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Institutions of the Responsible Government and the Reformed Parliament in Hungary in 1848

A Brief Summary

1. The statutes of Pozsony proclaimed on 11 April, 1848 were not only the first in chronology as indicated by their serial numbers, but also in terms of significance, since they provided for an independent and responsible Hungarian government (Act III of 1848), annual sessions of the Hungarian Parliament (Act IV of 1848), and popular representation in legislation (Act V of 1848). Just as in the case of their basic civil right counterparts, they reached back to the 1790/91 session of Parliament where the twin concepts of *homeland and progress*, later articulated by Ferenc Kölcsey, first emerged. In addition to the originally feudal principle several times declared since 1526, namely that the Hungarian Monarchy maintains its statehood within the Habsburg Empire, this session of Parliament also pioneered in preparing the legislative way for bourgeois reforms by commissioning the so-called regular committee (*systematica commission*).

Our nobiliary or even aristocratic reformers, also inspired by Western European ideals of the time, relied on their thorough knowledge of institutional solutions when preparing these reforms, including those of constitutional and political nature, which contested the absolutistic endeavours of the “Vienna Court”, as well as the majority of our feudal institutions. The European revolutions of 1848 were needed before the conservative adherence to the old executive and legislative institutions could be overcome. And all of this happened in the midst of a peaceful – at least in the first few months – and even *legitimate revolution* in the assembly halls of the last session of the feudal Parliament in Pozsony.

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The idea of parliamentarianism and popular representation was among the political objectives of the progressive forces during the Hungarian reform period. The issue of popular representation, which they “only” wished to substitute for feudalism, could be addressed more openly; however, demanding a government responsible to the Parliament, which challenged the authority of the Habsburgs, was much more dangerous, and was therefore, a less frequent demand. Obviously, the latter could only be introduced after the Parliament was already based on popular representation. However, there was an issue fiercely debated among reformers in the 1840s, which was unknown not only in Western Europe, but in other states of Central Europe as well. *What should happen to the counties?* These organizational units of territorial public administration – which could be called with some simplification as the strongholds of self-government for the lower nobility – were considered by the municipalists led by Lajos Kossuth as institutions to be reformed on the basis of popular representation, too. Baron József Eötvös and his centralist comrades, however, strove to eradicate them as “the remnants of feudalism”, and, in addition to the responsible government, they wanted to guarantee autonomy to all *free communities* (towns and villages alike).

Through the 1830s, the idea of popular representation propounded by József Hajnóczy continued to be on the agenda of the county debates on public law policy, held under the aegis of the regular committee. In the period of struggle for universal suffrage for men fought by the European liberal and even labour (chartist) movement, there seemed to be these areas where the walls of the feudal constitutional system could potentially be demolished: 1. through the efforts of municipal reform, by granting the wealthy and intellectual common citizens the right to vote; 2. by admitting *honoratians*, or non-noble intellectuals, into county assemblies; and 3. involving the representatives of the literally *free communities*, i.e. villages and towns that had redeemed themselves from under feudal obligations. *Honoratians*, freeholder peasants, and – as the Bill of 1843 primarily on election trespasses, but also voicing other reform ideas – also some capitalist social elements were not to be involved as the “fifth order” (of the realm) in Parliament; the way it happened in a number of German states in the *Vormärz* period (1815–1848) under the so-called “new order” system. Instead, the idea was to use them for the strengthening of the county assembly, which practiced the municipal self-government and some very important legislative rights, such as sending and recalling delegates, as well as instructing them and hearing their reports. In any case, as Kossuth argued on several occasions, a new “fifth order” consisting primarily of free peasants could even be turned against the nobility, the better part of which was also striving for the abolition of feudal conditions. It is due in part to this recognition of Kossuth that no elective curia or classes were ever established in Hungary like in Austria or Prussia after 1849. Hungarians’ right to vote, even if relatively narrowly defined with no extension from the principles of 1848, was *equal* and practiced *directly*, rather than by way of electors.

