

The Young Ferenc Deák and the Problem of the Serfs 1824—1836

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Ferenc Deák died in Pest on January 28, 1876. In tribute to his achievements "over many years working for the welfare of the fatherland", the Hungarian Parliament quickly passed Act No. III of 1876, ordering that "steps are to be taken at once to raise through public donations a memorial worthy of the deceased in the national capital."¹) A parliamentary commission headed by the Speaker of the House, *Kálmán Ghyczy*²), made detailed preparations for a state funeral, but resolved that it "would not propose the proclamation of national mourning, because the nation would express its own grief."³) In other words, *Deák's* former colleagues felt him to have been a man of such stature that it would have been an affront to his memory to order the nation to remember him. Though *Deák* had been a nonpracticing Catholic, it was the Primate of Hungary who officiated at his funeral. His most prestigious biographer, *Zoltán Ferenczi*, wrote: "On February 3, a cold, foggy, winter's day, *Deák* was buried with such pomp and ceremony as had never before been seen in Hungary, attended by hundreds of thousands of mourners."⁴)

Seldom had there existed a Hungarian so widely respected and admired in his lifetime or whose counsel had been so carefully heeded. Most of *Deák's* Hungarian biographers and almost every single one of his foreign ones attribute his unsurpassed popularity and esteem to his extraordinary success during the negotiation and composition of

¹) *Corpus Juris Hungarici 1875—1876 évi törvényczikkek*. [Acts of the Years 1875—76]. Budapest: Franklin-Társulat 1896, p. 310.

²) *Kálmán Ghyczy* (1808—1888), lawyer and liberal politician. In 1848 he was Secretary of State in the Ministry of Justice, the righthand man to the Minister, *Ferenc Deák*, in the revolutionary government of *Batthyány*. When political life in Hungary resumed in 1861, *Ghyczy* again assumed a position of prominence as joint leader with *Kálmán Tisza* of the left-of-center liberals. In 1874 he was Minister of Finance and in 1875 organized the merger of *Deák's* party with *Kálmán Tisza's* party under the name of the Liberal Party, and became its chairman. He was Speaker of the Parliament from 1875 to 1879.

³) *Zoltán Ferenczi*, *Deák élete* [The Life of *Deák*]. 3 vols., Budapest: A Magyar Tudományos Akadémia Kiadása 1904, III, p. 413.

⁴) *Ibid.*, p. 415.

the *Ausgleich* of 1867. Imre Halász suggested: "In the minds of the Hungarians, Ferenc Deák's image was that of the man whose name was synonymous with the resurrection of a nation that had already been pronounced dead."⁵) The implication is that the earlier *Deák* had been lost to memory, overwhelmed by the magnitude of the achievements of the later man.

When Hungarian biographers have concentrated on the *Ausgleich* and allowed the earlier *Deák* to slip into oblivion, non-Hungarian writers can scarcely be blamed for doing the same. The present purpose is to try to rescue the younger man, on the premise that *Deák's* fame as the maker of the *Ausgleich* rested on his achievements before 1848. During the *Vormärz* era *Deák* established a national reputation as a liberal reformer, who backed, proposed and even drafted legislation⁶) and measures to grant freedom and equality to all religious denominations without exception, to establish the supremacy of the legislative over the executive, to abolish the entail system (which was the greatest obstacle to the country's economic advance), to secure the freedoms of assembly, expression and the press, to separate church and state, to reform the criminal code and the judicial system, and to emancipate the serfs and endow them with as much land as possible. Such is the "unknown *Deák*" who, as Halász would have it, died of a surfeit of prestige earned from the *Ausgleich*. In Hungary today Márton Sarlós, a noted scholar of Hungarian law, is busy unearthing that "unknown *Deák*", a term he applies to *Deák* the codifier. He suggests that much liberal legislation was actually framed by *Deák* himself.⁷) Many of Hungary's progressive laws thus embody not only *Deák's* vision but also his very words.

The snail-paced movement toward emancipation of the serfs, finally accomplished in Hungary's April Laws of 1848, was one of the most interesting features of the *Vormärz* era — and one that has been sub-

⁵) Imre Halász, *Egy letűnt nemzedék: Emlékezések a magyar állam kialakulásának újabb korszakából* [A Bygone Generation: Memories of the Recent Period in the Development of the Hungarian State]. Budapest: A "Nyugat" Kiadása 1911.

⁶) "The writing of the history of our law still has ten years in which to make up for a century of neglect and before *Deák's* centenary [1976] to compile a collection of the *Deák* papers buried in the documents of the Parliament, the *Corpus Juris* and in speeches omitted from the Kónyi collection." "A *Deák* Ferenc-emlékülésen Dr. Sarlós Márton által tartandó 'Deák Ferenc, a zalai követ' című előadás tézisei" [The Thesis of Dr. Márton Sarlós's Lecture Entitled 'Ferenc *Deák*, the Delegate from Zala' to Be Delivered at the Commemorative Meeting in Honor of Ferenc *Deák*], June 10, 1966 (a manuscript).

⁷) "Those acts drafted by *Deák* and inserted anonymously in the *Corpus Juris* may be considered his 'unknown' works." Márton Sarlós, "Deák Ferenc és az úrbéri földtulajdon az 1832/1836-i országgyűlésen" [Ferenc *Deák* and Servile Property Rights in the Diet of 1832—36]: *Jogtörténeti Tanulmányok I* (Budapest 1966), p. 193 (reprint). Hereafter referred to as Sarlós, "Servile Property".

ject to widely differing interpretations. So intimately were *Deák's* efforts in this direction bound up with other liberal projects that they cannot be considered apart. His other projects, however, will be examined here only to the extent needed for a clear understanding of the serf problem.

Deák was involved with the problems of the peasants from the very start of his career.⁸⁾ His early activities fall into two distinct periods. On August 9, 1824, the 21-year-old *Deák* returned to Zala county from Pest, where he had just completed his law studies and articles (*juratus*) and passed the bar examinations with distinction. Because of his brother's public services, the young *Deák* had been offered a position in the county administration as an honorary deputy public prosecutor (*becsületbeli tiszti alügyész*), the most junior office open to a young member of the gentry educated in law. As time went by, he climbed the ladder of county offices to the topmost rung, which he reached on November 5, 1832, when he was elected deputy high sheriff surrogate (*surrogatus alispán*).⁹⁾ Before his shrievalty became permanent, his county career — and the first period of his young

⁸⁾ *Ferenc Deák* was born on October 17, 1803, in Söjtör, Zala county. His mother died in giving him birth and his father sent the baby to be looked after by relatives in Zala-Tárnok. When his father died in 1808, he was returned to his family home, where he was brought up by his older brother and sister, *Antal* and *Klára*, with whom he developed an enduring bond of affection. As the child of well-to-do gentry, he was taught to read and write by a private tutor, a Franciscan friar. He went to an elementary school in Kőszeg (1808—1811) and the gymnasia of Keszthely, Pápa and Nagykanizsa (1811—1817), and finally the Law School in Győr, from which he graduated in August 1821. He was 18 years old and receptive to new ideas as a new era opened in Europe with revolutionary movements sweeping over the continent from Spain to Greece. His first political experience, in defiance of an order issued by the administration of the Law School, was to witness from the gallery of the County Assembly of Győr that body's refusal to execute an unconstitutional royal rescript. On December 21, 1821, the County Assembly of Zala declared *Deák* to be of age. During the 1822—1824 constitutional crisis in Hungary, he was serving his law articles in Pest, a keen observer of the political ferment. When he entered public service on August 9, 1824, the royal summons to the Hungarian Diet had already been issued, bringing to an end a decade and a half of extraconstitutional rule by the Habsburgs. His career thus began at the same time as Hungary's Age of Reform.

