



The ‘Fertile Source’ of Hungarian Constitutional Law: Thoughts on the 800-Year-Old Golden Bull

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Abstract. In the year 2022, Hungary had the opportunity for a double celebration on the occasion of the tenth anniversary of the entry into force of the Fundamental Law and the eight hundredth anniversary of the Golden Bull issued by Andrew II. Eight hundred years ago, the Golden Bull, as one of the roots of the Hungarian historical constitution, formulated answers to certain questions of constitutional importance, which later proved to be suitable for the interpretation of power in Hungary as bound by law. In the context of constitutional law, the Golden Bull was one of the most important fundamental bills of noble liberties. The revolution of 1848, which laid the foundations of the modern constitutional state, was based precisely on the extension of these noble liberties, and thus some of their theses were also applied later. Because of the social change of the 19th century, which was partly inspired by it, the Golden Bull was a cardinal law, the basis of the modern Hungarian rule of law, which was valid as part of the historical constitution. Today, through the provisions of the Fundamental Law that name the historical constitution, it is not only a historical monument but the root of living law, and thus it retains its critical and interpretative significance. For these reasons, the present study outlines the relationship between the current Fundamental Law and the historical Hungarian constitution, cited in several provisions of the Fundamental Law, and then analyses the place of the Golden Bull as a cardinal law, the constitutional context of its origins in the Hungarian unwritten constitution, and its direct relationship with the constitutional revolution of 1848. The next part of the study explores the roots of those constitutional institutions that are still in force today, which can be derived directly or indirectly from the Golden Bull, thus paying homage to the eight-hundred-year-old source of constitutional law of the more than one-thousand-year-old Hungarian statehood, as well as to the current Fundamental Law and its promulgator, King Andrew II, who is often misunderstood by the public.

Keywords: Golden Bull, historical constitution, Fundamental Law, Hungarian constitutional law, monarchy

1. Introduction

In the year 2022, Hungary could celebrate a double constitutional anniversary: the tenth anniversary of the entry into force of the Fundamental Law, which is the basis of the country's current constitutional order, and also the eight hundredth anniversary of the Golden Bull issued by King Andrew II of Hungary (d. 1205–1235) on 24 April 1222 – if we accept the date around which the historical consensus has formed,¹ despite the difficulty of reconstructing the circumstances. The moment in relation to the historical horizon and the anniversaries of eight centuries linked to the millennium of statehood thus justify the commemoration of the Hungarian Golden Bull as ‘this fertile source of our common law’.²

The relationship between the two highly significant legal sources is by no means a field for abstract speculation since the Preamble of Hungary's Fundamental Law, the National Avowal, also emphasizes that ‘We honour the achievements of our historic constitution and we honour the Holy Crown, which embodies the constitutional continuity of Hungary's statehood and the unity of the nation. We hold that the protection of our identity rooted in our historic constitution is a fundamental obligation of the State.’ Paragraph (3) of Article (R) specifically underscores this relationship by stating³ that ‘The provisions of the Fundamental Law shall be interpreted in accordance with their purposes, the National Avowal contained therein and the achievements of our historic constitution.’ Consequently, the provisions above are not just a mere homage to the traditions of the Hungarian constitutional heritage; on the contrary, according to some authors, the unwritten Hungarian historical constitution is part of the Hungarian national and constitutional identity through its designation in the Fundamental Law,⁴ and its achievements serve to reveal the correct content of the historical constitution; thus, the historical constitution not only lives as a set of cardinal laws and customs⁵ but is also indispensably linked to the interpretation of the constitution today.

The Hungarian historical constitution is a set of specific laws, rules of customary law, and principles laid down in legal literature,⁶ whose elements and results, i.e. achievements, provide fundamental assistance and guidance⁷ to the constitutional institutions for the interpretation of the present-day state system⁸ and the Fundamental Law. Consequently, especially the laws constituting the civic transformation of the nineteenth century that was partly inspired by the Golden

1 Zsoldos 2011. 4–5, 31–32.

2 Fest 1934. 273.

3 Árva 2013. 13–15, 66–67.