2. If paying attention only to these two institutions: the responsible government and popular representation, the *Ellenzéki Nyilatkozat (Declaration of Opposition)* of 1847 anticipates but little of what was to happen eventually in the next session of Parliament in Pozsony. This document went into even fewer details of the issues than described above,

which, in addition to appropriate prudence, may have been due to the efforts to find the “smallest common denominator” between municipalist and centralist views. Accordingly, the basis for the benign *reconciliation of interests* was to grant “both legislative and administrative rights to the non-noble classes of citizenry of mainly the royal towns and free districts [Hajdú and Jászkun district] through representation.” The instructions received by the delegates from opposition counties went even a step further. Pest county took a leadership role by once again referring to *free communities* (Lajos Kossuth), while Borsod county – even if in a subtle phrasing – brought up the “system of general representation”, making mention also of the *honoratiors*, but out of obvious caution hastening to add also the phrase “adapting to our existing constitution and without disrupting the current political relationships”, meaning the links with the Habsburg Empire.

The issue of responsible government could only be brought up in a negative phrasing, reminiscent of the prior rhetoric of grievances, mentioning rather the lack thereof, in such a way: “we declare as unconstitutional intention whereby the government is guided by the majority only in those cases when this is approved by, and in the interest of, a particular party.” However, the instructions to the delegate of Pest county already contained affirmative phrasing: “the government should take its political direction from the national will as reflected in the majority of Parliament without any foreign interference”; and what is more: “the nation should have sufficient securities in this respect for the achievement of accountability and responsibility” (Lajos Kossuth).

3. Everything went as usual in Parliament in Pozsony until 3 March, 1848; then, however, the legislative means for these and other reforms were found in the wake of Lajos Kossuth’s address influenced by the Paris revolution in February. The principal issues were also included in the “Twelve Articles” of the Pest revolution. The main events are well known, but the details are perhaps less so. The three statutes in the scope of our interest here – along with the others – continued on their legislative course, but faster than before. It was debated by the lower house (including the district and the national [plenary] assembly) as well as the upper house; they kept sending written notes back and forth, and sometimes held mixed (common) meetings. Their recommendations were submitted to King Ferdinand V with the mediation of the conservative *parliamentary committee* of the Hungarian Royal Court Chancellery in Vienna, known for its unsympathetic attitude, and the State Conference (*Staatskonferenz*) now operating without the disgraced Chancellor Metternich. The bridles – outspoken conservative delegates from the lower house, and the only partly Hungarian *dicasteria* – were still in place, and even operative for the most part, but could no longer withstand the revolution. These were decisive and fortunate moments in the history of our continuous constitutional development.

Several people were instrumental in the phrasing of these statutes. Lajos Kossuth, Bertalan Szemere, as well as the palatine protonotary, Kálmán Ghyczy, demonstrably deserve credit, but these texts were by no means “one-author works”. Count Lajos Batthyány, designated Prime Minister, for example, is not mentioned in the sources (except his speeches), but he must obviously have had a role in the drafting of the early versions.

4. On 26 March, Councillor Rosenfeld of the State Conference (*Staatskonferenz*) made the following disapproving remark on the bill of later Act III of 1848 on the independent and responsible government: “*es ist eine neue Verfassung für Ungarn*” (in translation: “this is a new Hungarian constitution”)! A supreme law, which replaced the *dicasteria* and gave the executive power to a government consisting of the Prime Minister, and provided that he has no portfolio, and eight ministers, also introduced the practice of countersigning and holding the ministers legally accountable (in a criminal and constitutional manner) by Parliament via impeachment.

The revolutionary liberal notion of a responsible government was so triumphantly celebrated all around Central Europe with the so-called “March governments” (*Märzministerien*) established throughout the German Confederacy (including Austria) that there could be no barrier to the passing of its legal grounds in Hungary either. Or could there be? The more radical delegates in the lower house, including László Madarász of Somogy county, disapproved that the new government would employ the civil servants of the *dicasteria*. At the motion of Gábor Lónyai (Zemplén county), they further clarified that the government should submit the budget not to the Parliament, but only to the lower house, i.e. the House of Representatives. In the upper house, the continued practicing of the right of patronage caused some problems, and so did the position of the royal minister, from whose jurisdiction everything was carefully cancelled that may have reminded of independent foreign affairs.