⁹⁾ The highest office in a county was that of the *főispán* (high sheriff), who was appointed by the king as his representative within the county's autonomy. In some cases the office was hereditary, but in all cases it was open only to the aristocracy. The *főispán's* deputy was the *alispán*, who was elected at a special session (*sedes restauratoria electoria*) of the County Assembly (*közgyűlés*). All the county lesser nobility were entitled to take part in the County Assembly. The *alispán's* was the highest office to which the *bene possessionati* could rise, but it was not open to the *bocskoros nemesek* (moccasin nobility), who constituted the lowest rank of the lesser nobility. The *bocskoros nemesek* were numerous, impoverished, often landless, and generally distinguishable from the serfs only by their right to take part in the County Assembly. The *surrogatus alispán* was an acting deputy high sheriff.

political life — came to an end, for on April 15, 1833¹⁰), he was elected as a deputy to the Diet. From that day to the end of his life the Hungarian legislature became his sole preoccupation. By the time this Diet was prorogued in 1836, *Deák* had become at 33 a mature, recognized leader of Hungary's liberals. His rapid ascent to such prominence was inextricably intertwined with his concern for the rights and dignity of Hungary's peasantry.

Ferenc Deák, County Official (1824—1833)

The county system has been one of the most beautiful jewels of Hungary's constitution. It is an ancient institution, just as our constitution is; both have evolved out of our national life, that is why one, like the other, has been fashioned through the ages in harmony with the evolution of the nation's very life.¹¹

So wrote *Deák*, and indeed the importance of Hungary's county system cannot be overestimated.¹² No Hungarian institution was or could have been more independent from Habsburg domination and will than the counties. Since the middle of the eighteenth century county administration had been stable, efficient, professional, self-confident and effective. On its efficiency depended the execution of all Habsburg decrees, whether constitutional or despotic. Even a monarch like *Joseph II*, who went further than any other in his efforts at centralization, had to rely on the cooperativeness of the counties. The paradox of Josephinism in Hungary was that the more decrees *Joseph II* issued to increase centralism, the more jobs there were in Hungary that only the counties could perform; the harder he tried to supplant Hungary's separate status by centralization, the stronger he made the counties by giving them new assignments and greater authority, even though they were foci for decentralization and Hungarian separatism. The counties could make or break *Joseph's* decrees, and during the latter years of his reign they strove to frustrate his despotic reforms. The Hungarian counties were more successful than any other institution at thwarting *Joseph's* centralizing and germanizing efforts,

¹⁰) Both *Ferenc* and *Antal Deák* held the highest elective office open to them in the county, the *alispán's*. There was nothing exceptional in this, though, for all over Hungary it was the practice for the richest and most powerful *bene possessionati* to fill the top county offices. *Ferenc Deák* owned 1,238 yokes of land, approximately 1,220 acres, which made him an average *bene possessionatus*. *F e r e n c z i*, op. cit., I, p. 7, n. 2.

¹¹) Quoted by *István Nedeczky*, *Deák: A képviselői alkotmány megalapítása* [*Deák: The Establishment of the Representative Constitution*]. Budapest: Rudnyánszky A. Könyvnyomdájából 1876, p. 253.

¹²) For a discussion of the status of the counties in the Hungarian governmental system, see *Béla K. Király*, *Hungary in the Late Eighteenth Century: The Decline of Enlightened Despotism*. New York: Columbia University Press 1969, pp. 108—113.

and finally forced him on his deathbed to repeal all but three of his decrees.¹³⁾

On July 1, 1812, the last Hungarian Diet of the Napoleonic era was prorogued, and *Francis* reintroduced unconstitutional rule, though of a less sophisticated and benevolent nature than *Joseph II's* had been. For a decade and a half no new Diet was convened. The counties resented this neoabsolutism and met it with sporadic passive resistance. After the upheavals that swept over Europe in 1820—21, the grip of the Metternichian system on Hungary loosened and the counties' resistance became steadily more active. By the time *Ferenc Deák* started out in local politics, the Hungarian counties were resisting Vienna's policies vigorously. One of the revelations to the political tyro was the county system's inherent potential for opposing tyranny, for it had already successfully challenged the Metternichian system and was to score its first political victory over absolutism at the Diet of 1825—27.¹⁴⁾ Three specific factors profoundly affected *Deák's* thinking and the future course of his career. First, *Deák*, while still a student, had chanced to be at home in Zala county twice when the County Assembly had mounted an outspoken campaign in defiance of Metternichian absolutism. On both occasions the local gentry had given Vienna a very hard way to go. Secondly, his brother *Antal*, whom he adored, was the leader of Zala county's constitutionalist resistance to Habsburg absolutism, so that *Ferenc* grew up with a tradition of opposition to despotism. The third factor was that *Deák's* home county of Zala was the bellwether of all the Hungarian counties challenging absolutism and demanding a return to constitutionality.

The first of these three influences on *Deák* was directly related to the European troubles of 1820—21. In the fashion of true tyranny, the Habsburgs wanted to use their subjects' resources for the suppression of others. In April 1821 *Francis* issued from Laibach (Ljubljana), after conferring there with his fellow monarchs on the suppression of European revolution, an order to the Hungarian counties to conscript recruits for the army and another to raise new taxes. Both measures

¹³⁾ The three exceptions were the Patent of Toleration, the regulation of the serf problem, and the settlement of the problems of the ministry and lower clergy. *Király*, op. cit., p. 173, n. 1; Ernst Wangermann, *From Joseph II to the Jacobin Trials: Government Policy and Public Opinion in the Habsburg Dominions in the Period of the French Revolution*. London: Oxford University Press 1959, pp. 50 ff.; Edith Murr Link, *The Emancipation of the Austrian Peasant 1740—1798*. New York: Columbia University Press 1949, pp. 149—151.

¹⁴⁾ "The Habsburg experiment in neoabsolutism was frustrated by the county system in Hungary". Mihály Horváth, *Huszonöt év Magyarország történelméből 1823—1848* [Twenty-Five Years of Hungary's History 1823—1848]. 3 vols., Pest: Ráth Mór 1868, I, p. 25—27.

were prerogatives of the Hungarian Diet, not the king.¹⁵⁾ *Antal Deák* at once began a vigorous campaign in Zala against the ordinances, arguing that, since they were unconstitutional, the county not only had a right but also an obligation not to comply. Very soon a second royal rescript reached Zala, ordering the county to execute the Laibach decrees forthwith. Home from school, *Ferenc Deák* on November 21, 1821, watched the meeting at which the County Assembly defied the second rescript. Its stand made a great impression on him.

In the face of the continuing opposition, the court threatened force. *Antal Deák* spearheaded the county's counterthreat that, if force were used, all the local officials would resign, leaving no one to implement the king's orders. At first *Francis* suspended the county's autonomy, but in due course he had to allow the County Assembly to convene again. At its dramatic session on December 23, 1823, *Ferenc Deák* was again present. Under his brother's leadership, the assembly refused even to discuss the unconstitutional royal decrees.¹⁶⁾ It solemnly denounced them as unconstitutional and ordered its resolution to this effect to be made known to all the other counties of Hungary. The fame of *Antal Deák* and Zala county's steadfast resistance spread throughout the country and set a pattern that was followed elsewhere.

Metternichian absolutism was completely at a loss how to deal with the tide of opposition. There were, in fact, only two alternatives. The opposition could be broken by massive military force, but only at the risk of rekindling the Italians' barely suppressed revolt and possibly fanning German discontent into open rebellion. Even at this period, news traveled fast across Europe and events were becoming increasingly interdependent. The other alternative was to come to a compromise with the Hungarian estates by reestablishing Hungary's constitutional feudal government. The Habsburgs opted for the latter course and to that end summoned a new Diet in the belief that a pacified Hungary could become a power base for the dynasty rather than a powder keg in its lands. It was a course that better suited Metternichian methods, for the ferment in Hungary was essentially conservative, aiming simply at the reestablishment of constitutional rule. Even the most outspoken leaders of the opposition like *Antal Deák* were not looking for social changes; in social terms they were as conservative as the empire's redoubtable Minister of Foreign Affairs. The Metternichian system and Hungarian feudal constitutionalism were completely compatible.¹⁷⁾

¹⁵⁾ *Ferenci*, op. cit., I, p. 59.

¹⁶⁾ *Ibid.*, I, p. 70.

¹⁷⁾ The reestablishment of constitutional government in Hungary in 1825 was forced on the Habsburgs by circumstance. Determined to police the *status quo* in Italy and Germany, they needed a Hungary at peace. The easiest way to appease the unrest

Therefore on August 9, 1824, a new royal commissioner, *Count Imre Batthyány*, appeared before the Zala County Assembly, charged with making peace between the crown and the estates. If he were successful in Zala, it was hoped the rest of the country would follow suit. *Batthyány* accomplished his mission, and soon thereafter the election campaign for the Diet of 1825—27 was in full swing all over the country. Its purpose was to reestablish constitutional government in Hungary.¹⁸⁾ What no one could foresee was that Hungary's Age of Reform would gradually take shape in its wake.

