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Tradition and Renewal in the Decretum Maius of King Matthias

The decree of 25 January 1486, with the incipit *Decet reges et principes*—soon after its issue referred to as the Decretum Maius [henceforth: DM] of Matthias Corvinus (Printed in: DRH 2 p. 265-310 and in: DRMH 3 p. 41-72)¹—was a centerpiece of the king's legislative efforts.² I intend to point to some aspects of it in the spirit of one of the main themes of the present commemorative year: tradition vs renewal.³

This law, a sizeable document—78 paragraphs, called *articuli* in medieval terms (in modern print over 30 pages)—was an attempt at a systematic codification of statute law. As it repeats a significant amount of previous legislation, it stands for tradition. As it contained changes or expansions of these older decisions in many points, it may be seen as an example for renewal. A major innovation was, however, that it was the first law of the kingdom of Hungary published in print—not to be followed for several decades by any printed law book of the country.

The legal-political philosophy of the king—or, of course, those legally trained counselors of his who formulated the document—is presented in the extensive preamble of the *decretum*. It opens with a reference to the Roman legal commonplace about *arma et leges*⁴ and argues for the preeminence of good institutes rather than harsh power. (The *absolute potentie* here, however negatively, has been cited as a reference to the Roman legal term of *absoluta potestas* (see: Teke, 1989. p. 33-34. or Bónis, 1972. p. 771-773.) but I am not sure that it has this connotation.) Then the king reports that he had considered ever since the beginning of his reign to issue proper laws against the diverse abuses, one that would “be acknowledged as statute and written law, binding forever, and no one should be allowed to change them [...] as it is known to have happened hitherto each time a new king has ascended the throne.” (DRH 2 p. 266; DRMH 3 p. 41)

¹ Both editions contain references to the extensive literature on the DM, which I am not going to list here..

² On the form and content of the *decreta* of Matthias in general, including the background of the DM, see ÉRSZEGI in the same volume.

³ See, e.g. the subtitle of the catalogue of the exhibition, *Matthias Corvinus, the King*. Bp., BTM, 2008.

⁴ The *leges et arma* formula derives from Justinian's decree *Imperatoriam*; see Inst. 1.1.

The preamble then continues with a peculiar mixture of pretended apology – or, as András Kubinyi called it, self-criticism (Kubinyi, 2008. p. 128.) – and political propaganda. The enemies of the kingdom, so it goes, have hindered the king in fulfilling his intention about legislation, but now, after a series of victories, he finally has time to complete his proposal. Characteristically – and, I dare say, realistically – the list of the “enemies”, encouraged by the Devil, contains the Turks just en passant, but the narrative (and invective) concentrates on the unfaithful emperor, Frederick III. Now, victorious – after the taking of Vienna! – Matthias announced that he can turn his attention to matters delayed. Especially, so the rhetorical preface ends, because during the king’s long absence, crimes and trespasses have increased to a great extent, and the following measures aim at eliminating these.

As to the overall character of the DM, it is in the sense traditional – i.e. typical for medieval legislations emerging from noble assemblies – that it is in now ways systematic. Certain topics are treated repeatedly in different articles, procedural matter is interspersed with what one may call political, and so-called criminal law is not separated from what would be civil issues. Still, it differs from the usual dietal decree insofar as the authors attempted to include measures mainly on the administration of justice and almost exclusively on matters of general, indeed, long-term import in contrast with most other decrees regulating actual financial, military, or political issues. What is, particularly innovative (and has a precedent only in a few *decreta* of Sigismund)⁵ that the law is in almost imperial fashion emanating from the king (of course, in consultation with his prelates, barons and nobles) and not, as most *decreta* in medieval Hungary, formulated in the form of requests of the estates submitted to the king, who then approved them for the benefit of the realm. True, however, that Matthias did not claim to alter or replace existing custom (*consuetudo*), only to improve and augment it. (Teke, 1989. p. 38; 67.)

Generally speaking, of the seventy-eight articles, about the half repeats, with or without explicit reference to it, legislation of the Angevin Louis I or, mostly, of King and Emperor Sigismund. Actually, Matthias confirmed the privileges of Louis and Sigismund (including the famous Golden Bull of 1222) at his coronation and those of King Albert already in 1458. This was, however, more a political than a legal matter. The extensive reliance on Sigismund’s laws is in now way surprising, for Matthias regarded himself a continuator of the Luxemburgian – even if he was not his putative natural grandfather. As Enikő Csukovits recently pointed out, Matthias saw himself in many respects as a continuator of Sigismund, and most explicitly so in his laws. (Csukovics, 2008. p. 165-167.) With the exception of such administrative-technical matters as the fees for different kinds of writs, (DM Art. 74-76 in: DRH 2, pp. 306-308; DRMH 3, p. 11) most of the earlier laws were changed or expanded. A

⁵ On these, see now my short sketch “Sigismund as Legislator” (forthcoming in the volume on the Oradea conference, 2006).

nice small example is the extension of the toll-free passage granted to peasants taking home their bride, which in 1351 had been given only to nobles (DM Art. 36 in: DRH 2 p. 288; DRMH 3 p. 57 expanding on 1351: 17 in: DRMH 2 p. 12). Maybe such minor measures contributed to the popular image of the peasant-friendly Matthias in the folktales. The DM is much more elaborate than the Sigisimundian legislation in such matters as the behavior of the army on campaign, the restriction of litigation in courts spiritual (especially appeals to Rome), and court procedure. Still, at least two dozen articles are more or less verbatim borrowings from Sigismund's *Decretum maius* (of 8 March 1435) many of them explicitly referring to the king-emperor.

