cuncta eorum familia plures peragrarent pervagarenturque regiones capitaneis ordinatis & uno præterea Rectore ad lites dissidentium sopiendas, furesque & latrones ac alios malefactores castigandos unanimiter electo atque constituto communi omnium sententia decretoque edictum fuit ut dum aliquæ res communitatem æqua sorte tangentes occurrerent aut generalis expeditio exercitus incumberet tunc mucro vel ensis sanguinis aspergine tinctus media Hunnorum per habitacula castraque deferetur & vox præconica subsequeretur dicens. Vox dei & præceptum communitatis universæ, ut unusquisque in tali loco (eundem designando locum) armatus vel qualiter potest compareat communitatis consilium simul & præceptum auditurus. [§3] Hæc consuetudo inter Hungaros usque ad tempora Geysse ducis, patris scilicet gloriosi principis & apostoli nostri beatissimi Stephani primi regis Hungarorum inviolabiliter extitit observata, quæ multos Hunnorum perpetuam redegit in rusticitatem. [§4] Nam statutum & sancitum erat ut transgressores eiusmodi mandati nisi rationabilem assignarent excusationem cultro media per viscera scinderentur, aut communem & perpetuam in servitutem redigerentur. [§5] Hæc sanctio plurimos Hungarorum (ut præfertur) plebeæ perhibetur effecisse conditionis. Nam cum una & eadem de generatione a quodam scilicet Hunno & Magoro unanimiter processerint aliter fieri nequivisset ut hic dominus ille servus hic nobilis ille ignobilis & rusticus efficeretur. [§6] Postquam vero inspirante spiritus sancti gratia ad agnitionem veritatis chatholicæque fidei professionem opera ipsius sancti regis nostri Hungari venere, & eundem sponte in regem elegere pariter & coronare omnis nobilitationis & exconsequenti possessionariæ collationis qua nobiles decorantur, & ab ignobilibus segregantur facultas plenariæque potestas in iurisdictionem sacræ corone regni huius, & per consequens in principem ac regem nostrum a communitate & communitatis ab auctoritate, simul cum imperio & regimine translata est, a quo iam omnis nobilitatis origo per quandam translationem reciprocam reflexibilemque connexionem. Ita mutuo semper dependet ut seiungi segregarique nequeat, & alter sine altero fieri non possit. [§7] Neque enim princeps nisi per nobiles eligitur, neque nobilis nisi per principem creatur atque dignitate nobilitari decoratur.

Quod vera nobilitas per exercitia militaria et ceteras virtutes acquiritur ac possessionaria donatione roboratur. iiiii.

PROinde vera nobilitas usu disciplinaque militari ac cæteris animi corporisque dotibus & virtutibus acquiritur. Nam ubi princeps noster quempiam hominum cuiuscunque conditionis existat, ob præclara facinora ac servitia castro, vel oppido, sive villa, aut alio iure

possessorio condonaverit, mox ille per huiusmodi donationem principis (statutione legitima subsequente) in verum nobilem creatur & ab omni rusticitatis iugo eripitur. [§1] Et ista tandem donativa libertas per nostrates nobilitas appellatur, unde talium nobilium filii merito hæredes & liberi nuncupantur, & huiusmodi nobiles per quandam participationem & connexionem immediate prædeclaratam, membra sacræ coronæ esse censentur, nulliusque præter principis legitime coronati subsunt potestati.

Quod quilibet de bonis per eum propriis serviciis conquisitis libere disponere potest. Tit. v.

Tale autem ius possessionarium per exercitia militaria conquisitum apud legistas peculium castrense quod vero litterali scientia vel doctrina cuiuspiam acquiritur, peculium quasi castrense nuncupatur & dicitur peculium quasi proprium vel privatum bonum ita quod licet filio de eo facere quidquid voluerit etiam præter voluntatem patris, & econtra [§1] & inde traxit originem ac fundamentum illa laudabilis & vetustissima ab olimque approbata consuetudo nostra quod scilicet quilibet dominorum, baronum ac magnatum & nobilium de & super universis rebus bonisque & iuribus possessionariis per eum propriis suis laboribus, servitiis & virtutibus qualitercunque acquisitis & inventis, ante divisionem cum patre vel fratribus factam, liberam (prout voluerit) disponendi semper habet potestatis facultatem, sicuti inferius in serie divisionum inter fratres fiendarum limpidius declarabitur.

Quod nobiles etiam absque possessionaria donatione creantur; quodque ad nobilitatem comprobendam insignia nobilitaria non sint in iudicio necessaria. Tit. vi.

Sciendum ulterius quod veri nobiles etiam alio modo & absque iurium possessionariorum donatione fiunt & creantur, dum videlicet princeps noster quoscunque plebeæ conditionis homines a rusticitatis & ignobilitatis servitute sequestrando & eximendo in cœtum ac collegium numerumque verorum regni nobilium aggregat & ascribit. Tales etiam sine possessionaria collatione veri nobiles reputantur, qui quidem nobiles utroque modo creati & eorundem cuncti hæredes per lineam virilis sexus legitime descendentes (si etiam arma seu insignia nobilitaria aut litteras super armorum figuris & collationibus æditas non habent) veri tamen semper nobiles censentur. [§1] Arma enim a principe cuiuspiam concessa non sunt de necessitate, sed solummodo de bene esse nobilitatis. Nam armorum collatio simpliciter facta non nobilitat quenquam. Cum etiam civium & plebeorum hominum multi habeant armorum insignia per principem donata, per hæc tamen in medium nobilium non computantur. [§2] Ad nobilitatem itaque comprobendam non petuntur in iudicio exhiberi insignia vel arma nobilitaria, sed solæ litteræ donationales vel statutoriæ cum declaratione possessionariæ collationis æditæ produci debent; immo illis non habitis, litteræ dumtaxat expeditoriæ super solutione Quartaliorum (dummodo tempus præscriptionis iurium regalium transcendisse dinoscantur) confectæ, ad probationem huiusmodi nobilitatis abunde sufficiunt. [§3] Nam Quartalicia non nisi de iuribus possessionariis acquisitiis solvuntur. [§4] De iuribus autem empticiis non Quartalicia sed portiones congruentes puellis & filiabus baronum ac magnatum atque nobilium dantur.

Quod ex nobili patre et ignobili matre generati veri nobiles censentur, sed non econverso. Titulus. vii.

Item illi, qui ex nobili dumtaxat matre & rustico patre sunt propagati, veri nobiles non dicuntur, nisi forsitan mulier ipsa fuisset per regem in verum hæredem iurium paternorum (sine tamen præiudicio legitimorum successorum) præfecta atque creata. [§1] Nam hoc modo filii sui etiam ex ignobili patre progeniti (quia præfectio naturam vimque donationis ac iurium possessionariorum collationis sapit atque representat) veri nobiles reputantur. [§2] Econtra vero ex nobili patre & ignobili matre filii procreati recti & veri nobiles censentur. [§3] Pater enim generat mater autem formam solum generandi dat & præstat. [§4] Qualiter autem præfectio prænotata fieri possit & debeat, inferius eam scriptam habebis.

Quod etiam per adoptionem nobiles fiunt et creantur. Tit. viii.

Item fiunt adhuc & alio modo nobiles, per adoptionem dum videlicet quis dominorum vel nobilium rusticum seu ignobilem quempiam in filium sibi adoptaverit & successorem hæredemque bonorum suorum substituerit, & huiusmodi adoptioni consensus regius accesserit: tandem & statutio legitima bonorum ipsorum subsequuta fuerit (quia adoptio æque sicuti præfectio cum consensu regio vim donationis tenet) ignobilis ille & filii sui veri nobiles reputantur.

De quatuor privilegiatis et precipuis nobilium libertatibus. Tit. ix.

Quamvis autem horum nobilium multæ sint libertates per privilegia & constitutiones principum explicatæ, quatuor tamen censentur esse præcipuæ, quas hic inserendas curavi. [§1] PRIMA igitur est quod ipsi nisi primum citati vel evocati ordineque iudicario condemnati fuerint in eorum personis, ad quorumvis instantiam vel clamores aut preces nusquam & per neminem detineri possunt. [§2] Violatur tamen hæc libertas in factis causisque criminalibus puta homicidio deliberato, villarum combustione, furtoque & rapina seu latrocinio atque etiam violenti adulterio, in quibus honorem titulumque & libertatem nobilitatis quilibet amittit. Et si poterit etiam per rusticanam manum in loco delicti & criminis commissi, libere semper talis detineri, & iuxta suos excessus condemnari puniri que merito valebit. [§3] Verum tamen si de loco delicti aufugerit & manus adversantium evaserit, postea non aliter nisi citatione vel evocatione mediante, processuque iuridico damnari & aggravari debebit. [§4] SECUNDA libertas quod nobiles totius regni, nullius præterquam principis legitime (ut præactum est) coronati subsunt potestati, & ipse quoque princeps noster ad simplicem querelam & sinistram suggestionem alicuius neminem eorum præter viam iuris & altera parte non audita in persona vel rebus suis ordinaria autoritate impedire potest. [§5] TERTIA est quod iustis eorum iuribus & omnibus proventibus intra terminos territoriorum suorum adiacentibus, liberam semper prout volunt fruendi habent potestatem ab omnique conditionaria servitute ac datiarum & collectarum tributorum vectigalium tricesimarumque solutione, per omnia immunes & exempti habentur militare dumtaxat pro regni defensione tenentur. [§6] QUARTA (ut reliquas præteream) & ultima est quod si quispiam regum & principum nostrorum libertatibus nobilium in generali decreto excellentissimi principis quondam domini secundi Andree regis cognomento Hierosolymitani (ad quod observandum quilibet regum Hungariæ priusquam suum sacro caput dyademate coronaretur sacramentum præstare solet) declaratis & expressis contravenire attemptaret, extunc sine nota alicuius infidelitatis liberam illi resistendi & contradicendi habent in perpetuum facultatem. [§7] PER nobiles autem hoc in loco generaliter universos dominos prælatos, barones cæterosque magnates & alios regni huius proceres intellige qui (sicuti prænarratum est) una eiusdemque libertatis prærogativa semper muniuntur.

Quod princeps noster cunctorum dominorum, baronum ac nobilium regni verus et legitimus successor est. Tit. x.

QUIA dictum est superius quod omnis nobilitatis & possessionarię collationis plenaria potestas in principem nostrum translata est, ideo advertendum quod princeps ipse noster universorum dominorum baronum & magnatum ac aliorum regni nobilium possessionatorumque hominum, in casu quo quis eorum sine hæredibus & posteris decesserit verus & legitimus successor est, [§1] omnia enim bona & iura eorum possessionaria ab ipsa sacra regni Hungarię corona, virtute translationis prænotatę originaliter dependent & ad eandem semper respiciunt devolvunturque eorum possessore legitimo deficiente. [§2] Unde inolevit ista consuetudo dudum approbata quod unica & singularis persona quis existens veroque & legitimo successore carens ac destituta super iuribus suis possessionariis sine consensu regio nil quicquam iure perennali disponere potest. Immo etiam pignoris titulo nullam de eisdem fassionem ultra communem estimationem eorundem faciendi habet facultatem prout infra latius suo loco super ea re tractabitur. [§3] Pręterea cunctorum quoque dominorum prælatorum & virorum ecclesiasticorum princeps ipse noster verus pariter & legitimus successor est, non quantum ad bonorum & iurium possessionariorum ab ecclesia ablationem & sequestrationem sed quantum alteri (vacantibus prælaturarum sedibus & ecclesiarum rectoratibus) ad gubernandum cum ecclesia collationem salvo iure confirmationis Archiepiscopatum et Episcopatum quę iurisdictioni sacro sanctę Romanę dumtaxat ecclesię subesse dinoscitur.

Quod papa in collationibus beneficiorum ecclesiasticorum in hoc regno nullam iurisdictionem retinuit preter confirmationis auctoritatem. Tit. xi.

SCIENDUM autem quod licet papa seu summus pontifex, utramque iurisdictionem temporalem scilicet & spiritualem habeat in collationibus tamen beneficiorum ecclesiasticorum pro tempore vacantium in hoc tamen regno summus ipse pontifex nullam iurisdictionem exequitur, præter confirmationis auctoritatem. Et hoc quadruplici ratione. [§1] PRIMO ratione foundationis ecclesiarum. Quia reges Hungarię cum soli fuerint omnium ecclesiarum & episcopatum abbatiarumque & præpositurarum in hoc regno fundatores, per eiusmodi foundationem omnem facultatem iuris patronatus nominationis, electionis ac collationis beneficiorum sibipsis acquisierunt & vendicarunt. Qua ex causa iuris videlicet patronatus ratione pertinet semper ad reges nostros hoc in regno beneficiorum ecclesiasticorum collatio. [§2] SECUNDO ratione susceptę christianitatis. Quia Hungari non per prædicationem apostolicam vel apostolorum quorum principis vicem & personam in terris papa gerit, sed per institutionem proprii regis eorum sanctissimi videlicet Stephani regis de quo & superius memini conversi sunt ad catholicam fidem qui primus omnium Episcopatus, Abbacias & præposituras hoc in regno fundavit & harum omnium ecclesiarum prælaturas ac beneficia solus ipse ex annuentia summi pontificis quibus maluit (idoneis tamen & virtutibus probitatum insignitis) contulit sicuti ecclesia de eo solenniter canit hic (videlicet sanctus Stephanus) ad instar Salomonis struit templa ditat donis ornat gemmis & coronis cruces & altaria. Et mox subinfertur Ad regendum hæc prælatos viros ponit litteratos iustos fidos & probatos ad robur fidelium. Sic talentum sibi datum deo reddens duplicatum ab æterno præparatum sibi scandit solium. Ecce aperte describitur quod ipse & non alter quispiam ad regenda templa per eum constructa donisque ditata prælatos iustos & fidos posuit prout ex eius quoque historia &

pluribus privilegiis suis super ecclesiarum foundationibus & dotationibus confectis liquide patet. Itidem & plerique Cæsarii ac pontificii iuris interpretes suis commentariis conscriptum prodidere. [§3] Unde etiam rex & apostolus dici meruit eo quod vices apostolorum in terris prædicatione & bonorum operum atque exemplorum exhibitione gessit & propterea duas quoque cruces per collationem summi pontificis in signum suæ sanctitatis quod scilicet rex & apostolus iuste diceretur, digne meruit habere pro armorum insignibus unde ab illius tempore gens Hungarica duplicatam crucem pro armis ac insignibus habere pariter & gestare consuevit. Insignium namque quatuor fluminum scilicet Histri seu Danubii ac Thybisci seu Thyciæ necnon Zavę & Dravę a regno Pannonię quod modo Hungari incolunt atque inhabitant pro se vendicavit. [§4] TERTIO ratione legitimæ præscriptionis quoniam reges Hungarię a tempore regiminis eiusdem beatissimi Stephani nostri regis qui anno dominicę incarnationis primo supra millesimum in regem Hungarię gentis feliciter inunctus pariter & coronatus est ad hæc usque tempora semper in reali & pacifico usu ac possessione collationis huiusmodi beneficiorum ecclesiasticorum plusquam per quingentos annos persistentes tempus præscriptionis iurium ecclesiasticorum etiam sanctę sedis apostolicę iteratis & iteratis vicibus dudum transcenderunt. [§5] QUARTO quia ista libertas regni quantum ad beneficiorum collationes olim tempore domini Sigismundi imperatoris & regis nostri una cum conplurimis libertatibus huius regni in generali ac celebri concilio Constantiensi, cui triginta & duos cardinales demptis aliis viris ecclesiasticis & multis principibus Christianis præfuisse constat corroborata, iurisque iurandi religione firmata fuit prout in bulla superinde confecta clare continetur. [§6] Hoc autem concilium (ut summarie brevissimeque tangam) per quadriennium duravit. Nam anno domini millesimo quadingentesimo decimo quarto incepit. In quo concilio tandem anno salutis millesimo quadingentesimo decimo septimo papa Otto qui Martinus quintus appellatus est electus extitit postea vero anno sequenti videlicet millesimo quadingentesimo decimo octavo idem concilium ipsius Martini pontificis, præfatique Sigismundi imperatoris iussu dissolutum fuit & in eodem concilio Ioannes vigesimus tercius pontificatui (licet invitus) abdicavit, Gregorius vero sponte cessit & renunciavit sed Benedictus pene obstinatus & cedere nolens decreto concilii reprobatus ac pontificatu privatus extitit & in eodem concilio Ioannes Huss & Hieronymus Pragensis eius condiscipulus heretici combusti & incinerati fuerunt. SCISMA vero pro quo tollendo & dirimendo concilium ipsum (spiritus sancti gracia movente) aggregatum pariter & celebratum erat novem & triginta annis durasse recolitur quod tandem opera ipsius Sigismundi imperatoris sublatum extitit atque pax & tranquillitas peroptata dei ecclesię feliciter restituta.

Quod omnes domini prelati et persone ecclesiactice regi nostro ad fidelitatis homagium prestandum obligantur, et quod ratione bonorum temporalium coram iudicibus secularibus iuri stare tenentur.

Titulus. xii.

CUM igitur collatio beneficiorum ecclesiasticorum simul cum bonis & iuribus possessionariis ad ecclesias dei pertinentibus ad principem & regem nostrum spectare dinoscatur ideo omnes viri ecclesiastici cuiuscunque ordinis, gradus ac dignitatis existant, qui in hoc regno Hungarię castra, castella, fortalicia, civitates, oppida, villas, possessiones & prædia vel etiam alia quęcunque iura possessionaria gubernant & possident non obstante dignitatis & exemptionis eorum prærogativa libertate regi & principi huius inclyti Hungarię regni legitime coronato instar personarum sæcularium eiusdem regni ad homagium fidelitatis præstandum semper obligantur [§1] & ratione huiusmodi bonorum temporalium quę possident quorumlibet etiam actuum potentiariarum, ac aliorum negociarum exinde emergendorum in presentiam

quorumlibet iudicum regni ordinariorum ab eorum adversariis (si quos habuerint) in causam libere conveniri & attrahi possunt, coram quibus more aliorum sæcularium respondere iurique stare tenentur.

De donationibus regiis & earum speciebus in generali. Tit. xiii.

QUoniam omnes domini prælati, barones, magnates nobilesque & proceres totius regni Hungariæ necnon regnorum eidem incorporatorum ac partium sibi subiectarum cuiuscunque status, conditionis dignitatisque & præminentię existant universa eorum iura possessionaria ex donationibus serenissimorum dominorum regum Hungariæ habent atque possident. In primis igitur de donationibus regiis & earum speciebus in generali dicendum occurrit. [§1] Ubi sciendu[m] est quod donatio regia duplex est scilicet pura & mixta. [§2] Pura donatio est iurium possessionariorum in iurisdictionem sacræ regni coronę legitimę redactorum perennalis per principem cuiuspiam ob servitia vel præclaras virtutes facta collatio. [§3] Mixta vero donatio dicitur illa quæ ultra servitium etiam summam aliquam pecuniarum complectitur & talis usitato vocabulo inscriptio nuncupatur. [§4] Regia enim maiestas (ex prædeclarata iurisdictione sacræ coronę regni huius Hungarię) de & super universis iuribus possessionariis quorumcunque decedentium & in semine vel hæredibus destitutorum ac deficientium liberam (prout voluerit) disponendi pro se scilicet reservandi vel alteri cui maluerit conferendi, aut inscribendi plenariam semper habet potestatis facultatem. [§5] ET NE pravorum hominum patrata malitia impunita relinqueretur. Neve nobilitas & rusticitas equalis estimationis censeretur. Rursus ne fidelitas ac infidelitas simile præmium sortiretur. Ad conterendam igitur infidelium proterviam & rebellionem pravorumque & flagitiosorum hominum male agendi licentiam reprimendam maiores nostri non solum iura possessionaria aliquorum in semine (ut præfertur) deficientium verum etiam contra statum publicum regni huius ex eoque in despectum dignitatis regiæ maiestatis contumaciter sese erigentium ac alios præter iuris equitatem absolute temerarieque turbantium ad sacram coronam dicti regni Hungariæ consequenterque collationem regiam (etiam superviventibus illis) devolvenda esse tum iuris rigore exigente tum vero reipublicæ utilitate exposcente communi decreto sanxerunt atque statuerunt ut exemplo punicionis sceleratorum alii terreantur alii vero ad opera fidelitatis exercenda atque peragenda si quibus forsitan talium bona collata fuerint ferventius accendantur.

De casibus notam infidelitatis afferentibus. Tit. xiiii.

SUnt igitur casus isti & vocantur notæ infidelitatis in quibus regia maiestas bona aliquorum eisdem superviventibus cui voluerit de iure libereque donandi habet facultatem. [§1] PRIMUS est de crimine læsę maiestatis si quis videlicet impias manus in personam principis nostri iniecerit vel capiti eius gladio aut veneno insidiatus fuerit sive murum aut domum in quo princeps ipse extiterit violenter invaserit. [§2] SECUNDUS casus est si quis evidenter se erigit & opponit contra statum publicum, regis & coronę. Hęc tamen erectio seipsum iuste defendendo notam afferre non intelligatur. [§3] ITEM qui conficit falsas litteras vel falsis litteris evidenter utitur in iudicio. Aut qui sculpsit vel utitur falsis sigillis. [§4] ITEM Cussores falsarum monetarum vel eisdem monetis scienter & publice in magna quantitate utentes. [§5] ITEM occisores vel vulneratores fratrum ac consanguineorum suorum usque ad quartum gradum inclusive. Necnon parricidæ, uxoricidę ac maritucidæ. Veruntamen uxoricidium &

mariticiidum intellige præter iuris processum & equitatem patratum. [§6] ITEM stupratores consanguinearum similiter usque ad quartum gradum inclusive. Aut novercarum violatores. Incestuosi dum fuerint evidenter convicti vel proscripti. [§7] ITEM incendiarii publici villarum & possessionum. [§8] ITEM inductores exterorum hominum spoliatorum vel stipendiariorum ad disturbandum internum regni statum. [§9] ITEM violatores litterarum fidei publicæ vel salvi conductus dum evidenter fuerint convicti. [§10] ITEM Traditores castrorum dominorum propriorum. Necnon expugnatores & interceptores aut subtractores castrorum vel castellorum aut aliorum fortalitorum quorumcunque regnicolarum dum evidenter fuerint convicti. [§11] ITEM Interemptores, captivatores, verberatores vel vulneratores iudicum ordinariorum regni & eorundem vices in iudiciis gerentium. [§12] ITEM occisores litigantium seu causantium, sive ad regiam maiestatem aut ad octavas vel brevia iudicia sive ad sedem iudiciariam alicuius comitatus, aut alia quęcunque loca iudiciorum ad causarum scilicet prosecutionem proficiscentium vel ad dietam & conventionem generalem de regio edicto celebrandam venientium & accedentium. [§13] ITEM Occisores, vulneratores aut verberatores hominum regionum ac testimoniorum capituli vel conventus in exequutione aliqua procedentium. [§14] ITEM publici hæretici damnatæ scilicet hęresi adherentes. [§15] ITEM mutilatores membrorum & eruitores oculorum præter banos, waywodas & alios honores in confinibus regni tenentes. [§16] ITEM amissores castrorum finitimorum regni. [§17] ITEM administratores armorum & victualium thurcis & aliis infidelibus regni scilicet huius æmulis & hostibus. [§18] ITEM turbatores, detentores & spoliatores illorum qui sectæ eorum damnatæ renunciantes ex Thurcia regnum ad istud confugiunt moraturi.

Quod bona latronum, furum & homicidarum Donationi regie non subiacent. xv.

EX præmissis itaque casibus subsequitur quod furum ac latronum seu prædonum & aliorum eiuscemodi spoliatorum. Item homicidarum & alio modo nobiles vulnerantium seu verberantium (demptis casibus prædeclaratis) domosque eorum violenter invadentium; nec non possessiones & iura possessionaria territoriaque aliorum deprędantium vel occupantium bona & iura possessionaria in Fiscum regium non devolvuntur, neque collationi regiæ maiestatis subiacere dinoscuntur, sed tales capitali dumtaxat sententia fures scilicet patibulo, prædones vero palo vel rota, cæteri autem gladio iuxta scilicet eorum demerita sunt feriendi atque puniendi. [§1] Bona vero & iura possessionaria ipsorum (si & ubi morte damnati fuerint) in filios vel illis non existentibus in fratres eorum generationales aut alios legitimos eorum successores derivantur. [§2] Ubi autem gratia regia illis concessa, & sententia nihilominus exequuta fuerit extunc iura ipsorum possessionaria a manibus iudicis & adverse partem ad instantiam scilicet cuius sententia lata extiterit per filios aut fratres ipsorum generationales vel alios successores legitimos estimatione communi mediante redimuntur prout in sententiarum seriebus in secunda parte clarius dicitur.

Quod differentia est inter notam infidelitatis & sententiam capitalem dupliciter. xvi.

Differentia itaque est inter notam infidelitatis & sententiam capitalem dupliciter. PRIMO quia per notam infidelitatis & caput & hęreditas seu perpetuitas omnium bonorum iuriumque possessionariorum infidelis hominis amittitur, & nunquam hęreditas ipsorum iurium possessionariorum ad portionem suam cedentium in filios vel fratres generationales talis infidelis aut labe infidelitatis irretiti obfuscatique & condemnati hominis (si etiam capite

plecteretur) de cætero revertitur. [§1] Immo genealogia sua vel generationis suæ propago in ignominiam contemptumque infidelitatis & in laudem preclarę virtutis illibatę fidelitatis quantum ad devolutionem bonorum a se perpetuo aliena efficitur. FILIOS tamen intellige iam natos & non nascituros. Nam post paternam condemnationem seu labe infidelitatis eius innodationem filii nascituri in iuribus paternis (si gratiam regiam & dominium adhuc bonorum suorum pater eorum consequutus fuerit) merito riteque succedunt. [§2] GRATIA tamen hæc regia successionem ad mutuam quantum super devolutione bonorum generationi suę (demptis filiis post condemnationem procreandis) in nulla parte suffragabitur. Nec trahit alios filios prius natos vel fratres generationales ipsa gratia cum condemnato illo ad priorem successionis eorum statum nisi mutuus super devolutione bonorum ex novo contractus per fassiones instrumentales inter eos sequeretur & consensus superinde regius impetraretur. Hoc enim modo & non aliter mortua & amissa successio vivificabitur atque instaurabitur. [§3] PER SENTENTIAM VERO capitalem proprietas & hæreditas bonorum ac iurium possessionariorum non amittitur, sed si sententia condemnatus quispiam extremo supplicio punietur extunc universa bona & iura sua possessionaria in filios (si habuerit) vel fratres suos propinquiores aut alios legitimos successores simpliciter devolvuntur. [§4] Si autem gratiam regiam meruerit, & exequutio sententię nihilominus per adversam partem peracta fuerit tunc eadem iura possessionaria filii vel fratres aut alii legitimi successores estimatione (ut præfertur) communi in termino per iudicem ad id præfigendo ad se redimendi habent auctoritatem. [§5] ALIA insuper differentia inter notam & sententiam est quoniam condemnatus homo cum adversa parte etiam post latam & pronunciatam sententiam (ante tamen eiusdem sententię exequutionem) si concordaverit aut concordare poterit extunc illi neque gratia regia est necessaria, neque iudex se in dominium bonorum ac iurium possessionariorum ipsius sententiati hominis ingerere poterit. [§6] NOTAM tamen infidelitatis si quis incurrerit si etiam cum eo quem in casibus prænaratis læserit plene concordaverit ab impetitione tamen illius cui regia maiestas bona & iura possessionaria per aliquam notam contulerit se præcavere non poterit ex iurisdicione etenim sacrę coronę regni huius contra cuius utputa dignitatem auctoritatemque infidelis ipse deliquit & ex consequenti collatione regię maiestatis impetrator eiuscemodi bonorum & iurium possessionariorum liberam agendi procedendique & ea bona iuris ordine observato pro se vendicandi & appropriandi plenariam habet potestatis facultatem.

**Qui sint & intelligantur heredes & posteritates, & qualia bona solum masculinum,
qualiave utrumque sexum concernant. xvii.**

CAeterum quia ab inceptę materię prosecutione (ob occurrentem & quidem necessariam, notę & sententię hoc in loco declarationem pariter & distinctionem) digressionem feci. Igitur ad Donationum regiarum evidentiolem explanationem revertendo & primo clausulam illam sine hærede decedentium, vel in semine deficientium declarando. [§1] NOTANDUM est quod quamvis appellatione posteritatum omnes de iure patri vel matri succedere debentes etiam posthumis inclusis sive mares sive fœminę sint intelligantur; prolium vero nominatione tam filii quam filię iam nati vel natę posthumis exclusis significantur liberorum siquidem nuncupatione & filii & filię nepotesque & neptes pariter contineantur tamen de vetusta & approbata regni huius nostri consuetudine hæredes solummodo filii legitimi qui iuribus paternis hæreditariis succedere solent intelliguntur [§2] licet in casu quo bona & iura possessionaria paterna, vel etiam materna utrumque sexum tam scilicet mares quam etiam fœmellas concernere dinoscuntur. Hæredis nomen ipsę quoque filię (licet improprie) gerere permittantur. Filię itaque quia non omnibus bonis & iuribus paternis participant ideo recte non

hæredes sed posteritates potius nuncupantur. [§3] Et posteritates quoque dico nuncupari non quantum ad iurium paternorum communiter & semper devolutionem sed quantum ad sanguinis propagationem & in casibus quibus legitime sorciuntur bonorum paternorum vel maternorum successionem. [§4] Nam iura dumtaxat possessionaria pecuniis paternis aut maternis empta & comparata. Præterea in homagium alicuius interempti nobilis data & obligata ceterorum pro iure Quartalicio seu in sortem refusionis & restitutionis quartę puellaris perpetuo collata & inscripta dummodo huiusmodi perennalis inscriptio Quartalicii non sit in preiudicium fratrum vel aliorum rite succedentium facta. Item illa etiam iura possessionaria in quibus aliquæ puellæ vel fœminæ per regiam maiestatem (sine tamen præiudicio fratrum generationalium) in veros successores quo ad utrumque sexum præficiuntur ius fœmineum æque veluti masculinum sequuntur, [§5] alia vero universa iura possessionaria qualitercunque acquisita solummodo iuri masculino deserviunt. [§6] Et dixi notanter pecuniis paternis vel maternis empta quoniam in bonis & iuribus possessionariis pecuniis aliquorum fratrum comparatis puellę seu fœminę, sorores videlicet eorum nil iuris habere possunt, neque collateralis modo ipsæ fœminę succedere, aut portionem aliquam acquirere permittuntur; sed iuribus tantum de paternis aut portionem congruentem in casibus immediate præscriptis aut ius Quartalicium pro se requirendi habent auctoritatem. [§7] Dixi etiam quo ad utrumque sexum parimodo notanter. Nam in casu quo regia maiestas puellam seu mulierem aliquam in iuribus paternis vel etiam fraternis (si frater ipse hæredibus careat, & præfectioni consenciat) in verum hæredem & successorem masculinum simpliciter præfecerit non inserendo scilicet in litteris præfectionalibus utrumque sexum extunc huiusmodi iura possessionaria mortua ipsa muliere solummodo in filios (si habuerit aliter autem rursus in Fiscum regium) devolvuntur & filiæ suæ iuribus dumtaxat earum Quartaliciis de eisdem iuxta huius regni consuetudinem provenire debentibus contentari debebunt.

Quare iura possessionaria serviciis conquisita ius fœmineum non sequuntur. xviii.

SI autem queritur quare bona ac iura possessionaria serviciis acquisita ius fœmineum non sequuntur? Responde quod ideo quia regnum istud Hungarię cum partibus sibi subiectis in medio faucibusque hostium situm & positum est quod gladio semper & armis tutari defendique solet bona etiam & iura possessionaria (ut communiter) arte militari sanguinisque effusione progenitores nostri acquisierunt & modo quoque acquiri consueverunt. Mulieres autem & puellæ armis militare cum hostibusque decertare non solent neque possunt. Et ob hoc bona ipsa iuri fœmineo non deserviunt.

Econtra cur iura possessionaria pecuniis empta ius fœmineum eque ac masculinum concernunt. Tit. xix.

SI vero econtrario queritur. Cur iura possessionaria pecuniis (ut præmissum est) paternis aut maternis empta ius fœmineum æque ac masculinum concernunt? Dic quod ideo quoniam pecunię inter res mobiles computantur: de rebus autem mobilibus tam paternis quam etiam maternis & filii, & filiæ æquales portiones sorciuntur; & ex consequenti etiam de bonis & iuribus possessionariis huiusmodi pecuniis de quibus utpote decedente patre vel matre filiæ portionem habere debebant comparatis portiones congruentes ipsis filiabus dantur. [§1] Licet originem & fundamentum considerando quod etiam pecunię maximis servitiis & laboribus, interdumque ingenti sanguinis effusione acquiri & congregari consueverint. Et quod onera bellorum & defensionem patrię mulieres seu puellę per se gerere supportareque non possint

etiam de emptiis bonis & iuribus possessionariis portiones perpetuas non mererentur habere, ne tamen a successione rerum & bonorum paternorum penitus exclusæ viderentur fraternus amor & dilectio filiorum qua erga sorores afficiuntur, & iure quoque divino affici tenentur permisit filias portiones congruas perennali iure cum eis pariter de prenarratis bonis ac iuribus possessionariis emptiis habere & onera bellorum tutelamque patrię in hac parte maritis ipsarum imposuit peragere atque sufferre.

Utrum bona nota infidelitatis condemnati utrumque sexum concernentia post factam gratiam iterum utrique sexui deserviant. Tit. xx.

Item quæritur si quis in nota infidelitatis condemnatus fuerit cuius bona iurisque possessionaria utrumque sexum masculinum scilicet & fœmineum contigissent atque sequuta fuissent & tandem ipse condemnatus capiti ac bonis suis gratiam regiam habere meruerit utrum filię post gratiam nasciture in bonis paternis equaliter cum filiis succedant an ne? Quandoquidem priora privilegia per ipsam notam infidelitatis mortificata fuere. [§1] Dicendum quod sic. Quia per gratiam regiam omnia privilegia priora ipsius infidelis quantum ad hæredes ac posteritates post se (directe tamen & non collateraliter modo) sequentes vivificantur, roburque prioris firmitatis sortiuntur & ex consequenti bona illa rursus utrumque sexum sequuntur. [§2] Nisi forsitan in litteris gratiose exceptio per expressum superinde fieret. Nam in potestate principis consistit gratię collatio & bonorum ipsorum remissio. [§3] Quemadmodum igitur & quibus sub conditionibus princeps ipse gratiam fecerit illaque bona remiserit sic etiam de cætero bonorum eorundem successio sequetur. [§4] De filiabus autem ante condemnationem paternam natis nulla est quæstio. Nam illæ portiones suas ob patris delictum non amittunt, ad successionem tamen mutuum cum eo amplius (sicuti in serie differentiarum notę infidelitatis & sententię capitalis prænarratum est) non deveniunt.

An bona tum pro servitiis tum pecuniis simul collata utrumque sexum sequantur. Tit. xxi.

Quæritur ulterius si regia maiestas aut quispiam dominorum vel nobilium ius aliquod possessionarium sive castrum aut fortalium, sive oppidum, villa vel prædium existat tum pro servitorum exhibitione vel autem beneficiorum & complacentiarum impensione, tum vero pro certa pecuniarum summa in litteris superinde Donationalibus aut etiam Fassionibus expressata simul cuiquam perpetuo contulerit & inscripserit utrum huiusmodi ius possessionarium utrumque sexum sequatur, an autem masculino dumtaxat sexui deserviat? [§1] Dicendum quod virilem solummodo sexum concernit eo quod bonorum acquisitio radicem semper adeptionis & consequutionis eorundem, non autem appendiculum vel ramum respicit propterea a radice acquisitionis hæreditarium & non empticium ius esse comprobatur. [§2] Veruntamen filiæ seu fœminei sexus homines de eiusmodi pecuniarum summa portiones suas merito rehabere possunt. [§3] Ubi autem summa ipsa pecuniarum grandis adeo & notabilis esse videretur ut ius illud possessionarium modo antelato collatum vix tanti valoris reputaretur extunc ius idem possessionarium per iudicis & alicuius testimonialis loci homines communi estimatione mediante estimari & secundum huiusmodi estimationis exigentiam portio pecuniaria filiabus cedens per filios reddi debet. [§4] COROLLARIUM. Unde ex radice adeptionis bonorum elicitur quod frater quispiam vendens precio portionem suam possessionariam alteri fratri in quem etiam alioquin iure generationis & successionis

huiusmodi portio (venditore ipso deficiente) devolvenda erat eadem portio ius fœmineum non sequitur. [§5] Et per portionem intellige etiam totalem possessionem & plura alia iura possessionaria similia. [§6] Cauti sint itaque acquirentes vel emptores bonorum. Prout enim litteras suas formabunt ita & bonorum suorum successionem atque devolutionem habebunt.

De clausula donationis per defectum seminis: quid per semen intelligatur. xxii.

QUoniam in serie litterarum regiarum Donationalium super bonis ac iuribus possessionariis illorum, qui hæredibus deficiunt conficiendarum hæc clausula (per defectum seminis talis vel talis &c.) semper apponi interserique solet unde putaverunt aliqui quod si dominus vel nobilis ille qui deficit filias post se reliquerit tunc necesse sit in eiusmodi Donationalibus litteris per expressum describere pariter & addere clausulam masculini sexus ut contineatur in Donationis tenore per defectum seminis masculini sexus talis aut talis &c. Alioquin autem Donationem ipsam non valere neque impetratori talium bonorum suffragari posse arguentes & allegantes illum in semine (eo quod filias habeat) nondum defecisse. [§1] Quod tendendum non est. Nam per semen virilis dumtaxat seu masculinus sexus & non fœmineus intelligitur. Frustra igitur & superfluum est id addere vel apponere quod etiam alioquin vocabuli virtus continet in se. [§2] Et ratio est quia naturaliter ex semine viri superhabundanti (ut in plurimum) masculus concipitur, & econtra ex semine fœminæ fœmina generatur. Recte igitur dicitur is in semine defecisse (si etiam filias habeat) qui in virili sexu defecit. [§3] Hinc est quod ex nobili patre & ignobili matre generati filii veri nobiles reputantur, & patris familiam conditionemque sequuntur sed non econverso prout & superius aperte declaravi. [§4] Verum tamen si bona & iura possessionaria cuiuspiam utrumque sexum manifeste concernunt & uterque sexus deficiet tunc rite & commode ponenda erit in Donatione regia per defectum seminis utriusque sexus talis &c. ut in ea parte per semen successio intelligatur.

Quanto tempore ius regium durat et prescribitur. Tit. xxiii.

QUia igitur regia maiestas cunctorum dominorum, baronum, magnatum procerumque & regni nobilium in semine deficientium verus (ut præmissi) & legitimus successor esse censetur. Sunt igitur plures dominorum & nobilium ac regnicolarum possessionatorum scilicet hominum qui iura regalia pro se male vendicantes aut videlicet pignoris titulo aut Fessione invalida & inefficaci vel regio consensu indigente & necessaria aut alio successorio vel hereditario iure in se devoluta fingentes aut alia indirecta via taliter qualiter dominium eorum (maxime guerrarum disturbiorumque temporibus) subintrantes taciturnitatis silentio tenere gubernareque & possidere solent sese in eisdem iuribus possessionariis longævi temporis præscriptione mediante firmare & fundare prætendentes. [§1] UNDE SCIENDUM est quod ius regium centum annis in bonis & iuribus possessionariis quorumlibet malefidei possessorum durat & exquiri poterit obiectione præscriptionis alicuius non obstante.

Quid sit ius regium diffinitive et quid ius possessionarium. xxiiii.

IUs igitur regium dicitur iurisdicio sacrę coronæ regni in bonis ac iuribus possessionariis per quempiam pro se mala fide contraque consensum regium usurpatis tacite latens & consistens. [§1] Nomine autem iuris possessionarii generaliter intellige castra, castella, fortalitia, civitates, oppida, villas, possessiones, terras, sylvas & prædia. [§2] UBI SCIENDUM quod

possessio dupliciter accipitur. Primo quidem pro dominio usuque ac gubernatione alicuius rei mobilis vel immobilis. Et hoc modo dicitur possessio quasi pedum positio in usum ac dominium ipsius rei quam quis realiter tenet & gubernat. [§3] Alio modo autem (prout in proposito) possessionis appellatione villa significatur & intelligitur. Et hoc proprie loquendo. Nam castra, castella, civitates, opida & prædia separata habent vocabula. [§4] Veruntamen hoc in loco nomine iuris possessionarii generaliter intellige castra, castella, fortalitia, civitates, opida, villas, portiones possessionarias, terras, prata, sylvas & prædia. [§5] Prædium autem nos dicimus agrum illum esse in quo prius homines habitare solebant modo tamen nulla edificia apparent neque coloni habitant quasi prædæ expositum ab antiquis derivatum qui agros quos bello capiebant in prædæ nomine habebant. [§6] Fundum etiam seu locum sessionis nobilitaris atque Iobagionalis edificiis & habitatore penitus destitutum similiter prædium appellamus. [§7] Castra vero & castella, fortalitia, civitates & opida nota sunt & declaratione non egent. [§8] Pertinentiarum siquidem nominatione communiter intelliguntur & continentur omnia illa quæ ad civitatem, opidum aut villam aliquam spectant prout sunt terræ arabiles cultæ & incultæ, agri, prata, fœnilia, pascua, campi, sylvæ, virgulta, nemora, montes, valles, vineæ, promontoria, aque, fluvii, piscinae, piscaturæ, aquarum decursus & molendina ac eorundem loca. Et generaliter omnes utilitates ac proventus ipsi civitati aut opido vel villæ deservientes. [§9] Sæpe autem pertinentiarum appellatione comprehenduntur omnes iurisdictiones alicuius castris vel omnia bona immobilia ubilibet adiacentia ipsi castro annexa atque deservientia. Sicuti civitates, opida, villæ, portiones possessionariæ & prædia. Tamen huiusmodi nomine vel significatione raro utimur sed civitates, opida, villas portionesque & prædia ad castrum attinentia si non specificè generali tamen positione denotare solemus. [§10] Et quamvis ius regium ad universa fere iura possessionaria quæ Donationi & collationi regie quovis modo vel titulo subiacent generaliter referri & extendi queat tamen si quis dominorum aut nobilium in casibus vel criminibus notam infidelitatis afferentibus & inducentibus excesserit atque deliquerit, aut si quis in semine (de recenti) defecerit huius vel horum bona ac iura possessionaria non nomine iuris regii simpliciter sed per notam infidelitatis (eam declarando) vel autem per defectum seminis ipsius defuncti hominis impetrari & sæpe in eiusmodi Donatione ius quoque regium (si quod in illis bonis etiam aliter haberetur) impetratores apponere consueverunt, ideo descriptio super iure regio immediate prædeclarata non de huiusmodi genere iuris regii sed quantum ad celatores iurium regalium est intelligenda atque referenda.

Quod impetratores bonorum iniuste nomine iuris regii in estimatione eorundem bonorum perennali: condemnantur. xxv.

SI quis itaque nomine iuris regii aliqua iura possessionaria pro se impetraverit, in quorum utpote pacifico dominio quispiam dominorum aut nobilium ab olim perstitisset & pertransitis legitimorum terminorum in causa superinde suscitanda processibus (in quatuor enim terminis octavalibus iuxta consuetudinem modernorum eiusmodi causa finaliter terminari solet) si dominus vel nobilis ipse iusto titulo bonoque iure impetrata illa iura possessionaria se possedissee possidereque poterit comprobare extunc impetrator talis in estimatione perennali eorundem iurium possessionariorum male & iniuste impetratorum (quorum utputa perpetuitatem pro se usurpare vindicareque & legitimum possessorem illis perpetuo privare prætendebat) convinci debet & condemnari ut simili mensura sibi remerciatur & pari damno quod alteri inferre satagebat compensam sorciatur. [§1] Et idem est tenendum etiam de illis qui per notam infidelitatis in prædeclaratis casibus aliqua iura possessionaria a regia maiestate pro se impetrant, & huiusmodi crimen notæ infidelitatis adversus eos quorum iura

possessionaria impetrata fuerint comprobare non poterunt quod videlicet tales quoque in estimatione ipsorum iurium possessionariorum perennali (si liti cedere noluerint) condemnantur [§2] licet plerique sentiant ipsos solummodo in emenda linguæ eorum convinci & aggravari debere ex eo scilicet ut innocentes & innoxios coram regia maiestate male diffamasse intelligantur.

Quod impetratores bonorum per defectum seminis quorumpiam in nullo onere vincuntur.

Titulus. xxvi.

SI quis autem per defectum seminis cuiuspiam decedentis & hæredibus deficientis bona vel iura possessionaria tanquam ad sacram regni coronam iure devoluta ab ipsa regia celsitudine impetraverit & tandem in examine causæ exinde movendæ eadem iura possessionaria non ad collationem regiam sed ad fratres aliquos generationales vel fœminei sexus ipsius defuncti homines aut alios legitimos successores derivata fuisse litterarum testimonio verificabuntur tunc impetrans ipse nulli subicitur pœnæ, nec ullo onere propterea gravabitur eo quod mortui hominis bona tanquam ambigua hærede scilicet masculino carentis destitutumque impetravit ut iurisdictio ipsius sacræ regni coronæ in tempore exquireretur & ambiguitas devolutionis ipsorum bonorum tolleretur. [§1] Nam ille quoque qui causam obtinuerit & ad se bona illa devoluta esse declarabit forsitan vivente eo qui iam occubuit dominium eorundem bonorum reale non habuit unde si etiam ius regium in huiusmodi litteris Donationalibus per defectum seminis emanatis casu insertum vel annexum fuerit & ulterius impetrator ille ius ipsum regium prosequi noluerit in nullo propterea iudiciali gravamine convinci debet. [§2] Si tamen ampliori processu pertinaciter cum iure ipso agere non cessabit rursusque succubuerit tunc pœne præmissæ subiacebit. [§3] Poterit autem impetrator ipse (si voluerit) in causa iuris regii legitime procedere. [§4] Nam licet consideratione illius clausulæ quæ in litteris Donationalibus semper inseri solet videlicet præmissis sic ut præfertur stantibus & se habentibus &c. arbitrati sunt nonnulli cassata & invalidata prima parte Donationis quæ per defectum seminis erat etiam reliquam partem super iure regio confectam cassari & anichilari debere. Quoniam tamen hoc verum fuit quod ille cuius bona impetrata erant sine semine decessit clausula prænotata totali Donationi & cum hoc iuri ipsi regio derogare non videtur idcirco impetrator ipse si voluerit causam suam super dicto iure regio rite prosequi valebit.

Quod bona in lite existentia per defectum seminis impetrari non possunt. xxvii.

ADvertendum est autem quod si quispiam prætextu hæreditatis aliquorum iurium possessionariorum causam litemque suscitaret, & antequam eam ad finem effectumque perduceret ab hac luce sine semine decederet tunc in eo casu bona & iura eiuscemodi possessionaria in lite existentia per defectum seminis ipsius decedentis a principe impetrari non possunt, [§1] quoniam propagatio sanguinis cuius respectu decedens ille bona ipsa acquirebat & prosequabatur extincta est. Princeps autem licet successor eius sit respective ad bona quæ vivens possidebat aut possidere poterat non tamen censetur esse propagativus hæres ad ea consequenda quæ decedens ipse iuri suo nondum appropriaverat & addixerat, sed in dubio adhuc litis illa se consequuturum sperabat. [§2] Veruntamen si habuerit bona ac iura possessionaria præ manibus alienis pignoris titulo vel pro Dotalitio aut Quartalio sive etiam alio redemptibili modo obligata talia bona regia maiestas vel ille qui Donatione regia pocietur

cui ea contulerit ad se redimendi facultatem semper habebit. [§3] Nam huiusmodi obligatio non excludit bonorum proprietatem qua defunctus ipse vivens potiebatur. [§4] Et hoc idem est de fratribus quoque adoptivis per omnia sentiendum atque tenendum qui successores legitimi non tamen hæredes veri fratris defuncti reputantur & eiusmodi bona redemptibilia sibi vindicare optimo iure possunt. [§5] Hinc prodiit tritum illud & vetustum proverbium quod lites præcio venundari & cœmi non possunt. Quod quidem dictum non est sic accipiendum ut miserabilis aliqua persona egestate & inopia gravata vel alio defectu præventa non possit bonorum suorum iusto titulo se concernentium reacquisitionem & recuperationem causarumque & litium exinde suscitatarum aut movendarum directionem & prosecutionem alteri commendare. Vel etiam huiusmodi bona litigiosa seu in lite existentia bonis sub conditionibus vendere & a se alienare. Sed ita proverbium ipsum est intelligendum ut ille cui bonorum ipsorum venditio facta, vel eius causæ prosecutio commendata fuerit nomine suo proprio in eadem causa nec vivente sed neque decedente eo qui venditionem huiusmodi bonorum fecit procedere potest, sed nomine eiusdem venditoris causam ipsam dirigere & prosequi debet. [§6] Exitus autem & finis litis dubius est, & interim quo adusque pro parte actoris causa ipsa finem sortietur, venditor ille bona huiusmodi litigiosa sua esse non poterit recte affirmare. Ideo neque emptor valebit pro eisdem nomine suo proprio tanquam pro bonis venditoris in iudicio contendere. [§7] Unde si litis intermedio antequam scilicet bona prænotata per sententiam diffinitivam reoptenta fuerint venditor ille decesserit, extunc emptor ipse impensam & oleum pariter perdet. Nam ex ratione præallegata per amplius in causa illa procedere non poterit, & ex consequenti lites hoc est bona litigiosa non potuisse precio comparare manifestum erit.

Quod bona Donatione regia acquisita si etiam pecuniarum summa contradictoribus solvatur ius fœmineum non concernunt. xxviii.

Item sæpenumero contingit impetratores aliquorum bonorum & iurium possessionariorum aut per defectum seminis quorumcunque decedentium aut per aliam quamvis notam vel etiam iuris regii titulo cum contradictoribus illis qui tempore executionis huiusmodi Donationum apparuerunt & Statutioni earum contradictionis velamine obviaverunt concordare & in unionem devenire atque summam aliquam pecuniarum eisdem contradictoribus solvere, ut citius faciliusque dominium bonorum impetratorum adipiscerentur aut eadem bona ab omni prorsus ampliori solutione, cui forte prætextu iurium Quartalitorum aut dotum & rerum Paraffernalium & aliorum huiusmodi negotiorum subiacebant liberarent. [§1] Unde putaverunt nonnulli talia bona ius fœmineum perinde atque masculinum sequi debere quod minime verum videtur. Nam iurium possessionariorum proprietas ad radicem atque originem acquisitionis semper est referenda prout superius quoque breviter declaratum est & ob hoc ex stipite Donationis acquisitiva bona & non ramo solutionis emptitia esse censentur. [§2] Donatio enim, quæ præcessit in causa fuit, ut solutio pecuniaria subsequeretur.

Quomodo cum Donatione regia per defectum seminis procedendum est. xxix.

Qualiter autem cum Donationibus regiis per defectum seminis æditis & confectis procedendum sit. Quidve de bonis & iuribus possessionariis impetratis infra decisionem causæ exinde inchoandę agendum existat. Quomodo etiam causa ipsa finiri & terminari debeat ex quo in decreto generali clara super ea re mentio & articulus conscriptus habetur. Ideo modus ille ibidem denotatus in hac parte observandus relinquatur, licet vetustæ consuetudini

regni huius in quibusdam clausulis præiudicari videatur nihilominus ut huius rei notitia facilius habeatur articulum in eodem decreto exinde conscriptum verbo tenus inserendum & hic annectendum curavi qui sic incipit. [§1] ITEM si in quocunque comitatu aliqua iura per defectum seminis quorumcunque decedentium devoluta fuerint, & de huiusmodi possessionibus manifeste non constat an ad ius regium pertineant vel aliquos fratres generationales seu homines fœminei sexus concernant sed inter ista duo videlicet ius regium & ius aliorum scilicet generationalium vel fœmineum dubium intervenerit extunc homo communis nobilis & idoneus in quolibet comitatu ad id per comitem parochialem cum iudicibus nobilium & aliis nobilibus comprovincialibus in unum locum congregatis non tamen ex baronibus, nec de potentioribus, sed de mediocribus nobilibus electus huiusmodi iura devoluta & dubia & alia similia siqua contigerint tamdiu conservet & manu teneat absque damnificatione qualibet excepto solum quod de proventibus consuetis huiusmodi possessionum donec in manibus suis remanebunt expensas moderatas capere & facere possit de quibus tandem rationem reddere valeat & teneatur quousque huiusmodi devolutio iurium, sine hæredibus decedentium in sede iudiciaria curiæ regiæ publicata fuerit, ipsaque publicatione facta quicunque easdem possessiones & iura sibi pertinere allegaverit infra anni unius integri revolutionem iura sua producendo easdem ad se pertinere comprobet. Quod si facere poterit iudex curiæ regiæ eidem statui mandet & faciat cum effectu. [§2] Si vero in probatione defecerit iuri regio relinquatur. Et si qui ulterius ad easdem ius habere speraverint eas de manibus regiis legitime requirant. [§3] Ubi autem uxores & filiæ huiusmodi hominum absque hæredibus masculinis decedentium in talibus possessionibus & iuribus remanserint extunc possessiones eadem & iura a manibus earum occupari & auferri non debeant priusquam de earum iuribus videlicet an hæreditarie & perpetuo ad ius fœmineum pertineant an ne veritas inquiratur. [§4] Quod si repertum fuerit eadem iura iuri fœmineo non competere extunc dictis uxoribus talium decedentium antequam de dominio dictarum possessionum excludantur per regiam maiestatem vel alios ad quos repertæ fuerint esse devolutæ de earum dotibus & iuribus plena satisfactio impendatur. [§5] Filiabus vero usque ad tempus maritacionis earum domus paterna cum quarta parte possessionum paternarum pro quarta filiali secundum consuetudinem regni sequestretur & possidenda relinquatur. [§6] Postquam vero maritata & traductæ fuerint de earum iure Quartalitio pecuniaria solutione mediante satis fiat. [§7] Ubi autem aliqua ex ipsis filiabus homini impossessionato maritata fuerit dictante eadem regni consuetudine in perpetuo iure & dominio huiusmodi quartæ filialis possessionariæ succedere debeat & remanere. [§8] Ita tamen si ipsa de voluntate & consensu fratrum seu consanguineorum suorum in quos post ipsius matrimonium huiusmodi iura seu Quartalitia reverti & redundari debeant homini ut præfertur impossessionato nupserit. [§9] Alioquin sive de domo paterna, sive de curiis & servitiis baronum seu maiorum nobilium dictis suis fratribus seu consanguineis aut parentibus irrequisitis & nolentibus, seu non consentientibus id fecerit ius suum Quartalitium non cum possessione sed cum satisfactioe pecuniarum requirendi habebit facultatem.

**Declaratio articuli decreti super bonis per defectum seminis
impetratorum editi. xxx.**

QUI quidem articulus prout præmisi vetustæ consuetudini regni huius præiudicare videtur. PRIMO siquidem in publicatione iurium modo prædeclarato dubiorum. [§1] SECUNDO vero in termini octavalis non præfixione. [§2] TERTIO insuper in Quartalitorum puellarum ignobilibus nuptarum restitutione. [§3] Nam huius publicatio iuxta veterem & approbatam regni legem non in curia regiæ maiestatis sed in faciebus ipsorum iurium possessionariorum

maxime vero in loco solitæ residentiæ illius qui in semine defecit tempore videlicet legitime statutionis eorum præsentibus vicinis & commetaneis fieri debet & a die eiusmodi statutionis atque publicationis infra ipsius anni unius integri revolutionem. Qui cunque statutioni prænarratæ contradixerint, vel etiam alii qui postea causæ & liti ipsi se se ingerere & immiscere voluerint sive sint filiæ illius defuncti in domo paterna relictæ, sive fratres generationales, sive autem cæteri fœminei sexus homines iura sua producendo coram iudice suo ad id specialiter & expresse deputato. Nunc videlicet coram domino iudice curiæ regiæ (nam alias coram domino Palatino consueverant) sive celebrentur octavæ, sive non, ad se & ad ius eorum pertinere tenentur comprobare. Aliter autem iuri regio & per consequens illi cui maiestas regia bona prænotata contulerit relinquuntur possidenda. [§4] Prout etiam in decreto serenissimi principis quondam domini Mathiæ regis de quo præsens articulus est excerptus sed variatus & immutatus manifeste continetur. [§5] Ideo enim iudex in tali defectus seminis causa per expressum denominatus est ut sciat quælibet partium infra terminum sibi præfixum ad iudicem suum recurrere, & iustitiam in premissis ab eo postulare. [§6] Filiæ autem in domo paterna (prout in articulo continetur) cum quarta parte bonorum ipsorum infra tempus maritationis earum habitabant. [§7] Uxor etiam seu relicta defuncti ex domo & curia ipsa mariti quo usque ad secundas nuptias se non transtulerit excludi non poterit sicuti infra ubi de solutionibus Dotalitiorum tractabitur clarius dicitur. [§8] Puellæ quoque seu filiæ nobilium non cum illorum vel illarum consensu, ad quos vel quas iura earum Quartalitia redundari debebunt. Sed cum patris vel fratris ipsarum qui scilicet huiusmodi Quartalitia solvere tenentur consensu nuptui dari debent.

De eo qui cum iure regio in causam cuiuspiam se immittit. Tit. xxxi.

Item super iure regio noviter impetrato si quis in causam cuiuspiam se cum litteris Donationalibus immittit non tenetur in causam attractus, vel actor ad id vel contra illud litteras statim producere, sed impetrator ille procedat de regni consuetudine cum regio iure & hoc si actor vel reus triumphabit. Nam aliter si uterque deficiet ius regium locum ibidem habebit. [§1] Et in hoc casu iudex causæ etiam post latam & pronunciatam inter ipsas partes sententiam litteras super huiusmodi iure regio Donationales ab impetratore rursus ad se acceptare & eidem iudicium super eo facere tenetur.

Quod universe Donationes regie infra anni unius revolutionem statutione legitima firmari debent. Tit. xxxii.

ET sciendum quod omnes Donationes regiæ, sive per defectum seminis quorumcunque decedentium, sive per notam infidelitatis alioquorum prave agentium, sive nomine iuris regii mala fide iura regalia detinentium, sive novæ Donationis titulo bona sua iusto iure possidentium emanatæ & confectæ infra integram anni unius revolutionem a die Donationis computandam legitima statutione firmari stabiliri que debent sive fiat contradictio, sive non. [§1] Nam aliter Donationis vigor seu virtus expirabit & ipsa Donatio inefficax viribusque destituta manebit.

De litteris Statutoriis, Reambulatoriis, Amonitoriis et brevibus Evocatoriis, quot diebus durent ad exequendum. xxxiii.

UBi notandum quod litteræ Introductorię pariter & Statutoriæ regales super qualibet Donatione cum servitiorum declaratione ęditæ & conscriptæ incipientes sic. Cum nos debitum habentes respectum &c. vel Cum nos attentis & consideratis &c. prout scilicet Donationis exordium seriesque vel continentia verbalis se habet ad ipsam usque anni revolutionem ad exequendam huiusmodi Donationem regiam efficaces sunt: roburque sortiuntur firmitatis. [§1] ALIÆ VERO omnes litterę similes tam scilicet Introductorię & Statutoriæ seu Recaptivatoriæ quam etiam Reambulatoriæ sed & Amonitoriæ quęlibet per dicitur nobis cum clausula illa Ad terminum competentem &c. emanatę sexaginta dumtaxat diebus a die emanationis ipsarum litterarum supputandis pro exequutione peragenda valide reputantur. [§2] SI TAMEN in litteris huiusmodi Introductoriis seu Recaptivatoriis aut Reambulatoriis vel Amonitoriis terminus aliquis octavalis, ad quem scilicet Evocatio (ex ratione in eisdem litteris expressa) fieri debet denotatus & conscriptus fuerit extunc ad octavum usque diem illius festivitatis cuius videlicet octavę inseruntur & inscribuntur exequutio cum illis rite legitimeque peragi poterit. Octava tamen dies ante festum & non post intelligatur. [§3] Cum litteris quoque Evocatoriis ratione quorumcunque actuum potentiariarum ad tricesimum secundum diem secundum modernorum usum sonantibus. Similiter infra spatium sexaginta dierum a die emanationis ipsarum computandorum procedendum est. Nam aliter etiam illę viribus de cętero carebunt.

Quid littere Statutorie Donationum cum declaratione, et quid sine declaratione valeant. xxxiii.

CAeterum hoc quoque sciendum quod universę Donationes regię quocunque iure, & titulo factę cum litteris Introductoriis & Statutoriis non solum cum declaratione scilicet per clausulam Cum nos &c. Verum etiam simplici modo per aliam clausulam videlicet Dicitur nobis &c. confectis & per quoslibet iudices regni ordinarios datis exequutioni demandari possunt. [§1] Verum tamen si introductio per clausulam Dicitur nobis fiet tunc in iudicio etiam litterę regię Donationales penes Statutionem in specie produci debent ut intelligatur quo iure vel titulo, aut quibus sub conditionibus Donatio ipsa facta existat. Nam aliter Statutio ipsa nullius censebitur fore firmitatis. [§2] Si tamen cum declaratione, videlicet per Cum nos Introductio & Statutio exequuta fuerit tunc in casu quo litterę Donationales super eo confectę periclitarentur & amitterentur sola ipsa Statutoria sufficet. Nam seriem Donationis & rationem, seu causam propter quam videlicet eadem Donatio facta est in se declaratam habet.

De litteris consensualibus regiis absque fassionis verbali tenore confectis. Tit. xxxv.

ET hoc idem quod de litteris Statutoriis pręmittitur tenendum est etiam de cunctis litteris consensum regię maiestatis explicantibus, quod videlicet fassio, cui maiestas sua consensum suum regium prębuit si in ipsis litteris consensualibus verbotenus inserta non fuerit extunc nisi fassio illa in specie coram iudice producat consensus huiusmodi regius penitus invalidari debet & inefficax erit.

De nova Donatione regia in generali, et unde ortum habeat. Tit. xxxvi.

ITem solent nonnulli bona & iura ipsorum possessionaria a regia maiestate novę Donationis suę titulo sæpe cum omni suo regio iure pro se & eorum hæredibus impetrare asserentes

progenitores suos ab antiquo vel etiam semetipsos dumtaxat a tempore adeptionis & consequutionis huiusmodi bonorum in dominio pacifico eorundem perstitisse. [§1] Et licet plerique eiusmodi Donatione nova iuste bonoque modo utantur. In contrarium tamen plurimæ fraudes per nonnullos salutis eorum immemores in hac parte committuntur. [§2] Quidam enim fœminei sexus generationis suæ homines de ipsis iuribus possessionariis per hanc excludere nituntur litteras originales quæ scilicet iura possessionaria emptitia fuisse aut alio titulo ius fœmineum sicuti masculinum concernere declararent occultantes igne comburentes vel aliter dilaniantes Quidam vero fraterne charitati contrariantes & uxoribus filiabusque suis faventes dum potissime semen masculinum in se deficere conspiciunt, & iura sua possessionaria in fratres condivisionales devolvi metuunt nomina uxoribus filiarumque suarum in litteris novæ Donationis inscribi faciunt fratres ipsorum generationales prætermittendo & illis bonis seu iuribus possessionariis eosdem privare vel magis despoliare satagendo.

Quid sit nova Donatio descriptive et quod dupliciter illa potest attendi. xxxvii.

UNde sciendum quod nova Donatio cum clausula præsentis tempore inseri solita videlicet in cuius vel quarum pacifico dominio progenitores suos perstitisse seque persistere asserit etiam de præsentis &c. facta non est aliud quam prioris Donationis legitimæ factæ iterata roboratio [§1] quæ ex sui vocabuli significatione semper præsupponit priorem Donationem vel aliam bonorum ipsorum acquisitionem. [§2] Sed ut clarius præmissa descriptio novæ Donationis intelligatur NOTANDUM est quod nova Donatio dupliciter potest attendi vel considerari. Primo respectu iurisdictionis sacræ coronæ regni seu principis nostri ad quem ipsa Donatio spectat. Secundo autem respectu fratrum generationalium & fœminei sexus hominum. [§3] Respectu itaque iurisdictionis principis nostri nova Donatio non requirit neque præsupponit priorem Donationem. Nam si prior Donatio super aliquo iure possessionario legitime facta & statutio exinde iuridice subsequuta haberetur, non esset necessarium ius illud possessionarium de novo impetrari, sed potius deberet prior ipsa Donatio confirmari. [§4] Immo neque Confirmatio videretur esse necessaria cum Confirmatio non sit de necessitate sed solummodo de bene esse Donationis & iuris possessionarii gubernationis. [§5] Nec valeat ex se Confirmatio si Donatio in ea inserta non valere dinoscatur. Unde nova Donatio sive cum iure regio simul, sive simpliciter propterea solet a principe impetrari. Quod licet impetrator ipse sit in dominio iuris alicuius possessionarii tamen dominium illud indirecte forsitan & contra iurisdictionem ipsius sacræ coronæ considerat se possidere pariter & habere. (Non omnes enim domini vel nobiles per Donationes regias sed etiam per Fassionem instrumentales seu privilegiales diversis sub Titulis & coloribus consueverunt iura possessionaria gubernare) proinde huiusmodi defectum iuris sui per Donationem ipsam principis studet reformare effectiveque instaurare. [§6] DICITUR autem Donatio ipsa nova pro eo & in tantum quia tunc & de recenti facta sit per principem bonorum sibi collatio prout in nonnullis privilegiis & litteris Donationalibus excellentissimorum principum quondam dominorum Ludovici & Sigismundi imperatoris Hungariæ regum vidi atque legi possessionarias collationes novæ Donationis titulo factas nulla clausula apposita nullaque mentione habita de hoc quod progenitores impetratoris in dominio bonorum & iurium possessionariorum huiusmodi nova Donatione collatorum aliquando perstitissent, vel impetrator ipse perstitisset, sed cum servitorum dumtaxat (prout in omni Donatione fieri consuevit) declaratione editas atque confectas, quas quidem possessionarias collationes sed & litteras super ea re emanatas ex ratione præallegata existimo teneoque hoc titulo novæ Donationis factas & æditas fuisse, quod scilicet impetrator ipse dominium bonorum impetratorum prius sive habuerit, sive non tamen

per principem tunc de recenti & non per prius fuit bonorum ipsorum facta sibi Donatio. [§7] Si enim prius quoque Donationem super eisdem iuribus & bonis habuisset tunc (ut præmissi) non nova Donatio impetrari sed potius prior debuisset confirmari [§8] & eiusmodi nova Donatio respectu iurisdictionis ipsius sacræ coronæ seu contra iurisdictionem principis nostri sive cum iure regio (ut præfertur) simul sive simpliciter facta semper valet & semper est efficax, nec poterit per alterum quempiam ius tale possessionarium nomine iuris regii vel alio defectus seminis titulo de cætero impetrari. [§9] Princeps enim ipse Donationi suæ semel facte per se, vel per alium de iure nequit iterum refragari dummodo sit hoc verum. Quod aut impetrator ipse aut progenitores eius in reali ac pacifico dominio (hoc est non absoluta potentia vel non occupatione temeraria sibi usurpato) iuris eiusdem possessionarii fuere. Nam si alias fraudulenter & inique bonorum impetratio præmisso titulo fieret puta dicendo quispiam villam aut possessionem unam suam esse & se in dominio eiusdem iam dudum perstitisse cum tamen possessio illa non sua sed regiæ maiestatis ad aliquod castrorum suorum regalium de iure & ab antiquo pertinens fuisset, tunc in tali & aliis similibus casibus ipsa Donatio non valet immo impetrator ille tanquam falsarius & mendax propterea acriter est puniendus. [§10] Secus etiam est si quispiam potentum absoluta potentia & occupatione temeraria villam unam pro se usurparet & in eius dominio male sibi vindicato revolutionem unam annualem transigeret, seque postea in reali dominio villæ ipsius longo tempore perstitisse regiæ maiestati diceret & sic eam novæ Donationis titulo pro se impetraret. Nam hoc quoque modo ipsa Donatio etiam cum iure regio facta contra iura illius a quo villa ipsa fuit occupata nil tenet nulliusque censetur esse firmitatis eo quod expositio pariter & impetratio sinistre facta fuisse comprobatur. [§11] SECUNDO VERO nova Donatio potest attendi & considerari respectu fratrum generationum ac fœminei sexus (ut præactum est) hominum & hac consideratione præmissa descriptio novæ Donationis est intelligenda. [§12] AD DECLARANDUM igitur quod iura eiusmodi possessionaria nova Donatione cum clausula prænotata in quorum pacifico dominio &c. impetrata ius fœmineum non concernant, litteræ ipsæ novæ Donationales immo etiam divisionales inter fratres masculini sexus ac Expeditorie super Quartaliorum solutione confectæ insufficientes reputantur. Sed originales quoque litteræ quibus videlicet prius eadem iura possessionaria aut acquisita, aut empta vel aliter adepta fuerint in iudicio producantur necesse est. [§13] Quæ si produci & exhiberi non poterunt quia non habentur (multorum enim nobilium & possessionatorum hominum privilegia ac litteralia instrumenta aut disturbiorum temporibus per æmulos regni direpta aut pacato quoque tempore ignis sæpe voragine conflagrata dinoscuntur) extunc in causam attracto iuramentum quinquagesimo se nobilibus meræ nobilitatis titulo & privilegio fungentibus præstandum imponitur. [§14] Qui si iurare poterit tunc a possessionaria datione absolvitur & ius Quartalium dumtaxat persolvere compellitur si quitantia seu recognitio super ea re non habetur.

Unde proveniat proditio fraterni sanguinis. Tit. xxxviii.

UBi autem alio ex latere facta & præhabita huiusmodi iuramentali depositione præactis litteris originalibus impetrator ipse si per se vel procuratorem suum usus fuerit: vel etiam aliter illas occultasse & contra contenta earundem litterarum iura ipsa possessionaria præmisso novæ Donationis titulo male & in præiudicium iurium fratrum, vel etiam fœmineorum pro se impetrasse & nomina eorum quos bona illa rite concernere dinoscebantur de litteris Donationalibus exmisisse per hocque de eisdem bonis fratres aut sorores perperam exhæreditare voluisse sufficienter et evidenti documento poterit declarari atque probari extunc talis in pœna periurii ac proditiois fraterni sanguinis merito debet condemnari. [§1]

Coniuratores nihilominus eius in fidefragio pœnaque similiter periurii omnes convincentur eo facto. [§2] Ubi autem iuramentum non præcesserit sed exhæredationis solummodo causa declarata fuerit pœna periurii tunc sublata erit & proditio dumtaxat ipsa fraterni sanguinis locum habebit.

Quid sit proditio fraterni sanguinis diffinitive, et de pena eiusdem xxxix.

Fraterni autem sanguinis proditio est fratris vel sororis iustis suis iuribus per alterum fratrem aut sororem dolosa adumbrataque & fraudulenta privatio vel exhæredatio. [§1] Per fratrem autem & sororem hoc in loco intellige quemlibet generationis suæ hominem in iuribus possessionariis secum æqualiter succedentem. [§2] PENA AUTEM proditionis fraterni sanguinis ultra dedecus & infamiam exinde contrahendam hæc est ut ille proditor ac condemnatus universis bonis & hæreditatibus suis perpetuo destituatur & in illum fratrem aut sororem quem scilicet vel quam fraudare iustisque suis iuribus despoliare & de eisdem exhæredare nitetur. Eadem cuncta bona & hæreditates transferantur & ipsemet quoque in persona sua ad fovendum pariter & serviendum illi tradatur. Quem usque ad obitus sui diem frater ipse proditus vel soror prodiva victu & amictu tanquam unum de familia sua conservare tenebitur. [§3] Et hoc idem intelligendum est etiam de mulieribus seu filiabus quorumcunque dominorum ac nobilium quarum scilicet aliqua in iuribus paternis (quæ etiam alioquin ius fœmineum contigissent) per regiam maiestatem ad supplicationem quorumpiam in verum hæredem & successorem masculinum se præficere procurabit per hocque alias eiusdem generationis seu progeniei fœmellas bonis ipsis privare machinabitur. [§4] Præterea si quispiam fratrum aut sororum alterum generationis suæ hominem de genealogia sua existere pertinaciter negabit, & ille tandem litterali documento vel deficientibus litteris humano forsitan testimonio usque ad sexaginta annorum spacium sed non amplius se de ipsa genealogia esse comprobabit tunc ex istis quoque casibus pœna proditionis fraterni sanguinis sequi debet. Nam exinde alterum iustis suis iuribus fraudare exhæredareque se voluisse declarabit.

De divisionibus bonorum paternorum et avitorum inter fratres fiendis. xl.

Item præhabita Donationum regiarum declaratione iam ad ramos earundem est recurrendum. [§1] Et primo de fratrum carnalium bonis ac iuribus possessionariis per Donationes acquisitis & tandem alio quovis titulo adeptis & consequutis, ac eorundem bonorum divisionibus erit disserendum. [§2] UNDE NOTANDUM quod universa bona & quælibet iura possessionaria cunctorum dominorum, baronum ac magnatum: & nobilium paterna & avita quocunque nomine censeantur inter filios eorundem dominorum: & nobilium fratres scilicet carnales æqualiter dividuntur: et quot sunt fratres in tot sequestrantur partes. Domus autem paterna filio iuniori deputatur ad residendum & habitandum, ita tamen ut cæteris quoque filiis seu fratribus de communi proventu huiusmodi bonorum & iurium possessionariorum aliæ domus illi paternæ similes in loco communi, ubi videlicet illorum quilibet voluerit, extruantur & ædificentur habitandæ [§3] ad quas de terris arabilibus, sylvis pratisque & fœnilibus consimiliter communibus tot & tantum quot scilicet & quantum ad ipsam domum paternam spectare dinoscitur excidatur & sequestretur atque annectatur perpetuo possidenda pariter & habenda. [§4] Et hoc verum est si tantum habuerint de communibus terris silvisque & pratis ut huiusmodi divisio eorum debite peragi & expediri poterit. [§5] Nam alioquin omnes terræ ac sylve prataque & fœnilia ad dictam domum paternam attinentes & pertinentia in tot debebunt

dividi partes, quot ex novo ædificabuntur domus nobiles & ad quamlibet illarum domorum æqualis portio assignabitur utenda. [§6] Inclusa tamen semper illa quantitate atque portione terrarum ac sylvarum & pratorum quæ ad sessionem vel locum sessionis Iobagonalis in cuius scilicet facie domus nova constructur spectabat atque pertinebat.

Quid si domus paterna lapidea vel magnis sumptibus constructa fuerit. Tit. xli.

UBi autem domus ipsa paterna lapidea aut latericia vel aliter sumptuoso ædificio constructa fabricataque fuerit, & tantæ estimationis reputabitur ut de communi proventu talium bonorum similes domus construi non poterint sed ne una quidem ædificari commode poterit tunc in tali casu domus ipsa paterna una cum magistris lapicidis ac muratoribus & fabris lignariis per hominem iudicis conscientiosè estimari taxarique & summa estimationis in tot portiones quot sunt fratres dividi debet filiusque iunior seu frater portionem sibi cedentem gratis habebit. [§1] Sed portionem ceterorum fratrum pecuniaria solutione iuxta ipsius taxationis & estimationis seriem refundere, illisque persolvere tenebitur. [§2] Et hoc intellige si filius ipse iunior tantæ ætatis fuerit ut rebus suis commode prospicere non possit. Nam aliter in tali sumptuoso ædificio æqualis fieri debet inter fratres divisio. [§3] Cæterum si bona ac iura eiusmodi possessionaria ius fœmineum æque veluti masculinum concernunt, & patre defuncto filii filiaque superstites manebunt ac filiarum altera iunior ætate fuerit tunc in tali quoque casu non filia sed nihilominus filio filiam ipsam iuniorem natu immediate præcedenti tanquam digniori sexui & personæ domus paterna dabitur habitanda, sub conditionibus tamen prædeclaratis.

Quod litteralia instrumenta frater natu maior conservabit. Tit. xlii.

ET hoc idem est intelligendum etiam de litterarum: ac litteralium instrumentorum conservatione quod scilicet non filia maiori, sed filio si etiam iunior ætate foret litteræ & litteralia instrumenta factum bonorum ac iurium possessionariorum ipsorum tangentes & concernentia dari debent ad conservandum. Quas & quæ inter filios seu fratres maior natu conservare semper solet. [§1] Et hoc verum est si frater ipse maior natu sane mentis & non furiosus vel amens extiterit, ac discipator bonorum suorum manifestus non fuerit, vel ceteros fratres suos de bonis paternis & avitis ac etiam suis exhæreditare palam non prætenderit. [§2] Nam casibus in istis non fratri natu maiori, sed alteri ex fratribus ad lineam generationis paternæ propinquiore litteræ ac litteralia instrumenta dari & assignari debebunt ad retinendum atque conservandum. [§3] Filie vero transsumptum seu paria litterarum ac litteralium instrumentorum bona utrique sexui deservientia tangentium pro se coram iudicibus regni ordinariis habere possunt & illius earum fratres dare tenentur. [§4] SCIENDum hic præterea quod illis erit omnium causarum & litium contra fratres motarum vel movendarum infra divisionis tempus supportatio (communi tamen sumptu) ad quem litterarum ipsarum spectabit conservatio.

De divisionibus bonorum per fratres acquisite, et de clausula Donationis per eum. xliii.

ULterius notandum quod si duo vel plures fuerint fratres carnales aut etiam uterini in bonis & iuribus possessionariis avitis vel paternis indivisi, quorum alter in curia regia vel aliorum

dominorum laribus servitio se mancipabit alter autem domesticis curis & laboribus domi vacabit, & ille servitio deditus bona aliqua seu iura possessionaria ab ipsa maiestate regia vel aliis etiam forsitan dominis servitiorum suorum meritis ita exigentibus pro se impetrabit & nomina fratrum suorum domi manentium clausula cum illa ET PER eum &c. in litteris seu privilegiis Donationalibus inscribi & inseri procurabit, tunc licet impetrans ipse ante tempus divisionis cum fratribus suis fiendæ de huiusmodi bonis per eum acquisitis & inventis liberam prout voluerit disponendi habeat facultatem. Et hoc intellige non pro se vel suis hæredibus aliquo sub colore usurpando aut reservando sed a se prius realiter alienando. Tempore tamen divisionis unusquisque fratrum portionem suam de illis sibi cedentem æque ut impetrator ipse principalis rehabere de iure potest. [§1] Iura enim possessionaria in quibuscunque litteris seu privilegiis Donationalibus contenta semper in tot debent dividi partes quot sunt personæ vel nomina hominum litteris in eisdem specificè denotata. [§2] Nisi forte exceptio vel distinctio fuerit ibidem super hoc declarata. [§3] Clausula itaque ipsa PER EUM non est intelligenda ut tantum valeat quasi post eum prout quidam plus sapere volentes, quam oportet sapere intelligendum arbitrati sunt arguentes & astruentes inde ceteros fratres vivente principali impetratore portionem de huiusmodi bonis acquisitis & inventis habere non posse sed illa post decessum ipsius impetrantis cum filiis eiusdem dividenda esse quod tenendum non est. [§4] Fratres etenim indivisi infra divisionis tempus & lucrum & damnum æqualiter participare sufferreque & tollerare debent. [§5] Hinc est quod si etiam nomina aliquorum fratrum carnalium aut uterinorum vel etiam patruelium divisionem bonorum inter se nondum habentium in litteris huiusmodi Donationalibus inscripta non fuissent tamen tempore divisionis portionem suam unusquisque illorum (ut præmittitur) de iure rehabere potest, [§6] unde per hunc terminum PER EUM &c. semper intellige medio, vel per medium eius scilicet impetrantis, quasi diceret maiestas regia consideratione servitiorum talis fidelis sui eidem & medio eius vel propter eum etiam alteri possessionem seu villam unam contulisse.

Quid si fratrum quispiam bona per se inventa pro se reservare voluerit. Tit. xliiii.

UBi tamen fratrum aliquis (cæteris torpori & negligentia desidiaque deditis) continue serviendo sanguinis sui effusione vel aliter servitiis aut virtutibus suis bona aliqua seu iura possessionaria quæsiverit & cum cæteris fratribus suis illa participare noluerit tunc si omnibus bonis & iuribus paternis renunciabit, acquisita per seipsum bona totaliter pro se & hæredibus suis perpetuo reservare valebit. [§1] UNDE SEQUITUR quod prodicio fraterni sanguinis non in acquirendis bonis & iuribus possessionariis (prout nonnulli putaverunt) sed in exhæredandis de acquisitis paternis scilicet & avitis bonis consistit.

Quod divisio bonorum inter fratres carnales non processu litis fieri debet. Tit. xlv.

SCIendum est deinde quod divisio inter fratres carnales & etiam uterinos nondum tamen divisos non processu litis sed per litteras dumtaxat regie maiestatis Præceptorias ad comites vel vice comites & iudices nobilium illius comitatus ubi bona & iura possessionaria dividenda sita sunt & adiacent sonantes vel si eadem bona in pluribus comitatibus habentur ad unum magistrorum Prothonotariorum datas & directas fieri solet, atque debet per quos vel quem universa bona & quælibet iura possessionaria paterna & avita ac etiam per eos communiter acquisita simul cum universis rebus mobilibus cuiuscunque speciei seu maneriei existant contradictione alicuius ex fratribus non obstante iuxta numerum personarum dividi & ab invicem sequestrari semper possunt. [§1] FACTA AUTEM semel inter ipsos fratres (modo

ante lato) divisione si quispiam forsitan fratrum in eiusmodi iuribus possessionariis aliqua ex causa legitima rursus divisionem habere voluerit aut portionem suam minorem vel inutiliorem ceteris esse aut iuris ordine de manibus suis ablatam fuisse allegando tunc divisio hoc modo non nisi processu iuris, unico tamen termino octavali (si per iudicem ex propositis & allegatis partium admittenda censebitur) fieri poterit atque debet sepe numero enim absque rationabili & legitima causa secunda divisio postulatur. [§2] Et hic articulus etiam de fratribus patruelibus nondum divisus est intelligendus.

Quando nova divisio bonorum inter fratres condivisionales admittatur, et quando non. xlvii.

INter fratres vero condivisionales si aut avorum aut abavorum temporibus divisio in aliquibus bonis & iuribus possessionariis facta fuisset & litteræ quoque divisionales super ea re confectæ extitissent deinceps divisio non est admittenda [§1] nisi forsitan alter fratrum potentior cæteris evadens post rectam divisionem particulam aliquam iuris possessionarii vel territorii alterius sui fratris violenter pro se usurpasse seu vendicasse comprobaretur, & impotentior frater violentiæ potentioris fratris resistere non valens æquam divisionem ex novo postularet. [§2] Nam hoc casu divisio ipsa de novo peragenda dinoscitur longo tamen processu litis & hoc quoque eo modo si frater ipse divisionem postulans legitimam (ut præmissi) assignaverit rationem. [§3] Nam si considerans alterum fratrem post factam cum eo vel progenitore suo divisionem in terris sibi cedentibus vineas & promontoria plantasse, vel aliter frutices & virgulta extirpasse, ex eoque utiliorem sua portione quæ forte inculta mansit existere & propterea divisionem postulare compertus fuerit, etiam longo litis processu hoc est in quatuor terminis octavalibus novam divisionem bonorum consequi non debet. [§4] Si autem temerarie particulam aliquam iuris sui vel territorii alterum per fratrem occupatam fuisse allegaverit tunc super potentiaria huiusmodi usurpatione bonorum suorum vel particulæ iuris sui possessionarii etiam insinuatione mediante fratrem suum iure in causamque convenire licite poterit. [§5] Et hoc si tempus præscriptionis in actibus potentiariis observari consuetum non transcenderit quæ triginta & duobus annis allegari observarique solet. [§6] Nam super hæreditario iure, & proprietate iuris possessionarii inter fratres præscriptio nunquam est admittenda. [§7] PRÆTEREA si fratres aliquando per metarum inter se erectiones & distinctiones divisionem fecisse reperti fuerint extunc divisio bonorum de cætero inter eos & ipsorum hæredes fieri nunquam permittitur. [§8] Huiusmodi tamen metalis distinctio & erectio mutuam in se bonorum devolutionem inter fratres non excludit, neque exclusisse intelligitur.

Quod universa bona inter fratres divisa altero fratrum deficiente in alterum devolvuntur: etiam matrimonio interveniente. Tit. xlviii.

SCIendum ulterius quod universa huiusmodi bona & iura possessionaria inter fratres divisa altero ipsorum hæredibus carente etiam post centum, ducentos & amplius annos (si matrimonia quoque post quartum generationis ipsorum gradum inter eos vel alterum eorum celebrata fuissent) in ceteros fratres superstites & hæredibus gaudentes devolvuntur eo facto dummodo fratres ipsi in humanis agentes per rectam generationis lineam fratrem defunctum & hæredibus destitutum progenie de sua vera fuisse & cum progenitore illius in bonis & iuribus possessionariis ab ipso derelictis progenitores eorum divisionem habuisse vel fecisse valeant litterali documento comprobare. [§1] Deficientibus vero litteris etiam humano testimonio ad sexaginta annorum curricula sed non amplius prosapiam & genealogiæ suæ stirpem ramumque

de iure poterunt verificare. [§2] UNDE sequitur quod bona & iura possessionaria post divisionem inter fratres factam per aliquem fratrum acquisita & inventa eodem fratre acquirente præmortuo & hæredibus destituto non in fratres condivisionales derivantur sed Fisco regio applicantur. [§3] HOC quoque necessario interserendum occurrit quod bona & iura possessionaria duobus aut tribus personis alienis sanguine nonque fratribus vel consanguineis per regiam maiestatem qualitercunque Donata, aut aliter per eosdem acquisita altero eorum decedente & hæredibus carente rursus ad collationem regiam devolvuntur. [§4] Sola enim sanguinis propago & fraternalis mutua divisio efficit ex se mutuam & reciprocam bonorum in alterutrum condescensionem atque devolutionem allegatione cuiusvis præscriptionis non obstante.

Utrum bona marito et uxori simul collata deficiente marito in uxorem ipsam devolvantur et econverso. Tit. xlvi.

QUoniam nonnulli dominorum & nobilium solent nomina uxorum suarum in litteris seu privilegiis Donationalibus super bonis & iuribus possessionariis iusto titulo servitiis eorum acquisitis conficiendis ponere pariter & inserere ideo queritur utrum decedente marito sine hæredibus portio sua in huiusmodi iuribus possessionariis & bonis habita in uxorem suam devolvatur? Cum non frater sed consors vel uxor dumtaxat mariti fuisse mulier ipsa censeatur & econverso. An uxore absque hæredibus defuncta portio sua in maritum eius condescendat atque derivetur? DICENDUM quod sic. [§1] Nam licet vir mulieri & mulier viro non sit neque censeatur esse frater sanguinis propagatione carnis tamen unione & copulatione plus quam frater esse reputatur. Iam enim secundum Evangelicam doctrinam non sunt duo sed una caro, frater autem altera caro existit. [§2] Propter unionem itaque & copulam carnis portio possessionaria mariti in uxorem suam & econtra uxoris in maritum casu in prænarrato rite devolvenda erit. [§3] Hic tamen advertendum est quod si in præallegata Donatione vel litteris Donationalibus clausula utriusque sexus non interseritur sed simplici modo Donatio emanat extunc iura huiusmodi possessionaria fœmineum (si etiam filias mulier ipsa habeat) non sequuntur sed masculinum dumtaxat sexum concernere dinoscuntur. [§4] Ubi tamen in Donationis tenore clausula ista adiecta & apposita fuerit quod videlicet si impetratorem ipsorum bonorum hæredibus masculinis carere contingat tunc eadem bona in filias suas devolvantur. Tunc ipsa bona & iura possessionaria ubi & postquam ad manus filiarum devenerint propter clausulam & rationem prenotatam utriusque sexui semper deservient. [§5] Et idem est tenendum de bonis quoque emptitiis si nomen uxoris in litteris Emptionalibus & Inscriptionalibus insertum fuerit quod scilicet altera partium deficiente in alteram illo modo antelato devolventur.

Utrum bona nota infidelitatis condemnati in fratrem adoptivum regio consensu accedente condescendant. Tit. xli.

QUia super devolutione bonorum nunc tractatur ideo ad huc quæritur. Utrum bona & iura possessionaria cuiuspiam ob notam infidelitatis condemnati post factam capiti & bonis suis gratiam in illum cum quo super devolutione bonorum suorum prius fraternalem adoptionem & contractum fecerat & huiusmodi contractui consensus regius accesserat condescendant an ne? DICENDUM quod non. [§1] Quoniam contractus ipse vim fraternalis condivisionalitatis in bonorum successione tenet. Modo certum est quod talis infidelitatis nota irretiti & obfuscati hominis bona nec in filios suos prius natos, nec autem in fratres eius carnales aut

condivisionales derivantur. Et ideo neque in fratrem adoptivum (si etiam consensus ut præfertur regius super ea re fuisset impetratus) bona prænotata devolvuntur. [§2] Super condescensione autem eorundem bonorum ante collatam gratiam regiam nulla est quæstio quia tunc ipsa bona illi cessissent cui per principem donata fuissent. Quamdiu enim quisquam dominium reale bonorum suorum tenet & possidet interim semper ea delictis suis & excessibus ita exigentibus perpetuo amittere potest fraternali adoptione non obstante.

Quid de successione filiarum duorum fratrum in heredes seorsum prefectarum sit sentiendum. I.

Item ulterius quæritur si duo fuerint fratres carnales aut condivisionales quorum uterque (sexu masculino destituto) filias suas in propriis bonis ac iuribus suis possessionariis seorsum & diverso tempore in hæredes masculinos vel etiam ad utrumque sexum per principem præfici & creati procuraverit neutro fratrum huiusmodi præfectionem alterius impugnante utrum deficientibus filiabus vel hæredibus aut posteritatibus unius fratris bona & iura ipsarum possessionaria in filias vel posteritates alterius fratris super extantis devolvantur ratione consanguinitatis earum vel in regium Fiscum condescendant? [§1] Dicendum quod regio Fisco erunt applicanda. Quoniam ille non successionis vel consanguinitatis iure, sed præfectionis virtute bona ipsa adepta fuisse dinoscuntur. [§2] Præfectio autem vim naturamque Donationis representare dinoscitur & eiusmodi Donatio seorsum & non coniunctim facta fuisse reperitur ideo tanquam inter alienas personas divisim & diverso tempore facta reputatur, & per consequens in Fiscum regium derivantur, [§3] prout in Donationibus quoque fratrum carnalium post divisionem impetrandis (si nomen alterius fratris divisi non interseritur) fieri consuevit quod scilicet deficiente fratre impetratore bona post divisionem obtenta non in fratrem superviventem cum quo divisus fuerat condescendent, sed collationi regiæ maiestatis subiacebunt.

De divisione bonorum inter patres et filios eorum, et de paterna seu patria potestate. li.

Sciendum deinde est quod quamvis inter patrem & filium divisio bonorum non semper admittatur sunt tamen multi casus in quibus si etiam filius nollet pater suus eum ad divisionem peragendam compellere potest & econverso si videlicet pater nollet filius nihilominus divisionem bonorum cum patre peragendi habet auctoritatem. [§1] Sed antequam isti casus declarentur necessarium videtur scire qualem & quot modis habeant patres in filios suos potestatem. UBI NOTANDUM quod omnes filii & filia parentum legitime & illegitime ætatis non emancipati hoc est a patria servitute non liberati infra tempus emancipationis seu liberationis, quæ iuxta consuetudinem patriæ nostræ ex parte filiorum per solam bonorum & iurium possessionariorum cum patre divisionem ex parte vero filiarum per earum desponsationem & nuptiarum solennitatem seu matrimonii consumationem fieri consuevit in patria potestate consistunt. [§2] Qui ergo ex te & uxore tua nascuntur quamdiu emancipati non fuerint in tua potestate erunt, & non solum illi verum etiam nepotes tui hoc est filii qui ex tuo filio non emancipato generantur in tua pariter potestate manebunt. [§3] Qui tamen ex filia tua nascuntur illi non in tua sed patris vel avi eorum potestate fient sive pater nobilis, sive ignobilis existat, quia filii non matris sed patris familiam sequuntur. Et inde etiam est quod ex nobili matre & ignobili patre generati inter veros nobiles non computantur. [§4] PATERNARUM itaque potestatum prima est quod filius quamdiu in potestate patris erit de bonis paternis mobilibus & immobilibus invito & non consentiente patre nil quicquam

vendere vel aliter alienare neque etiam contractum super his cum aliquo facere aut inire potest. [§5] SECUNDA quod patres filios eorum etiam legitimæ ætatis ipsorum de meritis interdum exigentibus castigare & corripere immo si excessus & flagitorum qualitas expostulaverit incarcerare etiam possunt. [§6] ITEM quod necessitate rationabili ingruente patres onera filiorum suscipere ac super se levare & sæpe etiam bona ipsorum nondum tamen divisorum in extremæ necessitatis casu vendere & alienare possunt prout declarabitur infra. [§7] ITEM quod invito patre filium suum apud se retinere potest nemo. [§8] ITEM quod pater potest filium suum obsidem pro se ponere, sed non e converso. [§9] ITEM quod filii non possunt testari quicquam de rebus mobilibus paternis nisi quantum patres eorum admiserint, quia testamentum ex libero testantis arbitrio debet procedere. Tales vero filii non in eorum sed aliorum videlicet patrum consistunt potestate. Secus tamen est de rebus per filios propriis eorum servitiis vel litterariis disciplinis acquisitis. Super illis namque etiam præter voluntatem patris libere testari possunt.

Casus in quibus pater potest filium ad bonorum divisionem compellere. Tit. lii.

Item ulterius sciendum quod pater potest filium suum puberem atque legitimæ ætatis sed non impuberem in casibus infrascriptis ad divisionem hæreditatum & aliarum rerum compellere, non tamen potest de illis eum exhæreditare. [§1] PRIMO si filius in parentes manus violentas iniecerit, vel aliam gravem & notabilem iniuriam eis intulerit. [§2] ITEM si parentes criminaliter accusaverit de tali causa quæ in perniciem principis vel reipublicæ totius regni non vergit. [§3] ITEM si vitæ parentum insidiatus fuerit veneno scilicet vel alio modo in necem parentum conspirando. [§4] ITEM si cum maleficis, vel aliis nefandæ vitæ hominibus contra voluntatem patris perseveraverit bona paterna prave consumendo. [§5] ITEM si parentem captum de manibus inimicorum vel de carcere cum potuerit non redemit, neque liberavit, vel pro eo fideiubere recusavit.

De casibus in quibus econtrario filius cum patre divisionem facere potest. liii.

EContrario vero filius (etiam in potestate paterna constitutus) patrem suum in casibus subnotatis ad bonorum & rerum divisionem faciendam cogendi & inducendi habet auctoritatem præmissa patria potestate non obstante. [§1] PRIMO quando pater dilapidator bonorum suorum extiterit, & bona sua ac filiorum suorum non ex necessitate & causa rationabili sed per fraudem potius alienavit, vel alienare manifeste prætendit, et de huiusmodi voluntate sua filio evidentiter constabit. [§2] ITEM si quando hæreditates & iura sua possessionaria licet non alienavit, nec alienare intendit tamen ea non debite colit aut custodit sed desolari permittit. [§3] ITEM si pater filium sine iusta causa & sine notabili culpa impie & crudeliter corripit. [§4] ITEM quando pater filium post perfectum tempus legitimæ ætatis matrimonium contrahere vetat. [§5] ITEM quando pater cogeret filium suum ad peccandum. [§6] Quamvis autem filius patrem criminaliter accusare (prout immediate prænarratum est) non valeat tamen hoc casu (deo enim magis, quam parentibus obediendum est) poterit filius honestis conditionibus patrem ad divisionem bonorum faciendam non accusando, vel criminaliter contra eum agendo sed potius errori & defectui illius compaciendo provocare & inducere atque etiam compellere. [§7] DIVISIONEM autem prædeklaratam bonorum & rerum propter præmissos casus fiendam intellige semper de bonis & iuribus possessionariis atque rebus mobilibus avitis & non propriis servitiis vel virtutibus patris acquisitis. [§8] Nam si pater ob causas & rationes præscriptas cogerit filium suum ad divisionem tunc de bonis &

hæreditatibus seu iuribus possessionariis atque rebus mobilibus per eum qualitercunque conquisitis & inventis divisionem cum filio facere non tenetur. [§9] Verum si cessantibus præmissis causis divisio inter patrem & filium facta subsequutaque fuerit tunc indifferenter de omnibus bonis & rebus inter eos divisio fieri debet. [§10] Quoniam pater filio & econtra filius patri quicquid rerum & bonorum poterit acquirere iure naturali tenetur.

Adhuc de uno casu divisionis, et de bonis filium iure materno concernentibus. liiii.

Sciendum etiam est quod postquam filius annuente patre legitimam duxerit uxorem (non obstantibus prænarratis casibus) poterit patrem suum semper (rite tamen & legitime) ad divisionem in omnem eventum cogere ubi æqualiter de utriusque patris videlicet & filii bonis ac rebus divisio peragenda erit. [§1] Verum tamen si filius habuerit patrimonia ac iura possessionaria separata quæ sibi iure materno provenerunt, sive vivente, sive decedente matre eiusmodi bona cum patre dividere non tenetur. [§2] Quia in ea parte matris solum & non patris familiam bona illa sequuntur prout manifeste ratio quoque sola dictat.

De filiis furiosis et mente captis quod semper in patria potestate consistunt. Tit. lv.

Nec hoc prætermittendum est quod filii furiosi, amentes ac mente capti quia nunquam ad annos discretionis & perfectæ ætatis pervenisse existimantur ideo nunquam de patria potestate liberantur.[§1] Unde parentes eorum possunt ipsos ad omnia iusta & honesta obligare. Bona etiam illorum in casu manifestæ necessitatis alienare. Attamen ipsi quoque tenentur de victu & amictu condecenter illis providere. [§2] Idem est intelligendum (patre defuncto) etiam de fratribus ipsorum furiosorum quod scilicet frater eorum sane mentis inter alios ætate grandior curam eorundem furiosorum & amentium tanquam pater supportabit.

Quot modis cessat et tollitur paterna potestas. Tit. lvi.

Quamvis autem filii de potestate paterna per divisionem bonorum (prout prænotatum est) eliberari & emancipari soleant tamen sunt aliqui casus in quibus etiam aliter cessat & tollitur patria potestas. [§1] PRIMO per mortem patris sine testamento decedentis si videlicet tutores testamentarios filio illegitimæ ætatis non substituit, et hoc si pater ipse iam sui iuris fuerat & in potestate patris sui non erat. Nam hoc modo filius in potestatem avi sui reincidere debet. [§2] ITEM aufertur patria potestas si pater ob aliquod crimen infidelitatis vel alios enormes excessus hæreditate bonorum & iurium suorum possessionariorum privabitur, ac ad capitalem quoque sententiam per hoc condemnabitur. Nam sicuti a mutua & reciproca bonorum successione per huiusmodi notam seu criminis pœnam tam de filiis quam fratribus decidisse ita etiam patria potestas sublata & extincta esse comprobabitur, atque verificabitur. [§3] ITEM cessat paterna potestas si pater in manus hostiles & captivitatem inciderit. Nam qui captus est alium in potestate sua habere non potest. Quia tunc sui iuris non est, & hoc quamdiu in captivitate manebit. Nam post eius eliberationem atque reversionem paterna potestas instaurabitur & reviviscet. [§4] HINC EST quod etiam præscriptio contra ipsum interea non procedit, neque ipse contra quempiam præscribere potest sed infra reversionem suam omnia in statu eodem priori permanebunt, & post reditum suum in cunctis causis & earum articulis atque processibus statum priorem sorcietur.

**Quod quilibet dominorum et nobilium super bonis suis propriis liberam disponendi
habet facultatem. Tit. lvii.**

Sciendum est autem quod quilibet dominus, baro, magnas ac nobilis & possessionatus homo filios & filias habens, sine omni consensu immo & contra voluntatem eorundem de & super rebus ac bonis & iuribus suis possessionariis per eum propriis servitiis suis acquisitis & adeptis sive propriis pecuniis quæ etiam servitiis acquiri consueverunt comparatis & emptis vita sua comite liberam prout voluerit disponendi & ea etiam alienandi plenariam habet potestatis facultatem filiorum vel filiarum Contradictione, Inhibitione vel alia quavis repugnatione non obstante. [§1] Et siquam pater ipse divisionem in eisdem rebus ac bonis iuribusque suis possessionariis in humanis agens inter filios filiasque fecerit ne eo e medio sublato dissensiones, odia contentionesque & differentiarum materię inter eosdem prævia ratione suboriantur, etiam post obitum patris filii & filiæ divisionem ipsam ratam habere & in eadem perpetuo permanere tenebuntur. [§2] Et hoc idem est etiam de bonis & iuribus possessionariis vigore alicuius contractus seu fraternalis adoptionis vel etiam præfectionis in aliquem virum aut aliquam fœminam redactis & derivatis tenendum. Quia solus vel sola eiusmodi bona consequutus aut adepta esse intelligitur atque comprobatur.

Quod pater bona avita in præiudicium filiorum alienare non potest. Tit. lviii.

Verum tamen super bonis ac iuribus possessionariis avitis pater in præiudicium filiorum vel etiam filiarum, si ea ius quoque fœmineum sequuntur, & similiter frater in præiudicium fratris super bonis ac iuribus possessionariis paternis vel avitis sine consensu filiorum ac filiarum vel fratrum quantum ad alienationem vel venditionem eorundem bonorum simpliciter nullam penitus Fassionem facere potest. Quæ si etiam fieret nullius censetur esse vigoris neque firmitatis. [§1] SOLENT NAMque nonnulli bona & iura possessionaria paterna & avita sæpe necessitate cogente, interdum vero nulla rationabili causa adurgente sed gula dumtaxat & crapula commestationeque monente, interdum autem damnabili invidia contra fratrem concepta instigante pariter & diabolo cooperante, aliquando vero bene & recte, sæpius tamen maliciose quibus possunt impignorare aut perpetuo vendere, inscribere & diversis titulis exquisitisque coloribus obligare, & ut facta super eo Fassio maioris firmitatis existat & invalidari nequeat onera filiorum filiarumque & fratrum super se & hæreditates suas in serie Fassionis assummere atque levare.

Quid sit onus assumere, et quot modis onera filiorum et fratrum assumuntur. lix.

ONera autem assumere est fideiussionem quandam super observatione paternæ vel fraternæ Fassionis emptori bonorum aliquorum facere. UNDE SCIENDUM quod onera filiorum vel fratrum tribus modis assumuntur. PRIMO modo simpliciter. SECUNDO vero rationabiliter. TERTIO autem & ultimo necessitate. [§1] PRIMO inquam simpliciter quando scilicet nulla evidenti necessitate, nulla etiam rationabili de causa (prout immediate præmissi), sed aut maliciose, aut gulose, aut etiam iniuriose onera ipsa assumuntur. Et sic nihil tenet in iudicio, sed de plano simpliciterque & assumptio huiusmodi revocatur, & Fassio quoque invalidatur. [§2] SECUNDO modo rationabiliter manifesta videlicet & rationabili causa occurrente puta possessionem præ manibus alienis in pignore habitam ad se redimendo, vel dotem & res Paraffernales atque ius Quartalitium solvendo ut scilicet una portio aut particula venderetur, & residuitas omnium bonorum ab onere necessario eriperetur. [§3] Item piscinas, molendina

domosque & curias ex necessitate construendo, vel portionem aliam & forsitan meliorem præcio possessionis aut portionis venditæ emendo, aut concambium possessionarium faciendo. [§4] Quæ quia filio vel fratri in lucrum hæreditatis succedunt ideo simpliciter onera præassumpta in tali casu revocari & retractari non possunt. Sed si filius in serie Fassionis & in assumptione oneris specificè nominatus ea revocare voluerit, extunc vivente patre cum Homagio & estimatione communi universorum iurium possessionariorum patris ubilibet adiacentium, mortuo vero patre solummodo cum communi estimatione ipsorum iurium paternorum retractandi & anichilandi habet potestatis facultatem. Et idem est etiam de fratrum Fassione sciendum atque tenendum. [§5] HIC tamen advertendum est quod si assumptio oneris generaliter facta fuerit, & nomina filiorum vel fratrum in Fassionis serie nominatim expressa denotataque non extiterint tunc eiuscemodi oneris assumptio nil tenebit, sed simpliciter invalidari valebit. [§6] TERTIO vero & ultimo modo extrema necessitate urgente dum videlicet quis sententia capitali iuris ordine adversus alium convincetur & condemnabitur, & forsitan in persona quoque propria vigore ipsius latæ sententiæ detinebitur ac ad manus iudicarias ad infligendam sibi pœnam a iure statutam assignabitur vel licet non detineatur gratiam tamen regiam non consequetur, aut si gratia sibi dabitur cum conditione tamen concordandi cum adversa parte et non aliter præstabitur. Nam & alioquin regia maiestas gratiam non secus nisi ut concordet facere potest. Vel in Thurcorum, Saracenorum aut Thartarorum, seu aliorum quorumcunque hostium & inimicorum captivitate detinebitur & inde non secus nisi pactione quapiam eliberabitur. Et hoc ultimo modo præmissi oneris assumptio nunquam revocabitur. [§7] Nulla etiam via Fassio super ea re facta per filium vel fratrem retractabitur. Immo si pater portionem filii (quia propria portio ad caput suum redimendum non sufficeret) in casibus præmissis ante divisionem cum filio factam alienabit filius suffere tollerareque debet. [§8] Nec eiuscemodi Fassioni si etiam unica & singularis esset persona fatens. Nec regius nec fratrum condisionalium consensus est necessarius, sed semper de se rata manebit atque firma. [§9] COROLLARIUM itaque ex præmissis infertur quod possessionaria venditio triplex est scilicet Simplex, Rationabilis & Necessaria. SIMPLEX venditio nihil valet. RATIONABILIS vero aliquando valet & aliquando retractatur. NECESSARIA autem semper valet & semper tenet & nunquam invalidatur prout ex immediata prædeclaratione assumptionis & revocationis onerum filiorum ac fratrum clare liquet.

De legitima admonitione in possessionaria venditione necessario premittenda. lx.

NOTandum ulterius quod quia in Fassionibus tam impignoratio, quam etiam perpetuitatis iure & titulo maxime in præiudicium fratrum per plerosque faciendis damnabilis quadam abusus succrevit quod scilicet quinquaginta florenos interdum a feneratore quis accepit & centum aut ducentos florenos coram capitulo vel conventu aut iudicibus ordinariis regni se accepisse studiose & quidem maliciose fatetur. Capitulum autem & conventus vel iudices regni ordinarii iuxta Fassionis factæ seriem & modum litteras Fassionales & Obligatorias dare tenentur. Sicque nonnulli propediem tanta pecuniarum summa bona sua obruunt & involvunt ut vix medietatem summæ eadem bona valere dinoscantur. Unde sæpe evenit ut huiusmodi bona ab ipsa sua progenie perpetuo alienentur. [§1] Et ideo quælibet possessionaria venditio immo & impignoratio legitimam semper requirit filiorum aut filiarum vel fratrum ad quos successio & devolutio huiusmodi iurium possessionariorum venditioni aut impignoratiioni expositorum spectare dinoscitur (ut illam vel illa ad se recipiant) amonitionem qui si legitime amoniti & requisiti possessionem seu iura huiusmodi possessionaria iuxta condignam & communem eorum estimationem ac valorem pro se habere & ad se recipere voluerint ante omnes alios emptores aut fœneratores liberam plenariamque habent pro se recipiendi &

emendi facultatem. [§2] SI VERO venditor aut impignorator ipse admonitionem præmissam facere recusabit, & iura sua possessionaria præter scitum vel consensum dictorum filiorum aut filiarum vel fratrum cuiquam alienabit vel impignorabit & ipsorum filiorum aut filiarum vel fratrum aliquis aut aliqua emptorem huiusmodi bonorum seu iurium possessionariorum contra se in curiam regiam propterea evocabit tunc in uno dumtaxat termino iuridico scilicet Octavali causa ipsa finiri debebit, & actor ipse bona seu iura possessionaria prænotata sola ipsa communi estimatione eorundem pro se recuperabit non obstante pecuniarum summa quantumvis magna in litteris feneratoris seu emptoris super ea re Fassionibus specificata. [§3] Dempto tamen & excepto casu quo quis in capitali sententia convictus detineretur & manibus iudicariis ad luendam pœnam traderetur. Nam hoc modo (quia præter trium dierum spacium indutias ad concordandum cum adversa parte non habet) admonitionem (modo antelato) facere non tenetur sed quibus & in quanta summa poterit liberam vendendi bonorum suorum auctoritatem ibidem semper habet. [§4] Et hoc idem est intelligendum etiam de eo qui apud hostes externos in captivitate tenetur, quod scilicet is quoque bona sua sine omni admonitione pro capitis sui redemptione vendere perpetuoque alienare potest. [§5] UBI AUTEM admonitio prædeclarata venditionem perennem bonorum & iurium possessionariorum legitime præcesserit & nemo filiorum aut filiarum vel fratrum bona ipsa & iura possessionaria venditioni exposita pro se habere seu emere voluerit, vel forsitan inopia præpediente comparare non poterit tunc iidem filii ac filię & fratres ipsi non aliter postea nisi pecuniæ summa in litteris Fassionibus specificata plenarie deposita & persoluta vel etiam perennali estimatione mediante & longo litis processu bona illa pro se vindicare valebunt. [§6] Nam & venditores bonorum suorum in casibus articulisque rationabilibus & admittendis non sunt adeo cœrcendi & astringendi ut iustis eorum iuribus & rebus uti aut frui debite nequeant. [§7] Attamen si quis filiorum aut filiarum vel fratrum bona ipsa ad se recipere velle tempore ipsius admonitionis responderit & allegaverit tunc ad deponendam summam ipsam condignam & concordandum cum venditore terminus brevis & competens coram iudice cuius auctoritate & litteris admonitio ipsa fit & exequitur ad comparandum sibi præfigi debebit. Terminum autem ipso adveniente si summam illam iuxta iudicis ipsius deliberationem & bonorum ipsorum communem estimationem deponere recusabit venditor ille liberam bonorum suorum alienandi facultatem habebit. [§8] DE IMPIGNORATIONIBUS autem bonis & iuribus possessionariis secus est sciendum. Nam iura aliqua possessionaria supra valorem dictæ communis estimationis eorundem sive præcedat admonitio legitima sive non in præiudicium ipsorum filiorum aut filiarum vel fratrum: aut etiam iuris regii impignorari nemini possunt. Verum tamen hæc estimatio & eius series non solum domos ac curias nobiles sessionesque Iobagionales populosas ac desertas vel Prædiales in faciebus opidorum, villarum aut possessionum adiacentes sed etiam terras, silvas ac prata, piscinas & molendina (prout in Quartaliorum solutione) per omnia includit & in quantum huiusmodi estimatio iuxta limitationem iudicis se extendit in tantum etiam depositio atque restitutio pecuniarum pro iuribus impignorationibus per filios aut filias vel fratres sed & eos qui forsitan cum iurisdictione regia (in casu quo impignoratio per unicam & singularem personam defectivè seminis proximam facta fuerit) procedere videbuntur fieri debent. [§9] Filias autem & mulieres in casibus præmissis illas intellige admovendas esse quas iura ipsa possessionaria vendenda vel impignoranda cum sexu masculino æquali iure concernunt. Nam aliter filię vel mulieres ipsę pro extraneis in hac parte reputantur. Et non secus quam vicini aut commetanei agere permittuntur. Hoc excepto quod si voluerint ante omnes vicinos & commetaneos sese ad emptionem ac receptionem bonorum illorum ingerere & illa pro se habere possunt. [§10] Vicini vero & commetanei per admonitionem prædeklaratam & pro ipsorum parte factam iura possessionaria venditioni exposita pro se quidem ante omnes alios emptores extraneos & remotiores vindicare possunt. Non tamen estimatione communi prout fratres vel sorores sed

capitalis semper pecuniæ summę in litteris Fassionibus expressæ depositione & plenaria solutione, vel etiam ipsorum iurium possessionariorum perennali cum estimatione. Unico tamen termino Octavali si admonitio ex parte vendentium non præcesserit, & ipsi nihilominus vicini & commetanei pro parte ipsorum admonitionem super ea re solitam peregerint. Qui pro iuribus possessionariis impignoratiis parimodo capitalem summam pro qua huiusmodi impignoratio facta fuerit persolvere tenentur. Nec de estimatione aliquali se in hac parte ingerere vel immittere possunt. Cum de proprietate & hereditate talium iurium possessionariorum nil ad eos pertinere dinoscatur.

Quomodo portio fratris per alterum fratrem vendita vel impignorata recuperari debeat. Titulus. lxi.

NOTandum ulterius quod plerumque solent fratres natu maiores & interdum etiam minores qui absentibus fratribus natu maioribus bona & iura possessionaria eorum paterna & avita nondum divisa domi manendo possident oneribus cæterorum fratrum suorum carnalium vel uterinorum in se sumptis eadem iura possessionaria impignorare aut perpetuo vendere. Per hocque emptores non solum portionem illius vendentis vel impignorantis verum etiam cæterorum fratrum eiusdem quorum utputa ille gravamina in se accepit portiones possessionarias consueverunt pro se vindicare. [§1] Unde sciendum est quod si aliquando talis venditio aut possessionaria alienatio simplici modo per quempiam committeretur tunc portiones cæterorum fratrum sine omni prorsus solutione actori vel actoribus in primis octavis reddi & restitui debent. Portio autem fratris venditoris estimabitur & valor dumtaxat communis estimationis ipsius portionis emptori recompensabitur. Sic etiam illa portio fratris venditoris actori possidenda dabitur oneris vel gravaminis preassumpti revocatione seu depositione prorsus sine omni. Pro residuitate autem & superfluitate pecuniarum summę in litteris Fassionibus denotatę reliqua bona & iura possessionaria fratris ipsius vendentis quę ad recompensam eiusdem summę se extendere sufficereque videbuntur mox & ulteriori processu iuridico non expectato per iudicem estimari & manibus emptoris sub conditionibus in litteris eiuscemodi Fassionibus declaratis dari debent possidenda. [§2] Si autem alia bona præter vendita non habuerit, & rebus quoque mobilibus ad portionem suam cedentibus adeo destitutus fuerit ut summa prænotata ex illis instaurari & recuperari non possit tunc emptor ipse damnum huiusmodi superfluitatis necessario tollerare cogitur & hoc in casu (ut præfertur) simplici superius declarato. [§3] Nam in casu rationabili etiam oneris retractatio (modo antelato) subsequi & de illa superfluitas prænarata pecuniæ (inquantum poterit) emptori refundi debet. [§4] Et hoc idem est intelligendum etiam de patre qui iura sua & filiorum suorum avita in præiudicium & sine consensu ipsorum filiorum suorum perperam & irrationabiliter alienabit, vel venditioni aut impignoratiioni exponere curabit quod scilicet Fassio sua in casu simplici præallegato simpliciter invalidari & portio filiorum sine omni prorsus solutione, portio vero patris communi estimatione mediante eisdem filiis reddi & instaurari debet.

De quibusdam Fassionibus non retractandis. Tit. lxii.

Hic tamen attendendum & cordi imprimendum est quod si frater Fassionem alterius fratris retractare & revocare volens bonis aut iuribus possessionariis per hanc venditionem aut commutatis, aut acquisitis scienter & sine iuridica reclamatione usus fuerit & fructum illorum realiter perceperit tunc Fassionem huiusmodi nunquam revocare valebit. Per usum enim

realem Fassioni illi consensisse videtur. [§1] Et idem est de Fessione quoque paterna per filium retractanda dicendum. [§2] Sic pariformiter sentiendum est de Fassionibus illis quæ inter fratres generationales aut condivisionales vel etiam quoscunque alienos & extraneos prætextu iurium possessionariorum litigiosorum per modum compositionis & concordiaë fiunt atque celebrantur. [§3] Et in huiusmodi compositione certa portio vel particula iurium ipsorum possessionariorum uni partium per alteram partem bona illa litigiosa tenentem & possidentem, vel aliter efficacia forsitan iura ad ea habentem datur aut remittitur, reliqua vero particula seu portio causa pacis & unionis apud se remanebit & relinquetur perpetuo possidenda. Quæ quidem Fessiones (quia finis & exitus litium dubius adhuc & incertus erat) semper observantur & nunquam retractantur. [§4] Nam & alioquin Fessiones prædeklarataë quæ invalidari & retractari possunt non de recipiendis ad se vel obtinendis pro se sed de alienandis dumtaxat a se bonis & iuribus possessionariis intelliguntur.

De Fassionibus que Statutione legitima indigent, et que non. Tit. lxxiii.

Item Fessio perennalis inter fratres generationales & condivisionales aut in præmissis, aut etiam aliis casibus prætextu talium iurium possessionariorum, quæ etiam alioquin in alterutrum essent devolvenda coram quovis iudice ordinario vel alio loco testimoniali & autentico facta nec regio consensu, nec etiam iuridica Statutione indiget. [§1] Aliæ vero omnes Fessiones perennales super quibuslibet bonis ac iuribus possessionariis inter alienos ac extraneos quocunque modo factæ immo etiam pignoris titulo ultra summam quinquaginta florenorum celebratæ & emanatæ infra integram unius anni revolutionem Statutione legitima firmari solent atque debent. [§2] Et hoc si ille cui Fessio facta fuerit extra dominium ipsorum bonorum extiterit. Nam si in dominio eorundem reali etiam antea fuerit, aut medio eius qui Fessionem fecit dominium huiusmodi reale & possessorium de facto consequi poterit tunc (etiam transacta ipsa annuali revolutione) Statutio prænotata semper exequi valebit. [§3] HOC quoque prævisio quod si forsitan Fessionum aliqua regio consensu egeat, & consensus talis usque ad annualem ipsam revolutionem impetrari nequeat tunc Fessio huiusmodi non prius nisi post impetrationem ipsius consensus regii dicti unius anni integram (ut præmittitur) usque ad revolutionem vigore eiusdem consensus Statutione legitima (sive sequatur contradictio sive non) roborari debet. [§4] Et hoc intellige de Fessione non cum futura conditione sed de præsentis facta. Nam super aliquo contractu seu fraternali adoptione bonorumque in alterutrum devolutione si Fessio per quempiam alteri vel forsitan per duas partes sibiipsis mutuo & in alterutrum celebraretur ita videlicet ut si quam partium hæredibus deficere contingeret tunc bona & iura possessionaria eiusdem in partem superviventem devolverentur, & regia maiestas huiusmodi Fessioni seu contractui & fraternali adoptioni suum regium consensum largiretur. Quia Fessio ipsa & ex consequenti consensus ipse regius conditionalis est & non nisi altera partium deficiente locum habeat. Ideo utrisque partibus superviventibus vel forte illa persona quæ alteri Fessionem cum conditione prænotata fecit in humanis adhuc agente Statutionem aliquam subsequi non est necesse. [§5] Nisi forsitan in bonis illis & iuribus possessionariis ius regium fuisset vel esset impetratum. Isto namque casu Statutio ipsa super iure regio quod in multorum sepe bonis occultatum iacet ut legitime subsequatur necesse est. [§6] IDEM super præallegato consensu regio dicendum est ut altera partium deficiente infra anni unius revolutionem integram consensus ipse qui vim Donationis tunc habeat & ex consequenti Fessio in eodem consensu scripta legitimam sortiri debeat Statutionem.

Quid sit consensus regius diffinitive.

Titulus. lxiiii.

COnsensus autem regius est iurisdictionis sacræ coronæ regni super iuribus possessionariis in eam successorio modo iureque devolvendis per principem seu regiam maiestatem spontanea cessio. [§1] Quæ quidem iurisditio sacræ coronæ regni quantum ad devolutionem & successionem bonorum ac iurium possessionariorum isto quo nunc utimur modo a tempore regiminis seu imperii excellentissimi principis condam domini Lodovici regis ab anno scilicet dominicę incarnationis trecentesimo quinquagesimo primo supra millesimum originem summens cunctorum regum successorum scilicet suorum temporibus usque modo inviolabiliter & inconcusse servata atque ratificata super universorum dominorum, baronum & magnatum ac nobilium procerumque regni bonis & iuribus possessionariis (qui utpote in semine & hæredibus deficiunt, vel in unicum & singularem personam deveniunt, sicque defectui seminis approximabunt) legitimæ successionis virtutem semper habet. [§2] ANTE enim eius principis tempora quilibet baro, magnas nobilisque & possessionatus homo super iuribus suis possessionariis (si etiam hæredibus defecisset) prout voluit sine omni consensu regio liberam disponendi habuit facultatem. [§3] Et in eo solummodo casu si hæredibus & omnibus propinquis destitutus ac intestatus quisquam illorum decessisset iurisditio prænotata locum habuisse dinoscitur.

Quales Fassiones consensu regio indigeant & quales non. Tit. lxxv.

UNde sciendum quod nunc omnis Fassio dominorum ac nobilium & aliorum possessionatorum hominum per singularem & unicum personam ac defectui prolium vel seminis approximantem quibuscunque personis & ex quibusvis casibus ac rationibus conditionibusque & articulis super quibuscunque bonis & iuribus possessionariis perpetuo facta consensu regio (propter iurisdictionem successionis prenotate) semper indiget estque necessaria. [§1] Nam sine ipso consensu non solum super bonis perennali iure obligatis verum etiam pignoris titulo (ultra communem estimationem ipsorum bonorum) inscriptis Fassio prenarrata qualitercunque (ut premittitur) facta atque celebrata viribus destituta manebit. [§2] UNDE SEQUITUR quod Fassio inter plures & per plures personas fraternas vel alienas mutuo aut seorsum quibuspiam facta regio consensu non indiget. [§3] Ius enim successionis propter alias personas ex utraque parte hæreditario modo & iure successuras locum in principe seu iurisdictione regia nondum habet. [§4] Et hoc est verum si personæ ab una parte stantes seu Fassionem facientes vim successionis invicem & in alterutrum habent. De personis quoque ab altera parte stantibus idem est sentiendum atque tenendum. Nam aliter regius ipse consensus impetrandus semper & necessarius erit. [§5] Pluralitas enim personarum non excludit iurisdictionem regiam ubi nulla dinoscitur esse fraternitatis neque consanguineitatis connexio vel alterius successionis in bonis mutua reciprocaque vicissitudo.

Quid sit contractus diffinitive, et quando indigeat legitima Statutione. Tit. lxxvi.

NOTandum igitur est quod quilibet contractus inter quoscunque possessionatos homines aut alias personas super devolutione quorumcunque bonorum in alterutrum altero deficiente fienda formatus tam scilicet consensu regio stabilitus, quam etiam pluralitate personarum fatentium modo præallegato roboratus Statutione legitima post defectum seminis partis cuiuspiam infra annualem (ut præmissi) revolutionem ratificari debet. [§1] Interim autem pars supervivens vigore iuris successorii ex huiusmodi contractu vel fraternali adoptione sibi

attributi dominium bonorum partis deficientis tanquam scilicet fratris sui condivisionalis simpliciter pro se vendicandi manibusque suis (dummodo legitimum aliquod non obsistat impedimentum) applicandi habet auctoritatem. [§2] CONTRACTUS autem seu fraternalis adoptio est alienæ cuiusvis personæ per quempiam (hæredibus legitimis deficientibus) in bonorum suorum successione permissiva substitutio. [§3] Dictum est autem notanter hæredibus deficientibus. Nam veris & legitimis hæredibus ac successoribus superextantibus & superstitibus fraternalis adoptio locum non habet. Verum illis deficientibus adoptatus ipse frater vel filius successionis huiusmodi virtutem & facultatem in bonorum ipsorum devolutione sortiendus erit. [§4] Dictum est etiam permissiva substitutio quoniam sine permissione vel consensus adhibitione principis nostri eiusmodi substitutio seu adoptio nullius est vel erit firmitatis sed bonorum ipsorum devolutio in principem ac iurisdictionem sacræ coronæ directe spectabit atque pertinebit. Neque sine consensu principis adoptivus ipse frater aut filius dominium talium bonorum ingredi vel pro se vendicare valebit.

Quod dominium bonorum duplici modo quispiam dicitur habere, et de contractibus in fine. Tit. lxvii.

ADvertendum est autem quod duplici ratione atque via dominium aliquorum bonorum quis habere dicitur. PRIMO iure possessorio dum quis reale pacificumque dominium tam in fructibus percipiendis quam etiam servitiis per colonos exhibendis bonorum aliquorum aperte tenet & hic modus generalis est ac omnibus manifestus. [§1] SECUNDA via dominium bonorum dicitur aliquis habere iure vel modo successorio quando devolutio aliquorum iurium possessionariorum ad ipsum manifeste spectat prout in bonis & iuribus possessionariis fratrum carnalium vel etiam condivisionalium in propinqua linea generationis habetur verbi gratia licet frater carnalis altero fratre similiter carnali supervivente dominium reale ac possessorium bonorum suorum post factam cum eo divisionem non habeat ius tamen ac dominium successorium de facto & immediate habet cuius virtute postquam frater ipse sine hæredibus decesserit mox & immediate superstes & in humanis agens frater bona defuncti fratris simpliciter absque omni scilicet Statutione iuridica & alio processu iuris pro se vendicabit & potestati suæ iuste meritoque applicabit. [§2] Et si frater ipse defunctus filias & uxorem post se relinqueret & bona sua sexum fœmineum non sequerentur ita videlicet quod prius vivente fratre premortuo & progenitorum quoque suorum temporibus reale dominium aliqua fœminarum in eisdem bonis non habuisset tunc easdem filias infra tempus maritacionis earundem uxorem autem seu relictam illius tamdiu quousque sub nomine & titulo domini & mariti sui vixerit & tempus viduitatis suæ peregerit eo præcise iure & modo quo frater ille defunctus dum superviveret victu & amictu omnibusque vitæ necessariis iuxta bonorum illorum exigentiam educare providereque & conservare ac honeste tandem filias nuptui tradere. Uxorem autem (si voluerit) nuptui pariter tradere & insuper Dotalitium ac res Paraffernales eiusdem persolvere frater ipse supervivens de iure tenebitur. Itidem quoque de contractibus seu fraternalibus adoptionibus (ubi de eo contractu manifeste constat) est sciendum. Nam licet frater premortuus hæredibus ex suis lumbis descendentibus caruerit hærede tamen substituto qui successor legitimus appellatur nondum defecit. [§3] Secus tamen est de illis fratribus qui ante sexaginta aut centum, ducentos vel amplius annos in bonis & iuribus eorum possessionariis divisi fuissent & a tanto iam tempore vix etiam genealogiæ suæ linea memorie haberetur sed solo quasi nomine fratres condivisionales dicerentur. Nam in hoc casu ea lege procedendum est prout in facto iurium possessionariorum per defectum seminis aliquorum decedentium a maiestate regia impetratorum procedi solet.

Quod violenti occupatores bonorum iterum violententer de illis eici possunt. Tit. lxxviii.

Item si quispiam hominum se in dominium talium bonorum & iurium possessionariorum violententer ingereret ingredereturque & quovis modo immitteret quæ in alterum & non ipsum derivata fuissent extunc ille qui vim iusque successionis in illis bonis habet infra anni unius integri revolutionem etiam per potentiam & parem violentiam ipsum occupatorem de dominio eorundem eiciendi & excludendi habet facultatem. Quoniam in hac parte vim vi repellere licet. [§1] Transacto vero anni unius spatio processu iuris contra occupatorem illum agere debet & eum prætextu indebite occupationis & usurpationis huiusmodi bonorum brevi Evocatione vel insinuatione mediante in causam attrahere poterit ubi eo directe modo quo ratione bonorum de manibus suis propriis occupatorum violens occupator eo quod iurisdictionem alterius vi & potentia pro se vendicavit in sententia capitali convinci debet si tamen actor bona illa iure successorio ad se devoluta fuisse comprobabit. [§2] Et idem est tenendum de illorum quoque iurium possessionariorum violenta occupatione in quorum reali dominio quispiam a diuturno spacio perseverasset quod scilicet spoliatus ipse occupatorem de illis pari violentia si poterit intra unius anni spatium eiciendi & expellendi habet auctoritatem.

De clausula nil iuris, et qualia bona iterum in donantem vel vendentem redeant. lxxix.

Uterius sciendum quod si in serie litterarum aliquarum Fassionum clausula illa. NULLUM ius nullamve iuris & dominii proprietatem pro se reservando &c. aut studiose, aut ignoranter inserta fuerit tale ius possessionarium super quo videlicet huiusmodi Fassio facta extiterit nunquam in eum qui Fassionem fecit (etiam sine hæredibus eo in quem ius suum transtulerat obeunte) de cætero reflectitur aut redundabit sed colationi regiæ maiestatis penitus subiacebit. [§1] VERUM tamen si Fassio absque clausula prænotata celebrabitur, sive in mutua & concambiali bonorum aliquorum permutatione sive alia perennali collatione utpote pro servitorum remuneratione (prout plerumque solet) aut alia quavis rationabili ex causa datione inscriptioneque vel obligatione extunc eo ex humanis sublato & hæredibus aliisque legitimis successoribus destituto cui collatio aut quavis inscriptio bonorum ipsorum facta fuerat rursus & iterum in illum qui Fassionem fecerat vel bona ipsa contulerat eiusdemque hæredes & posteritates universos (Quoniam iuris successorii proprietatem & dominium pro se reservaverat nec a se in alterum perpetuo transtulerat) ipsa bona devolvuntur & iuri pristino effective derivantur atque reintegrantur.

Quid sit concambialis permutatio bonorum, et quare sit adinventæ. Tit. lxxx.

Quoniam autem super concambiali permutatione bonorum & iurium possessionariorum mentio habita est, Hinc sciendum quod concambialis bonorum permutatio est iurium possessionariorum duarum vel plurium partium sibipsis vicissitudinaria commutatio & in alterutrum legitima translatio. [§1] Adinventæ autem est tum propter quietioris status consequendi facultatem tum propter uberioris fructus percipiendi emolumentum. [§2] Plurimi nanque bona sua longinquis partibus a loco residentię ipsorum magna adeo distantia & intercapedine sita habent ut plus ad provisionem illorum exponere cogantur quam de fructibus eorum percipere possint. Nonnullorum autem bona propter potentum pernitiosam & violentam vicinitatem in extremam devenere desolationem. Plerique vero ratione talium bonorum continuas habent lites & controversias ut ne nocte quidem propter eas quiescere possint. Ita ut longe plus inde iacturæ quam utilitatis reportent. [§3] QUAPROPTER quilibet possessionatus

homo de bonis & iuribus possessionariis suis concambium sibi utile & proficuum iure libereque facere potest contradictione filiorum ac filiarum vel fratrum suorum simpliciter non obstante. [§4] ATTAMEN portio illa quæ in concambium sibi dabitur in fratres generationales vel condivisionales (deficiente eo fratre, qui concambium fecerat) devolvitur tanquam alia portio sua per quam commutatio concambialis facta fuerat quæ in ipsos fratres vigore iuris successorii derivanda erat.

Quid si concambium fraudulenter et simulate factum et celebratum fuerit. Tit. lxxi.

VERUM quia plurimę fraudes in huiusmodi concambiali bonorum permutatione per plerosque fieri & committi consueverunt, quidam enim bona sua in præiudicium & iacturam fratrum suorum non vere neque iuste sed fecte & simulate vendere pariter & alienare prætendentes ne fratres ipsi bona eiusmodi ab emptoribus ne dicam feneratoribus pro se repetere & iuri eorum vindicare reappropriareque possent titulum vel colorem concambialis permutationis (quæ iusto & recto modo libere fieri permittitur) in litteris seu privilegiis Fassionibus inseri procurant ius aliquod possessionarium remoto in loco, vel forte etiam propinquo situm & adiacens per emptorem seu feneratorem in concambium sibi datum esse profitentes tamen dominium huiusmodi iuris possessionarii ad modicum solum tempus (ut fraus ipsa interim palliaretur) aut nunquam pro se vindicabunt sicque fratres eorum ad quos successio bonorum & iurium possessionariorum ipsorum hoc sub titulo alienandorum spectaret defraudantes illis exhæreditabunt etiam eo iure possessionario quod venditori per emptorem in concambium dari simulabatur atque fingebatur apud eundem emptorem perpetuo remanente. [§1] Ne igitur fraus & dolus cuiuspiam patrocinari videatur postquam huiusmodi fraudulentum concambium fratribus vendentis & bona ipsa alienantis innotuerit mox ad instantiam ipsorum fratrum facta primum legitima super ea re Evocatione sola communi estimatione eorundem bonorum præmisso modo alienandorum mediante. Unico tamen semper termino Octavali actori huiusmodi bona per iudicem reddi readiudicari restatuique debebunt.

Quando concambium nullo modo poterit retractari. Tit. lxxii.

ITEM si pater vel frater quispiam concambium aliquod fecerit, & filius aut fratrum aliquis eo concambio scienter & sine iuridica reclamazione vel prohibitione usus fuerit fructumque bonorum permutatorum realiter perceperit concambium ipsum postea filius vel frater ille retractare nequibit. Usus enim realis in hac parte in vim cessionis concensusque transibit.

Si in concambio pecunia superaddatur utrum talia bona ius fœmineum sequantur. lxxiii.

ITEM quia iura possessionaria modo concambii permutata quantitate, fructuositate & valore non semper æqualiter sibi correspondent ideo solent plærrique quorum bona & iura possessionaria minoris precii valorisque existunt ad ea ut concambium equale fiat summam aliquam pecuniarum super addere unde nonnulli putaverunt huiusmodi iura possessionaria (eo quod pecunia addita est) ius fœmineum æque veluti masculinum sequi debere. Quod tenendum non est. [§1] Nam iurium possessionariorum conservatio & sequela non a ramo pecuniæ scilicet additione, sed a radice & origine acquisitionis & inventionis suę iudicanda censetur, & ob hoc in tali casu homines fœminei sexus non nisi de pecuniis superadditis portiones suas rehabere poterunt. Proprietas autem & hæreditas iurium ipsorum

possessionariorum sexui masculino salva manebit. [§2] Et hoc verum est si ex origine & radice eiuscemodi iura possessionaria sexum fœmineum non sequuntur. Super ea namque ambiguitate, Utrum aliqua iura possessionaria sexum fœmineum æque veluti masculinum sequi debeant nec ne? semper ad originales litteras quibus bona ipsa acquisita & inventa fuerunt recurrendum est.

Quid valeat Evictio, seu Expeditoria cautio preassumpta. Tit. lxxiii.

CAeterum quoniam in concambiali permutatione bonorum ac iurium possessionariorum Expeditoria cautio quę apud legistas cautio de Evictione nuncupatur inseri & assummi plerumque solet. Si igitur partium aliqua legitime requisita alteram partem iuxta præassumptam tutoriam Expeditoriamque cautionem in dominio huiusmodi iurium possessionariorum permutatorum adversus quospiam causantes & legitimos impeditores conservare non poterit extunc iura sua possessionaria in concambium alteri parti data (si restant) in specie reddi & restitui, Si vero a manibus ipsius partis alienata forte fuerint & recuperari nequiverint tunc similia iura sua possessionaria quantitate ac fructuositate & valore iuribus alienatis æquipollentia parti damnificatę quę in dominio illorum conservari nequibit dari statuique debent. [§1] Et hoc verum intellige si Expeditoria cautio in litteris Fassionibus simplici communique modo inserta fuerit. Nam aliter si clausula ipsa Expeditorię assumptionis cum conditionibus & articulis aliquibus posita declarataque extiterit tunc ipsę eędem conditiones articuli que positi in hac parte observari debebunt. [§2] Et hoc idem intellige etiam de cęteris iuribus possessionariis sub expeditoria ipsa cautione per quempiam alienatis vel legitime venditis. Quod si emptor bonorum in dominio eorum per venditorem conservari nequibit extunc similia bona qualitate, quantitate fructuositateque & valore illorum loco sibi dari debebunt.

Qui intelligantur per legitimos impeditores. Tit. lxxv.

PER legitimos vero impeditores accipiendi ac intelligendi sunt causantes & processu iuris agentes, non autem violenti occupatores & manu potenti procedentes. Nam contra tales non tenetur quis alterum in iuribus venditis conservare. [§1] Emptor itaque bonorum dum per quempiam ordine iuris prætextu huiusmodi bonorum emptorum impediatur in causamque trahitur tunc venditorem eorundem bonorum in defensionem causę ipsius antequam eadem decisionem sortita fuerit penes se Evocare tenetur. [§2] Nam si Evocare neglexerit & sic iura eiuscemodi possessionaria seu bona iuridice amiserit venditor ipse ab onere Expeditorię cautionis absolvetur liberabiturque & deinceps emptorem in dominio eorundem conservare non tenebitur.

Questio notabilis super Evictione seu Expeditoria cautione. Tit. lxxvi.

ITEM quæritur si quis alterum in dominio cuiuspiam possessionis conservaturum assumpserit & se ad conservandum obligaverit, & aliqua terrarum particula ab ipsa possessione temporum in processu per quempiam metalli Reambulatione vel alio titulo distracta iuridiceque sequestrata fuerit corporali possessione salva remanente: Utrum teneatur assumens alterum in illa quoque particula terrę conservare? [§1] Responde quod non tenetur. Quoniam ipse possessionem illam cum cunctis suis utilitatibus & pertinentiis ad eandem de iure spectantibus

alteri contulit & sic ipsum in dominio eiusdem conservare assumpsit. Particula autem illa terræ ad huiusmodi possessionem de iure non spectabat. Et sic ipse quoque qui vendidit quo ad particulam eandem male fidei possessor erat. Ideo alterius iura vendere non potuit prout neque vendidit vigore illius clausulæ: Ad eandem possessionem de iure spectantibus & pertinere debentibus &c. [§2] Nisi forsitan se ita obligasset ut cum eisdem cursibus metarum & limitibus quibus per eum possessio illa tenta fuisset & possessa in dominio eiusdem alterum conservaret. Hoc enim modo æquivalentem terram loco amissæ terræ alteri dare tenetur.

Quod donatores et venditores bonorum contra possessores eorundem per semetipsos agere non possunt. Tit. lxxvii.

HOC unum tamen advertendum est quod Expeditoria cautio prænarata semper ad externos & alienos causantes ac legitimos impeditores & actores, non autem ad ipsos donatores & venditores bonorum est referenda prout quosdam bona sua alteri conferentes ipse vidi contra possessores & dominos eorundem bonorum per semetipsos causam atque litem suscitasse quasi non possent illos in dominio bonorum ipsorum conservare per hoc eadem bona rursus pro se vindicare satagentes quod nunquam est admittendum.

Quid sit præscriptio diffinitive, et quot annorum curricula diversimode complectatur. lxxviii.

QUoniam præscriptionem tam prætextu bonorum hæreditariorum quam etiam ratione iurium possessionariorum impignoraticiorum, sed & actuum potentiariarum in iudiciis allegare sæpenumero consueverunt. Pauca igitur de præscriptione necessario dicenda occurrunt. Et primo de eius quidditate. Deinde vero de ipsius duratione & diversitate. [§1] SCIENDUM igitur quod præscriptio est termini ad iuridicam tum retentionem tum reacquisitionem bonorum de iure statuti temporalis completio [§2] quæ super bonis seu iuribus possessionariis venditis, occupatis & quomodolibet alienatis regalibus centum ecclesiarum, quadraginta nobilium, triginta duorum civium vero duodecim annorum curriculis completur. [§3] In actibus siquidem potentiariis triginta duorum similiter annorum spatium præscriptio requirit, [§4] villanorum autem præscriptio unius anni integri dumtaxat & unius diei terminum complectitur. [§5] Inter fratres vero generationales & condivisionales ratione iurium possessionariorum (demptis actibus potentiariis) ac in Dotalitiorum & Quartalitorum per eos solutione præscriptio nunquam admittitur. [§6] In foro autem ecclesiastico præscriptio aliter allegatur. SED quia non est mei instituti aliquid de ecclesiastico foro disserere illud silentio pertranseo & quibus interest limitandum submitto. [§7] CÆTERUM quanquam in metis quoque rectificandis & iuribus impignoraticiiis plurimi peritorum præscriptionem non esse admittendam communi sententia & proverbio astruant. Quia tamen hæc allegatio non simpliciter est intelligenda sed recto moderamine discutienda illam igitur suis in locis inferius dilucide declarabo.

Quibus temporibus præscriptio non currit locumque non habet. Tit. lxxix.

SCIendum tamen est quod si quempiam in Thurcorum, Saracenorum, Thartarorum aut aliorum infidelium manus & captivitatem incidere & ibi tempus præscriptionis transgredi

contigerit, tunc eo casu præscriptio nil tenet sed nobilis bonis suis destitutus postquam ad propria remeaverit processu iuris ea pro se recuperare poterit obstaculo præscriptionis obviare non valente. [§1] Et si quis per regiam maiestatem exilio damnaretur & filius eius metu fortasse principis aut pietate suadente cum patre pariter proficisceretur ibique commorando super iurium suorum aliena detentione tempus præscriptionis iura nobilium regni transcribentis evolveretur ac compleretur redeunte filio (qui iniquitatem patris portare non tenetur) bona sua alienata ad portionem suam cedentia non obstante præscriptione idem pro se restaurandi habet auctoritatem. [§2] Quæ quidem præscriptiones etiam absque litis motione per litteras prohibitorias ac protestatorias excludi semper possunt. [§3] Nam & litis motio modernorum tempore non plurium quam ipsorum triginta & duorum annorum spacium complectitur. Et si causa interim prosequuta non fuerit expletis illis ex novo litis motio ipsa suscitari debet.

De iuribus possessionariis Impignoratiis in generali. Tit. lxxx.

Explicatis superius iurium possessionariorum proprietatibus & hæreditatibus earumque speciebus nunc de iurium Impignoraticiorum serie & quiditate dicendum restat. [§1] Et quanquam iura possessionaria Impignoratiis nedum possidere aut gubernare damnabile salutique contrarium verum etiam aliquid de illis scribere formidabile videatur quoniam tamen leges imperiales atque civiles eius usum admittunt ideo in hoc regnopartibusque sibi subiectis usus iste perniciosus multum inolevit incrementumque grande cœpit adeo ut si quosdam pœna generalis decreti super ea re inter cætera editi non perterreret etiam deposita & persoluta pecunia eis debita bona ac iura ipsa Impignoratiis remittere nusquam curarent sed in perniciem animarum suarum quamdiu possent ea detinerent. PROPTER quod de pignorationis ipsius modo & vigore pauca hic subnectenda statui.

Quid sit bonorum Pignoratio, et quot modis intelligatur. Tit. lxxxi.

UNde sciendum quod Impignoratio iurium possessionariorum dupliciter intelligitur videlicet ex parte pignorantis seu dantis & ex parte creditoris, seu recipientis. Ex parte igitur dantis impignoratio est iuris proprii necessitate cogente temporalis ad utendum alteri concessio. Quantum autem ad creditorem seu recipientem impignoratio est iuris alieni cum fructuum perceptione & capitalis summæ repetitione perniciose damnabilisque ad tempus detentio. [§1] Et hæc diffinitio non eo tendit ut fructus & utilitatis bonorum pignorum quispiam percipiat & insuper capitalem quoque summam repetat sed potius eiuscemodi repetitionem & usum confundit atque damnat. Nam si quis hoc modo bonis pignoris utitur usuram palam committere dinoscitur. [§2] Verum si omnes fructus (demptis expensis quas etiam verus dominus pro conservatione ipsorum bonorum facere deberet) in capitalem summam computaret hoc modo bona impignorata tenere non damnabile sed summe laudabile foret per hocque creditor ipse pietatis opus ad proximum suum se fecisse comprobaret.

Qualiter intelligatur præscriptio in bonis impignoratiis non ad mittenda. lxxxii.

QUIA vero in causis impignoratiis præscriptionem non esse allegandam neque admittendam in commune iam proverbium venit quæ quidem proverbii ipsius deductio non simpliciter est intelligenda sed quemadmodum immediate præmissi pignoratio dupliciter attenditur ex parte scilicet impignorantis vel dantis & ex parte recipientis. [§1] Auctoritas itaque ipsa ex parte

solummodo dantis & impignorantis vera est admittendaque intelligitur. Ex parte autem creditoris seu recipientis penitus reicienda censetur. [§2] SOLENT enim plurimi bona eorum necessitate urgente pignori obligare & ea ad obitus usque diem ipsorum non posse redimere. Filii etiam aut fratres decedente patre vel fratre, aut inopia præpediti aut negligentia ignaviaque ducti interdum etiam in servitiis superiorum longinquis & remotissimis in partibus addicti vel aliter extra regnum præoccupati annos & terminos præscriptionis (eiuscemodi iura impignorantia non redimendo) longe transcendere & in tali casu præscriptio ex parte dantis non est admittenda. [§3] Ubi namque filii aut fratres nobilium Impignoratorum seu Impignorantium illorumque heredes bona ipsa & iura possessionaria Impignorata ad ipsas manus alienas titulo pignoris devenisse poterunt comprobare & ea pro se voluerint rehabere atque redimere tunc possessor ille iurium Impignorantium obstaculo præscriptionis non suffragante (si etiam binario, aut ternario, vel ampliori numero præscriptio intervenisset). Et si idem possessor (ne dicam fœenerator) bona ipsa Impignorantia nomine forsitan iuris regii interea temporis pro se impetrasset bona eadem remittere tenetur. [§4] Et siquid tandem iuris ad ea bona se habere pretendit id extra dominium eorundem processu iuris prosequi debet. [§5] Et hoc intellige si post factam prius Impignorationem iure postea perennali Impignorans ipse bona eiusmodi illi possessori non obligavit. Nam hoc casu bona eadem remittere non tenetur sed filii aut fratres Impignorantis si ipsa bona in prejudicium eorum non potuisse iure perennali obligare vel alienare allegabunt eo processu quo super iuribus hereditariis solitum est procedere talia bona & iura possessionaria requirere tenebuntur. [§6] Nam duplici titulo, Impignorantia videlicet & perennali simul nemo ius aliquod possessionarium tenere potest sed postquam perpetuitatis titulo quis illud possidere cœperit mox virtus Impignorationis cessabit & expirabit omnino. [§7] VERUM tamen eandem auctoritatem, quod in causis iuribusque & rebus Impignorantiis præscriptio non est alleganda. Nonnulli perperam abusiveque & sinistre interpretantes intelligereque satagentes multa bona. & iura possessionaria dominorum prælatorum ac baronum & regni nobilium mediantibus litteris Impignorantiis ante sexaginta, septuaginta, centum & amplius annos confectis & emanatis prænarrato pignoris titulo pro sese vindicare usurpareque nituntur. [§8] Qua propter advertendum est quod omnes eiusmodi antiquæ veteresque litteræ Impignorantiæ quæ tempus præscriptionis transcenderunt (si de violenta expulsionem vel indebita ablatione bonorum & iurium ipsorum possessionariorum impignorantium per actorem & acquirentem eorundem bonorum legitimum probabileque documentum & testimonium litterali fulcimento produci non poterit) inefficaces nulliusque firmitatis sunt censendæ atque committendæ. [§9] De violenta tamen & indebita huiusmodi expulsionem vel bonorum ipsorum ablatione sexagesimi usque anni spatium & non amplius etiam humanum testimonium (si sufficiens & iustum per actorem produci poterit) acceptandum erit. [§10] SÆPE numero namque super ea integra pecuniarum summa pro qua videlicet quis bona sua alteri impignoraverit creditori suo satisfacit. Attamen litteras impignorantias in specie non semper poterit rehabere sed solummodo littere super ea re Expeditoriæ seu Quitantiales illi dantur quæ sæpe periclitantur maxime si eundem hominem heredibus deficere & bona sua ad manus regias aut alterius ex Donatione regia vel etiam aliter applicari devenireque contigerit in simili igitur casu contra veteres litteras Impignorantias non tenetur quis signanter alienigena decedente deficienteque impignatore litteras Expeditorias exhibere, nisi forsitan minus iuste violenterque ius pignoratitium de manibus sui possessoris (sicuti prænarratum est) per quempiam ablatum fuisse posset probari. Nam hoc modo non videtur æquum pecuniis suis illum debere frustrari. Res enim vel possessio in hac parte cum onere transit. [§11] Verum tamen si meminerit capitalem summam per prius de illo se extorsisse studeat ipsi pignori potius cedere atque renunciare quam animæ suæ periculum parere.

Quod iura possessionaria ultra communem eorum estimationem pignorari non possunt. Tit. lxxxiii.

Hoc unum tamen attende (prout superius quoque breviter tetigi) quod iura possessionaria quoruncunque dominorum, magnatum & nobilium possessionatorumque hominum cuiuscunque status, conditionis dignitatisque & præminentia existant ultra valorem communis estimationis eorundem iurium possessionariorum in quocunque casu titulo pignoris obligari nequeunt. [§1] Verum tamen si ultra condignam & communem estimationem eorundem cuiuspiam forsitan obligarentur tunc ille qui alteri obligavit vita sua comite per seipsum non aliter quam deposita restitutaque pecuniarum summa per eum ad id levata ad se redimere poterit. [§2] Eo tamen decedente aut etiam in humanis agente filii vel fratres ipsius impignorantis ad quos videlicet huiusmodi redemptio spectare videbitur præmissa communi estimatione mediante pro se redimere valebunt casibus venditionis vel impignorationis prædeklaratis semper observatis. [§3] PER communem autem estimationem in hoc loco intellige non boves, equos, vaccas, oves aut alias res huiusmodi vendibiles sed valorem bonorum ac iurium possessionariorum impignoratorum in quantum scilicet se communi ipsa estimatione mediante inclusis etiam terris, silvis & pratis ac aliis pertinentiis & utilitatibus (prout etiam supra notatum est) valor eorundem bonorum extendit. Secundum enim eiuscemodi valorem solutio tandem pecuniis fieri debet.