By odd coincidence it was Zala County Assembly's conciliation session that brought *Ferenc Deák* into his first public office. His appointment was in recognition of his brother's having changed from a leader of resistance to the crown into an official loyal to the Habsburgs. His career thus began at a moment when the idea of constitutionalism and the power of the counties had just defeated absolutism, at a time of jubilation when the crown and the estates were extending the hand of friendship to each other. Its beginning was also connected with the convocation of the Diet and the reestablishment of the rule of law, two themes that were to dominate the rest of *Deák's* life.

When *Deák* returned to Zala and took up his first public office in 1824, he was already a cultured young man.¹⁹⁾ He had a good and substantial education, sophistication acquired during his years in the cultural center of Hungary — Pest, and very close connections with the leading cultural organizations and intellectuals of his day. The most important of the latter were his association with the *Auróra Kör*, the meeting place of Hungary's most progressive thinkers, and his life-long friendship with the foremost intellectual in the country, *Mihály*

in Hungary was to reestablish constitutionalism and convene the Diet. *Metternich* was not opposed to this and wrote to *Wrede* in 1831 that the Austrian emperor was not absolute: every part of his empire had a constitution but these constitutions were a legacy of the past and so were not "representative or based on popular sovereignty." *Viktor Bibl*, *Metternich, der Dämon Österreichs*. Vienna: J. Günther 1936, p. 249. This sort of constitutionality, which was the case in Hungary, fitted into the *Metternichian* system well.

¹⁸⁾ The Hungarian Reform Era is considered by many historians to have begun in 1825. The basis of their argument is that after a decade and a half of *Francis'* extra-constitutional rule the first Diet was summoned in 1825, reestablishing constitutionality, and that this Diet set up committees to recommend reform projects. The liberals were strengthened by the publication of *Count István Széchenyi's* famous work *Hitel* (Credit) in 1830, the repercussions of the Polish November Revolt, and the Hungarian peasant rebellion of 1831. The liberal reformers, encouraged by broad sections of the public, were then able to set to work in earnest. During the Diet of 1832—36 the current of liberal reform was flowing strongly toward its climax in the April Laws of 1848.

¹⁹⁾ "There were a couple of hundred books on *Deák's* shelves." *Ferenczi*, op. cit., I, p. 24. All the books were scholarly, for *Deák* did not read novels. *Ibid.*, I, p. 52.

Vörösmarty.²⁰⁾ This friendship, which contributed much to *Deák's* intellectual development, was solidly based on a mutual respect for each other's talents and character.²¹⁾ Of *Deák*, Vörösmarty wrote to *Wesselényi*: "The existence of such a man is very necessary, not just for the sake of the country, but also so that in our hours of misfortune we should not forget the claim that man was created in God's image."²²⁾

These are the words of a poet, but Vörösmarty was also a liberal intellectual whose judgment, poetic or not, was shared by many. His high esteem of *Deák* had another significance, too. The Hungarian gentry in the early nineteenth century was still very unsophisticated. Many of them were narrow-minded, selfish, uncivilized, stubborn, provincial, arrogant, ruthless and coarse countrymen. They dominated county life and hence national policy. *Deák* was a member of this class and in the early stages of his career he was a typical county man, but none of those epithets applied to him. In this he was not alone, however. His peers included a fair number of sophisticated, progressive, liberal men, who felt for the downtrodden mass of people and looked for reform.

The office *Deák* held longest as a county official was notary to the County Committee for Orphans, to which he was elected on December 13, 1824. During his seven and a half years' tenure, though unpaid, he performed numerous acts of goodwill for those who most needed it — the waifs of Zala. It was during this period of his life that the *Babics* case occurred. This case is mentioned by most of his biographers and is remembered for the technical reason that a public speech he made has survived in full, affording a glimpse of the philosophy of young *Deák*, the county official. In it he expressed beliefs that he held throughout his life and for this reason the case deserves close attention.

The Trial of József Babics (1831)

On April 4, 1829, in addition to his notarial duties, *Deák* was elected a *táblabíró* (county magistrate).²³⁾ This, too, was an honorary office,

²⁰⁾ The *Auróra Kör* (Aurora Circle) formed around *Auróra*, a yearbook of *belles-lettres* edited by *Károly Kisfaludy*. It existed from 1821 until 1837, when a much larger publication, *Atheneum*, was started. *Auróra* was urbane, sophisticated and modern, addressed not just to the nobility as late eighteenth-century Hungarian literature had been but also to a wider, mostly urban readership. Around it revolved a new generation who became the leading intellectuals of the Reform Era: Vörösmarty, Bajza, Toldy. Antal Szerb, *Magyar irodalomtörténet* [History of Hungarian Literature]. Budapest: Magvető Könyvkiadó 1958, pp. 298—305. Mihály Vörösmarty (1800—1855) was the son of a lesser noble family, who in 1825 published his first historical ode *Zalán futása* (Zalán's Flight), which catapulted him to national fame.

²¹⁾ Ferenczi, op. cit., I, p. 62.

²²⁾ Ibid, I, p. 63.

²³⁾ Ibid., I, pp. 61—73.

which involved the holder in temporary judicial, administrative and police assignments. One of *Deák's* missions was to act as counsel for the defense of *József Babics*, who had been charged with highway robbery, murder and various related crimes.²⁴⁾ To appreciate what *Deák* said in his defense, it has to be understood that the County Court (*sedria*) was a typical feudal institution, staffed exclusively by members of the gentry with legal training, to prosecute commoners facing criminal charges. In effect, it was an instrument of the lesser nobility's self-defense against the serfs, who were utterly exposed, particularly in this court, to the whims of the lesser nobility.

Moreover, the organs of the county, including the court, functioned as a springboard for young members of the gentry with political ambitions, from which they might aspire to a career that could lead to the highest national offices. There was no other channel open to them. If a young man could pass the critical scrutiny of his peers in the local gentry, he could hope to be delegated by the Country Assembly as a deputy to the national Diet, where he might try his luck in national affairs. Yet, even as a deputy, he was subject to his county peers' control, for he entered the Diet with strict instructions what he must vote for and against. If he flouted those instructions, he could be recalled immediately and his career would be at an end. In short, the county administration could make or break a young man's ambitions. Under such circumstances, it would not have been surprising if *Deák* with his political aspirations had tried to cater to the feudal minds of the court in the *Babics* case. But the path of least resistance was not his: rather than flatter the feudalists, he chose to speak what he believed.²⁵⁾

Two points in his defense summation are noteworthy. He questioned the capital sentence that was mandatory for highway robbery and murder. Since he respected the limits of institutional authority, he was aware that a criminal court existed to enforce the law, not to reform it. He did not therefore call for the abolition of the death penalty, but he clearly stated under what circumstances he considered it warranted and unwarranted. His exposition thus constituted a vigorous attack on the death penalty itself. He reminded the court that a law could not be all-encompassing and take into account all a criminal's motives and circumstances, which are the factors that doom or acquit him. The immanent shortcomings of the law, he pleaded, had to be supplemented

²⁴⁾ On the functions and nature of the office of *táblabíró*, see Király, op. cit., p. 263.

²⁵⁾ For the full text of *Deák's* speech, see Manó Kónyi, (ed.), *Deák Ferenc beszédei* [The Speeches of Ferenc Deák]. 3 vols, Budapest: Franklin-Társulat 1903, I, pp.1—7.

by the heart and humanity of the judge. The capital penalty was warranted, he argued, only when an accused person was incorrigible beyond shadow of doubt:

The purpose of the death sentence must not be vengeance, for vengeance is a cruel impulse and true jurisprudence must not give in to such an impulse. The death sentence, after all, offers no compensation: the life of a murdered man cannot be given back by any sentence or cruelty. If, however, the strict application of a harsh law is tempered by mercy and compassion, if a sentence does not hew solely to the letter of the law but also to the love of our fellow men, then a citizen may be saved whose life may yet be of worthy service to the country.

Deák made great play of the fact that his client repented of his deeds, had made a convincing pledge that he would mend his ways, and therefore deserved to be spared.

