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## Review Article

### Old Hats and Closet Revisionists: Reflections on Domokos Kosáry's Latest Work on the 1848 Hungarian Revolution

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Kosáry, Domokos. *Magyarország és a nemzetközi politika 1848–1849-ben*. História könyvtár, Monográfiák 11. MTA Történettudományi Intézete, Budapest, 1999.

THE publication of Domokos Kosáry's *Hungary and International Politics in 1848–1849*<sup>1</sup> offers an opportunity to examine Hungarian historians' changing views, since the Second World War, about that brilliant apogee of their country's history: the 1848 revolution. This book offers an overview of the whole subject which no other book written on a wide scale has offered in recent years, rather more than what its title promises. Its author is fully aware of the extent to which history can be understood as historiography and he critically discusses other historians' works. Moreover, Kosáry, the eighty-eight-year-old Nestor of Hungarian historians and the former president of the Hungarian Academy of Sciences, has over the years earned the reputation of being the arch-revisionist of nineteenth-century Hungarian history. A convenient way to account for Kosáry's revisionist views is to explore first some traditional assumptions and views held about the subject and also their modifications over the years, before discussing Kosáry's work and reporting on where the argument stands today. Kosáry's revisionism has preyed on (if that is not an unkind description) two (partly overlapping) vocabularies of interpretation. Again, for convenience sake (and treading in the steps of geologists) I shall start with the still visible, because more recent, Marxist Old Hat vocabulary which rests on some older inveterate Independentist Old Hat assumptions that I shall review subsequently.

Interest in the 1848 revolution is undiminished in Hungary. The one hundred and fiftieth anniversary<sup>2</sup> was a great boost to publications but

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<sup>1</sup> Domokos Kosáry, *Magyarország és a nemzetközi politika 1848–1849-ben*, Budapest, 1999 (hereafter, Kosáry, *Magyarország*).

<sup>2</sup> More than 250 publications appeared on the 150th anniversary of the 1848 Hungarian revolution, according to Robert Hermann in *Buksz*, Budapest, 3, 2000, p. 264.

the interest has been constant over the years.<sup>3</sup> Historians are eager to meet the public's unquenchable demand for books on 15 March, the first Hungarian ministry, the National Assembly and, above all, the War of Independence. Quite rightly so: these were the formative events at the birth of modern Hungary. As András Gergely observed, after St Stephen's reign, the 1848 revolution was the most significant turning point in the country's history;<sup>4</sup> it has become emblematic of national identity. The revolution (always in the singular rather than plural) is credited with the creation of Hungarian civil society out of legally and culturally diverse social groups; it became a focus for national aspirations to attain independence; and its tragedy was that it generated conflicts and civil war within the kingdom between the Hungarian and the rival Slav and Romanian movements.

Partly because these three themes have ever since 1848 impinged on perennial concerns, it is not surprising that most writings on 1848 follow well-trodden paths. Historians are working on hallowed ground; their attitudes towards established views are duly deferential. They have learnt from Alexander Pope: 'fools rush in where angels fear to tread'. And yet a closer look at some of the historians' works reveal marked changes in outlook and new concerns of interest although, and this is a vital qualification, the revision of traditional views is mostly covert rather than explicit. Indeed the changes have not altered the historical perspective from which 1848 is evaluated. The practitioner who departs from one or another of the Old Hat assumptions is usually a closet revisionist.

There is a palpable change in that historians have tacitly abandoned the Marxist frame of reference based on the idea of 'revolutionary progress'. That interpretation, established after 1947, distinguished three political trends: the revolutionary (Kossuth and the radicals), the 'liberal' (the Batthyány ministry and the Assembly's moderates; later, the Peace Party in Debrecen) and finally, the long list of counter-revolutionaries: the Court, the aristocracy, the Catholic bishops, General Lederer, Baron Josip Jelačić, the Palatine, General Görgey, the Slav and the Romanian movements. On this basis attitudes were contrasted as patriotic, or 'wobbly',<sup>5</sup> or treacherous. In allocating these labels historians freely mixed up anti-Viennese nationalism with social radicalism on the grounds that European revolutionary progress

<sup>3</sup> See the comprehensive review of the Hungarian historical literature on the subject by Robert Hermann, 'Az 1848–49-es forradalom és szabadságharc a magyar történetírásban', *Aetas*, 1999, 1–2, pp. 62–85 (hereafter, Hermann, '1848–49').

<sup>4</sup> András Gergely, *Egy nemzetet az emberiségnek*, Budapest, 1987, p. 485. Robert Hermann refers to the revolution as a 'most important chapter in Hungarian history', '1848–49', p. 62.

<sup>5</sup> *Ingadozó* or *megalkuvó* (appeaser).

happily ‘coincided’ (the critical verb) with the struggle for Hungarian national independence just as any diminution of Hungarian independence was *ipso facto* counter-revolutionary.

Politics lay at the roots of this revolutionary rhetoric. The regime established by the communist takeover in 1947 faced an acute legitimacy problem. Its claim to have delivered a social revolution lacked credibility with the subordinate population. Reference to revolutionary progress achieved in the past, particularly in 1848–49, served as a substitute for the missing revolution in the present.<sup>6</sup> This was the essence of the Marxist Old Hat position.<sup>7</sup> Also, the regime intimidated the intelligentsia into compliance by the imperative of the ‘necessarily sharpening class conflict’ which justified political campaigns of vigilance and searches for traitors and wobblers yet to be unmasked. And these miscreants were also to be discovered in the revolutionary struggles of past ages, notably in 1848.<sup>8</sup>

The Marxist Old Hats lost their dominant position under the Kádár regime<sup>9</sup> although some components of their argument have survived. A checklist of the historians’ widening and shifting thematic interests in the subject reveals the extent to which the Old Hats have slipped. They insisted in viewing modern Hungarian history through Kossuth’s eyes with the exclusion of everybody else’s (this was Rákosi’s cult of personality read into the past). The mould was first cracked by György Spira after the 1956 revolution whose book on Count István Széchenyi looked at the 1848 revolution through the political attitudes of the grand man of the reform-movement, a lifelong opponent of Kossuth.<sup>10</sup> This work was followed by Aladár Urbán’s properly detailed reconstruction of prime minister Batthyány’s policies from which it clearly emerged that, far from being a ‘wobbler’, Hungary’s first head of parliamentary government was an energetic organizer of national

<sup>6</sup> See László Péter, ‘“East of the Elbe”’: the Communist Take-over and the Past’ in Robert Pynsent (ed.), *The Phoney Peace: Power and Culture in Central Europe 1945–49*, London, 2000, pp. 37–38.

<sup>7</sup> Aladár Mód and Erzsébet Andics were the prominent exponents.

<sup>8</sup> Following party instructions, historians knowingly read political desiderata into the past; they referred to this canon as *aktualizálni*.

<sup>9</sup> In this shift the seminal influence of Erik Molnár may be noted. See László Péter, ‘A Debate on the History of Hungary between 1790 and 1945’, *SEER*, 50, 1972, pp. 442–47 (hereafter, Péter, ‘A debate’).

<sup>10</sup> György Spira, *1848 Széchenyi és Széchenyi 1848-a*, Budapest, 1964. The work was allowed to be published only after protracted wranglings. (English translation: *A Hungarian Count in the Revolution of 1848*, Budapest, 1974.)

defence.<sup>11</sup> Urbán's studies led to a major monograph on Batthyány's premiership.<sup>12</sup> A lasting influence was István Deák's book on the Hungarian revolution.<sup>13</sup> The American professor critically, but with empathy, examined Kossuth's policies. Yet another perspective was that of Archduke István, the Palatine, whose rôle was reconstructed by András Gergely in 1989.<sup>14</sup> Also, Gergely has examined recently in *Századok* the connections between the Hungarian government and the Frankfurt Assembly.<sup>15</sup> New perspectives in understanding 1848 were opened up by the reconstruction of the national conflict between the Hungarians and their opponents, the Slavs and the Romanians by Zoltán Szász, Ambrus Miskolczi, Ágnes Deák and others.<sup>16</sup> The Görgey–Kossuth conflict was in large volumes of documents explored by Tamás Katona (already in 1979 and after), and then Domokos Kosáry's more recently published monograph demolished any lingering doubt about the probity of modern Hungary's greatest soldier.<sup>17</sup> Feelers put out by the Austrian liberals towards Hungary have been explored by Ágnes Deák, Palacký's federal plan by László Szarka, Eötvös and

<sup>11</sup> In his studies Aladár Urbán examined the organization of the National Guard and the *honvéd* units and in his book reassessed Batthyány's role: *A nemzetőrség és honvédség szervezése 1848 nyarán*, Budapest, 1973, see esp. pp. 231–34 and 354–59. Urbán had warned against the idolization of Kossuth already in 1965. See his review of Eszter Waldapfel's work on Hungarian foreign policy in *Századok*, 99, 1965, pp. 1296–1301 (1298, 1301) in which he politely drew attention (chapter and verse) to the shoddy treatment of the sources by the author.