De metarum distinctionibus et rectificationibus in generali. Tit. lxxxiiii.

Item quoniam in metis quoque rectificandis præscriptionem non currere superius diximus ideo de metarum Reambulatione simul & rectificatione breviter aliqua subiungam. [§1] UNDE sciendum est quod roborato solio regimineque huius inclyti regni Hungariae & populo Hungarico ad agnitionem veritatis & veræ fidei professionem inspirante spiritussancti gratia veniente gloriosus rex & apostolus noster beatus Stephanus. Inclytus quoque & pius rex sanctus Ladislaus. Multi deinde divi serenissimique reges Hungariae eorum scilicet successores plurimas terras (quas nunc possessiones vocamus) a castris regalibus ad quæ veluti iurisdictionem sacræ coronæ regni huius spectabant sequestrantes tum monasteriis & ecclesiis in perpetuam elemosinam, tum vero servientibus ipsorum (quos iam nobiles appellamus) exigentibus eorundem servitiis in perpetuam hæreditatem contulerunt. [§2] Quas quidem terras tempore huiusmodi Donationis metali etiam distinctione ab aliis terris segregari fecerunt. [§3] Multiplicatis dehinc baronibus ac magnatibus & nobilibus huius regni sub inclusione metarum unius terræ seu possessionis sæpe duas & interdum etiam tres aut plures villas nonnulli eorum condescendi ac collocari populisque & inhabitatoribus decorari fecerunt. Nullam aliquando metalem distinctionem sed quandam dumtaxat ad utendum limitationem inter villas ipsas facientes. Interdum tamen etiam metarum erectione easdem a se se separantes. [§4] Procedente itaque tempore filii hæredesque ipsorum dominorum baronum & magnatum ac nobilium iura eorum possessionaria inter sese dividentes uni una alteri altera villa in portionem devenit atque cessit. Quibus tandem defunctis & sæpe deficientibus eiuscemodi villæ ac possessiones ad diversorum manus hominum ex Donationibus divorum Hungariae regum vel aliter simul cum litteris metalibus devenerunt. Sicque in Reambulationibus & rectificationibus metarum differentiæ primum suborte fuerunt. [§5] Nam illi quorum ad manus litteræ metales cum possessione easdem litteras tangente inciderunt ex huiusmodi metali inclusione etiam alias villas & possessiones virtute litterarum ipsarum ad se pertinere putaverunt. Novissimis siquidem temporibus etiam per manifestam potentum

violentorumque occupationem & terrarum distractionem variæ contentiones in ipsis metis rectificandis suboriri cœperunt.

Qualiter intelligitur in metis rectificandis prescriptio non admittenda. Tit. lxxxv.

Licet itaque in metis rectificandis non sit præscriptio admittenda verum tamen corporales possessiones sub inclusionibus quarumcunque litterarum metalium adiacentes (maxime in casibus præmissis) anihiları vel occupari virtute talium litterarum metalium non possunt. [§1] Tempore etenim foundationis & descensus huiusmodi corporalis possessionis reclamatio & inhibitio (ne ibi possessio aut villa extrueretur) per eum ad quem terra vel meta pertinebat fieri debuisset. [§2] Verum ad huiusmodi villam & possessionem corporalem sub inclusione ipsarum litterarum Metalium (ut præfertur) adiacentem iuxta rectam & equam iudicis ordinarii limitationem & diuturnum usum ac reale dominium terrarum, silvarum, montium, promontiorum pratorumque per colonos & inhabitatores huiusmodi villæ vel possessionis habitum & tentum Metalis distinctio pariter & annexio earundem terrarum, sylvarum, virgultorum, montium, promontiorum, aquarum pratorumque & fœnilium ad usum ipsorum colonorum sufficiens fieri constituique debet. Reliquis clausulis litterarum eiuscemodi metalium actori salvis permanentibus. [§3] Particulæ vero aut quantitates aliquarum terrarum, silvarum, promontiorum & pratorum paulatim a suo membro corporali videlicet possessione quovis modo distractæ vel occupatæ vigore litterarum metalium (dum tamen ipsæ litteræ rite sint emanatæ) instaurari & suo principali membro (vetusta & approbata regni huius consuetudine dictante) per actorem iuramento mediante iuxta eiusdem particulæ distractæ vel occupatæ quantitatem & estimationem reincorporari possunt atque debent allegatione cuiusvis præscriptionis non obstante. [§4] Qualiter autem eiusmodi terræ aut silvæ estimari debeant & quid duo aut tria, vel plura terrarum iugera fœnetaque vel silvæ valeant in serie estimationum infra clare descriptam habebis.

Quales littere metales valeant, et quales non. Tit. lxxxvi.

Sciendum ulterius quod in metarum Reambulationibus & litteris super ea re conficiendis plurimæ fraudes apertaque scandala committi consueverunt. [§1] Non nulli enim salutis & honoris eorum immemores acceptis litteris regiis aut aliorum iudicum regni ordinariorum Reambulatoriis per clausulam DICITUR NOBIS emanatis hominem regium aut Palatinalem ac alicuius Capituli vel Conventus testimonium ad Exequutionem seu Reambulationem ipsam transmissos pecuniis aut muneribus sæpe corrumpere et ad eorum relationem tales quales voluerint litteras metales privilegii more pro ipsorum parte conficere & a Capitulo vel Conventu (altera parte cuius scilicet terras perambulasse inique retulerunt penitus ignorante) pro sese extrahere easdemque litteras apud se demum occultare & Reambulationem ipsam taciturnitatis silencio usque decem, sedecem & interdum viginti quoque & amplius annorum curricula præterire & tandem vigore illarum decedentibus forsitan iam regio ac Capitulari vel Conventuali hominibus sed et vicinis & commetaneis quorum nomina fraudulenter in litteris metalibus inserta fuerunt Reambulationem metalem publice & iam iuridice peragere, sicque terras plurimas iuri eorum inique & dolose vindicare sæpenumero solent [§2] quorum damnabili lucro ut via præcludatur & veritas ex litteris eliciatur per iudices regni ordinarios & eorum Prothonotarios huiusmodi litteræ (per clausulam DICITUR nobis) ad relationem aliquorum regionum vel Palatinalium Capitulariumque aut Conventualium hominum emanatæ diligenti semper examine curaque & sollicitudine ruminantur atque super usu earum

si videlicet post factam Reambulationem illam metalem vigore earundem litterarum dominium & usum terrarum in ipsis specificatarum ac inclusarum aliquando actor ipse tenuisset atque possedisset veritas inquiratur & si nullum usum ac dominium penes illas se habuisse verificabitur tunc constabit easdem litteras indebite contraque iustum processum regni confectas fuisse & per hoc inefficaces esse. [§3] LITTERÆ vero metales ex iuridica commissione quorumcunque iudicum regni ordinariorum necnon ex legitima Reambulatione inter duas aut tres vel etiam plures partes (eisdem partibus consentientibus) facta præterea per modum concordie & Fassionis inter quospiam celebratæ dummodo aliorum iura seu terras inter se sinistre non dividant vel divisisse non comprobentur. CÆTERUM communi quoque & consueta de Reambulatione per regium aut Palatinalem alicuiusque loci testimonialis homines præsentibus vicinis & commetaneis iurium possessionariorum seu terrarum Reambularum præsertim illis ad quos terræ ipsæ pertinent, vel vicinitas saltem terrarum illarum spectare dinoscitur palam manifesteque & legitime peracta confectæ & emanatæ efficaces censentur semper & robor sortiuntur firmitatis. [§4] CURSUS etiam & distinctiones metales in litteris Donationalibus quorumcunque dominorum regum Hungariæ legitimorum denotatæ & explicati semper observantur. Et hoc verum tene si post factam Donationem metalemque distinctionem terræ seu possessiones huiusmodi in alias diversasque terras vel possessiones non fuerint divisæ aut metaliter per usum & dominium segregatæ.

De terris per fluviorum vehementiam distractis quid sciendum sit. lxxxvii.

Item quia plurimarum civitatum, villarum ac possessionum multorumque opidorum & prædiorum metæ ac cursus metales fluviorum & aquarum fluvialium distinctione cinguntur pariter & clauduntur per huiusmodi autem fluvii inundationem atque vehementiam magnæ sæpenumero terrarum, pratorum & silvarum particulæ scinduntur & ad partem alterius vicinæ civitatis aut oppidi vel possessionis segregantur & accedunt. Impetus enim & vehementia fluminis de suo solito cursu alveoque & meatu in alium novum meatum sæpenumero vergi dilabique solet. Unde nonnulli putaverunt & opinati sunt eiusmodi terras, prata vel silvas quæ scilicet ex ipsius aquæ cursus meatusque seu alvei transmutatione in partem alterius vicinæ civitatis oppidique vel possessionis ceciderint & segregatæ fuerint ad eandem civitatem aut oppidum vel possessionem postea spectare pertinereque debere allegantes & astruentes metas suas per cursum meatumque & alveum fluminis dirigi. Quod tenendum non est. [§1] Nam hoc modo plurimæ fraudes committi, & aquæ seu flumina per occulta canaliam ac fossata interdum satis exigua vel aggerum positionem & repleturam in eum quem quis mallet locum & alveum deflui terræque & silvæ aut prata alterius facilime per hoc usurpari possent. [§2] SIC ITAque contraria opinio intelligenda est quod ex quo fluvialis seu fluminis præsertim vero navigabilis proventus magnæ estimationis censetur. Ideo quocunque aqua seu fluvius labatur & defluat civitas aut oppidum vel possessio illa de cuius territorio in alterius terram seu territorium verget aut divertet nunquam per hoc suis proventibus puta molendinis, vadis, vectigalibus, piscaturis aliisque utilitatibus privabitur, sed quemadmodum prius dum fluvius in suo vero solitoque. & antiquo meatu currebat ita etiam tunc, cum in alium novum iam alveum declinaverit liberam plenariamque suis proventibus & utilitatibus fruendi & utendi habet facultatem. [§3] Verum tamen silvæ prataque & terræ solummodo illius erunt cuius prius erant. Et qui pacificum eorum dominium habebat hinc est quod nonnulli aggeres & repleturas pro defensione terrarum suarum & pratorum aut silvarum in terris & territoriis aliorum facere tenereque permittuntur, ne scilicet in propriis terris & territoriis per aquarum inundationem aut vehementiam damna patiantur. Per hoc tamen alienas huiusmodi terras pro se vindicare non intelliguntur. [§4] Simile est de molendinorum aggeribus & repleturis super

decursum illorum fluviorum, quorum medietas uni & altera alteri possessori vel villæ deservit constructorum quarum finis licet in terris alterius adiaceat adiacereque de iure permittatur (dummodo huiusmodi repletura damnum apertum alteri parti afferre non videatur) tamen per hoc nec fluvius nec terra alterius usurpatur sed vero domino suo semper reservatur.

Quid sit ius Quartalicium diffinitive, et quibus solvi debeat. Tit. lxxxviii.

PRæhabita iurium possessionariorum tum perpetuitatis iure tum vero pignoris titulo conservationis sed & metalium Reambulationum rectificationumque descriptione iam consequenter super quarta puellari seu iurium Quartalitorum necnon dotum & rerum Peraffernalium solutione restitutioneque disserendum est. [§1] UBI scias quod ius Quartaliticium est ius possessionarium puellis & mulieribus de bonis ac iuribus paternis hæreditariis in signum parentelę propagationis non perennali vel hæreditaria sed redemptibili lege conditioneque deputatum. [§2] QUARE autem iura possessionaria paterna servitiis acquisita ius fœmineum non concernant & filiæ de illis cum filiis pariter & hæredibus legitimis portiones habere nequeant, & quibus de possessionibus portiones hæreditarias habere debeant superius ubi de successione hæredum in bonis paternis fienda descriptio facta est expresse reperies.

De modo solutionis iurium Quartalitorum seu quarte puellaris. Tit. lxxxix.

ADvertendum est autem quod quisque baro, magnas vel nobilis sive unam, sive decem vel plures habeat filias una solutione quartę puellaris eas absolvere poterit, ita videlicet ut universa iura possessionaria paterna simul cum cunctis suis utilitatibus & pertinentiis quibuslibet in quatuor rectas & coequales segregantur partes quarum quarta pars in sortem scilicet Quartalitorum cedens communi estimatione mediante limitabitur & estimabitur iuxta cuiusquidem estimationis seriem super eodem Quartalicio omnibus filiabus una & eadem solutione pecuniaria tamen & non rerum venalium satisfactio impendi debet. [§1] PROPRIETAS autem & hæreditas huiusmodi quartę partis una cum cæteris partibus seu portionibus filiis & hæredibus perpetuo remanebit. [§2] QUÆLIBET autem filiarum poterit seorsum si voluerit Quartaliticium suum repetere. Verumtamen hæredes, a quibus repetitur, cauti esse debent, ne uni tantum solvant, quod pluribus solvere tenentur.

Quod si uni filiarum quarta puellaris data fuerit, altera adhuc super hereditate contendere poterit. Tit. lxxxx.

SI vero uni filiarum absque strepitu iuris productioneque litterarum ac litteralium instrumentorum factum iurium possessionariorum paternorum tangentium quarta puellaris persoluta fuerit altera nihilominus filiarum (si voluerit) super proprietate seu hæreditate eorundem iurium possessionariorum paternorum poterit in iudicio cum eo, cuius intererit contendere & utrum iura ipsa sexum fœmineum sequantur nec ne experiri.

Quod puelle in capillis constitute Fassiones facere non possunt. Tit. lxxxxi.

VERum quia puellæ plerumque animi levitate seducuntur ideo in capillis existentes si etiam legitimam & perfectam attigissent ætatem nunquam Fassiones perennes vel etiam

temporales sibipsis aut successoribus vel fratribus earum præiudicantes facere possunt. [§1] HINC est etiam quod puellæ ipsæ ad tutelam fratrum minoris ætatis non admittuntur, neque tutorum officia ex regni consuetudine gerere permittuntur.

Qualiter puelle infra tempus maritacionis earum: in domo paterna maneant. Tit. lxxxxii.

QUo vero pacto puellę quæ capillos adhuc velamine nudatos gestant decedentibus earum genitoribus in paternis laribus iuribusque possessionariis usque ad nobiles ipsarum annos permanere & qualiter de illis tandem exmaritari debeant superius ubi de bonis per defectum seminis decedentium impetratis tractatum est manifestum habes documentum. [§1] QUALITER autem quarta puellaris estimari debeat & quid castrum, quid curia nobilitaris, quid sessio Iobagionalis &c. valeat, in serie estimationum infra clare patebit.

Quid sit dotalitium diffinitive & quid Paraffernum. Tit. lxxxxiii.

ITEM super solutione dotum & rerum Paraffernalium id occurrit animadvertendum quod quanquam dos (unde dotalitium descendit) ac Donatio & Paraffernum longe differant nos tamen confuso vocabulo dotem & Donationem simul permiscentes, dotalitium vel solummodo dotem dicimus & est quæ uxori propter eius deflorationem & concubitum de bonis mariti datur. [§1] Paraffernales autem res dicimus omnia bona mobilia quæ mulieri aut per maritum, aut parentes, vel fratres sive etiam alios quoscunque tempore solennitatis nuptiarum aut desponsationis vel subarationis eius dantur. [§2] Unde sciendum quod de regni nostri veteri approbataque consuetudine dotalitium est merces fœminarum legitime coniugatarum ob debitum matrimonii de bonis & iuribus possessionariis maritorum iuxta status illorum exigentiam dari consueta. [§3] Nam secundum status & dignitatis maritorum præminentiam ac bonorum & iurium possessionariorum eorundem quantitatem variatur fitque solutio Dotalitiorum verbi gratia relicta baronis plus consequitur ratione Dotalicii quam relicta unius magnatis. Itidem relicta nobilis centum vel quinquaginta colonos possidentis plus nomine Dotis assequitur, quam alterius nobilis cui minor fuerit colonorum numerus. [§4] Si enim maritus officium baronatus gesserit tunc mulier ipsa centum marcas, Si vero magnas vel baro solo nomine fuerit & officio Baronatus caruerit aut insignis nobilis vel miles extiterit & quinquaginta sessiones Iobagionales populosas vel plures habuerit relicta eius quinquaginta marcas pro Dote sua consequitur. Marcam quamlibet per quatuor florenos Hungaricales aut quadringentos denarios præsentis monetę computando. [§5] Relictę autem aliorum inferioris status & conditionis nobilium de bonis & iuribus maritorum possessionariis secundum magis & minus iuxta scilicet bonorum quantitatem estimatione communi mediante (exclusis agris silvisque & pratis ac aliis pertinentiis et proventibus bonorum exterioribus) Dotes suas rehabere poterunt. [§6] Mortua vero muliere qui sibi in linea consanguinitatis propinquior erit Dotalitium eius requirendi sibi que vendicandi habet facultatem.

Qui sint et intelligantur ex officio veri barones regni. Tit. lxxxxiiii

NE autem super officiis & nominibus baronatum dubium suboriri possit eorum nomina hic inserenda existimavi. [§1] Sunt Itaque veri barones quorum ab antiquo nomina decretis & litteris Confirmationalibus regiis inseri consueverunt: [§2] Palatinus regni Hungarie, Iudex curie regię, regnorum Dalmatię, Croacię & Sclavonię Banus, waywoda Transsilvanus &

Siculorum comes, Banus Zewriniensis, nam Machoniensis Banatus per Thurcos nostro ævo deletus est. Item Thavernicorum, Ianitorum, Pincernarum, Dapiferorum ac Agazonum regaliū & reginaliū magistri necnon Themesiensis & Poseniensis comites. [§3] Horum omnium relictis pro earum Dotibus & rebus Paraffernalibus centum (ut præmissum est) marcæ per eos, quorum intererit dari solent atque debent.

Quod Dotalitiōrum solutiō partim pecuniis, partim rebus venalibus fieri debet, et quales sint res venales. Tit. lxxxv.

Dotalitiōrum autem solutiō partim pecuniis numeratis, partim vero rebus mobilibus & venalibus iuxta tamen verum precium & valorem earundem rerum fieri semper solet. [§1] Exclusa tamen vestium sartitarum ac armorum & equorum boumque ac aliorum pecorum claudorum estimatione. Quę in sortem solutiōnis Dotalitiōrum non acceptantur. [§2] Res autem mobiles & venales in hac parte tales esse debent quę in foro quotidiano vendi possunt prout sunt oves, boves, equi, caprę, vaccę, vituli & porci qui se movere de loco in locum commode possunt.

Quod mulier a primo marito integram, et a secundo mediam Dotem habet, et unde Dotalitia solvuntur. Tit. lxxxvi.

Item advertendum est quod quęlibet fœminarum a primo marito ratione floridę virginitatis, in qua nuptui tradita fuit, integram Dotem, a secundo vero post deflorationem scilicet nubendo mediam dumtaxat Dotem, a tertio quartam partem, a quarto octavam solum partem Dotis habet. [§1] Siquę autem etiam quinto vel sexto marito nupserit Dos sua in tantum minuetur ut admodum exigua sit futura. [§2] Solvuntur autem Dotalitia mulieribus de bonis & iuribus possessionariis maritorum, ad quę fuerint traductę. [§3] Nam de iuribus paternis non Dotem, sed Quartalitiū habere debent. Nisi forsitan aliqua earum Dotalitiū matris vel avię suę requireret quod de iure facere poterit si Expeditoria super eo prius non fuerit data.

Qualiter Dotalitiū et Quartalitiū simul queri poterit. Tit. lxxxvii.

Sciendum est tamen quod Dotalitiū matris & avię simul una & eadem persona quærere non potest. [§1] Nam si matris meę Quartalitiū quæro tunc Dotalitiū avię meę quærere debeo. Quia mater matris meę avia mea est. [§2] Si autem sola mater mea Quartalitiū suum de iuribus paternis quærit tunc ipsa Dotalitiū matris suę & non avię quærere debet. Nam avię eius Dotalitiū illius generationis & quidem propinquioris est quærere de cuius prosapia mulier illa processisse dinoscitur.

Quomodo fœmine de bonis maritorum eici possunt, et quomodo non, et de rebus eorum mobilibus.

Titulus. lxxxviii.

Item universę res mobiles mariti sine liberis atque sine testamento defuncti cuiuscunque maneriei existant & quocunque nomine censeantur ad suam uxorem devolvuntur [§1] quę de bonis & iuribus possessionariis domoque, residentię & curia mariti quamdiu sub nomine & titulo defuncti mariti viduitatis tempora peregerit & ad alia vota se non transtulerit etiam cum

restitutione Dotis suæ excludi non poterit. [§2] Postquam tamen maritata nuptaque cuiuspiam fuerit tunc ille ad quem bona & iura possessionaria mariti defuncti iure hæreditario successorioque devoluta fuisse dinoscuntur mulierem ipsam restituta primum eius Dote de eisdem bonis eiciendi & excludendi plenariam habet auctoritatem. [§3] Immo si bona & iura possessionaria viri ipsius præmortui adeo copiosa fructiferaque fuerint ut Dotalitium uxoris longe excedere videantur tunc is in quem bona ipsa derivabuntur, poterit mulierem illam si etiam nomen & titulum mariti sui gereret de reliqua parte bonorum quæ scilicet estimationem Dotis suæ præcellere & excedere videbitur iuris ordine coram suo iudice excludere & tantum dumtaxat sibi ad utendum de iuribus illis possessionariis deputare quantum Dotis quantitas postulabit. [§4] De loco tamen & domo, curiaque solite residentiæ mariti excludi mulier ipsa nequibit nisi forsitan domus ea castrum fuerit, quod sibi non conceditur sed domus alia mariti extra castrum alicubi sita ad habitandum eidem deputabitur. [§5] Secus est de illis qui multa habent atque possident castra pro loco habitationis deputata. Nam hoc casu etiam mulieri castrum deputari poterit habitandum.

De divisione rerum mobilium mariti inter relictam et liberos ac fratres eiusdem. lxxxxix.

UBi autem maritus decedens filios & filias simul cum uxore necnon fratribus indivisis in domo sua post obitum suum reliquerit tunc primum portio defuncti a portionibus fratrum indivisorum super extantum in cunctis rebus mobilibus dividi ac sequestrari debet. [§1] Deinde vero omnes res mobiles ipsius mariti præmortui quocumque nomine censeantur inter uxorem ac filios & filias eius communiter dividuntur, & in tot partes quot personæ sunt in domo nondum divisæ vel emaritate sequestrantur ac unicuique portio sua restituitur dempto eo quod equos curriferos & vestem potiore[m] mariti defuncti domina relictæ illius per se tollet. [§2] Arma vero militaria sine divisione filiis aut fratribus indivisis cedent. [§3] Illis autem omnino deficientibus non solum ea sed & omnia bona mobilia (prout iam premissum est) in eius relictam (nisi forsitan super eisdem maritus testamentum fecerit) devolvuntur. [§4] Filios autem hoc in loco cum patre defuncto nondum divisos, Filias vero de bonis suis nondum nuptui traditas & emaritas intellige. Nam post divisionem filii & post connubium filiæ portionem de huiusmodi rebus & bonis mobilibus paternis habere non possunt.

De Paraffernis et rebus cum sponsa ac tempore nuptiarum sponse datis. Tit. c.

NOTandum tamen est quod vestes & aliæ quælibet res cum sponsa per parentes vel fratres aut alios quospiam tempore (ut prænotatum est) solennitatis nuptiarum aut desponsationis vel subarationis eius date (quas nos res Paraffernales dicimus), mortuo marito sine liberis eidem sponsæ hoc est uxori (si quæ ex illis restabunt) simul cum dote sua salvæ manebunt restituere debebunt. Nec tempore divisionis aliarum rerum mobilium huiusmodi res secum traditæ divisioni subiacebunt. [§1] Immo si etiam liberos, filios videlicet & filias habuerit & ad secundas nuptias forsitan se mulier ipsa transtulerit vel aliter cum eisdem liberis suis cohabitare noluerit libere res illas pro se retinebit. [§2] Sponsa vero sine liberis & testamento defuncta res ipsas parentes eius vel fratres propinquiores recuperare sibi que vindicare possunt. [§3] Liberos tamen si post se reliquerit ad illos devolventur. [§4] Res autem per sponsum sponsæ aut pro honore nuptiarum, aut pro subaratione traditæ decedente (antequam convenirent) sponsa nunquam per sponsum recuperari poterunt. Verum tamen post copulam carnalem si sine liberis & intestata (nam testamentum super illis facere potest) ab hoc sæculo decederet apud maritum manebunt.

De equis equatilibus defuncti ad quinquagenarium usque numerum. ci.

Item hoc quoque advertendum est quod si maritus equos gregales quos equatiales dicimus infra quinquagenarium numerum habuerit stante & durante coniugio suæ uxoris aggregatos vel emptos æqualiter inter eos dividuntur. [§1] Immo si etiam ante coniugium ad manus mariti equi huiusmodi equatiales devenissent dumodo numerum quinquagenarium non attigissent pariter dividi & communes esse debebunt. [§2] Si tamen eundem numerum attigerunt vel excesserunt tunc maritus poterit de eisdem tanquam rebus per eum acquisitis testari. Sed si super eisdem intestatus decesserit circa hæreditates filiorum computabuntur. VERUM tamen si aviti fuerint tunc testatio quoque de eisdem non tenebit neque locum habebit nisi quantum ad portionem mariti testantis cederet quod de iure fieri permittitur. [§3] Reliqui tamen cum iuribus possessionariis pariter ad filios vel fratres indivisos & alios successores legitimos derivabuntur atque pertinebunt cum quibus solutio Dotalitiorum & Quartalitorum fieri debebit ne pretextu eiusmodi solutionis cogantur successores hæreditates suas alienare qui & alioquin filias de iuribus paternis emaritare nuptiisque tradere tenebuntur. [§4] Et hoc si filia portiones de rebus mobilibus paternis post eius obitum non tulerunt. Nam hoc modo portiones huiusmodi ad maritatem cedent, insuper & Quartalia sua rehabebunt.

De iuribus possessionariis mariti durante coniugio uxoris comparatis. cii.

Item ulterius sciendum quod si etiam durante coniugio maritus quispiam possessiones & iura possessionaria præcio comparaverit & nomen coniugis in litteris Fassionibus inseri non fecerit tunc de talibus possessionibus ac iuribus possessionariis (& si emptitiis) mulier ipsa pro se portionem habere non poterit. [§1] Verum si voluerit, & nomen titulumque mariti sui præmortui gesserit semper vita sua comite in bonis ac iuribus possessionariis filiorum ac filiarum residere permanereque libere valebit. Sub conditione tamen superius in articulo QUOMODO fœminæ de bonis maritorum eici possunt plane declarata. Dico autem filiarum si bona illa ius quoque fœmineum secuta fuerint. [§2] Ubi enim ad secundas nuptias mulier se transtulerit restituta dote sua de illis per eum cui competet eici & excludi poterit. Qui enim per iura hæreditaria uxori suæ cupit complacere studeat nomen eius in emptionis & Fassionis serie ponere. [§3] VERUM si iura Impignorantia maritus ipse defunctus quocunque tempore ante scilicet coniugium vel in coniugio sibi obligata post obitum suum reliquerit etiam si nomen uxoris seu uterque sexus hæredum in litteris Obligatoriiis & Impignorantiis non contineatur æqualiter tamen inter coniugem filios filiasque vel fratres indivisos instar aliarum rerum mobilium dividuntur. [§4] Quoniam iura Impignorantia redemptibilia sunt quæ post redemptionem in pecunias convertentur. Pecuniæ autem inter bona mobilia computantur. Et hoc si huiusmodi iura Impignorantia postea in hæreditates conversa non fuerint.

Quod mulier de bonis mariti etiam pignori per eum obligatis dotem suam rehabere potest. ciii.

Sciendum deinde est quod si maritus mulieris necessitate forte ingruente (prout sæpenumero fieri solet) iura sua possessionaria alteri cuiquam Impignoraverit maxime absque uxoris suæ consensu tunc mortuo marito poterit mulier ipsa dotem suam ab eo, qui iura huiusmodi possessionaria pignori tenet requirere pariter & rehabere. Quoniam Impignoratio non excludit

proprietatem & perpetuitatem iurium ipsorum possessionariorum. [§1] Alioquin enim si mulier ipsa redemptionem illorum expectaret nec prius dotem suam assequi posset. Interim forsitan quoad redemptio fieret ex humanis decederet & sic dote sua fraudaretur. [§2] Attamen tempore redemptionis eorundem iurium possessionariorum ille ad quem redemptio ipsorum spectabit non solum super capitali summa pro qua utpote Impignorata fuerant sed etiam super solutione eiuscemodi restitutæ dotis satisfactionem impendere tenebitur.

Quod Dotalitium uxoris pro maleficio mariti non amittitur. Tit. civ.

PRęterea si iura possessionaria mariti pro eius maleficio aut etiam per notam aliquam infidelitatis eiusdem iuridice occupabuntur (etiam si maritus capite plecteretur) uxor ipsa nihilominus dotem suam ab eo qui iura ipsa possessionaria possidebit semper recuperare valebit.

Quod mulier in adulterio deprehensa perdit Dotalitium, sed non res paraffernas. Tit. cv.

ADvertendum insuper est quod si mulier violata fide qua marito suo tenetur adulterium commiserit & in adulterio deprehensa divortium tandem subsequutum fuerit perdit ipsa dotem suam sed non res Paraffernales hoc est res secum tempore nuptiarum per parentes aut fratres vel virum suum sive etiam alios quospiam datas. [§1] Verum si post adulterium maritus mores eius scienter approbaverit cum ipsa cohabitando & concumbendo tunc etiam Dotem suam recuperabit, & postea neque necem illi propter adulterium (si etiam secundo peccaverit) maritus inferre valebit quam prima fronte ubi scilicet ad noticiam eius adulterium devenit libere, iureque inferendi habebat facultatem. [§2] Ubi autem ipsa mulier ob huiusmodi adulterium iuridice extremo supplicio mulctata fuerit fratres eius solummodo res Paraffernales & non Dotalitium eius recuperare poterunt. Et hoc si liberos non habuerit, aut testamentum de illis non fecerit. Nam hoc modo ad liberos suos devolventur, vel testamentariis ipsis cedent.

De matrimonio inter consanguineos scienter vel ignoranter contracto. cvi.

ITem si inter virum & uxorem propter consanguinitatem vel affinitatem ignoratam divortium factum fuerit tunc fœmina tam Dotem quam res Paraffernales a viro rehabebit, soboles etiam ipsorum stante coniugio procreatæ in bonis & iuribus utrorumque parentum possessionariis iure successorio permanebunt. [§1] Per hoc tamen non est intelligendum quod uterque sexus æque succederet sed si bona ipsa iuri solummodo masculino deserviunt ad filios dumtaxat spectabunt. Si vero utrunque sexum sequuntur tunc & filii & filiaæ æqualiter succedunt. [§2] Attamen si scienter & contra prohibitionem fratrum vel eis succedere debentium matrimonium contractum & tandem divortium sequutum vel non sequutum fuerit, soboles durante matrimonio generatæ in bonis & iuribus possessionariis eorum parentum succedere non possunt sed ad fratres generationales vel alios succedere debentes eo facto devolvuntur. Quas etiam si Papa legitimaret tamen ad successionem bonorum (quæ ad fratres generationales & illis non existentibus regiam maiestatem respiciunt) ipsa legitimatio locum non haberet. Mulier præterea Dote sua carebit res Paraffernales solummodo suas a marito suo rehabere valebit.

Quomodo noscitur matrimonium inter consanguineos scienter contractum. cvii.

SCientia autem coniugum apparebit ex hoc si matrimonium illud reclamantibus & contradicentibus fratribus vel aliis ad quos successio spectat aut in tali propinquo gradu consanguinitatis fuerit contractum quod eorum eis utrisque notoria fuisset. [§1] Consanguinitas enim secundum sacros canones & regni quoque nostri legem usque quartum gradum inclusive connubium prohibet atque vetat.

Quod ignorantia legitimas, scientia vero illegitimas proles inter consanguineos generat. Tit. cviii.

INde sequitur quod ignorantia in hac parte legitimas, scientia vero illegitimas ad successionem bonorum immobilium utrorumque parentum proles generat atque producit & illegitimas proles quantum ad successionem prædictam. [§1] Neque summus (ut præfertur) pontifex, neque etiam noster princeps in præiudicium & contra voluntatem filiorum legitimorum & aliorum de iure succedentium legitimare potest nisi in casu quo filiis aut fratribus non existentibus successio directe ad principem nostrum spectaret. Nam in eo casu cuicumque & qualitercunque voluerit ipse princeps liberam super illis bonis & iuribus possessionariis disponendi habet potestatem.

Qualiter uxor Dotalitium suum marito suo relaxare potest. cix.

ITem quanquam durante matrimonio uxor Dotem suam marito (ut communiter) triplici de causa relaxare solet. PRIMO si maritus bona suæ coniugis quorum successio non respicit neque cadit in virum suum ampliaverit & augmentaverit. SECUNDO si expensas necessarias etiam alio modo bonis in illis vir fecerit. TERTIO si uxor marito suo ut prætextu Dotalitii sui ipsa decedente saluti animæ suæ consulat, commiserit vel aliter super illo disponendum ordinaverit. Tamen iuxta modernorum consuetudinem etiam præmissis causis cessantibus poterit mulier ipsa viro Dotalitium maxime in mortis articulo quando de metu & timore viri suspitio tollitur relaxare. [§1] Secus est tamen si uxor in humanis agens & sana existens per maritum metu & terrore ad relaxandum sibi cogeretur. Nam in tali casu facta per mulierem super ea re legitima reclamatione atque retractatione, relaxatio huiusmodi & Fassio quoque inde celebrata locum non habebit.

Quomodo maritus uxori et econtra a consors viro super bonis suis Fassionem facere potest. Tit. cx.

CAeterum quamvis opinione multorum maritus uxori & econtra uxor marito super bonis & iuribus suis possessionariis aut ob inmensum & eximium erga coniugem viri amorem aut mulieris a marito timorem nec perennali neque Impignoratio iure Fassionem facere queat, de veteri tamen & approbata lege huius regni nostri tam maritus uxori quam etiam uxor viro de & super cunctis iuribus suis possessionariis potissimum per sese acquisitis vel aliter obtentis quibus videlicet etiam alteri ignoto vel alienigenæ de iure sub conditionibusque de venditionibus & alienationibus bonorum superius expressis & declaratis disponere Fassionemque facere posset, liberam disponendi & perennem Fassionem celebrandi atque faciendi habet facultatem. [§1] Dummodo Fassio huiusmodi non sit in præiudicium filiorum vel fratrum manifeste vergens. [§2] Non sitque coacte & violenter vel timore celebrata. Nam

his modis facta per mulierem legitima super ea re reclamazione nullius erit firmitatis. [§3] TITULO autem vel iure Impignoratitio Fassio inter coniuges simpliciter non admittitur nisi manifesta evidentique ex causa & ratione celebretur. Puta uxor aut de paternis aut prioris mariti laribus & domo paratas pecunias sive iocalia, gemmas & monilia vel res aureas aut argenteas palam & ad notitiam multorum ad maritum attulit, maritusque illas & illa aut ad bonorum emptionem vel redemptionem aut piscinarum vel molendinorum constructionem sive domorum ædificationem manifeste convertit. Isto & alio consimili (si scilicet abfuerit dolus omnis) casu Impignoratio & inscriptio ipsa admittenda censetur. [§4] Nam si simpliciter admittenda foret maritus ob amorem & favorem consortis suæ bona sua tanta pecuniarum sæpe summa involveret (si præsertim erga suos successores odio duceretur) ut vix eo decedente successores ipsi ea bona prænotata de manibus uxoris vel cui illa tandem inscriberet eliberare possent. [§5] Et idem est ex parte quoque uxoris ad virum (si rationabilis & evidens causa casusque occurrerit) intelligendum.

De legitima & illegitima puerorum etate, et procuratoria eorum constitutione. cxi.

QUoniam decedentibus & ex hoc sæculo migrantibus dominis, baronibus magnatibusque & nobilibus liberi & pueri eorum in tenera sæpe & illegitima ætate solent remanere & in tutelam educationemque & defensionem aliorum merito de iureque coguntur devenire ideo super ipsorum quoque puerorum tutela & educatione tractare necessario congruit. [§1] Antequam tamen de ipsa tutela tractetur de ætatibus eorundem puerorum aliquid disserendum occurrit. [§2] Ubi sciendum quod liberorum alii sunt perfectæ ætatis, alii imperfectæ. Perfectæ ætatis sunt masculi viginti quatuor annorum. Fœminæ vero iuxta modernorum consuetudinem sedecim annorum. [§3] Imperfectæ autem ætatis sunt, qui infra huiusmodi perfectæ ætatis annos vitam agunt. Et horum alii sunt legitimæ ætatis, alii vero illegitimæ. Legitimæ ætatis (qui & puberes dicuntur) masculi pariter & fœmellæ nostra hac tempestate sunt duodecim annorum. [§4] Licet de nostra veteri consuetudine masculi decimo quarto, fœminæ autem duodecimo eorum anno dicantur esse legitimæ ætatis. [§5] Vocantur autem vel dicuntur legitimæ pro eo quod lites iam cum alio agere & instituere possunt. Omnes autem alii infra hos annos vitam agentes illegitimæ ætatis nominantur. [§6] Quanquam igitur secundum antiquorum usum & consuetudinem masculi quartodecimo ætatis eorum anno procuratores constituere cœperint nostro tamen ævo & iuxta modernorum usum anno ætatis ipsorum duodecimo generaliter procuratores constituere, Anno vero decimo & sexto super debitis ac pignoris titulo anno autem decimo octavo de auro & argento cæterisque rebus ipsorum mobilibus Fassiones facere possunt. Anno tandem vigesimo quarto universa bona & quælibet iura eorum possessionaria vendendi, permutandi & quocunque titulo voluerint alienandi plenariam habent facultatem. Conditionibus tamen super venditione ac alienatione bonorum & iurium possessionariorum superius conscriptis per omnia semper observatis. [§7] PUELLE vero anno nativitatis earum consimiliter duodecimo procuratores constituere, Decimo quarto de debitis ac iuribus Impignoraticis auroque & argento ac aliis rebus mobilibus respondere, Sextodecimo vero anno super Quartalitiis, Dotibus ac cunctis aliis earum iuribus etiam possessionaria datione ipsas concernentibus Fassiones modo præallegato & conditionibus sub prædeclaratis facere & prout libuerit de eisdem disponere possunt. [§8] Dummodo puellæ in capillis existentes & præcipue sub tutela alienorum constitutæ ad Fassionem aliquam ipso sextodecimo anno, vel etiam post peragendam violenta coactione non inducantur. Nam hoc modo postquam nuptui traditæ fuerint Fassionem huiusmodi coactam simpliciter revocandi & retractandi habent auctoritatem, cum potissime sui iuris tunc non fuisse dinoscantur hoc est non in potestate propria constitutæ.

Qui vel que intelligantur sui iuris esse, & de puerorum triplici tutela. Tit. cxii.

SU*i* iuris autem dicuntur esse qui in nullius potestate consistunt. [§1] Virgines autem & puellas quamdiu viro nupserint semper sub alterius tutela & potestate persistere constat. Nam aliter carente tutore puellę ipsę ex ingenii earum levitate facile seduci decipique possent. UNDE merito de tutela & tutoribus puerorum aliquid dicendum congruit. [§2] Ubi notandum quod triplex est tutela scilicet Legitima, Testamentaria & Dativa quę licet diffinitive sit potestas ad tuendum eum qui ob imperfectam ætatem se defendere nequit de iure data atque permissa tamen virtute sui vocabuli defensionem semper designat. [§3] Unde & tutores auctoritatem solummodo defendendi & non alienandi bona pupillorum habent.

De prima tutela, que legitima nominatur.

Titulus cxiii.

TU*t*ela igitur Legitima dicitur parentum pariter & fratrum defensio. Nam si patre præmortuo & matre superstite filius vel filia illegitimę ætatis in domo paterna remanserit mater sua quamdiu titulum & nomen mariti sui præmortui gesserit & ad secundas nuptias se non transtulerit tutelam filii & filię gerere exercereque permittitur. [§1] Et econverso si mater decesserit patre superstite si etiam de ignobili ac rustica progenie pater ipse oriundus fuerit, & iura possessionaria in filium vel filiam non paterno sed materno iure redacta extiterint tutelam bonorum atque etiam liberorum pater & nemo alter exercebit. Maior namque reputatur tutela personę quam bonorum conservatio & hoc infra tempus illegitimę ætatis puerorum. Licet puellas etiam post tempora legitimę ætatis infra maritacionis tempus sub tutela semper esse conveniat prout immediate prænotatum est. [§2] Animadvertendum tamen est quod si pater ignobilis secundam uxorem duxerit & bona pupillorum a priore uxore relicta dilapidare ceperit hoc casu tutela eius cessabit, & in alterum transibit. [§3] VERUM TAMEN pater nobilis existens etiam nepotum suorum (filio decedente) tutelam & provisionem tanquam caput principale supportabit. [§4] NEC id prætermittendum est quod si pupillorum mater separata patrimonia ipsam solam & non maritum concernentia habuerit mortuo marito (si etiam ad secundas nuptias se transtulerit) a tutela filiorum vel filiarum in ea parte mater excludi non debet, ex quo successio bonorum sit causa tutelarum, & ipsa censeatur esse quę debet filios & filias in huiusmodi bonis suis post se relinquere successores & hæredes. [§5] VERUM tamen si filius fratres habeat ad quos successio seu devolutio iurium & bonorum paternorum spectare videatur curam & tutelam eorundem bonorum paternorum frater propinquior & non mater exercebit sicuti de fratrum & consanguineorum tutela infra clarius dicitur.

De secunda tutela, que testamentaria appellatur. Tit. cxiiii.

SE*c*unda tutela dicitur Testamentaria dum videlicet pater in agone constitutus & filios vel filias tenere illegitimęque ætatis existere & fratrem cui onus tutelę congrueret aut non habere aut habere sed illum ad bona sua diripienda aspirare & ex eo suspectum tutorem futurum esse considerans, filios suos vel etiam filias tutelę defensionique cognatorum aut consanguineorum vel sæpe amicorum suorum submittit. [§1] Et hæc tutela non solum ad filios vel filias superstites sed etiam ad postumos & postumas se extendit quę (nisi fratrum

carnalium vel uxoris legitima & iusta præpediatur contradictione, & dummodo talibus personis quæ ad tutelam secundum consuetudinem patriæ nostræ admitti consueverunt testatio tutelæ fiat) semper tenet atque valet.

De tertia tutela, que Dativa nuncupatur. Tit. cxv.

Tertia tutela dicitur Dativa quia datur a principe, quæ etiam principis & patronorum tutela nuncupatur. [§1] Et habet fieri quando tam Legitima, quam etiam Testamentaria tutela desinit & deficit hoc est si pater intestatus decesserit & nec fratres nec consanguineos quibus tutela competeret post se reliquerit. [§2] Tutelæ datio ad principem & patronum spectat. Quoniam deficientibus cunctis fratribus qui vigore successionis bonorum onus tutelæ subire debebant mox huiusmodi ius successionis in principem redundabit qui tanquam legitimus & verus ipsorum orphanorum & pupillorum successor ac patronus de tutela ipsorum providere consuevit & de facto ex suscepti regiminis sui officio subvenire debet. [§3] UBI SCIENDUM quod princeps ipse noster præmissis sic stantibus tales tutores orphanis & pupillis ipsis dare designareque debet quos intellexerit ad bona & iura illorum possessionaria non aspirare & in eo comitatu habitare ubi orphani quoque ipsi residentiam personalem habent. Et quod de alienatione vel dilapidatione bonorum eorundem pupillorum per ipsos tutores facienda non timeatur. [§4] DEBENT autem huiusmodi dativi tutores coram comite vel vicecomite si fieri poterit, aliter autem coram uno aut duobus iudicibus nobilium illius comitatus in quo (ut præfertur) pupilli ipsi habitare dinoscuntur. Vel si bona & iura possessionaria eorum multa & magna in diversisque comitatibus sita fuerint & posita coram uno ex iudicibus regni ordinariis vel eorum vices gerentibus (prout videlicet bonorum ac iurium ipsorum possessionariorum qualitas & conditio requirit) super omnibus rebus & bonis ipsorum orphanorum Inventarium & regestum facere ut expleta tutela de omnibus rebus inventis & manibus eorum assignatis & de fructibus quoque bonorum tempore medio perceptis congruam rationem reddere queant. [§5] Quoniam de male dispensatis orphanis illis iam legitimam ætatem agentibus tutores ipsi satisfacere tenentur, et non solum Dativi verum etiam Legitimi ac Testamentarii tutores ad præmissa facienda pariter obligantur. [§6] QUOD AUTEM impuberes seu illegitimæ ætatis pupilli & orphani sub tutela esse debeant naturali iuri rationique consonum & conveniens videtur ut illi qui propter imperfectam ætatem sese defendere nequeunt aliorum tutela defensioneque gubernentur.

Qualiter virilis & qualiter feminei sexus fratres in tutela succedant. cxvi.

SEd ut præmissa clarius innotescant sciendum est quod quia onus tutelæ eo ordine defertur & notatur quo bonorum successio seu iurium possessionariorum devolutio, Deficientibus igitur & non existentibus testamentariis tutoribus ad fratres & consanguineos defuncti hominis in quos videlicet eo hæredibus deficiente bona sua devolvi deberent tutela pupillorum defertur & derivatur. [§1] FRATERnalis autem propagatio duplicem per lineam virilem scilicet & fœmineam descendere consuevit. Fratres itaque per lineam virilis sexus descendentes (qui & agnati nominantur) semper consanguineis & fratribus muliebris sexus (qui etiam cognati dicuntur) in tutela subeunda præferuntur & isti fœminei sexus cognati non aliter nisi deficientibus per omnia fratribus virilis sexus sive agnatis ad tutelam exercendam admittuntur. [§2] Et tunc quoque non aliter nisi bona & iura possessionaria pupillorum & orphanorum utrumque sexum virilem scilicet, & fœmineum aperte concernere manifesteque sequi dinoscantur. [§3] Nam si de bonorum & iurium possessionariorum successione atque

devolutione (utrum scilicet illa utrique sexui deserviant vel certe sexum solummodo masculinum concernant) dubitatur tunc cognati ipsi (etiam agnatis non extantibus) ad tutelam non admittuntur ne bonorum ipsorum orphanorum dominium & possessionem sub huiusmodi tutelæ colore pro se vindicare videantur. Unde in hoc quoque casu Dativi magis tutores a principe postulantur.

Quid si iura possessionaria utrumque sexum concernant de tutela faciendum sit. cxvii.

ADvertendum tamen est quod si iura possessionaria pupillorum utrumque sexum aperte sequuntur hoc est si etiam fœminei sexus homines in illis iuribus possessionariis vivente adhuc orphanorum ipsorum patre reale dominium habuerunt tunc de tutela gerenda distinguendum erit. [§1] Aut enim agnati & cognati unius & eiusdem sunt ætatis aut annis & ætate inter se differunt. Si eiusdem ætatis & tutelæ capaces fuerint hoc est viginti quatuor annorum extiterint tunc agnati (prout immediate præmissum est) tutelam ipsam gerere debent. Si tamen cognati maiores & agnati minores annis fuerint interea temporis quoadusque agnati tutelæ capaces erunt cognati sunt ad tutelam gerendam admittendi [§2] licet post tempus legitime ætatis etiam infra perfectam puerorum ætatem viginti quatuor annos modo antelato representantem plerosque fratrum & agnatorum ad tutelam deputatos fuisse recolimus. In casu præcipue quo matrem orphanorum ad secundas nuptias transisse, & per hoc bona eorum desolationi subiacuisse comperimus & eiusmodi quoque tutela in casu præmisso tenet. [§3] INTELLIGENDum tamen semper est tam de agnatis quam etiam cognatis hoc est fratribus virilis & fœminei sexus modo præhabito onus & exercitium tutelæ qui in gradu lineæ consanguinitatis propinquiores orphanis & proximiores annisque & ætate maiores esse dinoscuntur.

Quid sit agnitio & cognatio, vel agnatus & cognatus. Tit. cxviii.

UBi breviter sciendum est quod hoc nomen agnationis non est naturale sed civile nomen, & inventum est iure civili ad differentiam naturalis cognationis ut per hoc diversitas originis masculorum & fœminarum distingueretur. [§1] Ex quo claret quod omnes qui sunt agnati sunt etiam cognati sed non econverso. Quoniam agnitio species est cognationis, cognatio vero generale nomen est tam ad masculos, quam fœminas pertinens. Quamvis agnatio (sicut prætractum est) virilis dumtaxat & cognatio fœminei sexus homines hoc in loco designet.

Utrum testamentaria tuitio destruat legitimam & econverso. cxix.

SEd quæstio suboritur: Utrum testamentaria tutela adimat legitimam, vel econtra Legitima testamentariam? Dicendum quod Testamentaria rite bonoque modo & illis personis quæ ad tutelam de iure admittuntur facta aufert sæpe legitimam sed non semper. [§1] PRO cuius lucidiori notitia & intelligentia advertendum est quod si pater (etiam sui iuris existens) filios suos impuberes & teneræ ætatis talibus personis quæ periuri vel publici aucarii patria lingua lwdas nuncupati aut aliter infames sive proscripti essent, vel notam infidelitatis quovis modo incurrissent (si etiam per virilis sexus lineam de parentela sua descendissent) tutandos committeret quia per eorum huiusmodi infamiam & notam a iure successionis deciderunt ad tutelam in præiudicium fratrum de iure succedere debentium non admittuntur. [§2] SIMILIter si pater filias suas (non existentibus filiis) cognatorum cuiquam in testamento submitteret

defensandas huius quoque tutela in præiudicium & periclitationem iurium agnatorum seu fratrum condivisionalium & in bonis suis rite succedentium facta non tenet nec admittenda censetur ne sub colore eiuscemodi tutelæ fratres ipsi iustis eorum iuribus fraudari dinoscantur. [§3] Sæpe namque pater filiis orbatum se cernens amore filiarum captus nedum per tutelam verum etiam aliis exquisitis coloribus & titulis in bonis suis illas in fratrum succedentium præiudicium hæreditare nititur. [§4] ECONTRARIO vero ubi pater fratrum sive agnatorum suorum quempiam ad bona sua novæ divisionis vel alio titulo & colore aspirare vel de facto lites illum inde suscitare cognoverit non obstante successionis & consequenter legitimæ tutelæ iure filios suos cui maluerit protegendos testando committere poterit. [§5] Non tamen cognatis ob rationem superius prædeclaratam. Nisi forte bona & iura possessionaria utrumque sexum manifeste sequantur atque concernant. Nam hoc casu etiam cognatis suis pupillos & filios suos tutandos submittendi habet potestatem.

Duo corollaria notanda de successione Tutoria. Tit. cxx.

EX premissis itaque duo corollaria subinseruntur. PRIMUM quidem quod tutores testamentarii rite constituti cæteris tutoribus videlicet Legitimis & Dativis præferuntur: ita ut primo testamentarii deinde Legitimi & ultimo loco Dativi ad tutelam exercendam admittuntur. [§1] COROLLARIUM secundum quod quia tutela secundum bonorum (sicuti iam prædeclaratum est) devolutionem defertur ideo etiam fratres adoptivi ad quos bona & iura possessionaria cuiuspiam virtute alicuius contractus & regii consensus derivanda sunt eo in semine masculino deficiente & filias habente gerendam ad tutelam tanquam agnati rite succedunt & admittuntur cognatorum quorumcunque iure vel tutela non obstante.

De casibus, in quibus fratres: ad tutelam non admittuntur. Tit. cxxi.

SCIendum ulterius quod quatuor sunt præcipue casus, in quibus agnati seu fratres sive carnales sive uterini, sive condivisionales ad tutelam subeundam non admittuntur. [§1] PRIMUS quando fratrum quispiam caput suum & bona sua amittit prout sunt qui in sententia capitali convincuntur. Quamdiu enim frater ipse gravamini & oneri huiusmodi sententiæ subiectus fuerit tutelam exercere non permittitur. [§2] SECUNDUS casus si villam, quæ ad successionem fraternam mutuo pertinebat sine rationabili & evidenti causa vendendo vel aliter a se alienando amiserit. Si etiam per hoc libertatem capituli retinuerit tunc tutelæ officium amittitur. Nam etiam de dilapidandis & alienandis orphanorum ac pupillorum bonis præsumptio pariter & suspicio de illo per hoc habetur. [§3] TERTIUS casus est si quis fratrum sive agnatorum alieno iuri hoc est potestati se subiecerit vel subici permiserit. Qui enim iuris sui non est alterius tutelam gerere non potest. [§4] QUARTUS casus quando quis notam infidelitatis incurrit, aut de periurio convictus vel aliter infamis effectus sive proscriptus fuerit. Prout enim exinde a iure successionis cecidit ita per hoc tutela quoque deperit.

Quot modis possunt excusari tutores ab onere tuititionis. Tit. cxxii.

NOTandum deinde quod tutores & præsertim Dativi multis modis ab onere tutelæ sese excusare possunt. [§1] PRIMO propter filiorum multitudinem & loci distantiam. Quia variis negotiis incumbere nequeunt. [§2] SECUNDO propter villarum seu possessionum in diversis locis & comitatibus adiacentium multitudinem. [§3] ITEM propter continua bella principum si

fuerint milites actu & opere militiam exercentes. [§4] ITEM propter servitium reipublicæ & expeditionem negociorum principum prout sunt Cancellarii, Oratores extra regnum delegati, Magistri Prothonotarii, Provisores curiarum, Administratores proventuum, Dispensatores rerum & pecuniarum & alii consimilia officia gerentes. [§5] ITEM propter insanabilem & incurabilem infirmitatem. Sæpe etiam ob litterarum inscientiam. [§6] ITEM propter capitalem inimicitiam, quam habuerunt adversus patrem pupillorum & itidem habent contra pupillos. [§7] ITEM propter senium quando videlicet sunt ultra sexaginta annos. [§8] ITEM dum imperfectæ ætatis seu minores viginti quatuor annis fuerint ab oneribus tutelarum gerendis sese (si volunt) excusare poterunt.

Quod tutores fideliter tenentur gerere officium tutele, et quot modis fiunt suspecti. Tit. cxxiii.

CONsiderandum demum est quod tutores fideliter & probe debent tenenturque gerere pupillorum tutelam. [§1] Nam aliter si comperti fuerint in suspitione maleque & sinistra tutelam gessisse non solum removentur ab officio & administratione tutelæ verum insuper si in rebus ac bonis pupilli temporalibus suspecti, deprehensi & agniti fuerint ad duplum reddendum pupillo condemnantur. [§2] Si autem in personam pupilli vel causam eius prætextu iurium suorum possessionariorum motam contrarie infideliterque egisse comperti extiterint infamia sempiterna inde sequi debet. De damnis præterea per hoc illatis ad duplum (ut præfertur) reddendum sunt compellendi. [§3] TUTORES autem redduntur fiuntque suspecti pluribus de causis. PRIMO si bona eorum propria stulte consumunt. [§4] SECUNDO si pupillis necessaria vitæ victum scilicet & amictum debite non administrant. [§5] ITEM si nulla exigente causa rationabili ipsos pupillos male tractant. [§6] ITEM si illos bonis moribus non erudiunt vel ipsi tutores malorum morum existunt. [§7] ITEM si sunt nimium pauperes. [§8] ITEM si fuerint capitales inimici patris pupillorum, aut eo decedente sunt iam vel esse volunt solis pupillis hostes manifesti. [§9] ITEM si timetur quod ad bona pupillorum sibi ipsis vendicanda aspirant & ea pro se usurpare contendunt.

Qualiter tutores accusari possunt, et de pupillis furiosis. Tit. cxxiiii.

CAeterum advertendum est quod huiusmodi tutores sive testamentarii, sive alterius generis existant super præmissa suspitione hoc est de crimine malæ dispensationis & dilapidationis rerum & bonorum orphanorum omnes indifferenter sive sint viri sive mulieres, extranei, consanguinei & affines accusare possunt si ob pietatis causam id faciunt. [§1] Pupilli tamen illegitimæ ætatis per se tutores suos accusare nequeunt. Verum adveniente transactaque legitima ipsa ætate ubi scilicet lites iam gerere & instituere poterunt si orphani sane mentis fuerint curatores suos ex consilio proximorum suorum accusare possunt. [§2] UBI sciendum quod postquam filii legitimæ ætatis annos transegerint invitis & non consentientibus eisdem patres eorum tutores illis in testamento substituere non possunt cum illius sint iam ætatis ut se processu iuris defendere queant. [§3] UBI AUTEM volentibus vel forsitan postulantibus filiis post tempora pubertatis per parentes ipsorum tutores assignantur illi iam non tutores sed potius curatores appellantur. Quia tutores impuberibus & invitis, curatores autem puberibus & petentibus dantur. [§4] Et hoc si petentes ipsi compotes sunt rationis. Nam alioquin si filii amentes, furiosi, lunatici vel mente capti fuerint etiam post tempora legitimæ eorum ætatis tutelæ testamentariorum, aut illis non existentibus fratrum sive agnatorum suorum, & illis quoque deficientibus, Dativorum a principe scilicet vel forsitan iudicibus ordinariis in iudicio

deputatorum subiciuntur, & illorum provisione simul cum bonis & iuribus eorum possessionariis gubernantur. [§5] QUIQUIDEM tutores in casu necessario & præsertim ad sustentationem illorum cedenti tam onera eorum super se assumere quam etiam de bonis eorum prout necessitatis conditio postulabit disponere possunt, ea tamen alienare non possunt.

Quod princeps etiam extra terminos iudiciorum de tutore providere potest.

Titulus cxxv.

CUM itaque onus tutelæ pium opus sit accusatio tutorum de suspitione etiam extra terminos Octavales & Brevium iudiciorum semper dum suspitio occurrit libere fieri & ad principem sive regiam maiestatem deferri poterit ne bona pupillorum male & inutiliter consummantur. [§1] Et postquam aliquis tutorum de suspitione ipsa hoc est de crimine malæ dispensationis & dilapidationis bonorum orphanorum accusatus fuerit mox illi administratio tutelæ & omnium bonorum pupillorum per principem interdicitur et infra decisionem causæ ad manus communes illa dantur & assignantur. [§2] UBI autem tutor ipse suspectus priusquam cognitio suspitionis terminaretur ab hac luce decederet tunc conditio pœnaque suspitionis extinguitur quidem attamen hæredes & successores eiusdem tutoris rationem super malè dispensatis rebus dare tenentur, & ad satisfactionem compelluntur. [§3] SI VERO tutorum quispiam tutelam & officium tutelæ fraudulenter gerere & administrare deprehendatur, etiam si satisfacturum vel satis daturum se offerat & super ea re fideiussores etiam promittat atque ponat nihilominus tamen removendus est ab officio tutelæ & alius per principem bonæ famæ & conditionis tutor loco illius assignandus atque substituendus. OBLATIO enim satisfactionis tutoris propositum malum non tollit & animum iterato male agendi non evitat quin potius voluntatem diutius grassandi in rebus & bonis pupillorum præstat atque demonstrat super his autem providere remediumque adhibere ad solum principem spectat.

Quod tutores in cunctis causis pupillorum procedere possunt. Tit. cxxvi.

ITEM hoc quoque non prætermittendum est quod cum tria sint genera tutorum videlicet legitimi testamentarii & Dativi super eorum tutela testimonium evidens in iudiciis produci debet. [§1] Quod postquam productum fuerit & sese tutores esse docuerint in cunctis causis, differentiis & earum processibus & aliis negotiis orphanorum & pupillorum tam coram iudicibus regni ordinariis, quam etiam alias ubilibet vigore litterarum Revisionalium usque ad tempora legitimæ ætatis eorum procedendi & omnia rite expediendi habent auctoritatem [§2] sine quorum scitu & consensu pupilli ipsi nec procuratores (adveniente legitima ipsorum ætate) constituere debent. Nec etiam Fassiones aliquas infra tempus pupillaris ætatis eorum facere possunt. Qui si procuratores constituerent aut Fassiones interea facerent nullius erunt firmitatis omnino.

De etatibus pupillorum revidendis et litteris inde Revisionalibus. cxxvii.

Ætates autem pupillorum per iudices ordinarios regni vel eorum Prothonotarios aut in locis testimonialibus hoc est Capitularibus vel Conventualibus revideri, metiri & discuti solent. [§1] Et huiusmodi revisioni (dummodo litteræ super ea re Revisionales conficiantur) in omnibus iudiciis fides adhibetur. Et earundem litterarum Revisionalium virtute tutores in personis orphanorum tam agere & opponere, quam etiam ad obiecta & proposita respondere

semper possunt. [§2] Immo si in causæ cuiuspiam processu pupillos convinci & succumbere agnoscerent pro utilitate pupillorum non autem eorum destructione plenariam cum adversa parte nominibus & in personis eorundem orphanorum concordandi & in unionem (prout negotiorum qualitas exigit) deveniendi habent facultatem.

Quid littere Revisionales valeant, & quomodo Fassionis infra perfectam etatem facte retractari debeant. cxxviii.

CAeterum litteræ Revisionales quæ vim litterarum Procuratoriarum in omnibus negociis & causis habent etiam transacta & expirata pupillari ætate tantum iuvant & conferunt orphanis ut si ipsi muneribus forte corrupti vel blandis sermonibus seducti sine metu & comminationibus aliquorum percussi atque coacti Fassionis perennes super bonis & iuribus eorum possessionariis infra & usque perfectam ipsorum ætatem viginti quatuor scilicet annorum spacia cuicumque, quandocumque & ubicumque facerent conspectis postea ipsis solummodo litteris Revisionalibus poterunt huiusmodi Fassionis per orphanos retractari & in irritum revocari. [§1] ITA tamen si orphani Fassionis illas in consulte sese fecisse perpendentes antequam tempus perfectæ ætatis eorum expleatur easdem coram iudicibus ordinariis regni, vel magistris illorum Prothonotariis, aut in locis testimonialibus ore proprio revocabunt atque retractabunt. [§2] Et eiuscemodi revocatio non solum ibi vel coram eo quo Fassio facta fuit sed etiam in conspectu aliorum iudicum & testimoniorum infra præfixi termini perfectæ videlicet ætatis ipsorum spatium rite semper fieri valebit. [§3] Si tamen interea Fassionis huiusmodi revocare & retractare non curabunt postea Fassionis ipsæ perpetuæ firmitatis robur obtinebunt semperque locum habebunt. Conditionibus tamen in possessionaria venditione requirendis superius prænotatis semper salvis. [§4] Facta vero præmissa revocatione & retractione eiuscemodi Fassionis revocans ipse semper infra tempus Præscriptionis triginta videlicet duorum annorum spatium lites & causas prætextu ipsius revocatæ Fassionis suscitandi habebit facultatem.

Quod orphani in causis contra eos tempore pupillaris etatis ipsorum motis respondere non tenentur. cxxix.

Hinc est etiam quod orphani durante pupillari eorum ætate solummodo per productionem & ostensionem litterarum Revisionalium ab omni causa & lite tempore pupillaris ætatis ipsorum contra eos mota liberantur, [§1] nec coguntur ad instantiam alicuius in processu cuiusvis causæ vel litis sive ratione iurium possessionariorum aut Dotalitiorum vel Quartalitiorum sive actuum potentiariarum vel damnorum aut etiam aliorum quorumcunque negotiorum adversus eos in ipsa pupillari seu illegitima eorum ætate subortæ & suscitata (demptis tamen causis tempore patris ipsorum inchoatis) infra tempus legitimæ ætatis eorum respondere. [§2] VERUM tamen si occasione iurium possessionariorum stante adhuc & durante pupillari & illegitima ipsa ætate causa aliqua per longum litis processum terminari solita contra pupillos exorietur tunc tenebit quidem processus usque ad responsionis terminum sed in ipso responsionis termino virtute litterarum Revisionalium pupillaris vel illegitima ætas orphanorum allegari & causa ipsa per hoc ad primum annum legitimæ ætatis, hoc est ad duodecimum annum orphanorum integrum, quando videlicet iam primo procuratores constituere incipient prorogari differrique debent. [§3] Nam aliter si prius respondere cogentur, vel etiam ex imperitia sponte responderent talis responsio non tenebit, sed simpliciter & de plano retractari valebit.

Quod pupilli in causis tempore patris eorum inchoatis respondere coguntur. Tit. cxxx.

SUPERius autem clausulam hanc: DEMPTIS causis tempore patris orphanorum inchoatis non frustra posui. Quoniam isto casu pupilli quantumcunque parvuli ad omnes causas vivente patre eorum contra se motas & suscitatas respondere & debitum finem in illis facta responsione consequi & habere tenentur. [§1] Et si in processibus eiusmodi causarum iuramentum forte per aliquem pupillorum præstandum iudicaretur depositio eiusdem iuramenti ad primum annum legitimæ ætatis ipsius pupilli prorogabitur prout hac de re limpidius in serie iuramentorum depositionum in secunda parte huius opusculi tractabitur.

Casus quidam in quo pupilli etiam illegitime etatis respondere tenentur. Tit. cxxxi.

PREterea reperitur etiam alter casus in quo pupilli non obstante illegitima & pupillari eorum ætate per tutores suos respondere & prosecutioni causarum in ipsa eadem ætate motarum superintendere tenentur quando videlicet Introductioni & Statutioni vel metali Reambulationi aliquorum iurium possessionariorum per quoscunque factæ nominibus & in personis ipsorum orphanorum contradictionis velamine obviatur. Et ob huiusmodi contradictoriam inhibitionem pupilli ad octavales terminos evocantur. [§1] Nam isto quoque casu, more & instar aliorum legitimæ ætatis hominum processu iuridico observato respondere & rationem contradictionis eorum reddere debent. ET RATIO est quia sponte & proprio eorum motu causæ huiusmodi sese ingerunt. Et quamvis ad alterius instantiam evocentur tamen ipsi magis videntur actores, quam in causam attracti tunc existere qui conantur iuribus alterius partis manifeste resistere. [§2] Nisi enim Statutioni vel Reambulationi & per consequens iuribus partis alterius sponte contradicerent, nusquam eos in litem attraherent. Et ideo non contra eos quin potius per eos causa in hac parte suscitari videtur. [§3] SECUS tamen est si Statutio vel Reambulatio metarum per quempiam in dominium talium terrarum aut bonorum & iurium possessionariorum facta fuerit, quæ pacifice præ manibus orphanorum habentur. Nam hoc casu velint nolint ipsi Statutioni vel etiam Reambulationi contradicere debent. [§4] Aliter enim per taciturnitatem de dominio illorum aut illarum excluderentur & idcirco respondere in hac parte sicuti in prænaratis cæteris causis infra tempus legitimæ ætatis eorum non tenebuntur. [§5] In causis vero ratione bonorum per defectum seminis aliquorum decedentium a principe impetratorum, vel vigore contractuum in quempiam derivatorum motis processus & ordo superius exinde conscriptus atque declaratus observari debet.

Quod evocatores pupillorum in homagiis eorum vincuntur. cxxxii.

SCIendum postremo quod ex quo pupilli usque tempora legitimæ eorum ætatis quando scilicet ab omni tutela liberantur nec cum scitu, nec sine scitu tutorum aliquid facere possunt quia sui iuris non sunt. [§1] Ideo siqui tales orphanos occasione actuum potentiarios (asserendo per ipsos aut de eorum commissione eiusmodi actus potentiarios fuisse patratos) in causam convenerint & attraxerint mox in Homagio illorum (quemadmodum super Evocationum conditionibus in ipsa secunda parte declarabitur) vincuntur.

Quid sit et qualiter fiat bonorum mobilium et immobilium estimatio. cxxxiii.

QUoniam autem ad nonnullorum negotiorum expeditionem pernecessaria est bonorum estimatio, ideo series ac modus eius hic merito subnecti debet. [§1] UNDE notandum est quod iuxta veterem & approbatam huius regni nostri consuetudinem estimatio dicitur bonorum mobilium & immobilium competentis valoris limitata quadam ac statuta taxatio. [§2] Vel aliter, estimatio est rei mobilis & immobilis secundum sui equivalentiam vel valorem taxata quadam limitatio. [§3] Et duplex est estimatio scilicet perennalis & communis. Estimatio perennalis quæ in iuribus dumtaxat possessionariis & non rebus mobilibus fieri solet decies tantum facit quantum communis. [§4] In estimatione namque communi una sessio Iobagionalis populosa pro una marca seu ad unam marcam quatuor florenos facientem, In perennali vero estimatione ad decem Marcas quadraginta florenos continentes computatur. [§5] Quæ perennalis estimatio paucis in rebus, ac causis committitur sed universus fere cœtus dominorum prælatorum ac baronum magnatumque & nobilium estimatione communi (ut plurimum) utitur. Nisi enim in Fassionibus vel obligaminibus quorumpiam estimatio perennalis claro sermone declarata aut in constitutionibus regni publicis expressa fuerit eius usus raro admittitur. Cuiusquidem estimationis series hoc modo sequitur.

- [§6] ITEM castrum lapideum estimatur ad Marcas Centum.
- [§7] ITEM monasterium sive claustum sepulturam patronorum & aliorum specialium nobilium habens, estimatur ad M. C.
- [§8] Ecclesia cum duobus pinnaculis admodum monasterii fundata estimatur ad M. L.
- [§9] Ecclesia cum duabus turribus seu duabus pinnaculis non monasterium existens, vel non per modum monasterii fundata ad M. XXV.
- [§10] Omnes aliæ ecclesiæ matrone cum una turri sepulturam habentes estimantur ad M. XV.
- [§11] Sine turri autem constructæ tamen cum sepultura ad M X.
- [§12] Capella lignea seu sacellum non lapideum sepulturam tamen continens ad M. V.
- [§13] Absque sepultura vero ad M. III.
- [§14] Ecclesiæ autem & capellæ extra Matronam ecclesiam fundatę non ponuntur in serie estimationis.
- [§15] ITEM sessio seu curia nobilitaris populosa ad M. III.
- [§16] Habitatore vero carens ad M. unam cum media.
- [§17] Edificiis autem omnino destituta ad M. I.
- [§18] ITEM sessio Iobagionalis populosa ad M. I.
- [§19] Deserta vero sed ædificia habens ad M. mediam.
- [§20] Edificiis autem penitus carens tamen in ordine aliarum sessionum sita ad quartam partem unius marcæ videlicet denarios C.
Extra ordinem siquidem aliarum sessionum posita pro campo reputatur & in ordine estimationis non computatur.
- [§21] ITEM pomarium nobilium cum adultis & fructiferis arboribus consitum, in uno iugere terrę regalis mensurę adiacens ad M. III.
- [§22] In insula tamen Challockewz quęlibet arbor adulta & fructifera estimatur ad centum denarios usque numerum duodecim arborum ultra vero duodenarium ipsum numerum quot quot sint arbores simul tamen compute estimantur ad M. III.
- [§23] Pomarium vero Iobagionale extra villam habitum ad M I.
Retro autem seu penes sessionem existens non ponitur in estimationis serie.
- [§24] ITEM terra communis vel arabilis ad unum aratrum regalis mensurę sufficiens ad M. III.

[§25] ITEM silva communis de qua decima porcorum vel tributum generaliter non exigitur nec habet aliquem certum proventum estimatur sicut terra communis ad unum aratrum videlicet regalis mensuræ adiacens ad M. III.

[§26] De rubetis etiam & virgultis idem est sentiendum.

[§27] ITEM silva magna quæ alias permissoria dicitur pro communi opere & labore apta infra quantitatem trium aratrorum regalis mensuræ existens quodlibet aratrum ad M. X.

[§28] Ultra vero tria aratra adiacens non estimatur sed ad ipsa solummodo tria aratra reducitur estimanda.

[§29] ITEM silva maior puta dolabrosa & glandifera seu sub dolabro & venatione existens ac pro quolibet opere & artificio valens in spatio vel quantitate trium aratrorum regalis mensuræ adiacens quodlibet aratrum estimatur ad M. L.

[§30] Si vero proventus eius annualis bene potest computari signanter si fuerit glandinosa tunc pro decies tanto estimatur quantum facit proventus suus annualis ultra vero ipsa tria aratra (prout permissoria) non estimatur. [§31] ITEM si terra arabilis non extendit se ad unum vel medium aratrum regale ita videlicet ut si fuerint quinque aut sex vel decem &c. iugera tunc (opinione nonnullorum) quodlibet iugerum estimabitur ad denarios quadraginta & de silva quoque permissionali ac nemore idem dicunt esse tenendum. [§32] Verum tamen hæc limitatio pro communi estimatione accepta respectu præcedentis iusta & recta non videtur sed omnino abiicienda censetur. Nam si terram vel silvam communem ad unum aratrum regale sufficientem ad tres marcas estimabis, & aratrum ipsum ad centum ac quinquaginta iugera regalis mensuræ sequestrabis tunc si bene computabis non plures quam duodecim denarii ad quodlibet iuger terræ cedent & quatuor tantum iugera inestimata manebunt quæ ad quinquaginta denarios se extendent. Quinquaginta autem denarii ad centum & quinquaginta obulos seu quadrantes commode dividi non possunt ideo quatuor illa iugera consideratione maioris partis ut in estimata maneant necesse erit. [§33] In supputatione siquidem silvæ permissoriæ vel nemoris pro communi (ut præfertur) opere valentis ad unum aratrum se extendentis quod ad Marcas decem estimatur quodlibet iuger ad denarios. xxvi. cum obulo taxari vel estimari debeat, & pro superfluo seu residuitate denarios viginti quinque habeat. Si vero aliter ad Marcas summam ipsam dividere volueris tunc quodlibet iuger ad denarios. xxvii estimabitur & tu denarios. vii. superaddere debebis. De prænarata quoque terra idem (si volueris) cum superadditione facere valebis.

[§34] ITEM pratium seu fenetum ad unam falcem sufficiens vel alias in uno iugere terræ regalis mensuræ adiacens ad unum quartale videlicet denarios C.

[§35] Feneta autem in campestribus quæ falcari quidem possunt ratio tamen vel nunquam defalcantur in ordine estimationis non ponuntur.

[§36] ITEM molendinum subtus vel desubter currens & tempore æstus non deficiens ad M. X. Deficiens autem ad M. VI.

[§37] Molendinum desuper volvens & tempore siccitatis non deficiens ad M. V. Deficiens autem ad M. III.

[§38] Locus molendini deserti subtus currentis ad M. III. Desuper autem volventis ad M. unam cum media.

[§39] ITEM fons scaturiens seu puteus effluens & non deficiens in quacunque possessione de quo populus potare solet ad M. duas cum media. Si autem plures fuerint non estimantur sed ad unum solum includuntur omnes, quoniam ad usum unius villæ sufficit puteus unus.

[§40] ITEM piscina effluens & non deficiens ad M. X. Non effluens autem & tempore siccitatis deficiens ad M. V.

[§41] Piscina magna cum clausura existens Gyalmostho vel etiam Morothwa dicta necnon alia piscatura Danubialis, vel Thicialis, sive Zawe, aut Drawe Thanya nuncupata si habet deputatum proventum annualem decies tantum estimatur quantum facit eius proventus

annualis. Si vero computatum proventum non habet prout nos generaliter utimur estimatur ad
M. L.

[§42] ITEM loca sagenarum Weyz appellata usque ad denarium numerum pro singulis marcis
ultra vero decem usque centum vel amplius ad
M. X.

[§43] ITEM clausura quæ fit tempore inundationis aquarum Rekez dicta specialem vel
singularem proventum habens quelibet ad denarios
C.

[§44] ITEM Tributum tam super aquis quam in terris rite exigere consuetum decies pro tanto
estimatur quantum facit proventus eius annualis.

[§45] ITEM Tributum promontorii seu montis vinearum quod computatum & notabile
proventum annuatim domino suo terrestri ministrat similiter ad decies tantum estimatur sed hoc
in perenni dumtaxat estimatione locum habere censeo. Nam vinee generaliter tanquam rubeta
& virgulta de regni nostri antiqua consuetudine estimari solent ex eo quod ubi et postquam
cultores vinearum aut defuerint aut earum labores prætermiserint vinee cito defacilique in
rubeta & vepres convertentur. [§46] VERUM si rusticum quempiam vel etiam nobilem in
territorio alterius vineam habentem dominus terrestris de ipsa vinea eicere & excludere voluerit
authoritatem quidem eiciendi habet attamen non estimatione illa communi quæ de virgulto &
rubeto immediate prænotata est sed competentem valorem seu condignum precium eius iuxta
æquam rectamque limitationem & taxationem iudicis ac iuratorum civium eius loci ad quem
ipsum promontorium pertinet illi refundere tenentur.

[§47] Ista mensura sedecis sumpta facit unam mensuram: sive ulnam regalem.

[§48] ITEM unum iuger terræ arabilis aut silvæ regalis mensuræ continet in sua longitudine
septuaginta duas in latitudine vero duodecim mensuras seu ulnas regales.

[§49] ITEM unum aratrum continet in se centum & quinquaginta iugera terrarum regalis mensuræ
in estimatione rerum.

De iumentorum estimatione.

[§50] Notandum quod unus bos non claudus vel aliter non destructus ad
M. I.

[§51] Duæ vaccæ sine vitulis ad
M. I.

[§52] Una vacca cum vitulo ad
M. I.

[§53] Quatuor oves ad
M. I.

[§54] Quatuor porci ad
M. I.

[§55] Cabella sine poledro ad
M. I.

[§56] Cum poledro masculino ad
M. II.

[§57] Cum poledro fœmineo ad
M. unam cum media.

[§58] Equus sellatus secundum valorem eius estimatur.

Quot modis et quibus respectibus estimationes bonorum et rerum fiunt. Titulus. cxxxiiii.

Sciendum ulterius quod præmissa bonorum mobilium & immobilium estimatio diversis modis
diversisque respectibus fieri consuevit. [§1] PRIMO quidem ad solutionem onerum iudicialium
quæ communi & usitato vocabulo Birsagia nuncupantur & in illis tam iumenta quam etiam terræ
& iura possessionaria iuxta limitationem præscriptam estimari pariter & acceptari debent. [§2]
SECUNDO in Quartalitorum & iurium Impignoraticiorum solutione, ac bonorum per
sententiam capitalem vel emendæ capitis occupandorum redemptione, in qua

(iumentis exclusis) tamen castra ac curiæ nobiles & sessiones Iobagionales populosæ desertæque & prædiales, quam etiam terræ, silvæ, virgulta, prata, piscinae, molendina, fontes, claustra, monasteria & ecclesiae, necnon tributa, pomaria sagenarumque & clausurarum loca & generaliter omnes pertinentiæ iurium possessionariorum estimandorum modo prædeclarato taxantur. Terræ tamen arabiles & prata ad sessiones Iobagionales populosas spectantes & pertinentia (demptis terris & pratis extirpatitiis, quæ colonos proprie concernunt & non ad sessiones pertinent) non estimantur, & tandem secundum huiusmodi estimationis quantitatem solutio Quartalitorum & iurium Impignoratitorum fieri debet. Et hoc idem est etiam de iuribus possessionariis in præiudicium fratrum vel aliter indebite venditis intelligendum atque tenendum. [§3] TERTIO in Dotalitorum restitutione, in qua solummodo curiæ nobiles ac sessiones Iobagionales populosæ & desertæ atque prædiales in ordine aliarum sessionum sitæ estimantur & extra corpus possessionis nulla in hac parte estimatio admittitur, & demum iuxta eiuscemodi possessionariæ estimationis seriem restitutio Dotalitorum partim pecuniis paratis, partim vero rebus mobilibus etiam iumentis inclusis fieri solet iuxta verum precium eorundem prout videlicet in foro vendi possent acceptari debent. [§4] Hoc tamen advertendum est, quod si qua mulierum mortuo marito suo in bonis ac iuribus eiusdem mariti possessionariis titulum & nomen ipsius ferendo vita sibi comite permanere voluerit & filius vel frater aut alter successor eiusdem mariti legitimus ipsi mulieri ad quantitatem & valorem Dotalicii sui iura aliqua possessionaria vita eiusdem durante possidenda & utenda sequestrare excidereque & dare decreverit, tunc in tali casu non solum curiæ nobiles sessionesque Iobagionales populosæ & desertæ ac prædiales, sed etiam extra villam terræ, silvæ, pomaria ac fœnilia & molendina, quæ mulieri dabuntur, prout in Quartalitorum solutione estimabuntur et tantum dumtaxat sibi de iuribus illis possessionariis quantum se ad valorem ipsius Dotalicii sui extendet deputabitur utendum atque possidendum. [§5] QUARTO in solutione debitorum & refusione damnorum summarie computatorum vel specificè denotatorum. Præterea in depositione oneris facti calumniæ ac emendæ linguæ & violationis sedis iudiciariæ regiæ maiestatis ac comitum parochialium quorumlibet comituum, & aliis eiuscemodi causis ac casibus in quibus pari modo res mobiles & venales iuxta verum earum valorem & non secundum limitationem præexpressam acceptantur. [§6] QUINTO & ultimo in metarum Reambulationibus et Rectificationibus estimatio communis fieri solet. Hoc tamen ultimo modo eo solum respectu estimatio celebrari consuevit ut terræ, silvæ virgultaque vel prata aut promontoria quæ inter causantes in lite manebunt ad quot Marcas sese extendere videbuntur, cum tot nobilibus huiusmodi terras, silvas, virgulta prataque vel promontoria ille cui iuramentum per iudicem præstandum deponendumque adiudicabitur pro se & iuri suo appropriare vindicareque valeat atque possit.

Finis prime partis.

[SECUNDA PARS]

De secunda parte iurium et consuetudinum regni in generali. Titulus primus.

POstquam favente deo de principalibus rebus iurium scilicet possessionariorum Donationibus earumque speciebus, necnon bonorum Divisionibus, Venditionibus, Impignorationibus, metarum distinctionibus, Dotalitiorum & Quartalitiorum solutionibus & aliis ad ea spectantibus et annexis quibus utpote omnium dominorum prelatorum ac baronum magnatumque & nobilium fundatur exordium fulciturque dominium succincte dictum est: in hac iam SECUNDA parte huius opusculi de causarum & litium processibus & exequutionibus ac sententiarum super his ferendarum serie disserendum restat. [§1] Sed antequam ad materiam specialem huius partis explanandam veniam quia constitutio regni huius plerumque interseri debet ideo in generali qualiter constitutio seu generale decretum principis & regni interpretari debeat. Præterea unde consuetudo nostra seu lex non scripta qua hoc tempore communiter utimur initium et originem summat breviter præmittam.

Quot modis generale decretum intelligatur. ii.

CONstitutiones igitur principum sive decreta regni quatuor modis (prout occurrit) considerari possunt. [§1] Quædam enim constitutiones sunt ex toto per posteriores abrogatæ simpliciterque revocatæ. [§2] Aliæ vero partim abolitæ, partim approbatæ. [§3] Quædam autem silentio præteritæ [§4] & quædam introductæ. [§5] In his igitur constitutionibus quæ ex toto sunt deletæ, sicuti iudicium Palatinale, Proclamata congregatio, iudicium Duelli & Trineforensis proclamatio attendendum est tempus abolitionis. Quia futuris & non præteritis causis ac negociis videntur legem imponere, ita quod decetero non fiant huiusmodi iudicia Palatinalia & Duellorum dimicationes, neque proclamatæ congregationes & Trineforenses proclamationes celebrentur. [§6] In causis tamen vigore earundem inchoatis servari debet modus pristinus, quo ipsæ causæ inchoatæ fuisse dinoscuntur, non quantum ad earum iterum celebrationem, sed quo ad processum ipsarum observationem. [§7] Secus esset si per verba in eadem constitutione posita & conscripta leges ac constitutiones huiusmodi traherentur etiam ad præterita. Nam simpliciter constitutiones (ut immediate prætractum est) non ad præterita, sed futura ligant. [§8] SECUNDO vero, quando scilicet partim sunt approbatæ, partim vero abolitæ, innitendum & incumbendum est formis verborum in ipsis constitutionibus & decretis positorum, ut approbata serventur, abolita autem reiciantur & non observentur. [§9] TERTIO, quando priores leges vel constitutiones fuerunt silentio præmissæ, sic quod nulla mentio habeatur de prioribus per posteriores super variatione vel immutatione earundem. Tunc priores leges vigorem habere dinoscuntur, si contrarius usus populi illis non præiudicaverit. Nam usus realis & continuus sæpe tollit legem. [§10] Quarto vero, dum videlicet novæ leges fuerint introductæ. Tunc secundum illas oportebit iudicare, sive sint efficaces, sive mitiores prioribus. Iam enim non poterit iudicari quod bene vel male fuissent constitutæ, sed secundum ipsas oportebit iudicare.

Qui possunt condere leges et statuta. iii.

SEd quæstio occurrit pertractanda: Utrum princeps per se possit condere leges ac statuta, an opus sit, ut populi quoque accedat consensus? [§1] Unde advertendum, quod quamvis olim

populus iste Hungarorum dum adhuc ritu viveret gentilium & non regem, sed ducem ac capitaneos haberet directores, omnis potestas condendę legis & constitutionis apud eos fuerit. [§2] Verum posteaquam ad fidem Catholicam sunt conversi, & regem sponte sibi ipsis elegerunt, tam condendę legis, quam etiam cuiuslibet possessionarię collationis atque omnis iudiciarię potestatis facultas in iurisdictionem sacrę regni huius coronę, qua cuncti reges Hungarię coronari solent, & subsequenter principem ac regem nostrum legitime constitutum simul cum imperio & regimine translata est, & sic postea reges ipsi convocato interrogatoque populo constitutiones facere ceperunt prout & temporibus nostris fieri consuevit. [§3] Attamen princeps proprio motu & absolute potissimum super rebus iuri divino & naturali præiudicantibus atque etiam vetustę libertati totius Hungarię gentis derogantibus constitutiones facere non potest sed accersito interrogatoque populo si eis tales leges placeant an ne? qui cum responderint quod sic, tales postea sanctiones (salvo semper divino naturalique iure) pro legibus observantur. [§4] Plerumque autem & populus ipse nonnulla que ad publicum bonum conducere arbitratur unanimi consensu decernit, in scriptisque principi porrigit supplicans super illis leges sibi statui. Et si princeps ipse eiusmodi sanctiones acceptabit & approbabit, tunc vim legis pari modo sortiuntur. Et de facto pro legibus reputantur. [§5] Quę tamen omnia specialiter principis & non populi statuta nuncupantur eo quod nisi utroque modo principis accederet consensus & confirmatio nullius censeretur firmitatis ipsa constitutio. Verum generali nomine constitutiones ipsę sæpenumero regni decreta vocitantur.

Qui nomine populi et qui nomine plebis intelligantur. Tit. iii.

Nomine autem & appellatione populi hoc in loco intellige solummodo dominos prelatos, barones & alios magnates atque quoslibet nobiles, sed non ignobiles; [§1] licet iste terminus populus includat omnes nobiles & ignobiles pariter. De ignobilibus tamen (qui plebis nomine intelliguntur) in hac parte nihil est ad propositum. [§2] Populus enim eo differt a plebe quo species a genere. Nam appellatione populi universi nobiles tam magnates quam inferiores, etiam ignobilibus computatis significantur. Plebis autem nominatione soli ignobiles intelliguntur.

Quos ligant constitutiones & statuta. v.

ULterius si quæratur quos ligant constitutiones & decreta? Sciendum quod primo ligant ipsum principem qui eas populo postulante ædidit. Iuxta illud Patere legem quam tuleris ipse. Secus est de summo pontifice & Romanorum imperatore sentiendum de quibus nulla in hac parte notatur mentio. [§1] DEINde ligant omnes iurisdictioni principis subiectos. [§2] Et non solum illos sed etiam quoscumque forenses in hoc regno degentes. [§3] Verum si constitutio generalis tenderet ad penam vel damnum tunc forensibus dantur indutię trium mensium ut hoc tempus sit eis pro publicatione statutorum. Verbi gratia si decerneretur & constitueretur quod nemo Viennensium aut Wratislaviensium vel aliorum forensium sub amissione capitis & omnium bonorum suorum ad nundinas in hoc regno Hungarię celebrari consuetas cum mercibus suis venire vel autem oves, boves & equos gregatim de regno expellere & abigere auderet tunc infra trium mensium spatium si etiam deprehenderetur talis forensis de iure plecti vel rebus suis spoliari non posset. Quia ipsum ignorantia & non publicatio statutorum excusaret. [§4] SI AUTEM non esset penalis vel damnosa sed iuris alicuius, aut iudicii medela vel prosecutionis causę modus tunc forensibus unicus mensis assignatur. [§5] Interius vero

cuiuscunque status, dignitatis & conditionis existant sufficit tempus provulgationis statutorum, & hoc modo nec intranei, nec forenses excusantur. Namque cum fueris Romae, Romano vivito more.

Unde traxit originem consuetudo nostra in iudiciis observanda. Tit. vi.

SCIendum secundo quod quanquam omnia fere iura regni huius originaliter ex pontificii Cæsareique iuris fontibus progressum habeant, municipalis tamen hæc nostra consuetudo qua in iudiciis modo generaliter utimur ex tribus fundamentis constat. [§1] PRIMO ex constitutionibus & decretis publicis. [§2] Secundo autem ex principum privilegiis. [§3] Tertio vero ex iudicum ordinariorum regni sententiis. [§4] PRIMO (inquam) ex constitutionibus publicis cuius rei ut origo altius repetatur advertendum est, quod primus omnium gloriosus ille rex & apostolus noster beatus Stephanus primitias regum Hungariæ qui tulit, quique ad sacræ fidei lumen gentem Hungaricam convertit præclaras ædedit constitutiones, fidei tamen magis rudimenta quam litium fomenta præse ferentes & declarantes. [§5] Deinde sanctissimus rex & confessor noster Ladislaus qui gladio suo Dalmatiam partesque maritimas regno Hungariæ subiecit, quique gentem Tartaricam fines Hungarorum crebris incursionibus invadere consuetam aperto Marte sæpe conterens ab huius regni finibus procul amovit pedemque longe referre coegit leges optimas constituit. [§6] Invictissimus postea rex Andreas tertii Bele regis filius, ac beatæ Elisabeth vidue genitor, quem nos Hierosolymitanum vocitamus post felicem ab expeditione Hierosolymitana quam pro sacræ fidei Catholicæ defensione adversus Saracenos ingenti Hungarorum cum exercitu susceperat reditum super nobilium præsertim immunitate ac prærogativis libertatibus egregias sanctiones præclaraque decreta stabilivit, quæ usque in præsentem diem gens Hungarica tanquam sacra decreta ad usque sidera tollit. [§7] Demum excellentissimi principes domini Ludovicus, Sigismundus, Albertus & Mathias reges Hungariæ temporibus suis certas pari modo constitutiones fecerunt. [§8] Novissime etiam serenissimus dominus noster modernus rex Wladislaus non minus cæteris præstantiores leges condidit cuius memoria Laudabilis apud Hungaros in benedictione semper erit. [§9] Et licet huiusmodi constitutiones, ac leges præsertim sanctorum Stephani & Ladislai regum qui catalogo sanctorum ascribi digne meruerunt vetustate nimia iam pæne sint abolitæ. Qui cum & alioquin magis de divina quam humana lege tractasse dinoscantur reliquorumque subsequentium regum decreta in certis clausulis & articulis mutata variataque habeantur. Tamen ex omnium fere ipsorum divorum regum constitutionibus per longum usum aliquid legis in consuetudinem nostram plus quam per centum annos iam approbatam derivatum traductumque esse dinoscitur. [§10] SECUNDO ex principum privilegiis consuetudo nostra processit quæ cum sæpe rebus ita exposcentibus in iudicio producta legerentur & honeste iusteque (dictante ratione) ædita & confecta fuisse aprobarentur, longum per eiusmodi iudicarium exercitium certa pars nostræ consuetudinis progressum habuit. [§11] TERTIO vero & ultimo ex iudicum ordinariorum regni sententiis litterisque Adiudicatoriis iteratis immo plurimis vicibus uno & eodem ordine ac modo processuque latis & confectis ac exequutione iuridica roboratis consuetudo ipsa emanavit. [§12] Verum tamen processus iste iudiciarius & usus processuum quem in causis inchoandis prosequendis, discutiendis & terminandis observamus regnante ipso domino Karolo rege predicti Ludovici regis genitore per eundem ex Galliarum finibus in hoc regnum inductus fuisse perhibetur qui ad hæc usque tempora (variatis solummodo per publicas constitutiones quibusdam terminis) inviolabiliter semper extitit observatus observandusque est etiam in futurum semper. [§13] Nam aliter totius nobilitatis regni Hungariæ iura novarum legum per inductionem (quoadusque illæ addicerentur in usumque commune traherentur) ut in nihilum redigerentur necesse foret.

Quid sit privilegium diffinitive, et quod duplex est privilegium. Tit. vii.

Item ex quo consuetudo nostra in quadam sui parte ex principum (ut præmissum est) privilegiis sumitur hinc de privilegio aliqua dicenda statui. [§1] Unde sciendum quod privilegium dicitur quasi lex privata & singularis quæ ad unum vel ad paucos pertinet. [§2] Aliter autem privilegium dicitur prærogativum aut honor singularis. Et est principis beneficium sæpe contra commune ius indultum. [§3] DUPPLEX est autem privilegium, scilicet generale & speciale; generale est quod universitati vel collegio prout civitati aut Capitulo vel Conventui conceditur. Et illud est perpetuum. [§4] Speciale autem est quod personæ dumtaxat donatur. Et illud cum persona extinguitur. Nisi forte in eo caveatur quod virtus privilegii etiam ad hæredes & successores ipsius privilegiati derivetur. Nam hoc modo etiam hæredibus ac successoribus eius suffragari dinoscitur.

Utrum decretum tollatur per privilegium et econtra. Tit. viii.

Sed quæri potest (prout ipse quoque sæpe quesitum audivi) utrum decretum seu ius commune tollatur per privilegium & econtra, si privilegium tollatur per decretum? [§1] Quanquam multi multa dicant aliterque & aliter sentiant & pro utraque parte probationes nonnullæ in medium afferri queant. Nos tamen generaliter omnium & omnia privilegia per ius commune seu decretum tolli & invalidari tenemus. In casibus illis quibus expresse facta fuerit in generali constitutione mentio. [§2] Prout habetur in decreto moderni domini nostri regis libertatis civitatis Wissegradiensis, abolitio nonarum a civitatibus liberis exactio & alia huiusmodi. [§3] Quæ & si privilegia super eorum libertate atque novarum exemptione & non solutione pro ipsarum parte dudum habeant confecta, tamen non privilegium sed decretum ac generalis constitutio in hac parte observatur. [§4] Privilegium autem cui non fuerit expresse derogatum per legem vel generale decretum non invalidatur prout superius de consideratione & intelligentia decreti latius habes.

Quod privilegium dupliciter potest attendi et emannari, et primo legitime. viiii.

Duplex est autem privilegii consideratio scilicet in quantum ex mera principis autoritate riteque & legitime procedit. Et in quantum non sed in damnum aliorum vergit vel alias constitutioni communi derogare videtur. [§1] In quantum igitur privilegium ex mera principis autoritate procedit prout iurium possessionariorum Donatio a tributaria tricesimarumque solutione exemptio, Fororum liberorum ac nundinarum generalium Vadorumque & tributorum collatio quæ ad solum principem spectat semper observari debet dummodo iuribus aliorum manifeste non præiudicet. [§2] Et propterea in calce huiusmodi privilegiorum clausula ista semper apponi inserique solet SALVO IURE ALIENO. [§3] Nam si princeps ipse quempiam hominem ruralem vel civitatem a solutione tributorum de presenti eximeret & libertate donaret prius tamen tributariam exactionem iuste fiendam alicui fidelium suorum contulisset tunc per istud posterius privilegium scilicet exemptionale quia priori privilegio super tributo confecto palam præiudicaret primum invalidare & huiusmodi tributariam exactionem tollere non potest. [§4] Verum in bonis & tributis propriis principis qui privilegium donavit exemptio ipsa tenebit atque locum habebit.

Quod privilegium duobus modis intelligitur iuribus aliorum preiudicare. x.

Item de concessionibus quoque Fororum, Nundinarum & Vadorum idem est sentiendum quod privilegia super eisdem ædita semper sunt observanda si in præiudicium iurium aliorum non fuerint collata. Quæ duobus modis possunt iuribus aliorum præiudicare. [§1] PRIMO ratione temporis prout dictum est immediate. Quia prius emanavit privilegium alterius quod non potest tolli per posterius etiam cum clausula derogatoria. [§2] SECUNDO ratione loci. Quia vectigalia fluviorum seu Vada concedi de iure non possunt nisi ea loca ad quæ conceduntur sint ab aliorum locis ad quæ videlicet prius fuere concessa in distantia ad minus unius miliaris [§3] licet possint etiam propinquius concedi si destructionem priorum vel illis notabile damnum concessio ipsa non esset allatura. [§4] Fora etiam Hebdomadalia ac Nundinæ generales per tantam distantiam & ad loca quoque propinquiora conceduntur concedique poterunt dummodo una & eadem die aut uno tempore cum prioribus Nundinis seu Foris Hebdomadalibus noviter concessa non celebrentur & alias nova manifeste priora non destruant.

Privilegium secundo modo formatur illegitime. Tit. xi.

Alio modo potest considerari privilegium in quantum non ex mera principis autoritate procedit hoc est quod princeps non habet iustam legitimamque facultatem concedendi tale privilegium quia vergit in præiudicium aliorum, vel quod iuri communi ac constitutioni generali præiudicare dinoscitur. [§1] Et huiusmodi privilegium non valet prout exempli gratia in decreto communi continetur quod transsumptis litterarum extra terminos Octavales confectis in iudiciis fides non adhibeatur. Princeps autem si cuiuspiam privilegium simpliciter transsummi faceret cum clausula derogatoria videlicet NON OBSTANTE lege vel decreto regni nostri huiusmodi transsumpto volumus fidem adhiberi &c. Aut Statatorias litteras cum gratia concederet quod scilicet non obstante annuali revolutione iam transacta Donationem aliquam executioni demandare teneantur. Quia iuri & consuetudini regni huius aperte derogari videtur ideo non observatur, neque observandum censetur. [§2] Idem est sentiendum super illis privilegiis si quibus super eo concessa fuerunt vel in futurum concederentur quod in sedibus iudicialibus comitatum coram comitibus parochialibus ad cuiusvis instantiam respondere non teneantur, neque in præsentiam aliorum iudicum regni ordinariorum nisi in præsentiam solius maiestatis regni vel personalis præsentie suæ in causam conveniri possint. [§3] PRÆTEREA si iuramentum cuiuspiam dominorum vel nobilium prestandum adiudicaretur, & privilegium inde produceretur quod non ipse reus in persona sua sed officialis suus illud deponere teneretur & huiusmodi etc. quia generali consuetudini totius regni ab olim approbatæ tale privilegium præiudicat nusquam tenetur. [§4] Omnes enim domini & nobiles tam scilicet spirituales quam sæculares, cæteri etiam possessionati utriusque sexus homines qui in hoc regno Hungariæ bona ac iura possessionaria gubernant pari lege unaque & eadem consuetudine in ipsorum iurium possessionariorum conservatione atque cunctarum causarum inde emergendarum prosecutione uti debent prout in PRIMA quoque parte prenotatum habetur.

Quot modis carebit privilegium sua firmitate. xii.

Notandum ulterius quod privilegium multis modis suo carebit vigore. [§1] PRIMO enim perditur & invalidum erit privilegium quando quis fecerit contra privilegium sibi concessum,

aut male eo utitur. Quia meretur privilegium amittere qui concessa sibi abutitur potestate. Quemadmodum ille qui super malefactorum in territorio suo deprehensorum punitione privilegium principis habet & capto fure vel predone non eum suspendit vel palo affigit sed pactatum pecunię summam ab eo extorquendo dimittit, talis privilegio suo abutitur. Quia princeps malefactores non dimittendi sed iuxta eorum demerita feriendi mulctandique prestitit auctoritatem. [§2] SECUNDO amittitur privilegium dum quis tempore debito non utitur privilegio sibi dato atque concesso. Verbi gratia: Si cuipiam regia maiestas castrum vel quodcunque ius aliud possessionarium donaret, & ille donatarius literas suas Donationales infra anni revolutionem per regium aut Palatinalem & alicuius loci testimonialis homines exequutioni non demandaret tunc peracta revolutione ipsa annuali huiusmodi Donatio omni firmitate carebit. Neque etiam cum litteris Statutoriis per gratiam (prout immediate premissi) confectis restaurari valebit, sed de novo Donatio ipsa fieri conficique debebit. Si interea alter quispiam ius illud possessionarium pro se non impetrabit. [§3] In facto etiam Fororum hebdomadalium Nundinarumque & Vadorum idem est faciendum. Ut si princeps alicui Forum aut Nundinas vel Vada concesserit ille infra anni revolutionem Donatione & Privilegio huiusmodi utatur & uti incipiat. Nam aliter anno transacto virtus eius expirabit. [§4] HIC tamen advertendum est quod si peracta infra dictam annualem revolutionem exequutione ipsius Statutionis error aliquis aut in literis super ea re Relatoriis aut in processu eiusdem exequutionis vicio vel negligentia hominis regii & testimonii vel etiam Capituli aut Conventus commissus fuisse deprehendatur tunc in tali casu Donatio efficax manebit. Et eiuscemodi exequutio prout casus rei se obtulerit reformari poterit atque debebit. [§5] Veruntamen si simpliciter exequutio ipsa neglecta vel aliter error aliquis per Donatarium in ea commissus fuerit reformari nusquam poterit sed de novo (ut pretractum est) castrum vel ius illud possessionarium impetrari debebit. [§6] TERTIO perditur privilegium in casu quo quis incurrit crimen lese maiestatis vel notam infidelitatis. Et hoc modo non solum privilegium sed etiam caput & quęlibet bona perdit. [§7] QUARTO si privilegium in alterinis enorme damnum redundat sicuti iam hunc modum predeclaratum habes. Quia & alioquin non est verisimile principem concedentem ius alterius presens vel futurum graviter velle ledere. [§8] QUINTO si princeps vel alter iudex regni ordinarius ex certa scientia videns & agnoscens privilegium non valere multis iudicavit contra illud. Secus tamen est si aliquando contra privilegium per errorem fuisset iudicatum. Nam isto casu poterit error ipse & ex consequenti privilegii tenor per novum iudicium servatis de iure servandis reformari. [§9] SEXTO per expressam vel etiam tacitam renunciationem ipsius privilegii. Per expressam sic quod publice renunciavit vel renunciabit quis privilegio suo. Per tacitam autem sic quod publice actum sit contra illud privilegium ipso sciente & non contradicente sed per omnia subticente. Quę taciturnitas cum sit in sui preiudicium inducit contra se quandam renunciationem. [§10] SEPTIMO per posterius derogatorium priori quando videlicet utrumque confectum est vel emanavit ad unam & eandem personam aut communitatem tunc primum cassabitur & secundum observabitur. [§11] OCTAVO & ultimo perditur privilegium per expressam renovationem concedentis principis. Ex causis tamen rationabilibus in revocatione huiusmodi clare declarandis. Nam si causę rationabiles revocationem non firmaverint sed simpliciter factam fuisse litterę revocatorię denotaverint ipsa revocatio locum non habebit. Alias enim incommoda multa sequerentur: & quilibet de privilegio suo dietim desperare cogereetur. Et hæc de privilegiis dicta sufficiant.

Quid sit sigillum descriptive, et quod duplex est sigillum.

Titulus. xiii.

VERUM quia omnia privilegia sigillis roborari communiri que solent ideo super sigillis quoque in hac parte aliquid dicendum convenit. [§1] UBI sciendum quod sigillum est notorium signum auro aut alio metallo vel cære impressum corroborans omne factum. [§2] ET DUPLEX EST SIGILLUM scilicet authenticum & non authenticum. Authenticum dicitur quasi auctoritatem tenens cui credi debeat. Et est proprie principum ac ordinariorum iudicum regni, nec non Capitulorum & Conventuum. Et huiusmodi sigillum authenticum litteris appositum confirmat omne factum in ipsis litteris expressum atque declaratum. [§3] HABENT præterea etiam civitates & oppida sigilla authentica per reges & principes ipsis concessa. Quæ in factis & rebus coram eis & in medio eorum vertentibus ac emergendis robor sortiuntur firmitatis. [§4] NON AUTHENTICA vero sunt privatarum personarum sigilla. Et talia nihil perpetuitatis sub se continere possunt. [§5] Quorum multa sunt genera. Alia enim sunt dominorum prælatorum necnon comitum perpetuorum & aliorum baronum officia baronatum pro honore tenentium et alia ab eisdem baronibus propagatorum. Alia vero nobilium & procerum regni veris & peculiaribus armorum insignibus exculpta & effigiata. [§6] Superiores itaque prælati ut Archiepiscopi & Episcopi, necnon prior Aurane ac comites liberi et perpetui regni. Etiam Rascie Despotus per litteras eorum proprias veris & notoriis sigillis ipsorum roboratas procuratores constituendi facultatem habent. [§7] Cæteri autem barones & magnates atque nobiles coram ipsis iudicibus regni ordinariis ac in locis testimonialibus Capitulis scilicet & Conventibus & procuratores constituere & alias Fassiones (ut verbo domestico utar) facere tenentur. [§8] Iudices siquidem regni ordinarii ac ipsa loca testimonialia sigilla authentica habentes sub eorum sigillis tam procuratores constituendi quam etiam cunctas alias Fassiones (rite tamen & legitime) faciendi habent auctoritatem.

Quorum regum privilegia servantur et quorum non.

Titulus. xiiii.

ITEM habita iam privilegiorum & sigillorum declaratione necesse est videre quorum regum & principum huius regni privilegia observantur, & quorum in iudiciis reiciuntur nulliusque vigoris & firmitatis esse censentur. [§1] UBI SCIENDUM quod universæ litteræ sanctissimorum Stephani & Ladislai regum. Præterea serenissimorum primi Andreae genitoris regis Salomonis, necnon primi Belæ patris & primi Geysæ fratris ipsius beati Ladislai regis ac Colomanni filii dicti Geysæ qui primum episcopus Waradiensis fuit sed per dispensationem apostolicam deficiente hærede regio regni gubernacula suscepit. Et ideo Hungarico idiomate Kewnwe kalman in hunc usque diem appellatur. [§2] ITEM Stephani secundi filii eiusdem Colomanni [§3] atque secundi Belæ qui Cæcus appellatus est filii videlicet ducis almi [§4] & Geysæ secundi filii eiusdem Belæ Cæci. [§5] Necnon tertii Stephani filii ipsius secundi Geysæ. [§6] DEMUM Belæ tertii filii eiusdem Geysæ secundi fratris scilicet præfati tertii Stephani. Et hic est ille Bela qui fures & latrones persequutus est atque de regno extirpavit. [§7] TANDEM Emerici filii eiusdem tertii Belæ regum. Quiquidem Emericus ecclesiam Waradiensem certis Dotationibus decorasse pariter & amplificasse perhibetur litteræ servantur. [§8] Et secundum aliquos iste Emericus alio quasi corrupto vocabulo Henricus appellatur atque scribitur non tamen Hungarorum sed Germanorum potius usu sic intitulatur. [§9] Nec erat necessarium nomina regum istorum connumerare sed poterat hæc commemoratio brevius perstringi: pariter & annotari. Ex quo tamen nobiles regni Hungariæ super eorum nobilitate simul & libertate pauca admodum privilegia temporibus horum regum qui potius incremento ecclesiarum dei & populo christiano hoc in regno quasi noviter plantato curam salutis impendere studuerunt condonata habent, et alias certi fuerunt principes inter hos pro regibus nominati quorum litteræ in irritum transiere puta Petrus Theutunus, Abba

Hungarus, Salomon filius primi Andreę & Stephanus quartus filius dicti regis Belę Cęci qui quinque dumtaxat mensibus corona sceptroque potitus de regno turpiter fuit expulsus. Necnon Ladislaus tertius filius pręlibati Emerici sive Heinrichi qui sex solummodo mensibus regnavit propterea ut nomina pariter & privilegia regum ipsorum lucidius agnosci queant ea prolixè posui. [§10] ULTERIUS advertendum quod infrascriptorum quoque regum & principum litterę ac privilegia in quovis facto & negotio observantur, sed eorum nomina seorsum propterea notavi quoniam tempore huius gloriosi principis secundi Andreę filii (ut pręnotatum est) tertii Belę regis, qui primus erit in ordine regum subsequentium laudabilis pręclaraque libertatis pręrogativa nobilium qua generaliter usque modo fungimur & gaudemus in scriptis declarata per modumque decreti & constitutionis generalis roborata extitit. [§11] Quamvis etiam regnante sanctissimo ipso Prothorege nostro Stephano & aliorum quoque succedentium regum temporibus multi fuerint in hoc regno nobiles conditionaria tamen quadam servitute collectarumque ex parte colonorum suorum solutione regibus ipsis obnoxii erant atque tenebantur a qua primum per hunc Andream regem ipsi nobiles qui eo tunc servientes dicebantur exempti fuerunt atque immunes. [§12] Et propterea cuncti reges usque in presens tempus sibi succedentes sacro (sicuti pręnarratum est) priusquam diademate coronarentur super observando decreto ac constitutionibus eiusdem domini Andreę regis pręlatis, ac baronibus & magnatibus proceribusque & nobilibus regni huius iuramentum pręstare consueverunt. [§13] HUIUS ANDREę REGIS privilegium in monte Thaabor (ubi dominus & salvator noster transfiguratus fuerat) super quadam possessionaria collatione emanatum & confectum in comitatu Honthensi habetur hac etiam tempestate. [§14] Ad prosecutionem itaque cęptę materię redeundo pręnotati secundi Andreę, necnon quarti Belę eiusdem Andreę filii cuius tempestate Hungaria per Tartaros devastata fuit. [§15] Pręterea quinti Stephani filii ipsius quarti Belę (demptis litteris tempore ducatus eiusdem Stephani qui se iuniorem regem Hungarię & ducem Transilvanensem tunc intitulare solebat) confectis & emannatis. Nam tales litterę suę non servantur nisi forsitan ipso postea regni gubernacula iuste suscipiente pariter & possidente per eum fuissent confirmatę. [§16] ITEM quarti Ladislai filii ipsius quinti Stephani qui kwn lazlo nominatus extitit regum privilegia valent & observantur. [§17] ITEM litterę tertii Andreę regis qui Venetus cognominatus est non servantur exceptis illis si quę per dominum Carolum regem immediatum suum successorem annulari sigillo suo in cera rubea in qua habetur littera. K. circa imaginem a parte dextra pro signo confirmationis apposito fuissent confirmatę. Nam tales observantur. [§18] ITEM rex Carolus tria sigilla habuit quorum duo priora per eundem fuerunt revocata, & privilegia sub illis emannata non servantur nisi per tertium posterius fuissent roborata. Quod quidem tertium sic agnoscitur ut ex duabus partibus clipei in area sigilli exsculpti. In quo videlicet clipeo duplicata crux continetur, sunt duę figurę draconis. [§19] ITEM Lodovicus rex ipsius Caroli filius duo sigilla habuit quorum primum in partibus Vzuru deperditum, & a reverendissimo domino Nicolao Archiepiscopo Strigoniense cancellario suo subtractum non tenetur nisi per secundum novum fuissent literę sub priori sigillo æditę postea confirmatę sub quo novo sigillo tam litterę eiusdem regis Lodovici sub ipso priori sigillo suo confectę quam etiam prędicti domini Caroli regis patris sui sub duobus prioribus sigillis cassatis, annullatis emanatę per appensionem eiusdem novi seu secundi sigilli fuerunt tandem confirmatę. Et tales ubilibet servantur. [§20] Breviter itaque privilegia ipsius domini Lodovici regis ab anno domini trecentesimo sexagesimo quarto supra millesimum usque ad obitum suum videlicet annum salutis millesimum trecentessimum octuagesimum secundum supra millesimum confecta robur sorciuntur firmitatis. Sed priora non valent nisi fuissent modo antelato postea confirmata. [§21] Quę ut lucidius intelligantur clausulam per eundem Lodovicum regem ad confirmandas tales litteras suas apponi solitam & per me ex eiusmodi litteris suis confirmatis quarum plures in specie vidi atque perlegi excerptam verbotenus interserendum

statui quæ sic incipit. [§22] AD PERPETUAM REI MEMORIAM Nos Lodovicus rex præfatus universis declaramus, quod ubi in regno nostro Boznæ innumerabilis multitudo hæreticorum & Pateranorum pululasset in errorem fidei orthodoxæ ad extirpandum quoque de ipso regno nostro eosdem ex una parte nos personaliter instaurato valido exercitu proficiscebamur, ex alia vero parte venerabilem in christo patrem dominum Nicolaum Archiepiscopum Strigoniensem nostrum cancellarium penes quem utrumque par sigilli nostri authentici habebatur, & virum magnificum dominum Nicolaum Palatinum cum cæteris prælatis, baronibus & regni nostri proceribus in Wzwram destinaramus. Quidam familiares ipsius domini Archiepiscopi pro custodia deputati utrumque par dicti sigilli nostri Authentici præconcepta malicia subtraxerunt. [§23] Nos itaque præcaventis ne ex huiusmodi sigilli nostri deperditione regnicolis nostris in eorum iuribus successive periculum possit imminere sigillum novum in duobus paribus fecimus pro nobis sculpi quod ad omnia privilegia nostra & condam domini Caroli regis patris nostri sub priori sigillo eiusdem tempore suę coronationis sculpto & demum per eundem (eo quod sub ipso plurimæ infidelitates perpetratae extiterunt repertæ) permactato ac sub alio sigillo ipsius in partibus Transsalpinis casualiter deperdito confecta iuxta dicta tria sigilla decrevimus fore apponendum. [§24] Ad quęcunque vero privilegia paterna dictis duobus prioribus sigillis suis consignata quę per eundem patrem nostrum per sigilla eiusdem posteriora vel per nos cum sigillo modo præmisso deperdito confirmata non haberentur & ad ipsa privilegia ipsum novum sigillum nostrum non appenderetur, vel quęcunque patentes litteræ non confirmarentur ea privilegia & litteræ sicut per eundem patrem nostrum fuerunt revocata & annullata sic & nos ipsas seu ipsa commisimus viribus caritura, nullam quoque roboris optentura firmitatem. [§25] Inter quæ præsens privilegium nostrum omni prorsus suspitione destitutum & omnia in eo superius contenta & expressa pro eodem. T. suisque hæredibus & successoribus dicti sigilli nostri novi duplicis & authentici appensione renovavimus & perpetuo confirmamus. Datum per manus eiusdem domini Nicolai Archiepiscopi Cancellarii nostri decimo Kalendas mensis. T. Anno domini millesimo trecentesimo sexagesimo quarto regni autem nostri anno vigesimo tertio. [§26] ITEM LITTERÆ DOMINI SIGISMUNDI REGIS ET IMPERATORIS ante annum domini millesimum quadragesimum sextum emanatæ non servantur ex eo quod idem Sigismundus rex de consilio dominorum prælatorum & baronum regni sui nobilium per modum generalis decreti sanxerat ut a festo beati Georgii martyris in anno domini quadragesimo quinto supra millesimum usque ad aliud festum ipsius beati Georgii martyris in præfacto anno gratię millesimo quadragesimo sexto tunc venturum iam vero transactum universæ litteræ Donationales & aliæ privilegiales præfati condam domini Lodovici regis sub ipsius secreto dumtaxat sigillo emanatæ ac dominarum Elisabeth relictæ & Marię filiæ eiusdem Lodovici regis Hungariæ scilicet reginarum necnon ipsius Sigismundi regis ante illa tempora qualitercunque confecta ad confirmationem importarentur alioquin inefficaces viribusque per omnia destitutæ relinquerentur. [§27] Post hæc autem tempora litterę eiusdem domini Sigismundi regis & imperatoris usque in diem obitus sui annum videlicet gratiæ quadragesimum tricesimum septimum supra millesimum editæ semper valent & observantur. [§28] Ut autem huius rei noticia pro tollendo dubio cunctis pateat formam ac continentiam quarundam litterarum Donationalium eiusdem domini Sigismundi regis super præmissis confectarum & in iudicio contradictorio dudum productarum sensu in nulla parte mutato adieci huiusmodi sub tenore. [§29] NOS Sigismundus dei gratia rex Hungariæ, Dalmaciæ, Croacię, &c. Marchioque Brandenburg &c. sacri Romani imperii vicarius generalis & regni Bohemiæ gubernator memorie commendamus per presentes. Quod cum nos prelatorum & baronum ac regni nostri procerum sana deliberatione exinde subsequuta pro bono utili & tranquillo statu regnicolarum nostrorum omnes & singulas litteras quondam excellentissimi principis domini Lodovici dei gratia inclyti regis Hungariæ patris &

soceri nostri charissimi sub ipsius secreto sigillo tantum modo ac illustrissimarum principum dominarum Elisabeth matris & Marie contoralis nostrarum charissimarum reginarum dicti regni Hungarię felicium recordationum, nec non nostras sub ipsarum atque similiter nostris tam maioribus quam minoribus sigillis super factis quibusvis & presertim possessionariis confectas & emanatas quibuscumque personis dignitate quavis fungentibus ad tollendum omne dubium removendum scandalum & ad evitanda multa atque varia incommoda quę propter sigillorum ipsarum dominarum atque nostrorum deperditionem ac nostri maioris videlicet duplicis ex causis & rationibus legitimis confractionem multorum iuribus & presertim possessionariis uti potuissent derogare a festo beati Georgii martyris in anno domini quadringentesimo quinto proxime præterito usque annualem eiusdem revolutionem sub pęna revocationis, annullationis & cassationis earundem (si non producerentur) per nos videndę & examinandę. Et si opus fuisset sub presenti moderno novo nostro autentico duplici sigillo confirmandę & approbandę nostrę claritati exhibendas decrevissemus & præsentandas. Eandemque elapso huiusmodi decreti & statuti nostri termino pro examinandis & revidendis huiusmodi litteris coram nobis productis vel non productis, per nosque cum præscripto nostro moderno maiori duplici sigillo confirmatis & non confirmatis in singulis dicti regni nostri comitatibus per comites nostros provinciales congregationes iussissemus celebrari generales. [§30] Demum quia .T. & .T. nobiles comitatus .T. litteras suas super Donatione portionis possessionarię in possessione .T. vocata in comitatu .T. prædicto existentis habite dudum per nostram maiestatem dicto .T. filio .T. patri ipsorum & per consequens eisdem .T. & .T. ipsorumque hæredibus facta Confirmationales coram nobis seu homine nostro in nostra personali presentia ad id specialiter deputato necnon iuratis assessoribus huiusmodi congregationis generalis prædicti comitatus .T. producere nequierunt, seu non potuerunt. Ideo nos præmisso nostro decreto iuxta vigorem eiusdem satisfacere volentes, ipsumque robur perpetuę firmitatis obtinere volentes præmissas literas Donacionales pro annotatis .T. filio .T. & per consequens ipsis .T. & .T. ipsorumque hæredibus super Donatione dictę portionis possessionarię per nos modo quo supra datas, per ipsosque præscripto autentico duplici nostro sigillo confirmare non procuratas seriatim & verbo tenus revocantes, cassantes ac suis viribus prorsus carituras decernentes & relinquentes eandemque portionem possessionariam rursum nostris regiis manibus annectentes memoratis .T. & .T. ac ipsorum hæredibus & posteritatibus universis occasione & pretextu præscriptę portionis possessionarię in dicta possessione .T. existentis ac cunctis eiusdem utilitatum & pertinentiarum perpetuum & irrevocabile silentium imponendum duximus & imponimus per presentes. [§31] Nos si quidem qui ex suscepti regię dignitatis officio fidelium nostrorum actus virtuosos & merita (prout regalem decet dignitatem) equo libramine ponderantes unicuique iuxta meritorum qualitatem regio favore occurrere debemus, consideratis & in memoriam nostrę celsitudinis revocatis fidelitatis & fidelium servitiorum præclaris meritis, virtuosis gestis & acceptis complacentiis fidelium nostrorum dilectorum magnificorum virorum .T. & .T. filiorum condam .T. quibus iidem nobis & sacrę nostrę coronę regię sub diversitate locorum & temporum cum omni sinceritatis, zelo fidelitatis, fervore devotionis, constantia & sollicitudine continua labores in personis subeuntes & expensas in rebus cum adiectione laudabilium operum se studuerunt coram oculis nostrę maiestatis reddere gratos utique & acceptos. [§32] Volentes ob hoc eisdem pro præmissis ipsorum fidelium obsequiorum meritis ad presens aliquali nostro regio occurrere cum favore eandem portionem nostram regiam possessionariam in dicta possessione .T. vocata in antefato comitatu .T. existente habitam simul sum universis suis utilitatibus & pertinentiis videlicet terris arabilibus cultis & incultis, pratis, foenilibus, silvis, nemoribus, aquis, piscinis, molendinis aquarumque decursibus, montibus, vineis & generaliter quibuslibet eiusdem portionis possessionarię utilitatum integritatibus quovis nominis vocabulo vocitatis sub eisdem veris metis & antiquis limitibus quibus eadem per suos

possessores rite tenta fuisset & possessa memoratis .T. & .T. & per ipsos eorum hæredibus & posteritatibus universis ex certa nostra scientia ac prælatorum & barorum nostrorum consilio de manibus nostris regiis novæque nostræ Donationis titulo & omni eo iure quo prædicta portio possessionaria in præacta .T. habita tam prævia quam aliis quibuscunque rationibus seu de causis ad nostram legitimæ spectat collationem dedimus, donavimus & contulimus, immo damus, donamus & conferimus perpetuo & irrevocabiliter possidendam, tenendam pariter & habendam salvo iure alieno assumens nostro & nostrorum successorum regum scilicet Hungariæ nominibus & personis prælibatos .T. & .T. ipsorumque hæredes & quoslibet successores in pacifico dominio & quieto predictæ portionis possessionariæ & quibuslibet eius utilitatum & pertinentiarum præscriptarum contra quoslibet impeditores, causidicos & auctores intra vel extra iudicium semper & ubique propriis nostris & eorundem nostrorum successorum laboribus & expensis indemnes & illesos protegere, expedire ac conservare harum nostrarum vigore & testimonio litterarum mediante, quas dum nobis in specie reportate fuerint in formam nostri privilegii redigi faciemus. Datum &c. Anno domini millesimo quadringentesimo decimo editæ semper observantur. [§33] ITEM litteræ domini Alberti regis successoris immediati dicti domini Sigismundi imperatoris valent & servantur. [§34] ITEM omnes Donationes & aliæ quælibet concessionem condam dominæ Elizabeth filiæ ipsius domini Sigismundi regis relictæ scilicet dicti condam Alberti regis, necnon domini Wladislai Poloni (qui non vera sacraque regni huius corona sed reliquiarum capitis sancti Stephani regis ornamento insignitus fuerat, quique in partibus Romaniæ, iuxta opidum Warna marina prope ad littora per Amratem Thurcorum Cæsarem circa festum beati Martini episcopi & confessoris in Anno gratiæ quadringentesimo quadragesimo quarto supra millesimum debellatus occubuit) pro quorumcunque parte & quibuscunque ac quavis ratione vel titulo factæ per omnia cassatæ, revocatæ & viribus destitutæ sunt quæ nunquam tenentur excepta dumtaxat Donatione ac elemosinaria largitione per ipsam dominam Elisabeth ecclesiæ Albensis regalis facta. [§35] ITEM litteræ dominorum prælatorum, baronum procerumque et nobilium regni Hungariæ universorum sub eorum sigillo in quo duplicata crux ad instar signeti gentis Hungariæ continetur emanatæ in quantum processus iuridicos, necnon Fassionem iudiciaque concernunt, veluti litteræ unius iudicis ordinarii observantur. Quantum vero ad Donationes annuentias vel consensuum adhibitiones nihil valent prout ex tenore privilegii ipsorum in civitate Pesthiensi Secundo die festi Ascensionis domini, quæ septima die Maii fuit in anno eiusdem quadringentesimo quadragesimo quinto supra millesimum inter cætera super ea re editi clarescit quod (quia multa continet in se capitula pluresque complectitur articulos proposito nostro non correspondentes) verbotenus inserere tediosum existimavi. Super ipsius tamen sigilli sculptura & virtute articulum in eisdem litteris positum sub eadem forma verborum qua ibi scriptum vidi atque legi hic annectere curavi qui sic sequitur. [§36] ITEM quod ex nunc disponatur unum sigillum in quo sit signetum crucis sicut signetum regni Hungariæ & illud sigillum servetur in civitate Budensi ut querulantes habeant sub ipso sigillo literas necessarias & commemoriales, & procedatur iusticia mediante secundum quod decet usque Coronationem regis. ECCE clare describitur illud sigillum ad iudicia solummodo celebranda iustitiamque ministrandam fuisse institutum atque fabricatum. [§37] Clausulam autem extremam ipsius articuli super sigillo præacti conscripti (videlicet usque Coronationem regis) noli accipere, neque interpretari quod tunc in proximo novus quispiam rex debuisse coronari. Nam illustris princeps Ladislaus filius dicti condam Alberti regis dudum prius in anno scilicet dominicæ incarnationis quadringentesimo quadragesimo supra millesimum coronatus fuerat, sed intelligenda est per clausulam illa iurisdictionis sacræ coronæ regni ac plenariæ potestatis regiæ, quam tunc puerulus ille existens regere & gubernare non poterat in manus & auctoritatem ipsius domini Ladislai regis perfecta in proximo assignatio. [§38] POST obitum autem prælibati domini Wladislai Poloniæ regis usque ad electionem Iohannis de Hwnyad in

gubernatorem regni huius Hungariæ Nicolaus de Wylak, alias Waywoda Transilvanus in capitaneum eiusdem regni deputatus erat, & proinde vicarium quoque regni Hungariæ intitulari se faciebat. [§39] ITEM universæ Donationes & litteræ Donationales ipsius domini Iohannis de Hwnyad gubernatoris gubernaminis sui dumtaxat officio durante & non prius, neque posterius usque ad numerum triginta duarum sessionum Iobagionalium sed non amplius factæ & confectæ observantur. [§40] UNDE infertur quod quelibet Donationes ac annuentiæ & consensuum adhibitiones per eundem Iohannem gubernatorem ultra numerum præactarum triginta duarum sessionum Iobagionalium cuiquam factæ vel collatæ non valent neque tenent. [§41] ITEM consensuum quoque super quovis contractu vel alio negotio per eundem adhibitiones. Post exitum sue gubernationis (quia tales omnes conditionales fuerunt) locum non habent. Exempli gratia, Si cuiquam annuisset ut decedente & hæredibus deficiente tali nobili bona sua in talem hominem devolvantur, Si huiusmodi annuentia vel consensus numerarum præscriptarum triginta duarum sessionum Iobagionalium non excessisset & ille nobilis stante adhuc gubernaminis sui officio defecisset talis consensus pro tunc rite locum habuisset. Sed si in præsentiarum deficeret regnante vero & legitimo iam rege locum non haberet quia gubernator ipse metas autoritatis sibi traditæ transcendere nequivit. Auctoritas autem sibi ad ulteriora maioraque data non fuit, neque dari commode potuit ex quo prefatus dominus Ladislaus ipsius Alberti regis filius licet teneret adhuc ætatis dudum tamen (ut prefertur) coronatus ad quem plenaria iurisdicio sacræ coronæ spectabat tunc in humanis agebat. [§42] Et ne quisquam aliter sentiat & temerarie contrarium obiciat articulos super autoritate in conferendis bonis ac iuribus possessionariis predicto gubernatori data & attributa confectos & ex serie litterarum prenotatorum dominorum prælatorum, baronum nobiliumque & procerum regni Hungariæ universorum Budæ in festo Annunciationis sacratissimæ virginis Mariæ anno virginei partus eiusdem quadringentesimo quadagesimo septimo supra millesimum editarum & confectarum & articulos quoque in generali eorum congregatione in civitate Pesthiensi circa festum Penthecostes tunc proxime (in anno videlicet salutis quadringentesimo quadagesimo sexto supra millesimum) præteritum quando utputa idem Iohannes Hwnyadinus in gubernatorem regni electus & sublimatus fuerat decretatos atque formatos in se seriatim continentium per me verbotenus excerptos absque omni variatione pro tollenda omni in hac parte ambiguitate apposui atque subiunxi. Quiquidem articuli (dimissis aliis ipsarum litterarum continentibus) huiusmodi verborum sequuntur sub tenore. ITEM ipse dominus gubernator his, qui fideliter sacræ regni coronæ serviverint de illis possessionibus quæ deinceps ad sacram coronam pure legitimeque sine cuiusquam alterius iure per defectum seminis, Item propter delationem falsarum litterarum, propter cussionem falsarum monetarum & fabricationem falsi sigilli, necnon propter inductionem extraneæ potentiæ in hoc regnum ac positionem ignis in eodem fuerint devolutæ in quibus scilicet possessionibus triginta duæ sessiones & non plures fuerint, vel fieri poterint & etiam in quibus infra eundem numerum triginta duarum sessionum fuerint vel fieri poterunt facere valeat Donationes. [§43] Si vero civitates, oppida & possessiones ultra numerum præscriptarum triginta duarum sessionum etiam præscriptis modis ad sacram coronam fuerint devolutæ illas partiri seu dividere in triginta duas sessiones non valeat & sub nomine triginta duarum sessionum de illis facere cuiquam Donationem sed huiusmodi omnes civitates, oppida & possessiones indivisæ ipsi coronæ reserventur. [§44] ITEM dominus gubernator si cui Donationem præmisso modo semel fecerit amplius eidem donare non valeat et cum Donationes castrorum, civitatum, oppidorum ac possessionum & similium ad ius regium dumtaxat spectare dinoscantur, Igitur ipse quibuscunque Donationem fecerit illi tempore suo teneantur accedere ad dominum regem pro confirmatione obtinenda. [§45] ITEM possessiones eorundem, quorum propter delationem falsarum litterarum aut cussionem falsarum monetarum aut aliquo modo superius expresso ad coronam fuerint devolutæ quousque illi qui

per iudices suos competentes iudicialiter secundum antiquam & approbatam regni consuetudinem sententiati fuerint occupare & de eis Donationem facere non valeat quovis modo. Reliquos autem litterarum ipsarum articulos quia huic rei non quadrant prætermittendum duxi. [§46] ITEM litteræ prædicti Ladislai filii antefati Alberti regis ab anno domini quadringentesimo quinquagesimo secundo supra millesimum quo ipse gubernator officio sui gubernaminis (quod septem per annos feliciter gesserat) cessit ad obitus usque sui diem annum ut puta salutis quadringentesimum quinquagesimum septimum supra millesimum emanatæ servantur. Licet sequenti anno cessionis prænotati gubernaminis videlicet quadringentesimo quinquagesimo tertio supra millesimum quo ipse Ladislaus rex circa festum Purificationis virginis gloriosæ de Vienna Budam reductus bonorum collationes consensuumque adhibitiones & aliarum rerum expeditiones facere cepisse dinoscatur. [§47] ITEM privilegia invictissimi principis condam domini Mathiæ regis laudandæ recordationis a tempore felicitatis suæ coronationis, anno videlicet domini quadringentesimo sexagesimo quarto supra millesimum in die cenæ domini factæ mortis adusque ipsius diem feriam scilicet tertiam post dominicam Palmarum in anno incarnationis dominicæ quadringentesimo nonagesimo supra millesimum præteritam emanatæ servantur ante vero coronationem suam confectæ non tenentur nisi postea fuissent per eum confirmata. [§48] ITEM litteræ moderni & quidem gratiosissimi domini nostri Wladislai regis a die dominico proximo post festum Exaltationis sanctæ Crucis in ipso anno gratiæ quadringentesimo nonagesimo supra millesimum transacto die scilicet felicitatis coronationis suæ usque modo confectæ & in futurum quoque emanandæ rite & legitime semper servantur. [§49] ITEM quia disturbiorum temporibus signanter vero post obitum memoratorum Sigismundi imperatoris & Alberti regis plurimæ litteræ multaque privilegia diversis sub coloribus & sigillis nequitiose fraudulenterque reperiuntur fulminatæ atque fabricata, que licet omnia vix in lucem prodierint & omnia difficulter sciri vel cognosci possint ut tamen aliquarum inique æditarum (saltem in particulari, si non in generali) litterarum notitia habeatur copiam seu tenorem cuiusdam privilegii præfatorum dominorum prælatorum, baronum nobiliumque & procerum regni Hungariæ super complurimis eiuscemodi nequiter fulminatis litteris confecti & in iudicio contradictorio etiam coram me cum sigillo eorum prædeclarato producti de verbo ad verbum apponere inserereque dignum duxi. Cuius quidem privilegii continentia verbalis tenorque hoc sequitur modo. [§50] NOS PRÆLATI, barones, nobiles & proceres regni Hungariæ universi memorie commendamus per præsentem, quod ortis guerris in hoc regno nostro post mortem condam domini Alberti regis & eis diutius agitatæ demum Deo concedente huiusmodi guerris inter nos sopitis & in unum principem atque dominum videlicet illustrem dominum Ladislaum filium dicti condam domini Alberti regis veluti dominum nostrum naturalem nobis simul concordantibus cum iudicia pro mutua & durandæ inter nos pacis amplexu facere & iustitiam oppressis ministrare inchoassemus plures hincinde falsæ litteræ coram nobis in iudiciis per causantes exhibebantur. [§51] Cumque super huiusmodi fabricatione falsi cunctari cepissemus quendam Gabrielem litteratum de Zomlyn cusorem huiusmodi detestandæ pestis comperimus quo pro meritis sui sceleris in manus suorum iudicum competentium incidente huiusmodi scelus suum ante mortem eiusdem ad puritatem suæ conscientię tum verbis tumque scriptis suis propriis manibus confectis quarum seriem & continentiam præsentibus taxandam duximus palam publice confessus fuit quorum scilicet scriptorum suorum series & continentia hæc est. [§52] Una littera cum regio consensu littera scilicet condam domini Sigismundi regis pro parte dominorum filiorum Kompolth emanata quod, si semen condam Ladislai de Solmos deficeret tunc eadem Solmos, & non aliæ possessiones in ipsos filios Kompolth reflecti deberet sed ista littera non fuit de scitu ipsorum dominorum filiorum Kompolth emanata. [§53] Item libertas sub sigillo domini Sigismundi regis privilegialis cum medio capite aquile civitati Gyengyes facta. [§54] Item due litteræ una videlicet condam Sigismundi regis sub secreto

sigillo suo cum medio capite aquilæ, & alia littera Statutoria sub sigillo capituli Budensis privilegialiter confectæ super præfectione filiæ in filium hic Budæ consorti Petri Polyak sartoris datæ. [§55] Item una littera Fassionalis sub sigillo Capituli Agriensis privilegialiter ad Fassionem dominorum condam Petri Episcopi, & Stephani de Rozgon: ac Johannis, filii eiusdem pro parte Ladislai de Zechen confecta. [§56] Item una littera super libertate possessionis Zabathka sub sigillo Sigismundi regis secreto cum medio capite aquilæ facta. [§57] Item litteræ sub sigillis Capituli Agriensis privilegialiter, & maiori sigillo domini Sigismundi regis patenter super possessione Abon filiis Orros factæ contra dominos de Gara. [§58] Item una littera privilegialis sub secreto sigillo condam domini Sigismundi regis cum medio capite aquilæ ad supplicationem dominorum condam Ladislai & Henrici filiorum Wayvode de Thamasii, in eo scilicet quod si ipsos sine hæredibus decedere contingeret tunc eorum bona & possessiones tam hæreditariæ quam acquisitivæ in filios Herczeg condescendant. [§59] Item una littera gratiosa patenter sub sigillo condam domini Sigismundi regis cum medio capite pro parte Emerici de Debrew super eo ut idem dominus rex capiti & bonis gratiam fecisset specialem confecta. [§60] Item una littera privilegialiter sub sigillo Capituli ecclesiæ Waradiensis ecclesiæ de Telkii in facto Kerepes est emanata. [§61] Item duæ litteræ una videlicet Fassionalis & alia Statutoria super impignoratione castri Bechæ scilicet domini Dezpoti sub sigillo Capituli Budensis condam Ladislao filio Michælis de Gezth factæ. [§62] Item aliæ duæ litteræ imperiales patentes in pergameno Fassionales contra filios Swlyok in facto possessionis Kewlewd eidem Ladislao filio Michælis factæ. [§63] Item Ladislao de Maysay nobili comitatus de Zarand, Sigismundo de Paka nobili comitatus de Bodrog, Ladislao de Pachaii & illis quinque civitatibus de Maromorosio sub sigillo domini Wladislai regis sunt litteræ in eo ut patibula in faciebus possessionum suarum erigi possint. [§64] Item una littera sub sigillo Capituli Waradiensis privilegialis, & alia condam domini Alberti regis similiter privilegialis confirmatoria super præfectione filiæ in filium magnifico domino Francisco de Chak factæ. [§65] Item una littera privilegialis sub sigillo imperialis scilicet secreto cum duobus capitibus aquilæ super gratia quondam Ladislao filio condam Iacobi Wayvode facta in facto omnium bonorum suorum confecta nunc erga Georgium filium Davidis Bani habita. Et quamvis in inferiori margine eiusdem litteræ scriptura domini Mathiæ Episcopi alias cancellarii habeatur, Quia estimans commissionem propriam domini imperatoris manu mea propria in superiori margine eiusdem litteræ scriptam fore suam tamen est falsa. [§66] Item duæ litteræ sub sigillis Capituli Agriensis privilegiales una super metarum erectione, alia vero super spirituali adoptione fraternalis cum condam Andrea Paharnok Sandrino & Mathiæ factæ. [§67] Item quibusdam Comanis scilicet Petro Sillii sub sigillo domini regis Wladislai et Matheo Beseg sub sigillo domine Elizabeth regine super libertatibus privilegialiter factæ. [§68] Item cuidam Iosa in Thobaghzenthgergh commoranti una littera Fassionalis per fratres eiusdem hominis per eundem Iosam interfecti quod eundem Iosam expeditum commisissent sub sigillo imperiali confecta patenter in pergameno. [§69] Item sub sigillo domini regis Wladislai super libertate privilegialiter cuidam Iohanni filio Egidii nunc in Madaras commoranti littera facta est. [§70] Item una littera sub maiori sigillo condam domini Sigismundi regis in pergameno sigillum a tergo positum habens super eo quod universæ possessiones condam Ladislai & Henrici filii Waywode scilicet hæreditariæ dumtaxat si semen deficeret in filios Herczeg condescendant. [§71] Item duæ litteræ una Statutoria sub sigillo Capituli Budensis & alia gratiosa domini Wladislai regis super præfectione filiæ in filium privilegialiter factæ cuidam dominæ filiæ scilicet nobilis de Koka, quæ scilicet coniux Ladsilai de Machonka fuisset. [§72] Item una littera patens imperialis super consensu regio domino Gregorio de Erdewd canonico Bachiensi data. [§73] Item una littera cuidam Comano scilicet Gregorio filio Pauli super eo ut in possessione consortis suæ, quæ est Hungara ad instar regni nobilium commorari posset sub sigillo domini Wladislai

regis privilegialiter est facta sed nondum ad suas manus deventa est & ignoro ubi sit. [§74] Item una littera gratiosa iudeis facta sub sigillo condam domini Sigismundi regis cum medio capite aquilæ privilegialiter facta ut ipsi mercantias facere valeant. [§75] Item littera Sigismundi regis gratiosa pro parte Ladislai de Zechen prædecessoribus eiusdem facta quod possessiones eorundem propter notam infidelitatis non veniant in manus regias sed in fratres propinquiores condescendant sub secreto sigillo eiusdem privilegialiter emanata. Et etiam gratiosa littera super minerarum auri & argenti. [§76] Item littera super consensu regio pro parte Georgii filii Lorandi de Nemphtii super eo ut ubi Iohannem filium Henrici de Thamasii hæredibus deficere contingeret tunc castra & universa iura possessionaria in ipsum Georgium devolverentur sub secreto sigillo domini Sigismundi regis privilegialis. [§77] Item littera Capituli ecclesiæ Waradiensis privilegialis super decimis contra idem Capitulum pro parte Episcopi eiusdem emanata. [§78] Item littera super perfectione filiæ in filium ad Fassionem Stephani de Bathor cum consensu regio sub sigillo domini Sigismundi regis secreto pro parte filiorum condam Thomę de eadem Bathor confecta. [§79] Item littera sub sigillo domini Alberti regis privilegialis super libertate civitatibus in Maromorosio habitis confecta. [§80] Item una littera sub sigillo domini Lodovici regis Annulari super libertatibus civitatibus Pesthiensi & Budensi facta. Sed civibus Pesthiensibus per me assignata. [§81] Item omnia præmissa per neminem sunt facta præterquam per me Gabrielem & omnibus notum sit quod ista omnia quibus data sunt & assignata non quod ipsi per me ea fraudulenter facere procurassent sed per me facta sunt sinistre et semper hi idem easdem crediderunt esse veras & iusto modo emanatas. Ergo nullus debet suspicari quod isti essent culpabiles in præmissis. Quia non est de ipsorum fraudulentis sed ex meis. [§82] Nos itaque attentis tantis damnosis atque pestiferis actibus ipsius Gabrielis quę maligna opera nedum ad sui corporis & animæ sed & aliorum sunt vergentia corporum & animarum pericula plurimorum, volentes huiusmodi morbo pestifero remedio occurrere opportuno decrevimus ut omnes & singulæ literæ quæ in præactis manu scriptis suis præsentibus suo modo insertis sunt nominatim designatę tanquam de falso fabricatę inanes & apud omnes iudices intra & extra iudicium reiectę, reprobatę & viribus exutę semper habeantur quas & nos sic cassamus, reprobamus & damnamus præsentium per vigorem. Datum in nostra generali congregatione Pesthiensi feria secunda proxima post festum sacratissimi corporis Christi. Anno eiusdem millesimo quadringentesimo quadragésimo octavo.

De transsumptis litterarum et privilegiorum quid sit sciendum. Tit. xv.

Item ultra prenarratas nequiciose confectas litteras sunt etiam alię literę quę & si maliciose non sint fulminatę tamen in iudiciis non servantur, neque locum habent prout omnes transsumptionales, quę simpliciter & absolute in locis Capitularibus aut Conventualibus sive coram iudicibus ordinariis regni sunt vel fuerunt transsumptę & tales non sine notabili causa per constitutionem generalem extiterunt in irritum revocatę atque invalidatę. Nisi forte originales literę ex quibus scilicet transsumptę processerunt in specie valeant exhiberi. Nam hoc modo si originalia privilegia rite bonoque ordine & modo confecta fuisse dinoscuntur etiam transsumpta litterarum locum habent. [§1] TRANSSUMPTIO autem est alicuius privilegii non sensualis sed verbalis in aliud privilegium translatio. [§2] Unde transsumptiones litterarum aut in tabula & sede iudiciaria regię maiestatis in iudicio contradictorio inter litigantes aut coram iudicibus ordinariis regni in terminis Octavalibus per legitimam citationem facie ad faciem fiendam. Et item inter fratres quando bonorum divisio inter eos sequitur vel aliter de litterarum & privilegiorum ipsorum conservatione agitur coram eisdem iudicibus iuxta morem & consuetudinem modernorum & non aliter fieri possunt ut per iudices

regni bene discutiantur examinenturque & diligenter rumentur originalia privilegia vel aliæ litteræ primordiales si rite & debite iustoque modo & non nequiciose aut fraudulenter sunt confecta vel emanate, & sic tandem transsumantur, in litterasque & privilegia sine dolo fraudeque redigantur. Et talia postea transsumpta servantur. [§3] Secus tamen est de litteris & privilegiis in Capitulis vel Conventibus per litteras Requisitorias inventis aut inveniendis. Quia tales semper observantur. Dummodo originales ipsæ litteræ non sint modo preallegato in se transsumptionales que (ut prefertur) non valent.

Super privilegiis cum clausula de cuius vel quorum noticia confectis, et de larvis seu ficticiis personis. Tit. xvi.

CAeterum universæ litteræ ac privilegia quorumcunque Capitulorum vel Conventuum in quibus clausula ista continetur: DE CUIUS VEL QUORUM NOTITIA nos talis homo certificavit aut assecuravit &c. annullatæ cassatæque & invalidatæ habentur neque in iudicio aliquando locum habere permittuntur. [§1] Ratio est quia Fassio per quempiam hoc modo facta non ad Capitulum vel Conventum sed illum qui ipsum certificavit & assecuravit trahitur atque refetur, ita ut non Capitulum vel Conventus, sed ille certificans videatur astruere & affirmare quod talis Fassionem vel aliam obligationem fecit. NOTITIA autem eius qui fatebitur Capitulo vel Conventui debet semper constare ut idem Capitulum aut ipse Conventus merito talem coram se constitutum fuisse & huiusmodi ac huiusmodi Fassionem fecisse libere possit affirmare. Alioquin autem ad certificationem aut assecuracionem cuiuspiam non tenetur, neque poterit iustas & legitimas litteras dare vel rite privilegia conficere. §2] LICET nonnulli reperiantur salutis & honoris eorum immemores qui personas sepe larvales & ficticias coram Capitulo vel Conventu, interdum autem coram iudicibus quoque regni ordinariis sistere statuereque & iniquas Fassiones per eas pro sese fieri procurant. Nihilominus tamen Capitulum vel Conventus aut iudices ordinarii, qui ad Fassiones talium personarum ignoranter litteras & privilegia dant per hoc non peccant quia ipsi non larvas neque ficticias personas sed eos quos illi sese nominant realiter existere putant. §3] Secus est si Capitula vel Conventus aut iudices ordinarii scienter & studiose id facerent, vel aliter falsas & iniquas litteras conficerent. Nam hoc modo tanquam falsarii & periuri punientur et ex eo Capitula vel Conventus in sigillorum præterea illi qui de membro Capituli aut Conventus tempore confectionis & sigillationis huiusmodi falsarum litterarum præsentis fuerint in beneficiorum suorum. Iudices vero ordinarii seculares in sententia Capitali, necnon perpetua bonorum & iurium possessionariorum suorum ipsos proprie concernentium ac sigillorum pariter & honoris eorum amissione condemnantur. [§4] Insuper ut stigma sigilli igniti frontibus & faciebus Capitularium vel Conventualium, qui (ut præmittitur) in confectione & sigillatione ipsarum iniquarum litterarum interfuerint ac participes extiterint imprimatur & inuratur decretum generale mandat.

Quid debet attendi in cognitione falsarum litterarum. Tit. xvii.

ITem in examine discussionequè falsarum litterarum debet attendi per iudices maxime datum litterarum seu dies emanationis privilegiorum atque annorum positio, necnon sigilli impressio vel appensio ac circumferentia & superscriptio. [§1] Item privilegiorum ac litterarum in nominibus vel cognitionibus personarum aut possessionum in eisdem contentarum & expressatarum, abrasio aut cancellatio, et his diligenter calculatis facile apparebit litterarum sive privilegiorum iusta vel iniusta confectio. [§2] Privilegia autem pono & iusto modo

confecta etiam destructis & dirutis sigillis semper observantur, dummodo circumferentiæ sigillorum & scripturæ bene appareant atque cognoscantur. [§3] Falsitas autem litterarum ad Fassionem præactarum larvalium & ficticiarum personarum inique emanatarum ex hoc maxime apparebit si ille, cuius nomine & in persona eiuscemodi Fassio facta extiterit tempore emanationis & confectionis ipsarum litterarum se in alio loco & non ibi ubi ipsa Fassio fraudulenter peracta est constitutum fuisse poterit bono testimonio comprobare. [§4] Postquam igitur quispiam nobilium nomine & in persona sua Fassionem aliquam modo antelato factam intellexerit mox eidem contradicere & eam reclamare studeat. Quæ semper & ubique locorum credibilium ac testimonialium rite fieri poterit ubi huiusmodi falsitas ad noticiam sui devenerit atque deducta erit. [§5] Et hanc speciem falsitatis articulus super delatione falsarum litterarum in seriebus notarum infidelitatis prædeclaratus in se comprehendit.

Prosequutio secunde partis in speciali: et primo de Evocationibus.

Titulus. xviii.