4 Sulyok 2016. 351–352.

5 Balogh 2016. 543.

6 Horváth 2022. 227.

7 Trócsányi 2014. 62–66.

8 Szabó 2016. 21.

Bull are institutions⁹ that can be interpreted as part of the historical constitution as the foundations of the modern Hungarian rule of law, and thus are of critical and interpretative importance today.¹⁰ It is precisely with this constitutional law perspective in mind that the following is an attempt to partially elicit the individual elements of the Golden Bull, which, as part of the historical constitution, as an achievement¹¹ of the organic development of the Hungarian state, were passed down¹² through the millennia into the acts of April 1848,¹³ which form one of the foundations of modern Hungarian statehood and, as a result of these laws, are still part of living law today, even if by explicit codification.

2. The Golden Bull as a Source of Law and as a Cardinal Law of the Historical Constitution

The publication of the Golden Bull as a legal source is linked to the period of the dissolution of the patrimonial monarchy and the initial period of the development of the Hungarian estates.¹⁴ In this period, Hungary, like many other European countries, was undergoing social, economic, political, and legal processes that foreshadowed a slow but inexorable transformation of the former state system. In the centuries-long transition from patrimonial monarchy to the monarchy of the estates, the significance and central role of the Golden Bull is inescapable despite the fact that in the course of later times not only Andrew II,¹⁵ who granted the charter, but also his successors¹⁶ and the kings from other dynasties who came later tried to relegate it to the background.¹⁷

At the same time, these circumstances and events must be interpreted in the context of the times, accepting the view that "The past cannot be modified in retrospect according to wishful thinking, daydreams, or even tactical tricks."¹⁸ Accordingly, it should be noted that the Golden Bull was also the result of a sovereign decision and legislation of the monarchy,¹⁹ and although it was issued at a particularly

9 Constitutional Court ruling 33/2012 (VII.17).

10 Horváth 2022. 228.

11 Id. 228–229.

12 Szabó 2020. 83–122.

13 The package of 31 articles of law sanctioned and issued by King Ferdinand V (r. 1830–1848) on 11 April 1848. See Toldy 1866. X, 279–307.

14 Hajnik 1867. 60–78.

15 Karácsonyi 1899. 4.

16 Hajnik 1867. 63, 71–73.

17 Ferdinandy 1899. 53–167.

18 Kosáry 1987. 5. Translation by the author.

19 Timon 1903. 100–104.

charged time of transition from patrimonial rule to monarchy-limited law,²⁰ its issuance was ultimately at the will of the monarch. Accordingly, it should be stressed that although the influence of political interest groups should not be understated in this period, the right to legislate was basically vested in the king until the establishment of the monarchical parliament or, more precisely, the monarchical dualism.²¹ Another aspect of the issue is the fact that at the time of the publication of the Golden Bull, over the specific laws issued by the ruler,²² the role of customary law was dominant,²³ which explains why the Golden Bull was subsequently confirmed and amended by separate laws.²⁴ These ratifications and amendments accompanied the Hungarian historical constitution throughout the period up to the beginning of the 20th century. Of these, the ratification of King Louis I (the Great) (r. 1342–1382) in 1351²⁵ was the most important.²⁶ It confirmed the effect of the provisions²⁷ laid down in the document; its constitutional nature²⁸ became undoubted centuries later, the last time it was part of the royal coronation oath²⁹ being³⁰ in 1916.³¹

1222 was a particularly turbulent year for the transition from patrimonial monarchy³² to the monarchy of the estates, and recent research has shed new light on this year and the changes that took place, in contrast to the – in many cases trite – findings of earlier research.³³ Instead of the figure of a powerless king leading his country to ruin,³⁴ the exact content and circumstances of the Golden Bull's issuance unfold the image of a responsible statesman who wishes to set the Hungarian state on a new foundation.³⁵ This picture can basically be seen from two angles: firstly in the historical context of the processes of the time and secondly in its jurisprudential legacy.