<sup>12</sup> Aladár Urbán, *Batthyány Lajos miniszterelnöksége*, Budapest, 1986, (hereafter, Urbán, *Batthyány*). See also László Péter's review in *SEER*, 67, 1989, pp. 305–09. Urbán followed up his monograph with the publication of the prime minister's papers, *Gróf Batthyány Lajos miniszterelnöki, hadügyi és nemzetőri iratai*, ed. Judit Róna, 2 vols, Budapest, 1999 (hereafter, Róna, *Batthyány iratai*). This essential work is likely to be the starting point of further research, as was pointed out by Robert Hermann in *Buksz*, 4, 2000, pp. 264–68. Urbán's studies are complemented by András Molnár's works covering the pre-1848 period: *Batthyány Lajos a reformkorban*, Zalaegerszeg, 1996 and *Batthyány Lajos reformkori beszédei, levelei, írásai*, Zalaegerszeg, 1998.

<sup>13</sup> István Deák, *The Lawful Revolution, Louis Kossuth and the Hungarians 1848–1849*, New York, 1979 (hereafter, Deák, *The Lawful Revolution*). See László Péter's review in *Journal of Modern History*, 53, 1981, pp. 748–50.

<sup>14</sup> András Gergely, *Áruló vagy áldozat*, Budapest, 1989 (hereafter, Gergely, *Áruló*).

<sup>15</sup> These studies led to the monograph: *1848-ban hogy is volt? Tanulmányok Magyarország és Közép-Európa 1848–49-es történetéből*, Budapest, 2001 (hereafter, *1848-ban*).

<sup>16</sup> See the chapters of Ambrus Miskolczi and Zoltán Szász in *Erdély története*, ed. Béla Köpeczi, 3 vols, Budapest, 1986, 3, pp. 1193ff, and abridged versions in *History of Transylvania*, 1994; Ágnes Deák, 'Nemzeti egyenjogúsítás' 1849–1860, Budapest, 2000. Ágnes Deák also examined the cooperation between the Austrian, Czech and the Hungarian reformers in 1847–48, 'Együttműködés vagy konkurencia', *Aetas*, 1999, 1–2, pp. 43–61; and on the various reform plans in the Habsburg Monarchy, see 'A Habsburg birodalom a nacionalizmus kihívásai között', *Aetas*, 1997, 4, pp. 5–44.

<sup>17</sup> *A Görgey-kérdés története*, 2 vols, Budapest 1994, cf. László Péter, 'The "Görgey Question" Revisited: Reflections on Academician Domokos Kosáry's Work', *SEER*, 76, 1998, pp. 85–100.

Trefort's views on Austria's constitution by Gábor Gángó.<sup>18</sup> The new research interests of these and other works have opened the windows wide for attaining a much broader view of the Hungarian revolution than the Kossuth cult of the Old Hats used to allow.

The widening of the historians' thematic compass over the last half century has been accompanied by ideological shifts. In this regard it is enough to go back to the late 1950s when the historians' ideological assumptions diversified, a process helped, partly unwittingly, by the political needs of the Kádár régime. The Central Committee of the MSZMP, bewildered by the strength of anti-Russian nationalism which had flared up during the 1956 revolution, issued *The Theses* in the autumn of 1959 on the need to fight 'bourgeois nationalism'. Historians then set out to debate nationalism and were soon divided into defenders of the 'progressive patriotic inheritance' and their critics who aimed to cleanse scholars' works of their 'Hungarocentric' approach.<sup>19</sup> Significantly, the Party did not settle the dispute by fiat. Moreover, following Kádár's political announcement in December 1961 that 'he who is not against us is with us' the Marxist view that history (and particularly revolutions) must be explained primarily in terms of class conflict ceased to be enforced as a strict canon. Because of these two ideological shifts some of the Marxist Old Hats wrote patriotic, others class-war-based history. And likewise, their only in part Marxist colleagues interpreted history either in national or in critical terms.<sup>20</sup> These overlapping trends later became even less clear, and by the 1980s one could hardly find two historians holding much the same views on the revolution.

Although interpretations have moved a long way from the crude axiology of Marxist Old Hats, nevertheless ideological constructs hardly ever disappear without trace. Hungarian historians characterize 1848 as *polgári forradalom*. Both words' uses deserve a brief summary. *Polgári*, in this context, in nineteenth-century Hungarian, was mostly used in the sense of 'civil': it referred to the legal condition of free persons subjected to the same law, forming 'civil' or 'political' society. (This is a West-European, pre-Hegelian use.) In contrast, *polgári* today refers to social (rather than a legal) transformation in the hands of the historians and the term must be translated as 'bourgeois' (*polgári forradalom* creates capitalist society). Also, by following the old Marxist

<sup>18</sup> Gábor Gángó, *Eötvös József. Az 1848–iki forradalom története*, Budapest, 1993 (hereafter, Gángó, *Az 1848–iki*); Gábor Gángó, *Eötvös József az emigrációban* Debrecen, 1999 (hereafter, Gángó, *Eötvös*); see József Takáts review in *Buksz*, 4, 2000, pp. 268–71.

<sup>19</sup> See Péter, 'A debate' and 'New Approaches to Modern Hungarian History', *Ungarn-Jahrbuch*, 1972, pp. 161–71.

<sup>20</sup> The two fully Marxist Erzsébet Andics and György Spira and the two partly Marxist György Szabad and Domokos Kosáry could be regarded as the leading representatives of the four different outlooks as regards 1848.

canon, historians still lump together under *polgári* social transformation and national desiderata (the demand for state independence as much as the abolition of serfdom). Thus Hungarian nationalism is dressed up as part and parcel of social progress.

The other word, *forradalom*, 'revolution' in Hungarian political and historical discourse, still possesses its seductive power. A meritorious (rather than descriptive) term, 'revolution' is frequently used as part of (habitually unexplained) paradoxes through which the writer is able to claim something and also its exact opposite. The following two examples well demonstrate how the use of 'revolution' operates in corrupting language and thought. 1989 has been labelled as a 'negotiated revolution':<sup>21</sup> in other words, an orderly transformation which preserved institutional continuity but also its denial because the event is supposed to have ruptured the whole communist system. In a similar vein, earlier, in 1945 'revolutionary legality' justified the police terror administered by the so called 'people's courts' set up by the communists against 'reactionaries', while the phrase also claimed that the whole sordid business was in fact due legal process.<sup>22</sup> In the 1950s this paradox was also read into 1848 to justify 'the struggle against traitors and opportunists'.<sup>23</sup>

Today the mantra phrase most widely used by Hungarian historians about 1848 is 'lawful revolution'.<sup>24</sup> The origin of the claim goes back to Kossuth and Deák's views. In his speeches Kossuth insisted that Hungary's separate government, established by the April Laws, was not the 'product of a revolution': the Laws merely guaranteed the rights that formally at least ('on paper') Hungary had always possessed.<sup>25</sup> In 1860 Ferencz Deák, never a revolutionary, argued against the Austrian government and the Hungarian Conservatives that the starting-post of reestablishing constitutional life could only be the April Laws of 1848. He did not refute the Conservatives' objections that the April Laws were passed by the diet in an arbitrary manner that violated most rules of *dietalis tractatus*. The Laws, Deák argued, should be regarded as lawful

<sup>21</sup> The term 'tárgyalásos forradalom' appeared in 1990; it became the title of Rudolf L. Tőkés's *Hungary's Negotiated Revolution*, Cambridge, 1996.

<sup>22</sup> See Akos Major, *Népbíráskodás, Forradalmi törvényesség*, Budapest 1988, esp. pp. 147–48. Major's account was composed much earlier, sometime after 1956.

<sup>23</sup> For instance, Erzsébet Andics, *Kossuth harca az árulók és megalkuvók ellen*, Budapest, 1955.

<sup>24</sup> For example, András Gergely has recently affirmed that the epithet *törvényes forradalom* was entirely justified because the April Laws had gone through the diet in a traditional manner and that they had attained royal sanction in its proper form, 'Közép-Európa parlamentjei 1848-ban — párhuzamok és kölcsönhatások'; *Magyar Tudomány*, 43, 1998, 5, pp. 577–89 (579–80). However, the *dietalis* traditions were broken repeatedly which at least Deák never denied, see below, note 26.

<sup>25</sup> For instance, in his speech in the House of Representatives proposing the Declaration of Independence on 14 April 1849, István Barta (ed.), *Kossuth Lajos összes munkái* (Fontes), 15 vols, Budapest, 1948–1989, (hereafter, KLÖM), 14, p. 877.

because the nation approved them afterwards. So Deák here resorted to a precept of customary law. He also argued adroitly that any alternative starting-post to the April Laws — reversion to the ancient constitution (which Széchenyi and the Conservatives favoured) or the acceptance of the Imperial March Constitution of 1849 in a revised form (which could have satisfied Eötvös and Trefort) — would have secured an even weaker legal basis for the starting position than did the April Laws.<sup>26</sup> Soon after 1861 ‘legal continuity’ became a cardinal tenet of the Hungarian constitutional outlook and Deák’s arguments, never closely examined by historians, remained *de riguer* until 1945. Then, after the communist takeover, Marxist historians turned their backs on the whole subject: the logic of ‘revolutionary progress’ made the very question of legal continuity banal. It was partly a reaction to this disinterest that brought forth the claim in the 1980s that 1848 had, after all, been a ‘lawful’ revolution. The epithet was popularized by István Deák’s book published in 1979.<sup>27</sup>

Historians have, of course, been aware that, in the tangled conflicts of the various players, the Habsburg Court, the Austrian and the Hungarian governments, the Reichstag, the Hungarian and the Croat diets and the ban of Croatia all claimed to have the law on their side. But should historians in reconstructing the conflicting legal positions pass judgement based on the claims of one particular side — as the ‘lawful revolution’ epithet implies? Moreover, a paradox is only a paradox which, like hot ice, lacks explanatory power on its own and, as in this case, allows the historian to have it both ways: claiming revolutionary as well as traditional legitimacy for the cause of one combatant in a conflict.

