Papal Approval of Holy Roman Emperors, 1250–1356

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Napoleon needed papal approval. When he crowned himself Emperor of the French on 2 December 1804, Napoleon received a sort of *approbatio* in that Pope Pius VII was present at the coronation in Notre Dame in Paris.[1] He explicitly linked the event to Charlemagne's crowning at Aachen, and by implication (through his "election" by the French) Charlemagne's election at Frankfurt. He persuaded the Pope to agree to be present by, we may surmise, threatening to abrogate the Concordat and excluding His Holiness from the Papal States.[2] The papal attendance was in effect an affirmation of the Concordat. Pius VII surely caught the implied reference of the "Emperor of the French" to the "Emperor of the Romans," the traditional title of the crowned Holy Roman Emperor. Symbolically, the supreme pontiff approved of the transfer—indicated by the venerated *translatio imperii*—of the imperial power from the Romans or Franks to the French, and by extension the lands the new emperor was about to conquer. One might say that Pope Leo's approval in 800—medieval imperialist writers often interpreted the papal coronation as merely a confirmation of the authority Charlemagne already possessed—was the first exercise of papal approbation, while Napoleon's bizarre coronation with a vicarious papal blessing was the last.

What makes a king? That all political authority comes from God was about the only thing king-makers in the Middle Ages could agree upon. Lacking a written set of rules for how a ruler receives his *potestas*, the ancient Roman and Byzantine methods fluctuated among personal designation, heredity, the Roman citizens, the army, palace coups, the senate, or happenstance.

Who makes the *German* emperor? This question was intensely debated from the Eleventh through the Fourteenth Centuries. It was realized that the Vicar of Christ played a special role in the process, since he claimed the right to crown the successor of Charlemagne *imperator*. In time the German sovereign was entitled King of the Romans (and emperor-elect), later to become the crowned Emperor of the Romans.[3] The answers to the question of *who* makes the king and the emperor would affect virtually every facet of the German-based empire and indeed much of

medieval political thought.

Within the larger problem of how the supreme priest creates the emperor is the central issue of "papal approbation," a formal liturgical rite which elicited much controversy because of its implications for the origins and functions of both imperial and papal temporal power. But historians have perhaps not appreciated the impact this papal practice had on the nature of the imperial office. In particular, not enough attention has been given to the influence the double elections of 1257 and 1314 had on the theories of empire, especially on the concepts of imperial elections. It is argued here that during 1330–1356 the defenders of pope and emperor finally moved toward a compromise and reconciliation of competing claims. The Golden Bull of 1356 was less a victory of emperor over pope, as is commonly said, than the triumph of the notion of full imperial powers imparted in the election at Frankfurt and the coronation at Aachen.

The origins of the papal *approbatio* lie in two events, or rather a non-event and a real one. (1) The non-event was recorded in the Donation of Constantine, a forgery which would profoundly shape the course of political thinking for four centuries after the Investiture Controversy. Since Pope Sylvester had crowned Constantine emperor, the pope implicitly retained the right to designate the next ruler and also judge his fitness to reign. By the Twelfth Century the supreme pontiffs were using the Donation to justify their choice—or their influence of the choice made by the electors of the emperor, however indirect.[4] Since the emperor granted the western empire to the pope and the latter crowned him emperor, the Curial argument went, subsequent popes had the right in some sense to select the ruler and specify his official purpose. (2) The real event was, of course, the coronation of Charles the Great in 800, with the implication that the pope somehow picked or at least acquiesced in the choice. The acclamation of those present in St. Peter's, as later imperialist proponents would have it, merely gave their consent to a papal *fait accompli*. Thus, the Curialists interpreted the event as imparting power to the pope and asserting his supremacy over the emperor. The imperialists, for their part, saw the opposite: the supremacy of the temporal ruler. It is amazing how this Christmas event became the subject of so much discussion throughout the Middle Ages.

The right of papal approval, however, actually developed as a *response* to the imperial claim, starting in the ninth century, of confirming the choice that was made by the electors of the pope in Rome.[5] The emperor gave them permission to proceed with the election, and afterwards expected

to be informed. Pope Nicholas II objected to this custom as lay interference in ecclesiastical affairs, and so created the College of Cardinals in 1059. Henry III had chosen no less than three popes in a single year (1046). Gregory VII retorted that the king had it backwards; it was the *pope* (who alone was the *vicarius Christi*; the king being merely a *vicarius Dei*) who should approve the choice of the monarch![6] Witness the approval of the princes' nomination of Rudolf to succeed the excommunicated Henry IV.[7] It was at this time that the *approbatio* began to acquire its formal attributes as expressed in elaborate liturgical rituals performed in the sanctuary of a church.[8] In practice, the effect of the approbation on the actual election and coronation of the King of the Romans led to endless disputes. Frederick Barbarossa proclaimed his election at Frankfurt and subsequent coronation and consecration by the archbishop of Mainz (or Cologne, Trier as the third archbishop-elector); Mainz represented Germany in the Empire. For Barbarossa the papal coronation of the King of the Romans in Rome merely confirmed divine selection.[9] The pope for his part emphasized that the election at Frankfurt and the coronation at Aachen made the sovereign merely the "emperor-elect," downgrading his authority to the status of a "German" king.[10] Frederick I may have been the first monarch to maintain that the Frankfurt election conferred on him imperial powers, a claim which was expanded in the Fourteenth Century. The subsequent coronations in Milan (or Pavia) and Rome added only titles, not power. The principal issue was the *potestas* given by the princes at Frankfurt. But no coherent theory on the meaning of these elections and coronations emerged during the Twelfth Century. Any interpretation of the significance of the *electio* would have to deal with related problems, such as the extent of imperial authority in Italy and imperial rights over the Church, including the Roman Church. And how does the position of the King of the Romans differ from that of the Emperor of the Romans? Even among the canon lawyers there was little agreement.[11]

The turning point in the evolution of the papal approbation came with Pope Innocent III's intervention in the disputed election of Otto of Brunswick and Philip of Swabia, and then between Otto and Frederick (II). Of particular importance for the approval rite was the decretal *Per Venerabilem*,[12] which attempted to provide a theological and legal basis for the pontiff's arbitration. This pontiff tied the approbation to the papal fullness of power, as lord of spirituals and indirectly in temporals. The pope's relationship with the German empire, moreover, was a

special case, in that the *imperator* governed the Roman Empire and all temporals, at least *de iure.* It was the Holy See's responsibility to ensure that temporal concerns were directed toward higher ends and the good of the Church Universal. Pope Innocent IV was more explicit in associating the *approbatio* with the papal *plenitudo potestatis*.[13]

The imperialists were compelled to prepare a defense, but they were uncertain how to reduce the approbation ritual to a ceremony without constitutional substance. While they would prefer to retain the traditional coronation in Eternal Rome, the city of Peter, they were divided as to the meaning of the crowning of the German king in Aachen, the city of Karl der Grosse.[14] Exactly *why* is the election by the princes at Frankfurt the preeminent circumstance which creates the King of the Romans? How is this act different from the election of other kings, such as the *rex Francorum* west of the Rhine? Is election somehow more sacrosanct than heredity? What gives the Vicar of Christ the right to approve the election of a German emperor?