As a result of recent research, the economic, historical, and political contexts of the first viewpoint have nuanced the earlier picture of the disintegration of

20 Zsoldos 2022. 11–13.

21 Timon 1903. 187.

22 Béli 2022. 122–126.

23 Hajnik 1872. 275–276.

24 Knauz 1869. 9–19.

25 Csukovits 2022. 190–200.

26 Béli 2022. 143.

27 Wenzel 1873. 4–5, 9–13.

28 Toldy 1866. VIII, 23–36.

29 Karácsonyi 1900. 68–69.

30 Ferdinandy 1899. 161–167.

31 Act III of 1917 on the enactment into the law of the land of the royal charter issued by His Majesty the King before his successful investiture and coronation and the royal oath taken at his coronation.

32 Timon 1903. 110–118.

33 Zsoldos 2022. 11–13.

34 Knauz 1869. 7. 77–79.

35 Zsoldos 2022. 14–31.

the patrimonial monarchy, focusing on the role of Andrew II in this process in a way that reveals the much more complex motivations for the monarch's actions. Accordingly, the reasons for the issuance of the Golden Bull are placed, from the monarch's point of view, in a complex reform process, the essential element of which was the introduction of modern monetary management, tax and customs policies, instead of the previous accumulation of royal wealth in kind, and thus aimed at reducing the political influence of the royal county officials.³⁶ In this context, the role of the royal servants (Lat. *servientes*) is also cast in a new light: far from being a vulnerable and subjected class, they are the natural political allies of the ruler against the former ruling class, and with their help and the redemptions they were given, the foundations of the new economic and political system were laid. The system of the noble estates supplanted the patrimonial royal county system.³⁷ In this light, the provisions of the Golden Bull, especially in the areas of property policy, financial management, and military organization, were in fact conscious steps to strengthen the servile class and to diminish the rights of the former county leaders so that the Hungarian state could embark on a more modern state organization and economic path in keeping with the times,³⁸ i.e. to become a monarchy complete with the estates.

The significance of the Golden Bull can be found precisely in this programme and in its development over centuries and its results: by articulating the need to subject power³⁹ previously considered unlimited, to constitutional limits, the Golden Bull carried with it a partial programme of the rule of law in our modern sense. In other words, the royal programme could only succeed in putting the Hungarian state on a new economic and political footing if the cooperation between the monarch and the supporting classes was real, and consequently the Golden Bull necessarily already represented the king's obligations⁴⁰ and the guarantee elements for enforcing his promises.⁴¹

The structure of the Golden Bull as a piece of legislation can also be judged by the above context and the characteristics of the time. The thirty-one articles of the Golden Bull are therefore far from being the result of codification in the modern sense but rather a collection of specific responses to the conditions of the time, to social, economic, and political needs, and a law of exceptional importance despite its mixed provisions that formulate the legal nature of power.⁴²

On the other hand, with regard to the provisions of the Golden Bull, it is also worth noting that not all of its articles contained or could contain the roots of legal

36 Id. 15–16.

37 Id. 15–18.

38 Id. 18–28.

39 Timon 1903. 166.

40 Béli 2022. 140.

41 Zsoldos 2022. 25–28.

42 Horváth 2022. 232–233.

institutions of future relevance. Regardless of this, the later achievements of the historical constitution can be clearly traced back to the Golden Bull in certain areas, following the establishment of the monarchy and as a result of the peculiarities of the organic development of the Hungarian state.⁴³ Due to the characteristics of the development of the Hungarian state, some articles have inevitably become obsolete over the centuries, while others have grown in importance and thus have become the cornerstones of the historical constitution.⁴⁴ The latter articles as a framework legislation, providing ample scope for subsequent interpretation of the law and explanatory customary law,⁴⁵ can be seen essentially in the context of personal liberty and the fundamental rights of the nobility, legislation, the judiciary, and public administration. As a result of more than six centuries of legal development, these provisions of the Golden Bull became the basic tenets of the modern Hungarian state with the extension of the law in 1848.

