

# **Constructing Royal Power in Late Eighteenth-Century Hungary**

By

Benedek Varga

Submitted to  
Central European University  
Department of History

In partial fulfillment of the requirements for the degree of

Master of Arts

Supervisor: Professor László Kontler  
Second Reader: Professor György Szőnyi

Budapest, Hungary

2016

## **Copyright Notice**

Copyright in the text of this thesis rests with the Author. Copies by any process, either in full or part, may be made only in accordance with the instructions given by the Author and lodged in the Central European Library. Details may be obtained from the librarian. This page must form a part of any such copies made. Further copies made in accordance with such instructions may not be made without the written permission of the Author.

## **Abstract**

The thesis examines the development of the theory of royal power in Hungary between 1764 and 1792. Maria Theresa and Joseph II introduced grand reform programs throughout their realm. Their major goal was to make the operation of the monarchy efficient and to break the limits of customary law. The aim of this thesis was to examine the theory of enlightened absolutism based on which these grand reforms were initiated.

I identified three frameworks in which the nature of royal power was described and understood. A historic framework which built upon the authority of historical figures and appropriated it for the construction of absolute royal power, a natural law framework, where concepts of natural law were introduced in order to overcome the limits of historic arguments, and finally a mechanical imagination was also employed to cast into sharper relief the ways in which monarchy should operate. I argue that there was continuity between Theresian and Josephist theory of royal power.

## Acknowledgements

I would like to express my gratitude to my supervisor *László Kontler* for the useful comments, remarks and engagement throughout the learning process of this master thesis. I am thankful for introducing me to the world of political theory. Furthermore I am grateful also to *István M. Szijártó* for inspiring me since the beginning of my studies. I would like to thank my loved ones, especially Enikő Kovács, who have supported me throughout the entire process, both by keeping me harmonious and helping me putting pieces together.

## Table of Contents

1. Introduction .....	1
Sources, Methodology and Structure .....	3
Historical Background .....	7
<i>Custom and Law</i> .....	8
<i>The dualist system and the diets</i> .....	9
2. The Power of Saint Stephen.....	12
The late arrival of absolutism in Hungary .....	14
Politics .....	14
The cult of Saint Stephen and the theory of absolutism.....	16
Kollár: Breaking through the walls of Werbőczy .....	18
Benczur's attempt .....	25
3. The Power of Natural Law.....	30
Grossing: agent provocateur .....	33
Beck: An old-new text .....	36
Changing Meanings: Ancient Liberty and Josephism .....	38
Making Constitutions.....	45
Conclusion .....	55
4. The Power of Machines .....	57
The State-machine .....	57
Dangerous Automata .....	62
The Monarchical Universe.....	67
Conclusion .....	72
5. CONCLUSION.....	73
6. Bibliography .....	75

# 1. Introduction

Indeed, according to H. M. Scott, the decades between 1740 and 1790 in the Habsburg lands “saw the most radical programs of reform from above in eighteenth century Europe.”<sup>1</sup> Most of these happened without consultation with the Hungarian estates. The most important results of Maria Theresa and Joseph’s reforms – the *Urbarium* patent in 1767, the *Ratio Educationis* in 1777, or the Toleration patent in 1781 – reflect the concerns of enlightened absolutism in the Habsburg lands. Some of the enlightened reforms became milestones in the cultural and social development of Hungary, while others were deeply unsuccessful at that time. This is highlighted by the fact, that all the patents were withdrawn by Joseph II a month before his death except the Toleration Patent, the Serfdom Patent and the Patent Concerning the Lower Clergy.

In the historiography the terms “Enlightened absolutism” or “Enlightened despotism” – as Derek Beales suggested it<sup>2</sup> – were introduced to describe those grand reform movements which characterized Central and Eastern Europe in the second half of the 18<sup>th</sup> century.<sup>3</sup> Catherine the Great in Russia, Frederic the Great in Prussia, Maria Theresa and Joseph II in the Habsburg territories became the hallmarks of Enlightened reforms. According to the definition of Peter Wilson, the word enlightened absolutism “implies monarchical rule tempered by enlightened rationality. [...] Monarchy was no longer to be about the pursuit of dynastic ambition, but to serve humanity by engaging in a wide range of beneficial reforms.”<sup>4</sup>

---

<sup>1</sup> H. M. Scott, “Reform in the Habsburg Monarchy, 1740-1790”, , *Enlightened Absolutism. Reform and Reformers in Later Eighteenth-Century Europe* H. M. Scott ed. (London: Macmillan, 1990) 146.

<sup>2</sup> Derek Beales, *Enlightenment and Reform in Eighteenth-Century Europe* (London: I.B. Tauris, 2005)

<sup>3</sup> Stipta István, “Az abszolutizmus fogalma, változatai és alkotmánytörténeti jellemzői” in Képes György *Az abszolút monarchia*. edited by. Budapest: Gondolat Kiadó, 2011. 116

<sup>4</sup> Wilson, Peter. *Absolutism in Central Europe*. (Abingdon: Routledge, 2000) 108.

The reforms of these rulers aimed at religious toleration, abolishing serfdom, introducing new forms of administration, and spreading education.<sup>5</sup>

When examining the reforms of Maria Theresa and Joseph II, the scholarship pays a lot of attention to the question of how successful they were, what they could achieve and what consequences did they have. In many respects Maria Theresa and Joseph II's reforms were crucial for later development. As many Hungarian historians, like Ambrus Miskolczy, László Tevesz argue, the Hungarian reform period in the 1830's show continuity with the reform ideas of the 1790s. The reform ideas of these decades are inseparable from the reign and reforms of Joseph II.

However, I will not talk about the reforms of Maria Theresa or Joseph II, but I want to focus on the theoretical backgrounds which made legitimate for these rulers to initiate such reforms. So far, only little attention was paid to the development and systematic analysis of the theoretical fundamentals based on which these grand structural reforms were introduced. Győző Concha,<sup>6</sup> Henrik Marczali,<sup>7</sup> Éva H. Balázs,<sup>8</sup> Csizmadia Andor,<sup>9</sup> Kálmán Benda,<sup>10</sup> László Kontler,<sup>11</sup> István M. Szigjártó,<sup>12</sup> Joachim Bahlcke,<sup>13</sup> János Poór,<sup>14</sup> László Péter,<sup>15</sup> Derek Beales<sup>16</sup> and others wrote about the intricate political relationships between the

<sup>5</sup> Ibid.

<sup>6</sup> Concha Győző, *A kilenczvenes évek reformeszméi és előzményeik.* (Máriabesnyő-Gödöllő: Attraktor, 2005)

<sup>7</sup> Marczali Henrik, *Magyarország története II. József korában I.-II.* (Budapest: Pfeifer Ferdinánd, 1888); Marczali Henrik, *Az 1790/I. évi országgyűlés I.-II.* (Budapest: Magyar Tudományos Akadémia, 1907)

<sup>8</sup> H. Balázs Éva, *Berzeviczy Gergely, a reformpolitikus (1763-1795)* (Budapest: MTA, 1967).

<sup>9</sup> Csizmadia Andor, "Egy 200 év előtti országgyűlés évfordulójára. Kollár contra Status et ordines" *Jogtudományi Közlöny*, 1964

<sup>10</sup> Benda Kálmán, *Emberbarát vagy hazafi?* (Budapest: Gondolat Kiadó, 1978)

<sup>11</sup> László Kontler, "Polizey and Patriotism: Joseph von Sonnenfels and the Legitimacy of Enlightened Monarchy in the Gaze of Eighteenth-Century Sciences" In Cesare Cuttica and Glenn Burgess (eds.), *Monarchism and Absolutism in Early Modern Europe* (London: Pickering and Chatto, 2012), 75-90.

<sup>12</sup> Szigjártó M. István, *A Diéta. A magyar rendek és az országgyűlés 1708-1792* (Budapest: Osiris, 2005)

<sup>13</sup> Bahlcke, Joachim, *Ungarischer Episkopat und österreichische Monarchie. Von einer Partnerschaft zur Konfrontation (1686 - 1790).* Stuttgart: Franz Stiner Verlag, 2005.

<sup>14</sup> Poór János. *Megbékélés és újjáépítés (1711-1790)* (Budapest: Kossuth Kiadó, 2012)

<sup>15</sup> László Péter, "Montesquieu's Paradox on Freedom and Hungary's Constitutions 1790-1990" in *Hungary's Long Nineteenth Century. Constitutional and Democratic Traditions in a European Perspective* ed. Miklós Lojtkó (Leiden-Boston: Brill, 2012).

<sup>16</sup> Beales, Derek. *Enlightenment and Reform in Eighteenth-Century Europe.* London: I.B. Tauris, 2005.

Habsburg rulers and Hungary, as well as the theoretical works which influenced the understanding of monarchy at this period.

Building on their ideas, I examine the ways in which royal power was legitimized in Hungary in the second half of the eighteenth century. How theorist did attempt to argue for the legitimacy of royal interventions, which in many cases turned the customary law system upside down? What made legitimate the exercise of absolute royal power which left out the Hungarian diet from the process making vast structural changes in the country?

### Sources, Methodology and Structure

The starting point of this investigation will be the diet of 1764-1765 when the scandalous book of Ádám Ferenc Kollár, *De originibus et usu perpetuo potestatis legislatoriae circa sacra apostolicarum regum Ungariae* [On the origins and perpetual use of the legislative powers of the apostolic kings of Hungary in matters ecclesiastical] was published. The latest political texts which are analyzed here were published in 1792, around the death of Leopold II.

In Hungary, political thought does not have such a canon as in Western Europe. While people would more or less agree on those authors in literature or music, who have unquestionable authority and whom they would label as classical, in the case of Hungarian political thought such a set of authors does not really exist. According to József Takács, they are not individuals who create such a canon, but “cultural communities” and the reason “why this did not happen in the case of political thought was that there was no continuous reflection on its achievements.”<sup>17</sup>

---

<sup>17</sup> Takács István, *Modern magyar politikai eszmetörténet* (Osiris: Budapest, 2007) 10-11.



The first group of sources I am using are comprehensive legal works like the ones written by Kollár, Benczur, Beck and Grossing, usually for royal commission. The second group of sources is composed of different political pamphlets written in the early 1790s.

After the death of Joseph II there was a great burst in the publishing of political literature. This was manifested in a great number of pamphlets that people with different political visions composed in order to contribute to the boiling public debates. The pamphlets were written in usually in Latin, Hungarian, German. The historians Vilmos Fraknói and Győző Concha estimated the number of works published in the 1790s around 300.<sup>18</sup> However, there was a great number of other political treatises which remained in manuscript and were never published. Here I restrict my research only to the published pamphlets.

In approaching these text I use Domokos Kosáry's terms by which he categorized those varied political positions, which shaped the intellectual discourse in the 1790s. According to Kosáry, the greater part of the Hungarian estates argued that it was high time to restore feudal structures which were heavily attacked by Joseph II to their former status. Whereas a considerably smaller circle – which Domokos Kosáry calls the “enlightened nobility” – thought that there was no possibility to reestablish ancient rights to their former position. What instead they realized and suggested was that time arrived to gradually reform the feudal structures in accordance with the enlightened systems. Finally, the third group of thinkers – mostly made up by radical intellectuals – emphasized the need to replace the entire feudal structure. They were the Josephists, who closely allied themselves with the endeavors of Joseph II and many of them later became members of the Jacobinist group.<sup>19</sup>

Regarding the group of sources which were published in and after 1790, I will examine in depths more those texts which can be categorized as Josephists. However, in this study I investigate only those who – at least at that stage of their intellectual activity – argued

<sup>18</sup> Concha Győző, *A kilenczvenes évek reformeszméi és előzményeik*, 51.

<sup>19</sup> Kosáry Domokos, *Művelődés a XVIII. századi Magyarországon* (Budapest: Akadémiai Kiadó, 1983), 341-343, 346.

for the legitimacy of absolute royal power. These were very often scandalous texts, which caused great stirs, like Kollár's mentioned work, or the pamphlet *Babel*. Consequently, this means that for instance the thoughts of József Hajnóczy, who was undoubtedly a promoter of Joseph II's reforms, will not be in the center of this investigation, for he was the promoter of constitutional monarchy, rather than absolutism.

Another shortcoming of this text is, that it confines itself to the political theories of enlightened absolutism, but will not analyze the reaction and responses which were given by the Hungarian estates, thus it is not possible to see the transformation and development of ideas as part of a discourse between the king and the estates. However, I hope that the current investigation reveals something about the character of political power and the ways in which it was constructed in the late eighteenth-century.

The three research chapter of this work represents three different frameworks, in which royal power was imagined and understood. The first chapter examines those attempts, which wanted to create a model of history and an image of the first king of Hungary, Saint Stephen, where the absolute power of kings is represented as having a historic continuity. These ideas heavily relied on the cult of Saint Stephen which was an important component of the legal, political and cultural cosmos of the Hungarian nobility.

The second chapter focuses on the shift by which the historic argument of enlightened absolutism embraces natural law theories. The social contract – made between the ancestors of the Hungarians and their first prince – becomes the fundamental point of departure in arguing, for the legislative and executive power of kings. The idea of “ancient liberties” which was formerly attributed to the nobility now is claimed for everyone. Furthermore, the country's constitution – which was formerly thought to be fixed by nature – comes to be seen as something that can be reconstructed.

The realization, namely the idea that political systems are human constructions, opens up the third framework. Here politics is imagined as a machine, which has a creator or operator, who can change its parts and can simplify its operation. The king either becomes the operator, having power over the system, or just one of its parts which perform different functions. Furthermore, the old idea that there was a parallel structure between the universe and human society became refashioned and was used for the understanding of political constitutions.

In this thesis I also construct continuity between the absolutist political theory promulgated during the time of Maria Theresia and Joseph II. As a parallel term to Josephism, I apply Theresianism which I took from R. J. W. Evans. He used it in a longer form, ‘Maria-Theresianism’ which I abbreviated. Evans wrote that

“[h]istorians’ terminology has obscured the fact that the bureaucratic reform movement, conventionally described nowadays as ‘Josephinist’, in Hungary actually always stood closer to a ‘Maria-Theresianism’. The mentality of the leading Hungarian *Aufklärer*, like that of their Queen, was French in fashion but not in philosophy, and little affected by advanced criticism either of the church (the country bred hardly any Jansenists) or of society (hardly any non-nobles were involved at this stage.”<sup>20</sup>

The works of Kollár, Benczur, whose texts mainly represent Theresianism in Hungary, were not French either in style or philosophy. However, they made great efforts to attack noble privileges and the entire customary law system by constructing the theory of absolute royal power in the name of serving the common good.

---

<sup>20</sup> R. J. W Evans, *Austria, Hungary and the Habsburgs. Essays on Central Europe c. 1683-1867* (Oxford: Oxford University Press, 2006) 34.

These characteristics connect Theresianist political theory with that of Josephism. Josephism based its argumentation on natural law theory promulgated primarily by Martini and Sonnenfels. The aims remained almost the same, but new tools were invented and applied. This thesis wants to cast into sharper relief this continuity.

## Historical Background

The patents of Joseph were thought to be unlawful by the Hungarian estates firstly, because he was not crowned after he succeeded the throne. In the Hungarian political thought, the king could have become legitimate ruler only if he or she was crowned by the Holy Crown during the coronation diet. Since the Pragmatic Sanction of 1723, however, the Habsburg dynasty codified its hereditary succession in Hungary on both male and female lines. Thus in one sense, they had the right for the throne even without the coronation. This of course caused a number of problems among Hungarian thinkers around the concept of coronation and whether it was really necessary after 1723. When Maria Theresa died, Joseph II did not want to get involved in the traditional legal bargaining process, the *tractatus diaetalis* where the estates and the king agreed upon the content of the *diploma inagurlae*,<sup>21</sup> or the coronation charter, which contained all the restrictions of royal power and limits which the ruler could not transgress. By avoiding the coronation Joseph II was not restricted by any *quasi* contracts.

Secondly, since the Middle Ages, the idea that “*Legislativa potestas Regi cum Regni Statibus communis fit*”<sup>22</sup> (legislative power comes into being by the joint session of the king and the estates) was extremely important in the 18<sup>th</sup> century. It means that neither the king, nor the estates can pass laws without the presence of the other party in the diets. Looking

<sup>21</sup> Szijártó, *A Diéta*, 196.

<sup>22</sup> Reviczky József, *Introductio ad Politicam Regni Hungariae* (Buda: Typis Regiae Universitatis, 1790) 152.

from this perspective we can measure how severe it was for the estates that the reform era of Joseph II swept through the kingdom without convoking the diets.

The last diet before the death of Joseph was during the first half of Maria Theresa's reign in 1764-65 which was characterized by a break in the relationship between the estates and the queen<sup>23</sup> who realized that in order to bring through reform measures she had to find a way around the legislative customs of the estates, a great part of whom did not welcome her reforming ideas. Maria Theresa started to govern Hungary by means of royal patents, which made it possible to avoid the objections of the estates. This method was followed by Joseph II, but on a scale which was larger and more thorough in terms of the structural changes it introduced.

We thus can infer from these the general effervescence which followed the announcement of the coronation diet in 1790 after the death of the king. 25 years of discontent could have been expressed and discussed. This did not only mean simply a great listing of the *gravamina*, the grievances of the estates which they suffered during the reign of Joseph II, but also the beginning of a discourse, a period of reflection over the problems of royal power, what conclusions can be drawn from the preceding period and how they should shape the future of the country. The years around 1790 experienced an unprecedented boom in the publication of political pamphlet literature and many contemporaries felt the need to engage in political discussions about the future of the kingdom.<sup>24</sup> However, the ideas over what should come next greatly differed.

### ***Custom and Law***

<sup>23</sup> Horváth Mihály: Az 1764-ki országgyűlés története. In Horváth Mihály kisebb történelmi munkái I. (Pest 1868); Szijártó M. István, *A Diéta. A magyar rendek és az országgyűlés 1708-1792* (Budapest: Osiris, 2005) 868. I. kötet., Stefancsik Benedek Konrád: *Az 1764/65-i országgyűlés* (Kassa).

<sup>24</sup> Concha Győző, *A kilencvenes évek reformeszméi és előzményeik*, 51.

The entire political system of early-modern Hungary rested on custom (*consuetudo*).<sup>25</sup> The old Hungarian collection of laws was a product of customary laws, as everywhere in Europe. Since in Hungary the medieval structures lasted until the nineteenth century, customary law was there the most important source of rights. The *consuetudo regni* or customary law, had more significance than royal decrees or privileges. In early modern Hungary, law is not created and it is not a political expression of a community's will. Rather – as László Péter emphasizes – “law is *ius* (“Gesetz ist *ius*”), right which stands for the accepted customs and practices of the community.”<sup>26</sup> In other words, decrees made fix and known the already existing and approved customary laws. He concludes, that for István Werbőczy and his sixteenth century contemporaries “above and behind all other forms of rights stands the *consuetudo*”<sup>27</sup>

Similarly to this, in the eighteenth century, the legal authority of decreta were based on, referred to and were strongly connected to “rights, which went back to”<sup>28</sup> custom. Thus substantial shift from customary to statutory law did not take place before the nineteenth century. The authority of custom is also highlighted by the fact, that even the 10<sup>th</sup> article of the 1791 resolutions maintained the fact the Hungary must be ruled “*propiis legibus et consuetudinibus*” (according to its own laws and customs).<sup>29</sup> László Péter dates the shift when statutes came to be seen as sources independent from customs between 1790 and 1848.

### ***The dualist system and the diets***

---

<sup>25</sup> Szijártó, *A Diéta*, 41.

<sup>26</sup> László Péter. 'Die Verfassungsentwicklung in Ungarn' in *Die Habsburgermonarchie 1848–1918. VII/1. - Verfassung und Parlamentarismus*. ed. Helmut Rumpler and Peter Urbanitsch (Wien: Verlag der Österreichischen Akademie der Wissenschaften, 2000) 243.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid. 244-45.

<sup>29</sup> Ibid. 245.