The period between the Staufen dynasty and the death of Henry VII in 1313 experienced a prolonged crisis for the Holy Roman Empire. To the dismay of many Germans, several popes threatened to give away the imperial crown to Anybody-but-a-Staufer. Suitable candidates included non-Germans! This threat to locate the *imperator* outside of *Germania*—an ambiguous but much used term—partially explains the defenders of the Empire's propensity to dwell on the "German" character of the imperial office, and on the Germanness of their "founders," Charlemagne and Otto I the Great. During the confusing era 1250–1273, the so-called *Interregnum,* popes often used the approbation to obtain their preferred choices, as would-be emperors competed to secure the endorsement of Rome. The events leading to the double election of 1257 illustrate how an aggressive pontiff could expand the latent force of the *approbatio.* Following the deposition of Frederick II, Pope Innocent IV requested that the German electors to pick a new king, ignoring the claims of Conrad IV. In 1246 the Holy Father, in effect, directed the princes to choose Henry Raspe, landgrave of Thuringia.[15] He wooed German bishops away from the Staufen and towards the "king of the priests," as Henry was labeled.[16] But Henry's death in February 1247 brought forth no fewer than five candidates! Innocent IV engineered the choice of William of Holland (1247–1256) at a council dominated by prelates—at Worringen, not Frankfurt.[17] The Archbishop of Cologne, Conrad, crowned William at Aachen in 1248. But Innocent IV never crowned him Emperor of the Romans, as the conflicts in Germany and Italy

intensified after the death of Frederick II in 1250. Although William's position became stronger, he never exercised effective authority beyond the Rhineland. Indeed, his relations with Innocent IV and his successor Alexander IV deteriorated, as did his dealings with the various prince-electors. It did not go unnoticed that William was an outsider, not connected to the electors, although Henry Raspe was considered a German. If papal policy was intended to prevent the encirclement of Germany (in particular, Swabia) and Sicily, the ostensible reasons Innocent IV gave for his assertion of approbation was to have a defender of the Church and a promoter of the crusade.[18] Innocent IV expanded on the meaning of the papal confirmation in Innocent III's *Venerabilem.* It should be emphasized that the pope's extensive involvement in the negotiations of 1256–1257 went far beyond the approval alluded to in the *Venerabilem.* Innocent IV effectively claimed the right to request the prince-electors to proceed with the election; to designate the suitability of a candidate; to withhold approval until the would-be candidate agreed to the papal terms; to permit the coronation at Aachen; and to crown the king as emperor in Rome. All these conditions follow from his right of approval and confirmation of the *imperator*.[19] Contemporaries could not help but notice the pope's political concerns, as he maneuvered to obtain a favorable ruler in Sicily, who was also linked to the imperial crown in Germany. So too, the temporal nature of the approval—as opposed to the Vicar of Christ's commitment to spiritual matters—was evident in the enormous amount of money and privileges which passed to the two candidates (Richard of Cornwall and Alfonso X of Castile) and their supporters. The purpose of the *approbatio*—to find the best *advocatus ecclesiae*—seemed hollow. The pope's right to approve gave him great leverage over matters affecting virtually all of Italy and the empire, not to mention France (with its concerns for Burgundy, the Low Countries, Sicily, the Guelphs, and Milan).

The blatant politicization of the papal approbation was made evident during the double election of 1257. Popes Alexander IV and Urban IV seemed unable to decide between the two candidates, as their priorities shifted with changing circumstances. As the pontiffs dangled promised concessions before both Richard and Alfonso, they carefully weighed papal interests in Sicily and Italian cities, not to mention their tense relations with Kings Henry III and Louis IX. Ironically, the popes eventually abandoned both candidates and supported the Habsburg Rudolf in 1273, although he was never crowned Emperor of the Romans. During 1250–1273 no king attained recognition throughout the Holy Roman Empire.

Although the use of papal affirmation during 1245–1273 seems to have been reduced to a blunt political weapon in papal aspirations to control parts of Italy, especially Sicily, this period is of much importance in the development of the theory and future application, particularly after 1314. Some of these consequences:

1. The Curial position was further clarified, as can be seen in the papal bull *Qui Caelum* (1263),[20] which was a considerable advance over *Venerabilem.* It affirms the papal right to approve an election, since the emperor is the special protector of the Church. Innocent IV's notion of the papal fullness of power is incorporated into the *approbatio.* The bull specifies the procedure of election and coronation, and the subsequent papal crowning in Rome.

2. The role of the electors in choosing the King of the Romans was strengthened. The electors assert their traditional right in reaction to the Curial claim.

3. The Germans now searched for a solid basis on which to defend the necessity for the King of the Romans to be *German.* They strongly affirm the right of the empire to derive from God alone. They also affirm the right of the ancient Romans to "acclamation" by the army.

4. The princes emphasized the imparting of full imperial *potestas* by the election in Frankfurt. The spiritual authority of the King of the Romans comes the archbishop who crowns the king at Aachen under the chandelier of Barbarossa. The newly crowned king—some would say the prior event of election at Frankfurt—can immediately begin to administer his temporal holdings. But this question of immediate administration did not receive much attention among imperialists until after the disputed election of 1314.

5. The King of the Romans as a German monarch was to some extent separate from the papally crowned emperor of the Romans.

6. The territories in Italy gradually became less significant for the German emperor. Henry VII's dramatic descent into Italy caught contemporaries by surprise. Louis of Bavaria's forays into the South were relatively minor. It might be noted that the papal exercise of the *approbatio* during the *Interregnum*

was limited almost entirely to Italy, in that the pope's conditions usually involved some of the papal claims in Italy.

In terms of the evolution of the theory of papal approbation, as opposed to the popes' actual ventures into the diplomatic entanglements associated with the imperial candidates, the period of the *Interregnum* and Rudolf of Habsburg was as important as the decretals and the precedent-setting events of 1245–1257. Having said that, the next seventy years after 1250 produced a number of treatises on imperial issues, some of which would become classics in political thought. Perhaps no writings were more important for the notions of the *German* character of the imperial office than those of Alexander of Roes.[21] Precisely, Why is the crown uniquely German and thus beyond the need for papal approbation? What is specifically German about the election and the coronations, and indeed about the electors themselves? With regard to the papal approbation of emperors, the constitutional balance between pope and emperor remained as ambiguous as ever. Popes traded concessions for their approval of particular aspirants for the imperial office. Electors and German kings became used to rulership without the subsequent coronation in St. Peter's. The supreme priest did not crown a king from 1250 to 1312, when he crowned Henry VII as emperor of the Romans. Pontiffs expected Rudolf I (1273–1291),[22] Adolf of Nassau (1292–1298), and Albert I of Habsburg (1298–1308) to swear to avoid the Papal States and Sicily, and to take the cross. For the popes, Italy was always the main consideration. In desperation Albert even promised to obtain the papal approbation *before* he was crowned at Aachen.[23] German thinkers wrestled with the fundamental questions about the empire: In what sense was it German? Roman? Can the empire be both without the approval of the bishop of Rome? In hindsight it is clear that the opposing views of papal approval and the imperial power bestowed by the electing princes at Frankfurt influenced each other's development; a symbiotic relationship marked every stage of their mutual evolution.