The Golden Bull as the cardinal law of noble rights led to the unquestionable basic tenet of the Hungarian constitutional system – after the establishment of the estates until the laws of April 1848 passed by the last Diet of the estates of 1847/48 – that the nobility became the holders of political rights as equal members of the Hungarian nation meaning the totality of the estates.⁴⁶ The members of the Hungarian nobility – roughly 3.5–4%⁴⁷ of the country's population – enjoyed rights regardless of their language,⁴⁸ which gave rise to the legislative position in 1848 that the Hungarian nation was a Hungarian nation of the estates, i.e. the *populus*,⁴⁹ by abolishing feudal privileges and extending its rights to the plebians⁵⁰ excluded from political rights – and as a result creating a uniform law;⁵¹ it goes without saying that the population of the country, including not only the nationalities but also the Hungarian-speaking population not considered as the Hungarian nobility, would be granted some rights.⁵² The results expected from the legislative concepts thus also implied the joint rise of the Hungarian- and non-Hungarian-speaking social strata living under legal restrictions in order to achieve real equality of rights. The above programme was also fully in line with the social phenomenon of the acquisition of nobility and the attainment of noble freedom by individuals in order to enjoy full rights.⁵³

43 Zsoldos 2022. 30–31.

44 Ferdinandy 1899. 168.

45 Horváth 2022. 236–237.

46 Szabó 1848. 60–61.

47 Kósa 2003. 33.

48 Szabó 1848. 60–61.

49 Timon 1903. 552–554.

50 Eckhart 1935. 242–244.

51 Szabó 1848. 110–120.

52 Szemere 1941. 39.

53 Hermann 2001. 147.

Accordingly, the starting point of the new Hungarian constitutional system established by the Fundamental Acts of April 1848⁵⁴ was the equality of rights based on the extension of the concept of the political nation of the estates and their rights,⁵⁵ which had its origins in the Golden Bull. The last Diet of the estates laid the foundations of the modern Hungarian state on the basis of the above thesis by abolishing the estates themselves with the Acts of April 1848, by which the principle of general equality of rights of the civic transformation was achieved without separate codification and without the formulation of a charter constitution,⁵⁶ but by abolishing the estates, abolishing the relations of subservience to a lord, introducing public taxation and codifying the most important rights,⁵⁷ the Hungarian State was given actual content and legal recognition and was transformed into a constitutional monarchy.⁵⁸

Thus, the cornerstones of the Golden Bull concerning the freedom of the nobility, being directly related to the Acts of April 1848, carry the heritage that is also formulated in the current Fundamental Law or, as the heritage of the historical constitution, provide fundamental help and guidance for the interpretation of the current Fundamental Law,⁵⁹ pointing out its survival through the centuries.

3. The Relationship between the Golden Bull and the Current Fundamental Law in the Light of Certain Provisions of the Latter

In reviewing the provisions of the Golden Bull, it can be observed that both individual and collective perspectives on the limitation of power are prevalent and gain ground in the document. There is no difference in the constitutionalism of our time, where individual rights and individual freedom and community rights and freedom to exercise them in the community are also found together in the case of the Fundamental Law.⁶⁰ A crucial element of the individual perspective is the question of personal freedom, the guarantee of which, from the point of view of power, leads to the conclusion that individual freedom can be restricted, but that this should not lead to vulnerability, but that the restrictions must be justified from a constitutional point of view and essentially in the community interest.⁶¹

54 Toldy 1866. X. 279–307.

55 Szabó 1848. 110–112, 117–118, 119–120, 122–123.

56 Szabó 2015. 176–177, 182.

57 Csizmadia 1998. 295–297.

58 Sólyom 2019. 508–510.

59 Trócsányi 2014. 62–66.

60 Árva 2013. 93–97.

61 Ferdinandy 1899. 168–169.

The validity of the above statement from the end of the 19th century is still evident today; it means in fact that public and private interests in this context cannot lead to hierarchization, or, more precisely, ‘neither the individual is for the public nor the public for the individual, but both are mutually for each other’.⁶²

In accordance with the conditions of the times and the emerging order, the full enjoyment of the rights of individual liberty was enshrined as a right of the nobility, but the granting of these noble rights gave the opportunity to all the persons with these rights to become the counter-pole to royal power.⁶³ Consequently, the royal power, or, more precisely, the power of the state, was limited by individual liberty, which was further guaranteed by the fact that once recognized as an acquired right, liberty could no longer be challenged, withdrawn, or annulled by the king.⁶⁴