In Hungary sovereign rights were jointly exercised by the king and the estates throughout the early modern period – at least theoretically. István Szijártó uses the fifteenth century terms of Sir John Fortescue to highlight the fact that Hungary was not a *dominium regale*, but a *dominium politicum et regale*, where the power of making laws was shared between the estates and the king. In this sense Hungary was a *Ständestaat* characterized by estate-based dualism.<sup>30</sup>

The prerogatives of the king and estates were based on ancient customary laws. István Werbőczy – the compiler of the famous customary law collection, the *Tripartitum* (1514) - introduced a theoretical differentiation between the legal spheres of *jura majestatica reservata* and *communicata*. The first set of rights included those above mentioned prerogatives that the king could exercise by himself, while the second set meant those rights which could have been exercised only with the estates. The great eighteenth century thinker, József Hajnóczy in a political pamphlet renders into the sphere of *jura majestatica reservata*, the executive power, the right of placing people into both religious and secular offices, collecting taxes, the right of waging war and making peace, monetary policies and certain rights concerning religious issues.<sup>31</sup> In turn, the king had to cooperate with the estates in legislation, public administration, and juridical questions.<sup>32</sup> The 12<sup>th</sup> article of 1791 resolutions also made a vague distinction between the two spheres of rights, however, as László Péter emphasizes, the precise details of this differentiation - what Hajnóczy showed - were never laid down into laws during the diets<sup>33</sup> and custom regulated the two spheres of rights in this dualist system.

According to István Szijártó in the 18<sup>th</sup> century the *Ständestaat*-system of Hungary practically meant a power sharing and negotiating mechanism, even if the ruler was almost

<sup>30</sup> Szijártó, *A Diéta*, 32.

<sup>31</sup> Csizmadia Sándor (ed). *Hajnóczy József közjogi-politikai munkái*. (Budapest: Akadémiai Kiadó, 1958.)108-145.

<sup>32</sup> Grünwald Béla: A régi Magyarország 356. Quoted by Szijártó, *A Diéta*, 33.

<sup>33</sup> Szijártó, *A Diéta*, 34.

always on the stronger side. He made this claim against the historian Gyula Szekfű, who did not regard the eighteenth century relationship between ruler and estates as a dualist system, because for him such a system would have involved an always changing power relationship, which – according to him – was not the case in the period precisely because of the dominant position of the king. Sziujártó maintains his point by arguing that the structural characteristics of this relationship were undeniably dualistic and the estates strongly adhered to that throughout the era.<sup>34</sup>

The place for negotiating power between the estates and the ruler was the diet. They made compromises and bargains during the convention, where the two most important issues were the question of taxes and the grievances of the *Regnum*. In order to receive an increased sum of taxes, the king had to redress to the grievances of the estates who otherwise would not vote for to the elevation of taxes. Sziujártó stresses the fact, that it would be misleading to interpret diets as if their main goal were legislation, rather the *tractatus dieatalis* was a process of making a good deal between king and estates: raising taxes for the king, and reaffirming privileges for the estates.<sup>35</sup> At the end decrees were signed by the king which reaffirmed and strengthened already existing customs. It was only after 1790 – due to the impact of Montesquieu – that estates came to see this process as legislation.<sup>36</sup>

Consequently, the laws which were passed during the diet did not represent properly the most important issues the contemporaries were interested in, since the resolutions concerning taxes for instance were not codified at the end. The laws in the *Corpus Juris* and the decrees do not give a sense of the bargains of the diet, thus they only provide a partial reflection on the negotiations.

---

<sup>34</sup> Ibid.

<sup>35</sup> Ibid. 36.

<sup>36</sup> László Péter, “Montesquieu’s Paradox on Freedom and Hungary’s Constitutions 1790-1990”, 157.



## 2. The Power of Saint Stephen

The theory of absolute royal power became extremely important during the reign of Maria Theresa when initiated major reforms for Hungary which was still based on a legal system that restricted the power of the queen in making here reforms. It is well known that from 1740s onwards structural changes, social, political, economic and military reforms, were launched in the Habsburg Hereditary Lands and Hungary. However, while “an effective absolutism” was developed in Austria, a gap between Hungary and the rest of the realms had increased and some of Maria Theresa’s reforms could not penetrate the walls of the Hungarian estate-based political system. R. J. W. Evans summarizes the situation as “a *modus vivendi* appeared to have been reached between the energetic but careful ruler and the loyal but unbending constitution.”<sup>37</sup> While in historiography, there was a great emphasis placed on the reforms themselves, less attention was payed to the theory of royal power on the basis of which these were made.

These attempts were connected to the question of public law. In the second half of the 1760s, Maria Theresa wanted to establish a new subject at the Law Faculty of the University of Nagyszombat by introducing Hungarian Public Law into the curriculum. To the request of the queen, the Committee of Education in Vienna replied that they “do not know whether any such thing as Hungarian public law exists at all.”<sup>38</sup> According to Ernő Fináczy, Hungarian law was primarily private law, only some aspects of it were connected to public law. The queen’s councilor, Pál Festetics wrote to the queen about the reasons, why he thought it impossible to teach such a subject. According to Festetics, a Hungarian public law

---

<sup>37</sup> Evans, *Austria, Hungary and the Habsburgs*, 18.

<sup>38</sup> Fináczy Ernő. *A magyar közoktatás története Mária Terézia korában* II. (Budapest: Magyar Tudományos Akadémia, 1899-1902) 315.

compendium should explain whether the king of Hungary can exercise royal prerogatives rights before the coronation, whether the estates' agreement is needed for the coronation. Similarly, the Hungarian public law should explain the ways in which legislative and executive power worked, it should also address the question of the privileges of the nobility and different spheres of power without injuring royalty as well as not causing terrible turmoil.<sup>39</sup> Not to mention all the ambiguities of the legal terms. Thus Festetics concludes that it will take a lot of time, until it becomes possible "to define the Hungarian public law according to monarchic principles."<sup>40</sup> Finally, the question of the public law subject was dropped.

This demonstrates the ambiguities around the limits of power spheres in the 18<sup>th</sup> century. These were part of the *modus vivendi* between the ruler and the estates. Nevertheless, as we will see, serious efforts were made by the court to strengthen "the monarchic principle" in the Hungarian legal system. The Theresian political thinkers – like Ádám Kollár, József Benczur – tried to push the boundaries of royal power beyond the strong walls defined by the authority of István Werbőczy's *Tripartitum* and Hungarian customary law. I examine the arms with which the political theory of Theresianism attempted to lay siege to the *consuetudo* and conquer the spheres of power which the Hungarian nobility wanted to reserve for itself. I also show the continuities between Theresianism and Josephism, and how they were influenced by the Enlightenment. Between 1765 and 1792, great changes occurred in the language and theory of politics concerning royal power which I attempt to examine in the following section.

<sup>39</sup> It must be noted, that all this was written after the scandals around Kollár's book.

<sup>40</sup> Fináczy, *A magyar közoktatás története Mária Terézia korában II.* 324.

## The late arrival of absolutism in Hungary

According to István M. Szigjártó, sovereign royal power in Hungary appeared very belatedly and attempts to introduce it were sporadic and their success only temporary. In Hungary, as in Poland, the king could not pass laws without the acknowledgement of the Hungarian *diaeta*, or the Polish *sejm*.<sup>41</sup> Szigjártó writes that there were only two cases when the Habsburgs tried to exercise such a right before Joseph II. The first was in 1604 when the XXII article was unilaterally added to those discussed with the estates. This was supposed to declare that no religious questions can be raised in speeches at the diet. The second similar move was made in 1687, when a proviso was attached to the coronation charter and oath of Joseph I empowering him to revise, reinterpret the meanings of laws in accordance with the diet. This outraged the estates because it endangered certain liberties and privileges they enjoyed. In the following decades they desperately tried to get the proviso removed from the coronation charter, but they did not succeed.<sup>42</sup> In 1741, however, during the coronation of Maria Theresa, a moderate success was achieved since the fundamental laws were exempted from this “revision proviso.”

## Politics

When Maria Theresa realized how much the customs and laws of the Hungary hindered her reform programs, she decided to break these. The main goal of the court was to raise more tax with the approval of the estates. The need to finance an expanding professional

<sup>41</sup> Szigjártó M. István A 18. század rendi országgyűlései. Chapter 3-4. Szimbólumok és diskurzusok. 16. (unpublished manuscript).

<sup>42</sup> Forgó András, “Az egyházi rend a szatmári megegyezés utáni országos politikában” in *Az 1712. évi pozsonyi diéta egy ciszterci szerzetes szemével* (ed.) Forgó András (Pannonhalma-Veszprém: Pannonhalmi Főapátsági Levéltár – MNL Veszprém Megyei Levéltára, 2013) 16. Poór János, *Megbékélés és újjáépítés (1711-1790)* (Budapest: Kossuth Kiadó, 2012)

army and the burdens of centralized government made it necessary to reform the old tax structures, thus substantially enhancing the income of the treasury. After the war of Austrian succession, the estates of Lower Austria and Styria agreed to contribute to the financial burdens of the monarchy, and the court hoped that the Hungarian estates could be persuaded to act similarly.<sup>43</sup> However, the Hungarian nobility stubbornly adhered to their historic prerogative of tax exemption, which was one of the crucial points in the nobility's legal compendium, István Werbőczy's *Tripartitum* (1514), the historic collection of Hungarian customary law.

During the first half of the eighteenth century, the court tried to introduce new forms of taxation which would have had tax linked to land, thus considerably increasing the amount of tax paid, but the estates of Hungary protested against these initiatives.<sup>44</sup> Their arguments rested on certain privileges, pinned down in the *Tripartitum*, and they were successful in their fight against any new forms of taxation. Article 1741: 7 famously expressed the idea that “*ne onus fundo quoquo modo inhaereat*” [no public burden should be derived from land tenure]. Although in 1741, Maria Theresa had to make this concession, this principle tied her hands in increasing the amount of the taxes paid by the country. Ten years later, in 1751, Maria Theresa faced similar obstacles and had to be satisfied with a moderate rise as for the annual war tax to 3 200 000 Hungarian Forints.<sup>45</sup>

However, this did not mean the end of the debate. In the *Staatsrat*, the councilors complained about the reluctance of the estates of Hungary to pay taxes. For the next diet, they prepared an attack on the privileges of Hungary from a new direction. The wars of the Austrian succession proved that the traditional Hungarian noble levy – the so called

<sup>43</sup> Csizmadia Andor, “Egy 200 év előtti országgyűlés évfordulójára. Kollár contra Status et ordines” *Jogtudományi Közlöny* (1964) 215.

<sup>44</sup> Horváth Mihály: Az 1764-ki országgyűlés története 381-382.

<sup>45</sup> *Ibid.* 383.

*insurrectio*<sup>46</sup> – had become utterly outdated. The court planned to convince the estates that instead of calling the noble levy to arms, they should pay the costs of maintaining a professional army. They also decided to extract revenues from the vast estates of the Catholic Church to this effect. However, members of the Hungarian nobility were protecting painstakingly their historic privileges. They always referred to the Collection of Law, the *Corpus Juris* and the *Tripartitum* pointing precisely to the articles and passages of ancient laws.<sup>47</sup> This gave rise to the realization in the court that if they wanted to succeed in accomplishing reforms in Hungary, it was not enough to follow the customary logic of the *tractatus diaetalis*<sup>48</sup>, they have to produce instead a theoretical, legal and historic argumentation first which could counterbalance or rather outweigh the reasoning of the estates.<sup>49</sup> The works of József Benczur and Ferenc Ádám Kollár meant to serve these purposes. In the followings, I will examine these works in order to understand the theoretical basis of enlightened absolutism and the ways in which it was conceptualized. Before doing so, however, I would like to take an excursion to the cult of Saint Stephen who was to become a key figure of Theresian political thought.

### **The cult of Saint Stephen and the theory of absolutism**

Saint Stephen, as the first king of Hungary, was one of the most influential figures in the history of Hungary. It was Stephen who strengthened Christianity, founded ten episcopates and underpinned the authority of royal power with fierce battles and strict

<sup>46</sup> The *insurrectio* was a medieval custom, which meant that in times of foreign attack the nobility crowded together under the flags of the ruler in order to protect the kingdom.

<sup>47</sup> Csizmadia Andor: „Egy 200 év előtti országgyűlés évfordulójára”, 215.

<sup>48</sup> The *tractatus dieatalis* was the bargaining process between the king and the estates. The king urged for raising the taxes, but the estates wanted first to discuss their grievances first, and when the ruler provides remedy for them, then they will vote for higher taxes.

<sup>49</sup> Csizmadia, „Egy 200 év előtti országgyűlés évfordulójára”, 215.

legislation, thus making the Kingdom of Hungary firmly established at the beginning of the eleventh century. Saint Stephen's first law codex and his *De institutione morum ad Emericum ducem* - a *specula principum* written for his son – became later the first documents of the *Corpus Iuris Hungarici*, although these were not his works. The tradition – falsely – held that it was his crown and garment with which Hungarian kings became invested at their coronation ceremony. According to tradition, at the end of his life – having lost his son in a hunting accident – he offered his crown and people to the protection of the Virgin Mary, thus making Hungary the (or, rather, a) *Regnum Marianum*. In the sixteenth and seventeenth centuries this idea was developed into an entire historical philosophy which played an important role in the wars against the Ottomans.<sup>50</sup> This made the image of Saint Stephen even more vivid and a decisive element of the cultural memory of the Hungarian estates, especially in their fights against Habsburg centralizing attempts.

According to Sándor Bene, the cult of Saint Stephen went through three metamorphoses. The first major step towards solidifying the cult of the first king of Hungary was his beatification in 1083 during the reign of Ladislaus I. Later, another piece was added by Bishop Hartvik, the so called Legend of Saint Stephen. In the context of the struggle between the pope and the emperor, and the ecclesiastical debates between the Holy Roman Empire and Hungary, these works were initiated to emphasize the fact, that the first King of Hungary founded an independent kingdom, where ecclesiastical matters were also regulated by kings with apostolic rights.

In the seventeenth century, the cult of Saint Stephen became the subject of overt political goals. It did not only become a tool for kings to strengthen their *ius supremæ patronatus* against the pope, but the cult also became an integral part of the self-representation of the Hungarian estates. Saint Stephen's act of offering the country to the

<sup>50</sup> Tüskés Gábor, "Egy történelmi toposz a 16-18. századi egyházi irodalomban: Magyarország-Mária országa" In „Hol vagy, István király?” *A Szent István-hagyomány évszázadai* ed. Bene Sándor (Budapest: Gondolat, 2006) 239.

patronage of the Virgin Mary became even more relevant. The idea of the *Regnum Marianum* was often used in anti-Habsburg endeavors to establish an independent Hungary.<sup>51</sup>

Finally, in the eighteenth-century, Maria Theresa wanted to gain a greater independence from Rome in ecclesiastical matters and this gave a greater impetus to the cult of Saint Stephen. In 1758, Maria Theresia took the title of *Rex Apostolicus* and – following the example of Saint Stephen – organized new episcopates in 1776 and 1777. In 1764, she established the Order of Saint Stephen, and in 1771 she had the Holy Right Hand of Saint Stephen taken back to Hungary from Ragusa. In 1772, August 20<sup>th</sup> became a calendar holiday and the queen ordered annual festivities to take place. In 1778, the reintegration of the Banat region to Hungary was presented as an attempt of restoring the state of Saint Stephen.<sup>52</sup>

As far as I know, there are no studies which would focus on the image on Saint Stephen in the political literature in the second half of the eighteenth century.<sup>53</sup> This would be very interesting, especially in the context of Maria Theresa's policies and the emerging political ideas of the Enlightenment, when questions about past and future, tradition and innovation, progress and regress were especially urgent problems. Here I shall explore one possible strand of this set: how two eminent scholars of the Habsburg court, Ádám Kollár and József Benczur, used the authority of Saint Stephen as a primary strategic tool with which they could push monarchical power beyond customary law.

### **Kollár: Breaking through the walls of Werbőczy**

<sup>51</sup> Bene Sándor, "Hol van István király?" In „*Hol vagy, István király?*” A Szent István-hagyomány évszázadai ed. Bene Sándor (Budapest: Gondolat, 2006) 8.

<sup>52</sup> Evans, *Austria, Hungary and the Habsburgs*, 27.

<sup>53</sup> In 2006, a collection of essays was published about the centuries of the cult of Saint Stephen but the only study which examined its role in the context of 18<sup>th</sup>-century political thought was Ágnes R. Várkonyi's study on the tradition of Saint Stephen in the political ideas of Ferenc II Rákóczi. See: R. Várkonyi Ágnes, "Szent István hagyománya II. Rákóczy Ferenc állameszméjében" In „*Hol vagy, István király?*” A Szent István-hagyomány évszázadai ed. Bene Sándor (Budapest: Gondolat, 2006) 157-167.

Ádám Kollár's work, *De originibus*, was commissioned for the opening of the diet in 1764. Kollár's task was to prepare the ideological background for the tax reform that the court wanted to bring about. After receiving the approval of the *Staatsrat*, Maria Theresa permitted the printing of the book without submitting it to the censorship.<sup>54</sup>

Ádám Kollár was a Jesuit monk who, after leaving the order, became the first librarian (*custos primarius*) of the *Hofbibliothek* in Vienna.<sup>55</sup> Besides his duties at the library, Kollár worked intensively as a legal scholar, philologist and a historian. In the preface of the *De originibus* he tells that from early childhood he had been increasingly interested in European and Asian languages.<sup>56</sup> In 1762, he published his first historical volume, *Historia diplomatica juris patronatus apostolicorum Hungariae regum* which became the basis for his later legal works.

In his controversial book, the *De originibus et usu perpetuo potestatis legislativae circa sacra apostolicarum regum Ungariae* [On the origins and perpetual use of the legislative powers of the apostolic kings of Hungary in matters ecclesiastical], was the first extensive theoretical attack on Werbőczy and the customary law system of Hungary.<sup>57</sup>

Kollár's main argument was that the kings of Hungary have a legal basis for making decisions over the landholdings of the Church. He derives the right of *jus placetum regium* - the right to decide in certain ecclesiastical matters - from Saint Stephen, and argues that the Hungarian kings had always possessed and used this legal power. Then Kollár goes on to examine the relevant cases in each century up to his own time. The theoretical background is made up by Hugo Grotius, whose work with a similar title, *De imperio summarum potestatum circa sacra* [On the supreme power in matters ecclesiastical] was the point of departure for Kollár. According to Grotius, "The supreme power cannot be manifested more

<sup>54</sup> Csizmadia, "Egy 200 év előtti országgyűlés évfordulójára" 217.

<sup>55</sup> Ibid., 216.

<sup>56</sup> Kollár Ádám Ferenc, *De originibus et usu perpetuo potestatis legislativae circa sacra apostolicarum regum Ungariae* (Vindobona: Trattner, 1764) 8.

<sup>57</sup> Kosáry, *Művelődés*, 594.



obviously than in the right of deciding which of the religions can be exercised publically.”<sup>58</sup> Based on Grotius’s observations, Kollár claims that kings can decide in particular ecclesiastical questions which are not ruled by divine law, and many of the Christian rulers included into their codices of laws the resolutions of ecclesiastical councils. However, it also frequently happened that the resolution of civil laws were completely different from that of the canonical laws.<sup>59</sup> Those canonical laws which were not sanctioned by the king were not considered to have binding force, since the ruler did not give them civil authority.<sup>60</sup> Papal bulls have no legal power – says Kollár – if rulers do not endorse them.<sup>61</sup> Thus the *jus placetum regium* after French examples is firmly established in the Kingdom of Hungary and it had been exercised since Saint Stephen.<sup>62</sup> While all these meant to break the opposition of the church, the work contained other elements which the estates found extremely offensive in 1764.

The role of Saint Stephen becomes extremely important for Kollár and other theorists. As it was mentioned above, it was the time when the cult of Saint Stephen became appropriated for supporting the Habsburg royal authority. Since Stephen was widely revered among the Hungarian nobility who connected the origins of their country to Stephen, it was the wisest idea to attack their privileges by reinterpreting Saint Stephen’s image. Kollár refers to the everlasting authority of Saint Stephen’s laws by saying “*Divi Stephani leges sunt, utor enim his in rem meam lubenter, utpote auctoritatem aeternam ab ejus sanctitate consequutis, leges, inquam, Divi Stephani sunt.*”<sup>63</sup> Furthermore he writes that “[a]mplissima esse Divi Regis Stephani in nos omnes merita, qui Vngarico nomine censemur, nullus est, cerdo, qui nesciat: enimvero illi uni aeternam illam, quam speramus, & mortalem istam, qua nun

---

<sup>58</sup> Kollár, *De originibus*, 13.