ABSolutis itaque præmissis notabilibus ad prosecutionem cæpte materiæ huius secundæ partis revertendum est. Ubi primo de exordio causarum scilicet Evocationibus dicendum statui. [§1] Unde sciendum quod Evocatio non est aliud quam ad actionem vel querimoniam iudici ordinario per quempiam & adversus quempiam porrectam in præsentiam eiusdem iudicis legitima vocatio. [§2] QUÆ nostra hac tempestate plures habet species multaue complectitur genera. EVOCATIONUM enim aliæ sunt simplices, aliæ Peremptoriales vel Insinuationales, aliæ Amonitoria, aliæ vero Introductoriales & Reambulatoria. [§3] CAUSÆ itaque in facto iurium possessionariorum impignoratitiorum iurium Quartalitiorum, dotum & rerum Peraffernalium, debitorum, obligaminum, divisionum inter fratres indivisos fiendarum & novorum iudiciorum per quemcunque impetrandorum etiam per simplicem Evocationem motæ eo præcise brevi termino quo causæ per insinuationem intentatæ levare discutique & terminari debent. [§4] RELIQUE vero causæ per Amonitionem vel aliam simplicem Evocationem aut Statutionem & Recaptivationem bonorum, vel etiam metalem Reambulationem inchoatæ in quatuor terminis Octavalibus finaliter concludi solent. [§5] SI QUIS etiam ad præassumptam cautionem expeditoriam in defensionem alicuius causæ vel ad litteras & litteralia instrumenta apud quempiam forsitan habita aut occultata qualicunque Evocatione fuerit vocatus talis Evocatio semper unico termino ubi videlicet principalis causa levata fuerit decidi & finiri consuevit. [§6] EVOCATIONES vero cum insinuatione ratione quorumcunque actuum potentiariarum terminos præscriptionis nondum transcribentes rite semper decernuntur. [§7] In causis etiam longo litis processu motis tertiaro insinuationes loco trineforensis proclamationis subsequuntur.

Qualiter et per quos Evocationes fieri debeant. Tit. xviii.

OMnis autem Evocatio per regium aut Palatinalem & alicuius loci credibilis homines de iuribus possessionariis hæreditariis vel impignoratitiis atque etiam officiolatibus eorum qui sunt evocandi fieri debet. [§1] DE OFFICIOLATIBUS autem verum esse intellige si talis Evocatio prætextu actuum potentiariarum in illo officiolatu perpetratorum decernitur. Nam ratione iurium possessionariorum vel aliorum negotiorum Evocatio de officiolatibus cuiuspiam facta non admittitur. [§2] OMNIS autem homo regius aut Palatinalis Evocationem nec non bonorum statutionem, restatutionem, metalem Reambulationem & aliam quamlibet

exequutionem iuridicam faciens, in eo comitatu, ubi exequutio fit, hæreditatem nobilitatem debet habere. [§3] Nam aliter Exequutionem aliquam nequit facere nisi forte de curia regia per iudices regni ordinarios ad ipsam Exequutionem fuerit deputatus atque missus. [§4] Nam hoc modo quilibet nobilis immo & ignobilis (si tamen ignobilis ipse scriba vel notarius curiæ regie fuerit) in qualibet Exequutione procedere potest. [§5] Antiquitus enim aulæ regię milites & alii curiales ad Exequutiones & præsertim bonorum Statutiones mittebantur.

De personali Citatione, Amonitione et Prohibitione. Tit. xx.

Hic tamen sciendum est quod si quispiam dominorum vel nobilium durantibus dietis & conventionibus generalibus vel octavis aut aliis brevibus iudiciis alterum quempiam in huiusmodi dieta vel conventionem aut Octavis & brevibus iudiciis constitutum morte, vulneribus vel verberibus aut etiam verbali dehonestatione infamiam inducente affecerit talis mox absque quolibet Capitulari aut Conventuali homine, per solum scribam seu notarium curiæ regię per iudices ordinarios vel alterum eorum ad id destinandum, ad instantiam læsæ partis personaliter in sui præsentiam citari poterit. [§1] PRÆTEREA si quis alterius bona ac iura possessionaria pignoris titulo tenens in conspectu alicuius iudicis ordinarii per eum qui bona ipsa sibi pignora vit vel ad quem redemptio eorundem bonorum ac iurium possessionariorum legitime attinet, aut solummodo per procuratorem eius legitimum repertus ad tollendam pecuniam suam & remittenda ipsa bona ac iura possessionaria semper amoneri poterit, & ille tertio aut eodem (si voluerit) die amonitionis sibi respondere debet, ita tamen si copiam seu paria litterarum Impignoratarum actor ipse coram iudice suo tunc producere valebit. [§2] Nam aliter amonitus ille respondere sibi hoc modo & processu non tenetur sed actor per regium aut palatinalem & alicuius loci testimonialis homines, ut amonitionem eiuscemodi pariter & Evocationem peragat necesse erit. [§3] Et non solum in facto Impignoratio ipsa amonitio, verum etiam in negotio iuris hæreditarii & perennalis prohibitio personalis in conspectu iudicum regni ordinariorum semper & ubique fieri poterit. Dummodo prohibens & prohibitus coram ipsis iudicibus ordinariis personaliter & non per procuratorem reperiantur. Nam aliter personalis huiusmodi prohibitio locum non habet, [§4] quæ ratione potissimum indebitæ, & potentiariæ detentionis iurium possessionariorum fieri consuevit. Et virtutem Evocatoriæ cum insinuatione factæ immo maiorem vim habet. Tertio namque die prohibitionis ipse prohibitus respondere tenetur. Si vero respondere noluerit licet contra eum capitalis vel alia sententia eo tunc non feratur tamen si prohibentem contra se infra integram unius anni revolutionem legitime evocari non fecerit, vel si etiam fecerit# attamen in debite bona & iura illa possessionaria, quorum ratione eadem prohibitio personalis facta est detinuisse vel detinere per iudicem compertus fuerit eo præcise modo quo in causa per insinuationem mota in capitali vel emendæ capitis (iuxta scilicet personarum litigantium conditionem) sententia prohibitus ipse condemnatur. [§5] Ubi vero prohibens cum omnibus litteralibus suis instrumentis factum huiusmodi bonorum litigiosorum tangentibus coram suo iudice ipsa die responsionis non comparebit, vel cum ipsis litteris paratus comparere nequibit tunc adversus prohibitum & iudicem suum in regali iudicio sex marcarum convincetur. [§6] Et si ulterius causam illam prosequi voluerit deposito ipso onere sex marcarum alio processu prosequendi habebit facultatem. [§7] Et hoc verum est si prohibitus prænotata die responsionis iuri parebit, & ad prohibitionem illam de facto & immediate respondebit. [§8] Ubi autem prohibitus vel in causam attractus litteralia sua instrumenta ibidem producendo bona ac iura ipsa possessionaria prætextu quorum eiuscemodi personalis prohibitio facta fuit ad se iusto titulo pertinere poterit comprobare tunc actor seu prohibens ipse mox in estimatione communi bonorum illorum convincetur. [§9] Si vero prohibitus ipse prædicta die tertia non respondebit,

neque actorem contra se infra dictam unius anni revolutionem ad ipsam personalem prohibitionem evocabit tunc idem prohibens peracta huiusmodi annuali revolutione prohibitum primo simplici Evocatione, secundo vero ex processu iudiciario insinuatione mediante adversum se Evocare debet. [§10] Quiquidem prohibitus & in causam attractus (quia respondere & Evocationem præmissam peragere per hocque eandem prohibitionem viribus contra se accrescere permisit) in termino discussionis ipsius causæ in sententia capitali vel emendæ capitis si prohibitio ipsa potentiariam & indebitam bonorum detentionem vel occupationem denotaverit, & actor efficaci iure bona illa litigiosa ad se pertinuisse vel pertinere poterit verificare condemnabitur eo facto.

De testimoniis capitularibus ac conventualibus ad exequutiones mittendis. xxi.

ADvertendum præterea est, quod Evocationes necnon bonorum ac iurium possessionariorum Statutiones, Restatutiones, metales Reambulationes, Amonitiones & aliæ quælibet iudiciariæ exequutiones per hominem regium aut Palatinalem cum testimonio illius Capituli vel Conventus, quod vel qui in ipso comitatu, ubi exequutio sit habetur. Si autem neutrum eorum habetur tunc cum testimonio alterius loci sibi vicinioris fieri semper & peragi debent. [§1] Aliter enim condescendet causa per actorem (si voluerit) de novo inchoanda & resuscitanda, [§2] demptis testimoniis Capitulum Albensis, Budensis & Boznensis ecclesiarum atque Conventus Cruciferorum de Alba, qui in quibuscunque exequutionibus per totum regnum Hungariæ & partes sibi subiectas procedendi habent auctoritatem. [§3] SIMPLICES autem inquisitiones super actibus potentiariis etiam per aliorum Capitulum & Conventuum propinquiorum testimonia ubilibet exequi possunt.

De pena illius, qui homo regius simul et procurator in una eademque causa compertus fuerit.

Titulus. xxii.

HOc autem sciendum est quod homo regius aut Palatinalis in eadem causa qua Evocationem vel aliam exequutionem fecerit procurator seu advocatus esse non poterit. [§1] Nam si quispiam homo regius vel Palatinalis atque etiam procurator in una eademque causa repertus fuerit contra eum adversus quem procuratoris officium gerit vel gesserit in suo Homagio de facto convincetur. [§2] Et ratio est quia homo regius aut Palatinalis penes testimonium seu hominem cuiuscunque loci credibilis Capituli scilicet aut Conventus tanquam iudex in persona sui superioris iudicis ad exequutionem missus stat & reputatur. Procurator autem pro actore estimatur. Nam agens & opponens est, sicque iudex & actor esse deprehenditur. Nemo autem in una eademque causa actor & iudex simul esse permittitur. Ideo in Homagio suo merito convincetur.

De pena eius, qui mortuum vel puerum evocaverit, aut nobilem statui commiserit. xxiii.

HOc quoque non prætermittendum quod si quispiam litigantium nobilem quempiam iam præmortuum & ab hac luce decessum contra se evocari fecerit, vel etiam familiares aliquorum dominorum prælatorum aut baronum vel regni nobilium possessionatos & titulo vere nobilitatis fungentes tempore Evocationis domino suo statui commiserit, vel etiam aliter statui facere procurabit aut aliquem puerum illegitimè ætatis ratione actuum potentiariarum contra

se evocaverit tunc talis actor & contra ipsum nobilem præmortuum & puerum illegitimæ ætatis atque singulos huiusmodi familiares nobiles in singulis quinquaginta marcis Homagialibus (si exceptionem & objectionem adversus actorem super ea re fecerint) convincetur & condemnabitur eo facto. [§1] NOBILES enim evocari & non statui debent. [§2] Ad solos autem rusticos vel rurales & iobagonalis conditionis homines atque familiares ignobiles attinet statutio quos proprii domini ipsorum terrestres & non officiales statuere ac in præsentiam iudicis sistere tenentur.

De Amonitionibus ratione iurium Impignoratorum & Dotalitiorum fiendis, & penis exinde sequendis. xxiii.

Amonitiones siquidem ad levandam pecuniam & remittendam portionem Impignoratitiam vel ad tollendas Dotes & res Paraffernales iuraque Quartalitia & huiusmodi &c. personaliter si actor præsentiam eius qui vel quæ amonendus aut amonenda est habere poterit. Alioquin autem de domo habitationis ac solitæ residentiæ eius fieri possunt. [§1] VERUM tamen Evocatio post amonitionem non personaliter sed de iuribus eiusdem amoniti vel amonitæ possessionariis populosis hæreditariis aut impignoratitiis unde scilicet ad notitiam sui Evocatio facta fuisse possit devenire fieri debet. [§2] Nam aliter si iobagione carebit, etiam de curia sua nobilitari ac domo solitæ residentiæ suæ talis rite admoneri pariter & evocari poterit. [§3] Si tamen Iobagionem vel Iobagiones habuerit de illis Evocatio fieri debebit. Alioquin enim si personaliter aut de domo habitationis suæ evocatus aut evocata fuerit actor contra Evocatum vel Evocatam in Homagio eiusdem convinci debet & agravari. [§4] UBI sciendum quod siqui nobilium aut quæ mulierum ad tollendas pecunias suas & remittendas portiones impignoratitias vel etiam levandam Dotem & res Paraffernales suas atque reddenda & remittenda iura possessionaria mariti sui defuncti illi ad quem de iure spectabunt amoniti aut amonitæ fuerint, & illis tempore eiuscemodi amonitionis non levatis neque iuribus possessionariis remissis Evocatio subsequuta extiterit, ac ad terminum ipsis assignatum Octavalem videlicet aut brevium iudiciorum venire vel mittere neglexerint tunc ulteriori termino non expectato actori huiusmodi iura possessionaria sine omni prorsus pecuniaria solutione per iudicem restituentur, & illi evocati vel ipsæ evocatæ iura sua extra dominium ipsorum bonorum requirere & prosequi tenentur. [§5] Immo fenerator ille qui pecunias tollere & bona iuraque Impignoratitia remittere recusavit vigore generalis decreti nostri in tanta præterea pecuniarum summa qua sibi fuerunt iura illa impignorata contra partem adversam de facto convincetur. [§6] Et hoc verum esse intellige si Amonitio pariter & Evocatio per eum facta fuerit, qui pignorationem fecit, vel eius filium aut fratrem, in quem ut puta devolutio bonorum ipsorum Impignoratorum manifeste respicit. Nam ad instantiam vicinorum aut commetaneorum eorundem bonorum pœna præmissa subsequi non consuevit. [§7] MULIER VERO amonita & prætextu dotis reique Peraffernalis suæ modo præmisso evocata siquidem comparuerit, exquisitis tamen per responsionem aliquibus subterfugiis ad alium terminum causam suam prorogari facere procuraverit, ut interea fructus bonorum illorum capere & percipere posset, & in ipso tandem termino responsionem suam bono modo probare non potuerit tunc dotem & rem suam Peraffernalem propter fraudem & frivolam suam responsionem (et quo multæ fœminæ bona pupillorum huiusmodi cavillationibus extremæ desolationi subiecisse dinoscuntur) per omnia amittet eo facto, & actori bona ac iura possessionaria ipsa sine quavis solutione dotalitii per iudicem suum reddi & restatui debent.

De clausula Evocationis: litispendentia; quid importet. Tit. xxv.

Item super clausula Evocationum LITIs pendentia si qua foret inter ipsos (Evocantem scilicet & Evocatum) non obstante Sciendum quod propter evitandum calumniæ factum quæ calumnia ex duplici & interdum longe multiplici causarum motione atque prosecutione maxime solet evenire clausula ipsa in Evocatione consuevit apponi [§1] ne actor cum reo vel in causam attracto prætextu aliquorum negotiorum in lite existente & litis inter medio partium ipsarum altera quocunque actu potentiario per alteram lederetur, vel aliter litigare cogere, & propterea causa de novo suscitaretur causæ prius motæ & intentatæ nova Evocatio quovis modo possit derogari, vel quicquam oneris aut gravaminis actori vel econtra generari. [§2] Et ista clausula in prima Evocatoria consuevit inseri. In secunda namque vel tertia Evocatoria ex processu causarum procedente non est necessaria.

Tria requiruntur in Evocatione expresse denotanda. Tit. xxvi.

Item in omni Evocatione, & actionis declaratione præsertim ratione actuum potentiariorum fienda tria requiruntur expresse denotanda. [§1] PRIMO persona per quam & contra quam querela vel actio proponitur. [§2] SECUNDO tempus vel terminus quo quis alteri damna aut iniurias patravit vel irrogavit. [§3] ET tertio locus ac comitatus ubi videlicet & in quo huiusmodi damna vel iniuriæ fuere patrata & commissa. [§4] Item si prætextu occupationis iurium possessionariorum causa mota fuerit ut portio quoque occupata bene specificetur necesse est. [§5] Nam absque conditionibus istis iudex ordinarius inter partes rectum congruensque iudicium administrare non poterit, maxime si causa ipsa ad communem inquisitionem iuxta responsiones partium submissa deductaque fuerit, in cuius celebratione & temporis expressio & loci ac comitatus descriptio atque etiam rei perpetratę series vel quantitatis bonorum occupatorum declaratio summe necessaria semper est & erit.

Quid sit communis inquisitio, & quot conditiones requirantur ad eius celebrationem. xxvii.

ULterius sciendum, quod communis inquisitio est dubietatis ex responsionibus litigantium coram iudice emergentibus per attestaciones testium certa declaratio, [§1] quæ per vicinos & commetaneos illius possessionis ubi actus potentiarii de quo agitur perpetratio accidit vel illata est nobilesque comprovinciales ipsius comitatus in quo eadem possessio adiacet in loco utpote sedis iudiciariæ eiusdem comitatus. Nisi forsitan pretextu occupationis iurium possessionariorum vel terrarum causa ventiletur. Nam in hoc casu non in loco sedis semper sed in facie terrę litigiosę sæpe fieri & celebrari consuevit. [§2] UT autem omnis communis inquisitio bono & iusto modo celebrari possit quinque conditiones sunt observandæ scilicet libertas, ætas, modalitas, conditio & sacramenti depositio. [§3] PRIMO (inquam) requiritur libertas ut libere & sine metu sponteque & non violenta coactione sed iuridica dumtaxat requisitione quisque testium veritati testimonium perhibeat ne inter arma iura silere videantur. [§4] SECUNDO exigitur ætas ut testis ipse tantæ sit ætatis quod rerum gestarum super quibus examinabitur memoriam habeat atque recordetur. Legi enim in reportatis seriebus communium inquisitionum & non modo legi verumetiam vidi plerosque dono & favore corruptos vix sedecem aut viginti ad maximum annos agere, & de rebus circiter vigesimo quinto prius anno patratæ & gestis scitu Fassionem & attestacionem constanter tanquam illis interfuisent fecisse. Et quia conspectui iudicum ordinariorum regni testes ipsarum inquisitionum personaliter adduci & præsentari non solent sed per regios dumtaxat vel

Palatinales ac Capitulorum & Conventuum homines ad id transmittendos examinationes huiusmodi testium fieri consueverunt. Ideo ipsi diligenter & ętati testium & tempori gestarum rerum superintendere veramque super ea re relationem facere tenentur. [§5] TERTIO necessaria est modalitas, ut testis de modo patratę rei super qua interrogabitur aperte manifesteque fateatur, utrum scitu vel auditu rem ipsam ac causę merita novit? aut forsitan ab ore illius qui facinus (de quo agitur) perpetravit eiusdem seriem accepit? Simplici enim auditui locus dari non solet neque debet sed prohdolor plurimi hoc tempore dum abundat iam iniquitas & non refriguit modo verumetiam extincta est multorum charitas, non eo prout ipsis constat ordine vel modo sed iuxta nutum voluntatemque actoris aut in causam attracti per quem scilicet vocati fuerint maculata coinquinataque conscientia testimonia proferunt idque ita fieri ego ipse conspexi. [§6] QUARTO advertenda est testium conditio utrum videlicet nobilis vel rusticus testimonium veritati perhibeat? Nam rusticana attestatio (demptis officialibus dominorum pręlatorum & baronum ac aliorum regni nobilium in personis eorum officia in vicinitate tenentibus, qui iuxta antiquorum consuetudinem in hac parte pro personis nobilibus reputantur) contra personam nobilitarem nihil valet nisi forsitan meritis causę ita exigentibus per iudicem ut nobiles & ignobiles pariter examinentur claro sermone fuerit descriptum atque commissum. Hoc tamen raro & non nisi partibus sic volentibus ac consentientibus fieri & admitti consuevit. [§7] Rustici enim & plebeę conditionis homines tum donis tum terroribus longe facilius citiusque quam nobiles a tramite veritatis abstrahi possunt. [§8] Et alias inconueniens incongruumque videtur nobilem tanquam superiorem testimonio inferioris scilicet rustici sententia capitali plectendum iudicari vel aliter condemnari debere prout vetusta & approbata regni huius super ea re consuetudo apud omnes fere iudices & advocatos nota manifesta que habetur. [§9] QUINTO & ultimo in celebratione communis inquisitionis requiratur iuramenti depositio, [§10] quę licet prima fronte a testibus exigenda sit primumque locum etiam inter conditiones prędeclaratas sortiri debeat, quia tamen hęc conditio vulgata nimis & manifesta est, ac in litteris quoque adiudicatoriis iudicum super ipsa communi inquisitione conficiendis expresse semper describitur, & alias quęlibet communis inquisitio iuramentali depositione terminatur prout clare inferius declarabitur, ideo ultimo illam posui.

Qualiter sunt examinandi testes in communi inquisitione & de pena eorum, qui vocati ad testificandum venire recusant. xxviii.

NEcessarium itaque est quemlibet testium antequam fateatur super eo iuramentum deponere quod ipse omni timore, odio, favore, amore & pręmio litigantium remoto ac postposito veritatem non celabit, falsitatem non iustificabit, iustitiam non falsificabit sed prout res illa de qua examinabitur sibi nota est vel constat iuste declarabit. [§1] Et ne quispiam ab eiusmodi attestazione dicenda que veritate favore forsitan partis alterius allectus, vel munere corruptus, sive metu percussus, aut odio interno tactus se abstrahere & occultare possit tum vigore generalis decreti nostri, tum vero consuetudine antiqua & longo tempore observari solita dictante comes aut vice comes parochialis illius comitatus ubi communis ipsa inquisitio celebratur & peragitur per litteras iudicis ordinarii adiudicatorias vel etiam alias super ea re dumtaxat pręceptorie emanandas requisitus quoslibet nobiles eiusdem comitatus sub onere sedecim marcarum gravis ponderis quamlibet marcam per quattuor florenos vel quadringentos denarios computando per eundem comitem vel vicecomitem super eos qui amoniti ac requisiti attestationi huiusmodi inter esse in ibique testimonium veritati perhibere recusaverint immediate & irremissibiliter exigendarum ad ipsam eandem attestacionem & communem inquisitionem peragendam convocandi agregandique plenariam habet potestatis facultatem.

Quod duplici ratione solent nomina testium in litteris relatoriis conscribi. xxix.

NOmina autem & cognomina testium & quis eorum vicinus ac quis commetaneus, aut comprovincialis fuerit in litteris Capitularibus vel Conventualibus super celebratione ipsius communis inquisitionis relatoriis semper sunt perscribenda; & hoc duplici ratione. [§1] PRIMO quoniam attestations duorum vel trium vicinorum & commetaneorum plusquam viginti nobilium comprovincialium in iudicio valent & ponderant qui longe verius meliusque quam nobiles comprovinciales super meritis causę ac gestę rei serie propter propinquitatem possunt esse certiores. [§2] SECUNDO ut testium nominibus simul & attestacionibus declaratis & conscriptis litigantium quilibet exceptiones pro se necessarias, aut de periurio vel mala testificacione, aut infamia, vel ętate contra eos quos voluerit & digne poterit facere & opponere queat. [§3] Ne presertim periurium si quod in attestacione per quempiam (prout iam crebro fieri solet) commissum fuerit impunitum pretereat. Nam & iuxta sapientem testis iniquus non erit impunitus qui & contra deum graviter peccat eius iustitiam denegando, & proximum suum damnificat iniquo testimonio ipsum decipiendo.

De pena periurorum et Aucariorum Lwdas appellatorum. xxx.

UNde iusto dei & humano iudicio quilibet fidefragus & periurus (quem nos communi vocabulo Aucarium hoc est: Lwdas appellamus) acriter est puniendus. [§1] Amittit enim (ubi de periurio fuerit convictus) universa & quelibet iura sua possessionaria atque cuncta bona mobilia ubilibet adiacentia & quocunque nomine nuncupata. [§2] Immo proprietate bonorum suorum privabitur & perpetuo carebit [§3] & non solum his exhæreditabitur sed etiam in persona sua (amisso humanitatis honore) tanta ignominia afficietur ita ut inter alios cristicolas tanquam ab humanitate relegatus atque segregatus disparibus vestibus indutus, zona canapea succinctus, discalciatis pedibus & nudato capite semper incedere cogetur. [§4] In iudicio vero ipse contra neminem adversus autem eum quilibet agendi habebit auctoritatem. [§5] Et hoc intellige respectu iurisdictionis sacrę coronę regni & contra principem nostrum fieri. Nam adversus actorem solummodo in Homagio & emenda capitis sui ducentos florenos faciente periurus & fidefragus solet condemnari. [§6] UBI sciendum quod periurium duobus modis committi intelligitur. PRIMO modo dicitur transgressio liciti iuramenti quando videlicet quispiam promittit aliquid alteri fide mediante se daturum, vel hoc & id facturum; & deinde promissionem huiusmodi transgreditur. Et in hoc casu præmissa infamia & bonorum amissio non semper sequitur. Nam per validam egritudinem ac viarum discrimina & temporum disturbia promittens ipse sepe numero super his excusatur; nihilominus tamen promissum adimplere & observare compellitur. [§7] SECUNDO modo periurium dicitur mendatium iuramento firmatum in fraudem & periclitacionem iurium cuiuspiam maliciose commissum. Et hoc modo pœna Aucariorum prædeclarata semper decernitur atque pronunciatur.

Quod celebratio communis inquisitionis binario numero fieri non admittitur. xxxi.

ADvertendum est autem quod ubi semel communis inquisitio per utramque partem celebrata fuerit turbatione notoria non interveniente tunc secundo causa ipsa ad requisitionem alicuius partis ad eandem communem inquisitionem submitti non debet prout nonnulli exquisitis diversis obiectionibus & coloribus fieri & submitti debere sepe moliuntur. [§1] De

reliquis autem clausulis celebrationis atque etiam turbationis communis ipsius inquisitionis in decretis generalibus manifestam claramque habemus descriptionem.

Qualiter post communem inquisitionem, et etiam prius, litigantibus iuramenta decernuntur. Tit. xxxii.

SCiendum ulterius quod omnis communis inquisitio iuramentali depositione terminatur. [§1] Si enim actor intentum suum atque actionem & acquisitionem suam sufficienti testimonio hoc est, sex vicinorum & totidem commetaneorum atque duodecim nobilium comprovincialium attestazione comprobabit, aut si tot præcise vicinos & commetaneos habere non poterit nihilominus tamen testimonio comprovincialium huiusmodi defectum bene suplebit & in causam attractus in comprobatione sua defecerit vel si etiam modicum quid probaverit tunc actor ad caput in causam attracti quinquagesimo se nobilibus iuxta scilicet Homagium suum iurabit. [§2] Si vero utraque partium actionem ac responsionem suam sufficienter verificabit tunc reo vel in causam attracto iuxta vigores litterarum inquisitionalium per actorem tempore adiudicationis (quo ad communem huiusmodi inquisitionem causa submissa fuerat) productarum & exhibitarum iuramentum præstandum adiudicatur, ita quod si trinę litteræ inquisitorię fuerunt productæ tunc reus quinquagesimo, Si vero binę vigesimo quinto, si autem unicę dumtaxat duodecimo se nobilibus iurabit, & se ab actione acquisitioneque actoris expurgabit. [§3] UBI vero attestatio pro parte in causam attracti meliori modo quam actoris facta celebrataque fuerit tamen etiam actor aliquid probaverit, tunc reus secundum trium litterarum Inquisitoriarum vires vigesima quinta, duarum vero duodecima, unicarum autem sexta nobilium adhibita manu sacramentum præstabit, & se ab impetitione actoris eliberabit. [§4] SI AUTEM actor in attestazione sua per omnia defecerit, vel forsitan communem ipsam inquisitionem neque celebraverit tunc reus ille simpliciter ab impetitione actoris absolvi debet [§5] & econverso: Si in causam attractus communem huiusmodi inquisitionem celebrari obmiserit, aut forte celebrationem eius peregerit, sed pro sua parte nullum testimonium reportare poterit tunc sententia mox diffinitiva exinde per iudicem contra reum pronuncianda erit. Et in reliquis quoque cunctis Evocationibus idem est sentiendum atque faciendum. [§6] QUOD SI actor trinas litteras Inquisitorias produxerit, & reus proposita adversus eum simpliciter negaverit quinquagesimo se nobilibus iurabit. Et insuper si in facto occupationis iurium possessionariorum causa mota fuit actor de facto bona occupata pro se recuperabit. [§7] Si tamen negaverit, & se immunem esse communi præmissa inquisitione mediante declarare voluerit, actor autem eandem communem inquisitionem non acceptaverit tunc attractus vigesimo quinto se dumtaxat nobilibus se expurgabit; & sic consequenter ad inferiora descendendo, ut videlicet contra binas litteras Inquisitorias duodecimo, contra unicas vero tertio se nobilibus sacramentum præstabit. Nam istę quoque unicę firmitate carebunt, si actor communem ipsam inquisitionem acceptare recusabit. [§8] ITEM ubi in causam attractus in primo responsionis termino se iuramento actoris ad caput suum iuxta regni consuetudinem deponendo submiserit & actor hoc acceptare noluerit tunc attractus tertio solummodo se nobilibus (si etiam tres litteræ Inquisitoriæ fuissent pro parte actoris exhibitæ) sacramentum præstare tenetur. [§9] Si autem iuramento solius actoris hoc est in persona dumtaxat sua propria deponendo attractus se submiserit, & actor hoc quoque acceptare recusaverit reus ipse statim absolvetur. [§10] IN CÆTERIS vero minoribus causis ubi per actorem nullæ litteræ Inquisitoriæ fuerint exhibitæ reus tertio semper se nobilibus, IN FACTO tamen debiti vel mutui dum per actorem nullum probabile documentum poterit produci, reus vel in causam attractus sola sua in persona iurabit. [§11] UBI autem de facto debiti aut mutui vel aliarum pecuniarum amissarum testimonium quidem extiterit allatum, de quantitate tamen summæ

illius experimentum afferri non poterit tunc actor pecuniam suam iuramento mediante quamlibet scilicet marcam quatuor florenos facientem iuramento unius nobilis recuperabit. [§12] RURALIS namque & rustica persona non nisi ad unum florenum centum denarios valentem iurandi habet facultatem, quæ in causis nobilium admitti non consuevit.

Utrum iuramentum nobilis penes rusticum & e contra in recuperatione damnorum valeat. Tit. xxxiii.

UNde quæritur: Utrum iuramentum nobilis pro damnorum vel debitorum recuperatione penes rusticum & ignobilem præstitum censeatur tantæ efficacitæ & virtutis esse quantæ sit iuramentum penes nobilem depositum aut in vim dumtaxat rusticani iuramenti transeat? [§1] ET ECONTRA si nobilis quispiam iuramentis cum rusticanis secundum facultatis eorum exigentiam deponendis sua damna vel debita possit recuperare? [§2] DICENDUM quod iuramentum nobilis tam penes nobilem, quam etiam ignobilem præstitum semper valet & semper eiusdem est efficacitæ atque virtutis, dummodo iuste, legitimeque deponatur. Nam per iuramenti depositionem iusto modo factam infamia non sequitur, & per hoc neque nobilis quispiam dignitati suæ nobilitari renunciasset dinoscitur. [§3] VERUM tamen iuramentum ignobili, & rustici tanquam inferioris penes nobilem & contra nobilem veluti superiorem non valet neque admittitur; licet nobilis contra ignobilem cum ignobilibus iurare permittitur. [§4] Et rusticus quoque per eum in causa contra nobilem ratione forsitan debitorum vel aliorum similium negotiorum mota cum ignobilibus sibi similibus iuxta iudicis deliberationem iuramentum præstandi habeat facultatem super iuramentis tamen in causis nobilium imponendis & deponendis modo præallegato semper est sentiendum.

De iuramentis in facto litteralium instrumentorum decernendis & imponendis. xxxiiii.

ADvertendum deinde est quod super facto litterarum ac litteralium instrumentorum per quemlibet occultatorum, vel aliter apud manus cuiuspiam habitorem reo & in causam attracto validior expurgatio quam in aliis actibus potentiariis imponitur. [§1] Nam si actor unquam dumtaxat vel duas ad maximum litteras Inquisitorias super ea re produxerit quinquagesimo, Si vero nullas prorsus exhibuerit sed simplici dumtaxat verborum prolacione vel iuridica amonitione quempiam litteralia ipsa instrumenta habere astruxerit denique vigesimo quinto se nobilibus iuramentum reo deponendum adiudicatur. [§2] Qui si in depositione huiusmodi sacramenti defecerit tunc tutor & expeditor illorum bonorum ac iurium possessionariorum super quorum litteris iurare non potuit esse declarabitur, & actorem suosque heredes in dominio eorundem iurium possessionariorum adversus quoslibet causidicos & legitimos impeditores semper conservare tenebitur. [§3] In litteris tamen Evocatoriis litteralia illa instrumenta quæ & qualia existant expresse debent denotari ne fraus in Evocatione per actorem committatur. [§4] ET HOC SI universas litteras & quemlibet litteralia instrumenta factum aliquorum iurium possessionariorum tangentes & concernentia apud reum existere non proposuerit. Nam isto casu non erit necessarium litterarum numerum vel qualitatem sed iurium dumtaxat huiusmodi possessionariorum nomina situsque describere. Ubi enim omnes vel universas proponit, ibi nullas excipit, [§5] & si universas posuerit caveat actor ne aliquas factum talium iurium possessionariorum tangentes litteras postea producat vel exhiberi faciat. Nam in facto calumniæ hoc casu mox vincetur. [§6] SCIENDUM deinde est quod si plures fuerint fratres carnales vel aliter indivisi litteras ac litteralia instrumenta adversus fœminei sexus homines in iudicio contradictorio (prout plerumque fieri contingit) producentes &

exhibentes tunc non omnibus fratribus singillatim sed solummodo natu maiori ad quem ut puta tam litteralium instrumentorum conservatio quam etiam causarum directio pertinere dinoscitur quinquagesima manu hoc est quinquagesimo se nobilibus iuramentum adiudicari debet.

In quibus casibus sunt perscribenda nomina coniuratorum. xxxv.

ADvertendum quoque est quod in iuramentali depositione in quatuor casibus videlicet super facto probationis genealogiarum ac litterarum & litteralium instrumentorum; Item metalium Reambulationum, nec non ad capita quorumpiam fienda atque præstanda nomina coniuratorum in litteris exinde Relatoriis conscribi debent semper & declarari [§1] ut veris cum nobilibus & iuxta iudicis commissionem iuramentum eiuscemodi depositum fuisse comprobetur. [§2] In cæteris autem sacramentorum depositionibus coniuratorum nomina non sunt ex necessitate conscribenda.

De pena eius, qui alterum ignobilem vel infamem dixerit, et de diversis exitibus iuramentorum. xxxvi.

ITem si quispiam adversus coniuratores vel alterorum illorum exceptiones in quatuor præmissis casibus fecerit quod coniurator ipse aut verus non esset nobilis & mere nobilitatis titulo non fungeretur, aut aliter infamis vel periurus haberetur tunc ad declarandam pariter & verificandam illius nobilitatem vel etiam propellendam eius infamiam unicus tantummodo terminus iuridicus actori præfigi debet & assignari, [§1] in quo si ipsum verum esse nobilem litterali fulcimento ac honeste conditionis hominem alio quoque probabili documento poterit comprobare tunc reus, qui exceptionem fecerat in Homagio illius coniuratoris contra quem obiecerat ducentos florenos auri faciente eidem solum modo coniuratori persolvendo de facto convinci debet & agravari; [§2] super quibus iudex ipse ordinarius coram quo eiuscemodi causa tractatur de bonis & rebus mobilibus ipsius opponentis, & si necessarium erit de iuribus eiusdem possessionariis ubilibet adiacentibus coniuratori illi mox & indilate satisfactionem impendere tenetur. [§3] SI VERO in comprobatione præmissa succubuerit tunc opponens ipse causam illam pro se obtentam habebit. [§4] Ita ut si in causam attractus fuerat caput suum eliberabit, & se ab impetitione actoris salvabit. Si autem actor erat reum bonorum illorum littera, quorum occultavit & non restituit expeditorem (ut immediate prædeclaratum est) perpetuo habebit. VEL si prætextu metarum causa ventilabatur terram litigiosam in sempiternum pro se vendicabit. Si vero in probatione genealogiæ succubuerit iura possessionaria pro quibus agebatur amittet & e converso. [§5] IN CÆTERIS vero causis & casibus si actor in iuramentali sua depositione succubuerit actionem & acquisitionem suam amittet. Si vero reus defecerit tunc in actione & acquisitione contra se per actorem proposita vincetur; & per iudicem sententia contra eum proferetur eo facto.

Quomodo iuramentum patris tempore medio decedentis in filium vel fratrem condescendet. xxxvii.

HOc quoque non prætermittendum est quod si quempiam actorum vel attractorum cui scilicet iuramentum quodcunque præstandum fuisset adiudicatum infra terminum iuramentalis huiusmodi depositionis ab hac luce decedere contigerit: & forte uxorem pregnantem post se

reliquerit tunc ipsa iuramentalis depositio in filium natu maiorem si filios prius natos habuerit, Illis vero non existentibus in eum qui tunc nascetur filium (tempus enim puerperii ipsius mulieris expectari debet) alioquin autem si non filius, sed filia nascetur in fratrem propinquiorem illius defuncti in quem utpote iura sua possessionaria devolventur condescendet; [§1] & per iudicem suum terminus ad præstandum ipsum iuramentum filio vel fratri de novo dabitur in quo illud idem filius aut frater deponere tenebitur. [§2] Et si filius ipse vel frater in ætate tenera & ad sacramenti depositionem nondum sufficienti fuerit constitutus per iudicem suum ad tanti temporis spacium iuramenti ipsius depositio prorogari debebit, in quo rite debiteque legitima illius ætate adveniente sacramentum huiusmodi deponi valebit. [§3] Et de fratribus quoque carnalibus & indivisis idem est tenendum quod altero eorum tempore medio decedente in alterum iuramenti depositio illius defuncti redundabit.

Utrum unus coniuratorum possit plures personas in eadem causa iuramento suo expurgare. Tit. xxxviii.

Item quæritur si in una eademque actione in causam attracti plures fuerint, & per iudicem ordinarium unicuique illorum sacramentum diverso in tempore, & loco præstandum (prout plerumque propter loci distantiam & rei: temporisque exigentiam fieri consuevit) adiudicatum fuerit atque unus coniuratorum in primo termino pænes unum attractum iuraverit, UTRUM in eadem causa & pro eadem actione possit etiam pænes alterum reum vel attractum in alio tempore & loco sacramentum pro illius expurgatione deponere? [§1] RESPONDE quod non. Quia una persona vel unus coniurator suo iuramento præter unam personam in una eademque actione liberare & expurgare non potest. [§2] Nam si iurare & plures personas expurgare posset facillime quilibet reus & malorum actuum patrator se ab impetitione actoris liberaret. Hodie enim unum & crastina luce secundum, tertia vero die tertium & sic consequenter iuramento suo etiam precio conductus expurgaret. [§3] Unde si quando talis coniurator pænes duas personas post sese iurabit tunc illa, pænes quam secundario iuravit in actione & acquisitione actoris eo facto condemnabitur. Iuramentum enim illius per hoc insufficienter depositum fuisse declarabitur.

Quod princeps noster nec capitalem sententiam incurrere potest, nec iuramentum contra quempiam per se prestare, sed neque iura producere tenetur. xxxix.

Item advertendum est quod regia maiestas in præsentia domini Palatini huius regni cunctis querulantibus atque causantibus iuri quidem stare & per directorem causarum suarum respondere tenetur; [§1] in sententia tamen capitali vel emendæ capitis aut amissione bonorum suorum convinci non solet, sed damna dumtaxat per officiales aut Iobagiones suos quibuscunque illata refundere debet. [§2] Si quando vero ratione terrarum in metalli Reambulatione & rectificatione vel prætextu aliorum negotiorum aut actuum potentiariorum iuramentum sibi præstandum adiudicabitur tunc ipse director causarum suarum in maiestatis suæ persona illud iuxta Palatini deliberationem deponere tenebitur. [§3] Litteras etiam & litteralia instrumenta ratione quorumcunque bonorum ac iurium possessionariorum quæ ad iurisdictionem ipsius sacræ coronæ regni quocunque titulo devoluta dicuntur producere & exhibere nusquam tenetur.

De modo iuramentorum dominorum prelatorum et baronum ac abbatum & prepositorum infulatorum. xl.

SCIendum est autem quod quilibet prælatus & baro ex officio Abbasque & præpositus infulatus & anulatus pro decem personis nobilium ratione suæ dignitatis habet iurandi potestatem. [§1] Prælatus autem & Abbas ac Præpositus in ecclesia sua Cathedrali ad conscientiæ suę puritatem coram testimonio alicuius Capituli vel Conventus per iudicem ad id deputandi, Cæteri autem sui coniuratores & item omnes barones atque nobiles ad fidem eorum deo debitam in loco ad id per iudicem deputato sacramenta præstare tenentur; [§2] & proinde etiam Homagia ipsorum dominorum prælatorum & baronum ac Abbatum & præpositorum infulatorum ad centum marcas quadringentos florenos facientes se extendunt.

Quid sit oculata revisio, & qualiter celebrari debeat. Tit. xli.

ITem habita communis inquisitionis & iuramentalis depositionis inde subsequendæ descriptione super oculata iam revisione breviter dicendum atque disserendum restat. [§1] EST AUTEM oculata revisio violenti occupatoris aliquorum iurium possessionariorum in dominio eorundem existendi visibilis ostensio [§2] quæ eodem modo quo communis ipsa inquisitio vicinorum videlicet & commetaneorum iurium ac bonorum occupatorum nobiliumque comprovincialium illius comitatus, ubi ipsa bona adiacent convocatione pariter & testificatione celebrari consuevit; [§3] præter hoc quod actor oculata fide visibilique demonstratione regio aut Palatinali Capitularique vel Conventuali hominibus reum sive in causam attractum in dominio bonorum male occupatorum existere debet comprobare & attestatio ipsorum vicinorum ac commetaneorum nobiliumque comprovincialium roborare. [§4] Post huiusmodi autem oculatam visibilemque revisionem & demonstrationem attestatio eorundem vicinorum & commetaneorum ac nobilium comprovincialium plerumque in loco sedis iudiciariæ sicuti in communi inquisitione & sæpenumero in facie iurium possessionariorum litigiosorum & occupatorum prout scilicet causæ meritum exigit fieri atque celebrari debet. [§5] UBI SCIENDUM quod oculata revisio (quia quod visu noscitur verissimo testimonio comprobatur) longe maioris efficacitæ & virtutis est quam sola communis inquisitio. [§6] Nam post celebrationem per utramque partem communis Inquisitionis iuramentalis (ut prædeclaratum est) depositio sequitur. Post oculatam autem revisionem si actor actionem & acquisitionem suam oculata ipsa revisione verificabit, & dictorum nobilium attestatio sufficienter roborabit tunc nulla iuramentalis depositio per iudicem alicui partium decernitur, sed mox & immediate contra reum sententia capitalis vel emende capitis profertur & pronunciat exequutionique eadem demandatur. [§7] Si tamen actor in probatione sua defecerit etiam in hac parte sicuti in communi Inquisitione ut reo sacramentum præstandum imponatur necesse erit.

De sententiarum speciebus ac diversitatibus & exequutionibus. Tit. xlii.

QUIa vero de capitali sententia mentio facta est ideo de sententiarum diffinitione, speciebus, exequutionibus & diversitatibus hoc loco tractandum decrevi. [§1] SENTENTia igitur in quantum propositum nostrum tangit est iudicis diffinitio causę & controversię finem imponens condemnationemque vel absolutionem continens. [§2] Quę licet multa etiam alio sensu habeat significata multisque capiatur modis, ex quo tamen proposito nostro ea significata non quadrant silentio præterire censui. [§3] Differt autem sententia ab opinione in hoc quod sententia est indubitata & firma responsio, sed opinio est cum quadam dubitatione (licet probabili causa) responsio. Unde si varię fuerint opiniones de aliqua causa tunc illa erit

tenenda quæ meliori & subtiliori fundabitur ratione. [§4] UNDE sententiarum aliæ sunt capitales, aliæ emendam capitis tangentes, aliæ notam infidelitatis representantes, alię vero simplices & alię emendam linguæ vel calumniam denotantes. [§5] CAPITALIS itaque sententia nostro hoc ævo non nisi ratione invasionis domorum ac interemptionis, verberationis, vulnerationis & sine iusta causa detentionis nobilium, Præterea prætextu occupationis quorumlibet iurium possessionariorum & eorundem pertinentiarum quocunque nomine censeantur decerni solet & pronunciari. [§6] Et talis sententia capitalis solummodo personas sæculares virilis sexus & alienas a se sanguine respicit atque tangit. Nam inter & contra ecclesiasticas, necnon muliebris & fœminei sexus personas, ac fratres generationales capitalis sententia (demptis casibus infra declarandis) non decernitur neque pronunciatur sed solummodo sententia emendam hoc est redemptionem capitis concernens (vetusta de regni consuetudine) fertur & declaratur. Diverso tamen modo diversarum personarum respectu prout infra patebit.

Capitalis sententia quomodo diferat ab emende capitis sententia. Tit. xliii.

SENTENTIA autem emendæ capitis in hoc tantummodo distat & differt a capitali ut lata ipsa sententia emendæ capitis reus & convictus adversus quem fuerit pronunciata vel etiam per non venientiam & non comparitionem extradata vigore & virtute eius in persona sua detineri ac captivari & capitis obtruncatione feriri puniri que non poterit. [§1] VERUM tamen eodem præcise modo & ordine quo per sententiam capitalem universa bona & quęlibet iura possessionaria, cunctas etiam res suas mobiles ipsum solum proprie & præcise concernentes quocunque nomine vocitentur & cuiuscunque maneriei vel speciei existant (in duabus iudici in tertia vero partibus actori statuenda & occupanda atque infra tempus redemptionis eorundem iurium possessionariorum titulo pignoris iuxta valorem & exigentiam communis estimationis ipsorum possidenda) perdit & amittit eo facto. [§2] EMENDAM præterea capitis hoc est redemptionem vel Homagium suum Prælatus utputa & baro quadringentos, nobilis vero ducentos florenos solummodo actori vel actrici solvere tenetur. [§3] ET primo ac ante omnia per iudicem super huiusmodi Homagio de rebus mobilibus si reperiuntur & tandem illis non repertis si necesse fuerit de iuribus possessionariis convicti & sententiati hominis satisfactio impendi, & demum residuitas rerum mobilium ac bonorum & iurium possessionariorum ipsius convicti inter iudicem & actorem vel actricem dividi debet & tripartiri usque ad tempus (ut præactum est) redemptionis eiusdem per illos possidenda, rebus mobilibus in usum eorum libere distributis atque conversis. [§4] Fœminę præterea & mulieres non tantum iura ipsarum possessionaria & res mobiles sed etiam Dotalitia & Quartalitia ipsarum per huiusmodi sententiam amittunt. [§5] SCIENDUM tamen est quod etiam contra fœminas ac mulieres in casu quo earum aliqua maritum vel parentes aut liberos proprios malitiose occiderit vel necari fecerit (quia talis casus notam infidelitatis respicit) capitalis sententia tanquam in personam virilem ferenda est atque pronuncianda.

De casibus in quibus etiam contra ecclesiasticas personas capitalis sententia fertur. Tit. xliiii.

SCIENDUM ulterius quod tres sunt casus, in quibus etiam contra spirituales & ecclesiasticas personas capitalis sententia pronunciatur per quam ultra amissionem patrimoniorum & beneficiorum ipsorum capitalis pœna decernitur atque sequitur. [§1] PRIMUS casus si quis eorum crimen læse maiestatis commiserit. [§2] Secundus si notam infidelitatis manifestam

incurrerit. [§3] Tertius si quis ipsorum voluntarium & deliberatum homicidium ac latrocinium patruerit aut perpetrari fecerit. [§4] Propter quod (prehabita degradatione) capite plecti debeat. [§5] In quibus quidem casibus licet bona ecclesiarum quibus presunt non amittant tamen privata ac separata patrimonia & iura possessionaria si quae habent, Insuper cuncta beneficia ecclesiastica quae possident perdere & amittere solent. [§6] Sed in tertio casu deliberato scilicet homicidio ac latrocinio patrimoniorum proprietatem & hereditatem non amittunt si fratres habuerint condivisionales, ad quos illa iure successorio spectant. Quoniam caput in hac parte capite compensari sufficit. [§7] In caeteris autem causis & casibus persona spiritualis & ecclesiastica contra saecularem & econverso saecularis adversus spiritualem aequali poena & gravamini subiacet emendae scilicet capitis vel Homagii atque damnorum illatorum refusioni. De quibus iudex actori & damnum passo iuxta modum (superius praedclaratum) satisfactionem impendere tenetur. [§8] Et haec consuetudo ex generali maxime decreto serenissimi principis condam domini Alberti Romanorum & Hungariae regis Austriaeque ducis excerpta est atque processit. Quae etiam in generali moderno decreto nostro roborata habetur & confirmata.

Qualiter debita ac damna spirituales persone reddere debeant. Tit. xlv.

Item si persona spiritualis cuiuscunque status & dignitatis existat ad solutionem & restitutionem aliquorum debitorum agravatus fuerit tunc adversario suo pecuniaria solutione satisfacere tenetur. [§1] Et si noluerit, aut non poterit tunc de bonis ecclesiae per iudicem adversario ipsi infra illius spatium temporis quo de proventibus ipsorum bonorum debita recuperari poterunt. Statuendis & occupandis solutio ac satisfactio est impendenda. [§2] Pecuniaria autem appellatione intelligitur hoc in loco quodlibet aurum & argentum ac omnis moneta pro tempore currens. [§3] Ubi vero ad solutionem & refusionem damnorum illatorum condemnatus extiterit, isto casu poterit si voluerit rebus cum mobilibus & venalibus, iuxta tamen verum valorem huiusmodi rerum adversario suo satisfactionem impendere. [§4] Alioquin de bonis ac iuribus possessionariis ecclesiae in hac quoque parte iudex causae adversario illius personae convictae statutione debita satisfacere tenetur.

Quomodo Capitulum vel Conventus simul, et quomodo persone private seorsum sententari debent. xlvi.

Item si Capitulum vel Conventus colectivo nomine pro actibus potentiariis maioribus vel minoribus quocunque sententiarum genere condemnatur tanquam unica & singularis persona gravatur, & non singuli singulariter debent condemnari, exceptis praemissis casibus homicidii videlicet voluntarii & deliberati ac criminis lese maiestatis & notae infidelitatis pro quibus omnes delinquentes (modo antelato) sunt puniendi. [§1] VERUM si certae personae capitulares & non tota communitas aliquos actus potentiarios de bonis ecclesiarum perpetraverint tunc ipse personae seorsum a communitate ex eo loco unde talia mala commiserunt ad iudicium libere poterunt evocari. [§2] Praesertim si patrimonia non habuerint privata nihilominus de loco prenotato citari & evocari queunt, ac iuxta causae meritum sententia contra eos per iudicem ferri poterit atque pronunciari.

Quid si una persona capitularis sententiabitur agendum sit. Tit. xlvii.

Item si una persona capitularis bona hereditaria & patrimonia separata non habens in emenda sui capitis convincetur, vel in refusione damni condemnabitur, & rebus mobilibus destitutus reperietur: QUÆRITUR unde & qualiter adversario satisfactio fiat? Quia non de commissione capituli mala ipsa patravit, & ex consequenti bona capituli propterea non videntur esse diripienda. [§1] Dicendum quod quia mala ipsa & facinora, unde videlicet emenda capitis vel damnorum refusio subsequuta est de medio & tanquam de membro ipsius capituli ille patravit quæ perpetrare aut non potuisset, aut locum patrandi non habuisset si in huiusmodi beneficio constitutus non fuisset. Ideo de proventibus beneficii eiusdem capitularis convicti per reliquos capitulares actori super eisdem rebus obtentis satisfactio est impendenda.

De compensatione damnorum per officiales ecclesiarum personarum irrogatorum. xlvi.

Item universi officiales ecclesiarum personarum sive sint spirituales sive seculares occasione quorumcunque actuum potentiariarum si quos de officiis eorum commiserint vel perpetraverint de eisdem officiis ipsorum instar aliorum regni nobilium & officialium libere semper iuri conveniri atque ad iudicium citari & evocari possunt. [§1] Et si in iudicio convicti fuerint de dictis officiis eorum tam adversario, quam etiam iudici ipsorum satisfactio administrabitur. [§2] Domini autem illorum (si talia non ex commissione eorum fuerint illata vel irrogata) poterunt ipsos officiales usque ad debitam emendam & satisfactionem etiam cum detentione personarum suarum compellere prout hoc de officialibus habetur etiam in decreto primo moderni domini nostri Wladislai regis articulo vigesimo quarto.

Quomodo prelati cum capitulo simul, & quomodo seorsum iudicium portabit. xlv.

Item si prelati cum suo Capitulo vel Conventu fuerit ad iudicium simul evocatus, tunc si prelati & Capitulum vel Conventus in illis iuribus possessionariis de quibus actus eiusmodi potentiarii aut alia malorum genera commissi vel patrata fuisse dicuntur & queruntur indivisi fuerint comperti, tunc prelati in hoc casu non separatim a suo Capitulo vel Conventu sed simul cum eisdem aut absolvi aut condemnari debet. Quoniam ratione indivisionis cum suo Capitulo vel Conventu una communitas esse censetur. [§1] Si tamen de divisis inter eos iuribus possessionariis mala ipsa suborta perpetrataque fuisse comperientur tunc et prelati & Capitulum vel Conventus separatim & seorsum condemnatur. [§2] HINC est quod si prelati cum suo Capitulo vel Conventu simul evocabitur tunc ratione divisionis vel non divisionis etiam iuramentum illis diversimode prestandum adiudicatur. [§3] Nam si modo antelato prelati cum suo Capitulo vel Conventu indivisus fuerit tunc ipse prelati cum suis coniuratoribus tam in sua quam etiam totius Capituli vel Conventus personis sacramentum prestare debet. [§4] Si vero divisus extiterit tunc tam idem prelati cum suis quam etiam Lector aut Cantor sive Custos vel Decanus in persona ipsius Capituli vel Conventus iterum cum suis coniuratoribus iuxta deliberationem & sententiam iudicis seorsum & separatim iuramenta eorum deponere tenentur. [§5] Et per Prelatos intellige non solum dominus Archiepiscopos & Episcopos sed etiam Abbates atque Prepositos tam seculares quam regulares omnes.

De annuali prorogatione dominorum prelatorum noviter electorum. I.

Item prelati ecclesiarum a suis fratribus Capitulo videlicet vel Conventu divisi a die electionis eorum privilegio pupillari gaudent, [§1] quibus de vetusta regni lege & approbata consuetudine permissum est & concessum quod etiam in causis tempore patris eorum inchoatis infra unius integri anni spatium ad cuiusvis instantiam respondere non teneantur ut interim iura paterna & litteralia instrumenta revidere calculareque & deinde prosecutioni causarum suarum commode superintendere possint. [§2] HOC tamen intellige in facto iurium possessionariorum & exhibitionis litteralium instrumentorum fieri. [§3] Nam in cæteris causis pretextu actuum potentiariorum motis in quibus productio litterarum subsequi non debet hæc concessio minime suffragatur quæ premissis casibus & causis etiam legitimæ ætatis hoc est ætatem quatuordecem, iuxta modernorum vero consuetudinem duodecem integrorum annorum habentibus a principe semper concedi & in iuditiis observari solet. [§4] Si tamen fuerint indivisi tunc huiusmodi permissio & libertatis prærogativa illis patrocinari non potest. [§5] Nam Capitula vel Conventus privilegio maiorum gaudent & ætatem perfectam hoc est vigintiquatuor annorum integrorum semper representant, quibus hæc prærogationis libertas non competit observari. [§6] Absurdum enim videretur ut post electionem cuiuslibet Abbatis vel Præpositi aut Lectoris, Custodis Cantorisque vel Canonici causa dudum mota usque ad anni integri revolutionem semper in suspenso relinqueretur, & sic indecisa per aliquot annos penderet conclusionem suam fraudaretur.

Quod prelati ecclesiarum ob delicta predecessorum suorum condemnari non possunt. II.

ULterius si de bonis & iuribus possessionariis cuiuspiam Prælati aut Abbatis vel Præpositi actus potentiarii vel malorum genera patrentur atque committerentur, & talis Prælatus aut Abbas vel Præpositus quam diu in humanis ageret propterea in curiam regiam non evocaretur, vel aliter in causam quomodolibet non attraheretur tunc decedente eo successor suus ratione huiusmodi actuum potentiariorum quantum in persona sua condemnari & agravari non poterit, sed solummodo ex parte Iobagionum ac familiarium illius ecclesiæ, per quos mala illa perpetrata fuisse dinoscuntur iudicium & iusticiam actori facere & impendere tenetur. [§1] Quoniam bona & iura possessionaria ecclesiarum (sicuti prænarratum est) nemo Prælatorum aut Abbatum vel Præpositorum, seu etiam aliarumque personarum ecclesiasticarum propter suos excessus amittere & ab ipsa ecclesia alienare potest. [§2] Sed si quispiam illorum in emendæ capitis sententia convictus fuerit tunc solummodo de Homagio & damnis illatis satisfacere (modo prædeclarato) debet. [§3] Successor itaque suus, qui non hæreditario iure sed via electionis successit emendam capitis illius prædecessoris sui (ex quo evocatus non fuit) subire compensareque non tenetur, [§4] prout etiam filii ob delicta paterna facta prius evocatione sententiarum capitalium vel emendæ capitis gravamini quantum ad pœnam non subiacent. Sed si convicti fuerint solummodo in estimatione iurium paternorum convincentur. [§5] Et hoc si patres eorum in humanis agentes evocati fuerunt. Aliter enim si post obitum parentum evocatio subsequetur non iam delictum patris qui iura possessionaria forsitan occuparat, vel res & bona mobilia alterius diripuerat sed filiorum qui male occupata vel res directas detinent compensari metrique solet. [§6] Si igitur in facto occupationis bonorum causa mota fuerit, quia forte ecclesia bona illa habet & possidet etiam decedente quolibet Prælato aut Abbate vel Præposito successor suus in hoc casu semper evocari & condemnari potest. [§7] Et hoc idem est intelligendum etiam de illis ecclesiarum Prælatiis qui per translationem in alterius ecclesiæ beneficium vel dominium se conferunt moraturos.

Quod causa factum iuris possessionarii tangens in foro ecclesiastico tractari nequit, si etiam promissio vel testamentum interveniat. lii.

Item quod nulla causa factum iuris possessionarii concernens, si etiam promissio vel testamentum occasione talis iuris possessionarii intervenisset coram ipsis spiritualibus personis: vel eorum vices gerentibus tractari poterit, sed omnis eiusmodi causa in curia regia coram iudicibus eiusdem ordinariis solet examinari pariter & terminari. [§1] Quicquid enim quisquam promittat vel testetur semper tamen standum est eius iudicio ad cuius auctoritatem & iurisdictionem res ipsa, pro qua promissio & testamentum emittitur principaliter spectat. [§2] CERTUM est autem quia hoc in regno non nisi iudicum ordinariorum curiæ regiæ sententiis & litteris Adiudicatoriis iura possessionaria gubernantur. [§3] VICARIORUM vero vel aliorum iudicum spiritualium litteræ & sententiæ in hac parte nusquam observantur. Nam et alias accessorium debet sequi forum sui principalis, propterea causa factum iuris possessionarii tangens in præsentia iudicis spiritualis ventillari concludique nequit. [§4] Et idem est sentiendum etiam de causa ratione forte debitorum vel aliorum negotiorum in qua fides intervenerit. Ille tamen qui fidem præstitit antequam causa suscitaretur decesserit mota quod videlicet in sede spirituali ea tractari non potest. Nam fides & eius pœna personalis est; quæ extincta persona extinguitur in iudicio semper. [§5] Si quid tamen debiti vel alterius rei iuxta fidem in promissione annexum & appositum fuerit hoc coram iudice suo sæculari actor ipse ab hæredibus & aliis legitimis successoribus defuncti requirendi habet auctoritatem.

Quid officialis vel decanus capitularis inter Jobagiones capitulares agens valeat. liii.

Item solent Capitula ac Conventus in eorum villis officiales & villicos qui in medio Iobagionum suorum temporalem iurisdictionem exercent tenere & conservare, [§1] quorum iudicium & iudicii impensio eam virtutem & vigorem habere dinoscitur sicuti personaliter fuisset per illos capitulares aut conventuales administratum. [§2] Decanus etiam in persona capituli eandem habet auctoritatem. [§2] Verum tamen extra officiolatum suum sine litteris procuratoriis totius capituli pro eodem capitulo respondere non potest.

De priore Aurane & eius conditione ac de sententiis in eum ferendis. Titulus. liiii.

Sciendum ulterius quod licet prior Auranæ utroque titulo spirituali videlicet & sæculari gaudeat, iura tamen possessionaria instar ecclesiasticarum personarum gubernat; ideo de ipso quoque specialiter pauca subiungere dignum duxi. [§1] UBI advertendum quod prioratus Auranæ olim in hoc regno per excellentissimum principem dominum Lodovicum regem fundatus & institutus fuisse perhibetur. Qui cum regnum Siciliae sive Neopolitanum valido cum exercitu necem fratris sui carnalis divi Andreae eiusdem regni & Hierusalem regis vindicaturus invasisset a Rhodianis non parvum fertur auxilium navale sibi collatum fuisse. Unde & eorum zelo inductus singularique amore permotus in signum religionis & professionis Rhodianorum post felicem & victoriosum suum reditum prioratum ipsum Auranæ multis possessionibus dotatum instituit atque fundavit. [§2] Cuius prior pro tempore constitutus ex regulari Rhodianorum observantia militiam sæcularem pro fidei Catholicæ defensione & tutamine semper exercere uxorisque solatio procul motus atque destitutus castitatem perpetuam observare tenetur. Qua propter occasione ipsius abstinentiæ & castitatis digne inter spirituales personas computatur. [§3] CUM IGITUR prior ipse Auranæ utroque titulo, spirituali scilicet & sæculari (prout prænaratum est) gaudeat venerabilisque & magnificus in

suo titulo scribatur venerabilis ut pote propter castitatem & regularem observantiam Magnificus siquidem tanquam baronum unus ob singularem militiam, qua magnifici generosique cordis esse debet. Bona etiam temporalia, quæ possidet spiritualibus & ecclesiasticis patrimoniis quodammodo connexa esse videantur. [§4] Ideo siquando sententia contra eum fertur non in emenda dumtaxat capitis sui (quæ ratione sui baronatus ad quadringentos florenos adverse tantummodo parti persolvendos se extendit) sed insuper in damnis per eum commissis & de bonis ecclesiæ more aliarum ecclesiasticarum personarum refundendis. Et præterea cunctorum patrimoniorum suorum (siquæ ultra bona prioratus habet) amissione convinci solet & agravari. [§5] Et hoc si in facto maioris potentiæ condemnabitur. Nam in minoribus actibus potentiariis ipsum quoque sicuti & alium quemcunque onera & gravamina minus lædunt. [§6] Intelligendum est etiam si contra magnates vel alios nobiles sæcularis conditionis convincetur aut sententiabitur. Nam contra ecclesiasticam personam nec prior ipse maiori onere gravabitur quam persona spiritualis adversus eum gravaretur. [§7] SCIENDUM tamen est quod in præmissis tribus casibus videlicet criminis læse maiestatis, Notæ infidelitatis Et voluntarii deliberatique homicidii prior ipse ultra præmissam penam etiam caput amittere seu capitalem sententiam subire solet atque debet. Dum tamen evidenter & iuridice fuerit convictus & condemnatus. [§8] In aliis autem rebus quantum ad iura regni privilegio prælatorum uti gaudereque consuevit. Exercitia nihil ominus militaria more Baronum & Magnatum pro Regni defensione semper peracturus.

De capitali sententia et exequutionis eius serie. Tit. Iv.

SCIendum deinde est quod sententia capitalis ratione & prætextu antelatorum casuum contra sæcularem personam (demptis tamen personis fraternitate & consanguinitate coniunctis) lata & quovismodo pronunciata non solum res mobiles ac bona & iura possessionaria talis sententiati & convicti hominis aufert verum etiam penam capitalem infert. [§1] Ita ut ubicunque ille reperiri ac deprehendi poterit vigore litterarum sententionalium per iudicem suum ordinarium vel hominem ipsius iudicis ad id per eundem deputatum post exequutionem semper, ante autem exequutionem infra anni dumtaxat unius integri a die emanationis ipsarum literarum sententionalium computandi revolutionem in persona sua detineri captivarique & ad manus sui iudicis ad infligendam sibi pœnam a iure in hac parte statutam dari & assignari valebit. [§2] Nam adversarius suus ipsum propria sua autoritate absque homine iudicis neque captivandi, neque etiam in domo sua vel alibi (etiam per hominem iudicis detentum) conservandi habet facultatem, sed ad manus iudiciarias quam primum poterit (dietim de loco in locum se domum residentia iudicis versus vel ubi iudex ipse fuerit constitutus movendo) assignare præsentareque tenetur. [§3] Quiquidem iudex huiusmodi detentum tribus diebus causa pacis & concordia apud se conservare, Et si cum adversario suo concordare interim nequibit tunc manibus adversarii sui, ut capite plectatur: reatusque sui pœnam luat dare & assignare debebit. [§4] Cui si mortem vel aliam pœnam condignam a iure (ut præfertur) statutam adversarius intulerit nulla postea bonorum & iurium possessionariorum suorum occupatio per iudicem vel adversam partem fieri & subsequi valebit sed omnia bona & iura sua possessionaria in filios si habuerit vel fratres aut alios legitimos successores suos pure & simpliciter devolvuntur, exceptis solummodo rebus apud ipsum convictum tempore captivationis suæ repertis quæ ipsi iudici manebunt.

Qualiter bona per sententiam occupata de manibus iudicis & adverse partis sunt redimenda. Tit. Ivi.

UBi autem convictus & condemnatus ille manus iudiciarias evaserit captivarique non poterit & lata huiusmodi sententia contra eum legitime exequuta fuerit tunc bona & iura sua possessionaria filii vel fratres ac successores eius, ad quos spectare dinoscuntur a manibus iudicis & adversæ partis communi estimatione mediante redimi poterunt in termino per iudicem illis ad id præfigendo [§1] immo filiis aut fratribus & successoribus non existentibus etiam vicini & commetanei eiusmodi bonorum & iurium possessionariorum occupatorum (quia redemptibiles sunt & modum virtutemque iurium impignoratitiorum representant) ad se redimere poterunt; dummodo terminum per hominem iudicis ac testimonium loci credibilis tempore exequutionis ipsius sententiæ ad redemptionem deputatum non transcendant. [§2] Nam postea in rem iudicatam bona illa transibunt, & apud iudicem adversamque partem tamdiu manebunt donec de gratia regia vel novo forsitan iudicio convicto illi providebitur. [§3] Virtute etenim propria: & absque gratia regia sententiatus ipse & condemnatus bona sua etiam per redemptionem & præactam estimationem pro se recuperandi non habet potestatem.

Quid gratia principis homini sententiato facta valeat, & de partibus iudiciariis. Ivii.

SI vero princeps huiusmodi sententiato atque convicto gratiam fecerit specialem tunc ipsa gratia non de Homagio & tertia parte iurium possessionariorum eiusdem convicti in portionem ut puta actoris vel adversarii cedenti sed capiti tantummodo ut capitalem penam non subeat, ac duabus partibus ipsorum iurium possessionariorum ad portionem videlicet iudiciariam cedentibus patrocinari suffragarique intelligitur. [§1] Immo etiam super duabus partibus iudiciariis in causis ac sententiis coram domino Palatino regni huius vertentibus & emanandis ipsa gratia locum non habet, sed huiusmodi duæ partes iudiciariæ (antiqua regni consuetudine dictante) ad solum Palatinum vel cui ipse contulerit pertinent. [§2] In facto tamen & causa notæ infidelitatis per quam etiam hereditas & proprietates iurium possessionariorum hominis in ipsa causa succumbentis & condemnati perpetuo amitti solet collatio perennalis bonorum eiusdem condemnati ad regiam maiestatem solam & iurisdictionem sacræ suæ coronæ spectat. Et nec actor vel adversarius eius quicquam hereditatis ex ipsis iuribus possessionariis virtute eiuscemodi latæ sententiæ pro se percipere potest. [§3] Secus est autem in sententia notæ infidelitatis ex secundaria repulsione nostra hac tempestate ferenda. Nam in ea etiam adversario tertia pars bonorum & iurium possessionariorum condemnati hominis simul cum hereditate & proprietate vigore generalis decreti nostri perpetuo cedit atque datur. [§4] ET sciendum quod hæc gratia regia non amplius quam per anni integri unius revolutionem efficax manebit. Aliter enim si convictus infra ipsius anni spatium poenes principis gratiam actori vel adversario satisfacere, & cum eo concordare recusaverit mox transacta eadem annuali revolutione pristino oneri gravaminique sententiæ præmissæ subiacebit & sententiabitur. E converso nullo ampliori processu iuridico observato. [§5] HINC est quod etiam actor vel actrix litteras suas sententiales infra integri unius anni a die emanationis earundem computandi revolutionem per regium aut Palatinalem & alicuius loci testimonialis homines exequutioni demandari facere tenetur. [§6] Nam aliter post ipsum anniversarium convictum & condemnatum virtute illarum litterarum sententiarum in persona vel rebus ac bonis suis turbare, spoliare vel detinere actor ipse non potest, sed si voluerit ad onus sententiæ deponendum contra se peremptorie & cum Insinuatione evocari facere valebit; ex parte cuius indilate & ipso quidem unico termino iudicium administrandum erit. [§7] Hoc quoque non prætermittendum est quod si quispiam in sententia capitali convictus manus iudiciarias (modo præmisso) per captivitatem inciderit tunc illi gratia regia in ipsa captivitate facta, etiam ad caput suum salvandum contra actorem non suffragatur. Quoniam princeps convicto &

sententiato homini gratiam aliter facere non potest nisi ut convictus cum adversario suo concordet. Adversarius autem latam pro se sententiam per illius detentionem iam executioni demandatam habet, ad concordiam vero invitus compelli non potest neque debet. Igitur gratia principis contra eum non valet sed tota salus detenti illius in manibus adversarii sui pendet. [§8] HINC est, quod detentus ipse cuncta bona ac iura sua possessionaria etiam in præiudicium filiorum ac fratrum suorum in redemptionem capitis sui perpetuo alienare potest prout in prima parte latius declaratum est.

Quando & quomodo poterit detineri in sententia capitali convictus. lviii.

Item nemo litigantium adversam partem vigore sententiæ capitalis per non venientiam & non comparitionem alterius partis latæ & provulgatæ ante litterarum sententiarum emanationem sigillationemque & manibus actoris assignationem in persona sua detineri facere potest sed quamdiu litteræ ipse apud manus iudicis fuerint convictus ille tam iudicem ab extraditione quam etiam Capitulum: vel Conventum cui sonabunt ab executione earundem semper inhibendi habet facultatem. [§1] Verum tamen facta inhibitione apud iudicem statim onus huiusmodi sententiæ deponere & ad quesita actoris respondere tenetur. [§2] In facto autem capitalis sententiæ per responsiones & ex allegationibus partium atque processu iuridico per iudicem pronunciatae mox & in continenti reus ac convictus si personaliter affuerit absque quibuslibet litteris sententiarum ad requisitionem actoris vel procuratoris sui per iudicem suum captivari (& ordine prænarrato) conservari ac puniri poterit libertate nobilitatis non obstante.

Quid sit & quando admittatur rationabilis excusatio in litteris iudicialibus inseri consueta. Tit. lix.

Item in litteris iudicialibus quas communiter Birsagiales vocant clausula ista SI SE rationabiliter non poterit excusare semper apponi inserique solet, [§1] & litteræ quoque sententiales, quæ ex huiusmodi litteris iudicialibus tandem conscribuntur prope finem octavarum & brevium iudiciorum extra dari & manibus adversariorum assignari consueverunt, ne rationabili excusatione se offerente litigantium quispiam præcipitanter & de plano bonis suis destitui vel capite puniri videatur. [§2] UNDE rationabilis excusatio est admittendaque censetur quando actore vel in causam attracto aut eiusdem procuratore de domo sua ad octavas aut breviter iudicia se movente pariter & venire satagente egritudinem validam post discessum suum idem incurrerit, aut aquarum vehemens inundatio ipsum retinuerit, vel equo suo infirmante & propter inopiam equum alium emere conducere ve non valente gressum suum retardabit, aut si per adversarios suos vel latrones interceptus, spoliatus vulneratusque aut necatus fuerit, & his vel similibus casibus præpedientibus & occurrentibus ad terminum distributionis litterarum iudicialium aut sententiarum in præsentiam sui iudicis pertingere venireque nequirit merito talis excusatur, & ab onere iudiciorum sententiarumque exoneratur. [§3] Dummodo excusatio ipsa probabili documento fulciatur, & non dolose neque fecte vel fraudulenter inducta fuisse videatur. [§4] Aliter enim nisi onus iudiciorum & sententiarum depositum persolutumque fuerit executio (modo præhabito) subsequetur, & convictus libertate (ut prædictum est) nobilitatis non obstante etiam capite punietur.

Quomodo portiones filiorum ac filiarum & fratrum tempore executionis sententiæ excidi debent. lx.

ADvertendum præterea est quod tempore exequutionis latæ cuiuslibet sententię ante omnia portiones filiorum & filiarum cuiuspiam convicti hominis si qui ante sententiam ipsam in rerum natura sunt generati & propagati. Fratrum etiam generationalium & aliorum quorumcunque qui cum eodem convicto iura possessionaria habent indivisa sequestrande sunt & excludendæ, atque portio solummodo ad personam ipsius convicti cedens inter iudicem & adversam partem (modo predeclarato) erit dividenda. [§1] De rebus siquidem mobilibus tam filii & filiæ quam etiam uxor talis convicti portiones suas per hominem iudicis ad exequutionem ipsam deputatum rehabere debent. [§2] Filius namque pro delictis & excessibus patris, & e converso pater pro demeritis filii nec in persona, nec iuribus possessionariis vel aliis rebus condemnari solet. [§3] De iuribus tamen possessionariis filiæ non aliter nisi iura eadem possessionaria sexum quoque fœmineum manifeste & reali dominio fœminarum demonstrante concernant portiones possessionarias habere possunt. [§4] Uxor vero sua Dotem ac res Peraffernales suas tam a filiis suis quam etiam ab eo qui portiones mariti sui possidebit marito ipso decedente pro se rehabere valebit prout in prima quoque parte ubi de Dotalitiorum solutionibus tractatum est notabile positum habes.

De estimatione iurium paternorum vel fraternorum litis inter medio decedentium. lxi.

Item si quis nobilium per quempiam in curiam regiam occasione occupationis iurium possessionariorum vel aliorum negotiorum factum maioris potentiæ de quo capitalis sententia vel emenda capitis evenire solet tangentium evocatus fuerit, & ante decisionem ipsius causę ab hac luce decesserit tunc filius aut frater illius defuncti ad quem iura sua possessionaria devolventur, & ex consequenti causa ipsa de regni consuetudine condescendet non in alio onere & gravamine quam in estimatione dumtaxat iurium paternorum vel fraternorum convinci, & præterea iura possessionaria male occupata actori per iudicem restatui damna etiam illata (si quantitas eorum in litteris evocatoriis specificata & sententia per non venientiam lata fuerit) simpliciter & ante omnia actori refundi & tandem residua iura possessionaria ipsius defuncti inter iudicem & actorem dividi solent. [§1] Si tamen per responsiones partium sententia pronunciata fuerit tunc damna ipsa iuramento mediante recuperari debebunt.

Qualiter filii ante & post sententiationem patris nati in bonis paternis succedant. lxii.

Hoc quoque non prætermittendum est quod filii post latam & exequatam contra patrem sententiam progeniti qui tunc in utero materno nondum fuere generati de bonis & iuribus paternis per ipsam sententiam ad manus iudiciarias vel adversę partis aut eorum medio aliorum quorumcunque deventis & statutis nullam pro se portionem habere possunt, neque de eisdem sunt consulendi; [§1] filii tamen ante latam sententiam nati & propagati tam portionibus eorum propriis quam etiam paternis (si a manibus iudicis & adversę partis portiones paternas redimere voluerint) potiri solent possuntque semper. [§2] Ubi sciendum quod filiorum alii concepti, alii nati, alii vero posthumi vocantur. Concepti dicuntur qui commixtione legitima maris & fœmineę in utero matris sunt generati, nondum tamen nati quorum natura est quod a tempore conceptionis quam partus eius iudicabit æqualia iura habent cum natis & exstantibus filiis. [§3] Posthumi autem sunt, qui Posthimationem seu sepulturam patris legitime nascuntur. Et dico notanter legitime, quia si partus facta humatione viri post decem menses fieret tunc infans ille recte de iureque Posthumus non diceretur. Non

enim ex thoro semineque mariti defuncti sed potius ex fornicatione mulieris præsummeretur in lucem prodiisse, [§4] & hi omnes tam concepti, quam etiam nati & posthumi, legitime tamen (ut præmisi) generati in iuribus paternis æqualiter semper succedunt.

Utrum filius post patris sententiationem natus possit redimere paterna bona. lxi.

SEd hic quæritur: Utrum filius post sententiationem patris natus qui nullam portionem de iuribus paternis (sicuti præmissum est) habere permittitur bona & iura paterna vigore latae sententiæ occupata de manibus iudicis ac adverse partis vel aliorum quorumcunque communem per estimationem eorundem bonorum ad se redimere possit? [§1] Dicendum quod sic, quia sanguinis & parentelæ propagatio vim ad huc & virtutem vicinitatis ac commetaneitatis talium bonorum & iurium possessionariorum habet atque representat. [§2] Si igitur vicinis & commetaneis bonorum ipsorum per sententiam occupatorum redemptio (prout præactum est) de iure permittitur, ergo & filio post sententiam nato redemptio ipsa legitime conceditur.

Quid si pater cum filio vel omnes fratres simul sentiabuntur. Tit. lxi.

QUid si pater cum filio vel etiam omnes fratres simul sentiabuntur, nemoque illorum fuerit ab onere & gravamine latae ipsius sententiæ præservatus faciendum erit? [§1] Responde quod per gratiam principis, in quem proprietas & hæreditas huiusmodi bonorum occupatorum sentiatis ipsis deficientibus tendit atque respicit redemptio eorum fieri poterit & debet. [§2] ITEM de unica quoque & singulari persona, quæ nec filios vel filias, nec fratres habet, ad quos aut quibus redemptio eiusmodi bonorum de iure spectaret & competeret idem est sentiendum. [§3] Ubi advertendum quod si vicini & commetanei talium bonorum & iurium possessionariorum occupatorum ea ad se redemerint, filii post sententiam nati, aut pater cum filio sive fratres simul sentiati, vel singularis ipsa persona regia gratia suffragante de manibus eorundem vicinorum & commetaneorum illa pro se rehabere poterunt, & brevi quidem processu unico ut puta termino iuridico amonitione dumtaxat legitima super ea re præhabita. [§4] Et hoc de vicinis ac commetaneis intelligendum est semper, in casu quo sentiatus quispiam omnibus hæredibus ac fratribus condivisionalibus vel aliis legitimis successoribus, ad quos devolutio bonorum suorum spectaret omnino destitutus fuerit. Nam illis existentibus magis ad eos (si volunt) quam ad vicinos redemptio ipsa pertinebit.

Utrum per sententiam in curia regia latam etiam bona in Sclavonia vel Transsilvania habita amittantur & e converso. lxi.

QUæritur ulterius si quis nobilium tam in hoc Hungariæ, quam etiam Sclavoniæ regno vel partibus Transsilvanis bona & iura possessionaria habens in octavis aut cæteris iudiciis in Hungaria aut Sclavonia vel Transsilvania celebrandis in facto maioris potentiae, ex eo quoque in capitali aut emendæ capitis sententia fuerit convictus. Utrum universa bona & iura sua possessionaria in utroque regno & Transsilvanis partibus sita atque habita simul & semel amittat, vel solummodo illa, quæ in ipso regno, ubi sententia profertur adiacent amisisse intelligatur? [§1] DICENDUM est quod licet opinione quorundam iuristarum generaliter ubilibet & in quibuscunque regnis vel partibus adiacentia uno saltem in loco sentiatus amisisse dicatur. Hæc tamen opinio tenenda non est. [§2] Quoniam autoritas cuiuslibet

iudicis solummodo ad loca iurisdictioni suæ subiecta se extendit. [§3] Modo certum est quod regnorum Dalmatiæ, Croatiae & Sclavoniæ Banus vel Wayvoda Transsilvanus non habet iurisdictionem iudicandi in comitatibus regno Hungarię incorporatis, sed tantum officiolatui suo subiectis & econverso. Nec cæteri iudices ordinarii curiæ regiæ sese in iurisdictionem aliorum iudicum ingerere vel immittere possunt. Aliter enim nulla esset distinctio regnorum pariter & iudiciorum, quæ seorsum & diverso tempore diversoque modo semper celebrari consueverunt. [§4] Et propterea in litteris quoque sententialibus ipsorum iudicum clausula ista, INTRA ambitum huius regni Hungariæ, vel huius regni Sclavoniæ, aut harum partium Transsilvanarum semper apponi solet. [§5] Verum tamen in facto & causa notę infidelitatis per unicam solummodo sententiam, vel etiam Donationem regiam (dummodo Donatio legitime facta fuerit) universa bona & cuncta iura possessionaria ubilibet & in quibuscunque regnis ac partibus sacre coronæ regni subiectis sita & habita de facto amittuntur quia iurisditio eiusdem coronæ contra quam infidelitas ipsa nota committitur, ad quævis regna & partes sibi subiectas eque se extendit. [§6] Nihilominus exequutio & bonorum illorum occupatio per eum solum iudicem, coram quo sententia huiusmodi notæ infidelitatis lata fuerit, ubilibet fieri non poterit, sed occupationem bonorum extra iurisdictionem suam habitorum ad iudicem cuius iurisdictioni subsunt ipse iudex causæ per litteras suas remittere debet.

De sententia per notam infidelitatis pronuncianda. Tit. lxvi.

Item in facto quoque & sententia notæ infidelitatis eo præcise modo & ordine, quo in capitali sententia procedendum est. [§1] Qualiter tamen nota infidelitatis ab ipsa capitali sententia differat, in prima parte, ubi de Donationibus regiis in generali tractatum est reperies. [§2] Tribus autem modis solet decerni & pronunciari nota infidelitatis. Sed horum seriem infra in repulsionis ordine statui declarandum.

De actibus potentiariis minoribus, et sententiis super ea referendis. lxvii.

Sciendum ulterius quod sententiarum alię sunt simplices, quę nec ad pœnam, nec emendam capitis tendunt, sed medietatem dumtaxat emendæ capitis hoc est centum florenos representant, [§1] & huiusmodi sententię iuxta contenta generalis constitutionis & decreti moderni domini nostri Wladislai regis, tam ad dominos prælatos & barones aliosque magnates, quam etiam nobiles æqualiter referuntur, & non ad plures, quam centum (ut prædictum est) florenos pro actibus potentiariis se extendunt. [§2] Damna insuper in actione & acquisitione actoris vel actricis declarata compensant & refundunt. [§3] Et horum centum florenorum directa medietas iudici, altera vero pars actori vel actrici remanebit. Damnorum tamen refusio in personam solius actoris aut actricis redundabit. [§4] Vigore autem eiusmodi sententiarum nemo nobilium (dempto quodam casu subnotando) in persona sua detineri poterit. Sed de onere dictorum centum florenorum & refusione damnorum de bonis & rebus mobilibus convicti si reperiri poterunt, aliter autem de iuribus eiusdem possessionariis actori vel actrici per iudicem satisfactio impendi debet. [§5] Et sub hac specie sententiarum comprehenduntur generaliter nostra hac tempestate universi actus potentiarii, præter casus prædeclaratos, ex quibus maiores sententias capitales utputa & emendam capitis tangentes generari subsequique prenotavi. Et propterea minores actus potentiarii & minores sententię solent appellari. [§6] Licet ante generale decretum invictissimi principis condam domini Mathiæ regis in anno salutis quadringentesimo octogesimo sexto supra millesimum editum (quod ipse quoque

dominus noster Wladislaus rex in hac parte roboravit) omnes domini seculares & nobiles possessionatique homines ratione quorumcunque actuum potentiariarum generaliter & universaliter in facto maioris potentiae, ex eoque in capitalibus aut emendae capituli sententiis solebant aggravari. [§7] Cuius rei ut clarior notitia habeatur articulum super eo conscriptum verbotenus interserendum curavi, qui sub hac verborum sequitur forma. [§8] ITEM in causis ratione illationis damnorum caeterorumque nocentorum & iniuriarum ac actuum potentiariarum minorum motis, etiam si patrator ore suo proprio coram suo iudice profiteretur nemo deinceps in facto potentiae, sed solummodo in solutione huiusmodi damnorum illatorum & expensis actoris eidem tantummodo persolvendis, Insuper pro praemissis actibus potentiariis in viginti quinque marcis gravis ponderis centum florenos auri facientibus inter iudicem & actorem aequaliter dividendis vincatur, & per iudicem ad solutionem statim compellatur. [§9] In causis vero maioribus scilicet ratione invasionis domorum nobilium sine iusta causa, occupationis possessionum & pertinentiarum earundem, detentionis nobilium sine iusta causa, verberationis & vulnerationis ac interemptionis nobilium motis; In his taliter iudex procedere habebit quod si actor pro sui parte inquisitionem modo & ordine supranotato reportaverit in ampliorem rei verificationem si partes voluerint causam ipsam ad communem inquisitionem decernat. [§10] Si vero reus ipsam inquisitionem acceptare recusabit tunc actor pro maiori verificatione actionis suae iuxta regni consuetudinem hactenus in hac parte observatam ad caput illius adversarii iurare habebit. [§11] Ita tamen si adversarius ille sive in causam attractus in eodem comitatu, ubi mala sunt patrata propriam personalemque & continuam facit residentiam. [§12] Ubi autem talis in causam attractus in aliis partibus seu provinciis regni personalem facit residentiam, ac in eius absentia huiusmodi mala patrata sunt & commissa tunc iuxta contenta litterarum inquisitoriarum propter suam innocentiam se iuramento expurgabit [§13] ex parte denique familiarium & Iobagionum suorum vigore praesentis articuli fiat iudicium & iusticia lege regni requirente.

De causa, in quo etiam vigore minoris sententiae quis detineri poterit. Titulus. lxxviii.

Item quia plures sunt in regno unius sessionis nobiles & alii possessionati homines, qui verorum nobilium privilegio libertateque gaudent, desidia tamen & torpori dediti rebus temporalibus adeo defecerunt ut non centum florenos sed difficulter etiam centum denarios solvere queant; nihilominus mala patrare non cessant cum potissimae plures interdum proles se habere conspiciunt, & illorum iura vel portiones amittere non posse considerant, in personis etiam suis detineri se non formidant. [§1] Unde quasi in usum apud plerisque succrevit, ut spe inopiae ducti vel potius seducti quod non habeant quid perdere vel amittere valeant maiora saepe malorum genera potentioribus ditioribusque se committere & perpetrare non verentur. [§2] UNDE queritur si quisquam litigantium in ipso minori facto potentiae centum (ut praemissum est) florenos faciente, aut damnorum illatorum & irrogatorum refusione convictus & agravatus rebus mobilibus & iuribus possessionariis ad portionem eiusdem convicti cedentibus adeo destitutus fuerit per iudicem causae compertus ut nusquam huiusmodi centum florenos damnaque irrogata, res & iura sua compensare possint, utrum in tali causa convictus ipse in persona sua per iudicem detineri & usque ad emendam ac satisfactionem conservari valeat libertate nobilitatis non obstante? [§3] DICENDUM quod sic. Quoniam libertas & prerogativa exemptio nobilium a captivitate non liberat quemquam neque exemptum reddit a poena punitioneque pravi operis, sed potius damnat. Virtus enim, per quam nobilitas vera fundatur dictat ut honeste quisque vivat, & alterum non ledat. [§4] Nec etiam constitutioni generali totius regni detentio eiusmodi personalis nobilium derogat. Quae notat ut nobiles non captiventur nisi citati & ordine iuridico fuerint convicti. [§5] In hoc itaque casu post

citationem vel Evocationem & post latam ordine iuris a iudice sententiam detentio personalis ipsa sequitur, quam nec constitutio generalis illa vetat. Unde merito nobilis ipse in persona sua (casu in prænotato) per iudicem suum vel eius hominem ad id specialiter deputatum captivari detinerique poterit. [§6] Quem sic captum iudex ipse quindecim diebus (prout in facto debitorum fieri consuevit) apud manus suas concordia causa conservare, Et si hoc modo atque infra illud tempus in unionem cum adversa parte devenire non curaveri, tunc idem iudex manibus dicti adversarii sui illum tradere & assignare tenetur; [§7] quem adversarius ipse tamdiu apud se detinendi habet auctoritatem, quo adusque detentus ille cum eo concordabit, & ipsum simul cum iudice suo super prædicto onere centum florenorum contentos reddet damnaque adversario suo irrogata refundet. [§8] Interim autem actor eum in persona sua punire vel impedire non poterit. [§9] Attamen detentus ille tanquam unus ex familia actoris eidem servire tenebitur.

De poena violationis sedis iudiciarie, et de solutione oneris minoris sententie. lxi.

QUIA vero violatio quoque sedis iudiciariae centum florenis compensatur ideo sub hac minori sententia ob similem eius poenam comprehenditur. [§1] Attamen non nulli putavere tam onus ipsius violationis sedis iudiciariae regie maiestatis & comitum parochialium quorumlibet comituum (quæ propter illicita verba in sede prolata vel dehonestationem in sede ipsa existentium committi solet) quam etiam huius minoris sententia (quod viginti quinque marcis argenti gravis ponderis computatur) solummodo viginti quinque florenis deponi & absolvi posse ex eo quod in sede iudiciaria regie maiestatis dum Birsagia & iuditorum gravamina solvuntur singulam seu unamquamque marcarum ad unum dumtaxat florenum vel centum denarios præsentis monetæ taxare & sic deponere consueverunt prout inferius ubi de iudiciorum solutionibus tractabitur clarius dicitur. [§2] Opinio tamen ista tenenda non est. Nam oneris huiusmodi sententiarum depositio & Birsagiorum ac iuditorum solutio longe inter se differt diversoque modo & fine clauditur, sicuti paulo inferius (ut premisi) declarabitur. [§3] Brevissime igitur sciendum quod sive in sede iudiciaria regie maiestatis, sive tempore executionis: vel post executionem harum minorum sententiarum siquis litigantium onera eorum deponere & persolvere voluerit non aliter nisi centum florenis deponere expedireque valebit. [§4] Verum tamen si pecuniis paratis caruerit, etiam solutione rerum mobilium (iuxta tamen verum valorem earundem rerum) deponendi habet potestatem. [§5] Secus tamen est de violatione sedis iudiciariae regie maiestatis, quia convictus de sede ipsa interim non emittitur donec super violatione huiusmodi satisfecerit effective.

Calumnia quid sit, et quot modis committitur, & de eiusdem poena. lxx.

QUANquam factum vel causa calumniae ad poenam capitis non tendat, quia tamen emendam capitis quodammodo tangere dinoscitur ideo de ipsa calumnia in hac sententiarum serie paucis tractandum competit. [§1] Ubi sciendum quod calumnia est litis contra quempiam duplici sub colore vel diverso tramite fraudulenta motio atque suscitatio, quæ licet pluribus in causis atque casibus ex dolosa litigantium machinatione, interdum etiam ex poena in generali constitutione declarata committatur, tribus tamen præcipue modis committi solet, de quibus etiam diffinitio prænotata posita est. [§2] PRIMO dum quis unam & eandem rem vel actionem duplici sub colore aut duplici via sequitur. Si enim quispiam litigantium possessionem unam titulo pignoris & etiam iure perpetuitatis acquirit duplex color dicitur. Si vero unam & eandem rem sub uno & eodem titulo coram tamen duobus vel diversis iudicibus prosequutus

fuerit, duplex via nominatur. [§3] SECUNDO vero quando quispiam alterum super iure Quartalio vel Dotalio aut Impignoratitio vel alio etiam quovis negotio expeditum & absolutum reddit atque committit, & tandem ratione eiusdem negotii ipsum absolutum aut eiusdem hæredes & successores rursus in litem attrahit, vel forsitan eo decedente filii aut alii legitimi sui successores attrahunt, mox ubi super ea re probabile sufficiensque documentum produci poterit, talis calumniæ pœnam incurrit. [§4] TERTIO autem quando una causa processu iuris terminatur, & secundo absque gratia principis & collatione novi iudicii iterum resuscitatur, tunc factum caluniæ statim committitur; [§5] cuius vigore principalis causa hoc est res illa, quæ prosequatur sive sit castrum vel oppidum aut aliud ius possessionarium sive pecuniarum summa sive Dotalium aut Quartalium in perpetuum amittitur eo facto. Et insuper calumniator ille in quinquaginta marcis Homagialibus ducentos florenos auri facientibus, in duabus iudici in tertia vero partibus in causam attracto solvendis convincitur & agravatur ipso pariter facto.

Questio notabilis et advertenda super facto calumnie. Tit. lxxi.

Item circa hanc materiam calumniæ advertendum est quod sæpenumero contingit principem nostrum castrum, civitatem, oppidum, villam vel aliud huiusmodi ius possessionarium, cuius hæreditas & proprietas ad eum manifeste spectat & pertinet, præ manibus tamen alienis titulo pignoris aut alio inscriptionis genere ad tempus illud habetur alicui servitorum suorum in perpetuum donare & conferre, qui dominium eiuscemodi iuris possessionarii non aliter nisi deposita solutaque illius inscriptionis pecuniarum summa pro se vindicare poterit. [§1] Ille vero præ cuius manibus tale ius possessionarium habetur, etiam legitime ammonitus, pecuniam suam non secus nisi ad terminos octavales causam inde suscitandam prorogando tollere & fere coactus ad se levare consuevit sicque inter litigandum annualis revolutio creberrime subsequi præterireque solet. [§2] Certum est autem quod Donatio regia cuicumque perpetuo facta infra ipsam anni unius integri revolutionem statutione legitima roborari debet. Aliter enim viribus destituta manebit. [§3] Si itaque actor seu iuris ipsius possessionarii impetrator se in dominium eiusdem introduci illudque infra dicti anni revolutionem pro se statui legitime fecerit, ne Donatio sua viribus careat & alio ex latere amonitionem quoque iuridicam super tollenda prænotatæ pecuniæ summa sive ante, sive post revolutionem ipsam annualem peregerit mox unam & eandem rem atque causam duplici sub colore duplicique via ipsum actorem prosequi in causam attractus allegabit. [§4] SIMILE est de iuribus possessionariis virtute alicuius contractus & regii consensus in quempiam devolvendis. Quæ antequam successor ille legitimus, in quem ut pote iura ipsa possessionaria rite sunt devoluta & redacta, manibus suis applicare posset; potens quispiam dominorum sæpe etiam inferioris conditionis hominum manu violenta illa pro se occupare temerarieque vindicare crebro solet. [§5] Et si successor ipse vigore huiusmodi contractus, qui naturam vimque Donationis conditionaliter sapit & habet se in dominium talium bonorum & iurium possessionariorum introduci, eaque pro se usque dictam annualem revolutionem statui fecerit, tunc contradictione per occupatorem vel alium quempiam facta causa in longum protrahi serpereque consuevit, ita ut vix aliquando in unius ætate hominis finem debitum sortiri poterit. [§6] Quæ si etiam prius aut tunc finem fortita fuerit. De perceptis tamen tempore medio fructibus nulla recompensa vel satisfactio actori impendetur, nulla etiam debitæ ultionis pœna super actibus potentiariis hoc est violenta potentiariaque conservatione illorum iurium possessionariorum in causam attracto infligitur, eo quod causa ipsa non insinuatione mediante, sed per simplicem evocationem (quam nos longum litis processum appellamus) inchoata fuisse dicetur, licet quælibet causa virtute alicuius contractus inchoata eo precise modo brevi & ordine:

processuque terminari debeat, quo causa prætextu bonorum per defectum seminis quoruncunque decedentium ad collationem regię maiestatis derivatorum finiri determinarique & concludi solet. [§7] Si vero causa per insinuationem prætextu indebitę violentęque occupationis iurium ipsorum possessionariorum per actorem mota suscitataque fuerit (statutione quoque prænarrata super eisdem iuribus possessionariis prius vel etiam post peracta) pari modo duplici sub colore calumnio seque iura eiusmodi possessionaria actorem acquirere & prosequi occupator ipse allegabit. [§8] EX PRÆMISSIS igitur quęstio subinfertur: Utrum prædeklarata causarum motiones duplici via vel duplici colore factę pœnam calumnię afferant? AD quam questiunculam breviter dicendum est quod non, [§9] quoniam contra male fidei possessorem agitur qui postquam non poterit iuste se bona & iura huiusmodi possessionaria tenuisse possedissequē comprobare ex hoc neque poterit adversus actorem opponere male se in iuribus illis duplici ipso colore vel duplici via perturbatum fuisse. Quia iura illa non sua sed actoris fuere, quę absoluta solummodo potentia ad exitum usque litis gubernavit. Possessor enim bonę & non male fidei habet præmissa allegandi facultatem. [§10] UBI autem obiceretur quod ille, qui virtute inscriptionis regię eiusmodi talia bona possidet, bonę fidei possessor esse censetur. Verum est interea temporis quo ad levandam & tollendam pecuniam suam non amonetur, postquam tamen amonitus legitime fuerit & pecunię suę summam tollere recusaverit sed frivolis & exquisitis exceptionibus ad terminos octavales causam distulerit ut interim fructus illorum bonorum capere possit, iam non bonę, sed malę fidei possessor esse existimatur. Et nisi alia pœna in generali decreto nostro super huiusmodi feneratoribus (qui pecunias suas amoniti levare recusant) expressa fuisset talis fœnerator in perpetua estimatione ipsorum bonorum convinci deberet & agravari, dum potissime iuri consentaneam rationem non levationis pecunię suę dare vel assignare non posset. [§11] Aliter enim si violenta bonorum occupatio & fraudulenta ad tempus eorundem conservatio locum haberet inpunitaque maneret profecto difficilime tardeque nimis iustis suis iuribus aliquis potiri gaudereque posset. [§12] Idem est dicendum atque tenendum etiam in casu quo quispiam bona ac iura possessionaria defuncti & hæredibus destituti hominis Impignoratio vel alio quovis redemptibili iure præ manibus suis habuerit, & per fratrem adoptivum ac legitimum successorem ipsius defuncti rite requisitus pariter & amonitus bona illa (etiam pecunia sua deposita) remittere noluerit, & alia ex parte idem successor ne annualis revolutio elaboretur statutionem necessariam pro se peregerit, quod scilicet iuste legitimeque & amonitionem & statutionem facere poterit nulla pœna facti calumnie inde subsequente.

De emenda lingue, & de pena eiusdem. lxxii.

EMenda autem linguę viginti quinque marcis centum florenos auri facientibus compensatur, [§1] quę propter iniustam falsamque querimoniam regię maiestati aut cæteris iudicibus ordinariis porrectam & sæpenumero ob turpia inhonestaque verba contra quempiam bonę fame & honestę conditionis hominem prolata per iudices imponitur. [§2] VERUM tamen actio principalis ratione cuius causa ipsa mota fuit ob iniustam huiusmodi querelam & expositionem perpetuo non amittitur; sicuti per calumnię factum (prout immediate prætractum est) imperpetuum amitti intelligitur. [§3] Sed condescensa ipsa causa & pœna prænarrata in duabus iudici in tertia autem partibus causanti vel homini læso deposita atque persoluta poterit actor si voluerit eam iusto debitoque modo de novo suscitare.

Quid sit repulsio, & de modo ac pena eiusdem. Tit. lxxiii.

QUIa tempore exequutionis sententiarum & aliarum iuditiarum deliberationum per convictos & in causa succumbentes violenta quadam repulsio subsequi & committi consuevit, ideo de ipsa repulsione hoc in loco breviter aliquid dicendum restat. [§1] UBI sciendum quod repulsio est partis in causa triumphantis per alteram partem in causa succumbentem ab exequutione late per iudicem sententiæ violenta quadam propulsio. [§2] Quæ quidem repulsio quamvis ex vocabuli sui virtute non iuridicus processus, sed contra illum potius manifestum obstaculum esse censeatur. Finitis enim & pertransitis cunctis causæ processibus & lata per iudicem diffinitiva iam sententia, evaginato gladio vel alio quocunque armorum genere ostenso fieri committique solet. Quia tamen ex vetustissimo usu & diuturna consuetudine emanavit in mediumque venit, ideo pro quadam nostræ legis parte per huiusmodi consuetudinem dudum approbatam inductæ iam reputatur, [§3] & post finalem conclusionem cuiuslibet causæ semel sed non pluries fieri & subsequi tolleratur. [§4] Quæ si facta fuerit per unam marcam auri septuaginta & duos florenos facientem, in duabus iudici in tertia vero partibus in causa triumphanti persolvendam compensatur: atque deponitur. [§5] Secundario autem si repulsio in una eademque causa committeretur nota perpetuæ infidelitatis inde palam sequeretur, prout in generali quoque decreto nostro continetur.

Declaratio articuli decreti generalis super repulsione conscripti. lxxiii.

SEd hic advertendum est quod quia in articulo super facto repulsionis in serie ipsius generalis decreti conscripto hoc positum habetur ut repulsio ipsa per nudatum ensem vel ostensionem evaginati gladii fieri valeat, atque nomina vicinorum ac commetaneorum, qui tempore exequutionis late sententiæ cum regio vel Palatinali & alicuius loci testimonialis hominibus intererunt in litteris super ipsa repulsione relatoriis conscribantur. [§1] Ideo damnabilis quadam abusio inter nonnullos litigantes hinc emersit quod partem in causa triumphantem & victricem in sententiæ exequutione evaginatione gladii vel ensis nudati ostensione repellere nolunt, sed astutia excogitata baculo ligneo, vel Cambuca ferrea, interdum minis & terroribus hominumque caterva repellunt, & sententiam ac iudiciariam deliberationem exequutioni demandari & effectui mancipari non permittunt. [§2] Postea coram iudice suo proponunt & allegant non fuisse factam repulsionem eo quod nudati ensis ostensio vel gladii evaginatio prout in decreto continetur nulla tempore ipsius exequutionis facta vel commissa fuisset. [§3] Sæpe etiam contra vicinos & commetaneos exceptiones faciunt, quod iste non vicinus, ille vero non commetaneus esset, & pluribus eiusmodi cavillationibus iudicia iusta subvertere & processum iuris turbare moliantur. [§4] UNDE sciendum est quod in serie ipsius decreti non reperitur, neque scriptum habetur repulsionem secus & aliter fieri non posse vel non debere nisi evaginati gladii aut ensis nudati ostensione. Sed hoc dumtaxat ibi continetur quod non cum hominum turba & manibus violentis, sed per nudatum solum ensem vel ostensionem evaginati gladii repulsio fieri valeat. [§5] Et hoc ideo, quoniam priscis temporibus utraque pars tam scilicet vincens, quam etiam convicta tempore exequutionis alicuius sententiæ vel iuditiariæ deliberationis magna hominum multitudine, Sæpe etiam bellico apparatu in alterutrum contendere sævireque & crebro strages maxima inter partes subsequi consueverat. Ita ut si actor casu superior evasisset in dominium bonorum reoptentorum se collocasset, convictus vero si actorem devincere & ab exequutione illa violenter propellere potuisset, in una marca auri pro huiusmodi violenta temerariaque repulsione convincebatur. [§6] Ut igitur corruptela hæc e medio tolleretur statutum est quod non sit necessarium cum hominum turba & potentiariis manibus exequutionem aliquam peragere, sed sola ostensio evaginati gladii ad repulsionem faciendam sufficiat. [§7] Sive igitur per ipsius ensis vel gladii evaginationem, sive per baculi aut Cambucæ ostensionem, sive per hominum multitudinem vel solis minis &

terroribus exequutio alicuius iudiciariæ commissionis perturbetur, & effectui mancipari non permittatur semper repulsio esse censetur. [§8] Nomina vero vicinorum & commetaneorum propterea denotabantur ne fraus aut dolus in oneribus repulsionum committi posset. Nam antiquitus singuli repellentes vel repulsionem facientes in singulis marcis auri condemnabantur, & sæpenumero tam filiorum, quam etiam fratrum ac uxoris & filiarum ipsius convicti & in causa succumbentis nomina in litteris Relatoriis conscribentur, & sic onus repulsionis in tantum crescebat, ut principalem causam creberrime præcellere longeque exuperare videretur. [§9] Quæ quidem abusus ævo nostro abolita est, & quotquot sint personæ convictæ vel repellentes unam tantum marcam auri pro unius iudiciariæ deliberationis repulsione modo persolvunt. [§10] Nihilominus tamen ipsa nomina vicinorum & commetaneorum possessionis recuperatæ nunc quoque conscribuntur, ne regius aut Palatinalis & alicuius loci testimonialis homines dono vel favore seducti atque corrupti in exequutione iuridica eorum fidei commissa repulsionem factam fuisse (si etiam non fuisset) astruere, & per hoc nota infidelitatis quempiam condemnare valeant. [§11] Eiuscemodi itaque vel simili fraude ac exquisito subterfugio processus iuris atque exequutio iudiciariæ deliberationis turbari non potest. Vicini enim & commetanei propinquiores non semper domi reperiuntur, nec exequutioni iuridicæ semper interesse possunt. [§12] Si igitur pars vincens extra dominium iuris possessionarii reoptenti fuerit inventus sufficienti argumento erit iudiciariam commissionem turbatam esse & per repulsionem exequutione sua reali caruisse. [§13] Siquis autem litigantium regium vel Palatinalem ac Capitularem aut Conventualem hominem relationem iniustam & indebitam fecisse criminabitur, poterit eosdem propterea iuri semper convenire, non tamen ea de causa processus iste iuridicus est turbandus.

Quod nota infidelitatis tribus modis fertur & pronuntiatur.

Titulus. lxxv.

ADvertendum est autem quod in causa notæ infidelitatis non semper permittitur fieri repulsio. Nota namque infidelitatis tribus modis pronuntiatur. [§1] PRIMO modo per principem & regem nostrum, ita ut si maiestas sua regia quempiam regnicolarum suorum nota infidelitatis condemnare voluerit, tunc universis dominis prælatis & baronibus cæterisque regnicolis unam generalem dietam & congregationem ad certum terminum instituat & indicet, ad quam etiam ille, contra quem nota infidelitatis obicitur, per litteras præceptorias regie maiestatis mediantibus litteris exhibitoriis ad aliquem conventum vel quodcunque capitulum sonantibus personaliter & non per procuratorem evocari debet. [§2] Qui si venerit & se expurgare poterit bene quidem, alioquin si non venerit: vel si venerit, sed se expurgare non valebit, ipsa nota crimineque infidelitatis condemnatur, et postea illi neque salvus conductus, neque etiam novum iudicium per regiam maiestatem conceditur, et subsequenter nec contradictoria inhibito, nec violenta repulsio tempore stationis & occupationis bonorum ipsius infidelis admittitur, sed absolute Donatio regia exequutioni in hac parte demandatur. [§3] SECUNDO modo fertur nota infidelitatis ex reportata serie secundarie repulsionis. Et hoc quoque modo repulsio fieri non permittitur. Quæ quidem nota etiam alioquin ex repulsione temeraria processisse secutaque fuisse dinoscitur, & non congruit id tertio iterare, quod vetatur etiam secundario facere. [§4] TERTIO & ultimo modo nota infidelitatis declaratur atque pronuntiatur per iudiciariam deliberationem & latam sententiam iudicum ordinariorum regni ex Donatione regia prætextu erutionis oculorum, mutillationis membrorum, Cussionis falsarum monetarum vel confectionis aut delationis falsarum litterarum & aliorum huiusmodi casuum notam infidelitatis afferentium cuiuspiam facta subsequentem atque provenientem. [§5] Quæ quidem iudiciaria deliberatio, quia ex propositis & responsis partium in iudicio

contradictorio decernitur atque declaratur, altera scilicet partium notam ipsam factam patratamque fuisse affirmante & altera negante. Ideo tempore exequutionis huiusmodi sententiæ per responsiones (ut præfertur) partium latae vel forsitan per non venientiam & non comparitionem alterius partis pronuntiatae repulsio prænarata fieri permittitur. [§6] Et hoc ideo (prout etiam alioquin ista præcipue ratione repulsio inducta fuisse prohibetur & modo quoque fieri tolleratur) ut in termino vel tempore reportatae seriei talis repulsionis quicquid in processu ipsius causæ negligentia convicti & in causa succumbentis male actum vel obmissum fuisset, per gratiam novi iudicii aut revocationem procuratoris restauretur & in melius reformetur. [§7] Damnosum enim & nimis periculosum foret mox post latam & pronunciatam a iudice ex responsionibus partium sententiam de dominio ac pacifica possessione bonorum suorum quempiam vigore eiusdem sententiæ excludi atque tandem extra dominium illa rursus prosequi debere. [§8] Iudex enim ex obiectionibus & allegationibus duarum pluriumve partium & plerumque litterarum ac litteralium instrumentorum coram eo productarum & exhibitarum continentis & tenoribus sententiam decernere tenetur. [§9] CERTUM est autem procuratores partium sæpenumero in responsionibus suis aut negligentia, aut ignorantia, aliquando etiam malitia falli & errare. [§10] Sæpe litteræ ac etiam litteralia instrumenta litigantium periclitantur & in termino per iudicem exhibitioni illarum præfixo produci nequeunt. Unde sententia per iudicem ita fertur & pronunciat prout responsiones partium vel tenores & contentiæ litterarum ac litteralium instrumentorum expostulant. [§11] Qua propter si qua partium per se vel procuratorem suum in responsionibus suis errasse, vel in exhibitionibus litterarum defecisse se cognoverit, ne per sententiam ob eiusmodi defectum & errorem contra se latam de dominio bonorum suorum immediate excludatur, repulsionem violentam (in contemptum licet & vilipendium iudiciariæ commissionis fieri, tamen tollerari solitam) tempore exequutionis ipsius latae sententiæ facere cogitur, & ad reddendam rationem huiusmodi repulsionis unicus adhuc terminus coram iudice suo comparendi sibi præfigitur [§12] in quo tandem errorem aut defectum suum vigore novi iudicii per principem gratiose concessi, vel per revocationem & retractationem responsionis sui procuratoris restaurare & si poterit in melius reformare tenetur. [§13] NOVI namque iudicii collatio ac procuratoris cuiuspiam revocatio semper presupponit errorem & defectum. Non enim est necesse novum iudicium impetrare vel responsionem procuratoris revocare, nisi in processu causæ erratum fuisse prius deprehendatur. [§14] Postea vero ulterior terminus sibi non deputatur neque conceditur, sed lata ipsa sententia finaliter & effective exequutioni demandatur. [§15] Et si secundario quoque repulsio temerarie committitur, nota perpetuæ infidelitatis (sicuti immediate declaratum est) inde reportatur.

Utrum ille possit repulsionem facere, qui in processu cause non egit. Tit lxxvi.

SEd quia in calce quarumlibet litterarum Adiudicatoriarum ac sententionalium ista clausula CON traditione talis & talis convicti (nominando eum qui in causa succubuit & convictus est) ac aliorum quorumlibet prævia ratione non obstante inscribi & inseri & contra hanc quidem clausulam etiam repulsio prænotata subsequi & fieri consuevit; [§1] IDEO queritur: Utrum ille, qui in causa non fuit possit actorem et partem in causa triumphantem ab exequutione late sententiæ: litterarumque Adiudicatoriarum repellere. Et videtur quod non, quia non est illius turbare iudiciariam commissionem, neque immiscere & ingerere se lucro vel damno litis & causæ qui in processu eiusdem nec vicit nec succubuit. [§2] IN CONtrarium tamen plerumque accidit partem triumphantem cum litteris Adiudicatoriis atque sententionalibus ad facies talium bonorum & iurium possessionariorum accedere, quæ præmanibus alterius & non illius, qui in causa succubuit habentur, & iusto etiam forsitan

titulo per eum possidentur. [§3] Sæpe etiam p̄enes unum principale membrum iuris possessionarii talia bona occupari machinantur, quæ iusto modo atque titulo ab eo membro fuerant dudum sequestrata. Verbi gratia: Castrum aut castellum vel oppidum unum simul cum cunctis suis pertinentiis, videlicet villis, prædiis portionibusque & iuribus possessionariis ad idem de iure spectantibus & pertinere debentibus, processu iuris aut ex Donatione regia vel alio titulo per quempiam acquiritur & prosequitur, a quo quidem castro, castello vel oppido verus dominus & legitimus possessor eius, qui forsitan iam in semine defecit unam vel duas villas aut aliquod prædium & terram adhuc vivens precio vendidit vel servitorum pro exhibitione donavit aut alio titulo contulit, & ille cui venditio vel Donatio facta fuit, se in huiusmodi villis aut prædio & terra, etiam consensu regio ac statutione iuridica dudum fundavit atque firmavit. [§4] Obtento igitur iam principali membro, ipso scilicet castro aut castello vel oppido una cum victis pertinentiis suis, & illo cui (ut præmissum est) venditio aut Donatio facta fuit in causa non existente (ex eo forsitan quod tempore Recaptivationis & primarię Statutionis dicti principalis membri solus ille, qui pro tunc in dominio & possessione eiusdem membri principalis fuerat totali huiusmodi Recaptivationi & Statutioni contradixerat) actor ipse etiam prænaratas villas aut prædium vel terram præ manibus alienis modo antelato iam existentes & habitam p̄enes principale eiuscemodi membrum, tanquam scilicet pertinentias eiusdem pro se vindicare & occupare nititur. [§5] In eo itaque & alio quoque simili casu repulsionem præactam, etiam ille, qui in causa non erat facere permittitur. Et hoc virtute illius clausulæ (PRÆVIA RATIONE) qua mediante nec onus repulsionis ille deponere tenebitur si pars triumphans absque debita ratione ad occupanda bona prænotata accessisse verificabitur. [§6] ITEM de iuribus quoque possessionariis impignoratiis idem est sciendum quod si quispiam litigantium hæreditatem & proprietatem alicuius iuris possessionarii pro se ordine iudiciario obtinebit, & tale ius possessionarium apud manus alienas titulo pignoris extiterit (si tamen impignoratio ipsa bono & iusto modo, & non litis inter medio facta fuisse comprobatur) vigore sententię super ipsa perpetuitate late reoptentum huiusmodi ius possessionarium actor a manibus eius, qui pignoris illud titulo possidet, simpliciter occupare non potest, sed super illa pecuniarum summa, pro qua præmisso pignoris titulo obligatum habetur, ut primum satisfaciat necesse est. Nam alioquin si de plano occupare niteretur repulsio merito subsequi poterit. [§7] Et si ad tollendam pecuniam suam possessor ipsius iuris possessionarii se tempore exequutionis dictę sententię iudiciarięque deliberationis paratum obtulerit, tunc neque p̄ene vel oneri huiusmodi repulsionis subiacebit. [§8] Et hoc intellige si de summę pecuniarum quantitate ac impignorationis qualitate pariter & veritate ibidem constabit.

De novo iudicio ac eius modo serieque & processu. Tit. lxxvii.

QUIA post factam repulsionem vel procuratorum malam responsionem sæpenumero novum iudicium solet a principe impetrari, ut in causa illa qua quispiam succubuit & convictus est non obstante eo errore vel defectu quo se in processu causę gravatum fuisse cognoscit, non obstante etiam lata iam exinde iudicis sententia, idem de novo respondere novasque allegationes, exceptiones & obiectiones facere, litteras forsitan non exhibitas producere, defectum obmissum supplere, errorem commissum emendare & generaliter omnia, quæ iuris & iustitię ac defensionis & sublevamini causę suę proficua esse cognoverit peragere valeat atque possit. [§1] SCIENDUM igitur est quod huiusmodi novi iudicii gratiam, Præterea cunctarum litterarum privilegialium rite tamen & legitime emanatarum confirmationem, necnon universorum bonorum & iurium possessionariorum titulo novę Donationis collationem princeps noster ex debito regiminis sui officio unicuique largire & concedere

solet. [§2] Nova tamen Donatio conferenda est locumque habet si iuste & non fecte postulatur, hoc est si bonorum ipsorum impetrator a die adeptionis eorundem per se vel progenitores quoque sui in reali dominio illorum usque ad tempus impetrationis perstiterunt. quemadmodum in prima parte clarius super ipsa nova Donatione Notabile positum habes. [§3] ULTERIUS advertendum quod causa per formam novi iudicii inchoata unico tantummodo termino iuridico & ante omnes alias causas finiri concludique solet, ne negotium & causa per iudiciariam sententiam & deliberationem iam decisa fine confuso pendere cogatur. [§4] De cuius quidem novi iudicii serie & modo, quia in generali decreto nostro clara continetur descriptio, ideo articulum super ea re conscriptum verbotenus (prout sequitur) adieci. [§5] ITEM solent nonnulli regnicolę in eorum causis contra sese potissimum in facto possessionario motis, servatis pertransitisque legitimorum terminorum & litium processibus & litterarumque tandem ac aliorum cunctorum documentorum probabilium hincinde pro finali conclusione huiusmodi negotii productionibus factis, in ultimo cause termino, dum etiam iudices ordinarii sedis iudiciarię regni magistrique Prothonotarii & iurati eiusdem sedis assessores suam tulissent sententiam, Earundemque partium altera se in huiusmodi causa deficere & succumbere agnosceret, ac litterę Adiudicatorię exinde vel iam emanatę & extradatę extitissent, aut post latam & pronunciatam sententiam extradari deberent procuratores eorum revocare & causam condescendi facere velle, aut novum iudicium impetrare, vigore cuius partem alteram ab exequutione litterarum Adiudicatoriarum sæpius prohiberent, ut sic eorum iustis iuribus privarentur; [§6] propterea statutum est, ut a modo imposterum huiusmodi causantes non nisi lite pendente & causa nondum decisa procuratores eorum revocare & causam condescendi facere possint. [§7] Novum autem iudicium impetrent semper, si voluerint. Verum tamen eius vigore partem alteram ab exequutione latę sententię litterarumque Adiudicatoriarum superinde emanandarum extractione vel extradatione iudices ordinarios vel eorum Prothonotarios nequaquam valeant inhibere. [§8] Immo & ipsa pars triumphans huiusmodi litteras Adiudicatorias non obstantibus ipsis litteris novi iudicii sic impetratis debite exequutioni demandari facere, Pars denique ipsum novum iudicium impetrans, habita exequutione dictę latę sententię suam causam vigore ipsius novi iudicii dum voluerit exequutione demandare & idem prosequi, [§9] Casu vero quo altera partium sive ratione iurium possessionarium sive aliorum quorumcunque negotiorum per non venientiam, eo quod fortasse certis suis negociis præpedita comparere nequiret sententionaliter quoquo modo convinceretur tunc talis pars sic per non venientiam convicta & novum iudicium impetrare & tam iudices ordinarios ac Prothonotarios eorundem ab extradatione litterarum Adiudicatoriarum sententionaliumque, & partem adversam ab extractione & exequutione earundem litterarum semper dum voluerit & poterit inhibere valeat atque possit. [§10] Et quod omnes causę, in quibus per regiam maiestatem nova iudicia impetrata fuerint in primis octavis inter omnes alias causas leventur & iudicentur.

Utrum possit novum iudicium impetrare qui in cause processu non succubuit. lxxviii.

SEd quæstiuncula occurrit discutienda similis quæstioni super facto repulsionis superius propositæ. [§1] Utrum possit ille novum iudicium impetrare, qui non egit, neque fuit in processu causę? DICENDUM breviter quod quamdiu ille qui in causa succubuit in humanis egerit & supervixerit, nemo alter præter eum gratiam novi iudicii impetrare potest. Non enim congruit cuiuspiam falcem suam in alterius messem mittere. [§2] Verum tamen parte ipsa convicta ille, in quem prosequutio causę ipsius de regni nostri consuetudine condescendet, liberam plenariamque impetrandi de facto habebit facultatem.

Procuratoris revocatio quid sit et ubi fieri debeat. Tit. lxxix.

QUoniam in causa factoque novi iudicii procuratorum revocatio sæpe sequitur idcirco SCIENDUM quod procuratorem revocare est responsionem alicuius advocati per eum præter voluntatem & extra informationem constituentis in iudicio factam retractare, & eam nova responsione coram iudice reformare. [§1] Omnis autem procuratoria revocatio coram eo iudice, quo responsio illa, quæ retractabitur facta fuit, vel homine suo ad id per eundem iudicem specialiter deputato fieri solet atque debet. [§2] Verum si causa ipsa in alterius iudicis præsentiam fuerit transmissa, tunc coram eodem iudice vel eius homine, in cuius conspectu per huiusmodi transmissionem causa ipsa pendet responsio procuratoris revocari debet.

Procuratoris responsio quomodo et quo onere retractari debeat. lxxx.

ADvertendum itaque quod revocatio responsionis cuiuslibet procuratoris in longis causarum processibus, quibus videlicet etiam facta responsione iuridici processus subsequi & iudiciariæ deliberationes ac sententiæ interlocutoriæ pronunciari solent, non nisi lite pendente & causa per diffinitivam sententiam nondum decisa fieri debet. [§1] In causis vero brevibus per insinuationem motis: & aliis unicum terminum ad respondendum habentibus, etiam post latam & pronunciatam diffinitivam a iudice sententiam quilibet litigantium procuratorem suum revocare poterit. [§2] RETRACTATIO namque procuratoris (sicuti prænarratum est) præsupponit semper errorem vel defectum, quiquidem error & defectus non nisi in responsione & obiectione aut aliqua exceptione committi solet. [§3] Ac tandem facta nova responsione post revocationem prioris responsionis modo præhabito instaurari reformarique debet, ita ut ipsa die, qua sententia ac iudiciaria deliberatio pronunciatur & fertur, quilibet causantium absque quolibet onere & gravamine, postea vero infra octavarum & brevium iudiciorum celebrationem (dempta dumtaxat extrema die ipsarum octavarum vel brevium iudiciorum) semper cum minori onere, sex videlicet florenis auri, Demum autem eisdem octavis vel brevibus iudicii expiratis cum maiori onere quinquaginta scilicet marcis Homagialibus gravis ponderis ducentos florenos auri facientibus procuratorem suum revocare potest. [§4] Ultimam autem diem prænotatam verum esse intellige si retractans ille calumniose & fraudulentè agere prætenderet. Ut videlicet terminum solummodo ipsum iuridicum hac cautela revocationis præteriret & alteram partem ulteriori processu vexaret & gravaret. Nam aliter die illa, qua sententia fertur, ut eadem die & procuratoris responsio revocetur necesse est.

Procuratoris responsio duobus modis solet revocari. Tit. lxxxi.

REsponsio vero procuratoris & advocati duobus modis solet revocari. [§1] PRIMO in processu causæ ante finalem conclusionem & diffinitivam sententiam eiusdem causæ (licet responsione præhabita) ut puta si quis se litteras & litteralia instrumenta super eo negotio, quo per adversam partem lite impetitur habere & illarum vigore se ab impetitione sui adversarii defendere posse allegaret, vel factum illud pro quo lite ipsa vexatur se patrasse negaret, aut forsitan causam iudex ex partium responsionibus ad oculatam revisionem vel communem inquisitionem decerneret iam responsionem factam fuisse cuilibet constaret; [§2] antequam tamen terminus iuridicus per iudicem litterarum exhibitioni aut iuramentali depositioni vel oculatæ revisionis aut communis inquisitionis celebrationi prefixus & deputatus adveniat, partium ipsarum altera se per responsionem sui procuratoris gravatum esse vel gravari debere

sentiens & agnoscens non expectato huiusmodi termino iudiciarię ipsius commissionis procuratoris sui responsionem coram iudice suo vel homine eiusdem ad id (prout pręnarratum est) specialiter per eum deputato revocare potest; [§3] & eiuscemodi revocatio (quamvis cum maiori onere quinquaginta scilicet marcis Homagialibus) etiam absque gratia principis fieri poterit. [§4] SECUNDO revocatio ipsa post latam & pronunciatam sententiam diffinitivam contingit, & hoc solummodo in causis, quibus mox & immediate per primariam responsionem partium finalis conclusio & diffinitiva sententia sequitur atque profertur. [§5] Ubi si procurator unius partis aliter respondisset processus aliquis in causa illa subsequi de iure potuisset, & casus iste rarus est, qui in causis pręcipue per insinuationem motis & suscitatis committi consuevit. [§6] Unde hoc secundo modo revocatio responsionis cuiuslibet procuratoris expiratis octavis vel termino celebrationis brevium iudiciorum non nisi per gratiam principis vigore novi iudicii sequi fierique debet. [§6] Fassio autem procuratoris, qua mediante procuratorum quispiam constituentem aliquem in quinquaginta marcis gravis ponderis aut citra sive perennali, sive impignoratio iure & titulo obligat semper sine principis gratia, maiori tamen cum onere retractari poterit.

Quod causarum condescensio duobus modis fieri solet. Tit. lxxxii.

QUoniam post revocationem procuratoriam sæpenumero causarum condescensio sequitur. [§1] Unde sciendum quod condescensio causę duobus modis fieri solet. PRIMO quidem per iudicem quando scilicet iudex causę perlecta actione & acquisitione actoris simul & evocatione inde subsequuta bene calculata tale vicium vel errorem in litteris ipsis Evocatoriis deprehendet, quo prępediente sententia ac iudiciaria deliberatio debito modo ex huiusmodi actione pronuciari non poterit. [§2] Puta quia non denotatur villa sive possessio, quę acquiritur in quo comitatu regni adiaceat. Plures autem sunt villę uno & eodem nomine vocitatę in diversis comitatibus situatę vel sæpe etiam in eodem comitatu adiacentes, aliquo tamen additamento cognominis variatę. Et si villę nomen cum suo cognomine non exprimitur, dubium mox suboritur quę sit illa, quam actor iuri suo vindicare nititur. [§3] Verbi gratia duę sunt villę hoc nomine NANDOR appellatę in uno eodemque comitatu positę, una tamen illarum cognominis appositione variatur, quoniam altera superior vel maior, & altera inferior aut minor NANDOR vocitatur; quarum altera mea est, altera vero ad te pertinet & tua est. [§4] Si itaque in Evocationis & actionis serie non declaratur, quę illarum acquiritur, non poterit iudex causę discernere ad quam earum sententia feratur. Unde causa talis merito condescendet & invalidatur de novo per actorem si voluerit inchoanda. [§5] Hoc tamen semper pręsupposito si in causam attractus per se vel suum legitimum procuratorem defectum & errorem huiusmodi per modum exceptionis allegabit. Nam aliter si ad actionem sponte respondebit, & acquisitioni illi per seipsum parebit nil obiciendo, iudex de se opponens simul & iudicans fieri nequit, sed sententiam inter partes iuxta causę meritum proferre debet. [§6] IDEM EST dicendum si quis occasione actuum potentiariorum in litem evocabitur, & quo tempore mala facinoraque in actione posita patrata sunt in actione non declarabitur quod talis quoque causa condescendet & cassabitur. Quoniam absque termini vel temporis expressione, nec actor vincere, nec in causam attractus vinci commode poterit. [§7] Omnis enim causa & litis motio ratione actuum potentiariorum facta & inchoata, & ex consequenti actio atque acquisitio in ea declarata per in causam attractum aut affirmatur, aut negatur. Si affirmatur, ut ratio quoque suę affirmationis assignetur necesse est. Nam aliter affirmans vel reus ipse mox in causa succumberet. [§8] Verum si negatur, maxime propterea negatur quod tempore patrations ipsorum actuum potentiariorum nedum pręsentem fuisse, sed forte neque in patria sua pro tunc se extitisse velit vicinorum & commetaneorum attestacione probare, & ob hoc si terminus in actione non specificabitur in causam attractus difficulter expurgabitur. [§9] HOC

tamen advertendum & cordi imprimendum est quod Evocationes prætextu actuum potentiiorum ædite & actiones in eisdem positæ diversis cum clausulis declarari solent. Aliquando enim (& potissime cum actio ad personam principalem refertur) clausula ista apponitur quod talis vel talis assumptis secum talibus & talibus familiaribus ac Iobagionibus suis ad domum meam irruendo hoc & hoc patravit. [§10] Aliquando vero in Evocatione ista clausula scribitur: Missis & destinatis .T. & .T. hominibus suis ad talem villam vel possessionem meam, ibique tot & tanta damna Iobagionibus meis irrogavit & intulit. [§11] Sæpe autem Evocatio cum hac clausula decernitur de commissione & mandato talis vel talis .T. & .T. familiares & Iobagiones sui talem famulum meum in tali loco repertum aut constitutum dire & acriter verberaverunt & huiusmodi. &c. [§12] Unde semper advertenda considerandaque est clausularum prædictarum in actione positio. Aliud est enim secum assumere, aliud aliquem destinare & aliud cuiquam patrandum quid mandare & committere. [§13] Assumptio namque personalem inter essentiam semper requirit. [§14] Missio vero & destinatio præsentiam exigit, ut præsens sit ille qui mittit & qui mittitur. Licet ista missio etiam de longinquo fieri possit ad familiares referendo, sed non ad Iobagiones, qui in propinquo resident. Nisi forte medio famulorum Iobagiones mitterentur. Et hoc quoque in casu non contingenti, sed deliberato & malitiose perpetrari præconcepto. [§15] Iussio autem & missio etiam absentiam includit, potest etenim aliquis (si etiam in regionem longinquam abiret) suis famulis & Iobagionibus in domo sua constitutis antequam discedat & itineri se submittat hoc & hoc perpetrandum committere. [§16] Quapropter in missione & commissione debet semper attendi modus & ordo patratae rei atque casus contingens et non contingens vel non deliberatus. [§17] In casu namque contingenti puta si pecora & pecudes Iobagionis mei de pratis vel segetibus propter illata damna per aliquem abiguntur, & in curiam suam aut stabulum includuntur, ut interea non emittantur donec super damnis illatis satisfactio impendatur. Familiares autem vel Iobagiones mei temeritate ducti eadem die aut sequenti huiusmodi pecudes & pecora manu violenta educunt & reducunt, aut Iobagio vel famulus meus in taberna sedens & cum cæteris potatoribus ad iurgia veniens alterum vulnerabit vel forte homicidium perpetrabit, & ibidem propterea detinebitur, sed per alios famulos vel Iobagiones meos ipsa eadem vel altera die violenter eliberabitur, missio & commissio perpendi ruminarique debet. [§18] Si enim in remotis & longinquis partibus ego tunc ago certum est quod mittere vel committere nequeo cui ut pote de contingenti huiusmodi casu tam repente nil constare potuit. [§19] Si vero dicis familiaribus & Iobagionibus meis ad sortem me dudum commisisse ut si quando talis casus occurrerit hoc & hoc faciant, poterit quidem (fateor) iste casus in committendo sed non in destinando fieri. Qui (quia de futuris contingentibus non est determinata veritas) admittendus non est. Nam & alioquin si casus eiusmodi admittendus censetur (præsupposito primario committentis intento) non violenta pecudum eductio vel homicidæ eliberatio, sed potius homicidium & damnorum illatio consideranda pariter & compensanda dinoscitur. [§20] CASUS vero non contingens fit & intelligitur quando deliberate & ex præconcepta malitia patrandum aliquid facinoris committitur. Puta domorum invasio, silvarum succisio, villarum deprædatio & similes actus violenti, qui post discessum alicuius potentis ad regionem longinquam vel externa regna, etiam post centum & plures dies committi inferrique poterunt, si prius illud mandaverit in absentia sua patrandum atque peragendum. [§21] Iste vero distinctiones clausularum prædictarum positæ sunt non ut litigantibus calumniandi via pateret, sed potius causæ iusta vel iniusta motio claresceret. Sicuti enim actio iusta tuenda semper est, ita acquisitio iniusta & calumniosa admittenda non est. [§22] SECUNDO modo causarum condescensio vel depositio fit per actorem cum onere sex marcarum minoris seu levis ponderis, sex utputa florenos auri facientium, in duabus iudici, coram quo lis ipsa mota fuerat, In tertia vero partibus in causam attracto persolvendarum; dum videlicet actor suam actionem & acquisitionem ex sui

negligentia vel scriptoris vicio aut alio quocunque errore occurrente male & indebite positam ac declaratam cernit & obesse potius, quam prodesse sibi considerat, antequam discussio illius causæ fiat per se vel suum procuratorem eam cum onere & gravamine prenotato sponte deponi sopirique & condescendi facit.

Quo modo ante & quo modo post latam sententiam causa condescendi debet. lxxxiii.

CAUSÆ autem condescensio semper ante latam per iudicem sententiam libere fieri atque celebrari poterit, post latam tamen & pronunciatam sententiam locum ipsa condescensio non habet. [§1] LATAM autem & pronunciatam sententiam intellige finalem & diffinitivam, non autem intermedientem, quam canonistæ interlocutoriam appellant. [§2] Nam post intermedientem huiusmodi sententiam causarum condescensio sæpe locum habet admittendaque censetur, sed non semper. [§3] SI ENIM aliqua causa per iudicem ex responsionibus partium ad communem inquisitionem vel oculatam revisionem aut litterarum & litteralium instrumentorum exhibitionem submissa fuerit tunc non obstante huiusmodi iudiciaria deliberatione & sententia intermediente, [~~causa ipsa~~]² etiam tempore discussionis reportate seriei talis communis inquisitionis vel oculatæ revisionis aut litterarum & litteralium instrumentorum exhibitionis; Si etiam per utramque partem litteræ iam coram iudice productæ essent, ante tamen pronunciationem diffinitive sententiæ ex serie attestatum vel litteralium instrumentorum ferendæ semper actor causam suam cum onere præscripto sex marcarum deponendi habet potestatem. [§4] DIXI tamen notanter non semper. Nam in casu, quo quispiam ratione occupationis aliquorum iurium possessionariorum per adversam partem in præsentiam sui iudicis evocabitur, & ipse evocatus respondebit se tempore, quo actor proposuit illa non occupasse, sed etiam per prius se in dominio eiuscemodi iurium possessionariorum pacifice perstitisse vel dudum se super ea re absolutum & expeditum esse hocque efficacissimarum litterarum exhibitione se probaturum, ADVENIENTE vero termino per iudicem productioni & exhibitioni ipsarum litterarum prefixo, & in causam attracto aliquo forte impedimento occurrente in eodem termino comparere exhiberique commissas litteras producere non valente contra ipsum per suam non venientiam & non comparitionem, ex eo quod in huiusmodi litterarum exhibitione defecit & succubuit, sententia capitalis aut emendæ capitis per iudicem pronunciatæ & forsitan debitæ etiam exequutioni demandata & tempore exequutionis eius repulsio violenta sequuta vel per litteras novi iudicii cum inhibitione (iuxta vetustam regni huius consuetudinem & contenta quoque generalis decreti nostri) confectas ab exequutione sua prohibita fuerit, & tandem in termino revisionis & discussionis reportatæ seriei eiuscemodi exequutionis aut inhibitionis actor ipse repulsionis vel solummodo litterarum sententionalium & iudiciorum Birsagialium onus atque gravamen ad portionem suam cedens ab in causam attracto & convicto tulerit & ad se levaverit, posteaque convictus ipse litteras per iudicem exhiberi commissas, sed prius produci neglectas coram iudice produxerit, quarum vigore actor ille contra ipsum in causam attractum aut in facto calumniæ, vel emendæ linguæ convinci aut alio onere condemnari se sentiens antequam sententia calumniæ vel emendæ linguæ per iudicem ediceretur, actor causam suam cum onere consueto sex marcarum deponere & condescendi facere voluerit tunc in huiusmodi casu etiam ante latam & pronunciatam diffinitivam sententiam depositio causæ locum non habet. [§5] Quia solus actor eam sententiam per non venientiam in causam attracti pronunciatam vim sententiæ diffinitive habendam censuit, ubi repulsionis vel litterarum sententionalium & iudiciorum onus ad se levavit, & per hoc iniuste partem adversam damnificavit. Fraus enim & dolus

² Either *causa ipsa* is superfluent or the predicate of the sentence is missing. We followed in the translation the suggestion of the Millenarian edition of the Tripartitum (p. 364. note 7).

patrocinari debet nemini, & de reliquis quoque similibus casibus idem est intelligendum. [§6] Nostra tamen hac tempestate non solum prædeclaratis, sed etiam aliis pluribus modis causæ per varias & multiplices (frivolas tamen) procuratorum exceptiones allegationesque & obiectiones condescendi ac subverti consueverunt. [§7] Quas ubi iudices iuri & iustitiæ contrarias fore agnoverint, admittere illisque consentire non debent ne facientes & consentientes pari reatu detineantur. [§8] Hic est enim gladius biceps, qui pupillorum & viduarum aliarumque miserabilium personarum corda transfixit. Hic dolor, qui animas oppressorum ad intima penetravit. Hic deinde laqueus, qui plurimos in baratrum æternæ damnationis præcipitavit. Multiplex videlicet causarum iniusta condescensio, quæ tanquam peccati fomes semper est evitanda. [§9] Memoror enim ob defectum unius litteræ Alphabeticæ & sæpe obmissionem unicæ dictionis totam causam per advocatum exquisita obiectione & allegatione (consentiente iudice) subversam condescensamque fuisse.

De illis, qui in alterius causam sese ingerunt quid sit agendum. Tit. lxxxiii.

QUIA plurimi solent sese in causas ac lites duarum partium in ultimo præsertim causarum articulo dum productis iam & exhibitis coram iudice per utramque partem litteris & privilegiis merita causarum tangentibus finalis conclusio sequi & sententia diffinitiva ferri atque pronunciari deberet a tertia sæpe etiam quarta parte ingerere & immittere. [§1] Igitur sciendum est quod quando causa super hæreditate & perpetuitate iurium possessionariorum ventillatur, ante latam diffinitivam sententiam, quicumque voluerit & se iura illa possessionaria aut perennali iure, aut pignoris vel alio quovis titulo concernere agnoverit cum refusione (expensarum per actorem in processu huiusmodi causæ factarum ad portionem in causam ingerentis cedentium) liberam se in litem immiscendi & immittendi habet auctoritatem. [§2] VERUM tamen in causam attractus contra talem ingerentem mox & defacto litteras vel litteralia instrumenta seorsum ab actore producere non tenetur; [§3] maxime si quispiam nomine & titulo iuris regii noviter impetrati iura illa possessionaria pro se vindicare prætenderit. Nam ad tale ius regium prosequendum in causam immiscenti processus in huiusmodi lite solitus per iudicem dari & assignari debet. [§4] Nihilominus in causam ille se immittens genealogiæ suæ lineam (si in causam attractus negabit) immediate comprobare tenetur. [§5] Quia & si eodem dumtaxat in termino in causam se ingessit, tamen per hoc actorem se de facto effecit, actor autem paratus semper esse debet. [§6] Nam aliter ab ingressu & prosecutione huiusmodi causæ decidisse reputatur, & alio processu illam postea prosequi tenebitur. [§7] Si tamen genealogiam suam comprobabit vel forsitan neque in causam attractus illam negabit, nihilominus etiam contra eum expeditorias vel alias litteras se habere allegabit, inter actorem quidem & in causam attractum ex continentis & tenoribus exhibitarum litterarum iudicium fieri & administrari poterit. [§8] ATTamen productioni litterarum adversus in causam ingerentem exhibendarum unicus terminus per iudicem dari præfigique debet. [§9] ADVERTendum est autem quod in eam causam, quæ ratione impignoracionis vel occupationis iurium possessionariorum agitur & prosequitur nemo hæreditatem talium iurium possessionariorum pro se vindicare prætendens in causam se immittendi habet facultatem. [§10] Iuri enim & iustitiæ disconveniens videretur ut ille, qui iura sua possessionaria necessitate rationabili cogente alteri titulo pignoris ad tempus obligavit inter litigandum de dominio eorum per alium, cum quo prius nullum in hac parte commercium habuit, perpetuo excluderetur, vel possessio de manu cuiuspiam violenter occupata & in causa prætextu occupationis eiusdem suscitata non ad illius, unde occupata fuerat sed alterius manus assignaretur possidenda.

Utrum actore liti cedente possit in causam se ingerens in ea procedere. lxxxv.

SEd quia plerumque fieri consuevit ut levata iam per iudicem ad discutiendam causa duas inter partes exorta, productis etiam sæpenumero per utramque partem privilegiis et litteralibus instrumentis priusquam finalis & diffinitiva sententia inter partes pronunciaretur, cum iam a tertia quoque aut quarta parte aliquis se in eam causam immisisset, partes principales actor scilicet & in causam attractus aut proprio eorum motu aut aliorum fratrum & amicorum suorum de consilio per bona media in concordiam & unionem deveniunt causæ illi & ulteriori prosecutioni eiusdem omnino finem imponentes. [§1] UNDE queritur: Utrum in causam ille se ingerens & immiscens possit contra in causam attractum ulterius in eadem causa (non obstante præmissa concordia & unione cum actore iam facta & stabilita) procedere teneaturque in causam attractus ad instantiam illius respondere litterasque producere vel ex tenoribus litterarum adversus actorem iam forte per attractum exhibitarum valeat iudicium & iusticiam sententiamque diffinitivam habere? [§2] DICENDUM quod si concordia & unio prænarrata inter duas partes principales actorem videlicet & attractum ante sententiam diffinitivam per iudicem ferendam (si etiam ex utraque parte litteræ iam productæ extitissent) facta celebrataque fuerit, amplius in causam se ingerens & immiscens in ea procedere non potest, neque tenetur attractus ipse contra illum de cætero in eadem causa respondere. [§3] Quoniam ruente fundamento (principali scilicet actore) ut cætera quæque superedificata ruant necesse est. [§4] Verum tamen si concordia ipsa & unio post latam & pronunciatam inter omnes partes actorem videlicet & attractum, atque ingentem sententiam lata factaque fuerit dum iam de iuribus possessionariis litigiosis etiam ingenti portio congruens aut Dotalitium sive Quartalitium vel ius forsitan impignoratitium extitisset adiudicatum, aut litteralium saltem instrumentorum exhibitio fuisset attracto contra ingentem adiudicata, tunc etiam principali actore liti cedente & ulteriori prosecutioni huiusmodi causæ renunciantem ingerens & in causam se immiscens nihilominus iuxta iudiciariam commissionem & deliberationem iudicis in eadem causa procedendi habet facultatem.

Qualiter Birsagia in processu causarum accumulari solita exigi debeant. lxxxvi.

QUoniam finitis causis longo liti processu terminari solitis universa iudiciorum onera vel iuridica gravamina in processibus earundem causarum aggregata & accumulari consueta (quæ communi vocabulo Birsagia nuncupantur) exigi solent. [§1] SCIENDUM igitur quod si in causam attractus iuridica ipsa gravamina in processu cuiuslibet causæ contra se aggregata mox finita causa coram suo iudice paratis in pecuniis deponere & persolvere voluerit tunc quamlibet marcam uno floreno deponere & refundere poterit. [§2] Et huiusmodi onerum & Birsagiorum duæ partes semper iudici cedunt & tertia pars actori manebit. [§3] Ubi vero coram iudice suo illa deponere noluerit, aut non poterit; attamen iudicem super eo postulaverit pariter & amonerit ut hominem suum mittat coram quo de bonis & iuribus suis possessionariis per eorundem occupationem non expectata super ea re executione solito more fienda satisfactionem super eiusmodi iudiciorum oneribus impendere curabit, tunc singula quæque marca singulis duobus florenis deponi & persolvi valebit. [§4] Si tamen nulla amonitio facta, nulla etiam satisfactio per ipsorum bonorum occupationem impensa, sed simpliciter ad executionem causa ipsa simul cum oneribus suis submissa fuerit, tunc non aliter nisi quamlibet marcam ad singulos quatuor florenos taxando reus ipse compensare deponereque tenetur. [§5] Super quibus primo de rebus mobilibus convicti si reperiri poterunt, aliter autem de iuribus eiusdem possessionariis satisfactio impendenda erit. [§6] Qualiter vero & quo ordine eiusmodi Birsagia seu iudiciorum onera in processibus causarum contra

quospiam accumulari soleant non existimo necessarium sermone prolixo describere, eo quod longus ille causarum processus, in quo iuxta antiquorum & prædecessorum nostrorum consuetudinem Birsagia ac iudicia ipsa sæpe duplari, sæpe etiam cum duplo duplato de uno iuridico termino in alium prorogari consueverant per generale decretum nostrum abolitus & extinctus est. [§7] Secundum namque modernorum legem & consuetudinem universę causę longo litis processu olim terminari solitę in quatuor tantummodo terminis Octavalibus decidi & finiri debent in quibus iudicia ipsa simplio dumtaxat modo cumulantur, & non nisi in tertia Evocatione, quę ex simplici amonitione vel Evocatione processura est duplantur. [§8] In primo namque octavali termino dum in causam attractus non comparuerit in iudicio trium marcarum vincetur & aggravatur, & per actorem tam ad earundem marcarum restitutionem, quam etiam ipsius causę prosecutionem iterum evocabitur. Et hæc Evocatio secunda appellatur. [§9] Unde si in secundo termino iuridico in causam attractus non comparebit, tunc pro ista secunda non comparitione rursus in trium marcarum iudicio, & pro non solutione priorum trium marcarum in duplo earundem condemnabitur. [§10] In simplici autem possessionaria statutione vel metali Reambulatione semper simpliciter Birsagia ipsa aggregantur. [§11] In brevi quoque causarum processu in causam attractus similiter in tribus marcis per se, & si Iobagionum vel familiarium suorum ignobilium Statutio interserta fuerit, tunc pro non statutione singulorum in singulis marcis, hoc est pro quolibet eorum in una marca, actor vero si non comparuerit in regali iudicio sex marcas faciente gravari consuevit, [§12] & in huiusmodi iudiciorum ac Birsagiorum solutione quælibet marca uno floreno vel centum denariis in sede iudiciaria coram iudice causę (modo prædeclarato) deponi atque persolvi poterit. [§13] Si tamen ad executionem submissa fuerit tunc unaquæque marca quatuor florenis vel quadringentis denariis compensanda erit. [§14] Verum tamen si reus & in causam attractus voluerit, & rebus mobilibus abundaverit, iuxta modum in serie estimationis rerum mobilium prope finem primæ partis descriptum iuridica ipsa gravamina iudici adversæque parti persolvendi habet potestatem.

Finis secunde partis

De tertia parte iurium et consuetudinum regni in generali.

Titulus primus.

ABSolutis auxiliante deo superius iudiciariis processibus & sententiarum speciebus atque diversitatibus curiæ regiæ, in hac iam tertia & ultima parte huius opusculi superest tractare de litium & causarum in ipsam curiam regiam per viam appellationis deducendarum atque transmittendarum seriebus. [§1] Et consequenter regnorum Dalmatiæ, Croaciæ & Sclavonię atque Transsylvaniae sacræ videlicet coronæ regni huius Hungariæ dudum subiectorum & incorporatorum consuetudinibus, a nostra lege parumper distantibus atque discrepantibus, de quibus plurimæ causę post finalem earum decisionem in dictam curiam regiam maturioris revisionis & evidentioris discussionis gratia transmitti consueverunt. [§2] Liberarum quoque civitatum legibus [§3] & de modo impensionis iudicii ex parte colonorum & rusticorum nostrorum fieri consueti, prout in titulis subsequentibus patebit.

Utrum quilibet populus vel comitatus possit per se condere statuta. Tit. ii.

QUIa leges et dudum approbatæ consuetudines prædictorum regnorum Dalmatiæ, Croaciæ, Sclavoniæ & Transsylvaniae certis in terminis & articulis a nostræ patriæ regni scilicet huius Hungariæ legibus & consuetudinibus discrepare, Nonnulli etiam comitatus distinctim ac seperatim ab aliis comitatibus immo etiam ab ipsa curia regia certas consuetudines, utcunque inductas loco legum observare videntur; [§1] Ideo quæritur: Utrum quilibet populus vel comitatus aut quęlibet civitas possit per se & seorsum facere statuta? DICENDum quod nullus populus & nulla universitas potest condere statuta, quæ non habet iurisdictionem propriam, sed alterius subest dominio, nisi cum consensu sui superioris. Et hoc quoque in casibus, qui iuri divino & humano præiudicari non dinoscuntur. Ita quod statuta ipsa iniquum aliquid salutique contrarium non contineant, neque iuribus aliorum palam derogare præiudiciumque inferre videantur. [§2] Unde licet Dalmatini, Croatienses, Slavonienses & Transsilvanenses in Homagiorum & Birsagiorum solutionibus: aliisque certis causarum processibus & terminorum observationibus (sicuti infra clarius dicitur) alia & alia consuetudine a nostra longe discrepante utantur utendique & fruendi habeant auctoritatem, & inter se modo quoque illis simile aliquid de consensu principis statuere & ordinare possint. Contra tamen generalia statuta & decreta regni huius Hungariæ & contra iudicia iudiciariasque deliberationes super facto bonorum & iurium possessionariorum in curia regia per iudices ordinarios administrari solita celebrarique & pronouncari consuetas nil quicquam constituere possunt nullamque statuendi habent facultatem. [§3] Et in huius documentum atque signum universæ causæ super facto iurium possessionariorum in medio eorum motæ finitis inibi causis in curiam regiam, tanquam scilicet locum interrogatorium gratia sanioris & maturioris revisionis: examinationisque & discussionis transmitti consueverunt. [§4] Ubi quicquid deliberatum & conclusum fuerit ratum semper erit atque firmum Banali vel Waywodali deliberatione non obstante. [§5] SIC etiam in diversis comitatibus diversas constitutiones super agrorum, pratorum, silvarum & fluviorum custodia vel molendinorum statu atque proventibus & aliis eiusmodi rebus immo & terminorum ac processuum observationibus, ut scilicet hic breviori & ibi longiori processu causa in sede iudiciaria comitatus coram comite parochiali mota terminetur sana inter sese deliberatione præhabita facere quidem & stabilire possunt. Generali tamen decreto totius regni atque vetustæ & approbatæ consuetudini curiæ regię in iudiciis observari (ut præmittitur) solitę præiudicare ac derogare nusquam possunt. [§6] Et huiusmodi eorum statuta solummodo inter eos & in eorum medio valent atque tenent. Ad externos tamen:

& aliorum comitatum nobiles, qui bona & iura possessionaria in ipsorum medio non habent se non extendunt. [§7] Et hoc modo civitates quoque libere nec non mercatores ac institores, sartores, pellifices, sutores, cerdones & alii opifices in ipsorum collegio & inter sese statuta condere possunt consensu principis accedente. Dummodo huiusmodi statuta iusta & honesta fiant aliisque & aliorum libertatibus ac iuribus damnum et præiudicium non inferant. Quæ sicuti præfertur in eorum dumtaxat medio valent atque durant. [§8] DEBENT autem eiusmodi constitutiones & statuta cum maiori & saniori parte populi fieri atque stabiliri. Quia aliter non dicerentur populi vel communitatis statuta. Verum si populus in duas divideretur partes tunc constitutio sanioris & potioris partis valet. Sanior autem & potior pars illa dicitur, in qua dignitate & scientia fuerint præstantiores atque notabiliores.