Apart from this legal philosophy with its attitude of humanity little characteristic of the early nineteenth century, *Deák* made a second point of far greater significance to his future political career. The gentry might easily have forgiven him as a naïve idealist, a dreamer, while he philosophized about the nature of capital punishment, but they were scarcely ready for what was to come. With extraordinary diligence he pressed his argument for something akin to an environmental and social inquest into *József Babics's* life, an idea that was far before its time. *Deák* pointed the finger of accusation at the gentry and feudal classes in his effort to save *Babics*. *Babics*, he told the court, had been born in a village with neither a place of worship nor a school, a village never visited in all the years he had lived there by priest, minister or teacher. So poor were his parents, they could not afford to send him to school elsewhere, and so he remained totally uneducated through no fault of his own. The blame was society's. *Babics* was sent as an apprentice to a herdsman, who happened also to be a highwayman. Criminals, *Deák* claimed, did not tolerate innocence, so the hapless youth was threatened, cajoled and ridiculed into becoming an accomplice of the highwayman's gang. It was, he said, *Babics's* environment, his helpless social state, his abject poverty that made him a murderer, not evil intention: "If a man of erudition slays another by stealth, he indeed deserves the death penalty much more than a man brought up among beasts, lacking education, growing up among rough cattlemen, who seduced him into becoming a part of their robbery and murder."

Deák's passionate pleas were in vain. *Babics* was sentenced on January 28, 1831, to be broken on the wheel "as punishment for his crimes and as a deterrent to others." The sentence was modified on appeal to execution on the block, and finally the Supreme Court of Justice (*Kuria*) on March 11, 1834, ordered *Babics*, to be hanged. The sentence was eventually carried out. *Deák* acted in *Babics's* defense only in the court of the first instance and his effort was a dismal failure.

But what else could it have been? However, it showed him to be completely uncompromising where his basic ideals were affected. Uncompromisingness was the key to the real *Deák*. The great paradox of *Deák's* life was that he was the maker of the Compromise of 1867, yet he was totally unyielding on every basic moral, social and constitutional issue.

Deák's defense of *József Babics*, his work on the County Committee for Orphans, his activities in the County Assemblies and his participation in local government gave him a first-rate political education. His political character was forged during those years. In every case he handled and whenever his advice was sought, he strove for justice, pure and simple. Respect for the law he considered the backbone of society and he bent all his efforts to encourage obedience to existing laws. He was a master of logic and prose; his style was concise and his argument lucid; he avoided the pathos that was popular in the era of Romanticism; he preferred gentle humor to irony that could be wounding. "He never looked for a battle; his aim was to persuade and win over those of opposing views."²⁶⁾ He proved himself, in short, to be a most attractive human being.

Ferenc Deák at the Diet of 1832—1836²⁷⁾

One of Zala county's two deputies to the Diet of 1832—36 was *Ferenc Deák's* elder brother, *Antal*. On January 24, 1833, *Antal* sent his resignation to the county.²⁸⁾ He was a conservative who felt out of place in a Diet where the tone was being set by liberal ideas. Although as a conservative his inclination was to oppose the current liberal reform projects, as a humane and decent human being he could not question the sincerity and goodwill of the liberals, many of whom were good friends. His growing *crise de conscience* was one of his reasons for resignation. On resigning he put forward his brother *Ferenc's* name as his successor. To be sure, there was quite a touch of nepotism in this, but in any case, the highest offices the county could bestow, including delegation to the Diet, generally alternated among the few prominent *bene possessionati* families in each county and *Ferenc Deák* by his status alone was a potential candidate for the Diet. *Antal*, furthermore, was convinced that his younger brother was destined for great things and considered that he had extraordinary talents, far greater than his own. This being the case, he thought it best himself to introduce his brother into national politics and present him

²⁶⁾ Halász, op. cit., p. 140.

²⁷⁾ The Diet was convened on December 16, 1832, and prorogued on May 2, 1836.

²⁸⁾ Ferenczi, op. cit., I, p. 78.

to his friends in the Diet. He wrote to friends who tried to persuade him to retract his resignation: "I shall send in my place a young man in whose little finger more talent and knowledge are hidden than in my entire being."²⁹⁾

Antal Deák's advice was heeded and *Ferenc Deák* was elected a deputy to the Diet. He arrived in Pozsony (Bratislava) on April 24, 1833. His elder brother remained there five days longer and, on fulfilling his instructions, returned to Zala county to administer their joint estates, leaving the political arena to *Ferenc*.³⁰⁾

Once his brother had gone, *Ferenc* wasted no time. On May 1 he attended the Diet's *sessio circularis*.³¹⁾ The session was in the very midst of debating the serf reform bill, about which nothing had yet been settled. *Deák* rapidly became deeply involved in it, and by the time it was all over had shown himself to be a leader of national stature, both respected and listened to. His participation in the Diet of 1832—36 was in fact a turning point in his career as well as a major event in Hungarian history. The maker of the *Ausgleich* had set out along a road that was to culminate in 1867.

Learned and well read³²⁾, *Ferenc Deák* did not enter the debate on the serf problem with fixed ideas. He had an open mind; he was guided by liberal convictions and humane concern; what made him indispensable at moments of tension was a sense of proportion and a grasp of what was possible. While he was not doctrinaire, he did have firm beliefs about how much the serfs contributed to the national wellbeing and about what they deserved and should be given. He dreamed of the serfs being raised to the status of free citizens, granted full personal freedom and property rights — a revolution by consent of the privileged.

²⁹⁾ Ibid., I. p. 78.

³⁰⁾ Ibid., I, p. 79.

³¹⁾ The Lower House of the Hungarian Diet met in two kinds of session between 1790 and 1848. The *sessio regnicolaris* was the official plenary session empowered to enact laws. During *sessiones regnicolares* all the business of the House was conducted through officials appointed by the king, who in the absence of precise rules of procedure were able to manage debates and even count votes in a way favorable to the crown. To avoid this situation, the deputies would also meet in unofficial session, the *sessio districtualis* or *circularis*, a kind of caucus, under an elected chairman and hence unfettered by crown agents. By gentlemen's agreement (though not by law) the resolutions of the *sessiones circulares* bound the deputies present to vote the same way in the *sessio regnicolaris*. As a result the latter was at times no more than a brief, formal session for official balloting, since all major matters had been debated and often settled in a *sessio districtualis*.

³²⁾ *Deák* "was said by his contemporaries to have been extremely well versed in legal literature. In a letter to Wesselényi on February 11, 1840, he recommended books he was already familiar with for reading, such as Beccaria, Feuerbach, Bentham, and other works on criminal procedures as well as the French and Prussian criminal codes." S a r l ó s, "Servile Property", p. 199.



Deák Ferenc (1842)

He realized that emancipation of the serfs would liberate immense national energies, so that it was less an act of clemency than an act of common sense — if not of dire need. *Deák* urged the promulgation of clearly drafted bills that would not simply be paper acts but implemented and respected laws of the land. His main aim was to create a modern nation that would be a community of equal rights for all citizens and a society based on unconditional respect for the law.³³⁾

With such ideas, *Deák* fitted eminently well into the liberal group of deputies, who constituted the largest number of progressive reformers Hungary's feudal Diet had ever contained. The social, political and economic reforms they sought were diametrically opposed to the dynasty's legislative program. The Diet thus soon split into two camps: those loyal to the dynasty's ideas and the liberal opposition. The latter's position was very difficult. This was due in part to the extraordinary influence over the Diet's business exercised by the parliamentary officers³⁴⁾, who, since they were royal appointees, were, of course, supporters of Vienna. These external difficulties were compounded by difficulties within the liberal group. No liberal party had been organized as such (indeed, the reformers did not even have a caucus of their own yet), so there was no party discipline or leadership that could coordinate and unite the liberals' efforts. Baron *Miklós Wesselényi*³⁵⁾ had been recognized as the unofficial leader of the opposition

³³⁾ The principle of unquestioning obedience to the law runs like a red thread right through *Deák's* life. In this he was strongly influenced by one of his tutors, *György Fehér*, Royal Chancellor, Prelate and Superintendent of Education for Győr district. While he was at law school, *Deák* lived in the same house as *Fehér* and they became close friends. Every year *Deák* would attend his mentor's opening lecture of the semester. He was particularly impressed by that of November 5, 1818, entitled "De reverentia legibus debita", in which *Fehér* said: "What could be better — Casiodorus says — than that men should trust in good laws and have no reason to fear anything? The common law is the most important foundation of human life, the support of the weak, the check on the mighty; it is the source of security and the basis of trust." *F e r e n c z i*, op. cit., I, p. 39.

