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Håndfæstning of July 29, 1282
and its significance for the development
of Danish parliamentarism and other
political changes in the Kingdom*

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In the early 1660s, a bloodless coup d'état took place in the Kingdom of Denmark, and then, shortly afterwards, the country was transformed into an absolute monarchy.¹ This meant the end

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¹ More on the origin of these events and their further consequences: A. Gaca, *Kodeks Duński króla Chrystiana V z roku 1683*, Toruń 1992, pp. 32–40; A. Gaca, A. Jagielski, *Wprowadzenie absolutyzmu w Danii i wydanie „Prawa Królewskiego” (Kongeloven) w roku 1665*, „Czasopismo Prawno-Historyczne”,

of the domination of the nobility in Denmark and the beginning of a fundamental reconstruction of the political and social system.² Its first and most important stage was the solemn oath made to King Frederick III (1648–1670), as hereditary ruler, by representatives of all states (28/10/1660). This took place with the approval of the Council of State, as the body representing the entire nobility. Thus, *de facto*, Denmark ceased to be an elective monarchy and became the state in which the throne was to be inherited by the successors of the ruling Oldenburg dynasty.

This special event, which took place at the end of October 1660 in the square in front of Christiansborg Castle, the seat of the Danish kings, meant the annulment of the firm orders of the *håndfæstning* (Danish singular *håndfæstning*, plural – *håndfæstninger*) of 1648, sworn by Frederick III and involved the monarch's pledge to create a new form of government which, by issuing new legislation in the form of a basic law, would safeguard the rights of all subjects and lay down the basic principles for the functioning of the state.³ In fact, this event paved the way for the introduction

v. LI, 1990, v. 1–2, pp. 432–443; W. Czapliński, K. Górski, *Historia Danii*, Wrocław–Warszawa–Kraków 1965, pp. 208–218; W. Czapliński, *Dzieje Danii nowożytnej (1500–1975)*, Warszawa 1982, pp. 81–93; cf. *Danmarks Historie*, bd. 8: *Den unge Enævelde 1660–1721*, G. Olsen, København 1964, pp. 23–24; *Schultz Danmarks Historie*, bd. 3, eds. A. Friis et al., København 1949, p. 345; S. Dyrvik, *Danmark-Norge 1380–1814*, bd. III: *Truede tvillingriker 1648–1720*, Oslo 1998, p. 75; K.J. Jespersen, *A history of Denmark*, New York 2004, p. 41.

² It is worth mentioning at this point that according to E. Ladewig-Petersen the nobility were a relatively small group in the Kingdom and in the middle of the 17th century we can speak of only about 1800 people who belonged to this class. Thus, the nobility constituted only 0.2% of the total population of Denmark; E. Ladewig-Petersen, *Dansk social historie*, bd. III, København 1980, p. 192; cf. W. Czapliński, *op.cit.*, p. 20.

³ By virtue of the provisions of this act, the Council of State, referred to in the national literature as an authority already operating in Denmark since the second half of the 13th century, as the Council of the Realm, was equipped with a right of veto in respect of: the entering into and breaking off of alliances with foreign countries, the announcement by the king of the nobility's obligation to participate in a war expedition or a defensive war, the imposition of duties and taxes by the monarch. In addition, the King pledged to rule with

and consolidation of absolutism in Denmark in the near future, whereby it was pointed out at the outset that this fundamental change in the Kingdom's system had taken place calmly, taking the form of a "bloodless revolution", approved at the same time by a large part of society.⁴

Here, an attempt should be made to explain what they were, what role they played, and since when they had been present in the Danish state – still as the essential elements that formed the foundation of the previous elective monarchy – the legal acts referred to as *håndfæstninger*. It is important to start by saying that this particular type of act, referred to as *håndfæstninger*, began to appear in Denmark from the second half of the 13th century. The noun *håndfæstning*, originally *håndfæst*, is derived from the Low German language, from the word *hantveste*, *hantvesteninge*, which can be translated as a document signed by a private party or an authority containing the parties' obligations. Moreover, in the Middle Ages, this word was in common use and was synonymous

the participation of a Council, which was to consist of 23 members chosen from among candidates proposed by the nobility; *Samling af Danske Kongers Håndfæstninger og andre lignende Acter*, in: *Aarsberetninger fra det Kongelige Geheimearchiv*, udg. C.F. Wegener, bd. 2 No. 27, Kjöbenhavn 1856–1860, hereinafter Aarsb. fra Geh. II.

⁴ Since Frederick III wanted the change of the system of government to be seen as an expression of the common will of the people, he issued a special act (the so-called *Enevoldsarveregeringsakten*) on 10 January 1661, to be signed by the nobility, clergy, and town representatives. Eventually, the document was signed by 987 clergy, 381 townsmen and 183 representatives of the nobility; W. Czapliński, K. Górski, op.cit., p. 211; W. Czapliński, op.cit., p. 86; *Danmarks Historie*, bd. 8, p. 45. The issue of introducing absolutism is discussed in more detail in many, both older and more recent, studies on both the history of Denmark and the history of the political system of the Kingdom of Denmark; see, for example; *Danmarks Historie*, bd. 8, p. 19 et seq.; *Schultz Danmarks Historie*, bd. 3, p. 336 et seq. Among the monographic works, one should mention in particular: J.A. Fridericia, *Adelsvældens sidste Dage*, Kjöbenhavn 1894; idem, *Frederik III og Enevældens Indførelse*, Historik Tidsskrift, 1886–1887, bd. 6, rk. 5; *Schultz Danmarks Historie*, bd. 3, pp.715–814; Ch. Bruun, *Enevældens Indførelse i Danmark og Kongelovens Tilblivelse*, Kjöbenhavn 1887; idem, *Et Bidrag til den rette Forståelse af Enevældens Indførelse i Danmark 1660*, "Historisk Tidsskrift", 1880–1881, bd. 2, rk. 5, pp. 635–700.

with the terms: diploma, document, or privilege.⁵ The Scandinavian languages, too, knew the term *håndfæst*, *håndfæstning* in the Middle Ages; it was then understood as a letter, a diploma, a written legal regulation or, more precisely, an obligation, privilege, or agreement made in writing.⁶ However, the exact meaning of *håndfæstning* became, over time, in principle, a royal act, issued in connection with or independently of an election to the throne, as was the case in 1282 or 1360.