<sup>59</sup> Ibid. 17-18.

<sup>60</sup> Ibid. 10.

<sup>61</sup> Ibid. 10.

<sup>62</sup> Ibid. 76.

<sup>63</sup> Ibid. 16.

*fruimur, felicitatem.*”<sup>64</sup> These might have been very appealing to Hungarian nobles, among whom Saint Stephen was a revered ruler – in contrast to the interpretation that Kollár provided.

The image what he constructed of Saint Stephen was that of an absolute monarch. After arguing that Saint Stephen’s decrees were made after the example of the Franks’ laws, he turns to the question of legislative power. He says that Saint Stephen never mentions that the consent of his people was needed to enact laws. Echoing Jean Bodin,<sup>65</sup> Kollár argues that Saint Stephen had absolute royal power, because he only consulted his people about new laws, but did not ask for their consent. As Kollár writes in the key passage: “*nusquam enim S. Rex noster CONSENSUS populi ad conciliandam legibus suis auctoritatem NECESSARII commemorat; quam plurimis contra & clarissimis indiciis manifestum dedit, se leges suas non consentiente, sed consulente solum populo suo tulisse, & potestate ferendarum legum, ab omni conditione libera, fuisse usum.*”<sup>66</sup> Then he simply concludes that it becomes obvious from all these, that originally Hungarian kings had full legislative powers (*absoluta legislationis potestas*).<sup>67</sup>

Kollár says that he is aware of the recent limits on the legislative power of kings, but he argues that those are recent inventions by István Werbőczy. Kollár writes that it is, indeed, true that Princes cannot make laws by their own will or even with the consent of the people against divine and natural law. But he says, “*quod vero Rex noster de rebus vetustae libertati totius Hungaricae gentis derogantibus sine CONSENSU populi constitutiones ferre non possit, institutum esse multo recentius, res ipsa loquitur: agit enim de vetustis libertatibus, quarum auctor, omnium consensus S. Stephanus est.*”<sup>68</sup> In other words, Stephen himself was

---

<sup>64</sup> Ibid. 21.

<sup>65</sup> Sashalmi Endre, “Az abszolútizmus: az abszolút monarchia elmélete” In *Az abszolút monarchia* ed. Képes György (Budapest: Gondolat, 2011) 20.

<sup>66</sup> Kollár, *De originibus*, 32-33.

<sup>67</sup> Ibid. 33.

<sup>68</sup> Ibid. 35.

the author of all legal privileges, and as such he could decide about them. It is worth mentioning how smartly Kollár plays with words. It was the “consent” of the nobility that the estates wanted to enforce whenever a ruler attempted to initiate changes in privileges of the country; however, the ultimate source of these privileges is the king, Stephen, on which everyone consents. Kollár, then, says somewhat ironically that to show, that laws were made in Hungary with the consent of the people before 1405, a lot of research is necessary.<sup>69</sup>

The stratagem of Kollár is that first he acknowledges the everlasting authority of Saint Stephen, on which probably all his readers agreed, and then he builds up the image of Saint Stephen as an absolute ruler and as such the “author” of noble liberties. If one demands the latter, the one has to accept the former as well. Upholding ancient liberties and the restoration of old customs thus, meant also – or at least Kollár wanted to argue so – the acknowledgement of absolute royal power.

Kollár’s play with tradition becomes even clearer when he writes about Werbőczy. Kollár reproaches him for leaving out from the *Tripartitum* certain important royal resolutions which otherwise belong to the important laws of Hungary, like the decrees of Saint Stephen and Saint Ladislaus. According to Kollár, Werbőczy thinks that their laws are so old, that they have almost disappeared from human memory. Furthermore, Werbőczy thinks that these kings concentrated more on divine than worldly laws which were later modified during the reign of other kings, although some of their laws (*aliquid legis*) became part of “the more than hundred year old custom.”<sup>70</sup> Kollár writes that Werbőczy was not aware the meaning of the laws made in the 11<sup>th</sup> and 12<sup>th</sup> century. Kollár argues, that “these

---

<sup>69</sup> One can imagine the reaction of the Hungarian nobility reading all these. For them, it was an established and unquestionable conviction that legislative power is based on the joint sessions of king and estates. The legitimacy of laws hinged on this. Kollár very boldly writes that Werbőczy’s *Tripartitum* contains untrue arguments concerning the historic connections between estates and king. The author also launches an attack against the outworn custom of the noble levy (*insurrectio*), arguing that in modern times it is no longer the number or the enthusiasm of the armies what counts but war sciences and technology. What Kollár proposes is a modern professional army with the nobility contributing financially (along with the church) to the costs of maintaining the troops. Kollár, *De originibus*, 152-153.

<sup>70</sup> See: *Tripartitum* Book II; VI title; 9th paragraph. Kollár, *De originibus*, 117.

laws contained not only the all the origins of later laws, but also those of our civil and ecclesiastical state.” (*civilis & Ecclesiasticae politiae nostrae omnis origines continet*)<sup>71</sup> This reveals why it was important for Kollár and Theresianst political thinkers to turn to the *Decreta* of Saint Stephen. They regarded them as the foundational documents of the country. Furthermore, the person of Saint Stephen was invested with enough public authority, that political theorists could use his image to widen the spheres of royal power against the nobility.

Initially, the book aimed to pose questions about the privileges and the status of Catholic bishops in Hungary. Kollár might have stipulated that ultimately the nobility would be divided on this question, however, his book caused a bigger turmoil than he expected, and its reception was contrary to his expectations. As István Szijartó explains, “[t]he opening of the diet took place at one of the rarest moments in the country’s eighteenth century history, when the entire Hungarian nobility became united against the attack on their privileges.”<sup>72</sup> According to Joachim Balche, “Kollár’s work was directed against the entire constitution of the country, targeting its weakest point, the clergy.”<sup>73</sup> The Catholic clergy, who normally sided with the court at the diet, and the Protestant nobility, who almost always opposed Catholic endeavors, “now were standing side by side.”<sup>74</sup>

The nobility demanded the book to be burned and the author to be ostracized. The primate of the Hungarian Catholic church, Ferenc Barkóczy, wrote to the Holy See asking the pope to place the volume on the List of Prohibited Books.<sup>75</sup> A special committee of the diet wrote a proposal with all the objected items and sent it to the queen. In order not to loose the estates’ support to raise the amount of the annual war tax, Maria Theresa banned Kollár’s book. Kollár wrote a long letter to the estates with the title, *Apologia*, where he attempted to

<sup>71</sup> Kollár, *De originibus*, 117.

<sup>72</sup> Szijartó, *A Diéta*,. 249.

<sup>73</sup> Bahlcke, *Ungarischer Episkopat und österreichische Monarchie*, 317.

<sup>74</sup> Szijartó, *A Diéta*, 249.

<sup>75</sup> Csizmadia, „Egy 200 év előtti országgyűlés évfordulójára”, 220.

clarify himself from the accusations, although he did not refute his main tenets. After several unsuccessful attempts to break the prerogatives of the estates, Maria Theresa had to understand that it is unreasonable to call together the diet any more, and for the remaining sixteen years of her life she governed the country by patents.<sup>76</sup>

In any case, the unsuccessful reception of Kollár's book did not mean that it was not read widely in the country. The followers of Kollár's absolutist visions like that of József Benczur and Rudolf Ferenc Grossing, cited the *De originibus* and other works of him. Furthermore, in the 1790s, other political writers, the conservative critique of Kollár, Antal In 1789, Szaitz, a Servite monk, wrote that Kollár dealt with Saint Stephen's laws "like a bee, who did not collect honey, but poison, and approached them like heretics or the devil deal with the Holy Scriptures."<sup>77</sup> Szaitz calls Kollár a "Denier of Saint Stephen"<sup>78</sup>, who wanted to obliterate all the laws and liberties of Hungary, although Szaitz notes,<sup>79</sup> that even Kollár respected the eternal authority of Saint Stephen.<sup>80</sup> On the other side, the unknown author of the pamphlet – *Ein unpartheiisches aber lautes Wort über die Staatsverfassung des Königerichs Ungarn vor der Krönung der Königs* – who defends Joseph II's policies, makes

<sup>76</sup> Ibid. 226.

<sup>77</sup> "mint afféle jó méhetske, nem mézet, hanem mérget szedett, és úgy bánt azokkal, mint az Eretnekek vagy maga az ördög 'a Sz. Írással" in *Az Igaz Magyarok III. része. Szent István a magyaroknak igazi megvilágosítója. Írá Máriafi István. 1789. viii.*

<sup>78</sup> "Szent-István tagadó" in *Az Igaz Magyarok III. része. Szent István a magyaroknak igazi megvilágosítója. Írá Máriafi István. (1789).*

<sup>79</sup> Szaitz condemns the ideas of Locke, Rousseau and Voltaire concerning tolerance. He thinks that they misuse the word, because "under the concept of Tolerance, they show only Indifference." (*Tolerantziának tégére alatt nem egyebet, hanem merő tsupa Indifferentizmust árulnak*" In: *Az Igaz Magyarok* 46.) Szaitz thinks, that "tolerance must be differentiated *ab abusu Tolerantiae*" ("meg kell különböztetni a Tolerantiát az ab abusu Tolerantiae" Ibid. 46) by which he means the "preference of errants." ("tévelygőknek való kedvezés hamis tolerancia" In: Ibid. 46). At the time of Saint Stephen, errants were the Anabaptists and pagans. He cites Stephen's *De institutione morum*, by saying that these are servants of heresy and not of the Church, which applies – according to Szaitz – to the "Aufklarists" and new reformators of his time (Ibid. 48.). For Szaitz, Saint Stephen gives the true and indeed valuable understanding of toleration, which is far from the ruminations of the French philosophes. Szaitz says that under certain circumstances one can tolerate these, but one should not look after or nourish them. Thus, finally, he could not tell how his solution is different from the indifference with which he accused Locke, Rousseau and people of their ilk. Nevertheless, it is interesting to see Saint Stephen in the dresses of an Enlightened philosopher through the eyes of a conservative thinker. It reflects the problem of religious toleration, which was indeed a serious issue in the country. All this was written after the toleration patent was passed and the Protestant religions were quasi emancipated by Joseph II in 1781.

<sup>80</sup> *Az Igaz Magyarok*, viii.

positive references to the scandalous book of Kollár.<sup>81</sup> Thus, even though the book was banned it probably had a substantial impact on the Hungarian nobility.

### Benczur's attempt

While Kollár's book caused a great stir at the beginning of the diet, we do not know too much about the reception of Benczur's work, *Ungaria semper libera suique juris, numquam vel principi, vel genti et alicui externa obnoxia*<sup>82</sup> (1764) [Hungary is always free and its law is never subjected to the prince, the people, or other foreign power]. What is surely known is that he had been educated at the German universities of Jena and Halle between 1750 and 1755. These institutions were considered to be the centers of Protestant enlightenment at that time. After his return to Hungary, he became the rector of the boarding school of Késmárk, and then the rector of the lyceum in Pozsony until 1771.<sup>83</sup> According to Éva H. Balázs, Benczur established connections with the royal court around 1771. However, we know that for writing the *Ungaria semper libera* he was given 100 gulden by the court,<sup>84</sup> which means that he must have been in touch with the court earlier than 1771. We do not know whether he had been given a commission like Kollár, or whether it was just a reward after finishing the work. Nevertheless, it highlights the fact that Benczur's endeavors fit perfectly to the general goals of the government.

At the beginning of Benczur's mentioned work, *Ungaria semper libera*, there is a small illustration with a chamois, standing on a rock, behind of which the sun is raising. The

<sup>81</sup> *Ein unpartheiisches aber lautes Wort über die Staatsverfassung des Königerichs Ungarn vor der Krönung der Königs* (1790) 15.

<sup>82</sup> Benczur József, *Ungaria semper libera suique juris, numquam vel principi, vel genti et alicui externa obnoxia* (Vindobona, 1764)

<sup>83</sup> H. Balázs Éva. *Berzeviczy Gergely, a reformpolitikus*, 44.

<sup>84</sup> Szentpétery Imre, "Benczur József levelei Radvánszky Józsefhez és Lászlóhoz" *Irodalomtörténeti Közlemények* 105 (1902) 101-113.

motto written under the picture is “*Audax et Providus*” [bold and provident]. This can be interpreted as a reference to the writer’s attempt to make challenging statements which might invite the disagreement of many readers.

The main argument of the book is summarized by Benczur in the preface: “Perhaps it was not a vain effort to prove by the testimony of ancient charters that those who give any kind of power to foreign princes in the Kingdom of Hungary commit an act of injustice against the people of Hungary.”<sup>85</sup> Benczur’s work has three extensive chapters, which describe that the Hungarian king is not the client of the Roman pope (I.), that Hungary is independent from the Holy Roman emperor (II.), and that the Ottoman sultan does not have authority in Hungary (III).

Benczur’s starting point is that Hungarian kings never had superior power above them in the country’s territory. According to Benczur, the right of *dominium utile* – which refers to the right of using the land – was never problematic in terms of royal power, but the right of *dominium directum* – the real ownership of the land – was often wrongly attributed by earlier legal scholars to the pope, the Holy Roman emperors, and the Ottoman Sultans, which would mean that the Hungarian kings were basically vassals to them.<sup>86</sup> Benczur endeavors to show that the Hungarian kings could not be degraded to the status of being vassals of other rulers.<sup>87</sup>

For building up this argument, Benczur relied on the jurisprudence of Hugo Grotius and Samuel Pufendorf and the Hungarian corpus of laws. The alienation of royal power (*alienationem potestatis*) - which means the abdication of the right of *dominium directum* - requires certain criteria which can make the act of alienation legitimate. The prince “who alone can enjoy all rights from which the majesty is absolved” cannot alienate his power unless, his crown is patrimonial.<sup>88</sup> Furthermore, this must be done also by the consensus of

<sup>85</sup> Benczur, *Ungaria semper*, folio 4.

<sup>86</sup> Ibid 1.

<sup>87</sup> Ibid. 2.

<sup>88</sup> „eum non nisi principem, iure hoc pollere, qui regnum, quod patrimoniale vocare placuit, possidet.” 2.

the estates of the country, otherwise the transfer of power is not lawful.<sup>89</sup> After arguing that the kings of Hungary ruled by holding supreme power from early on, Benczur recalls with great accuracy the decisive events of Hungarian history, supporting his argument with historic as well as legal documents that these criteria were not fulfilled by any of the great historic moments. Benczur's argumentation heavily relies on the decrees and authority of Saint Stephen, showing him as the prototype of kings, independent from all external power claims.

By this argument, Benczur could successfully claim that within the borders of Hungary, kings have an absolute power which cannot be threatened from abroad and cannot be interfered with legally. In spite of the fact that the book's explicit goal is to talk about the relationship between Hungarian and foreign rulers, the work can be read differently. While Benczur does not define royal absolutism in juxtaposition to the power of the estates – which would have been the source of controversies – nonetheless Benczur successfully makes the case for royal sovereignty, and implicitly circumscribes the possible power claims of the noble estates. Furthermore, his argument which denounced the possibility of any papal claims over *dominium directum* was nicely preparing the ground for posing tax burdens on the estates of the Catholic Church.

Another work of Benczur, *Commentatio juridica critica de haereditario jure serenissimae domus Austriacae in apostolicum regnum Hungariae*<sup>90</sup> which he published under the name of Eusebius Verinus, follows the direction of Kollár. In this work Benczur tries to attack the impenetrable walls of Werbőczy's authority and thus the dualist system

<sup>89</sup> See Grotius *De iure belli ac pacis*: Lib II. cap 6.: "Now as it is in other Things, so it is also in Sovereignty, it may be alienated by him who has a just Title to it; that is, as we shewed above, by a King, if the Crown be patrimonial; otherwise by the People, but not without the King's Consent; because he too has some Right here, like to that of an Usufructuary, which Right he ought not to be deprived of contrary to his Will. And this regards the whole Extent of Sovereignty."

<sup>90</sup> Benczur József [Eusebius Verinus]. *Commentatio juridica critica de haereditario jure serenissimae domus Austriacae in apostolicum regnum Hungariae de jure eligendi regem, quod ordinibus inclitis regni Hungariae quondam cempetebat, De corregente, rege iuniore, et ducibus regiis quos olim Hungaria habebat* (Vienna et Lipsia: Iahn, 1771)



between the king and the nobility. His main idea is to reveal the mishandlings of the nobility and reveal the character of royal power by investigating historical documents. In this way he imagines to build up the “real” character of Hungarian royal power.

Benczur is particularly against any kind of power transfer which a theory, like the social contract, can involve. Thus he is quite far even from the repetition of Martini’s ideas. Thus he accepts that the Hungarian tribe leaders gave their power to the first prince, Arpad, and became obedient to him. The question for Benczur was whether this was *plena potestas* or limited by laws. He argues that it was *plena postestas* since a limited monarchical power could not serve its role of making happiness in society. Thus Arpad, must have accepted absolute power.<sup>91</sup> Until the time of Saint Stephen, Hungary was ruled by dukes, and principals. It was Stephen who took up the royal title and dignity.<sup>92</sup> Benczur attacks those arguments which try to show, that Saint Stephen received his royal power from his subjects who elected him as king freely. That is the reason why – as Werbőczy argues – royal power (*jura Majestatica*) comes with the coronation<sup>93</sup> and that royal power become limited at this occasion by fundamental laws.<sup>94</sup> He stresses that Saint Stephen took up royal dignity by his own will and authority without the consent of his subjects, based on absolute power that his predecessors exercised since the time of Arpad.<sup>95</sup> The real spheres of *Jura Majestatica* become visible only if one looks at the power that Saint Stephen, and thus all his successors (should have) exercised. For Benczur, the *Decreta* of Saint Stephen meant the firm foundation of all royal power. Theoretically, the spheres of right that behooved Saint Stephen applies to all Hungarian kings, thus for instance, the Hungarian king is the highest judge and can pass laws for the promotion of common good.<sup>96</sup>

---

<sup>91</sup> Ibid. 6.9.

<sup>92</sup> Ibid. 21.

<sup>93</sup> Tripartitum Book I; III title, 6th paragraph

<sup>94</sup> Benczur, *Commentatio*, 21.

<sup>95</sup> Ibid. 23.

<sup>96</sup> Ibid. 43, 55.

For Kollár and Benczur the legitimatizing component in both of their argument is that things had been that way, before the calamities and selfishness of the estates corrupted the situation. They do not go beyond the framework of feudalist law, and they try to push royal power beyond the line that Werböczy and the Hungarian nobility delineated. Both Kollár and Benczur heavily rely on the everlasting authority of Saint Stephen and his laws, regarding them as the firm and unchangeable point of origin. Of course, the argument was, that if kings crowned in Hungary wore the robe and crown of Saint Stephen they should have his royal power and entitlements as well.

Nevertheless, what is important here is to note that, the cult of Saint Stephen was used for constructing the archetypical image of an absolutist ruler. In the hands of Kollár, Saint Stephen became similar to a Hobbesian *Leviathan*, who exercises his power over both the religious and the secular spheres. In Kollár's presentation it was only by mistake that this image was deformed and that some unnecessary privileges prevail that would not have been consented by either Saint Stephen or Saint Ladislaus, who allowed only as much privileges as their times required. Since things have dramatically changed, the legitimate ruler of Hungary – at that time Maria Theresa – can cut down their privileges as Saint Stephen would do. In the political discourse “the ancient liberties” were connected to Saint Stephen and the kings of the middle ages, but Kollár could transform this to the advantage of Maria Theresa. Since he showed that adherence to the time of Saint Stephen means also the attachment to an absolute royal power – as Kollár interpreted it. This way he was able to turn the cult of Saint Stephen upside down against the Hungarian nobility.

During the reign of Maria Theresa thus, the promotion of Saint Stephen's cult was not only an act of kindness towards the Hungarian nobility, or the tool for strengthening her ecclesiastical jurisdiction against the pope, but also an important fundament for the building of the theory of absolute royal power in Hungary. While she was making her symbolic acts

concerning the cult of Saint Stephen, her legal philosophers were constructing the theory of absolute royal power based on the authority and laws of the saint king, where the liberty of the estates became heavily dependent on the power of the king.