De consuetudinario iure regnorum Sclavonie et Transilvanie peculiari. iii.

Sciendum itaque est quod nobiles regnorum Sclavonię & Transsilvanię pluribus in articulis peculiari consuetudine gaudent & utuntur, maxime vero Homagiorum solutione. [§1] Quoniam Sclavonienses centum, Transsilvanenses autem sexaginta & sex florenis eorum Homagia compensare solent. [§2] Et proinde responsiones quoque procuratorum in ipsorum medio terminis in octavalibus simili cum onere revocantur. [§3] Dotalitia etiam uxorum quorumcunque decedentium (demptis officio baronatus fungentium vel functorum) in ipso Sclavonię regno pari modo centum, Transsilvanię vero sexaginta & sex florenis persolvuntur. [§4] Hoc tamen intellige si bona ac iura possessionaria maritorum defunctorum ad tot marcas se extendunt. Nam aliter si minoris estimationis bona ipsa fuerint, etiam ibi (prout in Hungaria) relictis eorum pro dote minus datur. [§5] Uxoribus autem baronum eo quo in Hungaria modo fieri debet solutio Dotalitiorum. [§6] Causę vero in utroque regno ratione iurium possessionariorum vel aliorum specialium arduorumque negotiorum in octavalibus terminis motę post diffinitivam sententiam ad appellationem cuiuslibet partis semel in curiam regiam domini videlicet iudicis curię regię in præsentiam maturioris examinis & discussionis gratia transmittuntur & pro finali conclusione atque exequutione earundem rursus ad priorem iudicem Banum scilicet aut Waywodam remittuntur. [§7] CAETERUM nobiles Transsilvanenses pro minoribus potentiariis actibus in quinquaginta marcis totidem florenos auri facientibus convincuntur. Vice comites autem & iudices nobilium in duplo condemnantur. [§8] Homagium vero vivum triginta & tribus florenis apud eos compensatur. [§9] Item Dotalitiorum solutio quo ad duas partes paratis & numeratis pecuniis, ad tertiam siquidem partem rebus mobilibus atque venalibus absolvi consuevit. [§10] Item violatio generalis dietę & conventionis nobilium Transsilvaniensium de regio mandato vel domini Waywode Transsilvani edicto celebrandę centum, sedis vero iudiciarię quinquaginta marcis totidem florenos valentibus taxatur. [§11] Item in facto recuperationis damnorum ac debitorum principalis nobilis actor scilicet vel in causam attractus ad tres florenos iurare permittitur. Cæteri tamen nobiles eius coniuratores non plures quam singuli singulum florenum suo iuramento recuperandi habent facultatem. [§12] Et licet in processibus causarum prænarratarum quęlibet marca Transsilvanorum more centum denarios valeat, Birsagia tamen ac iuridica gravamina in processibus causarum octavalium accumulata instar nobilium regni Hungarię quadringentis denariis (iuxta modum in fine primę partis descriptum) absolvi semper solet. [§13] Item causę in sedibus iudiciariis comitatum coram vicecomitibus parochialibus ac iudicibus nobilium ratione rerum infra tres florenos valentium motę in præsentiam Waywodalem ad terminos octavales non transmittuntur. [§14] ITEM Homagium rusticorum Transsilvanorum integrum viginti quinque, medium vero (quod vivum Homagium vocitatur) duodecem florenis & quinquaginta denariis, Mutillatio autem membrorum et

manuum, aurium eruitioque oculorum & vulnus faciei viginti, Excussio siquidem dentium sex florenis estimatur. [§15] ITEM si rusticus de loco delicti aufugere poterit p̄na violentiæ & actus potentiarii per eum commissi atque patrati non læso sed terrestri domino coloni cedit. L̄esus autem damni dumtaxat vel suscepti vulneris compensam rehabebit. [§16] ITEM rustici propter pecudum & pecorum de damnis illatis abactorum violentam exmissionem & ablationem vel aliam quamlibet indebitam rerum arestationem in estimatione huiusmodi pecudum & pecorum ac rerum arestatarum convincuntur. [§17] Et in hac parte de nobilibus quoque idem iudicium observatur. [§18] ITEM in facto recuperationis damnorum ac debitorum rusticus principalis actor videlicet aut attractus unum florenum iuramento suo accipere permittitur. Cæteri vero sequentes rustici eius utputa coniuratores tres personæ florenum unum & non plures eorum iuramento recuperare possunt.

De Scitulis Transsilvanis, quos siculos vocitamus. Tit. iiiii.

SUnt præterea Transsilvanis in partibus Scituli nobiles privilegiati ab Scythico populo in primo eorum ingressu in Pannoniam propagati, quos nos corrupto quodam vocabulo Siculos appellamus, dissimili penitus lege & consuetudine gaudentes rerum bellicarum expertissimi, qui per tribus & generationes atque lineas generationum (antiquorum more) hæreditates ac officia inter sese partiuntur & dividunt. [§1] Horum Homagia viginti & quinque florenis compensantur. [§2] Emenda vero linguę ad duodecim florenos & quinquaginta denarios in eorum medio taxatur. [§3] Capitalis autem sententia contra Scitulum coram eorum comite lata ad vigintiquatuor marcas totidem florenos valentes se extendit hæreditatesque convictus & sententiatus ipse non amittit sed ad hæredes fratresque eius derivantur. Caput etiam demptis casibus notæ infidelitatis & causis criminalibus salvum præservabit. [§4] In sede vero ipsorum iudiciaria quęlibet marca quinquaginta denariis deponi & persolvi consuevit. [§5] Item in quavis causa statim post latam, & pronunciatam sententiam comes & vicecomes eorum portionem suam iudiciariam (si etiam convictus cum adversa parte concordaret) exigendi habet auctoritatem. [§6] Item causæ in facto hæreditatum ultra valorem trium florenorum inter eos suscitatae servatis appellationibus solitis in curiam regiam pro evidentiori discussione transmitti solent. [§7] Reliqua autem iura horum regnorum atque nobilium municipalia (quia in eorum dumtaxat medio valent & inter sese nota sunt) ampliori declaratione non egent.

Quid sit Homagium, et quot modis intelligatur. Tit. v.

SEd quia de Homagio ac marcis Homagialibus mentio sæpenumero præhabita est ideo sciendum breviter quod Homagium dupliciter accipitur. [§1] Uno modo secundum leges quasi hominis ligium seu ligamen. Et est fidelitas præstita superiori per inferiorem. Vel est fidelitas, quę debetur soli principi nullius alterius fidelitate salva. [§2] Alio modo sumitur Homagium secundum communem usum & tunc est mulcta vel estimatio homicidarum, quę talis est ut homicide redimant se ab his, quibus competit iuxta estimationem capitum suorum ultra alias p̄nas pro actibus potentiariis p̄nas homicidium forsitan patratis debitas & infligi solitas. [§3] Nonnulli tamen dicunt Homagium præcium esse hominis perempti licet absurdum sit ita dicere. Nam mortuus nullo præcio redimi & a mortuis suscitari potest. Sed homicida ne talionem subeat ut caput suum & non illius, quem peremit redimat necesse est. [§4] Et hoc si manus iudiciarias vel adversæ partis evaserit. Nam si in persona sua detineri poterit, & homicidium deliberate patratum fuerit, non Homagium suum deponere sed p̄nam capitalem

subire debet. [§5] Homagium itaque secundo modo sumptum capitis emendam ac redemptionem nos communiter esse tenemus.

Qualiter cause de sedibus iudicialiis comitum parochialium in curiam regiam transmittantur, et de procuratorum in eisdem sedibus revocatione. vi.

QUIA vero causæ in sedibus iudicialiis comitum parochialium comitatum huius regni motæ facta primum per eosdem comites, vicecomites ac iudices nobilium iuxta responsiones partium deliberatione iuridica & sententia lata (ut plurimum) in curiam regiam ad approbandam vel reprobendam eiuscemodi ipsorum sententiam ac iudicialiam deliberationem de vetusta regni nostri lege & consuetudine transmitti, & ibidem præhabita per iudices regni ordinarios matura ipsarum causarum discussione aut probatæ aut improbatæ rursus in præsentiam prædictorum comitum parochialium & iudicum nobilium pro exequutione & perfecta conclusione huiusmodi sententiæ ac iudicialiæ commissionis eorum crebro remitti, & post ipsam remissionem partes convictæ & in causa succumbentes a principe novum iudicium impetrare, & sæpenumero etiam virtute ipsius novi iudicii procuratores suos revocare consueverunt. [§1] UNDE sciendum quod post causæ de curia regia remissionem & iudicium ipsorum ordinariorum approbationem vel reprobationem si partem per convictam & succumbentem novum iudicium impetratur aut procuratoris responsio revocatur quaecumque iudicium postea per comites, vicecomites & iudices nobilium celebretur & qualiscumque sententia feratur, de cetero tamen pro evidentiori eiusdem discussione causa ipsa in curiam regiam etiam vigore huiusmodi novi iudicii transmitti non debet. [§2] VERUM si altera pars succubuerit, ad cuius videlicet instantiam causa huiusmodi in dictam curiam regiam transmissa deductaque nondum fuisset illa pars causam eandem pro saniori sui revisione discussioneque in ipsam curiam regiam deducendi habet auctoritatem. [§3] IN sede autem iudicialia comitum parochialium comitatum regni huius procuratoria revocatio plerumque occurrit & contingit, ubi tribus dumtaxat florenis in duabus iudicibus hoc est comitibus vel vicecomitibus & iudicibus nobilium, in tertia vero partibus litiganti illi, adversus quem ipsa revocatio fieri debet persolvendis, etiam post latam ibidem sententiam responsio cuiuslibet procuratoris coram eisdem comitibus aut vicecomitibus & iudicibus nobilium vel altero eorum retractatur & revocatur. [§4] Verum post factam in ipsa curia regia eiusdem causæ ratificationem & approbationem ac in præsentiam eorundem comitum vel vicecomitum ac iudicum nobilium remissionem onus revocationis responsionis procuratoris (si quando fieri contigerit) propter huiusmodi approbationem per superiorem iudicem factam duplicatur, & per sex florenorum solutionem compensatur.

Quales cause de curia regia rursus in presentiam comitum parochialium remitti debeant. vii.

UTrum autem causa in sedibus comitatum suborta & in curiam regiam transmissa facta ibidem & habita approbatione & ratificatione sententiæ ac iudicialiæ deliberationis comitum vel vicecomitum parochialium & iudicum nobilium comitatum, de ipsa eadem curia regia per iudices ordinarios ad exequutionem submittatur, vel in præsentiam rursus eorundem comitum &c. remittenda censeatur variorum varia est opinio. [§1] Verum tamen sciendum pariter & tenendum est quod illæ causæ, quarum in processu iuridica gravamina seu onera iudicialia solvi deponique debent, sicuti sunt omnes minores actus potentiarii & sententiæ inde ferendæ, violationes sedis iudicialiæ, emendæ linguæ & huiusmodi ex quibus utputa etiam iudices portiones habere solent, rursus & iterum in præsentiam illorum iudicum, de quorum conspectu

fuerunt per appellationem in curiam regiam transmissæ atque deductæ remitti debent. [§2] Nam alioquin grande præiudicium eiusdem prioribus iudicibus inferri dinosceretur, ubi per huiusmodi appellationem portio eorum & pars iudiciaria in alterius potestatem ac iurisdictionem converteretur. [§3] ALIE tamen causæ, quæ onerum vel Birsagiorum solutionem non important, sed magis executionem debitam expostulant prout dotum & rerum Paraffernalium ac iurium impignoratorum causæ & aliæ similes de ipsa curia regia ad executionem commode transmitti effectuique mancipari possunt. [§4] Secus est de causis in curia regia coram iudicibus eiusdem ordinariis motis. Nam ibi causæ cum omni plenitudine iuridicorum gravaminum qualitercunque subsequutorum & subsequendorum, de præsentia unius iudicis in alterius præsentiam transmittuntur. [§5] CAUSÆ vero in facto dotum ac rerum Paraffernalium necnon iurium impignoratorum motæ vel movendæ, quæ ultra valorem seu estimationem centum florenorum sese extendere dinoscuntur, in sedibus iudicariis comitatum vel comitum parochialium tractari & adiudicari non possunt.

De liberis civitatibus et earum conditionibus in generali. Tit. viii.

QUIA de liberis quoque civitatibus paucis tractandum occurrit iccirco sciendum quod civitas dicitur quasi civium unitas, eo quod ibi populorum pluralitas sit convocata. [§1] Est autem civitas domorum & vicorum pluralitas maeniis & præsidii circumcincta necessariis ad bene honesteque vivendum privilegiata. [§2] Sed quoniam hæc civium pluralitas unam communitatem causat atque representat. Et huiusmodi collectiva communitas sicut locorum situ, ita etiam privilegiorum & consuetudinum diversitate inter se differt & variatur. Civitatum itaque liberarum aliæ subsunt iurisdictioni personalis præsentia regis maiestatis ut Alba regalis, Strigonium & Lewchovia, aliæ vero ex antiqua regni consuetudine iurisdictioni magistri Thavernicorum regalium sicut Buda, Pesth, Cassovia, Posonium, Thyrnavia, Sopronium, Barthwa & Eperyes.

Quod cives liberarum civitatum in eorum Homagiis nobilibus equiparantur. ix.

QUARUM quidem civitatum cives & inhabitatores in eorum Homagiis nobilibus regni huius equiparantur, in aliis tamen libertatibus nobilibus inæquales habentur & eorum privilegiis non utuntur. [§1] Nam & testimonia ipsorum civium extra eorum civitates & territoria poenes nobiles non acceptantur, neque pro damnorum aut debitorum recuperatione extra civitatem singillatim ultra unum florenum iurare permittuntur.

Qualiter cause civium liberarum civitatum in presentiam magistri Thavernicorum regalium transmittuntur. x.

HARUM autem civitatum quædam magistros civium, quædam vero iudices & iuratos cives atque consules habent, quorum iudicio universæ causæ inter incolas & inhabitatores earundem civitatum, sed & aliorum exterorum hominum lites contra quospiam forsitan illorum motæ decernuntur, dirimuntur & terminantur; [§1] deinde vero ad partis super eorum iudicio non contentæ provocationem in sedem iudicariam magistri Thavernicorum regalium appellationis via transmittuntur. [§2] Demum autem parte aliqua non contenta ad examen personalis præsentia regis maiestatis deducuntur, ubi solummodo sententiæ civitatum & magistri Thavernicorum regalium revidebuntur & ruminabuntur. Utrum videlicet iuste vel iniuste,

debite vel indebite sententiæ fuerint pronunciatae? iustas approbando, indebite vero latas emendando vel per totum invalidando cunctis partium exceptionibus ex novo protunc proponendis per omnia postergatis. [§3] Nisi forte talia dicerentur & proponerentur, quæ merito & de necessitate ad causarum vel sententiarum informationem ac clariorem declarationem & intelligentiam cederent. Nam in tali casu quælibet partium audienda erit.

Quomodo novum iudicium in causis civium liberarum civitatum impetrandum sit. xi.

Item si contingat causam ab examine & iudicio personalis præsentie regie maiestatis ratione ne forte incidentium vel dependentium particularum pro eius maturiori revisione ad priorem iudicem remitti, tunc si qua partium super nova huiusmodi revisione vel discussione non contentabitur ulterius ipsa causa in præsentiam magistri Thavernicorum regalium non erit transmittenda, sed directe in conspectum solius personalis præsentie regie maiestatis qui videlicet illam remiserat fiet deducenda. [§1] VERUM si post obtentam etiam secundam vel tertiam sententiam altera partium noluerit contentari poterit causam suam vel pendente adhuc lite post secundam sententiam coram personali præsentia maiestatis regie latam, aut etiam post tertiam coram ea pronunciatam per formam & gratiam novi iudicii resuscitare, sed coram eo iudice, quo causa huiusmodi primitus mota fuisse dinoscitur. [§2] Et si contra partem prius convictam & appellantem novumque iudicium impetrantem sententiatum fuerit mox & de facto huiusmodi parti sententiatæ vigore dicti novi iudicii silentium perpetuum imponendum erit, nec amplius causa illa in superiorem sedem transmitti debet. [§3] Si tamen altera pars prius videlicet vincens & triumphans succubuerit tunc illa quoque ad instar alterius partis novum iudicium pro se impetrandi & in eadem pari modo procedendi potestatem habebit. [§4] ATTAMen si contra ipsam partem sententia lata fuerit sive per modum approbationis & ratificationis sive emendationis vel invalidationis ulterior processus non dabitur sed perpetuo silentio causa ipsa ex parte quoque illius partis terminabitur, & de cætero neutra partium aut novum iudicium impetrare aut ulterius causam ipsam appellare poterit. [§5] Quoniam unaqueque partium semel novum iudicium impetravit, & in eadem causa secundo impetrare nequibit. [§6] APPELLationes vero in quibuslibet causis post earum decisionem iuxta contenta privilegiorum suorum ad sedem magistri Thavernicorum regalium & in conspectum personalis præsentie maiestatis regie fieri semper possunt. Nam aliter denegata appellandi facultate pauperes adversus potentes favore vel dono destructi iustis in eorum iuribus sæpenumero periclitarentur. [§7] Secus est de causis criminalibus, quæ ad pœnam capitum & mortis damnationem tendunt. Nam in illis locum appellatio non habet, nisi forte innocentem omnino temerario iudicio morti tradere conarentur. In quo casu possunt illico innocentis ipsius fratres aut affines ad regiam maiestatem solam confugere pariter & causam ipsam provocare. [§8] Item si in processu causarum eiusmodi civilium ante aut post remissionem earundem verba ac responsiones procuratoris necessarium fuerit revocare tunc mos & consuetudo sedis iudiciariæ illius iudicis coram quo responsio facta fuit & etiam revocari debet observanda censetur.

De testimonio extraneo inter cives non acceptando. Tit. xii.

Item in causis pro rebus hæreditariis & immobilibus coram iudicibus & iuratis civibus pretactarum civitatum motis & vertentibus nullus in testimonium coram ipsis acceptatur extraneus. [§1] Verum pro debitis & aliis quibuscunque factis ac negociis extra territorium

eorum gestis & habitis quilibet hominum (dummodo bonæ famæ & honeste conditionis existat) ad testificandum coram eis admitti solet.

De Fassionibus coram iudice et iuratis civibus fiendis. Tit. xiii.

Item Fassio coram iudice aut duobus iuratis civibus ratione & pretextu quarumcunque rerum sive mobilium, sive immobilium in eorum medio vel territorio existentium & adiacentium facta semper rata permanet; [§1] nec valet alia Fassio inter ipsos cives super huiusmodi rebus coram aliis iudicibus regni vel in locis testimonialibus iure perennali facta.

Quomodo dominium hereditatum inter cives ingrediendum. Tit. xiv.

Item si coram prædictis iudice ac iuratis civibus Fassio ratione rerum immobilium seu hæreditatum puta domorum, allodiorum, hortorum, piscinarum aut vinearum facta fuerit, tunc requiritur ut per emptorem eiusmodi rerum (ubi dominium illorum intrare pro seque vindicare voluerit) fiat apprehensio sive ingressio earundem coram duobus iuratis civibus ad id deputatis. [§1] Et si contradictor quispiam apparuerit, ac velamine contradictionis obviaverit infra quindecim dies rationem contradictionis suæ in præsentia ipsorum iudicis & iuratorum civium ipse contradictor assignare tenetur. [§2] SI VERO contradictor non apparebit tunc ille, cui venditio & Fassio facta fuit dominium ipsarum rerum & hæreditatum ingredi secure poterit. [§3] Et si quispiam hominum aliquid iuris ad illas habere se postea speraverit, tandem infra anni revolutionem integram & diem unam si voluerit palam vel occulte contradicere valebit. Nam aliter iuris sui virtus extincta manebit. [§4] Palam igitur contradixisse videbitur si possessorem rerum & hæreditatum ipsarum in causam propterea convenerit, & infra dictam revolutionem annualem processus & exordium causæ sui iudicis in conspectu inchoabitur. [§5] Occulte autem sic contradicat quod coram iudice vel iuratis civibus prohibitiones legitimas & consuetas infra diem & annum super hæreditatibus ipsis faciat, et ad civitatis librum annotari committat, ne præscriptio per negligentiam inhibitionis interveniat.

De legitima prescriptione inter cives observari solita. Tit. xv.

Civitatenses enim licet super rebus alienatis duodecim annorum curriculis præscribi & præscribere debeant, modo tamen quodam abusivo & villanorum more solummodo per integri spacium anni & diem unum modernis temporibus præscribere consueverunt. [§1] UBI autem actor sive contradictor ille suum adversarium hæreditatum scilicet vel rerum ipsarum possessorem facta præmissa prohibitionem per anni spacium in litem attrahere neglexerit tunc a die ipsius prohibitionis inclusive computando rursum quolibet anno infra alterius anni curriculum & diem prædictam inhibitiones (modo antelato) faciat, ut dum opus erit & poterit litem super ea re suscitare valeat. [§2] SI VERO iudex odio forsitan vel rancore preconcepto, aut alia quavis ex causa factam coram eo vel iuratis civibus huiusmodi prohibitionem in Prothocolum seu librum civitatis annotare aut litteras prohibitorias dare recusaret, tunc poterit contra eum coram iudicibus regni ordinariis vel in locis testimonialibus libere protestari, dummodo ipsa protestatio (ubi necesse fuerit) valeat evidenter comprobari.

Quomodo hereditas cum pertinentiis inter cives apprehendi debeat. xvi.

Item si quispiam rem immobilem & hæreditatem cum suis pertinentiis in medio civium ipsarum civitatum emerit, tunc sufficit rem illam corporalem solam apprehendere & pro se statuere. Nam ea apprehensa etiam illius pertinentiæ apprehensæ intelliguntur. [§1] Appellatione vero pertinentiarum comprehenduntur omnia, quæ ad rem & hæreditatem huiusmodi corporalem de iure vel consuetudine civitatis spectare dinoscuntur. [§2] Nisi forte per venditionem & emptionem ipsam aliquid de pertinentiis specificè fuerit exemptum pariter & retentum.

De debitis civium ubi omnis probatio defecerit. Tit. xvii.

Item si quispiam civium occasione debitorum per aliquem tractus in litem fuerit, & nulla probatio contra eum per actorem produci poterit, tunc civis ille iuramento solius personæ suæ se expurgabit vetusta consuetudine civitatum liberarum requirente.

De civibus in terris aliorum hereditates habentibus. Tit. xviii.

Item cives tam prædictarum, quam etiam aliarum quarumlibet civitatum in terris & territoriis aliorum hæreditates habentes ratione proventuum dominis terrestribus de eiuscemodi hæreditatibus provenientes (invitis & non consentientibus eisdem) libertari & a solutione proventuum eximi non possunt; [§1] quin potius occasione ipsarum hæreditatum ibidem coram domino terrestri cuilibet querulanti atque causanti iuri parere tenentur. [§2] Et si quid in facie hæreditatum vel territorio ubi hæreditates adjacent excesserint, etiam ratione talis excessus ibidem iuri pariter stare compelluntur

Quomodo civitates ratione iurium possessionariorum iuri stare tenentur. xix.

Item quod omnes libere & aliæ quælibet civitates iura possessionaria quocunque titulo gubernantes ratione huiusmodi iurium possessionariorum iudicio & iudicatu iudicum ordinariorum regni nobilium ad instar semper obtemperare tenentur. [§1] ET SI de huiusmodi iuribus eorum possessionariis damna, nocumenta & aliorum malorum genera violenter nobilibus vel eorum subditis inferuntur, tunc ratione talium malorum & actuum potentiariorum iudex & iurati cives una cum communitate poterunt semper partem per læsam & damnificatam in curiam regiam evocari. Vel si pars ipsa ita voluerit in sedem iudiciariam illius comitatus, ubi bona illa situata sunt & adjacent citari & in litem conveniri. [§2] QUALITER autem in huiusmodi causis procedendum, qualisve sententia proferenda sit in generali decreto nostro clare continetur, cuius rei notitia ut hoc quoque in loco pateat articulum super eadem re æditum verbotenus adieci qui sic incipit. [§3] ITEM quod libere civitates videlicet Buda, Pesth, Cassovia, Poson, Sopron, Barthwa, Eperyes, Thyrnavia nec non Lewchovia, Monsgræciæ & omnes aliæ liberæ civitates earundemque incolæ nobilibus & possessionatis hominibus iniurias aliquas seu damna inferentes, si talis civitas seu incola & civis iniuriam & damna inferens habuerit possessiones & iura possessionaria in aliquo comitatu & ex illis bonis nobilem læserit seu damnificaverit si videlicet tales læsiones seu damnificationes factum minoris potentiæ tangere dinoscuntur teneatur propterea in illo comitatu ubi illa bona habet coram comite iuri stare. [§4] Si vero talis civitas seu civis nulla iura possessionaria in aliquo comitatu habuerit, & nobilis vel aliquis homo possessionatus contra privatam personam vel certos tantummodo & non cum tota communitate seu civitate

causam seu lites habuerit ex tunc talis nobilis & possessionatus homo teneatur causam suam coram iudice illius civitatis agitare & prosequi. [§5] Si autem talis nobilis & possessionatus homo contra totam civitatem vel econtra civitas ipsa contra nobiles & alios possessionatos homines causam aliquam ratione actuum potentiariorum maiorum vel iuris possessionarii movere prętenderet, extunc talis causa coram personali pręsentia regię maiestatis habita superinde legitima evocatione moveatur & ordine iuris terminetur. [§6] Et si aliqua partium in huiusmodi causa contra sese in processu iuris coram ipsa personali pręsentia quovismodo succubuerit, si talis causa factum iuris possessionarii tangere dinoscitur extunc talis pars non in maiori onere, quam solummodo in ducentis florenis auri convincatur. [§7] Si autem huiusmodi causa factum invasionis domorum nobilium necnon detentionis, verberationis, vulnerationis ac interemptionis nobilium concernere agnita fuerit, extunc patratores huiusmodi actuum potentiariorum in sententia capitali ac amissione cunctorum bonorum suorum mobilium & immobilium condemnentur prout hactenus fuit observatum. [§8] Casu autem quo aliquis civis sub aliquo domino seu nobili in hoc regno vineas vel aliquas alias hæreditates habuerit, & quidpiam in territorio huismodi deliquerit aut aliquem damnificaverit in tali casu idem civis teneatur coram domino illo terrestri, sub quo hæreditates habet iuri stare.

Qualiter cives publicos malefactores punire possunt. Tit. xx.

Item fures, latrones, homicidas, incendiarios & alios eiusmodi publicos malefactores iuxta eorum demerita servatis de iure in hac parte servandis castigare punireque possunt mutilare vero neminem. Nobiles autem extra delicti locum nec captivare, nec ratione suspicionis ad torturam ponere permittuntur. [§1] SI igitur civitas aliqua tanquam communitas nobilem quempiam absque iusta causa morti tradiderit, tunc non omnes cives singillatim sed iudex dumtaxat & iurati cives capitali propterea sententia sunt feriendi, qui & cuncta bona ac hæreditates eorum ad proprias portiones ipsorum cedentes & provenientia amittunt, quarum duę partes regię maiestati veluti domino eorum terrestri & tertia pars adversario dari & assignari debet; [§2] reliquas vero omnes immunitates, leges, libertates & consuetudines civitates ipse in privilegiis eorum habent conscriptas, extra quarum continentias & extra territoria ipsarum in omnibus rebus & factis regni huius Hungarię legibus & consuetudinibus subiciuntur.

De homicidio per quempiam in defensione sui patrato. Tit. xxi.

QUoniam de homicidio in hac parte sermo incidit, plura autem videmus homicidia sine debite ultionis pœna pręteriri, quia multi allegant illa in eorum defensione patrasse de modo igitur defensionis & offensionis personarum breviter aliquid annotandum congruit. [§1] UBI sciendum quod hæc allegatio quia in sui defensione quis homicidium commisit atque perpetravit non simpliciter est admittenda sed debet probari quod fuit per alium armata manu hostiliter aggressus & per hoc in vitę suę periculo constitutus. Nam qui gladio evaginato alterum aggreditur statim pręsumitur quod aut necem illi inferre aut letalia vulnera infligere machinatur. [§2] CERTUM est autem quod non solum pro interemptione, sed etiam pro sola verberatione vel vulneratione nobilium capitalis sententia fertur atque decernitur. Sive igitur aggressor ille occidat sive vulneret neutrum tamen illorum pati & tollerare aggressus ipse tenetur. [§3] Et hinc est quod siquis rationabili & iusta sui in defensione suum adversarium, qui hostili more nudo cum ense ipsum aggressus erat occiderit & Homagium & sanguinis

effusio talis occisi & interempti rite peribit, & nunquam recuperari valebit. [§4] SECUS tamen est in foro conscientiae. Quia si aggressus cum honore et salvatione personae suae aggressorem evadere poterit, tunc evadere & minus malum ne maius sequatur evitare tenetur. [§5] CIRCA praemissa autem advertendum est, quia ille qui occidit alium aut nondum fuit percussus ab aggressore, aut iam de facto fuit verberatus. Si primum quod scilicet nondum erat percussus fuit tamen in actu & puncto percuciendi tunc quicquid aggressus fecerit indubie sui pro defensione facere vel fecisse videtur. [§6] SI autem fuit iam percussus, & cessavit actus percussione per aliquam moram, tunc non est sibi licitum repercutere post moram, quia hoc modo non defensio, sed vindicta potius illa repercutio censetur atque iudicatur. Nisi forte percussus faceret ut evaderet alias percussiones, quas aggressor de novo facere & continuare praetendebat. Et sic differentia est inter defensam & vindictam, quia defensa sit in continenti, vindicta autem post moram infertur. [§7] SI AUTEM non apparet ex testimonio vel aliunde, quae percussio praecesserit aliam tunc culpa in illum redundabit, qui alterum ad contentionem & percussione provocavit.

Defensa quot modis et qualiter intelligatur. Tit. xxii.

SCIendum ulterius quod defensa dupliciter potest intelligi. PRIMO pro corporis & personae tutela. SECUNDO vero rerum immobilium seu haereditatum conservatione. [§1] Quantum igitur ad corporis & personae tutelam debet fieri & admitti defensa in continenti & ante consummatam iniuriam vel in eadem pugna & contentione flagrante adhuc primo crimine, antequam scilicet aggressor vel primus percussor de loco recedat. Nam si postea fieret non defensa (prout praenarratum est) sed vindicta diceretur. [§2] QUANTUM vero pro rerum immobilium & iurium possessionariorum conservatione spoliatus nobilis vel alter quilibet possessionatus homo pro iurium suorum defensione & occupatoris ac spoliatoris de illis eiectione (sicuti & in prima parte tactum est) anni unius integri revolutionem de vetusta consuetudine regni huius praefixam & deputatam habet, in qua ab occupatore & violento spoliatore utcunque poterit se defendendi, & ipsum occupatorem etiam cum notabili incommodo eiusdem de iuribus & haereditatibus suis eiciendi plenariam habet potestatem. [§3] Et in hac parte spoliatoris ac occupatoris defensio qualiscunque fiat ipsum non excusabit. [§4] ET inde est quod si pro rerum & bonorum conservatione cuilibet se defendere convenit multo magis & fortius pro corporis & personae tutela (ubi periculum imminet) se tueri licet. [§5] ATTamen secundum deum & conscientiae forum omnis defensa cum moderamine inculpatae tutelae fieri debet. Quae quidem inculpata tutela dicitur fieri quando quis aliter se sine periculo rerum & personae suae defensare nequit, nisi ille qui eum aggreditur aut occidatur, aut. vulneribus afficiatur.

Utrum propter comminationem factam liceat aliquem offendere. Tit. xxiii.

SEd quaeritur: Si quispiam comminatus est alteri mortem inferre, utrum alter ille possit eum offendere? [§1] DICENDum quod licet de regni nostri lege & approbata consuetudine propter minas & comminationes non sit licitum cuiquam alterum offendere (praeter combustionis & incinerationis articulum atque casum, in quo quilibet civitatem aut villam vel alterius domum succendere ignisque voragine conflagrare minatus morte damnari solet) de lege tamen communi si homo ille, qui minatus est alteri mortem solitus est minas suas executioni demandare, praesertim si fuerit potens & alias consuetus percutere (quia verisimiliter hoc idem praesumitur etiam de isto) mortis evitandi gratia admittitur defensa pariter & offensa. [§2]

Verum si non fuit solitus alias percutere nec minas suas exequutioni demandare tunc verbis quidem resistere & ei contradicere permittitur, sed non ferro vel gladio. Nisi forte ille expectaret socios & mora periculum esset allatura. [§3] Melius tamen & salubrius est in hoc casu illum evitare, & ab eo in alium locum declinare.

An alius alium adiuuare possit. xxiii.

ADhuc queritur: An alius alium possit adiuuare. [§1] Dicendum quod sic. Nam si pro tutela rerum & hæreditatum mearum possum amicos & fratres convocare longe fortius pro corporis & personę meę defensione. [§2] Unde quilibet etiam extraneus dum in adiutorium acclamatur poterit illum quem in periculo vitę constitutum viderit semper adiuuare. [§3] Attamen latronem & alium publicum malefactorem non tenetur neque debet alterius de manibus ad huiusmodi malefactoris clamorem eliberare.

De villanorum, quos Iobagiones nuncupamus conditionibus & legibus. xxv.

CAeterum habita Iurium civitatum liberarum ac defensionis & offensionis declaratione, iam de villanis (quos Iobagiones nuncupamus) tractandum est. [§1] Quorum multiplex est condicio. Nam alii sunt Hungari, alii Saxones & Germani, alii vero Bohemi & Sclavi Christianę fidei professores. Pręterea quidam sunt Volachi & Rutheni, quidam autem Rasciani sive Serviani & Bulgari grecorum sequentes errores. Sunt insuper Philistęi & Comani in terris regalibus residentes & habitantes christianam pariter religionem profitentes. Ruthenorum vero & Bulgarorum alii nostrę fidei alii autem Gręcorum errori sunt adherentes. [§2] ET QUAMVIS omnes istę nationes (demptis Philisteis, Comanis, Ruthenis & Bulgaris regalibus) hac libertatis pręrogativa hactenus gavisı fuerint, ut dum & quodocunque voluissent de loco residentię ipsorum ad alia loca, quę maluissent: iusto terragio deposito debitisque eorum persolutis liberam sese moraturos conferendi habuissent facultatem; huiusmodi tamen ipsorum libertatem superiore hac æstate propter seditionem & tumultuariam eorum adversus universam nobilitatem sub nomine Cruciatę ductu cuiusdam sceleratissimi latronis Georgii Zekel appellati insurrectionem, ex eoque notam perpetuę infidelitatis eorum incursionem penitus amiserunt dominisque ipsorum terrestribus mera & perpetua iam rusticitate subiecti sunt, [§3] qui secundum legem & consuetudinem huius regni dudum approbatam ratione quorumcunque negociorum (exceptis rebus forum ecclesiasticum manifeste concernentibus) nec in pręsentiam iudicum ordinariorum regni nec vicariorum ecclesiarum vel aliorum iudicum spiritualium, sed neque comitum parochialium aliquorum comitatum simpliciter & directe citari possunt sed eorum ex parte cuilibet querulanti atque causanti domini ipsorum terrestres atque temporales sive sint sæculares, sive spirituales iudicium & iusticiam primum impendere tenentur. [§4] Et tandem super huiusmodi iudicio si partium ipsarum altera contentari noluerit causam ipsam in pręsentiam iudicis sui superioris, ad quem scilicet cognitio eiusdem causę spectabit evidentioris & maturioris discussionis & revisionis gratia deducere poterit. [§5] Ita videlicet quod si causa ex eius serie forum ecclesiasticum concernere videbitur, in ordinarii sui diocesani eiusque vicarii, Si autem ad sæculare iudicium attingere dinoscetur, in comitis parochialis ac iudicum nobilium pręsentiam transmittenda erit. [§6] Et huiusmodi iudicii ac iusticie impensio sive causa in curia regia per Evocationem sive coram comitibus parochialibus vel ecclesiarum vicariis per citationem mota & suscitata existat, dum in pręsentiam domini sui terrestris remittitur, semper coram uno vel duobus iudicibus nobilium fieri celebrarique & administrari debet.

De modo et ordine impensionis iudicii ex parte Iobagionum fiende. xxvi.

IN primis igitur de modo & ordine impensionis eiuscemodi iudiciorum dicendum est. [§1] UBI quæritur: Utrum dominus terrestris sive temporalis, per querulantem simpliciter requisitus teneatur ex parte Iobagionum suorum de facto iudicium & iusticiam impendere? Et si impendere recusaverit an propterea onus aliquod iuridicorum gravaminum incurrat? Et an possit postea (citatione contra ipsum super ea re facta ut Iobagiones suos coram comite & iudicibus nobilium statuatur) ex parte eorundem Iobagionum suorum iudicii impensionem promittere, vel solus comes parochialis cum iudicibus nobilium ex parte illorum iudicium iam impendere teneatur? [§2] DICENDUM quod licet divino & humano quoque iure ac communi de lege quilibet dominus terrestris ex parte quorumlibet Iobagionum & rusticorum: ac etiam familiarium suorum ignobilium cuilibet querulanti & læso aut damnificato homini ad simplicem dumtaxat requisitionem & querimoniam mox iudicium & iustitiam facere ac administrare teneatur, antequam tamen iuridice hoc est per Evocationem vel citationem ad huiusmodi iudicii & iusticię impensionem requisitus & amonitus non fuerit (si etiam facere & impendere neglexerit) nulli propterea pœne subiacebit eo quod pœna ob contemptum & transgressionem iudiciarię commissionis in causarum processibus subsequi & imponi consuevit. [§3] Non igitur comes parochialis cum iudicibus nobilium, sed per se ipsum etiam exopt iudicium illud administrare tenetur. [§4] UNDE SCIENDUM est quod si quispiam nobilis aut possessionatus homo (sive spiritualis, sive sæcularis persona existat) in curiam regiam evocatus, vel in sedem iudiciariam comitis parochialis citatus ita fuerit ut & per se ipsum comparere & Iobagiones quoque aut familiares suos ignobiles sistere ac iuri statuere teneatur tunc si talis nobilis aut possessionatus homo non venerit solus ipse in persona sua propria in tribus marcis gravis ponderis, Iobagiones vero vel familiares sui ignobiles quotquot fuerint nominatim statuere commissi per singula capita in singulis marcis hoc est quælibet persona statui commissa in una marca gravis similiter ponderis convinci & aggravari & insuper in actione acquisitioneque actoris condemnari solet atque debet. [§5] Sic videlicet quod si causa ratione facti maioris potentię in curia regia mota fuisse dinoscitur tam nobilis vel possessionatus homo, quam etiam sui Iobagiones aut familiares ignobiles nominati & per expressum statui commissi in amissione capitum & bonorum suorum quorumlibet, mobilium scilicet & immobilium ad portionem ipsorum cedentium condemnantur. [§6] Ubi vero causa prætextu negociorum factum minoris potentię tangentium etiam in sede iudiciaria comitatum suscitata fuerit tunc nobilis in centum florenis partim iudici & partim actori solvendis, Iobagiones autem & familiares sui singillatim in eorum Homagiis quadraginta florenos facientibus actori solummodo cedentibus aggravantur. Nam in sedibus iudiciariis comitatum ratione violentiarum & actuum potentiariorum pœna ultra centum florenos decerni non potest. [§7] VERUM si venerit & responsione facta ex parte huiusmodi Iobagionum ac familiarium suorum ignobilium super obiectis: & actionibus actoris iudicium & iusticiam impendere promiserit tunc in facie illius possessionis, ubi tales rustici vel ignobiles famuli resident, in termino per iudicem suum ordinarium ad id præfigendo coram uno (ut præfactum est) aut duobus iudicibus nobilium ipsius comitatus, in quo possessio talis adiacet eiuscemodi iudicii & iusticię impensionem per se vel officialem aut villicum suum facere & peragere tenetur. [§8] SI autem in termino per iudicem ad id deputato iudicium & iusticiam huiusmodi facere & impendere renuerit & neglexerit tunc idem nobilis aut alter quilibet possessionatus homo pro non impensione ipsius iudicii ac mandati iudicis refutatione prætextu singulorum Iobagionum vel famulorum ignobilium (quorum ex parte iudicium & iusticiam administrare ac impendere tenebatur) in singulis tribus marcis in duabus semper iudici, in tertia vero partibus actori

persolvendis condemnatur, et cum aliis singulis tribus marcis ad impensionem eiusdem iudicii & iusticiæ in termino iterum ad id per iudicem præfigendo cogetur & compelli debet. [§9] UBI VERO secundario quoque ab ipsa iudicii & iustitiæ impensione se retraxerit, & illud administrare subticuerit atque neglexerit tunc in Homagiis singulorum de facto condemnabitur, et super eisdem Homagiis de bonis ac rebus talis nobilis vel alterius possessionati hominis mobilibus, si reperiri poterunt, aliter autem de iuribus suis possessionariis actori satisfactionem iudex impendere tenetur. [§10] ET HOC super Homagiis verum esse accipe si actus violenti quorum prætextu causa ipsa mota fuit factum minoris potentiæ representabunt. Nam si capitalem sententiam tangunt, tunc non in Homagiis sed in amissione capitum & omnium bonorum ipsorum omnes illi ex parte quorum iudicium celebrari debebat condemnantur, & cuncta eorum bona mobilia videlicet & immobilia iudici atque adversæ parti iudicabuntur, et insuper vigore litterarum Adiudicatoriarum ubicunque deprehendi poterunt, sive intra priorum dominorum, sive aliorum territoriorum (ut condignam luant pœnam) cum litteris Adiudicatoriis & sententialibus per adversarium & actorem libere captivabuntur. [§11] ATTamen si iuxta domini terrestris promissionem & iudicis commissionem in termino & loco ad id deputatis iudicii & iusticiæ huiusmodi impensio rite peracta fuerit, & Iobagiones vel familiares ignobiles in facto maioris potentiærei & culpabiles reperti ex eoque in sententiis capitalibus ac amissione cunctorum bonorum suorum mobilium & immobilium condemnati & agravati extiterint, tunc huiusmodi bonorum duę partes domino ipsi terrestri tanquam iudici & tertia pars actori adversarioque cedent in portiones. Et præterea tenebitur dominus idem terrestris capita illorum convictorum & condemnatorum manibus adversarii iure punienda tradere & assignare. [§12] QUOD si facere dominus ipse terrestris nollet aut non curaret quovismodo tunc Homagia singulorum de rebus & bonis suis propriis deponere persolvereque tenebitur. [§13] Et hoc verum est si in termino quo iudicii & iustitiæ impensionem facere promisit eiuscemodi convicti & condemnati erga ipsum & in potestate eiusdem fuerunt. [§14] NAM si tempore medio aliquis illorum Iobagionum vel familiarium ignobilium aufugeret & manus iurisdictionemque & potestatem domini sui evaderet quoquo modo tunc idem dominus terrestris in nullo propterea onere gravari debet. [§15] VERUM si quispiam illorum post promissionis & ante impensionis iudicii diem & terminum invito domino suo terrestri palam vel occulte discederet & aufugeret tunc universas res & quælibet bona mobilia videlicet & immobilia illius in territorio ipsius domini sui existentes & adiacentia idem dominus libere pro se occupare poterit. [§16] Tamen de eisdem (si actus potentiarii maiores fuerint) Homagium illius decem scilicet marcas quadraginta florenos auri facientes primum actori persolvere & tertiam quoque partem residuitatis bonorum suorum mobilium eidem adversario dare tenebitur, duas partes eorundem bonorum mobilium pro se reservando. Et nihilominus hæreditates & bona immobilia ipsius rustic vel familiaris ignobilis estimare & tertiam partem estimationis: atque valoris earundem hæreditatum actori pariter assignare debet. Reliquas duas partes pro se similiter auferendo & occupando. [§17] Et insuper adversarius ipse ubicunque talem fugitivum reperire poterit liberam detinendi & iuxta sua demerita capitali sententia feriendi plenariam habebit auctoritatem. [§18] SI autem actus violenti minores fuerint, tunc solummodo Homagium illius actori persolvere & cum hoc super damnis per rusticum vel famulum ignobilem illatis (si in actionis serie damna declarata fuerint) de bonis eiusdem rustici vel familiaris adversario satisfactionem impendere tenetur.

Qualiter Iobagionibus et famulis ignobilibus iuramenta decernuntur. xxvii.

Item si causa in facto statutionis Iobagionum vel famulorum ignobilium in curia regia per Evocationem, aut sede iudiciaria comitum parochialium per citationem mota & in presentiam sui domini terrestris (ut iudicium & iustitiam illorum ex parte querulanti & adversario impendat) per iudicem remissa fuerit, & actor tempore impensionis iudicii tres litteras inquisitorias contra reos exhibuerit, & ille actionem adversus eos propositam simpliciter negaverint tunc cuilibet Iobagioni vel famulo in causam attracto & statui commisso iuramentum secundum Homagii sui exigentiam quadragesimo se hominibus sibi similibus hoc est rusticis & ignobilibus bonæ tamen famæ & honestæ conditionis personis pro sui expurgatione imponendum erit. [§1] Nam quilibet rusticus & impossessionatus homo cum suo iuramento unum florenum centum denarios valentem & non plures recipere potest, & ex consequenti ad maius sacramento suo nec expurgare, nec condemnare quemquam poterit. [§2] Secus est tamen in causis criminalibus quando ad caput malefactoris cuiuspiam iuratur. Nam eo tunc non Homagium sed demeritum & criminis pœna ponderatur. [§3] SI VERO binas litteras inquisitorias produxerit tunc vigesimo se, si autem unas exhibuerit decimo se sibi (ut præfertur) æqualibus rusticis sacramentum adiudicari & imponi debet. Et hoc contra nobiles & alios possessionatos homines. Nam si inter ignobiles & rusticos iudicium administrabitur, tunc modus & ordo loci ac patrię ubi reus moram trahit observatur. [§4] Litteras autem inquisitorias intellige semper illas quæ ad litteratorium mandatum regium vel litteratoriam petitionem aliorum iudicum regni ordinariorum in locis testimonialibus aut coram eisdem iudicibus ordinariis regni in conventionibus generalibus dominorum & nobilium sunt confectæ. [§5] Nam inquisitorię simplices ad legitimam scilicet & instantem petitionem cuiuscunque litigantis in sedibus iudiciariis comitum parochialium emanatę in parte solummodo & non in pleno continent vigorem. [§6] ADVERTendum tamen est quod si præmisso tempore impensionis iudicii in causam attracti actionem & acquisitionem actoris & adversarii contra eos propositam negaverint, & testimonio vicinorum suorum aut alio probabili documento sese immunes & innocentes esse declarare voluerint, & actor huiusmodi testificationem acceptare noluerit sed simpliciter & de plano iuxta exhibitaram litterarum inquisitoriarum vigores iudicium & iusticiam a iudice postulaverit tunc in tali casu iuramentum illud, quod virtute ipsarum litterarum inquisitoriarum adiudicari ac imponi deberet pro media parte defalcabitur & condescendet prout ista consuetudo etiam in causis nobilium observatur. [§7] Opinione tamen communi atque vulgata cum quot personis nobili vel domino terrestri in curia regia vel sede comitum parochialium iudiciaria iuramentum decernitur, cum tot personis etiam Iobagionibus vel famulis eius ignobilibus imponendum erit. [§8] Et si nobilis post communem inquisitionem iuramentum præstiterit etiam coloni ac familiares sui absoluti manebunt. Si vero succubuerit illi quoque condemnati intelliguntur.

Qualiter damna et debita per rusticos res ac hereditates non habentes recuperari debeant. xxviii.

Nec hoc pretermittendum est, quod si quispiam litigantium rusticum aliquem in Homagio suo aut damnorum vel debitorum solutione iuris ordine condemnaverit & convicerit, & convictus ille nec res mobiles nec hæreditates habuerit ut super ea re satisfacere possit tunc tenetur dominus terrestris ipsum rusticum sic convictum manibus adversarii sui captum tradere & assignare, quiquidem adversarius vel actor infra quindecim dies (si interea cum eo convictus ipse non concordaverit) poterit illum suis in carceribus detinere, nullum tamen detrimentum in corpore suo sub pœna Homagii eiusdem ipsi inferre valet, sed de pane & aqua interim sibi providere debet. [§1] Qui si etiam interea temporis se de huiusmodi captivitate eliberare non posset tamen adversarius rusticum ipsum in servitutem adhuc redigere non poterit sed accepta

ab eo fidei cautione (quod quicquid laborando aut mendicando acquirere valebit tertiam partem adversario suo omni hebdomada donec debitum suum suppleverit fideliter administrabit) liberum dimittere tenetur. [§2] Qui si iuramentum præstare & onus hoc subire in seque levare recusaret, vel forte accepta securitate adversarium suum defraudaret tunc adversarius ipse rusticum illum ubicunque locorum poterit rursus detinendi ac incarcerandi & in suam servitutem redigendi ad effectum usque restitutionis eiuscemodi Homagii aut damni vel debiti plenariam habebit facultatem illeque supplere tenebitur invitus quod noluit liber & manu missus. [§3] ET IDEM est intelligendum etiam de causis inter nobiles prætextu debitorum & damnorum motis & subortis ut scilicet nobilis hæreditates & res mobiles ad satisfaciendum de debitis contractis & damnis per eum illatis non habere compertus etiam in persona sua detineatur & ad satisfactionem per iudicem modo de rusticis immediate prædeclarato compellatur, prout in secunda quoque parte serie videlicet sententiarum paucis tetigi. [§4] DE crescentia autem duplici debitorum si quando reus terminum solutionis per iudicem præfixum præteriisset (prout apud veteres observatum legimus) nostra hac tempestate non est quicquam iudicandum.

Quomodo res mobiles et immobiles rusticorum inter filios et filias dividantur. xxix.

Item si rusticus filium genuerit filiam quoque nondum emaritatam habens tunc uterque in rebus paternis tam mobilibus, quam immobilibus æquali iure succedit. [§1] Si tamen de rebus mobilibus filia emaritata fuerit tunc advertendum est, quia illæ res aut avitæ aut paternæ fuerunt. Si avitæ fraus nulla in emaritatione sequi potest. Quoniam filia æqualem portionem sortiri debet. Si autem res paternæ extiterint tunc pater iuxta condecenciam status & honoris sui poterit eam emaritare, & amplius portionem rebus de eisdem non habebit, sed mortuo patre ad filium devolventur, & illo quoque decedente ad fratres & consanguineos suos ab eodem stipite derivatos condecendent. [§2] VERUM si pater de sua portione testamentum condere voluerit id quidem facere poterit absque tamen fraude uxoris. Nam uxor in rebus per maritum suum stante coniugio conquisitis semper particeps & condivisionalis efficietur. Ita quod viro intestato decedente ad eam universa bona sua per ipsum ut præfertur conquisita devolventur. [§3] UBI vero pater mortua prima uxore sua aliam duxerit consortem tunc filius ex prima uxore natus si cum patre suo in rebus mobilibus & immobilibus divisus fuerit secunda uxor eius de portione filii pro se nullam portionem habere permittitur, & neque fratres sui ex ipsa secunda uxore patris generati sese ad illam ingerere possunt, sed de eisdem filius ipse prout voluerit liberam disponendi habet facultatem.

Qualiter bona rustici intestati in dominum terrestrem devolvuntur. xxx.

Item rusticus unica & singularis persona existens nullumque post se hæredem & successorem legitimum relinquens super rebus suis mobilibus libere testari potest, hæreditates tamen si avitæ fuerint omnino in dominum terrestrem devolvuntur. [§1] Si vero per semetipsum extiterint acquisitæ in duas dividuntur partes, quarum una domino ipsi terrestri, altera vero cui testamentaliter legaverit effective cedit. [§2] Si autem intestatus decesserit omnia ipsius bona tam mobilia, quam etiam immobilia ad dominum terrestrem devolvuntur. [§3] Qui ante omnia de eisdem bonis pro exequiis & sepultura illius providere, Cunctos deinde creditores suos contentos reddere et debita sua persolvere tenetur, et residuum bonorum pro se tandem tollere potest. [§4] UBI tamen rusticus hæredem post se reliquerit legitimum, & hæres parvulus fuerit ac ætatem duodecim annorum non attigerit tunc poterit pater non solum de portione sua testari

verum etiam heredi parvulo infra ipsam duodecim annorum ætatem forsitan decedenti heredem alium (quem maluerit) substituere, ita ut si interim heredem ipsum legitimum præmori contingat substitutus hæres succedat. [§5] Si tamen verus hæres ætatem postea prædictam attigerit vel transcenderit eiusmodi substitutio extinguetur, & in hæredis potestatem bonorum omnium conservatio pariter & dispensatio reponetur. [§6] Verum tamen colonorum quemadmodum multiplex est conditio, ita & consuetudo iuris, quæ iuxta locorum veterem usum observanda censetur. [§7] Per hoc tamen non est intelligendum ut hæreditas per rusticum cuiusdam legata vel vendita iure perpetuo a domino terrestri alienari possit. Nam rusticus præter laboris mercedem & præmium in terris domini sui quantum ad perpetuitatem nil iuris habet, sed totius terræ proprietates ad dominum terrestrem spectat & pertinet. [§8] Per huiusmodi igitur legationem aut venditionem colonus non nisi laboris sui mercedem & præmium condignam scilicet estimationem terræ, prati, molendini vel vineæ cuiusdam legare vel vendere potest perpetuitate domino terrestri salva semper remanente, qui dum voluerit terras, prata & molendina secundum estimationem communem, Vineas vero iuxta condignum earum valorem ad se recipiendi habet facultatem.

Quod rustici per semetipsos cum nobilibus lites ingredi non possunt. xxxi.

ADvertendum præterea est quod quia rustici dominis eorum temporalibus in tantum subiecti sunt ut per semetipsos cum nobilibus ratione quorumcunque negotiorum lites protrahere non possunt. [§1] Dum igitur rusticus per nobilem quempiam indebite verberatus aut vulneratus vel aliter læsus sive etiam in rebus suis potentialiter damnificatus fuerit, & dominus suus terrestris huiusmodi nobilem in causam conveniendo reum esse declaraverit atque convicerit tunc idem nobilis adversus dominum terrestrem in facto minoris potentiæ centum florenos faciente & insuper Homagio ipsius vulnerati aut verberati rustici vel damnorum illatorum refusione & restitutione iuxta videlicet negotiorum qualitatem condemnari debet.

Qualiter publici malefactores per comites parochiales ac nobiles privilegiatos puniri debeant. xxxii.

HOc quoque sciendum quod omnes nobiles necnon oppida & villæ, qui vel quæ litteras regias super malefactorum & pravorum hominum punitione ac exterminatione pro se non habent confectas universos fures, prædones & alios publicos malefactores per eos & in eorum medio deprehensos atque detentos manibus comitum aut vicecomitum & iudicum nobilium illius comitatus, ubi huiusmodi nobiles resident aut oppida vel villæ adjacent sub pœna Homagii malefactoris detenti tradere & assignare tenentur puniendos. Nec ultra tres dies apud se illos tenere possunt. [§1] Nam si ultra triduum conservarent per singulos dies in singulis tribus marcis gravis ponderis pro qualibet persona detenta contra comites, vicecomites ac iudices nobilium prænotatos (ob venditionem iurisdictionis eorum temere per illos factam) merito convincentur. [§2] Homicidas tamen & incendiarios ac in adulterio violenti deprehensos in loco delicti sive facie vel territorio illius oppidi aut possessionis ubi facinus huiusmodi patratum fuerit captos & detentos etiam oppida & villæ ac nobiles privilegia non habentes observato iuris ordine iuxta eorum demerita feriendi atque puniendi habent auctoritatem. [§3] Dimittendi tamen illos non habent facultatem. Nam sic in Homagiis singulorum, qui dimitterentur adversus præfatos comites ac vicecomites & iudices nobilium condemnarentur. [§4] Pari modo nobiles & alii ad hoc specialiter privilegiati omnes malefactores per eos & in territorio ipsorum deprehensos atque captos punire quidem & secundum illorum demerita

necare possunt, dimittere tamen nusquam possunt. Aliter enim Homagia ipsorum persolvere tenentur.

Quomodo damna per pecudes et pecora illata recuperari debeant. xxxiii.

Item si quis nobilium aut rusticorum equos, boves, oves, porcos aut alias pecudes vel pecora de segetibus aut pratis & fœnilibus vel silvis glandinosis prohibitis propter illata damna impulerit vagiandos & taxandos, & dominus eiusmodi animalium contumacia ductus illa redimere noluerit tunc damnificatus ipse non amplius nisi per triduum apud se eadem animalia conservare poterit; [§1] transactis autem tribus ipsis diebus manibus sui comitis vel vicecomitis parochialis, absente vero illo ad manus unius iudicis nobilium cuius scilicet processui territorium illud damnificatum deservire dinoscitur dare et assignare tenetur. [§2] Nam aliter post triduum singulis diebus, quibus animalia prænotata apud se reservaverit in singulis tribus marcis gravis ponderis, in duabus iudiciariis, in tertia vero partibus adversarii manibus dandis & devolvendis impellens & vagiator ipse gravabitur. [§3] Damna autem irrogata secundum conscientiosam limitationem ac estimationem iudicis & iuratorum civium illius loci, in cuius territorio fuerint illata compensari debent. [§4] Nam prohibitio cum speciali & expresso onere facta, ne in segetibus aut pratis vel silvis damna inferantur ad colonos dumtaxat eius loci, in cuius territorio huiusmodi segetes, silvæ vel prata adiacent refertur. Extranei enim non onus inhibitionis sed damni quantitatem solvere tenentur. [§5] Ubi autem colonus furtim vel manifeste manu violenta silvam succiderit, vel arbores eius decorticaverit, & ibidem comprehendi poterit omnia bona sua secum habita amittet & insuper in Homagio suo pro violentia convincetur.

De equo furtim sublato, & in exercitu vel extra exercitum reperto. xxxiiii.

Item in facto & causa alicuius equi furtim vel aliter a suo domino atque possessore ablati & alienati, ac in exercitu generali quovis modo instaurando reperti non debet neque poterit actori iudicium elargiri; sed equus ipse medio hominum fidedignorum per capitaneum aut ducem exercitus ad id eligendorum atque deputandorum in suo vero valore debet estimari, & sub fideiussoria cautione præ manibus illius apud quem reperitur ad condescensionem usque exercitus relinqui, [§1] et capitaneus aut dux exercitus certum terminum præfigere debet, in quo post condescensionem eiusdem exercitus coram aliquo iudice ordinario per eundem nominando vel agazonum regalium magistro utraque pars comparere teneatur iudicium in huiusmodi causa receptura. [§2] UBI autem in causa equi vel bovis aut alterius animalis furtim alienati extra exercitum inventi in causam attractus non poterit super eiusdem emptione evidens producere testimonium semper actor tertio se sibi similibus ad eius recuperationem suam debet deponere iuramentum. [§3] VERUM fur ille si dixerit in foro libero & communi: vel alibi se emisse, & evictorem (quem nos expeditorem appellamus) non poterit statuere, neque hospitem vel alium quempiam qui mercipotum hoc est victimam emptionis & venditionis more solito benedixisset producere patibulo reus erit.

De causarum transmissionibus & litteris transmissionalibus. Tit. xxxv.

Sciendum postremo quod universæ causæ in sedibus iudiciariis vicariorum ecclesiarum cathedralium ac comitum parochialium motæ (dempta causa, quæ in sede comitatum

sacramento solius personæ actoris submittitur) in curiam regiam iudicum scilicet ordinariorum regni in præsentiam evidentioris & maturioris discussionis gratia transmitti solent atque debent. [§1] CAUSÆ vero quæ coram dominis terrestribus super factis colonorum & rusticorum (modo antelato) suscitata fuerint tunc ad instantiam & appellationem illius partis, quæ super celebrato inibi iudicio contentari noluerit primum in præsentiam comitum ac vicecomitum & iudicum nobilium tandemque altera forsitan partium ibi quoque non contenta in ipsam curiam regiam sunt transmittendæ; [§2] & pars appellans litteras tam super huiusmodi, quam etiam aliis quibusvis causis in sedibus iudicialibus comitatuum ventillatis adiudicatorias & transmissionales in sede iudiciali post ultimam & finalem adiudicationem primitus celebranda, si commode fieri poterit. Aliter autem in sede secundo celebranda excipere & ad terminum per iudicem sibi præfigendum causam illam in ipsam curiam regiam deducere tenetur. [§3] Nam si id facere neglexerit eadem causa in rem iudicatam transibit, & in tertia sede iudiciali litteræ Adiudicatoriæ iuxta latam sententiam parti victricis atque triumphanti reddi & executioni demandari debent. [§4] Et hoc si negligentia ipsa non ex parte notarii vel iudicum sed partis appellantis commissa dinoscetur.

Forma iuramenti Iudeorum contra Christianos prestandi. xxxvi.

Item quanquam ex parte Iudeorum non sit instituti mei quicquam annotare cum Iudei varia & diversa habere dinoscantur super eorum legibus privilegia plerisque in locis saluti contraria & alias perniciosum videatur de usuris iudicare, ex quo tamen sæpenumero contingit Iudeis contra Christianos iuramentum imponi & adiudicari. Formam igitur iuramenti Iudeorum in calce opusculi huius apponendam censeo. [§1] Ubi sciendum quod Iudeus iuramentum prestare volens contra solem verti & nudipes stare debet, clamide vel pallio indutus, & pileum Iudaicum in capite suo habens volumenque legis (quod tabulam Moysis vocant) manu sua tangat atque teneat & sic dicat: [§2] Ego T. Iudeus iuro per deum vivum, per deum sanctum, per deum omnipotentem, qui fecit cælum & terram, mare & omnia quæ in eis sunt quod in hac causa qua me hic Christianus inculpat innocens sum penitus & immunis. Et si reus sum terra me absorbeat, quæ Dathan & Abyron absorbit. Et si reus sum paralysis & lepra me invadat, quæ precibus Helisei Naaman Syrum dimisit & Iezii puerum Helisei invasit. Et si reus sum caducus morbus, fluxus sanguinis & gutta repentina me tangat, & mors subitanea me rapiat dispereamque in corpore & anima ac rebus meis, & in sinum Abrahamæ nunquam perveniam. Et si reus sum lex Moysi in monte Synai sibi data me deleat, & omnis scriptura quæ in quinque libris Moysi scripta est me confundat, & si istud iuramentum meum non est verum & iustum me deleat Adonay & suæ deitatis potentia. Amen.

Finis tertie partis.

Conclusio operis

Hæc sunt sapientissime ac optime princeps, quæ de inclyti regni tui Pannoniæ, cui tot annis felicissime præfuiſti legibus, institutis ac patriis consuetudinibus iussu & auspiciis tuis scribenda visa sunt. Qua in re non pauca mihi fuerant advertenda, decreta videlicet tuorum prædecessorum principum, unde præsens hoc nostrum opus totum fere sumptum reperies. Rursus occurrebant nostrates homines, qui hoc ipso opere instituendi erant. Ob primum factum est ut iisdem sæpe nominibus inscribendo usus sim, quibus principes ipsos usos fuisse compereram. Absurdum enim videbatur non eis verbis uti me quæ frequenter, qui hæc antea statuerunt, suis decretis inseruisse constabat. Nemo peritorum ambigit princeps prudentissime Romanos illos legum latores, ob vetustatis reverentiam eadem pœne vocabula suis legibus immiscuisse, quibus vetustissimæ Decemvirales illæ leges more suorum temporum usæ fuerant. Doctissimi quoque latini frequenter suis scriptis inseruisse scimus peregrinas & mere barbaras dictiones, qualis est Mastruca apud Ciceronem cum tamen Sardum sit vocabulum & pure barbarum. Item Gaza quæ Persica vox est. Plura huius genus apud Fabium Quintilianum reperies in eo loco ubi de peregrinis verbis disserit copiose. Maronem præterea poetarum Latinorum longe principem suis aureis carminibus frequenter dictiones illas priscas, vernaculas & sua iam tempestate ob vetustatem nimiam penitus aboletas quibus passim Livius Andronicus, Q. Ennius, Furius Bibaculus, Gn. Nævius, Varius, M. Actius, Pacuvius,

Q. Cornifitius, Lucretius, item cæteri tanquam vulgo notis usi sunt, immiscuisse constat. Curius (inquit) Phavorinus philosophus & Fabricius & Coruncanus antiquissimi viri nostri & his antiquiores Horatii illi trigemini plane ac dilucide cum suis fabulati sunt, neque Auruncorum, aut Sicanorum, aut Pelasgorum qui primi incoluisse Italiam dicuntur sed ætati suæ verbis loquuti sunt, quod fecisse nos nec pœnitet in hoc opere. Occurrebant rursus nostrates Pannonæ, ad quorum usus scripsimus hæc fere omnia. Constat enim nostros Pannonæ diligentius arma & ea quis sine nec potuere seri, nec fugere messes manibus, quam Ciceronis, Livii, Salustii aut Auli Gellii volumina tractavisse. Danda igitur venia a prudentioribus mihi erit si cum nostris Hungaris loquens sim ipse sæpe nudis ac pœne vernaculis verbis usus. Palladii Rutilii sententia in primo eorum librorum, quos de agricultura scripsit nos plurimum movit, ut consuetis ac planis verbis nostris hominibus loqueremur. Pars est prima (inquit) prudentiæ ipsam, cui præcepturus sis æstimare personam. Neque enim formator agricolæ debet artibus & eloquentia rhetores æmulari, quod a plerisque factum est, qui dum diserte loquuntur rusticis assecuti sunt ut eorum doctrina nec a dissertissimis possit intelligi. Lactantii præterea tertio Divinarum institutionum lib. verba sunt: Deus (inquit) hanc voluit esse naturam ut simplex & nuda veritas esset luculentior, qua satis (inquit) ornata per se est, ideoque ornamentis extrinsecus additis fucata corrumpitur. Mendacium vero specie placet aliena quia per se corruptum vanescit, ac defluit nisi aliunde ornatu quæſito circumlitum fuerit ac politum. Marcus Tullius in quo eloquentia præcipua & admirabilis fuit primo de finibus bonorum & malorum libro: A philosopho (inquit) si afferat eloquentiam non asperner si non habet non ad modum flagitem. Satis enim (inquit) in philosopho est si verbis complectitur quod vult & dicit plane quod intelligam. Sæpe ab Aurelio Augustino hæc est repetita sententia: Cum res ipsa constat non est vis (inquit) facienda in nominibus. Quis præterea credat barbaras nationes ut Persas, ut Aegyptios, ut Arabes, ut Scythas, ut Parthos, atque Hyrcanos, aliis verbis tulisse suis leges quam eo loquendi genere, quod planum & in communi usu esset apud eosdem? Græci quoque hi maxime qui interpretandi officium susceperunt, sermonem passim obvium communemque plerumque adamasse narrantur. Lycophronis dogmata pauci legunt quod nec eorum sensus a legentibus possit percipi. Heracliti Ephesii scripta non ob aliam causam creduntur amissa, nisi quod verbis obscuris

nimis & Cimmeriis, ut aiunt, tenebris atrioribus usus fuerit. Hinc factum est, ut a posteris Scotinos id est tenebricosus fuerit nuncupatus. Non laudo vel legum, vel rerum aliarum interpretes quorum scripta intelligi inequeunt nisi alios fuerint expositores adepti. Epicurum qui maximus apud suos habitus est, pedestri sermone atque inerudito in suis scriptis usum fuisse cum alii plures, tum Marcus quoque Cicero testis est. Plotinus inter posteros Platonicos longe princeps ita artis elegantiam neglexisse dicitur ut cum aliquid scripsisset quod scripserat respicere bis minime tollerabat, sed nec etiam semel legere atque percurrere, neque ullam orthographiæ diligentiam adhiberet soli videlicet intelligentiæ studens. Hanc eandem in scribendo incuriam nonnulli Aristoteli quoque philosopho ascribere non sunt veriti. Accedit ad hoc quod divina illa lex quæ per Moysen dei ore Iudeis data est tanta verborum simplicitate conscripta est ut in ea nulla facundiæ ratio ab autore ipso intesta esse videatur. Quod enim omnibus percipitur observandum ita tradi debet ut facile a lectoribus possit percipi, quod præcipitur. Evangelicam preterea & Christi legem illam sanctissimam extra quam salvari nemo potest nullis verborum lenociniis constat esse conscriptam. Succurrebat rursus quod ea fere omnia quæ hoc tripartito opere scripta sunt non nisi nostratum usui futura erant. Non ab re igitur a me factum iudico si in eo ipso opere verbis quibusdam Pannoniam ipsam nostram verius, quam latium redolentibus usus fuerim. In his enim rebus (ut Aristoteles etiam testis est) ut plures loquendum est. Hæc propter eos dumtaxat dicta volumus, quibus cætera sordent omnia nisi eis fuerit vel Cicero vel alter quispiam nobilium scriptorum interdum usus. At nobis in opere hoc nostro in quo cum omnia ad iusticiæ munus explendum domesticorumque iurium ac iudiciorum rationem referantur, verbis nudis atque apertis & nostratum cuique obviis ac expositis fuit utendum. Nec enim facundiam ostentare, quæ alioquin exigua in nobis est, sed publice usui paciæ & tranquillitati domesticæ consulere fuit propositum. Illud observandum curavi ne aliquid ab huius inclyti regni tui probatis moribus & consuetudinibus regaliumve constitutionum tenore, devium aut alienum in scriptis redigeretur omniumque fides & autoritas constaret. Siquid vero per memoriæ lapsus aut ingenii tenuitatem prætermissum est maiestatis tuæ clementiæ erit benignius ignoscere, & id totum humanæ imbecilitati, quæ nihil omnibus numeris absolutum parit ascribere. Ego quippe quo ad vitali hac aura perfruar, omnem curam, omne studium ac omnis cogitatus eo convertam ut maiestatis tuæ non modo iussibus ac mandatis, verum etiam nutibus & superciliis obtemperem. Qui tum demum votorum summam attigisse credam, cum ipsius votis aliqua saltem ex parte satisfecisse videbor.

Nos igitur, qui regnum nostrum Hungariæ prædictum, cætera dominia nostra non minus legibus & statutis, quam pace & armis regere ac gubernare cupimus, accepto huiusmodi libello supplicationibusque præfatorum dominorum prælatorum ac baronum & regni nostri nobilium exauditis & clementer admissis, quia omnia capitula universosque titulos & articulos in eodem libello contenta & conscriptos præsentibusque litteris nostris privilegialibus de verbo ad verbum sine diminutione & augmento aliquali insertos iustos & honestos esse, ac consuetudines approbatas & iura præacti regni nostri Hungariæ partiumque & regnorum eidem incorporatorum atque subiectorum rite tangere & concernere, immo mera verborum expressione illas & illa complecti agnovimus, ideo easdem & eadem laudavimus, acceptavimus, ratificavimus & approbavimus, atque pro annotatis dominis prælatis & baronibus universisque nobilibus & proceribus antedicti regni nostri Hungariæ partiumque sibi (ut præfertur) subiectarum eorumque cunctis successoribus & hæredibus pro perpetuis legibus iuribusque & consuetudinibus valituras & valitura de nostræ regiæ potestatis plenitudine confirmavimus, immo laudamus, acceptamus, approbamus, ratificamus & confirmamus, promittentes illum in omnibus capitulis, clausulis titulisque & articulis observare & observari facere præsentis scripti nostri patrocínio mediante. In cuius rei

memoriam firmitatemque perpetuam præsentis litteras nostras privilegiales appensione secreti sigilli nostri quo ut rex Hungariæ utimur communitas duximus concedendas. Datum Budæ in festo beatæ Elisabeth viduæ tricesimo scilicet tertio die dietæ & conventionis generalis prænotatæ. Anno domini millesimo quingentesimo decimo quarto, regnorum nostrorum Hungariæ &c. Anno vigesimo quinto, Bohemiæ vero quadragesimo quinto. Reverendissimis reverendisque in Christo patribus dominis Thoma tituli sancti Martini in montibus sacro sanctæ Romanæ ecclesiæ præbitero Cardinali ac Patriarcha Constantinopolitano & sanctę sedis apostolicę de latere legato Strigoniensis; Gregorio de Frangapanibus Colocensis ac Bachiensis ecclesiarum Canonice unitarum Archiepiscopis; nec non illustrissimo ac reverendissimo Ipolito Estense de Aragonia sanctę similiter Romanæ ecclesiæ diacono Cardinale, Agriensi; Iohanne de Erdewd electo Zagrabiensi; Francisco de Warda Transilvaniensi; Francisco de Peren electo Waradiensi; Georgio Quinqueecclesiensi, Secretario Cancellario nostro; Petro Beryzlo Wesprimiensi, Summo Thesaurario nostro ac regnorum nostrorum Dalmatię, Croacię & Sclavonię Bano; Iohanne Gozthon Iauriensi; Ladislao Zalkano Watiensi; Francisco de Chahol Chanadiensi; Stepano de Podmanyn Nitriensi; Iohanne Orzag de Gwth Sirimiensi; Michaele Keserew de Gybarth Boznensi electis & Briccio de Egerwara Thiniensi ecclesiarum Episcopis ecclesias dei feliciter gubernantibus. ITEM spectabilibus & magnificis Emerico de Peren prænotata comite perpetuo comitatus Abawywariensi, prædicti regni nostri Hungarię Palatino & iudice comanorum nostrorum; comite Petro comite de sancto Georgio & de Bozyn iudice curię nostrę; Iohanne de Zapolya comite perpetuo terrę Scepusiensi, Waywoda nostro Transilvaniensi & comite Siculorum nostrorum ac generale capitaneo nostro; eodem Iohanne de Zapolya & Barnaba de Bela Zewriniensi Banis; Stephano de Bathor comite Themesiensi & partium regni nostri inferiorum capitaneo generali; Blasiode Raska Thavernicorum; Moyse Bwzlay de Gergellaka ianitorum; Iohanne Dragffy de Belthewk dapiferorum; Iohanne Banffi de Lyndwa pincernarum; Georgio de Bathor predicta Agazonum; Michaele de Palocz cubiculariorum nostrorum regalium magistris & Iohanne Bornemyza de Berzencze comite Psoniensi aliisque complurimis comitatus regni nostri tenentibus & honores.

APPENDIX

Carmina Hieronymi Balbi doctoris: praepositi posoniensis et secretarii regiae maiestatis.

Inclyta quae Scythicis gens prodiit Hungara terris Nil nisi sanguinei
Martis amabat opus.
Clara quidem bello: partisque decora triumphis Sed non pacificę
conscia legis erat.
Non fora legitimis resonabant sparsa tabellis: Nullaque conscripti
regula iuris erat.
Ius dubie pendens: incertęque alea litis: Sparsaque clamoso
iurgia uana foro.
Inde (nefas) patriis eiectus sedibus haeres Haesit, & alterius
subtulit alter opes. Inque pari causa lata est sententia dispar:
Et modo qui uictor, mox fuit ille reus.
At Stephanus ueterum laudes egressus auorum Attulit optatam
prouidus author opem.
Qui nunc Pannoniae perscribit iura feroci, Armaque fulta sacris
legibus esse iubet.
Ille aperit regni triplici decreta libello: Et notat ambiguo
iura tuenda foro.
Atque docet mores, longo seruauit ab aeuo Quos Scytha
Caesareis legibus esse pares.
Et quae uix poterant numeroso codice claudi Sedulus in paucas
diggerit ipse notas.
Actio certa patet: certa est praescriptio rerum: Et contestatae
formula litis adest.
Quisque suum noscens alieno limite cedit Sponte, nec infirmus
praeda potentis erit.
Iusque, piumque colent placida sub lege quieti: Sorte pari causas
Croesus, & Irus agent.
Macte animi qui tanta tuis dare commoda nosti Gentibus, insignis
fama futura tua est.
Ut Cretae Minoa colunt; Argique Phoroneum: Legifer & sparte
templa Lycurgus habet.
Utque Solone suo dociles letantur Athenae: Sic laudes referet
Pannonis ora tuas.
Maior erit sacris qui moenia legibus armat, Quam qui belligerae
congerit artis opes
Nam licet arma uacent, solidi stat gloria iuris: At sine iure parum
Martia bella iuuant.

Benedicti Bekenii ad dominum suum Epigramma.

Hos proprius delectat amor, sed fallens gloria famae Hos iuuat, at
mentis non colit ille bona.

Tu ratus o nimium nimiumque iterumque beatum Cum patriis
studeas moribus, atque fide.
Lycurgus sanxit leges & commoda gentis Inachię, & Siculos
perdocet alma Ceres.
At tu probatas multo discrimine leges Congeris, & nostros
patria iura doces.

Eiusdem in Ardelionem: et Zoilum Epigramma

Si tibi liuor iners urit prae cordia tantum Ut patriis nolis
consuluisse bonis.
Uel te dura silex genuit: seu torua Megęra: Uel si quid magnus
seuius orbis habet.
Si potis est iubeo liuentem Zoile linguam Comprime: si non pestis
acerba uoret.
Post cineresque tuos frondes quot in arbore cernis, Plutonis poenas
tot tibi regna parent.

The customary laws of the renowned kingdom of Hungary: A work in three parts rendered most accurately by master Stephen Werbőczy *locumtenens* of the personal presence of the royal majesty

Master Stephen Werbőczy, *locumtenens* of the personal presence of the royal majesty: greetings to the readers:

When the most serene and merciful lord Wladislas, king of Hungary and Bohemia, etc.,¹ both of his own accord and moved by the frequent entreaties of every order of his subjects, decided in recent years to reduce to the rule and reason of written law those laws and customs on which, through the long passage of time, the legal matters in this realm had stood firm throughout the upheavals of so many wars and seditions, he deigned out of all those committed by both loyalty and obedience to His Majesty to fulfill this task, to choose me, so that by gathering into one body, as it were, the many scattered and sundered limbs of the customs and constitutions of the communities of this kingdom of Hungary, and by committing them to writing, they be handed down to posterity.²

While conscious of my own inadequacies, I accepted this assignment, not because of trusting my talent but on account of the need to comply; and to the extent that my abilities and my poor gifts allowed, I have brought it to its conclusion by long and protracted labors.

Meanwhile, by the king's command, the other protonotaries,³ who were then my colleagues as judges, as well as the sworn assessors of the bench of the royal court, and many others with long experience as much in secular as in divine law, were appointed to discuss, review, and weigh this material in all its details.

When all of this was completed as expected, the same prince, in a public and general diet and assembly of all the lords-prelate, barons, nobles and notables of this realm, held in the year of

¹ Wladislas (Ulászló) II Jagiełło, king of Bohemia 1471-1516, king of Hungary 1490-1516.

² Gábor Mikó has recently demonstrated that Werbőczy was formally commissioned as late as in 1512 to prepare this work, see "Ismeretlen országgyűlési emlék a Jagelló-korból. Adatok az 1507 és 1514 közötti országgyűlések történetéhez, valamint Werbőczy Hármaskönyvének elkészültéhez [Remarks on the History of Parliaments between 1507 and 1514 and the Making of Werbőczy's Tripartitum], *Történelmi Szemle* 56 (2014) 455–480.

³ Protonotaries (*prothonotariii* Hung. *ítélőmester*, "master in sentencing") were lawyers who acquired legal training in the secular Hungarian courts. From the mid-fifteenth century they presided over court sessions in an increasing number of cases. See György Bónis, *A jogtudó értelmiség a Mohács előtti Magyarországon* [Professionals learned in the law in pre-Mohács Hungary] (Budapest: Akadémiai, 1971), summarized in "Men Learned in the Law in Medieval Hungary," *East Central Europe/l'Europe de centre-est* 4:2 (1977): 181–191. The persons involved in the approval of the law-book are listed below in the draft of the royal charter of approval (never issued).

man's salvation 1514, once the peasant uprising that had broken out a little before⁴ was quelled and suppressed, on the day dedicated to St Luke the Evangelist,⁵ approved with formal words and out loud at the bidding and to the applause of all this compendium of domestic law which had been compiled day-and-night at his command under his auspices, and, having confirmed it by royal power and the fullness of royal authority, he affirmed it by irrevocable sanction.

Moreover, he promised that this same work, having been committed to parchment, be distributed as a gift to districts throughout all of Hungary.⁶ But it would have been a long business to produce over fifty copies of such a huge body of law—for so many are the districts and regions (called by our people counties) which should partake in these presents with their own and separate copies—and the king had to leave for meetings in Pressburg and Vienna as the affairs of his kingdoms required.⁷

The king spent the whole spring and the greater part of the summer negotiating public and personal matters with the most illustrious princes Maximilian, the elect emperor augustus of the Romans,⁸ and his own brother Sigismund, king of Poland;⁹ and thus having finally returned to the country, although he adhered constantly and firmly to his decision that these laws of the communities of his kingdom soon see publication, one matter after another kept intruding, and in the course of these delays the space of his life was by divine will brought to an end and he passed on to the heavenly fatherland.¹⁰

⁴ On the so-called Dózsa uprising, April-August 1514; see e. g., Norman Housley, "Crusading as Social Revolt: The Hungarian Peasant Uprising of 1514," *Journal of Ecclesiastical History* 49, no 1, (1998), 1–28 with lit. and the *decretum* of **1514**.

⁵ 18 October 1514.

⁶ Sending out copies of the *decreta* to the counties seems after the mid-fifteenth century to have been the customary means of "promulgating" the laws. It was usual, however, for the receiving bodies to pay for the copies that they received. It is curious that Werbőczy should say "over fifty." for the relevant number of receiving authorities (including the main cities, to which he does not refer) was at this time closer to a hundred.

⁷ The meeting in Pressburg (Pozsony, now Bratislava) and the "First Vienna Congress" was about a mutual inheritance treaty in July 1515. Wladislas fell ill soon thereafter and died on 16 March 1516. See Zsuzsanna Hermann, *Az 1515. évi Habsburg-Jagelló szerződés. Adalék a Habsburgok magyarországi uralmának előtörténetéhez* [The Habsburg- Jagiełło treaty of 1515. To the pre-history of the rule of the Habsburgs in Hungary] (Budapest: Akadémiai, 1961). For a succinct summary, see <http://www.wienerkongress1515.at/en/1515-congress-of-vienna/> [last accessed 2.2.2019]

⁸ Maximilian I Habsburg, king of the Romans 1493-1519, Holy Roman emperor since 1508.

⁹ Sigismund ("the Old") Jagiełło, king of Poland 1506-48.

¹⁰ The reasons for the lack of formal royal approval were often debated. It is more than likely that its partisan position in favor of lesser nobles, whose spokesman Werbőczy had been for long time, made the king's aristocratic counselor veto it, see Martyn Rady, "Stephen Werbőczy and his *Tripartitum*," above and also in Stephen Werbőczy, *The Customary Law of the Renowned Kingdom of Hungary in Three Parts &c.* János M. Bak, Péter Banyó and Martyn Rady eds. with an introductory essay by László Péter (Idyllwild–Budapest: Schlacks–Dept.. of Med. St CEU, 2005) [the printed version of the present publication, henceforth DRMH 5] xxvii–xliv.

Lest this work, having been completed after so much study and so much labor, and having been confirmed by the full strength of royal power (lacking only the attachment of the seal) molder in obscurity; and lest recollection of these matters be gradually effaced and fade to nothingness –for certainly nothing could be worse for this country and nothing more pernicious, especially in cases to be decided and in justice to be done – I arranged that these same customs and municipal laws be published unchanged in their sense and order, in the earlier form and arrangement as they had been written, and, so that they be available more widely and to more people, be printed by the skill of typesetters.¹¹

But I hope that whoever should take this [fruit of many] nights' work of mine in his hands may judge me fairly and be kindly disposed. For as much as my modest talents allow, I have made the greatest effort to search out this material and explain it. But I admit my meagre learning and my insufficiently polished style. Therefore, should anyone correct a mistake in my work or add something that has been left out, far from being angry or offended, I will be most deeply grateful to him (whoever he may be). For it is natural for human beings to err and to be led astray time and again; and it is less surprising to find that some things have been forgotten than that all has been remembered.

Farewell!

Wladislas by the grace of God king of Hungary, Bohemia, Dalmatia, Croatia, Rama, Serbia, Galicia, Lodomeria, Cumania, and Bulgaria; Duke of Silesia and Luxemburg; and Margrave of Moravia and Lusatia, in perpetual memory.¹²

When the Supreme Maker of all things first of all founded and engendered rational creation, He willed that there should be such variety and distinction in the human race that part of humanity would be below and part above, that some should command and others obey. Indeed, he set up some as kings and princes to command the rest with just law, and others to receive their orders and commands. And in this twofold ordering, the whole of the human race is most wisely divided.

He willed, furthermore, that kings themselves be above all equipped and supplied with two means: namely, laws and arms;¹³ arms to drive off the enemy and keep them far from the borders,

¹¹ The *Tripartitum* was first printed in the workshop of Johannes Singrenius in Vienna in 1517. Singriener was one of most important publishers of his time, more than 600 books left his press between 1510 and 1562, lead by his son after his death in 1545.

¹² The Hungarian royal style, as developed during the twelfth and thirteenth centuries, contained a number of “kingdoms” that were essentially only claims of the kings. Most of these, such as Rama, Bosnia, Serbia, Galicia (Halič), Lodomeria (Vladimir), Cumania (Wallachia) and Bulgaria acknowledged Hungarian suzerainty only for very short periods, if at all. See János M. Bak, “Lists in the service of legitimation in Central European Sources,” in Lucie Doležalová ed., *The Charm of a List: From the Sumerians to Computerised Data Processing* (Newcastle upon Tyne, Cambridge Scholars Publishing, 2009), 34–45.. In this case, Wladislas’s own style as king of Bohemia etc. is added.

and laws to hold the inhabitants and citizens to their duties at home, and to compel the greatest to live in justice with the least and middling, and the rich and more powerful with the poorer and weaker. For these two means are so necessary to every ruler that, once removed, nothing can be steadfast, nothing stable, nothing harmonious or peaceful between men. On the other hand, if kept together and bound by the strongest links and unbreakable bonds, they can never be separated or broken.

For who is not aware that nothing can be achieved by force of arms abroad when dishonest and unjust rather than goodly citizens prosper at home, and when it is vain to invoke the law and the courts since fear of the enemy sounds around the ears of inhabitants and citizens? So we, having been raised by divine will and providence to this lofty throne and appointed to lead so many lands and so many peoples [and] so many powerful and warlike nations and empires, have from the beginning of our reign always directed and devoted all our cares, plans, efforts, endeavors, and all our thoughts and counsels to that end that by these two arts we may preserve our subjects in peace and tranquility. For we have kept them safe from the enemy by arms (insofar as we were able) and in the administration of justice nothing has been omitted that a just and conscientious careful prince should provide.

And after we obtained by divine providence the scepter and governance of this renowned kingdom of Hungary and were crowned with its holy diadem,¹⁴ and once after warlike endeavor we had freed the country as much from the fear of enemy threats as from insurrections at home, our first and especial care was that we should render the kingdom and our subjects more secure and stable by peace at home and through laws.

Therefore, both at that time and later, out of a most careful concern for the security, tranquility and liberty of this our realm, we issued more than once various constitutions and statutes, some on our own initiative, others at the pleas and petitions of our faithful lords prelate, barons, and other notables and nobles, not because the country had lacked laws in the past, but because these were not contained in written form and they were rather called customs.

But because great problems often arose from the different interpretations of these constitutions issued by us and those [other] laws of the realm, with everyone choosing a meaning and interpretation at their own pleasure; and in judging or seeking judgment, some people followed and asserted custom of the realm, while others followed and asserted the wording of constitutions: so that not only between those whose cases were pleaded but also among the judges themselves and those most learned and expert in the laws of the realm, a great argument often arose over the interpretation of these same laws and customs: so it was that sometimes those who trusted more in strength and power than in laws and justice, rushing to the bench with a large gang of their men, were eager to obtain by shouting and numbers what they could not obtain by

¹³ The equivalence of law and arms derives from Justinian's decree *Imperatoriam*: see the frontal to the *Institutiones* in the *Corpus Iuris Civilis* vol. 1, eds. Theodor Mommsen and Paul Krueger (Berlin: Wiedmann, 1934) [henceforth: *Institutes*].

¹⁴ The Hungarian crown, an insigne from the twelfth century, was regarded as that of the founding king St. Stephen and referred as "holy" ever since the mid-thirteenth century. From the extensive literature about it, see e.g., László Péter, "The Holy Crown of Hungary, Visible and Invisible." *Slavonic and East European Review* 81 (2003): 448-80.

reason and laws, and that those who should have lost in law sought to win, not by law, however, but by tumult and force of numbers.

Indeed, such people disregarded the authority of the judges and master protonotaries, who cited the laws of the realm. For, as the laws themselves lacked the support of the power of writing, whatsoever of the law or custom was brought to the fore, they most shamefully confused all the rationality of judgments either by dragging in a contrary opinion or by asserting that it was otherwise opined and understood by other judges in other cases.¹⁵ Thus it frequently happened that in one case someone previously had won and in a same or similar circumstance another lost and was defeated.

Then, when everything was full and overflowing with these and other errors of this type, and so many diverse and manifold interpretations of the constitutions and customs of the realm opened so wide a road to frivolous prosecutors, and the minds of the judges no less than the pleaders were turned into such a great darkness, we, to whom nothing is more important or welcome than the maintenance of our subjects in perfect peace and tranquility, moved also by the entreaties and continued complaints of our aforementioned faithful, [entrusted]¹⁶ our faithful and distinguished Master Stephen Werbóczy, protonotary of the judge of our court, to collect into one all the rights, laws, customs and constitutions received and approved of this realm; that is to say, those within this our realm, and especially those that they are accustomed to follow and observe in our royal court in judging and deciding cases, and in passing sentences; and to divide (fittingly) into titles and chapters, so that after it has been offered to us and has been revised, discussed and carefully weighed by the rest of the master protonotaries and the sworn assessors of our court of justice, it may be put together in one volume. So that now our Hungarian people, like almost all other nations and provinces that are well and wisely established, may in deciding cases and administering justice lean not only upon custom, which often changes and is inclined to slipperiness, but also upon laws written and illuminated in most faithful written records.

Finally, after we had convened in the present assembly and general gathering of all the same prelates, barons and nobles of this realm, called for the same urgent matters on the feast of blessed Luke the Evangelist last past,¹⁷ all of these same prelates, barons and nobles who appeared in our presence presented to us the same book containing the rights of the country and its communities, and their old and received laws and customs, collected and recorded by the aforementioned Master Stephen at our command; requesting that, as they recognized it in all of its clauses, articles and chapters to be written in good order and in appropriate manner on their laws and approved customs, [and] having had it read through, revised, discussed and examined by the venerable Paul Várdai, prior of St. Sigismund, the administrator of our royal revenues,¹⁸ and the *magnificus vir* Benedict Batthyáni, castellan of this our castle of Buda,¹⁹ as well as the

¹⁵ The complaint here suggests, however, some recognition of the role of case-law in Hungarian jurisprudence.

¹⁶ An appropriate verb is missing in the Latin original.

¹⁷ 18 October 1514.

¹⁸ Paul Várdai was chief royal treasurer, 1517–19.

¹⁹ Benedict Batthyány was castellan of Buda, 1511–1525.

distinguished masters John Ellyevölgyi, protonotary of the court of the palatine,²⁰ and Albert Bellyéni²¹, and Paul Bolyári²², those of our personal presence; likewise, Stephen Gibárti Keserű, vice-palatine of this our kingdom of Hungary,²³ George Mekksei our secretary,²⁴ Michael Szobi and Paul Dombói²⁵, sworn assessors of our said judicial bench, and Stephen Hencelfi of Petrović, director of our royal lawsuits;²⁶ we therefore deemed this book fitting, and all contained therein in its clauses, notions, chapters and articles to be issued in the form of our privileges and to be strengthened and confirmed as valid perpetual laws and customs for them and their heirs and successors, by our royal authority and by the fullness of our royal power. The same book follows in these words:

To the most serene prince and lord Lord Wladislas by the grace of God king of Hungary and of Bohemia etc., to his most merciful lord, Master Stephen Werbőczy, protonotary of the judge of the court of Your Highness, humbly commends his services.

It might seem that editing the rights of the country and people of this renowned kingdom of Hungary in a definite sequence, format, and order, and to display them as a written document is an arduous and very difficult task, one almost beyond human ability. Especially because there has never been anything of this sort among our people that has either been intended to last, or made constant by sanction or confirmed by immemorial practice and observance. Rather, new constitutions and edicts were issued by each prince and king at his whim and will, not merely at different times but within the space of a very few years. And these so often differ from and indeed contradict each other head-on that they can hardly come together and merge into one body, as it were. Moreover, it seems to surpass human capacity and faculty to remember all that emerges in court cases and judicial proceedings.

These being so, yet wishing to fulfill Your Majesty's biddings, which not to obey in all respects I have ever considered a sin, I have not shrunk from shouldering a burden I am unequal to. While

²⁰ John Ellyevölgyi was protonotary of the court of the palatine, March 1504-May 1525.

²¹ Albert Bellyén was protonotary of the court of the personal presence from March 1513 to December 1521.

²² Paul Bolyári was protonotary of the court of the personal presence, 1514-1520.

²³ Stephen Gibárti Keserű was vice-palatine, 1505-18.

²⁴ George Mekksei was a *secretarius*, 1514-26.

²⁵ Michael Szobi and Paul Dombói were sworn assessors representing the nobility in the royal judicature, based on the law of **1498: 2**. Szobi was the master and father-in-law of Werbőczy, whom he adopted as son and heir and was proscribed together with him at the diet of 1526; see Rady, "Stephen Werbőczy" in DRMH 5, xxx; András Kubinyi, "István Werbőczy als Politiker vor Mohács (1526)," in Balázs Nagy and Marcell Sebők (eds), ...*The Man of Many Devices, Who Wandered Full Many Ways... Festschrift in Honor of János M. Bak* (Budapest and New York: CEU Press, 1999), 558–82

²⁶ Stephen Hencelfi was director of royal lawsuits, 1505-15.

being conscious of my feebleness (so much so that, not claiming any special diligence or erudition, I would admit that I am to be classed the least among my peers and those learned in the same profession) but under Your Majesty's most supportive guidance and felicitous auspices, I shall undertake this task, never heard of before in this country and, to our great shame and even greater loss, neglected over so many centuries, namely: to join and meld together the statutes, decrees, laws, and customs of the realm, which so far have been scattered, mutilated, confused, and inconsistent, and, once put down in writing, to present them with the greatest respect to Your Majesty in order to promulgate them for common use.

There is nothing that Your Majesty could have demanded from me for his greater glory, nor anything I could have taken on with more enthusiasm. For what is more becoming to a king's majesty and more useful for the peace and tranquility of his subjects than—once the wars and clash of arms that drive away fear of the enemy are over—to cultivate peace? And that cannot remain firm and constant unless founded on the rule of law. For it is clear that internal discord causes more harm than foreign wars, and many more powerful polities have been destroyed by poison at home than by enemy arms.

It seemed to me fitting and in accordance with Your Majesty's will, to set down all the customs, laws, and decrees of the realm clearly and plainly, in a straightforward style that any person can understand, dividing it into chapters, titles, and articles, so that from now on the rudiments of the law of our realm should not be taken from those ancient fables with which we have hitherto only wasted time by issuing this law and that, but instead from the hall and sacristy of letters and from the fount of civilian learning, so that they will remain more deeply stamped and better anchored in the minds of all.

And this attempt will (in my opinion) be all the better for our entire prosperity in the future inasmuch as our ancestors seem to have been averse to arrangements of this type. From the earliest days of our nascent realm, our people were given over to warlike pursuits and had little care for other concerns.

For the Hungarians descend and originate from the Scythian peoples, who left their native land and settled in upper Pannonia (which embraces both sides of the Danube) and under the leadership of Attila extended the bounds of their empire far and wide, carrying their victorious arms deep into Germany, Italy, and Spain.²⁷ Eventually, by the command of the holy king

²⁷ For the "prehistory" of the Hungarians and their descent from Attila, Werbőczy relied on the *Chronica Hungarorum* of John Thuróczi (printed in Brno and Augsburg, 1488), which contained texts from several medieval chronicles. In 1: 3 [1-4], Werbőczy quotes extensive passages from it. The idea of Scythian ancestry was a favorite of Werbőczy; he elaborated on it in several earlier writings and speeches, see, e.g. András Kubinyi, "Az 1505. évi rákosi országgyűlés és a szittyia ideológia" [The diet of 1505 at Rákos and the Scythian ideology], *Századok* 140 (2006), 3316-74. Cf. also Gábor Klaniczay, "The Myth of Scythian Origin and the Cult of Attila in the Nineteenth Century" in *Multiple Antiquities - Multiple Modernities*:

Stephen,²⁸ as if a light from heaven, they, having dropped superstition and completely rejected paganism, accepted the doctrines of Catholic faith.

Thereafter no country or people (I say ungrudgingly) guarded more determinedly or more constantly the protection and expansion of the Christian commonwealth than the Hungarians. Being well trained through many hard-fought battles against the barbarous Mohammedan pest, they have for more than a hundred and forty years (not counting earlier times)²⁹ time and time again in attack and counterattack waged to their enormous credit the most the most bloody wars against the savage Turks. They kept the rest of Christendom safe and unharmed at the cost of their blood, life and wounds (lest the enemy's rage flood further as across broken levees), with such courage and natural vigor that they virtually lived under arms.

Not engaged in commercial or vulgar matters, nobility was defined by fighting. Hence it came that little time or leisure remained to them for framing the laws with special care or reviewing them at length before promulgation.

But now thanks to Your Majesty's especial care and providence I foresee that we shall soon appear not to be inferior to any other nation in this repute either. For you, indeed best and most Christian king, just as you stand above all by the loftiness of your throne so are you rich in extraordinary, almost heavenly virtue, which is greatly illuminated by the observance of religion and devotion to the true God. Thus, none of your acts nor your thoughts lack heavenly inspiration. And this is most rightly so, for we are just if we always keep in mind and observe the piety by which we devotedly adore God. I believe that human justice, unless it comes from the divine (which is piety), is the greatest injustice.³⁰

For I am delighted by the saying of Cyprian, the most glorious martyr: "The king's justice", he said, "is the peace of peoples, the shield of the homeland, the defense of the people, the protection of the common folk, the succor of the weak, the joy of men, the temperance of the climate, the

Ancient Histories in Nineteenth Century European Cultures, Gábor Klaniczay, Michael Werner, and Ottó Gecser, eds. (Frankfurt–New York: Campus, 2001) 185-212:

²⁸ (St) Stephen I, grand duke 997-1000, and king of Hungary 1000-1038.

²⁹ Hungarian-Ottoman warfare started in the 1370s, but became a central issue for the country after the Battle of Kosovo in 1389; see Pál Engel, *The Realm of Stephen: A History of Medieval Hungary 895-1526*, transl. Tamás Pálosfalvi, ed. Andrew Ayton (London-New York: I.B.Tauris, 2001) [henceforth: Engel, *Realm*], pp. 202-4, 231-43 and Ferenc Szakály, "Phases of Turco-Hungarian Warfare before the battle of Mohács (1365-1526)" *Acta Orientalia Acad. Sc Hung.* 33 (1979): 65--111. The *topos* of Hungary as a shield or bulwark of Christendom went back into the twelfth century and was important part of the political rhetoric especially in international affairs. It has been "accepted" and broadcast in a letter of Pope Pius II of 1459.

³⁰ This is straightforwardly Virgilian: that true *pietas* constitutes submission to the *numen*.

tranquility of the sea, the fertility of the land, the consolation of the poor, the heritage of sons, and for [the king] himself the hope of future bliss.”³¹

That justice is, however, acquired not by nature but by learning, namely that learning which is afforded us by the science of law and *ius*, which, as Euripides said, is more admirable than the evening and the morning star.³² This virtue, I say, is the sole mistress of them all and the queen of virtues and the foundation of eternal reputation and fame.

Therefore, when Agislaus was asked whether bravery or justice was better, he said: “We would need no bravery if all were just.”³³ For it is in the nature of all human affairs that they never remain constant but always fluctuate and waver. How fickle, how changing, how treacherous is indeed this Fortune? It can be learned from the empires of the Assyrians, the Medes, the Persians, the Macedonians and the Romans. Justice alone is true to itself, is not subject to change, but is always the same, bearing with it an extraordinary constancy.

Therefore, I give and offer great and eternal thanks to Your Majesty in the name of all of your subjects for having wished to strengthen the edifice of this renowned realm by the power of laws and constitutions so that neither the malice of fortune nor the outrageous deeds of men may shake it.

For who does not know that laws were invented for the salvation and the happy and peaceful life on men? Without them neither house, nor city, nor people, nor the entire human race, nor natural things, not even the world itself, could stand.

It is not clear enough who first invented them. The Hebrews maintain that it was Moses, the Athenians that Kekrops and Solon, the Argotans that Phoreus, the Cretans that Minos and Rhadamantos, the Lacaedemonians that Lykurgos, the Egyptians that Trismegistos and the Persians that Zoroaster.³⁴

But whoever it was, he gave humanity a gift of which nothing greater nor more beneficial can honestly be asked of the heavenly divinity. For laws are the leaders and governors of all human

³¹ Pseudo-Cyprian, *De duodecim abusivis saeculi*, cap.9 (Rex iniquus)

³² In the Prologue (I.[2]), Werbőczy attributes this reference to Aristotle and Hesiod, although his knowledge of these texts is most likely to have been mediated by Pelbartus of Temesvár, *Sermones Pomerii*, Pars Estivalis, no 91 (Hagenau, 1500, and many other editions).

³³ Plutarch, *Agisilaus* 23.

³⁴ These names of primary law-givers were commonplace throughout Antiquity and the Middle Ages; cf. e.g. Isidore of Seville, *Etymologiae*. 5.1.

life: they are all based on fairness, prudence and finally on the deepest wisdom; they have all been devised for ruling, governing and defending the human race; they were all invented for the leading of a good and blissful life.

Therefore, no empire, no polity can stand for long without laws. For empires are won by arms but the gains are sustained by law. Laws are the foundations and walls of the city; in them are contained the prosperity of the good and the purposes of peace. That we stand, walk, sleep, and that we live a safe life: all that is to be ascribed to the protection of *ius* and law.

If they were abolished, good men would either have no place in the city or would be exposed to the most evil injuries all the time. For, according to St Augustine, justice being taken away, what are kingdoms but great robberies?³⁵

It is the laws that protect us from danger and spite, keep assassins at bay, and give distance to footpads and to the danger of snares. Finally, they keep us in complete repose and full tranquility.

Therefore nothing could have been more worthy of ineffable excellence or more suitable for attaining eternal glory, nor anything more appropriate for consolidating indissoluble ties of concord between Your Majesty's most flourishing kingdoms, than that the laws and decrees of this realm, hitherto covered by the densest darkness and obscurity, as much as they are illuminated by the light of writing under the guidance and authority of Your Majesty, be made public through your worthiness.

As soon as your majesty deigned to entrust me with this duty, although, frankly speaking, I applied all effort, diligence and skill in order, as far as was able, fully to obey your majesty, I knew that there would nonetheless be plenty of those who, inflamed by the fire of envy, would not cease disparaging such a great work, even though useful for all. For it is the habit of raging envy to direct the most bilious and frenzied attacks against what is more excellent and worthy of higher praise.

But I fully trust that Your Majesty will rescue me from the terrible fangs of that monster, and I too, shielded, as it were, by you, will undauntedly sustain or blunt the darts shot at me by these slanderers.

I shall regard myself as more than satisfactorily and amply rewarded for this assiduous work when I am seen as having been in respect of it both of service to the fatherland, the great love of which is borne in the heart of every patriot, and as obedient to Your Majesty, to whom I have

³⁵ St Augustine, *De civitate Dei*, IV, 4.

submitted and devoted myself for ever, as I only could. I beg and beseech you time and again not to feel it a burden to read and re-read, review and examine this fruit of my vigils, dedicated to your most sacred name.

And since it is the fate of human efforts that nothing can be as refined and perfect that it cannot be improved upon, please correct and emend with your most exacting criticism everything that according to your most precise accuracy of judgment needs to be dropped, changed, or added, so that nothing remains which rivals or enemies may disparage.

No one should give himself to believe that I would have taken such liberty as to dare to make or add any new law; I have merely collected and arranged into one volume, as it were, what I have received from my predecessors and what I saw, heard, and learned as followed in the courts and in discussing cases, having previously consulted with several of my colleagues, well versed in the laws and customs of this country.

This work I now offer and dedicate to Your Majesty and humbly beseech that you deign to receive my labors with a cheerful face and, if they deserve, grant them your sacrosanct authority and promulgate them to all under your command for observance.

May Your Majesty weigh the intention of my mind rather than the smallness of the offer. For this modest offering comes from the workshop of obedience and sincerity. And in the future, I will seek with all effort, care and diligence, as far as my ability allows, that my service be of genuine use to Your Majesty. Will and devotion will certainly not be wanting. Long live Your Majesty, illustrious king, in great happiness!

While about to describe the laws and approved customs of the renowned kingdom of Hungary I thought to preface it with some important subjects regarding the present matter.³⁶ First, about justice. Secondly, about *ius*³⁷ and its division. Thirdly, about law and the kinds of laws.

³⁶ On the Prologue's legal and philosophical background, see now Martyn Rady "The Prologue to Werbőczy's *Tripartitum* and its Sources," *The English Historical Review* 121 (2006, no 2): 1-42. In the following, only general references are given to Werbőczy's sources. Where passages derive directly from Justinian's *Institutes* and *Digest*, we respectively rely here on the published translations of Peter Birks and Grant McLeod (London: Duckworth, 1987) and of Alan Watson (2 vols, Philadelphia: University of Pennsylvania Press, 1985).

³⁷ The translation of *ius* and *lex* in the *Tripartitum* is a tricky issue. We have translated *ius* and *lex* in many cases equally as "law," since, for example, *ius naturale* (verbatim: "natural right") is usually rendered as "natural law" in English. Some translators of Roman legal texts simply retain the Latin words, but we wished to limit that to a minimum, without going into the rather complicated issue of jurisprudence lying behind these words. When retaining *ius* in some chapters, we also took into account that the word, in its "vernacularized" form, *juss* (pronounced 'yush'), referring to someone's

Fourthly, about custom and its conditions. Fifthly and finally, about the characteristics of the good judge and other matters pertaining to a just judgment, adding the question: whether a judge ought to adjudicate as best he knows on the basis of what has been asserted and proven, or according to what he knows. Having briefly dealt with these things, I will begin my project with the help of the God of glory and treat in sequence the local laws and approved customs of the same kingdom of Hungary which we commonly apply in the courts (as far as my memory and limited ability allow)

[PROLOGUE]

[CHAPTER ONE]

Justice: its definition and division

Justice is an unswerving and perpetual determination to acknowledge every man's rights.³⁸ And this always not only as to deeds but also as regards intentions.³⁹ Because justice is a state of the soul and an intention of the mind, by which someone is regarded as just; that is when someone wishes, as far as he is able, to render everyone his due, without preference or distinction of persons.

[1] Then, justice is that condition of goodness which grants everyone their deserts: devotion to God; obedience to parents; deference to superiors; friendship to peers; discipline to inferiors; purity to the self; and compassionate works to the poor and the downtrodden.

[2] Then, in other words, justice is a spiritual quality which (for the service of the commonweal) grants to each his dignity, and so it is a congruent disposition of the soul which judges every case correctly.⁴⁰ For, according to the blessed Gregory's testimony,⁴¹ the highest good in human affairs is to cherish justice and serve to each his rights. For where there is justice, there is also the harmony of all other virtues. As Jerome said, every kind of virtue is included in the single name of justice. It is also proved by this little epigram of Hesiod: "Justice contains all the virtues in itself." This most glorious virtue makes the eyes of mortals outshine, as Aristotle says, both the evening and the morning stars.⁴²

[3] And justice is of two kinds: namely natural and legal. The natural one is that steady and enduring will that (as mentioned before) renders unto everyone his right. And without it no one can

right to a property or a "liberty," was a crucial term in Hungarian legal discourse into modern times.

³⁸ Cf. *SL Die Summa Legum brevis, levis et utilis des sogennanten Doctor Raymundus von Wiener-Neustadt*, (ed.) Alexander Gál, 2 vols, Weimar, Hermann Böhlau Nachfolger, 1926 [henceforth: *SL*], 1.2; Justinian *Institutes* 1.1. The phrase *suum cuique tribuendo* ultimately derives from Cicero, *De legibus*, 1.5.

³⁹ Cf. Azo, *Summa Aurea super Codice et Institutis*, (Lyon: Fradin, 1557) [reprinted Frankfurt/M.: Minerva, 1989], *De iustitia et iure*, no 1.

⁴⁰ Accursius, *Glossa Ordinaria ad Digestum Vetus*, (Venice: Jenson, 1478) 1.1.10 *iustitia*.

⁴¹ The remainder of this *titulus* borrows extensively from the sermon literature of Pelbartus of Temesvár (see n. 30, above).

⁴² We apologize for having failed to identify these two references.

partake in the kingdom of God. The legal one is called law which changes frequently and without which neither peoples, nor kingdoms can exist for long.⁴³ Therefore, the justness of something is to be understood in two ways: in one sense, by the nature of the thing itself, called natural law; in another sense, by some convention among people, called positive law.

[CHAPTER TWO]

Ius and its divisions

Ius as far as it concerns our purpose, is the good and the just that follows from justice.⁴⁴ And for our purpose, this applies to our customs, whether written or unwritten.

[1] Hence, *ius* is the general name and a law is an aspect of *ius*. For every *ius* consists of laws and customs, that is, the written and unwritten law.⁴⁵ For in terms of Cicero's definition, the law is the art or knowledge of goodness and fairness,⁴⁶ and because of this we [jurists] are deservedly called priests, that is those who administer the sacred laws and to each his rights.

In other words, *ius* is called the collection of legitimate commands that incline us to observe what is good and fair, and which is useful and equitable or true, namely justice.

[3] The law is, thus, of two kinds: the one is public law, the other private. Public is the one which refers primarily to the rule and government of kingdoms, as well as the commonweal, matters sacred, the clergy and the magistrates.⁴⁷ Therefore, whoever causes harm to the clergy, to things sacred or to magistrates—that is, to the governors of the people—can be accused by anyone of a public crime. The private is separate law, which pertains to the benefit of particular persons. And this latter is of three kinds: namely, natural law, the law of nations, and civil law.⁴⁸ [4]

Natural law is common to all peoples, because it exists everywhere by virtue of natural instincts and not by any establishment, and as nature has taught to all animals. And it belongs not only to humankind, but also to every animal. From this come the union of man and woman, the begetting and upbringing of children, the same liberty for all and the capacity to acquire what is in the sky, on the land and in the sea. Then: to return things from safe-keeping or money lent, and to repel with force a neighbor's violence. Because these or similar acts, are never regarded as unjust, but natural and fair.⁴⁹

⁴³ Cf. *SL* 1.2.

⁴⁴ Cf. Azo, *Summa in primum librum Institutionum*, De iustitia et iure, no 3.

⁴⁵ Cf. *SL*, 1.5; Gratian, *Decretum in Corpus Iuris Canonici*, vol 1, ed. Emil Richter and Emil Friedrich, (Leipzig: Tauchnitz, 1871) [henceforth: D] 1.c.2; *Institutes*, 1.2.3.

⁴⁶ The expression *ius est ars boni et æqui* is commonly associated with the second-century Roman lawyer, Iuventius Celsius, and not with Cicero: see Tony Honoré, *Tribonian* (London: Duckworth, 1978), p. 30.

⁴⁷ Cf. *SL* 1, 3; Gratian D 1. C. 11.

⁴⁸ Cf. Azo, *Summa in primum librum Institutionum*, De iustitia et iure, no 12; *SL*, 1.3

⁴⁹ Cf. *SL* 1, 3; Gratian D 1. C. 7.

[5] Then, by natural law we mean what is contained in the law of Moses and in the Gospels which command that one should do to others what one wishes done to oneself and which forbid doing to others what one would not like done to oneself.⁵⁰ Hence the verse: “What you wish to happen to you, do to me; what not, avoid! Thus you shall live on earth by the law of the polis.”⁵¹

[6] Thus, natural law can be considered in two ways. In one way, man has a rational nature, which he shares with the divine; and thus, the natural law that belongs to man is called divine law. In another way, if one considers the sensual nature of man which he shares with other animals in regard to the senses, motion and instinct, then, in this respect, the law that belongs to man is called natural law.

[7] The law of nations is of two kinds, namely, primeval and secondary. The primeval law of nations is what all peoples have applied since the beginning of time and what was created by natural wisdom, without any establishment by the people, such as not to hurt anyone, and so on. And that is no different from natural law, except in the way it is perceived. For it is called both natural law and the law of nations, but from different perspectives: natural, insofar as it emanates from natural reason; and of the law of nations, because the peoples have applied it without any specific establishment since the beginning of the world. And by this law, a slave has a free status, because according to natural law all men are born free.⁵²

[8] The secondary law of nations is the law that peoples have introduced not by natural reason but by reason of the public good and for common use. And it is oftentimes different from natural law. For by natural law everything was common and everyone free; but by the law of nations the division of land and the separation of property was invented which brought about war, captivity, slavery and other such things, contrary to natural law. This law of the nations brought about almost all contracts, such as buying, selling, lease and similar things.⁵³

[9] Civil law is what each people or city created for itself for divine or human purposes. And it is called civil law, as if it were the specific law of the city,⁵⁴ which may be understood in three ways. First, in general; as it is universally observed in every city. Secondly, in particular; because it is created by each people or city for itself, and for divine and human purposes. Thirdly, and especially; as the special law of the Romans, which is also called imperial law. Because, when the name of this or that city is not mentioned, the law of the Romans is especially meant, just as among the Greeks the word “poet” implied Homer and among the Romans Virgil. And if Holy Scripture mentions an apostle without any other name, it is understood to be Saint Paul.

[CHAPTER THREE]

The differences between natural law, the law of nations and civil law

⁵⁰ Cf. Gratian, D.1 ante c.1.

⁵¹ Distychon in the original.

⁵² Cf. *Institutes*, 1.2.2.

⁵³ Cf. *SL* 1.3; *Institutes* 1.2.3; Gratian D.1.c.9

⁵⁴ Cf. *SL*, 1.3; Gratian, D.1 c.8.

It has to be known that natural law differs from other laws in three respects. First by origin: since it originated at the start of nature's creation.. Secondly by its eminence: since natural law is observed equally by all peoples; established alone by God, it is fixed and unchanged, while other laws, enacted by a people or a city, frequently change, either because opposite customs emerge or other, better and contrasting laws, are enacted and introduced. Thirdly, in its extent: because according to natural law everything is common, but by the law of nations or by civil law what is mine is mine and what is yours is yours.⁵⁵

[1] Further, all people who use and are governed by laws and rules use partly their own law, partly the law which is common to every human.⁵⁶ For those who do not have a general law, only their own, created for themselves, they call civil law. And the law which all people have in common is called the law of nations.

[CHAPTER FOUR]

About military law and jurisprudence

Military law means the formal declaration of war, of making alliances and, on a given sign, of engaging the enemy. Then, keeping military discipline (that is the punishment of those who break it). Then, the mode of payment, the system of ranks, the honoring with decorations such as the grant of a wreath or torque. Then, the decision over the booty and its just division, according to the quality and achievement of each man, and the share belonging to the prince.⁵⁷

[1] Jurisprudence entails knowledge of God and man, and mastery of the difference between justice and injustice; namely, knowledge of the just in order to do it, and of the unjust in order to avoid it.⁵⁸

[2] It is insufficient to know what is just or unjust, unless one also recognizes matters contrary and actual; in consideration of which, laws should be established in a diverse fashion, in accordance with the diversity of situations.

[CHAPTER FIVE]

There are differences between justice, law, and jurisprudence

There are differences between justice, law and jurisprudence.

⁵⁵ Cf. *SL* 1.3; Gratian D. 5 ante c 1, *ibid* 8. C. 1.

⁵⁶ Cf. *SL* 1.3; *Institutes* 1.2.1.

⁵⁷ Cf. Gratian D 1.c.10.

⁵⁸ Cf. *SL* 1.2; *Institutes* 1.1.1.

[1] For justice is a virtue, namely a moral one. Law is what implements this virtue. Jurisprudence is the knowledge of this law.

[2] Then, justice is the highest good among virtues, the law is the middling, and jurisprudence is the least. Then, justice renders everyone his right; law promotes this; and jurisprudence instructs how to do this.⁵⁹

[CHAPTER SIX]

About the definitions of law and its characteristics

As was said above, all *ius* consists of either laws or customs, that is, of the written or unwritten law; it must be known in short about the written law, namely the human law, that it can be described in a number of ways. [1] First, it is the establishment of the people, something decided together by the greater born and the common people.⁶⁰ But this definition does not suit our purpose, because all powers of jurisdiction and lawmaking, which rested once in the people, now belong to our prince, as will be stated more clearly below.

[2] In other words, law is the sanction that commands honest and forbids dishonest and contrary things.⁶¹

[3] Or otherwise: it is right reason following from equity which orders the honest and stands against the dishonest.⁶²

[4] Then, according to Papinian and Demosthenes: law is an invention of men, a gift of God, a teaching of the sages, a corrector of violent misdeeds, the common agreement of the polis, and the banisher of crime. From this definition it is clear that law was a human invention.⁶³

[5] Because once mankind had multiplied and sins had spread, kingdoms were turned into tyranny, and it became necessary to found laws. You will find explained above who first created laws.⁶⁴

[6] It has been said in the definition that law is a gift of God. For according to John Chrysostom, the law of God is the only lawful way that bends neither right nor left. Therefore, people without laws who defy the words of God and the lessons of the laws are heading to the pit of damnation on diverse roads of error. However severe the laws, they are lame unless they bear the impression of divine law; because human laws have power only for as long as they do not deviate from the divine

⁵⁹ Cf. *SL* 1.2; Accursius G; ad *Dig.* 1.1.10, *Notitia*.

⁶⁰ Cf. Gratian *D.2.c.* 1.

⁶¹ Cf. *SL* 1.5; Azo, *Summa in primum librum Iustinianum*. De iustitia et iure no. 4; but ultimately Cicero, *De legibus* 1.6.

⁶² Cf. *SL* 1.5.

⁶³ Cf. *Digest*, 1.3.2.

⁶⁴ See above, in the dedication, "The Hebrews..."&c.

ones; as was proven by the sage who said: “By me kings reign and rulers decree what is right.”⁶⁵

[7] Therefore human laws must emanate from divine law. Because only that polity is well ordered which, while ruled by laws, is governed by divine law. No law can be valid which goes against divine law either by the assent of the people, or a long standing custom.

[8] The third characteristic of law, according to the aforesaid definition, is that it is the teaching of the sages. Whence it must be known that, just as princes should not punish the innocent, so they must not absolve the sinner and the criminal from punishment and chastisement; especially when someone commits a crime against the polity, because he who condones the godless and condemns the just is equally loathsome to God.

[9] The fourth characteristic of the law is that it be the chastiser of violent offenses. For laws are made to restrain human recklessness by fear and to protect the innocent among the evil.⁶⁶ For men would not be encouraged to keep the law if they did not dread the legal punishment imposed upon them by a public person.

[10] The fifth characteristic of the law is that it should be the orderer of the city. The city’s name actually derives from the unity of its citizens.⁶⁷ Therefore, the judges in this kingdom of ours should also apply every law for the commonweal of the polity. Now, just as one hopes from medicine what is good for the body, because that is why it is prescribed, so we cannot expect anything from the laws except what is beneficial for the community of the entire polity, because that is why they were established.

[11] The sixth characteristic is that law must be the banisher of crime. According to the Blessed Thomas Aquinas, human laws were made to restrain people from vices and to encourage them to virtues. For humans, by nature, possess a certain longing for virtue, but to fulfill the virtues it is necessary to impose on them some discipline, which is best done by the enforcement of the law. This is why the same Thomas also said that law is an ordinance of reason for the common good, enacted by those who have the care for the community; and the rule or measure of those actions is what should be done or shunned.⁶⁸

[12] Hence, a law must be just, honest, appropriate according to nature and according to the custom of the country, suitable to the times, necessary, and useful, and also clear, so that it should not include anything that could be twisted to an unforeseen purpose because of its obscurity (that is, that no one should be able to interpret it falsely. For if something is doubtful or obscure, it must be interpreted by whoever established it, so as not to ensnare anyone); it must be enacted for the common benefit of the citizens and not for someone’s private advantage.⁶⁹

⁶⁵ Prov. 8. 15.

⁶⁶ Cf. *SL* 1.; Gratian D. 4.c.1.

⁶⁷ Cf. *SL* 1.55.

⁶⁸ *The Summa Theologiae of Thomas Aquinas*, 3 vols. (Ottawa, Institutus Studiorum Medievalis Ottavienis, 1941-5) [henceforth *ST*] I-II. 90.1, 90.4 and 95.1.

⁶⁹ Cf. *SL* 1. 7; Gratian D. 4.c.2.

[13] And all of these things must be considered, because once laws have been established, one cannot later depart in judgment from them but should judge according to them.⁷⁰

[CHAPTER SEVEN]

Why laws are made; and on the four functions of law

Because all laws are either divine or human; and the divine ones are from nature; while human ones originate in usages and customs, they differ therefore from one another because other people prefer other laws.⁷¹

[1] *Fas* is divine law, *ius* is human law. For it is allowed by *fas* to walk through someone's land, because the land and the fullness thereof are the Lord's; but it is not a *ius*, because it is forbidden by statute or custom.⁷²

[2] Hence a question arises: why are human laws made? The answer is: because fear of them restrains human recklessness and makes innocence safe among evildoers; and that dread of punishment tames the recklessness of these evildoers and their capacity to do harm.⁷³

[3] And the functions of law are of four kinds: for every law either permits or forbids or punishes or commands.⁷⁴ It permits that the brave and virtuous request reward. It forbids anyone from asking holy virgins to marry. It punishes murderers by beheading. But sometimes it commands that "You should love thy Lord, thy God."⁷⁵ [Hence the] verse: The virtues of law are contained in these four words: permits, punishes, commands and forbids.⁷⁶

[CHAPTER NINE]

On statutes and municipal law

Having presented the concept and the varieties of law, it is time to discuss statute. [1] The statute, which we commonly call a *decretum*, is a certain law common to a kingdom, having legal force. And we call it a "statute," because it is stable and it is firmly ordered, that is, it defines the public state. Statutes often fall into the purview of civil law.

⁷⁰ Cf. *SL* 1.9; Gratian D. 4. ante c. 3, but ultimately St. Augustine, *De vera religione* c. 31.

⁷¹ Cf. *SL* 1.5; Gratian D 1.c.1. ⁷²

Cf. Gratian D 1.c.1 and 8.c.1. ⁷³

Cf. *SL* 1.6; Gratian D. 4.c. 1. ⁷⁴

Cf. *SL* 1.6; Gratian D 3.c.4. ⁷⁵

Cf. Gratian D 3.c.4.

⁷⁶ Cf. Hostiensis, *Summa Aurea* (Lyon: Marchant, 1548), lib. ii, Tit. De constitutionibus no. 11; *Digest* 1.3.7.

[2] Whereby it must be considered that civil law is of two kinds. One is common, that is contained in the books of civil law and this one cannot be established except by the emperor or any other supreme ruler. The other is private law, which is also called municipal or by-law. And that law can be enacted at any time by any region, province or city.

[3] Municipal law is the positive law of a certain place. It is so called precisely because it is observed in that municipality (that is, town) and in that place. It is also called (as said above) a by-law.

[CHAPTER NINE]

Whether a statute that contradicts canon, natural or divine law has effect

But it seems necessary to ask whether a statute prevails over canon, natural or divine law. Reply that in regard to canon law, if the statute contradicts the ancient liberty of churches or the privileges granted them, it has no effect. The same is to be said of statutes pertaining to the salvation of the soul. In earthly matters, however, civil statutes put aside canon laws and overturn them.

[1] Regarding natural or divine law, statutes cannot overturn them altogether, but they can make distinctions; as, for example, divine law says without distinction, “thou shalt not kill”, but human law and statute permit killing in many cases. The same must be said about the tithe, which, according to divine law must be paid, but the pope exempts many people from rendering.

[2] We may, therefore, conclude that statute or law or ordinance cannot overturn natural or divine law entirely, since neither the pope, nor any one else may order that the Old or New Testament be not observed or children not be raised by their parents; but in some particular cases, a deed contrary to natural or divine law, such as killing a robber or the thief who comes in the night, can be done with just cause.

[CHAPTER TEN]

What custom is and what is necessary to affirm custom

Now custom has to be discussed. Whence it should be known that custom is a certain law, arising from practice, taken for law where law is deficient. It does not matter whether it is based on writing or on reason, since reason also supports laws. Moreover, if law is built upon reason, then everything that is built on reason is law; providing it agrees with religion, comports with order, and serves salvation. It is called custom, for it is, as it were, common practice and human use because it is in common use.⁷⁷

⁷⁷ Cf. SL, 1. 13; Gratian D 1.c.5. The word play with *usus* &c. could not be rescued in translation.

[1] But to be more clear: custom may (for our purpose) be defined thus: it is that certain *ius*, introduced through the practices of whomsoever can by public authority enact laws. Therefore custom also falls within the name of *ius*, and if a prince orders that one should judge according to *ius*, then a judge can pass judgment according to custom and the statutes of the place. Contrariwise: a common law falls within the name of custom. Thus, if someone makes mention of custom in his plaint, then a common law may be seen as meant.

[2] Any people can introduce a local custom. In order that custom be effective and hold force, a few things are necessary.

[3] First: it must be reasonable. It is reasonable when it aims and advances the goal of law. The goal of canon and divine law is the beatitude of the soul. The goal of civil law is the common weal. Therefore, if a custom aims at the beatitude of the soul, it is reasonable by canon and divine law; and if it opposes an eternal goal, it is unreasonable. According to civil law, a custom is reasonable if it aims at the common weal. And since in this regard there are no specific rules, say that a custom may be regarded as reasonable if it does not contradict natural law, the law of nations, or positive law.

[4] But since law is founded on reason it seems that no custom can be reasonable that contradicts law. Considering the different kinds of reason, it must be said that a custom may be reasonable even if it contradicts a reasonable law. Depending upon their different purposes, two opposites may be true at the same time, for example, to marry or not to marry.

[5] Secondly, custom must be prescriptive, i.e., it must last for an appropriate time and must receive force in the course of that time required for prescription. But this holds only for canon law and is not required even by that law unless it contradicts positive law. According to civil law, a decade, that is the passage of ten years, is sufficient for the introduction of a custom, even if it contradicts civil law. If, however, a custom contradicts canon law, then the space of forty years is required. Yet, if a custom is introduced in the absence of law, then, even in respect of canon law, a decade seems to be sufficient. The passage of ten years begins from the time the first act is performed by the people.

[6] What I have said concerning civil law, that ten years is sufficient overall, is limited to cases where custom is invoked in matters that are not reserved to the prince as the mark of his supreme power. For then a custom cannot be introduced except after so long a time that no one can recall when the custom started.

[7] Thirdly, according to the common opinion of the doctors, repetition of the act is needed. Say, however, that a repeated act is not in itself necessary for the establishment of a custom. But because the consent of the people cannot be deduced from one single act, the repetition of the act can be seen as the cause and custom as the effect. And it is necessary to have so many and such well known acts that it becomes in all likelihood known to most of the people, for it is not the act but the tacit consent of the people that establishes custom.⁷⁸ Thus, when the tacit consent of the people can be deduced, then the great recurrence of acts is unimportant. What is more, a custom can occasionally be introduced by a single act with a repeated cause lasting for

⁷⁸ Cf. Bartolus, *Repetitio ad Dig. Vet.* 1.3.31 no. 10 in Bartolus, *Commentaria*, 3 vols. (Basel: Froeben, 1562)

as long as it takes to establish a custom; for example, a custom can be introduced if someone has a bridge on the public road or something of this kind.

[CHAPTER ELEVEN]

How law differs from custom; and on the threefold value of custom

And law differs from custom in three ways. First: as tacit and express.

[1] Second: as written and unwritten, though this is not an essential difference. For the law of the prince, even if unwritten, does not fail to be law. And if custom is put in writing, it still remains custom; for example: the Customs of Fiefs⁷⁹ which are writtendown.⁸⁰

[2] Third: as momentary and continual; because custom cannot be introduced in an instant. What is tacit progresses at a slower pace than what is expressly stated. Nor is that which emerges from inference as certain as that which is expressed. Therefore, custom cannot be introduced by the people at once, but only gradually.

[3] Custom has a threefold value. Namely, explanatory, as it is the best interpreter of the law; so when law is doubtful, we have to refer to the custom of the place, and if it is clear from that there is no need to deviate from the meaning given by custom.⁸¹ [4] Secondly, it has abrogatory value, because it supersedes law when it contradicts custom.

[5] Thirdly, it has substitutive value, because it replaces law where this is deficient.⁸²

[CHAPTER TWELVE]

What is to be held of contradictory law, statute and custom

Here the question arises: where a law, constitution or custom appear to contradict one another, which of them should be observed? Say this: if a law precedes a contrary custom that followed later, then the custom, if it is general, overrules the law in general and totally. If a custom is only local, it does not overrule a law in general, but only in that place where the custom is in force.⁸³ If, however, a custom precedes a contrary law that came after it, then the custom does not overrule the law; in fact, the later law abolishes that custom.

⁷⁹ The reference here is to the Lombard *Liber Feudorum*, compiled in the mid-twelfth century.

⁸⁰ Cf. Bartolus, *Repetitio ad Infortiatum* 28.5.2 no.1.

⁸¹ Cf. *SL* 1.14; *Digest* 1.3.37.

⁸² Hostiensis, *Summa Aurea*, lib. I, Tit. de consuetudine no 11.

⁸³ Cf. Bartolus, *Repetitio ad Dig. Vet.* 1.3.31 no.5 in Idem. *Commentaria*; Accursius, *Gl ad Dig. Vet.* 1.3.332.

[1] Canonists, however, hold the opposite, asserting that papal law, if it does not make mention of it, does not abolish the contrary custom of a certain place because the pope is not presumed to know contrary customs. From this, one can with reverse reasoning infer that, if a city or any community enacts a statute contrary to its own custom, then the custom is overturned, even if it makes no mention of it, because a city or a people is presumed to know its own custom. [2] Let me then establish two rules. The first is when custom precedes and a general law contrary to it follows, then it overturns the previous custom.⁸⁴ The second rule is: when law precedes and then a contrary custom follows, it overturns the previous law. And understand this (as I said above) only if the custom is general and introduced by a people who are able to introduce both laws and general customs. Because, if it is the particular custom of some place, it overrules the law only in that place.

[3] Where a case emerges that may be determined neither by written law nor by custom, but resembles partly written law, partly custom, many are in doubt as to which resemblance shall be followed and which shall be preferred. Considering all cases, say this: when a case seems to resemble custom only, then that shall be applied; if however it resembles law only, then that will be applied. If, however it is found to resemble both law and custom, then first one ought to examine which one it resembles more, and secondly, which one is more reasonable and more equitable. If there is equality in every respect, then, if we are in matters customary, the similarity to custom has to be applied. If we are in matters of written law, then the similarity to written law must be applied.

[CHAPTER THIRTEEN]

What a judge is, what a judgment, what a law-suit, what a plaintiff and an accused

But since judges, who by virtue of the jurisdiction belonging to them decide individual matters with the proper scrutiny of judgment, preside over the application of the law, it is not inappropriate to explain something about them. [1] Whence it should be known that a judge is called *iudex* meaning *ius dicens*, or meaning he who declares what *ius* is, that is: administers justice to the people. [2] *Ius* is the object of justice; therefore the judgment is, by its name, the determination of what is just and right in a law-suit that is brought before a judge.⁸⁵

[3] The term *causa* (lawsuit) comes from the word *casus* (case). For this is the issue and the origin of the matter set out before the inquiry of the trial; which, by the submissions joined, becomes a legal case; during the trial it is considered adjudication, and in its conclusion, justice. And here what is called justice means law. For law is said to be the state of *ius*; because a judgment does not make law by itself, but declares the state of the *ius*.

[4] However, all cases, which come to trial, require these persons: judge, plaintiff and accused. In business which is unclear, witnesses are necessarily also required. [5] The plaintiff acts as accuser, because he summons to the lawsuit. The accused (*reus*) is named after the thing (*res*) at issue,

⁸⁴ Cf. Bartolus, *ibid.*

⁸⁵ Cf. *ST* II-II, 60.1.

even if he does not regard himself as guilty. [6] Witnesses used to be called *superstites*, because they were summoned in the matter (*super statu causæ*).

[7] Hence, people (as Aristotle said) turn to the judge as if to a kind of living justice.⁸⁶

[CHAPTER FOURTEEN]

What is needed for a judgment to be an act of justice. Also on jurisdiction, and on the office and attributes of the good judge

(According to Thomas) three things are needed for a judgment to be an act of justice. First, to come from an inclination to justice; secondly, from the authority and jurisdiction of the judge; thirdly, to be the outcome and result of the right reason of wisdom.⁸⁷

[1] Because if the judgment either contradicts the righteousness of justice, or comes from those who have no authority to pass judgment, or lacks wise consideration, it is regarded not as correct, but as a corrupt and illicit judgment.⁸⁸

[2] Jurisdiction is a power granted by public law, and gets its name from the terms *ditio*, power, and *ius*, as it were, the power of *ius*.

[3] The office of the judge is the relevant right granted to the same judge to carry out those things that he is held to do as a judge. The office of the judge relates to jurisdiction as a claim to obligation. As one obtains by claim what comes from obligation, so what is brought into effect through the office of judge comes from jurisdiction; and he puts it into action.

[4] The judge's primary duty is to try every issue maturely; in passing judgment he should not be thoughtless and hasty, lest his impetuosity be called the stepmother of justice. He should not favor one party over the other; nor should he be partial to any person, and he should perceive the fate of others as his own. Above all, he should be free from passions of the soul, so that no plea, hatred or love may move him. For a judge, even if passing a just sentence, is responsible to the court of conscience should he have acted more upon hatred than upon love of justice.

[5] The judge should be neither too cruel nor excessively merciful, but even-handed in judgment. In every judgment, mercy and virtue, that is: justice, are conjoined; even-handedness lies in their conjunction. Whence Gregory said: "Everyone who judges fairly, holds scales in his hands, and has justice and mercy in either pan of the scale; he judges the sins with justice and mitigates the punishment of sin with mercy; so that with just weighing he corrects some by even-handedness and allows others by mercy; he who always keeps in his eyes the judgment of God with fear and trepidation, dreads in every matter that he might fall by leaving the path of

⁸⁶ Cf. *ibid.*

⁸⁷ Cf. ST, II-II. 60.2.

⁸⁸ Cf. *ibid.*

justice.”⁸⁹ For where justice exceeds its limits, it engenders the vice of cruelty; and too much mercy leads to the dissolution of order.

[6] Human judgment is usually perverted by four things. By fear, when we dare not speak the truth for fear of someone’s might. By greed, when we corrupt someone’s soul with gifts. By hatred, when we devise against any adversary of ours. By love, when we seek to favor a friend or relative. All these a judge should with all his might avoid and flee.

[CHAPTER FIFTEEN]

Whether the judge is held to pass judgment according to what is alleged and proven or according to what he knows

Now the question must be added whether the judge should pass judgment according to what is alleged and proven by the parties or according to what he knows and according to his conscience. For example: someone is accused with a capital or other crime, and the judge knows that he is innocent because he saw the crime committed by someone else; but the witnesses testify against him; knowing this, should he condemn the innocent? Say then that judgement belongs to the judge according to his function as a public power; hence, when he passes judgment he must do so not according to what he knows as a private person but according to what he has learned as a public person.

[1] He can learn this in two ways: either in general, namely through public, divine or human laws, which are not subject to test of proof; or, in particular, through records, witnesses and other lawful documents, which in judging he must follow more than what he knows as a private person. This is why Augustine said: “a good judge does nothing of his own will, but pronounces according to the laws and rights.”⁹⁰

[2] In this case, nevertheless, the judge must be very careful to support the party which he knows in his conscience to be true, lest he perish because of the defects of the witnesses and lawyers.

[3] If, however, it happens that during the trial such valid proofs are submitted which can neither be refuted nor challenged, then the judge has to strive with all his skill and effort to rescue the innocently condemned.

[4] If no way to do so can be found, he should seek a reason, by which, without causing scandal, someone else is assigned to the case; if that cannot be done, he should pass judgment according to what is alleged and proven. For the office of the judge is to work more for the common weal

⁸⁹ The passage derives in fact from the *Sententiae* of Isidore of Seville; J.P. Migne, *Patrologiae cursus completus*, Series Latina (Paris: Migne 1844-64) 83 col. 724

⁹⁰ Quoted in *ST*, II-II, 67.2 as from Augustine. In fact, the quotation comes from St. Ambrose.

than for the individual; for as a judge he is a public person and according to the first book of *Ethics* the common good is more noble than the individual.⁹¹

[5] For, should a judge pass judgment in favor of an innocent man who had nevertheless been convicted in a trial, it would cause public disaster because people would be scandalized and the road would be open for the innocent to be oppressed and the guilty acquitted. For then, if a judge wished to punish an innocent person, he might say that in his knowledge he knew him to be guilty; and similarly, if he wished to absolve a criminal. Thus the way to judging badly would be open to unjust judges. I admit that there are some people who think otherwise, but this is the more common and balanced opinion.

[CHAPTER SIXTEEN]

The two kinds of a judge's knowledge: namely, factual and verbal

But because the theologians' firm opinion is that he who acts against what he knows, sins:

[1] It should be known that knowledge is of two kinds: namely, of what is real and of what is said. Thus a judge may act contrary to knowledge of what is real, that is the affairs or things done, but still not act contrary to the knowledge of what is said, that is the testimony. For it is one thing to know something simply and another to know something as a judge should.⁹²

[2] For the judge has a dual personality: a private and a public. It can thus happen that he knows something as a private person and that he does not know it as a public one; just as it is said to know something as God but not to know it as man, as the Gospel is our witness. No one knows the day and hour (namely of the Last Judgment), neither the angels of God, nor the Son, but the Father alone; and it must be understood that the Son does not know this as a man, but knows it as God. The same is true of the priest hearing confession, who, even when questioned as a witness, may say that he does not know what he heard during confession, because he does not know it as a witness. Likewise, the judge should fashion his knowledge [even] in those matters that concern his private person according to those things that can be known in a public trial.⁹³

[3] Let me add two things. First, that if someone is the highest judge, such as the pope, the emperor or anyone else who is not bound by law, then he should follow the truth. However, if he is a lower judge, then he is held to pass judgment according to what is alleged and proven even against what he knows; and then he does not sin, because he is bound so to do by the authority of the law.

[4] Secondly: if the judge presides at court and someone happens to commit a crime before him, he can immediately punish him, as if proven by witnesses. For it is better to prove something through the deed itself than through witnesses. But if he is not presiding at court then it

⁹¹ Aristotle, *Ethics* I.2.

⁹² Cf. *ST*, II-II, 67.2.

⁹³ Cf. *ibid.*

is the opposite. Now if a judge saw from the window of the court-house or of his own house someone killing somebody else, and this homicide is not prosecuted, or prosecuted but not proven, and the judge wanted of his own will to put the killer to torture in order to elicit the truth by his confession, then he certainly could not do this. For the judge's knowledge in itself is not enough to put the accused to torture, because he does not know this as a judge but as a private person; moreover, his testimony could have no value in this case, because no one can be witness and judge in the same case. Therefore, he has to gather information from elsewhere, either witnesses or other documents, in order to torture the criminal.⁹⁴

[5] There is also doubt concerning the officers and executioners who know that witnesses have sworn falsely or that the judge has judged unjustly, but who are still forced by the judge to slay or otherwise punish the innocent. In this respect, the common opinion of the theologians is that if they know this for certain then they do not have to obey; but it is different if they are in doubt, because then they are excused by the merit of obedience. Similarly, according to St Thomas, they do not have to obey if the judgment contains a terrible mistake and wrong; otherwise the butchers who killed the martyrs could be excused. If, however, it does not embrace such a manifest injustice, then they do not sin by carrying it out, because it is not their duty to examine the judgment of their superior, nor is it they who cause the death of the innocent but the judge whom they serve.⁹⁵

⁹⁴ This is the only reference in the *Tripartitum* to the use of torture in extracting confession.

⁹⁵ Cf. *ST*, II-II. 64.6.

[PART ONE]

CHAPTER ONE

The three-part division of the laws and customs of the renowned kingdom of Hungary, in general

Having finished, with God's help, the noteworthy matters with which it seemed necessary to preface this modest work, it remains now to discuss in detail the customs of this renowned kingdom of Hungary.

[1] Since every customary rights that we use concerns either persons or things or actions, but as it is certain that all rights were established for the benefit of persons, it seems proper to start the treatment of the matter at hand with the law of persons, and then to discuss the other two parts of customary law (not always in a direct order, however, but sometimes in a reverse one, as is required by the nature and manner of business coming before the courts), so for this reason I thought it best to divide the present work into three parts.⁹⁶

[2] The first part of it treats upon matters concerning persons: namely, the ancient liberty of our nobility, and the acquisition, administration, division, sale, alienation, exchange, prescription, pledge and perambulation of boundaries of goods and property rights, the payment of the filial quarter and the dower, and the estimation of movable and immovable goods.

[3] The second part is about things⁹⁷ and the procedures to be followed in cases that are started and initiated regarding the aforementioned goods and property rights and other matters, as well as the executions and kinds of judgment to be passed in consequence.

[4] Finally, the third and last part of the work [treats upon] the rules and means of transferring and moving cases and legal actions by way of appeal into the royal court from all the counties of the kingdom, and also from Croatia, Slavonia, and Transylvania, and from the courts spiritual; then it will treat in proper order upon the laws of the free cities and upon criminal cases and how they are to be decided, including everything that is needed in respect of the aforesaid topics.

CHAPTER TWO

First part of the rights and customs of the realm in particular, and first that both ecclesiastical and lay persons enjoy one and the same liberty

⁹⁶This tripartite structure (which Werböczy did not observe in the following) goes back to Justinian.

⁹⁷Logically *rebus* should stand here instead of *rerum*. Cf. I.1.1.

It should first of all be known that of the persons whose rights and customs are discussed here, some are spiritual, that is, ecclesiastical, and some are lay.

[1] And although persons spiritual, designated by our Lord and Savior as the mediators of human redemption, are considered worthier than lay persons, all lords prelate, rectors of churches,⁹⁸ barons, and other magnates, nobles, and notables of this kingdom of Hungary,⁹⁹ enjoy, nevertheless, by reason of their nobility and temporal goods one and same prerogative of liberty, exemption, and immunity; nor has any lord more nor any nobleman less liberty.¹⁰⁰ For this reason they live under one and same law and custom, and follow one and the same legal procedure in court, and they differ from one another only in the amount of their man-price.

[2] For the man-price of the lords prelate and barons is one hundred marks,¹⁰¹ and that of nobles fifty marks, as will be explained more clearly below. And this is so not because of their liberty, but because of their dignity and office, namely the prelates by virtue of their priestly dignity, and the barons by virtue of the office they hold and to which they are raised by the prince.

[3] Hence, they stand or sit close to the king and they are the first to speak in council,¹⁰² and they precede other noblemen in promoting the commonwealth and in defending the fatherland, and by virtue of their dignity and office they are deservedly given preference over them.

CHAPTER THREE

The origin of our nobility and how government was transferred to our prince

It was my plan to describe the customs and the special and approved laws of this realm and not to write history. Nevertheless, since (as I have said) all lords prelate, barons, and nobles enjoy one and the same prerogative of exemption and liberty, and, in any case, many often ask whence our nobility, and from it all baronage and all other lordship has its origin, and who are and are

⁹⁸ *rectores ecclesiarum* may here refer to clergy in charge of non-episcopal churches.

⁹⁹ Barons meant above all the officers of the court (or such lords who held offices) (see I. 92), magnates would have referred to other great men without being actual members of the government; *proceres* (which we translate as notables) are listed in laws and charters ever since the fourteenth century, referring perhaps to more influential nobles, but that remains unclear.

¹⁰⁰ Cf. **11 December 1351:11**, where, however, this clause referred to the equalization of status of regional nobles with the “true nobles” of the rest of the kingdom. It acquired its central significance for Hungarian nobility through its insertion here.

¹⁰¹ The mark was a measure of silver (and sometimes of gold), often the unit of fines. Since the late thirteenth century the Buda mark (~245.54 gr.), belonging to the Troyes-mark type, was standard in Hungary.

¹⁰² The royal council was an informal body of major household officers (barons), prelates and viceroys who happened to be in the king's court at the time it convened; mostly referred to as *prelati et barones*.court. Full meetings of the royal council, to which individual summonses were sent, usually preceded convocations of the diet, in respect of which the royal council met separately in the manner of an “upper house.”

considered to be true noblemen of the realm, I have decided briefly to explain the history and origin of this nobility.

[1] It should be known that although, according to the common opinion of the learned, a nobleman is a man whom his own virtues ennoble, as far as it concerns our subject, the nobility, who are generally reckoned as free men, are said to have their first origin among the Huns or the Hungarians after they entered from Scythia into Pannonia (whose name changed and is now called Hungary after the Hungarians living here).¹⁰³ This is how it came about.

[2] When the Huns left Scythia with their wives, sons, daughters, and all their households, after passing and wandering through a number of lands, they first appointed captains and, moreover, they did by single accord elect and designate one judge to settle the quarrels of disputants and to punish thieves, robbers, and other wrongdoers; then, with the common consent and resolution of all, it was decided that when issues equally affecting the whole community arose or a general levy of the army was necessary, a sword or blade dipped in blood should be carried around the dwellings and encampments of the Huns and the call should be uttered by criers, saying: It is the word of God and the command of the entire community, that everyone must appear in such-and- such a place (naming that place), armed or any way he can, to listen to the counsel and command of the community and to hear its instructions.

[3] This custom was strictly observed among the Hungarians until the time of Duke Géza,¹⁰⁴ father of our glorious prince and apostle Saint Stephen, the first king of the Hungarians,¹⁰⁵ and many of the Huns fell into perpetual servitude because of it.

[4] For they passed a decision and a resolution that whosoever failed to heed such an order, unless they could offer a reasonable excuse, should either be disemboweled with a knife or be reduced to common and perpetual servitude.

[5] As previously mentioned, this sanction is said to have reduced great numbers of Hungarians to the status of common people. Otherwise it could not have happened that one of them became a lord and the other a servant, one a noble and the other ignoble and a peasant, since they all descended from one and the same lineage, that is, from Hunor and Magor.¹⁰⁶

[6] But after the Hungarians came to recognize the truth and receive the Catholic faith, inspired by the grace of the Holy Spirit and through the efforts of our holy king, they elected him their

¹⁰³ The identification of the Hungarians with the Huns and their country of origin with Scythia was a learned construction of medieval Hungarian chroniclers, eager to find a “place” for their people in the classical (and also Biblical) scheme of “ethnography.” See the introductory essay by Jenő Szűcs in Frank Schaer, László Veszprémy, ed. and transl. *Simonis de Kéza Gesta Hungarorum. Simon of Kéza, The Deeds of the Hungarians* (Budapest: Central European University Press, 1999) xxix-cii. The following four paragraphs are an almost verbatim quotation from the *Gesta* (ca. 1272-78), 29-31.

¹⁰⁴ Géza, grand duke of the Hungarians 972-997.

¹⁰⁵ Stephen I, grand duke 997-1000, and king of Hungary 1000-1038.

¹⁰⁶ The anonymous ancestor of the Magyars is first mentioned—as Magog—by the Anonymous Notary’s *Gesta Hungarorum* (ca. 1210), see “Anonymus, Notary of King Béla, The Deeds of the Hungarians &c.” ed. and trans. Martyn Rady and László Veszprémy in *Anonymus and Master Roger* (Budapest–New York: Central European University Press, 2010) 7. Simon of Kéza called him Magor and added Hunor.

king and crowned him of their own free will,¹⁰⁷ and then was transferred by the community, out of its own authority, to the jurisdiction of the Holy Crown of this realm and consequently to our prince and king, the right and full power of ennoblement, and therefore of donating estates which adorn nobles and distinguish them from ignobles together with the supreme power and government. Hence all nobility now originates from him, and these two, by virtue of some reciprocal transfer and mutual bond between them, depend upon each other so closely that neither can be separated and removed from the other and neither can exist without the other.¹⁰⁸

[7] For the prince is elected only by the nobles, and nobles are created and adorned with the dignity of nobility only by the prince.