Thus, historiography distinguishes between the so-called *valg-håndfæstninger* (Danish singular *valghåndfæstning*, plural – *valg-håndfæstninger*) and the royal *håndfæstninger*. The latter were the king's written, sealed commitments,⁷ regarding the way he would rule, and took the form of promises addressed to a wider group of people, which also provided the basis for the subsequent establishment of universal legal standards. For this reason, even though the decisions were made in the form of obligations to behave in a specific way and not orders to the subjects, they should be regarded as one of the sources of medieval Danish law.⁸ In general, they served as a form of establishing or guaranteeing the existing

⁵ P. Johs. Jørgensen, *Dansk Retshistorie. Retskildernes og Forfatningsrettens Historie indtil sidste Halvdel af det 17. Aarhundrede*, København 1969, p. 64; *Mittelniederdeutsches Wörterbuch*, Bd. 2, eds. K. Schiller, A. Lübke, Bremen 1876, entry: *hantveste*, *hantvestene*, p. 202; cf. M. Lexer, entry: *hantveste*, in: idem, *Mittelhochdeutsches Handwörterbuch*, Bd. 1, Leipzig 1872, p. 1180.

⁶ O. Kalkar, entry: *håndfæst*, in: idem, *Ordbog til det ældre danske Sprog (1300–1700)*, bd. 2, København 1881–1907, p. 146; idem, entry: *handfæstning*, in: idem, *Ordbog til det ældre danske Sprog (1300–1700)*, bd. 2, København 1881–1907, p. 147; H. Nielsen, entry *håndfæstning*, in: *Kulturhistorisk Leksikon for nordisk middelalder fra vikingetid til reformationstid*, bd. VII, ed. A. Karker et al., København 1962, pp. 210–212.

⁷ *Håndfæstning* from 1360 was issued in part by the king and in part by the subjects, hence it is referred to as the *dobbelt håndfæstning*; H. Matzen, *Forelæsninger over den danske Retshistorie. Indledning. Retskilder*, Kjøbenhavn 1897, p. 230.

⁸ H. Matzen, *Danske Kongers Haandfæstninger. Indledende Undersøgelse*, Kjøbenhavn 1889, p. 1–19; idem, *Forelæsninger*, p. 230; P. Johs. Jørgensen, op.cit., p. 64; A contrary thesis, see: P. Andersen, *Rex imperator in regno suo. Dansk kongemagt og rigsløvgivning i 1200-tallets Europa*, Odense 2005, p. 139.

state privileges, issued primarily for the nobility. The first royal *håndfæstning* in the history of Denmark was issued by King Eric V Glipping (1259–1286) on 29 July 1282 during the assembly of the nobility in Nyborg.

As has been said, the so-called *valghåndfæstninger* is considered in the literature to be a variation of *håndfæstninger*, i.e. sealed, written in a solemn form, election promises and commitments to rule according to the law and customary government (Danish *løfter og forpligtelser*) issued by a candidate to the Danish throne. Originally they were a kind of supplement, specifying the promises made orally by the rulers to respect the laws and privileges in force, in connection with the election of successive monarchs. This custom had probably already been initiated during the reign of King Harald Hen (1074–1080).⁹ The *valghåndfæstninger* were first written down in 1320 in connection with the election of Christopher II (1320–1326 and 1329–1332) to the Danish throne and were issued until 1648.¹⁰ Their content was usually determined by negotiations between the future or already reigning king and those who actually decided on his election.

Initially, these were the magnates referred to in the sources as *consiliarii regis*, *consilium meliores regni*,¹¹ and later as members of the Council of the Realm.¹² In some cases, although this was

⁹ D. Tamm, J.U. Jørgensen, *Dansk retshistorie i hovedpunkter fra Landskabslovene til Ørsted*, bd. II: *Oversigt over retsudviklingen*, København 1978, p. 19.

¹⁰ P. Andersen, *Legal Procedure and Practice in Medieval Denmark*, Leiden 2011, p. 17.

¹¹ *Den danske rigslovgivning indtil 1400*, udg. E. Kroman, København 1971 (hereinafter used as the abbreviation: DDR): DDR No. 10; DDR No.13 A:I.

¹² The Council of the Realm was mentioned for the first time in a document dated 1276, but formally the legal basis for its role and functioning was laid down by *håndfæstning* only in 1448. This central body composed of the monarch's most trusted advisers had a number of constantly expanding, though never formally defined, powers. As far as the composition and competence of the Council are concerned, these continued to evolve over the next centuries, see: P. Johs. Jørgensen, op.cit., pp. 489–497; D. Tamm, J.U. Jørgensen, op.cit., p. 18; *Dansk forvaltningshistorie*, bd. I: *Stat, forvaltning og samfund. Fra middelalderen til 1901*, eds. L. Jespersen, E. Ladewig-Petersen, København 2000, p. 165. The Council's powers increased, especially after the decline in

done through the Council, the nobility had some influence on the content of *valghåndfæstninger*. To some extent, they were equivalent to imperial electoral capitulations in the German First Reich, or to later Polish Henrician Articles.