A prominent element of the right to personal liberty is its individual and case-by-case restriction, which is essentially a feature of criminal law. In this context, Article II of the Golden Bull⁶⁵ sets out the basic conditions for lawful summons⁶⁶ and arrest.⁶⁷ The culmination of the centuries-long development of the cited provision of the Golden Bull was Act XXXIII of 1896 on the Code of Criminal Procedure, which exhaustively set forth the powers granted to the state, thereby limiting them similarly to the Dualism-era regulations that are also reflected in our current law.⁶⁸ Likewise today, Article XII,⁶⁹ which lays down the principle of individual criminal responsibility,⁷⁰ and Article XXVIII, which essentially contains the basic principle of public justice, are fundamental starting points of modern regulation.⁷¹

At first reading, the provision of Article IV of the Golden Bull seems to be a right of free testamentary disposition, but this norm was much more complex and contained rules that were only valid in medieval private law, referring to the rights of daughters and later those of entailment (*aviticitas*), so it was only valid in an orderly framework.⁷² This article was effectively repealed in 1848 with the abolition of primogeniture,⁷³ but indirectly we find an institution that continues to this day in the declaration of the necessary succession of the king or, more precisely, of the state, in cases of vacant succession.⁷⁴

62 Ferdinandy 1899. 169. Translation by the author.

63 Timon 129–131.

64 Ferdinandy 1899. 169.

65 Timon 1903. 130.

66 Horváth 2022. 240–242.

67 Ferdinandy 1899. 170–173.

68 Horváth 2022. 242.

69 Árvai 2013. 113–116.

70 Ferdinandy 1899. 177.

71 Id. 179.

72 Horváth 2022. 243.

73 Ferdinandy 1899. 174.

74 Act V of 2013 on the Civil Code § 7:74.

The constitutionality of our times has been only indirectly influenced by Article XVII of the Golden Bull, which prohibits the repossession of land acquired in return for just services, and Article XXII, which states that nobles are not obliged to tolerate the king's pigs grazing on their property. In fact, the essence of the provisions is the undisturbed enjoyment and protection of possession or property,⁷⁵ and thus, along with the necessary distinction between constitutional and civil property,⁷⁶ they can be seen as one of the roots of the law of property today.

Summarizing the question of individual rights, it can be concluded that in the case of Hungary, the above-quoted provisions of the Golden Bull became a specific right and part of the historical constitution as a result of the organic development of the state through the constitutional extension⁷⁷ of 1848.⁷⁸ 'Individual freedom was guaranteed by the Golden Bull (...). That is, the nobility of the political nation of that time had all the rights that the whole nation has today.'⁷⁹

The importance of the Golden Bull beyond individual rights is also confirmed by its provisions on the organization of the state. Some of its rules are still reflected in the constitutional structure of our times. The first of these articles is Article I of the Golden Bull, which deals with the celebration of St Stephen's Day and the king's personal jurisdiction or, in his absence, the justice served by the palatine and the right to lodge a complaint.⁸⁰ Also because of the complexity of its provisions, Article I of the Golden Bull is in fact the root of several legal institutions. These can be clearly identified and named, so in addition to the national or, more precisely, the state holiday,⁸¹ they are the basic sources of justice and the right of citizens to complaint and redress. Although at first reading the article seems to be based on the right of recourse to the courts, the institution of the 'days when the law is laid down at Székesfehérvár' (the set periods when the king or the palatine serves justice) can be seen in fact as a precursor of the regularly convened Parliament, and the public law literature of the 19th century traces the institution of ministerial responsibility back to this norm.⁸² The breakthrough and subordination of royal power by the Golden Bull, which had previously been considered unlimited, led to the later formulation of, among other things, the dualism of the estates, establishing the division of legislative power between the King and the Diet and the joint right of the latter.⁸³ Based on the traditional historical constitution and the doctrine of the Holy Crown,

75 Ferdinandy 1899. 177.

76 Árva 2013. 157–158.