CHAPTER FOUR

That true nobility is earned through military service and other virtues, and is validated by the donation of estates

Thus true nobility can be acquired through military skill and service and by other talents and virtues of mind and body. For when our prince gives a castle, a town, or a village or other property right to a man of whatever condition on account of his outstanding deeds or services, such a man immediately becomes a true nobleman by virtue of the prince's donation (followed by lawful institution), and he is entirely relieved of the yoke of servitude.

[1] And this liberty by donation our people call nobility. Therefore, the sons of such nobles are rightly called heirs and free men. And these nobles, because of the involvement and connection described immediately above, are considered members of the Holy Crown,¹⁰⁹ and they are subject to the power of none other than the lawfully crowned prince.

CHAPTER FIVE

That everyone is free to dispose of his goods obtained by him by his own services

¹⁰⁷ Stephen I was crowned in 1000 AD according to Thietmar of Merseburg in his *Chronicon*, IV, 39 [38] (W. Trimlich, ed., Berlin: Huetten & Loening, 1957, pp. 174–5) at the “encouragement” of the Emperor. There is no evidence for an election of any form.

¹⁰⁸ This clause gave rise in the nineteenth century to the “doctrine of the Holy Crown” (*Szentkorona-tan*) which claimed that the medieval kingdom of Hungary was a legally independent state whose king and parliament were joint possessors of legislative sovereignty. In the *Tripartitum* the context of crown membership meant, however, the system of royal land donations rather than either legal independence or the political rights of the nobility; see Péter “The Holy Crown of Hungary,” 448–80; briefly also in János M. Bak, *Königtum und Stände in Ungarn im 14–16. Jahrhundert* (Wiesbaden: Steiner, 1973) 6–8, 74–9.

¹⁰⁹ The gradual development of the use of the well-known medieval body-metaphor for the kingdom of Hungary and persons and communities constituting it was analyzed by Ferenc Eckhardt, in *A szentkorona-eszme története*, [History of the idea of the Holy Crown] (Budapest: MTA, 1941) and summarized in Bak, *Königtum*, pp. 75–7, with lit.

Such property rights as were obtained by military services are called by the legists a *peculium castrense*, but those obtained by someone's knowledge of letters or learning they call a *peculium quasi castrense*. It is called a *peculium*, in the sense of private or personal property, such that a son can do with it whatever he wishes, even against the wishes of his father, and vice versa.¹¹⁰

[1] This is the origin and foundation of our praiseworthy and ancient custom, approved long ago, that all barons, magnates and noblemen may always dispose freely and as they wish of all goods, chattels, and property rights obtained or acquired in any way by their own effort, service, or merit before a division takes place with their father or kinsmen, as shall be discussed more clearly below regarding cases of division between kinsmen.¹¹¹

CHAPTER SIX

That noblemen can be created without the donation of an estate; and that a coat of arms is not required in court to prove nobility

It should be known, furthermore, that one can become or be created a true noble in another way, without the donation of property rights: namely, when our prince separates and frees common people from servility and ignobility, placing and assigning them in the society, rank, and number of the true nobles of the realm. Such men are regarded as true nobles even without the grant of an estate, and these nobles, howsoever created, and all their heirs who descend legitimately in the male line must always be regarded as true nobles, even if they do not possess a noble coat of arms or letters describing the coat of arms and its grant.

[1] For a coat of arms given to anyone by the prince is not a prerequisite of nobility but it is better to have it. A grant of a coat of arms does not ennoble anyone in itself, as numerous burghers and common people possess coats of arms granted them by the prince, but are not by that counted as noblemen.

[2] Thus it is not necessary to present a coat of arms in court to prove nobility; all that needs to be produced is the letter of donation or letter of institution testifying to the grant of an estate; indeed, if these are lacking, a letter of quittance for payment of the filial quarter (provided the prescription of the royal rights has passed)¹¹² is more than enough to prove noble status.

[3] For the filial quarter¹¹³ is only paid from acquired property rights.¹¹⁴

¹¹⁰ Although Werbőczy twists the meaning of Dig. 49. 17 to suit his purpose, this is a plausible reading of the original civilian text.

¹¹¹ See below, I. 57.

¹¹² That is, 100 years; see below, I.78 [2].

¹¹³ The filial quarter (*quarta [filialis]*) was the hereditary portion of noblewomen due from the properties of their fathers. Scholarly debates on it were summed up in Ferenc Eckhart, "Vita a leánynegyedről" [Debates on the Filial Quarter], *Századok*, 66 (1932), 408–415; see also József Holub, "La 'quarta puellaris' dans l'ancien droit hongrois," *Studi in memoria di Aldo Albertoni* (Padua: Milani, 1935), III, 275–297. See now, Péter Banyó, "Birtoköröklés és leánynegyed. Kísérlet egy középkori jogintézmény értelmezésére." [Inheritance of land and the filial quarter: An attempt on the interpretation of a medieval

[4] From purchased [property] rights the girls and daughters of barons, magnates, and noblemen are given not the filial quarter but an appropriate share.

CHAPTER SEVEN

That children born to a noble father and a non-noble mother are considered true nobles, but not vice versa

Then, those born of a noble mother, and to a servile father are not called true nobles, unless the woman has been, perchance, perfected and made a true heir to the paternal rights by the king (without prejudice to the lawful successors).

[1] For her sons, even of a non-noble father, should in this case be regarded as true nobles (since perfection has and constitutes the same power and character as a donation or grant of property rights).

[2] Contrariwise, sons born to a noble father and to a non-noble mother are considered genuine and true nobles.

[3] For the father is the begetter, and the mother only gives and imparts shape to the begetting.

[4] You will find an explanation of how perfection can and should be done written below.¹¹⁵

CHAPTER EIGHT

That nobles are also made and created by adoption

Then, there is yet another way to become a noble, namely through adoption: that is, when a lord or nobleman adopts a person of servile or ignoble status as his son and presents him as the successor and heir to his goods, and royal approval is added to this adoption and it is followed by lawful institution to the property (since, like perfection, adoption with royal approval has the power of a donation), then this ignoble person and his sons are considered true nobles.

legal concept] *Aetas* 18:3 (2000): 76–92 and Martyn Rady *Nobility, Land and Service in Medieval Hungary* (Houndmill, Basingstoke: Palgrave, 2000), 103–7. On further details, see below I. 90–92.

¹¹⁴ Here and in the following paragraph Werbőczy contrasts acquired to purchased land in a misleading fashion which contradicts his previous statement in I. 5 [1]. By acquired goods should clearly also be understood here inherited and paternal property.

¹¹⁵ Perfection (*perfectio in filium, in heredem masculinum*, Hung. *fiúsítás*) was a royal privilege by which the king “promoted” the daughter (or daughters) of a nobleman without male heirs in the third (since 1397 fourth) degree, to a son, i.e., authorized her to inherit the paternal fortune just as if she were a man, starting a new kindred. Actually, Werbőczy does not give any precise definition or description of perfection. Cf. I. 17 and I. 50.

The four privileges and chief liberties of noblemen

Although nobles possess a great number of liberties, as are set out in the privileges and statutes of princes, I have thought to list here the four which are considered the main ones.¹¹⁶

[1] The first is that they can never be arrested by anyone in their person at anyone's instance, complaint or request without being first cited or summoned and condemned by judicial process.

[2] This right, however, is set aside in criminal deeds and cases, namely homicide, the burning of villages, theft, robbery, or banditry as well as rape, in which cases any such person loses the honor, title, and liberty of nobility. And, if possible, such a person may be freely arrested even by the hand of a peasant at the place where the crime and wrong was committed, and condemned according to his misdeeds and punished according to his deserts.

[3] However, if he flees the place of the crime and evades the hands of his pursuers, he must not afterwards be condemned and punished unless by way of citation or summons and judicial process.

[4] The second liberty is that the nobles of the whole realm are subject to the power of none else than the lawfully crowned prince (as explained above); even our very prince may not, by virtue of his ordinary power, disturb any of them in his person or his belongings upon anyone's mere complaint and malevolent suggestion, without going to law and without hearing the other party.

[5] The third is that they can freely use and enjoy as they will their just [property] rights and all revenues within the boundaries of their estates at all times; they are held entirely exempt and free of all servile obligations, and of paying taxes and dues, tolls, customs, and the thirtieth;¹¹⁷ and they need only serve under arms in defense of the realm.

[6] The fourth (not to mention the others) and last one is that if any of our princes and kings should venture to act contrary to the liberties of the nobles, then, as stated and expressed in the general decree of the most illustrious prince, our former Lord King Andrew the Second, called 'of Jerusalem' (which decree every Hungarian king is wont to swear on oath to observe before the Holy Crown is placed on his head), they have for ever more the liberty to resist and oppose him without the charge of infidelity.¹¹⁸

¹¹⁶ This chapter, in shorthand called the "prima nonus" (in essence going back to the Golden Bull of 1222,) came to be the major point of reference for the nobility until 1848.

¹¹⁷ The thirtieth (usually 5 %) was a custom duty that developed from different levies on merchandize. (In Transylvania it was a twentieth.). On its origins, see Boglárka Weisz, "Royal Revenues in the Árpadian Age" in: *The Economy of Medieval Hungary*, József Laszlovszky, Balázs Nagy, Péter Szabó and András Vadas ed s. (Leiden: Brill, 2018) pp. 255–64.

¹¹⁸ For the right of resistance see 1222:31. On the idea of it, see F. Kern, *Gottesgnadentum und Widerstandsrecht im frühen Mittelalter: Zur Entwicklungsgeschichte der Monarchie* (Leipzig: Koehler, 1914; English translation by S. B. Chrimes, *Kingship and Law* (New York: Praeger, 1956), pp. 1–147; for Hungary, see A. Degré, "Az ellenállási jog magyarországi története" [History of the Right of Resistance in Hungary], *Jogtudományi Közlemény*, 35 (1980), 366–377 and Zoltán J. Kosztolnyik, "De facultate

[7] By ‘nobles’ you should here generally understand all the lord prelates, barons, and all the other magnates, as well as the other notables of this realm, who (as explained above) are always protected by the prerogative of one and the same liberty.

CHAPTER TEN

That our prince is the true and legitimate successor of all the lord barons and nobles of the realm

Since it was said above that the full power of ennoblement and of granting estates has been transferred to our prince, it should accordingly be noted that our prince is the true and legitimate successor of all the lord barons, magnates, and other nobles and men of property of the realm when any one of them dies without heirs and descendants.

[1] For all their goods and property rights, by virtue of the aforementioned transfer, derive originally from the Holy Crown of the kingdom of Hungary, and always have regard to it and escheat to it when there is no lawful owner.

[2] Hence that custom arose, approved long ago, that a sole individual, lacking and without a true and lawful successor, is not free to dispose permanently of his property rights without royal consent. Indeed, he has no capacity to make a recognizance of pledge above their common estimation, as shall be discussed more fully below at the proper place.¹¹⁹

[3] Furthermore, our prince is also the true and legitimate heir of all the lords-prelates and ecclesiastics: not insofar as he may remove and sequestrate the goods and property rights from a church, but inasmuch as he can grant these to another person, together with the administration of a church, when an episcopal see or other ecclesiastical office is vacant; not including, however, the right of confirmation of archbishoprics and bishoprics, which is known to belong to the jurisdiction of the Holy Roman Church alone.

CHAPTER ELEVEN

That the pope retains no jurisdiction in the donation of ecclesiastical benefices in this kingdom other than his authority to confirm them

It is to be known, that even though the pope, that is the supreme pontiff, has two kinds of jurisdiction, namely temporal and spiritual, he does not exercise jurisdiction over the grant of

resistendi: Two Essential Characteristics of the Hungarian Golden Bull of 1222.” *Studies in Medieval Culture*, 5 (1975), 97–104. The estates resigned this right only in the seventeenth century.

¹¹⁹ See below I.60:8 (Cf. I. 65, III.30.). Recognizance (*fassio*) refers to legally relevant statements usually made in front of witnesses of a place of authentication (chapter or convent so authorized). For details, see I, 63 &c.

ecclesiastical benefices when they fall vacant in this realm, apart from the authority of confirmation.¹²⁰
And this is for four reasons:

[1] First, because of the founding of the churches. Since all churches, bishoprics, abbeys, and collegiate churches in this realm were founded solely by the kings of Hungary, they have acquired and won as a result of their founding every aspect of the right of patronage, nomination, election, and grant of benefices. For this reason, that is: by virtue of the right of patronage, the assignment of ecclesiastical benefices in this realm always belongs to our kings.

[2] Secondly, because of the adoption of Christianity. For the Hungarians embraced the Catholic faith not through apostolic preaching or the apostles, the prince of whom the pope represents and personifies in this world, but at the instruction of their own king, namely our most holy king Stephen, whom I have mentioned above. It was he who first founded bishoprics, abbeys, and collegiate churches in this realm; and he alone with the pope's approval conferred the prelates and benefices of these churches to whomever he wished (to suitable men, adorned with the virtues of goodness). In the words of the church's solemn hymn:

He, like Solomon, instated
Holy temples, gifts donated,
With crowns and jewels decorated
Altars and the Crucified.

And further:

Prelates he ordained as rulers, Tried
and trusted, learned scholars,
Whom the faithful saw as pillars,
Guardians of their piety.
Thus the talent to him tendered
Unto God twofold he rendered.
To the throne he then ascended,
His from all eternity.¹²¹

Here it is clearly described how it was he and none other that installed just and faithful prelates to govern the churches he built and enriched with gifts; and this is also clearly evident from his

¹²⁰ On the royal right of patronage see Elemér Mályusz, *Das Konstanzer Konzil und das königliche Patronatsrecht in Ungarn*, (Budapest: Akadémiai Kiadó, 1959).

¹²¹ Translated by the late Dr. Barbara Reynolds.

Life¹²² and the various privileges issued by him concerning the foundation and endowment of churches. The same, too, has been written by scholars of imperial and of papal law in their commentaries.

[3] Hence, he also merited the name of king and apostle, because he represented the apostles in this world by his teaching, good works, and example. For this reason he deservedly earned by grant of the supreme pontiff the right to have the double cross as his coat of arms as a sign of his holiness, so that he is rightly called king and apostle. Hence from his time the Hungarian people have and use the double cross as their arms and insignia. And the representation of the four rivers, namely the Ister or Danube, the Tibiscus or Tisza, the Sava, and the Drava, they took from the country of Pannonia where the Hungarians now dwell and live.¹²³

[4] Thirdly: because of legal prescription. For the kings of Hungary have for more than five hundred years continuously exercised truly and peacefully the right to grant such ecclesiastical benefices, ever since the reign of our holy king Saint Stephen, who was felicitously anointed and crowned king of the Hungarian people in the year of the Lord one thousand and one, until the present time, by which time the prescription regarding both the law of the church and of the holy apostolic see has many times and long since expired.

[5] Fourthly: because this liberty of the kingdom concerning the grant of benefices, together with many other liberties of the realm, was sanctioned and confirmed by solemn oath at the celebrated and general council of Constance (which, as is known, was presided over by thirty-two cardinals along with other ecclesiastics and numerous princes of Christendom) in the time of our lord king and emperor Sigismund,¹²⁴ as is clearly contained in the bull issued in this matter.¹²⁵

[6] And this council (to put it briefly) lasted for four years, beginning in the year of our Lord fourteen hundred and fourteen. In this council, finally in the year of Salvation fourteen hundred

¹²² The best-known *Vita* of St. Stephen, written around 1110 by Bishop Hartvick maintains that Stephen received what would be legate or apostolic powers from the pope; see, with English translation by Nora Berend, in Gábor Klaniczay (ed.), *Sanctitas Principum: Sancti Reges, Duces, Episcopi et Abbates Europae Centralis (Saec. XI-XIII) – The Sanctity of the Leaders: Holy Kings, Princes, Bishops, and Abbots from Central Europe (Eleventh to Thirteenth Centuries)*. Central European Medieval Texts Series, vol. 7 (Budapest: CEU Press, forthc.). On the claims of Hungarian kings to legate authority see J. Deér, “Der Anspruch der Herrscher des 12. Jahrhunderts auf die apostolische Legation,” *Archivum Historiae Pontificiae* 2 (1964) 117-86.

¹²³ The double cross appears on Hungarian seals and coins in the late twelfth century see, Josef Deér “Der Globus des spätromischen und byzantinischen Kaiser. Symbol oder Insigne,” *Byzantinische Zeitschrift* 54 (1961), 53-85, 239-319; see also Éva Kovács, “Signum crucis - lignum crucis : A régi magyar címer kettős keresztjének ábrázolásairól [S.c.-l. c. On the representation of the double cross on the old Hungarian coat of arms], in: *Eszmetörténeti tanulmányok a magyar középkorról*, György Sékely, ed. (Budapest: Akadémiai Kiadó, 1984), pp. 407-423. Werbőczy’s description of the dexter side of the Hungarian coat of arms is an early example of the identification of the four silver bars on gule with the four rivers.

¹²⁴ Sigismund of Luxemburg, king of Hungary 1387–1437, Holy Roman Emperor 1433–37, king of Bohemia 1420/37, presided over the Council of Constance.

¹²⁵ Cf. **6. April 1404**, on which see Mályusz, *Das Konstanzer Konzil* (as n.119, above)

and seventeen, Otto was elected pope and named Martin the Fifth.¹²⁶ In the following year, namely, fourteen hundred and eighteen, the council was dissolved on the command of the same Pope Martin and the said Emperor Sigismund, and at the same council John the Twenty-Third¹²⁷ abdicated from the papacy (albeit against his will), and Gregory¹²⁸ voluntarily quit and abandoned his claim. But Benedict,¹²⁹ resisting still and being unwilling to retire, was censured by a decree of the council and removed from the papacy. At the same council, John Hus and his disciple Jerome of Prague were burnt and given to the ashes as heretics. The schism, for the termination and healing of which the council (inspired by the Holy Spirit) was assembled and held, lasted, as it is known, for thirty-nine years; finally it was concluded through the efforts of the same Emperor Sigismund, and the long-desired peace and tranquility of the church of God was happily restored.

CHAPTER TWELVE

That every lord prelate and ecclesiastical person is obliged to swear homage of fealty to our king, and, in regard to their temporal goods, they must appear before secular judges

Since the granting of ecclesiastical benefices, together with that of the goods and property rights pertaining to the churches of God, is known to belong to our prince and king, all ecclesiastics of whatever order, grade, or rank who administer and own castles, fortified houses, strongholds, cities, towns, villages, estates, and deserted lands or any other property rights in this renowned kingdom of Hungary, are always accordingly obliged to swear an oath of fidelity to the lawfully crowned king and prince of this renowned kingdom of Hungary, just like any lay person of the ¹³⁰realm, notwithstanding the special liberty of their dignity and exemption.¹³¹

[1] And in respect of all such temporal goods as they own, as well as any act of might or other matter originating from these, they can be freely summoned and cited by their adversaries (if such there be) before any of the justices ordinary of the realm, before whom they are bound to reply and appear, just as laymen are.

¹²⁶ Martin V (Oddone Colonna) pope 1417–31.

¹²⁷ John XXIII (Baldassare Cossa) anti-pope 1400-15.

¹²⁸ Gregory XII (Angelo Corarrio) pope 1406-15.

¹²⁹ Benedict XIII (Pedro de Luna) anti-pope 1394-1417.

¹³⁰ Act of might (*potentia, factum/actum potentiae*; was a term used for delicts, committed by noblemen, against persons and property in a violent manner. “Criminal cases” falling into this category were fairly well circumscribed (referred to as *quinque casus*) and handled in a special manner, including judicial combat as the method of trial. Werbőczy writes repeatedly about major and minor cases of act of might, without ever defining either, obviously well known to his readers.

¹³¹ Laymen were not, in fact, required to swear to the ruler oaths of fidelity for their property rights. Rather, it was understood that land was donated them by the ruler on account of the faithfulness they had already shown, in the hope of prompting further demonstrations of loyalty. See thus I. 13 [2] and I. 13 [5].

Royal donations and their types, in general

As all the lord prelates, barons, magnates, nobles, and notables of the entire kingdom of Hungary and of the kingdoms incorporated within it and the lands subject to it,¹³² of whatever estate, condition, dignity and rank they be, have and own all their property rights as grants of their most serene highnesses, the lord kings of Hungary, it is thus proper that royal donations and their types in general should first be discussed.

[1] Here it should be known that a royal donation can be of two kinds: pure and mixed.

[2] A pure donation is a permanent grant by the prince of property rights which have lawfully reverted to the jurisdiction of the Holy Crown of the realm, to a person as a reward for service or outstanding merits.

[3] A donation is called mixed if it is obtained not only by service but also by paying an amount of money. The usual name for such a grant is an “inscription.”¹³³

[4] The royal majesty (by virtue of the aforementioned authority of the Holy Crown of this kingdom of Hungary) always has full power to dispose freely, at his will, of all the property rights of anyone who dies in default of issue and without heirs:¹³⁴ that is, he can keep them himself, or he can donate or inscribe them to whomsoever he wishes.

[5] And in order that the evil committed by wicked men should not go unpunished; and so that nobility and country-folk are not counted as equal; and, again, so that faithfulness and faithlessness do not receive the same reward: therefore, in order to crush the impudence and rebellion of the faithless, and to restrain the licentious wrongdoing of evil and shameless persons, our ancestors, as the rigor of law demanded and the needs of the common good required, decided and stated in a common decree that there should devolve upon the Holy Crown of the said kingdom of Hungary and hence be available for royal donation not only the property rights of anyone lacking issue (as mentioned above), but also (even during their lifetime) the property rights of those who audaciously and insolently rise up against the public order of the realm and in so doing spite the dignity of the royal majesty, or rashly and recklessly aggrieve others without legal cause, so that the example set by punishing evil-doers should deter some, while encouraging those others who happen to be granted the property of these men, to act and persevere in faithful service all the more fervently.

¹³² This formulation refers to the medieval kingdom of Hungary's claim to territories beyond the Hungarian-Croatian dual kingdom to areas on the Balkans and beyond the Eastern Carpathians, see above, the *Intitulatio* of Wladislas's diploma.

¹³³ See below I. 80. where it refers to property in pledge. The term *inscriptio* is otherwise used very rarely regarding property rights.

¹³⁴ For *semine deficiens* – *defectio seminis* (or simply *defectio*), the technical term for the lack of male heir, see below I. 22.

Cases that bring about the charge of infidelity

These are therefore the cases in which the royal majesty has the capacity lawfully and freely to give to whomsoever he wishes of any persons' goods, even in their own lifetime, and they are called charges of infidelity.

[1] The first case is *lèse-majesté*: namely, when someone lays impious hands on the person of our prince, or plots against his life by sword or poison, or violently invades the walls or house wherein the prince himself is staying.

[2] The second case is when someone openly rises against or opposes the public order of the king and the crown. However, if the attack is carried out in justifiable self-defense, it is not understood as bringing about the charge.

[3] Then, he who forges documents or uses false documents openly in court; or, who cuts or uses forged seals.

[4] Then, those who mint counterfeit coins, or who knowingly and publicly use these in great quantity.

[5] Then, those who kill or wound their kinsmen or blood relatives within the fourth degree. Similarly, parricides, uxoricides, and killers of their husbands. However, reckon only those killings of wives and husbands that are committed unjustly and outside the legal process.¹³⁵

[6] Then, those who seduce female relatives to the fourth degree inclusive. Or who violate a stepmother or commit incest, once they have been publicly condemned and outlawed.

[7] Then, public arsonists of villages and estates.

[8] Then, those who invite foreign bandits or mercenaries to disturb the internal order of the realm.

[9] Then, those who violate a letter of public trust or safe conduct, once they have been publicly condemned.

[10] Then, those who betray their lord's castles. Similarly, those who capture, take or subvert the castles, fortified houses, or other strongholds of any gentlemen of the realm,¹³⁶ once they have been publicly condemned.

[11] Then, those who kill, keep captive, beat, or injure the justices ordinary of the realm or their deputies in court.

[12] Then, those who kill litigants or parties to a lawsuit who are traveling to the royal majesty, or to the octave courts¹³⁷ or courts of short summons or any county court or any other court of

¹³⁵ It was thus possible to kill a wife caught *in flagrante delicti*: see below I. 113 [1].

¹³⁶ *Regnicola*, verbatim "inhabitant of the kingdom" was used in medieval Hungarian law for the members of the enfranchised nobility (and very rarely for all inhabitants). We translated it as "gentleman of the realm."

justice in pursuit of their case, or those going or proceeding to a diet and general assembly called by royal proclamation.

[13] Then, those who kill, wound, or beat royal bailiffs¹³⁸ or the witnesses of chapters or convents when they are engaged in any way in some legal business.

[14] Then, public heretics, namely, those adhering to one of the condemned heresies.

[15] Then, those who mutilate someone or gouge out his eyes, except the bans, voivodes, and others holding honors on the borders of the realm.

[16] Then, those who surrender the kingdom's border fortifications.

[17] Then, those who supply arms or victuals to the Turks and other infidels who are enemies and are bent on seizing the realm.

[18] Then, those who aggrieve, detain, or rob those people who, having renounced their cursed sect, flee from Turkey into this kingdom in order to stay here.¹³⁹

CHAPTER FIFTEEN

That the goods of robbers, thieves, and homicides are not subject to royal donation

It follows, therefore, from the cases above that the goods and property rights of thieves, robbers, bandits and other such plunderers, as well as those of homicides and those who otherwise wound or beat nobles (apart from the aforementioned exceptions) or invade their houses, or despoil or seize the estates, property rights, or the lands of others, do not devolve to the royal fisc and are

¹³⁷ Octaves or octave courts were the regular session of royal courts of justice; there were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times. In the later Middle Ages they gradually came to be in continuous session. Short summonses were issued for appearance in court within 30 days. County courts were the first instances for most minor offenses.

¹³⁸ Bailiff (*homo regius*, i.e. royal bailiff, or *homo* of any other judge) was the executive officer of a judge, who delivered summonses and assisted in the process of trial and punishment; also, an officer of the king, count or other lords, who performed similar tasks. From the thirteenth century it was prescribed that the bailiff be accompanied by a witness of a place of authentication (a convent or chapter authorized to act as such) recording the action. It seems that in lawsuits bailiffs were selected by the litigants from among the nobles of their counties. Royal clerks were also commissioned as specially delegated royal bailiffs with powers more extensive than regular royal bailiffs.

¹³⁹ From the beginning of the fifteenth century onwards, several orthodox southern Slav lords and their peasants moved to Hungary and Croatia, and became an important element in the country's defense system against the Ottoman advance; see .e. g., Ferenc Szakály, "The Hungarian-Croatian Defense System and Its Collapse," in J. M. Bak, B. K. Király, ed. *From Hunyadi to Rákóczi: War and Society in Late Medieval and Early Modern Hungary*, Brooklyn, 1982 (War and Society in Eastern Central Europe 3) pp. 141-58.

not subject to grant by the royal majesty. Such persons shall be condemned and punished with capital sentence; namely, thieves shall be hanged, robbers impaled or broken on the wheel, and the rest beheaded, according to their deserts.

[1] However, their goods and property rights (if and when they are sentenced to death) pass to their sons, or, if these are lacking, to their other kinsmen by blood or their lawful successors.

[2] Should the king pardon them, and the sentence has been carried out, then the sons, kinsmen, or other lawful successors can redeem their property rights by way of common estimation from the hands of the judge and the opposing party, that is of the party that asked for the sentence, as will be explained in more detail in the discussion of sentences in Part Two.¹⁴⁰

CHAPTER SIXTEEN

That the difference between the charge of infidelity and capital sentence is twofold

The difference between the charge of infidelity and capital sentence is twofold. First, because by the charge of infidelity, both the head and the inheritance, namely, the perpetuation of all the goods and property rights of the traitor, are lost, and none of his sons or kinsmen can ever recover their share of the inheritance of the property rights belonging to this treacherous man, blemished, dishonored, and condemned for the crime of infidelity (even if he is beheaded).

[1] Moreover, to make infidelity infamous and loathsome and to extol the sovereign virtue of flawless faith, his entire lineage and the descendants of his kindred will be for ever alien to him as far as the inheritance of his goods is concerned. By sons understand those ones already born, and not any who might be born afterwards. For the sons born after their father's condemnation or commission of an act of infidelity will rightly and in due course inherit their father's rights (providing their father has by then won the king's pardon, including the ownership of his property).

[2] However, this royal pardon shall be of no benefit to the mutual inheritance of his kinsmen in respect of the devolution of his goods, except to the sons begotten after the condemnation. Nor does it restore sons born beforehand and other kinsmen to their former position in respect of the rights of inheritance of the condemned man, unless they make a new agreement between themselves through a written recognizance regarding the devolution of the goods, and obtain the king's assent to this. Only in this way and not in any other can the dead and lost inheritance be revived and renewed.

[3] By capital sentence, however, the ownership and right of inheritance of goods and property rights is not lost, but if a condemned person has suffered the ultimate sanction by sentence, then all his goods and property rights devolve directly upon his sons (if he has any) or closer kinsmen or other lawful successors.

¹⁴⁰ See below II. 60.

[4] And if he deserved the royal pardon, but his opponent has had the sentence carried out all the same, then the sons, kinsmen, or other lawful successors can redeem the property rights by way of common estimation (as was said above),¹⁴¹ within the term set by the judge.

[5] Beside this, the charge [of infidelity] and [capital] sentence differ in a further respect: because if the condemned party has come or can come to an agreement with his adversary even though [capital] sentence has been passed and pronounced (but before it is carried out), then no royal pardon is necessary, nor can the judge interfere with the ownership of the goods and property rights of the person who has been sentenced.

[6] But if someone incurs the charge of infidelity, even if he has reached full agreement with the person whom he had injured in the aforementioned cases, he cannot avoid being sued by the person to whom the royal majesty granted his goods and property rights on the grounds of whatever charge [of infidelity]. For the person who obtained these goods and property rights has full power and means to bring and pursue a lawsuit, and, observing due process of law, to claim and acquire these goods by the jurisdiction of the Holy Crown of this kingdom—the dignity and authority of which was offended by the other's infidelity—and by the consequent grant of his royal majesty.

CHAPTER SEVENTEEN

Who are and should be regarded as heirs and descendants, and what goods belong solely to the males and what to both sexes

Furthermore, as I have digressed from the main subject (because of the need to explain at this point and make clear the distinction between the charge [of infidelity] and [capital] sentence), let me return to a more explicit discussion of the matter of royal donations, and first of all explain the clause "of those who die without heirs, that is in default of issue."

[1] It should be noted that the term "descendants" is understood as referring to all those who may lawfully succeed their father or mother, including posthumous children, be they male or female; whereas sons and daughters already born, excluding posthumous children, are referred to as "offspring"; while the term "children" equally embraces sons and daughters and male and female grandchildren. However, according to the ancient and approved custom of this kingdom, only legitimate sons who usually succeed in the paternal, hereditary rights are understood by the term "heirs".

[2] Although when the paternal or maternal goods and property rights belong to both lines,¹⁴² namely both the male and the female, the term "heir" can also be applied (albeit inappropriately) to daughters; since daughters do not therefore [normally] share in all the paternal goods and property rights, the correct name for them is not heirs, but rather descendants.

¹⁴¹ See above I. 15: 2.

¹⁴² We translated *sexus* here and elsewhere as "line," considering that the expression refers not only to a male or a female person but their successors of either gender as well. See also the usage of *ius foemineum* below in I. 18.

[3] And I say that they are called descendants not because of the common and usual devolution of paternal rights, but because of the continuation of the bloodline, and of the succession in paternal or maternal goods in cases in which these goods are lawfully shared.

[4] For only the property rights bought and acquired with the money of the father or mother, as well as those given and assigned as composition for the killing of a nobleman; and in addition those property rights that were transferred and inscribed permanently as filial quarter, or as a recompense and reimbursement for the filial quarter, shall follow equally the female and male line, as long as the transfer of the filial quarter in perpetuity shall not be prejudicial to the kinsmen or other rightful successors; so too those property rights to which the royal majesty has perfected girls or women, (but without prejudice to their kinsmen), making them true heirs in both lines.

[5] All other property rights, obtained in whatever way, shall belong solely to the male line.

[6] And I used the expression "bought with the money of the father or mother" advisedly, because girls or women, namely sisters, can have no share at all of the goods and property rights purchased with their brothers' money, and collateral female relatives have no right of succession nor can they acquire any share: they have the right to claim from the paternal rights either their proper share, as in the aforementioned cases, or the filial quarter only.

[7] I also used the expression "in both lines" advisedly. For if the royal majesty perfected a girl or a woman in regard to the property rights of her father or even of her brother (supposing the brother has no heir and has agreed to the perfection), making the female the true heir and male successor in a simple manner, namely without inserting the words "in both lines" into the letter of perfection: then, upon the death of the woman, these property rights can pass only to her sons (if she has any, but otherwise to the royal fisc), and her daughters shall be satisfied with the filial quarters which belong to them by custom of this realm.

CHAPTER EIGHTEEN

Why the female line does not succeed in property rights acquired by services

And if the question is asked, why does the female line not succeed in goods and property rights acquired by services, reply thus: because this kingdom of Hungary, with the lands subjected to it, lies amidst and indeed in the jaws of enemies, and has always been protected and defended by the sword and by arms; and our forefathers obtained their goods and property rights (in general) by warfare and by the shedding of their blood, just as they do today. Since girls and women do not and cannot wield arms or fight with the enemy, such goods do not belong to the right of the female line.

CHAPTER NINETEEN

In contrast, why do property rights purchased for money belong to both the male and the female line

If, in turn, the opposite question is asked: why do property rights purchased from the father's and mother's money belong to both the male and the female line (as was said above)? Then you should say this: because money is counted among chattels, and both sons and daughters receive equal shares from maternal as well as paternal chattels, and consequently daughters get their rightful share of the goods and property rights purchased with such money, from which they would as daughters duly receive some portion on the death of their father or mother.

[1] But when we consider the basic facts and essentials of the matter, we see that money, too, is usually obtained and gathered by extraordinary service and labor, and sometimes even at great cost of blood; and since women and girls cannot bear the burdens of war and sustain the defense of the kingdom in person, they do not merit an inheritable share in the purchased goods and property rights either. Nevertheless, lest they should seem to be entirely excluded from the inheritance of the paternal wealth and goods, the sons' fraternal love and the brotherly affection that they feel towards their sisters—which indeed, by divine law, they are bound to feel—permits it that the daughters along with the sons should have a permanent and rightful share of the aforementioned purchased goods and property rights, assigning to their husbands the tasks of battle and the burden of defending the realm.

CHAPTER TWENTY

Whether the goods of a person condemned to the charge of infidelity which belongs to both lines, belongs to both lines again if a pardon is granted

Then, it may be asked: if a person whose goods and property rights would otherwise belong and pass to both the male and female lines is condemned to the charge of infidelity, and he subsequently receives a royal pardon for his life and goods, do those of his daughters born after the pardon get an equal part of the paternal goods to the sons or not, since as a consequence of the charge of infidelity the earlier privileges had lapsed?

[1] The answer is yes: for by the royal pardon all the earlier privileges of the condemned man will come to life and regain their lost strength as far as his heirs and descendants are concerned (although only the direct ones and not the collateral ones); therefore these goods shall pass through both lines again.

[2] Unless it happens that the letter of pardon makes express exception on this point: for it lies within the power of the prince to grant pardon and to restore goods.

[3] The order of inheritance of such goods will accord with the manner and conditions under which the prince grants pardon and returns these goods.

[4] As for daughters born before their father's condemnation, there is no dispute. They will not lose their share on account of their father's crime; however, they will no longer come into mutual succession with him (as was explained above in the discussion of the difference between the charge of infidelity and capital punishment).¹⁴³

¹⁴³ See above I. 16.

Whether goods granted partly for services and partly for money belong to both lines

A further question: if either the royal majesty or some lord or nobleman has granted and inscribed to someone in perpetuity a property right, be it a castle, stronghold, town, village, or some deserted lands, in reward for some services rendered or out of favor and goodwill,¹⁴⁴ but at the same time against a certain amount of money specified in the letter of donation or even a letter of recognizance: does such a property right belong to both lines or solely to the male line?

[1] The answer must be the following: that it belongs solely to the male line, because the acquisition of property always has regard to the root and not to the branch or bough of the grant; hence it follows that these goods and property rights, by virtue of the root of their acquisition, are hereditary and not purchased.

[2] However, the daughters and persons of the female line can duly recover their own portions as are owed from this money.

[3] If the amount of money was so large and significant that the property right granted in the aforementioned way scarcely seems worth so much, then its value has to be set by way of common estimation by the men of the judge and of the place of authentication, and the sons must hand over that portion of the money which belongs to the daughters according to this estimation.

[4] Corollary: hence, from the root of the acquisition of goods it follows that, if one brother sells his own share to another brother, upon whom — in case of default [of issue] of the vendor—it would have anyway devolved in accordance with the right of kinship and inheritance, that portion does not belong to the female line.

[5] And under the term "portion", let entire estates and other similar property rights be also understood.

[6] Therefore, let the acquirers or purchasers of goods take care: for the way their letters are crafted will correspondingly determine the inheritance and devolution of their goods.

¹⁴⁴ In Hungary it was not a common practice that lords granted landed property to their servitors, *familiares* or anyone else for services, Werbőczy apparently accepted the reality of such relationships and grants, even though he did not discuss this institution at all. See Erik Fügedi, *The Elefánthy: The Hungarian Nobleman and His Kindred*, ed. Damir Karbić (Budapest: CEU Press, 1998), 33-4; Rady, *Nobility*, pp. 20-22; János M. Bak, "Feudalism in Hungary?" in: *Feudalism: New Landscapes of Debate*. Sverre Bagge, Michael H. Gelting, Thomas Lindkvist, eds. pp. 203-17 (Turnhout: Brepols, 2011).

CHAPTER TWENTY-TWO

The formula of donations “by default of seed”. What shall be understood by “seed”¹⁴⁵

Since this clause ("by default of the seed of so-and-so") is always included in and attached to the text of royal letters of donation drawn up concerning the goods and property rights of persons who lack heirs, some people have maintained that if the lord or nobleman in default of issue left behind daughters, then the words "the male line" must be expressly written in and added to such a letter of donation, so that the text of the letter of donation reads: “by default of the seed of so-and-so in the male line (and so on)”, and that otherwise the letter of donation is invalid, and he who obtains such goods may not be supported, in accordance with the argument and position that the seed of the deceased is not yet extinct since he has daughters.

[1] This opinion cannot be accepted. For by the word "seed" only the masculine, that is the male, sex is understood and not the female one. So it is pointless and unnecessary to add or insert what is included anyway in the meaning of the word.

[2] And the reason is because by nature (mostly) boys are conceived from the superabundant seed of men, while by contrast girls are begotten from the seed of women. So it is proper to say that a man's seed is extinct when his family is extinct in the male line, even though he has daughters.

[3] This is why sons born to a noble father and a non-noble mother are regarded as true nobles and follow their father's family and status, but not the other way round, as I have clearly explained above.¹⁴⁶

[4] However, if someone's goods and property rights manifestly belong to both lines, and both lines die out, then it is right and proper to insert the words “by default of the seed of so-and-so in both sexes, and so on” into the royal letter of donation, so that in this context succession be understood by the term "seed".

CHAPTER TWENTY-THREE

How long does the royal right last and when does it lapse

Because the royal majesty (as I said above) is considered the true and legitimate successor of all the kingdom's barons, magnates, notables, and nobles in default of issue,¹⁴⁷ there are some lords, nobles, and gentlemen of the realm: that is, men of property, who wrongly claim royal rights for themselves and make out that these have devolved to them either by title of pledge or on the basis of an invalid and unacceptable recognizance, not done with the necessary royal approval but under the fiction of some other right of succession or inheritance, or they otherwise inveigle

¹⁴⁵ Although we always translated *defectus seminis* as default of issue, in this chapter we had to retain the literal form in order to keep the gist of the argument.

¹⁴⁶ See above I. 7.

¹⁴⁷ See above I. 10.

themselves this way or that into possession of these goods (especially in times of wars and disorders), and keep, govern and possess them under the cloak of silence intending to consolidate and establish themselves in these property rights, taking advantage of the prescription by the passage of time.

[1] In which matter it should be known that the royal right over the goods and property rights of a *mala fides* possessor lasts for one hundred years, and during this period can be invoked, notwithstanding any countervailing prescription.

CHAPTER TWENTY-FOUR

What is the definition of the royal right and property right

Royal right is thus the tacit, hidden but existing jurisdiction of the Holy Crown of the realm over such goods and property rights as have been usurped by someone *mala fide* without royal consent.

[1] Under the term “property right” the reader should understand in general: castles, fortified houses, strongholds, cities, towns, villages, estates, lands, woods, and deserted lands.

[2] It must be noted, however, that the word *possessio* has two senses. First, it refers to the ownership, use, and management of goods, movable or immovable. In this sense it is called a *possessio* as if a *pedum positio* [“the placing of one’s feet”] into the use and ownership of something which somebody actually holds and manages.

[3] In another sense, however, (as in our context), *possessio* means and denotes a village. And correctly so: for castles, fortified houses, cities, towns, and deserted lands have their own terminology.

[4] However, under the term “property rights” understand here castles, fortified houses, strongholds, cities, towns, villages, parts of estates, lands, meadows, woods, and deserted lands, in general.

[5] We call a *praedium* [deserted land] a field which used to be inhabited by people, but which is now devoid of either buildings or peasants.¹⁴⁸ The word implies “subject to *praeda* (pillage)” and comes from the ancients, who held such lands as they had conquered in war to be *praeda*.

[6] Similarly, we call a plot or lot of a noble or a tenant peasant which is devoid of buildings and any inhabitant, a *praedium*.

[7] What castles, fortified houses, fortifications, cities and towns are is well known and needs no explanation.

¹⁴⁸ *Praedium* was earlier the name of a plot of land, cultivated by a family, see István Szabó, “*The praedium: studies on the economic history and the history of settlement in early Hungary*,” *Agrártörténeti Szemle* 5 (1963 Supplementum), 1–24. 72. By the late Middle Ages it changed its meaning to abandoned fields or settlements; as an example, see András Kubinyi, *Wüstungen, Zersplitterung der Bauernhufen und Wirtschaft in den Besitzungen der Magnaten-familie Garai in Ungarn* in: *Festschrift Othmar Pickl* (Graz: Leykam, 1987) pp. 367-377.

[8] Under the word “appurtenances” is commonly meant and included everything that belongs to a city, town, or a village: such as cultivated and uncultivated arable lands, fields, meadows, hayfields, pastures, open lands, woods, wood pastures, groves, hills, valleys, vineyards, wine hills, waters, rivers, fishponds, fish weirs, water channels, mills and sites of mills, and generally all fruits and revenues of the city, town, or village.

[9] Often, however, by “appurtenances” is meant all the jurisdiction of a certain castle, or all the immovable goods linked and belonging to the castle, wherever located, namely, cities, towns, villages, parts of estates, and deserted lands. But this name or sense is rarely used; cities, towns, villages, parts of estates, and deserted lands belonging to the castle are usually denoted, if not one by one then at least by a more general reference as to where they lie.

[10] And although the royal right can be generally applied and extended to almost any property right that is subject to royal donation and grant, made in any way or under whatever title, nevertheless, if a lord or noble is involved in or has committed an act or crime that invokes the charge of infidelity or if someone’s issue has recently become extinct, then his or their goods and property rights are usually not obtained simply by name of the royal right, but because of the charge of infidelity (which needs to be declared) or because of the deceased's default of issue, and in this type of donation the recipient often makes reference to the royal right lest it should exist in these goods in some other way as well). For the same reason, the above definition of the royal right shall be meant and applied not to this sort of royal right, but only insofar as it applies to concealers of royal rights.

CHAPTER TWENTY-FIVE

That those who unjustly obtain goods on the grounds of the royal right, shall be fined at the value of the perpetual estimation of those goods

If someone obtains for himself on the grounds of the royal right some property rights that had long been in the peaceful possession of a lord or noble, and if that lord or noble, when the term of the lawsuit filed against them has passed (and a case of this kind is nowadays usually concluded in four octave courts), can prove that he had and has a just title and good right to the possession of the property rights obtained, then the recipient shall be condemned and fined at the value of the perpetual estimation of the wrongly and unjustly obtained rights (the perpetual rights of which he wanted to usurp and to claim for himself, and of which he intended to deprive the lawful possessor for ever). Thus he should receive measure for measure and suffer the same damage as he wanted to do to the other.

[1] The same should apply to those who obtain from the royal majesty property rights for themselves on the grounds of the charge of infidelity, as listed before,¹⁴⁹ and are unable to prove the crime that brought about the charge of infidelity of those whose property rights they have obtained; such persons (if they refuse to drop their claim) shall be condemned to the value of the perpetual estimation of those property rights.

¹⁴⁹ See above I.14

[2] However, many believe that they should be condemned and punished only with a fine of the tongue, inasmuch as they maliciously defamed blameless and innocent people before the royal majesty.

CHAPTER TWENTY-SIX

That those who obtain goods on the grounds of someone's default of issue are not to be sentenced to any burden

And if a person dies without heirs and someone obtains from the royal majesty his goods and property rights as having devolved upon the Holy Crown of the kingdom on the grounds of that person's default of issue, and later in the course of a lawsuit filed in this matter it can be proved by means of documents that these same rights were not subject to royal grant but should have devolved upon some of the deceased's kinsmen or the female line or upon other lawful heirs, then the recipient is not subject to any punishment nor will any burden be placed on him. For he obtained these goods as being of ambiguous status, since the deceased lacked male heirs, so that the jurisdiction of the Holy Crown should be investigated in timely fashion and the doubt regarding the descent of these goods eliminated.

[1] For it may well be that the person who wins the suit and shows that the goods devolved to him, had not enjoyed effective ownership of these goods in the lifetime of the deceased, so even if the royal right was inserted or attached to such a letter of donation issued on the grounds of such default of issue, and providing the recipient does not choose to pursue the royal right further at law, he shall not on that account be punished with any judicial fine.¹⁵⁰

[2] But if he obstinately continues the suit by reference to the royal right, and loses it for a second time, then he will be subject to the aforementioned punishment.

[3] The recipient, however, can go to court in the matter of the royal right, if he wishes.

[4] Some, however, have judged that in this case, since the first part of the donation based on default of issue has been cancelled and annulled by virtue of the clause that is always inserted in the letter of donation (that is, "if the above stated facts stand and are true as presented" and so on), then the second part, regarding the royal right, must be cancelled and annulled as well. But, as it was true that the person whose goods were obtained died without issue, so it seems that the aforementioned clause does not apply to the whole donation and, by extension, to the annulment of the royal right itself; hence, the recipient can proceed lawfully with the suit in respect of the said royal right, if he wishes.

¹⁵⁰ The argumentation of Werbóczy is rather unclear at this point as well as in the next three paragraphs. It is possible that at this point Werbóczy conflates two different types of claim: that a nobleman has died without issue and that his land, having fallen to the crown, may now be obtained; and that the nobleman had no claim in the first place to the land in question, that it thus belongs by implication to the crown, and that it may accordingly be obtained.

That goods under litigation cannot be obtained on the grounds of default of issue

It should be noted that if someone initiates legal proceedings regarding the inheritance of some property rights, but dies without heirs before the conclusion and decision of the case, then in this instance the goods and property rights in dispute cannot be obtained from the prince on the grounds of default of issue.

[1] For the bloodline, which the deceased had in mind when taking action to obtain the goods, has become extinct; and although the prince is the successor of the deceased in respect of those goods that the latter possessed or might in his lifetime have possessed, he cannot be regarded as an heir by blood to those expectations which this other party had not yet acquired and established as his own but which still remain uncertain in law.

[2] By contrast, if he has goods and property rights in the hands of others, bound either in pledge or in return for a dower or filial quarter, or in any other redeemable way, then the royal majesty or the person who receives the royal donation, or upon whom they are bestowed, has the right to redeem them at any time.

[3] For an obligation of this sort does not exclude ownership of goods that the deceased possessed while he was alive.

[4] And the same shall obtain and be valid in every respect for adopted brothers, who are considered as lawful successors but not as the true heirs of their deceased kinsman, and who have every right to claim this redeemable property for themselves.

[5] This is whence the trite old proverb that “lawsuits cannot be sold or bought for a price”¹⁵¹ comes from. But this saying should not be understood as meaning that an unfortunate person, burdened by need and indigence or hindered by some other failing, cannot entrust someone to regain and recover goods which belong lawfully to him or to initiate and conduct cases and lawsuits brought about or arising therefrom, or that such a person cannot sell or alienate such disputed or contested goods on favorable terms. This proverb shall be understood as meaning that the person to whom the goods were sold, or who was asked to conduct the suit, cannot litigate under his own name in cases such as these, either during the lifetime of the vendor or after his death, but that he must conduct and prosecute the suit under the name of the vendor.

[6] Besides, the result and outcome of the suit being in doubt, until the case is decided in favor of the plaintiff, the vendor cannot in the meantime rightfully state that these disputed goods belong to him. For this reason the purchaser may not litigate under his own name for the goods claimed by the vendor.

[7] Hence, if the vendor should die during the suit, that is before he is able to reobtain the aforementioned goods by final sentence, then the purchaser loses both his investment and

¹⁵¹ We have been unable to establish the provenance of this proverb.

trouble.¹⁵² Because, for the aforementioned reason, he cannot litigate in that suit any longer, so it is evident that one cannot buy lawsuits, that is contested goods, at a price.

CHAPTER TWENTY-EIGHT

That goods acquired by royal donation do not belong to the right of the female line, even if the objectors were paid some amount of money

Then, it often happens that people obtain goods and property rights either because someone's issue has become extinct at his death or on account of some kind of charge [of infidelity] or even by title of royal right, and objectors come forward at the execution of this type of grant and obstruct institution by means of their contradiction; and then the recipients make peace and come to terms with these objectors and pay them a certain amount of money so that they may the sooner and the more easily take possession of the goods obtained, or otherwise free the goods completely from any further charges that may burden it, such as filial quarters, dowers, paraphernalia, or other such obligations.

[1] Hence some have assumed that such goods shall belong to the right of both the female and the male line, but this seems quite incorrect. For the quality of property rights shall always be considered as related to the root and origin of the acquisition, as was briefly explained above;¹⁵³ hence, these goods are to be considered as acquired property and as coming from the stem of donation, and not, by the ramification of payment, as purchased property.

[2] For the earlier donation was the cause of the subsequent payment.

CHAPTER TWENTY-NINE

What shall be done in case of a donation granted on the grounds of default of issue

How to proceed in cases where royal donations have been made and issued on the grounds of default of issue? What is to be done regarding goods and property rights that have been obtained before a suit is decided? And how should a case of this sort be settled and concluded? Since there are unequivocal references and articles on this matter in a general statute, the ways stated there have to be followed in this matter, although some of its clauses seem to be prejudicial to long-held custom of this realm. Nevertheless, I have decided to insert the relevant article of the decree, word for word, and to attach it here, to make the subject more easily known; and it starts thus:

[1] Then, if in any county the rights of a deceased person escheat because of default of issue and it is not clear whether such an estate falls under the royal right or belongs to the kinsmen or to the heirs in the female line, and there is doubt regarding these two, namely the right of the king and

¹⁵² *oleum et impensam perdet*. Cf. the latin proverb *oleum et operam perdere* e.g. Plautus Poen. 5.4.66. Cicero Fam. 7.1.3

¹⁵³ See above I.21.

that of others, that is, of kinsmen and of the female line, then those escheated and disputed rights and any other rights which might occur in these cases must be managed and held in hand until the devolution of the rights of such an owner deceased without heirs be announced by the judicial bench in our royal court, by a suitable lesser nobleman, elected in each county by the county's *ispán*, the noble magistrates, and other nobles gathered together in a meeting from among the middle-ranking nobles,¹⁵⁴ and not the barons or major lords, without causing any damage, except that he be allowed to make and to spend moderate expenses from the usual income of these properties, for which he must and is obliged to give account afterwards; and if, after the announcement, anyone should claim these estates and rights, he must within a year prove that he has a right to these; and if he can do so, then the Judge Royal¹⁵⁵ should order and carry out institution of the estate.

[2] If however, evidence fails him, the estates and rights shall remain under the royal right and whoever subsequently aspires to claim [these] will have to seek his rights at law from the hands of the king.

[3] Where, however, wives or daughters of men dying without male heirs are left in the estates and rights of such a man, these estates and rights ought not to be seized and taken from their hands until the truth is established about their rights: namely, whether these rights belong by inheritance and in perpetuity to the female line or not.

[4] If it is found that these rights do not belong to the female line, then, before the wife of such a deceased man is excluded from the ownership of the aforesaid estate, she is to be given by the royal majesty or by those to whom the rights devolve, full satisfaction for her dower and other rights.

[5] For the daughters, however, the paternal house and a quarter of the property are to be set aside as the filial quarter and kept in their possession until the time of their marriage, in accordance with the customs of our country.

[6] After the daughter has been given away and married, she should be given satisfaction by way of a monetary payment for her rights to the filial quarter.

[7] When, moreover, one of these daughters marries a man without property, then she should enter into possession of the filial quarter according to the same customs of our country and keep it in perpetuity.

¹⁵⁴ The *ispán* (*comes*) was the head of the county ever since the time of the foundation of the kingdom, in the later Middle Ages he was often a great lord at court, holding more than one county and having his retainer, the *alispán* administer the county; noble magistrates (*judices servientium, nobilium*, Hung: *szolgabíró*) were elected noblemen both assisting the *ispán* (or *alispán*) and representing the community of the county's noblemen, who regularly met at local assemblies for various legal and financial matters.

¹⁵⁵ The Judge Royal (*judex curiae regis*, Hung. *országbíró*), originally the officer in charge of the royal court (*comes curialis regis*) and thus the head of household servants, acquired high judicial functions once the count palatine became the itinerant judge of the entire country (c. 1200). From then on, the judge royal passed judgment in the name of the king (*presentia regis*) and soon acquired extensive jurisdictional functions, with a notarial and legal staff, including a *vicejudex curiae regis*, residing in Óbuda. The judge royal (or justiciar) held a separate court in the royal curia, where he tried cases of the nobility. Some towns came to be briefly subject to this judge.

[8] Providing she married the aforementioned propertiless man with the knowledge and permission of her brothers and of those kinsmen of hers to whom these rights and the filial quarter would otherwise have devolved after her marriage.

[9] Otherwise, if she gets married either from the paternal home or from the court and service of a baron or a major noble without the knowledge and permission or without asking the consent of her brothers, kinsmen or her parents, she cannot demand her filial quarter in land, but [only] as a monetary satisfaction.¹⁵⁶

CHAPTER THIRTY

Explanation of the article of the decree issued regarding goods obtained on the grounds of default of issue

This article, as I have noted above, seems to slight the ancient customs of the realm. First of all, in respect of the announcement of the aforementioned disputed rights.

[1] Secondly, in its failure to set a date for the octave court.

[2] And thirdly, in giving out the filial quarter to girls who marry commoners..-

[3] For, according to the old and approved law of the realm, an announcement of this sort should be done not in the court of the royal majesty, but at the location of the property rights, preferably at the usual residence of the person who [has died] in default of issue, at the time of the institution in the presence of the neighbors and abutters. And all those who contradict the said institution, or any others who subsequently wish to involve themselves in and to join in this case and lawsuit— be they the deceased's daughters living in the paternal residence, or his kinsmen or other kinsmen of the female line—must, within a year of the day of the institution and announcement, present their rights before their specially and explicitly assigned judge, that is: nowadays the Lord Judge Royal (while previously it used to be done before the Lord Palatine¹⁵⁷), whether he holds or not an octave court, and prove that those goods belong to them and that they have the right to possess them. Otherwise these goods devolve to the royal right, and, will pass into the possession of those to whom the royal majesty grants them.

[4] All this is quite clearly stated in the decree of the most serene prince, the late Lord King Matthias,¹⁵⁸ whence this article, albeit modified and altered, has been extracted.¹⁵⁹

¹⁵⁶ Almost verbatim from **8 March 1435 17-18**, Cf. **25 January 1486:26**.

¹⁵⁷ The Lord Palatine or count palatine (*comes palatines*) was originally the head of the king's household and highest officer in the realm. By the mid-twelfth century he had become the king's deputy and commander of the royal host; he gradually moved out of the court and served as the king's itinerant judge administering justice to the nobles. The palatine also became the judge of the Cumans. The election or selection of the palatine was a contested issue between king and estates. (Werböczy was elected count palatine for a year between 1525 and 1526.)

¹⁵⁸ Matthias I Corvinus, king of Hungary 1458–1490.

[5] The judge is designated explicitly in these cases of default of issue in order that either party may¹⁶⁰ turn to his judge within the set term and claim justice from him in the case.

[6] And the girls (as it is said in the article) stay in the paternal house with one quarter of the goods, until they are married.

[7] Nor can the wife, that is the widow of the deceased, be excluded from her husband's house and residence until she remarries, as will be explained more clearly below when discussing payment of the dower.¹⁶¹

[8] Girls, too, that is the daughters of nobles, shall not be given in marriage with the consent of those men or women, who might benefit from their quarters, but with that instead of their father or kinsmen, who are obliged to pay the filial quarter.

CHAPTER THIRTY-ONE

Those who intervene in another's lawsuit with royal right

Then, in respect of a royal right newly obtained, if anyone intervenes in the case of another with a letter of donation, neither the respondent nor the plaintiff is required to produce on the spot letters in support or against this, but the person who obtained [the donation] shall proceed with the royal right according to the custom of the realm, whether it be the plaintiff or respondent who triumphs. Otherwise, if both fail to prove their claim, the royal right will prevail.

[1] And in this case the judge of the lawsuit, even after he has concluded and declared the sentence between the original parties, must admit before him the letter of donation on the same royal right from the recipient, and he is bound to give his judgment on it to him.¹⁶²

CHAPTER THIRTY-TWO

That every royal donation must be confirmed by lawful institution within the course of one year

And it must be known that every royal donation which is issued and made either on the grounds of the default of issue of some deceased person, or on grounds of the charge of infidelity of some evildoer, or in the name of the royal right against those retaining royal rights *mala fide*, or under

¹⁵⁹ Although the decree of Matthias **1486:26** in fact treats about the same matter, Werbóczy quotes the text of **8 March 1435**.

¹⁶⁰ *sciat recurrere* seems to be a Hungarism (*tudjon fordulni*).

¹⁶¹ See below I. 98–99.

¹⁶² Neither the procedure nor the essence of this paragraph is entirely clear. The gist seems to be that, in a property-dispute between two parties, in which a third party appears, claiming that the disputed land has been given to him by the king, the original case should be judged first.

the title of a new donation in respect of those holding their goods lawfully, must be confirmed and made permanent by lawful institution within the course of one year from the date of the donation, whether any contradiction is made or not.

[1] Otherwise the power and effect of the donation will cease, and it will be invalid and without force.

CHAPTER THIRTY-THREE

Letters of institution, letters of perambulation, letters of notice, and short summons. How many days may pass before their execution

In respect of this it must be noted that the validity of royal letters of introduction and institution to any donation, issued and composed with a statement on services, and beginning by way of introduction with the words "When we, suitably appreciating, *etc.*" or "When we took notice and consideration of, *etc.*", as the wording and content of the text of a donation may put it, lasts and remains in force for execution for one year after such a royal donation.¹⁶³

[1] All other such letters, including letters of introduction and institution, those of recapture, as well as letters of the perambulation of boundaries and even those of notice, that were issued with the introduction "We were told" and close with the clause "To a suitable term *etc.*" are regarded as valid for execution within only sixty days of their date of issue..

[2] However, if an octave term is appointed and written down in these letters of institution, recovery, perambulation, or notice, within which a person should be summoned (on the grounds stated in the letter), then the execution of the letter can be done properly and lawfully by the eighth day of the feast, the octave of which was inserted and written in the letter. But this should be understood as the eighth day before, and not after, the feast.

[3] Regarding letters of summons, issued in respect of any act of might for the thirty-second day, procedure shall start within sixty days of their issue, in accordance with present custom. Otherwise, these also lose their force.

CHAPTER THIRTY-FOUR

What force do letters of institution have with a specification [of services] and without

But it should also be known that every royal donation, given by whatever title and right, can be sent for execution not only by a letter of introduction and institution issued with a statement [on services], that is, with the clause "When we *etc.*", but also by a simple letter with the other clause "We are told, *etc.*" given by any of the judges ordinary of the kingdom.

¹⁶³ It seems that, at least from the end of the fifteenth century, the introductory *formulae* indicated the legal character of the different "writs." Werbőczy, as an experienced judge of the royal courts often refers to such *formulae*.

[1] But if the institution is done with [a letter containing] the clause "We are told", then in any suit the letter of royal donation will need to be presented in addition to the letter of institution, to make it clear by what title or right and under what conditions the donation was made; for otherwise the institution itself will be considered as having no force.

[2] But if the introduction and institution was done with a statement, that is, with the clause "When we, *etc.*," then, if the letter of donation issued in this matter gets damaged or lost, the letter of institution will in itself suffice, for it contains the circumstances of the donation and the reason or cause on account of which the donation was made.

CHAPTER THIRTY-FIVE

Royal letters of consent issued without a verbatim text of the recognizance

And the same as was said before about letters of institution shall be applied to all letters that express the royal approval. That is, if the recognizance to which His Majesty gave his royal consent is not inserted in the same letter of consent word for word, then this royal approval shall be rendered totally ineffective and invalid, unless the original recognizance is presented to the judge.

CHAPTER THIRTY-SIX

New royal donations in general and where they come from

Then, there are some who, under the title of new donation, obtain goods and property rights from the royal majesty often with their entire royal right, for themselves and for their heirs, and they maintain that their ancestors had from olden times, or at least they themselves from the time they acquired and obtained them, undisturbed ownership of these goods.

[1] And although most make use of such a new donation lawfully and bona fide, on many occasions fraud is committed in this area by some others, mindless of their salvation.

[2] For there are people who endeavor by this to exclude the female line of their kindred from these property rights by hiding, burning, or otherwise destroying the original letters that would prove that the property rights were purchased or else belong to both the male and the female lines by other title; while others, repudiating brotherly love, and favoring their wives and daughters— especially when they see that their seed might default in their person and fear that their property rights may devolve upon their kinsmen by blood—have the names of their wives and daughters written into the letter of new donation, bypassing their kinsmen, and endeavoring to exclude, or rather rob, them of those goods and property rights.

CHAPTER THIRTY-SEVEN

The explanation of a new donation; and how it can be understood in two ways

It should be known that a new donation with the clause which is nowadays customarily included, namely: “and he maintains that his forefathers were and he still remains at present in the peaceful possession of this or these (and so on),” is simply a repeated confirmation of some earlier lawfully-granted donation.

[1] Thus, by its own name, it always presupposes either a prior donation or the acquisition of those goods by some other way.

[2] But, to make it easier to understand this explanation of the new donation, it should be noted that a new donation can be understood or considered from two perspectives: first, in respect of the jurisdiction of the Holy Crown of the kingdom, or of our prince to whom donation pertains; and secondly, in respect of the kinsmen and the persons of the female line.

[3] In regard to the jurisdiction of our prince, a new donation neither demands nor presupposes an earlier donation. For if it is agreed that an earlier donation of a certain property right was granted lawfully and that a correct institution followed, then there is no need to obtain anew the grant of that property right; instead, that previous donation needs to be confirmed.

[4] Indeed, even this confirmation seems unnecessary, as confirmation is not an essential part of a donation and of the ownership of a property right, but merely does good to it.

[5] Nor is the confirmation in itself of use if the donation inserted in it is recognized as invalid. So new donations—either together with the royal right or simply—are usually obtained from the prince for the following reason: because the recipient, although he has ownership over some property rights, believes that he may possess and own it improperly or against the jurisdiction of the Holy Crown. (For not all lords and nobles hold their property rights by royal donation, but on the basis of letters of recognizance or privilege of different titles and colors.) Hence, they strive to mend the defect in their right, through this donation from the prince, and effectively correct it.

[6] This donation is called new for the reason and to the extent that it is a grant of goods by the prince to a person which is at the time newly made; as in certain letters of privilege and donation of the most renowned princes, the late lords Louis¹⁶⁴ and Emperor Sigismund, kings of Hungary, I have seen and read grants of estates with the title of new donation issued without any clause inserted and without any mention that forebears of the recipient or the recipient himself had ever been in possession of these newly granted goods and property rights, but merely with a specification of services (as it is usual to do in every donation). On these grounds I believe and maintain that these grants of estates, as well as the issuing of the letters regarding them, were made and issued under the title of new donation; in other words, whether or not the recipient had previously been in possession of the goods, the prince granted them to him at that time, and not earlier.¹⁶⁵

[7] Because if he had previously granted these rights and goods, then (as I have said) he would not have needed to obtain a new donation, but rather the confirmation of an earlier one.

¹⁶⁴ Louis I, king of Hungary 1342-82.

¹⁶⁵ Werbőczy indicates correctly here that a great number of royal grants of land made from the mid-fourteenth century onwards were given under the title of new donation, even though he cannot discern the reason for this. See Pál Engel, “Nagy Lajos ismeretlen adományreformja” [An unknown reform of donations by Louis the Great] *Történelmi Szemle* 39 (1997), 137-58.

[8] And this kind of new donation, granted either with royal right (as was said above) or just simply, always has force and is effective regarding the jurisdiction of the Holy Crown, that is, against the jurisdiction of our prince. Nor can anyone else henceforth obtain this property right either on the grounds of royal right or of default of issue.

[9] For by rights, once a donation has been granted by the prince, it cannot be taken back again either by him or by others. It only needs to be that the recipient himself or his forebears held that property right truly and peacefully (that is, not by having usurped it by pure violence or by reckless seizure). Because otherwise if the goods were obtained under the aforesaid title fraudulently or unjustly—if, say, someone states that a certain village or estate was his and that he had long been in ownership of it, when in fact the property was not his but belonged to the royal majesty and had long ago been lawfully assigned to one of his royal castles¹⁶⁶—then in this case and in similar cases the donation is of no value at all; indeed, the recipient shall be severely punished as a counterfeiter and a liar.

[10] It is different when a powerful person usurps for himself a village by raw power and reckless seizure and spends a year in its ownership claiming it wrongly, and then tells the royal majesty that he has long had effective ownership of the village and so obtains it under the title of new donation. For this donation has no effect, even when done with the royal right, and should be considered without consequence in respect of the rights of the person from whom he had seized the village, because both the petitioning and the obtaining of it are proven to have been done deviously.

[11] Secondly, new donation can be understood and considered in respect of the kinsmen and (as was mentioned before) persons of the female line, and the definition of new donation shall be understood with this in mind.

[12] Thus, for the purpose of proving that property rights obtained as a new donation with the aforementioned clause "in the peaceful possession of which, *etc.*" do not belong to the female line, neither the letter of new donation itself, nor even a letter of division issued between the kinsmen of the male line and a letter of quittance regarding the payment of the filial quarters is regarded as sufficient. Rather, the original letters, by which the same property rights were earlier acquired, purchased, or in any other way received, must also be produced in court.

[13] And if these cannot be produced and exhibited, because they do not have them (for it is well known that the letters of privilege and other documents of many nobles and men of property¹⁶⁷ have been destroyed by the enemies of the realm in times of upheaval, or are frequently devoured

¹⁶⁶ Estates of the royal domain were attached to royal castles for their upkeep etc. See Erik Fügedi, *Castle and society in medieval Hungary (1000–1437)* trans. János M. Bak (Budapest: Akadémiai Kiadó, 1986).

¹⁶⁷ Werbőczy (and some other legal texts) have these two groups, whereas, to our best knowledge, all property in medieval Hungary was in noble hands; the issue was discussed, without a solution, by György Bónis, *Hűbériség és rendiség a középkori magyar jogban* [Feudalism and corporatism in medieval Hungarian law]. (Kolozsvár: Nagyenyedi Bethlen-Nyomda, [1947], repr. Budapest: Közgazdasági és Jogi Könyvkiadó, 2000).

by flame even in peaceful times), then an oath must be taken by fifty nobles including the defendant,¹⁶⁸ chosen from among those with the title and privilege of true nobility.

[14] If he can offer this oath, he is freed from the obligation to hand over land, and he only has to pay the filial quarter if he does not have a receipt or certificate in this matter.

CHAPTER THIRTY-EIGHT

What is the origin of the betrayal of fraternal blood

If, on the other hand, after taking such an oath the recipient made use of those said original letters either personally or through his advocate, or it can otherwise be shown and proven with sufficient and written evidence that he hid them and, contrary to the content of those letters, obtained these property rights for himself under the aforementioned title of new donation wrongfully and in prejudice of the rights of his kinsmen and the female line, and left out from the letter of donation the names of those to whom he knew the goods rightly belonged, and by this sought wrongly to exclude his brothers and sisters from the inheritance of the goods: then such a person shall be duly condemned for perjury and the betrayal of fraternal blood.

[1] Similarly, all of his oath-helpers shall be condemned outright as oath breakers and punished for perjury.

[2] And if an oath taking did not precede his act, and only the intention to exclude from the inheritance is proven, then there is no punishment for perjury, and the charge will only be the betrayal of fraternal blood.

CHAPTER THIRTY-NINE

The definition of the betrayal of fraternal blood, and its punishment

Betrayal of fraternal blood is the deceitful, sly, and fraudulent deprivation or disinheritance of a brother or sister from their lawful rights by their brother or sister.

[1] By the terms brother and sister should in this context be understood any member of the kindred who succeeds equally in the property rights.

[2] The punishment for betrayal of fraternal blood is, besides the inherent dishonor and infamy it attracts, that the person condemned of betrayal be deprived in perpetuity of all his goods and property, and the entirety of these goods and property shall be transferred to the same brother or sister whom he tried to defraud, deprive, and disinherit of his or her lawful rights; moreover, he shall be given over to him in his person for service and care, and the betrayed brother or sister shall be obliged to clothe and feed him to the end of his life as a member of his household.

¹⁶⁸ We have chosen this awkward translation because the Latin (and Hungarian) term for this kind of counting the oath-helpers does not exist in English.

[3] The same applies to the wives and daughters of any lord or nobleman, should any of them arrange through someone's petition to the royal majesty that he [the royal majesty] prefer her in regard to her father's goods (even if they belonged to the right of the female branch anyway), and, by doing this, schemes to deprive of those goods the other females of the same kindred or line.

[4] Moreover, if any brother or sister obstinately denies that a person belongs to his or her kindred, and the denied person can subsequently prove by means of written documents or, lacking such proof, by oral testimony going back sixty years (but no more), that he is of that kindred: then the punishment of betrayal of fraternal blood shall follow in these cases, because he has demonstrated his desire to defraud and disinherit the other of his or her just rights.

CHAPTER FORTY

The division of paternal and ancestral goods among brothers

After the preceding explanation of royal donations, we need to return to their ramifications.

[1] First, goods and property rights acquired through donation by brothers born to the same father shall be discussed; then those that were acquired or obtained by any other means, and then their division.

[2] Here it should be noted that all the paternal and ancestral goods and property rights of any lord, baron, magnate, or nobleman, by whatever name called, shall be divided equally among the sons of the same lords and nobles (that is, the brothers of the same father) and be apportioned into as many parts as there are brothers. The paternal house shall be assigned to the youngest brother to reside and live in, in such a way, however, that other houses similar to the paternal one shall be erected and built for the other sons or brothers from the common revenue of the said goods and property rights, on commonly owned land wherever any of them want them.

[3] And to these shall be set aside, assigned, and joined in perpetual ownership as many and as much of the similarly common arable lands, woods, meadows, and hayfields as are known to belong to the paternal dwelling.

[4] And this only holds true if there is enough common land, woodland, and meadow to make and complete such a division properly.

[5] Otherwise, all the lands, woods, meadows, and hayfields pertaining and belonging to the said paternal house shall be divided into as many parts as there are new residences to be built, and an equal share shall be assigned for use to each of those houses.

[6] However, these shares shall include the quantity and portion of those lands, woods, and meadows that belong to the lot or plot of the tenant peasant on which the new house is built.

CHAPTER FORTY-ONE.

What if the paternal house is of stone or built at great cost

When the paternal house is built and constructed of stone or brick or otherwise at great cost, and it is held to be estimated so high that similar houses could not be built from the common revenue of the goods, or not even one could easily be constructed, then in this case the paternal house shall be scrupulously estimated and valued by the bailiff of the judge with the help of stonecutters, masons, and carpenters, and the estimated amount shall be divided into as many parts as there are brothers, and the youngest son or brother will get his portion for free.

[1] But he must compensate the other brothers and refund their portions in cash according to the decided value and estimate.

[2] And understand this to happen when the youngest brother is of such an age that he is unable to manage his own affairs properly; otherwise the brothers have to divide up equally this expensive building.

[3] Finally, if those goods and property rights devolve upon the female and the male line equally, and sons and daughters remain after their father's death, and one of the girls is the youngest of all: then in this case too, the paternal house shall be given as a residence not to the girl, but instead to the brother closest in age to this youngest daughter, as the worthier person and sex, although under the aforementioned conditions.

CHAPTER FORTY-TWO.

That the written instruments shall be kept by the eldest brother

The same rule shall be applied to the keeping of charters and written instruments; namely, the charters and written instruments regarding and pertaining to the matter of their goods and property rights must be given for safekeeping not to an older daughter but to a brother even if he is younger than she; because these are always kept by the eldest of the sons or brothers.

[1] This holds true when the eldest brother is of sound mind, and is not mad or insane, when he is not evidently squandering his goods, and when he does not plainly strive to disinherit his other brothers of the paternal and ancestral goods as well as of his own.

[2] In such cases, the charters and written instruments shall be given and assigned for retention and safekeeping not to the eldest brother but to the second of the brothers who is the next in line of descent from the father.

[3] The daughters, however, may before the justices ordinary of the realm ask for a copy or transcript of the charters and written instruments regarding those goods that belong equally to both lines, and their brothers are obliged to give them these.

[4] Furthermore, it should here be known that all earlier or future cases and lawsuits brought against the brothers in the period preceding the division shall be attended (albeit at common expense) by that brother to whom the safekeeping of the charters pertains.

CHAPTER FORTY-THREE.

The division of goods acquired by brothers, and the clause *per eum* (“Through him”) in [letters of] donation

It shall further be noted that if two or more brothers or half-brothers have not made a division of paternal or ancestral goods and property rights, and one of them is serving at the royal court or in the household of some lord while the other is managing the house and the land; and the one who took up service obtains certain goods and property rights in reward for his services from the royal majesty or perhaps from another lord, and he has the names of the brothers who stayed at home written and inserted in the letter or privilege of donation with the clause, “And through him, *etc.*”; then, in the period before division between the brothers, the person who obtained the donation is free to dispose at will of any such goods as he received and acquired. And understand this as meaning that he does not usurp and retain them unlawfully for himself or for his heirs under some guise, but up to that time can actually alienate them. However, at the time of the division, each and every one of the brothers can justly claim the share due to him, in portions equal to the main recipient himself.

[1] For property rights mentioned in letters of donation or privileges shall always be divided into as many parts as the number of persons or the names specifically noted in the same.

[2] Unless there is a stated exception or distinction regarding this in the letter.

[3] So the clause “through him, *etc.*” should not be understood as the equivalent to “after him,” as some people, trying to be cleverer than they should be, have thought to interpret it. And hence they argue and make out that the other brothers cannot receive shares from goods acquired and received while the main recipient is still alive, but they should be divided up among themselves and the sons of the recipient [only] after his death. But this is not to be accepted.

[4] Because joint-owning kinsmen must, up to the time of the division, share equally the yields and the losses, and accept and suffer both.

[5] Hence, even if the names of particular brothers, half-brothers or cousins who have not divided the possessions among themselves are not included in such a letter of donation, at the time of the division each of them (as was said above) has the right to receive his part, nevertheless.

[6] Hence, always understand the expression “by him” to mean: “via him”, namely, the one who obtained it or “by means of him”—as if the royal majesty were saying that, in consideration of the services of so-and-so, his faithful man, he was donating to him an estate or village—and through him, or on his account, to another as well.

CHAPTER FORTY-FOUR.

What if one of the brothers wants to keep for himself the goods which he has earned

And when one of the brothers (while the others gave themselves up to neglect and indolence) was acquiring goods and property rights with ceaseless service and the shedding of his blood or by other services and virtues, and has no wish to share them with his brothers: then, if he renounces

all the paternal goods and property rights, he is free to keep the goods which he himself acquired, for himself and for his heirs in perpetuity.

[1] Hence it follows, that betrayal of fraternal blood is not committed by the one who acquires goods and property rights for himself (as some people have thought), but by the one who deprives his kinsmen of the paternal acquisitions and ancestral goods.

CHAPTER FORTY-FIVE.

That the division of goods held by brothers of the same father is not to be done by litigation

It should also be known that a division among brothers and half-brothers who have undivided property is normally not, and should not, be made in court, but rather, through a letter of command from the royal majesty addressed to the *ispáns* or *alispáns* and the noble magistrates of the county where are located and situated the goods and property rights that are to be divided; or, if the goods are located in several counties, then the letter is to be drawn up and sent to one of the masters protonotary. Then they or he may—notwithstanding the objection by any of the brothers—divide and parcel up all the paternal and ancestral goods and property rights according to the number of persons, including those acquired jointly by the brothers, along with all the chattels in whatever form or shape they may be.

[1] Once a division (in the aforementioned manner) has been made among the brothers, if by chance one of the brothers wants on some legitimate ground to have the property rights divided again, alleging that his part is smaller or of lesser value than the others, or that his part was taken from him by legal action, then a new division (assuming the judge considers this as appropriate on the basis of the complaints and claims of the parties) can, and must be, performed in court, and within one octave term. For it often happens that the second division is demanded without reasonable or legitimate cause.

[2] This article shall be understood as also applying to joint-owning cousins.

CHAPTER FORTY-SIX.

When a new division of goods is allowed among co-inheriting kinsmen, and when it is not

No subsequent division is allowed among co-inheriting kinsmen where a division of the goods and property rights was made in the times of their grandfathers or great-grandfathers, and where a letter of division has been issued on this.

[1] Unless it may be proved that one of the kinsmen, having become more powerful than the others, violently usurped or claimed for himself some part of the property right or lands of his kinsman after the proper division was made, and the weaker kinsman, impotent to resist the violence of the stronger, asks for a fair and new division.

[2] For in such cases a new division is allowed, but only by a protracted suit and this only if the kinsman who obtained the division gives a legitimate reason for it (as I said above).

[3] For if it is found that he requests the division because he observes that after the division with him or with one of his ancestors, the other kinsman planted vines on the land that fell to him, or else cleared it of bushes and undergrowth, and in so doing made his portion more profitable than his which may have remained uncultivated; then he cannot cause the property to be divided again even with a protracted suit, that is, one lasting four octave terms.

[4] But if he alleges that a certain portion of his property right or land was seized rashly by the other kinsman, then he is free and has the right to start a suit against his kinsman even with a terminal summons¹⁶⁹ for this type of usurpation by force of his goods or portion of property rights.

[5] But only if the prescription normally observed in cases of acts of might, (which is usually put and accepted as being thirty-two years) has not expired.

[6] On the other hand, no prescription is ever admitted regarding hereditary rights and the ownership of property rights among kinsmen.

[7] Besides, if it is established that the kinsmen carried out a division among themselves at some point by erecting and marking boundaries, then thereafter a further division of the property among them and their heirs can never happen.

[8] But this erecting and marking of boundaries does not exclude, and has never been accepted as excluding, the mutual devolution of goods among kinsmen.

CHAPTER FORTY-SEVEN

That if one of two brothers is in default [of issue], all goods divided between them devolve upon the other, regardless of any marriage

It also must be known that if one kinsman dies heirless, all goods and property rights divided among the kinsmen immediately devolve upon the surviving kinsmen who have heirs even if the division was done a hundred, two hundred, or more years before, and even if marriages were contracted between them or between some of them beyond the fourth degree of kinship. But the living kinsmen have to prove with written instruments that the kinsman who has died without heirs was a direct descendant of their lineage and that their ancestor made a division with that man's ancestor in respect of the goods and property rights he left behind.

[1] In default of documents, they have the right to establish their descent and the stem and branches of their genealogy by the testimony of witnesses in respect of matters which do go back to sixty years but no further.

[2] Whence it follows that the goods and property rights acquired and earned by a kinsman after the division will not devolve upon the co-inheriting kinsmen but, should the kinsman die heirless, revert to the royal fisc.

¹⁶⁹ Terminal summons was issued after three or more citations remained unresponded. They implied that sentence may be passed even without the presence of the accused.

[3] It is also important to add that if the royal majesty donated goods and property rights in any way to two or three persons unrelated by blood and not kinsmen or relatives, or if they acquired these goods in any other way: then when one of them dies heirless, his goods will return to the royal right of disposal.

[4] For the mutual and reciprocal passage and devolution of goods from one person to another is based only on the bloodline and the mutual division among kinsmen, notwithstanding any claim to prescription.

CHAPTER FORTY-EIGHT

Whether goods granted to both the husband and wife devolve upon the wife after her husband is in default [of issue], and vice versa

Some lords and nobles are in the practice of having the name of their wife inserted and written in the letters or privileges of donation issued in respect of goods and property rights acquired by just title as a reward for services: so, a further question arises from the second corollary just mentioned, whether, when the husband dies heirless, his portion of the aforementioned goods and property rights devolve upon his wife— because the woman cannot be regarded as her husband's kinsman, only as his spouse and wife. And vice versa, if the wife should die heirless, does her part devolve upon and pass to her husband? The answer must be: yes.

[1] For although the husband cannot be considered by virtue of the bloodline as his wife's kinsman and the wife as her husband's kinsman, still, because of their union and relationship in the flesh they are regarded as more than kinsmen; for the Gospel teaches us that husband and wife "are no longer two, but one flesh",¹⁷⁰ while the kinsman is a different flesh.

[2] So, because of their union and joining in the flesh, the husband's portion of property rightly devolves upon his wife in the aforementioned case, and vice versa, the wife's rights upon the husband.

[3] Here it must be noted, however, that when the clause mentioning both lines is not inserted in the aforementioned grant or letter of donation, but the donation is done in simple form, then such property rights do not devolve to the female line (even if the wife has daughters), but they belong solely to the male line.

[4] Where, however, a clause is included and inserted in the text of the donation stating that if the man who had obtained the goods should die without leaving male heirs, his goods shall devolve upon his daughters, then in this case these goods and property rights, once they have devolved to the daughters, will always belong to the descendants of both lines by virtue of the aforementioned clause and on the grounds explained above.

[5] The same is true of goods bought for money when the wife's name is inserted in the letter of purchase or inscription; namely, that if one of the parties is in default [of issue], the goods shall devolve upon the other in the aforesaid way.

¹⁷⁰ Matthew 19: 6

CHAPTER FORTY-NINE

Whether the goods of a man condemned to the charge of infidelity pass on to a brother adopted with royal consent

As the present subject is the devolution of goods, a further question arises: whether the goods and property rights of someone condemned because of the charge of infidelity, but granted pardon for his life and goods, pass on to a man with whom he had signed a contract adopting him as a brother in respect of the devolution of his goods, and this contract has received royal consent?

The answer is: no.

[1] Because, in respect of the devolution of goods, this contract empowers co-inheritance as a kinsman. Now it is accepted that the goods of a man entangled in and blackened by the charge of infidelity should devolve neither upon his previously-born sons nor upon his brothers or kinsmen by right of inheritance. Hence, the aforementioned goods cannot pass to the adopted brother either, even if royal consent (as said above) had been obtained for the adoption.

[2] However, there is no question concerning the passage of the same goods before royal pardon is granted: in this case the goods pass to the person to whom they have been granted by the prince. For as long as someone has effective ownership of his goods, he can always lose them once for all as a punishment for his crimes and transgressions, notwithstanding any fraternal adoption.

CHAPTER FIFTY

How should the inheritance of two brothers' daughters who were separately prefected be regarded

Then, a further question arises. Suppose two brothers or co-inheriting kinsmen having no male successors separately and at different times have the prince prefect their daughters (or grant rights of succession to both lines) to their respective goods and property rights, and neither of the kinsmen objects to the other's action; and suppose the daughters or heirs or descendants of one of the brothers or kinsmen are in default [of issue]: do their goods and property rights devolve upon the surviving kinsman's daughters or descendants by virtue of the girls consanguinity, or do they escheat to the royal fisc?¹⁷¹

[1] The answer is that they are to be joined to the royal fisc; because the daughters have clearly received the goods not by right of inheritance or blood, but by force of the prefection.

[2] Prefection has the quality and force of donation; and each donation was given separately and not in connection to the other, and so must be regarded as having been bestowed on unrelated persons, separately and at different times; hence, these goods escheat to the royal fisc.

¹⁷¹ This entire chapter sounds more as a topic of an academic *disputatio* than a real-life legal problem.

[3] Just as in the case of donations that brothers obtain after a division (assuming that the name of the other brother who participated in the division was not written in the letter of donation). If the brother obtaining the donation dies heirless, the goods he acquired after the division do not devolve upon the surviving brother with whom he made the division, but become subject to the right of disposal of the royal majesty.

CHAPTER FIFTY-ONE

The division of goods between a father and his sons; and paternal, that is, the father's power.

It must also be known that although a division of goods is not always permitted between father and son, still there are many cases when a father can force his son to make a division even if he does not want to; and conversely, the son has the right to divide the goods with his father even against his father's will.

[1] Before these cases are discussed, however, it seems useful to know what power fathers have over their sons, and in how many ways. Here it should be noted that all the sons and daughters of parents, whether they have reached lawful age or not, remain under paternal power, unemancipated (that is, not released from their father's power) until the time of their emancipation or release, which according to the custom of our land, can only happen in the case of sons as a consequence of a division of goods and property rights with the father, and in the case of daughters when they are betrothed and celebrate their wedding or consummate their marriage.

[2] So any children born to you and your wife will be under your power until they are emancipated; and not only they, but also your grandchildren, that is the sons of your non-emancipated son, will be similarly subject to your power.

[3] But your daughter's children will be not under your power but under the power of their father or paternal grandfather, whether their father is a nobleman or not; since the sons follow their father's family and not that of their mother. Hence it is that persons born of a noble mother and a non-noble father are not counted as true noblemen.

[4] The first of the paternal powers is that a son, as long as he is under his father's power, cannot sell or otherwise alienate anything from the paternal goods, movable or immovable, against his father's will and consent, nor can he make or enter into a contract regarding these.

[5] The second is that fathers can correct and punish their sons for their misbehavior even if they have reached lawful age; indeed, they can even imprison them if their transgressions and the nature of their misdeeds so warrant.

[6] Then, if reasonable need demands, fathers can shoulder and take on themselves their sons' burdens, indeed in cases of extreme necessity they can sell and alienate the undivided goods, as will be explained below.¹⁷²

¹⁷² See below I. 55, 59, 61, II. 57.

[7] Then, no one can detain a son against his father's will.

[8] Then, the father can give his son as a hostage instead of himself, but not the other way around.

[9] Then, sons cannot make wills regarding their father's chattels except with their father's agreement. Because a testament must come from the free will of the testator. These sons, however are under not their own power but that of another person, namely: their father's. It is different, however, in the case of those goods that the sons acquired by their own services or learned skills. Of these they are free to make a will even without the consent of their father.

CHAPTER FIFTY-TWO

Cases in which the father can force his son to divide the goods

Then, it must further be known that in the following cases the father can force his adult son who has reached lawful age—but not one who is under age—to divide the property and other goods, but cannot disinherit him.

[1] First, if the son has violently laid hands on his parents or committed some other grave and notable injury against them.

[2] Then, if he accuses his parents of a crime that implies no danger to the prince or to the common weal of the entire kingdom.

[3] Then, if he should attempt at his parents' life, that is conspire to cause the death of his parents by poison or some other way.

[4] Then, if he keeps company with criminals or with other men of evil life against his father's will, wickedly wasting the paternal goods.

[5] Then, if he did not redeem or free his captured father from the hands of the enemy or from prison, although he could have, or if he refuses to vouchsafe on his behalf.

CHAPTER FIFTY-THREE

Cases in which, in turn, the son can make division with his father

On the other hand, the son (even if he is still under paternal power) has the right to force and persuade his father to divide the goods and chattels, notwithstanding the said paternal power, in the following cases:

[1] First, when the father has squandered his goods, or alienated his own and his sons' goods fraudulently, not out of necessity or with a reasonable cause, or if he obviously wants to alienate them, and the son has clear indication of an intention of this sort.

[2] Then, even though he has not alienated estates or property rights and neither has an intention to do so, he nonetheless does not properly tend and protect them, but lets them go to waste.

[3] Then, if a father belabors his son without any just cause or notable fault in a wicked and cruel way.

[4] Then, when the father prohibits his son from marriage after he has reached lawful age.

[5] Then, when a father forces his son to commit a wrong.

[6] Thus, while the son (as was said above) cannot accuse his father of a crime, still (as one must obey God more than one's parents) in such a case the son can—in a decent manner, not by accusation or by bringing charges against him, but rather making allowance for his errors and shortcomings—appeal to, persuade, and even compel his father to divide the goods.

[7] And understand that the said division of goods and chattels made in the aforementioned cases should apply always to the ancestral goods, property rights and chattels and not to those acquired by the father through his own services and merits.

[8] For if the father forces his son to make a division on account of the reasons mentioned before, he is not obliged to divide with his son the goods and estates, that is: property rights as well as movables that he has in any way earned or acquired.

[9] But if division took place and was made between father and son for reasons other than the above-written, then a division shall be made of all the goods and things without distinction.

[10] For according to natural law, the father is obliged to acquire all the goods and wealth he can for his son, and vice versa.

CHAPTER FIFTY-FOUR

One more instance of division and on the goods that belong to the son by maternal right

It must also be known that when a son, with his father's consent, lawfully weds a wife, he can, notwithstanding the aforementioned cases, always and every time force his father to make the division under all circumstances (but only properly and lawfully). The division should be made equally in respect of the goods and chattels of both the father and the son.

[1] However, if the son owns a separate heritage and property rights that came to him from his mother, he is not obliged to divide these goods with his father, irrespective of whether she is dead or alive.

[2] Because these goods belong to the mother's family and not to the father's, as is clearly dictated by reason.

CHAPTER FIFTY-FIVE

That mad and lunatic sons must always remain under paternal power

It should not be overlooked that mad, insane and lunatic sons, since they can never be considered as reaching the years of discretion and full age, will never be released from paternal power.

[1] Hence, their parents can oblige them to do anything that is just and honest, and, in the case of manifest need, alienate their goods. On the other hand, they have to properly provide them with food and clothing.

[2] The same applies after the death of the father, to the madmen's brothers; namely: that the eldest sane brother will take care of his mad and insane brothers as if a father.

CHAPTER FIFTY-SIX

In how many ways does paternal power come to an end and cease

Although sons are usually emancipated and released from paternal power by the division of goods (as mentioned before), there are some instances when the paternal power ends and ceases differently.

[1] First, if the father dies intestate, that is, if he has not appointed testamentary guardians for his under-age son. But this only applies if the father himself is *sui iuris* and not subject to his own father's power, for in that case the son shall pass under his grandfather's power.

[2] Then, paternal power is removed if the father is deprived of the inheritance of his goods and property rights for some crime of infidelity or some other major trespass and is sentenced to capital punishment. Since, just as he is excluded from the mutual and reciprocal inheritance with his sons and kinsmen as a punishment for such a charge or crime, so his paternal power is also considered and adjudged as being removed and extinguished.

[3] Then, paternal power ceases when the father falls into the hands and captivity of enemies. For a man in captivity cannot hold anyone under his power since, as long as he is **IN** captivity, he is not *sui iuris* himself. After his liberation and return home, his paternal power will be restored and revived.

[4] Hence, prescription against him is in the mean time suspended and neither can he invoke prescription against someone else, but everything shall remain in its previous state until his return, and when he comes home he will be restored to his previous state in all his lawsuits, cases and proceedings.

CHAPTER FIFTY-SEVEN

That every lord and nobleman has the right to dispose of his goods freely

It is to be known that every lord, baron, magnate, nobleman and man of property who has sons and daughters, has during his lifetime full authority to dispose of and, as he wishes, alienate all the chattels, goods and property rights that he has acquired and won with his service, or has acquired and bought by his own money (which is usually also obtained by service), without the consent of his sons and daughters, even against their will, notwithstanding his sons' and daughters' objection, contradiction or any other kind of protest.

[1] And if the father has divided these chattels, goods and property rights among his sons and daughters during his lifetime, the sons and daughters must after the death of the father also accept that division as valid and acquiesce in it in perpetuity lest it cause dissent, hatred, quarrels or matters of discord after his demise.

[2] The same holds for those goods and property rights that devolved upon and were passed to some man or woman by some contract or by adoption as a brother or by preference; since it shall be understood and deemed that those goods were obtained by him or received by her alone.

CHAPTER FIFTY-EIGHT

That the father cannot alienate the ancestral goods with prejudice to his son

Nevertheless, neither the father nor any kinsman can carelessly¹⁷³ make any recognizance whatsoever involving the sale or alienation of ancestral goods and property rights that prejudice his sons' or—if the goods belong to the right of the female line as well—his daughters' or his kinsmen's rights to the paternal or ancestral estates and property rights, without the consent of his sons and daughters or his kinsmen. If this be done, it should be regarded as having no validity or force.

[1] There are, however, some people who pledge their paternal and ancestral goods and property rights or sell them permanently or inscribe and make a contract for them under various titles and different pretexts to whomever they can, often driven by urgent necessity, but sometimes without any reasonable cause, merely moved by gluttony, drunkenness and revelry, at other times induced by cursed spite of their kinsman and also in cohorts with the devil; sometimes rightly and correctly, but frequently maliciously.¹⁷⁴ And in order that the recognizance may have greater power and not be cancelled, in the letter of recognizance they assume and take the burdens of their sons, daughters and kinsmen on themselves and on their property.

CHAPTER FIFTY-NINE

What “assuming the burden” means and in how many ways the sons' and kinsmen's burdens are assumed

“Assuming the burdens” means to give an assurance that a father or kinsman's recognizance to a purchaser will be observed. Whence, it must be known that the burdens of sons and kinsmen can be assumed in three ways: first, carelessly; secondly, in a reasonable way; thirdly and finally, out of necessity. [1] So first: carelessly, when burdens are assumed not out of evident necessity and

¹⁷³ *simpliciter* meant in medieval Latin not merely “simply” but also “carelessly” or “negligently” (see .Du Cange, *Glossarium* 7: 491...); Hungarian legal terminology was “inexcusably,” which carries much the same meaning.

¹⁷⁴ In spite of this moral invective, the pledging of properties was an everyday practice even in Werbőczy's time.

not for a reasonable cause (as said immediately above), but out of malice or gluttony or even intent to harm. This has no legal force at all, and this kind of assuming of a burden is to be instantly and straightforwardly cancelled and the recognizance annulled.

[2] Secondly, in a reasonable way, when there is an obvious and reasonable cause; for example to redeem an estate held in pledge by some outsider, or to pay dower, paraphernalia or filial quarter, when, by selling a portion or part of the goods in this way, the rest is freed from encumbrance.

[3] Then, to create, if necessary, fishing ponds, build mills, houses and residences or to buy another and perhaps better estate for the price of the sold estates or portion, or to exchange estates.

[4] Since all these will add profit to the son's or the kinsmen's inheritance, in these cases the assuming of burdens may not straightforwardly be revoked and withdrawn. But if the son, named specifically in the letter of recognizance and assumption of burdens, wants to revoke it, then he has full authority to retract and cancel it but only if—while his father is still alive—he pays the man-price and the common estimation of all property rights of the father, wherever they may be, or—if the father has died—the common estimation of the paternal goods. The same shall be held and understood of the recognizances of kinsmen.

[5] Here it is important to note, however, that if the assuming of the burden was made in a general way, without the expressed insertion of the names of the sons and kinsmen in the letter of recognizance, then the assuming of the burden will have no legal force but can be straightforwardly cancelled.

[6] Thirdly and finally, the assuming of a burden can be done out of extreme necessity, that is when someone has been condemned and sentenced by legal procedure against his opponent to capital sentence, and by the force of the sentence given is arrested in his person and handed over to the court to suffer the punishment that has been assigned and imposed upon him by law; or if he has not been arrested but has not yet received royal pardon; or if he has received a pardon, had it on the condition that he reach an agreement with his opponent (because the royal majesty may not grant pardon otherwise, only if they reach an agreement), or if he has been captured by the Turks, the Saracens, the Tartars or any other foe and enemy and may only be freed by making some arrangement:¹⁷⁵ then the assuming of a said burden made in this last way can never be revoked.

[7] There is no way a son or kinsman may alter a recognizance made in such a matter; moreover, if in the aforementioned cases the father alienates his son's portion before making a division with him (because his own part was not sufficient for the redemption of his head), the son shall tolerate and put up with that as well.

[8] Even if the recognizance is made by a sole individual, it requires neither the king's nor the kinsmen's consent, but it is always of its own accord valid and firm.

[9] It follows as a corollary from the aforesaid that the sale of a property can be of three kinds: careless, reasonable and necessary. The careless sale is not valid. The reasonable one is

¹⁷⁵ From the fifteenth century onward it was a regular experience that nobleman fell into the captivity of the Ottomans or their allied forces, and the ransom often ruined entire families.

sometimes valid and sometimes can be retracted. And the necessary one is always valid, always has legal force and cannot be cancelled at any time, as can be clearly seen from the aforementioned explanation about the assuming and retraction of the burdens of sons and kinsmen.

CHAPTER SIXTY

Legal notice should precede the sale of property

It should also be noted that a certain and cursed abuse has developed, practiced by the many people who make permanent recognizances regarding pledges or rights and titles with prejudice to the kinsmen: namely, when someone who has received fifty florins from a usurer states deliberately and malevolently before a chapter, convent or the justices ordinary of the realm that he had received one or two hundred florins. The chapter, convent or the justices ordinary of the realm are required to issue letters of recognizance and obligation according to the words and ways in which the recognizance was made. In this way some people burden their goods and impose upon them huge amounts of money though they are known to be hardly worth even half that amount; and as a consequence the said goods are often permanently alienated from their progeny.

[1] Therefore it is always necessary when selling or even when pledging any property that the sons and daughters or the kinsmen, upon whom would otherwise devolve the property rights that are intended for sale or pledge, shall be given notice so that they can acquire them for themselves. If they, after receiving legal notice and offer, want to have and acquire the estates and property rights for the appropriate and common estimation and value, [then] they shall have full and unlimited authority to purchase and acquire them before any other buyer or usurer.

[2] If, however, the vendor or pledger fails to give the said notice and alienates or pledges his property rights to anyone without the knowledge and consent of the said sons, daughters or kinsmen, and one of the sons, daughters or kinsmen then summons the purchaser of these goods and property rights to the royal court: then the case must be settled in a single term at an octave court and the plaintiff can acquire the aforementioned goods and property rights for himself simply by the common estimation, notwithstanding the amount of money, however large, specified in the letter of recognizance issued to the usurer or the purchaser in this matter.

[3] Excepting, however, and excluding when someone condemned to capital sentence is arrested and handed over to the court to suffer his punishment. In this case (since he has no more than three days to reach an agreement with his adversary) he is not required to give notice in the aforementioned manner, but is always free to sell his goods to anyone and for as much money as he can.

[4] The same applies to whosoever is held in captivity by external enemies. That is, his goods can also be sold and permanently alienated without notice in order to redeem his head.

[5] When, however, the aforementioned notice lawfully preceded the perpetual sale of goods and property rights and none of the sons, daughters or kinsmen wanted to acquire or purchase the goods and property rights up for sale, or, because of their poverty none of them was able to buy them; [then] the same sons, daughters and kinsmen can only subsequently recover them if they

produce and pay in full the sum specified in the letter of recognizance or even through the perennial estimation and by a protracted process of law.

[6] Because the vendors of goods should not, in reasonable cases and under proper circumstances, be restricted and restrained to the extent that they are rendered unable to use and enjoy their due rights and chattels.

[7] In contrast, if one of the sons, daughters or kinsmen answers and announces at the time of the notice that he or she wants to purchase the goods; then a short and sufficient term shall be fixed for depositing the proper sum of money and for reaching an agreement with the vendor by appearing before the judge by whose authority and letter the notice was given and presented. If at the fixed date the person fails to deposit the sum decided by the judge's deliberation according to the common estimation of the said goods, then the vendor shall have the right to alienate the goods.

[8] One has to think differently of pledged goods and property rights. No one, whether with or without a preceding notice, is allowed to pledge property rights beyond their value by common estimation, prejudicing the sons, daughters and kinsmen or the royal right. This estimation, however, includes not only the houses and noble residences, settled, deserted or empty plots of tenant peasants located in towns, villages and estates, but also the arable lands, woods, meadows, fishing-ponds and mills in general (as is usual when paying the filial quarter); and what this estimation amounts to according to the judge's decision shall be set as the sum to be deposited and paid for the goods in pledge by the sons, daughters, kinsmen and even by those acting on behalf of the royal jurisdiction (in cases when the man pledging the goods is a sole individual and thus default of issue is imminent).

[9] In the aforementioned cases you should understand that only those daughters and women have to be given notice that have the same right as the male line to the property rights up for sale or pledge. Otherwise the daughters and women shall be regarded as outsiders in this respect and have no other rights than neighbors and abutters. Excepting that, if they want, they can intervene to purchase and acquire the goods before any neighbor and abutter and have them for themselves.

[10] The neighbors and abutters, however, once the aforementioned notice is also specifically given to them, can claim the property rights up for sale for themselves before any other outsider and buyer from farther afield. Not, however, at the common estimation like the kinsmen and kinswomen but rather by depositing and paying in full the sum of money defined in the letter of recognizance or even the perennial estimation of the property rights. They can do so within a single octave term, if the vendors fail to give notice beforehand, but the neighbors and abutters issued the usual notice on their part.¹⁷⁶ For pledged property rights, they shall pay the same amount of capital for which the pledge was made. They may not intervene or interfere in any kind of estimation in this matter, since it is known that neither the ownership nor the hereditary right to these property rights belong to them.

¹⁷⁶ The procedure is unclear and Werbóczy does not mention anywhere else the possibility of neighbors or abutters giving notice.

How should a brother regain his portion sold or pledged by another brother

It has to be further noted that older and sometimes even younger brothers, who, staying at home, are in possession of their absent brothers' paternal and ancestral, still undivided, goods and property rights often pledge or sell permanently those property rights, assuming the burden of their brothers and half-brothers. In this way the purchasers acquire not only the vendor's or the pledger's portion, but are also accustomed to claim the portion belonging to the rest of his brothers, whose burdens he [i.e. the vendor or pledger] assumed.

[1] Hence, it has to be known that when someone makes such a property sale or alienation carelessly, then the portion belonging to the rest of the brothers shall be given and restored to the plaintiff or plaintiffs at the next octave court without any further payment. And the portion of the brother who made the sale shall be estimated and only its common estimation be refunded to the purchaser. Thus, the portion of the brother who made the sale shall be given to the plaintiff without the assumed burden and responsibility being revoked or cancelled. For the remaining and residual part of the sum of money specified in the letter of recognizance, the remaining goods and property rights of the brother who made the sale shall be immediately estimated by the judge as are sufficient to repay the sum, without waiting for any further legal action, and shall be handed over into the possession of the purchaser under the conditions included in the letter of recognizance.

[2] If he has no other goods than what he sold, and is so short of chattels that the aforementioned sum cannot be recovered from it or reimbursed by him, then the purchaser has inevitably to suffer the loss of the surplus amount himself; but (as stated before)¹⁷⁷ only in the case of careless alienation (as discussed above).

[3] In reasonable cases, the cancellation of burdens has to be made (in the manner discussed above),¹⁷⁸ and the aforementioned remaining surplus of the price shall be refunded to the purchaser as far as possible.

[4] The same applies to a father who improperly and unreasonably alienates, sells or pledges his own and his sons' ancestral goods with prejudice to his sons' right and without their consent; that is, in the case of negligent alienation, his recognizance can be simply annulled, and the portions of the sons shall be given and returned to them without any further payment, and those of the father by way of common estimation.¹⁷⁹

¹⁷⁷ See above I. 59.

¹⁷⁸ See above I.49.

¹⁷⁹ This chapter suggests a significant variation in the practices to be followed when a brother, as opposed to a father, carelessly alienates property. The key may be the word *consueverunt* in the first paragraph: that is, Werbóczy discusses here actual practice as opposed to giving us a legally coherent explanation.

CHAPTER SIXTY-TWO

Some recognizances that are not to be retracted

It must be noted here, however, and impressed in the heart that if one of the brothers who wants to retract and annul the other brother's recognizance, has used those goods and property rights that were exchanged or acquired for the alienated ones knowingly and without lawful objection and has actually enjoyed their fruit: then he can never retract the recognizance, because by actual use he is seen as having agreed to the recognizance.

[1] The same shall be said of a father's recognizance that the son seeks to retract.

[2] The same shall similarly be held in respect of those recognizances that were made and performed in peaceful concord and agreement between kinsmen or co-inheriting kinsmen or even between strangers and outsiders regarding property rights that are in dispute.

[3] And in agreements of this type, a certain part or portion of the property rights should be given and handed over to the one party by the other who holds and is in possession of the disputed goods or who happens to have some other lawful right to them, while the remaining part or portion, for the sake of peace and concord, is to be left with him in permanent possession. Such recognizances always remain valid and can never be withdrawn (because the final outcome of the suit was at that time still doubtful and uncertain).

[4] At any rate, those aforementioned recognizances that can be annulled and cancelled relate not to the manner in which goods and property rights were received or acquired but instead to the manner of their alienation.

CHAPTER SIXTY-THREE

Of recognizances: which of them needs institution and which not

Then, a permanent recognizance concluded between kinsmen or co-inheriting kinsmen in the aforementioned or other such cases as concern property rights which devolve upon one kinsmen from another, and which is made before one of the justices ordinary or places of authentication and testimony, requires neither royal consent nor judicial institution.

[1] Any other permanent recognizance made between strangers and outsiders in respect of any goods and property rights, even recognizances performed and issued as a pledge (if the amount exceeds fifty florins), must be and usually are confirmed by lawful institution within a year.

[2] This applies if the person in whose favor the recognizance was made is not in real possession of the goods. Because if he has effective ownership of the goods or is able to acquire this kind of effective ownership and possession with the help of the person who made the recognizance, then the aforementioned institution can be made at any time, even after the lapse of one year.

[3] And consider this also, that if a recognizance lacks the royal consent for some reason and this consent cannot be obtained within the year, then a recognizance of this type needs to be

confirmed by lawful institution within but a year (as said before) ¹⁸⁰ of that time that the royal consent was granted (regardless of whether or not an objection is made).

[4] And hold this true only for recognizances that are valid under present and not future conditions. Because if the recognizance is set to be performed either by contract or by fraternal adoption only at such a time as the goods are to devolve upon one party from the other; or if both parties mutually prescribe the devolution in such a way that only when one of the parties dies heirless, will his goods and property rights devolve upon the surviving party; and if the royal majesty deigns to give his consent to this kind of recognizance or contract and fraternal adoption; that recognizance, and consequently, the royal consent is conditional as well, and will only take effect when one of the parties is in default [of issue].¹⁸¹ So institution is not necessary while either party or the person who made the recognizance for the other under the aforementioned condition is still alive.

[5] Except if in these goods and property rights the royal right should exist or is obtained. In this case, institution is necessary in respect of the royal right that is often latent in many people's goods.

[6] Then, it must be noted about the aforementioned royal consent that if one of the parties is in default [of issue], then the royal consent—which in this case has the force of a donation—and consequently the recognizance contained in the said written consent must be followed by institution within a year.

CHAPTER SIXTY-FOUR

How is royal consent to be defined

Royal consent is the voluntary relinquishment by the prince, that is the royal majesty, of the jurisdiction of the Holy Crown of the realm over those property rights that lawfully escheat to it by inheritance.

[1] This jurisdiction of the Holy Crown of the realm regarding the devolution of and succession to goods and property rights which, in the form we use today, dates back to the age of the reign and governance of our renowned prince, the late lord King Louis, that is to the one thousand three hundred and fifty-first year of the incarnation of the Lord, and has existed unimpaired and unshaken and observed and confirmed by other kings, ¹⁸² his successors, up until now, always has

¹⁸⁰ See above I. 32

¹⁸¹ Werbőczy alludes here to a mutual inheritance pact, whereby two noblemen agreed that each would succeed to the other's land in the event of the one dying in default of heirs. Arrangements of this type required the royal consent. For noblemen without heirs (or with sickly sons) pacts of this sort were a convenient way of discharging debts owed to another, as for instance an avaricious lawyer. A part of Werbőczy's own wealth rested on pacts of this sort.

¹⁸² In the law of **11 December 1351** the king expressly altered the rule of the Golden Bull of 1222 which allowed free testamentary disposition for nobles lacking heirs, by prescribing unlimited hereditary rights

legal claim to the lawful succession of the goods and property rights of all the lords, barons, magnates and noblemen of the kingdom (that is, when they are in default of issue and heirs or they are sole individuals and their default of issue is thus imminent).

[2] Before the times of that prince, any baron, magnate, nobleman, and man of property could dispose of his own property rights with full authority according to his will, without any royal consent, even if he had no heirs.¹⁸³

[3] And the aforementioned rule is known to have had legal force only in cases when one of them, lacking heirs and any relative, died intestate.

CHAPTER SIXTY-FIVE

Which recognizances require royal consent and which not

Hence, it should be known that every recognizance made in perpetuity by a lord, nobleman, or other man of property who is a sole individual and whose default of issue and children is imminent, on anyone's behalf in any matter and for whatever cause and reason, and under any kind of condition and stipulation, regarding whatsoever goods and property rights, always requires and needs royal consent (on account of the right of succession as mentioned before).¹⁸⁴

[1] Because without that consent not only will those recognizances that were made permanently on goods be invalid and have no legal force but also those on goods inscribed by title of pledge (for a sum that exceeds common estimation), however made and performed, as was said before.¹⁸⁵

[2] Whence it follows that recognizances made among and by several persons, kinsmen or strangers in respect of their mutual or individual rights, do not require royal consent.

[3] For the hereditary right of the prince, that is, the king's jurisdiction is not yet effective since there are other persons on both sides who succeed by hereditary right and title.

[4] This holds true if the persons on the one side, that is those who make the recognizance, have mutual hereditary right from one another. The same is to be understood and held regarding the persons on the other side. Otherwise royal consent is always necessary and must be obtained.

[5] The number of persons does not exclude the royal jurisdiction when they are not kinsmen and are not related by blood or are not entitled to inherit the goods in any other mutual and reciprocal way.

of kinsmen. (the so-called rule of *aviticitas*). However, reference to the right of escheat is missing from the **1351** text, in contrast to **1222:4**.

¹⁸³ Historical evidence does not support this. Although earlier legislation included the free right of disposal over property (see previous note), this may very well have been a reflection of ecclesiastical interest in contrast to traditional custom. Record evidence does not show any changes of practice in this respect after 1351.

¹⁸⁴ See above I. 64. 1.

¹⁸⁵ See above I.60. 2.

CHAPTER SIXTY-SIX

What is the definition of a contract and when does it require a lawful institution

It should be noted that a contract made between any men of property or other persons in respect of the devolution of their goods upon the other, in the event of one of them being in default [of issue], shall be confirmed by lawful institution within a year of the default of issue of one of the parties (as was said above),¹⁸⁶ whether it be confirmed by royal consent or corroborated by all of those who made the recognizance in the aforementioned manner.

[1] In the meantime, however, the surviving party, by virtue of the hereditary right that he acquired by this contract or fraternal adoption, has the right straightforwardly to claim and take ownership of the goods of the party that died in default [of issue] just as if he were his co-inheriting kinsman (unless there are some lawful obstacles to this).

[2] A contract or fraternal adoption means that someone who has no lawful heirs permits another, unrelated person to substitute for him as heir in his goods..

[3] It was said expressly: “who has no heirs”. Because if there are true and lawful heirs and surviving successors, there is no place for fraternal adoption. But when these are lacking, the person adopted as a brother or son will win the capacity and faculty to inherit those goods.

[4] It was also said that the substitution takes place “with permission”; for without the permission or consent of the prince, this substitution or adoption does not and may not have any legal force; but the goods will escheat directly upon the prince and belong as well as pertain to the jurisdiction of the Holy Crown. Without the consent of the prince, the adopted brother or son cannot take ownership of these goods nor can he claim them for himself.

CHAPTER SIXTY-SEVEN

That one can have ownership of goods in two ways. And a final word on contracts

But it should be noted that it is said that one can have ownership of any goods by two titles or in two ways. First, by right of possession, when someone clearly has effective and peaceful ownership of the goods receiving both the revenue and the services of the peasants. This is the general sense and it is obvious to all.

[1] The second way of having ownership of goods is said to be by way and right of succession, when some property right evidently devolves upon someone, as on a brother or a co-inheriting kinsman belonging to the closest branch of the kindred. For example, although a brother has no effective ownership and possession of the goods of his brother after the division with him while the other is alive, he really and directly has the right and title by succession; by virtue of which, when his brother dies heirless, the living and surviving brother is allowed to secure the goods of

¹⁸⁶ See above I. 32.

the deceased outright, that is, immediately, directly, and without judicial institution or any other process of law, and he can take control of these by his just rights.

[2] And if the deceased brother left daughters and a wife behind, but his goods do not follow the female line, that is, none of the women had previously had effective ownership of those goods in the lifetime of the deceased brother and in the times of his ancestors; then the surviving brother is obliged by law to bring up, support and provide for the deceased's daughters with food, clothing and all the necessities of life until they are married, and also his wife, that is, his widow as long as she stays in widowhood, keeping the name and title of her man and husband, by the same right and way as his deceased brother had done until he died, in accordance with the measure of these goods, and also to give the daughters in marriage honestly and give the wife in marriage, too, if she wants to get married, and to hand over her dower and paraphernalia. The same shall be held of contracts and of fraternal adoptions (if it is unequivocally included in the contract). For although the deceased brother has no heirs descending from his loin, since he has a substitute heir who is to be reckoned his lawful successor, he is not yet in default [of issue].

[3] It is different, however, with those brothers who divided their goods and property rights sixty, one hundred, two hundred or more years ago, and, after so much time, their common descent from the same line of the kindred is barely remembered and they are called co-inheriting kinsmen only in name. In this case, the same law shall be applied as in matters of property rights obtained from the royal majesty on grounds of someone's default of issue.

CHAPTER SIXTY-EIGHT

That violent occupiers of goods can be likewise violently expelled from them

Then, if some man violently intrudes upon or enters into or in any way invades the ownership of goods or property rights that have passed on to someone else and not to him, then he who has the power and right of succession to these goods has the right to expel and exclude the occupier from those goods, even by force and equal violence within the course of one year. Because in this case one may match force with force.

[1] After one year, however, legal action has to be initiated against the occupier and he can be summoned by short or terminal summons on account of the unlawful occupation and usurpation of those goods; and in this case, the violent occupier shall be convicted to capital punishment just as if he had seized someone's goods from his own hands, because he seized someone else's right of succession by force and violence, providing that the plaintiff can prove that the goods devolved to him by right of succession.

[2] The same shall be held of the violent occupation of those goods that have been in someone's effective ownership for a long period of time. The deprived person is authorized to expel and oust with equal violence the occupier from those goods within one year.

CHAPTER SIXTY-NINE

The clause: “*nil juris.*” And what goods return to the donor or the vendor

Furthermore, it has to be known that if the clause “reserving no right and no possession of right and ownership for himself, *etc.*” has been inserted in the text of a letter of recognizance, either intentionally or out of ignorance, then the property rights in respect of which the recognizance was made will never in future return to or come into the possession of the man who made the recognizance (even if the person upon whom the rights were transferred should die heirless), but will be entirely at the disposal of the royal majesty.

[1] But if the recognizance was performed without the aforementioned clause, whether it was done as a mutual exchange of goods or as some other permanent donation, for example (as is often the case) in reward for services or for any other reasonable cause, as a gift, or as an inscription or obligation; then if the person to whom the goods were donated or in any way transferred should pass away without leaving heirs or other lawful successors, the said goods will return to, and effectively be transferred and restored in their original rights to the person who made the recognizance or who granted the said gifts and also to his heirs and all of his descendants (because he retained the ownership and the right of succession and did not transfer them to anyone else).

CHAPTER SEVENTY

What is exchange of goods and why it was established

Since the exchange of goods and property rights has often been mentioned here, it should be known that the exchange of goods means the mutual handing over and lawful transfer of property rights between two or more parties.

[1] It has been introduced as much as to ensure peaceful conditions as to achieve a more abundant income.

[2] Because many people's goods are located far from their residences, at such a distance that they must spend more to manage them than the revenue they obtain from them. Some people's goods have become completely devastated on account of the ruinous and dangerous proximity of mighty men. Again, others put up with endless litigation and arguments about their goods so they do not rest even at night because of them, and those goods cause more trouble than they are worth.

[3] Therefore, any man of property is free and has the right to exchange his goods and property rights usefully and profitably; notwithstanding any contradiction whatsoever by his sons, daughters or kinsmen.

[4] But if the kinsman who made the exchange should die in default [of issue], the portion [of property] that he received in exchange devolve upon his kinsmen and co-inheriting kinsmen in

the same way as the other portion that was given in exchange would have devolved upon those kinsmen by right of succession.

CHAPTER SEVENTY-ONE

What if the exchange of goods was made and performed fraudulently and only by pretense

Many people commit and perpetrate various frauds through the exchange of goods. Because some of them (wanting to sell and transfer their goods not truly and lawfully, but fictitiously and by guile in order to cause harm and loss to their kinsmen, so that those kinsmen may not reclaim, acquire or seize back those goods from the buyers, or, to my mind, from the usurers) insert the title and name of the exchanged goods—which can be done freely in a lawful and proper way—into the letter of recognizance or privilege, saying, that the buyer, that is, the usurer, gave them some property rights in exchange on some remote, or even close location; but they do not take control of those property rights at all, or just for a short period (to hide the fraud), and in this way, they disinherit their kinsmen who would otherwise have inherited the goods and property rights transferred on the pretext of this exchange, the goods, given to the vendor by the buyer under a fictitious and pretended exchange, remaining for ever the buyer's property.

[1] In order to avoid that someone's fraud and deceit be of benefit to him, when this kind of fraudulent exchange becomes known to the kinsmen of the man who sold and transferred these goods, the judge, after issuing lawful summons at the request of the kinsmen, should return, restore and reinstitute to the plaintiff the goods that were transferred in the said way, always within one octave term and only for their common estimation.

CHAPTER SEVENTY-TWO

When an exchange cannot be annulled in any way

Then, if the father or the brother made an exchange of goods, and if his son or some kinsman, knowing it, used the exchanged goods without lawful objection or protest and collected their yield: then this exchange of goods cannot be later annulled by the son or the kinsman, because in this respect, actual use has the power of release and consent.

CHAPTER SEVENTY-THREE

If the exchange of goods includes cash, whether these goods follow the female line

Then, since property rights exchanged are not always equal in quality, yield and value, many people whose goods and property rights are of lesser value and worth often pay a certain amount of money to make the exchange equal. Some conclude from this that these goods (because they were acquired for money) should follow not only the male, but also the female line. But this is not the case.

[1] Because the keeping and transmitting of property rights shall not be judged by the branches, that is, the additional money, but by the root and origin of the way they were acquired and obtained. Hence, in these cases the persons of the female line can ask for their part only out of the additional money. But the ownership and inheritance of the property rights will remain entirely with the male line.

[2] This is indeed the case when the property rights do not by their origin and root follow the female line. And if there should be any doubt whether some property rights follow the female line with the same right as the male, then recourse should be had to the original deed by which those rights were acquired and earned.

CHAPTER SEVENTY-FOUR

What is eviction, that is, a warranty clause previously undertaken, good for

In the exchange of goods and property rights, a warranty (which is called by legists a “warranty against eviction”) is usually inserted and made. So if one of the parties, summoned by lawful process, cannot maintain the other party in the ownership of the exchanged property rights against litigants and legal challengers according to the warranty previously undertaken: then he has to give back and restore the property rights specifically given in exchange to this other party (if he still has them); and if he has already transferred them out of his hands so that they cannot be reacquired, he must give and restore to the damaged party, whom he could not maintain in the ownership of the exchanged goods, other property rights, that are estimated equal in quantity, yield and value to the transferred ones.

[1] And understand this to be true only if the warranty clause is inserted in the letter of recognizance in a simple and common form. For otherwise, if the warranty clause is written and declared with certain conditions and terms, then these stated conditions and terms must be observed in this matter.

[2] And you should understand the same of other property rights transferred by someone or sold lawfully with a warranty clause. If the vendor cannot maintain the buyer in the ownership of the goods, he is obliged to give other goods instead of these, similar in quality, quantity, yield and value to the ones sold.

CHAPTER SEVENTY-FIVE

Who are understood to be legal challengers

As legal challengers shall be understood and counted only litigants and those who proceed by law, and not violent occupiers and those who act by a mighty hand. Because no one is obliged to maintain the other party in the ownership of sold goods against such people.

[1] So when the buyer of the goods is challenged by whomever is brought to court by due process of law in respect of these goods, he must summon the vendor of the goods to court to defend his case before final judgment is passed.

[2] Because if he fails to issue summons and, because of that loses the property rights by judgment, the vendor is free and exempt from the burden of warranty, and from then on he is not obliged to maintain the buyer in his ownership.

CHAPTER SEVENTY-SIX

A notable question regarding eviction or a warranty clause previously undertaken

It may moreover be asked, that when someone undertakes to maintain another person in the ownership of a certain property, and commits himself to protect him; but later a piece of land is taken and detached by law from that estate by a third party through a perambulation of boundaries or through some other means, the body of the estate remaining intact: is the person who undertook [the warranty] obliged to maintain the other in the possession of that particular piece of land as well?

[1] Reply that he is not obliged; since he transferred that estate to the other party with all of the benefits and appurtenances belonging to it by right, and thus undertook to maintain him in the ownership of those goods. But that particular piece of land had not belonged by right to the estate and thus the vendor himself had been a *mala fide* possessor in regard to that parcel. Therefore, he could not have sold someone else's rights, and he did not sell them by virtue of the clause that says: with whatever "belongs or should belong to that estate by right".

[2] Unless, however, he undertook that he would maintain the other party in the ownership of the estate within the same boundaries or borders as he had held and possessed them. For in this case he must give a piece of land, equal in value to the lost one, to the other party.

CHAPTER SEVENTY-SEVEN

That donors or vendors of goods may not themselves take action against the new owners

But one more thing should be noted: that the aforementioned warranty clause refers only to outsiders and external actors, legal challengers and plaintiffs, and not to those who donated and sold the goods. I have seen cases myself when those who transferred their goods to others, themselves initiated a case and suit against the owners and lords of those goods pretending that they could not maintain them in the ownership of the said goods, thereby seeking to reacquire those goods for themselves, which should never be allowed.

CHAPTER SEVENTY-EIGHT

What is the definition of the prescription, and how many years have to pass before it variously expires

Since prescription is often referred to in court in respect of hereditary goods as well as property rights pledged, and even in cases of acts of might, a few things need to be said about the prescription. First about its nature, then about its duration and variety.

[1] So it must be known that prescription is the passing of that time which is set by the law for the just retention or re-acquisition of goods and property rights.

[2] And this period of time is a hundred years for the royal, forty years for the ecclesiastical, thirty-two years for the noble and twelve years for the burghers' goods and property rights sold, seized or alienated in any way.

[3] Likewise, in the case of acts of might, prescription is also thirty-two years.

[4] However, among villagers prescription lasts only one whole year and a day.

[5] Among kinsmen and co-inheriting kinsmen, no prescription is ever applied regarding their property rights (with the exception of acts of might), and the payment of the dower and filial quarter.

[6] Prescription is considered differently in an ecclesiastical forum. But since it is not my aim to discuss an ecclesiastical forum, I will remain silent on this and leave it to those whom it concerns.

[7] Moreover, although it is commonly held and stated by many scholars that prescription cannot be applied to the perambulation of boundaries and goods pledged, this is an opinion that should not be taken at face value, but should be properly investigated; hence, I will clearly explain it later, at its proper place.¹⁸⁷

CHAPTER SEVENTY-NINE

What are the times when prescription is suspended and when it has no place

However, it must be known that if someone happens to fall into the hands and captivity of the Turks, the Saracens, the Tartars or other infidels and his stay there exceeds the prescription; then in this case prescription has no effect whatsoever, but the nobleman deprived of his goods, arriving home, can recover them himself by judicial process without being hindered by the prescription.

[1] And if the royal majesty sentenced someone to exile, and the son – either out of fear of the prince or out of filial duty – escorted him, and while he is far and away, the prescription set for the goods of nobles of the realm in respect of the property rights acquired by others, runs out and expires; the son (who is not to be punished for his father's sin) has, upon his return, full authority to recover those parts of the alienated goods that belong to him, notwithstanding the prescription.

[2] Prescriptions of this type can always be suspended by a letter of prohibition or protest, without going to court.¹⁸⁸

¹⁸⁷ See below I. 82, I. 85.

¹⁸⁸ It was common for nobles to issue protests at places of authentication at such intervals as to keep the case open, thus rendering the prescription meaningless.

[3] For in our times the right to initiate a suit lasts only thirty-two years; and if the case had not been prosecuted in the meantime, after that time the suit has to be newly initiated.

CHAPTER EIGHTY

Pledged property rights in general

Having explained above the ownership and inheritance of property rights, and their different types, now the form and quality of rights pledged have to be discussed.

[1] Although it seems not only damnable and contrary to salvation to hold and manage pledged property rights, it is just as abominable to have to write about them. However, since imperial and Roman law allows its use, and, therefore, this dangerous practice is very common and widespread in this kingdom of ours and in the territories subjected to it, to an extent that many are not deterred by the punishment of the general decree issued, among others, in this respect, and are not willing to return property rights pledged, even when the pledge-money is deposited and repaid, but keep them as long as they can, to the peril of their souls; so it seems fitting to append a few things about the means and force of a pledge.

CHAPTER EIGHTY-ONE

What is the pledging of goods, and in how many ways it can be understood

Hence, it must be known that the pledge of property rights can be understood in two ways: from the viewpoint of the pledger, or giver, and from that of the creditor, or recipient. On the part of the pledger: pledging is the temporary transfer of his own property right to another's use, out of necessity. On the part of the creditor, or recipient: pledging is the dangerous, damnable and temporary retention of the right of another, with the gathering of its fruit and demanding the capital sum.

[1] This definition does not endorse someone reaping the fruit and yield of the pledged goods, and, in addition, demanding the capital sum; but seeks rather to condemn and denounce this kind of demand and practice. Because someone who uses the pledged goods this way should be considered as committing naked usury.

[2] But if he includes all the revenue in the capital (with the exception of those expenses that the real owner would have anyway incurred in the course of maintaining the estate), then the possession of the pledged goods should not be condemned but rather praised, as by this the creditor shows that he has performed a charitable deed to the advantage of his neighbor.

CHAPTER EIGHTY-TWO

How shall be understood that no prescription is admitted for pledged goods

It became almost a common say that prescription can neither be claimed nor admitted in cases of pledge. But the consequences of this saw may not be understood in any simple sense, but, as was explained above, the pledge should be considered in two regards, namely, that of the pledger or giver and that of the recipient.

[1] So this rule can be called true and acceptable only on the part of the pledger or giver; but on the part of the creditor or recipient, it shall be rejected outright.

[2] For it often happens that some people, forced by necessity, pledge their goods, and are unable to redeem them in their lifetime. Their sons or kinsmen, after their father's or kinsman's death, cannot redeem those pledged goods – either hindered by poverty or out of negligence or laziness, sometimes because they reside in far and distant lands in the service of their superiors, or are otherwise engaged outside the country – so they very much exceed the years and deadline of the prescription. In this case the prescription cannot be applied to the pledger.

[3] In this case, namely when the pledging nobleman's sons or kinsmen, or the heirs of the pledger can prove that those pledged goods and property rights were transferred to the hands of another as pledge, if they want to redeem and regain those goods: then the possessor of the pledged goods is obliged to return them, in spite of the hindrance of the prescription (even if the prescription had expired two, three or more times), or even if the possessor (not to say usurer) had in the meantime obtained the pledged goods on the royal right.

[4] And if he claims certain rights regarding those goods then he must seek it by due process of law, while out of real possession of the estate.

[5] But this is true only if the pledger, after pledging his goods, did not later assign those goods in perpetuity to the possessor. Because in this case the possessor is not obliged to return those goods, but the pledger's sons and kinsmen – if they allege that those goods should not have been assigned and alienated permanently to their prejudice – must follow the same legal process to reclaim such goods and property rights as is usual in cases of hereditary rights.

[6] For no one can possess the same property right on a double title, namely by pledge and by permanent right; but, when he begins to possess it in perpetuity, the effect of the pledge immediately ends and completely ceases to exist.

[7] Some people, however, understanding and interpreting wrongfully, deceitfully and malevolently the rule that says that prescription cannot be applied to goods and things in pledge, try to usurp and claim for themselves many goods and property rights of lord prelates, barons and noblemen of the realm by letters of pledge, written and issued sixty, seventy, one hundred or more years before, on the basis of the said pledge.

[8] Thus, it must be noted, that all these old and aged letters of pledge that have exceeded the prescription are to be regarded and considered null and void, having no legal force, unless the plaintiff and the acquirer of those goods can present legal and trustworthy documents and written testimony as to the violent expulsion or the unlawful seizure of those pledged goods and property rights.

[9] Regarding this kind of violent and unjust expulsion or seizure of goods, if, however, the plaintiff can present sufficient and honest testimony within the space of sixty years, but no more, that must also be accepted.

[10] Because it frequently happens that someone repays the creditor the whole amount of money for which he had pledged his goods, but does not receive or get back the letter of pledge, and the creditor gives him a letter of receipt or quittance which is easily lost, particularly if the said man is in default of heirs and his goods devolve upon and are transferred to royal hands or to others by royal donation or by any other means, so similarly in a case involving ancient letters of pledge, when the pledger dies in default [of issue], no one, especially not an outsider, should present a letter of receipt, unless it is proved (as mentioned before) that the pledged right was taken unjustly and violently from the hands of the possessor by someone. Because it would not be fair that he lose his money. Therefore things and properties are transferred to this party, along with the encumbrances.

[11] But if the creditor remembers that he has already received the capital from the pledger then he had better cede and return the pledge rather than bring damnation on his soul.

CHAPTER EIGHTY-THREE

That property rights may not be pledged above their common estimation

But you should note this point (as I briefly mentioned above)¹⁸⁹ that no lord, magnate or nobleman or man of property, be he of whatever estate, condition, dignity or eminence, may in any circumstance pledge his property rights above the value of their common estimation.

[1] If, however, the goods are pledged over their proper and common estimation to someone, then the person who pledged them to another may during his lifetime redeem them in no other way than by depositing and repaying the amount of money he has received for them.

[2] But after his death, and even during his lifetime, the sons or kinsmen of the pledger who clearly have the right of redemption can redeem those goods by the said estimation; always taking into account the aforementioned rules of selling or pledging.

[3] By common estimation you should in this case understand not oxen, horses, cows, sheep and other chattels that may be easily sold, but the value of the pledged goods and property rights, that is, how much these goods are worth according to the estimated value, including (as was mentioned above)¹⁹⁰ the arable lands, woods, meadows and other appurtenances and revenues. For, the cash payment, in the end, ought to be based on this value.

¹⁸⁹ See above I. 60. 2

¹⁹⁰ See above I 60.8.

The fixing and adjustment of boundaries, in general

Since we mentioned above that prescription does not apply to the adjustment of boundaries, I shall briefly say something about the perambulation and adjustment of boundaries.

[1] About this it must be known, that when the throne and governance of this renowned kingdom of Hungary was established, and the Hungarian people, inspired by the grace of the Holy Spirit, came to perceive the truth and professed the true faith, our glorious king and apostle, Saint Stephen, the renowned and pious king, Saint Ladislas,¹⁹¹ and many of the late serene kings of Hungary, that is their successors, granted a great number of lands (which we now call estates) separating them from the royal castles inasmuch as they belonged to the jurisdiction of the Holy Crown of this realm, to monasteries and parishes as alms in perpetuity, or to their servitors (whom we now call noblemen) in consideration of their services, as property in perpetuity.¹⁹²

[2] These lands were separated from other lands by landmarks at the time of their donation.

[3] The number of barons, magnates and noblemen of the realm multiplying, some of them settled and founded two, sometimes three or more villages within the boundaries of one land or estate, populating these with people and inhabitants; and sometimes they did not make any separation of boundaries among those villages. But they made among these villages some determinations as to what each might use. Sometimes, however, they did separate them by erecting landmarks.

[4] As time passed, the sons and heirs of those lords, barons, magnates and noblemen divided the property rights among themselves and one received as his share one of the villages, and the other another. When these men died, often in default [of issue], those villages and estates, devolved into some other man's hands as a donation of the late kings of Hungary or in other ways, together with the letters of boundaries; and thus the first cases regarding the perambulation and adjustment of boundaries emerged.

[5] Because those to whom passed these letters of boundaries, along with the estates mentioned in the same letters, came to believe, by virtue of these letters, that they were entitled to such other villages and estates as lay within their boundaries.¹⁹³ And even in the most recent times, many different cases regarding the adjustment of boundaries have emerged as a consequence of the occupation and outright seizure of lands by powerful and violent men.

¹⁹¹ Ladislas (László) I, king of Hungary 1077–95.

¹⁹² This is not an entirely unhistorical account of the origins of the Hungarian nobility. Most nobles were the descendants of warriors and servicemen attached until the thirteenth century to the retaining and supplying districts of royally-owned castles.

¹⁹³ Werbőczy here alludes to the territorially fractured nature of landholding in medieval Hungary. Even within a single village, there might be plots and half-plots which were owned by different noblemen.

CHAPTER EIGHTY-FIVE

How shall it be understood that no prescription applies to the adjustment of boundaries

Although prescription does not apply to the adjustment of boundaries, however, separated estates included within any letter of boundaries may not be treated as naught nor seized (especially in the aforesaid cases) by virtue of those letters of boundaries.¹⁹⁴

[1] Because the person, to whom the land or boundary¹⁹⁵ belonged, should have objected and protested at the time of the foundation and settlement of such a separated estate (so that no estate or village be established).

[2] Thus, for this separated village or estate lying (as was said) within the letter of boundaries, a delineation and assignment of boundaries, together with the long-term use and effective ownership of lands, woodlands, hills, vineyards and meadows held and owned by the peasants and inhabitants of these villages or estates, sufficient for the use of these same peasants in respect of these lands, woods, wood pastures, mountains, vineyards, waters, meadows and hayfields should be done and decided by the just and fair decision of a justice ordinary. The other clauses of the letter of boundaries remain intact to the plaintiff's benefit.

[3] Those portions or parts of lands, woodlands, vineyards and meadows, however, that were gradually detached or occupied in any way from the body, that is, the separated estate, can and must be restored by virtue of the letter of boundaries (providing that the letter was issued lawfully), and (in accordance with the ancient and approved custom of this realm) be re-incorporated to its original body by the plaintiff by means of an oath according to the quantity and estimation of the detached or occupied part; notwithstanding any argument as to the prescription.

[4] And how these lands or forests should be estimated, and how much two, three or more *iugera* of land, hayfield or wood are worth you will find written below, in the discussion of estimation.¹⁹⁶

CHAPTER EIGHTY-SIX

Which letters of boundaries are valid and which are not

It must further be known that during the perambulation of boundaries, and in the letters issued in these matters, many frauds and scandals are often committed.

¹⁹⁴ A rather obscure passage as the exact meaning of the expression *corporalis possessio* is unclear, but it seems to mean a newly founded settlement within the boundaries of an older property. The word *inclusio* of the letter of boundaries is a *hapax legomenon*, and the participle *adiacens*^w refers to the actual location of a property rather than its insertion in a letter. We follow here –more or less–the traditional Hungarian interpretation of this text.

¹⁹⁵ *meta*: could very well be a Hungarism where the word boundary (*határ*) also means the outlying fields of a settlement, namely, “as far as its boundaries go.”

¹⁹⁶ See below I:133.

[1] Because frequently some people, mindless of their salvation and honor, after receiving the letter of perambulation issued by the king or by one of the justices ordinary of the kingdom with the clause "We are told", bribe with money or gifts the royal or palatinal bailiff and the witness of the chapter or convent who are sent for execution, that is, the perambulation of boundaries; and, on the basis of their report, they get the chapter or convent to issue and give them such a letter of boundaries as they want, in the form of a privilege (the other party, whose lands' boundaries were fraudulently reported to be perambulated being ignorant of this), and they secretly hide these letters at home and keep quiet about the perambulation of boundaries for ten, sixteen, sometimes even twenty or more years; and then, finally, when the royal bailiff, the men of the chapter or convent, as well as the neighbors and abutters – whose names were fraudulently written in the letter of boundaries – are probably dead, they execute this perambulation of boundaries publicly and now lawfully by virtue of that letter of boundaries, and this way they appropriate much land for themselves in an unjust and deceitful way.

[2] So that these people's damnable avarice is curbed and the truth brought forth from the letter, the justices ordinary and their protonotaries should always ruminate with scrutiny, care and attention upon this kind of letter (with the clause "We are told"), issued on the basis of the report of a royal or palatinal bailiff or of the men of chapters and convents; and the truth must be established regarding their use, that is, whether the plaintiff after the perambulation of boundaries really had and possessed, by virtue of the letter of perambulation, the ownership and use of the lands mentioned and included in the letter. And if it is proved that he had neither the use nor the ownership of those lands, then it will be clear that this letter was issued unlawfully and against the due process of law of the realm, and, thus, it is null and void.

[3] However, those letters of boundaries that were issued on the legal commission of one of the justices ordinary of the realm or on a lawful perambulation of boundaries conducted with the consent and recognizance of two, three or more parties; moreover, those letters that were issued on the basis of an agreement or recognizance of the parties, as long as they do not malevolently apportion among themselves somebody else's goods and lands or cannot be proved to have done so; finally also those letters that were issued and given openly, publicly and lawfully by the royal or palatinal bailiff and the men of some place of authentication, based on a common and ordinary perambulation of boundaries conducted in the presence of neighbors and abutters of the property rights, that is, the perambulated lands, and chiefly in the presence of those to whom it is known that the possession of those lands or at least that of the neighboring lands belongs – all these letters are always to be reckoned as valid and having legal force.

[4] All borders and landmarks described and defined in letters of donation issued by any of the lawful lord kings of Hungary shall always be observed. But you should only hold this to be true when those lands and estates were not divided into several lands and estates after the donation and the fixing of boundaries or if they have not been split up by boundaries through use and ownership.

CHAPTER EIGHTY-SEVEN

What shall be thought about the lands separated by the force of rivers

Then, as the boundaries and borders of many free cities, villages, estates and many towns and deserted lands are set and defined by rivers and streams; and by the flood and force of these waters often large pieces of land, meadows and woods are separated, carried away and attached to the area of another neighboring city, town or estate; since the river, driven by vehement flood often strays and spills from its usual course, flow and bed into a new bed; so some people think and believe that the lands, meadows and woods that were annexed and attached to the area of another neighboring free city, town or village due to a change in the flow, course or bed of the river ought to belong to and come into the possession of that free city, town or village; arguing and stating that their boundaries are set by the flow, course and bed of the river. But this opinion is not correct.

[1] For, this way many frauds could be committed, and the waters and rivers – with hidden canals, and sometimes by making shallow dikes, or raising dams or filling up the bed – could be driven into a new course and bed in any direction, according to will; thus someone could easily usurp another's lands, woods and meadows.

[2] Therefore the opposite opinion shall be accepted as correct, which says: since the revenue of the water, that is, the river, especially that of the navigable river is estimated to be of great value; so if the water or river sets a new course, the free city, town or village, from the area of which the river strayed and went to others' lands and territory, cannot be deprived of its revenue, namely its mills, its ferries, its tolls, its fishing and other revenues, but rather it can reap and enjoy its revenue and benefit with full and unlimited authority when the river set a new course, as it used to do when the river flowed in its true, usual and old bed.

[3] Woods, meadows and arable lands will remain in the possession of him to whom they used to belong and who used to hold peaceful ownership of them. Because of this, some people are allowed to build and maintain dams and dikes on the territories and lands of others, to protect their own lands, meadows and woods so that their lands and territories do not suffer damage from flooding and force of water. But they should not be understood as claiming these lands for themselves.

[4] The same is true for the dams and races of mills that have been built on such a river, the one bank of which belongs to this owner or village and the other to another. Although the end of these dikes may be located on someone else's land, which is lawful (as long as it does not cause obvious harm to the other party), no river and no land of another is seized by this, but they will always remain in the hands of their true owner.

CHAPTER EIGHTY-EIGHT

What is the definition of quartal right and to whom shall it be paid

Having explained hereditary and pledged property rights, as well as the perambulation and adjustment of boundaries; now the filial quarter or quartal right shall be discussed as well as the payment and refund of the dower and the paraphernalia.

[1] Here, you have to know that the quartal right means those property rights that are given to the daughters and women from the hereditary paternal goods and property rights as a sign of descent

from the kindred, not with permanent or hereditary right but under the stipulation and condition of redemption.

[2] You can find expressed above, where I described the inheritance of heirs from the paternal goods,¹⁹⁷ why the paternal property rights acquired by service do not belong to the right of the female line, and why daughters cannot get a share of these equal to that of the sons and lawful heirs; and, moreover, of what estates the daughters must get a hereditary share.

CHAPTER EIGHTY-NINE

The mode of paying the quartal rights, that is, the filial quarter

It must be noted that every baron, magnate and nobleman – whether he has one, ten or more daughters – can satisfy them with the single payment of the filial quarter, in such a way, that all the paternal property rights, together with all their revenues and appurtenances of any kind, are divided into four equal and equivalent parts: and from these one quarter, which is set aside for the filial quarter, is valued and estimated by common estimation; and the quarter shall be paid according to this estimation with a single payment to all of the daughters, and only in cash and not in marketable chattels.

[1] The ownership and hereditary right of this quarter, together with the other quarter parts or divisions, will always remain with the sons and heirs.

[2] But any of the daughters can ask separately for her quarter if she wants. However, the heirs from whom she is asking it should take care not to pay to one what they have to pay to all.

CHAPTER NINETY

That if the filial quarter was given to one of the daughters, then another one can still litigate for her inheritance

And if the filial quarter was paid to one of the daughters without legal discussion and without producing the letters and written testimonies touching upon the paternal property rights, another daughter can still litigate (if she wants) for the possession and hereditary rights of the same paternal property rights with him who was involved in this, and find out whether these rights should pass on to the female line or not.

CHAPTER NINETY-ONE

That unmarried girls cannot make recognizances

¹⁹⁷ See above I. 17, I. 21.

Since girls are often misled by their fickleness of spirit, they are never permitted to make either permanent or temporary recognizances that could cause harm to the rights of her descendants or kinsmen even if they have reached lawful and full age.

[1] This is why girls cannot be guardians of their younger brothers, and the custom of our realm does not allow them to discharge the duty of guardian.

CHAPTER NINETY-TWO

How the girls can stay in the paternal house until they get married

A clear explanation of how girls, who do not yet have their hair covered with a kerchief,¹⁹⁸ may stay in the paternal house and property rights after the death of their parents until the age of marriage, and how they should eventually be married off from these, you can find above, in the discussion of goods obtained on account of default of issue.¹⁹⁹

[1] And how the filial quarter is to be estimated, and what is the value of a castle, of a noble residence and of a tenant peasant's plot, and so on, will be clarified below, in the section on estimation.²⁰⁰

CHAPTER NINETY-THREE

The definition of dower and trousseau

Then, regarding the payment of dower and paraphernalia it must be noted that although *dos* [dower] (whence the word *dotalitium* comes), gifts and paraphernalia are very much different, we, however, with a muddled vocabulary mix up dower and gift and say *dotalitium* or simply *dos*; and this is given to the wife from her husband's goods for the defloration of her virginity and the consummation of the marriage.

[1] And we call all those chattels paraphernalia that are given to the woman either by her husband or her parents, or by her kinsmen or by anybody else on the occasion of marriage, engagement or betrothal.

[2] About which it must be known that according to the ancient and approved custom of our realm, dower is a payment which is usually given to women who are lawfully married for performing the marriage dues, out of the husbands' goods and property rights, as the status of the husband demands.

[3] Because the payment of dower is varied and made in accordance with the rank of the standing and dignity of the husband, as well as with the quantity of their goods and property rights, thus,

¹⁹⁸ This expression refers to unmarried girls.

¹⁹⁹ See above I. 29.

²⁰⁰ See below I. 133.

the widow left by a baron gets more in dower than a magnate's widow. Similarly, the widow of a nobleman having a hundred or fifty tenant peasants gets more dower than that of another nobleman who had less tenant peasants.

[4] If the husband held baronial office, then his wife will get a hundred marks; or if he was a magnate or was a baron by name alone and did not hold baronial office; or if he was a distinguished nobleman or knight and he had fifty or more inhabited tenant peasants' plot, then his widow will get fifty marks in dower, each mark calculated at four Hungarian florins, that is four hundred pence in our present money.

[5] Widows of noblemen of lesser status and condition get more or less dower from their husbands' goods and property rights, in proportion to the quantity of the goods decided by common estimation (excluding arable lands, woodlands, meadows and other appurtenances and external revenues of the goods).²⁰¹

[6] After the woman's death, the person closest in line of consanguinity has the capacity to require and claim her dower.

CHAPTER NINETY-FOUR

Who are and who are to be reckoned ex officio the true barons of the kingdom

In order that no doubt arise concerning the offices and names of baronies it seemed proper to list their names here.

[1] The true barons, whose names have been included for a long time in the decrees and royal letters of confirmation,²⁰² are the following:

[2] The palatine of the kingdom of Hungary; the judge royal; the ban of the kingdoms of Dalmatia, Croatia and Slavonia; the voivode of Transylvania and *ispán* of the Székely; the ban of Severin, as the banate of Mačva²⁰³ was eliminated by the Turks in our times; then, the king's and queen's Masters of the Treasury,²⁰⁴ of the Doorkeepers,²⁰⁵ of the Cupbearers, of the Stewards and of the Horse, as well as the *ispáns* of Temes and Pozsony.

²⁰¹ This remark on the exclusion of the major parts of a noble estate from the estimation of the dower sounds rather peculiar. We have no evidence on this way of calculation from the practice.

²⁰² For an example of such a list see the draft of the royal approval of the *Tripartitum*.

²⁰³ The banate of Severin (Hungarian Szörény) was situated at the lower run of the Danube; the banate of Mačva was a territory south of Belgrade.

²⁰⁴ The master of the treasury (*magister tavernicorum*): was originally responsible for the royal court's provisioning, derived from the Hungarian name for the guards of royal magazines (*tavernici*); from the fourteenth century onwards, the master of the treasury was no longer associated with the treasury, but was rather the presiding judge of the appeal court of certain royal cities (*sedes tavernicalis*). For more, see, below III.11.

[3] The widows left by all of these usually do and should receive one hundred marks in dower and trousseau (as was mentioned above) from those whom it concerns.

CHAPTER NINETY-FIVE

That the dower has to be paid partly in cash and partly in marketable chattels, and what are marketable chattels

And the dower is always paid partly in cash, partly in movable and marketable chattels, according to their true price and value.

[1] Patched dresses and weapons, lame horses, oxen and other cattle are, however, excluded from the valuation. These cannot be accepted as payment of the dower.

[2] The movable and marketable goods shall in this respect be such that are sold in the daily markets: sheep, oxen, horses, goats, cows, calves and pigs that can easily move from one place to another.

CHAPTER NINETY-SIX

That the wife is to get the whole dower from her first husband, and half of it from the second; and what the dower shall be paid from

Then, it should be considered that any woman will get the whole dower from her first husband, because of the bloom of her virginity with which she is given in marriage; from the second husband whom she married after having lost her virginity, she will get only half of the dower; from the third, one quarter of it, and from the fourth, she will get only one-eighth of the dower.

[1] And if she gets married for the fifth or sixth time, her dower will be reduced to a very small amount.

[2] The dowries of women are paid from the goods and property rights of the husbands to which they have been brought.

[3] For, from their paternal rights they shall receive not the dower but the filial quarter, unless the woman should demand her mother's or grandmother's dower, which she can do lawfully if no quittance had been given for it.

²⁰⁵ The master of the doorkeeper (*ostiarius*) seems to have been something like the Speaker of the royal council. The other "masters" were barons, members of the government, usually not connected any more to their original ceremonial titles, just as in other European courts.

CHAPTER NINETY-SEVEN

How the dower and the filial quarter can be claimed together

However, it must be known that one and the same person cannot claim at the same time her mother's and her grandmother's dower.

[1] Because if I claim my mother's filial quarter, then I would be claiming my grandmother's dower, because my grandmother is my mother's mother.

[2] And if it is only my mother who claims her own filial quarter from the paternal goods, then she would be claiming her mother's and not her grandmother's dower. For claiming her grandmother's dower is up to the kin and indeed the closest one from the line of which that woman is known to have descended.