The contents of the individual *valghåndfæstninger* sometimes differed significantly, but at the core they consisted of repeated provisions constituting *sui generis* fundamental rights of the Kingdom of Denmark,¹³ including the following commitments: observance of the privileges of the nobility, annual convening of the feudal parliament, referred to in the sources as the *Hof*, and from the second half of the 14th century most frequently – the *Danehof*,¹⁴ observance of the principle of the electivity of the throne, making a number of important state decisions (e.g., concerning foreign policy, taxes, or legislation) in agreement with the Council of the Realm, certain provisions of criminal law, including in particular the ban on imprisoning anyone without trial, and finally the right to refuse obedience to the King in the event of his failure to comply with the commitments he had accepted and sworn to fulfil.¹⁵

importance and the subsequent failure to convene the *Danehof*, which gathered for the last time in 1413. The issues of its origin and role are discussed in detail by L. Holberg, *Konge og Danehof i det 13. og 14. Aarhundrede*, bd. 1: *Kong Erik Glipping Haandfæstning og Rigsløve*, København 1895, p. 68 et seq., 301 et seq.; idem, *Kong Valdemars Lov*, København 1886, p. 277 et seq.; cf. H. Matzen, *Forelæsninger over den danske Retshistorie. Offentlig Ret*, bd. 1: *Statsret*, København 1893, p. 162 et seq.; A. Hude, *Danehoffet og dets Plads i Danmarks Statsforfatning*, København 1893; K. Erslev, *Rigets "bedste Maend", Danehof og Rigsraadet*, "Historisk Tidsskrift", 1904, bd. 5, rk. 7, p. 365 et seq.; E. Arup, *Danmarks Historie*, bd. 2, København 1932, pp. 55, 66, 247, et seq., 405 et seq.; P. Johs. Jørgensen, op.cit., pp. 297, 248 et seq.; W. Czapliński, K. Górski, op.cit., pp. 89, 129 and 149; W. Czapliński., op.cit., p. 13.

¹³ O. Fenger, *Gammeldansk ret. Dansk rets historie i oldtid og middelalder*, København 1983, p. 129.

¹⁴ The *håndfæstning* of King Eric V mentions an assembly called *Hof*, while in the *håndfæstning* of King Valdemar IV of 1360 the legislator already used the term *Danehof*, see DDR No. 13 A:I [1]; DDR No. 30:1a [10,11].

¹⁵ A collection of Danish royal electoral capitulations can be found in the source edition: *Samling af Danske Kongers Håndfætninger og andre lignende Acter*, in: *Aarsberetninger fra det Kongelige Geheimearchiv*, udg. C.F. Wegener,

The above-mentioned *håndfæstning* issued by Erik V under strong pressure from the magnates on 29 July 1282, was of particular importance for the further evolution of the Danish system and the development of Danish parliamentarianism, as an act seriously limiting the power of the king in favour of the magnates. Marian Grzybowski, a well-known Polish researcher of the Scandinavian political systems, points out that the 1282 act is sometimes considered to be the “archetype of the Danish written constitution” or the “first Danish written constitution”.¹⁶ The great importance of the act for the development of Danish parliamentarianism is further demonstrated by the fact that it was included in the so-

bd. 2, Kjöbenhavn 1856–1860, further in Aarsb. fra Geh. II. More information on *håndfæstninger* see: J.L.A. Kolderup-Rosenvinge, *Grundrids af den danske Retshistorie*, bd. 1, Kjöbenhavn 1832, pp. 57–58, pp. 116–119; J. E. Larsen, *Forelæsninger over den danske Retshistorie (Sluttende sig til K. Rosenvinges danske Retshistorie)*, in: *Samlede Skrifter*, afd. 1, bd. 1: *Retshistoriske Afhandlinger og Foredrag*, Kjöbenhavn 1861, p. 51, p. 60; Ch.L.E. Stemmann, *Den danske Retshistorie indtil Christian V.’s Lov*, Kjöbenhavn 1871, pp. 67–72; T.H. Achehoug, *Norges offentlige ret*, bd. 1: *Statsforfatningen i Norge og Danmark indtil 1814*, Christiania 1886, pp. 29–30; A. Hude, op. cit., pp. 91–117; L. Holberg, *Konge*, p. 52 et seq.; H. Matzen, *Danske kongers*, p. 174; idem, *Forelæsninger*, p. 230 et seq.; K. Erslev, *Den saakaldte „Constitutio Valdemariana” af 1326*, „Historisk Tidsskrift”, 1895–1897, bd. 6, rk. 6, pp. 205–248; E. Arup, *Om Overleveringen af Valdemar 3.s haandfaestning og kirketienden i Danmark i det 13. og 14. Aarhundrede*, “Scandia”, 1928, vol. 2, No. 1, pp. 258–280; J. Steenstrup, *Valdemar Sejrs Død og de ved Tronskiftet vedtagne Ændringer i Landets Styrelse.*, “Historisk Tidsskrift”, 1934–1936, bd. 3, rk. 10, p. 25 et seq.; P. Johs. Jørgensen, op.cit., p. 64 et seq.; D. Tamm, J.U. Jørgensen, op.cit., pp. 18–19; D. Tamm, *Retshistorie. Danmark-Europa-globale perspektiver*, København 2005, pp. 142–145; P. Andersen, *Rex imperator*, p. 139 et seq.; idem, *Legal Procedure*, p. 17; J. Møller-Jensen, E. Porsmose, *Danehoffet og Håndfæstningen 1282. Potentialet i et stykke unik Danmarkshistorie*, „Nyborg – før & nu”, 2012, årg. 15, pp. 21–43.

¹⁶ *Konstytucja Królestwa Daniï*, translation and introduction by M. Grzybowski, Wrocław 1982, p. 5; M. Grzybowski, *Królestwo Daniï. Zarys systemu ustrojowego*, Kielce 1996, p. 18; *Konstytucja Daniï*, translation and introduction by M. Grzybowski, Warszawa 2002, p. 5; cf. J. Møller Jensen, E. Porsmose, op.cit., p. 27; cf. *The Cambridge History of Scandinavia*, vol. 1: *Prehistory to 1520*, ed. K. Helle, Cambridge 2008, p. 362.

called *Demokratikanon*, a compilation of normative acts, political and legal doctrines, philosophical currents and historical events of fundamental importance for the development of democracy in the Kingdom of Denmark – not only of native origin, but also of foreign provenience. In addition to the Jutland Law of King Valdemar II of 1241 (Danish: *Jyske Lov*)¹⁷ and the Constitution of the Kingdom of Denmark of 1849, the *håndfæstning* of 1282 was one of the three Danish legal acts included in the aforementioned list.¹⁸ The issue of *Jyske Lov* and the *håndfæstning*, as noted by the authors of *Demokratikanon*, was an important milestone in the development of Danish parliamentarianism, as both laws were given with the participation of a powerful assembly representing the people of the Kingdom.¹⁹

However, the people's participation in lawmaking had a much longer tradition in Denmark, as in other European countries, since it dated back to the time before the law was written down at the turn of the 12th and 13th centuries, when free men who lived in a given Danish district would decide to adopt new laws or pass judgments, which in time transformed into legal rules. The mere fact of the participation of the magnates in the legislative process cannot, therefore, be taken as an indication of the beginnings of Danish parliamentarianism – for just as in the old days, in the 13th century the law was made with the participation of a relatively small section of society.