77 Máriássy 1896. 194–195.

78 Eckhart 1935. 83–84.

79 Máriássy 1896. 13.

80 Ferdinandy 1899. 169–170.

81 Árva 2013. 49–50.

82 Horváth 2022. 237–240.

83 Ferdinandy 1906. 55–81, 106–126.

the above legislative power of the Diet was clearly established in the customary law in the Tripartitum and then as a specific norm of law in Article XVIII of the Act of 1635. The right of recourse to the courts,⁸⁴ the right of appeal to the authorities,⁸⁵ the right of complaint,⁸⁶ and the right of the supreme representative body of the people,⁸⁷ the National Assembly,⁸⁸ are all fundamental institutions of the modern Hungarian state.

Beyond the right of noble tax exemption,⁸⁹ Article III of the Golden Bull can in fact be interpreted as the basis for codifying legislation⁹⁰ that developed in later times, containing the right of Parliament to offer taxes, which in the modern constitutional framework is embodied in budgetary law.⁹¹

The rules of articles V, VI, VIII, and IX of the Golden Bull essentially contain the regulatory roots of the division of jurisdiction and powers in the administration of justice.⁹² From these rules, it is a fundamental principle that no one may be deprived of the authority of a competent judge and that justice must be served without distinction of person.⁹³ The wording reflects today's expectations of equality before the law and fair trial.⁹⁴

Article VII of the Golden Bull is the foundation of the constitutional institutions that continue to live on in terms of the military obligations of the nobles⁹⁵ and the conditions for the use of military forces abroad and at home.⁹⁶ In the course of the development of the state, this article was essentially recodified⁹⁷ during the era of dualism, and some of the basic principles were laid down that are still valid today and that are also valid for the current Fundamental Law in the context of the decisions of the National Assembly that created both the obligation to participate in the national defence and its material basis.⁹⁸ Article X of the Golden Bull, which ordered the rewarding of the sons of those who died heroically in war, can also be linked to this item, and this institution is still in force today in the rules of honour of the armed forces and law enforcement and disaster management agencies.

84. Árvai 2013. 200–206.

85. Id 193–194.

86. Id 195–196.

87. Id 188–192.

88. Id 222–258.

89. Timon 1903. 130.

90. Ferdinandy 1899. 173–174.

91. Árvai 2013. 213–214.

92. Horváth 2022. 243.

93. Ferdinandy 1899. 174.

94. Árvai 2013. 162–167, 201–206.

95. Timon 1903. 128.

96. Ferdinandy 1899. 174–176.

97. Horváth 2022. 243.

98. Árvai 2013. 215–219, 228–229.

Article XI and Article XXIV of the Golden Bull⁹⁹ forbade foreigners, non-citizens in today's terms, to hold office. The right to hold office¹⁰⁰ without distinction of order was guaranteed by Article V of 1844,¹⁰¹ and then the laws of denominational equality abolished the last vestiges of religious distinction. Nowadays, people are also entitled to hold various offices and positions without distinction, but Hungarian citizenship is still a basic requirement.¹⁰²

Articles XIII, XIV, and XV of the Golden Bull provided protection against the excesses of public authority as we understand them today, and at the same time created the legal basis for the liability of public officials,¹⁰³ which can be found in the current Fundamental Law and enforced under the provisions of the relevant sectoral legislation.¹⁰⁴ By prohibiting the accumulation of offices, Article XXX of the Golden Bull also established an early conflict-of-interest rule, and it can be interpreted as its root,¹⁰⁵ these conflict-of-interest rules – in line with the principle of separation of powers¹⁰⁶ – still being very much in force today.

Various provisions of the other articles of the Golden Bull, such as Article XVI, Article XVIII, Article XIX, Article XX, Article XXI, Article XXIII, Article XXV, Article XXVII, and, finally, Article XXIX, were partially invalidated after their adoption and before the fall of the medieval Kingdom of Hungary in the period preceding the Battle of Mohács, or at the latest with the civic transformation of 1848,¹⁰⁷ so they have not had a demonstrable impact on the constitutionality of our times and can only be mentioned as monuments of legal history.