CHAPTER NINETY-EIGHT

How women can be ousted from their husbands' goods, and how not; and about their movable chattels

Then, if a husband dies childless and intestate, all his movable chattels of whatever kind and name devolve upon his wife,

[1] who, once the dower has been restored to her, cannot be excluded from her husband's goods, property rights, residence and mansion, as long as she keeps her late husband's name and title, and lives in widowhood and does not enter another marriage.

[2] If she, nevertheless, marries and becomes someone's wife, then he, upon whom the deceased husband's goods and property rights have devolved, by right of inheritance and succession has full authority to oust and exclude the woman from these goods, having first paid off her dower.

[3] Nay rather, if the goods and property rights of the deceased husband are so ample and lucrative that they far exceed the woman's dower, then he, upon whom those goods devolve can exclude the woman—even if she kept her husband's name and title—from the rest of the goods, namely those parts that surpass and exceed the value of the dower, by lawful process before his judge, and leave only such a portion of those property rights for her use as is required by the size of the dower.

[4] But the wife cannot be evicted from the place, house and mansion of her husband's usual residence, unless it happens that this house is a castle, which should not be given to her; but instead another house of her husband, located somewhere outside the castle has to be assigned for her living.

[5] It is different with those who have and own more than one castle that can serve for living in; in this case, even a woman can have a castle designated for her living.

CHAPTER NINETY-NINE

The division of the husband's movable chattels among his widow, children, and brothers

When upon his death, the deceased husband, left in his house not only a wife, but also sons and daughters, as well as joint-owning kinsmen, then first the deceased's portion in every movable chattel has to be separated and set aside from the portions of the surviving joint-owning kinsmen.

[1] Then all the deceased husband's chattels, called by whatever name, shall be equally divided between his widow, sons and daughters, and those chattels, except for the carriage horses and the husband's best garment which are to be kept by the lady widow, should be distributed in as many equal portions as the number of the still joint-owning or unmarried persons in the family, and all of them shall get their parts.

[2] Arms, however, should be transferred to the sons or to the joint-owning kinsmen without division.

[3] And if there are no such persons at all, then not only these things, but all movable chattels should devolve upon his widow (as was mentioned before), unless the husband included these in his will.

[4] Under the term "sons" understand all those boys who have not made a division with their deceased father; and under "daughters", those girls who have not yet been given in marriage or wed from his goods. For sons, after the division, and daughters, after their marriage, cannot get a portion from these kinds of paternal things and movable goods.

CHAPTER ONE HUNDRED

The trousseau and the chattels given with the bride and to the bride at the time of the marriage

It has to be noted, however, that the garments and other chattels that are given with the bride on the occasion (as mentioned above) of her marriage, wedding and nuptials by her parents, kinsmen or any other person (which we call trousseau) shall (if anything be left of them) remain intact and be returned to the same bride, that is the wife, when her husband dies childless. Nor should these sorts of chattels, given to her, be subject to division when the other chattels are divided.

[1] Moreover, if she has children, namely sons and daughters, and if she happens to get married a second time or otherwise does not want to live with her children, she is free to keep these chattels for herself.

[2] If the woman died childless and intestate, her parents or her closest kinsmen can recover and claim these chattels for themselves.

[3] However, if she left children, they will pass to them.

[4] The chattels given to the bride by the groom as a present either in honor of the marriage or at the engagement, can never be recovered by the groom should the bride die (before they were

joined). If, however, she leaves this world after their bodily union, childless and intestate (for she can make a will about these), the chattels will remain with the husband.

CHAPTER ONE HUNDRED AND ONE

On the deceased's stud of less than fifty horses

Then, it has to be also noted that if the husband has a group of horses, which we call a stud, but less than fifty, which he collected or bought during and at the time of his marriage with his wife, it shall be divided equally between them.

[1] Moreover, even if they were in the possession of the husband before his marriage, they should be divided equally and be common property, providing their number is less than fifty.

[2] However, if their number reaches or exceeds that number, the husband can leave them by will as goods acquired by him; but if he dies intestate in respect of them, they shall be added to his sons' heritages. Nevertheless, if they are ancestral property, then testamentary provision made about them will neither hold nor be valid, except for the portion which is conceded to belong to the husband, as is allowed by law.

[3] What remains, however, will devolve with the property rights upon and belong to the sons, the joint-owning kinsmen and other lawful successors; and the dower and filial quarter can also be paid from it, so that the successors may not be forced to alienate estate in order to cover payments of this type, as they are obliged to betroth and give in marriage the daughters out of the paternal rights.

[4] But this is only when daughters, after their father's death, have not received a portion of his chattels. Because in this case their portion should be counted among the marriage dues; they should, moreover, receive their filial quarter.

CHAPTER ONE HUNDRED AND TWO

The husband's property rights acquired during marriage with his wife

Then, it must further be known that if the husband, even during the marriage, purchased estates and property rights and did not have his spouse's name inserted in the letter of recognizance, then the woman cannot receive a portion of these estates and property rights, (even though they were bought).

[1] However, if she wishes to, and keeps her deceased husband's name and title, then, until her death, she is free to reside and to live in her sons' and daughters' goods and property rights, but

only under the condition clearly explained above in the chapter titled “How can the women be ousted from their husbands’ goods”.²⁰⁶ When I say “in her daughters’ goods”, I mean only those rights which also belong to the female line.

[2] When, however, the widow marries for a second time, she can be excluded and ousted from the goods by whosoever is entitled to do so, once the dower has been paid off. Whoever wants to please his wife through rights that are hereditary, should be sure to have his wife’s name inserted in the letters of purchase and recognizance.

[3] Nevertheless, if the deceased husband leaves behind property rights pledged to him at any time, that is before his marriage or during it, and even if his wife’s name and that of the heirs of both sexes are not inserted in the letters of obligation and pledge, then these rights should be divided equally among the spouse, the sons, the daughters and the joint-owning kinsmen in the manner of other chattels.

[4] Because pledged goods are redeemable and converted into money after redemption. And money is regarded as chattels. But this is only true if the pledged goods have not been subsequently converted into hereditary goods.

CHAPTER ONE HUNDRED AND THREE

That the wife can recover her dower even from her husband’s pledged property

Furthermore it must be known that, if the woman’s husband in dire necessity (as often happens), has pledged his property rights to someone else, particularly when he has done so without his wife’s consent, then the woman, after her husband’s death, has the right to claim and receive her dower from the person who holds this property right in pledge. Because pledging does not obliterate the ownership and hereditability of these property rights.

[1] Otherwise, if the woman had to wait for their redemption, she would not be able to recover her dower. She might in the meantime depart this world before their redemption and thus be cheated of her dower.

[2] However, at the time of the redemption of those property rights the person to whom the [right of] redemption belongs, has to make satisfaction not only for the capital sum for which the goods were pledged, but also to give satisfaction in respect of the paying off of the dower.

CHAPTER ONE HUNDRED AND FOUR

That the wife’s dower is not lost because of the husband’s wrongdoing

Moreover, if the husband’s property rights are seized by law because of a misdeed or some charge of infidelity, his wife can always recover her dower from the person who comes into the possession of those property rights (even if the husband is beheaded).

²⁰⁶ See above I.98.

CHAPTER ONE HUNDRED AND FIVE

That the woman caught in adultery loses her dower but not her trousseau

It also must be noted that if the wife, violating the wifely faith she owes her husband, commits adultery, and being caught in the act, is divorced from her husband, then she loses her dower, but not her trousseau, that is, the things that were given to her at the wedding by her parents or kinsmen, her husband, or anybody else.

[1] However, if the husband, knowingly condones his wife's behavior by dwelling and sleeping with her after the adultery, then she should retain her dower as well; and afterwards, if she happens to err a second time, the husband may no longer punish her with death, which he could have done freely and justly on the first occasion, namely, when he learned of the adultery.

[2] When, however, the wife was justly punished with death for this kind of adultery, her kinsmen can demand only her paraphernalia, but not her dower. But this only if she has no children and did not make a will about these things; otherwise, they devolve upon her children or her testamentary heirs.

CHAPTER ONE HUNDRED AND SIX

Marriage between blood relatives, contracted knowingly or ignorantly

Moreover, if the marriage between a man and wife has been dissolved because of their unknown consanguinity or affinity,²⁰⁷ then the woman will recover from the man her dower as well as the trousseau. Their children, who were begotten during the marriage, will also retain the right of succession to both parents' goods and property rights.

[1] However, this does not mean that both lines will equally inherit: if those goods are subject only to the male right, they will belong only to the sons, and if they follow both lines, then the sons and daughters will equally inherit.

[2] In contrast, if such a marriage was contracted knowingly and against the objection of their kinsmen or those who should succeed them, and regardless whether or not a dissolution eventually happened; then the children begotten during the marriage cannot inherit their parents' goods and property rights, but these instantly devolve upon the kinsmen or whomever should succeed. The act of legitimization has no consequence at all for the inheritance of goods (which belong to the kinsmen and, lacking these, to the royal majesty) even in respect of marriages which the pope legitimates. In addition, the woman loses her dower, and can only recover her paraphernalia from her husband.

²⁰⁷ The counting of affinity in Hungarian legal practice is discussed by Erik Fügedi in *The Elefánthy*, 13-5.

CHAPTER ONE HUNDRED AND SEVEN

How can a marriage knowingly contracted between blood-relatives be recognized

And the knowledge of the spouses will be obvious when the marriage was contracted over and against the reproaches and objections of the kinsmen or of whosoever else should succeed; or the consanguinity between them was so close that they must both have known it.

[1] Because consanguinity, according to the holy canons and also the laws of our realm, prohibits and forbids marriage within and including the fourth degree.

CHAPTER ONE HUNDRED AND EIGHT

That the ignorance of blood-related spouses makes their children legitimate, and the knowledge makes them illegitimate

Whence it follows that ignorance in this matter makes and brings forth legitimate children; knowledge, however, illegitimate ones in regard to the inheritance of both parents' immovable property.

[1] And neither the pope (as we said before) nor our prince can make [children] legitimate in respect of the aforementioned succession to the prejudice and against the wishes of the legitimate sons and other lawful heirs; except in the case, when, not having sons or kinsmen, the inheritance belongs directly to our prince. For in this case, the prince has the full power to dispose of those goods and property rights, to whomsoever and in whatever way he wishes.

CHAPTER ONE HUNDRED AND NINE

In what ways can a wife release her dower to her husband

Yet the wife (usually) releases her dower to her husband during their marriage for three reasons: first, when the husband increases and augments his spouse's wealth, the inheritance of which will not belong nor devolve to him; secondly, when the husband otherwise incurs needful expenses on these; thirdly, when the wife out of her dower charges, commits or in any other way obliges her husband with her salvation after her death. However, according to present custom, the woman can release her dower to the man notwithstanding the aforesaid conditions, especially on her death-bed, when the suspicion of fear and the threat of the man are removed.

[1] It is different, however, if the wife, being alive and healthy, is forced by her husband through fear and dread to concede her goods. Because in such a case, once lawful protest and retraction has been made by the woman, the release and the recognizance performed about it will not be valid.

CHAPTER ONE HUNDRED AND TEN

In what ways can a husband make a recognizance about his goods in favor of his wife, and vice versa, a wife, in favor of her husband

Furthermore, although many people have the opinion that because of the husband's boundless and profound love for his wife and because of the woman's fear of her husband neither the husband in favor of his wife, nor the wife in favor of her husband can make a recognizance about their goods and property rights permanently or in pledge; nevertheless, according to the ancient and approved law of this realm of ours, both the husband in favor of his wife and similarly, the wife in favor of her husband is allowed to draw up and make as well as perform permanent recognizances regarding all their property rights, especially those acquired or otherwise gained by themselves, in respect of which they could draw up and perform recognizances even to other unknown persons or outsiders, selling and alienating those goods under the conditions listed and explained above.

[1] As long as such a recognizance is clearly not prejudicial to the sons and kinsmen.

[2] And it should not be performed under coercion, force or fear. For in that case it will have no validity once the woman makes lawful objection.

[3] Recognizance by title or right of pledge between spouses is not admitted at all unless it is performed for an obvious and manifest cause and reason. Supposing that the wife openly and with many people's knowledge brought with her from the house and home of her father or of her previous husband cash, or jewels, gems or necklaces or gold and silver objects to her husband, and the husband converted them for the purchase or redemption of goods or the construction of fishponds or mills or the building of houses; then in these and similar cases (if namely no fraud is implied), a pledge and inscription is regarded as admissible.

[4] Because if it is straightforwardly admitted that the husband had often encumbered his goods with such amounts of money out of the love and favor of his spouse, then after his death his successors (particularly if these are odious to him) will only with difficulty be able to extract the aforesaid goods from the hand of the wife or of whomsoever they were inscribed.

[5] And the same applies to the wife in favor of the man (if there is reasonable and obvious cause and circumstance).

CHAPTER ONE HUNDRED AND ELEVEN

The children's lawful and non-lawful age and their appointing of attorneys

Since the children and sons of barons, magnates and noblemen are often left behind at a young and non-lawful age when their fathers pass away and depart from this world, and it is fitting and right that they be subject to someone's guardianship, education and protection: so it seems necessary to talk about the guardianship and education of these children.

[1] But before we discuss this guardianship, it is appropriate to address the ages of the same children.²⁰⁸

[2] So it is to be known that some children are of full age, others are not. Males reach full age at twenty-four; females, according to our present custom at sixteen years of age.

[3] Under age are those who are younger than the years of full age. Among these, some are of lawful age, others are of non-lawful age. Those of lawful age (who are also called adolescents) are in our times twelve years old, males and females alike.

[4] Nevertheless, according to our ancient custom males were considered to be of lawful age at the age of fourteen, and females at the age of twelve.

[5] And they are considered and called of lawful age, because they can initiate and pursue lawsuits against others. All those who are younger than these years, are said to be of non-lawful age.

[6] According to ancient practice and custom, males may start to appoint attorneys in the fourteenth year of their lives; in our times and according to present practice, however, they can appoint attorneys at the age of twelve; they can make recognizances about debts and pledges at the age of sixteen; and about their golden and silver objects and other chattels at the age of eighteen. Finally, at the age of twenty-four, they have full authority to sell, exchange and alienate by any title all their chattels and property rights as they wish; fully complying, however, with the aforementioned conditions regarding the sale and alienation of goods and property rights.

[7] Girls can similarly appoint attorneys at the age of twelve; at the age of fourteen they are allowed to answer for debts and pledges, as well as for their gold and silver and other chattels; at the age of sixteen, they can make recognizances about and dispose, as they wish, of their filial quarter, their dower and all their other property rights, in the aforementioned manner and under the previously stated conditions.

[8] But girls, and especially those who are under someone's guardianship, should not be forced by threat of violence at the age of sixteen or even above to any recognizances. And in this case, after they have been given in marriage, they are free to revoke and retract such a forced recognizance without any ado, because they were principally not at that time *sui iuris*, that is, they were not under their own power.

CHAPTER ONE HUNDRED AND TWELVE

Who are considered to be *sui iuris* and on the three kinds of guardianship of children.

Those are said to be *sui iuris* who are not under anyone's power.

[1] It is known that virgins and girls are always under someone's guardianship and power, until they are married to a man. For, otherwise, not having a guardian, they could on account of their

²⁰⁸ On the matter of age in medieval Hungarian law, see József Holub, "Le rôle de l'âge dans la droit hongroise du moyen âge." *Revue d'histoire de droit française et étrangère* 1 (1922): 78–140.

fickle disposition be easily misled and deceived. So it is appropriate to say something about the guardianship and guardians of children.

[2] Here it is to be noted that there are three kinds of guardianship: statutory, testamentary and appointed. Guardianship can be defined as a justly given and bestowed power to take care of those who, because they are under age, cannot protect themselves; still, in the true sense of the word, it always means protection.

[3] Hence, guardians have authority only to protect the wards' goods, not to alienate them.

CHAPTER ONE HUNDRED AND THIRTEEN

The first kind of guardianship, called statutory

Protection by parents as well as by kinsmen is called statutory guardianship. Now, if the father predeceased, and the mother survived, and boys and girls of non-lawful age remain behind in the paternal house, then the mother is allowed to hold and exercise guardianship over her sons and daughters as long as she bears her late husband's name and title and does not marry for a second time.

[1] And, conversely, if the mother dies and the father survives, even if he is of non-noble and peasant origin, and the property rights devolve upon the sons and daughters not by paternal but by maternal right, the father, and no one else, may take custody of the goods and even of the children. Because tutelage of the person is held to be more important than the maintenance of goods. And this is to be for as long as the boys remain of non-lawful age; however, as mentioned above, daughters have to be under continuous guardianship even at their lawful age, until they wed.

[2] It has to be observed, however, that if a non-noble father takes a second wife and starts to waste the goods of his wards left from his first wife, then his guardianship will cease and pass on to someone else.

[3] Nevertheless, if a son pass away and his father be a nobleman, he will hold the guardianship and take care of his grandchildren as the paterfamilias.

[4] And let us not forget, that if the wards' mother possesses some separate paternal goods belonging only to her, not to her husband, then the mother cannot be excluded from her sons' and daughters' guardianship in this regard after her husband's death, (even if she enters a second marriage); since inheritance constitutes the basis of guardianship, and in this case the mother is considered as leaving the sons and daughters as her successors and heirs.

[5] But if the son have kinsmen, upon whom his paternal goods and rights should devolve and pass, then the guardianship and maintenance of these paternal goods will be exercised not by the mother but by the kinsman closest by birth, as will be discussed in detail below, regarding the guardianship of kinsmen and cognates.

CHAPTER ONE HUNDRED AND FOURTEEN

The second kind of guardianship, called testamentary

The second kind of guardianship is called testamentary. That is when the father, on his deathbed, considering that his sons and daughters are young and of non-lawful age, and that he lacks a kinsman who ought to take the burden of guardianship, or has one, but he knows that this kinsman intends to grab his goods, and, thus, would be an untrustworthy guardian, submits his sons and daughters to the guardianship and protection of his cognates or blood-relatives or often of his friends.

[1] And this guardianship extends not only to the living sons and daughters, but also to those born posthumously, and it will always be lawful and valid, provided that it is not precluded by the lawful and just objection of the brothers or of the wife, and as long as the will specifies only such persons as are eligible to be guardians according to the custom of our realm.

CHAPTER ONE HUNDRED AND FIFTEEN

The third kind of guardianship, called appointed

The third kind of guardianship is called appointed, since [the guardian] is appointed by the prince, and it is also called the guardianship of the prince and protectors.

[1] And this occurs when statutory as well as testamentary guardianship are absent and lacking, that is, should the father die intestate and leave neither brothers nor kinsmen to whom the guardianship could go.

[2] The appointing of guardian pertains to the prince and protector. Since in the absence of any kinsman who ought to bear the burden of guardianship by virtue of succession in the goods, this right of succession will directly devolve upon the prince, who, as the lawful and true successor and protector of those orphans and wards, is the provider of their protection, and he must in fact assist them, by virtue of having assumed the royal office.

[3] Wherefore it should be known that in these circumstances our prince must designate and appoint such guardians for the orphans and wards whom he knows not to covet their goods and property rights and who live in the same county where the orphans themselves have their personal residence; and where there is no fear that they might, as guardians, alienate or waste their wards' goods.

[4] These appointed guardians must make an inventory and list of all the orphans' goods and property rights in the presence, if possible, of the *ispán* or *alispán*, or, otherwise, in the presence of one or two noble magistrates of the county in which (as was said before) the wards themselves live; or, if their goods and property rights, being numerous and large, are located in several counties, then in the presence of one of the judges ordinary of the realm, or one of their deputies (according to the quality and condition of the goods and property rights), so that at the end of the tutelary period they can make a proper account of all the goods listed and entrusted to them, and also of the fruits of the goods collected in the meantime.

[5] Because, the guardians have to compensate the orphans, when they reach lawful age, for wrongful management. And not only the appointed, but also the statutory and testamentary guardians are so obliged.

[6] That the minor wards or orphans, that is, who are of non-lawful age should be under guardianship is proper and in accord with natural law and reason, for those, who, being under age, cannot take care of themselves, should be governed by the guardianship and protection of others.

CHAPTER ONE HUNDRED AND SIXTEEN

How should the kinsmen of the male and female lines follow each other in guardianship

To comprehend the aforesaid more clearly, it should be known that the task of guardianship passes and is recognized as following the same order as the succession of goods, that is, the inheritance of property rights. Thus, in the absence and lack of testamentary guardians, the office of guardianship passes and devolves to the deceased person's brothers and kinsmen who would inherit his goods were he to die in default of heirs.

[1] And kinship extends in two ways, namely on the male and the female lines. In assuming guardianship, the kinsmen descending on the male line (who are also called agnates) always precede the blood-relatives and kinsmen on the female line (who are also called cognates). And these cognates of the female line are not allowed to exercise guardianship unless there are absolutely no kinsmen of the male line or agnates.

[2] And even that holds when it is recognized that the goods and property rights of the wards and orphans belong to both lines, namely the male and the female ones, and clearly follow both lines.

[3] Because if the succession and devolution of the goods and property rights is doubtful (namely, whether they belong to both lines or pertain exclusively to the male line), then the cognates are not allowed to be guardians, even when there are no agnates, lest they appear under cover of guardianship to arrogate to themselves the ownership and possession of the goods of the orphans. In such cases appointed guardians should therefore be requested from the prince.

CHAPTER ONE HUNDRED AND SEVENTEEN

What should be done about guardianship when the property rights belong to both lines

It should also be considered, however, that if the property rights of the wards patently belong to both lines, that is, if the persons of the female line held effective ownership of those property rights while the orphans' father was still alive, then a distinction will need to be made in respect of guardianship.

[1] The agnates and cognates will either be of one and same age, or they will differ from each other in age and years. If they are of the same age and capacity as guardians, that is, if they have reached twenty-four years of age, then the agnates (as was just said) should assume guardianship.

But if the cognates are older, and the agnates are younger, then the cognates should be assigned as guardians until such a time as the agnates are capable of guardianship.

[2] Although we recall some cases when, having reached lawful age, kinsmen and agnates were assigned as guardians, but before full age of children that is marked, as said before, by the twenty-fourth year of age. In cases in particular when the mother of the orphans is reported to have married a second time, and, we so found their goods to be in danger of waste, in a case such as this, the aforesaid guardianship is also valid.

[3] It should be known, however, as being always the case in respect of the agnates as well as the cognates, that is, of the persons of both the male and the female lines, that the burden and exercise of guardianship shall be taken by those (as said before) who are known to be closer and nearer to the orphans in the line of consanguinity, and are older by age and years.

CHAPTER ONE HUNDRED AND EIGHTEEN

What is agnation and cognation, or agnate and cognate

Where it has to be briefly noted that this usage of "agnation" is not a natural, but rather a civil term, and it was introduced by civil law as a distinction in natural kinship, so that it can denote the difference in origin of males and females.

[1] Whence it is clear that all our agnates are also our cognates, but not vice versa. Because agnation is a species of cognation; but cognation is a general name that is applied to both males and females. However, (as said above) here the term agnation designates only persons of the male line, while cognation those of the female line.

CHAPTER ONE HUNDRED AND NINETEEN

Whether testamentary guardianship cancels statutory guardianship, and conversely

But here the question arises: whether testamentary guardianship cancels statutory guardianship, or conversely, the statutory cancels the testamentary? The answer is that testamentary guardianship, created properly and in the right way, vested in persons who are lawfully eligible, often overrides statutory guardianship, but not always.

[1] To make it more clear and easier to understand, it has to be considered that if a father (even if *sui iuris*) entrusts his immature and young sons to some persons who are perjurers or notorious oath breakers, called *ludas* in the vernacular,²⁰⁹ or who are otherwise infamous or proscribed, or who have incurred the charge of infidelity in any way: they cannot (even if they descended from the male line of ancestry) be admitted to the guardianship with prejudice to their kinsmen who should lawfully inherit, since they are barred from the right to inheritance because of their infamy and charge.

²⁰⁹ On *ludas* see below II. 30.

[2] Similarly, if the father (not having sons) in his testament entrusts his daughters to the protection of one of the cognates, this kind of guardianship is not regarded valid and permitted, since it would cause harm and prejudice to the rights of agnates, or the co-inheriting kinsmen who would normally inherit his goods. Lest under the cover of such guardianship the kinsmen be defrauded of their just rights.

[3] Frequently, though, a father, perceiving that he lacks sons and seized by love for his daughters, often tries to make them inherit his property rights, not only through guardianship, but also by different means and titles, with prejudice to the kinsmen who should succeed him.

[4] Conversely, however, when the father notices that one of his kinsmen or agnates covets his goods through a new division or by other devices and pretexts, or has even started a lawsuit for this reason, then the father can entrust the protection of his sons to whomsoever he prefers, notwithstanding the right of inheritance and, consequently, the right of statutory guardianship.

[5] However, he cannot entrust it to the cognates, due to the aforesaid reasons; unless the goods and property rights are to devolve upon and belong clearly to both lines. For, in this case he can entrust the guardianship of his orphans and sons to cognates as well.

CHAPTER ONE HUNDRED AND TWENTY

Two noteworthy corollaries on the succession of guardianship

Two corollaries can be inferred from the aforesaid. First, that properly assigned testamentary guardians have priority before other guardians, namely the statutory and appointed ones, in a way that first the testamentary guardians, then the statutory ones, and finally the appointed ones are to be entrusted with the guardianship.

[1] The second corollary is, that guardianship (as was explained above) follows the order of devolution of goods; hence, adopted brothers, who are to inherit someone's goods and property rights by virtue of some contract and royal consent, if that person dies in default of male issue, and has only daughters, rightly succeed and can like agnates be entrusted with the guardianship, notwithstanding the right or guardianship of any cognate.

CHAPTER ONE HUNDRED AND TWENTY-ONE

Cases when kinsmen must not be entrusted with the guardianship

It also should be known that there are four particular instances when agnates, brothers or half-brothers, or co-inheriting kinsmen, must not be allowed to take up guardianship.

[1] First, when one of the kinsmen loses his head or goods, such as those sentenced to capital punishment. Because as long as the kinsman is under the weight and burden of such a sentence, he is not permitted to exercise guardianship.

[2] Secondly, when he, without reasonable and obvious cause, squandered a village that belonged to the mutual inheritance of the kindred (by selling or otherwise alienating it), then he will lose

the office of guardianship, even if by doing so he redeemed his head; because it can now be assumed and envisaged that he would similarly squander and alienate the goods of the orphans and wards.

[3] Thirdly, when one of the kinsmen or agnates subjects himself or lets himself be subjected under the right, that is, the power, of someone else. Because if someone is not *sui iuris*, he cannot bear the guardianship of another.

[4] Fourthly, when someone has incurred the charge of infidelity or been condemned for perjury, or otherwise become infamous or proscribed. Just as he was deprived of his hereditary rights, so also he loses the guardianship.

CHAPTER ONE HUNDRED AND TWENTY-TWO

In how many ways can the guardians be excused of the burden of guardianship

Furthermore, it has to be noted that the guardians, particularly appointed ones, can be excused of the burden of guardianship in many ways.

[1] First, because of the great number of their sons and the remote location of their residence, since they cannot cope with diverse affairs.

[2] Secondly, because of the great number of their villages or estates, located in various places and counties.

[3] Then, because of the continuous warfare of the princes, if they are soldiers, doing active and regular military service.

[4] Then, because of public service and handling the princes' affairs, such as chancellors, envoys sent abroad, protonotaries, stewards, administrators of incomes, dispensers of things and monies, and similar officeholders.

[5] Then, because of an incurable and fatal illness; and often because of illiteracy.

[6] Then, because of the mortal enmity that they hold against the wards' father, and similarly against the wards.

[7] Then, because of old age, that is, if they are over sixty.

[8] Then, if they have not reached full age, that is, they are younger than twenty-four, they can (if they wish) request to be excused of the burden of guardianship.

CHAPTER ONE HUNDRED AND TWENTY-THREE

That the guardians have to discharge the office of guardianship faithfully, and in how many ways they can become untrustworthy

It also must be considered, that guardians have to exercise guardianship over the wards in good faith.

[1] Because otherwise, if the suspicion be proven and they are found to have exercised guardianship badly and wickedly, they are not only to be removed from the office and exercise of guardianship, but, moreover, if they should be found and acknowledged as untrustworthy in respect of the properties and worldly goods of the ward, they are condemned to repay double the damage done to the ward.

[2] If, however, it becomes evident that they acted unfaithfully or contrary to their duty against the person of the wards or in a lawsuit about their property rights, it will bring eternal infamy to their head. Moreover, they should be forced to pay back double (as said before) the damage caused by this.

[3] And the guardians become and turn untrustworthy in several ways. First, if they squander fool headedly their wards' goods.

[4] Secondly, if they do not give their wards the necessities of life, such as food and clothing.

[5] Then, if they maltreat their wards without proper reason.

[6] Then, if they do not teach them good behavior, or if the guardians themselves behave badly.

[7] Then, if they are very poor.

[8] Then, if they were mortal enemies of the orphans' father, or, after his death, they are or intend to be open enemies of the wards.

[9] Then, if it is feared that they covet the goods of the wards, and they want to usurp those goods.

CHAPTER ONE HUNDRED AND TWENTY-FOUR

How can guardians be accused? And on insane wards

It shall be further noted that such guardians, be they testamentary or of any other kind, can be accused by anyone at all—man or woman, outsider, cognate, or brother-in-law—providing they are acting honestly, on suspicion of the aforementioned matters, namely the misuse and squandering of the goods and property of the orphans.

[1] But wards who are of non-lawful age are, of course, not allowed to accuse their guardians; but once they reach and pass lawful age (that is, when they can be part of and initiate lawsuits), providing they are of sound mind, they can accuse their trustees on the advice of their relatives.

[2] Where it must be known that, when the sons have reached lawful age, their father cannot in his will order a guardian for them against their wishes and consent; since they are of the age when they can defend themselves in the course of the law.

[3] And when the parents assign a guardian for their sons, with their consent or on their own request when they have reached maturity, then he is not called a guardian, but rather a trustee. Because guardians are given for immature children without their consent, while trustees are ordered for the mature ones, upon their request.

[4] And this only, if those requesting are of sound mind. Because if the sons are insane, mad, lunatic or demented, even after reaching lawful age, they are subject to the protection of the testamentary guardians, or lacking these, that of their brothers or agnates, and lacking even these, that of the guardians appointed by the prince or the justices ordinary of the realm by order of a court, and they [the sons], along with their goods and property rights, are directed by their [the guardians'] provisions.

[5] And these guardians, as may be necessary, especially for the sustenance of their wards, can assume their burden as well as make dispositions in respect of their goods as necessity requires, but they cannot alienate them.

CHAPTER ONE HUNDRED AND TWENTY-FIVE

That the prince can assign a guardian even when the courts are not in session

Since taking on the burden of guardianship is a pious act, therefore, an accusation against untrustworthy guardians can be freely made at any time when suspicion emerges, even when the octave and the short courts are not in session, and these cases can be submitted to the prince, that is, his royal majesty, so that the goods of the wards may not be badly and uselessly squandered.

[1] And when a guardian is accused on suspicion of this, namely of the crime of misusing and wasting the orphans' goods: the prince will immediately suspend him from the guardianship and the administration of all the goods of the wards, and they will be given and assigned to the public hand until the case is decided.

[2] And if the untrustworthy guardian departs this world before the investigation in the case is concluded, then the manner and punishment of what has been suspected shall be dropped, but the heirs and successors of the said guardian must account for the misuse of the property and are obliged to give satisfaction.

[3] And if a guardian is proven to have borne and conducted the guardianship and the office of guardian fraudulently, he must still be removed from guardianship even if he offers satisfaction and compensation, promising and naming guarantors in this matter; and the prince will assign and order another guardian of good repute to stand in his place. Because the guardian's offer of satisfaction does not erase the wrongful intent and does not remove the propensity for repeated wrongful acts; rather, it shows and demonstrates his intent to continue misusing the wards' property and goods. And it pertains to the prince alone to take measures, and to apply remedy.

CHAPTER ONE HUNDRED AND TWENTY-SIX

That the guardians can proceed in every case of the wards

It must not be omitted that since there are three kinds of guardians, namely statutory, testamentary and appointed, therefore they must present clear evidence of their guardianship in court.

[1] Once they presented it and verified their guardianship, they have the authority, by virtue of a letter of age, to proceed in every case, dispute, procedure and other affairs of the orphans and

wards, either in the courts of the justices ordinary or anywhere else, until they reach lawful age, and to arrange everything properly.

[2] And the wards (even if they reached lawful age) may not, without their knowledge or consent, employ an attorney nor can they make any recognizances during the time of their wardship. And if they employ an attorney or make a recognizance, these will lack all legal capacity.

CHAPTER ONE HUNDRED AND TWENTY-SEVEN

The examination of the age of the wards and letters of age

The age of the wards is usually examined, measured and debated by the justices ordinary of the realm or by their protonotaries or at places of authentication, that is, in chapters and convents.

[1] And such an examination (as long as a letter of age is issued in respect of it) will be given credence in every court; and by the virtue of these letters of age, the guardians can at any time take action and make objections, as well as respond to objections and allegations in the name of the orphans.

[2] Moreover, if they notice that in the course of any lawsuit that their wards will be found in the wrong and lose the case, they have full authority to make an agreement and (in accordance with the nature of the case) come to terms with the other party in the name of the orphans, but only to their advantage and not to their detriment.

CHAPTER ONE HUNDRED AND TWENTY-EIGHT

What force letters of age have and how recognizances made before full age have to be revoked

Since letters of age carry in all matters and suits the force of a letter of advocacy, they may help and empower the wards once the age of wardship has been reached and has run out, should they have made a permanent recognizance in respect of their goods and property rights to anyone at any time at any place before they reached full age, that is, twenty-four years, lured by gifts and deceived by flattering talk, and not being frightened and forced by someone's menaces or threats: such recognizances can be later revoked and cancelled by presentation of a letter of age.

[1] But only so, if the orphans, considering that they made these recognizances unadvisedly, revoke and retract them with their own words before the justices ordinary of the realm or before their protonotaries, or at places of authentication, before their full age is completed.

[2] And this kind of revocation can be done properly not only where and before whom the recognizance had been [previously] made, but also before other judges and other witnesses within the set time, that is, before reaching full age.

[3] But if they neglect to revoke and retract such recognizances in time, the recognizances will subsequently have the force of permanent validity and will always stand; however, within the aforesaid required conditions of alienating property.

[4] The said revocation and retraction of the recognizance being done, the revoker himself can always initiate litigation and action in respect of the revoked recognizance within the time of prescription, that is, thirty-two years.

CHAPTER ONE HUNDRED AND TWENTY-NINE

That orphans do not have to respond in cases initiated during the age of wardship

Hence, the orphans, while they are in the age of wardship, may be freed of any lawsuit or case brought against them during their age of wardship simply on production and presentation of a letter of age.

[1] Nor are they obliged to respond at anyone's request before their lawful age in cases and lawsuits initiated and brought against them during their age of wardship and non-lawful age (excepting cases initiated during the time of their father), in matters of property rights, dower or filial quarter, or acts of might, or damage or any other matter whatsoever.

[2] However, if a case about property rights, which is usually handled in a protracted lawsuit, is brought against the wards during the time of their wardship and non-lawful age, then the lawsuit will continue until the term set for legal response, but, at the term of response, the orphans' wardship and non-lawful age has to be adduced through the letter of age, and in this way the case may be postponed and adjourned until the first year of lawful age, that is, when the orphans turn twelve, namely, when they may first employ an attorney.

[3] For, otherwise, if they are forced to respond earlier, and even if they respond willingly out of ignorance, such a response will not stand, but may be revoked straightforwardly and without ado.

CHAPTER ONE HUNDRED AND THIRTY

That the wards are obliged to respond in cases initiated during their father's time

I did not casually include the aforesaid clause "except cases initiated during the time of their father", because in that case the wards, however young, must respond in cases that were initiated and brought against them during their father's lifetime and, after the response, pursue the cases and bring them to conclusion.

[1] And if during the case one of the wards happens to be judged to take an oath, this oath-taking shall be postponed until the first year of the lawful age of that ward; as will be discussed in more detail in the second part of this work, describing the ways of taking oaths.²¹⁰

²¹⁰ See below II. 37: 2.

CHAPTER ONE HUNDRED AND THIRTY-ONE

Another case, in which the wards must respond during their non-lawful age

Beside this, there is another instance in which the wards, notwithstanding their non-lawful age and wardship, must respond through their guardians and oversee the proceedings of cases brought against them while in that age. This is when the institution of some property rights or the perambulation of boundaries, done by anyone, is thwarted by objection made in the name and person of the orphans, and the wards, because of this contradictory objection, are summoned to an octave court.

[1] Because in this case, they are obliged to respond and give reason for their objection observing due legal process in the way and form as persons of lawful age do. The reason for this is that they interfered in this case of their own accord and volition. And although they are summoned to court on somebody else's request, they are not defendants, but are rather plaintiffs, who clearly attempt to oppose the other party's rights.

[2] Because if they did not deliberately object to the institution or the perambulation of boundaries, that is, the rights of the other party, they would not have been summoned to court at all. Thus, it can be seen that in this respect the case was raised not against them but rather by them.

[3] It is a different matter, however, when someone tries to obtain institution or make a perambulation of boundaries of such lands or goods and property rights that are peacefully owned by the orphans. In this case they must wilfully object to the institution or the perambulation of boundaries.

[4] Because if they stayed silent, they would be excluded from their ownership; therefore, in this matter, just as in the cases mentioned earlier, they will not be obliged to respond before their lawful age.

[5] And in cases raised for goods that were obtained from the prince on the basis of default of issue of a deceased person or devolved upon someone by force of contract, the course and order of the law shall be kept in the way described and explained above.

CHAPTER ONE HUNDRED AND THIRTY-TWO

That those who summon wards shall be sentenced to their man-price

Finally, it has to be known, that wards cannot do anything either with or without the knowledge of their guardian until they reach lawful age, when they are freed from any guardianship, because they are not *sui iuris*:

[1] Therefore, those who summoned and accused the orphans of acts of might (stating that they, or others at their behest, committed such acts of might) will be immediately sentenced to their man-price (as will be discussed in the second part, on conditions of summons).²¹¹

CHAPTER ONE HUNDRED AND THIRTY-THREE

What is the judicial estimation of movable and immovable property, and how it is done

Because the estimation of goods is especially needed in the arrangement of many matters, it is proper to add here its way and order.

[1] Wherefore it is to be noted that in accordance with the ancient and approved custom of this realm of ours judicial estimation is the fixed and established appraisal of the proper value of movable and immovable goods.

[2] Or in other words: the estimation is the fixed appraisal of movable and immovable goods, on the basis of their equivalence or value.

[3] There are two kinds of estimation: perennial and common. Perennial estimation, which is usually applied only to property rights and not to chattels, is ten times higher than the common estimation.

[4] In common estimation a populated tenant peasant's lot is valued at one mark, that is one mark of four florins, but in perennial estimation it is valued at ten marks, that is at forty florins.

[5] This perennial estimation is applied in few matters and cases; almost the entire body of the community of prelates, barons, magnates and nobles uses the common estimation. Unless the perennial estimation is stated with clear words in someone's recognizances or letters of obligation or is expressed in the general decrees of the realm, its use is rarely permitted. The list of common estimation is as follows:

[6] A castle of stone is estimated at 100 marks.

[7] Then, a monastery or cloister, in which there are burial places of the patrons or other distinguished noblemen, is estimated at 100 marks.

[8] A church with two towers, founded as a monastery, is estimated at 50 marks.

[9] A church with two towers, not a monastery or not founded as a monastery, is estimated at 25 marks.

[10] Any other one-towered mother-church, which has a burial place, is estimated at 15 marks.

[11] Built without tower but still having a burial place, at 10 marks.

[12] A chapel built of wood or a sanctuary not made of stone, but with a burial place, at 5 marks.

²¹¹ See below II 23

- [13] Without a burial place, at 3 marks.
- [14] Churches and chapels built in addition to the mother-church, are not taken into account in the estimation.
- [15] Then, a populated noble plot or noble house, at 3 marks.
- [16] If not populated, at one-and-a-half marks.
- [17] Without any buildings, at 1 mark.
- [18] Then, a populated tenant peasant's plot, at 1 mark.
- [19] A deserted one with buildings, at half a mark.
- [20] If there are no buildings at all on it, but it is located next to other plots, it is estimated at one quarter of a mark, that is, 100 pence. And if it is not located next to other plots, it is to be considered as a field and it is not estimated.
- [21] Then, a noble orchard planted with full-grown and fruit-bearing trees, which is one royal *iugerum* in size,²¹² at 3 marks.
- [22] On the island of Csallóköz²¹³, however, every full-grown and fruit-bearing tree, up to twelve of them, is estimated at 100 pence; the trees above twelve, be they of whatever number, are estimated collectively at 3 marks.
- [23] The orchard of a tenant peasant, if it is located outside the village, at 1 mark. The orchard located behind or at the plot is not estimated.
- [24] Then, common or arable land, that measures at least one royal *aratrum*,²¹⁴ at 3 marks.
- [25] Then, a common wood, on which no pig-tithe or other tax is collected, and which has no definite income, is estimated at the same amount as one royal *aratrum* of arable land, that is, at 3 marks.
- [26] For scrub and thickets the same rule is applied.
- [27] Then, a large wood, also called *permissoria*, that is suitable for common work and use, up to three royal *aratra*, each *aratrum* being estimated at 10 marks.
- [28] However, whatever is above three *aratra* is not subject to estimation, but is estimated only as three *aratra*.
- [29] Then, a major wood, that is, a lumber- or acorn-bearing wood, which is used for timber and hunting, and is good for any kind of work or craft, if it measures three royal *aratra* in size or volume, each *aratrum* is estimated at 50 marks.

²¹² *iugerum* (Hung. *hold*), a measure of land of Roman origin (120×240 feet = 0.66 acre), but of highly variable size. In medieval Hungary a 'royal hold' was equal to 0.84 ha.

²¹³ Csallóköz (Žitný ostrov in Slovak) is an island between two branches of the Danube, now in Slovakia, southeast of Bratislava.

²¹⁴ *aratrum* (=plough): usually referring to the size of land that--customarily--could be cultivated by one plough team, has been estimated at very different sizes from 50 to 150 ha; the best argued being ca. 126 hectares, containing 150 *jugera* (as below [49])

[30] And if its annual income can be easily calculated, especially, if it is an oakwood, then it has to be estimated at ten times its annual income. The part above three *aratra* is not subject to estimation, as in the case of *permissoria*.

[31] Then, if the arable land does not measure one or a half royal *aratrum*, so it is only five, six or ten, etc. *iugera*, in this case each *iugerum* (according to how many) should be estimated at 40 pence. Some say that the same rule applies to *permissoria* and groves.

[32] However, for the purpose of common estimation, this valuation, in contrast to the one above, does not seem to be just and proper, and shall be altogether regarded as inadmissible. Because if you estimate arable land or common wood, measuring one royal *aratrum* at three marks and the *aratrum* is divided into one hundred and fifty royal *iugera*; then properly calculated no more than 12 pence will fall on each *iugerum* of land, and only four *iugera* remain not estimated that will be valued at 50 pence. Fifty pence, however, cannot be easily divided into one hundred and fifty *fillér* or *obulos*. This is why those four *iugera*, according to the majority, should not be estimated.

[33] In calculating the *permissoria* or woodlands suitable (as said before) for common work, measuring one *aratrum* and estimated at ten marks, each *iugerum* shall be put or estimated at 26 pence and 1 *fillér*,²¹⁵ and 25 pence will remain as surplus or residue. And if we want to divide the amount in a different way into marks, then each *iugerum* is to be estimated at 27 pence, and seven more pence need to be added. Regarding the aforementioned land you can do the same calculation (if you wish).

[34] Then, one *falcastrum*²¹⁶ meadow or hayfield that, in other words, measures one royal *iugerum* is estimated at one quarter of a mark, that is, at 100 pence.

[35] Hayfields in outlying fields that can be scythed, but are rarely or never scythed, are not subject to estimation.

[36] Then, the undershot mill which also works at times of drought, at 10 marks; one that does not, at 6 marks.

[37] The overshot mill which works at times of drought, at 5 marks. The one that does not work in drought, at 3 marks.

[38] The site of an undershot, deserted mill, at 3 marks; one of an overshot one, at one-and-a-half marks.

[39] Then, a spurting spring or a running well that does not dry out, which is used for drinking by the people in any village is estimated at three-and-a-half marks. And if there are more of these, they are not estimated but counted as one, since one well is enough for one village.

[40] Then, a draining fishpond which does not dry out, at 10 marks. A non-draining fishpond that dries up in drought, at 5 marks.

[41] A big fishpond with a sluice, also called a *gyalmos-tó* or *morotva*, and other fisheries, called *tanya* on the rivers Danube, Tisza, Sava and Drava, if they yield a definite annual income shall be

²¹⁵ *Fillér* (or *obulus*) was a small coin. Less than a penny (denarius); the word comes from German *vierer* and is not regularly used in the medieval Hungarian monetary system.

²¹⁶ *Falcastrum* was a land measure used especially for hayfields (about 0.8 ha).

estimated at ten times of the annual income. And if it does not have a calculated income, according to the general custom it is estimated at 50 marks.

[42] Then, places for seines, also called *vész*, up to ten, at one mark each; over then up to a hundred or more, at 10 marks.

[43] Then, an enclosure called *rekesz*, which is used at times of flood, if it yields a particular and individual income, at 100 pence each.

[44] Then, a toll, collected lawfully either on water or land, is estimated at ten times the amount it yields annually.

[45] Then, the toll of vineyards or wine-hills that yields a definite and sizable income for the lord, is also estimated at ten times. I think, however, that this should apply only in the perennial estimation. Because vineyards, according to the ancient custom of our realm, are usually estimated like scrub and wood pastures, since when and where the vineyard is not attended, and its cultivation neglected, it turns into scrub and shrub land easily and quickly.

[46] But if a lord wants to expel and exclude a peasant or even a nobleman who has a vineyard on somebody else's land, he has the right to expel him, but not with the common estimation mentioned before regarding scrub and thickets; rather, he is required to redeem its real value and proper price, based on the reasonable and fair estimation and valuation of the reeve and jurymen of the place where the vineyards are located.

[47] This measurement²¹⁷ taken 16 times makes one *mensura*, that is, one royal ell.

[48] Then, a royal *iugerum* of arable land or wood measures seventy-two royal *mensurae* in length and twelve royal *mensurae* in width.

[49] Then, one *aratrum*, when estimating property, consists of one hundred and fifty royal *iugera*.

The estimation of cattle

[50] It has to be noted that an ox which is not lame and is not otherwise worn out, at 1 mark.

[51] Two cows, without a calf, at 1 mark.

[52] A cow with a calf, at 1 mark.

[53] Four sheep, at 1 mark.

[54] Four pigs, at 1 mark.

[55] A mare, without a foal, at 1 mark.

[56] With a foal, at 2 marks.

[57] With a filly, at one and a half marks.

[58] A saddle horse is estimated at its own value.

²¹⁷ The reference is to the bar that was printed on the side of the text, its length is 18.9 cm.

In how many ways and with respect to what estimations of goods and properties are done

Finally, it shall be known that the aforementioned estimation of movable and immovable property is done in different ways and for different reasons.

[1] First, in exacting judicial fines that are commonly and usually called *birsagium*. In these the cattle as well as the lands and property rights have to be equally estimated and accepted in accordance with the aforesaid appraisal.

[2] Secondly, in paying the filial quarter and pledged goods, as well as in redeeming goods seized for capital punishment or as a “fine of the head”. In this case the castles, noble residences, populated and deserted tenant-peasants' plots, also the ones in deserted lands, as well as the lands, woods, wood pastures, meadows, fish-ponds, mills, springs, cloisters, monasteries and churches, also tolls, orchards, as well as places for seines and sluices, and generally all appurtenances of the property rights to be estimated are valued in the aforementioned manner (the cattle being excluded). But the arable lands and meadows belonging to populated tenant peasants' plots are not estimated (except assarted lands and meadows that are the tenant peasants' property and do not belong to their plots). Finally, the payment of the filial quarter and pledged goods shall be done according to the amount of such an estimation. And the same shall be understood and held in respect of property rights sold in a way prejudicial to the kinsmen or otherwise inappropriately.

[3] Thirdly, in satisfying the dower, in which case only the noble residences, the populated and deserted tenant peasants' plots, also the ones in deserted lands, if they are located next to other plots, are estimated; but the plots outside the body of the village are not to be estimated at all. And the satisfaction of the dower, according to this kind of estimation of property, is usually made partly with cash and partly with movable things, including also cattle, according to their real value, namely, for what they might be sold in the market.

[4] It shall be considered, however, that if a woman after her husband's death, retaining his title and name, wants to remain in his goods and property rights until the end of her life; and if the same husband's son, kinsman or other lawful successor decides to separate, detach and give some property rights to the widow, equal to the quantity and value of her dower, to hold and use until the end of her life, then in this case not only the noble residences, the populated and deserted tenant peasants' plots, and also the ones in deserted lands shall be estimated, but also the lands, woods, orchards, hayfields and mills outside the village, just as in the payment of the filial quarter; but from these property rights only the amount shall be granted to the widow for use and possession that equals the value of her dower.

[5] Fourthly, in repaying debts, and also compensating damage calculated summarily or listed singularly. Then, in acquitting oneself of fines for frivolous prosecution and as fine of the tongue, and for paying the fine for contempt of the court of the royal majesty or that of a county *ispán* of any county, and in cases and matters of this sort; in these cases, movable and marketable goods shall similarly be accepted at their real value, and not by the aforementioned appraisal.

[6] Fifthly and finally, common estimation is usually applied in perambulations and adjustments of boundaries. In the latter case, the estimation is performed only in the respect that as many noblemen are required for the party that has by the judge's decision to take the oath vindicating his rights over those lands, woods, thickets, meadows and vineyards and acquiring them, as the lands, woods, thickets, meadows or vineyards, which are the subject of the suit between the parties are worth in marks.

End of Part One.

[PART TWO]

CHAPTER ONE

Second part of the laws and customs of the realm in general

Now that (with God's help) the principal matters have been concisely discussed, namely donations of property rights, and their types; the division of goods, sales, pledges, the definition of borders, the payment of dowers and filial quarters; and other matters related and connected to these – which provide the foundation and support of the lordship of all lords prelate, barons, magnates, and nobles: in the second part of this work it remains to discuss the procedures of actions and suits, executions, and the order of verdicts to be passed regarding these.

[1] But before I turn to the explanation of the subject matter of this part, I will briefly discuss in general how a constitution, or a general decree of the prince and the kingdom²¹⁸ should be interpreted, because the term 'constitution of this kingdom' will often need to be mentioned; moreover, what is the beginning and origin of our custom, that is, the unwritten law which we commonly use at this time.

CHAPTER TWO

In how many ways is “general decree” to be understood

The constitutions of princes, or the decrees of the kingdom, can be grouped in four kinds, as it comes to mind:

[1] Some constitutions have been abrogated *in toto* by subsequent ones, and simply revoked.

[2] Others have been partly abolished and partly approved.

[3] Some have been passed over in silence.

[4] Some have been introduced.

[5] In regard to constitutions deleted *in toto* (such as the court of the palatine, the extraordinary county assembly, trial by combat, and the summons at three fairs),²¹⁹ the time of abolition must be considered, since it is clear that they legally regulate future and not past actions and matters, inasmuch as palatinal courts and judicial combats no longer take place, nor are extraordinary county assemblies and the summons at three fairs any longer performed.

[6] However, in cases which were initiated during the validity of the former, the old procedure has to be observed in which these cases are recognized as having been initiated, not inasmuch as they are reinstated but in order to keep the procedural order.

²¹⁸ In this case the word *regnum* clearly implies the estates. Cf. II. 2-3.

²¹⁹ Most of these changes were enacted in the *Decretum maius* of King Matthias, 1486.

[7] It would be otherwise if such laws and constitutions also applied to past matters through the wording incorporated and written in the same constitution. For, to put it simply, constitutions (as noted just above) are binding not in respect of the past but of the future.

[8] Secondly – where constitutions have been partly approved and partly abolished – careful attention must be paid to the form of the wording included in these constitutions and decrees, in order that what has been approved is retained and what has been abolished is rejected and not observed.

[9] Thirdly, where earlier laws or constitutions have been passed over in silence, so that no reference is made to the earlier laws in later ones respecting any variation or alteration in the same, then the earlier laws are [only] recognized as having force when contrary use by the people has not prejudiced them. For real and continuous use often invalidates a law.

[10] Fourthly, when new laws have been introduced, then these laws have to be followed in passing judgment, whether they be stronger or milder than the earlier ones. For it is not possible to judge whether they have been well or badly enacted, but one should pass judgment in accordance with them.²²⁰

CHAPTER THREE

Who can establish laws and statutes

However, the question arises for consideration, whether the prince can establish laws and statutes of his own accord, or whether the consent of the people is also necessary.

[1] Concerning which it should be noted that although formerly, when this Hungarian people were still living as pagans and had as their rulers not a king but a duke and captains, all power to establish law and constitution resided in them.

[2] Yet, once they were converted to the catholic faith and of their own accord chose for themselves a king, then the right to found law as well as to grant any property and all judicial power were transferred to the jurisdiction of the Holy Crown of this realm with which all kings of Hungary are usually crowned, and hence to our lawfully constituted prince and king, along with the supreme command and governance. And thus, thereafter the kings themselves began to make constitutions after calling together and consulting the people, as is also customary in our times.

[3] And yet the prince cannot make constitutions *proprio motu* and by himself, particularly in matters where divine and natural law are prejudiced, or which diminish the ancient liberty of the Hungarian people as a whole. But once the people are summoned and asked whether such laws are acceptable to them or not, and they approve the laws, then such bills are henceforth to be observed as laws (keeping always divine and natural law).

²²⁰ A critical and historical discussion of the concept of *decretum* in medieval Hungary is offered by György Bónis, as “Begriff, Wirkung und gesellschaftliche Rolle des Dekrets”, in *Decreta regni Hungariae &c. 1301–1457*, Ferenc Döry, György Bónis and Vera Bácskai, eds. (Budapest Akadémiai Kiadó 1976), 15–31.

[4] However the people themselves often unanimously decide upon measures that they deem conducive to the public good, and present them in writing to the prince, begging that laws be enacted for them on these matters. And if the ruler himself approves and accepts them, then they acquire the force of law in the same way and indeed are regarded as laws.

[5] Yet all such statutes are specifically called the ruler's statutes, and not the people's, inasmuch as without the ruler's consent and ratification the constitution may in neither case be regarded as having any force. But as a general term these constitutions are often called decrees of the kingdom.

CHAPTER FOUR

Who are included under the terms 'the people' (*populus*) and 'the common people' (*plebs*)

The term 'people' is here to be understood as referring only to the lords prelate, barons, and other magnates, as well as nobles, but not to non-nobles.²²¹

[1] Albeit the term people includes all alike, noble and non-noble, nevertheless the non-noble (to whom the term *plebs* applies) will not be considered in the present section.

[2] For people differs from *plebs* as species from kind. For the term people refers to all nobles, both the magnates and the lower nobility, as well as the non-noble, whereas the term *plebs* refers only to the non-noble.²²²

CHAPTER FIVE

Who are bound by constitutions and statutes

Regarding the further question of who are bound by constitutions and decrees, it should be noted that in the first instance they bind the prince himself who issued them at the people's request, in accordance with the principle: Submit to the law which you yourself introduced. It is to be understood differently of the supreme pontiff and the Roman emperor, about whom no mention will be made here.

[1] Thereafter, the laws are binding on all those subject to the prince's jurisdiction.

[2] And not only on them, but also on any foreigners staying in this kingdom.

[3] However if a general constitution includes a punishment or penalty, then foreigners are given three month's grace; this time is set for making known the statutes to them. For example, supposing it is decreed and ordained that no person from Vienna or Wrocław or any other foreigner, on pain of death and the confiscation of all his goods, should presume to come with his wares to a fair customarily held in this kingdom of Hungary or to drive and lead away herds of

²²¹ Actually, this definition would also cover what elsewhere is called *regnum* (Hung. *ország*).

²²² The self-contradiction in this chapter must have originated from the author compiling different texts.

sheep, cattle, or horses from the kingdom; then such a foreigner even if apprehended cannot be legally bound or stripped of his goods within the space of three months, as he is excused by his ignorance of the statutes and the fact that they were not made known.

[4] But if no punishment or damage is involved but the redress of someone's right or of a judgment, or the means of pursuing a case, then foreigners are granted only one month.

[5] But for inlanders, of whatever status, dignity or condition, the time of the promulgation of the statutes is binding; and neither natives nor foreigners are excused in this way, for, 'When in Rome, live as the Romans do.'

CHAPTER SIX

Where did our custom that is to be observed in court originate

Be it known, secondly, that although almost all the rights of this kingdom originally evolved from sources in papal and imperial law, nevertheless this municipal custom of ours, which we now commonly use in court, is based on three foundations:

[1] First, on constitutions and public decrees.

[2] Secondly, on the privileges of princes.

[3] Thirdly, on the verdicts of justices ordinary of the kingdom.

[4] First, then, on public constitutions. To explore the origin of this matter more deeply, it should be noted first of all that the glorious king and our apostle, the blessed Stephen (who set the beginnings of the kingdom of Hungary and converted the Hungarian people to the light of holy faith), issued splendid constitutions, which however bear and promulgate the rudiments of faith rather than the rules of law suits.

[5] Then the most holy king and our confessor Ladislas, who with his sword subjugated Dalmatia and the coastal regions to the kingdom of Hungary and who in open warfare crushed many times the Tartar nation,²²³ which had been accustomed to invade the borders of the Hungarians in repeated incursions, and moved them far from the bounds of this kingdom and forced them to withdraw a great distance, laid down excellent laws.

[6] Afterwards the most invincible King Andrew,²²⁴ son of King Béla III, and father of the blessed widow Elizabeth,²²⁵ he whom we style 'of Jerusalem', after his felicitous return from the expedition to Jerusalem, which he undertook with a huge army of Hungarians against the Saracens in defence of the holy catholic faith, established excellent decisions and splendid

²²³ In fact, Ladislas acquired Croatia, but only his successor Coloman reached the Adratic; the "Tartars" here refer to some other steppe people (in the chronicles falsely called Cumans) against whom the king had to fight several times.

²²⁴ Andrew II (1205-35).

²²⁵ Best known as St. Elizabeth of Thuringia (1207-31).

decrees, particularly concerning the immunity prerogatives and liberties of the nobility: these the Hungarian people to the present day exalt to the stars as if they were holy decrees.²²⁶

[7] Finally, the most illustrious princes the lords Louis,²²⁷ Sigismund, Albert²²⁸ and Matthias, kings of Hungary, made in their times some constitutions in the same manner.

[8] Most recently, too, and no less than the others, our most serene lord, the present King Wladislas,²²⁹ laid down outstanding laws; his praiseworthy memory will be considered forever blessed by the Hungarians.

[9] And albeit such constitutions and laws, especially those of the holy kings Stephen and Ladislas, who worthily deserve to be enrolled among the catalogue of saints, have by now been almost entirely effaced due to their extreme age, although they are recognized as being more concerned with divine than human law; and the decrees of other later kings are held to be changed and altered in certain clauses and articles; it is, nevertheless, acknowledged that through long use some element of law has flowed down from the constitutions of almost all these saintly kings, and for over a hundred years been carried over into and been approved by our custom..

[10] Secondly, the privileges of princes are a source of our custom. Since these are often produced and read in court when matters so demand, and are accepted as having been made and issued worthily and justly (as reason dictates), so a certain part of our custom has evolved from long judicial practice of this sort.

[11] Thirdly and finally: custom has emanated from the verdicts of the justices ordinary of the kingdom and from repeated letters of adjudication passed and delivered and composed in one and the same order, manner and procedure on many occasions, and confirmed by judicial execution.

[12] Nevertheless this judicial procedure and procedural practice which we observe in initiating, pursuing, deciding and concluding cases, is recorded as having been introduced into this kingdom in the reign of the lord King Charles,²³⁰ father of the said King Louis, by him from the land of the Gauls. It has always been observed without violation down to the present time (with only the alteration of certain terms through public constitutions) and must continue to be observed forever henceforth.

[13] For otherwise the rights of the whole nobility of the kingdom of Hungary would necessarily be reduced to nothing by the introduction of new laws (even though these be learned and brought into common use).

²²⁶ Werbőczy refers here to the Golden Bull of **1222**.

²²⁷ Louis I (1342–82).

²²⁸ Albert I Habsburg (1437–9).

²²⁹ Wladislas II (1490–1516).

²³⁰ Charles (Robert) I of Anjou (1301/7–42). It is interesting that Werbőczy regards his judicial reform as of being French origin, though there is no evidence, nor indication on this.

CHAPTER SEVEN

What is the definition of privilege? And how many kinds of privileges there are

Then, since a certain part of our custom is, as aforesaid, taken from the privileges of the princes, I have decided that some things should be said here about a privilege.

[1] Whence it is to be known that a privilege can, as it were, be considered as a private and singular law which pertains to one or a few.

[2] In another sense, though, a privilege is a prerogative or singular honor, being a boon of the prince, often conferred against common law.

[3] Moreover, a privilege may be of two kinds: general and special. It is general when it is conceded to a corporation or community, such as a city or a chapter or a convent; in these cases it is permanent.

[4] On the other hand, it is special when it is conferred on just one person. And it is extinguished with the person, unless perchance an exception is made therein that the virtue of the privilege should also flow on to the heirs and successors of the person who receives the privilege. For, it is thus accepted as being enjoyed by his heirs and successors as well.

CHAPTER EIGHT

Whether a decree is annulled by a privilege, and vice versa

But it may be asked (as I myself have often heard it asked) whether a decree or a common law is annulled by a privilege; and, contrariwise, whether a privilege is annulled by a decree.

[1] Although people say many different things and have different opinions, and various arguments can be adduced on both sides, nevertheless, in general we hold that all privileges, and the privileges of all persons, are annulled and invalidated by common law, that is, by decree. In these cases they will be expressly referred to in a general constitution.

[2] As is contained in a decree of our present lord the king: the abolition of the freedom of the city of Visegrád;²³¹ the collection of ninth from free cities; and other such cases.

[3] For although they have long had privileges drawn up on their liberty as well as their exemption from and non-payment of the ninth, nevertheless it is not the privilege but the decree and the general constitution which is observed in this case.

²³¹ See **1492: 102** and **1498:39**. Visegrád had obtained from King Matthias a most unusual immunity for all its citizens probably in order to enhance the status of the new royal residence there. See András Végh, “Visegrád város kárhozatos privilégiuma” [The damnable privilege of the city of V.], in Beatrix F. Romhányi et al. (eds) *Es tu scholaris: Ünnepi tanulmányok Kubinyi András 75. Születésnapjára* (Budapest: Budapest Történeti Múzeum, 2004), pp 71–6.

[4] But a privilege not expressly rescinded by a contrary law or general decree remains in effect, as you may see more fully explained above, on the way a decree should be evaluated and understood.²³²

CHAPTER NINE

A privilege is regarded and can emanate in two ways. And first, lawfully

A privilege can be understood in two ways: namely, insofar as it proceeds by due course and lawfully from the prince's authority alone; and insofar as it does not, but tends to cause damage to others or else appears to detract from a common constitution.

[1] Therefore, insofar as a privilege proceeds from the prince's authority alone—as the donation of property rights; exemption from payment of tolls and the thirtieth; or granting the right of free markets, general fairs, fords, and levying tolls, which belong solely to the king—the privilege should always be observed, as long as it does not manifestly prejudice the rights of others.

[2] And for this reason the following clause is always attached and inserted at the foot of privileges of this sort: *salvo iure alieno* (keeping the rights of others).

[3] For if the prince himself exempts and frees as of now some countryman or a city from the payment of tolls, but has justly conferred the collection of tolls on one of his faithful men before, then he cannot by this later privilege, i.e. of exemption, invalidate the former and abolish this collection of toll, since it clearly prejudices the previous privilege drawn up concerning these tolls.

[4] But in regard to the goods and tolls belonging to the prince who granted the privilege, the exemption will stand and remain.

CHAPTER TEN

Privilege is understood to prejudice the rights of others in two ways

Then, concerning the grant of markets, fairs, and fords, the same position is to be held: that privileges issued on these matters are always to be upheld, providing they were not conferred in a way prejudicial to the rights of others. And privileges can prejudice the rights of others in two ways.

[1] First, in respect of time, as has just been discussed: since the other person's privilege was given earlier, it cannot be abolished by a later one, not even through a derogatory clause.

[2] Secondly, in respect of place: because river-tolls, that is fords, cannot rightly be granted unless the places for which they are granted are at a distance of at least one mile from other persons' places (for which they were granted earlier).

²³² See II.2.

[3] Albeit, they can also be granted more closely, provided the grant does not cause the ruin of the previous ones, or occasion them significant loss.

[4] Weekly markets and general fairs should and may be granted at a similar distance, and at closer places too, provided the newly-granted fairs are not held on one and the same day or at the same time as the previous fairs, and that the new ones do not otherwise obviously ruin the earlier ones.

CHAPTER ELEVEN

A second way in which a privilege is unlawfully issued

A privilege can be considered in another way, inasmuch as it may not proceed from the prince's authority alone, that is, because the prince does not have just and lawful power to grant such a privilege, since it aims at the prejudice of others, or because it is clearly prejudicial to a common law and a general constitution.

[1] And such a privilege has no force. For example, should it be contained in a common decree that no credence be given in court when transcribed letters are drawn up outside an octave courts. Now, if the prince simply caused a person's privilege to be transcribed with a derogatory clause, to the effect: "notwithstanding the law or the decree of our kingdom, we wish that credence be given to this type of transcript"; or were he to concede letters of institution under the prerogative: namely that: "a certain donation should, notwithstanding the passage of a year, be carried out", since this is considered to detract from the law and custom of this realm, it is not observed, nor is it considered worthy of observation.

[2] The same should be held concerning those privileges which may have been conceded or are conceded at any future time, to the effect that [a person] is not bound to respond on anyone's instance at the judicial seats of the counties before the county *ispán*, and lawsuits can only be started [against him] before the royal majesty or his personal presence and not before other justices ordinary of the kingdom.

[3] Moreover, if a judgment is handed down that an oath is to be sworn by some lord or noble, and a privilege is thereupon presented to the effect that the defendant is not required to provide the oath in his person but can entrust his official to deliver it, and so on, then, since such a privilege is prejudicial to the general constitution of the whole kingdom which has long been approved, it should never be upheld.

[4] For all lords and nobles, spiritual as well as temporal, and all other men of property of either line who hold goods and property rights in this kingdom of Hungary must observe one and the same law and the same custom in the maintenance of their property rights and the pursuit of all cases emerging therefrom (as has been noted in the first part).²³³

²³³ See I.2, 12.

In how many ways a privilege can lose its force

Note further that there are many way in which a privilege can lose its force.

[1] In the first place, the privilege is lost and becomes invalid when anyone acts against the privilege granted to him or exploits it in an improper way, since he who abuses the power granted to him deserves to lose his privilege. For example, a man who has a privilege from the prince in respect of the punishment of malefactors seized in his territory, abuses this privilege if, when a thief or brigand is captured, instead of hanging or impaling him, he comes to an understanding with him and releases him after extracting a sum of money; for the prince conferred authority to smite and punish malefactors according to their deserts, not to let them off.

[2] Secondly, a privilege is lost when a person does not in due time exercise the privilege given and granted to him. For instance, if the royal majesty bestows on someone a castle or some other property right, and the grantee fails within the course of a year to request that his letters of donation be executed by a royal or palatinal bailiff and with the men of some place of authentication, then after a full year has elapsed, a grant of this sort becomes completely invalid. Nor is it possible to restore it with letters of institution composed under the prerogative (as I have just explained); instead, the grant will have to be made and composed afresh, assuming that no second person has in the meantime obtained that property right for himself.

[3] In the case of weekly markets, fairs, and fords, the same must be done. For example, if the prince grants a person a market, a fair, or fords, he should use and begin using such a grant and privilege within the space of a year; for otherwise its validity will expire once the year is passed.

[4] However, it should at this point be noted that if the institution is carried out within the aforementioned year, but then some mistake is found to have been made either in the letters of record or in the manner of the institution, whether by the fault and negligence of the royal bailiff or the witness or even of the chapter or convent, then in such cases the grant will remain in effect, and the execution of the same can and must be rectified according to the circumstances of the case.

[5] However, if the institution is simply not carried out, or if in some other respect an error is made by the grantee, then it cannot be rectified, and (as previously discussed) the castle or other property right will have to be obtained afresh.

[6] Thirdly, a privilege is lost in the event of a person being charged with lèse-majesté or incurring the charge of infidelity; in such cases, he forfeits not only his privilege but his life and all his goods as well.

[7] Fourthly, as has been previously explained, when a privilege causes excessive loss to another person, since it is not at all likely that the prince in granting it would seriously wish to infringe another person's right either now or later.

[8] Fifthly, if the prince or another justice ordinary of the realm, seeing and recognizing from certain knowledge²³⁴ that a privilege lacks validity, repeatedly passes judgment against the privilege. This, however, is not the same as when a judgment is passed in error against a privilege; in such a case the mistake can be rectified and the tenor of the privilege be upheld by revising the judgment, providing all legal formalities are respected.

[9] Sixthly, by the express or tacit waiving of the privilege: expressly, when a person has publicly waived or waives his privilege; and tacitly, when a contravention of the privilege has occurred in public with his knowledge and without his contradiction but with his total silence; this silence being prejudicial to him implies a kind of waiver.

[10] Seventhly, because a later one modifies the earlier privilege: thus when two privileges are composed or issued in relation to one and the same person or community, the first will be rendered invalid and the second will be observed.

[11] Eighthly, and finally, a privilege is lost when it is expressly revoked by the prince who grants it, on reasonable grounds, which are to be clearly stated in such revocation. For if the revocation is not justified on reasonable grounds but is simply stated as taking place in the revocatory letter, then the revocation will not stand; for otherwise numerous problems would arise, and a person might live in daily uncertainty as to his privilege. Let this discussion suffice on the subject of privileges.

CHAPTER THIRTEEN

What is the description of a seal. The two types of seals

However, since all privileges are confirmed and ratified with seals, it is appropriate to include some discussion of seals in this section.

[1] Wherein it is to be noted that a seal is an identifiable sign impressed upon gold or some other metal, or into wax, confirming all that has been done.

[2] There are two types of seal, authentic and inauthentic. The term *authenticum* can be analyzed as *authoritatem tenens*, i.e. 'having authority' from the person whose authority it represents. Properly, it belongs to princes and justices ordinary of the realm, as well as to chapters and convents.²³⁵ When affixed to a letter, an authentic seal of this kind confirms all matters stated and expressed in the letter.

²³⁴ *Ex certa scientia* is an expression extensively used in inquests, where it implies the firm direct knowledge of a witness, in contrast to hearsay (*ex auditu*). Occurs in laws and diplomas as well.

²³⁵ As mentioned already earlier, members of chapters or convents served as witnesses to legal actions at places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and—mostly Benedictine, Premonstratensian, and Hospitaller—convents. They substituted for the notaries public of other countries. They issued under their authentic seal documents recording private legal transactions (e.g. recognizances), and sent out witnesses (called: *testimonia*) to certify the actions of royal bailiffs. Thereafter they issued the appropriate letters and kept these as well as other records of noble families in their archives. See: Ferenc Eckhart, "Die Glaubwürdigen Orte Ungarns im Mittelalter." *Mitteilungen des*

[3] In addition, cities and towns have authentic seals which kings and princes have granted them, and which confirm facts and matters which are moved and come to pass before them and in their midst.

[4] Inauthentic seals are those of private persons. Such seals have no quality of permanence.

[5] Of these there are many types: the seals of lords prelate, as well as those of perpetual-*ispáns*²³⁶ and other barons holding baronial honors; the descendants of the same barons; and those of nobles and notables of the kingdom, with the true and special insignia of their arms engraved and drawn on them.

[6] However, the higher prelates (like the archbishops and bishops), as well as the prior of Vrana, and the free perpetual-*ispáns* of the kingdom, and the Despot of Rascia²³⁷ have the power to appoint attorneys by means of their personal letters endorsed by their true and recognized seals.

[7] Other barons, magnates and nobles are obliged to appoint attorneys and make recognizances (to use our domestic term)²³⁸ in the presence of justices ordinary of the kingdom and in places of authenticity, namely chapters and convents.

[8] Likewise, justices ordinary of the realm who have authentic seals, and the places of authentication which have authentic seals, have authority under their seals to appoint attorneys as well as to make all other recognizances (providing they are so done properly and lawfully).

CHAPTER FOURTEEN

Which kings' privileges are upheld and which not

Having discussed privileges and seals we must now consider which are the kings and princes of this kingdom whose privileges are upheld, and which are those whose privileges are rejected in court and treated as lacking any force and validity.

[1] Here it is to be known that all the charters of the most holy kings Stephen and Ladislas, further those of the most serene Andrew I,²³⁹ father of King Salomon,²⁴⁰ and of Béla I²⁴¹ the

Instituts für Österreichische Geschichtsforschung Erg.-Bd. 9 (1913/15): 395–555; Zsolt Hunyadi, “Administering the Law: Hungary’s *Loca Credibilia*.” in Martyn Rady, ed. *Custom and law in Central Europe*, (Cambridge: Centre for European Legal Studies, 2003) pp. 25–35, and Martyn Rady *Nobility, Land and Service in Medieval Hungary*. (Houndmill, Basingstoke: Palgrave, 2000) pp. 66-73

²³⁶ Already in Árpáadian times some prelates were given the title of *comes perpetuus* of the county of their residence. It became more widely granted to great men of the realm in the later Middle Ages, though the estates often protested against it.

²³⁷ The Despot (ruler) of Rascia (i.e. Serbia) was from the early fifteenth century a great landowner in Hungary, especially after the loss of his country to the Ottomans.

²³⁸ It is unclear why Werbőczy finds the term *fassio* peculiar at this point, despite having used it many times before.

²³⁹ Andrew I, king of Hungary, 1046–60.

father, and Géza I,²⁴² brother of the same Blessed King Ladislas, and of Coloman,²⁴³ son of the said Géza, who first was bishop of Várad, but by papal dispensation took over the governance of the kingdom in the absence of a royal heir. Therefore in the Hungarian language he is still called “Könyves Kálmán”.²⁴⁴

[2] Then the charters of the kings Stephen II, son of the same Coloman,²⁴⁵

[3] and of Béla II, called the Blind, son of Prince Álmos,²⁴⁶

[4] and of Géza, likewise the second,²⁴⁷ son of the same Béla the Blind,

[5] as well as of Stephen III,²⁴⁸ son of the same Géza II;

[6] finally of Béla III,²⁴⁹ son of the same Géza II and brother of the said Stephen III. And it was this Béla who hounded thieves and brigands and rid the kingdom of them.

[7] Lastly those of Imre,²⁵⁰ son of the same Béla III, who, it is said, endowed and enriched the church of Várad with certain donations.

[8] And according to some, this Imre was otherwise called and styled by the corrupt word Henry, but this appellation is more according to German than to Hungarian usage.

[9] It might not have been necessary to enumerate the names of these kings and I could have cut my commemoration of them short. But very few of the privileges which the nobles of the kingdom of Hungary enjoy regarding their nobility and freedom derive from the time of these kings (who rather strove to increase the number of God's churches and ensure the salvation of the Christian people like that of a recent plantation in this kingdom). There are certain other princes,

²⁴⁰ Solomon, king of Hungary 1063–74 (crowned 1057, died c. 1087).

²⁴¹ Béla I, brother of Andrew I, duke under his reign, king of Hungary 1060–63.

²⁴² Géza I, king of Hungary 1074–7.

²⁴³ Coloman “the Bookman” was king of Hungary 1095–1116.

²⁴⁴ Literally, Coloman “the bookish;” his ecclesiastical training meant he could read.

²⁴⁵ Stephen II, king of Hungary 1116–31.

²⁴⁶ Prince Álmos, Coloman’s brother, was blinded by the king, together with his son, after several rebellions against him. Coloman’s son Stephen died heirless and Béla the Blind became king of Hungary 1131–41.

²⁴⁷ Géza II, king of Hungary 1141–62.

²⁴⁸ Stephen III, king of Hungary, 1162–72.

²⁴⁹ Béla III, king of Hungary, 1172–96. There is no evidence for the characterization given to him by Werbőczy. He, who grew up in Byzantium, is usually—probably falsely--credited with the introduction of written administration and organization of the royal chancellery.

²⁵⁰ Imre (Emerich), king of Hungary, 1196–1204. Imre is in fact a variant of the name Henry/Heinrich. King Imre’s grant to Várad (Oradea) was made in 1204 and constituted of a portion of market dues raised locally, see Imra Nagy et al. eds. *Hazai Okmánytár/Codex diplomaticus patrius* (Budapest-Győr: Sauerwein-Franklin, 1865–91) VII, 5, 149.

including some with the title of king, whose charters have been rendered invalid, such as Peter the German,²⁵¹ Aba of Hungary;²⁵² Salomon, son of Andrew I; and Stephen IV, son of the said King Béla the Blind,²⁵³ who only bore the crown and sceptre for five months before being shamefully expelled from his kingdom; as well as Ladislav III,²⁵⁴ son of the aforementioned Imre, or Henry, who only reigned six months. I have therefore given a full list of the names of these kings, to ensure that they and the privileges they conferred are the more clearly acknowledged.

[10] It should further be noted, moreover, that the charters and privileges of the kings and princes listed below are to be observed in every instance and in every matter. I treat them separately simply because the nobility's praiseworthy and splendid prerogative of liberty, which we have and enjoy in general to this day, was set in writing and confirmed by a decree and a general constitution in the time of the king who heads the list, the glorious Prince Andrew II (King Béla III's son, as noted before).²⁵⁵

[11] Of course, there were many nobles in this realm even in the reign of our first king, the most holy Stephen, and in the time of succeeding kings. However, they were in a sense subject to these kings by conditional services and the payment of taxes collected from their serfs. From these they were first exempted and made immune by King Andrew, at a time when the nobility were called *servientes*.²⁵⁶

[12] For this reason all succeeding kings down to the present day, before being crowned with the holy diadem (as mentioned above),²⁵⁷ have been accustomed to furnish an oath to the prelates, barons, magnates, lords and nobles of this kingdom that they will observe the decree and the constitutions of the same lord King Andrew.²⁵⁸

[13] A privilege drawn up and issued by King Andrew on Mount Tabor – the place of our Lord and Saviour's Transfiguration – concerning the grant of a certain property is preserved to this day in the county of Hont.²⁵⁹

²⁵¹ Peter Orseolo (a Venetian), son of the sister of Stephen I, was king of Hungary 1038–40 and 1044–46.

²⁵² Samuel Aba, probably also related to the first king, was king between 1040 and 1044.

²⁵³ Supported by Manuel Komnenos, Prince Stephen (IV), younger brother of Géza II, was crowned king in January 1163 but the legitimate king, Stephen III expelled him from the country in June. Werbőczy does not mention another pretender, Ladislav II, also supported by Manuel, who was crowned in 1162 but who died the next year.

²⁵⁴ Ladislav III was crowned as a child in 1204 but died in the following year in Austrian exile.

²⁵⁵ The Golden Bulls of **1222** and **1231**.

²⁵⁶ The expression *servientes regis* seems to have been applied in the thirteenth century to those warriors attached either to castles or to the royal retinue, many of whom later became the “lesser nobility” of the medieval kingdom.

²⁵⁷ See above I.3.6.

²⁵⁸ Actually, the first such confirmation was that of **1351** and it had not been as continuous as Werbőczy implies.

²⁵⁹ Unclear, why Werbőczy singled out this charter that does not seem to have survived.

[14] So – to return to our previous discussion – the privileges of the following kings are in force and are observed: the aforementioned Andrew II, Béla IV,²⁶⁰ son of the same Andrew, in whose time Hungary was ravaged by the Tartars,

[15] Stephen V, Béla IV's son (excepting the charters drawn up and issued during the period when the same Stephen was a duke, when he referred to himself by the titles of *rex iunior* of Hungary and duke of Transylvania; such charters are not observed unless they happen to be subsequently confirmed by him when he lawfully entered and held the governance of the kingdom),²⁶¹

[16] Ladislas IV, Stephen V's son, who was known as Kun László.²⁶²

[17] Then, the charters of King Andrew III, surnamed the Venetian,²⁶³ are not observed, with the exception of those to which his immediate successor, the lord King Charles, affixed his signet ring in red wax (where the letter K appears on the right side next to the design) in token of confirmation, such charters being observed.

[18] Then, King Charles had three seals. The first two were cancelled by him, and the privileges issued under them are not observed unless later confirmed by the third one. This third one is recognized by having two dragons on the two parts of the oval where the design is cut, with a pair of crosses on the oval.

[19] Then, King Louis,²⁶⁴ Charles' son, had two seals. The first was lost in the region of Usora²⁶⁵ after it was removed from the most reverend lord Archbishop Nicholas of Esztergom,²⁶⁶ his chancellor. It is disregarded unless charters issued under this earlier seal were subsequently confirmed with a second one. In such cases the affixing of the new seal not only confirms once and for all the charters of the same King Louis drawn up under his earlier seal, but also those issued by his father, the aforesaid lord King Charles, under the two earlier seals which were cancelled and annulled. Charters so confirmed are always observed.

[20] In short, this means that the privileges of the lord King Louis drawn up between the year of Our Lord 1364, and the year of his death, viz. the year of salvation 1382, retain their authority. But his earlier ones are not valid unless subsequently confirmed in the manner indicated above.

²⁶⁰ Béla IV was king of Hungary, 1235–70. The Mongol invasion devastated Hungary in 1241–2.

²⁶¹ Stephen, who was styled “younger king” after 1262 when he challenged his father’s rule; became king of Hungary 1270–2.

²⁶² Ladislas IV (1272–90) was called “Kun,” that is, the Cuman, as his mother, Elisabeth, was the daughter of the chief of the Cumans who had settled in Hungary.

²⁶³ Andrew III (1290–1301) was the son of the posthumously born son of King Andrew II and the Venetian Tomasina Morosini; his legitimacy was challenged by the Sicilian Anjou, who finally won against other pretenders, not mentioned by Werbőczy

²⁶⁴ Louis I (“the Great”) of Anjou, king of Hungary 1342–82.

²⁶⁵ Region in Northern Bosnia (Hungarian: Ozora)

²⁶⁶ Nicholas Fraknói, archbishop of Esztergom 1358–66

[21] To make this clearer, I have decided to quote word for word a clause which the same King Louis used to attach to confirm such charters of his, cited from his confirmed charters, of which I have seen and perused a number of originals. The clause begins:

[22] “For permanent record. We, the aforesaid King Louis, declare to all persons that at a time when a countless multitude of heretics and Patarenes had spread throughout our kingdom of Bosnia,²⁶⁷ to the confusion of the true faith, and we were advancing in person at the head of a strong army in order to root out these same heretics from our kingdom, we sent to Usora our chancellor, the venerable father in Christ the lord Archbishop Nicholas of Esztergom, who had in his possession both of our authentic seals, and the lord Palatine, the *vir magnificus* Nicholas, along with other prelates, barons and lords of our realm, but certain household members of the lord archbishop, charged with their keeping, removed both of our said authentic seals with malice aforethought.

[23] Therefore, taking care lest in future the rights of our subjects be threatened through the loss of this seal, we have had a pair of new seals cut for us, and have decreed that all our privileges, as well as those of the late lord King Charles, our father drawn up under his previous seal (the one made at the time of his coronation and eventually destroyed by him because of the large number of false documents that were discovered to have been drawn up under it), as well as those drawn up under another seal of his, one accidentally lost somewhere beyond the Alps,²⁶⁸ should have this seal attached to them alongside the other three seals.

[24] But in regard to any of our father's privileges sealed with the two previously mentioned seals, which cannot be regarded as confirmed by our father by means of his later seals or by ourselves with the seal lost in the previously explained way, and to which our new seal is not appended, or any letters patent which have not been confirmed, just as these privileges and letters were revoked and annulled by our father, so we too declare these privileges, letters or charters to be lacking in force and devoid of authority.

[25] Among these we have renewed and confirmed on behalf of the same N. and his heirs and successors in perpetuity this present privilege of ours, to which no suspicion attaches, and everything contained and expressed in it above, by the affixing of our aforesaid new, double, authentic seal. Given by the hand of the same lord Archbishop Nicholas, our chancellor, on the tenth day before the calends of the month N. in the year of our Lord 1364, the twenty-third year of our reign.”

[26] Then, the charters of the lord Sigismund, king and emperor, issued before the year of our Lord 1406 are not observed for the reason that on the advice of the lords prelate, barons and nobles of his realm the same King Sigismund specified in a general decree that between the feast

²⁶⁷ The fight against the so-called “Bosnian heresy” (on which see John V. A. Fine, *The Bosnian Church. A New Interpretation*, Bolder, CO: East European Monographs, 1975) with papal support served as a legitimation for Hungarian expansion on the northern Balkans. The appellation “Paterene” is borrowed from the ultra-radical reformer heretics of eleventh-century Milan. Technically, Bosnia was not a kingdom in the fourteenth century but was ruled by a hereditary ban.

²⁶⁸ The reference here is to the Transylvanian Alps (Carpathians) and to the battle of Posada (1330), in which the royal seal was lost during an encounter with the Wallachians. The precise location of the battle is, however, disputed.

of the blessed martyr George in the year of our Lord 1405 and the same feast (then to come but now passed) in the above-mentioned year of grace 1406, all letters of donation and other privileges of any kind issued up to that time by the aforesaid late lord King Louis under his privy seal (but no others), and those given by the queens of Hungary, the lady Elizabeth widow of the same King Louis, and the lady Mary, his daughter,²⁶⁹ as well as those of King Sigismund himself, were to be submitted for confirmation, or else be invalid and lose all authority.

[27] On the other hand, documents issued by the same lord King and Emperor Sigismund thereafter up to the day of his death in the year of grace 1437 are always valid and observed.

[28] To remove doubt and to make this matter clear to everyone, I attach the form and contents of a particular letter of donation of the same lord King Sigismund drawn up concerning the above matters and on one occasion brought forward in a judicial dispute. The sense has not been altered in any way, and the text runs as follows:

[29] “We, Sigismund, by the grace of God king of Hungary, Dalmatia, Croatia, etc., margrave of Brandenburg etc., vicar general of the Holy Roman Empire and regent of the Kingdom of Bohemia, place on record by these presents that after having held wise counsel on this matter with the prelates, barons and lords of our realm we have decreed for the good, benefit and tranquility of our subjects that all and singular documents drawn up and issued by our most dear father and father-in-law, the late most illustrious prince, the lord Louis, by the grace of God renowned king of Hungary, under his privy seal (but not otherwise) must be presented and shown to us; also those of the most renowned princesses of blessed memory, the lady Elizabeth, our mother and the lady Mary, our wife, most dear queens of our said kingdom of Hungary; and also our own charters issued under the seals of these ladies as well as our own great and small one, to any persons holding any office concerning any matters, but particularly those drawn up and issued relating to properties, in order to remove all doubt, clear up abuses and avoid the many and various problems which the loss of the seals belonging to these ladies as well as our own, and the destruction on legitimate grounds of our great, double one, may have occasioned diverse persons regarding their rights, and in particular their property rights. These documents must be seen and examined by us during the period between the feast of the blessed martyr George in the year of our Lord 1405 just passed and the same date a year later, on pain of being revoked, annulled and cancelled should they fail to be produced, and they should be confirmed and validated, as is necessary, under our present new authentic double seal. Finally, when this time limit specified in our decree and statute expires, we order general congregations to be held by our county *ispáns* in the several counties of our said kingdom for the purpose of examining and reviewing such charters produced (or otherwise) before us and confirmed (or otherwise) by us with our aforesaid new great double seal.

[30] Wherefore, as N. and N. , nobles of the county of N., have been unable to produce or have failed to produce in our presence or in the presence of our man specifically deputed in our personal presence with the task, and in the presence of sworn assessors of such a general congregation of the aforesaid county of N. , their charters of confirmation relating to the grant of a piece of property in the estate called N. located in the aforesaid county of N. , which had

²⁶⁹ Dowager Queen Elisabeth (Kotromanič) was de facto regent for her daughter Queen Mary (1382–95) between 1382 and her murder in 1387.

formerly been conferred by our Majesty on their father, the said N., son of N., and in turn on the same N. and N. and their heirs, therefore in our desire to enforce the aforementioned decree and to give it permanent authority, we do totally and in all particulars revoke, cancel, decree invalid and reject the aforesaid letter of donation conferred by us in the above-mentioned manner in regard to the grant of the said estate on behalf of the aforesaid N., son of N., and hence to the aforesaid N. and N. and their heirs, but not brought by them for confirmation with our aforesaid authentic double seal. We take back the same estate into our royal hands, and have deemed it fit that perpetual and irrevocable silence should be placed, and do so place by these presents, on the aforementioned N. and N. and all their heirs and successors over and in respect of the aforementioned piece of property located in the said estate N., with all its utilities and appurtenances.

[31] Now we, who, due to the royal office we have assumed, must weigh with even hand the worthy acts and meritorious deeds of our faithful, as befits the royal dignity, and bestow royal favour on each according to their deserts, considering and recalling the outstanding loyalty, faithful service, worthy deeds and welcome courtesy of our beloved faithful *magnifici viri* N. and N. , sons of the late N. , by which the same persons strove to render themselves pleasing and welcome in the eyes of our Majesty by enduring labors in their persons and at their expense in the performance of laudable works on behalf of us and of our Holy Crown at diverse places and times with all sincerity and zeal, fervent loyalty, constant devotion and unremitting solicitude,

[32] Wishing therefore to recompense their aforesaid loyal services with some token of royal favor in the present, we have given, bestowed and conferred this same portion of royal domain in the said estate called N. located in the aforesaid county of N., together with all its utilities and appurtenances, namely its arable lands, both cultivated and uncultivated, meadows, hay meadows, woodlands, woods, waters, ponds, mills, watercourses, hills, vineyards and in general any utility, by whatever name it is known, naturally pertaining thereto, under its true boundaries and ancient limits within which the estate has been duly held and possessed by its owners, on the aforementioned N. and N. and through them to all their heirs and successors, from our certain knowledge and on the advice of our prelates and barons from our royal hands and by title of new donation and with every right with which the said estate in the aforementioned N. which legitimately belongs to our granting for the previous or any other reason or cause whatsoever. Indeed, we give, bestow and confer it to be possessed, held and owned permanently and irrevocably, keeping the rights of others, undertaking in our name and person and that of our successors the kings of Hungary to protect, assist and maintain the aforementioned N. and N. and their heirs and any of their successors in the peaceful and undisturbed ownership of the said estate and all its aforementioned utilities and appurtenances against any claims, charges or actions, in court or outside, at our expense and labor and that of our successors at all times and in all places, through the authority and witness of this our charter; which, when it is brought to us in written form, we will cause to be drawn up in the form of a royal privilege. Given etc. in the year of our Lord 1410²⁷⁰ edited are always observed.²⁷¹

²⁷⁰ A charter from 1410, issued in the same style and sense survived and is in the National Archives as MNL OL DL 64137.

²⁷¹ Misplaced, repetitive clause, omitted from the later editions.

[33] Then, the charters of the lord King Albert,²⁷² the immediate successor of the said lord Emperor Sigismund, are always valid and observed.

[34] Then, all donations and other grants of the late Lady Elizabeth, daughter of the lord King Sigismund and widow of the deceased King Albert aforementioned, as well as those of the lord Wladislas of Poland – who was not crowned with the true and Holy Crown of this kingdom but with an ornament borne by St Stephen's head-reliquary, and who was defeated and killed in a battle with Amurat, emperor of the Turks, by the town of Varna on the coast of Romania²⁷³ on the feast of St Martin, bishop and confessor, in the year of grace 1444 – are entirely cancelled, revoked and devoid of authority, no matter on whose behalf, or for what persons, or for what reason, or under what title they were made.²⁷⁴ These are never to be adhered to, with the sole exception of the grant and donation of alms made by the lady Elizabeth to the church of Székesfehérvár.²⁷⁵

[35] Then, the charters issued by all the prelates, barons, lords and nobles of the kingdom of Hungary under their seal bearing the double cross, the emblem of the Hungarian nation, have the same validity as the letters of any justices ordinary in regard to judicial procedures, recognizances and fines. However, their validity does not embrace grants, consents and approvals, as is clear from the text of a privilege issued by them on this and other matters in the city of Pest on the second day of the feast of the Lord's Ascension, which was on 7 May, in the year of the Lord 1445.²⁷⁶ There seems little point in quoting the full text, as it contains many chapters and articles which have no relevance to the present context. However, I cite the article in the charter describing the cutting of the seal and its authority in the exact words which I saw written there and which I read. The article runs as follows:

[36] “Then, that a single seal be now cut, on which there should be the sign of the cross, as the sign of the kingdom of Hungary, and that seal be kept in the city of Buda so that plaintiffs may have letters of complaint under that seal and that justice may proceed suitably until the coronation of the king.”²⁷⁷ Thus it is clearly described that that seal was ordered and made only for the purpose of the administration of justice and the holding of judicial sessions.

[37] The final words of this article concerning the seal in question – that is, “until the coronation of the king” – should be disregarded. They should not be taken to mean that at the time a new king was soon to be crowned. In fact, the illustrious Prince Ladislas, son of the aforementioned late King Albert, had been crowned a long time before, in the year of Our Lord's incarnation

²⁷² Albert I (Habsburg) was king of Hungary 1437–39.

²⁷³ That is, of the lands historically associated with the Byzantine (Roman) Empire.

²⁷⁴ In 1440 the diet elected Wladislas Jagiełło (III in Poland, called Warneńczyk) king of Hungary, but Elisabeth's party managed to steal the “Holy Crown” and have the posthumous child of Albert (Ladislas V, king 1453–57) crowned. Wladislas was crowned with a “replacement crown,” but for the following years the country was torn by civil war between the two sides; see Engel, *Realm*, pp. 280-8.

²⁷⁵ We have not succeeded in identifying this privilege.

²⁷⁶ During the interregnum after 1444 a group of magnates empowered by the estates ruled “in the name of the Holy Crown,” as already in 1384-86; see Bak, *Königtum*, 49–50.

²⁷⁷ See **1445: 15**

1440. Rather, the additional words should be understood as referring to the anticipated full transfer of the jurisdiction of the Holy Crown of the kingdom and the king's plenary power – which at the time he could not exercise as he was a child – into the hands and authority of the Lord King Ladislas.

[38] Now after the death of the aforesaid lord King Wladislas of Poland up until the election of John Hunyadi to the governorship of this kingdom of Hungary, Nicholas of Újlak, also known as voivode of Transylvania,²⁷⁸ was deputed as captain of the kingdom, and consequently had himself given the additional title of vicar of the kingdom of Hungary.

[39] Then, all grants and letters of donation of the lord Governor John Hunyadi²⁷⁹ during the period of his governorship (but not before or after) are observed providing they do not exceed thirty-two peasant plots.

[40] By inference, any grants, consents and approvals made or assigned to any person by the same Governor John in excess of the said thirty-two peasant plots are not valid or binding.

[41] Then, approval given by him concerning any contract or other business after the end of his governorship are not admitted in court, since these were all conditional. For example, if he gave consent to any person that, on the death in default of heirs of such-and-such a noble, his goods should pass to such-and-such a person, and this consent or assent did not exceed the stipulated number of thirty-two peasant plots, and the noble died while John was still in office, then such an assent would have been duly admitted in court. But if the person were to die in default [of issue] at the time when a true and legitimate king was on the throne, then it could not be, since the governor was not able to overstep the bounds of the authority entrusted to him, and the authority was not and could not properly be conferred on him more widely or for a longer period, since the aforesaid lord Ladislas, son of King Albert, although still under age, had nevertheless already been formally crowned (as previously mentioned), and the plenary jurisdiction of the Holy Crown was his.

[42] So, lest any person believe otherwise or rashly maintain the contrary, I have included and appended without variation, in order to remove all doubt on this matter, the articles drawn up concerning the authority given to and conferred upon the said governor to assign goods and property rights, which I quote verbatim from the text of the charter of the aforementioned lords prelate, barons, nobles and lords of the kingdom of Hungary, issued and drawn up in Buda on the feast of the Annunciation of the most holy Virgin Mary in the year of the Virgin Birth 1447, which includes the series of articles decreed and formulated in their general congregation in the city of Pest at the previous feast of Pentecost (that is, in the year of salvation 1446), when the same John Hunyadi had been elected and elevated to the governorship of the kingdom. The text of these articles (the remaining contents of the charter being ignored) runs as follows: “Then, the lord governor should be able to make grants to those who faithfully serve the Holy Crown of the kingdom from those estates which henceforth devolve clearly and legally to the Holy Crown due

²⁷⁷ Nicholas Újlakai [of Ilok] (c. 1410–77), ban of Mačva 1438, voivode of Transylvania 1444–65, ban of Slavonia 1457–73; in 1472 crowned king of Bosnia.

²⁷⁸ John (János) Hunyadi (1404/9–56) was ban of Severin 1439–46, co-voivode of Transylvania with Újlaki 1444–46, 1445 elected as one of the captains of the kingdom and regent 1445–53, see below.

to lack of an heir, the proffering of false documents, the minting of counterfeit money or the making of false seals, or because of the inveigling of a foreign power into this kingdom, or the committing of arson, if no one has a right to them and these estates have and can have no more than thirty-two plots, and also those estates in which there are and can be less than the said number of thirty-two plots.²⁸⁰

[43] If cities, towns, and estates with more than the said number of thirty-two plots also devolve to the Holy Crown in the foregoing manner, he [the lord governor] should not be able to cut or divide them into portions of thirty-two plots and make grants from them under the heading of thirty-two plots, but all such cities, towns, and estates must be reserved undivided to the same Holy Crown.

[44] Then, the lord governor may not grant anything further to the same man to whom he once granted something in the aforementioned manner. And, since grants of castles, cities, towns, estates, and similar possessions are known to belong to the royal right, the lord governor may make grants to anyone in the preceding manner, but they should come at the proper time before the lord king to receive confirmation of them.

[45] Then, those estates which devolve to the crown because of their owners' proffering of false documents, minting of counterfeit money, or for any other reason expressed above should not be seized and given away before the accused have been judged at law by the appropriate judges according to the ancient and approved custom of the kingdom."²⁸¹ I have decided to omit the other articles of this charter as they do not concern this matter.

[46] Also observed are the charters issued by the aforesaid Ladislas, son of the aforementioned King Albert, from the year of our Lord 1452, when the governor retired from office (having happily held the governorship for seven years), to the day of his death in the year of salvation 1457, although, it is known that King Ladislas began to issue grants of goods, permissions and other measures in the year following the end of the said governorship (that is, 1453), when he returned from Vienna to Buda during the feast of the Purification of the Glorious Virgin.

[47] Also observed are the privileges issued by the most invincible prince, the late lord King Matthias of praiseworthy memory, from the time of his felicitous coronation on the feast of Our Lord's Supper in the year of our Lord 1464, until his death on the Wednesday after Palm Sunday, in the year of the incarnation of Our Lord 1490. On the other hand, any privileges drawn up by him before his coronation²⁸² are not binding unless subsequently confirmed by him.

[48] Then, the charters drawn up by the reigning monarch, our most gracious lord King Wladislas, from the Sunday following the feast of the Exaltation of the Holy Cross in the year of grace 1490, the day of his coronation, up to the present, and any which are issued in future, lawfully and in due form, are always to be observed.

²⁸⁰ A tenant plot (arable and meadow plus rights to commons) consisted generally of [36 holds](#), a *hold* being around 1.5 acres, thus a peasant holding was roughly a quarter square mile.

²⁸¹ See **1446: 10**

²⁸² As the "Holy Crown" remained in the hands of Ladislas Pothumus's guardian, Emperor Frederick III, Matthias I Corvinus had to negotiate for its return, which he achieved only six years after his election and enthronization. See **1464**.

[49] Then, from times of troubles, especially after the deaths of the aforementioned Emperor Sigismund and King Albert, one finds numerous documents and a number of privileges put together and fabricated criminally and fraudulently under various guises and seals. Unfortunately, few of these forgeries have yet come to light and it is difficult to detect and to recognize them all. But to give some idea of them (even if this is confined to specific instances), I thought it worthwhile to include here a word-for-word copy of the text of a particular privilege composed by the aforesaid prelates, barons, nobles and notables on the subject of this plague of false documents, which has been produced in litigation, and even before me, under the seal described above. The words of the text contained in the privilege are as follows:

[50] “We, all the prelates, barons, nobles, and notables of the kingdom of Hungary, commend to memory by these presents that, following the outbreak of war within our realm on the death of the late lord King Albert, which long continued but which by the grace of God were eventually laid to rest among us, after we agreed unanimously on the choice of a single prince and lord, namely our illustrious lord Ladislas, son of the said late lord King Albert, as our natural lord, and we began to deliver judgments in order to foster mutual and lasting peace among us and to administer justice to the oppressed, many false charters were produced before us in court by litigants.

[51] When we began to probe the fabrication of these forgeries, we discovered that a certain *litteratus*, Gabriel of Zömlén, was the perpetrator of this infamous scourge. As his crime merited, he was handed over to the appropriate judges, and before his death, in order to purge his conscience, he made a public and open confession in words and writing concerning the documents written in his own hand. A list of these documents and their contents, which I have deemed worthy of inclusion, here follows.

[§52] A letter of royal consent issued in favor of the sons of the Kompolti family of the late king Sigismund, that if the seed of late Ladislas of Solymos would be extinct, then only the village of Solymos and no other property would devolve to the sons of Kompolt, and that letter was issued without the knowledge of the sons of Kompolt. [§53] Then, a charter of liberty under the privilegial seal of lord King Sigismund with the medium eagle-head for the community of Gyengyes (Gyöngyös?) [§54] Then two letters, one with the privy seal of the late King Sigismund with the medium eagle-head and another letter of institution under the seal of the chapter of Buda, in privilegial form on the perfection to a son of the daughter of the wife of Peter the Tailor. [§55] Then a letter of recognizance under the seal of the chapter of Eger issued in privilegial form about the recognizance of the lords the late bishop Peter and Stephen and John of Rozgony in favor of Ladislas of Szécsény. [§56] Then a letter on the liberties of the settlement Szabadka under the privy seal with the medium eagle-head of King Sigismund.. [§57] Then, letters patent with the seal of the chapter of Eger and the major seal of the lord King Sigismund about the village Abony for the sons of Orros against the lords Garai. [§58] Then a privilegial charter under the privy seal of the late lord King Sigismund with the medium eagle-head on the request of the late lords Ladislas and Henry sons of Voivode of Tamási regarding that in the case they would decease without heir then their goods and possessions, both inherited and acquired should devolve to the sons Herceg. [§59] Then a letters patent of grace of the late lord King Sigismund under the seal with the medium head issued in favor of Imre Debrő that the same lord kind granted special pardon for his head and properties. [§60] Then a privilegial charter was made under the seal of the chapter of the cathedral of Oradae/Várad for the church of Telki in matters of Kerepes.

[§61] Then two letters, one of recognizance and another of institution made up on the pledging of the castle of Becse of the Lord Despot under the seal of the chapter of Buda in favor of Ladislas, son of Michael of Geszt. [§62] Then two other imperial letters patent on parchment about a recognizance against the sons Sulyok regarding the village Kőlöd for the same Ladislas son of Michael. [§63] Then there are letters under the seal of the lord King Wladislas for Ladislas of Majsa, nobleman of Co. Zaránd, Sigismund of Páka, noblemen from the Co. Borsod, Ladislas of Pacsaj, and their five towns in Maramureş in which they are permitted to erect walls in front of their properties. [§64] Then a charter of privilege under the seal of the chapter of Oradea/Várad and another, similarly privilegial of confirmation of the late King Albert issued on the perfection into son for the magnificent lord Francis of Csák. [§65] Then a charter of privilege under the imperial privy seal with the two-headed eagle on the pardon for head and all goods for Ladislas, son of the late voivode James now owned by George son of Ban David. And even though in the lower margin of that charter there is the writing of the lord Bishop Matthew, sometime chancellor, and the personal commission of the lord emperor is in the upper margin of the charter, pretending that it is his, it is still forged.. [§66] Then two privilegial letters made up under the seal of the chapter of Eger, one about setting bounds another about the adoption as spiritual brother of the late Andreas and Matthew Pohárnok Sandrino. [§67] Then, privileges of liberty for a certain Cuman, namely Peter Silli under the seal of the lord King Wladislas and for Matthew Beseg under the seal of the lady Queen Elisabeth. [§68] Then for a certain Józsa, living in Tobágyzentgyörgy, a letters patent of recognizance by the brothers of that person whom the same Józsa had killed that they let him go free, under the imperial seal on parchment. [§69] Then, a charter of privilege under the seal of the lord King Wladislas on the liberties for a certain John son of Egyed, now living in Madaras. [§70] Then, a charter with the major seal of the late lord Sigismund on its rear on parchment on that in the case of extinction of seed, all hereditary properties of the late Ladislas and Henry, sons of the voivode should devolve to the sons of Herceg.²⁸³ [§71] Then, two letters, one of institution under the seal of the chapter of Buda and another privilegial of grace by the lord King Wladislas on the perfection into a son for a certain lady, daughter of the nobleman of Koka, who was the wife of Ladislas of Macsonka. [§72] Then an imperial letters patent on the royal approval given to Gregory of Erdőd, caonon of Bács. [§73] Then a charter to a certain Cuman, Gregory son of Paul, that he may stay in the possession of his wife, a Hungarian, like the nobles of the kingdom, under the seal of the lord King Wladislas, but it never reached his hand and I do not know where it is. [§74] Then, a letter of grace for the Jews made up under the seal of the late lord King Sigismund with the medium eagle-head, that they can trade. [§75] Then, letters of pardon of King Sigismund under the privy seal in favor of Ladislas of Szécsény, made for his ancestors that his goods [confiscated] because of charge of infidelity should not escheat to the hands of the king, but devolve to the closest kinsmen. And also letters of pardon for the gold and silver mines. [§76] Then, a charter of privilege on royal consent on behalf of George son of Roland of Nemti that if the seed of John son of Henry of Tamási were to extinct, then [his] castles and all possessionary rights should devolve to the same George. [§77] Then, privilegial letters of the chapter of Oradea regarding the tithe issued on behalf of their

²⁸³ Seems to be a duplication, see §58.

bishop. [§78] Then, a letter on the perfection into a son about the recognizance of Stephen Báthori with royal consent under the privy seal of the lord King Sigismund made for the daughters of the late Thomas Báthori. [§79] Then a charter of privilege made up with the seal of the lord King Albert on the liberties of the cities in Maramureş [§80] Then, a charter with the signet ring of the lord King Louis on the liberties of the cities of Pest and Buda, but it was assigned by me to the burghers of Pest.

[82] “Therefore, taking notice of the damaging and wicked acts of the same Gabriel, whose evil deeds brought into peril not only his own body and soul but also those of very many other persons, and wishing to apply a timely remedy to this plague of forgeries, we have decreed that all and singular documents which are referred to by name in his aforementioned writings inserted into these presents, are always, inasmuch as they are forgeries, to be treated as worthless and to be rejected, disregarded and voided of authority in the eyes of all judges in and out of court; and we do so cancel, reject and condemn these documents by the force of these presents. Given at our general congregation in Pest on the Tuesday after the feast of Christ's most Holy Body, the year of Our Lord 1448.”

CHAPTER FIFTEEN

What should be held about transcribed letters and privileges

Then, apart from the aforementioned feloniously made letters, there are other letters which, even if not maliciously composed, are not taken into account in court, nor do they stand. These include all transcribed [letters] which are or have been simply and straightforwardly transcribed in places [of authentication], at chapters and convents or before justices ordinary of the kingdom. Such letters have, not without good reason, been cancelled and invalidated by a general constitution, unless, of course, the original letters from which they were transcribed can be physically produced. For if they can be, and the original privileges are acknowledged as having been composed rightly, in the proper order and manner, then even the transcribed letters stand.

[1] Transcribing is the transferal of some privilege into another, not by its sense, but verbatim.

[2] Hence, the transcribing of letters can only be made according to our present manner and custom either in the court and judicial seat of the royal majesty, in an adversarial suit between litigants; or before justices ordinary of the realm in octave terms through a legal summons delivered face to face, and likewise, in the case of kinsmen when a division of goods ensues among them or some other issue arises regarding the preservation of letters and their privileges, before the same judges, and not otherwise. The original privileges or other primary documents can thus be properly discussed and examined by the justices of the realm and carefully deliberated upon, in order to see that they have been composed and issued according to accepted procedure and in due fashion and in the correct way, and not malevolently or fraudulently. Only then may they be transcribed and drawn up as letters and privileges free of any malice and fraud. Such transcribed copies are thereafter observed.

[3] However, letters and privileges recovered or to be recovered in chapters and convents upon letters of request are treated differently; these are always observed, providing the originals of

these letters are not in themselves transcripts of the aforesaid type, since (as explained above) these are not valid.

CHAPTER SIXTEEN

Privileges which are issued with the clause "*de cuius vel quorum notitia.*" And on puppets, or fictitious persons

Furthermore, all letters and privileges of any chapter or convent whatsoever containing this clause: "concerning the identity of whom such-and-such a person has affirmed or assured us" and so on, are held to be annulled, cancelled and invalidated, and are not allowed to stand in court at any time.

[1] This is the reason: a recognizance made by any person in this way refers and relates not to the chapter or convent but to the person who attested and affirmed him; thus it is not the chapter or convent but the person doing the assuring who should be regarded as stating and affirming that so-and-so made the recognizance or other obligation. But the chapter or convent must always establish the identity of the person who makes a recognizance, so that the same chapter or convent can freely affirm that this person presented himself before them and made such-and-such a recognizance. Otherwise no right and lawful letters can or should be given, or proper privileges issued, upon anyone's assurance or affirmation.

[2] Albeit there are found persons heedless of their salvation and honor who often design to set up and establish before a chapter or convent, and sometimes also before justices ordinary of the realm, puppet-figures and fictitious personages, and have false recognizances made for themselves by means of these. Yet the chapter, convent or justice ordinary who in ignorance issues letters or privileges on the strength of the recognizances of such persons are not to be blamed at all for this, since they believed that these people were in fact those whom they said they were and were not puppets or fictitious persons.

[3] The matter is different if chapters and convents or justices ordinary act knowingly and willfully, or if they otherwise compose illegal and false letters; in such cases they will be punished as forgers and perjurers. And for this, chapters and convents are to be punished by the loss of their seals; those members of the chapter or convent who were present at the composition and sealing of such false letters, [by loss of] their benefices; and the secular justices ordinary, by capital sentence, and the permanent loss of their goods and property rights, as well as of their seals and honor.

[4] Moreover, a general decree demands that those members of a chapter or convent who (as was said) were present or took part in the composing and sealing of these false letters are to be stamped and branded with the red hot mark of the seal on their forehead and face.²⁸⁴

²⁸⁴ 1498: 14.

CHAPTER SEVENTEEN

To what should attention be paid in the examination of false letters

Then, in examining and considering false letters, judges must attend, in particular, to the date of the letter, that is, the day the privileges were issued and the years that are put, as well as the impression or appending of the seal, its circumscription, and what is written on it;

[1] Then, the erasure or obliteration of names or the identities of persons or properties included and listed in the privileges and letters. If these are carefully investigated, the lawful or unlawful composition of the letters or privileges will easily become apparent.

[2] Privileges composed in the proper and correct manner are always upheld, even if the seals are damaged and broken, providing the borders of the seals and the writing on them are clearly visible and legible.

[3] But the falsity of a letter unjustly issued on a recognizance of the aforesaid puppets or false personages will be most clearly evident when the person in whose name and person such a recognizance was made can show on good evidence that he was elsewhere at the time the recognizance was issued and drawn up, and not at the place where the recognizance was fraudulently composed.

[4] Once any nobleman discovers that a recognizance has been composed in the aforesaid manner in his name and person, he should take care to speak up and protest it without delay. This can be duly done at all times and in any place of authentication or testimony once the forgery comes to or is brought to his notice.

[5] This type of forgery is included in the earlier article on the proffering of forged letters in the list of charges of infidelity.²⁸⁵

CHAPTER EIGHTEEN

The continuation of the second part in particular: firstly, on summonses.

Having dealt above with the noteworthy matters, we must return to the discussion of the matter of this second part. Here I have decided to deal first with the opening of cases, that is, summonses.

[1] Concerning which it should be noted that a summons is nothing other than a lawful call to a judge because of a plaint or complaint tended to the same judge by someone against someone.

[2] These days a summons can take many forms and be of many types. Some summonses are simple, others peremptory or terminal, others with notice, others for institutions and perambulations.

[3] Thus cases involving pledged property rights; rights of filial quarters, dowers and paraphernalia; debts; obligations; divisions to be made among joint-owning kinsmen; and new

²⁸⁵ See above I. 14.

trial obtained by someone, should be opened, tried and concluded within the same short terms as suits started with terminal summons, even if initiated by a simple summons.

[4] But other cases, initiated by a summons with notice or some other simple summons or involving institutions and recovery of goods, or even the perambulation of boundaries, should usually be concluded within four octave terms.

[5] If anyone be called by any form of summons on account of a warranty clause previously undertaken in defense of someone's suit, or on account of letters or written instruments held or concealed by someone, then such a summons is usually always decided and finished within one judicial term, namely in which the principal action has been initiated.

[6] However, terminal summonses in regard to any act of might whatsoever can always be issued in due form provided that the prescription has not run out.

[7] In cases initiated as protracted lawsuits, three terminal summonses replace the announcement at three fairs.

CHAPTER NINETEEN

How and by whom should summonses be served

Every summons must be served by a royal or palatinal bailiff and a man of some place of authentication at the property rights, inherited or pledged, or even at the place of service of the persons who are to be summoned.

[1] Regarding place of service, hold this only true if such a summons is served for acts of might committed in the course of that service. For, a summons in matters of property rights or other matters should not be served at the place of service.

[2] However, any royal or palatinal bailiff who serves a summons, or makes an institution, re-institution, or perambulation of goods, or any other judicial execution, must have noble property in the county where the execution takes place.

[3] Otherwise he cannot make any execution, unless it happens that he has been deputed and sent by justices ordinary of the realm from the royal court to perform that execution.

[4] For, in that case any noble, indeed even a non-noble person (provided that this non-noble is a scribe or notary of the royal court) can proceed in any execution.

[5] For, in former times knights of the royal court, and other courtiers were sent to effect executions, particularly those involving institution of goods.

Personal summons, order, and prohibition

However, it should be known here that if, in the course of a diet or general assembly or octave or any short-term court, any lord or noble should kill, wound, beat or even verbally abuse and disparage anyone attending such a diet, assembly, octave or short-term court, then at the instance of the injured party such a person can be forthwith summoned by justices ordinary or others appointed to the case into their presence by a scribe, that is, a notary of the royal court without the man of a chapter or convent.

[1] Moreover, if someone holding another's goods and property rights in pledge is found before a justice ordinary by the one who pledged him the goods or who has the legal right to redeem the same goods and property rights, or merely by his lawful attorney, he can always be ordered to take his money and return the goods and property rights. He will be required to respond on the third day of notice or (if he wishes) on the same day, providing that the plaintiff is able to produce at that time his copy or the exemplar of the letter of pledge before the judge.

[2] For otherwise the person given notice is not bound to respond in this way and manner; instead, the plaintiff will have to apply to the royal or palatinal bailiff and the man of some place of authentication to have this kind of notice served along with the summons.

[3] Further, not only can a notice be issued at any time or in any place in front of justices ordinary of the realm in matters of pledge, but so can a personal prohibition in a matter involving hereditary or permanent rights if the prohibitor and the prohibitee present themselves personally, and not through an attorney, before the justices ordinary. For, otherwise a personal prohibition of this kind does not stand.

[4] [A prohibition] is usually made because of the unlawful and violent occupation of property rights and has the same or even greater force than a terminal summons. For, the prohibitee is bound to respond on the third day of the prohibition. If, however, he refuses to respond, then although no capital or other sentence is to be passed against him at that time, should he nevertheless fail to have the prohibitor legally summoned to face him within the course of one full year or even if he does, but is found by the judge to have unlawfully held and to be still holding the goods and property rights in respect of which this personal prohibition was made, then the prohibitee should be sentenced to capital punishment or the redemption of his head (according to the status of the persons litigating), exactly as if the case were initiated by terminal summons.

[5] If, however, the prohibitor fails to appear before his judge on the day of response with all those written instruments of his that bear on the matters of the goods under litigation, or is unable to appear with the letters in question, he will be condemned to a royal fine of six marks in favor of the prohibitee and his judge.

[6] If he then wishes to pursue the action further, he will be free to pursue it in another suit once he has paid the six-mark fine.

[7] And this holds true when the prohibitee appears in court on the aforementioned day of response and responds to the prohibition relevantly and forthwith.

[8] But if the prohibitee or respondent can prove, by producing there his written instruments, that the goods and property rights, in respect of which such a personal prohibition was issued, belong by just title to him, then the plaintiff, that is, the prohibitor himself, should then be condemned to

the common estimation of the goods.

[9] On the other hand, if the prohibitee fails to respond on the aforesaid third day, and does not summon the plaintiff to appear before him in response to the personal prohibition within the aforementioned yearly period, then the same prohibitor, after the course of one year, has to summon the prohibitee to face him, in the first instance by a simple summons, and then according to judicial procedure, by a terminal one.

[10] And, if the prohibition was made on grounds of unlawful occupation and usurpation of the goods, and the plaintiff is able to prove that the goods belonged and still belong to him by just right, then the prohibitee or respondent should immediately be condemned to capital punishment or the redemption of his head within the term of the discussion of the case (for he allowed a response to be made and the aforesaid summons to be served and so the prohibition acquired accumulated force against him).

CHAPTER TWENTY-ONE

Testimonies of chapters and convents to be sent for executions

Note furthermore that summonses, institutions of goods and property rights, recoveries, perambulations of boundaries, notices and all other judicial executions should always be made through the royal or palatinal bailiff with the testimony of that chapter or convent which is in the county where the execution is made, or, if there is neither, then with the testimony of some nearby place [of authentication].

[1] For otherwise the case will fail. It can be initiated anew and reactivated by the plaintiff, if he so wishes.

[2] Excepting the testimony of the chapters of the churches at Fehérvár, Buda, and Bosnia,²⁸⁶ as well as the Hospitaller convent at Fehérvár,²⁸⁷ which have authority to proceed with any execution whatsoever throughout the entire kingdom of Hungary and the parts subject to it.

[3] On the other hand, simple inquests concerning acts of might can also be executed anywhere on the attestation of whichever chapters and convents are closest.

²⁸⁶ The bishopric of Bosnia was in the mid-thirteenth century removed by Béla IV to Diákóvár (Djakova) in Valkó county, in the southernmost part of Hungary. The bishopric of Bosnia retained extensive properties throughout the medieval kingdom.

²⁸⁷ The Order of the Knights of the Hospital of St. John in Jerusalem, or the Hospitallers, established a house in Hungary during the reign of Géza II (1141–1162). This was the convent of St. Stephen the King, located in Székesfehérvár, see Zsolt Hunyadi, *The Hospitallers in the kingdom of Hungary c. 1150–1387* (Budapest: CEU—METEM, 2010) 102–4.

CHAPTER TWENTY-TWO

Punishment for him who is found to act both as royal bailiff and attorney in one and the same suit

It has to be known that a royal or palatinal bailiff cannot act as attorney or advocate in the same suit for which he serves summons or [performs] other executions.

[1] For if someone is found to act as a royal or palatinal bailiff and also as an attorney in one and the same suit, he will be immediately convicted to his man-price against the person on whose behalf he acted or is acting as an attorney.

[2] The reason for this is: the royal or palatinal bailiff accompanied by the testimony or man of some place of authentication (viz. a chapter or convent) stands and is regarded as a judge, sent out for execution, on behalf of his superior judge; the attorney, however, is seen as a party, as he pleads and responds. Thus he would be perceived as both judge and party. And no one is allowed to be both party and judge in one and the same suit; for this reason he is justly convicted to his man-price.

CHAPTER TWENTY-THREE

Punishment for him who summons a dead person or a child, or who orders a noble to be brought [to court]

It also should not be omitted that if any litigant has a noble who is already dead and deceased summoned against him, or if, at the time of summons, enjoins any prelate, baron or noble of the realm to have a propertied retainer bearing the title of true nobility brought to court or arranges in any other way his being brought to court; or summons against himself a child under lawful age on account of acts of might: such a plaintiff who sues against a dead nobleman, or child of unlawful age, or any individual noble retainer will be sentenced and fined fifty homagial marks in every case (provided a [legal] exception and objection is made against the plaintiff in this matter).

[1] For nobles must be summoned, and not brought before the court.

[2] For being brought to court applies only to peasants or villagers and persons of tenant peasant status as well as non-noble retainers, who are to be brought and presented to the judge by their own lords, and not by officials.

CHAPTER TWENTY-FOUR

Notices served in connection with pledged [property] rights and dowers; and penalties in consequence

Notices on payment for and return of pledged property, or on receiving dower and paraphernalia, filial quarters and similar things, can be served either personally, if the plaintiff can find the man or woman to be given notice, or else at his or her dwelling or usual place of residence.

[1] On the other hand, a summons following a notice cannot be served personally, but at the settled, inherited or pledged property rights of the man or woman given notice, whence it may come to his or her knowledge that the summons has been served.

[2] For otherwise, if the person has no tenant peasants, a notice as well as summons can be duly served at his noble court or at his usual place of residence.

[3] However, if he has one or more tenant peasants, summons must be served through them. For otherwise, if he or she is summoned either personally or at their home, the plaintiff must be convicted and charged at their man-price against the person summoned.

[4] Here it should be known that if any noble man or woman is given notice to take his or her money, and return a property in pledge, or to take her dower and paraphernalia, and restore and return the property rights of her deceased husband to the person to whom they belong by law; and if these are not taken at the time of notice nor are the property rights returned, and a summons is subsequently served, and if they fail to come or to send [someone] to the appointed term, that is the octaval or short-term court, then these property rights will be restored by the judge to the plaintiff without waiting for the next term and without any monetary payment at all, and the summoned man or woman will have to seek and pursue their rights while out of possession of these goods.

[5] Indeed, by the force of our general decree a usurer who refuses to take his money and to restore the pledged goods and [property] rights will in fact be convicted to the sum of money for which those rights were pledged to him, against the opposing party.²⁸⁸

[6] And hold this to be true, only when both the notice and the summons were served on behalf of the person who made the pledge, or his son or kinsman, to whom the devolution of those pledged goods patently belong; for it is not customary that the aforesaid penalty be imposed at the instance of the neighbors or abutters of these goods.

[7] If however a woman notified and summoned in the aforesaid manner in connection with a dower and trousseau appears in court, but contrives to introduce some subterfuges in her response, so as to have her action postponed to a later term, in order that she can in the meantime receive and enjoy the fruit of those goods; and then, at that later term, she is unable to prove her case in a proper way; then, she will lose immediately all of her dower and paraphernalia on account of her deceit and her empty response (whence it is known that many women have reduced their wards to destitution through delaying tactics of this type). The judge should order those goods and property rights to be returned and restored to the plaintiff without any payment of the dower.

²⁸⁸ 1486:25.

CHAPTER TWENTY-FIVE

The clause *litis pendentia* in a summons: its significance

Regarding the clause “notwithstanding pending suits, if there are any between them” (namely between the summoner and the summoned) it should be known that this clause is customarily appended to a summons in order to avoid frivolous prosecution, as frivolous prosecution principally happens on account of the initiation and prosecution of two or, on occasions, a multiplicity of lawsuits.

[1] Thus, when the plaintiff and the defendant or respondent are litigating in some matter, and in the course of the suit one of the parties is injured by the other through some act of might, or is in any other way forced to go to court, and in consequence a new case emerges, then the new summons may not in any way restrict the previously initiated and pursued action, nor may any burden or encumbrance be imposed on the plaintiff, and vice versa.

[2] This clause is customarily inserted in the first letter of summons. However it is not required in the second and third summonses issued in the course of the suit.

CHAPTER TWENTY-SIX

Three things are required to be expressly included in a summons

Then, in every summons and presentation of a plaint, especially those made for acts of might, three things should be expressly included.

[1] First, the person by whom and [the one] against whom the complaint or action is brought.

[2] Secondly, the time or the time span within which the damages and injuries were inflicted or caused by one [party] to the other.

[3] And, thirdly, the place and the county where and in which such damages or injuries were inflicted and caused.

[4] Then, if the case was initiated on the grounds of seizure of property rights, it is also necessary that the goods seized be clearly specified.

[5] For if these conditions are not met, the justice ordinary will not be able to hand down a correct and appropriate verdict to the parties, especially when, on account of the way the parties responded, the case has been submitted and brought before a common inquest. When that is held, it is always highly important to indicate the time, to specify the place and the county, to detail the things committed and to state the quantity of goods seized.

CHAPTER TWENTY-SEVEN

What is a common inquest, and how many conditions must be met in order to hold one

Furthermore, it should be known that a common inquest is a definite clarification through the testimony of witnesses of doubts arising from the responses made by the litigants before a judge.²⁸⁹

[1] It is usually undertaken and conducted through the neighbors or abutters of that property where the relevant act of might occurred, or was committed, or through nobles of the same county in which the property lies, at the place of the judicial seat of the same county; unless it happens that the case is pursued on the grounds of the seizure of property rights or lands, for in this case it is often held on the site of the land in dispute, and not necessarily at the judicial seat.

[2] For any common inquest to be held in a proper and correct manner, five conditions need to be observed: liberty, age, manner, status, and the deposition of an oath.

[3] First (as I said) liberty is needed: so that each witness may give evidence of the truth freely, without fear, of his own accord, without being violently coerced, but merely at lawful bidding, lest in the clash of arms the laws appear to be silent.²⁹⁰

[4] Secondly, age is required: the witness should be old enough to remember and recall the events about which he is being examined. I have read in the records of common inquests – and not only read of this, but seen – numerous cases where, under the influence of money, or favor sixteen- or at the most twenty-year olds were included and confidently made statements and recollected evidence about matters which occurred and were done some twenty-five years previously, as if they had been present. And since it is not usual for witnesses in these inquisitions to be brought and presented in person before justices ordinary of the kingdom, but the examination of the witnesses is usually done only by royal or palatinal bailiffs and the men of chapters and convents sent to perform this task, they must therefore pay careful attention both to the age of the witnesses and to the time when the events occurred, and make a true report on the matter.

[5] Thirdly, the manner is important: that the witness plainly and openly states in respect of the deed about which he is asked: how he knows the matter and the merits of the case, whether out of knowledge or by hearsay, or whether he has perhaps received an account of it from the mouth of the person who perpetrated the deed in question. Normally simple hearsay is not admitted, nor should it be. But, alas, these days, when wickedness flourishes, and many people's charity has not only grown cold but been extinguished, very many people give their testimony with stained and defiled consciences, not after the order and manner which they know to be true but according to the instructions and wishes of the plaintiff or defendant by whom they were called. I myself can testify to such practices.

[6] Fourthly, attention must be paid to the status of the witnesses, namely whether it is a noble or a peasant who gives evidence as to the truth. For a peasant's testimony carries no weight against a person of noble status (except for the officials of prelates, barons, and other nobles of the realm, holding positions in the neighborhood on their behalf, who by ancient custom are regarded in this respect as noble persons). An exception might be cases where, on account of the merits of the

²⁸⁹ On the significance of inquests and, in general, oral procedures in medieval Hungary, see Erik Fügedi, "Verba volant ... Oral culture and literacy among the medieval Hungarian nobility" in Idem, *Kings, bishops, nobles and burghers in medieval Hungary &c.* János M. Bak, ed. (London: Variorum Reprints, 1986) ch. VI.

²⁹⁰ Werbőczy adapted here the proverb *Inter arma silent musae*.

case, the judge makes a ruling and order in so many words that persons of both noble and non-noble status be examined. However, this happens and is allowed rarely, and only when the parties desire and agree to it.

[7] For peasants and commoners can be lured from the path of truth by gifts or threats much more easily and quickly than nobles.

[8] In any case it seems inappropriate and unseemly that a nobleman, as a person of higher status, be exposed to the sentence and verdict of beheading or other punishment on the evidence of a person of lower status, namely a peasant, as the ancient and approved custom of this realm is known and recognized in this matter by almost all judges and attorneys.

[9] Fifthly and finally, the deposition of an oath is required when a common inquest is held.

[10] Although an oath is required of the witnesses in the first stages of the proceedings, and deserves to be foremost among the aforementioned conditions, my reason for mentioning it last is that this condition is commonly stipulated and obvious, and in any case it is always also expressly stated in the letters of adjudication drawn up by judges for a common inquest; and, anyhow, a common inquest always ends with the deposition of an oath (as will be explained clearly below).

CHAPTER TWENTY-EIGHT

How should witnesses be examined at a common inquest? The penalty for refusing to appear when called as a witness

Thus, every witness before making his statement is required to swear an oath to the effect that he has set aside all fear, hate, favor or love, does not look to the litigants for material reward, and will not conceal the truth, justify falsehood, or falsify justice, but will justly declare what he knows or understands of the matter about which he is to be examined.

[1] And so that no one can hold back or hide from giving evidence and stating the truth, either out of favor to one party or because of bribery, fear or hatred, both by the force of our general decree²⁹¹ and the requirements of ancient and long observed custom, the *ispán* or *alispán* of the county where the common inquest is held and performed, called upon by the letter of adjudication of a justice ordinary or any other letter of command issued in this matter, has full right and authority to summon and call on the nobles of the same county to give evidence at a common inquest, on pain of a fine of sixteen marks of heavy weight (each mark valued at four florins, or four hundred pence), which should be levied by the same *ispán* or *alispán* forthwith and irredeemably on those who, when notified and called upon, refuse to attend such a hearing and to give evidence therein as to the truth of the matter.

²⁹¹ See e.g. **1486: 14**.

CHAPTER TWENTY-NINE

There are two reasons why the names of witnesses are usually entered in the letters of report

The names and surnames of the witnesses, and which of them is a neighbor and which an abutter or a noble of the same county, should always be entered in any letter of report from a chapter or convent on the holding of the common inquest. There are two reasons for this:

[1] First, the testimony of two or three neighbors or abutters carries more weight and authority than that of twenty nobles of the same county; living nearby, they are likely to be much better and more accurately informed than nobles of the county of the merits of the case and the course of events.

[2] Secondly, in order that, by the listing and writing down of the names of the witnesses together with their testimony, any of the litigants can make such challenges as he finds necessary against anyone he wishes, as he is rightly allowed, on grounds of perjury or false witness, infamy or age.

[3] This is done particularly to avoid allowing perjury to go unpunished, should any such have been committed by anyone in giving their evidence (as is frequently done); as the sage said, “A lying witness will not go unpunished,”²⁹² since he both sins grievously against God in denying His justice, and harms his neighbor, by cheating him with false testimony.

CHAPTER THIRTY

The punishment for perjurers and *aucarii* known as *ludas*

Consequently by just judgement of God and man any faith-breaker or perjurer (whom in common parlance we term *aucarius*, that is, *ludas*)²⁹³ is to be punished severely.

[1] This means that, once convicted for perjury, he forfeits everything, all his property rights, and all his movable goods, wherever located and known by whatever name.

[2] Indeed, he will be deprived of the ownership of his property, and forfeit it forever.

[3] Not only will he be dispossessed from these, but in his own person he will lose his honor as a member of human society, and suffer such disgrace that he will be obliged to move among other Christians in distinct clothing at all times, with a belt of hemp, barefooted and bareheaded, as if he were relegated and separated from human society.²⁹⁴

²⁹² Prov. 19.

²⁹³ Werbőczy calls the perjurers *aucarius*=goose-man. It may go back to a pun of Aristophanes about a person swearing falsely *ton khena* and not *ton Zena* (i. e., by Zeus); *khena*=goose, hence *auca* → *aucarius*. Its way into Hungarian, where *lúd* means goose, thus *ludas* “one with goose” is a puzzle for linguists. In contemporary Hungarian it simply means “someone who is guilty of something fishy.”

²⁹⁴ The description of dress and appearance of the perjurer resembles that of excommunicates.

[4] He will have no right to take action in court against any person, whereas any person will have authority to take action against him.

[5] And understand this in regard to the jurisdiction of the Holy Crown of the realm and against the prince; for against a plaintiff, he is usually condemned as a perjurer and faithbreaker to the man-price and the redemption of his head, which amounts to two hundred florins.

[6] Wherefore it should be known that the act of perjury may be understood in two ways. The first sense refers to as the breaking of a licit oath. This occurs when someone promises to give another something, or to do this or that by oath and then breaks such a promise. In such a case the said dishonor and the forfeiture of goods do not necessarily follow, since not infrequently the one who made the promise is exonerated on grounds of genuine ill-health, difficulties of travel, or times of disturbance; nonetheless, he is still obliged to keep and fulfill his promise.

[7] The second type of perjury is when a lie is confirmed by an oath taken maliciously to deceive or harm someone's rights. In this case the aforementioned punishment for *aucarii* is always imposed and proclaimed.

CHAPTER THIRTY-ONE

A common inquest must not be held twice

It should be noted that once a common inquest has been held on behalf of either party and has not been interrupted by an obvious disturbance, then it is not allowed to have the action subsequently resubmitted to the same common inquest at the bidding of one party, although on many occasions various people have concocted ingenious quibbles in an attempt to prove that this should be allowed.

[1] Other details of the holding of a common inquest and even how it may be disturbed are clearly and unambiguously set out in general decrees.²⁹⁵

CHAPTER THIRTY-TWO

How oaths are granted to the litigants after or even before a common inquest

It is further to be known that every common inquest is brought to a conclusion with the deposition of an oath.²⁹⁶

²⁹⁵ See *inter alia* **1486:14**.

²⁹⁶ Oath (*iuramentum*) as a mode of proof survived in Hungary until the nineteenth century and was sworn by one or both litigants supported by a number of oath-helpers, as defined by the judge depending on the value of the case and the status of the oath-helpers. The ways and modes of oath-taking, after the abolition of ordeals in the mid-thirteenth century, were first regulated in detail by Charles I as part of his judicial reform see **1320, 13328**.

[1] For if a plaintiff can prove his intent, plaint and claim with adequate evidence, namely the testimony of six neighbors and the same number of abutters, and twelve nobles from the same county or, failing to come up with this number of neighbors and abutters, if he can make good the number with testimonies of nobles from the same county; and suppose that the respondent fails to prove his case, or even if he proves it partially: then fifty nobles including the plaintiff – according to his man-price – will take an oath “on the head of” the respondent.²⁹⁷

[2] But if both parties can convincingly support their plaint and claim, then an oath will be required of the defendant or respondent according to the letters of inquest produced and displayed by the plaintiff at the time of adjudication, when the suit was submitted to this common inquest. If three letters of inquest were produced, fifty nobles including the defendant will take the oath; if two, twenty-five; or if only one, twelve, and thus he will be quit of the plaint and claim of the plaintiff.

[3] But when the evidence favors the respondent more than the plaintiff, yet the plaintiff is able to prove something, then the fifty nobles including the defendant will take an oath if there are three letters of inquest, twelve if there are two, and six if there is one. And thus he will be quit of the charges brought by the plaintiff.

[4] But if the plaintiff altogether fails in his testimony, or if by chance does not even arrange for the inquest, then the charges against the defendant shall simply be dismissed.

[5] And conversely, if the respondent fails to arrange for such a common inquest, or perhaps does so, but can provide no witness to support his case, then the judge should pass final sentence right away against the defendant. And the same should held and done in all other cases of summons.

[6] Now if the plaintiff has produced three letters of inquest, and the defendant denies the charges outright, fifty nobles including him will take an oath. Moreover, if the case was opened on the seizure of property rights, the plaintiff will recover his seized goods straightaway.

[7] However, if he denies the charges, and chooses to claim his innocence through a common inquest, and the plaintiff does not accept the same inquest, then the respondent will be cleared of the charges if twenty-five nobles, including him, swear an oath and so on downwards: twelve nobles against two letters, and three against only one. For a single letter will have no force if the plaintiff refuses to accept that inquest.

[8] Then, if the respondent at the first term of response has submitted himself to the plaintiff's capital oath, according to the custom of the realm, and the plaintiff declines to accept this, then the respondent is required to take an oath with only two other nobles, even if three letters of inquest were presented on behalf of the plaintiff.

[9] But if the respondent agrees to submit himself to the oath of the plaintiff alone, that is in his own person, and the plaintiff refuses to accept this, the defendant is to be immediately acquitted.

[10] However, in other minor actions where no letters of inquest were produced by the plaintiff, the defendant shall always take the oath together with two other nobles; if, however, a debt or

²⁹⁷ Capital oath (*iuramentum ad caput*) was an oath that the defendant was not allowed to counter by his own oath. Such a decisive oath was also allowed when the plaintiff presented three favorable letters of inquest and the defendant refused to submit to a fourth one.

loan is at stake, and the plaintiff cannot produce any convincing document, the defendant or respondent will in this case take the oath alone.

[11] If some evidence is offered concerning a debt, loan, or lost money, but there is no means of determining exactly the amount of money involved, then the plaintiff can recover his money by means of an oath, namely by the oath of one nobleman for every mark (equivalent to four florins).

[12] A villager or a peasant can only swear an oath for one florin worth one hundred pence, and this is not customarily admitted in the suits of nobles.

CHAPTER THIRTY-THREE

Whether the oath of a noble for a peasant or vice versa, is valid in matters of damages

The question arises, whether in cases involving the recovery of losses or debts the oath of a noble on behalf of a peasant or non-noble person can be regarded as retaining the same force and validity as if it was given on behalf of a noble, or does it become equivalent to the oath of a peasant.

[1] Conversely: can a noble recover his losses or debts through the oaths of peasants, taken according to their ability?

[2] It must be stated that the oath of a noble is always valid, whether given in favor of another noble or even of a non-noble person. It retains the same force and validity as long as it is given rightly and lawfully. For no disgrace can result from the deposition of an oath sworn in the right way, nor is any noble considered to have forfeited his status as a noble in consequence.

[3] On the other hand the oath of a non-noble person or a peasant, being of inferior status, has no force and is not admitted for or against a noble, as a superior, though a noble is permitted to take an oath with non-noble persons against a non-noble person.

[4] The peasant for his part must be free to take an oath with other non-noble persons in any case initiated against a noble for, say, a debt or any other business, according to the decision of the judge. However regarding the granting and taking of oaths in cases involving nobles the position outlined above must be taken.

CHAPTER THIRTY-FOUR

Oaths to be granted and taken in cases involving written instruments

Further it is to be noted that in regard to documents and written instruments which someone has concealed or which are in someone's hands in some other way, a more forceful defense is required of the defendant or respondent than in the case of other acts of might.

[1] For if the plaintiff has produced only one or at the most two letters of inquest on the matter, the defendant will be judged to give an oath with fifty nobles including himself, but if the plaintiff

has no letters at all to show, but simply states in his own words or at the judicial notice that someone has those written instruments, then twenty-five nobles take the oath.

[2] Now if he fails in such an oath, then he will be obliged to protect and warrant the goods and property rights in regard to which he was unable to supply the oath and will be bound to maintain the plaintiff and his heirs in the possession of the property rights against any litigants and legal challengers.

[3] Nevertheless, in the letters of summons it must be expressly noted which and what kind of written instruments are meant, to prevent fraud being committed by the plaintiff in the summons.

[4] And this only, if he does not suggest that all the documents and written instruments touching on and concerning the matters of some property rights are in the hands of the defendant. For in this case it will not be necessary to describe the number of documents or their nature, but simply the names of the property rights and their location. For when he refers to all and every of them, he excludes none.

[5] And if he claims all, the plaintiff shall take care not to produce at a later date any letters relevant to the matter of these property rights, or have them exhibited, for in so doing he will be condemned forthwith for frivolous prosecution.

[6] Then it should be known that if there are several brothers, or other joint-owning kinsmen, who (as often happens) produce and show documents and written instruments against persons of the female line in an adversarial trial, then the oath will be adjudged not for all the brothers individually, but only for the eldest, (as the fiftieth hand, that is, fifty nobles including him) since it is recognized that he is the one who is responsible both for safeguarding such written instruments and for arranging lawsuits.

CHAPTER THIRTY-FIVE

Cases in which the names of oath-takers are to be written down

It should also be observed that there are four cases where the names of the oath-takers are always to be written down and stated in the relevant letters of report when an oath is taken. These are: instances of proof of genealogies; of documents and written instruments; of perambulation of boundaries; and for those made and taken on someone's head.

[1] This is to ensure that the oath was taken with the support of true nobles, and according to the judge's instruction.

[2] However, in other cases of oaths the names of the oath-takers need not necessarily be recorded.

CHAPTER THIRTY-SIX

The penalty for calling another person non-noble or of ill repute. The various consequences of oaths

If in the four above-mentioned cases some person takes exception to the oath-takers, or to any one of them, on the grounds that he is not a true noble with a genuine title to nobility, or is otherwise known as being of ill repute or a perjurer, a single judicial term is to be set and assigned to the plaintiff in which to state and verify his noble status or to refute the charge of infamy.

[1] If at this time he can prove by written evidence that he is a true noble, and by any other acceptable proof that he is a person of honest condition, then the defendant (who has made the exception) has to be actually condemned and fined to the man-price of the oath-taker which amounts to 200 gold florins, to be paid exclusively to the oath-taker.

[2] For this [amount] the justice ordinary presiding over the case is to award the oath-taker forthwith immediate satisfaction out of the goods and the movable property of the opponent, or if necessary, out of his property rights, wherever they may lie.

[3] If on the other hand [the accused] fails in the aforementioned proof, then his opponent will win the case.

[4] In this case, if he was a respondent, he saves his head, and is quit of the plaintiff's claim, while if he was the plaintiff, the defendant will be obliged to warrant (as explained above) permanently the goods, the letters concerning which he had hidden and not returned; or, if the case was pursued over boundaries, he will be allowed to keep the disputed land forever. Whereas if he fails in the proof of genealogy, he loses the disputed property, and vice versa.

[5] In other cases and suits, if the plaintiff fails in the deposition of the oath, he loses his plaint and claim; if on the other hand the defendant fails, the plaint and claim brought against him by the plaintiff will be upheld, and the judge will find against him right away.

CHAPTER THIRTY-SEVEN

How the oath of a father who died in the meantime descends upon his son or kinsman

It should also not be omitted that if either a plaintiff or respondent who was judged to take an oath happens to die before the term set for the deposition of this oath – and additionally, perhaps, is survived by a pregnant wife – then the obligation to take the oath falls to his eldest son, if he had sons born before; or if not, then (waiting for the time when the woman gives birth) to the son who is then born, or, otherwise if a daughter is born rather than a son, to the closest kinsman of the deceased – as the person to whom the property rights will pass.

[1] And his judge will assign to the son or kinsman a new term for the deposition of the oath, in which the son or kinsman will be required to take the oath.

[2] And if the son or kinsman is of tender age and not yet able to swear an oath, the judge will be required to postpone the oath until such time as he duly and properly reaches legal age when he can take the oath validly.

[3] The above holds true of brothers and joint-owning kinsmen as well: if one dies during [the proceedings] the obligation to swear an oath falls to the other.

CHAPTER THIRTY-EIGHT

Can a single oath-taker take an oath exculpating several persons in the same legal action

Then it can be asked: if there is more than one respondent in one and the same action, and the justice ordinary ordered each of them to take the oath at different times and places—as commonly happens owing to the distance of the place and deed or pressure of time—and one of the oath-takers in the first term takes an oath for one of the respondents, is it possible for him to take an oath at another time and place to clear another defendant or respondent in the same case and action?

[1] Reply that not. For it is not possible for one person, or one oath-taker, to take an oath exonerating and exculpating more than one person in one and the same case.

[2] For if it were possible to take an oath for and exculpate more than one person, then it would be quite easy for any defendant, or any malefactor, to escape the charges laid by the plaintiff; he could swear an oath—or even be paid to do so—and clear one person today, another tomorrow, and a third person the day after, and so on.

[3] Hence, if an oath-taker should so swear for two persons in succession, then the one for whom he swore for the second time is to be condemned immediately according to the plaint and claim of the plaintiff: as the oath should be declared invalid.

CHAPTER THIRTY-NINE

Our prince cannot be sentenced to capital punishment nor can he himself swear an oath against any person, nor is he required to prove his rights

It is to be noted that although the royal majesty is held to appear and to respond through the director of his suits to all complainants and litigants before the Lord Palatine of this realm;

[1] he is not condemned to capital punishment or to the redemption of his head or to the loss of his goods; he is only required to make good any damages caused to anyone by his officials or tenant peasants.

[2] In cases involving land, the perambulation and adjustment of boundaries, or other matters, or acts of might, where he is ordered to take an oath that will be sworn by the director of his suits in the name of his majesty, according to the decision of the palatine.

[3] Moreover, he is never obliged to produce and show letters or written instruments regarding any goods or property rights which are alleged to have devolved to the jurisdiction of the Holy Crown of the realm under any title whatsoever.

CHAPTER FORTY

The way lords prelate, barons, mitered abbots and priors swear oaths

It should be known that any prelate, any baron ex officio, any mitered and ringed abbot or prior has the right to swear an oath worth that of ten nobles.

[1] A prelate or abbot or prior should swear oaths by the purity of their conscience in their cathedral church before the witnesses of some chapter or convent appointed by the judge for that purpose; their other oath-takers, as well as all barons and nobles, should swear by their faith in God at the place designated by the judge.

[2] Accordingly, the man-price of lords prelate, barons, mitered abbots and priors is set at 100 marks, that is, 400 florins.

CHAPTER FORTY-ONE

What is the view, and how it should be held

Then, having described the common inquest and the deposition of oaths following it, it remains to add a few notes and comments on the view.

[1] View means the visible identification of the fact that a violent occupier of property rights is in possession thereof.

[2] This procedure is carried out in the same way as a common inquest; in other words, the neighbors and abutters of the property rights seized and the nobles of the county are called together and their testimony heard.

[3] Besides which, the plaintiff must visibly demonstrate by the proof of sight to the royal or palatinal bailiff or the man of the chapter or convent that the defendant or respondent is in possession of the wrongly seized goods; and then corroborate this with the testimony of the neighbors, the abutters, and nobles of the county.

[4] After such a view and inspection, the testimony of the neighbors, abutters, and nobles of the county commonly takes place at the judicial seat of the county (just as in a common inquest), and often at the actual site of the contested seized property rights – all depending on the merits of the case.

[5] Where it is to be known that a view is a more effective and better procedure by far than the common inquest: after all, what the eye sees for itself is the most convincing proof of all.

[6] Now once a common inquest was held by both parties, the taking of the oaths follows (as explained above). Following the view, should the plaintiff sufficiently prove his plaint and claim by this view and the testimony of the said nobles, no further oaths are required of either party by

the judge. A sentence of capital punishment or redemption of the head is then delivered and pronounced against the defendant forthwith and ordered to be executed.

[7] If, however, the plaintiff fails in his proof, then here too, just as in a common inquest, it is necessary to submit the defendant to the deposition of an oath.

CHAPTER FORTY-TWO

Kinds of sentences, their varieties and their execution

Having mentioned capital sentence, I have decided at this point to discuss the definition of sentences, their types, their execution, and varieties.

[1] For our purposes a sentence is the decision of a judge which ends a suit or dispute by condemnation or acquittal.

[2] In fact, the word has many other meanings, and can be interpreted in a variety of ways; however, as these meanings are not relevant to our purpose, I have resolved to pass over them in silence.

[3] A sentence differs from an opinion in this respect, that a sentence is a firm response which leaves no room for doubt; whereas an opinion is a response with a certain degree of doubt (albeit on probable grounds). This means that if opinions vary in a given case, the one based on the better and more subtle reasoning is to be accepted.

[4] There are different sentences: some are capital sentences, others involving redemption of the head, others implying the charge of infidelity, again others simple sentences, and others determining fine of the tongue or frivolous prosecution.

[5] These days a capital sentence is usually not handed down or pronounced except for invasion of houses; the killing, beating, wounding of a noble or detaining him without just cause; further, the seizure by whatever name of anyone's property rights and their appurtenances.

[6] And such a capital sentence touches and affects only secular persons, males, and those not related by blood; for apart from cases to be detailed below, capital sentence is not pronounced between or against ecclesiastics, women or female persons, and kinsmen. By ancient custom of the realm such persons can only incur the sentence involving the redemption, that is, relief of the head. Other kinds of persons are treated differently, as will be made clear below.

CHAPTER FORTY-THREE

The difference between capital sentence and a sentence of the redemption of the head

The sentence of the redemption of the head differs from capital sentence only inasmuch as after a sentence of the redemption of the head has been pronounced, the convicted defendant – or one condemned because of his absence or failure of appearance – cannot by force and virtue thereof be in his person arrested, caught, and punished by beheading.

[1] However, just as in the case and manner of a capital sentence, he immediately loses and forfeits all his goods and property rights, as well as all his chattels that personally and positively belong to him, known by whatever name and of whatever sort or kind; two thirds of this is to be instituted for and occupied by the judge and one third by the plaintiff, who will hold them in pledge until the time of the redemption of these property rights by the value and extent of their common estimation.

[2] The relief or redemption of the head, that is, the man-price of a prelate or baron is four hundred florins, and of a noble, two hundred florins, to be paid to the male or female plaintiff alone.