The response of the king prepared by the Vienna court authorities was unfavourable in various respects. First of all, breaking their earlier promise, the court strove to uphold the institution of the Hungarian Royal Court Chancellery. In addition, they practically demanded a sharing of financial affairs, as well as reserved the royal privileges of employing the army.

On 29 March, this ordinance was received with fierce opposition on all forums of the Parliament. Batthyány and Kossuth inveighed against it. Palatine (Nádor) István tried to make peace and offered promises. Eventually, the *lower house* resolved: “the statute regarding the responsible government should be approved since it is needed for putting the nation at peace.” Reluctantly, members of the upper house also consented. On the 30th, the palatine procured an invitation for Ct. Lajos Batthyány, Ferenc Deák, Ct. István Széchenyi, and Baron József Eötvös, would be members of the government. Then, after some smaller concessions, the following day the king resigned to the inevitable: the establishment of an independent and responsible Hungarian government. Kossuth played a major part in making adjustments to the proposition. The royal privileges regarding *military affairs* were included in Section 8, but these rights were to be enjoyed only with the countersignature of the royal minister (notably, not the minister of military affairs). No mention was made in the statute of *shared financial affairs*, however. There was only a resolution of Parliament passed on the 3 million Forints, which was to be used for the purposes of the royal court, diplomacy, and “various military corps required to provide for the Hungarian army.” All of this was built on the mutually recognized base provided by the *Pragmatica Sanctio* (Acts I–III of 1723), which was later also the foundation of the Austrian-Hungarian compromise (1867).

5. Act IV of 1848 fulfilled the national desire for the king to annually summon the Parliament, which was otherwise elected for a three-year legislative period, and to move its location from Pozsony to the would-be capital city of Pest, later to become a part of

Budapest (1872/73). In addition, while practically leaving the composition of the upper house untouched, the law also regulated the inner organization of the Parliament, as well as the royal rights of summoning, adjourning, closing and dissolving it.

Several provisions of the law were challenged both in the upper house and in the royal court, including, for example the designation of Pest as the permanent site of parliamentary sessions, and thereby as capital city. On the whole, passing this law was largely unobstructed. It is worth noting that the palatine, who was practically elevated to the rank of “*viceroys*” (as he could substitute for the king in all situations and he – although only the current one, Palatine István – even became inviolable) wanted to keep the function of presiding over the upper house. The orders, however, disagreed. As early as on the district assembly meeting on March 20, Section 5 was supplemented by the following very important passage: “His Majesty is entitled to dissolve the Parliament before the expiry of the three years, and to call for new elections, *but in this case the summoning of the new Parliament must be in such a way that they have their first session within three months of dissolving the former*” (my emphasis). It is important to note that because on 3 October, 1848, King Ferdinand V paid ignored this provision when dissolving Parliament, the latter then refused to obey this unconstitutional royal order; this infringement of the law was basically the legal ground for the Hungarian self-defensive war of independence (1848/49).

6. Intellectual status and wealth. These were the two concepts often mentioned together by the liberal reformers to which suffrage, meaning political rights, was connected, and which led up to the laws of April 1848 also providing for popular representation in Parliament. The organization of the upper house did not change fundamentally, but the lower house was affected all the more so. Here, Act V of 1848 retained everyone with a right to vote by virtue of the *old privileges*: not only noblemen but citizens, who previously had this right almost in theory, at the same time moved to a system of popular representation.

Active suffrage, i.e. the right to vote, was granted to all men over the age of 20, who were independent (not under the care of their fathers, wards, or masters), and not under criminal punishment for particular serious crimes, without prejudice to religious denomination, who:

- a) either by themselves or with members of their families owned a house or land worth 300 silver Forints in towns or 1/4 of a (former) copyholder land held in villages;
- b) were artisans, tradesmen, manufacturers (some restrictions applied);
- c) in addition to the above obtained a secure annual income of 100 silver Forints from their own estate or capital;
- d) were *honoratians*, i.e. non-noble intellectuals (those with a college or university degree, such as clergymen, teachers, village notaries), only in the constituency where they lived.