The turning point, therefore, should not be seen strictly in some particular lawmaking procedure, but in its very content, more precisely in the decision which began the *håndfæstning* of King Eric V Glipping in 1282, according to which “semel in anno in media quadragesima parlamentum, quod hof dicitur, debeat celebrari”.²⁰ For the first time in the history of Denmark, the monarch commit-

¹⁷ More on *Jyske Lov*, see: A. Gaca, *Prawo Jutlandzkie Waldemara II (Jyske Lov) z 1241 roku*, Toruń 2007, pp. 397.

¹⁸ *Demokratikanon*, ed. K.J.V. Jespersen et al., København 2008, p. 20, 52.

¹⁹ *Ibidem*, p. 20.

²⁰ DDR No 13A:I [1]; *Danmarks Riges Breve*, rk. II, bd. 3, udg. F. Blatt et al., København 1938, p. 39 (hereinafter represented by the abbreviation DRB); DRB II: 3 No. 45 [1]; Aarsb. fra Geh. II No. 2 [1].

ted himself in writing to convene annually at a fixed time an assembly called the *Hof*, representing the clerical and secular powers and, indirectly, the underprivileged states that could participate in discussions without the right to vote.²¹ The incorporation of this duty into the legal framework obliged the king to govern with the participation of and together with the magnates and constituted the existence of a Danish state assembly, which can be considered to be the seed of parliamentarianism in the Kingdom.

The reasons why Erik V issued the *håndfæstning* in 1282 date back to the 1240s and 1250s, when, with the death of King Valdemar II, the Victorious (1202–1242), the Kingdom was taken over by his sons, successively Erik IV Plovpenning (1241–1250), Abel (1250–1252) and Christopher I (1252–1259). The Danish monarchy during the reign of Valdemar II and his predecessors, Valdemar I the Great (1157–1182) and Canute VI (1182–1202) was a well-organized feudal state, devoid of the excesses of the feudal system, with a well-functioning administration and a strong royal power of a monarchic and autocratic nature at the same time.²² Thanks to the cooperation between the state and the Church, the first coronation in the church in the history of Denmark took place in 1170. Moreover, the canonization of Valdemar I's father, Canute Laward, which took place together with the aforementioned coronation of his oldest son, Canute VI,²³ also served to legitimize dynastic rights. The monarch acted as legislator and judge, as well as a guardian of the common peace in the state.

The prime of the royal legislative activity is associated with the reign of Valdemar II, whom posterity called the Lawgiver. In addition to the earlier decree abolishing trial by iron of 1215,²⁴ the

²¹ J. Møller-Jensen, E. Porsmose, op.cit., p. 24.

²² Karol Górski named this so-called "Time of the Valdemars" (Danish *Valdemarstiden*), as the "golden era of Danish medieval history"; see K. Górski, *Polska w zlewisku Baltyku*, Gdańsk–Bydgoszcz–Szczecin 1947, p. 7; cf. W. Czaplirski, K. Górski, op.cit., pp. 78, 82–83.

²³ N. Skyum-Nielsen, *Kvinde og Slave. Danmarkshistorie uden retouche*, København 1971, pp. 178–184; A. E. Christensen, op.cit., pp. 49–57.

²⁴ DDR No. 5; A. Gaca, *Prawo Jutlandzkie*, p. 74; idem, *Kodeks Duński*, p. 14.

undoubtedly most important legal work initiated by the aforementioned ruler was the drafting of the Law of Jutland in 1241 and the giving to it of a royal sanction and thus an official character. In addition to his legislative power, the monarch also performed judicial functions, which in the days of Valdemar II were limited to the right to pass judgments in cases brought directly before the monarch – bypassing land and provincial courts. The ruler also retained his jurisdiction over the royal team – *hird*. Apart from strengthening the judicial and legislative powers, the rulers of the Valdemar dynasty also brought about significant changes in the functioning of the Danish treasury.²⁵

After the death of Valdemar II, a dynastic conflict took place in Denmark, accompanied by a dispute over the rule of South Jutland and a longstanding conflict between Church and state. Moreover, within the royal family, there was a split into two lines: the one coming from the successor and the eldest son of Valdemar II, the line of King Eric IV (1241–1250) and the line from the younger brother and successor of Eric IV – King Abel (1250–1252).²⁶

Additionally, the Church claimed its rights, demanding, among other matters, the abolition of the royal right of patronage. These conflicts forced the Danish monarchs to seek allies outside the Kingdom, mainly among the North German magnates, who offered them not only financial, but above all military assistance. Such a policy required the imposition of new taxes, which, as a result of revolts on the part of the subjects, were collected with minimal efficiency. In order to pay for foreign mercenary troops, the kings pledged goods and castles on the Jutland Peninsula and lowered

²⁵ A. Gaca, *Podatki i inne dochody królewskie w Danii w świetle wybranych źródeł prawa i źródeł poznania prawa z I połowy XIII wieku*, in: *Podstawy materialne państwa. Zagadnienia historyczno-prawne*, eds. D. Bogacz, M. Tkaczuk, Szczecin 2006, pp. 188–189.

