

## **1521: The New Money Aristocracy**

### **COMMERCE**

#### ***Not just Matters of Faith***

The 1521 Diet of Worms is remembered, first and foremost, for an appearance by a rebellious theologian from Wittenberg. Unlike the teachings of earlier heretics, Martin Luther's pamphlets against the Roman Church had, thanks to the printing press, spread throughout the Empire and raised deep passions. Yet, for some delegates, the "Luther matter" was a rather unwelcome distraction from the arguably more important subject of the "monopolies" which they were eager to challenge or possibly even take down. For years, a handful of family businesses had managed to accumulate immense wealth, to control markets and pricing for essential goods and to use their financial might to influence politics. To put an end to that, they had come to Worms, host city of the first Diet under the aegis of young Emperor Charles V. Under his predecessor Maximilian I. (Charles's grandfather), the monopolies issue, time and again, disappeared from the agenda. In Worms, the debate about these powerful corporations was indeed re-ignited – despite the excitement over Martin Luther. The representatives of the Reich's estates wrestled over goals and definitions and set in motion a timeless discussion.

#### ***Change through Commerce***

The Hanseatic League, a community of German merchants from about seventy participating cities, was the most powerful trade network of the late Middle Ages. With its wide-bellied "Kogge" ships crisscrossing the Baltic Sea (but also thanks to its fleet of war ships), the League, for three centuries, ruled over commerce north of the Alps. Salt and herring, as well as furs, spices, blubber, grain and much more filled the warehouses of the Hanse-cities. However, the Hanse's dominance started to crumble in the 15<sup>th</sup> century; and that was not just the herrings' fault which, in 1417, for no apparent reason, moved their spawning grounds from the Baltic to the North Sea. Dutch, English and Scandinavian merchants secured more and more of their own trade routes. Portugal and Spain opened the Atlantic and, in the South of Germany, in the wake of a growing mining and state-of-the-art metalworks industry, new competition had emerged: innovative, ambitious, and ruthless. The heart of a new commercial age was beating in the Free City of Augsburg. It was here where the economic rules were re-written.

In Augsburg, ancient trade routes met, including the one to Venice where centuries of trade (and often enough war) with the Byzantine and the Islamic world had left their economic and intellectual marks. Thus, Augsburg merchants, most notably the Fugger and the Welser families, could benefit from their proximity to Renaissance-Italy. When, in 1473, the 14-year-old Jakob Fugger came to the lagoon city, he experienced a sophisticated financial system with banks, market research, double bookkeeping and many other innovations that had not yet travelled to Northern Germany. However, what made the Augsburg merchants "global players" were their political connections – more precisely: to the Habsburg dynasty. The Fuggers, more than anyone, bankrolled the Habsburg family's ascent to the German imperial throne. In return, they obtained, among other things, exclusive mining rights, especially for copper and silver, which proved to be extremely profitable.

The merchant families of Augsburg thus achieved a never-before-seen level of wealth and political influence. No surprise, then, that members of the Hanse, together with aristocrats and clerics (not to mention the common folks), reacted with suspicion, irritation, and hostility. Could such unbridled greed

be tolerated in Christian lands? To tackle the problem, it had to be brought before the “Diet”. The Diet was the legislative body of the “Holy Roman Empire of the German Nation” where Emperor, nobility, Church leaders and representatives of the Free Cities met, more or less annually, in alternating locations. In some ways, the Diet already functioned like a modern parliament: experts would sit in committees and hammer out “recommendations” to be debated, modified, and perhaps adopted in the main chambers. Yet back then – more than today – the Executive put its finger on the scale.

### ***The “Monopolies” – Curse or Blessing?***

Already in 1512, in the host cities of Cologne and Trier, the Diet began debating the issue of “the monopolies”. There, the delegates managed to agree on some preliminary definitions and even sanctions. The Diet determined that one was deemed guilty of forming a monopoly if he controlled the market for a product and abused such control to unduly influence pricing. Local authorities should pursue offenders; and if they failed to do so, the “Reichsfiskal”, a sort of imperial Attorney General, was supposed to step in. Alas, nothing happened after 1512: no indictments, no further debates, nothing – that is, until the Diet met again in Worms. Here, the fight against the big corporations would finally resume with new vigor. Worms allowed for grievances to resurface and shaped the debate going forward. The monopolies’ fiercest critics tended to dominate the committees, issuing recommendations effectively demanding the dismantling of the big foreign trade companies. These were charged with forming illegal cartels, with manipulating the spice trade by securing exclusivity contracts, say with the Portuguese king, and with usurious pricing. Independent special prosecutors should take the monopolists to court.