³⁴⁾ See note 31 above.

³⁵⁾ *Baron Miklós Wesselényi* (1796—1850), a landed aristocrat from Transylvania. He was a leader of the liberal opposition both in Hungary and Transylvania, and traveled through Western Europe in the company of *Count István Széchenyi*. After an address to the County Assembly of Szatmár, he was prosecuted by the Habsburg authorities and sentenced to prison, where he went blind. His most noted work was *Balítéletekről* (On Misconceptions) into which he distilled his ideas for liberal reform of society and government, and for fraternal cooperation between the Hungarians and neighboring nations. As a Transylvanian *Wesselényi* had no right to sit in the Hungarian Diet. A liberal aristocrat *György Károlyi* therefore gave him a small estate in Szatmár county in Royal Hungary, which entitled him automatically to a seat in the Hungarian House of Lords.

and had tried hard to put an end to the chaos and unify liberal endeavors. He succeeded in organizing several meetings of liberal deputies but unfortunately, on May 5, 1833, he left the Diet before the liberals had really pulled themselves into a coherent whole.³⁶⁾ The liberals, however, were in the majority in the Lower House. "Among the old hands as well as the newcomers were many who, by their intellectual qualities, oratorical talents and education, would have been an ornament to any European parliament", *Mihály Horváth*, the contemporary liberal historian, wrote. "Yet none of them possessed all these talents so that he could have been accepted by his party as its undisputed leader."³⁷⁾

The most prominent member of the opposition was the poet *Ferenc Kölcsey*³⁸⁾, who made legislative history in Hungary by being the first deputy to defy his county's instructions by voting with the liberals, thus pioneering the modern parliamentary concept that a legislator must be guided by his conscience and not by anyone's orders. *Kölcsey* was the notary of the House and drafted most of its bills. Other liberals of note, who were inspired more by their humane sentiments than ideology, were *István Bezerédj*, *Ödön Beőthy* and *János Balogh*. More educated men whose reform ideas reflected their familiarity with liberal theories included *Gábor Klauzál* and *Miklós Somssich*³⁹⁾. The real

³⁶⁾ *Ferenczi*, op. cit., I, p. 103.

³⁷⁾ *Horváth*, op. cit., I, p. 290.

³⁸⁾ *Ferenc Kölcsey* (1790—1838), son of a Calvinist lesser noble, poet, writer, orator and literary critic of the Reform Era, author of the words to Hungary's national anthem (1823). From 1829 he was active in the political life of Szatmár county and in 1830 he was elected to the Hungarian Academy of Sciences. He represented Szatmár in the Diet of 1832—36, where he became one of the most forceful spokesmen for the liberal opposition. He resigned from the Diet in 1834 rather than follow the new instructions he received from Szatmár after the reaction defeated the liberals in the County Assembly. Just before his death he completed a pamphlet in defense of *Miklós Wesselényi*.

³⁹⁾ The leading liberals were all *bene possessionati*. *Ödön Beőthy* (1796—1854) of Bihar county was a militant anticlerical and an ardent supporter of all liberal reforms. A leader of the Revolution of 1848, he was forced to leave the country and died abroad. *János Balogh* of Bars county was the opposition's most radical democrat. *István Bezerédj* (1795—1856) of Tolna county was an idealist sentimentally devoted to improvement of the serfs' condition and was the first landowner who voluntarily concluded a contract of perpetual redemption with his serfs (1836). *Gábor Klauzál* (1804—1866) of Csongrád county strove for the capitalist transformation of Hungarian agriculture. *Miklós Somssich* (1784—1870) of Somogy county was a front-ranking liberal who led his county's constitutionalist opposition to the absolutism of *Francis I* in the Diets of 1830 and 1832—36. *Endre Arató et al.*, *Magyarország története 1790—1849: A feudalizmusról a kapitalizmusra való átmenet korszaka* [History of Hungary 1790—1849: The Era of Transition from Feudalism to Capitalism]. Budapest: Tankönyvkiadó 1961, p. 218; *Bálint Hóman and Gyula Szekfű*, *Magyar történet* [Hungarian History]. 5 vols., Budapest: Királyi Magyar Egyetemi Nyomda 1935—36, V, p. 288; *Horváth*, op. cit., I, pp. 295—301.

politician among them, however, was *Deák*, who realized that beyond the reformers' idealism and goodwill what was needed was a program that would appeal to the vivid sense of constitutionalism and self-interest of the majority of the gentry. It was a tall order but he was remarkably successful in meeting it.

The Issues and Agenda of the Diet of 1832—1836

The Diet of 1832—36 was convoked expressly to legislate overdue reforms. Its agenda contained nine major reform projects⁴⁰⁾, which already had a long and controversial history of their own. In a flush of reforming zeal under the influence of the Enlightenment and the French Revolution, the Diet of 1790—91 had passed two related acts. First it appointed committees of the Diet to draft reform programs that would overhaul the whole of Hungarian society.⁴¹⁾ These drafts were to be enacted by the next Diet. Some of the best scholastic and legislative brains in the country worked on the committees and came up with a series of thoroughgoing draft reforms. Today's Marxist historians in Hungary deny any progressive intent in the committees' activities.

After prolonged debate through 1792 and 1793 the nine appointed committees completed their drafts. These, however, made no attempt to alter feudal conditions. The committee on urbarial affairs, for instance, adhered to *Maria Theresa's* urbarial regulations, and on numerous occasions even tried to tighten them.⁴²⁾

The Diet also legislated away the constitutional chaos that had been created by the decrees of *Maria Theresa* and *Joseph II*, which had been promulgated without the Hungarian Diet's endorsement, in violation of the constitution. It now enacted *Maria Theresa's Urbarium* of 1767 and *Joseph II's* Emancipation Patent of 1785 as temporary measures until the next Diet could pass permanent laws on the status of the serfs on the basis of the Diet committees' recommendations. The Diet of 1790—91 thus prorogued with an explicit commitment to reform of the peasantry's condition.

⁴⁰⁾ The nine reform projects proposed by separate Diet committees dealt with *urbarial* and serf affairs, the judiciary, credit and commerce, tax and the census, political and constitutional matters, Hungary's colonial status in the Habsburg economy in matters of trade, mining, ecclesiastical and educational questions, and the *banderium* — that is to say, the military obligations of the nobility. Ferenczi, *op. cit.*, I, p. 81.

⁴¹⁾ Act No. LXVII, 1791. *Corpus Juris Hungarici, 1740—1835 évi törvényczikkek*. [Acts of the Years 1740—1835]. Budapest: Franklin-Társulat 1901, pp. 202—215.

⁴²⁾ Erik Molnár (ed.), *Magyarország története* [History of Hungary]. 2 vols., Budapest: Gondolat Könyvkiadó 1964, I, p. 399.

The ever-increasing radicalism of the revolution in France and the reactionary attitudes of *Francis I* and the Hungarian estates were not conducive to fundamental reforms in Hungary. Therefore every Hungarian Diet during the period of the French Revolution and the Napoleonic Wars simply reenacted the *Urbarium* and Emancipation Patent, temporarily extending them until the next Diet could act. The fine reforms elaborated by the nine Diet committees meanwhile gathered dust in office pigeonholes. By the time the Diet of 1825—27 was ready to consider them, they had become obsolete and new Diet committees were appointed to review and revise them.⁴³⁾ The efforts of the new committees are disparaged by Marxist historians almost as much as those of the earlier ones.

It is true that as a basis for debate in the forthcoming Diet new drafts were prepared to replace the obsolete ones of the Diet of 1790, but the most important issue, the *Urbarium*, was improved only in a few instances and still was far behind what the age required.⁴⁴⁾

Of the nine committees, the one that most interested the court was the committee on serf reform, and that is why the Palatine himself, *Archduke Joseph*, presided over it. Its recommendations and those of the other eight committees were duly completed, printed and distributed to the County Assemblies and the general public. They aroused great hopes, but rumors at once spread that the Habsburgs intended to thwart all meaningful reform. To the liberals' great joy, however, the royal proposition distributed with the letters convening the Diet⁴⁵⁾ in 1832 contained all nine draft reforms as legislative proposals.