There is, besides the ‘lawful revolution’, yet another phrase that has been bandied about in recent years, which has affected the perspective from which the 1848 revolution is seen today. Looking at history from a post-Yalta perspective, it is frequently asserted that Hungary had, for a long time, suffered from being confined to a *kényszerpálya* (forced track). Accordingly, the country’s development in modern times has been constrained by the rigid system of international relations in Europe within which Hungary was confined to move as if being on an ‘orbital track’. Nowhere is it spelled out with any clarity what the term should exactly convey. It appears that those who use it suffer from a

<sup>26</sup> *Deák Ferencz beszédei*, (hereafter, DFB), ed. Manó Kónyi, second edn, 6 vols, Budapest, 1897–1903, 2, p. 396.

<sup>27</sup> *Lawful Revolution*. The Hungarian translation omitted the paradox from the title and in the introduction the author remarked that both the king and the parliament claimed to have the law on its side and that ‘in fact even today we do not know which side was the lawful one’, *Kossuth Lajos és a magyarok 1848–49-ben*, Budapest, 1983, p. 13. In many respects the English version of this influential work (written outside Hungary) may be regarded as the harbinger of a revisionist outlook (the revised Hungarian edition is less so).

mild form of the Marxist 'historical inevitability' syndrome. This reductionist term is sometimes used to explain the Tripartite Division of the kingdom in the sixteenth century and, at other times, Hungary's subordinate position in the Habsburg Empire after the expulsion of the Turks. The term is used in particular to explain the failure of the 1849 War of Independence<sup>28</sup> rather than attributing the failure to the predictable consequences of politics running headlong into a brick wall. *Kényszerpálya* is in this respect the corollary of 'lawful revolution': it fulfils the emotional need for *sui generis* explanation of how the revolution which restored Hungary's never abandoned right to self-government, and which engaged so much talent and noble effort, could end in failure (against vastly superior forces).<sup>29</sup>

All in all, as this cursory glance at the literature abundantly reveals, Hungarian scholars (i) hold diverse rather than a common view (indeed, why should they?) of the 1848 revolution and (ii) their perspectives and interpretations of 1848 have over the years, before as well as after 1989, changed considerably. Beyond a diversity of views there are, however, important constant elements in their outlook: unexamined assumptions to which we now have to turn. These assumptions are largely anachronistic and their unquestioned acceptance obscures historical reconstruction.

Ever since the nineteenth century historians have cultivated a vocabulary and common conceptual frame of sorts which has sustained continuity of interpretation as regards the constitution. This vocabulary ignores the basic fact that, as elsewhere in Europe, the ancient Hungarian constitution was generated by custom, which, in Hungary, until the nineteenth century, remained the dominant source of law. Statutory law became an independent legal source only in the Reform Era. Further, the common vocabulary also ignores the fact that instead of constituting a single, all embracing public authority, the State, the body politic consisted of two main actors, repositories of customary right: the crown into which the royal office was vested, and the nobility organized into the *ország*, the Land with its *országgyűlés* (diet). Historians write political history in terms of the 'estate dualism' of crown and the nobility; when, however, they touch on the subject of 'constitutional rights' they tend to ignore the crown versus *ország* bipolarity and slip

<sup>28</sup> For example, Gábor Erdődy, *Kényszerpályán. A magyar külpolitikai gondolkodás 1849-ben*, Budapest, 1998 (hereafter, Erdődy, *Kényszerpályán*).

<sup>29</sup> Marxist Old Hats attributed the failure of the revolution to treachery (particularly Görgey's) and the inability of the leadership to pursue socially radical policies. As Robert Hermann points out, József Révai laid the foundations of this view in the 1940s ('1848–49', p. 75). Earlier Marxists were more realistic. István Deák opined that Ervin Szabó had argued that 'the lack of a truly progressive agrarian policy lay behind the ultimate defeat of the War of Independence' (*The Lawful Revolution*, p. 117). There is however, no evidence that Szabó held such a view.



into the vocabulary of the ‘Hungarian State’ and of its ‘independence’ and ‘sovereignty’. Under the spell of the nineteenth-century German dogmatic law school, historians today tacitly assume that statute laws have always stood superior to customary rights. They thus predicate the statutes, the public laws on the ‘State’, the *állam*, and assume that the king and the diet possessed ‘legislative sovereignty’.<sup>30</sup> It is commonly held that St Stephen I established the ‘Hungarian State’, the ‘independence’ of which has been preserved unimpaired throughout the ages: for the nation, as argued frequently, has never ‘renounced its sovereignty’. The last assertion is, of course, quite true but the assumption on which it is based is comically anachronistic.<sup>31</sup> After 1526, so the argument continues, the Habsburg monarchs recognized the ‘Hungarian constitution’ (at least on paper) although in practice they honoured it mostly in its breach. This view ignores far too much. First of all, the Hungarian nobility (as political élites elsewhere) discovered that it possessed a ‘constitution’ (rather than just a collection of customary rights) only in the late eighteenth century and that an accepted view of the constitution never existed.<sup>32</sup> There were wide gaps between the crown and the *ország*’s claims concerning their respective rights (lack of consensus on respective rights is a common feature of European customary constitutions). Views on the nature of monarchic succession could be an example. The two sides agreed that succession had to be *iuxta antiquam consuetudinem* which, however, the crown understood as *jure hereditario* but the *ország* as *libera electio*.<sup>33</sup> Constitutional discourse consisted in conflicts and accommodation through *dietalis tractatus* between the two principal actors. The claims made by the crown about the extent of its rights were as much a part of the ancient constitution as the claims advanced by the *ország*. Further, ‘the constitution’ cannot be treated as a fixed set of unchanging conventions

<sup>30</sup> See on the subject László Péter, ‘The Dualist character of the 1867 Hungarian Settlement’ in György Ránki, ed. *Hungarian History — World History*, Budapest, 1984, pp. 86, 91–97, 101f; also ‘Die Verfassungsentwicklung in Ungarn’ (hereafter, Péter, ‘Die Verfassungsentwicklung’) in Helmut Rumpler and Peter Urbanitsch (eds), *Die Habsburgermonarchie 1848–1918*, 7 vols, Vienna, 1973–2000, 7, pp. 239–540 (pp. 241–61).

<sup>31</sup> The point is embarrassingly anachronistic: as power was not discussed in terms of ‘state independence’ or sovereignty in Hungary or in Central Europe before the nineteenth century, ‘sovereignty’ could not have been ‘abandoned’. See for instance János Szita, ‘Magyarország és a Habsburg-tartományok kapcsolata 1526 és 1847 között’, in: *Degré Alajos emlékkönyv*, ed. Gábor Máthé and János Zlinszky, Budapest, 1995, p. 313. See also, below note 34.

<sup>32</sup> Péter, ‘Die Verfassungsentwicklung’, p. 255.

<sup>33</sup> *Ibid.*, p. 258. Although the diet in Article II of 1687 recognized the Habsburg hereditary succession, the *ország* never really accepted it. And historians even today like to contrast Hungary with the ‘Austrian hereditary Lands’. Was it merely oversight that the translator of the Palatine’s letter to Ferdinand on 24 March 1848 in which the Palatine referred to Austria as ‘die anderen Erbstaaten’ appears in Hungarian as ‘az örökös tartományok’? See Róna, *Balthyány iratai*, 1, pp. 170 and 172.

(that guarantee Hungarian, i.e., the *ország*'s independence) which the Habsburg court aimed to subvert and which patriots defended. Further, these unchanging conventions are, without exception, the products of modern scholarship and their provenance can easily be established.<sup>34</sup> Yet many historians fail to see that the use of modern legal vocabulary for the past is irredeemably anachronistic. Moreover, constitutional principles far from being set in stone are usually in a flux; they are in continuous motion.<sup>35</sup>

Enough has been said about an undoubtedly more complex subject to indicate that, in addition to the Marxist Old Hat assumptions, there is an older vocabulary which provides the bedrock for what may be termed the two Independentist Old Hat assumptions. Both directly impinge on our subject in that they provide essential props that underpin the claim of the 'lawful revolution' thesis. The ultimate source of both assumptions are the speeches and writings of Louis Kossuth.