The Theresians constructed a picture of Saint Stephen which could have been used for the goals of Maria Theresa and Joseph II. Contrary to our intuition, in the political discourse of this era the revered figure of Saint Stephen was not like a motionless or rigid sculpture, but a dynamically interpreted source of cultural and legal memory which – besides the traditionalist culture of the nobility – was appropriated by the discourse of enlightened absolutism, as we will see. The absolutist image, which was constructed by Kollár, returned in a number of other cases. For Kollár and Benczur, the figure of the feudal king, Saint Stephen paradoxically became the tool with which they attempted to deconstruct the feudal world of the Hungarian nobility.

### **3. The Power of Natural Law**

Generally, in the 1780s and 1790s the image and authority of Saint Stephen did not completely disappear from the political writings, but became transformed and somewhat less important compared to ideas of natural law. Kollár and Benczur did a meticulous archival and philological work in order to reshape the image of royal power in Hungary. As it has been shown, they read the works of Grotius, Pufendorf and other philosophers of natural law, but their argument was heavily based on historical documents and logic, rather than natural law theory. An indicator of this was that they never mentioned the theory of social contract, in

spite of the fact that its absolutist adaptation was part of the official legal text books at that time.

After the 1780s, however, the idea of social contract became the foundational element on which the argumentations about royal power and authority were based. The social contract theories of Martini as well as Rousseau are equally present in the political theory texts, produced in the 1780s and 1790s.

Karl Anton von Martini was the canonical philosopher of absolutism in the German speaking world. His legal textbook the, *De lege naturalis positiones* was published in 1762. He was the teacher of the children of Maria Theresa and later became an important person in the government and an advisor for the royal reform initiatives.<sup>97</sup> Martini's textbooks - as Julia Berest summarized - "combined the traditional absolutist principles of the well-ordered state with ideas of religious toleration (justified from an ecumenical standpoint), property rights and humane treatment of criminals."<sup>98</sup> His ideas were closely connected with those reforms that characterized the reign of Maria Theresa and Joseph II. For example, according to Sándor Eckhardt, it can be attributed to Martini's influence, that Joseph II regarded himself as the manifestation of the common will of the people joined in a social contract. This practically meant for him that he did away with the ancient county system of Hungary.<sup>99</sup> Győző Concha also showed that the idea of the social contract penetrated the Hungarian political thinking through the official text book of Martini.<sup>100</sup>

Following the Wolffian philosophy, Martini thought that perfection was the most important moral principle, which urges people to fulfill their duties in this world to God, to themselves and to their fellows in society. The moral judgement of actions, whether they

<sup>97</sup> Julia Berest, *The Emergence of Russian Liberalism Alexander Kunitsyn in Context, 1783-1840* (New York: Palgrave Macmillan, 2011). 132; Lässer, Gregor. "Martinis Naturrechtslehre als Hauptquelle für Privatrecht," in *Karl Anton von Martini* ed. Heinz Barta, (Vienna: 2007) 135-196.

<sup>98</sup> Berest, *The Emergence of Russian Liberalism*, 132-133.

<sup>99</sup> Eckhardt Sándor, *A Francia forradalom eszméi Magyarországon* (Budapest: Lucius Kiadó, 2011) 29.

<sup>100</sup> *A kilencvenes évek reformeszméi és előzményeik*, 11.

are good or bad, depends on their capacity to promote or hinder human perfection. For Martini, the social contract supported and confirmed, not limited the power of rulers.

The king has the *jus perfectum* - that is the right to force another person<sup>101</sup> - to determine the permitted actions of the subjects. This is also called *potestas* which comes from the social contract. "The ruler can make laws for the subjects, he can use all the necessary means for this goal, and protect these laws by legal sanctions. Since the vigor of these laws depends on his decision, he can change and abolish them, but himself is free from obliging them."<sup>102</sup> However Martini also writes that rulers "cannot make other laws, than those which promote public good, and his laws cannot violate those (laws) which are contained by the contract."<sup>103</sup> The power (*imperium*) which is restricted only by nature and the essence of society (*essentia societatis*) is absolute. The one, which acquires its limits from accidental pacts, is tempered. If power collides with the permitted actions of the subjects, than that power is despotic.<sup>104</sup> Once the society gave his power to the ruler, they cannot resist.

Rousseau's books were officially banned in the monarchy; however from the 1790s his ideas of the social contract become influential for the political discourse. For instance, the idea that the social contract can be corrupted, when the stronger take over political power and turn to their advantage, is a Rousseauian idea. Rousseau also stressed that if the predecessors of a society alienated their liberties, it cannot be transferred to the new generation, who are free to make their lives better. These become extremely important tenets for the Josephinists and Enlightened thinkers of the 1790s.

---

<sup>101</sup> Karl Anton von Martini, *De Lege Naturalis Propositiones* (Vienna: Trattner, 1778) 36.

<sup>102</sup> Ibid. 208.

<sup>103</sup> Ibid. 208.

<sup>104</sup> Ibid. 208.

## Grossing: agent provocateur

Another scandalous book about the Hungarian public law was Franz Rudolf Grossing's *Jus publicum Hungariae*, published in 1786.<sup>105</sup> Grossing started his career as a Jesuit, and then in 1777, he was given a position at the Chancellery in Vienna. However, later he was found guilty in fraud, had to leave his office and was sent to prison. Later, Grossing had to leave the monarchy and lived in Berlin and Halle and organized a pseudo-freemasonic order. Domokos Kosáry thinks that Grossing published this work in order to regain the grace of the court.<sup>106</sup> The introduction of his book stresses that Grossing was writing the book in the year of 1777 and it was commissioned by Maria Theresia. According to Éva H. Balázs, Grossing only reformulated a text written originally by József Benczur.<sup>107</sup> In any case, the book caused a great stir in Hungary and many read it as a provocation.<sup>108</sup> I think, even if the base material of the work was written by Benczur, Grossing added much more to it, since he was more adaptive in applying natural law theories, especially from Martini, than Benczur.

Somewhat similarly to the previous works, he thought that Hungarian kings had absolute royal power since Attila. It was never limited by diets or other assemblies of the nobility. Kings could make laws according to their own will (*pro lubitu*) and could order whatever they wanted by their *plena potestas* for the *salus publicae*.<sup>109</sup>

Grossing writes that the “authority of the king is the spirit of the kingdom” (*Regis auctoritas anima regni est*)<sup>110</sup> If it is injured, than the body of the entire country will suffer. Unlike mixed monarchies, Hungarian royal power – since it is absolute – cannot be limited

---

<sup>105</sup> German edition: *Ungarisches allgemeine Staats- und Regiments-Recht* (1786).

<sup>106</sup> Kosáry, *Művelődés*, 595.

<sup>107</sup> H. Balázs Éva, *Berzeviczy Gergely a reformpolitikus*, 45.

<sup>108</sup> Kosáry, *Művelődés*, 596.

<sup>109</sup> Grossing, *Jus publicum Hungariae*, 41.

<sup>110</sup> *Ibid.* 284n.

by any pacts.<sup>111</sup> Thus it is against its very nature, to limit it with coronation charters and oaths, and no such thing was in use before the reign of Charles I.<sup>112</sup> The idea - writes Grossing – that kings cannot make laws without the nobility is well-known tenet only since Werbőczy.<sup>113</sup> However, Grossing asks, that if one can accept the idea, that right of legislation and jurisdiction was transferred to the king, as it is written in the *Tripartitum*, than what power remained in the hands of the people?<sup>114</sup> Before Charles I the nobility did not have any right for legislation. Saint Stephen wrote: “*Nos Rex statuimus Genti Nostrae*”<sup>115</sup> where there was no mentioning of people in the process of making the law. Grossing writes that if anyone could show that the estates retained any part of this legislative power, they should show that ancient contract which was made between the monarch and the people. If there is any such content than “he will not go, but fly” to accept the opinion of those who argue so.<sup>116</sup>

After this claim, it is no wonder that a political pamphlet from 1790, the *Vox litteratorum*, starts its argument with a combination of the social contract and the division of powers. According to the author, at the beginning of society, when people decided to join in order to secure their liberties and security, the three branches of power – legislative, executive and juridical – became separated and this made up the nobility.<sup>117</sup>

Interestingly, Grossing is well aware of Montesquieu’s separation of powers, but in his imagination all three are exercised by the king, while he defines the Hungarian king’s absolute power by the double-head of the legislative and executive powers.<sup>118</sup> With this power, kings can change laws, create and abolish them, including the liberties and privileges of the nobility.<sup>119</sup> In Vienna, everything seemed to be suspicious which threatened absolute

---

<sup>111</sup> Ibid. 53.

<sup>112</sup> Ibid.

<sup>113</sup> Tripartitum Book II; 3 title.

<sup>114</sup> Franz Rudolf Grossing. *Jus publicum Hungariae*. (Hala Saxonum, 1786) 44.

<sup>115</sup> Ibid. 44.

<sup>116</sup> Ibid. 45.

<sup>117</sup> Eckhardt, “*A francia forradalom eszméi*” 26.

<sup>118</sup> Grossing, *Jus publicum Hungariae*, 283.

<sup>119</sup> Ibid. 283.

royal power by providing legislative power to the nobility. When János József Zelenay, professor of Law at the University of Nagyszombat, submitted his legal textbook to the censure in 1772, they made complaints about sentences where he was talking about the “democratic limitations” in the character of the monarchy in Hungary.<sup>120</sup> According to Grossing, Hungarian diets were like French parliaments which could not limit the legislative power of the king.<sup>121</sup>

While Benczur in his earlier works did not talk about the origins of absolute power, only the way in which dukes passed it over to the king, Grossing involves the idea of the social contract theory of Martini in his argumentation. He says that the fundamental constitutions (*fundamentales constitutiones*) of the kingdom are derived from that social contract which was made between Álmos and the ancestors of the Hungarian people. They gave up the liberty that they have enjoyed formerly, and subjected themselves under one power. From that point royal power is absolute and hereditary. For Grossing, this is the ancient contract to which Hungarians should return back.

Citing Werbőczy, Grossing writes, that “the king’s Majesty in which all *imperium* of government is transferred, is also the fundament on which all laws of Hungary are based” (*Regis Majestatem, in quem imperium omne cum regimine translatum est, fundamentum illud esse, cui universa Hungariae Jura innituntur*).<sup>122</sup> Grossing fashions the social contract and the principle which was derived from it as the origin and basis of the legal system. While for Kollár, the same basis was provided by the *Decreta* of Saint Stephen, Grossing applies for the construction of absolute power the concept of Martinian social contract. Thus, one can easily observe how the royal claims of absolute power were more strongly underpinned by natural theory arguments.

<sup>120</sup> Fináczy, *A magyar közoktatás története Mária Terézia korában II*, 79.

<sup>121</sup> Grossing, *Jus publicum Hungariae*, 290.

<sup>122</sup> Ibid. 48.



## Beck: An old-new text

The work of Christian August von Beck – Maria Theresa’s councilor and teacher of Joseph II<sup>123</sup> – the *Jus Publicum Hungariae*, was originally published in 1752 as the first section of the book – *Specimen II. Juris Publici Austriaci Ex Ipsis Legibus Actisque Publicis Eruti* – in which the public law of Hungary and Bohemia was discussed. The 1790 edition was annotated by József Benczur.

This work did not overemphasize the role of Saint Stephen and the early Hungarian kings, rather it showed the importance of Habsburg pacts with Hungary of 1458, 1687, or 1723 which he tries to support with natural law theories. Beck thought that the Hunns originally formed an aristocratic society which was transformed to monarchy by Saint Stephen. At that time Hungary was not an absolute monarchy since the kings held feudal assemblies, although Benczur adds his notes to the passage by saying that these assemblies gave advice rather than provided consent.<sup>124</sup> Furthermore Beck acknowledges that Stephen received his *suprema potestas* from the estates.<sup>125</sup> Obviously this text was very mild compared to the former writings of Theresianists.

When Kollár attempted to remind the nobility of their important role in the kingdom, he was citing Saint Stephen’s admonitions to his son: “*illi enim sunt regni propugnatores, defensores imbecillium, expugnatores adversariorum, augmentatores monarchiarum.*”<sup>126</sup> On the other hand, when Beck writes that the order of the Hungarian nobility is an essential

---

<sup>123</sup> Herman Conrad, *Recht und Verfassung des Reiches in der Zeit Maria Theresia. Die Vorträge zum Unterricht d. Erzherzogs Joseph im Natur- und Völkerrecht sowie im Deutschen Staats und Lehnrecht* (Köln : Westdeutscher Verlag, 1964) 11.

<sup>124</sup> Beck, Christian August von. *Jus Publicum Hungariae cum notis auctoris et observationibus Josephi Benczur* (Vienna: Krauss 1790) 21.

<sup>125</sup> Ibid. 21.

<sup>126</sup> Kollár, *De originibus*, 151.

requisite for monarchs,<sup>127</sup> he cites Montesquieu: “without monarchy, there was no nobility; without nobility, no monarchy.”<sup>128</sup>

Beck thinks that it was extremely fortunate that in 1687, the nobility’s right of resistance was abolished. He thinks that it is against the natural law to resist the ruler, since it can lead to constant struggles. Beck argues further, that people cannot make a judgement about the deeds of rulers, because they do not know the hidden reasons of the ruler’s acts.<sup>129</sup> Thus their resistance would only stop rulers in fulfilling their obligation in promoting the public good. Although the text does not talk explicitly about the boundaries of legislative and executive powers, but from this part one can infer, that Beck reserved them for the ruler.

According to Beck, before 1687 Hungary was not entirely hereditary nor was entirely elective kingdom either. He thinks that succession was tempered by the competition for the acknowledgement of the barons and the high clergy.<sup>130</sup> However, it is much better to have a hereditary system, because one can avoid the turmoil and chaos like the ones which occurred in Poland. Based on Montesquieu, Beck argues, that the hereditary system is an advantage and necessity of the kingdom, because in this way the country can be preserved and great turmoil around the election can be avoided.<sup>131</sup> Montesquieu writes that “[i]t is better to say that the government most in conformity with nature is the one whose particular arrangement best relates to the disposition of the people for whom it is established.”<sup>132</sup>

Among the texts, examined here, this is the first appearance of the word *constitutio*. The word comes up, when the author talks about the internal constitution of Hungary - territory, peoples, languages, county system etc. The Latin word of *constitutio* is the translation of the French word of *disposition*. Thus laws must be adapted to the already

<sup>127</sup> Beck, *Jus Publicum Hungariae*, 223.

<sup>128</sup> Montesquieu, *The Spirit of the Laws* (Cambridge: Cambridge University Press, 1989). Book 2, IV.

<sup>129</sup> Beck, *Jus Publicum Hungariae*, 58.

<sup>130</sup> Ibid. 62.

<sup>131</sup> Ibid. 71.

<sup>132</sup> Montesquieu, *The Spirit of the Laws*, Book 3. VIII.

existing arrangements and dispositions of the society and the country which altogether show what a country's constitution is. The term, *constitutio*, which became one of the key words of Hungary's early political modernity in the 1790s, will be discussed later.

These reflect different backgrounds and viewpoints of the authors as well as different theoretical strategies in the service of absolute royal power. For the Austrian Beck, the significance of Saint Stephen was comparatively smaller, than those contracts which were made between the Habsburgs and Hungary. The idea of the social contract is absent from the text, but Montesquieu's influence becomes important. The book from 1752 probably was republished again after Joseph's death, because after so many radical changes, the court needed to produce a public law which represented the *status quo*, the basis from which the *tractatus diaetalis* was started. The style and argumentation of this texts resembled French Enlightenment, although its content and ideas were profoundly absolutistic and not at all far from what Benczur ultimately wanted to achieve.

### **Changing Meanings: Ancient Liberty and Josephism**

In the discursive space of the 1790s there was a great battle going on whose stake was to give a meaning to the words which determined the outcome of political agendas. Not only was the question important as to which laws or which measures are kept or discarded, but also which interpretation of concepts was valid in the discourse. What I am going to do in this chapter is to examine these attempts in the context of understanding royal power in the 1790s by Josephinist thinkers.

One of the most important and always recurring concept was liberty. After Joseph II passed away, the estates who wanted to restore their ancient feudal privileges came up with the argument that *filum successionis interruptum* which meant that by Joseph II's reign, the

dynasty broke the contract between them and the estates thus the hereditary rights of Maria Theresa's successors were broken.<sup>133</sup> Writers of the nobility expressed their concern about the restoration of *avita libertas*, the ancient liberties of the nobility. Ideas like the kingdom degrades to servitude if the liberty of the Hungarian nobility is suppressed (*suppressa Nobilitatis Hungaricae libertate*)<sup>134</sup> were prevalent in the political discourse of the nobility. Consequently the nobility at the diet of 1790 asked for the restoration of ancient rights and liberties (*ösi Juffaink és szabadságink helyre állításába*<sup>135</sup>, *manutentionem avitae noftrae libertatis*<sup>136</sup>), demanding that that Leopold II should respect the Hungarian laws and constitutions as well as the liberty founded in them (*leges & constitutiones, ac in his fundatam Libertatem*).<sup>137</sup>

These liberties, or *privilegia* were defined according to medieval laws of the Golden Bull of 1222 that became utterly outdated by the 1790s. They do not refer to personal liberties but rather as immunities. Werbőczy's legal compendium, the *Tripartitum* which had biblical authority among the nobility, in the famous passage that is called "*primae nonus*" (the ninth chapter of the first book), contains all the essential liberties of the Hungarian nobility: (1) they cannot be arrested without court decision, (2) they are subject only to the lawfully crowned king, (3) they are free from paying taxes and free to deal with their property, and finally (4) they possess the *ius resistendi* which meant that if the king did not fulfill his royal duties they could resist him.<sup>138</sup> According to the 18<sup>th</sup> century political theorist, József Hajnóczy, these were the point that were thought to be the fundamental laws (*leges fundamentales*) in Hungary and were called as such in the resolutions of 1741 VIII. article.<sup>139</sup>

<sup>133</sup> Beck, *Jus Publicum Hungariae*, 72.

<sup>134</sup> Forgách Miklós, *Ab optimo Principe candida postulata* (1790) 13.

<sup>135</sup> *Budán 1790dik Esztendőben Tartott Ország Gyűlésének alkalmatosságával írásban bé-nyújtott 's Köz-tanátskozás alá vet Dólgok, és Munkák* 29.

<sup>136</sup> *Ibid.* 510.

<sup>137</sup> *Vox literatorum Hungariae filiorum ad comitia Regni Anni 1792 di.* (1792) 15.

<sup>138</sup> This right was suspended by the resolutions of 1687 IVth article.

<sup>139</sup> Csizmadia Sándor (ed). *Hajnóczy József közjogi-politikai munkái* (Budapest: Akadémiai Kiadó, 1958) 236.

I will return to this term later. Of course – as the historian János Poór pointed out<sup>140</sup> – in the 18<sup>th</sup> century these terms were not clearly defined.

Thus, when the nobility protested for the restoration of their ancient liberty, they had probably all these things in mind. One of the questions that came up during and after the reign of Joseph II was whether it is possible to change these fundamental laws – which more often were called as *Regni constitutio* as we will see later – and more importantly who had the right to make any changes in the ancient liberties of the nobility. These were the questions which also invoked the need to rethink the limits and spheres of the power of the *regnum* as well as the king.

In the absolutist theory of Kollár, the *vetusta libertas* meant all the ancient privileges, which were discussed above. Similarly, *lex fundamentalis* was also connected to the exemptions of the nobility, although it remained obscure what he might have meant by that. He writes that it is a fundamental law of the country that the nobility has to defend the kingdom and that kings did not give the liberties to the nobility to offend the fundamental laws.<sup>141</sup>

Benczur writes that Hungarians never let their liberty be dominated by foreign rulers or countries (*ut numquam imperium dominationem alicuius principis genitisque externae admiserit*)<sup>142</sup> Furthermore, he calls this a *prerogativa* that they tried to defend by all means. Thus Benczur by using this words – which are extremely important in the vocabulary of the Hungarian nobility – he can present the absolute power of the Hungarian kings as something that is inherent to the liberties of the *gens Hungarica*, that is the nobility. In the work, *Commentatio*, Benczur calls those laws fundamental which are thought to restrict the power

<sup>140</sup> Poór János „*Király, rendek, rendi alkotmány a kora újkor végi Magyarországon*” *Café Babel*, 65 (2010) 84.