The corporations’ supporters, especially the representatives from Augsburg, put up a clever defense. The city’s most impactful advocat, the Augsburg-based lawyer Konrad Peutinger, argued in a number of legal briefs that the corporations were actually benefitting the overall economy, and that monopolies – by definition – could only be harmful where goods of every-day use were concerned. Conveniently, that was meant to exclude the trade with minerals or exotic spices – precisely the stuff that helped the Welsers and the Fuggers earn a living. Through this day, Peutinger remains a controversial figure: for some a pioneer and early proponent of a free market economy; for others just an (albeit brilliant) lobbyist. Either way, Augsburg consistently succeeded in defanging all relevant Diet resolutions. The last resolutions on the subject was adopted at the 1530 Diet of Augsburg and held that no further action was needed beyond the rules embraced in Cologne and Trier in 1512 – a frustrating outcome for the monopolies’ critics.

What, ultimately, protected the big companies from serious sanctions was perhaps not so much the quality of their arguments but their proximity to the crown. To secure Charles’s election as emperor, the Fugger and Welser merchant families had raised astronomical sums of money. After all, the electors, a select group of princes and bishops, expected compensation for their votes and had no qualms about it. In the same spirit could these companies count on Charles’s support in their fight against the monopoly charges. Like his predecessor, Emperor Charles did what he could to dilute, at every Diet, all motions regarding the monopolies; and he obstructed his own bureaucracy’s efforts to indict them. The few monopoly trials that the Reichsfiskal was able to pursue, the “Kaiser” halted before they could do actual harm to his financiers.

The controversy over Augsburg’s trade monopolies would subsequently drown under the waves of greater upheavals. It was not just the ever-deepening religious divide that threatened the peace in the

Empire. Bloody peasant- and worker-rebellions erupted around 1524 and scratched – in the end unsuccessfully – against the aristocracy’s own monopoly on power. And by 1529, Ottoman armies had advanced as far as the gates of Vienna, the main seat of the Habsburg dynasty. Still, the problem with the business monopolies and cartels continued to resurface over the years, especially in times of economic change. Where are the limits to free enterprise? When, if ever, should politics interfere to preserve equality and fair competition? Does wealth have to coincide with social responsibility? Whether they were driven by their own self-interests or by a true concern for the common good, the delegates of the Diets between 1512 and 1530 asked questions we are still grappling with today.

## **OUR INTERVIEW:**

Atlaantikerforum had a chance to discuss the monopolies debate of the early 16<sup>th</sup> century with Professor Bernd Mertens. Professor Mertens teaches Civil Law as well as German and European Legal History at the University of Erlangen-Nürnberg. “The Fight Against the Monopolies” was the title of his dissertation; and he is recognized as a preeminent expert on the legal and economic history of the early modern era.

**Atlantikerforum:** Professor Mertens, can we begin with the meaning of the term “property” back then? Presumably, the merchants in Augsburg thought that property rights were absolute. How did that correspond with the generally accepted understanding of that concept at the time?

**Bernd Mertens:** Unlike ancient Roman Law, medieval jurisprudence developed a bifurcated property model and distinguished between “upper” and “lower” property in order to align with the feudal system in place at the time. However, that applied only to real property where the ownership rights of the feudal masters were competing with the user rights of vassals and “land-bound” peasants. Money and other fungible assets were not subject to any legally binding social mandates. On the other hand, philanthropic foundations and other contributions for charitable and religious purposes were very common among the wealthy merchant families. (Just think of the “Fuggerei”<sup>1</sup> in Augsburg.)