Last but not least, it is necessary to mention Article XXXI of the Golden Bull, which contained the famous resistance clause. The resistance clause was repealed by Article 1 of Act IV of 1687,¹⁰⁸ which confirmed the other provisions of the Golden Bull¹⁰⁹ even before the civic transformation, without ever having been applied,¹¹⁰ with the result that some late-19th-century constitutional law scholars considered the elements of the constitutional guarantees and safeguards contained in the resistance clause to be valid unchanged – as contained in other legislation.¹¹¹

The naming of individual rights and the rights of the state organization in the Golden Bull laid the foundations for the further development of the Hungarian

99 Ferdinandy 1899. 176–177.

100 Timon 1903. 130–131.

101 Eötvös 1903. 165.

102 Árva 2013. 188–192.

103 Ferdinandy 1899. 177–178.

104 Árva 2013. 193–194.

105 Ferdinandy 1899. 179.

106 Árva 2013. 29–31.

107 Ferdinandy 1899. 178–179.

108 Béli 2022. 143–144.

109 Article IV of the Act of 1687 about Article 31 of the Act of 1222 by King Andrew II (of Jerusalem) is explained in some parts.

110 Horváth 2022. 244–251.

111 Ferdinandy 1899. 180–181.

historical constitution. The renowned Hungarian public lawyer, Géza Ferdinandy, summarized the significance of the Golden Bull and its fundamental constitutional legacy in ten points, stating that these items should be considered the basis of the rights and constitutional status of all Hungarian citizens by the extension of the law. According to Ferdinandy, the Golden Bull: (1) fixed the limits of royal power and its subordination to public law; (2) established the right of citizens to petition and complaint; (3) ensured personal liberty and the inviolability of property; (4) established the Parliament and its rights to levy taxes and decide on national defence – through the new enactment; (5) established the exclusive right of Hungarian citizens to hold office; (6) established the criminal and property liability of civil servants; (7) established the territorial integrity of the country as a fundamental principle; (8) established the conditions for the legitimate exercise of judicial power and the principles of justice, including the right of access to the courts; (9) established the preservation of the Constitution as a fundamental principle; (10) established the right of passive resistance of the nation and its citizens.¹¹²

4. Conclusions

The Golden Bull, as one of the roots of the Hungarian historical constitution, could not have prevailed for centuries if the principles and provisions it contained had not been effective, sufficiently flexible, and capable of dealing with the challenges that have arisen over the centuries. The significance of the royal document, therefore, lies precisely in the fact that eight hundred years ago it formulated answers to certain questions of constitutional significance that later proved to be suitable for the interpretation of power in Hungary as bound by law. Of course, the Golden Bull was born in an era in which constitutionalism in the modern sense could only be understood by a narrow stratum, but in the context of constitutional law, the Golden Bull ultimately laid the foundations for the legal binding of power, and by formulating these principles, Hungarian constitutional law was able to extend the principles it contained in 1848 and lay the foundations of the modern rule of law. After the establishment of the monarchy, when the nobility became the holders of political power, all the rights of the nobility were traced back to the Golden Bull, and the Hungarian nobility imagined equality of rights by extending these rights. Accordingly, during the period of the constitutional monarchy and under the historical constitution until the end of the Second World War, the Golden Bull and the historical constitution could be directly enforced and, on the whole, it resulted in a constitutional state governed by the rule of law.

112 Id. 181.

The Golden Bull was therefore a cardinal piece of legislation as part of the historical constitution because of the civic transformation of the 19th century, which was partly inspired by it, and because of the foundation of the modern Hungarian constitutional state. Today, the provisions of the Fundamental Law that name the historical constitution make it not only a historical monument but also the root of living law, and thus it is still of critical and interpretative importance.

A brief review of the provisions of the Golden Bull, the circumstances of its publication, and its legacy over the centuries and the work of historians and public lawyers in the 19th century, as well as the results of new research, should help to clarify the public image of Andrew II as a powerless king.¹¹³ It is precisely because of the Golden Bull and its constitutional legacy that, instead of a king who was powerless and led his country to ruin, we can honour a responsible statesman who put the Hungarian state on a new footing in the person of King Andrew II.

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