The first is the claim that Article X of 1790, which described Hungary as *regnum liberum et independens*, affirmed the principle that Hungary was in law an independent state which necessarily implied that Hungary had to have its own separate government.<sup>36</sup> The other assumption is that the April Laws of 1848 established (or confirmed) the legal relationship between Hungary and 'Austria' as a 'personal'

<sup>34</sup> 'Constitution' in the singular first appeared in the Lawbook in 1790; 'Magyar (áll)adalom' (Hungarian State) appeared in a (performative) legal document of consequence for the first time in the Declaration of Independence (drafted by Kossuth) in 1849 and 'legal sovereignty' became a part of the political discourse in the 1880s.

<sup>35</sup> J. C. D. Clark observes about the British constitution: 'A fully detailed examination of politics reveals how indeterminate constitutional conventions are always developing, always the subject of argument, seldom easy to reconcile with the complexities of actual political situations. Indeed, on close examination "the constitution" resolves itself into no more than a large number of men making claims about what the constitution is.' *Revolution and Rebellion: State and Society in England in the Seventeenth and Eighteenth Centuries*, Cambridge, 1986, p. 90. This writer is pleased to acknowledge that the method and the spirit of this book inspired his article.

<sup>36</sup> At the Diet convoked in November 1847 Kossuth, with increasing force, demanded a separate Hungarian government so that Article X of 1790 would be implemented, KLÖM, 11, pp. 332, 396 and cf. 117 n.3 (see index on p. 864). The émigré Kossuth emphatically insisted that Article X expressed with great clarity the independent statehood of Hungary, *Irataim az emigrációból*, 3 vols, Budapest, 1880–82, 2, p. 172. The equivalent of *regnum* before 1848 was *ország* (kingdom or Land) which had little to do with what (later) was understood by the state (*állam*). Yet in the Independence Declaration of 19 April 1849 Kossuth once more referred to Article X to support the claim to an independent State (see *ibid.*, 14, p. 899). From the late nineteenth century jurists and historians have explained independent Hungarian statehood and national sovereignty into Article X of 1790. The 'saját állami lét' replaced *ország* in the Millenary edition of the *Corpus Juris Hungarici*, ed. D. Márkus, Budapest, 1896– (hereafter, CJH), *Magyar Törvénytár, 1740–1835*, 1901, pp. 158–59. Gyula Szekfű described Article 10 as clearly confirming the Hungarian nation's 'állami egyéniségét', Bálint Hóman and Gyula Szekfű, *Magyar történet*, second edn, 5 vols, Budapest, 1936, 5, p. 73.

rather than so-called ‘real’ union.<sup>37</sup> If Hungary, legally speaking, had always been a separate State and if the April Laws established a system in which Hungary had in common with Austria only the ‘person’, the physical body of the monarch, then ‘lawful’ would indeed be the appropriate epithet for the revolution. This is, however, not the case. Neither of the two Independentist Old Hat assumptions is justified. In the Pragmatic Sanction of 1723 and in the 1790 laws Hungary was described as a kingdom (or Land) with its own customs, privileges, laws and (in 1790) constitution and, as such, as a legally separate Land which was not subject to any other *regnum* or people.<sup>38</sup> Indeed, the Habsburg Empire was seen as a monarchic union of Lands. The monarch in this union exercised as monarchic *reservata* the wide customary rights of the crown which until 1848 included the right to govern in all parts of the Empire.<sup>39</sup> The April Laws transformed the ‘executive power’ from a reserved right to a right that the king shared with parliament (*communicata*). What should not be overlooked, however, is that the government *reservata* were considerably wider than what was meant by the ‘executive power’.

Concerning the other claim, there are great difficulties in interpreting the April Laws as an instrument of ‘personal union’<sup>40</sup> between Hungary and Austria. The Laws neither used the term nor did they contain provisions that would warrant the description of complete institutional separation, save the person, the physical body, of the common

<sup>37</sup> In the Batthyány cabinet Kossuth was the driving force for attaining for Hungary the position of personal union with Austria. Deák argued in 1861 that personal union was not introduced by the April Laws but (in the sense of the Pragmatic Sanction) had always been the basis of Hungary’s relationship to the Empire, DFB, 3, pp. 237–38. Clearly, the term ‘personal union’ possessed a protean quality; it was bandied about rather casually in Hungarian political discourse. For Kossuth, falling in with the vocabulary of the ‘State’, personal union meant the common ‘physical’ monarch of two, in effect, independent states. For Deák who retained the language of the *ország*-crown division, personal union meant the common monarch with his recognized reserved and shared rights. This is why Deák could claim in his 1861 Address that: ‘the personal union, too, is a connection from which common relations derive’, *ibid.*, p. 243. For him (and also for Eötvös) personal union and *bírodalom* (empire) were compatible; for Kossuth, they were not. The very different outlook of Kossuth and Deák on this crucial point has been (unwittingly) obscured by historians. See for instance, Sándor Márki, ‘Az 1848–49-ik évi szabadságharc története’ in Márki and Gusztáv Beksics, *A modern Magyarország (1848–1896)*; Sándor Szilágyi’s (ed), *A magyar nemzet története*, Budapest 1895–1898, 10, pp. 1–394 (pp. 68–69 and 590–91).

<sup>38</sup> ‘regnum liberum. . . et independens, id est nulli alteri regno aut populo obnoxium. . .’.

<sup>39</sup> Article XII of 1790 clearly stated the principle that laws could be passed only at the Diet, but the executive power was left with the monarch. Hence the distinction between the ‘shared’ (*communicata*) and the ‘reserved’ monarchic rights in the legal literature, see Péter, ‘Die Verfassungsentwicklung’, pp. 253–54.

<sup>40</sup> The distinction between personal and real union was introduced in jurisprudence by Johann Stephan Putter in his *Institutiones juris publici germanici* (Göttingen, 1770). As we have seen, cf. note 37 above, in Hungarian legal and political discourse ‘personal union’ was used very loosely: depending on whether political authority is discussed in terms of the State or of the traditional political vocabulary, personal union associates very different ideas.

monarch, between the two parts of the empire.<sup>41</sup> Yet, this is the sense in which the term has been most frequently understood. Nor is there any evidence that during the *tractatus* between the diet's leaders and the Court the demand for 'personal union' as such appeared. Yet the 1848 Laws did to a considerable extent separate the government of the two parts, and the Hungarian leaders were pressing for even more separation during the *tractatus*. Immediately after the enactment of the legislative *corpus* on 11 April the political drive for further separation commenced. It became the policy of the Batthyány cabinet in finance, in the control of the army and in foreign affairs to 'wring out further concessions' from the Court, and through re-interpretation of Law III of 1848, to 'complete' the powers of the government.<sup>42</sup> Until July the Batthyány government possessed the necessary political muscle to enlarge its powers at the expense of the Court and the Austrian government. Kossuth even requested in an unsigned article the revision of the April Laws themselves in order to create a separate Hungarian ministry of foreign affairs.<sup>43</sup> This demand let the cat out of the bag. If the April Laws would need revision in order to create a Hungarian Foreign Ministry then, of course, the principle of 'personal union', as it was understood by Kossuth and others in the summer of 1848, could not have been secured by the said Laws.

All in all, evidence abounds that the Batthyány government by insisting on an extensive interpretation of the April Laws aspired to attain personal union in the sense of complete governmental separation

<sup>41</sup> A close reading of Law III of 1848 reveals the lack of complete institutional separation. The Law creates an 'independent responsible' ministry for Hungary. The executive power ceases to be *reservata*; it has to be exercised through the responsible ministry by the king or in his absence by the Palatine. Archduke Stephen is accordingly empowered. Significantly, para 6 of the Law explicitly restricts the ministry's competence to the remit of the previous royal administration (which, of course, never looked after imperial matters like foreign affairs and high finance and its remit as regards the Army was confined to recruitment, quartering and supply). The Law does not bring under the control of the Hungarian ministry those *reservata* which are not part of the executive power. Nor does it separate the tasks of the Hungarian and the Imperial Ministry of Defence. On the other hand, it emphatically 'maintains intact the unity of the crown and the imperial connection' (para 1). It also recognizes, without however defining, 'the common relations with the other Lands of the Monarchy' (para 13). The preamble to the April Laws refers to Hungary's 'lawful independence' as well as to the 'lawful relations with the provinces to which by virtue of the Pragmatic Sanction it is indissolubly connected'.

<sup>42</sup> Urbán, *Batthyány*, esp. pp. 265, 301f, 747; Urbán, *A nagy év sodrában*, Budapest, 1981, pp. 584, 590, 594. András Gergely published the documents and described the conflict of competence between the Austrian and the Hungarian government over the Army, 'Bécs és Pest-Buda 1848 nyári íratváltása a magyar hadügyi önállóság ügyében', *Századok*, 1–6, 1992, pp. 313–28. Gergely assumes that the April Laws secured a separate Hungarian army. This is (probably) based on a reading of para 6 Law III of 1848 which is not at all justified.