It took another jolt—the double election of 1314—to force the imperialists to explain the pope's role in the choosing, approving, and "instructing" of the King of the Romans. The following period—1314–1356—is the golden age of imperial-papal thought, when opinions about the fast pace of conflicts between kings (and anti-kings) and pontiffs and their supporters outside Avignon rapidly multiplied. The new pope, John XXII (1316–1334), pushed the notion of approbation to

its limits, a notion given legitimacy in numerous tracts.[24] He claimed not only the right to approve the candidate (either Louis or Frederick) but also to give the electors the permission to elect; to evaluate the candidate's qualifications (beyond the customary imperial function as the *advocatus ecclesiae*); to determine precisely when the newly elected King of the Romans can begin to administer his realm and exercise his rights in Italy; to set the conditions for the next constitutional step, the march to Rome to become crowned emperor of the Romans (by the pope or his appointee); to nominate and impart authority to the papal and imperial vicars in Italy. Innocent III would not have recognized his own modest claims for the papal *approbatio*! His *Venerabilem* was after all an occasion-piece to deal with a specific election, with only a light coating of legal and theological justification. But new conditions after 1314 compelled defenders and detractors of the approbation to demand clarification. John XXII declared that he would not decide on the legitimacy of the rightful candidate unless the latter met the Curial conditions. Only then would he agree to crown him emperor of the Romans.

The supporters of Louis of Bavaria responded to Pope John with a barrage of statements, with the papal side responding in kind. While Louis had to answer the radical Augustinians, the latter had also to refute the invective of Marsiglio of Padua. The concept of papal approbation was central to these arguments about imperial-papal relations. On the papal side, Augustinus Triumphus[25] and others[26] rushed to defend the temporal claims of John XXII. They linked the approbation to the papal fullness of power in both spirituals and temporals. The imperialists, for their part, tried to refute this argument with appeals to scripture, canon law, scholastic reason, history, and German customary legal practice; but they came to realize that this point-by-point rebuttal was getting wearisome, ineffective, and overly abstract. By the late 1330s all sides were becoming impatient with the impasse on the status of Louis of Bavaria. A landmark event occurred on 16 July 1338 when the German prince-electors issued the Declaration of Rhense,[27] which excluded the papal *approbatio* from the election of the King of the Romans. Caught off guard, Louis of Bavaria proclaimed an approval of the Declaration, while asserting his own divinely assigned powers and ultimate authority over the entire empire.[28] Louis resisted both the electors and the pope. There was widespread exasperation with the civil wars, as Europe endured war, disease, famine, and external attack. Some polemicists, such as Lupold of Bebenburg, kept returning to a basic issue: the right of the German electors to confer full imperial authority on their

ruler by virtue of the election at Frankfurt. How could a case for this view be made on the basis of the coronation of Charlemagne as emperor? The extreme positions taken by both imperialists and papalists after 1314—the beginning of Phase Two in the controversy over the meaning of papal approbation—required a Solomonic solution which both sides could accept. But the emperor's adherents needed a positive defense of the election of the *rex Romanorum* which could rest on a firm theological, legal, and historical base, while at the same being sufficiently "German."

The imperialists realized that any interpretation of the papal *approbatio* would have to include the pope's participation in the choice of the Holy Roman Emperor. It would be a serious misreading to assume that the backers of Louis of Bavaria desired to eliminate the role of the pontiff altogether. We should not see the events of 1340–1356 from the vantage of hindsight, as if the Golden Bull of 1356 were an inevitable outcome of the conflicts between Louis and the papal Curia. It would be simplistic to view the vigorous exchange of ideas as merely a legitimizing facade for the clash of personalities with their territorial claims. It would be a more accurate assessment of this turbulent period to envision the time after 1340 as the search for a solution to end the warring factions. The uncompromising Louis faced three uncompromising popes: John XXII, Benedict XII, and Clement VI. The crisis of 1338–1340—when a compromise suddenly appeared in reach, due to the efforts of several German prelates—produced numerous literary responses, most notably the works of Lupold of Bebenburg, William of Ockham, and Conrad of Megenberg.

The tract of Lupold was destined to become one of the classics of late medieval political thought. The work's central argument is that the successors of Charlemagne held full imperial rights in Germany and Italy by virtue of their election and crowning by the prince-electors.[29] The core of the Holy Roman Empire is *Germania*, which was held by Charlemagne by right of conquest prior to the events of 800; the kingdoms of Burgundy and Italy were added later. The coronation by Pope Leo III merely attached the imperial title to the *de facto* power of the king of the Franks.[30] Papal approval was still necessary but added no further authority to the elected German monarch. The newly crowned king at Aachen can legally start to administer his realm even *before* he receives the papal *approbatio* and coronation in St. Peter's Basilica.[31] Lupold rejected the revolutionary claims made by the princes at Rhense, and affirmed the function of the approbation rite in order to reach for a working cooperation between Avignon and Munich; while he never states this

explicitly, this is the implication, given the contrary position taken at Rhense. The constitutional effect of the approval was further reduced by the practice of selecting German kings by hereditary succession, although this did not exclude the occasional change of dynasties. Louis of Bavaria was after all from the House of Wittelsbach, and his predecessor, Henry VII, was of the House of Luxembourg. The weak link in Lupold's argument was the relationship between the German election of the King of the Romans and papal approval. Suppose the pontiff refused to approve the choice made by the seven electors at Frankfurt? What if the newly elected *rex* flat-out refused to seek the approbation, or if the electors demanded or requested that the king not receive the pontiff's confirmation (a word often synonymous with approbation)? Since the emperor-elect already possessed complete imperial *auctoritas*, why was the subsequent approval necessary? Indeed, why go through the trouble of having a papal coronation—with its implicit association with the approbation—at all? Following the double election of 1314, the question of the legal import of the princely election at Frankfurt was a heated topic in Germany. The hapless Lupold believed he had found a *via media*—in the tradition of John of Paris—which everyone could accept. But alas, his reasonable compromise was dismissed by both sides as too conciliatory. (Such was the fate of numerous attempts at compromise during the tumultuous reign of Louis of Bavaria.) The imperialists in particular objected to the role of the papal coronation in conferring the emperor's rights over matters ecclesiastical in the Church Militant. Another irritant was the papalists' insistence on making the approbation in some sense a logical consequence of the popes' Translation of Empire to the Germans by Charlemagne or Otto I. A fierce response from the imperialist camp followed.