<sup>141</sup> Kollár, *De originibus*, 150.

<sup>142</sup> Benczur József. *Ungaria semper libera*, Introductio.

of the king.<sup>143</sup> Here, he must have referred to the privileges of the nobility which restricted the king's action.

This traditional picture becomes radically changed with natural law theories. From here, the meaning of liberty will be challenged. Grossing writes that their liberty is the ultimate point from which the nobility tries to defend their position against royal power. They claim they were given a liberty that, however, nature placed also in our hearts. They protest, that they are thrown under royal yoke. The nobility, who wants to be restored to their ancient liberty (*pristinaeque restitutos libertati*), do not understand what liberty is. Since real liberty – argues Grossing – is the security of the citizens. If someone does not add anything to its conservation, but places the burdens of civil society on the shoulders of others, than he or she is far away from *libertas* and is simply the subject of *licentia*.<sup>144</sup> He comes up with Montesquieu's ideas of liberty. According to which there are two types of liberty: philosophical, when one can do whatever he or she wants; and political, which means that one is allowed to do whatever is permitted by laws. If the nobility really understood these principles, "they would give up those prerogatives that we understood today under the name of liberty."<sup>145</sup>

In 1790, a similar idea was promulgated, in an anonymous political pamphlet, A' *Magyar-Ország-gyűlésiben egyben-gyűlt Méltóságos és Tekintetes Nemes Rndekhez 1790-dik Esztendőben tartattatott Beszéd*, written by Ignác Martinovics, who at that time was a royal agent, but later became the organizer of the Jacobin conspiracy.<sup>146</sup> He urges the Hungarian nobility to read the works of great authors about "the meaning of true liberty."<sup>147</sup> He thinks that liberty will be introduced into civil society, when fundamental laws make possible for

<sup>143</sup> Ibid. 30.

<sup>144</sup> *Jus publicum Hungariae*, 293.

<sup>145</sup> Ibid. 294.

<sup>146</sup> Eckhardt, *A francia forradalom eszméi*, 52.

<sup>147</sup> Martinovics Ignác. A' *Magyar-Ország-gyűlésiben egyben-gyűlt Méltóságos és Tekintetes Nemes Rndekhez 1790-dik Esztendőben tartattatott Beszéd* (1791) 16. The original Latin text – *Oratio ad procures et nobiles Regni Hungariae* (Vindobona, 1790) was translated by János Laczkovics.

anyone to deal with their private property.<sup>148</sup> According to Martinovics, the social contract was made for the well-being of everyone, not only the nobility.<sup>149</sup> It is needed for maintaining common good.

Martinovics's social contract idea shows the influence of Rousseau. Martinovics writes that in the early times the social contract became corrupted, when some of the people gained prominence whereas others became subjected to them. Thus the existence of hereditary nobility is not compatible with the social contract.<sup>150</sup> The nobility unlawfully abused the legislative power in the last centuries, and even if laws existed which allow this to them, the loss of liberty cannot be transferred to the next generation, thus these ancient laws do not apply to the present time.<sup>151</sup> In the beginning of his text he calls for the defense of "our ancient liberty" (*Ősi örökséges szabadságaink*).<sup>152</sup> For the 18<sup>th</sup> century noble reader this expression might have sounded as the ancient liberty term in the common political discourse, that is the noble prerogatives. On the other hand, it turned out, that what he meant was the ancient liberty, which is much older than the noble privileges, the ones which derive from the social contract, and belong to everyone, not just the nobility.

Similarly, for József Hajnóczy, the *cardinalis libertas*, i.e. one cannot be detained without first being sentenced – that belongs now to the nobility should be given to all, who owns land, because this liberty is founded in the nature of civil society (*cardinali in natura societas civilis fundata libertate*).<sup>153</sup> The author of the pamphlet, *Ein unpartheiisches aber lautes Wort* writes, that Joseph II wanted to restore (*zurückstellen*) liberties, but the nobility conspire against liberty. Joseph II gave back freedom of religion and freedom of press – says

---

<sup>148</sup> Ibid.

<sup>149</sup> Ibid. 17.

<sup>150</sup> Ibid. 19.

<sup>151</sup> Ibid. 24.

<sup>152</sup> Ibid. 4.

<sup>153</sup> Hajnóczy József, *Dissertatio politico-publica de regiae potestatis in Hungaria limitibus* (1791) 166.

the author – for which their predecessors had to suffer persecution.<sup>154</sup> These are just examples about the meaning of the great shift that occurred in the meaning of liberty. Its character had been understood differently: It is natural liberty, born with the people and limited by the social contract, a law that is more ancient than those which were made in the centuries. Natural law has the power to overwrite human laws. For Kollár, as we have seen, the author of *vetusta libertas* was the king. Here the king is no longer the author, but restorer of ancient natural liberties, the ones which are not codified in laws but inherent to human nature, derived from the social contract and antagonistic to privileges.

For Kollár and Benczur the king theoretically was entitled to abolish privileges because he was the author of them. For the Josephinists, the king is entitled to do so, because these privileges go against the common good, human rights, laws of nature, the social contract and human reason. The ruler is allowed to abolish them even by using force.<sup>155</sup>

Consequently, Martinovics shares the belief with other Josephinists that only the king's laws really serve the interest of the common good. The king is entitled to make fundamental laws and execute them for the common good. If in monarchical states the aristocracy gets the legislative power, then the state will become mixed, aristocratic-monarchic, where the aristocracy will concentrate only on their private good.<sup>156</sup> Thus, the liberty contained in the natural law and social contract is the basis and the fundament of all other laws. For Grossing, the essence of the social contract was the absolute power of the king, for Martinovics it is civil liberty expressed in the laws of the king which is the measure of laws. At this time Martinovics did not transgress the boundaries of Martini's laws concerning royal power.

A radically different direction was taken by Lipót Hoffmann's anonymously published pamphlet, the *Babel*. The author's argument sounds like that of Thomas Hobbes.

<sup>154</sup> *Ein unpartheiisches aber lautes Wort*, 10.

<sup>155</sup> Martinovics, A' *Magyar-Ország-gyűlésiben egyben-gyűlt*, 172.

<sup>156</sup> *Ibid.* 28.



Hoffmann probably became angered by the nobility's protests for their loss of liberty after the death of Joseph II. Otherwise it would be difficult to understand his fundamental anger against any kind of liberty. He writes, that "the barbarian expression of liberty is very common among the Hungarian nobility"<sup>157</sup> This liberty is the power of the stronger over the weak.<sup>158</sup> According to Hoffmann human beings are driven by the desires of liberty and dominating others. This leads to revolutions and great turmoil. Catilina, Mirabeau, Cromwell caused great chaos by this word. People – who live in society, have obligations and duties under the supervision of a higher power and at the same time want liberty – do not really know what they want.<sup>159</sup> *Freyheit* is a word which – according to Hoffmann – does not have any meaning in civil society, only in the state of nature. Liberty should be obliterated from all dictionaries, because it is the condition of arbitrary will where the human being is under no constraint (*Zwang*).<sup>160</sup> Since society is based on law that apply to all, there is compulsion and consequently there cannot be freedom.<sup>161</sup> According to Hoffmann, the king ought to serve the common good, but not liberty.

All these arguments show that referring back to the social contract shows a past oriented temporality, different from that of ancient Hungarian laws, because it also opens up a plane for a future oriented vision of the development of human society. István Szigjártó examined a great variety of speeches given at different diets in 18<sup>th</sup> century Hungary, where he noted that past oriented argumentation of historic laws, mingled with future oriented natural law argumentations.<sup>162</sup> The political language of the social contract and its urge to return back to the origins of society opened up the vision of rebuilding the entire system of laws, the task of which was delegated to the king by Josephist theorists.

<sup>157</sup> Leopold Alois Hoffmann, *Babel. Fragmente über die jetzigen politischen Angelegenheiten in Ungarn*. (Gedruckt im römischen Reiche. 1790), 26.

<sup>158</sup> Ibid. 27.

<sup>159</sup> Ibid. 18-19

<sup>160</sup> Ibid. 24.

<sup>161</sup> Ibid. 224.

<sup>162</sup> Szigjártó, *A 18. század rendi országgyűlései*, 16.

## Making Constitutions

The words, *constitutio*, *alkotmány* and *Verfassung* were terms used often during the early-modern era of Hungarian history. Henrik Marczali shows that the word *constitutio* was used during the reign of the Árpád-dynasty as a concept for royal resolutions which were given the authority of laws. The Hungarian collection of laws, the *Corpus Juris Hungarici*, calls the royal laws *decreta*, while the word *constiutiones* applied for the decisions of the estates made during the times when the country had no legally crowned ruler.<sup>163</sup> On the other hand, István Werbőczy used the word *constitutiones*, *decreta* and *statuta* in the meaning of “written law.” However, whereas *statuta* and *constitutiones* could have general or local significance, *decreta* are always used in general contexts and they were enacted by “the king either on his own authority or with an assembly of the nobility.”<sup>164</sup> Thus, *constitutio* – and more often in plural as - *constitutiones* were used interchangeably with laws, decrees and articles throughout the medieval and early modern era.

The significant shift in the meaning of *constitutio*, is dated by Marczali, János Poór and László Péter to around the 1790s. László Péter argues that by reading The Spirit of Laws, the Hungarian estates realized that their collection of old customary rights can actually be seen as a constitution.<sup>165</sup> In the second half of the 18<sup>th</sup> century the word constitution was used to refer to “the entire social and governmental structure” of Hungary, while not until the 1830s did the words *ősi alkotmány* or *avita constiutio* become generally used terms. The idea

<sup>163</sup> Marczali Henrik, 'Alkotmánytervezetek 1790-ben' in *Budapesti Szemle* (125) 1906. 396.

<sup>164</sup> László Péter, 'The Irrepressible Authority of the Tripartitum' in *The Customary Law of Hungary* ed. János M. Bak, Péter Banyó, Martin Rady (Schlacks-CEU: Idyllwild-Budapest, 2005) xiii.

<sup>165</sup> Péter, “Montesquieu’s Paradox on Freedom and Hungary’s Constitutions 1790-1990” 156.

that Hungary had an unwritten constitution<sup>166</sup> whose development shows parallel traits to the English historical constitution became a prevalent myth throughout the era and beyond.<sup>167</sup>

The meaning of the Hungarian notion – *alkotmány* – meant something which was “assembled, especially a building” (“*etwas Zusammengesetztes, insbesondere ein Gebäude*”).<sup>168</sup> No wonder that the constitution was imagined like a stronghold (*vár*), against foreign attacks, against Vienna. It was built throughout the ages where all the rights were imagined as building stones. The building must have been strengthened by new guarantees of privileges. The metaphor also invoked the idea of a building which belongs to the *natio Hungarica*, delineating a prohibited place for the King.<sup>169</sup>

Henrik Marczali defines the new meaning of the constitution as the “entirety of the legal status” (“*törvényes állapot teljessége*”)<sup>170</sup> which does not appear before the rule of Joseph II. Marczali argues, that neither the Golden Bull of 1222, nor any other decree used the word in this sense. He maintains that the emergence of a new meaning and the realization of the entirety of the legal structure were galvanized by Joseph himself, who did not attack single customs or rights but the entire legal framework. Marczali writes, that the Hungarian estates realize only then, that “harming any of its part has an effect to the whole”<sup>171</sup> In his view the first time *constitutio* was used in the above mentioned meaning was in Bihar county in 1786 when they used the terms “*Constitutio politica, pacta et leges fundamentales*” approximately this way.<sup>172</sup> It is obvious from all these, that the transformation of the word *constitutio* is also apparent in its usage in the singular, although the term *fundamentales*

<sup>166</sup> Hungary did not have a written constitution until 1949.

<sup>167</sup> Concha Győző. “Az angolos irány politikai irodalmunkban a múlt század végén”, *Erdélyi Múzeum* 2 (1880): 33-44.

<sup>168</sup> Péter, ‘*Die Verfassungsentwicklung in Ungarn*’ 256.

<sup>169</sup> Ibid. 256.

<sup>170</sup> Marczali Henrik, *Az 1790/I. évi országgyűlés*, 110.

<sup>171</sup> Ibid.

<sup>172</sup> Marczali, ‘*Alkotmánytervezetek 1790-ben*’ 397.

*constitutiones* and *fundamentales leges*, were used very often in the 1790s, but the change is very well articulated in many cases.

After the death of Joseph II, Josephinists argued that kings could not only make new laws, as Theresian tradition argued, but they were also entitled to create a new constitution. This was connected to the impression that times change. The notion of progress and development became an undeniable part of the political theory and imagination. Many of the contemporaries were struck by the realization after the years of Joseph II that things cannot be as they were. The entire system needed to be laid on new grounds. This entire system was called: constitution.

Two Josephinist papers must be mentioned here which caused a similar upheaval like Kollár's work. Both the *Babel* and the *Ninive* were written by Alajos Lipót Hoffmann, a university professor of humanities in Vienna and Pest.<sup>173</sup> He made a severe attack on the nobility and the customs of the outdated country. The goal of the *Babel* was to navigate the country out of the turmoil. The author supports the endeavors of the court and criticizes the nobility for its backwardness and false understanding of liberty which he associates with chaos. The *Ninive* criticizes the nobility's hatred towards Germans, their unfashionable garment and uncultivated minds and that they do not yield the reforms of the court.<sup>174</sup> Both works were answered by a number of other pamphlets.

In the *Babel*, Hoffmann writes that Joseph II indeed shocked the old *Landesconstitution* of Hungary, since he passed laws which went against this old constitution.<sup>175</sup> Hungarians developed the argument that because of Joseph II anti-constitutional (*constitutionswidriges*) deeds, the hereditary rights of Maria Theresa's

<sup>173</sup> H. Balázs Éva, *Berzeviczy Gergely, a reformpolitikus*, 158-159.

<sup>174</sup> Ballagi, Géza. *A Politikai Irodalom Magyarországon 1825-ig* (Budapest: Magyar Irodalmi Intézet és Könyvnyomda, 1888) 384-386.

<sup>175</sup> Hoffmann, *Babel*, 51.

successors was broken.<sup>176</sup> However, he thinks that all this infers the idea that the Hungarian constitution is unchangeable and it is not possible to develop it further. To attribute such a political infallibility (*politischen Unfehlbarkeit*) to the constitution is a mistake in the eyes of Hoffmann.<sup>177</sup> Not all the things which are old are necessarily good as well and immutable. The question for the author is not whether the constitution is changeable, but whether it is good or not.

Then Hoffmann defends Joseph II's grand changes by arguing that kings have the right to change the constitution of the country. Whenever a king – he argues – ascends the throne he must examine the constitution of his kingdoms (*Verfassung seines Königreichs*) and ask his conscience, whether as an honest person he can leave it as he found it and whether he can support it.<sup>178</sup> After doing so, Joseph II realized – according to Hoffmann – that the Hungarian constitution had some errors to mend. Joseph, as king, felt that it is his holy royal duty to fix all those things that he thought to be erroneous.

In the eyes of Joseph, one of the flaws of the Hungarian constitution was that the Hungarian nobility abused the legislative power (*gesetzgebende Gewalt*) and for centuries they behaved in legislation like the lion with the prey. The lion keeps the best parts of the prey for himself and leaves only the bones for the other animals as a reward for their efforts.<sup>179</sup> Hoffmann says that this is the true picture of the customary legislation in Hungary (*gewöhnlichen Gesetzgebungsart*).<sup>180</sup> The nobility and the clergy secure all the benefits for themselves and leave the burdens for the rest of the society. Hoffmann writes that the Hungarian estates made laws for others while they themselves did not have to follow them. The Hungarian nobility probably realizes – says Hoffmann – their sole power (*Eigenmacht*) contradicted all natural fairness and was based on the subjection of the equal creatures of

---

<sup>176</sup> Ibid. 72.

<sup>177</sup> Ibid. 52.

<sup>178</sup> Ibid. 53.

<sup>179</sup> Ibid. 54.

<sup>180</sup> Ibid. 54.

God. Hoffmann writes with a great amount of irony that the nobility could maintain their position by the philosophy of inhumanness (*Philosophie der Unmenschlichkeit*) which was based on the idea of the strong repressing the weak.<sup>181</sup>

The concluding chapter of the Babel is actually a speech given by Saint Stephen. Here Saint Stephen is on the side of the Habsburg rulers and reproaches the Hungarian nobility for not being honest to their current king who is indeed a lawful ruler, ancestor of Leopold I, who in 1687 established hereditary succession in the male line of the Habsburg family in Hungary. The author says to the Hungarians that “*Sklaven eines unkristliches Barbaren wäret ihr und eure ganze Nachkommenschaft ohne die Rettung Leopolds.*”<sup>182</sup> Stephen asks whether they want to break the contract of their ancestors and build their new constitution on such an act. The author uses the image of the strong medieval ruler to defend royal power of the Habsburgs. Stephen says that he was also king once and that his country gave him great power. Then Stephen continues: “*Aber ich hätte auch nicht König seyn wollen, wenn man mir befohlen hätte, den Vorschriften unweiser Klüglinge, die nicht als Könige, sondern als Tyrannen im Lande herrschen wollen, zu gehorchen.*”<sup>183</sup> He then asks the question: when people are more fortunate, when they are under weak kings, or under the “*hundertköpfigen Despotismus der Republiken*”<sup>184</sup> or under a king, who has a certain amount of power over his people?<sup>185</sup>

The image of a strong medieval ruler was reapplied for the purposes of Josephinist argumentation. Saint Stephen – as was constructed by Kollár – became a primary tool for representing the current political power of the Habsburg kings. In the *Ninive* the image of Saint Stephen was used for underpinning enlightened goals of knowledge, progress and cosmopolitanism.

---

<sup>181</sup> Ibid. 56.

<sup>182</sup> Ibid. 97.

<sup>183</sup> Ibid. 108.

<sup>184</sup> Ibid. 108.

<sup>185</sup> Ibid. 108

Hoffman writes in the *Ninive*, that Hungarians have an undeveloped concept of freedom. They pretend to read the authors of the enlightenment, Voltaire, Rousseau, Montesquieu, but for them they are only a “*Modelektür*”<sup>186</sup>. They read something in Rousseau about the social contract, but they hardly understood it.<sup>187</sup> They are hostile against the foreigners, although these would help the Hungarian development with their knowledge. The author writes that foreign people should be invited to the country as it was thought by “*der große und gute Stephan der heil. seinem Sohne Emerich, daß er Fremde zu sich ruffe*” and “*durch ihre Wissenschaft sein Land blühend mache.*”<sup>188</sup> The interpretation of the open-minded and curious Saint Stephan – as it was promulgated by Hoffmann – is far from the tyrannical fanatic depicted by Frigyes Trenck.<sup>189</sup>

The author – who was all probably the evangelist preacher, János Molnár<sup>190</sup> – of the *Politisch-kirchliches Manch Hermaeon von den Reformen Kayser Josephs überhaupt vorzüglich in Ungarn*, wrote, that reading about the constitutions of countries, what he really finds

<sup>186</sup> Hoffmann Leopold Alois. *Ninive. Fortgesetzte Fragmente über die dermaligen politischen Angelegenheiten in Ungarn. Nebst einer wichtigen Beilage* (Im römischen Reich gedruckt, 1790) 19.

<sup>187</sup> Ibid. 16.

<sup>188</sup> Ibid. 41.