**AF:** The merchants of the Hanseatic League wanted to make a profit, too. How did their business model differ from that of the Fugger and Welser families?

**Bernd Mertens:** The discovery of the New World (1492) and the sea route to India (1498) as well as the increasing development of the West-African coast were profound changes, which, around 1500, triggered a pivotal transformation of the foreign trade routes and the kind of goods being traded. On the one hand, the new overseas trade required a very high level of capital and a willingness to accept high risk; on the other hand, it promised exorbitant profits. What was also characteristic of the Southern German merchant families’ business model was that they engaged not just in trading but increasingly in mining and finance.

**AF:** Were there specific events in the early 16<sup>th</sup> century that “broke the camel’s back” – where the opponents of the monopolies felt that the limits of acceptable business behavior had been crossed?

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<sup>1</sup> The Fuggerei is a subsidized housing project for poor Catholics, established by Jakob Fugger in 1521.

**Bernd Mertens:** The big overseas trade corporations were most heavily criticized for their role in the spice trade which they almost entirely monopolized after the discovery of the sea route to India in 1498. That guaranteed them exorbitant profits and earned them the nickname “Pfeffersäcke” (“pepper bags”).

**AF:** How did the Diet actually legislate? Could the majority of the estates adopt laws against the Emperor’s vote?

**Bernd Mertens:** A majority in both Upper Chambers of the Diet (“Kurien”, i.e., the Council of Prince-electors and the Council of Princes) as well as the Emperor’s consent were required. Without his consent, no imperial law could be adopted.

**AF:** What kind of alliances or opposing fractions formed in the Diet during the monopoly debates? Presumably, clerics and aristocrats had different interests than the Free Cities.

**Bernd Mertens:** The controversy drew dividing lines through every Kurie. Some clerics and aristocrats were fundamental opponents who advocated for a total ban of the big overseas trade corporations. However, a majority of the clerics and noblemen belonged to the Diet’s moderate monopoly critics, who did not want to ban the companies outright, but sought to prohibit certain monopolistic activities and to have government impose price controls. Among the Free Imperial Cities, Augsburg was rather isolated with its “monopoly-friendly” positions (which were very much relying on Peutingen’s legal opinions). A majority of the Imperial Cities were in favor of prohibiting monopolistic activities and behaviors but came out against far-reaching interference with corporate structures and against government regulations on prices.

**AF:** What was the legal basis for Charles V. to intervene in the monopoly trials on behalf of the merchants?

**Bernd Mertens:** The monopoly indictments were brought forward by the Reichsfiskal, a prosecutor responsible for upholding the interests of the Empire. This institution was, however, subject to the Emperor’s direction. In 1524, the Diet of Nürnberg decreed that all subsequent investigations of monopoly matters should be under the Emperor’s direct control. Then, in 1525, Charles issued an executive order stripping the Reichsfiskal of its authority to prosecute monopoly violations and handing that power over to the local jurisdiction where the corporation had its seat.

**AF:** Do you see, if only at a high level, a connection between the monopoly debate of the 16<sup>th</sup> century and modern-day antitrust laws?

**Bernd Mertens:** It is true that the monopoly debate back then was fought over “timeless” questions about the limits of the market power exerted by big economic players and about the pros and cons of government interfering with the economy, especially in terms of price controls. However, we should keep in mind that the nature of such debates is strongly impacted by the economic and societal environment of the respective age. Note also that the opponents of the monopolies were less interested in establishing a new economic order than they were in preserving the traditional economic system which they saw threatened by the business practices of the big overseas trade corporations.

**AF:** Final question: Were the Augsburg corporations – despite all the criticism – not also part of a positive development: away from an aristocracy that derives its status from land ownership, towards an urban-commercial – and thus, supposedly, more liberal – order?

**Bernd Mertens:** Absolutely. The great commercial centers such as Augsburg and Nürnberg fostered the rise of a confident citizenry which contributed greatly to Germany's cultural renaissance at the time. But let us not forget that the urban patricians would, in turn, increasingly detach themselves from their fellow citizens, creating a new elite that imitated the lifestyle of the old aristocracy.

**AF:** Professor Mertens, thank you for joining the conversation.