<sup>43</sup> Kossuth acknowledged that under the April Laws foreign policy was common for the Monarchy as a whole and then went on to demand the revision of the law, 'Küldügeinkről' in *Kossuth Hírlapja*, 20 July 1848, KLÖM, 12, p. 602.

from Austria. This policy was partly forced on the government by the threat of civil war, and later by the civil war which flared up in the south, and the widely suspected collusion between the Court and Baron Jelačić, the Croat ban. But the critical factor was the expected absorption of the empire's western provinces in some form into a united Germany. Should that obtain, the outcome would inevitably bring greater separation for Hungary.<sup>44</sup> The Frankfurt parliament made it clear that Austria could be included in a united Germany only if the relationship between the Germanic and the non-Germanic parts of the Monarchy was converted to a 'personal union'.<sup>45</sup> That plan dovetailed into the Hungarian policy, developed after the April Laws had been enacted, that Austria and Hungary should function side by side as two independent states with equal rights, linked together by allegiance to the common monarch who should reside in Buda-Pest rather than in Vienna.<sup>46</sup> 'Personal union' was the figleaf that covered the demand for independent statehood without abjuring the Pragmatic Sanction.<sup>47</sup> While politicians in Pest explained the Hungarian State into Article X of 1790, and thereby into the Pragmatic Sanction, their opposite numbers in Cisleithania read into the very same Hungarian laws the concept of the single Austrian State to which all Lands including Hungary belonged. The state-claims by reference to history were specious on both sides. At any rate, the *grossdeutsch* plan, and together with it the conversion of the Habsburg Empire to personal union, soon turned out to be a pipe dream. After Custozza the boot was on the other leg. The revision of the April Laws was now demanded by the court and the Austrian government in order to 'restore the supreme government' by subordinating the Hungarian ministry in

<sup>44</sup> There was a close connection between the policy to 'complete' the powers of the Hungarian government and the expected unification of Germany, particularly in the speeches and writing of Kossuth, see KLÖM, 12, pp. 141, 147, 362, 640f, 655, 675, 1009f.

<sup>45</sup> Árpád Károlyi, *Batthyány Lajos főbenjáró pöre*, 2 vols, Budapest, 1932, 1, pp. 301 and 11, 315f, 365; Lajos Kovács, *Gróf Széchenyi István közéletének három utolsó éve 1846–1848*, Budapest, 1889, pp. 185, 202; Urbán, *Batthyány*, pp. 265, 299f, 315f, 440; András Gergely, 'A Frankfurt-Budapest szövetség kialakulása 1848 tavaszán', *Századok*, 1996, 5, pp. 1033–59; Gergely 'A magyar ügy és a magyar diplomácia Frankfurtban 1848 nyarán', *Századok*, 1997, 5, pp. 991–1018.

<sup>46</sup> The shift of the centre of the Monarchy to Hungary was the corollary of the aspiration to attain personal union.

<sup>47</sup> In fact, as Joseph Eötvös observed in late 1848, both sides had violated the Pragmatic Sanction concerning territorial integrity. Vienna dragged its feet in giving adequate assistance to the Hungarian government in the civil war in the south and the Hungarian parliament set stiff conditions to its offer to assist Radetzky's army in Italy. *Eötvös József, Az 1848–iki forradalom története*, ed. Gábor Gángó, Budapest, 1993, p. 51.

finance and in army matters to the departments of the imperial ministry in Vienna.<sup>48</sup>

Resistance to such a change in Hungary was robust. The Austrian and the Hungarian rival conceptions of 'State' disrupted the foundations of the monarchic union of Lands on which the Habsburg empire had rested for centuries. *Tractatus* in any form was no longer an option. The intractable constitutional conflict was settled on the battlefield because the Court decided to impose its constitutional claims by armed force. Kossuth's premonition, foreshadowed in July, came true in the autumn: that the government in Vienna may 'in the name of the emperor of Austria declare war on the king of Hungary'.<sup>49</sup> Although in September the Batthyány government disintegrated, the Hungarian parliament accepted the challenge; it defended the April Laws, and what it had explained into the April Laws, by armed resistance. The War of Independence, or rebellion, going on nearly a year, lasted longer than the constitutional phase.

Today it is still less than clear whether the April Laws introduced a system which was inherently unstable; whether politics after April was doomed to fail. Nor is it clear to what extent the policies pursued by the Court and the Austrian government or the Batthyány government were responsible for the breakdown of *tractatus*. An alternative perspective would be to regard the constitutional phase as a mere preliminary to an unavoidable passage of arms between two irreconcilable forces; for national conflicts are habitually intractable.

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Domokos Kosáry has over the years sustained an enduring influence on scholarship. As a student of Gyula Szekfű, and ever since his doctoral dissertation on the Görgey question (1936), Kosáry has been a critic of the 'romantic nationalist' outlook. Before any other historian he applied proper historical method in analysing the journalist Kossuth's nationalism.<sup>50</sup> After 1945, in the years of the revival of the

<sup>48</sup> The *locus classicus* of the Austrian view was the *Denkschrift* prepared by the Wessenberg ministry for the monarch on 27 August, drafted by Staatsrat Pipitz, *Sammlung der für Ungarn erlassenen Allerhöchsten Manifeste und Proklamationen*, 1850, Ofen, Anhang, pp. 5–23. The *Denkschrift* regarded the Pragmatic Sanction as a *Staatsgrundgesetz* which required 'Einheit in der obersten Staatsleitung, in der Leitung des Gesamt-Finanzwesens, in der Verwaltung und Führung des Heeres' (pp. 5–6). The *Denkschrift* produced a long list of the Batthyány ministry's actions which had been in conflict with the Pragmatic Sanction. The remedy lay in the restriction of the Hungarian ministry's competence over finance and the army and that 'eine vereinte oberste Staatsleitung wiederhergestellt werde' (pp. 8 and 19). The document also argued that even Article X of 1790 was not in conflict with the unity of the *Gesammtstaat* (p. 22). See also Josef Redlich, *Das österreichische Staats- und Reichsproblem*, Leipzig, 2 vols, 1920–1926, 1, pp. 192–98 and 1/2, pp. 51–56.

<sup>49</sup> KLÖM, 12, p. 381.

<sup>50</sup> In his 'A Pesti Hírlap nacionalizmusa 1841–1844', *Századok*, 77, 1943, pp. 371–414, and *Kossuth Lajos a reformkorban*, Budapest, 1946.

Kossuth cult, Marxist Old Hats denounced Kosáry, who in 1949 lost his academic posts. Imprisoned after the 1956 revolution, he restored his position as a leading historian in the 1960s. Kosáry's *ars historica* rejects the pessimism that has been deeply ingrained in much Hungarian historical writing (Marxist and non-Marxist). He insists that notwithstanding all their 'failed revolutions' and disasters, Hungarians have been a successful people of Eastern Europe: neither 1711 nor 1849 nor 1956 were unmitigated failures.<sup>51</sup>

The author's book on 1848 follows his two-volume study on the Görgey question, a revisionist masterpiece that has already been referred to.<sup>52</sup> Kosáry's new work focuses on the international context of the Hungarian revolution. For he always held that posterity never really understood the international situation which the Hungarian leaders faced:<sup>53</sup> hence the book on this partly neglected<sup>54</sup> and partly misunderstood field. Kosáry has a straightforward and economical way of writing that entirely avoids cliché (like 'modernization') and does not misuse *polgári társadalom* (civil society) which mars many historians' writings. Another merit of the book is its pertinent critical comments on recent Hungarian literature on 1848–1849.<sup>55</sup>

Kosáry's book, above all, is a revisionist work which abandons some of the assumptions that constrict the work of other historians. He does not believe that Hungarian politics was on a *kényszerpálya* in 1848 or at any other time.<sup>56</sup> Hungary had (by then rather narrow) policy options even during the Independence War.<sup>57</sup> But a year earlier (after the enactment of the April Laws and before Custozza) the Batthyány government had plenty of alternatives to choose from.<sup>58</sup> Significantly, Kosáry does not believe, in fact he expressly jettisons, the Independentist Old Hat tenet that the April Laws established personal union between Austria and Hungary.<sup>59</sup> He also makes clear that the policy of

<sup>51</sup> See, for example, his comments in a collection of essays and lectures, *Hat év a tudománypolitika szolgálatában*, Budapest, 1996, esp. pp. 108, 335.

<sup>52</sup> See above, note 17.

<sup>53</sup> This was clearly stated already in his first book published in 1936. See L. Péter, *SEER*, 76, 1998, p. 86.

<sup>54</sup> Although interest in the international aspects of the Hungarian revolution has lately increased. András Gergely's various studies and works by Ágnes Deák and Gábor Erdődy have all been published recently.

<sup>55</sup> See his comments in most of the chapters and particularly in a summary of the literature on pp. 285–91.

<sup>56</sup> Kosáry, *Magyarország*, pp. 67, 295; see also Kosáry, 'Európa és Magyarország 1848-ban', (hereafter, 'Európa'), *Történelmi Szemle*, 40, 1999, p. 183 for a good summary of Kosáry's position on 1848.

<sup>57</sup> Kosáry argues that during the weeks when the Austrian army was practically driven out of the country in April 1849 a peace feeler (instead of the Independence Declaration) put out by the government might have induced London and Paris to mediate, *Magyarország*, pp. 68–70.