<sup>189</sup> Of course, in the Enlightened discourse one can find the opposite interpretation of Saint Stephen's image. Another, entirely different direction was taken by Frigyes Trenck, a Prussian nobleman, who was the feared critique of the Church in the 1790s. In several pamphlets and writings Trenck seriously criticized the Church from a clearly Josephinist point of view. According to Sándor Eckhardt, he imagined himself in the role of Voltaire in Hungary (Eckhardt, 129). In the *Mérő serpenyő, mellyel a fejedelem és a papság hatalmát össze-mérte Trenck* [Pair of scales with which the power of the clergy was compared to that of the Prince], he launched a great deal of attack against the hierarchy of the church and asked the question as to why only the royal power and the state administration are the ones which are in the focus of the nobility. He argues that not only a ruler can be despotic, but also the church which usually escapes public discussions. Trenck had an extremely negative picture of church leaders and Saint Stephen in Hungarian history. Trenck calls the bishops tyrants, who want to keep their privileges given to them at the time of Saint Stephen. (Trenck, 45) He then goes further by saying that while the laws of Genghis-Kahn in Asia, Cromwell's in London, or the Lombards' in Italy are no longer valid, the Hungarians are still firmly attached to the laws of Saint Stephen. (Ibid, 56) Trenck actually calls Saint Stephen a religious “fanatic” (Fanaticus), who with the ancestors of the Hungarians would have made the country empty if the pope had asked him to recruit armies for a crusade (Ibid 57.). His extremely radical views run against the cult of Saint Stephen casting him to the dark Middle-Ages. There is no sign here of the revered and cherished person, or the ancient constitution. Actually, he – as other progressive thinkers of the era – argue that the laws of Saint Stephen are no longer appropriate for their current circumstances and that fundamental laws need to be rethought.

<sup>190</sup> Kosáry, Művelődés, 354.

important is not their perfection is what becomes important, but their transformations. The most stable constitution was that of Spain, but not for the physical characteristics of its inhabitants, but because of the number of the nobility, who wanted to keep everything unchanged. Other empires usually changed their constitutions. The great transformations were done always by great kings, and not the common people. In the author's understanding, Joseph II wanted to be such a person.<sup>191</sup>

Molnár inserts economic dimensions also into his argumentation, by saying that nothing can give an impetus to the country's industry and trade, as long as the current old constitution is alive.<sup>192</sup> As long as the nobility can reject the merchants and manufacturers' claim for broader political rights by arguing that they did not take part in the country's conquest, nothing will change. Joseph II wanted to give liberties to the peasantry and the bourgeoisie.<sup>193</sup> The Hungarians' thinking is nomadic and their ancestors would represent the original man of Rousseau, while the Slavic and Germanic people are more prone to perfectibility.<sup>194</sup> Thus Molnár is also looking for the reasons of backwardness in national characteristics.

The author thinks that among the progressing countries, Hungary is standing alone where she stood also 300 years ago. After so many decisive changes, there are new people, new laws, and the constitution is not suitable for the present time.<sup>195</sup> If Hungarians do not pay attention to the changes of time, they can end up learning Russian.<sup>196</sup> Hungarians are trying to defend "the rotten building of their constitution,"<sup>197</sup> at a time when real protection could

---

<sup>191</sup> Molnár, János. *Politisch-kirchliches Manch Hermaeon von den Reformen Kayser Josephs überhaupt vorzüglich in Ungarn* (1790) 24-25.

<sup>192</sup> Ibid. 181.

<sup>193</sup> Ibid. 184.

<sup>194</sup> Ibid. 214.

<sup>195</sup> Ibid. 208.

<sup>196</sup> Ibid. 174.

<sup>197</sup> Ibid. 184.



come only from a “civic constitution.”<sup>198</sup> He asks the Protestants<sup>199</sup> not to help the Catholics in undermining the “beautiful building of the constitution” that was created by Joseph II.<sup>200</sup>

*Ignác Martinovics*, in his work, *Oratio pro Leopoldo*, is introduced as a wise and knowledgeable ruler, who did not take his ideas about the form of government from America, France or Joseph II, but he introduced it for the use of his citizens based on his extended knowledge.<sup>201</sup> Of course it was one of the foundations of enlightened absolutism, that the monarch should be knowledgeable and well-read.<sup>202</sup>

Furthermore, Leopold did not “make an *a priori* constitution for the ruling of state” (*Nullam ille regendae civitatis fecit a priori constitutionem*), because he knew, that it will turn out better, if the abuse of politics and the oppression of the people will be stopped “slowly, after the circumstances are given” (*sensim data opportunitate*).<sup>203</sup> This is an obvious reference to the hasty politics of Joseph II and also an expression, that Leopold is wise enough to first examine the circumstances to introduce fundamental changes.

All these were of course in need because, as Martinovics wrote it, the Hungarian constitution was conflated from privileges without having principles and the most important fundamentals of civil society: security and liberty.<sup>204</sup> Joseph II was the king who loved his people the most and tried to obliterate the aristocratic and theocratic illness from the kingdom. For Martinovics, his reign was one of those “revolutions” which healed the illnesses of the state.

The author of the pamphlet, *Ein unpartheiisches aber lautes Wort* writes, that Joseph traveling in the country and realized, that the constitution (*Verfassung*) must be changed in

---

<sup>198</sup> Ibid. 184.

<sup>199</sup> The text has an particularly confessional character. The author thinks, that protestant countries are better organized, that the Catholics, and the protestants are more apt for trade and industry.

<sup>200</sup> Molnár, *Politisch-kirchliches Manch Hermaeon*, 246.

<sup>201</sup> Martinovics Ignác. *Oratio pro Leopoldo II. rom. imp. aug. Hungariae, Bohemiae etc. rege ab hungaris proceribus et nobilibus accusato anno 1792. elucubrata.* (Germania, 1792) 77.

<sup>202</sup> Beales, *Enlightenment and Reform in Eighteenth-Century Europe*, 29.

<sup>203</sup> Martinovics, *Oratio Pro Leopoldo*, 77.

<sup>204</sup> Martinovics Ignác, *Staus Regni Hungariae* 1792. 3-4.

order to give more liberty to the people. The author deplores the Hungarians for they want to restore the feudal system as the ground law of the constitution (*Landeseinrichtung*)<sup>205</sup> Again, the author give the power changing the constitution to the monarch, and also the ability to see what is good for the country.

The figure of Saint Stephen, comes up again in the discourse of making constitution. Ignác Martinovics writes in his *Oratio ad procures*, that Saint Stephen gives example to us in his act, when he left the laws of Attila and introduced a new law system. His question is that why his age cannot do the same, and leave the ancient laws of former Hungarian kings and introduce new ones, which are more developed and fit better for their time.<sup>206</sup>

One can estimate how radical this idea might have been to a conservative reader by reading the small excerpt of a sermon which was preached on the day of Saint Stephen in 1788, by István Katona, a priest from Esztergom. He calls Attila and Saint Stephen the most famous kings of the Hungarians. While Attila was pagan and barbarian, Stephen was Christian and peaceful. While Attila's works and empire fade away in time, Stephen's works and kingdom stands for 800 years.<sup>207</sup> Thus arguing for changing this system could have been interpreted as a bold and careless enterprise.

Hoffmann in his second political pamphlet, *Ninive*, used the image of Saint Stephen again for the idea of constitutional change. He wrote that no human works bear the stamp of immutability. Human beings and circumstances form the greatest revolutions. The state what Saint Stephen founded was different from the country that his followers ruled. It became again transformed again by Andrew II, Leopold I. etc. If there were so many changes in the

<sup>205</sup> *Ein unpartheiisches aber lautes Wort*, 27.

<sup>206</sup> Martinovics, A ' *Magyar-Ország-gyűlésiben egyben-gyűlt*, 117.

Ha a' Szent István 's más több utána következő Királyok elhagyván az Attila alatt szokásban lévő vadabb törvényeket és szokásokat, Nemzetünknek szelidebbeket és jobbakat tudtak eleiben tenni, miért ne hozhatnánk mink most bé, mind jobban ki-dolgozott, mind pedig Európának mostani állapottyához el-hagyván régebbi Kiályainknak törvényeit, jobban alkalmazott Ország igazgatásának formáját azon kívül, hogy a' régi Királyainkhoz tartozó tiszteletnek által-hágása végett legkissebb módon-is gyanúban eshetnénk

<sup>207</sup> Katona István, *Szent István, magyarok első Kiralya' ditsertete melyet készített ls élő nyelvel hirdetett Katona István, esztergomi pap* (Béts, 1788) 10.

Hungarian constitution, “why do we have to think” – he asks “that Hungary should stay as a solid rock in the sea at a revolutionary period.”<sup>208</sup> Hoffmann in this text, was particularly afraid of the new coronation charter, that he regarded as basically the new constitution, which is already corrupted by the avarice of the nobility and which does not give any benefit to the peasantry.

All these authors attributed the constitutional change to the activity of a wise ruler. They did not think that a legislative assembly should promulgate the new constitution. Rather, they argued for the right of the lawful ruler to make fundamental laws. The image of Joseph II and Leopold II was pretty much represented by Josephinists as Rousseau’s wise legislator or Plato’s philosopher king who are – with the words of Robert Wokler – “pointing the ignorant and bewildered towards a new dawn which they could not perceive unaided.”<sup>209</sup> For Rousseau and these thinkers, the state was no longer a mythical, God-given entity, but the construction of human beings, which thus is occasionally, is in need of changes and corrections, like a watch or a machine. I will discuss these in the next chapter.

Nevertheless, it seems to me, that Josephinist visions of the “*constitutio*” had probably been influenced more by Rousseau, than Montesquieu. As we have seen at the writing of Beck, for Montesquieu, there is a particular *natural* disposition – constitution – of the people and the country to which legislation must adapt itself. Here, the polity is not the work and result of natural forces, but *human agency*, as many of these authors have suggested it. Rousseau writes that, the “The constitution of man is the work of nature; that of the State the work of art”<sup>210</sup> While Montesquieu’s constitution cannot be moved, it is given to a certain extent, for Rousseau the entire system can be changed. Thus, I argue, that when Martinovics or Molnár talked about the *constitutio*, they were having in mind Rousseau, rather than

---

<sup>208</sup> Hoffmann, *Ninive*, 79-80.

<sup>209</sup> Robert Wokler, *Rousseau* (Oxford: Oxford University Press, 1986) 75.

<sup>210</sup> Jean-Jacques Rousseau, *The Social Contract and The First and Second Discourses* (New Haven-London: Yale University Press) 217.

Montesquieu. The latter's argumentation about the fundamental stability of the greater framework, is more apt for the reasoning of the Hungarian estates, than for the Josephinists. A good example for this is the expression of "gyökeres Alkotmányunkak"<sup>211</sup> in József Ürményi's speech which invokes the image of natural stability, characteristic of Montesquieu's visions.

Interestingly, by the 1790s the word "absolute power" what used to characterize Theresian theory of absolutism, almost disappeared from the political discourse,. Nevertheless, the legislative and executive power was still attributed to the king by these authors. It is important to note, that according to István Szijártó, a similar change took place in the discourse of the estates where the idea of the ancient constitution and the nation came to gain prominence over the ideas of serving the common good.<sup>212</sup>

## Conclusion

Throughout these chapters I attempted to show the development of the theory of (enlightened) absolutism during the reign of Maria Theresa and Joseph II. I argued that there was continuity between Theresian theory and Josephism. I showed that there were many similarities which characterized these political theories. Both launched a strong attack against the authority of Werbőczy, the nobility's prerogatives, and customary law. Both of them vindicated absolute power for themselves and the joint exercise of legislative and executive powers in the name of serving the common good. However, while Thersianism attempted to deconstruct feudal customs from within feudalist legal theory, Josephism equipped by natural law theories, and attempted to break through Werbőczy's system from outside. As we have

<sup>211</sup> *Naponként való jegyzései az 1790dik esztendőben Felséges II Leopold Tsászár és magyarországi király által szabad királyi városában Budán rendelt s Posony királyi városában átaláltetett s ugyanott, 1791dik esztendőben befejezett magyar országgyűlésnek* (Buda, 1791) 2.

<sup>212</sup> Szijártó, *A 18. század rendi országgyűlései*, 43.

seen in the case of Kollár and Benczur, Theresianism found a great source material in the laws of Saint Stephen and other kings whose decrees were neglected by Werbőczy and the customary law tradition. It was Saint Stephen's authority and his laws on which absolute royal power hoped to find legitimate basis. While the authority of Saint Stephen occasionally reappeared in later works, Josephist political theory relied far more on Martinian natural law and the idea of the social contract. Grossing, Hoffmann and others found the basis of absolute royal power in the act of transfer of power from the people to the king. In the political thought of Theresianism, the king was the author of the "ancient liberty", thus he or she was entitled to change them, while for Josephism ancient or cardinal liberty came to possess a new meaning, namely the liberties which were given to all by nature, thus they were more ancient than the privileges. The king was not the author, but the protector and renovator of this liberty, who wanted to give it back to people. While Theresianism vindicated royal power to make laws, for Josephism in the 1790s, the king's task was to place the country on entirely new grounds that is to create a new constitution. Contrary to Theresianism, Josephists saw Saint Stephen and his laws not as the image of stability whose values are immutable, but they interpreted it as a tradition which changed according to the needs of time.

All these reflect the attempts of royal political theory to carve out a greater territory for itself in the field of political power. As we have seen, these attempts represented different strategies which were in connection with the cultural and legal horizon of the estates whose political power was in the target. One of the shortcomings of this chapter is that we barely could hear the other part of the discourse. However, I think, that this by itself reveals a lot about the development and character of enlightened absolutism in Hungary. In the next chapter I would like to examine how this above mentioned changing and moving character of constitutions, states and political powers were described and imagined.

## 4. The Power of Machines

### The State-machine

“But if it is true that a great prince is a rare man, what will a great legislator be? The first has only to follow the model which the other has to conceive. The latter is the engineer who invents the machine, the former is only the workman who assembles it and turns it on”<sup>213</sup> – writes Rousseau in the *Social Contract*. He describes the legislator as an engineer and the prince as a workman, while the state is a machine. In the previous chapter I noted that for many contemporary thinkers, the state became a man-made construct which could be modified and repaired. In this section, I will elaborate on this problem and examine the ways in which state and the constitution were imagined in eighteenth century Hungary along the lines of mechanical philosophy.

As a result of the spread of chartesianism, nature as well as the human body was understood as machines. After Descartes there was a gradual shift in the understanding of the human body. For 16<sup>th</sup> and 17<sup>th</sup> century philosophers – as Jonathan Sawday argues – the body was more like an undiscovered geographical territory which demanded certain high qualities to be explored and conquered.<sup>214</sup> Later, however, a gradual shift took place from the image of

---

<sup>213</sup> Rousseau, *Social Contract*, 180-181.

<sup>214</sup> Jonathan Sawday, *The Body Emblazoned: Dissection and the Human Body in Renaissance Culture* (London: Routledge, 1995) 23.

“geographical body” to a “mechanical body”.<sup>215</sup> According to the *Encyclopédie* “[t]he human body is an assembly of an infinite number of levers drawn by strings.”<sup>216</sup> La Mettrie, the French materialist physician wrote a book, *L'homme machine*, where he argued that human beings were no more than constructions whose better capacities could be attributed to the fact, that they simply had “more cogs and wheels” than other animals.<sup>217</sup>

Understanding the human body as a machine had immense consequences for the body political as well. As Sawday summarizes: “Hitherto the body had always been available as a rich source of metaphors with which to describe, the systems of government which were held to be both organic (and hence natural) and hierarchical. No longer was this the case. The easy familiarity with which early-modern political commentators could point to the body (mediated, it is true, by St. Paul's more communitarian model) as a demonstration of monarchical authority was now open to question.”<sup>218</sup> The image of the king as being the soul of the body politics, or God as the central power of the universe was challenged.<sup>219</sup>

Soon God became the engineer of the new mechanistic universe. The question was whether he was needed to keep it going or not, as the debate between Newtonians and deists showed. On the other hand, the king became the operator of the machine, whose knowledge was required to keep the structure going. The Abbé de Saint Pierre wrote that state was a complicated machine which was operated by the king. Both Mably and d'Holbach thought that the machine of the state could be moved only by an extremely wise person who was also entitled to change old springs for new ones.<sup>220</sup>

---

<sup>215</sup> Ibid. 28-29.

<sup>216</sup> Article "Corps (med.)," *Encyclopédie*, vol. 4, 264a. cited by Adam Stock, "The Organic and the Mechanical, Images of Man, the State and Society in the Eighteenth Century" *Kaleidoscope*. 3 (2009) 10.

<sup>217</sup> Adam Stock, "The Organic and the Mechanical, Images of Man, the State and Society in the Eighteenth Century" *Kaleidoscope*. 3 (2009) 10.

<sup>218</sup> Sawday, *The Body Emblazoned*, 29.

<sup>219</sup> Ibid. 29.

<sup>220</sup> Kelly George Armstrong, "Mortal Man, Immortal Society?: Political Metaphors in Eighteenth-Century France." In *Political Theory* (1986) 12.

Similar argumentations were also promulgated in Hungary for the underpinning of Joseph II's policies, in which Joseph II is represented as the engineer of the machine of the state. The unknown Josephist author of the *Igaz Haza-Fiúi Fel-Jegyzések Az Örökös Jobbágyság Igája El-Mozdításáról Magyar Országban* writes in connection with Joseph II reforms that a Monarch can establish new norms and easier ways of government in his territories. Joseph II “took out many irritating wheels which (like in a machine) caused pull-backs in progress, and designed a better and easier way of doing things”<sup>221</sup> (*A sok izgató kerekeket, mellyek gyakran az Elő-menetelben /mint valamely Machinában/ hátráltatást okoztanak, el 's-ki-mozdította helyekből, és a' dolgoknak job együgyüebb folyamatját szabta.*) Thus here Joseph was not simply represented as a wise ruler who understands how to operate an extremely complicated system, but also his reforms are legitimized as making the machine simpler.

This image of a simpler machine comes up again in the *Politisches-Kirchliches Manch-Harmonie*. The author, János Molnár defends Joseph II's reforms by arguing that he always wanted to support his changes with reason. He did so when he made German the official language of the *dicasteria*. His goal was to make governance simpler, and that was the reason to do away with Latin as the language of administration. The author says that “very complicated machines, and also State-machines” (*die zu sehr zusammengesetzten Maschinen, auch Staatmaschinen*) do not last for long, and cause endless reparation costs.<sup>222</sup> Thus, the machine of the bureaucracy in the empire needed to be made quicker and more efficient for which some old elements – especially those of ancient customs – needed to be eradicated because they only hindered governance.<sup>223</sup>

<sup>221</sup> *Igaz haza-fiúi fel-jegyzések az örökös jobbágyság igája el-mozdításáról Magyar országban.* (Pest) 4.

<sup>222</sup> Molnár, János. *Politisch-kirchliches Manch Harmonie*, 163.

<sup>223</sup> Joseph II wrote in his *Rêveries*: “Under my plan, which would at the same time greatly diminish the quantity of writings [produced by officials], and would greatly simplify the machine, removing the inefficient without regard to rank, and the lazy” Beales, *Enlightenment and Reform*, 172.



Furthermore, representing the state as a machine, change could be introduced as something which is inherent to the nature of the state. This is in line with those efforts of Josephist authors – shown in the previous chapter – that wanted to make constitutional change legitimate, not because Saint Stephen did so, but because it is an inevitable part of political life.

The reign of Joseph II, however, proved to be unsuccessful. Elek, Horányi, in his book, *Josephus II. in campis Elysiis* imagined Joseph II in the afterlife, meeting former Hungarian kings, entering into dialogue with them. Maria Theresa tells him that it was the Royal Chancellery and the Governor's Council "around whose axis the entire machine of the kingdom was in motion."<sup>224</sup>

A similar image occurs in other works as well. Antal Szirmay, the delage of Zemplén County at the diet in 1790, translated a Latin work of József Kereszturi, a court agent, to Hungarian, *Második Leopold Magyar Király, Eleuterinek, egy Magyar Prófétának Látása Szerént* (Leopold the Second, King of Hungary, as the Hungarian Prophet, Eleuteri, Saw Him). In this pamphlet the Hungarian prophet, Eleuteri, tells the reader what he expects from Leopold and the diet in 1790.<sup>225</sup> Both the original work and the translation are quite revealing for the present topic. Szirmay's Hungarian translation says that country councils – like the Governor's Council and the Council of War – are the "springs which put the constitution of the country in motion" (*rugók, amelyek által az egész Országnek alkotmánya mozgásra indíttatik*)<sup>226</sup> While the word "*rugó*" in itself indicates that Szirmay had a mechanical imagery in his mind, it becomes even more explicit in the Latin text. Kereszturi wrote that these councils were "*vectes, quibus moles Regni totius moveatur*."<sup>227</sup> Here the word *moles* can

<sup>224</sup> Horányi Elek. *Josephus II. in campis Elysiis* 60.