The order in which the drafts of the nine committees were listed showed which proposals the throne wished debated and perhaps enacted first. Serf reform headed the list for a variety of reasons. The court was prepared to make certain concessions on this issue; debate on it might prevent the liberals from organizing into a coherent, united force; it might take up so much of the Diet's time that it would be

⁴³⁾ Act No. VIII, 1827. *Corpus Juris Hungarici*, *ibid.*, pp. 439—443.

⁴⁴⁾ *M o l n á r*, *op. cit.*, I, p. 421.

⁴⁵⁾ Before 1848 legislative initiative lay with the crown. This was why it was so important whether the royal proposition contained the reform program. *Ferenc Deák* was the first person in the Reform Era who questioned the royal prerogative. He quoted precedents in past legislative practice to deny that legislative initiative was solely the crown's and claimed that it pertained to both legislative branches: the crown and the Diet. *K ó n y i*, *op. cit.*, I, p. 54.

"There was much political discussion, including theoretical discussion. The *Operate Regnicolaria*, the legislative proposals for the Diet, were read and talked over in every county. Committees were set up to discuss them and wild opinions were put forward. The consensus was that the drafts for the Diet of 1832—36 were less liberal than those for the Diet of 1791." *Ferenc Pulszky*, *Életem és korom* [My Life and My Times]. 2 vols., Budapest: Szépirodalmi Könyvkiadó 1958, p. 59.

possible eventually to rush government-sponsored legislation on such matters as military recruitment and taxation through both houses and table those projects that found little favor in Vienna. This had been the court's tactics throughout the Napoleonic Wars, when taxes and recruits had always been voted and bills of interest to the estates had never been seriously debated. The liberals were determined to defeat the court's tactics. To this end several counties issued strict instructions to their deputies on the order in which the agenda were to be dealt with. Most instructions either put tax and recruitment bills at the end of the list, or specified that they were to be presented *in junctim* with reform bills. Bills *in junctim* were package deals, in which all or none of the bills in the package were passed. Since the court could not afford to have tax and recruitment bills defeated, the liberals hoped to use the device to force reforms through. The order of the agenda thus became the pivotal issue of the Diet.

The draft reform that most interested the gentry was the commerce bill, which contained new regulations that would end the Habsburgs' colonial subjection of Hungary. The Diet of 1790—91 had appointed the best men of all to the committee on commerce to propose proper safeguards against Vienna's repressive economic regulations. The committee had listened to Hungary's Chambers of Commerce, manufacturers and educated landowners and their suggestions had been put together by *Miklós Skerlecz*, the leading economist of the day in Hungary. *Skerlecz's* draft used mercantilist arguments to expose Hungary's colonial subjugation. To cure it, it proposed *inter alia* the establishment of freedom of trade, the provision of a fund to support new branches of trade, the subsidization of the export trade, the abolition of discriminatory customs tariffs between Hungary and the Cisleithan lands in favor of equal customs duties for trade in either direction.⁴⁶⁾

The entrepreneurial gentry continued to press these demands in the Diet of 1832—36. For them economic reform and social change seemed a dire necessity. They had products to market and were as interested in business and trade as the bourgeoisie, so that both groups' interests coincided. Both classes found Hungary's creaking feudal system as restricting as the Habsburg's colonial economic policies, and they wanted to be rid of them both. In order not to be outmaneuvered by the court, the liberals insisted on debating commercial reform first, but by a combination of the tactics of the parliamentary officers, the politicians in the government party and the power of the court they

⁴⁶⁾ Molnár, *op. cit.*, I, p. 400. See also C. A. Macartney, *The Habsburg Empire 1790—1918*. London: Weidenfeld and Nicolson 1968, pp. 42—46.

were defeated in this very first round. Commercial reform was pushed back on the agenda and the first item became the serf problem.

The Government Party and Its Position on the Peasants

The debate on serf problems and reform was based on the draft prepared by the Diet committee chaired by the Palatine and endorsed by Vienna. While it provided for the serfs' economic betterment, it included no measures to improve their political or social lot.⁴⁷⁾ Improving the peasants' economic condition was of interest to the dynasty for several reasons. The peasants in the Habsburg's Cisleithan territories were already better off than those in Hungary⁴⁸⁾, and the reform aimed to close the gap. The Habsburgs also hoped that such a reform would enhance their standing among the serfs, because they would be able to claim that the reform was the dynasty's, not the estates'. And of course, if the serfs were better off, it would be possible to increase tax revenues from them.⁴⁹⁾

The liberals in the Diet certainly did not object to the government's aims, but they wanted to go much further. The reformers intended to introduce social, political and judicial changes in the serfs' conditions. Not only were such changes completely contrary to the Metternichian system and *Francis's* social conservatism, but they would put the Transleithan peasants ahead of their Cisleithan counterparts. Vienna was afraid that such a quantum jump would trigger a chain reaction of demands for similar reforms in all the Habsburg provinces, and was ready to block all reforms in Hungary that had not already been granted in the Cisleithan lands.⁵⁰⁾ As *Kölcsey*, one of the main speakers in the debate, put it: "The government with the *Urbarium* wants the *Urbarium*; we with the *Urbarium* want a nation. In other words, our task is so to adapt the *Urbarium* that the people will at one and the same time gain the rights both to property and of citizenship, so that instead of

⁴⁷⁾ The draft's basic provisions were for the perpetuation of the *Urbarium* of 1767 and the Emancipation Patent of 1785. In addition, the serfs' contributions, *robot* and other work obligations were to be reduced. Ignác A c s á d y, *A magyar jobbágyság története* [History of Hungarian Serfdom]. Budapest: Politzer-féle Könyvkiadóvállalat 1906, p. 441.

⁴⁸⁾ Cf. M u r r L i n k, op. cit.

⁴⁹⁾ A c s á d y, op. cit., p. 442.

⁵⁰⁾ *Antal Deák* reported on January 20, 1835, that he and several other deputies had had a meeting with the Palatine. The archduke told them that the Emperor wanted nothing more from the new *urbarial* legislation than an endorsement of existing circumstances along the lines of *Maria Theresa's Urbarium* and the proposal recommended by the Diet committee and included in the royal proposition. The remission of serf obligations in perpetuity would be too great a change and therefore was not feasible. F e r e n c z i, op. cit., I, p. 97; A c s á d y, op. cit., p. 442.

700,000 souls degraded by luxury or by poverty the popular constitution will gain ten million people capable of being raised up."⁵¹⁾

The government and the liberal opposition were thus on a collision course. The floor leaders for the government's position were the Palatine in the House of Lords and the *Personalis*⁵²⁾ in the Lower House. Though the court's supporters were in the minority in the Lower House, they were given extra weight by the government's control of the offices of the house and the prestige and power of the dynasty. The *Personalis*, who was *ex officio* Speaker of the Lower House, was *Sándor Mérey*, who had filled this position since November 7, 1831. The deputies considered *Mérey*, apparently with justification, to be a collaborator of *Josef Sedlnitzky*, the Minister of Police in Vienna. So tarnished was his prestige by this and so inferior his intellectual capacity in comparison with the leading liberals, that he was a favorite butt for the opposition's attacks and ridicule. The regime's advantages inherent in the legislative system itself were largely offset by the very poor choice of *Mérey* as *Personalis* of Hungary.⁵³⁾

There were cultured and sophisticated politicians in the conservative government party, such as *Andrássy* of Esztergom county, *Császár* of Temes county and *Rohonczy* of Veszprém county. The leading spokesmen for the government were *Ferenc Justh* of Turóc county and *Imre Szluha* of Fejér county, but the most attractive conservative was a young man from Szepes county, *Eduard Zsedényi*. His civility and logical argument, the fairness that tempered his conservatism, his personal qualities and polished political views earned the respect even of his opponents. In fact, the Diet of 1832—36 included a number of first-rate legislators on both sides.⁵⁴⁾

The progovernment party in the Lower House was more cohesive, better organized, aided by the support of the crown, the government officials and the House of Lords, and was more highly disciplined than

⁵¹⁾ Horváth, op. cit., I, p. 363.