[3] First and before anything else, satisfaction must be made by the judge towards the man-price from the chattels of the convicted and sentenced person, if enough can be found, or if not, then if necessary also from his property rights; and thereafter the remaining part of his chattels, goods and property rights of the same convicted man are to be divided into three parts between the judge and the male or female plaintiff to be held by them (as explained above) until the time of their redemption; having divided the chattels among themselves, and converted them for their own use.

[4] Females and women so convicted forfeit not only their property rights and chattels but also their dower and filial quarter.

[5] It should also be known that capital sentence can be passed and pronounced also against females and women, just as against male persons, in cases when any of them maliciously kills, or procures the killing of her husband, her parents, or her own children, for such a case falls under the charge of infidelity.

CHAPTER FORTY-FOUR

Cases in which capital sentence is passed against ecclesiastics

It is further to be known that there are three cases in which capital sentence is pronounced against persons spiritual and clerical, in which capital punishment is decided and passed on top of the loss of patrimony and benefice.

[1] The first case is if one of them commits lèse-majesté.

[2] The second, if he manifestly incurs the charge of infidelity.

[3] The third, if one of them commits or arranges to commit willful and premeditated homicide and brigandage.

[4] For this they must lose their head, following defrocking.

[5] In these cases, although they do not lose the property of the churches they are in charge of, they do forfeit and lose their private and separate patrimony and property rights, if they have any, and in addition all ecclesiastical benefices they possess.

[6] In the third case, however, that is, premeditated homicide and brigandage, they do not lose the ownership and inheritance of their patrimony if they have co-inheriting kinsmen to whom these rights belong by succession; for in this case it is enough to pay for a head with a head.

[7] In other cases and suits, a person spiritual or clerical against a layman, or vice versa, a layman against a spiritual is subject to equal penalty and punishment, namely redemption of his head or man-price and compensation for damages caused; from which the judge has to satisfy the plaintiff and injured party, in the aforementioned way.

[8] And this custom derives and comes from the general decree of the most serene prince Albert,²⁹⁸ king of the Romans and of Hungary, and duke of Austria, and moreover has been ratified and confirmed in a recent general decree of ours.²⁹⁹

CHAPTER FORTY-FIVE

How persons spiritual have to repay debts and damages

Then if a person spiritual of whatever status and rank is convicted to repay and make good any debts, he has to satisfy the other party with a payment in cash.

[1] And if he refuses or is unable, then the debts shall through the judge be recovered for the adversary from the goods of the church out of their revenues and for as long as it takes; they are to be instituted in and occupied until the debt is repaid.

[2] Payment in cash is here understood to mean gold, silver, or any other money in circulation at that time.

[3] When he is convicted to recompense and to make good the damages done, he may in this case, if he so wishes, compensate his adversary from marketable chattels, however at the true value of these things.

[4] Otherwise, the judge of the suit will also in this case give satisfaction to the adversary of the convicted person by proper institution in the goods and property rights of the church.

CHAPTER FORTY-SIX

How chapters and convents together, and private persons separately have to be sentenced

If a chapter or convent is condemned collectively for any major or minor act of might, by whatever kind of sentence, then it is convicted as a sole individual, and the singular members are not condemned individually; the only exceptions being the aforementioned cases of willful and premeditated homicide, lèse-majesté, and the charge of infidelity, in which all the offenders are punished in the aforesaid manner.

[1] If, however, certain members of the chapter, and not the whole community, commit acts of might from church property, then these persons may freely be summoned—separately from the community—from the place whence those acts of might were perpetrated.

²⁹⁸ **29 May 1439: 33.**

²⁹⁹ **25 January 1486: 72.**

[2] In particular when they have no private estates, they are still be summoned and cited from the said place, and, sentence can be passed and pronounced against them by the judge, as the case deserves.

CHAPTER FORTY-SEVEN

What is to be done when a single member of a chapter is to be sentenced

Then, if a single member of a chapter who has no separate hereditary goods and estates is sentenced to the redemption of his head or convicted to make good damages, and is found to lack chattels, the question arises as to how and whence satisfaction can be given to his adversary.

After all, he did not commit the offence at the instigation of the chapter, so that it does not seem proper to expropriate the property of the chapter for this.

[1] The answer is as follows. Because he had committed the wrong or the misdeeds from which the redemption of the head or the compensation for damages followed, from the midst of the chapter as if a member thereof; as he could not have committed these actions, or would not have had a place to commit them, had he not been the holder of such a benefice; therefore, satisfaction is to be given to the plaintiff, in respect of the things awarded to him, by the other members of the chapter from the income of the benefice of the convicted member.

CHAPTER FORTY-EIGHT

Compensation for damages incurred by the officials of ecclesiastics

Then, all the officials of ecclesiastics, be they cleric or lay, in the event of acts of might which they committed and perpetrated from their place of service, can always be freely called, cited to court, and summoned from their place of service in the same way as other nobles or officials of the realm.

[1] And if they are convicted by the court, compensation will be awarded both to the adversary and the judge, from their said place of service.

[2] Moreover, their masters—assuming these were not committed and caused by their commission—can force such officials, even by detaining their persons until the debt or compensation is paid. This is set out in article twenty-four of the first decree of our present lord King Wladislas, concerning officials.³⁰⁰

³⁰⁰ 1492:24.

CHAPTER FORTY-NINE

How a prelate is judged together with the chapter and how separately

Then, if a prelate is summoned to court together with his chapter or convent, and if it is established that the prelate and the chapter or convent have joint ownership of the property rights from which the acts of might or other kind of misdeeds are alleged and claimed to have been committed and perpetrated; then in this case the prelate is either acquitted or condemned not separately from his chapter or convent, but together with them. For he and the chapter or convent are treated as one community on the basis of their joint ownership.

[1] If, on the other hand, it is established that the misdeeds were committed from property rights divided between them, then sentence will be handed down to the prelate and the chapter or convent separately and distinctly.

[2] Hence, if a prelate and his chapter or convent are summoned together, then the type of oath will also be adjudged differently according to whether they have divided or not.

[3] For if the prelate is a joint owner with his chapter or convent in the aforementioned way, then the prelate and his oath-helpers will be required to swear an oath both in his name and in the name of the whole chapter or convent.

[4] If, on the other hand, they are divided, then separate oaths will be required of the prelate and his men on the one hand, and of the lector, cantor, warden, or deacon on behalf of the chapter on the other, in each case together with their oath-takers, according to the decision and judgment of the judge.

[5] The term "prelates" is to be understood to refer not only to archbishops and bishops but also to abbots and priors, both secular and regular.

CHAPTER FIFTY

A year's grace granted to newly elected prelates

Then, prelates who have divided with their brethren, that is, their chapter or convent, enjoy from the day of their election the privilege of wards,

[1] to whom it is granted and permitted by the ancient law and approved custom of the realm that for the period of a year they are not required to answer at anyone's instance in the matter of suits initiated in the time of their father, so that they can in the meantime acquaint themselves with and make a reckoning of their paternal rights and written instruments, and then they can properly oversee the prosecution of their suits.

[2] Note, however, that this refers to property rights and the presentation of written instruments.

[3] For this concession—which is usually always granted by the prince and accepted in the courts in the aforementioned way and in the aforementioned cases and suits even in respect of those of lawful age, that is fourteen years, or, as is the custom today, twelve full years of age—is of no use

in other cases moved by reason of acts of might, where the productions of documents is not necessary.

[4] On the other hand, when they have not divided, then an allowance of this sort or prerogative concession cannot be utilized by them.

[5] For chapters and convents enjoy the status of adults and always count as of full age, which is twenty-four full years, and for them it is not proper to observe such a prorogation.

[6] After all, it would be absurd if after the election of an abbot, prior, lector, warden, cantor or canon, a case moved at some earlier date should be left in abeyance for a full year, and thus be pending for however many years without decision and deprived of its end.

CHAPTER FIFTY-ONE

Prelates of churches cannot be convicted for offences committed by their predecessors

Furthermore, if an act of might or other kind of crime is committed from the goods and property rights of some prelate, abbot or prior and this prelate, abbot, or prior is not summoned during his lifetime to the royal court for this nor accused in any other way in the matter, then, after his death, his successor cannot be condemned and convicted in his person for such an act of might. Only those tenant peasants or retainers of the church who are known to have committed those crimes, should be brought to justice and make amends to the plaintiff.

[1] The reason is that goods and property rights of churches (as said previously) cannot be lost through the excesses of a prelate, abbot, prior, or other churchman nor alienated from that church.

[2] If, however, any of them is convicted to the redemption of the head, then he is required only to pay the man-price and amend for damages (in the aforementioned way).

[3] Thus his successor, not having succeeded him by hereditary right but by election, is not liable to pay the redemption of his predecessor's head (for which he was not summoned).

[4] Just as sons cannot be subjected to capital sentence or the redemption of their head as punishment for offences committed by their father through a summons made earlier, but if convicted they can only be held liable to the estimation of their fathers' [property] rights.

[5] And this only if the summons was issued while their fathers were alive. Otherwise if the summons is issued after the death of the father, then usually not the father's offence of, say, seizing someone's property rights or taking away his goods or chattels, should be compensated and measured, but that of the sons who keep hold of the spitefully seized [property rights] or stolen objects.

[6] So if the case is initiated over the seizure of goods now held and kept by a church, then even after the death of the prelate, abbot, or prior, his successor can always be summoned and convicted in this matter.

[7] And the same is to be held also in cases of those prelates of churches who, being transferred, move to another church's benefice or property.

CHAPTER FIFTY-TWO

A case touching upon property rights cannot be heard in an ecclesiastical court even if a vow or a will is involved

Then, no case concerning property rights, even if a vow or a will is involved in connection with such a property right, can be dealt with before ecclesiastics or their representatives; all such cases are usually heard and settled in the royal court before its justices ordinary.

[1] For whatever someone vows or wills is always subject to the judgment to him under whose authority and jurisdiction the matter (about which the vow or will was made) principally falls.

[2] It is evident, that in this realm property rights are governed exclusively by the sentences and letters of judgment of the justices ordinary of the royal court.

[3] The letters and sentences of vicars or other judges spiritual are never observed in this respect. For anyhow the accessory always has to follow the court of its principal; therefore, cases touching upon property rights cannot be pursued or concluded before judges spiritual.

[4] And the same is to be held also of a case initiated, for example, over a debt or some other matter, which may involve a vow and the one who took the vow dies before the case is heard; namely that this cannot be tried in a court spiritual. For the vow and the penalty for it is a personal matter, which with the extinction of the person also extinguishes in court.

[5] If, however, something is attached and added to the sworn vow respecting a debt or some other matter, then the plaintiff has the right to claim it before his secular judge from the heirs and other lawful successors of the deceased.

CHAPTER FIFTY-THREE

What is the power of the official or the deacon of the chapter acting among the tenant peasants of the chapter

Then, chapters and convents commonly have and maintain officials and reeves in their villages, in order to administer temporal jurisdiction among their tenant peasants.

[1] Their judgments and decisions are known to have the same force and authority as if they had been delivered personally by members of the chapter or convent.

[2] A deacon, too, has the same authority when representing the chapter.

[3] However, outside his place of service, he cannot respond on behalf of his chapter without letters of attorney of the whole chapter.

CHAPTER FIFTY-FOUR

The prior of Vrana, and his position; sentences passed against him

It should be noted furthermore that although the prior of Vrana enjoys a dual title, namely ecclesiastical and secular, he holds his property rights as an ecclesiastic. In view of this I thought it worthwhile to add a few words about his special position.³⁰¹

[1] About this it should be known that the priorate of Vrana is recorded as being first founded and established in this kingdom by the most illustrious prince and lord, King Louis. When he invaded the kingdom of Sicily, that is, of Naples, with a strong army to avenge the death of his brother, the blessed Andrew, king of the same kingdom and of Jerusalem, it is said that those of Rhodes furnished him considerable naval assistance. So, moved by their devotion and by singular love, he instituted and founded the priorate of Vrana upon his felicitous and victorious return and endowed it with many estates according to the rule and profess of the Rhodians.

[2] The prior of the order, by observing the rules of the Rhodians, is bound always to perform temporal knighthood in defense and protection of the Christian faith and to keep perpetual chastity, lacking and abstaining from the solace of a wife, while he is appointed. Because of this abstinence and chastity he is worthy to be counted among persons spiritual.

[3] And since the prior of Vrana enjoys both titles, namely the spiritual and secular, as said above, and he is styled venerable and *magnificus* – venerable as it were for his chastity and observance of the rule; *magnificus*, as one of the barons, for his special knighthood, for which he has to be noble and of great heart. The temporal goods he holds are considered to be in some way connected to spiritual and ecclesiastical property.

[4] Therefore, if judgement is ever passed against him, he is usually not only condemned and convicted to the redemption of his head (which in view of his baronial status would amount to four hundred florins, to be paid to the opposite party alone), but also has to compensate for the damages done by him, to be made good out of church goods, as in the case of other ecclesiastics, and further with the loss of all his inheritance (if he owns any apart from the goods of the priory).

[5] And this, if he is sentenced for major acts of might; for, in cases of lesser acts of might, a lighter burden and punishment is imposed on him, just as on any other person.

[6] It should also be understood that this is if he is sentenced against secular magnates or nobles; if the opposing party is an ecclesiastic, the prior himself cannot be more heavily punished than his ecclesiastical adversary.

[7] At the same time it should be noted that in the three aforementioned cases (namely lèse- majesté, charge of infidelity, and willful and premeditated homicide) the prior must and is usually sentenced beyond the above punishment to lose his head, that is, to capital sentence, provided that he is clearly and lawfully convicted and condemned.

³⁰¹ The Order of the Knights of the Hospital of St. John in Jerusalem, or the Hospitallers of Rhodes established a house in Hungary already during the reign of Géza II (1141–1162); see Zsolt Hunyadi, *The Hospitallers in the kingdom of Hungary c. 1150–1387* (Budapest: CEU—METEM, 2010) [also: http://doktori.bibl.u-szeged.hu/100/1/hunyadi_phd_diss.pdf]. The Hungarian priory was located at Vrana on the Adriatic coast in Dalmatia, originally the seat of the Templars, see B. Stossek, “Maisons et possessions des Templiers en Hongrie,” in: Zsolt Hunyadi, József Laszlovszky, eds. *The Crusades and the Military Orders. Expanding the Borders of Medieval Latin Christianity* (Budapest: CEU Press, 2001) pp. 245-51.

[8] However, in other cases he customarily enjoys and cherishes the privilege of prelates according to the rights of the realm. He must, nevertheless, fulfill his military obligations to the defense of the realm in the manner of barons and magnates.

CHAPTER FIFTY-FIVE

Capital sentence, and the way of its execution

It should further be known that a capital sentence brought and pronounced in any way against a secular person (with the exception of persons bound by kinship and blood relationship) for the offences mentioned earlier, not only involves the loss of the chattels, goods, and property rights of the sentenced and condemned man, but it involves capital punishment as well.

[1] This means, that he can be sought and arrested by his justice ordinary or by the bailiff of the same judge deputed to the task by him on the strength of the letters of sentence at any time after the execution [of the sentence]; before the execution, however, he can be arrested, imprisoned in his person, and handed over to his judge to suffer the punishment prescribed by the law for the offence only within the course of a full year dating from the day of issue of the letters of sentence.³⁰²

[2] For, the other party has no right without the bailiff of the judge either to seize him or to hold him in his house or anywhere else (even if he was arrested by the man of the judge), but he must hand him over and present him to the judge as soon as he can (by traveling daily from place to place to the residence of the judge or to wherever the judge is located).

[3] The judge will then detain the arrested man with him for three days in case peace and reconciliation can be effected. If in this time he is unable to reconcile himself with the other party, the judge will then hand him over to his accuser so that he lose his head and the guilty man pay his penalty.

[4] Once death, or whatever other appropriate penalty prescribed by the law (as discussed previously)³⁰³ has been delivered by the other party, thereafter neither the judge nor the other party can occupy the goods and property rights of the condemned man. All his goods and property rights pass directly and straightforwardly to his sons, if he has any, or to his kinsmen or other lawful successors, excepting only the belongings which were with the convicted person at the time of his arrest, which remain with the judge.

³⁰² Execution in this case means the seizure of property. However the logic of this paragraph escapes us (if the regulation was put the other way around, it might make more sense). The apparent illogicality may partly be explained by the fact that a capital sentence was not actually intended to result in a beheading, but rather through its graduated application to force the defendant to come to terms with the plaintiff.

³⁰³ See above I, 42: 4–6.

CHAPTER FIFTY-SIX

How are goods seized by sentence to be redeemed from the hands of the judge or the opposing party

If the convicted and condemned man evades the course of justice and cannot be taken into custody, and the sentence passed against him is lawfully executed, then his goods and property rights can through common estimation be redeemed from the judge and the other party by his sons, kinsmen, or successors to whom they are known to belong within the period of time determined by the judge.

[1] Moreover, if he has no sons, kinsmen, or successors, then the neighbors and abutters of these seized goods and property rights can redeem them (since they are redeemable, and have the same status and quality as pledged [property] rights), provided they do not exceed the period specified for redemption by the bailiff of the judge and the testimony of the place of authentication at the time the sentence was executed.

[2] For, thereafter the goods become *res iudicata*, and remain with the judge or the adversary party for as long as a royal pardon or, perchance, a retrial does not favor the condemned man.

[3] Without a royal pardon, the sentenced and condemned man is unable of his own accord to regain his goods through redemption and the aforementioned estimation.

CHAPTER FIFTY-SEVEN

What is a royal pardon given to a convicted man worth. The role of the judge

If the prince grants a special pardon to a convicted and sentenced person: then this pardon is understood to imply protection and salvation only for the head, namely that he should suffer neither capital punishment, nor the two-thirds of the property rights of the convicted which would be the judge's share. It does not imply protection for the man-price and for the other third which would go to the plaintiff, that is, the adversary.

[1] Moreover, the pardon will not affect the two-thirds judicial portion if the case was heard and decided before the Lord Palatine of this realm; these judicial two-thirds (as ancient custom of the realm dictates) belong only to the Palatine or to whomsoever he confers them.

[2] In the matter and case of the charge of infidelity, however, by which the hereditary right and ownership of the property rights of the condemned man are usually also lost, the permanent granting of the goods of the same condemned man pertains solely to the royal majesty and the jurisdiction of his Holy Crown; so, not even the plaintiff, that is, his adversary can obtain for himself any property from these property rights on the grounds of such a sentence.

[3] It is different these days, however, in sentences of charge of infidelity which are passed for a second *repulsio*. For, in this case, one-third of the goods and property rights of the condemned

man, together with the hereditary right and ownership, is permanently ceded and given to the adversary, by virtue of our general decree.³⁰⁴

[4] It should be further known that this royal pardon only remains in effect for one full year and no more. Otherwise, if the convicted man, having obtained the pardon of the prince, refuses within this year to satisfy the plaintiff, that is, the adversary and to come to terms with him, then after the year has elapsed, he will be sentenced and subject to the original burden of the earlier sentence, without, however, any further judicial process.

[5] That is why the plaintiff is also obliged to have his or her letters of sentence put into execution by the royal or palatinal bailiff and the testimony of some place of authentication within the space of one year from the date of issue of the same.

[6] For, otherwise, once a year has passed, the plaintiff cannot disturb, harm or detain the convicted and condemned man in his person or chattels and goods by virtue of the letter of sentence, but, if he wishes, he can have him summoned by a peremptory and terminal summons in order to quit himself of the burden of the sentence, on the basis of which a decision must be made without delay and within one single judicial term.

[7] It should also not be omitted that if someone convicted to a capital sentence came into the custody of the judge (in the aforementioned way), then the royal pardon given to him while he was in custody cannot save even his head against the plaintiff. Because the prince cannot grant a pardon unless the condemned and sentenced man can come to terms with his adversary. Through the detention of the condemned man the adversary has already put into execution the sentence passed in his favor, and he cannot be compelled against his will to make terms—nor indeed should he. Therefore, royal pardon has no impact upon him, and the life of the detained is wholly in the hands of his adversary.

[8] That is the reason why the detained man can alienate permanently all his goods and property rights in order to save his head, even to the prejudice of his sons and kinsmen, as is explained amply in the first part.³⁰⁵

CHAPTER FIFTY-EIGHT

When and in what way can a person condemned to capital sentence be arrested

Then, neither of the litigants can have the opposite party arrested in his person on the strength of a capital sentence that has been passed and imposed because of the absence and non-appearance in court of the other party before the letters of sentence have been drawn up, sealed, and handed over to the plaintiff. As long as these letters remain in the hands of the judge, the convicted man always has the right to prohibit the judge from giving them out as well as the chapter or convent to whom they were written from executing them.

³⁰⁴ See e.g. **1504:4**.

³⁰⁵ See above I. 60:3.

[1] However, after he has made the prohibition, he is required to quit himself forthwith of the burden of the sentence before the judge and to respond to the charges of the plaintiff.

[2] In the case of a capital sentence passed by the judge on the basis of the allegations and responses of the parties and through judicial process, the guilty and convicted person, if present in person, can at the request of the plaintiff or of his attorney be immediately and without delay arrested by his judge without any letters of sentence whatsoever, and (in the way described previously) held in custody and punished, notwithstanding noble liberty.

CHAPTER FIFTY-NINE

What is "reasonable excuse," and when can it be inserted in letters of fine

Then, the clause: "If he cannot give a reasonable excuse" is usually inserted in letters of fine (or *birsagiales*, as they are commonly called).

[1] Likewise, the letters of sentence which are eventually drawn up on the basis of letters of fine are usually issued and handed over to the opposite party close to the end of the octave and short courts, lest any of the litigants offering a reasonable excuse seem to be suddenly and completely stripped of his goods or has to pay with his head.

[2] Thus, a reasonable excuse is and counts as admissible when the plaintiff or the respondent, or his attorney, was traveling from his home to the octave or short courts and was taking steps to attend, and he fell seriously sick after setting out; or a severe flood held him up; or his horse grew sick and he was unable to buy or hire another one because of his poverty, and so his journey was delayed; or he was waylaid, robbed, wounded or killed by his opponents or by highwaymen: and these or similar circumstances prevented him from arriving and coming before the judge by the time set for the handing over of the letters judicial or the letters of sentence; these are all justifiable excuses which will quit him of the burden of fines and sentences.

[3] The excuse should be supported by credible evidence and must not show signs of craft, invention, or fraud.

[4] Should it prove otherwise, then unless he pays and quits himself of the burden of the fines and sentences, the execution will follow (in the way specified above), and the convicted man will pay even with his head notwithstanding noble liberty (as it was mentioned).

CHAPTER SIXTY

In what way the portions of the sons, daughters, and kinsmen have to be separated at the time of the execution of the sentence

Moreover, it should be further noticed that when any sentence passed is executed, the first thing to be done is to sequester and set aside the portions of any sons or daughters who were begotten and born in a natural way before the sentence, as well as of his kinsmen or other persons who have undivided property rights with the condemned; and only the portion which belongs

personally to the condemned man should be divided between the judge and the adversary party (in the way described above).

[1] The respective portions of his chattels must be restored to his sons and daughters as well as to his wife by the bailiff of the judge deputed with the task of execution.

[2] For the son is not condemned for the crimes and excesses of his father, and likewise, the father for the misdeeds of the son, either in his person or in regard to his property rights or any other goods.

[3] Daughters, however, can get portions only from those property rights which evidently pertain also to the female line, demonstrated by the effective ownership of the women.

[4] A wife can recover for herself her dower and trousseau once her husband is dead, from her sons as well as from the person who has taken possession of her husband's portions, as you can find already clearly set out in the first part, where the payment of dowers is discussed.³⁰⁶

CHAPTER SIXTY-ONE

Estimation of the [property] rights of the father or kinsman who has died in the middle of a lawsuit

Then, if a noble is summoned by someone to the royal court on account of the seizure of property rights or other matters involving a major act of might which usually entails capital sentence or capital fine, and this person dies before the decision is made in this lawsuit, then the son or kinsman of the deceased to whom his property rights would devolve and – as a consequence – the lawsuit passes according to the custom of the realm, are usually convicted to no further burden or penalty, excepting the estimation of the [property] rights of the father or kinsman; then, the unjustly seized property rights are usually re-instituted to the plaintiff by the judge and the damage done (if its value has been specified in the letters of summons and a sentence on account of non-appearance has been passed) is straightforwardly repaid before anything else; finally, the remaining property rights which belonged to the deceased are divided between the judge and the plaintiff.

[1] If, on the other hand, the sentence was handed down after the responses of the parties, then the damages must be recovered by oath.

CHAPTER SIXTY-TWO

How sons born before and after the sentencing of the father succeed in the paternal goods

It should also not be omitted that sons begotten after a sentence had been passed and executed against their father, that is, who were not even conceived in their mother's womb, cannot obtain a

³⁰⁶ See above I. 98–104.

portion for themselves from the goods and paternal [property] rights which have been handed over and awarded by the same sentence to the judge and the adversary party, or via them to some other persons, nor need they be consulted about them.

[1] On the other hand, sons born and begotten before the sentence was passed can and usually do receive their own as well as their father's share, should they choose to redeem these from the hands of the judge or the adversary party.

[2] Here it should be known that the term 'sons' can mean those conceived, those born, and those born posthumously. By conceived are meant those not yet born but quickening in the womb of the mother as a result of lawful intercourse between a man and woman. They have by nature equal rights with the living sons already born from the time of their conception, which is indicated by the time of birth.

[3] The term 'post-humus' refers to those sons born legitimately after the 'in-humation' or burial of their father. And I use 'legitimately' intentionally, since, if the birth occurs more than ten months after the father is buried, then in this case a son of this sort is not properly or legally called posthumous, as it can be assumed that he was not born in wedlock or from the deceased husband's seed but as a result of the woman's fornication.

[4] All such sons—conceived as well as born or posthumous—provided they are born legitimately (as I mentioned above), always inherit equally in the paternal [property] rights.

CHAPTER SIXTY-THREE

Whether a son born after a father is sentenced can redeem his father's goods

The question here arises whether a son born after a father is sentenced—who (as it was said above) is not allowed to have a portion of the father's [property] rights—can redeem his father's goods and [property] rights at the common estimation from the judge, the adversary party, or any other persons once these have been seized on the strength of the sentence.

[1] The answer is, yes. For the continuation of the bloodline and parentage has and represents the same force as the title of neighbor and abutter of such goods and property rights.

[2] In other words, if redemption is lawfully allowed for neighbors and abutters of such goods as may be seized as a result of a sentence (as was previously mentioned), then redemption is also lawfully allowed to a son born subsequent to the sentence.

CHAPTER SIXTY-FOUR

What if both father and son, or all the kinsmen, are convicted together?

What is to be done if the father and son, or even all the kinsmen, are convicted together, and none of them escapes the burden and penalty of the sentence passed?

[1] Answer that the redemption can and must be done through the pardon of the prince, to whom the ownership and property of such seized goods belongs in the default [of seed] of the sentenced.

[2] Then, the same is to be held in case of a sole individual, who does not have sons and daughters, or kinsmen, to whom the redemption of such goods might pertain and belong.

[3] In such case it should be noted that if the neighbors or abutters of such goods and property rights have already redeemed these for themselves, then sons born after the sentence, or a father sentenced with his son, or kinsmen collectively sentenced, or a sole individual can reacquire these for themselves from the hands of the neighbors and abutters, by the force of royal pardon, and by short process, namely, within a single judicial term, providing lawful notice has been made beforehand.

[4] And this should always be understood in respect of neighbors and abutters when a sentenced man has absolutely no heirs or condivisional kinsmen, or other legitimate successors to whom the goods may devolve. Because if there are such, then they are more entitled to redeem them (if they so wish) than the neighbors.

CHAPTER SIXTY-FIVE

Would goods held in Slavonia or Transylvania also be lost by a sentence passed in the royal court, and vice versa

A further question arises: if a nobleman who has goods and property rights in the kingdoms of both Hungary and Slavonia³⁰⁷ as well as in Transylvania is convicted of a major act of might at an octave or other court held in Hungary, Slavonia, or Transylvania, and as a consequence is punished with a capital sentence or a fine of the head, then, does he forfeit once and for all his goods and property rights owned and situated in either country and in the Transylvanian parts, or is it understood that he loses only those which lie in the country in which the sentence was given down.

[1] It must be answered that although some jurists opine that in such a case a person sentenced in one particular place is held to lose all possessions wherever and in whatsoever kingdom or part they lie, this view cannot be upheld.

[2] The reason is that a judge's authority is valid only within the areas subject to his jurisdiction.

[3] And there is no doubt that the ban of the kingdoms of Dalmatia, or Croatia, or Slavonia, or the voivode of Transylvania, have no judicial jurisdiction over the counties incorporated within the kingdom of Hungary, but only over those subject to their official authority. And vice versa, nor are justices ordinary of the royal court able to intervene or interfere in the jurisdiction of other judges. For otherwise there would be no distinctions between the countries and between the courts, which are customarily convened separately at separate times and in different ways.

³⁰⁷ Technically speaking Slavonia was not a "kingdom," only Croatia was.

[4] This is the reason for the inclusion of the clause: "within the judicial ambit of this kingdom of Hungary" or "of this kingdom of Slavonia" or "of these Transylvanian parts" in the letters of sentence of these judges.

[5] However, in the case of the charge of infidelity all goods and property rights owned and situated in any of the countries and parts subject to the Holy Crown of the realm are actually lost even by a single sentence, or a single royal donation (provided the donation has been made legitimately). The reason is that the jurisdiction of the Holy Crown against which the charge of infidelity was committed extends equally over each and every country and part subject to it.

[6] Nevertheless, the execution and the occupation of the goods cannot be done anywhere by the same judge before whom the sentence of the charge of infidelity had been passed, but the judge of the case must transfer by letters the occupation of the goods which are outside of his jurisdiction to the judge to the jurisdiction of whom these [goods] pertain.

CHAPTER SIXTY-SIX

The sentence pronounced for the charge of infidelity

Then, in cases and sentences of the charge of infidelity, the procedure to be followed is exactly the same both in manner and order as with a capital sentence.

[1] However, the differences between the charge of infidelity and capital sentence you will find in the first part, where royal donations are dealt with in general.³⁰⁸

[2] The charge of infidelity is usually decided and pronounced in three ways. But I decided to set out these ways below in connection with the *repulsio*.³⁰⁹

CHAPTER SIXTY-SEVEN

Minor acts of might, and sentences to be passed for these

It should further be known that there are also simple sentences which do not bring about capital punishment or fine of the head, but amount to a half of the fine of the head, that is, one hundred florins.

[1] Such sentences apply equally to lords prelate, barons, and other magnates, and to nobles, according to what is stated in the general constitution and decree of our present lord King Wladislas,³¹⁰ and the fine will not exceed one hundred florins for acts of might (as it was mentioned).

³⁰⁸ See above I.16.

³⁰⁹ See below II. 75.

³¹⁰ **1492:55.**

[2] In addition, the damages related in the plaint and claim of the plaintiff will be compensated and paid for.

[3] Exactly half of the one hundred florins goes to the judge, and the other half remains with the plaintiff. Compensation for damages, however, will be paid to the plaintiff alone.

[4] At the same time, no noble can be detained in his person on the strength of such sentences (excepting the case discussed below). Rather, the judge must make satisfaction to the plaintiff from the one hundred florins fine and compensation for damages out of the goods and chattels of the convicted, if there are any, otherwise out of his property rights.

[5] This kind of sentence includes these days all acts of might in general (with the exclusion of the cases aforementioned which I have explained as incurring and leading to major capital sentence and fine of the head). For this reason these are usually referred to as minor acts of might, and minor sentences,

[6] although previous to a general decree of the most invincible late lord King Matthias issued in the Year of Salvation 1486, which was confirmed in this respect by our lord King Wladislas, all secular lords, nobles, and men of property were generally and universally convicted of major acts of might, and consequently to capital sentence or the fine of the head, for any kind of acts of might.

[7] To make this clearer I have taken the trouble to include a verbatim transcript of the article dealing with this, the text of which runs as follows.³¹¹

[8] “Then, in suits moved for damages done or other harm or injury and minor acts of might, even if the perpetrator has made a confession with his own mouth personally before his judge, no person is henceforth to be convicted of acts of might, but will only be sentenced to pay for the damages which he caused and for the expenses incurred by the plaintiff (which are awarded to the latter alone), plus twenty-five heavy marks, equivalent to 100 florins, to be divided equally between the judge and the plaintiff, and he will be forced to immediate payment by the judge.

[9] However, in major cases, namely, the breaking into houses of nobles without just cause, the seizing of their estates and the appurtenances thereof, the arrest of nobles without just cause, or the beating, wounding, or slaying of nobles, the judge will proceed in the following manner: that if the plaintiff for his part has presented evidence at an inquest in the manner and order aforementioned, then the judge should send the case to a common inquest in order to clarify the issue if the parties so wish.

[10] If, however, the defendant refuses to accept this inquest then the plaintiff should swear upon the head of his adversary in order better to prove his plaint according to the custom of the realm observed in this matter.

[11] But this will only apply if his opponent or the respondent has his own, personal and continuous residence in the county in which the offence was committed.

³¹¹ Cf. 1492:55-56.

[12] Where, however, such a respondent personally resides in another part or province of the kingdom, and the aforesaid offence was committed in his absence, he will be required to clear himself by an oath in accordance with the contents of the letters of inquest.

[13] Finally, his retainers and tenant peasants are to be tried and justice administered according to the present article, as the law of the realm requires.”

CHAPTER SIXTY-EIGHT

Cases in which a person can be detained by the force of a minor sentence

Then, because there are in this realm many nobles and other men of property with only one tenant plot who enjoy the privileges and liberty of true nobles³¹² but who, on account of sloth and indolence, are so short of temporal goods that they have difficulty in paying a hundred pennies, let alone a hundred florins; yet they do not cease from evil deeds especially when they realize that they have numerous offspring and believe that they cannot lose their property rights and portions, and so have no fear of being arrested.

[1] Whence, so to say, the practice has emerged among many, that they, induced, or rather seduced, by their poverty, having nothing to give up or lose, often have no qualms about committing serious kinds of crimes against those who are richer and more powerful.

[2] The question then arises: if any litigant is convicted of a minor act of might to the aforesaid fine of a hundred florins or to compensation for damages done and caused, and is found by the judge of the case to be so destitute of chattels and property rights falling to him that he could never pay these hundred florins and the damages done out of his goods and [property] rights; can in this case the convicted man be arrested in his person by the judge and held until payment and satisfaction, notwithstanding his noble liberty?

[3] The answer is, yes. For freedom, prerogatives, and exemption of nobles do not release anybody from arrest nor does it exempt anyone from punishment and retribution for evil deeds; rather, they count against him, for virtue, the basis of true nobility, dictates that a person should live an honest life and not cause harm to others.

[4] Nor does such arrest in person of a noble contradict the general decree of the whole realm which contains that nobles cannot be arrested unless summoned and convicted by due process of law.³¹³

[5] However, in such a case arrest in person follows the citation, summons and the sentence passed in due course by the judge. Nothing in the general decree gainsays such arrest. Thus, the noble can be rightly arrested and detained in his person (in the aforementioned case) by his judge or his bailiff deputed for this purpose.

³¹² András Kubinyi, in *Matthias Rex* (Budapest: Balassi, 2008) p. 37 suggested that two thirds of the nobility—counting some 130 thousand persons--were “one-plot nobles.”

³¹³ This privilege goes back to the Golden Bull **1222:2** and its renewals.

[6] Once under arrest, the judge is held to keep him in his own custody for fifteen days (as is usual in cases of debt) in order to bring about a settlement, and if under these conditions and during that time he fails to come to terms with the other party, the judge must assign and hand him over to the hands of the said adversary.

[7] The adversary will then have the right to keep him in custody for as long as it takes for the arrested man to come to terms with him and satisfy both him and the judge as to the hundred florins fine and to make good the damages he has caused his adversary.

[8] In the meanwhile, the plaintiff has no right to punish or hurt him in his person.

[9] Nevertheless, the arrested will be required to render him the same service as if he were a member of the plaintiff's household.

CHAPTER SIXTY-NINE

Punishment for contempt of court, and the payment of burdens of minor sentences

Because the contempt of court also incurs a fine of one hundred florins, it should be treated among minor offences because of its similar penalty.

[1] Nevertheless, some people have suggested that the burden of contempt of court at either the judicial seat of the royal majesty or of the *ispán* of any county, (usually committed by uttering unacceptable words at court or insulting persons present at the court) can be redeemed and absolved with a fine of only 25 florins, just as that of minor sentences (which is counted as 25 heavy marks of silver), the reason being that in the courts of the royal majesty fines and judicial penalties used to be calculated at only one florin, or a hundred pennies of the present money for each and every mark and so paid, as will be explained more clearly further below where the judicial payments will be discussed.³¹⁴

[2] But this opinion is not to be held, for quitting oneself of the burdens of such sentences, fines, and judicial payments is quite different and embraces different means and purposes, as will be explained (as I said) just below.

[3] To put it briefly, whether a litigant wishes to quit himself of the burdens and pay at the court of the royal majesty either at the time of execution or after the execution of such minor sentences, he can do that only by 100 florins and not otherwise.

[4] However, if he lacks ready cash, he can equally settle the debt by paying with chattels, as long as these are estimated at their true value.

[5] It is different, however, with contempt of the royal majesty's court, for the convicted man is not to be released from the court until he has given full satisfaction for such contempt.

³¹⁴ See below II 86.

CHAPTER SEVENTY

What is frivolous prosecution, how is it committed and its penalty

Even though, the case or charge of frivolous prosecution³¹⁵ does not lead to capital punishment, it is, nevertheless, recognized, in a certain sense, as a matter involving a capital fine, so it is appropriate to treat on frivolous prosecution among these sentences.

[1] Here it should be known that frivolous prosecution is the fraudulent instigation and initiation of a suit against someone under double title or by different paths. Although in many cases and suits this may be committed by the malicious scheming of the litigants and sometimes even upon the penalty specified in the general decree, still, there are three principal ways in which it is committed. The definition cited above refers to these.

[2] The first is when a person pursues one and the same thing or suit under double title or by double path. Suppose a person claims an estate both in pledge and also by permanent right, then it is called by double title. If, however, he sues one and the same thing under one and the same title but before two different judges, this is called double path.

[3] Secondly, when someone quits and absolves another of the rights of filial quarter or dower or pledge or any other matter, and later he or, perhaps, after his death his sons or other lawful successors, takes him whom he had absolved or his heirs and successors to court again on the same matter, then, if it is possible to produce probable and sufficient proof in this matter, then he incurs the penalty for frivolous prosecution.

[4] Thirdly, when a suit comes to an end in due process of law, and is subsequently reopened without the special grace of the prince and permission for a retrial, then this amounts immediately to the fact of frivolous prosecution.

[5] On the strength of this the principle cause, that is, the object of the lawsuit, be it a castle, town, or other property right, or a sum of money, a dower, or a filial quarter, will be immediately lost in perpetuity. Moreover, the frivolous prosecutor will be convicted and sentenced to 50 homagial marks, making 200 golden florins, of which two-thirds are to be paid to the judge and one third to the respondent.

CHAPTER SEVENTY-ONE

A famous and notable question on the matter of frivolous prosecution

Then, in the matter of frivolous prosecution it should be noted that it often happens that our prince makes a permanent donation, conferring upon one of his retainers a castle, city, town, village, or some such similar property right, the ownership and inheritance of which indisputably belongs and pertains to the prince, but which for the time being is held in the hands of another by

³¹⁵ “Frivolous prosecution” is our translation of *calumnia*, the Classical meaning of which is calumny, false charges. In Hungarian it was called *patvarkodás*, by its grammatical form implying repeated actions.

title of pledge or other kind of inscription. In such a case, he will only be able to claim for himself the ownership of the said property right if he lays down and pays over the sum of the inscription.

[1] The one who has such property right at hand, even if lawfully given notice, usually only receives his money after postponing the suit initiated in this matter to several octaval terms and usually takes it as though being coerced. Thus, very often even a year passes and lapses while litigating.

[2] However, it is clear that a royal donation conferred permanently on anybody must be confirmed by lawful institution within the space of a year or else it loses its validity.

[3] So if the plaintiff, or the party who obtained the property right, has himself lawfully introduced in the ownership of the same, and has the property right instituted for him within the period of one year so that his donation does not become invalid and, on the other hand, he gives, either before or after the year is up, judicial notice that the said sum of money be collected, then the respondent will allege that the plaintiff is pursuing his ends by double title and double path.

[4] It is similar with property rights which are to devolve on someone by virtue of a contract and royal consent.³¹⁶ These are often seized violently and claimed presumptuously by some lord or even by men of lower condition before the lawful successor (that is, the person to whom the property rights have duly passed and devolved) can take possession of them.

[5] And if the same successor by the force of such a contract, which has and enjoys conditionally the force and nature of donation, has himself introduced in the ownership of such goods and property rights and has them instituted to himself within the said course of a year, then, by the contradiction of that occupier or some other person, the case may be dragged on and extended at length so that, sometimes, it cannot be completed even within a human lifetime.

[6] And even if the case is then, or perhaps earlier, brought to an end, the plaintiff is not bound to receive any compensation or satisfaction from the fruits enjoyed in the meantime, nor the respondent to be punished for his acts of might, that is the violent and forceful and violent retention of the property rights. The reason is that this case was not opened by terminal but rather by simple summons (which we call a protracted lawsuit). However, any case that is opened on account of any contract has to be completed, decided and concluded in exactly the same ways, means and procedures, as a case about goods which fall under the donation of the royal majesty because of the default of issue of a deceased person.

[7] If, however, the case is opened and initiated by the plaintiff through terminal summons in respect of the improper and violent occupation of the property rights (the institution referred to above having been completed in regard to the property rights either earlier or later), the occupant will similarly allege that the plaintiff has claimed and pursued the property rights by frivolous prosecution: by double title.

[8] Following from the above a further question arises: whether actions of the type described above which have been initiated by double path or double title incur the penalty for frivolous prosecution. The short answer to this little question is no.

³¹⁶ Werbóczy used the term “contract” for filial, or mutual adoption, see I. 63, above. It needed royal consent.

[9] Because the case is against a possessor of bad faith who cannot subsequently prove that he owns and holds these goods and property rights justly; therefore, he cannot charge the plaintiff for having disturbed him in this rights by double title or double path. Because these rights were not his but the plaintiff's and, until the end of the lawsuit, he held onto them by sheer violence. Only an owner in good and not in bad faith has the right to allege the aforesaid charge.

[10] Now if it is argued that he who owns these goods by the virtue of a royal inscription is to be regarded as a possessor of good faith. This is true as long as he is not given notice to accept and receive his money. If, however, after having lawfully been given notice, he refuses to take his sum of money but brings the case with frivolous and far-fetched objections to the octave courts, so that he can receive the income from the goods in the meantime: in this case he should no longer be regarded as a possessor of good faith, but of bad faith. Such usurers should be convicted and fined to the perpetual estimation of the goods in question, unless some other punishment is specified in a general decree of our realm for usurers of this sort (who refuse to accept their money after being given notice), especially if they cannot give a reason consonant with law for not accepting the money.

[11] Because otherwise if it were the case that the violent occupation and fraudulent retention of goods over time should remain unpunished, then this would involve great problems indeed, and it would take far too long before anyone were able to hold and enjoy possession of their due [property] rights.

[12] The same has to be said and maintained when someone has at his hands the goods and property rights of a deceased and heirless person in pledge, or under another redeemable title and, after having been rightfully requested and given notice by the adoptive brother and legitimate successor of the deceased, he refuses to return the goods even though the money is deposited and, on the other hand, this successor arranges the necessary institution for himself lest the annual term lapses, and he makes both the notice and the institution justly and lawfully, no punishment for frivolous prosecution should accrue in consequence.

CHAPTER SEVENTY-TWO

The fine of the tongue and its punishment

The fine of the tongue makes 25 marks, equivalent to 100 gold florins.³¹⁷

[1] It is imposed by the judges for an unjustified and false complaint made before the royal majesty or other justices ordinary; and often for slanderous and defamatory language directed against a person of good name and respectable condition.

[2] However, the principal plaint, by reason of which the suit was initiated, does not lose its force in consequence of any such unjust accusation and account, in contrast to the act of frivolous prosecution (as discussed immediately above) when it is understood to be lost forever.

³¹⁷ It was called thus, because the person so fined could not litigate lest paying the fine, "his tongue tied."

[3] Instead, once the case [initiated for fine of the tongue] fails and the aforementioned punishment has been deposited and paid, with two thirds going to the judge and one third to the other litigant, that is, the injured person, then the plaintiff may, if he so wishes, justly and properly recommence [the principal suit].

CHAPTER SEVENTY-THREE

What is *repulsio*, its ways and its punishment

Because at the time of execution of sentences and other judicial decisions often a violent *repulsio* by the convicted and losing party follows, it therefore behoves that some brief mention here be made of such a *repulsio*.

[1] Where it should be known that a *repulsio* is when the losing party violently obstructs the party winning in the case in the execution of the sentence passed by the judge.

[2] Hence, this *repulsio* as the term itself indicates, cannot be considered a judicial process, but rather, an outright impediment of the same. It is usually done by the unsheathing of a sword or the brandishing of some other weapon after the conclusion and completion of all elements of the trial once the definitive sentence has been passed by the judge. However, as it became common having its origin in most ancient practice and has been in custom for long, it is by now therefore considered as a part of our law introduced by long accepted custom.

[3] And it is tolerated if it is done and followed after the final conclusion of a suit only once and not thereafter.

[4] And if it is done, it has to be compensated by the payment and deposition of one mark of gold, worth 72 florins, of which two thirds is to be paid to the judge and one third to the winner of the case.

[5] However, if secondary *repulsio* is done in one and the same case, it brings about the perpetual charge of infidelity, as it is contained in our general decree.³¹⁸

CHAPTER SEVENTY-FOUR

Explanation of the article in the general decree concerning *repulsio*

Here it is to be noted that, as is stated in the article concerning acts of *repulsio* in the text of the general decree, a *repulsio* should be done by a naked sword, or by the brandishing of a drawn sword, and the names of the neighbors and abutters present together with the royal or the palatinal bailiff at the time of the execution of the sentence passed, should be recorded in the letters of report on the act of *repulsio*.

³¹⁸ 1504:4.

[1] An abuse has thus arisen from this that while some people refrain from *repulsio* in the form of drawing a sword or brandishing a weapon at the time of execution of the sentence against the party that emerged triumphant and victorious in the case, they with cunning contrivance repulse with a wooden cudgel, an iron mace, or sometimes by threats and intimidation and a gang of men, and prevent the sentence and judicial decision from being executed and effected.

[2] They then state and allege before their judge that no act of *repulsio* was made at the time of the execution of the sentence, since no sword was drawn nor any naked weapon brandished, as specified in the wording of the decree.

[3] Frequently exception is taken to neighbors and abutters: that the one was not in fact a neighbor, the other not an abutter, and by such prolonged quibbling they do their best to overthrow just decisions and undermine the judicial process.

[4] Therefore, it should be understood that there is nothing stated or written in the text of that decree that says a *repulsio* can or must only be done by the brandishing of a drawn sword or weapon; it is clearly contained there that a *repulsio* should not be done with a gang of men and physical violence but simply by drawing one sword only or brandishing a weapon.

[5] And this was stated, because in ancient times it was common for both parties—the winner as well as the convicted—to set upon each other with a considerable number of men, attired even for battle, when the time came for execution of the sentence of the court and the judicial decision, and to fight so fiercely that often vast slaughter ensued among the contending parties. The result was that the plaintiff might win his case, and so establish his ownership to the goods he had won back; however, the loser might manage to defeat the winner and keep him by violent means from executing the sentence, in which case the loser would be fined one mark of gold for his violent and rash attack.

[6] In order to eliminate this abuse, it was decreed that at the time of execution of the sentence the mere brandishing of a drawn sword was sufficient for a *repulsio*, and gathering a band of men or making a physical attack was unnecessary.

[7] Whether a sword or a weapon is drawn, or a cudgel or mace brandished, or a band of men is brought in, or mere threats and intimidation are made so as to impede the execution of any such judicial order and prevent its being effected—then such acts are always deemed to constitute a *repulsio*.

[8] The names of the neighbors and abutters are recorded for this reason: to prevent the possibility of fraud and trickery being committed in regard to the burden of *repulsio*. For in former times anyone who resisted or made a *repulsio* was condemned to a fine of one mark of gold. So frequently the names of the sons, kinsmen, the wife, and daughters of the person who lost the suit and was convicted were recorded in the letters of record, so that the burden of *repulsio* grew to an amount that frequently surpassed and went far beyond the original charge.

[9] Now this abuse has in our times been abolished, and now however many persons are convicted or make *repulsio*, the burden imposed is still only one mark of gold for the *repulsio* of any one judicial decision.

[10] Nonetheless, the names of the neighbors and abutters to the recovered property should now also be recorded. This is to prevent the royal or palatinal bailiff or the witnesses of a place of authentication being corrupted and seduced by bribery or favor from affirming that a *repulsio* was

made at the execution of a case entrusted to them (even if there was none), so that the person concerned might then be condemned to the charge of infidelity.

[11] In this way, such and similar tricks and clever subterfuges may be prevented from undermining the judicial process and the execution of the judicial decision; for the neighbors and abutters cannot always be found at home and cannot always be present at the judicial execution of the sentence.

[12] Consequently, if the winning party is found out of possession of the property right which he has won back, this will be sufficient proof of interference in the judicial sentence, the execution of which was de facto and effectively blocked by a *repulsio*.

[13] If one of the litigants charges the royal or palatinal bailiff or the man of a chapter or convent of having made an unjust or improper report, then he always can bring him to court on this account; but legal proceedings are not to be interrupted because of this.

CHAPTER SEVENTY-FIVE

The three ways in which the sentence of the charge of infidelity is passed and pronounced

It should be noted, however, that it is sometimes not acceptable to make a *repulsio* in a case involving the charge of infidelity. For there are three ways in which the charge of infidelity is pronounced:

[1] First, by our prince the king. If his royal majesty wishes to condemn any of his gentlemen of the realm to the charge of infidelity, he summons and calls a general diet and congregation of the community of lords prelate, barons, and other gentlemen of the realm to a certain date. He, against whom the charge of the charge of infidelity is made, has to be summoned in person, and not through an attorney, through letters of command from the royal majesty via letters of exhibition addressed to some convent or chapter.

[2] If he comes and can clear himself, then well and good; but if he does not appear, or if he appears but cannot clear himself, he will be condemned to the charge of infidelity. Thereafter, he will not be granted safe conduct nor a new trial by the royal majesty, and consequently not be allowed to contradict or make a violent *repulsio* at the time of the installation and occupation of the goods of the condemned. The king's donation in this matter will be unconditionally executed.

[3] The charge of infidelity may be decided in a second way, namely on the basis of a record of second *repulsio*. Here too recourse to *repulsio* is not permissible because the charge is regarded as having proceeded from and as consequent to a rash act of *repulsio*. Moreover, it would not be proper to do a third time what was forbidden a second.

[4] The third and final way of declaring and pronouncing the charge of infidelity is by the judicial decision and sentence passed by justices ordinary of the realm, arising from and following a royal donation made to any person on the grounds of the putting out of eyes; mutilation of limbs; counterfeiting money; composing or proffering forged instruments; or other such acts that bring about the charge of infidelity.

[5] Inasmuch as a judicial decision of this type arises from and is based on the depositions and responses of the parties present at an adversarial trial—where one party affirms that the infidelity has been done and committed and the other denies it—it is permissible that the previously described *repulsio* be made when the execution of such a sentence is due, whether it is based on the responses of the parties involved (as mentioned before), or has been passed on account of the non-appearance and non-attendance of one of the parties.

[6] And this is done (as in other circumstances too, and is the main reason why *repulsio* have been introduced and also tolerated nowadays) so that at the time and term of the report on such a *repulsio*, whatever was improperly done or omitted in the course of a suit by the negligence of the convicted person and the loser of the suit may be repaired and made good by the grace of a new trial or by the recalling of an attorney.

[7] For it would cause harm and great danger if, when the judge had passed sentence on the basis of the responses of the parties, someone should be excluded from the ownership and peaceful enjoyment of his goods, and then be forced to seek to regain the property while being out of possession.

[8] For the judge is bound to pass sentence on the basis of the allegations and verbal exchanges of the two or more parties, and, mostly, of the contents and formulations of the letters and written instruments produced and shown to him.

[9] But there is no doubt that on many occasions the attorneys of the parties are led astray by carelessness or ignorance, or even at times by malice, and make mistakes in their responses.

[10] Often the letters and written instruments of litigants are misplaced, or cannot be produced at the term set by the judge for their presentation. Then the judge pronounces the sentence according to the responses of the parties and the contents and formulations of the letters and written instruments.

[11] Suppose, therefore, that one of the parties realizes that either he or his attorney erred in his statements or failed to produce all required written instruments; and in order to avoid immediate exclusion from ownership of his goods as a result of an unfavourable sentence passed against him because of this error or omission, he is forced at the time the sentence is executed to make a violent *repulsio* (which, to be sure, constitutes spite and contempt for the judicial process, but is commonly tolerated). A single term is to be set at which he is to appear before his judge in order to justify this act of *repulsio*.

[12] At that term he is required to correct his errors or failures either in a new trial granted by the grace of the prince, or by retracting and revoking the statement of his attorney and, if possible, improve his case.

[13] The grant of a new trial or the retraction of the statement of an attorney always assumes an error or omission. There would be no need to obtain a new trial or revoke the statement of an attorney were it not first recognized that a mistake had been made in the course of the proceedings.

[14] Thereafter, however, no further term will be granted, and the sentence passed will be put into execution effectively and finally.

15. And, if anyone is rash enough to commit *repulsio* a second time, he will be convicted to the charge of infidelity in perpetuity (as explained immediately above).

CHAPTER SEVENTY-SIX

Whether a person not party in a suit can make *repulsio*?

Because it is the usual to add at the end of letters of adjudication and sentence the clause, “notwithstanding the contradiction [made] because of the previous reason of so-and-so condemned (stating the name of the person who lost the case and has been convicted) or any other persons,” frequently *repulsio* (as previously described) is made against this clause.

[1] Therefore the question arises: can a person who was not party to the lawsuit perform an act of *repulsio* against the plaintiff and the party which won the case in order to prevent execution of the sentence and the letters of adjudication issued? The answer, it would seem, is no. For to disturb the judicial proceedings, or interfere, or to seek to influence the course of a lawsuit for better or worse, is not the right of a person who has neither won nor lost the same lawsuit.

[2] In spite of this, the contrary mostly happens when the party winning with the letters of adjudication and sentence comes to the location of the goods and property rights, and they are not in the hands of the one who lost the case but of another person who indeed may be in his possession by just title.

[3] Often too, besides the main body of a property right, people attempt by trickery to lay their hands on goods which had at an earlier date been separated from that body in a just way and title. For example: a person acquires or earns by a lawsuit or by royal grant or some other title a castle, a fortified house, or a town with all its appurtenances (that is, its villages, empty lots, plots, and property rights duly and necessarily pertaining to the same); but from that castle, fortified house, or town its true owner and legitimate possessor had—perhaps in default of issue—sold off during his lifetime a village or two, or some empty lot and its land, or made a gift to someone in return for services, or bestowed it under some other title; and the person to whom it was sold or given, had already long ago established himself and settled in the said villages, or fortified house, and land, most likely with royal permission and lawful installation.

[4] Thus, once having acquired the principal body of the estate (that is, the castle, or fortified house, or town itself with its aforementioned appurtenances), the plaintiff also attempts to seize and obtain for himself the aforesaid villages, lots, or land which are now, as explained, in another's hands, on the grounds that these appurtenances belong to the principal body, and the aforementioned other person, to whom the sale or grant was made, was not party to the [original] lawsuit, perhaps because at the time of the recovery and first institution to the principal body only the person who was at that time in possession and ownership of the same principal body protested against the entire recovery and institution.

[5] In such a case, or any other like it, even the person who was not party in the lawsuit is entitled to the aforesaid *repulsio*. What makes this possible is the clause: *praevia ratione* ([made] because of the previous reason). On the basis of this the person in question is not required to quit himself

of the burden for *repulsio* if the winner of the suit can be shown to have entered into possession of the said property without just reason.

[6] The same holds true regarding property rights in pledge. If one of the parties in a lawsuit has by legal process acquired for himself the inheritance [right] and ownership of some property right, and the said property right is in another's hands as a pledge (if it can be established that the pledge was drawn up in due and proper manner and is not under litigation), then the person who has been awarded the property right by virtue of the sentence in respect of which its permanent ownership is determined, cannot simply take it from the hands of the person who holds it in title of pledge. He must first make satisfaction with the sum of money representing the amount to which the property is held in pledge. Otherwise, if he were to occupy it outright, there would be just grounds for a *repulsio*.

[7] And he is not subject to the punishment or burden of *repulsio* if, at the time when the sentence or judicial decision is executed, the owner of the property right offers to take the money furnished.

[8] And note that this holds when the amount of money involved and the conditions and integrity of the pledge stand clear.

CHAPTER SEVENTY-SEVEN

New trial: its mode, sequence, and procedure

Inasmuch as it is common practice for a new trial to be obtained from the prince following an act of *repulsio* or an inadequate statement on the part of the attorneys; this is to give the person who lost the case and was convicted, the opportunity and means, notwithstanding the mistake or omission which he is conscious of having committed in the course of the proceedings, nor indeed the subsequently passed sentence of the judge, to respond anew on the matter at issue; to bring new allegations, exceptions, and objections; to produce letters which may not have been brought forward; to make good any omission of evidence; to correct any error; and generally to do all things which are in keeping with right and justice and are useful in the support and defense of his case.

[1] Therefore it shall be known that the grace of a new trial, the confirmation of any properly and legally issued letter of privilege, and the grant by the title of new donation of any goods and property rights is usually granted and allowed to anyone by our prince through his office as ruler.

[2] However, a new donation needs to be conferred, and will be admitted in court, only if the request for it is based on valid and not fictitious grounds; in other words, provided the person obtaining the goods had held them either in his person or through his predecessors in effective ownership up to the time they were obtained, as you can read more clearly in Part One, under "new donation".³¹⁹

³¹⁹ See above I 37.

[3] Further it should be noted that when a suit is started in the form of a new trial, it is usually finished and brought to a conclusion within one single judicial term, and before all other cases are heard, lest a matter and case which has already been subject to judicial deliberation and sentence is kept pending with its end uncertain.

[4] In regard to the order and manner of a new trial, there is a clear description in a general decree of our realm; I will therefore include here the text of the article word for word: ³²⁰

[5] "Many a gentleman of the realm, mostly in cases started against them over matters of ownership tend to recall their attorneys, wish to have their cases declared failed, and obtain a new trial often in order to prevent the other party from executing the letters of adjudication, and thus depriving it of its just rights once the deadlines in the process and the lawful terms had passed, and the letters and all other written instruments are produced in evidence from both parties before the final conclusion of the matter, at the final term of the suit, while also the justices ordinary of the judiciary seats of the realm and the masters and the protonotaries of the court and the assessors of the court had delivered their sentence, and one party recognizes that he has failed and lost the suit, and the resulting letters of adjudication have either already been composed and issued or are to be issued once sentence has been pronounced.

[6] For this reason it has been decided that henceforth such litigants can recall their attorneys and have the case fail only as long as a suit is pending and no decision has yet been reached.

[7] However, let them obtain a new trial, whenever they wish. Yet this must in no way obviate the other party from executing a sentence that has been passed, or to hinder the issue of letters of adjudication nor the justices ordinary and their protonotaries from handing these out.

[8] Rather, the winning party may have the letters of adjudication executed, notwithstanding any letter of new trial obtained in this way; thereafter the party which has obtained a new trial, once the already delivered sentence is executed, may, if it chooses, pursue its action through a new trial and have it executed.

[9] But in a case relating to property rights or any other business that one of the parties loses on the grounds of non-appearance—having been hindered from appearing by, say, some particular matters of concern to him—and receives a sentence of condemnation; then such a party, having lost the case through non-appearance, should always be able and, whenever he wishes, have the right to obtain a new trial, and to prevent both the justices ordinary and their protonotaries from issuing letters of adjudication and sentence, and the other party from obtaining them.

[10] Furthermore: all such cases in which a new trial is obtained from the royal majesty are to be heard and adjudicated at the first octaves among all other cases."

CHAPTER SEVENTY-EIGHT

Can a person who has not been defeated in the course of a suit obtain a new trial?

One small question worth discussing is similar to a question raised above in regard to a *repulsio*.

³²⁰ See **1492:51-52**.

[1] Namely, can a person who did not initiate an action, and who was not involved in it, obtain a new trial? The short answer is: for as long as the person who lost the case remains alive and survives, no other person can obtain the favor of a new trial; for it not proper that any person “take his sickle to a neighbor’s field.”³²¹

[2] However, once the sentenced party has passed away, the person on whom the conduct of the case devolves according to the custom of our realm has by that fact alone complete freedom and every right to obtain one.

CHAPTER SEVENTY-NINE

Recall of an attorney: what this means, and where it must be done

Since cases and matters of new trials are frequently followed by the recall of attorneys, it should be understood what it means to recall an attorney. It is to retract the response which some attorney made in court without the agreement or knowledge of his client; and to correct it by a new response before the judge.

[1] Any recall of attorneys is usually and must be done before the judge to whom the response which is to be retracted was made, or before his man specially deputed by the same judge in this matter.

[2] But if the case is transferred to the hearing of another judge, the recall of the attorney’s response should be done before that judge, or man of his, in whose presence the case is moved by transfer.

CHAPTER EIGHTY

How an attorney’s response is retracted, and under what burden

It should be noted therefore that the retraction of the response of any attorney in protracted lawsuits—namely, in which, usually legal actions follow and judicial decisions as well as interlocutory sentences are pronounced, even after legal responses—can only be made when the suit is still *sub iudice* and the case not closed by a final sentence.

[1] In short trials initiated by terminal summons and others in which a single term is assigned for responses, any of the litigants can recall his attorney even after the judge has pronounced the final sentence.

[2] For the retraction of an attorney (as mentioned above) always presupposes some error or omission; and such errors or omissions are usually contained in a response or objection or in some legal exception.

³²¹ Vaguely referring to Deut. 23: 25.

[3] And following the retraction of the previous response, a new response has to be formulated and drawn up in the manner previously alluded to, so that if any of the litigants is able to recall his attorney on the same day as the sentence and judicial decision is passed, made and announced, he may do so without any fee or penalty; thereafter within the period of the octaval sessions and short trials (with the exclusion of the last day of the octaves or brief trials) always with a minor fine, namely six gold florins; finally, after the octaves or short trials, only with a major fine, namely 50 homagial marks of heavy weight, equivalent to 200 florins.

[4] Understand that the last day referred to above holds true when the person retracting attempts to act fraudulently, committing frivolous prosecution; namely to evade the single judicial term by this device of recall, and to continue to pursue and harass the other party with further lawsuits. For otherwise, the recall of attorney must take place on the same day as the sentence is delivered.

CHAPTER EIGHTY-ONE

The response of an attorney is usually retracted in two ways

The response of an attorney or advocate is usually retracted in two ways.

[1] First, in the course of a lawsuit before its final conclusion and before a definitive sentence in the case is delivered, although responses may have been made: for example, suppose someone claims that he has letters and written instruments regarding the matter for which he is charged by his adversary and by means of which he can defend himself against the charges of the adversary; or if he denies that he committed the deed for which he is being pursued at law; or if it so happens that on the basis of the responses of the parties, the judge refers the case for a view or to a common inquest; in such cases it is clear to anyone that a response has already been made.

[2] If, however, before the juridical term set by the judge for producing the letters or swearing an oath or for view or for holding a common inquest, one of the parties feels and recognizes that the response of his attorney has been or is likely to be to his detriment, he can, without waiting for the said judicial term, retract the response of his attorney before the judge of his case or the judge's man specially appointed by him for this purpose (as explained above).

[3] And such a retraction can be done even without royal favor (however, with a major fine, namely 50 homagial marks).

[4] Secondly, when the retraction is made after sentence has been delivered and pronounced. This is only allowed where the final conclusion and definite sentence follows forthwith and immediately upon the first responses of the parties;

[5] when, if the attorney of one party had responded differently, procedural consequences might have followed in the case. But this is rare, and is chiefly encountered in cases initiated and moved by terminal summons.

[6] Consequently in regard to this second way, the retraction of the response of any attorney after the expiry of the octaval term or of short sessions should be followed and done through a new trial granted by grace of the prince.

[7] An attorney's recognizance by which the attorney obligates his client to a fine of 50 heavy marks or more, either in perpetual or pledged rights and titles can always be retracted without royal grace, but only with a major fine.

CHAPTER EIGHTY-TWO

Two ways in which cases fail

The recall of attorneys is usually followed by the failure of cases:

[1] So it should be known that lawsuits can fail in two ways: first judicially, namely when the judge of the case having studied the plaint and claim of the plaintiff as well as the consequently issued summons detects in the letters of summons such a fault or error that renders it impossible to pass an appropriate sentence or judicial decision in the case:

[2] For example, because it has not been recorded in which county of the realm the village or estate which is being claimed lies; since there are many villages with one and the same name situated in different counties, indeed not infrequently in the same county, which are nevertheless distinguished by some additional appellation. And if the name along with the distinguishing appellation of the village are not recorded, doubt quickly arises as to which was the village which the plaintiff intended to acquire for his right.

[3] For example: there are two villages with the name Nándor, situated in one and the same county; but one of them is distinguished by the addition of an extra name, one being called Upper, or Greater Nándor, and the other Lower, or Lesser Nándor; and one of these is mine, and the other belongs to you and is yours.

[4] If, then, in the text of the summons and the text of the claim, it is not stated which of these is the subject of the claim, the judge of the case will not be able to distinguish on which of the two he should pass sentence. Because of this, it is proper that the case be declared failed and that it lapses, and must be begun afresh by the plaintiff (if he so wishes).

[5] All of which presupposes that the respondent on his own initiative or through his lawful attorney draws attention to the error or omission in the form of an exception; for otherwise if he replies of his own volition to the charge, and accepts the claim without objection, then the judge cannot act on his own initiative because he would be both judge and party, but he must pass sentence between the parties according to the merits of the case.

[6] The same applies if a person is summoned to court on the charge of an act of might: the case will fail and be null and void if the time when the crimes, which form the subject of the action, were committed is not indicated in the plaint; for without the dates and times being stated it would not be proper for either the plaintiff to win the suit nor for the respondent to be convicted.

[7] In every case or suit brought and initiated for an act of might and lawsuit arising in consequence, the plaint and claim therein muted should be either affirmed or denied by the

respondent. If it is affirmed, then a reason for the affirmation must also be given; otherwise the person affirming, or the defendant, will lose the case forthwith.³²²

[8] On the other hand, if it is denied, the particular reason for denying is most likely to be that— as he will try to prove by the statements of his neighbors and abutters—he was not present at the time the acts of might were perpetrated, perchance he was not even in the country at the time. For this reason, if the time were not specified in the lawsuit, it would be difficult for the respondent to clear himself.

[9] Here, however, it should be noted and taken to heart that summonses issued in regard to acts of might and the cases which arise from them, are usually issued with different clauses. For sometimes (especially when the case refers to the principal person) this clause will be attached: “That N., taking with him such-and-such retainers and tenant peasants, broke into my home and committed such-and-such acts.”

[10] But at times the following clause is inserted in the summons: “Having sent his men N. and N. to my village, or estate N., he caused there such-and-such damage to my tenant peasants.”

[11] Often the summons is issued with the following clause: “On the instigation and command of N., his retainers and tenant peasants severely and harshly beat my servant N. whom they found in such-and-such a place, and so on, *etc.*”

[12] Therefore, attention must always be paid to the placing of such clauses in the plaint. It is one thing to take someone with oneself; another to send a person; and again another to order and command someone to the perpetration of some act.

[13] For taking with oneself always implies personal participation.

[14] Whereas sending merely implies presence, that is, of the one who sends and the one who is sent. To be sure, the sending can be from a distance, in which case it will refer to retainers, not tenant peasants, as the latter live nearby (unless perhaps peasants are sent through the retainers). All of which implies not contingent circumstances, but a deliberate and maliciously conceived misdeed.

[15] Command and order can involve absence. For it is possible for a person even if he goes away into a distant part to entrust his retainers and peasants at home before he leaves and sets out on his journey to carry out such-and-such a deed.

[16] Consequently regarding sending and enjoining the manner and sequence of the deed committed must be taken into account, and whether the case was contingent or non-contingent, that is, not deliberate.

[17] For regarding contingent cases: suppose my tenant peasant’s herds or animals are driven off by another person from the meadows or cornfields because they have been causing damage, and he shuts them up in his courtyard or stable, and will not let them out until satisfaction is paid for the damage caused; but my retainers or tenant peasants, behaving rashly, on the same or the following day violently remove the said beasts or herds and bring them back. Or my tenant peasant or retainer sitting in the tavern comes to blows with the other drinkers and wounds

³²² The logic of this paragraph escapes us.

another man or perhaps commits homicide and is detained there for this reason; but other retainers or tenant peasants of mine the same or the next day use violence to set him free. Then [the question] of sending and enjoining must be pondered and reflected upon.

[18] For if I am in remote and distant parts, it is certain that there can be no question of my having sent them on this task, since no information could have reached me so quickly about such a contingent action.

[19] But suppose you now say that I had previously given instructions to my retainers and tenant peasants that, should such and such an eventuality arise, they should behave in such-and-such a manner, then I should have to admit that I might have instructed them to do so, but I could not have actually sent them to do so. But this cannot be accepted (since truth is not determined by future contingencies). For otherwise if such an eventuality were to be admitted and the primary intent of the perpetrator presupposed, it would not be the violent release of the animals or the freeing of the manslayer but the act of homicide itself or the causing of the damage which would be at issue and the subject of compensation.

[20] A non-contingent case is to be understood as when deliberately and with preconceived malice some crime is entrusted to another to carry out: for example the breaking into a house, or the cutting down of woods, the looting of a village, and similar violent acts, which can be entrusted and given to others to do after the departure to a distant region or foreign realm of some powerful person, even after a hundred days or more, if he has previously entrusted it to be committed and carried out in his absence.

[21] The distinctions in the afore-discussed clauses have been defined not so that litigants should have a free hand to frivolous prosecution, but rather that it should become clear whether an action has been justly or unjustly set in motion. For just as a justified action should always be supported, so an unjustified action and claim of frivolous prosecution should not be allowed.

[22] The second manner in which a case fails or is put aside is if the plaintiff pays a fine of six marks of lesser or light weight (the equivalent of six gold florins), two thirds to the judge before whom the suit was opened and one third to the respondent. This happens when the plaintiff realizes that his plaint and claim was wrongly and improperly brought and stated, either through his own negligence or by the fault of the scribe or some other error, and thinks that it would rather harm him than be to his advantage. Before the case is heard, either he or his attorney can have the case cancelled, suppressed and declared as failed of his own accord with the payment of the aforementioned fine.

CHAPTER EIGHTY-THREE

How can a case be made to fail before and how after sentence is passed?

A case can always freely be made and declared failed before a sentence is passed by the judge; but once the sentence has been passed and pronounced there is no room for failure.

[1] Understand the words “once the sentence has been pronounced” to refer to the final and definitive sentence, not the intermediate one which canonists refer to as interlocutory.

[2] For making a case failed after such an intermediate sentence is often—though not always—allowed and regarded as justifiable.

[3] For if on the basis of the responses of the parties a case is sent by the judge to a common inquest, or view, or he calls for the presentation of letters and written instruments: then notwithstanding such a judicial decision and intermediate sentence,³²³ even at the time of the discussion of the report delivered on a common inquest or view of this type, or the production of letters and written instruments, even if the letters have been produced before the judge but a final sentence has not been reached on the basis of the text of the reports or of the written instruments, then the plaintiff always has the right to have the case declared failed with the burden of a fine of six marks.

[4] However, I specifically said “not always.” For suppose a person is summoned by an adversary party before his judge on a charge of the seizure of property rights; and the person summoned responds that he did not seize them at the time the plaintiff alleges but was already before in peaceful possession of the property rights in question, or that he had already been acquitted and absolved of this charge, and he intends to prove this by producing the most incontrovertible letters; but when the time set by the judge for the production and exhibition of the said written instruments arrives and the respondent, due perhaps to some obstacle, is unable to appear at the given term and produce the requested letters and so capital sentence or a sentence of capital fine is pronounced against him on the grounds of non-appearance and absence because of his failure to produce the said letters and the sentence may be already given to execution; but at the time of execution either an act of violent *repulsio* is performed or the execution is prevented by letters granting a new trial issued with an injunction [prohibiting the seizure of his property] (in accordance with the time-honored custom of our realm and the contents of our general decree); and finally at the date for the revision and discussion of the text of the report of the execution or injunction, the plaintiff himself receives and accepts his part of the penalty or the fine for the act of *repulsio* or simply the judicial fines of the letters of sentence from the respondent who has been found guilty and, afterwards, the convicted respondent succeeds in producing before the judge the letters the judge ordered him to show but which he earlier failed to produce, on the strength of which the plaintiff, feeling that he could be convicted for frivolous prosecution or fine of the tongue in favor of the respondent: what then, if before a sentence of frivolous prosecution or fine of the tongue is imposed by the judge, the plaintiff declares his intention to abandon his suit and make it fail on payment of the customary fine of six marks? In such a case it is not accepted that the case fails even before sentence is pronounced.

[5] The reason is that the plaintiff acknowledged that the sentence against the respondent for non-appearance would be a definitive one when he accepted the fine for *repulsio* or letters of sentence and judgement, and in so doing unjustly damaged the other party. For fraud and trickery should not advantage anyone. The same should be held of other similar cases.

[6] Nevertheless, in our days it has become the custom not only in the aforementioned ways but in many others to have cases fail and be subverted through many different (however frivolous) exceptions, allegations, and objections by attorneys.

³²³ Either the *causa ipsa* is superfluous or the predicate of the sentences is missing. In the translation, we followed the Millennial edition of the *Tripartitum*, p. 364, note 7.

[7] Whenever judges detect these and recognize that they are contrary to right and justice, they should not allow them or go along with them, lest if they do and agree they themselves become guilty of the same.

[8] For this is the two-edged sword which pierces the hearts of orphans and widows and other persons deserving of pity. This is the pain which wounds to the depths the souls of the oppressed. This is the snare which casts so many into the pit of eternal damnation. For the unjust failing of cases takes many forms, but it is the breeding-ground of sin and is always to be shunned.

[9] For I can remember many occasions where for one mistaken letter or the omission of a single word a whole suit was undone and failed through the technical objections and allegations of the attorney and with the connivance of the judge.

CHAPTER EIGHTY-FOUR

Those who intervene in another suit: what should be done?

Because often several persons intrude and interfere as a third or often even as a fourth party in cases and suits between two parties, especially in the last stage of the hearing when both parties have already brought forth and exhibited before the judge the letters and privileges relevant to the merits of the case and the final conclusion is due to follow and the definitive sentence about to be handed down and pronounced,

[1] it should be known that when a case is being heard regarding heredity and perpetuity of property rights, then, before the handing down of the final sentence, anyone who wishes and deems that he has some claim over those property rights either by perpetual right or by pledge or under some other title is free to intrude and involve himself in the suit (provided he repays the expenses incurred by the plaintiff in the course of such a suit).

[2] However, the respondent does not have to produce immediately and actually to the intervener but only to the plaintiff.

[3] Especially if a person maintains that he is claiming these property rights on the basis and title of newly obtained royal right; because for the pursuit of this royal right, the process usual in such suits must be given and granted by the judge to the intervener.

[4] Nonetheless, the person intervening in the case is (if the respondent denies) obliged immediately to prove his genealogy.³²⁴

[5] For although he intervened only at this stage in the case, nevertheless by doing so he has made himself a de facto plaintiff; and a plaintiff must always be well-prepared.

[6] For otherwise he will be regarded as having failed to enter into and prosecute the case, and will be obliged to pursue his claim by another lawsuit.

³²⁴ The implication being that the intervener claims common ancestry of some sort. There do not seem to have been written genealogies or armorials of Western European type in the medieval kingdom of Hungary; cf. Fügedi, "Verba volant" (as n. 288, above).

[7] However, if he proves his genealogy, or if perhaps the respondent does not challenge it but still maintains that he has letters of quittance or other letters against him, then judgment can be made and handed down between the plaintiff and the respondent on the basis of the contents of the letters produced.

[8] All the same, a single term should be fixed and given by the judge for the production of letters to be exhibited against the intervener.

[9] It is to be noted that in cases regarding the pledging or seizure of property rights, no one has the right to intervene who wishes to claim the inheritance of such property rights.

[10] For it would seem not in keeping with right and justice that a person who on grounds of reasonable necessity temporarily pledges property rights to another should during the course of litigation be excluded perpetually from the ownership of the same by a third party with whom he previously had no dealings in this regard; or that the ownership of an estate violently seized from someone's hand [and] in a suit opened regarding the same seizure should be made over to another person rather than the one from whom it was seized.

CHAPTER EIGHTY-FIVE

If the plaintiff abandons a suit, can an intervener take it up

But it commonly happens when a judge has proceeded to try a lawsuit between two parties, and both sides have produced their privileges and written instruments on many occasions, and some third or fourth party has already intervened in the case before the final and definitive sentence has been pronounced between the parties, that the principal parties, that is the plaintiff and the respondent, either at their own initiative or on the advice of their kinsmen and friends come through good mediation to accord and unity, thus bringing an end to the case and any further prosecution of the same.

[1] So the question arises whether the ingrent and intervener can proceed further in the same case against the respondent (notwithstanding the aforesaid accord and unity established and confirmed with the plaintiff), and whether the respondent has to respond and produce letters at his demand; or whether he has the right to obtain right, judgment and a definitive sentence based on the contents of the letters which may already have been produced by the respondent against the plaintiff.

[2] It has to be said that if the aforesaid accord and unity between the two principal parties (the plaintiff, namely, and the respondent) was made and performed before the judge gave his final sentence, even if letters have already been produced on both sides, then the ingrent or intervener has no right to proceed in the case, nor is the respondent bound to make any further response to him in the same case.

[3] For once the foundation of the case—which is the principal plaintiff—collapses; whatever else is built upon it must collapse as well.

[4] Nevertheless, if the settlement was reached and made after sentence had been passed and pronounced between all the parties (that is, the plaintiff, the respondent, and the ingrent): and the

ingerent has been awarded the appropriate share from the contested property rights, or the dower, the [filial] quarter or perchance the pledged rights, or if a decision has been made in favor of the respondent against the ingerent that written instruments are to be produced, then even if the principal plaintiff abandons the suit and declines to prosecute the case further, the ingerent or the one intervening in the suit has the right to proceed in the same suit, albeit in accordance with the command and decision of the judge.

CHAPTER EIGHTY-SIX

In what way are the fines that accrue in the course of a trial to be collected?

Once cases tried in protracted lawsuits are brought to a conclusion all the judicial fines and judicial penalties which usually add up and accumulate in the course of that case—commonly termed *bírság*—are collected.

[1] So it should be known that if the respondent wishes to pay and settle in cash as soon as the case is concluded and pay and deposit before the presiding judge the fines that have accumulated against him in the course of the proceedings, he will be able to settle at the rate of one florin for one mark.

[2] In respect of burdens and fines of this type, two thirds always go to the judge and one third to the plaintiff.

[3] But if he refuses to pay up before the judge, or is unable to, but nevertheless petitions and gives notice to the judge, asking that if he send his bailiff to him he will undertake to give satisfaction from his goods and property rights for the fines imposed by the court by their occupation without waiting for the execution of the sentence as is usual in regard to these fines, then he will be able to settle and pay at the rate of two florins for one mark.

[4] If however no notice was issued, nor any satisfaction given by the occupation of the goods, but the case was simply sent for execution along with the fines, then the defendant is to pay and deposit compensation at the rate of precisely four florins for one mark.

[5] In regard to which, satisfaction must be paid first from the chattels of the convicted, if these can be found, or if not, from his property rights.

[6] How and in what order these *bírságs* or judicial fines mount up in the course of a suit against particular persons I do not deem it necessary to describe at length; for that course of protracted lawsuits in which, according to the customs of our forebears and predecessors, *bírságs* and juridical burdens were wont to be doubled and often even doubled and doubled again from one judicial term to the next has been abolished by our general decree.³²⁵

[7] For according to the contemporary law and custom all cases which used in former times to be tried in protracted lawsuits should be settled and ended within four octaval terms and no more;

³²⁵ The known relevant decrees contain neither abolition nor approval of such a practice. Cf. **8 March 1435:7; 25 January 1486:52; 1492:66.**

and within this interval fines accumulate in a simple way. They only double when a third summons is issued following upon a simple summons or notice.

[8] For in the first octave, if the respondent does not appear, he will be fined and punished to 3 marks. Then a further summons will be issued against him by the plaintiff for the payment of the 3 marks as well as for prosecuting the case. This is termed the second summons.

[9] Then if the respondent does not appear at the second judicial term, he will again be fined three marks for this second non-attendance, and then the double of it for the non-payment of the previous three marks.

[10] However, in simple cases involving institution or perambulation of boundaries, fines always accumulate simply.

[11] Likewise, in cases of short trials the respondent is customarily fined 3 marks himself and, if the case also involved the presentation of his tenant peasants or ignoble retainers, one mark each, i.e. one mark for each of the latter; the plaintiff, on the other hand, is fined for non-appearance at the royal fine which amounts to 6 marks.

[12] In the payment of such fines and fines each mark has to be paid at the judicial seat before the presiding judge (as previously described) with one florin or 100 pennies.

[13] If, on the other hand, the case was sent for execution, then each mark has to be paid at the rate of four florins or 400 pennies.

[14] If, however, the defendant and the respondent so wishes, and he has plenty of chattels, he has the right to pay the judicial fines to the judge and the opposing party according to the formula set out in the section on "Valuation of chattels" at the end of Part One.³²⁶

End of Part Two

³²⁶ See above I. 134.

[PART THREE]

CHAPTER ONE

Third part of the laws and customs of the realm, in general

Having with God's help taken care of judicial procedures and the kinds and different sorts of sentences of the royal court, it remains in this third and last part of this work to treat on the order of suits and cases referred or brought by way of appeal to the royal court;

[1] and, further, of the customs of the kingdoms of Dalmatia, Croatia, and Slavonia, as well as of Transylvania, which have long been subject to the Holy Crown of this kingdom of Hungary and incorporated therein, these being somewhat different to and at variance with our law; whence very many cases are commonly sent after final sentence to the said royal court for more mature deliberation and more detailed discussion;

[2] and of the laws of the free cities;

[3] and how judgment is commonly passed in the case of villagers and peasants, as will be set out in the chapters which follow.

CHAPTER TWO

Can any people or any county establish statutes on its own?

Because we see that the long-established laws and customs of the aforesaid kingdoms of Dalmatia, Croatia, Slavonia, and [of] Transylvania vary in certain terms and articles from the laws of our country, namely this kingdom of Hungary, and that some counties, independently and separately of other counties or even of the royal court, observe certain customs introduced in whatever ways in place of laws;

[1] whence arises the question: can any people or county, or any city, of its own and separately establish statutes? The answer is that no people, and no corporation which does not have its own jurisdiction but is subject to the authority of another, can establish statutes except with the consent of its superior. And this only in cases which are known not to be prejudicial to human and divine law, so that these statutes should not manifestly contain anything unjust or contrary to salvation nor should they obviously hurt or prejudice the rights of others.

[2] Hence, although the Dalmatians, Croatians, Slavonians, and Transylvanians have various customs quite different from ours regarding the payment of man-price and fines and in certain other legal procedures and in the observing of [judicial] terms (as will be explained more clearly below),³²⁷ and have the right to use and enjoy these customs, and are allowed, even now, with the prince's consent, to make statutes and ordinances among themselves on similar matters;

³²⁷ See below III 3–4.

nevertheless, they cannot establish any law and they have no right to make statutes in contravention of general statutes and decrees of this kingdom of Hungary or against sentences and judicial decisions in cases of goods and property rights which are usually made, passed and pronounced in the royal court by justices ordinary.

[3] The token and proof of this is that all cases initiated among them involving property rights are, once the case is decided there, customarily referred to the royal court as a place of inquiry, as it were, for the sake of sounder and more mature revision, examination, and discussion.

[4] There anything decided and concluded will always be valid and unchangeable, notwithstanding the decision of the ban or voivode.

[5] And likewise, in different counties they can make and establish different statutes, after having sound deliberation among them, concerning the guarding of fields, meadows, woodlands, and rivers, or the status and income of mills, and other such matters, and even the observation of judicial terms and procedures, so that a case initiated before the *ispán* of the county may be concluded in a short suit at one county's judicial seat and in a protracted one at another. Nevertheless, they can never prejudice or derogate from a general decree of the whole realm or the ancient and approved custom of the royal court that (as aforesaid) is observed in court cases.

[6] Their statutes are only valid and recognized between and among themselves. They do not extend to outsiders or to nobles of other counties who do not have goods and property rights within them.

[7] In the same way, free cities, as well as merchants, and traders, tailors, furriers, cobblers, tanners, and other artisans can also—with the consent of the prince—make statutes within their guild and between themselves, providing such statutes are just and honorable and do not damage or prejudice others and the liberties and rights of others.³²⁸ As said before, such statutes have force and application only among themselves.

[8] Such constitutions and statutes must be made and established with the approval of the major and sounder part of the people; otherwise they could not be termed the statutes of the people or community. But if the people are divided into two groups, then the decision of the sounder and worthier party will prevail.³²⁹ By sounder and worthier party is meant the one in which there are more outstanding and notable persons in terms of dignity and knowledge.

CHAPTER THREE

The customary law peculiar to the kingdoms of Slavonia and Transylvania

It should be known that the nobles of the kingdoms of Slavonia and Transylvania in many matters enjoy and use customs of their own, especially in regard to the payment of man-price.

³²⁸ Although the first guilds appeared in Hungary in the fourteenth century and were first regulated by King Louis I in 1376, guild regulations survive mainly from the fifteenth century. Only in a few cases, however, were these regulations submitted to the ruler for his approval.

³²⁹ The term *constitutio* is unusual in this context, and may owe something to Auquinas *ST I–II*, 90. 3.

[1] For Slavonians are wont to pay one hundred florins as the man-price, and the Transylvanians pay sixty-six florins.

[2] Consequently, the recall of the statements of attorneys at octave courts incur a similar fine among them.

[3] Additionally, the dowers of wives of deceased persons (with the exception of those who hold or held baronial offices) are likewise paid off by one hundred florins in the kingdom of Slavonia, and sixty-six florins in Transylvania.

[4] And understand this when the goods and property rights of the deceased husband amount to that many marks. Otherwise if the estimation of the goods is lower, then there too, as in Hungary, the widows receive less for the dowers.

[5] The repayment of the dowers of the wives of barons is done the same way as in Hungary.

[6] In both countries, cases initiated at octave courts in matters of property rights or other special and important matters may, after final sentence, be once referred to the royal court, namely to the presence of the lord judge royal, at the request of either party, for the sake of more mature examination and discussion, and then sent back to the first judge (that is, the ban or voivode) for final resolution and execution.

[7] Furthermore, Transylvanian nobles³³⁰ are convicted in the sum of fifty marks for minor acts of might, amounting to the same number of gold florins. *Alispáns* or noble magistrates are condemned to twice as much.

[8] Among them, the man-price of the living is paid with thirty-three florins.

[9] Then, the payment of dowers is usually paid two thirds with ready cash down and one third with movable and marketable chattels.

[10] Then, contempt of the general diet and the noble assembly of the Transylvanians held on the mandate of the king or of the lord voivode of Transylvania is fined by a hundred marks, amounting to the same number of florins; and that of a judicial seat, by fifty.

[11] Then, in the matter of recovery of damages or debts, the principal noble party, be he plaintiff or respondent, is permitted to swear an oath up to three florins. The other nobles, however, his oath-helpers, cannot recover more than one florin each by their oath.

[12] And although in the trials of the aforementioned cases, any mark is equivalent to a hundred pennies according to Transylvanian reckoning, nevertheless fines and judicial burdens accumulated in the course of octave cases are always paid in the same way as nobles of the said kingdom of Hungary, with forty pennies as described at the end of Part One.³³¹

³³⁰ On the different legal standing of Transylvanian nobles and the debate on the origin of the nobility of Transylvania see Elemér Mályusz: "Hungarian Nobles in Medieval Transylvania," in Kinship, Property and Privilege Ed J. M. Bak, *History and Society in Central Europe II., Medium Aevum Quotidianum* 29 (1994), 54.

³³¹ In fact, the, the ways of paying fines is described at the end of the second part, see II 86.

[13] Then, cases brought to the judicial seats of the counties before the *alispáns* and the noble magistrates in matters worth less than three florins are not transferred to the octave terms of the voivode.

[14] Then, the full man-price of peasants in Transylvania is twenty-five florins; and a half (which we call man-price of the living) is twelve florins and fifty pence; the mutilation of limbs, such as hands, ears, and the gouging out of eyes or wounds to the face is set at twenty florins; and the striking out of teeth at six florins.

[15] Then, if a peasant succeeds in fleeing the scene of a crime, the punishment for the violence and acts of might committed and perpetrated by him goes not to the injured man but to the lord of the peasant; the injured person can only claim compensation for the loss or wound inflicted.

[16] Then, for the violent release and carrying away of animals and herds impounded for damage done, or for any other unjust seizure of property, peasants will be sentenced to pay the estimation of the said animals or herds, or of the other things seized.

[17] In this matter, the same sentence should be applied to nobles as well.

[18] Then, in the matter of the recovery of damages or debts, the principal peasant party, be he plaintiff or respondent, is permitted to swear an oath for one florin. The other peasants, that is: his oath-helpers, cannot, however, by their oath recover more than one florin for every three of them.

CHAPTER FOUR

The Scythians of Transylvania, whom we call Székely

There are furthermore in Transylvania, privileged nobles called *Scythuli*, originating from the Scythian people when they first came to Pannonia, whom we call by a corrupt name: *Székely*. They enjoy quite different laws and customs; they are very skilled in warfare; and they divide up and distribute inheritances and offices among themselves by tribes and kindreds and the lineages of kindreds, in the manner of the ancients.³³²

[1] Their man-price is set at twenty-five florins.

[2] Fine of the tongue among them is twelve florins and fifty pence.

[3] Capital sentence passed against a Székely by their *ispán* amounts to twenty-four marks, worth the same number of florins. The convicted and sentenced man does not lose his property but it devolves to his heirs and kinsmen; and he does not lose his head except in cases of the charge of infidelity and criminal cases.

[4] And in their judicial seats every mark is customarily deposited and paid at fifty pence.

³³² The Székely were a large tribal grouping of warriors that was moved to the east Transylvanian border-territory during the thirteenth century. Their association with the ancient Scythians later led to the myth that they were the direct descendants of the Huns.

[5] Then, whatever the case, their *ispán* or *alispán* has the right to receive the judge's portion immediately after sentence has been passed and pronounced, even if the convicted party has come to terms with his adversary.

[6] Then, cases involving properties worth more than three florins are usually referred to the royal court for fuller discussion, observing the usual ways of appeal.

[7] The remaining rights of these countries and the local ones of nobles (as they are in force only among them and are known only to them) do not require more detailed explanation.

CHAPTER FIVE

What is *homagium*, and in how many ways it is understood

But since we have already frequently made mention of *homagium* (man-price) and homagial marks, we should briefly note that *homagium* is to be understood in two ways.

[1] The first is according to the laws: as the bond (*ligium*) or binding (*ligamen*) of a man, namely, the loyalty due by an inferior to his superior; or otherwise, the fidelity which is due only to the prince, all other loyalties being disregarded.³³³

[2] In another way, man-price according to common use is this: the mulct or the estimation of the manslaughter, which means, that the manslaughterers redeem themselves from those whom it concerns according to the estimation of their heads, over and above any other punishment due and customarily imposed for any acts of might as may have been committed in addition to the killing.

[3] Some maintain that the man-price is the price of the man killed. However, it is absurd to say that: for the dead cannot at any price be redeemed and raised from the dead. But it is necessary that the killer in order to avoid eye-for-an-eye punishment redeem his own head and not that of the one whom he killed.

[4] And this holds if he has escaped the hands of the judiciary or the opposing party. For if he can be personally detained, and he committed the homicide deliberately, then he should not pay the man-price but be subject to capital punishment.

[5] We therefore commonly consider man-price in its second sense as to save or redeem one's head.

CHAPTER SIX

How cases are transmitted from the judicial seats of the county *ispáns* to the royal court, and about the recall of attorneys at those seats

³³³ This use of *homagium*, as the equivalent of the western "homage," is otherwise unknown in Hungary.

Whereas cases initiated at the judicial seats of the county *ispáns* of the counties of this kingdom, once judicial deliberation and sentence has been passed by the same *ispáns*, *alispáns*, and noble magistrates according to the responses of the parties, are by the ancient law and custom of this realm of ours usually transmitted to the royal court, then these same sentences and judicial deliberations may be approved or rejected; then, once mature discussion of the cases has been done there by the justices ordinary of the realm, and they have been either approved or rejected, the cases are often referred back to the said county *ispáns* and noble magistrates for execution and for the proper conclusion of such a sentence and judicial instruction; and after such remission, the convicted and defeated parties obtain a new trial from the prince and very often in connection with that new trial they recall their attorneys;

[1] whence it should be known that, once the case has been remitted from the royal court, and the justices ordinary have approved or rejected it, should the losing and convicted party obtain a new trial, or retract the statements of his attorney, then whatever trial is subsequently held by the *ispán*, *alispán*, and the noble magistrates, and whatever sentence is passed, that case must not be sent up to the royal court for more extensive discussion, even on the strength of a new trial.

[2] If, however, the other party loses (namely, the one at whose request the case has not yet been transferred and sent up to the royal court), then that party has the right to take the case to the royal court for sounder review and discussion.

[3] The recalling of attorneys frequently occurs and happens at the judicial seat of the county *ispáns* of the counties of this kingdom. The recall of any attorney can take place there before the *ispáns*, *alispáns*, the noble magistrates or any one of them, even after sentence has been passed in the court, for only three florins, of which two are to be paid to the judges (that is, the *ispáns*, *alispáns*, and noble magistrates) and the third to the party against whom this recall has to be made.

[4] However, once the case has been ratified and approved in the said royal court, and remitted to the same *ispáns*, *alispáns*, and noble magistrates, then the burden of the recall of the attorney – if this is done – is doubled and has to be paid by six florins, as approval was given by a higher judge.

CHAPTER SEVEN

Which cases are to be remitted from the royal court to the county *ispáns*

There are various opinions as to whether cases initiated in the county court and transferred to the royal court where the sentence and the judicial deliberation of the *ispáns*, *alispáns*, and noble magistrates is ratified and approved, should be sent for execution from the same royal court by the justices ordinary, or whether they should be remitted to the same *ispáns* etc. again.

[1] Nevertheless, it has to be known and indeed maintained that those cases in which fines and judicial burdens should be paid and deposited, such as minor acts of might, and the sentences following from them; fine of the tongue and suchlike in which the judges also receive their portion – are to be remitted and returned again to the presence of those judges from whose hearing they had been sent by appeal to the royal court.

[2] For otherwise, the previous judge would appear to be seriously prejudiced, if by such an appeal their portion, and judicial part be made over to another's power and jurisdiction.

[3] Other cases, however, which do not involve the discharge of burdens or fines but rather demand execution, such as cases of dower, paraphernalia and rights in pledge, and similar matters, can, as is convenient, be sent for execution from the royal court and put into effect.

[4] It is different in cases initiated in the royal court before its justices ordinary, because here cases are transferred from one judge to another along with the previous and subsequent juridical charges of whatever kind in their entirety.

[5] However, matters of dower, paraphernalia, or rights in pledge which are known to be over one hundred florins value or estimation cannot be tried and adjudicated at the judicial seats of the counties or county *ispáns*.

CHAPTER EIGHT

Free cities and their conditions; in general

Since it is hereabouts appropriate to discuss briefly the free cities, it is to be known that a *civitas* is so called as if a *civium unitas* (body of burghers) because a great number of people are gathered there.

[1] A city in fact is a great number of houses and streets, necessary walls and fortifications, privileged for a good and honest life.³³⁴

[2] But as this great number of burghers forms and represents a single community, and such collective communities differ among themselves both in their location as well as in their privileges and customs, so some free cities are subject to the jurisdiction of the personal presence of the royal majesty, such as Székesfehérvár, Esztergom, and Levoča, and others by ancient custom of the kingdom to the jurisdiction of the Master of the Royal Treasury, such as Buda, Pest, Košice, Pressburg,³³⁵ Trnava, Sopron, Bardejov, and Prešov.

CHAPTER NINE

Burghers of the free cities have a man-price equal to nobles

The burghers who live in such cities are equal to the nobles of this realm in respect of their man-price. However, in regard to other liberties they are not regarded as equal to nobles, and do not enjoy their privileges.

³³⁴ This phrase, describing the purpose of the *polis*, originates with Aristotle (*Politics*, 1. 2. 8-9). What follows most probably derives from Aquinas (ST, I-II, 90. 3), albeit in a mediated form. See also Marsilius de Padua, *Defensor pacis*, I, xvii, 11.

³³⁵ Presently Bratislava: alternatively, Pozsony, Pressburg, Prespork, Wilsonovo.

[1] For outside their cities and territories the testimonies of burghers are not accepted among nobles; nor are they permitted to give an oath for compensation of damages or debts over the value of one florin per person outside the city.

CHAPTER TEN

How cases involving the burghers of free cities are transferred to the Master of the Royal Treasury

Among these cities some have mayors, some have judges, and sworn burghers and consuls. All the cases of the inhabitants and burghers of these cities and also the trials of other outsiders initiated as may be against them are decided, defined and brought to a conclusion by their judgment.

[1] From here, however, they may be transferred by way of appeal to the judicial seat of the Master of the Royal Treasury at the instance of the party dissatisfied with the judgment.

[2] If any party is still dissatisfied, the case will be sent for examination to the personal presence of the royal majesty, where only the sentence of the city and of the Master of the Royal Treasury will be reviewed and chewed over, namely whether the sentences were justly or unjustly, properly or improperly pronounced. The just will be approved, the improper will be amended or altogether rejected, leaving entirely aside all exceptions newly presented by the parties.

[3] Unless, perchance, they say or propose such things which rightly and indisputably inform and aid the better clarification and understanding of the case or the sentence. In such a case, any of the parties has to be heard.

CHAPTER ELEVEN

How a new trial may be obtained in cases of the burghers of free cities

Then, if it happens that a case is remitted from the examination and judgment of the personal presence of the royal majesty to its previous judge for more mature review, except in incidental or subordinate details, and if any of the parties expresses dissatisfaction with such a revision or discussion, it will not thereafter be possible to refer the case to the presence of the Master of the Royal Treasury but it will have to be sent directly to review by the personal presence of the king alone, who remitted it.

[1] But if after obtaining a second or third judgment either of the parties still refuses to be content, he can have his case revived again by the means and grace of a new trial while the case is still pending after the second sentence of the personal presence of the royal majesty or even after a third one pronounced there; but only before that judge before whom the case was originally initiated.

[2] And if the sentence goes against the party convicted who was appealing and seeking a new trial, then perpetual silence is to be imposed immediately and effectively upon the party sentenced by virtue of the said new trial, and that case can be no more transmitted to a higher court.

[3] If, however, the other party, which had previously been winning and successful, fails, then he too, like the other party, may obtain a new trial, and he has the right to proceed in the same way.

[4] On the other hand, if a sentence is passed against that party, either by approving and ratifying or emending or quashing, no further trial will be granted, but the case will be closed in perpetual silence for his part as well, and, henceforth, neither party will never more be able to obtain a new trial or appeal the case.

[5] For both parties have obtained a new trial once, and in the same case they cannot obtain a second one.

[6] However, appeals in whatever case can, once they have been decided, always be made to the court of the Master of the Royal Treasury and to the personal presence of the royal majesty according to the content of the relevant privileges; for otherwise, if the right of appeal was denied, the poor could often be harmed by the powerful by favor or gift and their just rights jeopardized.

[7] The case is different in criminal cases that lead to capital punishment and death sentence. For in these appeal has no place, unless they try to put an innocent person to death by a completely rash judgment. In which case the kinsmen or relations can take refuge alone with the royal majesty and correspondingly take the case higher.

[8] Then, if in the course of civil cases, either before or after their remission, the words or responses of the attorney have to be recalled, then should be followed the practice and custom of that judge's judicial court where the exchange took place and the recall is made.

CHAPTER TWELVE

The testimony of outsiders, which is not to be accepted among burghers

Then, in cases initiated and tried before the judges or sworn burghers of the said cities in matters of inheritance and immovable goods, no outsider is accepted as a witness in their court.

[1] However, in cases of debts or any other matters or transactions made and done outside their territory, anybody is normally allowed to give evidence before them providing he is of good reputation and honest condition.

CHAPTER THIRTEEN

Recognizances made before the judges and sworn burghers

Then, any recognizance regarding any movable or immovable goods whatsoever made among them or on their territory before a judge or two sworn burghers is always valid.

[1] But any other recognizance with perpetual right on such matters made by burghers before other judges of the realm or at places of authentication is not valid.

CHAPTER FOURTEEN

How burghers should enter into the ownership of property

Then, if a recognizance is made before the said judge and sworn burghers regarding immovables or properties such as houses, lands, gardens, fishponds, or vineyards, then it is necessary that the taking of possession or acquisition of them be made by the buyer of such things before two sworn burghers delegated for that purpose [at the time] when he wishes to enter and claim them for himself.

[1] And, if some contradictor should appear and block it by way of contradiction, then the contradictor has to present the reason for his contradiction within fifteen days in the presence of the same judge and sworn burghers.

[2] But if the contradictor does not appear then he, in whose favor the sale and the recognizance was made, can safely enter into the ownership of those things and properties.

[3] And if somebody subsequently claims some kind of right to these things, then within the course of one year and a day he can contradict if he wishes publicly or privately; otherwise his right will lose its force.

[4] His contradiction will be considered public if he summons to court the possessor of these things and inheritances, and, within the said course of the year, he initiates and opens the case before his judges.

[5] And privately, he should contradict so that he makes the lawful and usual prohibitions within a year and a day before the judge or sworn burghers about that inheritance, and has it registered in the city's book, lest prescription may intervene through neglect of protest.

CHAPTER FIFTEEN

Lawful prescription usually observed among burghers

Although in matters involving alienated things prescription should occur and be applied in the course of twelve years by and against burghers; nevertheless, nowadays it is usual to prescribe in a year and day, albeit improperly and like among peasants.

[1] When the plaintiff or contradictor makes the aforementioned prohibition but neglects to bring his opponent (that is, the possessor of the inheritance or things) to court within a year, then he may make (as aforementioned) inhibition within the space of a year in any year counted inclusively from the day of the prohibition, and when he needs or can, he may initiate a suit in the matter.

[2] But if the judge, perhaps out of hatred or some preconceived grudge or for any other reason, refuses to have the prohibition that was made before him or before the sworn burghers recorded in the minutes or in the city book, or to issue letters of prohibition, [the contradictor] may freely protest against this before the justices ordinary of the realm or at a place of authentication, provided the protest (where such is called for) can be supported by evidence.

CHAPTER SIXTEEN

How a property and its appurtenances are to be taken into possession among burghers

Then, if someone buys immovable goods and properties with their appurtenances among burghers of these cities, then it is sufficient to take physical possession of the substance and have himself instituted, because by taking that the appurtenances are also understood as being taken.

[1] And under the term appurtenances are included everything which are recognized as belonging by right and custom of the city to that physical thing and property.

[2] Unless by chance some part of the appurtenances is specifically exempted and retained in the course of the sale and purchase.

CHAPTER SEVENTEEN

Debts of burghers where all proof is missing

Then, if any burgher is sued by another because of debts, and the plaintiff cannot produce any proof against him, then the burgher can clear himself simply by taking an oath in his own person, according to the old custom of free cities.

CHAPTER EIGHTEEN

Burghers who have properties in the lands of others

Then, burghers of the said as well as other cities who have properties in lands and territories of others cannot free themselves from the payments due to the lords out of these properties and cannot be exempt from the rendering of the same (without the wish and consent of the lords).

[1] Indeed, they are obliged to stand trial in regard to these properties before the lord against any complainant or litigant.

[2] And if they overstep their rights within the bounds of the properties or in the territory where the properties lie, they will likewise be compelled to stand trial there regarding their fault.

How cities are held to stand trial regarding their property rights

Then, all free, and any other, cities which administer any property rights under whatever title are obliged always to defer to the judgments and jurisdiction of the justices ordinary of the realm in regard to these property rights, in the same way as nobles.

[1] And, if they violently cause loss, damage, or other sorts of harm to nobles or their servants from these property rights, then the judge and the sworn burghers can always be summoned together with the community to the royal court by the injured and damaged party for such misdeeds and acts of might; or if the said party wishes, they can be summoned and brought to trial at the judicial seat of the county in which those goods are situated and lie.

[2] How to proceed in such cases, and what kind of judgment is to be passed, is set out clearly in our general decree.³³⁶ To explain clearly what this means in this context, I have copied word for word the article on this subject. It begins as follows:

[3] “If free cities—that is, Buda, Pest, Košice, Pressburg, Sopron, Bardejov, Prešov, Trnava, as well as Levoča and Zagreb, and all other free cities—or inhabitants of the same cause any loss or damage to nobles and men of property, and if such a city or inhabitant and burgher that causes loss and damage have goods and property rights in any county and have from that property injured or caused loss to a noble, then they will be compelled to stand trial before the *ispán* in the county where they hold these goods, if such acts of loss or damage are considered to amount to a minor act of might.

[4] But if such a city or burgher has no property rights in any county, and a noble or any other man of property has a suit or case against a private person, or against particular individuals only, and not the city or community as a whole, then such a noble and man of property will be required to pursue his claim before the judge of that city.

[5] If such a noble or man of property endeavors to initiate a suit against the whole city, or conversely the city against nobles and other men of property concerning a major act of might or a property right, such a case should, follow lawful summons, and be initiated and terminated by due process of law before the personal presence of the royal majesty.

[6] Now in such a case if either of the parties is defeated in the case against him in the course of the proceedings before the same personal presence, then if the case involves a property right, the party in question will be required to pay not the major fine, but only two hundred gold florins.

[7] If, on the other hand, such a case is acknowledged to involve an act of invading noble houses or the arrest, beating, wounding, or slaying of a noble, the perpetrators of such acts of might will be condemned to capital punishment and the loss of all their movable and immovable goods, as has been observed heretofore.

[8] In a case when a burgher possesses vineyards or other [hereditary] properties belonging to any lord or noble in this kingdom, and he commits any offence in this territory or causes any damage

³³⁶ 1498:38.

to someone, in such a case the same burgher must stand trial before the lord from whom he holds the properties.”

CHAPTER TWENTY

How burghers can punish public criminals

Then, thieves, brigands, homicides, arsonists and other such public criminals should be chastized and punished according to their deserts observing what is to be observed by law. But, no one is to be mutilated. Nor can nobles be arrested except at the scene of the crime, or put to torture on grounds of suspicion.

[1] If, therefore, a city as a community has a noble put to death without just cause, then the judge and the sworn burghers, and not all the burghers individually, are to be subject to capital punishment in consequence. They will lose all their goods and property which belong and pertain to them personally, two thirds of which should be given to the royal majesty, as their lord, and one third to the other party.

[2] All other immunities, laws, liberties, and customs of the cities are written down in their privileges. Beyond these and outside their territory, they are subject to the laws and customs of this kingdom of Hungary in all matters and deeds.

CHAPTER TWENTY-ONE

Homicide committed by someone in self-defense

As the subject of homicide has been raised in this section, and we often encounter cases of homicide which are not duly punished, because many claim that they committed the act in self-defense, it is appropriate to add a few remarks about the ways of defending and offending.

[1] Here it should be known that the allegation that a person committed and perpetrated homicide in self-defense ought not to be accepted at face value, but it must be proved that he was attacked in a hostile fashion by another bearing a weapon and through this was placed in danger of his life. For if a person approaches another with an unsheathed sword it may at once be presumed that he plans either to kill him or inflict a mortal wound.

[2] It is certain, however, that capital sentence is brought and decided not only for the killing but also for just the beating or wounding of a noble. Therefore, whether the attacker would kill or merely wound, the person attacked is not bound to suffer or allow either of these.

[3] Hence it follows that if a person in reasonable and just self-defense kills someone who has advanced on him in a hostile manner with a naked blade, both the man-price and the [fine for] bloodshed of the man killed and slain will be lost, and can never be recovered.

[4] It is different, however, in the forum of conscience. For if it is possible for the person attacked to escape his attacker with his honor intact and save his own life, then he must do so, and avoid the lesser evil lest a greater ensue.³³⁷

[5] In such cases, note should be taken as to whether the person who slew the other had not yet been struck by his attacker or whether he had indeed been hit. If the former (i.e. where he had not been struck), but [the other] was in the act of and on the point of striking, then whatever the attacked person did, it is clear that he was undoubtedly acting, and had acted, in self-defense.

[6] If, however, he has been already struck, and the striking stopped for a time, then he had no right to return the blow after the interruption; for by doing so, it may be considered and judged that the return blow was not an act of defense but rather of vengeance: unless, the person struck was perhaps acting to escape other fresh blows which his attacker intended to repeat and continue. In other words, there is a difference between defense and vengeance: defense takes place at once; vengeance after a delay.

[7] If, however, it does not emerge clearly from testimony or otherwise which blow preceded the other, then the guilt will fall on the person who provoked the other to fight and to strike a blow.

CHAPTER TWENTY-TWO

In how many ways, and how self-defense is understood

It should further be known that self-defense can be understood in two ways: in the first, it is in order to protect the body and the person; in the second, to preserve immovables, that is, properties.

[1] Regarding the protection of body and person, self-defense can be done and is allowed only immediately and before the wrong is completely finished or in the same fight and struggle during the commission of the first crime: that is, before the attacker (or the person who struck first) departs from the scene. For, as previously explained, if it is done afterwards, it cannot be called self-defense, but vengeance.

[2] Regarding the protection of immovables and property rights, a dispossessed noble or any other man of property, is, for the purpose of defending his rights and ejecting the occupier or despoiler (as was also dealt with in Part One),³³⁸ given by ancient custom of this realm one full year's space in which he has full right to defend himself against an occupier and violent despoiler any way he can, and to eject the said occupier from the [property] rights or properties, even to the latter's great loss.

[3] And whatever defense a despoiler or occupant makes in this regard, it will not excuse him.

³³⁷ The Latin is unclear (usually the lesser evil is taken and not avoided).

³³⁸ See above I. 68.

[4] Hence it is that since everyone is allowed to defend himself so as to preserve his things and goods, then everyone is all the more and more strongly entitled to protect his body and person (in the face of pressing danger).

[5] Nevertheless, any act of self-defense should be done by means of blameless defense³³⁹ following God and the forum of conscience. It is considered blameless defense when a person cannot defend his person and his belongings from danger without killing or inflicting wounds upon his attacker.

CHAPTER TWENTY-THREE

Whether it is allowed to attack someone because of threats

Now it may be asked: if a person threatens to kill another, can the latter attack him?

[1] It must be said that although it is not permitted by the law and approved custom of our realm to attack another in response to threats or menaces (except in case and act of arson, where the person who threatens to set fire to and burn down a city, village, or another person's house is usually punished by death), nevertheless, by common law, if the man who threatened to kill another usually puts his threats into effect, and especially if he is powerful and has the habit of beating others, then (because the same act can be presumed again from his side) self-defense as well as attack is allowed, in order to avoid being killed.

[2] However, if the person is not of the habit of beating others or of putting his threats into effect, then it is permissible to argue with him and resist him by words, and not by arms or sword. Except perhaps if he is waiting for others to join him, and to delay would be dangerous.

[3] All the same, it is better and more expedient in such a circumstance to avoid the person and go elsewhere away from him.

CHAPTER TWENTY-FOUR

Whether one can come to the help of another

A further question: whether one can come to the help of another.

[1] The answer is, yes. If I can gather my friends and kinsmen to help protect my things and properties, all the more may I do so in defense of my own body and person.

[2] Therefore, anyone, even a stranger, who is called on for assistance, can always come to the help of a person he sees placed in mortal peril.

[3] On the other hand, he is not obliged, nor should he, to set free from another's hands a brigand or other public criminal, at the shout of that criminal.

³³⁹ The expression, 'blameless defence', derives from Aquinas – *vim vi repellere licet cum moderamine inculpatae tutelae*: *ST*, II-II, 62. 7.

The condition and laws of the peasants whom we call *jobbágy*

Finally, having explained the rights of free cities, and self-defense and attack, now the peasants (whom we call *jobbágy*) are to be treated.³⁴⁰

[1] Their condition is varied. Some are Hungarian, others Saxons and Germans, others Czechs and Slavs professing the Christian faith. Then there are some who are Wallachs and Ruthenians and some who are Rascians or Serbs and Bulgarians, following the errors of the Greeks. In addition, there are *Jász* and Cumans³⁴¹ living and residing on lands belonging to the king, and they also profess Christianity. As for the Ruthenians and Bulgarians, some adhere to our faith and some to the error of the Greeks.³⁴²

[2] Now, in the past, all these nations (with the exception of the king's *Jász*, Cumans, Ruthenians, and Bulgarians) enjoyed that prerogative of liberty that gave them free right to betake themselves from their place of residence as and when they wanted in order to live in other places which they preferred, provided they first paid the required land-rent and settled their debts. However, they lost their liberty last summer³⁴³ and are now subject to their lords in full and perpetual servitude, because of their revolt and rebellion against the nobility as a whole under the guise of a crusade, led by a most wicked brigand by the name of George Székely, by which they incurred the eternal charge of infidelity.

[3] Such persons, by law and long approved custom of this realm, cannot be summoned simply and directly to appear before justices ordinary of the realm or before the diocesan or other ecclesiastical judges, nor before the county *ispán* of any county, in any matters whatsoever

³⁴⁰ *Jobagio*, Hung. *jobbágy* : the word originally meant a royal office holder but was gradually transferred to *rustici jobagiones* (lit. peasant retainers), who had acquired personal liberty but were bound to the lord of the land by having to render seigniorial dues (in kind and money, later more also in in labor). We translate it as tenant peasant. They were subject to seigniorial jurisdiction, but – at least until 1514 – free to move once they had paid their annual dues and obtained a license. The *jobagio-jobbágy* status remained the characteristic legal condition of Hungarian peasants until 1848. See János M. Bak “Servitude in the medieval kingdom of Hungary (a sketchy outline).” in *Forms of servitude in Northern and Central Europe: decline, resistance, and expansion*, ed. Paul H. Freedman and Monique Bourin, (Turnhout: Brepols, 2005), 387–400.

³⁴¹ The Cumans and *Jász* (As) settled in Hungary during the thirteenth century. Both were originally nomadic, the Cumans being of Turkic origin and the *Jász* of Iranian. Although both groups were rapidly assimilated, they preserved until the nineteenth century their own customary laws and social organization. See Nóra Berend, *At the gate of Christendom. Jews, Muslims and “Pagans” in medieval Hungary, c. 1000–c. 1300* (Cambridge: Cambridge University Press, 2001).

³⁴² “Ruthenians” were Slavs settled in the northeastern Carpathians and together with the Romanians/Wallachs and Southern Slavs, mostly Orthodox Christians.

³⁴³ The reference is to the law (1514) punishing rebellious peasants after the rural uprising April-August 1514 that imposed “eternal servitude” (*rusticitas*)—and not infidelity—on the peasants. The measure was more rhetorical than practical, see Bak, *Servitude*, 395–400.

(unless they clearly concern an ecclesiastical forum). Instead, their lords, be they secular or spiritual, should first administer law and justice regarding them to any accuser or litigant.

[4] Only then, if one of the parties does not wish to content himself with that decision, can he bring the case before his higher judge, namely: before him to whom the hearing of the case belongs, for clearer and more mature discussion and review.

[5] In which case, if from its content the case seems to belong to an ecclesiastical forum, then it should be transmitted to the diocesan ordinary and his vicar; but if it is clearly a matter concerning a secular court, to the county *ispán* and the noble magistrates.

[6] And when it is remitted to the lord, any such administration of law and justice should always take place, and be done and performed before one or two noble magistrates, whether the case was moved and initiated by summons in the royal court or by citation before the county *ispáns* or ecclesiastical vicars.

CHAPTER TWENTY-SIX

The way and order of the administration of justice in regard to tenant peasants

So, first the way and order of doing justice needs to be discussed.

[1] Here the following questions arise: is the lord or the holder for the time being obliged actually to administer law and justice and pass judgment at the simple request of a complainant in regard to his tenant peasants? And if he refuses to do so, is he to be burdened with any fine because of that? And, once a summons is issued against him, to make him bring his tenant peasants before the *ispán* and the noble magistrates, is he subsequently allowed to promise to administer law and justice in regard to these same peasants, or is it only the county *ispán* together with the noble magistrates who is then required to pass judgment regarding them?

[2] The answer is as follows. Although by divine and human law, and by common law, any lord is bound to administer law and justice forthwith on simple request and complaint to any injured or harmed complainant regarding any tenant peasants or countryfolk or any of his non-noble servitors: nevertheless, before he is lawfully, that is: by summons or citation, warned and admonished to administer such law and justice (assuming he has neglected to do so), he will not be subject to any penalty on this account, for that punishment is normally incurred in the trials of cases because of contempt and violation of judicial orders.

[3] Therefore, not the county *ispán* and the noble magistrates, but he himself is expected to administer justice, even thereafter.

[4] Here it should be known that if some noble or man of property (whether he be a person secular or spiritual) is summoned to the royal court or cited to the judicial seat of the county *ispán* on such terms that he is required both to appear in his own person and to bring and present before the court his tenant peasants or non-noble servitors, then if such a noble or man of property fails to appear, he himself will be convicted and fined three heavy marks in regard to his own person, while his tenant peasants or non-noble servitors, who were enjoined by name to appear, however many they be, will be punished and fined one heavy mark per head, that is for every person

enjoined to appear one mark of heavy weight. Furthermore, they usually are and indeed ought to be convicted in the plaint and claim of the plaintiff.

[5] Thus namely, if the case is known to have been brought before the royal court regarding a major act of might, then both the noble or man of property and his tenant peasants or non-noble servitors who have been expressly enjoined to appear, should be condemned to capital punishment and to forfeiture of all goods which fall to their share, both movable and immovable.

[6] And if a case regarding the matter of a minor act of might is brought before the judicial seat of the county, then the noble will be fined 100 florins (one part to be paid to the judge, the other to the plaintiff), while his tenant peasants and servitors will be fined individually, each to the amount of their man-price (that is: 40 florins), to go to the plaintiff alone. For county judicial seats cannot impose a fine exceeding 100 florins in cases of violence and acts of might.

[7] If, on the other hand, he presents himself, answers the charges, and promises to administer law and justice in regard to his tenant peasants and non-noble servitors in respect of the charges and plaints of the plaintiff, then he will be required, at a date to be set by his justice ordinary, to administer law and justice, either in person or through his steward or bailiff, on the site of the property in question where the said peasants or non-noble servitors reside, in the presence of one or two noble magistrates (as mentioned before) of the county in which the property lies.

[8] If, on the other hand, he refuses and fails to pass judgment and administer justice by the date fixed by the judge, then for his failure to administer justice and for refusing the judge's instructions the same noble or other man of property will be condemned to pay three marks for each tenant peasant or non-noble servitor in whose regard he was called to administer justice, two thirds of which is to be paid to the judge and one third to the plaintiff, and then by another three marks each be compelled and forced to administer justice on the same charge at a date to be set again by the judge.

[9] And if he declines to administer justice and pass judgment for a second time, and neglects or disregards to administer it, then he will be condemned outright to the man-price of each individual. And from these man-prices the judge has to offer satisfaction to the plaintiff out of the goods and chattels of the noble or the man of property, if such can be found, or if not, from his property rights.

[10] And hold this to be true of the man-price only if the acts of violence for which the case was initiated represent a minor act of might. For if they involve a capital sentence then the punishment of all those who are put on trial should be condemned not in their man-price but to the loss of their head and the confiscation of all their goods, movable and immovable, in favor of the judge and the adversary party. And in addition, on the strength of the letters of adjudication, they may be seized at will by the adversary party and plaintiff holding the letters of adjudication and sentence wherever they may be found, whether on the property of their owners or on another's (in order to suffer their due punishment).

[11] If, however, such an administration of justice and judgment is properly carried out according to the promise of the lord and the order of the judge, and the tenant peasants or non-noble servitors are found guilty and culpable of the major act of might and condemned and convicted to capital punishment and the confiscation of their movable and immovable goods, then two thirds of such goods go to the lord as judge and one third to the plaintiff and adversary party. Moreover,

the same lord is obliged to hand over and surrender the condemned and convicted men to the plaintiff for lawful punishment.

[12] Should the lord for any reason refuse or fail to do so, then the man-price of every single person has to be taken out and paid from his own wealth and goods.

[13] And this holds when those persons convicted and condemned in this way were with him and under his own power at the time for which he promised to administer justice and judgment.

[14] For should in the meantime any of the tenant peasants or non-noble servitors escape or evade the hand, jurisdiction, and power of their lord in whatever way, then that lord is in no way to be burdened with a fine.

[15] If, however, any one of them escapes or runs away without the permission of his lord, openly or secretly, after the promise but before the day and term of the administration of justice, then the same lord has the right to seize for himself all things and all goods, movable and immovable, which are and lie on his land.

[16] But from these—if the act of might was a major one—he is held to pay his man-price, that is ten marks making 40 gold florins, and also give a third of his movable goods to the adversary party, retaining for himself two parts of the movable goods. Nonetheless, he has to have the properties and immovable goods of the same tenant peasant or non-noble servitor estimated, and to hand over one third of the estimation and value of the properties to the plaintiff. The remaining two parts are to be taken and occupied by him.

[17] And, moreover, the adversary party has the full right to arrest such a fugitive wherever he can find him and to submit him to capital punishment according to his crime.

[18] If, however, the violent acts were minor ones, than only the man-price has to be paid to the plaintiff and satisfaction made for the damages caused by the tenant peasant or non-noble servitor from the goods of the same tenant peasant or non-noble servitor (provided that these damages were included in the plaint).

CHAPTER TWENTY-SEVEN

How is the oath awarded to tenant peasants and non-noble servitors

Then, if a case is initiated regarding the presentation of tenant peasants and non-noble servitors in the royal court by summons, or at the judicial seat of the county *ispán* by citation, and it is remitted by the judge to the lord (in order to administer law and justice to the complainant and adversary) and the plaintiff presents at the time when justice is administered three letters of inquest against them, but they simply deny the charges brought against them, then every tenant peasant and non-noble servitor respondent brought to court is to be judged to swear an oath to clear himself together with 39 other peers, that is, peasants and non-nobles, but men of good reputation and honest condition, according to their man-price.

[1] Because any tenant peasant and man without property can recover by his own oath only one florin (of 100 pennies) and not more; thus he is not able to clear or condemn anyone above this sum.

[2] It is different in criminal cases, when the oath is sworn on the head of the evildoer, because then not the man-price but the guilt and the punishment of the crime should be considered.

[3] If, however, [the plaintiff] presents two letters of inquest, the oath sworn with 19 has to be awarded and imposed, and if only one, then with 9 peers, similarly peasants. This is to be held in cases against nobles and other men of property, because if justice is administered among peasants, then the way and order of the place or the home where the culprit lives should be observed.

[4] By letter of inquest always understand those which were issued in a place of authentication or before the justices ordinary of the realm at a general assembly of lords and nobles on the written royal mandate or written request of any of the same justices ordinary.

[5] Because simple letters of inquest issued at the lawful and urgent request of a litigant by the judicial seat of the county *ispán* are only partially valid and not in their entirety.

[6] However, it should be noted that if at the aforementioned time of the administration of justice the respondents deny the plaint and claim of the plaintiff and adversary against them and wish to prove by the testimony of neighbors or other admissible evidence that they are not guilty but innocent, and the plaintiff refuses to accept such testimony and demands from the judge justice and judgement simply and by short procedure on the strength of the presented letters of inquest, then the oath that should be adjudged and imposed on the basis of the letters of inquest have to be reduced and decreased by half, just as this custom is observed in the cases of nobles.

[7] According to common and general opinion, however, oaths should be ordered to be taken by as many tenant peasants and non-noble servitors as it is decreed for nobles and lords in the royal court or the judiciary seat of the county *ispán*.

[8] And if the nobleman takes an oath after a common inquest his serfs and servitors are also quit of the charges, and if he fails, they should also be held to have failed.

CHAPTER TWENTY-EIGHT

How damages and debts have to be recovered from such peasants that have neither chattels nor properties

It should not be left unmentioned that if any litigant succeeds in having a peasant condemned and convicted to his man-price or the repayment of damages or debts and that convicted man has neither chattels nor properties sufficient to make satisfaction for these,³⁴⁴ then the lord is obliged to hand over and surrender the convicted peasant to his adversary. The plaintiff or adversary can

³⁴⁴ Due to the partible inheritance and other factors, the number of landless peasants (*inquilini*)—technically regarded as such if not owning at least a quarter of a plot—increased in the later Middle Ages; many of them lived on tenant peasants' plots and supplied the wage labor in times of seasonal employment. See István Szabó, "Hanyatló jobbágyság a középkor végén" [Decline of tenant peasants at the end of the Middle Ages], in Idem, *Jobbágyok, parasztok: Értekezések a Magyar parasztság történetéből*, István Für, ed. (Budapest: Akadémiai Kiadó, 1976) 167–200; see also Kubinyi, "Wüstungen, Zersplitterung der Bauernhufen" as n 147, above.

keep him in his jail for fifteen days (unless the convicted man himself makes an arrangement with him); however, he must not physically harm the man during his captivity on pain of his man- price, but should supply him during that time with bread and water.

[1] And if the peasant is unable to free himself during that time, the adversary is still not allowed to reduce him to servitude, but has to release him once he has received his sworn promise that for as long as the debt remains, he will every week faithfully hand over one third of whatever he is able to earn by work or begging.

[2] If he refuses to swear such an oath and take this burden on himself or perhaps, after having been released, cheats his adversary, then this adversary has full right to arrest and incarcerate that peasant wherever he can find him and keep him in his servitude until he has paid off this man- price or damage or debt, and have him complete involuntarily that what he had refused when he was at large and free.

[3] The same should also be understood in cases initiated and started between nobles in matters of debts and damages; namely, that the nobleman who is found not to have properties and movable goods for the satisfaction of debts incurred or damages caused, is to be arrested in his person and forced by the judge to give satisfaction in the way just mentioned for peasants, as I have briefly touched upon in the second part in regard to judgments.³⁴⁵

[4] The duplication of debts when the culprit misses the term of payment set by judge (which we read as being observed in olden times) should not nowadays be ordered.

CHAPTER TWENTY-NINE

How the movable and immovable goods of peasants should be divided between sons and daughters

Then, if a peasant sires a boy while he also has an unmarried daughter, then both succeed equally in the paternal goods, both movable and immovable.

[1] If, however, the girl has been given in marriage with movable goods, it has to be considered whether these goods were ancestral or paternal. If ancestral, then no cheating is allowed in the marrying-off, and the girl has to receive an equal share. If, however, the goods were paternal, then the father can marry her off according to his estate and honor, and she will not have any further portion of them, but after the father's death they will devolve to the son, and after his death to the kinsmen and blood-relatives of the same branch.

[2] But if the father wishes to make a will about his part, he can do so but without defrauding the wife. Because the wife becomes always a co-owner and heir of all things that the husband acquires during their marriage, so that if the man dies intestate all things acquired by him, as mentioned above, will devolve on her.

[3] If, however, the father married another wife after the death of his first wife, then, if the son has divided the movable and immovable goods with his father, the second wife cannot take for

³⁴⁵ See II. 68: 2–9.

herself any part of the son's portion nor can the sons born of the father's second wife interfere with it, but the son himself is allowed to dispose of it as he wishes.

CHAPTER THIRTY

How the goods of an intestate peasant devolve to the lord

Then, a peasant, who is a sole individual leaving no heir or lawful successor behind him, can freely make a will on his movable goods. His properties, however, if they are ancient, devolve fully on the lord.

[1] But if he acquired these himself, then they are to be divided in two parts, one of which goes to the lord and the other to whom he willed it.

[2] If, however, he died intestate, all of his goods, movable and immovable, devolve to the lord.

[3] From these he has to provide, before all else, for the funeral and burial of the dead man, then to satisfy all his creditors and pay off his debts, and finally keep the rest for himself.

[4] When, however, the peasant has left a lawful heir and this heir is a child who has not reached the age of twelve, then the father has the right to designate an heir not only for his own portion but also, whomever he wishes, as heir of the child in case he dies before his twelfth year of age, so that if the lawful heir should happen to die in the meantime, the substitute heir will inherit.

[5] But when the true heir reaches or passes the aforesaid age, this kind of substitution lapses and the right to keep and dispose of the entire inheritance passes to the heir.

[6] Nevertheless, just as the conditions of tenant peasants are diverse, so are the legal customs that have to be kept according to the ancient usage of the place.

[7] It should not, however, be understood by this that a property, left or sold by a peasant to someone, can be alienated from the lord by permanent right, because the peasant has no permanent rights in the lands of his lords beyond the wage and fruit of his labor, but the ownership of all land belongs and pertains to the lord.

[8] Thus, by such a will or sale a peasant can will or sell to anyone only the wage and fruit of his labor, that is, the fields, meadows, mills or vineyards at their proper estimation, saving that the perpetual ownership always remains with the lord, who, if he wishes, has the right to acquire for himself the lands, meadows, and mills for their common estimation and the vineyards at their proper value.

CHAPTER THIRTY-ONE

That peasants themselves cannot sue nobles

It has to be noted furthermore that, because peasants are to such an extent subject to their present

lords, they cannot themselves engage in lawsuits against nobles in any matter whatsoever.

[1] If, therefore, a peasant is unduly beaten or wounded or otherwise injured by a noble or violently damaged in his goods, and his lord sues that nobleman and has him convicted and found guilty, then that nobleman should be condemned for a minor act of might amounting to 100 florins, and additionally to the man-price of the wounded or beaten peasant, or to compensation and restoration of the damages done, according to the nature of the deed.

CHAPTER THIRTY-TWO

How the county *ispáns* and privileged nobles ought to punish public criminals

It should also be known that all nobles, towns and villages who or which have no royal privilege issued to them for punishing and eliminating criminals and evil men, are held to hand over and deliver for punishment to the *ispán*, *alispán* and noble magistrates of that county in which they respectively reside or lie, all those thieves, despoilers and public criminals whom they have found and detained among them under the penalty of the man-price of the detained criminal. And they are not permitted to hold them for more than three days.

[1] For, if they keep them beyond the three days, they shall be duly convicted of three marks of heavy weight for each of the arrested men and for every day in favor of the said *ispáns*, *alispáns* and noble magistrates because they dared to usurp their jurisdiction.

[2] Homicides and arsonists or rapists apprehended and arrested at the scene of the crime or in the territory of the town or estate where such a crime was committed can be chastised and punished according to their deserts even by non-privileged towns, villages and nobles, observing due course of law.

[3] But they have no right to release them, and if they do, they are to be convicted to the man-price of every released person in favor of the said *ispáns*, *alispáns* and noble magistrates.

[4] Similarly, those nobles and others who hold a privilege for this, can punish and, according to their crime, put to death all criminals apprehended and captured by them in their own territories, but can never release them, otherwise they are held to pay their man-price.

CHAPTER THIRTY-THREE

How damages caused by cattle or beasts should be recovered

Then, if a noble or peasant drives off horses, cattle, sheep or pigs or other beasts and animals from cornfields or meadows or hayfields or oakwoods under prohibition because of damages done in them, in order to keep them for redemption and compensation, and the master of the animals, driven by stubbornness, is unwilling to redeem them, then the damaged party cannot keep these animals for more than three days.

[1] After these three days, he is held to hand them over and give them into the hands of the county's *ispán* or *alispán* or in their absence to one of the noble magistrates (to the one in whose circuit the territory of that damaged party is known to belong).

[2] For otherwise if after the three days he keeps the said animals with him, the person who drove off and kept them as pawns should be fined three marks of heavy weight for each of them, two of which are to be paid and given to the judge and one to the adversary.

[3] The damages caused have to be recompensed according to the scrupulous evaluation and estimation of the judge and sworn burghers of the place in the territory of which they were done.

[4] For the prohibition under specific and expressed fine, not to cause harm to cornfields or meadows or woodland refers only to the peasants of that place in the territory of which these fields, meadows and woodlands lie. Outsiders have to pay not the fine due to the prohibition, but the extent of the damages.

[5] If, however, a peasant secretly or openly, violently cuts or debarks trees of the woodland and can be caught there, he loses all the goods that he had with him and has moreover to be convicted to his man-price for the offense.

CHAPTER THIRTY-FOUR

Horses stolen and found in or outside the camp

Then, in the matter and case of such a horse that was taken away and removed from its owner secretly or otherwise and was found in the general levy called up for whatever reason, no judgment can and ought to be passed in favor of the plaintiff. The horse has to be estimated at its true value by trustworthy men selected and commissioned for this by the captain or commander of the army and be left, under sworn warranty, in the hands of him with whom it was found until the dismissal of the levy.

[1] And the captain or commander of the army has to set a certain term at which, after the dismissal of the same levy, both parties must appear in front of one of the judges ordinary chosen by him or the Master of the Royal Horse, in order to hear judgment in the case.

[2] If the defendant in the case of the stolen horse, cattle or other beast found outside the camp cannot produce clear evidence of the purchase of the same, the plaintiff has to swear an oath with two of his peers to recover it.

[3] But if that thief says that he has bought it at a free and public market or anywhere else but cannot present a warrantor (whom we call an *expeditor*), nor is he able to produce the seller or anyone else who would have drunk to and toasted the sale and purchase as is usual,³⁴⁶ he shall be consigned to the gallows.

³⁴⁶ On the ceremony of toasting a sale, see Christopher McNall, 'Litkup in the Rural Court Books of Old-Time Poland', *Czasopismo Prawno-Historyczne*, 49, 1-2, 1997, pp 11-25.

CHAPTER THIRTY-FIVE

The transfer of cases and letters of transfer

Finally, we have to know that all cases initiated at the judicial seat of episcopal vicars and county *ispáns* (except those trials at the county seats which are submitted to the personal oath of the plaintiff), are and have to be transmitted for more clear and mature deliberation to the royal court, that is to the justices ordinary of the realm.

[1] Those cases, which are opened in the court of the lords in matters of peasants and country folk (as mentioned before), should first be transferred to the presence of the *ispán*, *alispán* and noble magistrates at the request and appeal of that party that is unwilling to accept the judgment and only then, if perchance one of the parties should be still dissatisfied, to the said royal court.

[2] And the appealing party has to take out the letters of judgment and of transfer at the judicial seat of the county in these and any other such cases tried in these judicial courts at the first session after the final and decisive judgment, if that can be easily done, or otherwise at the second session that is held, and take the case at the term set for him by the judge to the royal court.

[3] For if he neglects to do this, the case becomes *res judicata*, and the letter of judgment has to be handed out to the winning and triumphant party and ordered to be executed at the third judicial session according to the judgment passed.

[4] And this holds when negligence was clearly committed not by the notary or the judge but by the appealing party.

CHAPTER THIRTY-SIX

Formula of oath to be sworn by Jews against Christians

Then, although it is not my task to write anything about the Jews, since the Jews have diverse and different privileges, in many parts against salvation, or about their laws, and anyhow, it seems dangerous to judge usury, still, because it frequently happens that Jews are judged and required to swear and oath against Christians, I decided to append to the end of this little work the formula of the oath of the Jews.

[1] Where it is to be known that the Jew who wishes to take an oath has to turn to the sun, stand barefoot and wear a tunic or coat and Jewish hat; he has to touch and hold the book of laws (which is called the tables of Moses) and say this:

[2] “ I, N. Jew, swear by the living God, the holy God, the almighty God who created heaven and earth and sea and all that is in them that in this case with which this Christian charges me I am entirely innocent and not guilty. And if I am guilty, the earth should swallow me as it swallowed Dathan and Abiron. And if I am guilty I should be smitten with the paralysis and leprosy that smote Naaman the Syrian on the prayer of Elisha.³⁴⁷ And if I am guilty I should suffer falling

³⁴⁷Cf. Numeri 16: 10-11 and 2 Kings 5: 1-4.

sickness, sudden pox and flux of blood. And I should perish body and soul with all my things and never reach the bosom of Abraham. And if I am guilty, the law given to Moses on Mount Sinai should destroy me, and all the scripture that is written in the five books of Moses should smite me. And if this oath of mine is not true and just, Adonai and the power of his divinity should destroy me. Amen.”

Conclusion

These are, most wise and supreme Prince, what I deemed fit to compose at your behest and under your auspices concerning the laws, institutions, and ancient customs of your renowned realm of Pannonia which you have governed most felicitously for so many years.

In this task I had to deal with many matters, namely, the decrees of your princely predecessors, from which you will find almost all this our work has been taken and, moreover, there are many countrymen of ours who require instruction by this work. In respect of the former I have often used the same terms here that I found the princes had themselves used; for it seemed to me pointless not to use the same words which had been frequently used in the decrees they had issued. Most wise prince! None of the authorities doubt that the Roman lawgivers out of respect for antiquity interwove in their laws almost the same words that were used by the decemvirs for their most ancient laws according to the custom of their times.

We know that even the most learned Latins often inserted foreign terms and even barbarian ones into their writings, such as *mastruca* in Cicero, which is a Sardinian³⁴⁸ and purely barbarian word, or *gaza*, a Persian one.³⁴⁹ You will find many words of this kind in Quintilian, where he discusses foreign words at great length.³⁵⁰

It is agreed that Virgil, by far the leading Latin poet, often included in his golden songs such ancient vernacular expressions as were used as everyday words by Livy, Quintus Ennius, Furius Bibaculus, Gnaeus Naevius, Varius, Marcus Actius, Pacuvius, Quintus Cornificius, Lucretius,³⁵¹ and others, but by his day, were so old that they had totally disappeared.

Favorinus, the philosopher, says: “Curius and Fabricius and Coruncanus, our most ancient ancestors, and even before them the three Horatii conversed clearly and simply with their

³⁴⁸ *mastruca*: Sardinian cloak of (sheep) skin, see: Cicero, *Pro Scauro* 45; Quintilian, *Institutio oratoria* 1.5.8.

³⁴⁹ *gaza*: royal treasure of Persia, see e.g.: Cicero, *De officiis* 2.76; Hrabanus Maurus, *De rerum natura*, 22.8; Thomas Aquinas, *Catena aurea in Lucam* 21.1.

³⁵⁰ *Institutio oratoria* 1.5.8.

³⁵¹ Roman authors, mostly representatives of the archaic Latin literature. – Livius Andronicus (ca. 285– 204 BC) – Ennius (239–169 BC) – Furius Bibaculus (1st century BC) – Naevius (ca. 269–204 BC) – Varius (ca. 71–14 BC) – Accius (2nd century BC) – Pacuvius (ca. 220–130 BC) – Cornificius (ca. 78–42 BC) – Lucretius (ca. 94–55 BC)

fellows, and used the words of their day and not those of the Auruncians or Sicanians or Pelasgians who are said to have been the first inhabitants of Italy.”³⁵² And I do not regret having done the same in the present work.

And I thought of our fellow Pannonians for whose use we have written all this. For our Pannonians are known to prefer handling arms and tools needed for sowing and reaping crops rather than the volumes of Cicero, Livy, Sallust, or Aulus Gellius. So wiser men must forgive me if I often use plain, almost homespun, words in talking to our Hungarians.

I was much moved by a remark of Palladius Rutilius in the first book of his work on agriculture that we should speak with ordinary and simple words to our people: “the first part of wisdom”, he says, “is to form an estimate of the person you are teaching. For the educator of husbandmen does not have to imitate the art and eloquence of rhetors, which is done by many, who, when speaking eruditely with peasants end up with their teaching not being understood by even the most erudite ones.”³⁵³ Besides, Lactantius has the following to say in the third book of his *Divine Institutions*: “God”, he says, “has willed this to be the nature of the case, that simple and undisguised truth should be more clear, because”, he says, “it has sufficient ornament of itself, and on this account it is corrupt when embellished with adornments from without, but that falsehood should please by means of a splendor not its own, because being corrupted of itself it vanishes and melts away, unless it is set off and polished with decoration taken from another source”.³⁵⁴ Cicero, who was of marvelous and supreme eloquence, writes in the first book *On the Limits of Good and Evil*: “If a philosopher”, he says, “displays eloquence, I would not scorn him; but if he lacks it I would not particularly demand it. For”, he says, “it is sufficient for a philosopher to express in words what he means and to say plainly what I should understand.”³⁵⁵ St Augustine oft repeated this saying: If the matter is clear, don’t insist on words.³⁵⁶

Furthermore, who would believe that barbarian nations—Persians, Egyptians, Arabs, Scythians, Parthians, Hyrcanians,³⁵⁷ and so on—made laws for themselves only in a way of speech which was clear and in common use among them?

The Greeks too, particularly those who undertook the task of explanation, are said to have largely thoroughly cherished everyday and ordinary language. Few read the teachings of Lycophron,³⁵⁸ because their meaning cannot be grasped by readers, and the writings of Heraclius of Ephesus are held to have been lost for the simple reason that the words he used

³⁵² Aulus Gellius (fl. 150 AD), *Noctes Atticae* 1.10.1.

³⁵³ Palladius Rutilius (4th centry AD), *Opus agriculturae* 1.1.

³⁵⁴ Lactantius, *Divinae institutiones* 3.1.

³⁵⁵ Cicero, *De finibus bonorum et malorum* 1.15.

³⁵⁶ Cf. e.g. *De sententia Jacobi liber seu epistola* CLXVII, Migne, *PL* 33:741.

³⁵⁷ Hyrcania: province of the ancient Persian empire beside the Caspian Sea. ³⁵⁸

Lycophron (3rd century BC): Greek poet and grammarian in Alexandria

were excessively opaque, “darker than the darkness of the Cimmerians”³⁵⁹ as people put it. Hence it came about that he was called by posterity Scotinus, that is, The Obscure.³⁶⁰

I cannot applaud persons who interpret the law, or anything else, in writings that cannot be understood without the help of other commentators. Epicurus who was held to be the greatest of his contemporaries, used plain, unlearned prose in his works, as testified among many others by Cicero.³⁶¹

Among the later Platonists Plotinus is by far the greatest. He is said to have held elegance of style in such little esteem that he could not bear to look twice over something once he had written it, not even to read or glance through it again, and he paid not the slightest heed to spelling; his only concern was the meaning.³⁶² Some persons have even attributed such carelessness in composition to Aristotle, the philosopher.³⁶³

Additionally, the Divine Law uttered by the mouth of God to the Jews through Moses was written in such simple language that it seems the author had no concern for eloquence. Because if it is enjoined that something be observed by all, then it should be so handed down so that readers can easily understand what is enjoined. The gospels, too, and Christ’s most holy law, without which there is no salvation, are evidently written with no embroidered words.

Furthermore, it came to my mind that almost everything written in this three-part work was intended for the use of none other than our countrymen. So I feel I am not off the mark in using particular words in this work which spring rather from the soil of our Pannonia than Latium. For in such matters (as Aristotle himself testifies)³⁶⁴ one must speak as most do.

We only wanted to say this on account of those who despise everything that was not used either by Cicero or by some other distinguished writer. But in this work, as everything concerns the completion of justice’s purpose, and the principle of native laws and courts in it, we had to use simple and plain words intelligible and clear to any of our countrymen. The purpose was not to make a display of eloquence, of which in any case I have little, but to further the common weal, peace, and domestic tranquility.

I have taken great care to ensure that nothing I wrote down deviated or was foreign to the proven ways and customs and the text of royal constitutions of this renowned kingdom of yours, and that everything has credit and authority.

If, however, anything has been overlooked through lapse of memory or deficiency of ability, may your royal clemency find the grace to pardon it and ascribe it to nothing other than human frailty, which ensures that no endeavor is ever perfectly realized in all its details.

³⁵⁹ Cf. Ammianus Marcellinus, *Res gestae* 29.2.4.

³⁶⁰ Vitruvius, *De architectura* 2.2.1.

³⁶¹ Cicero, *De finibus bonorum et malorum* 1.13, 1.26.

³⁶² Porphyrius, *Vita Plotinonis*, c. 8. Circa princ.

³⁶³ The reference is too general to be traced to its source.

³⁶⁴ Aristotle, *Topics* 2.2.

For my part, as long as I live, I shall direct all my care, efforts, and thoughts to obey your majesty's every bidding and command, indeed every nod and wink. I believe that I have reached the summit of my desires if I feel that I have to some degree satisfied your majesty's.

Wherefore we, who desire to rule and govern the aforesaid kingdom of Hungary as well as our other dominions no less by laws and statutes as by peace and arms, having received this small book and having listened and graciously acceded to the pleas of the aforesaid lords prelate, barons, and nobles of our realm, inasmuch as we recognize that all the chapters contained in the same small book and the titles and articles written in it and included in our present letters of privilege, word for word without subtraction or addition, are just and honorable, and correctly touch upon and refer to the approved customs and laws of our aforesaid kingdom of Hungary and the parts and countries incorporated in and subject to it, and indeed comprehend them in plain words; therefore we have commended, accepted, ratified, and approved these, and confirmed their validity as perpetual laws, rights, and customs for the aforesaid lords prelate, barons, and all nobles and notables of our aforesaid kingdom of Hungary and all the parts, as aforementioned, subject to it, and of all their heirs and successors, by the plenitude of our royal power, and do indeed commend, accept, approve, ratify and confirm them, promising to observe them and have them observed in all its chapters, clauses, titles, and articles by the force of these presents.

In memory and perpetual confirmation of which we have deigned to grant these present letters of privilege, confirmed by the attachment of our privy seal used by us as king of Hungary. Given at Buda, at the feast of St Elizabeth the widow, on the thirty- third day of our aforesaid diet and general convention, in the year of our Lord 1514, the twenty-fifth year of our reign over Hungary etc., and the forty-fifth over Bohemia. In the time of the felicitous governance of their churches of the most reverend lords, the reverend fathers in Christ: Thomas of the title of St Martin in the Mountains, cardinal priest of the holy Roman Church, patriarch of Constantinople and legate a latere of the holy apostolic see, archbishop of Esztergom;³⁶⁵ and Gregory Frangepán, of the canonically united churches of Kalocsa and Bács;³⁶⁶ as well as the most illustrious and reverend bishops: Ippolito d'Este of Aragon, cardinal deacon of the holy Roman church, of Eger;³⁶⁷ John Erdódi elect of Zagreb;³⁶⁸ Francis Várdai of Transylvania;³⁶⁹ Francis Perényi, elect of Várad;³⁷⁰ George of Pécs, our secretary of the chancellery;³⁷¹ Peter Beriszló of

³⁶⁵ Thomas Bakócz (c. 1442–1521), bishop of Győr 1486–94, archbishop of Esztergom from 1497, cardinal from 1500, patriarch of Constantinople since 1507.

³⁶⁶ Gregory Frangepán/Frankapan (1481–1521), provost of Alba Julia from 1495, royal chancellor, bishop of Veszprém from 1500, archbishop of Kalocsa–Bács from 1513.

³⁶⁷ Ippolito d'Este (1479–1520), nephew of Queen Beatrix, archbishop of Esztergom 1485, cardinal 1493, bishop of Eger 1497 and of several Italian dioceses.

³⁶⁸ John Erdódi (1474–1519), bishop of Zagreb since 1511.

³⁶⁹ Francis Várdai (1474–1524), bishop of Vác 1509–1514, then until his death of Transylvania

³⁷⁰ Francis Perényi (1500–26), son of the palatine, bishop-elect of Várad (Oradea) 1513.

³⁷¹ George [Szatmári], bishop-elect of Pécs, privy chancellor, after 1521, archbishop of Esztergom.

Veszprém, our chief treasurer and ban of our kingdoms of Dalmatia, Croatia, and Slavonia;³⁷² John Gosztony of Győr;³⁷³ Ladislás Zálkán of Vác;³⁷⁴ Francis Csaholyi, of Csanád;³⁷⁵ Stephen Podmanyni, of Nitra;³⁷⁶ John Gúti Ország, elect of Srem,³⁷⁷ and Michael Gibárti Keserű, elect of Bosnia;³⁷⁸ and Briccius Egervári of Knin.³⁷⁹

Likewise when the following high and most regarded³⁸⁰ men held the offices of *ispán* and honors in our kingdom: Emeric Perényi, perpetual *ispán* of the county of Abaújvár, palatine of our aforesaid kingdom of Hungary and judge of our Cumans;³⁸¹ comes Peter, count of Szentgyörgy and Bazin, judge of our court;³⁸² John Szapolyai perpetual *ispán* of the land of Spiš, our voivode of Transylvania, and *ispán* of our Székely as well as our captain-general;³⁸³ the same John Szapolyai and Barnabas Bélai³⁸⁴ being bans of Severin; Stephen Bátori *ispán* of Timiș, and captain-general of the lower parts of our kingdom;³⁸⁵ Blaise Ráskai master of our royal treasury;³⁸⁶ Moses Buzlai of Gergely-laka, master of the doorkeepers;³⁸⁷ John Drágfi of Béltek, master of the stewards;³⁸⁸ John Bánfi of Lindva, master of the cupbearers;³⁸⁹ George [from] the aforementioned Bátori [family], master of the horse;³⁹⁰ Michael Pálóci, master of

³⁷² Peter Beriszló/Berislavić (1475–1520), royal secretary from 1504, royal treasurer from 1512, bishop of Veszprém from 1512, ban from 1514.