The preconditions of *passive suffrage*, i.e. eligibility to Parliament, in addition to the above mentioned, was at least 24 years of age and knowledge of the language of legislation (Hungarian since 1844). As a result of this statute, approximately 6.5% of the population obtained suffrage. This figure was more than three times of the electoral proportion of Belgium, then considered as a constitutional model state (1.9%). During the *Vormärz* years (1815–1848), the proportion was 15–16% in Baden–Württemberg and 10% in Saxony, and in the case of general male suffrage, like in France from 1848, could be as high as 24%.

Since legislation placed the election system on a purely territorial basis, all that was left for the local authorities – municipalities: counties and free districts – was the assignment of constituencies on the basis of the number of representatives for the population in their territory, as well as the establishment of the *central committee*, which was to organize the elections. These local authorities lost their rights to send (and accordingly also their rights to instruct and recall) delegates.

The election of representatives in a *direct way* took place in each constituency, in the principal town of the election district. (Excepting the Hungarian Soviet Republic of 1919, the system of indirect parliamentary elections has never been used in Hungary.) The law emphasized the public character of the election procedure. In most places this meant an open ballot, but theoretically the regulations could also be used for casting secret ballots, as was the practice mainly in opposition districts where they used pellets, up until the supplementary law (Act XXXIII of 1874), which clearly instituted secret voting. The system of absolute majority was used. In case of a single candidate, the method of public acclamation (*acclamatio*) was retained as “unanimous vote”.

7. Upon passing the resolution for reuniting with Hungary (*union*), the last feudal Parliament of Transylvania convening on 29 May, 1848 immediately embarked upon creating an electoral law. Act II of 1848 (of Kolozsvár), the Transylvanian electoral law, built upon the mother country’s corresponding law, Act V of 1848 (of Pozsony). Just as its Pozsony counterpart, the Kolozsvár statute also emphasized its temporality: “The election by popular representation of the Transylvanian delegates [representatives!] to be sent to the Parliamentary session called for July 2 of this year [1848], also *in consideration of its immediate application, is to be arranged for this single occasion only.*”

As the *general preconditions of active franchise*, only the negative side, the *disqualifying reasons* were listed. According to this those disqualified included:

- a) “women,
- b) foreigners not naturalized,
- c) those under the care of their masters, parents, or wards,
- d) those under punishment for criminal offenses” (Section 2).

Although this statute only referred to Act V of 1848 (of Pozsony) in connection with its enactment, the missing “age of at least 20 years” provision was also applied in Transylvania. The difference from the Pozsony statute regarding *parental* rather than *paternal* care may bring up questions pertaining to private law [Section 1, Clause c)]. A more important difference is contained in Clause d), which (1) does not list the relevant criminal offenses mentioned in the Pozsony statute (“treason, smuggling, robbery, murder, arson”), but on the other hand (2) says more by disqualifying all “under punishment” for criminal offenses.

Section 2 states that “otherwise no differences are made by birth between followers of established religions (including those following the non-unified Greek liturgy)”. The equal status of all established religions, in particular of the Orthodox – in Transylvania: Rumanian – Church corresponds to the Pozsony statutes, although the equal standing of the latter one was only to be included in Act XX of 1848. The second part of the section – about the

abolition of so-called birth rights – was strongly declarative, since old (noblemen's, citizens') privileges also remained in effect in Transylvania.

As regards *special provisions*, or quotas, they were defined partly according to types of municipalities, partly according to feudal *nations* [Hungarian, Székely (legally distinct, but also Hungarian), and Saxon]. Even if there were overlaps between these, unlike in the Pozsony statute, which only differentiated in terms of real estate property quotas between towns (in case of free royal towns and those holding regular councils: 300 silver Forints' worth of house or land) and villages ("other communities": 1/4 copyhold land held in parishes), the statute of Kolozsvár is more detailed.

8. Despite of the practical shortcomings of these statutes, which cannot be discussed in more detail in the constraints of this short paper, as a first step they were very positive, liberal achievements. Their conception – along with the other statutes of 11 April, 1848 – was the result of the Reform Age struggle also building upon the ideology of liberalism, which intended to elevate Hungary to a civilized, European level of standard. It is unfortunate that, despite all opposition and government endeavours and attempts, their further development had to wait until the revolutions of 1918/19.