Among the several innovations was – nota bene in the very first paragraph! – the abolishment of the so-called palatinal or general judicial assemblies, a matter oft complained about by the county nobility. It seems to have been especially costly for them to host the count palatine and attend these itinerant courts. The decree also intended to abolish what was called *proclamata congregatio* (extraordinary county assembly) A few other articles also clearly court the lesser nobles, on whose support Matthias may have counted in securing the succession of his natural son, John Corvin. The power of the counties, their magistrates and *ispáns* was to be strengthened by several articles.⁶ Unfortunately, we know not enough about the procedures of the courts to judge, to what extent the more detailed measures about the role of attorneys, the collection of fines, the holding of the two annual major – so called octaval – courts were innovations or merely codifications of existing custom. Of course, even the latter was a major step forward towards regular administration of justice, which may have brought Matthias the byword of “the just” and the postmortem adage “Dead is Matthias – lost is justice!”⁷ Clearly, the professionalization of the courts, so convincingly demonstrated by György Bónis, (Bónis, 1971. or Bónis 1977. p. 181-191.) is reflected in the regulation of the role of the so-called protonotaries (in Hungarian characteristically called *ítélőmester*, “master in sentencing”) who were, though, prohibited to pass judgments privately (Art. 20 in: DRH 2 p. 278; DRMH 3, p. 50), but became clearly the main actors in lawsuits. Some of these matters were regulated already earlier during Matthias's reign. Another aspect of the modernization of justice was the article abolishing judicial combat and reserving this for the royal military court and for very few cases. A good part of these arrangements – above all, the procedural ones – survived the king by many decades, even though at the accession of his successor, Wladislas II, all the “harmful innovations” of Matthias were formally cancelled. And since not a few of

⁶ Matthias held more diets during his reign than any other monarch and tended to court the county nobility especially for securing the succession of his natural son; (see Kubinyi 2008. p. 125-127.)

⁷ The words are found in writing first in the mid-sixteenth century (on the dorso of a document), but the saying may have originated earlier; see *Ibid.* p. 175.

them found their way into the Tripartitum (regarded as the legal bible of the noble courts until the end of the ancient régime) (DRMH 5), even by several centuries

A major innovation was that this law appeared in print within a few years of its issue.⁸ Medieval Hungarian *decreta* were, as a rule, promulgated, as in many other countries, by multiple manuscript copies (Teke, 1989. p. 29, resp. p. 59-60). Ideally, every law, after having been sanctioned by the ruler, was to be copied in appropriate numbers and sent out to the local authorities: counties, royal cities and other jurisdictions, which would have meant more than seventy copies. Unfortunately, the subsequent centuries were not too clement to the survival of these copies and only in rare cases do we have more than a few originals or contemporary copies of them. Thus, we cannot ascertain, whether this kind of “promulgation” was indeed done in every case. Moreover, explicit reference to royal statutes in the surviving court records is extremely rare before the late fifteenth century.⁹ Therefore, making a major legal document available through the printing press in a great—alas, not known, how great—number was a major breakthrough and could have increased the reliance of the courts on a uniform and reliable code.

It is not recorded, whose initiative the printing precisely was. In the Preface to the 1488 editio princeps,¹⁰ the author—who may very have been the printer, Moritz Brandis (if he is hidden behind the initials B. R. L. for, perhaps Brandis Leipzig) himself—justifies the publication by reference to the book trade. “Booksellers have long urged us for this law book of the King Matthias. Therefore, we wished to be in their favor by producing a correct and polished text so that their labor and expense may yield higher returns, [...] for it is a shameful thing for noble men to be ignorant of their country’s laws.”¹¹ (This complaint about the lack of legal knowledge returned in a more elaborate form some thirty years later in the Preface to Werbőczy’s Tripartitum. (DRMH 5, p. 11)). The Preface then continues with the praise of the king, emphasizing especially his invincibility and valor, and then compares his laws to those of Solon and Lykurgos. This interlace of the commercial

⁸ *Constitutiones incliti regni Hungariae*. Lipsiae, Moritz Brandis, 1488.

⁹ Explicitly noted by ECKHART (Ferenc), *Magyar alkotmány- és jogtörténet*, ed. Mezey (Barna), Budapest, Osiris, 2000, p. 154. Actually, the editors of the DRH, keen on establishing the relevance of the decrees, could quote only two instances, where royal or other charters referred to the DM; see DRH p. 274, n XIV/1 and *ibid.* p. 302 n. LXIV/1.

¹⁰ In the following, I am mainly summarizing the findings of HUBAY (Ilona), *Mátyás király törvénykönyve*, in *Magyar Könyvszemle*, 3 63 (1939) p. 234-245. A complete bibliographical description of the two editions with references to secondary literature is printed there on p. 245.