³⁷³ John Gosztonyi (d. 1527), bishop of Vác 1506, of Győr 1509, returned to studies in Paris in 1514.

³⁷⁴ Ladislás Szalkai, bishop of Vác 1513–22, later archbishop of Esztergom (1524–26).

³⁷⁵ Francis Csaholyi, bishop of Csanád (Cenad), 1514–1526.

³⁷⁶ Stephen Podmaniczky (b. before 1480–1530), bishop of Nitra/Nyitra since 1512

³⁷⁷ John Guti Ország (1487–1536), bishop of Srem 1505–22, later of Vác.

³⁷⁸ Michael Gibárti Keserű, bishop of Bosnia 1509–19.

³⁷⁹ Briccius Egervári. (b. 1473), bishop of Knin 1492–1523.

³⁸⁰ *Spectabilis* and *magnificus* were the official predicates of barons and high officers.

³⁸¹ Emeric (Imre) Perényi (d. 1519), was count palatine since 1504.

³⁸² Peter Szentgyörgyi (d. 1517), judge royal since 1500.

³⁸³ John Szapolyai/Zápolya (1487–1540), voivode of Transylvania from 1511; became king of Hungary 1526–40.

³⁸⁴ Barnabas Bélai, since 1505 ban of Severin.

³⁸⁵ Stephen Bátori (of Ecsed) (d. 1530), tutor of Louis II, 1510 castellan of Buda, 1511 also *ispán* of Timiș, became palatine in 1519.

³⁸⁶ Blaise Ráskai (d. 1518), master of the treasury 1503–1516.

³⁸⁷ Moses Gergelylakai Buzlai (fl. 1476–1519), master of the doorkeepers (Hofmeister) 1511–1519; judge royal 1517–1524.

³⁸⁸ John Bélteki Drágfi (d. 1526), master of the stewards since 1508, later became master of the treasury and judge royal.

³⁸⁹ John Lendvai Bánfi (fl. 1498–1534), chamberlain 1513; master of the cupbearers 1514–1525

³⁹⁰ George Bátori (fl. 1490–1526), master of the horse since 1507.

our royal chamberlains;³⁹¹ John Bornemissza of Berzence, *ispán* of Pozsony,³⁹² and numerous others.³⁹³

³⁹¹ Michael Pálóci, (fl. 1491–1517), master of the chamberlains 1510–1517.

³⁹² John Berzencei Bornemissza (d. 1527), tutor of Louis II, 1506 castellan of Buda, 1514–26 *ispán* of Pozsony.

³⁹³ These kinds of lists of dignitaries (not witnesses!) were characteristic of the eschatocols of major royal privileges from the thirteenth century

APPENDIX³⁹⁴

*The Verses of Doctor Hieronymus Balbus,*³⁹⁵
Prior of Pozsony and Secretary of His Royal Majesty¹

The most renowned Hungarian folk, which came from Scythian soil, Then did only love bloody
Mars's own toil.

Glorious in war truly; enriched with victories, But knowing so little of the
laws of peace.

In Hungary's courts, no codes resounded,
And written law's rules were quite unfounded.

Justice uncertain; the suit in doubt;

Unheard the plea, though loud the shout. The son robbed, O shame, of his
father's land,

His fortune stolen by another man's hand; In cases the same, the
verdict not;

Be victor now, next day in the dock.

But Stephen, exceeding his forbears in praise,
Gives generously here some strength for our days.

Wild Pannonia's laws he has put down in writing, Adding law, the sacred, to the business
of fighting.

The three parts of his book tell our kingdom's decrees, Show tribunals
uncertain the law to be seized.

Customs they teach, ones almost eternal, Scythian ones, equal to imperial.

And what many volumes might have filled, He has in a few pages here
distilled.

Procedures are clear; titles are known;

In solving disputes the way is full shown.

Each knowing his own, doing others no wrong, The weak must no longer
submit to the strong.

Seeking full justice in the good law's repose,

³⁹⁴ Printed in the 1517 edition.

³⁹⁵ Gerolomo Balbo (c.1450–c. 1535), humanist, poet, diplomat, finally bishop of Gürk, was a friend of Werbóczy, whom he had accompanied on his missions to the Worms and Nürnberg imperial diets in 1522 and 1524.

So Irus, like Croesus, to court samewise goes. You have added so much to our people's praise,

Your fame will resound till the end of the days.

As the Cretans hailed Minos, and the Greeks Phoroneus, As temples were built to the Spartan Lycurgus,

As Solon was feasted by the Athens he taught,

To your ears will the praise of Pannonia be brought.

For greater is he who arms walls with the law,

Than he who knows naught but the splendor of war.

Let arms be silent! Let justice soar!

And prove how much lesser the fell deeds of war.

Epigram of Benedict Békényi³⁹⁶ to his lord

Pursuers of passion, or of self-love and fame Don't put their minds to any great strain.

Thrice happy were you during all those days

When you did faithfully study your own people's ways.

To Inachos's folk Lycurgus gave laws and ease

And the Sicilians were nurtured by the sweet Ceres. You've discernfully gathered such rules as are known

And the laws of our homeland to us you have shown.

Epigram of the Same on a Busybody and Zoilus³⁹⁷

If your soul's eaten up by envious resent

And with what you've been given you're still not content.

Then you must have been sired by a frightful old rock, Or else you belong to some more horrid stock.

Zoilus! Stop your tongue's bilious twitching!

³⁹⁶ Benedict Békényi studied in Vienna and later served in the chancellery; in his 1514 edition of the poems of Janus Pannonius, Békényi also addressed a dedication to Werbőczy.

³⁹⁷ A pettifogging critic of Homer.

Or else of the pox you'll soon be the victim.

With your funeral done, dark Pluto's halls will allow Torments as many as
leaves on a bough.

Glossary and Select Subject Index

(compiled and updated by Zsolt Hunyadi)

Abbreviations

1222 = the Golden Bull of Andrew II

1404/I = 6 April 1404

1404/II = 21 December 1404

1405/I = 15 April 1405

1405/II = 31 August 1405

1435/I = 8 March 1435

1435/II = 12 March 1435

C 1440 = *Compilatio ante 1440*

1458Sz = the decree of governor Szilágyi in 1458

1492 Slav = the articles on Slavonia

1518B = the dietal decision of Bács

1518T = the dietal decision of Tolna

CC = charter on the Cameral Contract of 1342

Col = the law of Coloman

ColIud = Coloman's law on the Jews

La2 and La3 = the two laws of St Ladislas

Praef = *Praefatio* to the *Tripartitum*.

Prop 1417 = Propositions of 1417

Prop1432/3 = Propositions of ca. 1432/3

SStr = the canons of the Synod of Esztergom (Strigoniae)

St1 and St2 = the two books of the Laws of St Stephen

SSz = the canons of the Synod of Szabolcs (Ladislas 1)

W. = Werbőczy

Trip. = Werbőczy's *Tripartitum* (the Roman numerals refer to the Parts, the subsequent Arabic ones to *articuli*, sometimes with paragraph numbers after the colon)

Decreta and dietal decisions not listed above are referred to by year (if necessary also month) of issue.

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magistrates] *Századok* 137 (2003): 783–808.

abutter (*commetaneus*): the owner of a piece of land adjacent to another person's property; referred to usually in the context of the perambulation of boundaries (q.v.) or other matters concerning contested property rights. The testimony of abutters was given special credence at **common inquests** (q.v.) or at the rectification of boundaries (v. **boundary**). C 1440:10; 1435/I:3; 1435/I:9; 1439:29; 1447:13; 1458/I:1,16; 1464:20; 1486:77; 1500:19; 1523:50; Trip. I 30:3, 60:9–10, 86:1,3; II 24:6, 27:1, 29, 32:1, 41:2–4, 56:1, 63:1–2, 64:3–4, 74, 74:3,8,10–11, 82.

act of might (*potentia, factum/actum potentiae*; (in the first part translated as “violent trespass”): a term used for delicts, committed by noblemen, against persons and property in a violent manner. By the late thirteenth century, “criminal cases” falling into this category were fairly well circumscribed and handled in a special manner, including judicial combat as the method of trial. A distinction was made between “major” and “minor” acts of might. It seems that the term also covered varieties of feuding as well as ritualized acts of violence that were aimed at forcing the courts to quick action in otherwise protracted suits. Major acts of might included the violent attack on noble houses, the seizure of estates, the unlawful detention of a nobleman, the killing or assaulting of one (sc. rape). Lesser violent acts were classified as “minor,” but no decree, nor W. specified the precise nature of these crimes. See Gerics (1976), 61, 76. C 1440: 1,3–5,20; 1405/II:1–5,7; 1427(a):2; 1435/I:3–4,6,11; 1435/II:8; 1439:3,24,29–31; 1443:2; 1444:9–10,20,23,25,30; 1445:3,7,11,20,23; 1447:3,9,40; 1454:8,15; 1492:17,22,24,62; 1495:1,9; 1498:8,26,38; 1500:2,14; 1504:1; 1514:26–27,31,69; 1518T:19; 1521:55; 1523:48; 1526:20; Trip. I 12:1, 33:3, 46:5, 78, 78:3,5, 129:1, 132:1; II 18:6, 19:1, 21:3, 23, 25:1, 26, 27:1, 34, 39:2, 46–47, 49, 50:3, 51, 54:5, 61, 65, 67, 68:2, 71:6, 82:6–20; III 3:7,15, 5:2, 7:1, 19:1,3,5,7, 26:5–18, 31:1.

minor: 1492:55; 1504:5; 1514:51; 1523:57; Trip. II 54:5, 67, 68:2; III 3:7, 7:1, 19:3, 26:6, 10; III 31:1.

major: 1514:52; 1523:4; Trip. II 42:5, 54:4–5, 61, 65, 67:9; III 19:5, 26:5,11,16.

adoption (*adoptio*): one of the ways whereby a nobleman without heirs might prevent his property escheating to the crown by reason of **default of issue** (q.v.), i.e. by adopting another noble as his son. It required royal consent. Trip. I 8, 27:4, 49:1–2, 57:2, 63:4, 66, 67:2.

fraternal adoption (called *contractus* by W.): fraternal adoption was often used as part of a mutual inheritance pact between families, by the terms of which the one would succeed to the other's property in the event of **default of issue** (q.v.). Pacts of this sort also required royal consent. See Rady (2015) 35, 90. 1498:65; Trip. I 27:4, 49:2, 57:2, 63:4, 66, 67:2, 120:1, 131:5; II 71:4–6.

admonitio: see **notice**

age (*aetas*): no reference to age appears in the earlier laws

lawful (*legitima aetas*): for children (minors), which meant only partial legal capacity, was 12 years in respect of females and 14 for males. Trip. I 51:5, 91, 111, 115, 117, 124, 126:1, II 50:3.

non-lawful (*illegitima aetas*) (still minors) Trip. I 51, 91, 111, 113, 124.

full (*perfecta aetas*): sons and daughters reached full legal capacity by their full age, at 24 and 16 respectively. Trip. I 55, 117, 122:8, II 50:5. See Holub (1922), 78–140.

agnates Hungarian inheritance law tended towards agnatic rather than cognatic succession; the Roman law terms, however, occur only infrequently in medieval legal texts in Hungary, see for instance Trip. I 114, 116:1,3, 117–118, 119:2,4, 121, 124:4 (see also: guardianship). C

1440:8; 1435/I:4; 1439:30; 1486:5,55; 1492:68,74; 1495:13; 1500:15:5; Trip. I 16:5–6, 28, 59:6, 60:3,7, 62:2, 86:3, 127:2; II 55:4, 57:4,7, 68:6–7, 85; III 4:5, 28.

agreement, peace (*concordia*): the right of litigating parties to settle their differences “out of court” even after sentence had been passed.

alispán (*vicecomes*): in the earlier Middle Ages the deputy of the county’s *ispán* (q.v.) was also castellan of the castle in the center of the county, hence called *comes curialis*; by the late thirteenth century, he was usually a **noble retainer** (q.v.) of the *ispán* and the actual administrator of the county. During the fourteenth century, when several counties were granted as **honors** (q.v.), the *alispán*, joined by the **noble magistrates** (q.v.), handled the financial and military matters of the county and chaired the **county court** (q.v.). In the late Middle Ages the laws usually refer to *ispán* and/or *alispán* together. From the early sixteenth century, the *alispán* was usually elected by the noble community of the county. See Holub (1917) and Rady (2000), 114–115, Tringli (2013). 1290:3, 1300:1–2; 1405/II:10,15; 1411:4,6; 1421; 1435/I:2,7,13; 1435/II:7; 1447:19–20,24; 1454:15; 1486:67; 1492:53,73,75,80,94:3; 1495:10,12,15–21,24,27; 1498:35,60,71; 1500:21:2,40,42; 1504:2,9,16,18; 1514:4;6–8,11,26–29,31,33,37–39,41,45–46,49–51,60–61; 1518B:10,28; 1518T:15–16; 1521:21–22; 1523:7; 9–10; Trip. I 54, 115:4, II 28:1.

ancilla: see **bondwoman**

appeal (*appellatio*): a procedure underdeveloped (from a strictly legal point of view) in Hungarian law and largely confined to urban jurisdictions and lower seigniorial jurisdiction. (5 III 35.) Instead of appealing, unsuccessful litigants could petition the king for a **new trial**, (q. v.) or force the case to be re-opened by a **repulsio** (q.v.), **prohibition** (q.v.), or other legal remedy. Since the major courts were royal courts, there was no room for appeal. 1 St2:9; 1279:7 1405/II:11; 1443:9, 1486:53–54, 1492:72–73, 1498:71; 1500:6; 1504:7 Trip. III 4:5, 7:1–2, 10:1, 11:2–8, 35. Reference to appeal appears in regard to ecclesiastical jurisdiction prohibiting litigation in the papal court except by appeal, see e.g. SStr:24; 1440:4; 1447:33; 1471:19; 1481:17; 1492:45; 1495:10; 1498:63.

appurtenances (*pertinentiae*): while donations of **property rights** (q.v.) mainly refer to **tenant plots** (q.v.) or whole **villages** (q.v.) and their arable land, they usually imply additional lands, such as meadows, hayfields, woodlands, etc. (frequently used as commons) and valuable immovable property, such as waterways, fishing places, mills and so on. From the mid-fourteenth century, the appurtenances of an estate were usually listed and sometimes identified in some detail. On the different types and terminology of land use, especially of woodlands, see Szabó (2005). 1279:2, 1435:19, 1486:15; 1492:56, Trip. I 24:8–9, 76:1, 83:3, 89, 93:5, 134:2; II 14:30, 32, 42:5, 67:9, 76:3–4; III 16.

aratrum (= plough): usually referring not to the tool but to the size of land that – customarily – could be cultivated by one plough team. It has been estimated at very different sizes from 50 to 150 *ha*; the best argued being ca. 126 hectares, containing 150 *jugera* (Hung. *hold*, a measure of Roman origin but in the Middle Ages of very varied size; a “royal hold” was ca. 0.84 *ha*). See Bogdán (1978), 15–64, 190. Col:26; 1290:14; SStr: 35; C 1440:11; 1492:49; Trip. I 133:24–33 (*aratrum regalis*).

arbitration: many cases even though initiated in court were settled by arbitration. It was usual for parties going to arbitration to deposit a cash sum or *vinculum* that would be forfeited in the event that they refused the decision. The term originates in Roman Law but it is unlikely that the arbitrators has particular legal knowledge.

archdeacon (*archidiaconus*): since the end of the eleventh century the ecclesiastical administrator of a district that usually coincided with a royal county, four or more of which

constituted a diocese. Later the archdeacon (also called archpriest, *archipresbiter*) moved to the episcopal see and became a (mainly judicial) administrative officer of the bishop, entrusting a part of his office to a priest of a major parish (*plebanus*) as vice-archdeacon (*vice archidiaconus*). See Szentirmai (1956, 1957). Col: 58–61, 65; SStr:47,65 1439:34; 1486:63; 1492:29; 1495:6; 1498:51,53; 1514:60; 1518B:18.

assumption oneris: see **burden**

astatio falsi termini: see **frivolous prosecution**

attorney (*procurator*): in all suits proceeding before the principal courts of the realm, excepting only those actions introduced by a “personal prohibition”, the parties could be represented by attorneys. Few of these had received formal legal education, most having acquired their skills through pupillage (*in patvariis*) or by previous court service (see Trip. II. 22). In order to represent a party in court, the person had to present **letters of attorney** (q.v.). Rady (2015) *passim* s.v. lawyers

appointment of: 1492:97; Trip. I 111, 126:2, 129:2; II 13:6–8. (see also **letters of attorney**)

recall of: a statement made by an attorney might be retracted by his client. Such a retraction (*revocatio*) carried with it a fine, the size of which depended upon the stage that the trial had reached. It was also possible to dismiss an attorney, which usually had the consequence of forcing a **new trial** (q.v.). 1492:51; 1500:15; Trip. II 75:6,12–13, 77:5–6, 79–81; III 3:2, 6:3–4, 11:8.

aucarius: the term for perjurer in Hungarian Latin; see Trip. n. 253.

aviticitas (Hung. *ősiség*): the principle of inheritance within a kindred elaborated in the course of the Árpáadian period and codified in 1351 Pref. Rady (2015) 85–92; see **inheritance, division**.

babka: originally Czech coin of minor value, equal to 1/3 of the **Kreutzer** (q.v.), which became widespread during the rule of King Louis II. In Hungarian it became *batka* and acquired the proverbial meaning of ‘very low value’ (“not worth even a [wooden] *batka*”) Laszlovszky (2018) 295–308. 1521:6[14]; 1526:39.

bailiff (in the early centuries called *pristaldus*, probably from a Slavic loan-word, **pristav*; later *homo regius*, i.e. royal bailiff, or *homo* of any other judge): the executive officer of a judge, who delivered summonses and assisted in the process of trial and punishment; also, an officer of the king, count or other lords, who performed similar tasks. In early laws, the bishop’s man collecting the tithe is also called *pristaldus*. In the eleventh century the bailiff may have been identical with the *bilochus* (q.v.). From the thirteenth century it was prescribed that the bailiff be accompanied by a witness of a **place of authentication** (q.v.) recording the action. It seems that in lawsuits bailiffs were selected by the litigants from among the nobles of their counties. Royal clerks were also commissioned as specially delegated royal bailiffs with powers more extensive than regular **royal bailiffs**. SSz:40; La2:8,12–13, Col:28–30,33,41; 1222: 9, 1231:10; c.1320:1; 1435:8,10; 1444:25; 1458:27, 1486:6 1492:14,43,53; 1495:9,16; 1498:43; 1504:16; 1523:57; Trip. I 14:13, 41, 86:1–3; II 12:2,4, 19, 20:2, 21, 22, 27:4, 41:3, 55:1–2, 56:1, 57:5, 60:1, 68:5; 74:10,13, 86:3; III 26:7.

ban (*banus*, Hung. *bán*, from Avar *bajan* or Slavic *ban*, *pan* = lord):

(1) the royally appointed governor of the kingdoms of **Croatia-Dalmatia** (q.v.), and/or the region called **Slavonia** (q.v.). In the twelfth to thirteenth centuries members of the dynasty were frequently appointed bans with a ducal title. The political importance and income of the ban was significant; he was always a member of the royal council. 1222:30; 1290:28; 1486:6,21,51,53,68,73; 1492:8, 33; 1498:70; 1514:67; 1518T:10; 1518B:6; Trip. II 65:3.

(2) royal officer in charge of one or more of the southern border areas, called **banates**, (q.v.), from the late thirteenth century. The bans were usually (but not necessarily) members of the royal council and, with the increase of the Ottoman threat, holders of crucial strategic positions. See Kristó (1979), 118–38. 1478:11; 1492:8; 1495:36; 1514:67; 1518B:21 Trip. I 14:15, etc.

banate (*banatus*): territories south of the River Sava and along the Lower Danube (south of the Carpathians), controlled or claimed by the kings of Hungary as “buffer areas” against Byzantium, later Serbia, Bosnia, and finally, the Ottoman Empire. Their area and existence depended on the power relations between Hungary and her southern neighbors. Banates were (from east to west) those of: Severin/Szörény (ca. 1228–1524), Mačva/Macsó (1247–1496 [from 1479 titular]), Sal/Só (post 1253), Srebernik/Szebernik (1404/64–1512), Uzora/Ozora (post 1253), Jajce/Jajca (1476/78–post 1529). Most of them had been lost to the Ottomans by ca. 1500. (KMTL 1994; Font–Fedeles–Kiss (2007), 85–92). Occasionally, the office of a ban was also called *banatus*. 1492:8.

bandlerial lords (*domini banderiatii*): major office holders of the realm who were obliged to lead their *banderium* (q.v.) to field from the late fourteenth century onwards, based on their landed estates. In the fifteenth century there was an informal division among the banderial lords, as major (palatine, voivode, etc.) and minor ones (master of the treasury, count of Temes). 1492:20–22; 1498:15,21–22; 1500:21. Prop 11432:21–22; 1445:21; 1447:8; 1454:2; 1458:2; 1459:1,3–4; 1492:19–21; 1498: 15,21–22. 1518B: 2[10], 11[20], 12[21].

banderium (from the Italian *bandiera*, ‘banner’): troops supplied by the king, the queen, the **barons** (q.v.) and prelates (later also by other major landowners) in return for their landholdings. Probably introduced in the late thirteenth century, they were regulated systematically in the fifteenth and sixteenth. The size of a *banderium* varied from 400 to 1000 horsemen, mainly heavy cavalry (occasionally light cavalry, **hussars** [q.v.]). Those obliged to field a *banderium* were referred to as **bandlerial lords** (q.v.). See Veszprémy (2009), Hermann (2012).

baron (*baro*): originally (after ca. 1208) meant the major officers of the kingdom appointed by the king and usually listed in the eschatocol of privileges. From the fourteenth century the term was also applied to those who held high governmental offices, or positions at court (*veri barones*) and therefore enjoyed legal privileges. From the mid-fifteenth century onward, the meaning of the term was extended to include magnates and great landowners who were not necessarily holders of a baronial office. The Trip. defines the *veri barones* in I 94 as the holders of high offices in the king’s and the queen’s court. By the late fifteenth century, the baronial class also included the descendants of those families which had traditionally occupied high rank. These were known as the *barones naturales*, but W. disparages their status as *solo nomine* (see Trip. I 93:4). Baronial offices: palatine, judge royal, chancellor, voivode of Transylvania, bans, *ispán* of the Székely; captain-general of the lower parts, king’s and queen’s master of the horse, master of the treasury, masters of the doorkeepers, master of the stewards, master of the butlers, *ispáns* of Temes and Pozsony (all *ispáns* until the mid-fourteenth century). 1231:4; 1267:3,5; 1290:1,2,6,18,21; 1298: 8,18; C 1440:1,3,7,17; 1427(a):4,5; 1435:5; 1439:5,8,29; 1443:3–4; 1444:15,17;24–25,29; 1446:2,7; 1447:8,17; 1454:2 1458:2, 1459:4,10,15; 1492:19–21,90,108; 1495:8,19,25,37; 1498:1;16:1, 21–22,55,70; 1500:10:8–9,10:14; 1518B:1; Trip. I 2:1–2, 3, 5:1, 6:4, 9:7, 10, 13, 23, 29:1,9, 40:1, 57, 64:1–2, 82:7, 84:3–4, 89, 93:3–4, 94, 111, 133:5; II 1, 4, 13:5,7, 14:12,22,26,32,35,42,49,50, 23, 27:6, 40, 43:2, 54:3–4,8, 67:1, 75:1; III 3:3,5.

betrayal of fraternal blood (*proditio sanguinis*): in essence an attempt to deny inheritance rights to an eligible kinsman. W. somewhat overemphasizes its legal character. See Fügedi (1998). Trip. I 38–39, 44.

birsagium (Latinized form of the Hungarian word *bírság*): see **fine**

bilochus: see **judge, bailiff**

blood relatives (*consanguinei*): in Hungary, usually counted from the common ancestor to the fourth degree, especially in cases of marriage or **prefection** (q.v.); for a table of consanguinity from the early sixteenth century, see Fügedi (1998), 10–17. 1462:2; Trip. I 14:5–5, 29:8–9, 47:3, 65:5, 106–8, 113:5, 114, 115:1, 116:1, 117:3, 124; II 55; III 29:1.

bondman/woman (*servus, ancilla*): the general term we used for the two Latin expressions for male or female servile persons, which in the texts of the eleventh century may have equally referred to chattel slaves, to dependent, unfree cultivators and to peasants with small properties subject to seigneurial control; hence the more commonly used terms “slave” or “serf” have been avoided as possibly misleading. Considering recent research, we abandoned this “euphemism” but shied back from coming down on either side of the debate, hence rather kept the Latin original, *servus*. See Györffy (1983), 160–170; Bolla–Horváth (1981) now also Solymosi (2001) and Sutt (2005). [*servus*] St1:14,25,28–9; St2:3,18; SSz 42; La2:2,12,14; La3:4–5,8,13; SStr:24,28,87; [*ancilla*] St1: 19,20,28–29; SSz:2; Col:77; SStr:62.

border (*confinia, indagines*): a fairly wide area around the settled parts of the Carpathian basin (at least until the mid-thirteenth century), with wastes and obstacles protecting the center of the kingdom, permitting access only through gates (*portae*); the *ispán* in charge of the generally larger counties that bordered the frontier was also commander of border guards (*őrök*) and controller of the access routes, hence an especially important royal officer (see Göckenjan 1972, 5–11.). After the settlement of these areas, and their gradual incorporation within the county system, the border referred to the frontiers of the kingdom. La2:17; Col:76; 1222:25; 1435/I:14,22 1435/II:1; 1439:3,14,29,32; 1492:17–18; 1495: 45; 1514:54,70; 1518B:31,39[47]; 1523: 51; 1526:30.

~ **castles**: in the fifteenth and sixteenth centuries the frontier forts in the south became a major concern of legislators, see Szakály (1982). 1435/I:22; 1471:6; 1492:15; 1495:14,33,35–36; 1498:21;42–43,56; 1504:26; 1514:59,64,68; 1518T:1,10,14,17; 1518B:1,18[19],21,30; 1521: 2[10sq]; 1523:17; 1526:4,15; Trip. I 14:16; for the development of the frontier fort system, see Pálffy (2000).

boundaries (*meta*): of estates, villages, etc.

perambulation of (*reambulatio metarum*): A landowner was entitled to request the perambulation of the boundaries of his estate in company with a **royal bailiff** (q.v.) and in the presence of **abutters** (q.v.) and neighbors. The **place of authentication** (q.v.), whose witness was also present, described in writing the landmarks, boundaries, and at times its abutters in a letter of perambulation either in full charters (*littere reambulatorie*) (q.v.) or as a short notice (*metales*) and also whether any abutters and neighbors objected (*contradictio*). 1435/I:8–11; 1486:77; 1492:53; Trip. I 33:1–2, 76, 78:7, 131, 134:6; II 18:4, 21, 35, 39:2, 86:10.

adjustment of (*rectificatio metarum*): Trip. I 84–87, 134:6; II 39:2. (See also **prescription**.)

brothers (*fratres carnales/uterini*): brothers having the same father or mother, respectively. W.’s use of the two expressions does not seem to allow a distinction between full and half-brothers. The term *fratres* in general usually refers to **kinsmen** (q.v.). 1298:6; C 1440:4; 1435/I:13,18; 1454:6; 1459:25; 1464:8; 1486:7; 1498:1:7; Trip. I 40:1, 43, 46, 49:1, 50, 61, 67, 100:4, 114:1, 121; II 34:6, 37:3.

bullatus: clergy claiming an ecclesiastical benefice on the basis of a papal grant (a “bull”). From the turn of the fourteenth–fifteenth centuries several legal attempts opposed this papal policy; the term occasionally was also used for papal collectors. 1440:4; 1486:83; 1492:29.

burdens, assuming of (*assumptio onerum*): the alienation of inherited land required the consent of all the aliener’s kinsmen since they were considered to have a concurrent interest in the estate. Since it was not always possible to find these and so obtain their consent, the aliener might proceed with the transaction by “assuming the burdens and grievances” of his missing relatives. The *assumptio onerum* might be misused to deprive kinsmen of their legal rights to an estate. See Rady (2002) and Rady (2015) 93–7. Trip. I 51:6, 58:1, 59, 61, 124:5.

burghers (*cives*): see **cities, free royal**

calumnia: see **frivolous prosecution**

capital punishment (*sententia capitalis*): loss of life and property but in fact usually only one of the two, since this punishment included the obligation to give satisfaction: if physically executed (which happened very rarely in practice), the victim’s heirs retained his estates (Trip. II 55). If the condemned was pardoned by the king or spared by his adversary, then the estate was confiscated, with a portion of it going to the adversary (Trip. II 57). This encouraged noble litigants to arrive at a compromise solution which fell short of outright capital punishment (cf. **agreement, peace**). The king retained the right both to pardon a nobleman for a capital offence and, simultaneously, to return his estate. 1427(a):3; 1427(b):6; 1435/I:8,10; 1439:28; 1443:2; 1444:25; 1445:4,11,19; 1447:9; 1454:12–13; 1459:17; 1471:19; 1486:16; 1492:74; 1495:9; 1498:8,38,43; 1514:9,13,40; 1521:[36]; 1523:50,54; Trip. I 15, 16, 20, 56:2, 59:6, 60:3, 68:1, 121:1, 134:2; II 20:4,10, 27:8, 39, 41:6, 42:4–6, 43–44, 51:4, 54:7, 55, 57–58, 61, 65–67, 70, 83:4; III 4:3, 5:4, 11:7, 19:7, 20:1, 21:2, 26:5,10–11,17. See also **infidelity**; Nógrády (2009) 305.

castellan (*castellanus*): the late medieval name for the royal or seigniorial officer in charge of a castle; the castellan (or constable) of the castle at the county seat was earlier known as the *comes curialis* and acted very much as the deputy of the *ispán* (see: *alispán*). In earlier laws, *castellanus* meant a **men of the castle** (q.v.).

castellum: see **fortified residence**

castle (*castrum*): A fortified site (occasionally walled towns or monasteries) including earthworks (tenth to twelfth centuries), wooden or stone walls, defenses, and towers (from c. 1250 onward). In the first centuries of the kingdom, castles were mainly county seats and exclusively in royal hands; private castle building began in the late thirteenth century (after the Mongol invasion of 1241). In 1300 there were about 150 castles in Hungary; see Fügedi (1982) and (1986). The majority came by the fifteenth century to be owned by great landowners; see Engel (2001). The system of border defense built around castles (see above, s.v. **border**) developed in the mid-fifteenth century – by which time there may have been more than 400 castles in the entire country – withstood Ottoman attacks into the early sixteenth. The exact difference between *castrum* and *castellum* cannot be established, we translated the latter as “fortified residence” (q.v.). St2:18; La2:13 1435/I:6,22; 1435/II:2–3; 1439:5; 1444:12; 1445:4; 1446:2; 1447:26; 1458/1:6; 1464:6,10; 1471:29; 1492:10,15; 1495:33,36; 1498:43; 1518B:21; Trip. I 4, 14:10, 24:9, 37:9, 84:1, 98:4–5, 133:6; II 14:44, 76:3–4. (see also: **castellan, castle-warrior, fortified residence, men of the castle**)

castle warrior (*jobagio castri*): a dependent freeman obligated to military service, attached to a royal castle and commanded by the *ispán* in the eleventh and twelfth centuries. With the transfer of many castles to private hands and the transformation of the military system along Western models, these militiamen were gradually replaced by the noble levy. As proprietors

of small possessions on former castle estates, many a castle warrior rose into the lesser nobility. This social category gradually vanished during the fourteenth century. See Zsoldos (1999) and Rady (2000). 1222:19; 1231:8,14; 1279:3.

centurion (*centurio*): The officer in charge of royal guards, border guards and other servile elements on royal estates, who also functioned as a collector of taxes. He was assisted by the *decurio*, in charge of a tenth of a centurionate; see Györffy (1983). Both offices vanished with the dissolution of the servile settlements on royal domains in the late twelfth century. However, the terms show up in the decree of 1514, probably as an archaism. La3:1; Col:79; 1514:14, 37, 39.

chamber's profit (*lucrum camerae*): Originally the king's income from minting and especially from the repeated exchange of better money for less valuable coins; in this form first mentioned in 1231, but certainly earlier than that date. By the late thirteenth century, by which time the original way of gaining this income has been abandoned, the chamber's profit had become a direct tax but retained its name until the end of the Middle Ages. (During King Matthias's financial reforms it was renamed *tributum fisci*, but the new appellation was soon dropped, once the old exemptions were cancelled) Laszlovszky (2018) 255–64. 1458/2:33,39,44; 1459:6,20; 1464:22–23; 1467:1,4–5; 1471:11; 1474:4,6; 1478:1–2; 1492:26; 1504:1[5]; 1518B:45; 1526:40.

chapters and convents (*capitula et conventus*): see **places of authentication**

citatio (*evocatio*): see **summons**

brevis: see **summons, short**

cum insinuatione: see **summons, terminal**

city, free (*civitas [libera]*): city (usually walled) with a privilege granting the right of the citizens or burghers to elect their magistrate and other liberties, bestowed by royal charter (since the early thirteenth century). Their number and jurisdictional status was fluid, see thus the different lists in 1498:38; 1500:24; 1514:1–2; Trip: III 8 and III 10. Some were “royal free cities,” others subject to the jurisdiction of the **master of the treasury** (q.v.), others mining towns with special privileges; see Kubinyi (1972), Gönczi (1997). 1267:5; 1435/I:15; 1454:9; 1498:40; 1500:33; 1514:23,25; Trip. I 6:1; I 78:2; III 8–20.

civilis, civis: a term with reference to a citizen of a free city with the right of electing the judge and the twelve sworn magistrates of the city council. The first communities emerged around **hospes**-groups (**guest**, q.v.) of foreign origin (Germans and **Latins**, q.v.) at the turn of the twelfth–thirteenth century. Burghers of Hungarian cities were usually German-speaking, at times even incorporating “assimilated” local nobility (e.g. Sopron, Bratislava), although in the fifteenth century Hungarian-speakers were regularly extended citizenship rights. CC:5,25; 1405/I:3–4,6,10–14,18; 1405/II:4,11; 1435/I:15; 1447: 18; 1467:1; 1492:91,102,105; 1498:35,38,41; 1500:33; 1504:19; 1514:58; 1518B:27; Trip. I 6, 78; III 8–20, 33. See also **men of the castle, city, free**.

civitas: see **county; or city, free royal**

clan: see **kindred**

cognates: see **agnates**

collecta: the general term for royal taxes, which may have originated in payments replacing military service, collected from a wide range of population from the twelfth century onward. Laszlovszky (2018) 255–64. 1222:3; 1231:3; 1290:7; 1298:10,15,18; 1518B:18,26; Trip. I 9:5.

colonus: a late antique term occasionally used for **tenant peasants** (q.v.) in the late Middle Ages. It has been argued that the *decreta* of the early sixteenth century – as well as W. –

implied the post-1514 servile condition of peasants when using this term for tenant peasants (in contrast to *jobagiones*, q.v.), but it is more likely that it was merely borrowed from classical literature regardless of social conditions. 1492:89; Trip. I 34:5, 67, 85:2, 93:3, 134:2; II 14:11; III 1:3, 3:15, 27:8, 30:6,8, 33:4–5, 35:1.

combat, judicial (*iudicium duelli*): judicial combat or duel, as a form of ordeal, survived in Hungary into the late Middle Ages, despite ecclesiastical protests. By the fourteenth century, combat was often performed by champions. 1435/I:11; 1471:28; 1486:18,55; 1492:37; Trip. II 2:5.

abolition of 1492:37; Trip. II 2:5.

defeat in (*succubitum duelli*): the same penalty as would have been enacted had one of the parties, or their champions, been defeated in combat.

comes, comes comitatus, comes parochialis: see *ispán*

comes camere: see **count of the chamber**

comes curiae regis: see *judex curiae*, **judge royal**

comitatus: see **county**

commetaneus: see **abutter**

composition (*compositio*), or **man price** (*homagium*): a sum of money (in earlier laws frequently expressed in cattle or other valuables), which was owed by a person (or his kindred) who had killed, maimed, or otherwise harmed a man or woman, paid to the kindred (or family) of the victim. This system, widespread among Germanic peoples of the post-migration age, aimed at replacing the extended blood feuds arising from the obligation of revenge but continued in Hungarian law until early modern times. The amount paid (the *wergeld*) was based on the victim's or the culprit's social and legal status and the nature of the crime. According to the Trip., the man price of barons was 100, and of nobles and burghers 50 marks. (see also **mark, homagial**) Composition and *homagium* became blurred in practice with the fine of the head and to a lesser extent the **fine of the tongue** (q.v.). Rady (2015). St1:22,35; St2:6–8,14,16–17,20; 1427(a):3; 1435/I:7; 1439:33; 1447:9; 1458:35; 1459:14; 1464:6; 1471:28; 1481:13; 1486:33–34,39; 1495:9,19:5; 1498:61; 1504:17,23; 1514:8,14,27–29,37–38,42; 1521:2; Trip. I 2, 59:4, 132; II 30:5, 32:1, 36:1, 40:2, 43:2–3, 44:7, 51:2, 57; III 2:2, 5, 9, 21:3, 26–28, 31:1, 32, 33:5.

in Slavonia and Transylvania: Trip. III 3:1,8, III 4:1.

of the living: 1492:85[1],90; Trip. III 3:8,14.

comprovincialis: see **nobles of the same county**

concordia: see **agreement, peace**

condescensio (cause): see **failure (of a case)**

confinia: see **border**

congregatio generalis: the term generally used for the **diet** (q.v.) of the kingdom where barons and prelates as well as deputies of the **counties** (q.v.) – occasionally a great number of nobles attending in person – deliberated on the affairs of the realm: 1290:Preamb.,18; 1435/I:4–5,7,20–22; 1439:30,32; 1462:1; 1486:1–2; 1492:35–36; Trip. II 75:1; III 3:10. The term might also be used to refer to a county assembly: e.g., in 1439:29,32; 1447:2; 1458/I:1,16; 1458/2:41; 1471:22; 1492:35–36; Trip. II 14:30. See also Bónis (1965) and Tringli (2009).

congregatio proclamata: see **extraordinary county assembly**

consanguinei: see **blood relatives**

contradiction (*contradictio*): protest or objection by co-inheriting kinsmen, **abutters** (q.v.) or neighbors to the institution of a new owner or at a perambulation (of **boundaries**, q.v.) of properties or at the alienation of an estate, which could be done by (at least symbolic) violence at the site and/or recorded by a **place of authentication** (q.v.) in a letter of protest (*littere prohibitorie*, q.v.).

contract: see **adoption**, **fraternal** (used in this sense in Trip. and probably earlier as well); see also **inheritance**, **mutual**

council, royal (*senatus, consilium*): an informal body consisting of the principal royal office holders who advised the king; the council might also include **barons** (q.v.) and lesser nobles who happened to be visiting court at any one time. In the later Middle Ages the council became a more formal gathering, presided over by the master of the doorkeepers for the purpose of legislation (as a forerunner of the later upper house of the **diet**, q.v.). The list of names of spiritual and secular office holders in the dating clauses of royal privileges and *decreta* suggest the circle of men who constituted the council at any moment, see *passim*. From the fifteenth century onward, the council might include beside barons and elected representatives of the lesser nobility, the ambassadors of other kingdoms and territories, especially envoys from the papacy, Austrian Habsburg lands and Poland. The representation of the lesser nobility was several times decreed, but they had little influence in the council. See Kubinyi (2011). St1:14–15,20,29,31,34; St2:2; Col:Preamb.1; 1446:8; 1447:39; 1486:46; 1498:7; 1500:10–11; 1518B:39–40; 1526:17; Trip. I 2:3.

count of the chamber (*comes camerae*): an officer in charge of the mint, the customs, and the administration of the royal salt mines from the early thirteenth century onward. These positions were in the thirteenth century frequently farmed out to Jewish and Muslim merchants and moneylenders. Contracts made with these men are our best sources for the financial reforms of Charles Robert (Charles I), Laszlovszky (2018) 279–94; see 1222:24; 1231:18; C 1440:6; 1411:4; 1427(a):8–9; CC: *passim*.

count of the court (*comes curiae*): see **judge royal**

county court (*sedes judiciaria ~ sedria*): the local court, usually presided over by the *alispán* (q.v.). c.1320:1; 1421; 1435/I:1–2,4; 1435/II:7; 1467:7; 1471:28; 1492:37,42–43,69,73; 1492 SI:9; 1495:16–17,19,29,37; 1498:15,71; 1504:7–8; 1514:39; 1518B:42; 1523:50; Trip. I 14:12; II 27:1, 42:4; III 2:5, 6–7, 19:1, 26:4,6, 27, 35.

county (*civitas, comitatus, mega*, Hung. *megye*, probably from a Slavic word meaning “boundary”): a complex administrative, judicial, and military unit built around the royal domain, the organization of which had probably begun by the rule of King Stephen I, with a castle (earthwork) in its center where the *ispán* and, apparently, the **archdeacon** (q.v.), in charge of the churches of about the same region as the county) also resided. The *ispán* of the county was in some way also the superior of freemen living in his area. With the spread of settlement and the reorganization of border wastes and forests their number had grown to more than seventy by the end of the thirteenth century. The decline of the functioning of the co-existent *várispánság* (also called *comitatus*) led to the transformation of the county between 1270 and 1320. The changes were manifested in the appearance of the county court (*sedria*, q.v.) and the replacement of the *várispán* by the *alispán* (q.v.) as the deputy of the *ispán* (q.v.). Its elected officers (see **magistrates**) and their regular assemblies became the main seats of local administration and of justice (with or without the presence of the itinerant **count palatine** (q.v.). The deputies of the counties attended the general assemblies (**diet**, q.v.) called by the king. The “new” county functioned well until the mid-sixteenth century by which time the noble corporation had been fully shaped as demonstrated by the appearance of county

congregations (assemblies of the local noblemen), the growing importance of the circuits (Hung. *járás*), and the activity of permanent jurors; see Györffy (1976), Tringli (2009) and Tringli (2011).

Croatia and Dalmatia: the kings of Hungary acquired these kingdoms at the turn of the eleventh to twelfth century, thus they are often referred to as *regna*. The constitutional relation between Croatia and Hungary became a contested issue only in modern times. The territory enjoyed a special status and differing legal procedures throughout the Middle Ages; it was governed by its own **ban** (q.v.), frequently together with Slavonia (q.v.) Prop:21; 1435/I:1; 1486:6,68; 1492:8,33; 1498:21,70; 1500:6; 1504:30; 1514:67; 1518T:10; 1518B:6; Trip. I 1:4,94:2; II 65:3; III 1:1,2.

crown: see **Holy Crown of Hungary**

Cumans: Kipchak Turkic nomads who were settled on the Hungarian Plain in the 1240s and who were permitted to retain some of their customs. Their social and cultural integration was complete by the beginning of the sixteenth century but they preserved their administrative autonomy until the end of the seventeenth century and separate Cuman practices persisted until the nineteenth century. See Pálóczi-Horváth (1989), Berend (2001) 1279:2–4,6–9; 1298:Preamb; Prop:21; 1444:4; 1454:9; 1459:20–21; 1467:1; ArtPal; 1498:22,47–48; 1514:3,23,29,41,54; 1518B:14,31; 1521:39[47]; 1523:51; 1526:30; Trip. III 25:1–2.

decurio: see **centurion**

default of issue (*defectus seminis*, often just *defectus*): the lack of legitimate (male) heirs among the **co-inheriting kinsmen** (q.v.) after the death of a nobleman, unless one of the daughters was preferred (see *preferentia*). Considering the wide circle of relatives with inheritance rights, *defectus* was crucial for the escheat of **property** (q.v.) to the crown and thus becoming available for **donation** (q.v.). See also **property right, devolution of**. 1435/I:17–18; 1481:15; 1486:26; 1492:62; 1514:49,62; Trip. I 13:4,17, 21:4, 22, 24:10, 26–27, 29–30, 32, 37:8, 47–48, 50, 60:8, 63:4,6, 64:1, 65–66, 67:2–3, 70:4, 82:10, 84:4, 131:5; II 14:41, 71:6, 76:3.

denarius: see **penny**

descensus: originally the right of the king and his officers to demand hospitality for themselves and their retinue; it was gradually replaced by a payment (probably first in kind, later in money) due to the royal treasury; Laszlovszky (2018) 255–64. 1222:3,15; 1231:4; 1267:1; 1290:7,28; 1298:10; 1439:18; 1492:28; 1498:69. From the fourteenth century onwards, lords also expected *descensus* from their tenant peasants either in cash or in kind. 1467:8.

deserted land (*predium*): a somewhat imprecise reference to certain properties. In the early Middle Ages *predium* used to mean small agrarian settlements or granges; see Szabó (1963). By the fourteenth century, however, most of these were in fact abandoned; thus, the word acquired the general meaning of empty but not always uncultivated plots, see Kubinyi (1987), Neumann (2003). SSz:23; SStr:31; 1222:9,16,21; 1231:10,13; 1290:6; 1474:4; 1500:29; Trip. I 24:5–6.

dicator: see **tax collector**

diet (*diaeta*): the term might refer either to a session of the **royal council** (q.v.) or to a gathering of the nobility at which nobles attended in person or through delegates. The Golden Bull of 1222 permitted the *servientes regis* (q.v.) to assemble annually at the time of the royal assizes, confirmed in 1231. In 1267, the counties were instructed to appoint delegates for this purpose. During the Angevin period few assemblies and annual gatherings were called. The succession crisis and onset of the Turkish wars in the 1380s and '90s introduced a new phase in the diet's history. The right of consultation that had belonged to the barons in the royal council was accordingly extended to the larger noble community. In 1385 and 1397, every noble county

sent four delegates to the diet; in 1435 the assembled nobles were grandly styled as *totum corpus regni representantes*. After 1405 Sigismund did not summon another diet for thirty years. The renewed succession crises of the 1440s and 1450s gave new significance to the diet. Diets assembled more or less every year, sometimes several times and it is from this time that we have earliest evidence of ‘mass diets’ at which nobles assembled individually. During these decades the diet acquired the right to elect the king in the event of a contested succession and to approve extraordinary taxation. In 1458, a mass diet of the nobility elected Matthias Corvinus king. Under Matthias, diets continued to be regularly held and at times of political crisis the king might instruct all nobles to assemble. During the Jagello period (1490–1526), diets were held annually, and these were frequently mass diets with up to 10,000 nobles in attendance. The barons and prelates of the council met separately to the common nobility who, on account of their numerousness, usually assembled in the open air on the field of Rákos, near Pest. There was no separate chamber for the clergy; these were represented through the prelates of the council, thus contributing to the weakness of the clerical estate. The principal cities of the realm were only intermittently present at the diet. Although regularly requested to attend in the Jagello period, after 1508 no urban delegates were present in the diet. See Bónis (1965) and Bak (1973). On the circumstances of the meeting of the diet, see the preamble of the decrees. 1492:4,6,108; 1492 Slav:11; 1495:3,25,31,37; 1498:1,45; 1504:13; 1518B:28,42,44; 1521:3; 1523:9; 1526:1,3,16–17,34; Trip. I 14:12, II 20, 71; III 3:10.

division (*divisio*): periodic division among kinsmen, usually brothers, of noble landed property that was according to Hungarian custom held in common by the kindred or at least by the family. There were two basic types of division. Family property could be divided village by village. In this case, each branch received whole estates as their share. In the other type each branch of the kindred received its proper portion from each estate, thus the estates and villages were subdivided, forming so-called *portiones possessionarie* (partitioned estates). While the first type of division was usual in the earlier Middle Ages up to the mid-fourteenth century, the latter became the dominant form of division after that time. The partitioning of family estates had serious consequences especially upon more numerous families, leading to their impoverishment. See Engel (1999). 1298:6;

C 1440:4,10; Trip. I 5:1, 40–41, 42:4, 43–47, 50–53; 67:1, 119:4; II 15:2. Curiously, the principles of division and the respective rights of collateral branches are not addressed in any legislation.

divisional kinsman (*frater condivisionalis*): a person entitled to a share in inherited property, stemming from the custom that landed property should be partitioned equally among sons or among nearest male relatives in the paternal line (*aviticitas*). Thus, claims could be raised for generations after a **division** (q.v.) of commonly-held clan property had been made. Trip. I 40–47.

domus nobilitaris: see **residence, noble**

donation: the general form of obtaining landed property in medieval Hungary, usually from the king, almost always in perpetuity and, unless otherwise stated, up to the fourteenth century to the entire co-inheriting kindred or family, but, thereafter, only to the recipient’s heirs and descendants. Land donated by the king was considered the mark of nobility. Land that had escheated to the ruler on account of **default of issue** (q.v.) or of the **taint of infidelity** (q.v.) might be petitioned for by a prospective grantee and was seldom denied. Such donations were often specified as granted from *bona donatalia*. Thereupon a **letter of command** (q.v.) was issued in the royal chancellery – apparently without any inquiry into the status of the property

– and sent to a **place of authentication** (q.v.). The chapter or convent sent out a witness (*testimonium*) together with a **royal bailiff** (q.v.) in order to perform the **institution** (q.v.) of the recipient in the presence of **abutters** (q.v.) and neighbors. Providing no one made a **contradiction** (q.v.), the place of authentication, on the report of the agents, sent a letter of institution (*littere statutorie*, q.v.) back to the royal court, a copy of which served as a proof of property rights. On occasions, landowners donated property of their own to their retainers. In the event of the retainer dying without heir, the land usually reverted to its original owner. 1279:8,10; 1290:4; 1298:7; C 1440:20; 1435/I:12; 1444:14; 1453:3; 1464:23; 1481:15; 1486:23; 1492:60; 1495:2; 1504:10; 1514:53; Trip. I 4, 6, 11, 13, 15, 22, 24:10. (see also **new donation, noble retainers**)

dower (*dos, dotalitium*): originally the “price of the bride” paid by the bridegroom’s family to that of the bride, then a grant of the husband to his wife on the occasion of their marriage. (In the printed DRMH 1–3 *dos* was erroneously translated as dowry.) The dower was usually given both in land and chattels, but the woman did not have free disposal of the land so given, which was managed together with her husband’s goods. After her husband’s death, the widow could keep the dower unless she remarried. In this case, the kinsmen of the deceased husband redeemed the dower from her. The term often also included those valuables that were brought by the bride in the marriage (*res parafernales*), which remained with the wife. Redemption of the dower might subsequently be used as evidence of the kinsmen’s claim to the property. See Fügedi (1998), 24–6. 1222:12; 1231:9,12; 1290:23; 1435/I:18; 1458/I:9; 1458/II:35; 1462:3; 1464:17; 1486:26; 1492:46,64; 1500:16; Trip. I 27:2, 28, 29:4, 30:7, 59:2, 67:2, 78:5, 88, 93, 94:3, 95–97, 98:1–3, 101:3, 102:2, 103–106, 109, 111:7, 129:1, 134:3–4; II 18:3, 24, 43:4, 60:4, 70:3,5, 85:4; III 3:3–5,9, 7:3,5.

duke (*dux*): probably following nomadic customs and reinforced by Slavic examples, the governance of the realm in eleventh-century Hungary was frequently divided between the king and a younger member of the dynasty (brother, nephew). The original institution fell into abeyance under King Coloman; in the twelfth and thirteenth centuries royal sons and other members of the dynasty were frequently granted the governance of **Croatia–Dalmatia** (q.v.), or a **banate** (q.v.) with the title *dux*. La3:3; Col 9,11–12,36. The title was revived in the early 1490s when Matthias’s illegitimate son, John Corvin, was made duke of Slavonia.

emenda capitis: see **fine of the head**

emenda lingue: see **fine of the tongue**

estimation, judicial (*estimatio, estimatio*): estimate of the value of immovable and movable property, usually on the traditional basis (*estimatio communis*), but occasionally a tenfold (*estimatio perennalis*) valuation for immovable property was used. The low common estimation assured kinsmen’s and even neighbors’ and abutters’ ability to purchase (alienated or judicially-seized) property, and also reduced the burden placed on families having to pay the **filial quarter** (q.v.) in money, which was likewise calculated by reference to the common estimation. The *estimatio fori* represented the true market worth of goods. C 1440:10–11; 1435/I:10; 1492:62,90; 1495:11; 1498:15,62; Trip. I 10:2, 15:2, 16:4, 21:3, 25, 59:4, 60–61, 65:1, 71:1, 83, 85:3–4, 89, 93:5, 98:3, 133–134; II 20:8, 43:1, 51:4, 56, 61, 63, 71:10; III 3:4,16, 7:5, 26:16, 30:8, 33:3.

evictio: see **warranty**

evocatio brevis: see **summons, short**

execution (*executio*): implementation of a legal decision (e.g. a **new trial**, q.v.), usually with the assistance of a **bailiff** (royal or palatinal, q.v.) and local (county) officers. 1454:15; 1486:44; 1492:51,53,73,75; 1492Slav:9; 1495:9,11,13; 1498:71; 1500:3,9,11,16; 1514:31; 1518T:20;

1518B:4,6,10,28; 1526:22; Trip. I 26, 33–34, 86:1, 6:11, 12:2,4, 19, 21–22, 42, 55–56, 57:5,7, 58, 59:4, 60, 62, 65:6, 69:3, 73–75, 76:1,7, 77:5,7–8, 83:4; II 86:3–4,13; III 3:6, 7, 35:3.

extraordinary county assembly (*proclamata congregatio*): in major criminal cases county nobles were gathered in a single place and examined under oath. Abolished in the judicial reforms of 1486. See Tringli (2009) 1435/I:3,6; 1439:29,32; 1458/1:1,16; 1462:1; 1486:2; 1492:36; 1523:50; Trip. II 2:5.

extra dominium (out of possession): when a party deprived of land to which it claimed a right, sued for recovery while out of actual possession. 1495:1:3; Trip. I 63:2, 82:4; cf. II 41.

failure (of a case) (*condescensio cause*): the collapse of a case on a variety of grounds: following the recall of an attorney; the inability of the defendant to attend the trial on grounds which were subsequently found to excuse his absence; misjoining a suit; and having the summons improperly cast or delivered.

false court appearance (*astatio falsi termini*): see **frivolous prosecution**

familiaris, famulus: see **noble retainer**

fassio: see **recognizance**

female line (*sexus foemineus*): females were usually entitled to inherit only movable goods or landed property that had been bought for cash. Nevertheless, some landed property was defined at the time of its donation by the king as being inheritable by the owner's daughters as well as his sons. Property which was inherited by daughters in this way might be referred to as descending through the female line. The sons and descendants of such a daughter might accordingly be designated "men of the female line" (*homines foeminei sexus*). 1435/I:17–18; 1462:2; 1486:26; 1492:63; Trip. I 17:4,6–7, 18–20, 21:4, 26, 28–29, 36:2, 37:12, 38, 39:3, 41:3, 48:3, 67:2, 73, 88:2, 90, 102:1, 116–117, 118:1; II 60:3; also: Trip. I 21:2, 30:3, 37:2,11, 34:6.

ferto ("quarter", from the Germ. Viertel): a quarter of a mark of silver, according to different types of mark c. 56–60 gr.; often used as a measure of taxation during the twelfth and thirteenth centuries. 1290:14,16; 1298:15; CC:38,42.

fiftieth (*quingagesima*): royal tax collected mainly from Romanians. Originally levied in kind on transhumance shepherds (based upon the number of sheep) in Wallachia but later raised from those settled in villages as well. Gradually it was transformed in the course of the sixteenth century to a tax levied in cash. 1439:6–7; 1444:3; 1458/II:33; 1464:23; 1492:26; 1514:3:10; 1518B:14; 1526:3.

filial quarter (*quarta [filialis]*): hereditary portion of noblewomen due from the inherited estates (see property rights) of their fathers. The filial quarter was, in theory, paid in cash. In practice, however, it was often given out in land, especially in the thirteenth and fourteenth centuries. In law, the grant of the quarter in land was only valid when the woman was married to a non-noble man (*ignobilis* or *homo impossessionatus*), or as a temporary substitute for cash payment, but in fact it was more widespread. Payment of the filial quarter was regarded as proof of the ancient (hereditary) character of the property. See Holub (1935), Fügedi (1998), 45–6; Karbić (1998), Banyó (2000), Rady (2000), 103–7. 1222:4; 1231:5; 1290:23; C 1440:14; 1435/I:18; 1458/I:9; 1458/II:35; 1462:3; 1486:26; 1492:46; 1514:62:4; Trip. I 6:2–4, 17:4–7, 27:2, 28, 29:5–9, 30:2,6,8, 37:12–14, 59:2, 60:8, 78:5, 88–90, 96:3, 97, 101:3–4, 111:7, 129:1, 134:2; II 18:3, 24, 43:4, 70:3,5, 85:4.

fillér (Lat. *obolus*, Hung. from Germ. *vierer*): the smallest money of exchange during the later Middle Ages; its original silver content was ca. 0.3 gr. calculated as 1/12 part of the **groat** (q.v.) and 1/240 part of the pound in the mark-system. (e.g., 1 mark of Prague = 3 pounds = 60 groats = 720 fillér). 1427(b):1–2; 1523:38; Trip. I 33:32.

fine (*judicium*, or *birsagium*, from the Hung. *bírság* = fine): monetary punishment paid by parties at law for breaking procedural rules. Two-thirds of the fine usually went to the judge (parts of it also to the king or the *ispán*), one-third to the opposing party. Fines were an accepted part of litigation and were usually “rolled up,” balanced and paid off at the conclusion of the trial. Apart from bribes and other inducements, fines were the main source of income for judges. St1: 14,15,21,27,35; St2:9; La3:9,22,25; 1298:3,6; c.1320:1; 1405/II:15–16; Prop:16; 1435/I:2,4,7,12,21; 1439:30,32; 1444:23; 1447:19–20,24; 1458/II:27,41; 1459:7,18; 1467:7; 1471:16; 1474:14; 1478:15; 1481:11; 1486:8,14,16,19,25,39,52–53,55,58,64,69; 1492:26,66; 1495:12,13,17–19,21; 1498:5,38; 1500:3–4,15; 1504:18; 1523:9,50; Trip. I 25, 26:1, 134:1,5; II 20:6, 23, 28:1, 36:1, 59, 67:4, 68:2,7, 69, 71:10, 74:5,8, 80:3, 81:3,7, 82:22, 83:3–5, 86; III 3:2,10,12, 7:1,3, 19:6, 21:3, 26, 33:2,4.

fine of the head (*emenda capitis*): substitute for a capital sentence. Once the defendant’s man price (see composition) had been paid to the plaintiff, his estates could be redeemed for the price of their common estimation, with two thirds of the payment going to the judge and one third to the plaintiff. (Trip. II 43:3) Normally, the fine was paid instead of the execution of the sentence. Since they were not subject to capital punishment, clergy, women, and the kinsmen of the plaintiff were instead condemned to the fine of the head. 1439:33; 1445:11; 1471:28; 1495:17,19,35; 1498:4:1; Trip. I 134:2; II 20:4,10, 30:5, 39:1, 41:6, 42:4–6, 43, 44:7, 47, 51:2–4, 54:4, 61, 65, 67, 70, 83:4.

fine of the tongue (*emenda lingue*): judicial fine for procedural faults, amounting to 100 florins and causing the suspension of the trial. Until the culprit paid the fine, his ability to sue at court was suspended, “his tongue tied.” 1464:6; 1481:13; 1486:7,54; Trip. I 25:2, 134:5; II 42:4, 72, 83:4; III 4:2, 7:1.

florin (*florenus*, Hung. *forint*): gold florins began to be minted under Charles I, c. 1325 (first mentioned in 1326). They were modeled after the Florentine *fiorino d’oro* (hence the name). Their gold content was the same as the *fiorino* (3.52 g), but the coins were slightly heavier (3.56 g) because the alloy was less fine, see Hóman (1922), Laszlovszky (2018) 279–94. The value of a florin was one quarter of a **mark** (q.v.) 1405/II:7; 1427(b):1–2,4; 1435/I:12; 1444:8; 1447:23,30,37; CC:8,35; 1458/1:12; 1464:26; 1478:4; 1481:5; 1492:99; 1495:9; 1523:33; Trip. I 93:4, 133:4; II 28, 32:11–12.

fortified house (*castellum*, Hung. *kastély*, Germ. *Schloss*): the term used by us for a noble residence (“country house”) that was not necessarily fortified in a military sense. The distinction between *castrum* and *castellum* is a moot point among art historians and archeologists, see Györffy (1975); Kubinyi (1991, 2000); Virágos (2002) 1298:2; 1446:2,7; 1462:1; 1486:62; 1492:14,107; 1492Slav:10; Trip. I 14:10 24:1–4,7; II 76:3–4.

fratres (carnales, uterini): see **brothers**

fratres (condivisionales, generationales): see **kinsmen**

free village (*libera villa*): those villages of *hospites*-settlers (q.v.) which had been given either free royal city status in the second half of the thirteenth or market town (*oppidum*) status by the second half of the fourteenth century. See Engel (2001), 254–5. A clear terminological distinction in the sources can only be observed from the early fifteenth century. 1267:5; 1290:9; CC:2; 1351:6; 1458/II:32; 1467:2.

frivolous prosecution (*calumnia*): unfounded and vexatious litigation (Hung. *patvarkodás*). Such offenses as prosecuting the same case in two different courts, thus seeking satisfaction twice (*via duplex*), or claiming an obligation already settled (*dupplici sub colore*) were classified as *calumnia*. Anyone so convicted had to pay his man price (see composition). Prior

to the fifteenth century, the term might include *astatio falsi termini* whereby a litigant appeared in court instead of another person, without a **letter of attorney** (q.v.), or summoned an adversary to a false term so as to mislead him and the court, thus obstructing the administration of justice. C 1440:3,20; 1447:9; 1481:17; 1486:55; 1492:73:5; 1500:21:5; 1504:11; Trip. I 134:5; II 25, 34:5, 42:4, 70–71, 80:4, 82:21, 83:4,6.

frater condivisionalis: see **divisional kinsman**

freeman (*liber*): an indeterminate social category in eleventh-century Hungary, probably identical with “commoner” (*vulgaris*), including members of the conquering clans (even if they had become dependent on a landowner or the king) and others who received liberty from the king. This status seems to have been documented by the payment of the “freeman’s pennies”, the *liberi denarii*. A class of freemen persisted in the market towns (shopkeepers, craftsmen, etc.) while there remained until the eighteenth century some independent farmers who were neither nobles nor under seigniorial authority. St1:14,22,28,29; SSz:30; La2:6,11–12,14,16; La3:4–5,8,13,17; Col:40,45,80; SStr:87; 1222:3.

generatio, genus: see **kindred**

gentleman of the realm (*regnicola*, lit.: “inhabitant of the realm”): the term we use for those inhabitants who, as owners of land and lords of tenant peasants, enjoyed political rights; its equation with the “members of the estates” was gradual and hardly complete by the end of the Middle Ages. However, *regnicola/ae*, may occasionally refer to inhabitants of the country in general, or inlanders in contrast to foreigners. 1290:22; 1298:4–5,16; 1351:6,13,16,18; 1397:6,32,36,48–49,58,62–64; 1435/I:3; 1439:2; 1458/I:3,5,13; 1458/II:2,37; 1492:13; Trip. I 14:10, 23; II 75:1, 77:5, etc.

genus, generatio: see **kindred**

goods and property rights: see **property rights**

groat (*grossus*, Germ. *Groschen*, Hung. *garas*): a silver coin of good quality (with a fineness of “sixteenth firing” i.e., 0.9375), minted in Hungary from 1329 to 1338. 56 groats then had the value of one Buda mark. Even after its minting was suspended, the term groat long remained in use as a money of account see Laszlovszky (2018) 279–94. 1351:4–5,21; CC:2.

guard (*speculator, custos confiniorum*, Hung. *őr*): a man performing special military service, who garrisoned royal castles and the borders of the realm. Many of them may have belonged to distinct tribes of Hungarians or people related to them, who joined the Magyars at the time of their move into the Carpathian Basin (**Kabars, Székely** q.v.). See Göckenjan (1972). La2:17; La3:1.

guardianship (*tutela*): tutelage over orphans under lawful **age** (q.v.), in practice the right of control of their possessions. W. differentiates three kinds of guardianship: statutory, testamentary, and appointed. W. dwells extensively on the different aspects of guardianship probably in an attempt to restructure the institution on the basis of Roman Law. Several features of guardianship listed by W. more characterize the post-Tripartitum period than his own. See Degré (1977) Rady (2015) 98–107. Trip. I 56:1, 91:1, 111–132.

guest (*hospes*): originally an alien who came to live in the kingdom of Hungary, mainly Western knights and clerks; later, in considerable numbers, urban and rural settlers from the increasingly overpopulated West (Italians and Walloons, called *Latini*) (q.v.); South Germans, called *Teutonici*; Rhinelanders, called *Saxones*; and others). They enjoyed special privileges similar to the so-called *ius Teutonicum* in Poland, Occasionally the word was also used for a traveling foreign merchant. From the mid-thirteenth century onward, *hospites* were not always foreigners: settlers of newly colonized areas from Hungary and Moravia, Poland or the Balkans received the same privileges of personal freedom, limited dues, and village

autonomy. See Fügedi (1975/1986). St1:24; La2:16,18; Col:35,80; 1222:11,19; 1231:4,11,14; 1267:2; 1290:2,4,9; SSz:25.

hereditas: with few exceptions, where it unequivocally refers to inheritance (which, however, is more frequently called *patrimonium*), the term is used for property or property rights (q.v.). Col:20–21; 1435/I:18; 1486:26; Trip. I 17:1, 46:6, 90.

Holy Crown of Hungary (*sacra corona regni Hungarie*): refers to the royal office, occasionally to the coronation jewel, the so-called ‘St. Stephen’s Crown’. The regalia were kept, from the mid-fourteenth century at Visegrád and, after having been recovered from Emperor Frederick III (1463), several means of regulation concerning the keeping and guarding the crown were introduced between 1464 and 1500. The account given in Trip. I 3:6 was in the later nineteenth century used, quite anachronistically, as an expression of the constitutional state. See Péter (2003) Bak–Pálffy (forthc. 2020). 1222:31; 1267:Preamb. 1386:3; 1397:49; 1427(b):6; 1439:6,16,29; 1440:2; 1444:3,5; 1446:10; 1458/II:33; 1481:4; 1492:4; 1518T:2; Trip. I 3:6, 4:1, 10:1, 13:2,4–5, 16:6, 24, 26, 37:2,5,8, 64, 66:4, 84:1; II 3:2, 14:31,34, 41–43, 30:5, 39:3, 57:2, 65:5; III 1:1.

homagium: see **composition**

homo foeminei sexus: see **female line**

homo impossessionatus: see **man without property**

homo possessionatus: see **man of property**

homo regius: see **bailiff, royal**

honor (*honor*): a set of offices at court and/or in one or more counties granted during the king’s pleasure (*durante beneplacito regis*). Honors became the main feature of government under the Anjou kings, granted usually to a **baron** (q.v.) normally with complete civil and military authority in his province(s), and enjoying the revenues of the royal domains lying within it. See Engel (1996). Sigismund’s new policy of donation led to the gradual disappearance of the honor-system. From the mid-fifteenth century onward, honors could chiefly be found on the southern frontier of the realm, as the major resource for the maintenance of the border castle system. *Honores* was as a term also used more generally for all royal appointments (e.g., in eschatocols of charters as early as the Árpáadian period) 1397:6, 12; 1435/I:2, 5–6, 22; 1439:5, 8, 12, 15, 25–26; 1443:3–4; 1444:2, 9; 1446:3; 1447:4, 6, 28; 1453:3; 1454:2–3; 1458/I:7; 1492:33; 1492 Slav:11:3; 1495:19:4; 1498:44, 46, 57, 70; 1504:2; 1514:56; Trip. I 14:15; II 13:5.

hospes: see **guest**

hussar (Hung. *huszár*): light cavalrymen, equipped with sabers and only lightly armed, these played an increasing role in the Hungarian armies, mainly as a counterweight to the Ottoman spahi cavalry. By the close of the Middle Ages some hussars were fitted with armor. See Hermann (2012).

impignoratio: see **pledge**

infidelity, charge of (*nota infidelitatis*) also translated as perfidy. Specified serious crimes against the person of the king or the interests of the realm, and certain other major offenses (heresy, forgery and counterfeiting, violence against private persons and property) usually punished by capital sentence. Rady (2015) 112–5; 1222:Esch; 1298:3; 1397:56; 1404/II:1,4,6; 1443:2; 1444:7; 1458/I:6; 1458/II:31–33,38; 1459:32; 1462:2; 1464:4,10,19; 1471:29; 1481:15; 1486:32,46,67; 1492:13–15; 1492:79,107; 1495:3–4,9; 1498:10,18–19,32,46,72–73; 1504:4; 1514:14,49; 1518B:21; 1523:40; 1526:34; Trip. I 9:6, 14, 16, 20, 24:10, 25:1, 28, 32,

49, 56:2, 104, 119:1, 121:4; II 12:6, 43:5, 44:2, 54:7, 57:2–3, 65:5–6, 66, 73:5, 74:10, 75; III 4:3, 25:2.

inheritance: the rights of collateral branches of the kindred based on the fiction of common ownership of every male kinsman of the ancestral (hereditary) property. Probably the general practice since ancient times; laws were issued to the contrary (especially in favor of donations to churches), e.g., 1290:18, but this rule was confirmed in the clause on *aviticitas* (q.v.) (1351). In practice this meant that after the extinction of a branch in the male line, its property devolved upon the other branches in proportion to the proximity of descent. Purchased property was freely disposable, and some donations had specific inheritance rules. St1:6; Col:20–21; 1222:4; 1231:5; 1298:2,10; 1351:Preamb. 1464:16; Trip. I 16, 20:2, 21:4,6, 36:2, 38–41, 47, 49–50, 56:2, 57–58, 65:5, 67, 70:4, 71, 106, 108; II 62:4 (see also **betrayal of fraternal blood, default of issue, division, female line**).

of the female line: purchased property, and certain specified donations devolved equally to the male and female lines 1222:4; 1462:3; 1514:62; Trip. I 19:1, 21:4, 48, 73:1–2, 119:3 (see also **female line, filial quarter**).

mutual: frequently concluded between families using the device of fraternal adoption (q.v.), by the terms of which one family would succeed to the other's lands, should either expire through **default of issue** (q.v.). Such agreements required royal consent 1498:65; Trip. I 16:2, 20, 65:4–5, 66, 67:2.

inquest,

common (*inquisitio communis*): procedure for obtaining material proof in which abutters, neighbors, and other nobles from the county (*comprovinciales*) (q.v.) swore an oath on their faith and “fidelity to the Holy Crown” regarding the truth of their testimony, usually in matters of property rights. The inquest, as ordered by a higher court, was usually held where the disputed estate was located or the criminal act perpetrated. See Fügedi (1989): ch. VI. 1351:22–23; 1397:51; 1435/I:8; 1464:28; 1471:9,22,28; 1486:10–11,14–16; 1492:56; 1500:3; 1504:5; 1523:58; Trip. II 21:3, 26:5, 27–29, 31–32, 67:9–10, 81:1–2, 83:3; III 27:8.

simple (*inquisitio simplex*): normally preceded the lawsuit, performed up to three times, and aimed at establishing the charges of the claimant. Trip. II 21:3; III 27:5.

at extraordinary county assembly (*per modum proclamate congregationis*) practically did not provide material proof, instead it recorded a common declaration of the assembly. 1351:23; 1471:22; 1523:50.

inquilinus: (Hung. *zsellér*): (cottar) landless peasants and often wage laborers. The term acquired a more general legal meaning in the later Middle Ages: persons without at least a quarter of a *porta* (*telek*) (see **plot**), regardless of their economic status. 1459:5; 1514:22.

inscription (*inscriptio*): a Roman legal term (= record of the accusation in criminal trials) used in Hungarian law in an entirely different meaning; apparently a form of transfer of property, partly by donation, partly by purchase, mentioned a few times by W., but inconsistently, and seldom found in charter material. The term may also refer to *impignoratio* (see **pledge**). 1492:4 (pledge); Trip. I 13:3, 17:4, 48:5, 69:1; II 71. By the eighteenth century it meant any form of royal donation.

insinuatio (*citatio cum insinuatione*): see **terminal summons**

institution (*introductio* or *statutio*): the procedure required to validate the acquisition of property. Grantees of royal donations (q.v.) or new owners of purchased, pledged or exchanged estates were expected to take possession of the land within a year, with the assistance of a royal **bailiff** (q.v.) specified in the charter, and witnessed by a specified **place of authentication** (q.v.) in the presence of **abutters** (q.v.) and neighbors. Institution could be

thwarted by anyone present who made **contradiction** (q.v.) or **repulsio** (q.v.), i.e., opposed the **execution** (q.v.). Moreover, any interested party could object to the institution by announcing his protest (*prohibitio*) within two weeks, thus initiating a lawsuit. Rady (2015) 38–41. 1435/I:8–11,17; 1447:30; 1478:8; 1481:15; 1486:16,26–27,77; 1492:53; Trip. I 4, 8, 28, 29:1, 30:3, 32, 37:3, 63, 66, 67:1, 131; II 12:4–5, 18:2,4, 19:2,5, 21, 45:1,4, 71:2,7,12, 73:4, 76:4, 86:10. Trip. II 73–4.

iobagio: see **jobagio/jobbágy**

Ishmaelite: the collective name for Muslims, whether traveling merchants or settled populations, who served also as auxiliary troops; in the thirteenth century Muslims appear mainly as administrators and farmers of royal revenue and **counts of chambers** (q.v.). See Berend (2001), passim. SSz:9; Col:46–49; 1222:24.

ispán (*comes, comes parochialis*; from Slavic *župan*, “local lord”): between the eleventh and thirteenth centuries, the royal officer in charge of one of the counties or of a royal forest or border district; the commander of the castle warriors and other militiamen, supervisor of different serving people (such as the men of the castle, the *udvarnoks*, etc.), collector of revenues in his district, and judge (initially together with the royal judge, occasionally with the bishop) of the free and unfree men in the county. From the thirteenth century onward, the word seems to have been used more widely for members of families which had *ispáns* among their ancestors, even though no hereditary *comes* title was granted in Hungary until the later Middle Ages. Until the mid-fourteenth century the *ispáns* were regarded as barons. With the development of the corporation of nobles in every county, the *ispán*, who came to be called *főispán* (in modern texts often translated as lord lieutenant), remained the royal officer, but exercised his duties in concert with the county magistrates and left the actual administration to his retainer, the *alispán* (q.v.).

perpetual: some lords (first bishops later also barons) were granted the title of perpetual *ispán* of their counties from the fourteenth century onwards 1351:esch. 1384:passim; 1447:4; 1492:21; 1498:22; Trip. II 13:5–6.

of the Székely: by the fifteenth century usually an office granted to the voivode of Transylvania, thus extending his jurisdiction to the community of these free border guards 1435/I:1; 1492:8,33; 1498:21; Trip. I 94:2; III 4:3–5. See **Székely**.

iudex curie regie: see **judge royal**

iudex nobilium: see **magistrate, noble**

iugerum (Hung. *hold*), a measure of land of Roman origin (120×240 feet = 0.66 acre), but of highly variable size. In medieval Hungary a ‘royal hold’ was equal to 0.84 *ha*. See Bogdán (1978), 190.

iura possessionaria (acquisita, empta, hereditaria, etc.): see **property rights**

ius foemineum: see **female line**

ius regium: see **right, royal**

ius quarte filialis: see **filial quarter**

jobagio castri: see **castle warrior**

jobagio/jobbágy: (1) a chief royal retainer around 1190–1230, so called from a Latinized Hungarian word, probably originating in *jobb* = “better”, meaning “better men” (cf. Lat. *optimates*). In earlier documents, used for officers of royal household, also for the landed members of the armed retinue (see below s.v. **castle warrior**). In about the early thirteenth century (e.g., in the Golden Bull), the term was applied to the highest officers of the realm who held “honors”, i.e., administrative and judicial posts, offices of *ispán* (q.v.) in important

counties and governorships granted for time at the king's pleasure. 1222:10,13,30; 1231:Preamb.

(2) From c.1250 onward the term was transferred to a much lower social group; see tenant peasant.

judex nobilium or **servientium**: see **magistrate**, **noble**

judge (*judex*): references to judges in general in the laws of the eleventh century suggest a system of royal judges who administered justice in the counties, occasionally together with the *ispán*. Their office may have been modeled on Bavarian *judices* (whose exact duties are not known) because the passages in which they occur mostly derive from South German parallels. Some judges are also referred to as *bilochi* (Hung. *billogos*, from *billog* = “sign”, or “seal of summons”); at first, they were probably assistants to the *judices* (**bailiffs**, q.v.) and, later, justices in the counties until 1240. The term was, of course, also used in general for any judicial officer presiding over a court and passing judgment. See also judge royal, palatine, *ispán*. St1:2,33; SSz:42; La2:3,6–7,10; La3:15–16,19,22–27; Col:6,9–12,14,23–28–31,37,50–51,59,84; 1222:5,8; 1231:6,9; 1279:7; 1290:2–3,8–9,21; 1298:11,13; C 1440:3–5,8–9,11,19; 1351:1,10,24; 1397:4,51,55; 1405/II:3; 1427(a):1–2; 1435/I:1,16–17; 1435/II:7; 1443:2; 1444:9; 1445:7,11; 1458/II:27; 1462:2,5; 1464:16,19; 1471:12; 1486:3–5,14,20; ArtPal:9; 1492:55; 1495:18; 1514:56. Trip. I 30:3, 31:1; II 56–58, 60–63, 65, 67, 69–70.

judge royal (*judex curiae regis*, Hung. *országbíró*): originally the officer in charge of the royal court (*comes curialis regis*) and thus the head of household servants, he acquired high judicial functions once the **count palatine** (q.v.) became the itinerant judge of the entire country (c. 1200). From then on, the judge royal passed judgment in the name of the king (*presentia regis*) and soon acquired extensive jurisdictional functions, with a notarial and legal staff, including a *vicejudex curiae regis*, residing in Óbuda. The judge royal (or justiciar) held a separate court in the royal curia, where he tried cases of the nobility. Some towns came to be briefly subject to this judge. 1222:9,30; 1231:10; 1290:5,8; 1298:13; C 1440:2,19; 1320:1–2; 1324; 1351:9,23; 1397:12,69; 1405/II:4; 1435/I:1,4,7,17; 1435/II:7–8,29–30; 1444:24; 1446:7; 1447:15,24; 1486:52–55,68,71; 1492:14,42,66; 1498:43,70; 1500:6; 1518B:6; Trip. I 29:1, 30:3, 94:2; III 3:6.

judicium: usually: **fine** (q.v.); but in the earlier laws often: **ordeal** (q.v.)

justice (judge) ordinary (*judex ordinarius*): usually one of the high justices of the royal court, but occasionally a judge (in a certain case) who acted not on a special commission but on the basis of his office (e.g., as *ispán* or **voivode**). C 1440:1–3,5,19; 1328; 1397:51; 1405/I:7; 1405/II:1; 1439:33; 1440:4; 1445:16; 1446:13; 1462:2,5,12,19; 1471:27; 1486:6,13,20,23,52–53; 1492:49,66,90; 1504:9; Trip. I 34, 115:4; II 55.

kindred (*generatio, genus*; Hung. *nemzetség*): an extended kinship group, comprising several patrilineal families, which was the basic unit of both the conquering Hungarians and other nomads (e.g., the Cumans); the original settlement areas of the Magyar clans seem to have often become the nuclei of counties (hence, as territorially defined groups they are different from “clans” in current anthropological usage). From the thirteenth century, noble clans claiming common descent from a known warrior or other royal grantee (*de genere*) were the prime possessors of inherited and acquired landed property, often holding them jointly (see s.v. *condivisionalis*). In order to distinguish the Hungarian kinship system from other, slightly similar ones, Erik Fügedi introduced the term *klán*, which is translated here as “kindred.” See Fügedi (1998). Historians, nonetheless, cannot agree whether the kindreds that emerged to light in the documentary record in the thirteenth century have any relation to the leading groups amongst the Hungarians of the time of the ninth-century conquest. 1222:4; 1267:6,9;

1279:1–3,6–7; 1290:23; C 1440:4,10; 1397:54; 1439:32; 1486:55; Trip. I 16:1, 36:2, 39:1,3–4, 67:1,3, 88:1, 121:2; III 4.

kinsmen (*fratres*): see also **betrayal of fraternal blood**, **guardianship**, **inheritance**

by blood (*generationales*): male members of the kindred excluding those by marriage. Trip. I 15:1; I 36:2.

joint-owning (*indivisi*): kinsmen holding undivided property together. Evidence suggests that the practical division between kinsmen often preceded formal legal division. 1231:6; 1397:6; 1435/II:2; 1492:89; Trip. I 43:4, 99, 101:3, 102:3; II 18:3, 34:6.

co-inheriting (*condivisionales*): kinsmen, who had inheritance rights to the originally common property of the kindred. C 1440:10; 1514:62; Trip. I 46, 50, 62:2, 63, 66:1, 67:1,3, 70:4, 78:5, 119:2; II 44:6.

Kreutzer (Hung. *krajcár*): small value copper or rarely silver (in Bavaria) coin named after the Tirolean groat of the late thirteenth century depicting a cross (*Kreuz*). Originally 156 pieces were minted out of one mark of Trent and each was equal to four *denarii* of Vienna. 1521:6[14]; 1526:39.

Latins (*Latini*): Romance-speaking, mostly Lombard, French, and Walloon settlers in the older urban centers of Hungary, such as Esztergom and Székesfehérvár, and also in northern Hungary (diocese of Eger). Sources also refer to them as *Gallici*, *Italici*, *Flandrenses* and *Wallones*. SSz:31.

letter of age (*littere revisionales aetatis*; Hung. *időlátott levél*): record usually issued by places of authentication concerning a person's age. (see also **age**) Trip. I 126:1, 127–9; III 30.

letter of attorney or of advocacy (*littere procuratorie*): a record issued by a **place of authentication** (q.v.), listing one or more persons as legal representatives or attorneys (q.v.) of someone, empowering them to act in all stages of litigation. Prelates and barons had the right to issue such letters under their own seal. Minors were represented by their guardians through **letters of age** (q.v.), not through letters of attorney. 1351:14; 1492:97; 1504:14; Trip. I 128; II 13:6,8, 53:3.

letter of (perambulation of) boundaries (*littere metales*): rarely self-standing letter recording boundaries of a landed estate; more often it only formed a part of a letter of record of purchase or pledge which required the identification of the boundaries as part of the transaction. 1435/I:10; 1492:95; Trip. I 33, 84:4–5, 85–86.

letter of command (*littere preceptorie*): mandate issued in a great variety of matters of administration or law. c.1320:1; 1404/II:6; 1435/I:5,8; 1443:3; 1446:13; 1458/1:16; 1492:9,46; 1495:3:1; 1498:8:4,71; 1500:13–14; 1504:23:2; Trip. I 45; II 28:1, 75:1.

letter of complaint, royal (*littere querimoniales regales*): royal mandate specifying the plaint for initiating a lawsuit and ordering an **extraordinary county assembly** (q.v.). 1435/I:3; 1439:29; Trip. II 14:36.

letter of delivery (*littere exhibitorie*): usually a letter ordering a **place of authentication** (q.v.) to deliver a royal mandate – cf. Borsa (1993) –, but also a letter requesting a litigant to present at court documents relevant to his suit q.v. **notice**.

letter of division (*littere divisionales*) landed properties held in common by the kindred were occasionally divided among them, see **division**. Trip. I 37:12, 46.

letter of donation (*littere donationales*) royal (rarely private) charters on land grant, see **donation**. 1435/I:12; 1464:23; 1486:23,27; 1514:53; Trip. I 6:2, 21–22, 26:1,4, 31, 34, 36:2, 37:5–6,12, 38, 43, 48, 50:3, 86:4; II 12:2, 14:26,28,39.

letter of final summons (*littere proclamatorie*): if a party failed to appear after five (later three) summons, the judge could order that the summons be announced at the weekly fair held in three places in the county (usually on three consecutive days). See **final summons**. 1435/I:10–11.

letter of fine (*littere iudiciales* or *birsagiales*) charters on final or intermediate sentences (see **trial**) or fine (see *birsagium*) 1435/I:7; 1467:7; 1492:26; 1498:5; 1500:3–4; Trip. II 59.

letter of institution (*littere statutorie*): record by a **place of authentication** (q.v.) that the **institution** (q.v.) of an owner into his property had been performed. Trip. I 6:2, 33–34; II 11:1, 12:2.

letter of inquest (*littere inquisitorie*): mandate ordering an **inquest** (q.v.), and also specifying whether the witnesses' names and status should be recorded. 1435/I:10–11; 1492:56:4; 1498:35:3; Trip. II 32, 34:1, 67:12; III 27.

letter of notice (*littere ammonitorie*): see **notice**; Trip. I 33.

letter of pledge (*littere impignoratorie*): record of the pledge of a **property** (q.v.) sometimes including the cost of redemption, which otherwise was determined by **estimation** (q.v.). Trip. I 82:7–8,10, 102:3; II 20:1.

letter of protest (*littere inhibitorie, prohibitorie*): see prohibition. 1435/I:11; Trip. I 79:2; III 15:2.

letter of public trust (*littere fidei publice*): record with function similar to safe conducts 1462:2; Trip. I 14:9

letter of purchase (*littere emptionales*): Trip. I 48:5, 102:2.

letter of receipt (*littere expeditorie*) was issued for fines or revenues paid, 1521:[22]; Trip. I 6:2, 37:12, 82:10; II 84:7.

letter of recognizance or **of record** (*littere fassionales*): record of any recognizance (*fassio*, see recognizance) made in a legal matter at a **place of authentication** (q.v.). 1435/I:10–11; Trip. I 21, 37:5, 58:1, 59:4–5, 60, 61:1, 69, 71, 74:1, 102, 133:5.

letter of recovery (*littere recaptatorie*): see **property rights, recovery of**

letter of report (*littere relatorie*): report of the **place of authentication** (q.v.) in response to a mandate (see letter of command), issued always in the form of a letters close. 1504:11; Trip. II 12:4, 29, 35, 74.

letter of sentence, adjudication (*littere sententiales, adiudicatorie*) legal record of final sentence in a lawsuit. 1435/I:11; 1454:15; 1471:12; 1492:14,51; Trip. II 6:11, 27:20, 28:1, 52:2, 55:1, 57:5–6, 58, 59:1–2, 65:4, 76, 77:5,7–9, 83:4–5; III 26:10.

letter of summons (*littere evocatorie*): mandate (*mandatum evocatorium*) sent by the king or a royal justice to a **place of authentication** (q.v.) ordering that a designated royal **bailiff** (q.v.) should summon a certain plaintiff in the case raised by him to a given term, usually the next **octave court** (q.v.). The summons had to be delivered at the nobleman's residence (*locus solitae residentiae*), or in his absence handed to his steward or a tenant. If the party failed to appear, he was summoned five more times. 1397:62; 1435/I:10–11; 1464:4; 1471:28; 1498:5; 1500:4; Trip. II 25:2, 34:3, 61, 82:1.

letter of transfer (*littere transmissionales*): the instrument moving a case from one court to another by way of appeal. Trip. III 35.

libera civitas: see **city, free**

littere &c. – see above under **letter of &c.**

loca credibilia: see **places of authentication**

liber, liberi denarii: see **freeman**

lucrum camerae: see the **chamber's profit**

magistrate, noble (*judex nobilium*, or *judex servientium*, hence Hung. *szolgabíró*, “judge of servitors” or “servitor of the judge”): one of the elected judges and administrative officers of the noble **county** (q.v.), originally (c.1230–50) a delegate of *servientes* on judicial or administrative commissions (such as those created to settle land disputes), also arbitrators and witnesses (*boni homines*); the office gradually evolved into a local judiciary of which usually four were elected or selected for every county, later with responsibilities in a defined quarter (circuit, Hung. *járás*) of the county. See Rady (2000), Zsoldos (2003) and Tringli (2009). 1290:3,7–8; 1298:3–4,11; C 1440:1; 1320:1; 1328; CC:2,16,21; 1397:53,61,66,68; 1405/II:10,16; 1411:4,6; 1427(a):1; 1435/I:1–3,5,7,13,17; 1435/II:4,7–8; 1439:29; 1444:10; 1447:7,19–20,22,24; 1454:4,11,15; 1458/I:6,15; 1458/II:40–41; 1459:24; 1467:6–7; 1471:16,31; 1478:15; 1486:9,51,73; 1492:26,33–34,53,73,90; 1492Slav:4; 1495:10,12,15–21,24,37; 1498:15,35,60,71; 1500:42; 1504:16,18; 1514:4,6–7,26–29,31,33,37–39,41,45,50,52; 1518T:15; 1518B:28; 1521:13[21],22[30]; 1523:50; Trip. I 29:1, 45, 115:4; III 3:7,13, 6–7, 25:5, 26:1,3,7, 32, 33:1, 35.

magister tavernicorum: see **master of the treasury**

magnates (*maiores, principes, potentes*): leading men in eleventh and twelfth-century Hungary, originally members of the king's retinue, consisting of the old tribal leaders (or their descendants) and foreign knights; from the late twelfth century also called *jobagiones* (q.v.), especially when holding royal appointments (*honores*). From the late thirteenth century onwards members of this upper stratum of society (aristocrats) were usually referred to as barons (q.v.). St1:25; La3:1,10,15; Col:11; 1222:2,28; 1231:2; 1351:16; 1397:2,50; 1439:25; 1447:28,37,41; 1454:4–5,9; Prop:21; 1498:8:1; 1514:35; Trip. I 2:1, 5:1, 6:4, 9:7, 40:2, 64:1, 84:3–4, 93:3–4, 133:5; II 4:2, 13:7, 14:12, 54:6, 67:1.

man of property (*homo possessionatus*): a social category of owners of land who were often distinguished in the laws from nobles. References to them are curious insofar as in late medieval Hungary virtually all landed property was in the hands of nobles (or, in small part, of citizens of free cities). Nevertheless, a class of non-noble freemen persisted up to the eighteenth century. Cf. Bónis (1947/2003). See also **freeman**. Prop:1–2,5–6,14,16; 1444:3,25; 1445:4,13,22; 1447:7; 1458/I: 2,13,15; 1459:5; 1474:1; 1486:64; 1492:18–20,30; 1495:9,19,44; 1498:38; 1521:9[17],13[21],15[23]; 1523:19; Trip. I 10, 23, 37:13, 46:4, 57, 64:2, 65–66, 70:3, 83, 134:3; II 11:4, 67:6, 68; III 19:3–6, 22:2, 26:4–5,8–9, 27:3.

man price: see **composition**

man without property (*homo impossessionatus*): usually refers to non-noble (*ignobilis*) persons who married into noble kindreds and only received lands through the filial quarter of their noble spouse. In most cases such persons were not regarded as true nobles, being instead designated either as ignoble or nobles after their wife (*post uxorem nobilis*) or nobles due to the **filial quarter**. 1435/I:18; 1500:14; Trip. I 29:7–8; III 27:1.

manse (*mansus*): in the eleventh century the name of a unit encompassing a servile peasant household, probably including the servile family (*mancipia*), some land, and tools (also called *predium*, q.v.). By the late thirteenth century, the name was transferred to the “typical” tenant-holding (Hung. *telek*), also called a *sessio*. (v. **plot**). St2:1; 1298:15.

mardurina: marten-fur tax collected, primarily, in Slavonia but also in other parts of the Hungarian kingdom. Originally it was levied in kind but following the reform of King Coloman, it was expected in cash. It was fixed at twelve Friesach pennies after each manse. After the exemption of the nobles of Slavonia from royal taxation in 1351, the *mardurina*

became the tax imposed on tenant peasants and *hospites*. See Klaić (1904). 1222:27; 1231:20,33; 1351:12; 1397:36; 1439:6–7; 1444:3; 1458/II:33; 1464:23; 1492:26.

mark: a measure of silver (and sometimes of gold), often the unit of fines. Since the late thirteenth century, the Buda mark (~245.54 gr.), belonging to the Troyes-mark type, was standard in Hungary. See Hóman (1916). 1290:14,16; C 1440:8,10–11,20; CC:1–4,6,9,19,25,28–29,38–39,41,45,49; 1351:2,7,10,17,24; 1397:6; 1405/I:15; 1427(b):1,4; 1435/I:2,7–8,10,13; 1447:24; 1458/I: 15; 1459:7,18; 1467:7; 1486:8–9,14,16,29,39,58,63–65,67; 1492:26,29,55,73:1,89,94; 1495:6,9,18; 1498:1:3,35; 1500:15; 1504:16:4; 1523:33; Trip. I 2:2, 93:4, 94:3, 133, 134:6; II 20:5–6, 23, 28, 32:11, 40:2, 67:8, 69:1–2, 70:5, 72–74, 80, 81:3,7, 82:22, 83:3–4, 86; III 3:4,7,10,12, 4:3–4, 5, 26:4,8,16; 32:1, 33:2.

market town (*oppidum*): see **town**

master of the treasury (*magister tavernicorum*): [in Árpád age laws translated as chamberlain] the title of a royal officer, originally responsible for the royal court's provisioning, derived from the Hungarian name for the guards of royal magazines (*tavernici*); from the fourteenth century onwards, the master of the treasury was no longer associated with the treasury, but was rather the presiding judge of the appeal court of certain royal cities (*sedes tavernicalis*). 1290:5; CC:2,7,12,16,32–34,36,38,40,42–43,46–47; 1405/I:4,8,12; 1405/II:4,11; Prop:22; 1435/I:15; 1439:10; 1486:68,73; 1492:11:2; 1521:[19]; Trip. I 94:2; III 8:2, 10–11.

men of the castle (*cives, civiles, castrenses* rarely: *castellani*): a general category used in the eleventh and twelfth centuries to designate men attached to the royal domain under the command of the *ispán* and obliged to maintain (and perhaps also to defend) the castles; it is possible that *civiles* held some land and owned agricultural implements (similar to *udvarnok*, q.v.), while *cives* were bound to perform all kinds of services. La1:8; Col:45,81; SStr:69.

men of the realm: see **gentlemen of the realm**

metallic reambulatio: see **borders, perambulation of**

miles: see **warrior**

new donation (*nova donatio*): a feature that was introduced in the fourteenth century (with probable antecedents); its implications are debated, cf. Engel (1997) and Rady (2001). W. seems to have implied that it served as a kind of corroboration of an earlier donation, and not, as it may have been originally, as a device to exclude kinsmen from inheritance. La1:8; Col:45,81; SStr:69.

new trial (*novum iudicium*): a retrial, usually following a petition to the king, a *repulsio* (q.v.), **prohibition** (q.v), or the collapse of the first trial (see failure of cases); see: **trial**. 1492:51–52; 1495:3; 1504:11; 1518B:29; Trip. II 18:3, 56:2, 70:4, 75, 77–79, 81:6, 83:4; III 6, 11.

ninth (*nona*): one of the most substantial elements of seigniorial revenues from the first third of the fourteenth century onwards. Similar to tithing, it meant in fact the “second” tithe, often paid before the ecclesiastical tithe, on wine and grain, but the ninth was frequently demanded after livestock as well. Local customary arrangements differed, however, in regard to what items were subject to the ninth and many communities did not pay this seigniorial due at all. Despite the widely accepted theory, the *nona* was not introduced in the decree of 1351:6 as this article merely ordered its uniform collection in order to defend the interest of the lesser nobility. Solymosi (1998), Laszlovszky (2018) 265–78. 1351:6; 1435/I:10; 1492:47,49,104; 1495:44; 1498:41; 1500:27,29; Trip. II 10:2.

noble retainer (*familiaris*): a lesser nobleman who chose (or, occasionally, was forced) to accept military or administrative positions in the service of a prelate, **baron** (q.v.) or major landowner. He kept his noble privilege and was subject to his senior (*dominus*) only for service, for which he received monetary compensation and occasionally land. The laws (esp.

the Trip.!) refer to it very rarely, as in principle all **noblemen** (q.v.) were equally privileged and free (see 1351:11), but it can be inferred. The institution resembled West European vassalage but was less formalized (often signaled by only a handshake in the castle gateway), less mutual, and rarely passed onto descendants. The earliest reference to a “**warrior** (q.v.) of another,” which may imply something of this kind is in St1:23. See Fügedi (1998), 137–40, Rady (2000), 110–31, and Bak, (2011). 1298:12; C 1440:11; 1397:48; 1427(a):4–5; 1435/I:6; 1439:18; 1443:3; 1446:2; 1458/I:11; 1486:15,31,33–34,65; 1492:28,56:5; 1500:8; Trip. I 21, 43; II 23, 67:13, 71, 82.

nobleman (*nobilis*): in medieval Hungary, a wide stratum of landowners, normally holding property originally granted by the king and enjoying, in principle, equal rights regardless of wealth and status (see Trip. I 2–3, II 4). In the eleventh and twelfth centuries the term denoted a magnate; then, in the late thirteenth century the lesser royal warriors (*servientes regis* q.v.) began to call themselves nobles, and gradually this identification was accepted by the royal chancellery. Since the mid-fourteenth century almost all landowners were regarded as nobles and claimed the privileges granted in the Golden Bulls of 1222 and 1231 (see I 1222:4,7–8,19,31; 1231:5–6,8–11, 1267:4–10; 1290:6–7,18–20,23–24,27–28; 1298:3–4,12–13,17; 2 1351:Preamb,11; 5 II 6:6, 14:10. Nobles enjoyed freedom from taxation in return for military service. On their major privileges, see Trip. I 9. See Rady (2015) 65–77.

acquisition of nobility: (by birth) Trip I 7; (by grant or ennoblement) Trip I 4, 6; (by adoption) Trip I 8 (see also **adoption**); (by descent even through a non-noble mother) Trip I 7, 22:3, 51:3.

nobles of the same county (*comprovinciales*): property owners living in the same county whose legal functions are mentioned in connection with **inquests** (q.v.) and **institutions** (q.v.). 1298:10; 1435/I:5; 1447:7; 1459:7; 1464:20; 1492:35,80; 1498:44; 1500:21:4; 1504:2:4; Trip. I 29:1; II 27:1; II 29; II 32:1; II 41:2–4.

non-noble retainers or **servitors**: **freemen** (q.v.) who were treated at law as similar to peasants (see also tenant peasant). 1492:56; 1495:9; Trip. II 23:2, 51, 86:11; III 26–27.

nota infidelitatis: see (charge of) **infidelity**

notables (*proceres*): an elusive term used in the fourteenth and fifteenth centuries for those prestigious nobles who participated in the administration of the realm, but remained below the group of barons. Their exact position is not defined anywhere in the laws. The editors of DRMH translated it as “lords”. 1462:3; 1478:3; 1500:11; 1518T:2; Trip. I 2:1; I 9:7, I 13; II 14:50.

notice (*admonitio*): announcement that needed to be made to kinsmen, neighbors and abutters whenever a property was alienated. In all property transactions, a royal **bailliff** (q.v.) accompanied by a cleric, would visit the site of the property concerned and establish who else might have a legal interest in the property. They would then be issued with letters of notice (*littere ammonitorie*). Should a party so informed object to the transaction, the letter of notice might be combined with a summons. The letter of notice might also serve as an injunction, compelling the recipient to attend court and produce any relevant deeds affirming his legal rights to the property involved (see **letter of delivery**). Trip. I 60; II 24, 64:3, 71:1,3,10–12, 86:4,7.

nova donatio: see **new donation**

nova moneta (new money): from 1 Mark silver of 250 0/00 fineness 500 denar coins were minted mixed with copper, in an attempt to increase the royal income by devaluing the currency. Introduced in 1521, it led to economic chaos and was rescinded in 1526; see Laszlovszky (2018) 295–308. 1526:39.

novum iudicium: see **new trial**

oath (*iuramentum*): a mode of proof that survived in Hungary until the nineteenth century and was sworn by one or both litigants supported by a number of oath-helpers, as defined by the judge depending on the value of the case and the status of the oath-helpers. There were also special oaths, such as the oath sworn on the soil (*iuramentum super terram*) or the capital oath (*iuramentum ad caput*.) that the defendant was not allowed to counter by his own oath. Such a decisive oath was also allowed when the plaintiff presented three favorable letters of **inquest** (q.v.) and the defendant refused to submit to a fourth one. Those summoned to give evidence at an **inquest** (q.v.) were also expected to give evidence under oath. Rady (2015) 39–42 and *passim*. La3:21; 1290:14,26; C 1440:2; 1324:passim; 1328:passim; CC:15; 1397:51; 1411:3,5; 1427(a):1–2; 1435/I:3–4,6,8,10; 1435/II:7–8; 1439:29; 1446:5; 1447:40; 1454:4; 1458/I:16; 1462:3; 1471:28; 1474:16; 1478:5; 1481:17; 1486:8,10,14–15,41–42,60; 1492:22,56,72; 1495:9,38; 1498:51; 1500:18; 1514:42; 1518B:29; Trip. I 37:13–14, 38, 85:3, 130:1, 134:6; II 11:3, 27:2,9–10, 28, 30:6–7, 32–40, 41:6–7, 49:2–4, 52:4, 61:1, 67:12, 81:2; III 3:11, 34:2, 35.

of burghers: Trip. III 9:1, 17.

of Jews: Trip. III 36.

of office: 1427a:1; 1435/I:1; 1467:7; 1486:73; 1492:33,43; 1498:4; 1500:10[4]; 1504:2[1]; 1514:4[1]; 1518T:10,17; 1518B:18[19]–20[21].

of peasants: La3:1; 1464:24; 1478:15; 1514:5,42; Trip. III 3:18, 27, 28:1–2.

of Rákos: 1498:43 an oath similar to the one previously prescribed for officeholders, intended to guarantee equitable justice and the honest administration of revenues.

octave court (*octava*): the term of the session of royal courts of justice; there were usually four annually, beginning on or around the eighth day after a major feast (such as Epiphany (6 January), St. George's (23 April), St. James's (25 July), and Michaelmas (29 September)) and lasting 30–40 or more days. St. George's and Michaelmas were often called the major octaves. Octave courts in Transylvania and Slavonia were usually held at different times. Col:2; 1397:62; 1427(a):2–3; 1444: 20,25–26; 1445:4,6,11–12,20,23; 1458/I:1,4; 1458/II:2,27; 1459:22; 1462:1; 1464:5–7,12,28; 1471:9,12,27; 1474:10; 1478:11–13; 1486:3–4,6–7,17,19,23,25–27,33–34,52; 1492:10,16,41,49,52,54,73,96,104; 1495:1,8,14,43; 1498:2–3,8–10,64; 1500:1–3,6,9–11,13,15–16,18; 1504:13,30; 1526:20; Trip. I 14:12; I 25; I 30; I 33:2; I 45:1; I 46:3; I 60:2, 10; I 61:1; I 71:1; I 125; I 131; II 11:1; II 15:2; II 18:4; II 20; II 24:4; II 59:1–2; II 71:1, 10; II 77:10; II 80:3; II 81:6; II 86:7–8; III 3:2, 6, 12–13.

oppidum: see **town**

őr: see **guard**

ordeal (*judicium*): a medieval method of legal proof based on the belief in direct divine intervention in the determination of guilt. Medieval Hungarian evidence is available on ordeals of hot iron held at Oradea until the mid-thirteenth century, see Zajtay (1954), but judicial combat (see combat, judicial), practiced until much later, was also a form of ordeal. Ordeals were administered by the clergy of major churches. SSz:9,13,17,28,44,61; La2:4–6,16; La3:1–2,9,11,17; Col:22,32,42,52–53,55,76,83.

palatine, count palatine (*comes palatines*): originally the head of the king's household and highest officer in the realm. By the mid-twelfth century he had become the king's deputy and commander of the royal host; he gradually moved out of the court and served as the king's itinerant judge administering justice to the **nobles** (q.v.) and *servientes regis* (by c.1230) (q.v.). The palatine also became the judge of the Cumans. While his rights and duties were codified only in the sixteenth century (and not, as earlier assumed, in 1480s), he was in fact the highest officer of the realm. The names of almost all palatines are known from c.1150

onward; The election or selection of the palatine was a contested issue between king and estates. La3:3; Col:36–37; 1222:1,8,30–31; 1231:1,9; 1279:7; 1290:5,8; 1298:2,11,14; C 1440:2,19; 1351:9,23; 1397:1,6–7,12,50,69; 1405/I:5; 1405/II:4; Prop:19; 1435/I:1,4,7,20; 1435/II:7–8; 1439:2,29–30; 1444:2,24; 1446:7; 1447:2,15; 1458/I:3; 1478:12; 1486:20,24,26–27,52,54–55,68,73; 1492:19:4,33,35,66; 1498:43,47:2,70; 1518T:1; 1518B:5,39; 1523:51; 1526:2,22,30,34; Trip. I 94:2; II 2:5, 14:22, 39, 57:1.

paraphernalia: chattels (clothing etc.) given to the bride by her family (*trousseau*). 1492:46; 1500:16; Trip. I 28, 59:2, 67:2, 88, 93, 94:3, 100, 105–106; II 18:3, 24, 60:4; III 7:3,5.

penny (*denarius*, d): The most widespread coin minted in medieval Hungary, essentially following the types popular in neighboring areas (Viennese, Friesach pennies); originally minted in c. 0.6–0.8 gr silverweight, deteriorating during the twelfth century to as low as 0.15 gr, but regaining their normal size and weight until the mid-thirteenth. Due to the financial reform of King Sigismund (1392–1405), small value silver coins were again widely used but a fundamental deterioration can be observed by the mid-fifteenth century. The reform of King Matthias (re)ensured the stability of the pennies. See also *nova moneta*. La2:14; La3:8; Col:28,44–45,54,79–81; SStr:90; 1222:3,23; 1290:26; CC:1–2,4–5,8–10,12,15,17,19,25–26,29–31,33–35,38,47; 1351:4; 1397:6,69–70; 1405/II:7; 1411:1–2,5; 1427(a):7; 1427(b):1–4; 1435/I:10–12,16; 1439:10; 1444:8; 1447:24,37; 1458/II:39; 1467:2,7; 1474:9; 1478:4; 1481:5; 1486:36; 1495:40–41; 1498:54,64; 1514:1,15; 1518T:9,14; 1518B:18[19],33,45; 1521:[2]–[5],[8], 4 [12],38; 1523:2,33,38; 1526:40; Trip. II 68, 69:1, 86:12; III 3:12, 27:1.

pensa [*auri*] (gold *pensa*): money of account in eleventh-century Hungary, equal to one Byzantine gold *solidus* (or bezant), or to the value of a steer (young ox), or 40 pennies. St1:14; St2:9; SSz:14,16,28,42; La2:3–6,8; La3:1–5,9–10,15,18,20–21,23,25–26,28–29; Col:32,36,40–44,82–83; Collud:2–3; SStr:47,69,[85]; CC:1–2,4,25,41.

perambulation of boundaries: see **boundaries**

perfidy (charge of) see **infidelity**

personalis presentia regia (**personal royal presence**): court of royal personal presence which emerged as early as the thirteenth century. In the first third of the fourteenth century it was augmented with the court of the special personal presence. The court of the personal presence functioned on a regular basis from 1435 and it was led by the chancellor. After 1464, when it was united with the court of the special personal presence, it became the main royal court of justice, issuing sentences under the king's judicial seal. Its head was a chancellery **protonotary** (q.v.), the *locumtenens personalis presentie* (later simply: *personalis*) who presided over an ever more professionalized judicial staff. See Bertényi (1970), Bónis (1977), Rady (2015) 50–4. 1404/II:1; 1435/I:4; 1439:29; 1444:24; 1462:1; 1474:12,15; 1478:12; 1498:38; 1504:31:4; 1514:55; 1518B:4; Trip. II 11:2; III 8:2, 10:2, 11, 19:5–6.

pertinentia: see **appurtenances**

places of authentication (*loca credibilia*): cathedral or collegiate chapters (*capitula*) and – mostly Benedictine, Premonstratensian, and Hospitaller – convents. They substituted for the notaries public of other countries. They issued under their **authentic seal** (q.v.) documents recording private legal transactions (e.g. **recognizances**, q.v.), and sent out witnesses (called: *testimonia*) to certify the actions of royal **bailiffs** (q.v.). Thereafter they issued the appropriate **letters** (q.v.) and kept these as well as other records of noble families in their archives. See Eckhart (1913/15) Hunyadi (2003) and Rady (2015) 37–43. 1231:10; 1290:3; C 1440:19; 1320:1; 1351:10; 1404/II:1; 1435/I:8–10; 1462:1; 1492:43–44,96–97; 1498:65; Trip. I 21:3, 63, 86:3, 127, 128:1; II 12:2, 13:7–8, 15, 17:4, 19–22 *passim*, 56:1, 57:5, 74:10; III 13:1, 15:2, 27:4.

pledge (*impignoratio*): arrangement by which all or part of an estate was assigned together with its income to a creditor. Such pledging could also be ordered by a judge for the benefit of a plaintiff entitled to satisfaction or in matrimonial suits (**dower, filial quarter** [q.v.]). The contract of pledge needed to be authenticated by a **place of authentication** (q.v.). Relatives had preemptory rights. The creditor had full rights to the usufruct of the pledged property and could pledge it further but had to return it at a set date (32 years was the usual maximum term). This practice basically followed the Roman legal institution of *pignus* and *antichresis*. 1397:49; 1405/II:2; 1411:4; 1440:2; 1447:17; 1458/II:40; 1492:4,65; 1498:55; 1504:7; Trip. I 10:2; 23, 27:2, 58:1, 59:2, 60–61, 63:1; I 65:1; I 78; I 80–83; 102:3–4, 103; 110, 111:6–7; 134:2; II 18:3; II 19; II 20:1, 3; II 24; II 43:1; II 71; II 76:6–8; II 84:10; III 7:3, 5.

plot (tenant peasant's) (*sessio iobagonalis*): a complex made up of a plot in the village, arable land, and rights to commons assigned to one (or more) tenant peasants (Hung. *telek*, in taxation terms: *porta*). See Szabó (1969), Maksay (1978) and Laszlovszky (1999). CC:15; 1351:4; 1411:2; 1435/I:10; 1435/II:2; 1446:10; 1454: 4; 1459:6; 1467:1–2,7–8; 1474:1,3–4; 1478:1–2,4; 1492:20:3; 1498:15–16; 1500:29:4; 1514:15,20; 1518T:2,9; 1523:19; 1526:40; Trip. I 24:6, 40:6, 60:8, 93:4, 133:18–20,23, 134; II 14:39–43, 68. Plots were often subdivided among a tenant peasant's heirs.

plough: see *aratrum*

pondus (weight): a measure of the weight of silver, being one-twelfth of a *ferto* (quarter) which in turn was one-quarter of a mark; according to the different marks, a *pondus* was c.4.4–5.1 gr. 1231:20; 1290:14,16; CC:38,42,47.

portio possessionaria: see **division**

possessio: the legal term that late medieval laws use mostly in the sense of a **village** (q.v.).

potens, princeps: see **magnates**

potentia: see **act of might**

predium: see **deserted land**

predial nobles (*nobiles praediales*): a group of conditional nobles from the thirteenth century onwards. The expression referred both to the nobles on castle estates (*predia*) as well as the ecclesiastical nobles particularly, though not exclusively, in Slavonia. The *praediales* were burdened with certain *servitia* in return of the lands they received in perpetuity. See Rady (2000), 79–95. 1467:1; 1500:29:4; 1521:10[19].

prefection (*prefectio in filium, in heredem masculinum*, Hung. *fiúsisítás*): royal privilege by which the king “promoted” the daughter (or daughters) of a nobleman without male heirs in the third (since 1397 fourth) degree, to a son, i.e., authorized her to inherit the paternal fortune just as if she were a man, starting a new kindred. See Fügedi (1998). Trip. I 7, 17:4,7, 39:3, 50, 57:2.

prescription (*prescriptio*): a Roman legal term used by W. in order to define the length of time during which either an action could be started for a wrong or the term of bona fide possession of property (usually immovable) after which its possession could not be challenged. For criminal acts, such as an **act of might** (q.v.), it was 32 years (see Trip. I 46:5), for property 32 to 100 years (see Trip. I 78). The royal right prescribed in 100 years (Trip. I 23, cf. I 6:2). The correction of boundaries, the right of cognates to inheritance, **filial quarter** and **dower** (q.v.) were not subject to prescription. Trip. I 11:4, 23, 46:5–6, 47:4, 56:4, 78–79, 82, 85, 128:4; II 18:6; III 14:5, 15.

pristaldus: see **bailiff**

proceres: see **notables**

proclamata congregatio: see **extraordinary county assembly**

procurator: see **attorney**

proditio fraterni sanguinis: see **betrayal of fraternal blood**

prohibition (*prohibitio*): protest against a legal action (alienation, acquisition, donation of some property, paying of filial quarter and dower, etc.) before, during or after its execution, made always by a third party. Prohibition usually led to the opening of a lawsuit or a retrial (see new trial). If a third party or *ingerens* intervened and protested at the claims of one party to the suit, the party whose rights were challenged was expected to launch a separate action of his own against the *ingerens* within a year. 1435/I:10; 1486:22; 1492:59; 1504:11; Trip. II 20, 58; III 14:5, 15, 33:4.

personal protest delivered in person before a judge to a respondent while he was present in court. Trip. II 20.

property, landed: see **property rights**

property rights (*iura possessionaria*): a term used in the laws in an objective sense, i.e. referring to actual estates owned by freemen until the mid-thirteenth century while later by noblemen and other landholders. King Stephen sought (St1:6) to transform the undivided property of the kindreds into the personal property of freemen. Coloman introduced restrictions concerning the kindred's rights (Col:20) and thirteenth-century privileges 1222:4; 1231:11; 1290:19) aimed at free personal disposition. Finally, the decree of 1351 (1351:Preamb.) enacted the inalienability of noble property (*aviticitas*) and this law remained in force until the nineteenth century. By the end of the Middle Ages all cases involving property rights had to be heard in the royal courts (Trip. II 52).

acquired (*iura possessionaria acquisita*): land acquired by purchase (*iura possessionaria empti*) or by royal donation; however, W. makes a further distinction between land acquired by cash and land acquired by service, asserting that only the former might be freely alienated. Col:20–21; C 1440:19; 1351:20; 1445:17; 1486:24, 57; 1514:51; Trip. I 17:4, 18, 19, 28:1, 43.

devolution of: property usually devolved through the male line, from a father to his sons. If a father had no sons (Trip. I 17:1, 40, 45, 46) then the property passed to his parents, inasmuch as they were still alive, or to his kinsmen. The property could also be passed to adopted sons or brothers or even to a preferred daughter. (Trip. I 47, 63, 67:3). 1435/I:17–18; 1486:26; 1514:62.

devolution of property from husband to wife, and vice-versa: Trip. I 48, 98, 101, 110.

escheat of: property rights that had escheated to the ruler on account of **default of issue** (q.v.) or of **taint of infidelity** (q.v.) St1:2; Col:20–21; 1222:4; 1397:58; 1435/I:17; 1481:15; 1486:26; ArtPal:10; 1518B:28; Trip. I 10:1, 29:1; 50, 64, 66.

exchange of (*concombium*): usually aimed at remedying the fact that the pattern of royal donation (q.v.) and of inheritance (q.v.) meant that estates were widely dispersed across the country. Even if the exchange was accompanied by a money payment, the land involved did not lose its character as ancient hereditary property (Trip. I 73). A 'just exchange' did not require the consent of kinsmen (Trip. I 70), as a consequence of which fraudulent transactions might be made (Trip. I 71). Trip. I 59:3, 69:1, 70–74, 111:6.

inherited (*iura possessionaria hereditaria*): all land that was inherited and thus in which heirs and kinsmen had inheritance rights. Col:20–1; 1222:4,16; 1351:3; 1462:3; Trip. I 21:1.

of burghers: property rights held by the burghers of towns; Trip. III 14, 16, 18, 19.

purchased (*iura possessionaria empti*): see above, acquired. (cf. female line).

recovery of: the recovery of estates commenced through **letters of protest** (q.v) or the so-called *littere recaptatorie*. The violent seizure of property to which a party felt he had a right

was not permitted unless the attacker himself had been ejected from his property by violence in the course of the previous year. 1435/I:12; 1500:19; Trip.. I 33:1, 68; II 28:4, 77:4.

sale of: infrequent and usually undertaken on account of pressing financial need. Sales, like most other alienations of land, required the consent of all those kinsmen who had a concurrent interest in the property. C 1440:10; Trip. I 58–61, 68–9. (see also **notice**)

proscription (*proscriptio*, Hung. *levelesítés*): criminals (*publici malefactores*), thieves, forgers and counterfeiters were proscribed by the county, usually at the county assembly (i.e., their properties, and sometimes their lives, were forfeit). 1405/I:5; 1526:27; Trip. I 119:1, 121:4.

protonotary (*prothonotarius*, Hung. *ítélőmester*, ‘master in sentencing’): lawyers who acquired legal training in the secular Hungarian courts. From the mid-fifteenth century they presided over court sessions in an increasing number of cases. (Bónis 1977); Rady (2015) 55–64. 1435/I:1; 1458/II:27; 1459:22,24; 1464:19; 1471:14; 1478:11; 1486:13,20,23,27,54,68,73; 1492:33,40,51,69; 1498:4–6,48; 1500:4–5,7–8,11–12; 1514:54; 1518B:39; 1523:55; Trip. I 45, 86:2, 122:4, 127, 128:1; II 77:5,7,9.

quarta filialis: see **filial quarter**

reambulatio: see **boundaries, perambulation of**

recaptivatio: see **property rights, recovery of**

recognizance (*fassio*): a legally binding declaration usually made at a **place of authentication** (q.v.). 1435/I:10; Trip. I 16:2, 23, 58–66 *passim*, 74:1, 86:3, 91, 102, 109–10, 126:2, 128; II 13:7–8, 16–7, 81:7; III 13–14.

reeve (*villicus*): The head of the village administration, probably of personally free, small cultivators (peasants), in charge of minor jurisdiction and enforcement of royal laws; in the thirteenth century non-servile peasants (or *hospites*, see **guest**) having their own *villici* were clearly distinguished from bondmen subject immediately to their lords. The two groups merged later into the tenant peasant (*jobbágy*, q.v.) population, who seem generally to have had elected *villici* and other officials (sworn men, judges). St1:9; SSz:25; SStr:10; 1351:5; 1405/II:16; 1411:1,3; 1427(a):1; 1435/I:13,16; 1435/II:7; 1467:7–8; 1478:4–5; 1481:6–7; 1486:43,61; 1492:90,93; 1495:38,42,51; 1514:47; Trip.. I 133:46; II 53; III 26:7.

regnicola: see **gentleman of the realm**

regnum (verbatim: “kingdom,” “realm”): is used in the laws interchangeably in the sense either of “country” or of “kingdom.” It may refer individually to Hungary, Slavonia, Croatia and Dalmatia (rarely to Transylvania), or all of the above lying under the jurisdiction of the Holy Crown. *Regnum* might also be used in the sense of the estates or of the noble community of the realm. Its Hungarian equivalent, *ország* (now meaning “country”), has its root in *úr* (“lord”). For the latter meaning, see, e.g. St2:2,[19]; Col:Preamb. 1222:7–8,11,14; 1231:1,4,8,11; 1351:1,9; 1458/I:2; 1458/II:1–2; 1492:3–4,10; Trip. II 1:1, 2, 3:5.

rent (*terrarium*): The sum total of dues a *jobagio-tenant* (q.v.) had to render to the lord of the land for the possession of his tenancy; while frequently referred to in monetary terms, in the thirteenth and fourteenth centuries it was paid partly in kind, partly in money, and to a lesser extent in labor. (See Pach 1966, Solymosi 1998, Laszlovszky 2018: 265–78). C 1440:13; 1397:68; 1405/I:1; 1435/I:7; 1435/II:2; 1445:22; 1458/I:15; 1459:5; 1474:14; 1486:26; 1514:23; Trip. III 25:2.

repulsio: an action by a party in physical possession of a property, which had been adjudged in court to another, by which he might impede the institution with ritual violence (with a drawn sword or similar weapon). This had the consequence of forcing the matter back into court for a

retrial. *Repulsio* could only be performed once. 1492:57; 1500:19; 1504:4; 1521:[1],15[23 cont.]; Trip. II 57:3, 73–76, 83:4–5.

residence, noble (*locus solite residentie*): the place whence a nobleman had to be summoned; the character of the building is not specified in the laws. 1397:6; 1427(a):4; Prop:17; 1435/II:8; 1446:2; 1447:7; 1453:6–7; 1454:7; 1462:1; 1486:62; 1492:14,56:3; 1495:14; 1498:10,57; 1504:23; 1514:4; 1518T:19; 1521:[1],[22]; 1523:50; Trip. I 30:3,7, 40:2,5, 41, 60:8, 70:2, 92, 98:1,4, 115:3, 122:1, 133:15–16, 134:3–4; II 24, 67:11.

invasion of: 1447:15; 1498:8,38; 1500:13; Trip. I 15; II 42:5, 67:9, 82:20; III 19:7.

response (*responsio*): reply to a legal argument, usually made by attorneys. It was possible for the attorney's client to retract his response (see **attorney, recall of**). 1492:73; 1504:15; Trip. I 127:1, 129–31; II 11:2, 20, 22:2, 24:7, 27, 32:2,8, 39, 53:3, 58:1–2, 61:1, 75:5,7,9–10, 77, 79–81, 83:3, 85:1–2; III 6, 11:8.

retainer: see noble retainer (*familiaris*); see also **baronial retainer** (*jobagio*, c.1190–1230).

revenues,

ecclesiastical: see **tithe**

royal: see **chamber's profit, fiftieth, mardurina, thirtieth, twentieth**

seigniorial: see **ninth, rent, tributum**

right, royal (*ius regium*): an ambiguous term, apparently referring to royal claims to any estate which, though not actually possessed by the king, was assumed to belong to him in the absence of any evidence to the contrary. Actions were moved by or in the name of the crown against persons accused of “hiding royal rights” (*celatores iurium regalium*) i.e., allegedly usurping a royal claim (see e.g. Trip. I 24:10). 1290:4; 1386:7; 1397:58; 1435/I:17; 1439:24; 1443:8; 1445:2; 1446:11; 1462:2; 1464:11; 1486:26–27; 1492:30,62; Trip. I 23–26, 29:1–2, 30:3, 31–32, 36, 37:5,8,10, 47:3, 60:8, 63:5, 82:3; II 14:44, 84:3.

Saxons: the collective name for Rhenish or Swabian German settlers, especially in Transylvania and in northern Hungary (Hung. Szepesség, Germ. Zips, Slov. Spís), who from the thirteenth century onward enjoyed considerable privileges and virtual autonomy in their towns and areas of settlement (Lat. *sedes*, Germ. *Stühle*, Hung. *székek*). 1290:6–7,14,19,23,24,27–28; 1298:Preamb; Prop:21; 1459:20; 1514:3:9; 1518B:14; 1523:47; Trip. III 25:1.

seal,

authentic (*sigillum authenticum*): the most important corroborative element of charters issued by **places of authentication** (q.v.), the major **judges** (q.v.) of the royal courts, prelates and cities. The use of an authentic seal was limited by the custom which prohibited the use of someone's seals in his/its own affairs. Accordingly, even the **places of authentication** (q.v.) were supposed to turn to another chapter house or convent in their own transactions. 1222:31; 1290:16; 1384: Preamb; 1405/I:21; 1427(a):1; 1486:11; 1492:44 Trip. II 13, 14:18–19,22–26,29–30,35–37,42,49, 16:3–4, 17.

summoning (Hung. *billog*): in the eleventh-twelfth century parties were summoned to court by a **bailiff** (q.v.) identifying himself by showing the king's summoning seal (one of these survived); some lesser judicial officers were also called from these: *billogos* SinSzab:42; Lad 3:25–25; Col:2,5–6,23. See Jakubovich (1933).

sedes iudiciaria: (abbreviated as *sedria*) see **county court**

serviens regis: a propertied man rendering military service and claiming to be subject only to the king. In the twelfth and thirteenth centuries, the *servientes* emerged from the upper strata of the **castle warriors** (q.v.), other **freemen** (q.v.), and privileged royal populations. The demands of the *servientes* for noble privileges were first voiced in 1222 and finally confirmed

in the *decretum* of 1267. Their legal status became gradually identical to that of minor allodial landowners and members of the old kindreds, all of whom were regarded as **noblemen** (q.v.). 1222:1–5,7,10,15,18,21–22; 1231:1,4–5,15,17; 1267:Preamb; 1279:4,6.

servus: see **bondman**

sessio iobagonalis: see **plot**

Slavonia: the major part of the region between the rivers Drava and Sava as well as a part of the region south of the Sava (presently the northern part of the Republic of Croatia and partly Bosnia and Herzegovina), that became part of the kingdom of Hungary in the late eleventh century. Upper Slavonia included the counties of Vitrovica, Varaždin, Križevci, and Zagreb, while the counties of Vrbas, Dubica and Sana was called Lower Slavonia. The counties of Požega, Valkó, Srijem and southern Baranya (though all lying between the rivers Drava and the Sava) did not belong to Slavonia. The region was administered by a **ban** (q.v.), often jointly with **Croatia and Dalmatia** (q.v.). Its inhabitants and nobles had slightly different rights and duties from those of the rest of the kingdom. 1267:Preamb; 1290:28; 1397:36; Prop:21; 1435/I:1; 1439:7; 1444:3; 1445:4; 1454:9; 1459:2; 1464:13; 1471:6; 1486:3,6,50; 1486:68,73; 1492:1,8,26,33,41; 1492Slav:1–10; 1498:2:8,38:4; 1498:70; 1500:6,9,18; 1504:30; 1514:3:7; 1518T:1; 1518B:6,18[19]; 1521:18[27]; 1523:26; 1526:12; Trip. I 94:2; II 65; III 2–3.

sole individual (*unica et singularis persona*): technical term for a person who had no legitimate heir and whose property was thus likely to **escheat** (q.v.) to the crown on account of default of issue (q.v.). Best defined in Trip. I 10. Trip. I 10:2, 59:8, 60:8, 64:1, 65; II 46, 64:2; III 30.

specialis presentia regia: royal court of the special presence that appeared around 1337, presided over by the vice-chancellor, but only became fully institutionalized by the end of the Angevin rule. From 1453 to 1464 this court was presided over by the (arch)chancellor and passed sentences under his or the vice-chancellor's seal. Its judges were among the first legally-trained professionals in a royal court. Abolished in the general judicial reform of 1464, its name was for a while occasionally also used for the new, united court of the **personal presence** (q.v.). See Bertényi (1976), Bónis (1977). 1397:62; 1405/I:14; 1421; 1458/II:27; 1459:22; 1486:18.

subsidiium: originally defined as an extraordinary tax for the war against the Ottomans. It was first raised by Sigismund and then, virtually annually, by Matthias. Every taxation unit (*porta*) owed one florin of *subsidiium*. See Kubinyi (2008), 77–9. 1474:1–4,8–10,13; 1504:1; 1518T:14; 1521: passim; 1523:2,25,43; 1526:4,40.

summons (*citatio*): See Rady (2015) 123–6. 1328:passim; CC:36; 1351:22; 1397:2,62; 1405/II:10; 1421; 1427(a):3; 1435/I:3,9–11; 1435/II:5; 1439:33; 1445:7; 1447:7; 1459:30; 1462:1–2; 1481:17; 1486:13,68; ArtPal:9; 1492:58; 1495:12,19,21; 1498:9:2,38; 1500:3,14; 1504:25; 1514:49,69; Trip. I 9:1,3, 12:1, 71:1, 75:1–2, 131–132; II 15:2, 18–25, 32:5, 34:3, 46, 48–49, 51, 61, 68:4–5, 75:1, 82:1–12, 86:7–8; III 14:4, 19:1,5, 25:3,6, 26:1–4, 27. (see also **trial**)

at three fairs (*citatio trineforensis*): abolished in 1486. 1439:32; 1458/II:1; Trip. II 2:5.

by the king's (judge's) seal. In the eleventh and twelfth centuries summonses to court were served by bailiffs, authenticated by a seal (bull) of the king or other judges (the laws speak of "sending the seal") Col:2; 1222:2,10; 1267,6; 1290:3.

personal summons: when a nobleman was summoned on the spot for having disrupted the meeting of the diet or a trial. 1495:3:1; 1498:8; 1523:50; Trip. II 20, 24:1.

simple summons: summons delivered to the respondent at his noble residence (q.v.), giving notice of a protracted lawsuit. If the respondent failed to attend court, then he would be

summoned again. If he still failed to attend, a terminal summons (see below) would be issued. Trip. II 18, 20:9, 71:6.

short (or final) summons (*citatio brevis*): a summons requiring the respondent to attend court within 32 days (or at the next **octave term**, q.v.), usually issued in respect of violent crimes. The short summons was often combined with a terminal summons 1444:17,20,25; 1445:4; 1447:40; 1458/II:27,32; 1459:22; 1464:4; 1471:28; 1474:15; 1478:8,12–13; 1486:2–3,17,19; 1498:2,9–10; 1500:2; 1492:14; 1495:1; 1500:4; 1504:9,23; Trip. I 33, 68:1, 80:1.

terminal summons (*citatio cum insinuatione*): a summons issued with the clause that judgment would be passed even in the absence of the summoned party, used particularly against perpetrators of **acts of might** (q.v.) 1445:12; 1447:15; 1453:9; 1458/II:2; 1464:5,28; 1471:9,31; 1486:6; 1492:14; 1495:7; 1500:15; Trip. I 4, 6:4, 68:1; II 18:6–7, 20:4, 57:6, 71:7, 80:1, 81:5.

senates: see **council, royal**.

Székely (Lat. *siculi*): originally border guards who were moved to Transylvania in the late twelfth and early thirteenth centuries, where they constituted their own privileged community. Prop:21; 1435/I:1; 1492:8,33; 1498:21:3; Trip. I 94:2; III 4.

tenant peasant (*jobagio*, Hung. *jobbágy*; from c. 1250 onward): the word, which originally meant a royal office holder (see *jobagio*) was gradually transferred to *rustici jobagiones* (lit. peasant retainers), who had acquired personal liberty but were bound to the lord of the land by having to render seigniorial dues (in kind and money, rarely in labor). They were subject to seigniorial jurisdiction, but – at least until 1514 – free to move once they had paid their annual dues and obtained a license. The emergence of the more or less uniform legal status of dependent peasants was connected with changes in agriculture, expansion of settlement, and the application of legal arrangements typical for foreign guests (*hospites*) (q.v.) in the later thirteenth century. The *jobagio*–*jobbágy* status remained the characteristic legal condition of Hungarian peasants until 1848. See Bak (2005) Rady (2015) 103–8. C 1440:13; 1328; CC:16,35; 1351:6,16,18; 1397:6,52,63,66; 1405/I:6; 1405/II:15–16; 1411:2,6; Prop:2; 1435/I:7; 1435/II:2,4; 1445:22; 1458/I:5,15; 1458/II:44; 1459:1,3–5,11–13,16,18,23–24,28; 1471:16–17; 1478:1–2; 1481:2; 1486:39,61–62,65,67; 1492:9,20–21,49,56,90,93–94,104; 1495:2,9,21–22,37; 1498:15,17,22,26,47,52; 1500:21,27; 1504:16; 1514:7,20–22,25–32,39,41,44,64,70; 1518T:3–4,20; 1518B:1; 1521:[2],[18],[22],36[58],37[45]; 1523:11,19,25,41; 1526:40; Trip. I 24:6, 40:6, 60:8, 93:3–4, 133:4,18–19,23, 134:2–4; II 23:2, 24:2–3, 39:1, 51, 53, 67:13, 82, 86:11; III 26–31.

term, judicial (*terminus*): see **octave court**

terragium: see **rent**

testimonia (witnesses): see **places of authentication**

thirtieth (*tricesima*): a customs duty on import and export that developed out of different types of urban and market tolls. See Thallóczy (1879), Pach (1990), Laszlovszky (2018) 255–64. CC:35; 1405/I:17; 1439:6; 1444:4; 1445:18; 1458/II:33; 1464:23; 1471:30; 1492:27; 1492Slav:5–7; 1495:28; 1498:29,31–32,34–35; 1500:26; 1514:1,3,7,71; 1518B:14; 1518B:33,45; 1521:4[12],23[44]; 1523:46; 1526:3; Trip. I 9:5; II 9:1.

tithe (*decima*): ecclesiastical tithe was decreed by the first kings, but the details of its collection (on which produce or product, when, how, and by whom) was a recurrent issue of debate at the diets through the centuries. In principle, it was to be paid to the bishop (or his tax collector, *dicator*, or the persons to whom it was farmed out) to be shared by the cathedral chapter and parishes. Nobles were exempted at least since 1439 (1439:28). The obligation on peasants and the way tax collectors were to proceed was regulated several times. See Mályusz

(1953), Csizmadia (1975), Laszlovszky (2018) 309–34. St2:[20]; SSz:27,30,33,40; Col:25,66; SStr:64; 1222:5,20; 1231:6,16; 1290:14–15,24; CC:35; 1351:6; 1397:63,65–66; 1405/I:1; 1411:5–6; 1435/I:7; 1439:28; 1440:1; 1444:5,14; 1446:2; 1447:35–36; 1458/I:9–10; 1458/II:34–35; 1464:22,24; 1471:3; 1474:16; 1478:15; 1481:1–4,6–13; 1486:40–45; 1492:50; 1492Slav:11:4; 1495:37–45; 1498:15,49–54; 1500:29–30,36; 1504:23–24,26; 1514:18,24,64; 1518T:3; 1518B:1,14,18[19]; 1521:11[20],15[23 cont.]; 1523:42; Trip. I 9:1; 33:25.

town (*oppidum*): non-privileged town or marketplace (Hung. *mezőváros*) that was – in contrast to **free cities** (q.v.) – subject to the jurisdiction of secular or ecclesiastical lords, but with some rights of autonomy (election of mayor and/or parish priest, market rights, etc.). In the early sixteenth century there were some 800 *oppida* in the country; see Szabó (1960), Fügedi (1972), Ladányi (1977). In the laws, they are usually mentioned together with other properties, as most of their inhabitants counted legally as **tenant peasants** (q.v.) 1405/I:1,6–8,11,13,15; 1405/II:6; 1427(b):2; 1435/I:15; 1439:25; 1444:17; 1445:10; 1446:2,7,10–11,14; 1458/II:33; 1459:1; 1467:2; 1486:32,47; 1492:90; 1514:7,26; 1521:13 [21 cont.]; Trip. I 4, 12, 21, 24, 60:8, 87; II 13:3, 14:43–44, 70:5, 71, 76:3–4; III 32.

Transylvania: the mountainous eastern part of the kingdom of Hungary beyond the Királyhágó (Pasul Craiului) with a mixed Magyar (incl. Székely), German and Romanian population, governed by the **voivode** (q.v.) and enjoying some autonomy and following slightly different legal customs. Nobles of Transylvania were to a great extent subject to their voivode; their man price was also lower than that of those of the “mainland.” See Mályusz (1941/1999), Rady (1992). 1267:Preamb; 1290:6,24,28; Prop:21; 1435/I:1; 1439:7; 1443:1–4; 1444:32; 1464:13; 1467:1; 1471:6; 1474:3; 1486:3,6,68,73; 1492:1,8,26,41; 1492Slav:2; 1498:2:8,20:6,20:23,21:2; 1500:6,9,18; 1504:30; 1514:3:9; 1518T:10; 1518B:6,9,14,18[19],45; 1521:5 [13]; 1523:26,47; 1526:12; Trip. I 94:2; II 14:15, 65; III 2–4.

trial: details of legal procedure can be reconstructed only in general, particularly from the Trip., e.g. II 75 [8–12], 77. The usual procedure was for the plaintiff to present his plaint and claim (II 18 [1], 26). This was then recast in the form of a **summons** (q.v.) – preceded or not by an **inquest** (q.v.) – and sent to the other party, requiring him to attend court. Once initiated, court discussions were divided into two parts. In the first of these, the period of *exceptiones*, the respondent’s attorney would seek to have the case fail on procedural grounds and legal technicalities. In the second phase, the period of *allegationes*, the substance of the claim would be investigated, documents examined, and the reports of inquests and oath takings considered. Throughout these two parts, the judge might make interlocutory judgments, and might also fine the parties for procedural irregularities and misconduct. The trial would be concluded with a sentence. Before execution of the judgment, the losing party might rely on a number of remedies in order to force the matter once more into court for retrial. Cf. Rady (2003 and Rady (2015) 127–33; 1397:55; 1435/I:4; 1464:14; 1486: 52; 1492:51–52,90; 1495:3; 1504:11; 1518B:29.

by protracted suit (*longo litis processu*): usually property disputes that might take up to a year (four octave terms, q.v. **octave**) to reach court. In contrast, in matters involving acts of might, women’s rights, pledges and debts, retrials and warranties, the case was heard in court at the next octave (Trip. II 18).

tributum (*tax*): a term used for different, and in the course of time varying, levies paid mainly by **tenant peasants** (q.v.).

tributum fisci (*regalis*): see **chamber’s profit**

tricesima: see **thirtieth**

tutela: see **guardianship**

twentieth (*vigesima*): royal (palatinal) tax levied together with the tithe (equaled 5% of the tithe); it was occasionally also granted to the Church. 1231:16; 1514:1,3,10; 1518B:13–14,43; 1521:[6]; 1526:3,20.

udvarnok (from Hung. *udvar*, from Slavic *dvor*, “court”): peasants on settlements attached to the royal household, supplying it with agricultural produce grown on their plots (hence occasionally called *panisdator*, i.e., bread giver), in contrast to *servi* designated as ploughmen or craftsmen, messengers, fishermen, and the like, working on the royal domain with no land or equipment of their own. St2:15; La3:3; 1267:2,5; 1290:4; 1351:6.

unica et singularis persona: see **sole individual**

várispánság (*comitatus*): see **county**

vicecomes: see *alispán*

vicinus: see **neighbor**

village (*villa, possessio*): The development of fixed village settlements from the summer and winter quarters of semi-nomadic peoples and from the centers of domains (*predia*) began in the eleventh century; but “villages” kept moving either with their cattle to pastures or to new lands once the cultivated area was exhausted, probably until the late twelfth century. By 1300 Hungary may have had about 2,000 villages, in the early sixteenth century there were approx. 18,000 villages; cf. Maksay (1978). St1:9; St2:1; SSz:9,11,19,25,32; La2:4–5; La3:1; Col:40,47,62,63,83; SStr:10,[85]; 1222:3,15; 1231:4,6,22; 1267:2; 1279:1,3,8; 1290:9; 1298:14–15; C 1440:5; 1320:1; CC:20,31; 1351:6; 1386:7; 1397:3; 1405/I:1,5; 1405/II:6; Prop:15; 1435/I:7; 1435/II:2,6–8; 1444:17; 1447:35; 1462:1–2; 1481:7; 1486:36; 1492:26,89; 1498:51; 1500:29; 1504:23,26; 1514:4,9,20,26,29,32; 1521:13[21 cont.]; 1523:25; Trip. I 9:2, 14:7, 24:2, 37:9–10, 84:3–5, 85:1–2, 121:2, 122:2, 133:39, 134:3–4; II 53, 76:3–4, 82:2–3,20; III 23:1. The term was used loosely for different types and sizes of settlements, as evident from the combination *libera villa*, meaning an enfranchised town or market center in the thirteenth century; see free village, town.

villicus: see **reeve**

voivode (*waywoda*): royally-appointed governor of Transylvania with jurisdiction over the seven Hungarian counties and, as *ispán* of the Székely, over these former borderland kindreds as well. His court was the first instance for the region with right to appeal to the royal courts. Thus the nobility of Transylvania lay in a different jurisdictional position to their fellows in the central areas, see Mályusz (1994). 1290:28; 1397:48; 1397:69; Prop:21; 1435/I:1,19; 1444:2,9; 1486:6,21,53,68,73; 1492:8,33; 1495:4,45; 1498:22:7; 1514:1,46; 1518T:10; 1518B:6,45; Trip. I 14:15, 94:2; II 65:3; III 2:4, 3:6,10,13.

warranty (*evictio, expeditoria cautio*): in any alienation of property, the alienor would commit himself to uphold the rights of the alienee to the property involved ‘with his own labors and expenses’. Accordingly, if the new owner’s rights to the property were contested in court, the previous owner was expected to attend court and to defend the rights. If the warrantor could not do this, he was expected to give compensation. See Rady (2002) and Rady (2015) *passim*. Trip. I 74–7; II 18:5; III 34.

warrior (*miles*): In the eleventh and twelfth centuries dependent warriors of both the king and the greater landowners enjoyed a higher status than *servi*. Those who managed to maintain their personal independence and became mounted knights were then equated with **noblemen** (q.v.). St1:7,15,22–23,25,27,35; St2:9–11,18; La2:11,15; La3:15; Col: 65.

women’s rights: see **filial quarter, dower, female line, inheritance, widow, guardianship (statutory)**

**GAZETTEER OF PLACE NAMES
WITH SIGNIFICANT VARIANTS**

Present-day version (as printed in DRMH English side) and country	Other forms G(erman), Hu(ngarian) Sk (Slovak) Ro(manian) Cr(oatian)	Form(s) in the MSS (as in DRMH Latin side)
Arad, Co. RO	Arad (Ro)	Horodiensis
Árva, Co. SK	Orava (Sk)	Arwa
Bács H		Bachia
Baia Mare RO	Nagybánya (Hu)	Rivulum Dominarum
Banja Luka BIH	Orbászvár (Hu)	Banyalwka
Banská Bystrica SK	Besztercebánya (Hu), Bistritz (G)	Besthercze, Bistricia
Banská Stiavnica SK	Selmecbánya (Hu), Schemnitz (G)	Sebnicia
Bardejov SK	Bártfa (Hu), Bartfeld (G)	Barthwa, Barthfa
Barić SR	Barics (Hu)	Berich
Belgrade SR	Nándorfehérvár (Hu)	Nadoralba
Beluša SK	Bellus (Hu)	Belews
Bočac BIH	Bogács (Hu)	Bochacz
Bran RO	Töröcsvár (Hu)	Terch
Bratislava – see Pressburg		
Břstanik BIH		Berzenthel
Braşov RO	Brassó (Hu), Kronstadt (G)	Brassouia
Budakeszi H	Wudigeß	Kezy
Caransebeş RO	Karánsebes (Hu)	Karansebes
Cluj[-Napoca] RO	Kolozsvár (Hu), Klausenburg (G)	Koloswar
Csanád, Co. H		Chanadiensis
Csepel, Island H		Magna insula
Csongrád, Co. H		Chongradiensis
Damásd H	Ipolydamásd (Hu)	Damas
Deva RO	Déva (Hu)	Dewa
Devín SK	Dévény (Hu)	Devin
Diósgyőr H		Dyosgyewr
Draßmarkt A	Vámosderecske(Hu)	Trassendorff

Dubrovnik HR	Ragusa (It)	Ragusium
Dunapataj H		Pathay
Dürnbach A		Wynicze
Esztergom H	Gran (G), Ostrihom (Sk)	Strigoniae
Fara HR	Hvar (Cr)	Phara
Fejér Co. H		Albensis
Friuli I		Forum Iulii
Gajary SK	Gajár (Hu)	Geyren
Galicia UA	Halics	Halich
Gurghiu RO	Görgény (Hu)	Gewrgen
Győr H	Raab (G)	[ecclesia] Jaurensis
Heves, Co. H		Hewesiensis
Hlevna BIH	Livno (Slovenian)	Hlewna
Hont, Co. H		Hontensis
Hum BIH	Halomföld (Hu)	Halomfoeld
Humenné SK	Homonna (Hu), Humenau (G)	Homonna
Ipolydamásd H		Damas
Jajce BIH	Jajca (Hu)	Jajcza
Jarak SR	Árki (Hu)	Arky
Jahrendorf A		Sarendorff
Jezero BIH	Jező (Hu)	Jezero
Kaltenbrunn A	Hidegkút (Hu)	Hydegkyth
Kežmarok SK	Késmárk (Hu)	Kesmark
Keve, Co.HR		Kewe
Khust UA	Huszt (H)	Hwzth
Komárom, and Co. H	Komárno (Sk), Komorn (G)	Komaron, Comaran
Körös, Co. RO		Crisiensis
Közép-Szolnok, Co.RO		Zolnok mediocris
Košice SK	Kassa (Hu), Kaschau (G)	Cassovia
Kostajnica HR	Koszthánycsa (Hu)	Kostanicza
Kőszeg H	Güssing (G)	Kewzeg
Krapina SK	Korpona	Crapyma
Külső-Szolnok, Co. RO		Zolnok exterior
Lábod, Co. Somogy H		Labad

Levice SK	Léva (Hu)	Lewa
Levoča SK	Lőcse (Hu)	Lewchowya, Lewchovia
Liptó, Co. SK		Lyphthoviensis
Ľubovňa SK	Lublyó (Hu)	Lwblyo
Máramaros, Co. RO	Maromureş (Ro)	Maramarosiensis
Mosonmagyaróvár H	Wieselburg, Ungarisch Altenburg (G)	Owar
Mukacheve UA	Munkács (Hu), Mukačevo (Sk)	Munkach
Murska Sobota SL	Muraszombat (Hu)	Murayzombath
Nagyolasz HR	Francavilla, Mandjeloz (Cr)	Noghaloz
Nedelišće HR	Nedelce (Hu)	Nedewcze
Nemesvid H		Wyd
Neusiedl A	Nezsider (Hu)	Newsidel
Nógrád, Co. H		Ne[w]gradensis
Óbuda H	Alt-Ofen (G)	Vetus Buda
Opojevci SR	Apajóc (Hu)	Aprayocz
Orava SK	Árva	Arva
Pannonhalma H	Martinsberg (G)	Abbatia Sancti Martini Sancti Montis Pannonie
Pécs H	Fünfkirchen (G)	Pech, Quinqueecclesiis
Pelsőc SK	Plešivec (Sk)	Pelsewcz
Petrovaradin SR	Pétervárad (Hu)	Petrovaradinum
Pinkafeld A	Pinkafő (Hu)	Pynkwaffewlde
Pozsega HR	Psega (Cr)	Posega
Pressburg SK	Pozsony (Hu), Bratislava (since 1920, Sk)	Posonium
Prešov SK	Eperjes (Hu) Preschau (G)	Eperyes
Rača (Sremska Rača) SR	Rácsa (Hu)	Racha
Rákos, field H		Racus, &c.
Razkrižje SL	Ráckanizsa (Hu)	Raczkanyisa
Ruşii Munţii RO	Nagyoroszfalva (Hu)	Nagh Orosfalwa
Rudersdorf A	Radafalva (Hu)	Raddafalva
Rusovce SK	Oroszvár (Hu)	Oroswar
Rust A	Ruszt (Hu)	Rwsse
Šabac SR	Szabács (Hu)	Sabacz

Šáhy, convent SK	Ipolyság (Hu)	Saag
Sankt Martin SK	Szentmárton (Hu)	ZenthMarton
Sátoraljaújhely H		Wyhel
Schözen A	Sasvár (Hu)	Ichuczen
Senice SK	Szenice (Hu), Senitz (G)	Zemnycza
Sibiu RO	[Nagy]szeben (Hu), Hermannstadt (G)	Cibinium
Skalica SK	Szokolca (Hu)	Zakolcza
Slankamen SR	Zalánkemén (Hu)	Zalonkemen
Solymár H	Schaumar (G)	Salmar
Sopron H	Ödenburg (G)	Spronium
Sremska Mitrovica SR	Szávaszentdemeter (Hu)	Zenthdemether
Sjeničak Lasinjski HR	Sztenicsnyák (Hu)	Stanysnak
Stupava SK	Stomffa (Hu), Stampfen (G)	Szanffa
Stropkov SK	Sztropkó (Hu)	Stropko
Szeged H	Segedin (G)	Zeged, &c.
Székesfehérvár H	Stuhlweissenburg (G)	Alba [Regalis]
Szentjobb RO	Szentjog/b (Hu) Sâniob (Ro)	Zenth Jog, Zenshiog
Szombathely H	Steinamanger (G)	Zombathel
Timișoara RO	Temesvár (Hu)	Themeswar, castrum Themesiense
Topusko HR	Topuszkó (Hu)	Thopoczka
Trassendorf A	Vámosderecske (Hu)	Trassendorff
Trenčín SK	Trencsén (Hu)	Trinchinium
Trnava SK	Nagyszombat (Hu)	Thyrnavia
Trzác BIH		Thersacz
Vámos SK	Sajóvámos (Hu)	Wamus
Vinac BIH		Zozorowar
Visegrád H	Altenburg (G)	Wyssegrad
Vrbové SK	Verbó (Hu)	Warbo
Zagreb HR	Zágráb (Hu), Agram (G)	Zagrabia, Monsgreacia
Žilina SK	Zsolna (Hu)	Solna
Zvolen SK	Zólyom (Hu)	Zolyom, Vetuszolium
Zsámbék H	Schambeck (G)	Sambok