For more than two decades after the disputed elections of 1314, the papalist-imperialist exchanges were heavily influenced by the poverty controversy which resulted in part from John XXII's attacks on Franciscan interpretations of apostolic and Rule-based *povertas* in 1317–1318 and 1322–1323, and also by the appearance of Marsiglio's *Defender of the Peace* in 1324. The vociferous Franciscan in exile, William of Ockham, began moving away from the defense of poverty after 1332 and towards a critique of papal pretensions of *plenitudo potestatis*. When Ockham came across the text of Lupold of Bebenburg's Treatise on empire—although he may have heard about Lupold's opinions and indeed may have engaged him in public debate in c. 1340—he reacted strongly with his *Eight Questions on the Power of the Pope*,[32] a work he may

have intended to expand afterwards. Ockham vehemently attacked the treatise of the venerable Lupold in the guise of defending it! He assaulted his "master" for undermining the twin pillars of the empire: (1) the *Roman* character of the empire, and (2) the *elective* nature of the imperial office. There is no "core" (to use our modern term when describing empires), German or otherwise, of the indivisible Roman Empire (think of Engelbert of Admont or Dante), which continues down to today, if only *de iure*, in some parts of the empire, such as Italy. Ultimately the emperor's power derives from his descent in the line of ancient Roman emperors. His authority comes from God alone; the pope confers no constitutional rights by his coronation and unction. Ockham tries to connect the German kings with the Roman emperors by means of the electors, but not in any constitutional sense. The need for the electors is simply practical, a typical Ockhamist twist, given his mistrust of all institutions. He rejects any constitutional function of the papal *approbatio,* which he contrasts with the princely election which operates as the instrument by which the *de facto* right by which the "king or emperor" (Ockham often juxtaposes the two titles, as does Lupold, as if to designate imperial power to the new King of the Romans) begins to administer his temporals.[33]

Ockham's theory of approbation is a typical mix of his "regular" and "occasional." The emperor is chosen by free election, not by hereditary succession. The electors represent not only all Germans, but also all "Romans," including and especially the citizens of the city of Rome.[34] (We are not sure what Ockham thought about Louis's unorthodox "election" in Rome in 1328, but he probably did not approve, since the rightful German electors were not involved.) If this view sounds contrived, it is a logical result of Ockham's insistence, against Lupold, that the German emperor and the means by which he became "king and emperor" are genuinely Roman. The role of the papal approval is simply to provide an occasional check on the emperor's abuse of power, Ockham implies, but possesses no constitutional necessity. Nowhere does Ockham call for the abolition of this papal rite, however vehemently he attacks the misuse of power by John XXII and Benedict XII. Ockham's general point is that the approbation is merely an occasional device to keep the two universal powers—Roman/German emperor and pope—in balance for the common good. Intervention in either spiritual or temporal matters is always necessitated by some immediate crisis, not some abstract theory. It is significant that one of the most radical critics of the papacy of the time would insist on some role for the popes in the matter of how the newly elected German king governs his empire. It was absurd that the papal defenders made the approbation a moral and

canonical expression of the papal doctrine of the fullness of power. Ockham's popes and emperors intervene in each others' domains as concerned individual Catholics, not by virtue of their formal offices. It is not surprising that Ockham does not attack the venerable tradition that a pope (usually Gregory V) had originally created the institution of the German electors of the King of the Romans.[35] Ockham, unlike Lupold, emphasizes the emperor's Roman heritage more than the German. In sum, the approbation is for Ockham simply a useful device to drive home the interdependence of emperor and pope, without in any way adding to the temporal claims of the Vicar of Christ. It is just that, a practical man-made instrument of no constitutional significance.

In 1346 Ockham must have been shocked at the news that Pope Clement VI had secured the deposition of Louis of Bavaria and the elevation of Charles of Bohemia as King of the Romans, henceforth dubbed the "priests' king."[36] Even more disturbing was the way the pope had managed the election (in effect, making separate arrangements with the various electors, in the grand manner of papal policy during 1245–1257) and the justification he used: the papal right of *approbatio*! Clement VI made the extraordinary claim that popes have always judged the qualifications of candidates, and had given the electors permission to make their choice. He offered an elaborate explanation—which suggests he was aware of the novelty of his application of the approbation tradition—of how the electing princes were actually affirming his right of approval.[37] He emphasized that the *approbatio* not only gave the electors their right to proceed with the election, but the very act of the rite actually created the King of the Romans. It was the pope, not the electors, who bestowed full imperial *potestas* on the King of the Romans who then also became the emperor-elect. The Declaration of Rhense had stated that the election by the princes created the King of the Romans with no need of papal approval. The subsequent raising of the new king to the imperial crown was now expected, although it may well be that the pope had no intention of proceeding to this next step.[38] It would be easier for Clement to manipulate Charles's policies in his lower status as German king. (Charles IV, a Czech, was not German, but this designation remained the conventional usage.) In the following years the pope may not have realized that Charles IV's cult of Charlemagne undercut the constitutional effect of the approbation in that the king as an alter-Charlemagne gave him a sacred status without reference to any requirement of a papal approval. The identification with the legendary Karl der Grosse, who was crowned but not "approved" by a pope, gave Charles a historical legitimacy by itself.[39] It could be argued that one

of the reasons Charles fostered this ideology of the Frankish king was precisely to undermine the claims of Clement VI. There is no question that the pope intended his former student to be subservient to Avignon, particularly in matters involving Italy and the French-English conflict. But, in fact, almost immediately after the death of Louis of Bavaria, Charles IV pursued policies which were often at variance with the wishes of the papal Curia. Not exactly the priests' king he was alleged to be.

It should come as no surprise that the papal approbation is not mentioned in the Golden Bull of 1356.[40] The Bull could be misunderstood as an attack on the extreme interpretation that Clement VI put on the *approbatio* in 1346.[41] For the pope, the electors in effect merely "approved" the choice of the royal candidate that the pope had already made! Clement's reading of the approbation runs counter to the venerable German tradition that the electors confer full imperial power on their choice of King of the Romans and emperor-elect. But in fact the Bull was a compromise in the sense that Charles intended to secure at least the partial acquiescence of the papal Curia. Charles had to fend off the framers of Rhense who would have preferred to declare explicitly that papal approval and indeed the coronation in Rome were unnecessary. It is unlikely that the Bull caught Innocent VI by surprise; he was realistic enough to realize that the insertion of papal approbation in the Bull was politically impossible. Indeed, Charles negotiated with the Curia to obtain at least a grudging acceptance of the Bull.[42] There are clues that the Bull was partially intended to mollify Avignon: the Bull does not attack the papacy as a cause—as would Lorenzo Valla later—of the turmoil in the empire[43]; the newly elected King of the Romans is also the "emperor-elect," implying that the papal coronation is expected; the election of the King of the Romans and the "future emperor"[44] should be held in Frankfurt and the "first" coronation in Aix[45] (implying the "second" in Rome or Pavia; the ambiguity was probably intentional), although the King of the Romans possesses imperial powers which he can exercise immediately, he was elected *both* emperor (meaning emperor-elect) and king, the now conventional reference to "king and emperor"; the oath taken by the archbishop of Mainz[46] does not exclude a future approval by the pope when the latter crowns the king emperor of the Romans; the carefully worded allusions to the three archbishop-electors' role in the procedure prior to the actual election at Frankfurt are vague as to how the archbishop (in particular, that of Mainz) approves the candidate in advance, and then only in the general sense of declaring the right to proceed with election; to offset the

constitutionality of the recent approbation (1346), the Bull justifies its electoral procedure on the basis of venerable custom. Innocent VI, who may have disapproved of the high-handed manner Clement had obtained the election of Charles IV, was anxious to retain the good graces of Charles, whose position grew stronger every year. Why insist on the *approbatio* which was certain to alienate many German princes, including the electors? Charles, moreover, would have preferred to remove a possible impediment to the succession of his son, Wenceslas; the pope, in exchange for omitting the approbation in the Bull, would be given a free hand in the Papal States—including post-Rienzo Rome—and Milan. The situation in the Papal States, not to mention France, was unstable. In short, the Golden Bull should be seen less as a victory of emperor over pope, than as a compromise which would maintain the cooperation of Prague and Avignon in the interests of both—and the Church Militant.