¹¹ “*Etsi Bibliopole iam pridem sepius atque iterum blanditi sint pro istarum Constitutionum incliti Regni Ungarie accomodatione, utque easdem, castigates limatas et pumicatas traderent: quo opera et impensa eorum acceptior maiorisque pensi haberetur, qui presertim in singulis imprimendis Codicibus hoc sibi potissimum consulerent, curarent pro viribus. Morem gerendum esse censui, cum amore et favore ingeniorum et studiosorum, tum constitutionum et Legum predictarum preclaritate et excellentia, quas profecto viro patritio (Et quidem patrie sue constitutiones) ignorare turpe est.* »

aspect, the argument for need for legal education and a genuine Renaissance-style eulogy on the victorious general and lawgiver is quite impressive.

The actual involvement of the king in this project has not been documented. Not as if King Matthias would not have been aware of the importance of printing. His sponsorship of the liturgical books for Esztergom is well known.¹² Matthias was also aware of the political importance of the new medium: after the conquest of Vienna, he had pamphlets printed in Strasbourg advertising his victory. So successfully, that Emperor Frederick III found it important to issue a prohibition to all imperial subjects to print anything for the Corvinian. (Fraknói, 1915. p. 1-4) Actually, this may have been one of the reasons that the DM was printed in Leipzig by a relative newcomer¹³ and not in the imperial city of Nürnberg, the center of book trade towards the east, led by Anton Koberger, whom we may call in modern terms a jobber or wholesaler.

The connection to the court or to the surroundings of the king is, however, obvious. The editor of the law book, so identified in print, was Ambrosius Moharai Vodfi, *alispán (vicecomes)* of County Nógrád. He was a nephew of Nicholas Moharai Vodfi, canon-custos of Vác, a diplomat of Matthias and former secretary to Enea Silvio Piccolomini. Nicholas was often in embassy together Ladislas Karai, and more than once in Rome. Karai, in turn, was the person who had invited Andreas Hess from Rome to open a printing shop in Buda. The failure of that project (just as that of its parallel in Cracow) is another sad story, suggesting the limited success of “modernization” (or Renaissance?) in fifteenth-century Central Europe.

If we believe the first sentence of the Preface, it was one of the book sellers (or several of them), who suggested and perhaps financed the edition. Actually, Theobald Feger, bookseller in Buda did sponsor, among others, the second, Augsburg, edition of the Hungarian Chronicle by Thuróczi, (OSZK Inc. 1143, p. 352) and few other books. He is always mentioned in the preface or colophon of them – but he is not in the DM. So we cannot get closer to the commercial sponsor through his name. (Actually, it has been suggested that the success of the Thuróczy chronicle on the book market was a motive for the printing of the laws.)

Not many secular laws—in contrast to canonical collections and their commentaries or urban statutes—were printed in the first decades of the new medium. But in the 1470s, one followed the other. As far as I know, the Papal State

¹² On these, see also DÉRY, FÖLDVÁRY in this volume.

¹³ The Brandis workshop in Leipzig was opened probably in 1488 and the DM may have been one of its first products. Although the types used in this book (and a few others) were invented by the Brandis family that had several publishing enterprises, their Leipzig printing shop did not do well and may have become bankrupt soon. In 1490, their stock of *Sachsenspiegel* was confiscated by creditors. That could have been the reason that the second edition of the DM, two years after the first one, was done not by them but by Konrad Kachelofen, also in Leipzig.

was the first (1473), then followed Germany, Naples, Aragon Savoy, England, France, Castile, Denmark in the following seven-eight years. It may be, however, worth noting that the *Constitutiones regni Sicilae* were printed as early as in 1475, and the *Capitula, leges & constitutiones Regni Neapolitani* probably in 1485, both in Naples.¹⁴ It is, therefore not impossible that Matthias (or someone in his court) took a leaf out of King Ferrante's – Beatrix's father's – book for publishing the DM.

In turn, the publication in print of the DM may have been the example for the printing of the laws of neighboring Poland. The so-called Casimirian decrees were printed in the same officina, by Kachelofen, quite soon after the *Constitutiones regni Hungariae*, actually with the same woodcut on its title page, only the coat of arms having been changed. They, too, were re-issued a few years later. It has been suggested that Callimachus Experiens (Filippo Buonaccorsi), who, knew Matthias and the Hungarian conditions well, was instrumental in having the laws of Poland printed, but – as far as I can see – this cannot be proven. (Piekarski, 1923. p. 378-382) The *Jura et constitutiones regni Bohemiae* (the so-called Vladislavian statutes) followed a bit later, printed in 1500 in Czech, but at least “at home” in Prague. Thus one may say that the printing of the DM “made school” in East Central Europe. In Poland, the laws of the following decades were then systematically published in print, while in Hungary (with the important exception of the “privately” printed Tripartitum in 1517) this came to be the practice only a century or so later.

¹⁴ They were printed by (or for) Francesco del Toppo; for details, see the Incunabula Short Title Catalogue Nos. if00067000 and if 00722400, respectively.

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