²⁶ This division was followed by the formation of two opposing factions in the country, and the situation further deteriorated after the murder of Eric IV, probably at the instigation of initiative of his royal brother Abel; *Middelalderens Danmark*, ed. P. Ingesman et al., København 2001, p. 35.

the silver content of the coin, which made them less popular among the general population of the country.²⁷

The first signs of the decline of the monarch's authority can be seen as early as in the 1250s, when King Erik IV, in order to raise funds for the Estonian crusade, imposed the so-called plough tax on his subjects (Dan. *plovpenning*). The Scanian peasants rebelled against the strict execution of the tax obligation, and in the end refused to pay the tribute. Because of the riots in the province, the King, who was residing in Skåneland at the time, was forced to escape and retreat from the Estonian Crusade. This event was only part of a wider process, namely, the systematic reduction of the state's income, which Nils Hybel and Bjørn Poulsen have extensively written about.²⁸

The decrease in the income of the treasury was accompanied by the collapse of royal rule and the authority of the monarch. Erik V Glipping, in an attempt to strengthen his judicial powers and to emphasize his legislative prerogatives, tried to push through a new law on *crimen laesae maiestatis* at the meeting of the magnates in Nyborg (1276). The law would allow him to appoint *juratores* who, together with the accused, would file a *iuramentum purgatorium*.²⁹ However, because of the resistance of the magnates gathered at the *Hof*, this law did not come into force. At the same assembly, some of the nobles, led by the Marshal of the Kingdom, Stig Andersen, refused to recognize the royal son Eric Menved (1286–1319) as heir to the throne and to pay homage to him.

The 1282 issue of *håndfæstning* was also influenced by internal conflicts and dynastic disputes that occurred immediately before it was issued. In 1282, the Duke of Schleswig, Valdemar, came of age and demanded the fief of South Jutland, which was taken over

²⁷ In 13th-century Denmark, successive kings minted coins with less and less silver and more copper. In 1240 the Danish coins consisted of half silver; in the time of Christopher I this metal was $\frac{1}{4}$ of the alloy, and around 1280 it constituted only its fifth part, see: N. Hybel, B. Poulsen, *The Danish Resources c. 1000–1500: Growth and Recession*, Leiden 2007, pp. 333–334.

²⁸ N. Hybel, B. Poulsen, *op.cit.*, pp. 299–351.

²⁹ P. Andersen, *Rex imperator*, pp. 118–119; O Fenger, *op.cit.*, p. 128.

by Erik V on behalf of Valdemar, for the duration of his minority. Moreover, the daughter of King Eric IV Plovpenning, the Norwegian queen Ingeborg, demanded her dowry, and the grandsons of Valdemar II, deprived of districts and settled as knights in their estates, were claiming their own principalities.³⁰ To make matters worse, there was a rebellion in the country against the fiscal policy and royal autocracy, which was manifested by rule without the participation of the *Hof*, which, as it was said, was not convened until 1276.³¹

In spring, on 19 March 1282, a convention was held in Vordingborg, where the king – in view of the tense situation, despite the presence of the commanders of the German knights and the clergy who supported him – issued a provisional decree in which he undertook to convene the *Hof* every year (in both native and Scandinavian literature, which is mentioned further on, it is already often referred to as the *Danehof*). The inhabitants of all the districts of the Kingdom were to be informed about this one month before the assembly of the *Hof*, and the venue was to be open to the public so that anyone interested could get there by boat.³² The king also promised that no one would be imprisoned without a court sentence unless the perpetrator was caught with items from theft; had raped a woman; had injured or killed a person in the town where the king was staying, and at the same time was caught in the act. Erik also agreed not to issue royal letters (Danish *kongesbreve*) against anyone until the person has been lawfully summoned and brought before a court rally with jurisdiction over the land (Danish *Herredsting*) or district (Danish *Landsting*).

The royal letters concerned the order to hand over the disputed thing solely on the basis of the king's order. This led to numerous abuses on the part of the monarchs, who, bypassing the rally's judiciary, passed judgments at their own discretion. Disobedience

³⁰ After 1276 there was another, this time 5-year break in the convening of the *Hof*; K. Górski, W. Czapliński, op.cit., pp. 95–96.

³¹ L. Holberg, *Konge og*, p. 45.

³² DRB II: 3 No. 45.

to the king's letter was treated as an insult to the king's majesty, and this was punishable by the confiscation of the property and banishment, which meant becoming an outlaw. Since the outlaw's property was taken over by the state, there was a high risk that the rulers would issue royal letters on no legitimate grounds.³³

The actual *håndfæstning* was issued by King Eric V on 29 July 1282 in Nyborg, where the *Hof* was convened. This act was an expression of royal surrender to the claims of the Danish nobility. At the same time, it was a kind of constitution that limited the power of the king and his officials through the participation of the aforementioned body representing the individual states – the *Hof*.³⁴ In the opening, Erik pledged to respect the promises made at the Vordingborg convention, and the date on which the *Hof* was to gather was also specified. According to the first provision, a gathering called the *Hof* (*parlamentum, quod dicitur hof*)³⁵ would meet in the Kingdom every year, once – in the middle of Lent.

These assemblies were convened on an irregular basis until the second half of the 13th century, and the scope of competence was limited to advisory functions only.³⁶ During the period of internal disputes that took place in the Kingdom after the death of Valdemar II, the representatives of the Danish nobility, taking advantage of the weakening royal power, forced the king to rule with the participation of the *Hof* (referred to as *parlamentum*) – which was already explicitly laid down in the decree of King Eric V of Vordingborg, referred to earlier.

³³ DRB II: No. 45; see: D. Tamm, J.U. Jørgensen, op.cit., pp. 74–75; P. Johs. Jørgensen, op.cit., pp. 319–321. More on the procedure of royal letters, see: H. Lerdam, *Konge og tinget. Det senmiddelalderlige retsvæsen 1340–1448*, København 2001, pp. 38–48.

³⁴ This authority, bringing together the best men of the Kingdom (Danish *rigets bedste mænd*), and thus the most eminent of the noble laymen and clergy, originated from the royal council (Latin *regni consilio*), which in the early Middle Ages consisted of the closest royal advisors (Danish *hird*); A. E. Christensen, op.cit., pp. 93–94; cf. L. Holberg, *Konge og*, p. 70.

³⁵ DRB II: 3 No. 45 [1].

³⁶ J. Møller-Jensen, E. Porsmose, op.cit., pp. 22–26; *The Cambridge History of Scandinavia*, vol. 1, p. 362.