Once it became clear that the Declaration of Rhense in 1338 had accomplished little in bringing peace to Germany or in reconciling the courts of Munich and Avignon, the complaints against Louis of Bavaria steadily increased. And when the removal of Louis did little to ease these concerns, many prelates decided enough was enough. This exasperation with the endless conflict between king and pope—and their proxies—can be seen in the political writings of the time. The Black Death must have seemed a divine disapproval for this sorry state of affairs. The most prominent papalist writer was Conrad of Megenberg (1309–1374),[47] who lamented the woeful condition of the Church in the empire[48]; these laments can be seen in the *Planctus* or *Lacrima* tracts of this time. While his writings dealing with the relations of papacy and empire seem on the surface to be extreme statements of the Curial viewpoint, they are in fact attempts to reconcile the two universal powers in the interest of the Church. Conrad was acutely aware of the building tensions between Charles IV and Pope Innocent VI, which must have been distressing given the great hope placed in the new King of the Romans. Doubtless Conrad was cognizant of the diplomatic exchanges between imperial and papal curias, and the activities in Munich to devise a document which clarified the procedure of the election of the king and of the role of the papal approval. In two monumental works, the *Yconomica* (1353–1363) and the *De translatione imperii* (1353–1363), Conrad, who wrote in opposition to Ockham and Lupold, developed the most extensive analysis of the *approbatio* since the bulls of Innocent III. If read in the context of the problems of the time, Conrad's views fit well with the general tendency to find a workable solution

to the problems affecting pope and emperor.

The essence of Conrad's elaborate theory is that the pontiff must retain some role in the choosing of an emperor, since this bond would more likely result in cooperation in matters both temporal and spiritual. Harmony at the top will bring harmony in the middle (princes and prelates) and at the bottom (religious orders and secular clergy). He realized that after the death of Clement VI in 1352 the danger to the German Church came not from faraway Avignon, but from the princes, some of whom were wary of the new emperor. Would Charles IV and Innocent VI pursue the aggressive centralizing policies of their predecessors? Conrad aimed two works at both pope and emperor and their courts, as well as at all princes and bishops in Germany. These writings are not papal hierocratic fantasies, but well-considered reform programs. When his ideas of papal *approbatio* are placed in this wider context, they seem plausible and practical.

The foundation of Conrad's doctrine of papal approbation is the function of the emperor as the defender of the Roman Church, a function tied to the pope's transfer of empire to the Franks and then to the Germans.[49] Since the pope transferred the empire *regulariter* and *de iure*—contrary to Lupold's only *de facto*—he is obligated to approve the candidate for the imperial office.[50] The pope has the right to nominate and approve the candidate before the prince-electors elect him King of the Romans.[51] Although Conrad cites *Venerabilem* frequently, he is more detailed than Innocent and grants the pope virtually unlimited power over the candidate before and after the princes elect. The pontiff cites ten virtues he demands the king possess, with *defensor ecclesiae* heading the list.[52] The King of the Romans cannot administer his temporals until the pope gives him permission to do so—the central issue in the imperial-papal conflict since 1314.[53] If this domination over the royal/imperial election seems excessive, it is because the relationship between pope and emperor is unique: they are the two universal powers in Christendom, one over spirituals, the other over temporals.[54] While another Christian may succeed by hereditary right, only the King of the Romans is elected, and this election follows directly from the Translation of Empire.[55] Even though the king has been elected by the princes, he is only a "hypothetical" king until the pope gives his *approbatio*.[56] The election by the princes is, in effect, merely an after-the-fact acclamation to a decision the pope has already made. He is the real "elector" of the King of the Romans.

Conrad seems unable to let go of his theory of approbation. In his *Yconomica* he elaborates on

the bonds between the *approbatio* and the Translation of Empire.[57] He integrates the theory into the classic images of the two swords and the two luminaries, as if to suggest that the emperor's power as the universal ruler in temporals is in no way diminished by the papal action. The contemporary emperor is in the tradition of the ancient Roman emperors, even if the empire has been transferred to the Germans. Above all, the approbation is closely linked to the emperor's right to begin the administration of his temporals. Conrad explores many theological, canonical, and natural law associations with his notion of papal approbation.

But why does Conrad give so much attention to papal confirmation of the election of the *rex Romanorum*? The events of 1346 were long ago. The new pope, Innocent VI, probably had no interest in a rite which he would probably never perform, as Charles IV appeared firmly in charge. Innocent had enough to think about with the upheavals in Rome and throughout the Papal States. His first priority in Germany was to maintain good relations with the increasingly powerful Charles IV, who for his part needed Curial support to prevent the princes, great and small, from reverting to the bad old days of Louis of Bavaria. The king desired a role for the new pope in his soon-to-be-released Golden Bull, which he devised not only as an electoral procedure, but as a program for governing the empire. Perhaps modern historians have understated the conciliatory motives of Conrad's seemingly extreme rendering of the papal approbation.[58] It is likely that Conrad's accommodating approach was in fact a common view among German prelates after 1352. He may have partially intended his two treatises—the *Translatio* and the *Yconomica,* both written after 1352—for the curia of Charles IV as a plea to include some place for the papal approbation in the coming Golden Bull. Conrad feared that the antipapal (and anticlerical?) attitude of the Declaration of Rhense would be integrated into the new document. It would be naive for us to imagine that Conrad thought it was a realistic possibility that Innocent would "approve" the choice of Wenceslas prior to the election at Frankfurt. Quite the opposite. The papal *approbatio* of the next imperial candidate would be simply an expression that the pontiff in Avignon retains the traditional interest in the ecclesiastical affairs of Germany and Italy. But Conrad was also trying to communicate a message to the electors and Charles IV. The princes should not fear imperial or papal interference in their realms. Charles should take his obligations to the German Church more seriously. He should remain in contact with all levels of the clergy in *Germania*. Conrad was alarmed that the writings of his nemesis Ockham might impede royal-papal cooperation. The

antipapal works of Ockham, Marsiglio, and others would weaken the hierarchy of the Church everywhere.

Although Conrad might not have agreed, the prominent roles of the three elector-archbishops in the Golden Bull were intended by Charles to be a kind of surrogate approbation. The three prelates confer or least confirm spiritual authority on the King of the Romans. The emphasis in the Bull is on the election, not on the coronation at Aachen, which is mentioned almost in passing.[59] This episcopal trinity of electors effectively represents the entire German Church.

But the Bull is more than an electoral decree. It is a veritable constitution of how the empire should be administered. The Curia is, of course, not mentioned, since these administrative duties involve temporal concerns, beyond the purview of Avignon (with an implied rejection of the more extreme of Curial views on the papal *plenitudo potestatis*). Charles IV's vision was that the seven electors would act as a sort of central advisory group in the larger empire of principalities and cities. (The kingdom or empire in the Bull is analogous to the modern United Nations Security Council and also the European Union.)[60] The emperor would keep in contact with the prince-electors on matters of common interest. Clearly, Charles did not expect the Estates to complete their responsibilities once the royal election was made. The Bull begins, after all, with a sharp condemnation of the divisions in the empire. The new procedure—supposedly based on ancient Germanic custom—was intended to minimize these disputes.