<sup>58</sup> *Ibid.*, p. 67.

<sup>59</sup> *Ibid.*, pp. 11–13.

the Batthyány government to reduce Austrian-Hungarian constitutional connections to personal union was closely tied to the expected unification of Germany which was to include Cisleithania. The explicit abandonment of the view that the April Laws contained the provisions for personal union, an essential prop to underpin the claim to a 'lawful revolution', is a major departure from what is today held by most historians and it raises questions that will be explored further on.

Kosáry contrasts Széchenyi and the cabinet's views. While Széchenyi was (already in May) frustrated by his colleagues' reckless moves to get support from Frankfurt and Paris by sending out envoys rather than closing ranks with the Habsburg court,<sup>60</sup> Kossuth and Batthyány pursued a Hungarian 'imperial policy'. They sought to cajole the Court to move to Budapest to which the centre of the Monarchy would then shift.<sup>61</sup> Széchenyi understood that these policies were unrealistic in themselves and could not secure any support in the capitals of Western Europe where the survival of the Habsburg Monarchy as a great power was an article of faith. Kosáry offers a comprehensive summary of the Hungarian envoys' forlorn undertakings (apart from Frankfurt) to attain diplomatic recognition in Paris, London and elsewhere and also to persuade the western powers to mediate between Austrians and Hungarians. László Teleki's activities in Paris are particularly well recapitulated. The issuing of the Independence Declaration in Debrecen on 19 April 1849 was (of course) 'not a fortunate move'.<sup>62</sup> Both Teleki and Ferencz Pulszky (the envoy in London) exercised damage limitation by delaying (by two months) the publication of its doctored text.<sup>63</sup>

An innovative feature of the book is that Kosáry, following Géza Herczegh,<sup>64</sup> treats the national conflicts in Hungary as a part of 'international politics' rather than Hungarian *interna*. The concise chapters on the Croat (particularly illuminating), Serbian, Slovak and Romanian movements are welded into the story and enhance the reader's awareness of the manifold conflicts that surfaced in 1848.

Kosáry rejects G. T. Trevelyan's quip (which later became an overused cliché) that 1848 was the great turning-point of history at which, however, history stubbornly refused to turn. In fact, European institutions in 1848 expanded eastwards and constitutional forms were introduced in many countries. The Hungarian revolution was not an isolated national conflict but a part of the European movement, even

<sup>60</sup> Also, Széchenyi might have been, writes Kosáry, the only one who immediately recognized the significance of Custoza in July, *ibid.*, p. 28.

<sup>61</sup> *Ibid.*, pp. 22–27.

<sup>62</sup> *Ibid.*, p. 66; see also 'Európa', 3–4, pp. 178f.

<sup>63</sup> Kosáry, *Magyarország*, pp. 70–71, 80, 258f.

<sup>64</sup> *Ibid.*, pp. 114–17, 291, cf. Géza Herczegh, *Magyarország külpolitikája*, Budapest, 1987, ch. 7.



though its leaders (ignoring Széchenyi's and Teleki's warnings) were narrow-minded and intolerant towards their national rivals. The War of Independence was, of course, bound to fail. Yet it was that conflict which put the hitherto hardly known Hungarians on the political map of Europe and which secured for them a most advantageous position later in 1867.<sup>65</sup>

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As promised earlier, I am now returning to a particular point in Kosáry's reconstruction. He abandons (and not out of carelessness) a fundamental tenet of the Independentist Old Hat position. Kosáry clearly states (although without elaboration) that the April Laws did not establish personal union between Hungary and Austria. Also, in agreement with others, he describes how the incoming Batthyány government, after the enactment of the April Laws, embarked on policies to separate further the government in Budapest from that of the rest of the empire.<sup>66</sup> Evidence, of course, as has been earlier argued, entirely bears out both points.<sup>67</sup> Kosáry's view, however, raises a fundamental problem.

The function of the Independentist Old Hat claim that reads personal union into the April Laws, together with the *kényszerpálya* thesis, is to provide justification for the armed resistance to the imperial military which was given the task of depriving Hungary of its legal right to a separate system of government. If the historian holds that the April Laws established personal union he can blame the 'Austrian' side for the rupture of *tractatus* and the armed conflict. And contrariwise, he cannot do so if the April Laws did not grant the degree of independence that, after their promulgation, Batthyány and Kossuth claimed they had. In that case the presumption has to be that the court and the Austrian government had a *prima facie* case in their accusation that the Hungarian government, in striving to reduce the connections between Hungary and Austria to personal union, had between April and August transgressed the law.<sup>68</sup> It may not be possible to justify the Independence War as a part of the lawful revolution (which Hungarian historians would wish to) once the legal claim to personal union, an essential prop

<sup>65</sup> Kosáry, *Magyarország*, pp. 283, 292f.

<sup>66</sup> Aladár Urbán has already taken this position. See his *A nagy év sodrában*, Budapest, 1981, esp. pp. 586 and 590. Also, Urbán's account of the government's policy to attain personal union is without reference to the April Laws. The policy is justified by reference to Article X of 1790, see for instance *Batthyány*, pp. 265, 302–03 and 747. N.B. Naturally, Austrian historians have always taken for granted that the Hungarian claim to 'personal union' was made after the enactment of the April Laws, e.g. Josef Redlich, *Das österreichische Staats- und Reichsproblem*, 2 vols, Leipzig, 1920–26, I, pp. 120–21.

<sup>67</sup> Cf. p. 306 and note 37 above.

<sup>68</sup> See above note 48 on the *Denkschrift* prepared by the Austrian government in late August 1848.

in their argument, is abandoned. Article X of 1790 has, of course, been used all along to present the Independence War as a lawful defence of Hungary's rights. But the phrase *regnum liberum et* [. . .] *independens* could offer a new frame of reference rather than specific legal support for responsible government. For Article XII, another cornerstone of the same constitutional settlement of 1790, clearly assigned the exercise of the executive power to the king.<sup>69</sup>

We should now try to reconstruct Kosáry's position without missing any of its essential elements. He argues that in Europe's eastern borderlands Hungary, by pushing through in late March the Laws enacted on 11 April, was the first to make the turn from feudalism towards the institutions of West European society. Indeed, Vienna apart, the Hungarian one was the only successful transition in east-central Europe notwithstanding the lost War of Independence. This success was made possible by the sudden, if temporary, change in international power relations with the collapse of the Metternich system. In the ensuing power vacuum the Hungarian reformers acted fast at the Diet drafting the bills that demolished the system of serfdom and, inspired by the idea of legal equality, established the basic institutions of civil society.

The changeover to representative government with the creation of an independent responsible ministry did not, Kosáry argues, introduce personal union with Austria; Hungary did not achieve national independence as yet.<sup>70</sup> Law III of 1848 left unclear what matters remained 'common' with Austria. Under the old system foreign affairs, the Army and high finance were common and administered by the government in Vienna. With the transition to civil (*polgári*) society these tasks were to be transferred to the responsible ministry.<sup>71</sup> Concerning the position of these common tasks, however,

the chief reason for the uncertainty was that the Habsburg Court and the Hungarian leaders, in the given balance of power, agreed to such a solution that, depending on the circumstances in the future, each side wanted to interpret and expand according to its own interests and aims.<sup>72</sup>

<sup>69</sup> 'executiva . . . potestas per regiam majestatem exercebitur.'

<sup>70</sup> Kosáry criticizes István Hajnal's assumption that the Batthyány government had secured the right to a separate foreign policy (*Magyarország*, p. 10). Clearly it did not, although we do not know for certain what Hajnal wrote on the point. See László Péter's review of Urbán's *Batthyány* in *SEER*, 67, 1989, pp. 305f.

<sup>71</sup> On this point Kosáry seems to accept the traditional interpretation of *regnum independens* in Article X, 1790.

<sup>72</sup> *Magyarország*, p. 11. This interpretation of the April Laws is not without antecedents. György Szabad, an adherent of revolutionary progress regards the April Laws as an 'open' *corpus* rather than a 'closed' compromise, 'A polgári átalakulás megalapozása 1848–49-ben' in György Spira and Jenő Szűcs (eds). *A negyvennyolcas forradalom kérdései*, Budapest, 1976, esp. pp. 53 and 64; Szabad, 'Batthyány és Magyarország alkotmányos önkormányzatának kérdése 1848 tavaszán', *Századok*, 116, 1982, 1185f and 1190f.

As the Habsburg Court, Kosáry argues, made the concessions under duress they intended to revoke them at the first opportunity. On the other side, the Hungarians were determined to increase the degree of independence secured in the April Laws and attain personal union status.<sup>73</sup>

This is a rather peculiar way of looking at the April Laws. That the two sides had different aims is undeniable. It is also obvious that neither side was quite satisfied with the compromise reached in the final draft of Law III 1848 at the end of March,<sup>74</sup> an outcome not uncommon in constitution-making elsewhere. Yet it does not follow from all this that in the drafting of the April Laws the two sides agreed to a deliberate fudge as Kosáry suggests. If that had been the case it would follow that the April Laws were the product of a settlement which was flawed from the very beginning — a judgement which Kosáry would rightly disown. To treat the April Laws as an ‘open corpus’ (as by now in one form or another most historians tend to) gets dangerously close to Humpty Dumpty’s philosophy about the use of words.<sup>75</sup> However, no evidence has come to light so far that the two sides agreed to a settlement in April which they had no intention of keeping. The April settlement turned out to be a flop afterwards because the antagonistic policies pursued by the two sides, mesmerized by the colliding conceptions of State, undermined the political will to cooperate, which was however also present on both sides.