In the 14th century, this body, already operating at that time under the name of the *Danehof* (*Parlamentum Generale Danorum*) – the “parliament of all Danes” – became a representative assembly in which representatives of all states could participate.³⁷ Initially, the magnates, with the participation of the king, made key decisions in these assemblies, which limited the monarch’s power. In addition, the sessions included discussions on the state of the Kingdom.³⁸ This body also functioned as a court in cases involving disputes between the king and his subjects.³⁹

It should be added that the *Hof*, as already mentioned, had been gathering as early as in the years prior to the drafting of *håndfæstning* by Erik V Glipping. However, the commitment contained in the first provision of this act is of a special nature, as this body had previously met irregularly. From then on, as has already been said, the Hof was to gather regularly in a certain place (usually Nyborg Castle) and at a certain time.⁴⁰ It is also symptomatic that in older documents, all the collective bodies under the king were called *consilia*, while the *håndfæstning* mentions the word *parlamentum*. In the year following the issue of King Eric’s privilege, the Hof gathered in Helsingborg, and the debates resulted in, e.g. the passing of laws regulating trade in and the production of beer, concerning the construction of roadside inns, and limiting the splendor of the clothing worn at the time.⁴¹ *Håndfæstning* also gave the Hof important legislative powers, as all the laws and privileges given by the king remained in force until revoked by parliament.⁴²

Furthermore, in *håndfæstning* the king issued the *neminem captivabimus* privilege, according to which no subject could be imprisoned without a court sentence, unless he confessed to having committed a crime or was caught in the act of committing an

³⁷ P. Johs. Jørgensen, op.cit., pp. 486–488.

³⁸ D. Tamm, *The History of Danish Law. Selected Articles and Bibliography*, Copenhagen 2011, pp. 13–14.

³⁹ P. Andersen, *Legal Procedure*, pp. 400–401.

⁴⁰ D. Tamm, *Retshistorie*, Bd. 1: *Dansk retshistorie*, København 1990, p. 26.

⁴¹ J.M. Jensen, E. Porsmose, op.cit., p. 33.

⁴² DRB II: 3 No. 45 [12].

offence for which, according to the laws of the district concerned, there was the death penalty or punishment consisting in cutting off the limbs.⁴³ Similar regulations can be found in other legal acts from the era, such as the Great Charter of Freedoms of 1215, the Charter of the Kingdom of León of 1188, or the Hungarian Golden Bull (1222).⁴⁴

According to the second part of this provision, a person convicted of a crime that was punishable by banishment (*fredløshed*) had time to leave the Kingdom within the time limits set in the district laws.⁴⁵ The outlaw was taken out of the law (Danish *fredløs*) and without any legal consequences, he could be killed by any person he met; his movable property was confiscated by the king, his wife was considered a widow, and his children as orphans. With the development of the district rights, an institution was established to help the outlaw avoid revenge on the part of the injured party. Such a person was given a specified period of time, in the law of Skåneland and Zeeland 3 days and 3 nights, in which he could seek refuge in a remote place or outside the borders of a given land or province.⁴⁶ After this time, the outlaw had to face all the consequences of the punishment.

In addition, no one could receive a punishment unknown to the district laws or exceeding the accepted measure, which reflected the Roman principle of *nulla poena sine lege*.⁴⁷ This commitment was intended to prevent the punishment of those accused of crimes of lese-majesty according to the will and discretion of the king, which Eric V attempted to introduce into the royal law in 1276.⁴⁸

The fourth order regulates the aforementioned procedure for issuing royal letters (royal penalty notices).⁴⁹ The king agreed not to

⁴³ DRB II: 3 No. 45 [2].

⁴⁴ F. Hervik, *Nordisk politikk og europeiske ideer. En analyse av nordiske forfatningsdokumenter 1282–1449*, Bergen 2012, p. 36.

⁴⁵ DRB II: 3 No. 45 [2]; more on banishment: A. Gaca, *Prawo Jutlandzkie*, pp. 192–195.

⁴⁶ A. Gaca, *Prawo Jutlandzkie*, p. 194.

⁴⁷ DRB II: 3 No. 45 [3].

⁴⁸ DDR No. 10.

⁴⁹ DRB II: 3 No. 45 [4].

issue penalty notices against anyone without the case being first judged by a competent court rally. However, in a case in which the claimant acquired the royal letter unfairly, he should pay the king for the first, second, and third penalty notice three marks each, and one mark each for the defendant. The penalty for the fourth penalty notice was three marks for the defendant and forty for the king, respectively. If a party did not have a sufficient amount of money or movable property suitable for sale, but owned some land, then the royal official (singular *ombudsmand*, plural *ombudsmænd*) would urge such a person to sell enough land to satisfy the claims of the king and the defendant. Such a person would have to do so within one month. Otherwise, the royal official would make an estimate of the value of the property held by the person who had illegally come into possession of the penalty notices. After the sale of a certain amount of land, the *ombudsman* would take away the receivables due to the ruler and the other party (the official could sell only as much land as was necessary to obtain a sum covering the king's and the party's receivables). If the value of the land was lower than the amount due to the king and the other party, the sum obtained from its sale had to be divided in proportion to the parts which should be obtained by the monarch and by the defendant.⁵⁰

As rightly pointed out by Ludvig Holberg, the first four *håndfæstning* provisions from Nyborg were universal and referred to both privileged and underprivileged states, while the next five articles concerned peasants directly.⁵¹ However, owing to the subjective scope and general nature of the commitment, a royal promise to respect the King Valdemar's law (Danish: *Kong Valdemars Love*), i.e. the district rights, and a commitment to remove all exorbitances, had to be singled out from the fifth provision.⁵² It is only this clarification that allows for the analysis of state privileges concerning peasants.

The Danish peasants differed considerably in terms of their land and property, which made this class internally diverse. The high-

⁵⁰ P. Andersen, *Legal Procedure*, pp. 221–224.

⁵¹ L. Holberg, *Konge og*, p. 68.