Conclusion

What, then, is the significance of the papal approbation during 1338–1356 for the Holy Roman Empire? Too often in modern scholarship, this era is seen as the end of the great game of popes battling emperors. The papal blessing is seen as but one element in the conflicts between the two universal powers. The Golden Bull is envisioned as the imperial checkmate of his opponent. The implication is that this exercise in power politics did not take the justifications—canonical, theological, historical precedent, German traditions, natural rights, and the legacy of the Translation of Empire—seriously; they were largely rhetorical cover for the practical issues of papal control of the election of the King of the Romans (already referred to as the King of Germany or the Germans) and subsequent influence in Italy. The *approbatio* was mainly a support for the

scramble for picking the right king; the double election of 1257 would be an example of the dominance of political motives in the competition for royal election. *Realpolitik* carried the day.

This view of the approbation as a power ploy might be dubbed the "Vatican Model." (Although the popes did not reside in the Vatican until 1378, the image is apt for it points to the expected coronation in St. Peter's; the Curial perspective is that the King of the Romans is above all an "emperor-elect.") This symbol posits the pontiff's attempt to exact concessions from the imperial candidate, particularly from his position in Italy. But this paradigm has its limits, since it ignores the thought processes behind it and why contemporaries did not take approbation lightly. It implies that the assumptions on which it was based changed little over four centuries. It is unlikely that contemporaries of Louis of Bavaria viewed the approbation as simply a crude political weapon. Moreover, the Model is too static to take into account the increased pressure after 1314 to tie the *approbatio* to the right of the prince-electors to confer imperial powers on the King of the Romans, and also to the papal right to determine when the emperor-elect can begin to administer his temporals in Germany and in Italy through vicars.

A more useful paradigm might be labeled the "Aachen Model." In this perspective, the kings and princes developed a concept of imperial election and imperial *potestas*, which was partially shared by the popes' claim to approve the German king and emperor (the twin titles are often used together). This archetype has the advantage of focusing on the full imperial powers which the king received at the election of the seven princes at Aachen and the subsequent coronation by the archbishop of Mainz (usually); the latter was a sort of *approbatio* of the previous constitutional act in the church of St. Bartholomew in Frankfurt. It must emphasized that the notion of the papal approbation evolved into a symbiotic relationship with the ongoing struggles between popes and emperors (and prince-electors). The theory and practice of this canonical right and rite are comprehensible only in this wider context of imperial-papal dialogue, sometimes amiable, sometimes hostile. Interestingly, both papalists and imperialists were ambiguous about the "Roman" element of the election, coronation, and approval of the German king. The Curialists were fearful of the emperor's claims to the city of Rome, the "Romans" in Italy (that is, claims to the former Roman Empire), and the Church at large. The imperialists, for their part, had never forgotten the claims of Popes Gregory VII and Innocent III that the papal crown implied subservience to the Roman Church, and that the empire was merely "German" with no rights in

Italy or the Church universal. Ironically, the imperialists reacted to the claims of the papal approval (and the fiasco of the installment of an emperor in 1328 by the citizens of the city of Rome) by stressing the "German" component of the makeup of the Holy Roman Empire.

The events of 1338–1356 reveal a growing separation of papacy and empire. It was axiomatic that the successor of Peter was the supreme head of spirituals, and the successor of Constantine was the apex of matters temporal, if only *de iure*. There was widespread grumbling that the Vicar of Christ was too engaged in secular affairs, and that the emperor was too quick to meddle in spiritual concerns. While the notion of papal *approbatio* looks in theory like a flagrant intervention in imperial business, everyone realized that in practice it was becoming less effective, especially after 1328. The astounding and exceptional intercession of Clement VI in the raising of Charles IV in 1346 had the ironic result that this papal victory would undermine still further the practice of papal approval in the minds of German princes and prelates. But one could argue that the relative ease by which Clement—assisted by Louis's enemies—was able to accomplish his objective is evidence of the widespread conviction that there should be some degree of papal involvement in removing a "despotic" ruler. After the turmoil of the 1320s there was an increased sentiment that the papacy and empire had become *too* disjointed, contrary to God's plan. Many saw in the relatively harmless papal approbation a means to keep both universal powers in unison for the common good of Christendom. The assumption of the electors was that the papal approval would be excluded from the election and coronation of the King of the Romans at Frankfort and Aachen, but that it would continue as a potent symbolic rite in the papal coronation in St. Peter's in Rome. This diplomatic move was better than war to resolve the impasse between king and pope. In a bizarre way, the exclusion of the approbation in the Golden Bull represents a victory of the spiritual over the temporal. The message to the Curia in Avignon was that the Curia should confine itself to the Church's spiritual things. The message to the German electors was that the Holy Roman Empire was fully spiritual and fully temporal. The Golden Bull is an ecclesiological vision as well as a procedure for electing a monarch. Except in matters of necessity, the Holy Roman Empire had no need of direction from outside.

When the Second Charlemagne crowned himself in 1804 he effectively reinvented the Emperor of the Romans. The Holy Roman Empire and the "approving" papacy were about to end.

Afterward

When the papal approbation was excluded in the Golden Bull, it should not be assumed that it disappeared. It continued to be debated during the Great Schism and throughout the Fifteenth Century. The rite continued to be discussed during the elections of 1376 and 1486, and especially 1400,[61] 1410–1411, 1440, and 1448. Major political thinkers, such as Peter of Andlau,[62] discuss the *approbatio* at length, with emphasis on the right of the King of the Romans to administer his temporals. The influence of Lupold of Bebenburg was felt throughout the Fifteenth Century. By the time of Maximilian I (1493–1519) the approbation had become irrelevant, since the King of the Romans was *ipso facto* the emperor with full imperial powers.

Endnotes

1. See Masson, *Le sacre et le couronnement de Napoleon* 53–89, 126–134.

2. The rumor that Napoleon at the last minute snatched the crown from the Pope's hands, reminiscent of Einhard, is probably untrue. This gossip was probably started by the Duchess d'Abrantes. In fact, Napoleon planned every detail of the coronation following his visit to Aachen and the Senate's decree on 18 May 1804 giving him the title of Emperor of the French. The point historians seem to overlook is that Napoleon *insisted on the Pope's presence.* The problem was how to get Pius VII to accede to Napoleon's terms. See Porterfield and Siegfied part 1; also, Masson and Myrback. It is doubtful that Napoleon had in mind Charlemagne's crowning of his son Louis in 813.

3. The term *sacrum imperium* was first used by Frederick Barbarossa in 1157. In 1254, Conrad IV was the first to refer to the Holy Roman Empire, a title which was soon widely adopted but not exclusively used. The addition of "of the German nation" appears after 1300, and would become official by 1509. But, again, at no time between 962 and 1806 was a single title used either for the ruler or the empire, not even by the Habsburgs.

4. See Vian chapter 2; Maffei; Laehr; Herklotz.

5. See Krieger, *König, Reich, und Reichsreform im Spätmittelalters*; Mitteis chapters 4–6; Erkens.

6. See Müller-Mertens, *Regnum Teutonicum* 388–390.

7. See Miller documents 23 and 26; Emerton books 3–6.

8. See Unverhau chapter 2 (Gregory VII) and 3 (Lothar III to Conrad III).

9. Otto of Freising 3:184–186, 193; Unverhau chapter 4; Renna 56–58, 63.

10. Since Gregory VII, the emperors increasingly insisted on the "Roman" character in imperial rule. For the interplay of the German and Roman imperial aspects of the Holy Roman Empire, see Scales chapter 4. Ironically, as the German element in the constitutional makeup of the empire increased after 1314, the popes had to keep shifting their justification of the approbation of "Roman" emperors.