<sup>225</sup> Ballagi, Géza. *A Politikai Irodalom Magyarországon 1825-ig* (Budapest: Magyar Irodalmi Intézet és Könyvnyomda, 1888) 464.

Szirmay Antal. *Második Leopold Magyar Király, Eleuterinek, egy Magyar Prófétának Látása Szerént* (Pozsony: Wéber Simon, 1790) 164.

<sup>227</sup> Ibid. 122.

mean heavy weight, burden, or war machine. In any case, one can infer that both authors had in mind that as in nature, bodies need energy to move, so do political constitutions.

What, however, is crucial here is the question of what moves the constitution. Whereas in the previous texts we have seen, that movements in the constitution was primarily connected to the *person* of the king, here more emphasis is placed on the role of *institutions* in the motions of the state-machine. This of course reflects a different understanding of politics, where functional differentiations in the state-machine are necessary for it proper workings.

Zsigmond Oswald, a judge from Veszprém County, in his work, *Az igaz hazafi*, develops an image of the state where it is represented as a body whose parts have different functions. Győző Concha understand Oswald's image of the body politic as fundamentally organic.<sup>228</sup> However, one must notice that it is mixed with mechanical metaphors, and often it seems to be a mechanical body. For instance, Oswald calls secular laws, "links and chains which hold together the constitution of the body of the republic, preventing it from collapse."<sup>229</sup> Here links and chains (*külső-kapcsok és láncz-szemek*) are apt terms for a mechanized image of the body rather than for an organic one.

Furthermore, Oswald writes that "[i]n the constitution of our republic (*közönséges társaságunknak alkotmányában*), the king is the sum of all dignity and power that is distributed among other members; he is the axis and center of common issues and the spring of our legislative power without [the king] all power, might, dignity and laws become enervate and suffer inertia (*tehetetlenségben sinlődnék*)."<sup>230</sup> Oswald – who shows the considerable influence of Montesquieu's political theory – then goes on to argue that the legislative power is shared between the estates and the king, while the executive power belongs to the king. The crux of the matter is that the king is placed into the state machine.

<sup>228</sup> Concha, *A kilenczvenes évek reformeszméi*, 115

<sup>229</sup> Oswald, *Az Igaz Hazafi*, 54.

<sup>230</sup> Ibid. 29.

The king is no longer represented as the engineer of the machine, but as a constituent part of it. There is probably no better way to describe what the essence of constitutional monarchy is.

As a result, no wonder that in Horányi's work, Maria Theresa says to Joseph that if there are wise people with whom the king can exchange his thoughts and whose advice he can ask for, then the people will stay silent. The queen scorns his son for not asking the advice of anyone, while following his own ideas: "because of the mind of one person, the entire machine was shaken, so that the clamor of people reached the sky."<sup>231</sup> Horányi depicts Joseph as lamenting over the words of his mother. In a dramatic monologue Joseph says: "here you can learn how unhappy the Prince is, who believes only in his own capacities, and thinks that by his own will, the entire machine of the world can be moved."<sup>232</sup>

## Dangerous Automata

Automata and robots are not the invention of the 20<sup>th</sup> century. During the Enlightenment, spectacular automata were produced by talented horologists and artisans, like the Swiss Pierre Jaquet-Droz or the German Peter Kinzing and David Roentgen.<sup>233</sup> The android automata were human shaped, entirely mechanical creatures which were "programmed" to produce certain – often extremely complicated – movements. Some automata could play the harpsichord, some could write messages, or perform other movements. Not only the hands or legs, but even the eyes and breast of the automata were capable of movements. They indeed manifested the idea that the human body worked as a machine.

<sup>231</sup> Horányi, *Josephus II. in campis Elysiis*, 33.

<sup>232</sup> *Josephus II. in campis Elysiis* 111.

<sup>233</sup> Adelheid Voskuhl, *Androids in the enlightenment. Mechanics, Artisans and Cultures of the Self*. (Chicago: University of Chicago Press. 2013) 2.

The automata were the spectacles of royal courts and salons throughout Europe. In 1760, Friedrich von Knaus built a writing automaton for Maria Theresa's court. This was the first machine ever invented which was capable of writing.<sup>234</sup> According to Simon Schaffer, it represented "the mechanical rote of bureaucracy."<sup>235</sup> Another world-famous automaton from Vienna was the chess-playing Turk which could play chess parties with anyone for the amazement of the spectators. This automaton was designed by the Hungarian engineer Farkas Kempelen and was sent on a great European tour in 1783 when Joseph II was occupied by Turkish politics.<sup>236</sup>

The automata were crafted from thousands of carefully designed unique elements and often took several years to produce. Automata were ordered by kings and rulers to mechanize "the deeds of gods and heroes or else the labours of servants."<sup>237</sup> These machines also represented the strong military discipline in Europe, especially in Prussia.<sup>238</sup>

Simon Schaffer argues that these automata were also "apt emblems of subjection and government."<sup>239</sup> The automaton which obeys the commands of its inventor and master soon became a representation of despotism and arbitrary rule. The philosopher Christian Wolff understood subjects of government as beings increasingly limited by their mechanical instincts. For Kant, however, loyal subjects were characterized by mechanized behavior, whereas rational citizens must have free conscience.<sup>240</sup> Schaffer quotes Kant's *Groundwork of the Metaphysics of Morals* (1785), where the philosopher wrote that a kingdom "corresponds to a living body when ruled by the inherent laws of the people, and to a mere machine when ruled by a single absolute will."<sup>241</sup> These images of the automata – appear to –

---

<sup>234</sup> Ibid. 5.

<sup>235</sup> Simon Schaffer, "Enlightened Automata" in *The Sciences in Enlightened Europe*, edited by William Clark, Jan Golinski, and Schaffer (Chicago University Press, 1999) 156.

<sup>236</sup> Ibid. 156.

<sup>237</sup> Ibid. 135.

<sup>238</sup> Ibid. 135.

<sup>239</sup> Ibid.

<sup>240</sup> Ibid. 153.

<sup>241</sup> Ibid. 154.

represent the second meaning in which the word “machina”<sup>242</sup> has to be understood in political contexts.

Ignác Martinovics wrote in his anonymously published two volume work, *Testament politique de l'empereur Joseph second, roi des romains* that the “people is a complicated machine” (*Le peuple est une machine très-complicquée*).<sup>243</sup> Martinovics thinks that the sovereign has to know the different springs that flatter their interest in order to operate this machine. But as long as the ruler is alien to the people, the people will also be alien to him. As long as this is the case, there can be no improvement either in the form of government, or in the life of the people. The sovereign must make himself known by good deeds, while the people must obey the supreme power if it is just and provides just things. Otherwise the government will collapse under a revolution caused by the exercise of power.<sup>244</sup>

In another place Martinovics connects machines to arbitrary rule. He thinks that there is unrest already at the birth of despotism. The ruler divides the people and threatens one part with the other. The people believe that their deplorable situation is natural because of fear and the examples of great people who obey mechanically (*Le peuple accoutumé par la crainte et par l'exemple des grands à obéir machinalement*).<sup>245</sup>

Sámuel Decsy in his *Pannóniai Féniksz*, wrote in connection with the freedom of press, that free thinking is an essential natural capacity of human soul. Decsy argued that without free thinking, the soul would not be a soul, and it would be “a reality similar to some construction (*machina*).” (*tsak valamely alkotmányhoz /machinához/ hasonló valóság*).<sup>246</sup> There is no greater tyrant than the one who wants to oppress the freedom of thinking. If God – says Decsy – wanted humans to think the same way, then he would have given our souls

<sup>242</sup> For example, according to a French dictionary the word „machine” referred „in general to automata, and all those things which move by themselves wheter by art or naturally” Schaffer 139-140.

<sup>243</sup> Martinovics Ignác, Martinovics Ignác. *Testament politique de l'empereur Joseph second, roi des romains I-II*. (1791) 473.

<sup>244</sup> Ibid. 473-4.

<sup>245</sup> Ibid. 558.

<sup>246</sup> Decsy Sámuel. *Pannóniai Féniksz avagy hamvából fel-támadott magyar nylev* (Béts: Trattner, 1790) 190.

capacities as the clockmaker gives wheels to the clock, but in that case we would not be human beings, but animals (*úgy intézte volna ő el a' léleknek tehetségeit, mint az órás az órának kerekeit; de így nem embereket, hanem valamely más állatokat teremtett volna belőlök*).<sup>247</sup> This was certainly a very explicit argument against those royal policies which wanted to censure political and literary works.

The anonymous author of the work *Miért nem szerettetik József császár?*, makes somewhat similar complaints. He gives different suggestions to Joseph II in the name of “people who think in a noble way.”<sup>248</sup> The author asks Joseph II not to treat his ministers as if they were slaves, but as one treats friends, because with love one can reach goals easier than with coercion. For soldiers and machines – writes the author – hardness is indeed the driving wheel, because “the body is mostly made out of forced parts. But the civil state is made out of parts who joined willingly.” (*A' katonáknak igen-is a' keménység a' Machinának hajtó kereke, mivel nagyobb részből az egész test kinszerített tagokból áll. De a Polgári állapot önként valókból áll*)<sup>249</sup> Thus, the author asks Joseph II not to treat his ministers, councilors and bureaucrats as soldiers.

In these examples, it is the king who exercised power which could be tyrannical. The king here was the master of the automaton who gave commands and people obeyed without complaints as soldiers do. The above cited author – who otherwise supports the decision of Joseph II – formulates succinctly the problem of automatism and unquestionable commands, which – for his critiques – aptly represent the rule of Joseph II, who never convoked the diet in Hungary, since society is also about political will which must be expressed in the legislation.

In the Hungarian Josephinist argumentation, those who supported the king were more afraid of the prospect that the nobility or the aristocracy exercises arbitrary will over the

---

<sup>247</sup> Ibid.191.

<sup>248</sup> Hoffmann, Babel, 19.

<sup>249</sup> Ibid.

people, who would thus work like an automaton. Hoffmann in the *Babel*, wrote for instance, that the “blinded machine of the nation” (*Maschine der Nation*) would be moved by the rope of aristocratic despotism to unreasonable tasks.<sup>250</sup>

Similarly to this, Martinovics in his speech to the nobility expressed his concerns that if it is not allowed to change laws of a certain country, then the nation would be in a sorrowful situation and could be moved like a machine (*srófós eszköz /machina/ gyanánt*)<sup>251</sup> according to the private benefits of a skillful king, or an ambitious minister. Interestingly, the machine was connected to the nation, which in the context of these works did not mean the nobility, but the entire country. In another text, the *Oratio pro Leopoldo*, Martinovics says that it is the privileges and exemptions which exclude the nation from legislation. As a result, the nation is moved by the command of the high clergy and the aristocracy (*instar machinae ad nutum praelatorum et procures tractandae consideratur*)<sup>252</sup> However, Martinovics also feared that the ruler himself would become a machine. He expressed his concern when he wrote that the high clergy could attract the king to their side in matters of legislation and execution, they could command him as a machine according to their own will. For a Josephist, probably this was the worst perspective.

Thus next to the wonderful world of human shaped automata, there existed an equally complicated world, that of politics, where people tended to behave like automata or treat other human beings as if they were machines. As it is obvious from here, all these people wanted to understand politics according to the image of machines, but whereas in the world of automata the master was clearly distinguishable from the machine, in politics the relationships were more complicated, and occasionally the formerly confident master could

<sup>250</sup> Ibid. 33.

<sup>251</sup> Martinovics, A 'Magyar-Ország-gyűlésiben egyben-gyűlt, 85.

<sup>252</sup> Martinovics, *Oratio pro Leopoldo*, 34.

realize that he himself was part of a political machine which he was not aware of. The lines between the master and the machine often got blurred.

## The Monarchical Universe

Among other scholars, Newton's vision about nature and the world came to earn fundamental importance for enlightened thought. Voltaire's *Éléments de la philosophie de Newton* had twenty-six editions between 1738 and 1785. This book played an important role in spreading Newton's natural philosophy about optics and gravitational theory on the continent.<sup>253</sup> The most important aspect of Newton's theories was that he was able to compress the entire universe into one set of laws, which gave an account of any kind of motions. This made Voltaire extremely optimistic about the existence of a rationally understandable order in the world.

The scientific idea, that one lives in a world where the same natural laws operate everywhere inspired Voltaire and many of his contemporaries. Newton's *Principia* was read by American radicals not only as a text of natural history but as one of politics.<sup>254</sup> Many Enlightened thinkers had a penchant for applying the results of astronomy and mechanics in society.

The Newtonian social and political imagery was present in the writings of a great number of eighteenth-century thinkers, like Lord Bolingbrook. In his *Dissertation upon Parties*, he wrote about the English constitution that the monarch and people are subject to the same laws and their relationship is similar to that of the greater and smaller planets since they influence and act upon each other. Similarly to this, Francis Hutcheson in his *Inquiry*

---

<sup>253</sup> David Beeson and Nicholas Cronk, "Voltaire: philosopher or *philosophe*?" in *The Cambridge Companion to Voltaire* ed. Nicholas Cronk (Cambridge: Cambridge University Press, 2009) 48-53.

<sup>254</sup> Nicholas Campion, *Astronomy and political thought*, (IAU Symposium no. 260. 2009) 599.



into the *Original of Our Ideas of Beauty and Virtue* compared social cohesion – that he called “universal benevolence” – to the principle of gravitation which applies “to all bodies in the universe.”<sup>255</sup>

Montesquieu was also eager to use planetary metaphors in the *Spirit of Laws*, always in the context of monarchies.<sup>256</sup> Similarly to Bolingbrook, he compared the relationship between the sovereign and subjects to that of the rotation of planets. “It is just like the system of the universe, where there is a force constantly repelling all bodies from the center and a force of gravitation attracting them to it. Honor makes all the parts of the body politic move; it ties them together by its very action.”<sup>257</sup> In other words, in Montesquieu’s “monarchical solar system”<sup>258</sup> honor is a type of force which can counterbalance another similarly strong force, *amour-propre*, thus bringing balance to the system of monarchy.<sup>259</sup>

Alajos Batthány was an erudite thinker of his era. His main work, *Ad amicam aurem* (To friendly ears), was written in Latin and appeared in four volumes between 1790 and 1791. It is basically a collection of political axioms.<sup>260</sup> Although Batthány was a well-read person, the idea of progress is not reflected entirely in his vision of time which gives an account of why he was torn between past and future.

Batthány still believed – following the Greek tradition – that time is like a wheel. Batthány wrote that political systems start their development as being a democracy which then becomes transformed to monarchy, which collapses to tyranny that will be overthrown by a popular uprising which transforms itself to aristocracy and then the system falls back to

---

<sup>255</sup> Ibid. 586.

<sup>256</sup> Michael Sonenscher, *Before the Deluge: Public Debt Inequality, and the Intellectual Origins of the French Revolution* (Princeton: Princeton University Press, 2007) 49.

<sup>257</sup> Michael, A. Mosher. „Monarchy’s Paradox: Honor in the Face of Sovereign Power.” In *Montesquieu’s Science of Politics: Essays on The Spirit of Laws* ed. Carrithers, David W., Michael A. Mosher, and Paul A. Rahe. (Maryland: Rowman & Littlefield Publishers, 2001) 205. (The Spirit of Laws, III. 7.)

<sup>258</sup> Ibid. 205.

<sup>259</sup> István Hont, “The early Enlightenment debate on commerce and luxury” In *The Cambridge History Of Eighteenth-Century Political Thought* ed. Mark Goldie and Robert Wokler (Cambridge: Cambridge University Press, 2006) 406.

<sup>260</sup> Concha Győző, *A kilencvenes évek reformeszméi és előzményeik*. 82.

monarchy. The natural transformation of states, the “*circulus politicus*”<sup>261</sup> of constitutions – Batthány argues – was modelled on the planetary system. He thought that as stars run their orbits according to firm laws so do human actions which run similar circles.

This argument becomes even more explicit when referring to Isaac Newton. He wrote: “All constitutions of Republics seem to be similar to the planetary system, which, – if we may use the testimony of the immortal Newton – is occasionally in need of the flame of hairy stars, in order to regain its former vigor and be given back the former elasticity of the operation of its secret nature. So do those revolutions of republics, which are not about the private quarrels of the citizens. If just and righteous and do not transgress certain limits, these revolutions bring a lot of benefits to kingdoms, because they make citizens remember their ancient constitution which they want to take out from the ashes of their undermined sacred liberty.”<sup>262</sup>

In other words, the role of revolutions is to restore the vigor of constitutions. Consequently, there is a structural similarity between the planetary and the political system. Both of them can become weak and occasionally need the power of comets or revolutions to make them strong again. The constitutions of the universe and the constitution of republics operate according to the same principles.

Indeed, Newton had a vision of a declining and unwinding cosmos. He made this argument against the dangerous stipulations of mechanical philosophy and its deist and sceptic followers – like the English mathematician Brook Taylor – who argued that there was no reason to deny that the universe could be a self-existing system.<sup>263</sup> For Newton and others, the danger lays in the implication that if the universe was indeed a self-existing system and planets rotated on their orbit eternally then God simply did not have any role in the universe.

<sup>261</sup> Batthány Alajos. *Ad amicam aurem I-IV*. 1790-1791. Book 4. XI. chap.

<sup>262</sup> Ibid. Book 4. LVI. chap.

<sup>263</sup> David Kubrin, "Newton and the Cyclical Cosmos: Providence and the Mechanical Philosophy." *Journal of the History of Ideas* 28 (July-September 1967) 327.

Newton wanted to repudiate these claims and sought ways to include God, not merely as the creator but as the “conservator” of the universe, who time after time renewed the system. Newton’s idea of the cosmos as an unwinding machine<sup>264</sup> meant that the sun and stars lost their fuel periodically and then God sent comets which replenished these heavenly bodies. Thus – in the words of David Kubrin – “[f]or Newton the comets were instruments which God used to reconstitute the cosmos.”<sup>265</sup> God was needed not only for the act of creation but also for “keeping things going.”

Certainly, it must be noted, that the analogy between the cosmic and the human order is an archaic idea,<sup>266</sup> which was based on new grounds by Newton promulgating the gravitational theory. Thus it is not entirely sure how deeply did Batthány understood Newton’s ideas. Nevertheless, what important is that he wanted to reach back to the *antiqua constitution*, which in this context means the social contract, and thus he also found the roots of liberty there, rather than in old laws.

Batthány concludes, that “our time should not ponder on ancient laws, rather constitutions and laws must be measured according to the spirit (*ingenium*) and customs of this era.”<sup>267</sup> He asserts that time has arrived when subjugated people will break their chains. Batthány wants to discard all the old laws which were not measured according to the criteria of equality, but simply remained in usage since time immemorial.

---

<sup>264</sup> Ibid. 337.

<sup>265</sup> Ibid. 342.

<sup>266</sup> Plato in his *Timaeus* promulgated a cosmological view, that the physical material of humans and the cosmos are the same. This also includes the way they act and move, which helps to understand human behavior as well. Consequently politics must be arranged according to mathematical principles. Plato’s ideas were embraced by Renaissance thinkers from the fifteenth-century on, where the idea of aligning political society with the laws of the universe became important. Nicholas Campion argued that “Political Copernicanism” maintained that if the sun was the unquestionable center of the universe, than the king should be the unquestionable center of the state. Thus astronomy heavily supported theories of royal power. In the seventeenth century, however, “Political Newtonism” argued, that since everything in the universe was subject to the same laws, it is against the natural law to elevate one order above the other. Thus he “democratized a political cosmology which had embodied inequality in its essential structure. Newton’s cosmos was essential egalitarian.” Campion, *Astronomy and political thought*, 599.

<sup>267</sup> Batthány, *Ad amicam aurem*, Book 4. XCIX.