⁵² DRB II: 3 No. 45 [5].

est in the hierarchy were the wealthy landowners – *selvejerbønder* (singular *selvejerbonde*). It can be assumed that in the middle of the 13th century, half of the peasant land was in the hands of free owners.⁵³ Importantly, the land was inherited from generation to generation. The wealthier peasants leased it to people known as *fæstebønder* (singular *fæstebonde*). The peasant leaseholders usually came from the *selvejerbønder*. After the death of the father, they were given a part of the field they were entitled to, and then divided it among their own sons, who repeated this procedure. In this way, the plots of land were broken up into small fields, which didn't allow the free owner to support his family. Most often in such a situation the course of action involved the sale of land and lease to someone else. *Fæstebonde* could also work for a wealthy peasant as a steward (singular *bryde*, plural *bryder*). The land leased by *fæstebønder* belonged mostly to wealthy peasants, the Church, and the king. Both the leaseholder and *bryde* had to pay a certain fee to the landowner, initially in kind and later in money. Small leaseholders, called *gårdsæder*, and those who did not own or lease the land were often employed as helpers to the wealthier peasants.

In principle, *Håndfæstning* protected all layers of peasants. It was forbidden to force this social group to build and repair royal estates, mills, and castles unless it was necessary, as was the case in the times of King Valdemar II.⁵⁴ This was a service called *innæ* – a kind of obligatory work in royal courts and castles, which usually consisted of building and repairing fortifications, mills, and farm and residential buildings.⁵⁵

In addition, King Erik promised to limit the obligation to provide carriages, which Danish peasants had to supply to the monarch during the royal tour of the kingdom. The obligation to deliver food beyond the borders of the land (Danish: *herred*), was henceforth incumbent on the subjects inhabiting the *herred* where the monarch stayed with his court. Similar restrictions were introduced in

⁵³ W. Czapliński, K. Górski, op.cit., p. 79.

⁵⁴ DRB II: 3 No. 45 [7].

⁵⁵ A. Gaca, *Podatki i inne dochody*, pp. 194–195; P. Johs. Jørgensen, op.cit., p. 268.

the case of the communication service called *ægt*, which consisted in the obligation to provide the king, his companions, or officials acting on his behalf with transportation in the form of horses and carts.⁵⁶ A tax called *studkorn* was to be paid, according to the custom of each province, on St. Andrew's Day.⁵⁷

A concession to *bønder*, was also the promise to stop using threats and coercion in order to obtain from peasants gifts (geese, hens, other gifts) for the royal table, unless such a custom had existed in the times of King Valdemar II.⁵⁸ Peasants could, however, be asked for these gifts, which was common practice. Such extraordinary services and taxes were usually requested by the king at district rallies, hence they were called "requested taxes" – *bedeskatter* (singular *bedeskat*) or *bede*.⁵⁹ The king also allowed peasants who owned the land to lease and manage other people's land. The only condition the leaseholders had to meet was to pay all the royal dues that were related to their own land.⁶⁰

Subsequent regulations of King Eric's law were aimed at protecting private property. *Håndfæstning* banned the erection of buildings on other people's land without the owner's consent⁶¹ and limited the possibility of losing land for a crime of lese-majesty.⁶² In the case of illegal confiscation of property, the injured party could sue the monarch before the *Hof*, whose decision was binding on the king.⁶³ An additional procedural guarantee, indirectly protecting

⁵⁶ P. Johs. Jørgensen, op.cit., p. 268.

⁵⁷ The *Stud* replaced the previous obligation to host the king and his team (Danish *nathold*), which was due to the increase in the number of royal castles and towns in Denmark. This tribute was taken by royal officials in kind, most often in grain. The amount of *studkorn* depended on the specificity of agricultural production resulting from differences in the economic development of individual lands and districts of the Kingdom; DRB II: 3 No. 45 [6]; P. Johs. Jørgensen, op.cit., p. 267; A. Gaca, *Podatki i inne dochody*, p. 199

⁵⁸ DRB II: 3 No. 45 [8].

⁵⁹ P. Johs. Jørgensen, op.cit., pp. 329–330; N. Hybel, B. Poulsen, op.cit., p. 311.

⁶⁰ DRB II: 3 No. 45 [9].

⁶¹ DRB II: 3 No. 45 [10].

⁶² DRB II: 3 No. 45 [13].

⁶³ DRB II: 3 No. 45 [16].

the property of the person accused of *crimen laesae maiestatis*, was the addition of testimonies of jurors forming the tribunal called *worthæl* to the catalogue of evidence. Furthermore, Eric agreed to keep all regulations of the district laws concerning maritime disasters and shipwreck survivors,⁶⁴ which provided special care to survivors trying to salvage their property. At the same time, the rulers were entitled to a coastal law – *ius naufragii* – sanctioning the acquisition of things cast up by the sea, including parts of ship's equipment or goods cast up as a result of shipwreck.⁶⁵

Moreover, the *Håndfæstning* also banned forced hospitality (Danish *voldgæsteri*) in monasteries, and at clergy's and laymen's places.⁶⁶ This concerned in particular the excessive use of the royal privilege of the housing office (*nathold*), which caused considerable financial burdens on the part of those receiving the king.⁶⁷ The injured person, who would have been forced to give hospitality beyond his means, was able to assert his rights in court.⁶⁸

In addition to the regulations protecting victims of maritime disasters, the only regulations protecting directly the townspeople appear in the fifteenth provision. The King promised not to impose any new burdens on Danish and foreign merchants beyond those that already existed. The merchants were also supposed to enjoy all the freedoms and liberties they had since the old days. The monarch also promised that he would maintain the rights of merchants who sold their goods at the Danish Scanian trade fairs (Danish

⁶⁴ DRB II: 3 No. 45 [14].

⁶⁵ A. Gaca, *Prawo Jutlandzkie*, p. 222.

⁶⁶ DRB II: 3 No. 45 [17].

⁶⁷ King Eric Glipping's mother, Margaret Sambiria, was a guest at Øm monastery for two days, and she was accompanied by a cortege consisting of 1600 knights and courtiers, see: K. Hørby, *Gyldendal og Politikens Danmarkshistorie: Velstands krise og tusind baghold 1250–1400*, bd. 5, ed. O. Olsen, København 1989, pp. 117–121.