11. In addition to note 5 above, see Ertl; Wolf, *Die Entstehung des Kurfürstenkollegs* and "Von den Königswahlen zum Kurfürstenkolleg" 48–60.

12. *Constitutiones* 2:398 (506); *Regestum Innocentii III* 12.62 (166–172); Friedberg columns 79–82. See also Unverhau 247–278. For *Venerabilem* and Translation of Empire, see Folz 272–277; Goez 157–165. On *approbatio*: Erkens, *Kurfürsten* chapter 5 at 54–66; Kempf 48–55, 105–134; Laufs; Mitteis 132–141; Bayley, *Formation* 124–128.

13. See Bayley, *Formation* 142–152, 217; Innocent IV folio 129, *passim*; Engelmann 48–51; Kempf 3:110, 122.

14. In the two centuries prior to the Golden Bull of 1356 there was an ongoing discussion about the constitutional effects of the election at Frankfurt—the form of the *electio* was itself in flux before 1300—and of the coronation by the archbishop of Mainz, who represented *Germania* at Aachen. The debate was complicated by the frequent claims of hereditary right. See Bayley, *Formation* 85–88, 128–130, 151–175. The tendency

after the passing of the Staufen was to attribute full imperial power to the elected king before he was crowned in Aachen cathedral. This emphasis on the "imperial' powers granted to the elected King of the Romans—particularly by Barbarossa—was due partly to counter the Curial claim that the coronation rendered him only the status of emperor-elect before his papal coronation in Rome. The papalists found it easier to tie the *approbatio* and the Translation of Empire to the event in Rome. The imperialists realized that the trek to Rome was not always possible, and that the papal coronation gave more credence to the king's claims to Italy, Burgundy, and ecclesiastical rights. The king had to demonstrate that he was more than a mere Teutonic ruler.

15. See Bayley, *Formation* 9–22; Kaufmann 14:1287–1288.

16. Later, William of Ockham, a supporter of Louis of Bavaria, ridiculed Charles IV as a *rex clericorum* because of Pope Clement VI's heavy-handed role in getting him elected.

17. Bayley, *Formation* 21–55; and Bayley, "The Diplomatic Preliminaries of the Double Election of 1257 in Germany" 459–460.

18. The classic justification for the *approbatio* as the affirmation of the emperor's role as *advocatus* of the Roman Church had been made in Innocent III's *Venerabilem.* It was not difficult for Innocent IV to expand the perimeters of "protection." Innocent IV emphasizes his rights as *imperio vacante,* granted him in the absence of an emperor. This notion of the pope acquiring imperial authority in the absence of the emperor would be a major theme in the writings of Pope John XXII and his defenders. Innocent IV affirms his right to appoint an advocate of the Church and to act as the emperor in the case of an imperial vacancy. "Que ab eo possit appellari ad Papam, et suger appellatione licite aliae literae impetrari. (Ad tuam) hoc ius habet episcopus in terra, quod ad eum appellatur, sed ad Papam iure imperii appellatur. Vacante hoc est propter defectum imperii…quia Papa eum consecrat et examinat, et est Imperator eius advocatus, et iurat ei, et ab eo imperium tenet […] quod in iure quae ab ecclesia Romana tenet succedit Papa, imperio vacante" (*Apparatus* 2:10, folio 198v). (This is folio 129 in the Lyons 1577 edition, cited by Bayley, *Formation* 142–145. The Frankfurt edition is available online: http://works.bepress.com/david_freidenreich/46,

with interesting marginal notes.) See Melloni's excellent study of Innocent IV's fullness of power.

19. "Quod si Imperator coronam in loco debito recipere non possit, nihilominus authoritate ministrandi ab Archepiscolo Colon. posset recipere, vol suam authoritatem habet ex elctione, non credimus necessario examinationem faciendam, noc properter exciptionem diffenerdam, quia consequitur ad priora, et quia ibi sit manus impositio […] ante sunt confirmati et administrant (examinatio) in examinatione venit ll iuste electo (non alii) id est, illegitmem […] sed eis negligentibus eligere Imperatorem Papa eligit, et si plures elegerunt, Papa de iure cognoscet inter eos […] Papa factum erat de Phil. Duce. sed non confiramavit electorem Regis O (tto) et ideo reservavit contradictoribus potestatem dicendi in formam, et personam, et tunc intermim debent eum habere propter coronam, quam acceperat a Colonen Archiepiscopo Aquisgrani" (*Apparatus* folio 66rv). See Bayley, *Formation* 69–77, 139–159; Stutz.

20. *Constitutiones* 2:405 (522–532).

21. See especially von Roes. These German themes also appear in his *Noticia seculi* and other works. The popes' machinations in imperial elections from 1245 to 1314 fostered feelings of national sentiment in the empire. Many writers during this period, such as Ptolemy of Lucca and Dante, sought to give more clarity to the nature and historical purpose to the empire.

22. See *Constitutiones* 83; Unverhau 298; von Wretschko; Engelmann 56–60; Krieger, *Rudolf von Habsburg* 87–88.

23. See *Constitutiones* 3:588–590 and 4:8–10; Unverhau 311–313; Mitteis 211; Engelmann chapter 4, 64–76; Deussen 31–42.

24. See Unverhau 21–35, 327–377. Unverhau's monumental study is actually an exposition of the theory and practice of John XXII's approbation and Louis of Bavaria's response. He emphasizes how the pope's attack on Louis was a logical expression of the papal doctrine of fullness of power. The implications for the Rhense Declaration and the Golden Bull are barely alluded to. See also the fundamental study

by Hans E. Feine (Charles IV, 80–84; Boniface VIII, 89–94; Henry VII, 94–98).

25. *De ecclesiastica potestate*, especially 1:37 (*translatio imperri* and its relation to the transfer to the Germans, and the papal approval) and 1:38 (imperial election and coronation, and papal approbation). I use the Rome (1584) edition in the Vatican Library (BAV), one of the best editions. There is no modern edition, and it is not included in St. Louis University Vatican Film Library. 1:39 (imperial administration) is central to Augustinus's theory of approbation.

26. Several writers—such as William of Cremona, Hermann von Schildesche, Guido Terreni, Sibert of Beek—at the request of John XXII attacked the Six Errors of Marsiglio of Padua, which center on the papal right to hold temporal power and possessions. They emphasize the pope's right to permit the newly elected German king to administer his temporals. Papal approval is strongly implied in all their arguments.

27. *Quellen zur Verfassungsgeschichte des Römisch-Deutschen Reiches im Spätmittelalters* 28; *Quellensammlung zur Geschichte* 126(b):54–56. For the broader context of Rhense and Louis of Bavaria's response, see Stengel chapter 4, parts 4–6 (112–169).

28. Louis issued his *Licet iuris* on 6 Aug 1338; *Quellen zur Verfassungsgeschichte* 33:290–93; *Constitutiones* 7.1.458 (270–271). See Zeumer; Becker.

29. Lupold von Bebenburg chapters 5, 6, *passim*; another edition: MGH 4: *Politische Schriften des Lupold von Bebenburg,* ed. Jürgen Miethke. Hannover: Hahnsche, 2004.