The author's selected bibliography concerning to the topic under discussion here: "*Egy új alkotmány Magyarországnak*": az 1848: III. tc. létrejötte. ["A New Constitution for Hungary": Parliamentary Legislation of Act III of 1848] In: Jogi Tudományi Közöny, 1997, Issue 2, pp. 57–67; „*Évenkénti országgyűlést Pesten*”: az 1848: IV. tc. létrejötte. ["Annual Parliament in Pest": Parliamentary Legislation of Act IV of 1848] In: Acta Juridica et Politica, Tomus 49 (= Emlékkönyv dr. Szentpéteri István egyetemi tanár születésének 70. évfordulójára), Szeged, 1996, pp. 503–518; *Az országgyűlési népképviselőt bevezetése Magyarországon: az 1848: V. tc. létrejötte*. [Introducing the Popular Representation in Hungary: Parliamentary Legislation of Act V of 1848] In: Társadalomtörténeti Tanulmányok, Editor: Fazekas Csaba. Miskolc, 1996, pp. 277–299; *Az erdélyi választójog történetéhez, 1848–1872*. [Amendment to the History of Transylvanian Suffrage, 1848–1872] In: Acta Juridica et Politica, Tomus 53 (= Emlékkönyv dr. Szabó András egyetemi tanár 70. születésnapjára), Szeged, 1998, pp. 325–352; *Az országgyűlési népképviselői választójog sajátosságai Erdélyben: az 1848: II. (kolozsvári) tc. létrejötte*. [Specialities of the Parliamentary Suffrage in Transylvania: Passing Act II of 1848 in Kolozsvár] In: Debreceni Szemle, 1998, Issue 3 (Sept.), pp. 463–483; *Zwischen ständischer Repräsentation und Volksvertretung: zur Entstehung des parlamentarischen Wahlrechts in den Staaten des Deutschen Bundes und in Ungarn im Vormärz*. [Between the Representation of Estates and Parliamentary Representation: Amendment to the History of Suffrages in the German Confederation and Hungary during the Reform Period] In: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung, 1991, Bd. 107, pp. 408–432; *Verfassung und Volksvertretung: Lajos Kossuth über die öffentlich-rechtlichen Reformen auf den Kolumnen der Pesti Hírlap, 1841–1843*. [Constitution and Parliamentary Representation: Lajos Kossuth about the Reforms on Public Law in Pesti Hírlap, 1841–1843] In: Von dem Vormärz bis zum 20. Jahrhundert: Tradition und Erneuerung in der ungarischen Rechtsentwicklung: Studien zu den Reformen in den 19–20. Jahrhunderten, Hrsg.: Gábor Máthé, Barna Mezey. Würzburg–Budapest, 2002, pp. 76–99; *Zensus und Gesellschaft: zur Frage qualifikation in den ungarischen parlamentarischen Wahlgesetzen von 1848*. [Qualification and Society: Amendment to the Question of Parliamentary Suffrages and Representation in Hungary in 1848] In: Von den

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A FELELŐS KORMÁNY ÉS A NÉPKÉPVISELETI ORSZÁGGYŰLÉS INTÉZMÉNYE 1848-BAN

(Összefoglalás)

A szerző a hazai és európai képvisleti rendszerek kutatójaként az 1848/49-iki forradalom és szabadságharc közelgő 150. évfordulója jegyében az 1848. áprilisi pozsonyi törvénycikkek, valamint a hozzájuk kapcsolódó kolozsvári törvénycikkek közül – levéltári és egykorú nyomtatott források alapján – négynek a geneziséét dolgozta föl; ezek: „*Egy új alkotmány Magyarországnak*”. *Az 1848: III. tc. létrejötté* (1997); „*Évenkinti országgyűlés Pesten*”. *Az 1848: IV. tc. létrejötté* (1996); *Az országgyűlési népképviselőt bevezetése Magyarországon. Az 1848: V. tc. létrejötté* (1996); *Az országgyűlési népképviselőt választójog sajátosságai Erdélyben. Az 1848: II. (kolozsvári) tc. létrejötté* (1998). Utóbb ezeket *Újabb magyar alkotmánytörténet. 1848–1948* (2002) c. tanulmánykötetébe is fölvette. Jelen, angol fordításban – némi változtatással – megjelenő írásmű e tanulmányok hozadékaának foglalata.