⁶⁸ If it was a clergyman, he could prosecute such a crime as *hærværk* (so-called public violence), *ran* (looting) or *banlysningssag* (anathema). In the case of lay people, it was a matter of classifying the *voldgæsteri* as an offence prosecuted as *hærværk* or *ran*; DRB II: 3 No. 45 [17;]; see also A. Gaca, *Prawo Jutlandzkie*, pp. 210–212 and 216–218.

skånemarked).⁶⁹ A fair was held in Skåne where merchants from all over northern Europe brought salted herrings and other goods. They were under the control of the king himself, who gave special rights and privileges to the merchants participating in the Scanian fair, and the royal officials acted as judges and arbitrators.⁷⁰ This particular interest of the monarch resulted from the huge profits that came from the taxes imposed on the local merchants – they constituted a large part of the royal income. Finally, it is worth mentioning that Eric also promised to keep all the freedoms and privileges that the Church had at the time of King Valdemar.⁷¹

For the development of Danish parliamentarianism, the *hånd-fæstning* issued by Eric V on 29 July 1282, was of crucial importance. From that moment on, the monarch was obliged to systematically convene the *Hof*, the feudal parliament with the participation of which he ruled. This body, despite its representative character, was *de facto* an expression of the will of the richest part of the secular and clerical nobility that would, in time, even take the form of a representation of the lords (Danish *Herredag*). The unprivileged classes did not participate in its meetings with the right to vote, and they were represented only by members of the nobility. The royal authority was confined to the legal framework and limited by the electoral capitulations issued since 1320. The gradual reduction of the royal prerogatives led to the king's dependence on the decisions of the magnates, whose policies led in 1660 to a coup d'état initiated by the lower classes led by the Copenhagen bourgeoisie, followed by the introduction of absolutism in Denmark and Norway.

⁶⁹ DRB II: 3 No. 45 [15].

⁷⁰ V. Etting, *Queen Margrete I and the Founding of the Nordic Union*, Copenhagen 1997, s. 40.

⁷¹ DRB II: 3 No. 45 [18].

STRESZCZENIE

Håndfæstning z 29 lipca 1282 roku i jego znaczenie dla rozwoju duńskiego parlamentaryzmu i innych przemian ustrojowych w Królestwie

W 1660 r. doszło do kasacji *håndfæstning*, podpisanego i zaprzysiężonego przez Fryderyka III w związku z objęciem przez niego tronu duńskiego w 1648 r. Anulowanie postanowień owego aktu było wynikiem zasadniczych zmian ustrojowych, które doprowadziły do ukształtowania się rządów absolutnych w Królestwie w latach 60. XVII w. Tego typu akty występowały w Danii od połowy XIII w. Szczególne znaczenie, zwłaszcza dla rozwoju duńskiego parlamentaryzmu, miał *håndfæstning* wystawiony przez króla Eryka V Glippinga w 1282 r. pod presją rodzimego możnowładztwa. Dokument ten, nazywany w historiografii „pierwszą duńską konstytucją”, ukonstytuował istnienie *Hof*, określanego przez historyków feudalnym duńskim parlamentem. Moment ten pocztytuje się za początek dziejów parlamentaryzmu i rządów przedstawicielskich w Królestwie Danii. Wydając ten wyjątkowy akt, monarcha po raz pierwszy w historii tego państwa zobowiązał się do corocznego zwoływania o stałej porze zgromadzenia zwanego *Hof* – będącego reprezentacją możnowładztwa duchownego i świeckiego. Ujęcie w ramy prawne tego obowiązku obligowało króla do sprawowania rządów przy udziale możnych, co prowadziło do znacznego osłabienia władzy królewskiej przy jednoczesnym wzroście znaczenia stanów uprzywilejowanych. Nabywając szereg nowych oraz już występujących praw i wolności, które potwierdzał *håndfæstning* z 1282 r., w większym niż dotychczas stopniu miały one możliwość narzucenia swojej woli władcy i uczestnictwa w sprawowaniu rządów w państwie. Do ważnych postanowień tego dokumentu należy zaliczyć również zobowiązanie się króla, że nie będzie nikogo więził bez wyroku sądowego, oraz inne ustępstwa władcy dotyczące prawa sądowego, fragmenty odnoszące się do wystawiania tzw. listów królewskich, a także ograniczeń licznych regaliów królewskich, szczególnie w zakresie zwyczajowo przysługujących monarsze uprawnień podatkowych. W postanowieniach tego *håndfæstning* potwierdzone zostały też dotychczasowe oraz nowe przywileje stanowe.

Słowa kluczowe: Dania; ustrój; władza królewska; *Hof*; *Danehof*; Rada Królestwa; *håndfæstning*; kapitulacje wyborcze; parlamentaryzm; absolutyzm

SUMMARY

Håndfæstning of July 29, 1282 and its significance for the development of Danish parliamentarism and other political changes in the Kingdom

In 1660, *håndfæstning*, signed and sworn by Frederick III, was revoked by reason of his assumption of the Danish throne in 1648. The annulment of the provisions of this act was the result of fundamental changes in the political system that led to the formation of absolutism in the Kingdom in the 1660s. These kinds of acts used to occur in Denmark from the mid-thirteenth century. Of special importance, especially for the development of Danish parliamentarism, was the *håndfæstning* issued by King Eric V Glipping under the pressure of the Danish nobility in 1282. This document, called in historiography Denmark's first constitution, constituted the existence of *Hof*, determined by historians as the feudal Danish parliament. This moment is considered as the beginning of the history of parliamentarism and representative rule in the Kingdom of Denmark. By issuing this exceptional act, the monarch committed himself for the first time in the history of Denmark to convene annually at a fixed time an assembly called the *Hof*, which was a representation of the magnates. Including this obligation within the framework of the law obliged the king to rule with the participation of the nobles, which led to a significant weakening of royal power with a simultaneous increase in the importance of privileged states. By acquiring a number of new and existing rights and freedoms, confirmed by the *håndfæstning* of 1282, they were able to impose their will on the king and participate in the rule of the state to a greater extent than before. Important provisions of this document also include the king's commitment that he would not imprison anyone without a court judgment, and other concessions of the ruler regarding judicial law, fragments regarding the so-called king's letters, as well as the limitations of numerous royal prerogatives, especially regarding tax entitlements. The provisions of this *håndfæstning* also confirmed the existing and newly established state privileges.

Keywords: Denmark; system; royal power; *Hof*; *Danehof*; Council of the Realm; *håndfæstning*; coronation charter; parliamentary system; absolutism

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