30. von Bebenburg chapters 1, 3, 4, 7.

31. von Bebenburg chapters 7, 8, 12. Lupold is adamant that the Translation of Empire (from the Greeks or Franks to the Germans) confers no power *de iure* on the emperor. There is no need for papal approval because the king already possesses imperial power.

32. Ockham 1:15–217, especially Q. 4 (122–154). This work, which was apparently well known during the Great Schism and throughout the Fifteenth Century, deserves more attention by modern Ockham scholars.

33. Ockham Q. 4, chapters 9–10 (146–154). Ockham's argument is not always easy to follow, since he often cites Lupold and other opinions before offering his own, which can be repetitive and mixed with historical precedent. Unfortunately, there is little on the approbation in his *Dialogues* (1334–1347), which he left unrevised and unfinished. And it is in his maddening "recitative"—as opposed to his "assertive" style, in the terminology of modern scholars—mode, making his own opinions at times hidden. Ockham's other works touching on empire—*Short Discourse on Tyrannical Government, Against Benedict, On the Power of Emperors and Pontiffs*—offer little on the ideas on *approbatio* in the *Eight Questions,* which is our main interest here since it responds directly to Lupold. But Ockham's reasoning in the *Eight Questions* is fairly clear and consistent.

34. Ockham Q. 4, chapter 6 (136–142) and chapter 9 (150–151); Q. 8, chapter 4 (187–196). Papal approval is not needed to transfer the empire or imperial powers. The prince-electors transfer power "mediately," not "immediately," since the actual power derives from the "the Roman people or the army" (the classic expression from Roman law). The electors simply confirm the rights granted by the natural law, a vintage Ockham joiner. See Q. 8, chapter 4 (192). The maverick Ockham seems determined to annoy both imperialists—by granting the pope certain powers *per accidens—*and papalists—by denying the pope his traditional rights over the empire *regulariter* or *principaliter.*

35. Neither is it surprising that the arch-critic of the temporal authority of the papacy, Marsiglio of Padua, also gives the pope similar powers, since he had little interest in the German origins of the empire. Pope Leo VIII (sic) transferred the empire from the Franks to the Germans in the person of Otto I. See Marsilgio chapters 11 and 12 (80–81). The tradition of the bestowal of the elector-princes appears in the highly respected chronicles of Godfrey of Viterbo and Martin Polonus. Marsiglio uses the chronicle of Landolf of Colonna as his starting point.

36. The *Pfaffenkönig.* See William of Ockham's comment in *De Electione Karoli* chapter 5 (358); listed as Conrad of Megenberg, *Tractatus Contra Wilhelmum Occam* 2:346–363.

37. The clearest exposition of Clement VI's view on approbation is in *Collatio* of 6 November 1346; *Constitutiones* 8.100 (142–163). Fine exegesis in Wood 156–176; note that Wood lists this *Collatio* (100) as No. 40 in her analysis (Wood 215). I have also consulted Clement's sermons in BN 3296 and Bibliothèque Sainte-Geneviève 240, the better copy. See also Clement's other letters and proclamations on his *approbatio* of Charles: *Constitutiones* 8.95–104, 125–171 (from 1346), especially 101–104.

38. According to Wood 168, an opinion to which I concur.

39. See Rosario chapter 3; God and Charlemagne, not the pope, "approve" the emperor. Also Opačić; Machilek.

40. The Ernest F. Henderson English translation (1896) is conveniently located online on the Avalon Project at the Yale University Law Library (http://avalon.law.yale.edu/medieval/golden.asp). Text: *Quellen zur Verfassungsgeschichte des Römisch-Deutschen Reiches im Spätmittelalter (1250–1500)* 314–393. See Petersen.

41. There is virtually nothing on the Bull and *approbatio* in the recent collection of studies: *Die Goldene Bulle: Politik—Wahrnehmung—Rezeption*; articles in these volumes by Michael Lindner, Michael Menzel, and Jean-Marie Moeglin deal with Charles IV and Louis of Bavaria. See also Miethke, "Die päpstliche Kurie des 14. Jahrhunderts und die 'Goldene Bulle' Kaiser Karls. IV. von 1356"; Begert chapter 6.

42. Stengel suggests that there was a dialogue among Charles IV, the Curia, Rudolf Losse, and Archbishop-Elector Baldwin of Trier prior to the Golden Bull on the question of the *approbation* (161–169, 204–224, 237–241).

43. See Prologue to the Bull; Avalon Project Yale Law School. The Bull blames the princes, including the electors, and not the pope.

44. Bull chapter 2. Note that the emperor is the temporal head of the world and the Christian people. The Curia would have had no objection to these traditional titles. The emperor is still the *defensor ecclesiae,* albeit not on the pope's terms. It is clear that the emperor's duties to defend the faith and the Christian people derive from his election

as King of the Romans, and not from any future coronation in Rome. It is not clear, however, if these Christian duties devolve from the election at Frankfurt or the coronation at Aix. Charles seems to be making concessions to both spiritual and secular electors, who have been arguing since the 1250s about who has seniority.

45. Bull chapter 29.

46. Bull chapter 2.

47. Steer; Miethke, "Konrads von Megenberg Kampf mit dem Drachen: Der *Tractatus contra Occam* im Kontext" 93 (approbation).

48. *Lacrima ecclesie*; *Planctus ecclesiae in Germaniam.*

49. This theme of the imperial duty to protect the Church as a consequence of the *translatio* and the *approbatio* runs throughout Conrad's treatise on the Translation. See *De translatione Romani imperii* 2:251–254, 258–259, 279, 295, *passim.*

50. *De translatione* 281, 284, etc.

51. *De translatione* chapter 11, 283–288.

52. *De translatione* 289.

53. *De translatione* 290–294. 297–302.

54. *De translatione* 291–293.

55. *De translatione* 295–297.

56. *De translatione* 304: "quoniam electus ante confirmacionem suam tantum est rex ypotheticus et condicionalis, videlicet, si per papam fuerit approbatus; que condicio in omnibus electis per hanc addicionem *electus* connotatur."

57. *Yconomica* 3.5/2, book 2, chapters 1–14, 31–74, 87–122 (against Marsiglio, et al.).

58. The general surveys of the approbation often present the development of the rite as a steady increase in papal demands since Innocent III's *Venerabilem.* The Golden Bull

is seen as an end-point in which the *approbatio* suddenly expired as a historical ingredient in the constitutional evolution of the empire. See, e. g., Miethke, "Approbation der deutschen Königswahl"; Deussen; Bosl; Lückerath; Schmugge; Müller-Mertens 587–588.

59. Golden Bull, *Quellensammlung* chapter 29 (178). The *imperium* is "*sacrum*"; Prologue (159), chapter 1 (160); the king has full imperial powers (160), and governs "pro salute populi christiani" (163).

60. See e. g., "European Disunion Done Right." There is a tendency in modern scholarship after the 1960s to emphasize the positive internal workings of the Habsburg Empire after 1500. See Whaley.

61. *Deutsche Reichstagsakten unter König Ruprecht* 1–123. See the survey of Hans E. Feine.

62. Peter von Andlau book 2, chapters 1–9 (170–235). Written c. 1460. Peter discusses the *approbatio* in the context of the electors and the Translation of Empire.

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