⁵²⁾ The *Personalis* (*Személynök*) was the highest officer of state that a *bene possessionatus* could be. Appointed by the king, he was in principle the representative of the lesser nobility in all three branches of government. His main function was to preside over the *Tabula regia*, one of the branches of the supreme court that was the court of the first instance for the nobility and the highest appellate court in criminal cases for all citizens. The members of the *Tabula regia* sat as a body in the Lower House, of which the *Personalis* was president *ex officio*. His third function was to sit in the *Consilium regium locumtenentiale hungaricum* (*Helytartótanács* or the Hungarian Viceregal Council), an executive government committee. Király, op. cit., pp. 78—82. The Palatine at this time was *Archduke Joseph*, brother of *Francis I*. The *Personalis* was *Sándor Mérey* from November 7, 1831, to June 15, 1833, and thereafter *Pongrácz Somssich* (or *Somsich*). Horváth, op. cit., I, pp. 302, 343.

⁵³⁾ Horváth, op. cit., I, p. 302.

⁵⁴⁾ Ibid., I, p. 303.

the liberals. It was, then, a formidable challenge that could have frequently defeated the efforts of the less organized opposition even without the ponderous intervention of the court. Yet had it not had that backing from the executive branch — backing that occasionally involved such methods as royal vetoes —, the majority liberals with their enormous public support would have made the Diet of 1832—36 truly epochal. This would certainly have been all the easier in view of the ineptitude of the *Personalis*. Such was Mérey's clumsiness and unpopularity as Speaker of the House that Vienna finally lost patience and recalled him in February 1833. The new *Personalis*, Pongrác Somssich of Somogy county, took over the Speaker's chair on June 15. His appointment was considered a gesture of goodwill toward the liberals. As a deputy in the two preceding Diets he had voiced reformist ideas and he was warmly welcomed by the liberals in his new position. Somssich, however, felt that his royal appointment put him under an obligation to support Vienna and this he did with tact, violating no constitutional principles or parliamentary rules. His attitude disappointed the liberals, who had expected much more support from him. "Somssich has either denied himself or else he never was what we thought him to be, for ever since he became *Personalis* no word has passed his lips that might represent liberalism or might be construed as such", Kölcsey wrote in his diary.⁵⁵) Nevertheless, Somssich's prestige, integrity and political knowledge were high enough to earn proper respect for the Speaker, so that he was able to function effectively, instead of the gibes that had attended Mérey.

The Diet's Action on the Serfs and the Habsburgs' Reaction

The liberals, led by Baron Miklós Wesselényi, attacked the draft on serf reform on the grounds that it tended to preserve the peasants' status rather than reform it, that it harmed rather than promoted Hungary's economy, that it hindered rather than fostered the building of a unified nation on the basis of the community of the citizens' rights. They sought to extend the draft fundamentally and, to facilitate this, they accepted all seven chapters of the government bill with a few amendments and tacked on their proposals in a condensed form as a single, eighth chapter. Chapter VIII contained all the social, political and judicial changes the liberals wanted: the right of the serfs to sell their lots of land and so secure their freedom of movement, and the compulsory, permanent settlement of their obligations by means of contracts between them and their lords either to pay off all claims with one lump sum of money to redeem them or with annual payments

⁵⁵) Ibid., I, p. 371.

over a fixed period of time. The liberals wanted to make the peasants owners of the land they worked (*capacitas*). The authority of the manorial courts was to be sharply curtailed, so that the lords could no longer be judges of cases to which they were party, only of cases involving serfs alone. The serfs' personal and property rights were to be embodied in the constitution. The wording of the opposition's chapter reflects the classical brilliance and idealism of the liberals. In part it stated:

Whereas the urbarial relations of the serfs were defined above, in order that their fate in other areas of society shall be protected: It is hereby decreed that

1. No one may molest the serfs in their property or person unless they have been duly tried and legally sentenced by a properly constituted judge in accordance with the law; under no circumstances may they be detained or subjected to corporal punishment unless they have been tried and sentenced;
2. The right of the serfs to bring a legal action in connection with all their affairs is herewith confirmed; they may bring their complaints to a judge in their own name against anyone whomsoever.⁵⁶⁾

The enactment of these laws would have realized all the liberals' wishes, but such a revolution by consent of the privilege aroused the ire and opposition not only of the court, the lords and the officials of the government but also of the conservative elements in the Lower House. *Ferenc Deák* argued that the changes were required by the laws of nature, that they were not a gift or act of clemency by the nobility but the redress of an injustice eight hundred years old. With *Deák's* ever more persuasive and eloquent urging, the liberals managed to get the reform bill through the *sessio districtualis*. On July 16, 1833, the bill was presented in Latin and Hungarian to the *sessio regnicolaris*, the plenary meeting of the Lower House, which debated it and voted on it clause by clause.⁵⁷⁾

Deák reminded the Diet — quite correctly — that the court's real intention in proposing reform of the serfs' economic status was to increase their tax base so that they could more easily bear added tax burdens.⁵⁸⁾ He also pointed out to the legislators that under the court's inspiration new laws might later be passed that would impair rather than improve the serfs' circumstances.⁵⁹⁾ The conservatives countered that the serfs in Hungary were very well off and that passage of the bill would doom the Hungarian constitution. *Deák* rejected both claims and noted sardonically: "The honorable lords say that for the very first time they have become acquainted through our draft with the existence in our land of a social class that, for lack of personal property, owns

⁵⁶⁾ *Ibid.*, I, p. 373—374; *Acsády*, op. cit., p. 445; *Molnár*, op. cit., I, p. 447; *Kónyi*, op. cit., I, pp. 37—38.

⁵⁷⁾ *Ferenczi*, op. cit., I, p. 98—99; *Acsády*, op. cit., p. 446.

⁵⁸⁾ *Acsády*, op. cit., p. 441.

⁵⁹⁾ *Ibid.*, p. 442.

nothing but its own wretched lives. However, I consider such a view nothing but an ill-judged joke."

What he wanted, he said, was "to right an 800-year-old wrong incorporated in our 800-year-old constitution."⁶⁰ "The freedom of the individual and the right to property", he declared, "are not privileges of the few but are a primordial right that may be demanded by all citizens, and our first obligation is to secure them for all citizens."⁶¹ The conservatives answered that the provisions of the *Tripartitum*⁶² were good for all time, so that the serfs could not be included among those under its protection. Despite the conservatives' efforts, however, the first clause of the bill was accepted. It was *Deák's* first major legislative victory.

The clause on redemption was also bitterly disputed. The conservatives rejected the idea of compulsory or even voluntary redemption, although there existed no Hungarian law forbidding such contracts between serfs and lords. Indeed several such contracts had already been concluded at one time or another in the kingdom. A proposal that everybody in the country should be entitled to own land, even if it was manorial land, was put forward by Deputy *Anzelm Szentiványi*. It was supported both by *István Borsiczky* and *Ferenc Deák*. Denial of the peasants' right to property was one of the greatest obstacles to national progress and ran contrary to common justice, *Deák* said.

I appeal to the estates and in the name of justice and the national wellbeing I urge you [to recognize] everyone's inborn right of ownership, the inviolable natural right of all ... Civil society was created so that the personal and property rights of every citizen should be equally protected ... Whose is the blood that is shed in defense of the country? Who bears the greatest burden of public taxation? Most assuredly, all these burdens are borne by those eight million souls who do not even have the right to own landed property and so are inhabitants of the country rather than citizens of it ... (Cries of "Long live *Deák*" and "May he live for a thousand years" sounded from the gallery of the Diet.)⁶³

To give everyone the right to own property, *Deák* said, would make people work harder, would kindle ambitions, would promote education, and would help the national welfare without damaging anybody's interests.⁶⁴

⁶⁰ Ibid., p. 446; K ó n y i, op. cit., I, p. 41, 16—18.

⁶¹ A c s á d y, op. cit., p. 447; K ó n y i, op. cit., I, p. 38.

⁶² *Tripartitum* (or *Hármaskönyv*) by *István Werbőczy* (or *Werbőczy*) was first published in Latin in Vienna in 1517 and republished in Hungary several times later. It is an exposition of the principles and practice of feudal Hungary's fundamental laws, establishing the privileges of the nobility and the servility of the peasantry. The *Tripartitum* was never codified but the feudal estates used it as if it were the fundamental law of the land.