It was an article of faith with Kossuth and the Independentist Old Hat School, which Marxist Old Hats have happily endorsed, that the Court, dominated by the ‘Camarilla’, made the concessions to Hungary in March as a temporary expedient and it conspired against the April Laws’ implementation from the start. This judgement is not necessarily paranoid and does not sound unreasonable. Anybody who doubts that the leaders of the Habsburg Monarchy would do their best, out of habit, to restore positions which in temporary difficulties they were sometimes compelled to evacuate is like the man who doubts that fish seek water. Yet, as István Deák, among other historians, pointed out, there is no evidence for the existence of a ‘Camarilla’, (there were many factions and chaos at Court). Nor is there any evidence for a conspiracy

<sup>73</sup> *Magyarország*, pp. 10–12.

<sup>74</sup> See Kossuth’s report to Pest county on 16 April, KLÖM, 11, p. 742. It clearly emerges from Aladár Urbán’s account that the Hungarian leaders including Deák considered the degree of governmental independence in the April Laws as a ‘baseline’ to be developed rather than what they wanted, *Batthyány*, pp. 195–202, 301–03.

<sup>75</sup> “When *I* use a word”, Humpty Dumpty said in rather a scornful tone, “it means just what I choose it to mean — neither more nor less.” “The question is,” said Alice, “whether you *can* make words mean different things.” “The question is,” said Humpty Dumpty, “which is to be master — that’s all.” (Lewis Carroll)

against the implementation of the settlement.<sup>76</sup> Further, based on Aladár Urbán's studies, Deák argues that the Court, the Austrian and the Hungarian governments were working in the spring and partly even in the summer for 'lasting accommodation'.<sup>77</sup>

Instead of assuming that the Crown and the Diet agreed to a settlement in April which they did not intend to keep, the *tractatus* in March may be better understood as a phase in the shifting, gradually more ambitious Hungarian demand for separation during 1848. But not before: it is hard to find antecedents in the *Vormärz*. Historians who argue that the April Laws established personal union also hold that the Hungarian opposition, the liberals, had demanded it already in the Reform era.<sup>78</sup> It is, however, increasingly difficult to maintain this view because Marxist scholarship has since the Second World War explored the history of the Reform Era extensively. Károly Vörös in the ten-volume *Magyarország története* does not as much as mention 'personal union', rightly, as neither the term nor the concept appear in the relevant sources.<sup>79</sup> The same goes for János Varga's book on the *Pesti*

<sup>76</sup> *The Lawful Revolution*, pp. 76–77. András Gergely is entirely in agreement with Deák, *Egy nemzetet az emberiségnek*, Budapest, 1987, p. 488.

<sup>77</sup> *The Lawful Revolution*, pp. 131–33 and 138. The Court was 'at its most conciliatory toward Hungary' in June when, however, the Austrian government turned against the Batthyány cabinet.

<sup>78</sup> Aladár Urbán was, arguably, the first historian who, instead of reading 'personal union' into the April Laws, gave a clear account of the Batthyány government's policy to attain personal union status between April and August 1848. In agreement with most other historians, however, he assumed that 'personal union' followed from the principle of *regnum independens*, recognized by Article X of 1790, and that Hungarian politicians were striving for personal union status in the Reform Era: Urbán, *Batthyány*, pp. 265, 301f, 747; Urbán, *A nagy év sodrában*, Budapest, 1981, pp. 584, 590, 593–94; Urbán, 'Gróf Batthyány Lajos emlékezete', *Aetas*, 2000, 1–2, pp. 132–58 (p. 157). Most other historians find personal union as a programme in the Reform Era as well as a right secured in the April Laws. For instance, Géza Herczegh, *Magyarország külpolitikája 896–1910*, Budapest, 1987, pp. 210, 245, 248 (traditional claims); *Kényszerpályán*, p. 119; Erdődy, 'Batthyány Lajos Magyarország nemzetközi mozgásteréről' in *Batthyány Lajos emlékezete*, ed. Vas Megyei Levéltár, Szombathely, 2000, pp. 27–42 (pp. 35–40, an acute case); Gergely, *Aruló*, p. 71; Gergely, 'Államjogi kapcsolat, államjogi szemléletek az osztrák-magyar együttműködés idején' in *Hosszú tizeenkilencedik és a rövid huszadik század*, ed. Jenő Gergely, Budapest, 2000, pp. 159–66; Gergely, *1848-ban*, pp. 178–82 (subtle points). N.B. What qualifies for the old hat position is not merely the anachronistic use of 'personal union' but the (sometimes only implicit) assumption that what is common in the union is a *naked* monarch — without his investment of rights, so to say. For Deák and Eötvös were not Old Hats, yet they projected 'personal union' into the past. Their 'common' monarch was, however, a subject of wide rights, especially before 1848, in Hungary as well as Austria, and these monarchic rights guaranteed the unity of the empire. For Deák's views on this point see above note 37; for Eötvös see Gángó, *Az 1848-iki*, pp. 51f; Gángó, *Eötvös*, pp. 77–80.

<sup>79</sup> Károly Vörös in *Magyarország története 1790–1848*, Budapest, 1980, 2, pp. 855–975.

*Hírlap*.<sup>80</sup> Nor do we find any reference to personal union in the 1847 Oppositional Declaration which demanded, as a guarantee against ‘alien influences’, that the government should be legally and politically responsible. The Declaration rejected the idea that the Monarchy should have a unitary government but it envisaged institutional links among all the Lands, including Hungary, of a reformed constitutional empire.<sup>81</sup>

Kossuth held more radical views on Hungary’s constitutional independence than the Declaration which was to unite all sections of the Opposition. Yet again, we do not find any reference to ‘personal union’ in his writings.<sup>82</sup> That could conceivably have happened because of the restraining effect of the censorship office. But then we also draw a blank on ‘personal union’ when we examine Kossuth’s works published abroad under pen-names.<sup>83</sup>

Moreover, in the months before the revolution, politics was, astonishingly, actually moving in a direction opposite to what we should expect. Instead of any shift to demanding personal union, ‘common interests’ and ‘common relations’ between Hungary and the other Lands of the Monarchy became an accepted part of political discourse. This was because Hungarian liberals now assumed that constitutionalism would be (sooner or later) introduced in all parts of the Monarchy (and in that case *tractatus* with the monarch was no

<sup>80</sup> János Varga, *Keresztútzben a Pesti Hírlap*, Budapest, 1983. In another work (*Helyét kereső Magyarország*, Budapest, 1982, Eng. transl. *A Hungarian Quo Vadis*, Budapest, 1993), Varga argues that a plan existed in the 1840s ‘to reorganize Austro-Hungarian relations along the lines of a political and economic federation’, in which ‘Hungary’s relationship to the Hereditary Lands was to be restricted to the two being ruled by one and the same monarch’, p. 159. The author supplied no reference in support of this contention.

<sup>81</sup> In a well-constructed passage the Opposition first recognized ‘the relationships’ (*viszonyok*) by virtue of the Pragmatic Sanction between Hungary and the ‘Austrian hereditary Lands’. This was then, following tradition, immediately qualified by an affirmation of Article X of 1790 but concluded, however, on the point that the Opposition did not wish Hungarian interests to clash with the ‘interests of the Monarchy’s unity and security’. Hungarians were fully prepared to ‘settle’ (*kiegyenlít*) possible conflicts of interests with the other Lands, ‘on the basis of justice and equity’, KLÓM, 11, p. 156.

<sup>82</sup> Only the ‘unity of the monarch’ follows from the Pragmatic Sanction rather than a ‘unitary Empire’ common with Austria, writes Kossuth to Móric Szentkirályi on 5 February 1847 (KLÓM, 11, p. 97 and cf. 100). Thus Hungary is independent from ‘Austria’ (being another Land or *regnum*) with which, according to the *dietalis* instructions of county Pest, an ‘equitable settlement of common interests’, should be secured (*ibid.*, p. 173). There is nothing in these texts that the rights of the crown should be separated from the ‘person’. In a draft, written some time before the opening of the diet in November 1847, Kossuth goes further: the diet should have a say in all matters that affect Hungary yet hitherto handled by the government in Vienna. In particular, Hungary should have influence on foreign policy (*ibid.*, pp. 244–46). These ideas moved in an opposite direction to what was going to be meant by ‘personal union’ after the enactment of the April Laws.