On the other hand, he is afraid of revolutionary changes, because he sees in them the possibility of overthrowing the entire political structure. Batthány argues that “we live in an age, where one is rightfully afraid of the total transformation of Europe. Under the cumulated ashes of all former ages, it is not the flame of liberty (*libertas*) which burns, but that of fatal licentiousness (*licentia*).”<sup>268</sup> He thinks that any legal change can only be initiated by the legislative power. However, one must be careful with introducing changes, because they might cause more trouble than benefits.

The Newtonian, Copernican planetary system, however, also appears as a useful tool to describe what constitution is. The author of the *Manch-Harmeen*, wrote that only a few empires “rotate around the axis of their own constitution for such a long time as the Spanish empire.”<sup>269</sup> From this one can infer that the image the author had in mind was again not the idea of the Montesquieu’s constitution but certain principles which can be changed and do change.

Similarly, József Hajnóczy, one of the most progressive thinkers of the era, also applied a planetary metaphor to describe the operations of the Hungarian constitution. In his book, *De diversis subsidiis publicis dissertatio* (Dissertation about different public subsidies), wrote lengthily about different problems in the Hungarian political constitution. One of his main criticism was that the “basis around which laws circulate, like planets rotate around the sun, is not the common goal of all civil associations, namely the benefit of all or at least the majority, but the prerogatives of the nobility.”<sup>270</sup> In other words, the set of noble privileges stands in the middle as the principle of the entire Hungarian monarchical solar system, like honor in Montesquieu’s, which involves the idea of privileges as well. For Hajnóczy, noble prerogatives meant an unsurmountable legal power, like the gravitational force of the sun.

---

<sup>268</sup> Ibid. Book 3. XII.

<sup>269</sup> Molnár, *Politisch-kirchliches Manch Hermaeon*, 23.

<sup>270</sup> Hajnóczy József, *De diversis subsidiis publicis dissertatio* (1792) 223.

## Conclusion

In this section I have shown how different metaphors of a mechanically ordered world of politics were used in 1790s in Hungary. The mechanical metaphors of the Josephinist writers defined the role of Joseph II as the omniscient engineer who could change springs in the complicated machinery of the kingdom, as well as he can make it simpler which would allow smoother operation. For a constitutional thinker like Osvald, Joseph II himself was part of the machinery, and did not have absolute power over it. He just fulfilled a certain task – although a very important one – like other wheels.

Furthermore, understanding subject-king relationship as the one between the automata and the master, represented a picture of coercion, where the royal rule could have become tyrannical, or in certain cases, the king becomes a puppet-like machine who follows the commands of the clergy and aristocracy. The monarchical universe was an apt image to describe the return to an original liberty, which is older than customary laws. The Newtonian and Copernican images of the sun and the planets provided alternative tools to describe what a constitution was.

The word *constitutio* or *alkotmány* are extremely rich semantically. When the authors I cited above wrote the Hungarian word *alkotmány* in the context of mechanics, almost always added the word *machina* in parenthesis after it in order to help the reader understand what the author meant by it. The historian László Péter described the constitution as a stronghold, a building.<sup>271</sup> While this is undoubtedly true, I also wanted to show that there was an enlightened tradition which imagined the constitution as being similar to the movements

---

<sup>271</sup> László Péter. 'Die Verfassungsentwicklung in Ungarn', 256.

of the planetary system or machines. In this framework, the word *constitutio* was associated with movement, impetus and energy, rather than timeless stability.

## 5. CONCLUSION

Throughout this thesis I emphasized the continuity of Theresian and Josephist royal theory. The scholars, writers and agents of Maria Theresa and Joseph II had the same goal in front of them: breaking through the walls of customary law, privileges and introducing a new mechanized and simple administration which can further the goals of the monarchy and serve the common good.

This attempt, as has been shown, heavily relied on the cultural imagery and historical authorities of the Hungarian nobility in both periods. The cult of Saint Stephen appropriated by Habsburg theorists and the saint king was reinvented as an absolute monarch, whose example was simply pursued by Habsburg rulers when they introduced new laws without the estates' assembly. Theresianism attempted to destroy customary law system from within by pointing out new legal sources which were not canonized in the *Tripartitum*, but were respected by everyone as a “greatest common divisor”.

The Hungarian historic tradition was also adapted to natural law theories. It was emphasized that once Álmos or Saint Stephen were given absolute power by the people in the form of the social contract, they and their successors could freely exercise it without any limitation. Diets were just introduced during the reign of weak kings, thus Hungarian kings do not have to convoke them, because it is against the nature of their power. By natural law theory – I argued – Josephism attempted to destroy custom from outside as well, by which I

meant that these theorists left the boundaries of the *Copus Juris* and tried to apply the concepts of natural law in the historical context of Hungary.

This was also the time, when significant shift occurred in the meaning of words. The dictionary of the Josephist could be made parallel to the nobility. I tried to showed, that the meaning of ancient liberty, whose author was the king and primarily meant noble privileges was changed by natural theory. From that point on, it was possible to argue for the return to ancient liberty, but that referred to the liberties and rights which were given equally to everyone. The king was no longer the author of these, but their restorer. These shifts are part of those movements which can be also followed in these texts – however there was no place to reflect on them – that the words *natio*, *Nation*, *nemzet* or *ország* and *regnum* no longer mean the nobility, but all the people who live in the country.

Similarly, the meaning of constitution did no longer mean the given and natural dispositions of the country, but a construction, like a machine, which can be repaired by the monarch. This opened up broader possibilities for change. The image of machines was a great source of understanding of royal power, where the king is either and engineer or part of the “constitution.” However, it could also represent the dynamism of despotism, where the subjects move like an automaton. Thus, Habsburg theorists first appropriated Hungarian laws and historical documents for the construction of royal power and breaking customary law but later words and concepts.

Further research could cast light on the dynamism in the development of Theresian and Josephist political theory. I could not answer the question of why certain arguments were introduced and others left. An analysis which includes those political texts where the estates responded to the challenges of royal theory would reveal more about the mechanisms of constructing royal power in late eighteenth-century Hungary.

## 6. Bibliography

### Primary literature

Batthány Alajos. *Ad amicam Aurem I-IV*. 1790-1791.

Beck, Christian August von. *Jus Publicum Hungariae cum notis auctoris et observationibus Josephi Benczur*. Vienna: Krauss 1790.

Beck, Christian August von. *Specimen II. Juris Publici Austriaci Ex Ipsis Legibus Actisque Publicis Eruti*. Vienna: Trattner, 1752.

Benczur József [Eusebius Verinus ]. *Commentatio juridica critica de haereditario jure serenissimae domus Austriacae in apostolicum regnum Hungariae de jure eligendi regem, quod ordinibus inclitis regni Hungariae quondam cempetebat, De corregente, rege iuniore, et ducibus regiis quos olim Hungaria habebat* (Vienna et Lipsia: Iahn, 1771).

Benczur József. *Ungaria semper libera suique juris, numquam vel principi, vel genti et alicui externae obnoxia*, Vindobona, 1764.

Decsy Sámuel. *Pannóniai Féniksz avagy hamvából fel-támadott magyar nylev* (Béts: Trattner, 1790)

Forgách Miklós, *Ab optimo Principe candida postulata* (1790)

Grossing, Franz Rudolf. *Jus publicum Hungariae*. Hala Saxonum, 1786.

Hajnóczy József, *De diversis subsidiis publicis dissertatio* (1792)

Hajnóczy József, *Dissertatio politico-publica de regiae potestatis in Hungaria limitibus* (1791)

Hoffmann Leopold Alois. *Babel. Fragmente über die jetzigen politischen Angelegenheiten in Ungarn*. Gedruckt im römischen Reiche. 1790.



Hoffmann Leopold Alois. *Ninive. Fortgesetzte Fragmente über die dermaligen politischen Angelegenheiten in Ungarn. Nebst einer wichtigen Beilage.* Im römischen Reich gedruckt, 1790.

Horányi Elek. *Josephus II. in campis Elysiis*

Karl Anton von Martini, *De Lege Naturalis Propositiones* (Vienna: Trattner, 1778)

Katona István, *Szent István, magyarok első Kiralya' ditsertete mellyet késszített ls élő nyelvel hirdetett Katona István, esztergomi pap* (Béts, 1788)

Keresztúry József, *Leopoldus II. in campo Rákos Visio Eleutherii Pannonii.* 1790.

Kollár Ádám Ferenc. *De originibus et usu perpetuo potestatis legislatoriae circa sacra apostolicarum regum Ungariae.* Vindobona: Trattner, 1764.

Martinovics Ignác, *Staus Regni Hungariae* 1792.

Martinovics Ignác. *A' Magyar-Ország-gyűlésiben egyben-gyűlt Méltóságos és Tekintetes Nemes Rndekhez 1790-dik Esztendőben tartattatott Beszéd 1791.* (Translated from Latin by János Laczkovics)

Martinovics Ignác. *Oratio pro Leopoldo II. rom. imp. aug. Hungariae, Bohemiae etc. rege ab hungaris proceribus et nobilibus accusato anno 1792. elucubrata.* (Germania, 1792)

Martinovics Ignác. *Testament politique de l'empereur Joseph second, roi des romains I-II.* 1791.

Molnár, János. *Politisch-kirchliches Manch Hermaeon von den Reformen Kayser Josephs überhaupt vorzüglich in Ungarn.* 1790.

Osvald Zsigmond. *Az Igaz hazafi, kinek tulajdonságait együgyü beszédbe foglalta egy hazája 's nemzete javát óhajtó szív.* Pest: Trattner, 1792.

Reviczky József, *Introductio ad Politica Regni Hungariae* (Buda: Typis Regiae Universitatis, 1790)

Szaitz Leó [Máriafi István] *Az Igaz Magyaroknak III. része. Szent István a magyaroknak igazi megvilágosítója.* 1789.

Szirmay Antal. *Második Leopold Magyar Király, Eleuterinek, egy Magyar Prófétának Látása Szerént* (Pozsony: Wéber Simon, 1790)

Trenck Frigyes. *Mérő serpenyő, mellyel a fejedelem és a papság hatalmát össze-mérte Trenck ezer-hét-száz kilentzvendik esztendőben Julius Havában.* 1790.

### **Anonymous pamphlets**

*Ein unpartheiisches aber lautes Wort über die Staatsverfassung des Königerichs Ungarn vor der Krönung der Königs.* 1790.

*Igaz haza-fiúi fel-jegyzések az örökös jobbágyság igája el-mozdításáról Magyar országon.* Pest.

*Miért nem szerettetik Jósef tsászár az ő népétől?* 1787.

*Vox literatorum Hungariae filiorum ad comitia Regni Anni 1792 di.*

### **Documents of the diets:**

*Budán 1790dik Esztendőben Tartott Ország Gyűlésének alkalmatosságával írásban benyújtott 's Köz-tanátkozás alá vet Dólgok, és Munkák.*

*Naponként való jegyzései az 1790dik esztendőben Felséges II Leopold Tsászár és magyarországi király által szabad királyi városában Budán rendelt s Posony királyi városában átaltétetett s ugyanott, 1791dik esztendőben befejezett magyar országgyűlésnek.* Buda, 1791.

## Secondary literature

Adam Stock. "The Organic and the Mechanical, Images of Man, the State and Society in the Eighteenth Century" *Kaleidoscope*. 3 (2009)

Adelheid Voskuhl, *Androids in the enlightenment. Mechanics, Artisans and Cultures of the Self*. Chicago: University of Chicago Press, 2013.

Bahlcke, Joachim, *Ungarischer Episkopat und österreichische Monarchie. Von einer Partnerschaft zur Konfrontation (1686 - 1790)*. Stuttgart: Franz Stiner Verlag, 2005.

Balázs Éva H.. *Berzeviczy Gergely, a reformpolitikus (1763-1795)*. Budapest: Magyar Tudományos Akadémia, 1967.

Ballagi Géza. *A Politikai Irodalom Magyarországon 1825-ig*. Budapest: Magyar Irodalmi Intézet és Könyvnyomda, 1888.

Beales, Derek. *Enlightenment and Reform in Eighteenth-Century Europe*. London: I.B. Tauris, 2005.

Beeson, David and Cronk, Nicholas. "Voltaire: philosopher or *philosophe*?" In *The Cambridge Companion to Voltaire* ed. Nicholas Cronk. Cambridge: Cambridge University Press, 2009.

Benda Kálmán. *Emberbarát vagy hazafi?* Budapest: Gondolat Kiadó, 1978

Bene Sándor. "Hol van István király?" In „*Hol vagy István király?*” *A Szent István-hagyomány évszázadai* edited by. Bene Sándor. 8. Budapest: Gondolat, 2006.

Berest, Julia. *The Emergence of Russian Liberalism Alexander Kunitsyn in Context, 1783-1840*. New York: Palgrave Macmillan, 2011.

Bodnár-Király Tibor. *A Decsi-Biográfia helyzete és kutathatósága*. In: *Politikatudományi Tanulmányok*. Edited by: Antal Attila. Budapest: Eötvös Loránd Tudományegyetem Állam- és Jogtudományi Kar, 2012.

Buckler, Steve. *Hanna Arendt and Political Theory. Challenging the Tradition*. Edinburgh: Edinburgh University Press, 2011.

Campion, Nicholas. *Astronomy and political thought*, IAU Symposium no. 260. 2009. 595-602.

Concha Győző, *A kilenczvenes évek reformeszméi és előzményeik*. Máriabesnyő-Gödöllő: Attraktor, 2005.

Concha Győző. “Az angolos irány politikai irodalmunkban a mult század végén”, *Erdélyi Múzeum* 2, 1880. 33-44.

Csaba Jenő. *Gróf Batthyány Alajos „Ad Amicam Aurem” Című Munkája*. Budapest: Barcza József Könyvnyomda, 1917. 23.

Csizmadia Andor. “Egy 200 év előtti országgyűlés évfordulójára. Kollár contra Status et ordines” *Jogtudományi Közlöny* (1964): 2214-227.

Csizmadia Sándor (ed). *Hajnóczy József közjogi-politikai munkái*. Budapest: Akadémiai Kiadó, 1958.

Eckhart Ferenc. *A bécsi udvar gazdasági politikája Magyarországon Mária Terézia korában*. Budapest: Budapesti Tudományos Társaság, 1922.

Evans, R. J. W, *Austria, Hungary and the Habsburgs. Essays on Central Europe c. 1683-1867*. 27. Oxford: Oxford University Press, 2006.

Fináczy Ernő. *A magyar közoktatás története Mária Terézia korában I.-II*. Budapest: Magyar Tudományos Akadémia, 1899-1902.

Forgó András, “Az egyházi rend a szatmári megegyezés utáni országos politikában” in *Az 1712. évi pozsonyi diéta egy ciszterci szerzetes szemével* edited by Forgó András.

Pannonhalma-Veszprém: Pannonhalmi Főapátsági Levéltár – MNL Veszprém Megyei Levéltára, 2013.

H. M. Scott. “Reform in the Habsburg Monarchy, 1740-1790”, in H. M. Scott (ed.), *Enlightened Absolutism. Reform and Reformers in Later Eighteenth-Century Europe* London: Macmillan, 1990.

Hont István. “The early Enlightenment debate on commerce and luxury” In *The Cambridge History Of Eighteenth-Century Political Thought* edited by Mark Goldie and Robert Wokler. Cambridge: Cambridge University Press, 2006. 379-418.

Horváth Mihály. *Az 1764-ki országgyűlés története I.* In Horváth Mihály kisebb történelmi munkái- Pest, 1868.

Jean-Jacques Rousseau, *The Social Contract and The First and Second Discourses* (New Haven-London: Yale University Press)

Jonathan Sawday. *The Body Emblazoned: Dissection and the Human Body in Renaissance Culture.* London: Routledge, 1995

Kelly George Armstrong. "Mortal Man, Immortal Society?: Political Metaphors in Eighteenth-Century France." In *Political Theory*. Sage Publications, Inc., 1986.

Kosáry Domokos. *Művelődés a XVIII. századi Magyarországon* Budapest: Akadémiai Kiadó, 1983.

Kubrin, David. "Newton and the Cyclical Cosmos: Providence and the Mechanical Philosophy." *Journal of the History of Ideas* 28. July-September 1967.

Lässer, Gregor. "Martinis Naturrechtlehre als Hauptquelle für Privatrecht," In Karl Anton von Martini, edited by Heinz Barta, Vienna: 2007.

László Péter, "Montesquieu's Paradox on Freedom and Hungary's Constitutions 1790-1990" in *Hungary's Long Nineteenth Century. Constitutional and Democratic Traditions in a European Perspective* ed. Miklós Lojkó. Leiden-Boston: Brill, 2012. 153-182.

László Péter. "The Irrepressible Authority of the Tripartitum" in *The Customary Law of Hungary* edited by. János M. Bak, Péter Banyó, Martin Rady (Schlacks-CEU: Idyllwild-Budapest, 2005.

László Péter. "Die Verfassungsentwicklung in Ungarn" in *Die Habsburgermonarchie 1848–1918. VII/1. - Verfassung und Parlamentarismus.* ed. Helmut Rumpler and Peter Urbanitsch. Wien: Verlag der Österreichischen Akademie der Wissenschaften, 2000.

Marczali Henrik. "Alkotmánytervezetek 1790-ben" in *Budapesti Szemle* (125) 1906.

Marczali Henrik. *Az 1790/1.évi országgyűlés I.* Budapest: Magyar Tudományos Akadémia, 1907.

Marczali Henrik. *Magyarország története II. József korában I.-II.* Budapest: Pfeifer Ferdinánd, 1888.

Monser, Michael A. „Monarchy’s Paradox: Honor in the Face of Sovereign Power.” In *Montesquieu's Science of Politics: Essays on The Spirit of Laws*. Carrithers, David W., Michael A. Mosher, and Paul A. Rahe. Maryland: Rowman & Littlefield Publishers, 2001.

Montesquieu, *The Spirit of the Laws*. Cambridge: Cambridge University Press, 1989.

"Organic and Mechanical Metaphors in Late Eighteenth-Century American Political Thought." *Harvard Law Review*, June 1997, 1832-1849.

Philip Barker, *Semantic Change and the Language of the Ancient Constitution 1790-91*. (unpublished conference paper).

Poór János „Király, rendek, rendi alkotmány a kora újkor végi Magyarországon” *Café Babel*, 65. 2010.

Poór János. *Megbékélés és újjáépítés (1711-1790)*. Budapest: Kossuth Kiadó, 2012.

Robert Wokler, *Rousseau*. Oxford: Oxford University Press, 1986.

Sashalmi Endre, "Az abszolutizmus: az abszolút monarchia elmélete" In *Az abszolút monarchia* edited by Képes György. Budapest. Gondolat, 2011.

Simon Schaffer, "Enlightened Automata" in *The Sciences in Enlightened Europe*, edited by William Clark, Jan Golinski, and Schaffer (Chicago University Press, 1999)

Sonenscher, Michael. *Before the Deluge: Public Debt Inequality, and the Intellectual Origins of the French Revolution*. Princeton: Princeton University Press, 2007.

Stefancsik Benedek Konrád: Az 1764/65-i országgyűlés. Kassa. no date.

Stipta István. "Az abszolutizmus fogalma, változatai és alkotmánytörténeti jellemzői." In: *Az abszolút monarchia*. edited by Képes György. Budapest: Gondolat Kiadó, 2011.

Striner, Richard. "Political Newtonianism: The Cosmic Model of Politics in Europe and America". *The William and Mary Quarterly* 52. 1995.

Szentpétery Imre, "Benczúr József levelei Radvánszky Józsefhez és Lászlóhoz" *Irodalomtörténeti Közlemények* 105 (1902) 101-113.

Szijártó M. István A 18. század rendi országgyűlései. Chapter 3-4. Szimbólumok és diskurzusok. (unpublished manuscript).

Szijártó M. István. *A Diéta. A magyar rendek és az országgyűlés 1708-1792.* Budapest: Osiris, 2005.

Szinnyey József. *Magyar írók élete és munkái.* Budapest: Hornyánszky Viktor, 1891-1914.

Tüskés Gábor. “Egy történelmi toposz a 16-18. századi egyházi irodalomban: Magyarország-Mária országa” In „*Hol vagy István király?*” *A Szent István-hagyomány évszázadai.* Edited by. Bene Sándor. 239. Budapest: Gondolat Kiadó, 2006.

Wilson, Peter. *Absolutism in Central Europe.* Abingdon: Routledge, 2000.