<sup>83</sup> Mihály Bábolnai (pseud), ‘A magyar konzervatív párt és a nemzetiség’ (1846) in *Magyar szózatok*, Hamburg, 1847, pp. 219–63; ‘Deregnyei’, in *A magyar politikai pártok értelmezése*, ed. Gábor Szigethy, Budapest, 1989. See also Gyula Viszota, ed., *Gróf Széchenyi István tróji és hírlapi vitája Kossuth Lajossal*, 2 vols, Budapest, 1927–1930, 1, pp. 835–75.

longer enough). The Oppositional Declaration had already alluded to this topic<sup>84</sup> which then came up in Kossuth's speech at the Circular Session on 22 November 1847 and in the text of his draft Address. It was now the Lower House's view that 'the fullest expansion of the Hungarian constitution' and 'common status relationships'<sup>85</sup> could, if Article X of 1790 was respected, coexist and the seemingly divergent interests be settled 'in the management of the common imperial state connections'<sup>86</sup> on the basis of parity.<sup>87</sup> There is similar evidence throughout the documents from late 1847. We may digress for a moment to note that these were the terms and concepts that reemerged in the 1860s — facts which historians, who censure Deák for abandoning Hungary's rights in 1867, ignore. Notably, however, while Kossuth in 1847 envisaged *tractatus* on the 'common relations' with the Austrian liberals as well as the Court, Deák in the 1860s entered into *tractatus* solely with the monarch.

Even after the July Monarchy's collapse in Paris in February, the Kossuth-led diet, instead of demanding personal union, followed the earlier twin policies of (i) vindicating the claim to the expansion of the constitution by introducing 'national government' based on majority support<sup>88</sup> and (ii) calling for a settlement (*kiegyenlítési*) of the 'common interests' with the other Lands as well as recognizing 'our legal relations towards the empire as a whole'.<sup>89</sup> Once, however, the Metternich system collapsed the Hungarian position shifted: it became more radical. Also, in the *dietalis tractatus* which now commenced, rules and conventions were repeatedly broken. Now the leaders wanted to secure greater autonomy for Hungary than had been envisaged by Kossuth and others even a few weeks earlier.<sup>90</sup> This process is better described by Marxist Old Hats (as they believe in 'revolutionary progress') than by adherents of the 'lawful revolution' thesis. Although the autonomy

<sup>84</sup> KLÖM, 11, p. 156.

<sup>85</sup> 'Közös státus viszonyai', KLÖM, 11, p. 316; 'kapcsolati viszony', p. 318; and see note 82 above.

<sup>86</sup> *Ibid.*, pp. 316, 317, 327: 'a birodalommal közös státus viszonyaink intézésében'. The ideas and most of these terms reappear in the Address, pp. 331–33.

<sup>87</sup> 'érdekeink paritása', *ibid.*, p. 318. Logically, Hungarian leaders, before they embarked on the course to claim personal union (which is a polite way to claim state independence) had supported the Austrian Liberals' demand for a constitution. But once constitutional forms were introduced in all Lands and Kingdoms of the Monarchy the rival conceptions of state made them unworkable. Hence Eötvös' perceptive comment that 'nothing jeopardizes Hungary's independence as a state more than the hereditary provinces' (Cisleithania) transformation into a constitutional empire', *Az 1848–iki*, pp. 39, 159, 161.

<sup>88</sup> Kossuth's speech and Address draft on 3 March 1848, KLÖM, 11, pp. 619–28.

<sup>89</sup> 'az összes birodalom iránti törvényes viszonyaink': Dénes Pap, *Okmánytár Magyarország függetlenségi harcának történetéhez*, 2 vols, Pest, 1868–1869, 1, p. 1, cf. KLÖM, 11, p. 625, note c.

<sup>90</sup> György Spira, 'Polgári forradalom (1848–1849)' in *Magyarország története*, 10 vols, 1976–89, ed. Endre Kovács, Budapest, 1979, 6/1, pp. 59–434 (pp. 73–74, 81f).

secured in the April Laws, as argued earlier, fell far short of what was (later) meant by personal union and the Laws emphatically maintained ‘intact the unity of the crown and the imperial connection’,<sup>91</sup> the Laws nowhere explained what ‘unity’ and ‘connection’ consisted of and how the ‘legal relations’ were to be administered. Nor did they adequately define monarchic *reservata*.

The April Laws were all too frequently criticized, particularly by supporters of the 1867 constitutional Settlement, for their loose language and curt, ambiguous provisions which were held to be partly responsible for the ensuing conflict between Hungary and the empire. Constitution-making in March 1848 undoubtedly bore the marks of hasty drafting. Yet even if we dismiss as a jeer (which we may not) the dictum attributed to Napoleon that ‘constitutions should be short and ambiguous’, the criticism of the April Laws — that they contributed to the conflict — was partly misplaced. Although the authority of the Hungarian ministry was not properly defined, the April Laws created a coherent system of government so far as it was politically possible to do so in the spring of 1848. Legislation went as far as it could to secure the consent of both sides, which, however, is not to say that the partners agreed to a fudge. The settlement did not last because the partners, *after* its enactment, embarked on policies governed by irreconcilable aims. Members of the Batthyány government explained ‘personal union’ into the April Laws (a figleaf for the claim to a separate Hungarian State) to which the Austrian response was the claim to the existence of the *Gesammtstaat* explained into the Pragmatic Sanction, and ultimately the rejection of the April Laws.<sup>92</sup> Thus the culprit for the failure of the constitutional compromise reached between the Court and the Hungarian leaders was not the *corpus* of the April Laws but the new, rival conceptions of the State that governed policies afterwards. Historians sometimes forget that no constitutional reform should be expected to solve intractable political conflicts.

Kosáry concluded his book on the point that the 1867 settlement, which offered great opportunities for the country,<sup>93</sup> could not have been attained without 1848. Probably so, and there is a paradox here. It is still an article of faith in Hungary that Deák ‘abandoned’ some of the rights which were secured by the April Laws. The debate is only about how much he did. *Per contra* it can be argued that Deák knocked

<sup>91</sup> Paragraph 2, Law III, 1848.

<sup>92</sup> See note 48.

<sup>93</sup> Kosáry makes this point emphatically in his conclusions, *Magyarország*, p. 293.

out of the lawbook what was unworkable, and therefore useless,<sup>94</sup> and on most points of contact with the empire his settlement, in comparison with the April Laws, improved on Hungary's separate standing. In 1867 Deák secured wider rights in foreign policy and defence for Hungary than the April Laws had obtained (*pace* Old Hats)<sup>95</sup> yet he never explained independent statehood into either the April Laws or the 1867 Settlement.<sup>96</sup> Or, to put it differently, although Deák believed that the Pragmatic Sanction had already established 'personal union' between Hungary and Austria<sup>97</sup> he was quite willing to 'abandon' a large part of what Kossuth (and, following him, Independentist Old Hats) *read into* the April Laws. A significant implication of Kosáry's book is that Ferencz Deák is still waiting, under the long shadow cast by the figure of the Great Exile, to receive his due from Hungarian historians.

<sup>94</sup> Undoubtedly Deák 'abandoned' from the April Laws what was clearly unworkable like the splitting of the prerogatives between the monarch and the palatine or the silly rule that parliament cannot be dissolved without a budget approved for the following year. See para. 6, Law IV, 1848.

<sup>95</sup> The 1867 Settlement is still seen by most historians as a 'compromise', (perhaps a necessary one) in which Deák abandoned some rights that had been secured in the April Laws. For instance, György Szabad in *Magyarország története*, Budapest, 1979, 6/1, pp. 764–68 (see above note 90).

<sup>96</sup> Throughout his political career, Deák, claimed 'lawful independence' for Hungary, as a Land (*ország*), rather than independent statehood, see Péter, 'Die Verfassungsentwicklung', pp. 327–31. Hungarian historians still follow Péter Hanák's views that Deák in the 1867 Settlement 'abandoned parts of Hungarian sovereignty' and that 'the Hungarian ruling classes [...] fiercely contested (from 1867) the principle that the Monarchy consisted of two States independent of each other'. Neither view holds water. See *Magyarország története*, ed., Péter Hanák et al., Budapest, 1972, vol. 4, pp. 134 and 135; Hanák, cf. above note 90, *Magyarország története 1848–1890*, ed., Endre Kovács, Budapest, 1979, pp. 778 and 784; also cf. Hanák, 'Hungary in the Austro-Hungarian Monarchy: Prepondancy or Dependency?', *Austrian History Yearbook*, vol. 3, pt 1, 1967, pp. 296–99. In fact the claim to a 'legally independent state' and Hungarian sovereignty became *communis opinio* only in the 1880s. The new constitutional claims led to the crisis of the Dualist system after the turn of the century, just as the claim to personal union in the summer of 1848 had led to the political crisis of the April Laws.

<sup>97</sup> 'Personal union', as we have seen, cf. note 37 above, never had an agreed meaning in Hungarian. Deák, living in the bipolar world of the *ország* and the crown, with rights vested in each, could argue that 'common relations' derived from the personal union with the Monarchy's other Lands, i.e., to the extent that the common monarch possessed rights which might (or might not) be converted to shared rights in both halves of the Monarchy. Historians ignore this passage as it contradicts the consensus view that Deák recognized the common relations only after 1861 and thereby 'abandoned parts' of Hungarian sovereignty.