⁶³ A c s á d y, op. cit., p. 447; K ó n y i, op. cit., I, p. 34.

⁶⁴ K ó n y i, op. cit., I, pp. 33—34, 88.

The Lower House began debating Chapter VIII on September 21, 1833. The *Personalis, Somssich*, stated the opinion that it was not germane to the agenda and should be shelved, but *Deák* argued successfully against the Speaker. Meanwhile the House of Lords had taken up the reform bill on September 9, and it was the Palatine himself who led the opposition to it. It sent five messages against the bill down to the Lower House, but the deputies stood their ground and insisted on acceptance of the version they had adopted. At last, the lords yielded and on November 19, 1833, a joint session of both houses passed an eight-chapter reform bill and sent it to the king for promulgation.⁶⁵⁾

It seemed that liberalism had won the day in Hungary. The bill emancipated the serfs and raised them to the status of citizens and free owners of land, abolishing the basis of the feudal system. *Francis* was now faced with the choice of going along with the reform or showing his true colors, disclosing that his benevolence toward the serfs was no more genuine in the 1830s than in the past. The lords had finally accepted the bill on orders from *Francis*, so that he could veto it himself. This apparent perverseness was indicative of the fact that *Francis* was not content simply to see social reforms frustrated but wanted to do it personally. *Karl Friedrich Kübeck*, president of the Imperial Court Chamber, reported in his diary that when the topic had come up in Vienna *Francis* had shouted that he would himself stop any attempt to change the status of Hungary's serfs. He did not wish the Palatine to waste the lords' time opposing the Lower House's reform bill; "the Emperor himself will put a stop to any such projects before the House."⁶⁶⁾

For nine months nothing was heard. Then on August 30, 1834, the royal rescript reached Pozsony. In it *Francis* vetoed all provisions for social change, all political concessions, and the whole of Chapter VIII. The *Urbarium* and the Josephin reforms remained in force. The only substantial progress was contained in an act on urbarial contracts, which permitted the serfs to conclude irrevocable contracts with their lords "exclusively on their debts, services and tithes". The act, however, included no provision for the obligatory manumission of the serfs and the contracts it specified did not abolish their servile status, as the liberals had so wished to do.⁶⁷⁾ The court did in one respect go

⁶⁵⁾ *Acsády*, op. cit., p. 48; and Baron Gyula *Wlassics*, *Deák Ferenc*. Budapest: Franklin-Társulat Nyomdaja 1923, pp. 17—20.

⁶⁶⁾ *Karl Friedrich Kübeck*, *Tagebücher*, 2 vols., Vienna: 1919, I, pp. 508, 520, 618.

⁶⁷⁾ *Ferenczi*, op. cit., I, p. 109; *Acsády*, op. cit., p. 448; *Molnár*, op. cit., I, p. 447; *Wlassics*, op. cit., pp. 29—32; and *István Szabó*, *A magyar parasztság története [History of the Hungarian Peasantry]*. Budapest: Magyar Szemle Társaság 1940, p. 73.

one better than the liberals: it proposed that all cleared lands brought into cultivation before 1807 should be considered serf holdings.⁶⁸) In addition to this one important economic advance, the royal reply also suggested certain small economic reforms, such as easing the regulations governing the distilling of alcohol.

The royal reply deeply discouraged the liberals. Reformers like *Kölcsey* called the losses formidable and the situation hopeless.⁶⁹) On December 30, 1834, the deputies, many of whom now had to act on reactionary instructions from their counties, endorsed the royal reply. Thus the liberal Chapter VIII was killed by the king and shelved by the same house that one year earlier had enthusiastically adopted it.⁷⁰)

Although the *sessio regnicolaris* had endorsed the royal rescript, a *sessio circularis* was called at *Deák's* insistence to discuss what could be done. On January 25, 1835, *Deák* presented to the *sessio circularis* a new draft to replace the vetoed Chapter VIII. It was a brilliant stroke. He picked up a sentence in the royal rescript in which the monarch had stated his intention to protect the serfs against arbitrary actions and a similar assurance in the Address to the Throne delivered at the opening of the Diet. "Whatever the two branches of the legislative [crown and Diet] agree on", *Deák* told the deputies, "is the common property of the land and our homeland shall never be deprived of it."⁷¹) In this light *Deák* presented his draft amendment, which was inserted into the preamble of the new law on serfs (Act X, 1836, sect. 5): "In order that the serfs collectively and individually shall in every respect, and hence also in their relations with their lords, be free from any

⁶⁸) During the late eighteenth and early nineteenth centuries the serfs in Hungary cleared vast tracts of marshland, forest, moorland, etc. These cleared areas did not become the serfs' *urbarial* holdings but they paid only nominal quitrents for them. The lords, however, had begun to expropriate the cleared lands, paying very little compensation to the serfs, who were bitterly chagrined. See also *Kónyi*, op. cit., I, p. 31.

⁶⁹) *Horváth*, op. cit., I, p. 409.

⁷⁰) *István Barta* (ed.), *Kossuth Lajos országgyűlési tudósítások* [Lajos Kossuth's Reports from the Diet] in the series "Fontes Historiae Hungaricae Aevi Recentioris", 5 vols., Budapest: Akadémiai Kiadó 1961, IV, p. 69.

⁷¹) The hypocritical sentence that *Deák* lighted on in the long royal rescript, with which Vienna vetoed the liberal bills while posing as the protector of the peasantry, reads: "His Majesty wishes that all His subjects, that is, including the populous class of the peasantry, both individually and collectively should live in security, protected against all arbitrariness against both their persons and their property, not only in their relations with their lords but also in all other relations." — *Deák*, tongue in cheek, turned the tables on the court and said: "We do not find among the Hungarian laws a principle more beautiful and more glorious than this one. The estates should not fail to incorporate it verbatim into the Address to the Throne." *Nedézky*, op. cit., p. 111.

arbitrary treatment, and in order that they shall be free in their persons as well as in their properties, it is hereby decreed. . . ."⁷²⁾

Though this was no guarantee of an immediate improvement in the serfs' conditions, it was a statement of principle with the force of law and so really put the peasantry's social and political situation on Hungary's legislative agenda. It was a fillip that raised the spirits of the liberals at a time of demoralization and established *Deák* as the master among his peers. "In fact, from then until the adjournment of the Diet all the Diet papers, minutes, reports give evidence that *Deák* had become informally recognized as the leader of the Lower House of the Diet."⁷³⁾ *Lajos Kossuth* wrote about the success of the *Deák* amendment: "So, out of the shipwreck of our high hopes, at least the sacred and glorious principle made it to shore."⁷⁴⁾

At a meeting of the *sessio circularis* on November 17, 1835, *Deák* attacked corporal punishment as a penal method and argued that it should be abolished: "If it were claimed that the population of our country had not yet reached the level of civilization that would permit the abolition of flogging, that claim would be part of a vicious circle. For the peaceful spirit of a higher level of humanity cannot spring up in the bosom of the people precisely because we have treated them like animals."⁷⁵⁾

The abolition bill he sponsored, however, was defeated by the lords. Afterwards he expressed the hope that, if the deputies felt dispirited by the frustration of their efforts, the counties would help to restore their morale by issuing local abolition statutes.⁷⁶⁾

Deák's successes may have been rather few and far between, but this was a reflection of the increasing forces of reaction, which were led in their offensive against the liberal reformers by Vienna.

The Liberals' Rearguard Action against Reaction

The tactics of the conservatives in the Diet were to cause as much delay as possible to allow the forces of reaction to gather strength. Vienna's strategy was to silence the liberals in the Diet by having the counties change their original liberal instructions to their delegates into conservative ones. To achieve this, Vienna ordered all the county high sheriffs (*főispánok*) in the fall of 1834 to leave the House of Lords, where they sat by virtue of their office, and to return to their counties

⁷²⁾ *S a r l ó s*, "Servile Property", p. 205; and *Corpus Juris Hungarici 1836—1868 cvi törvényczikkek* [Acts of the Years 1836—1868]. Budapest: Franklin-Társulat 1896, p. 45.

⁷³⁾ *S a r l ó s*, "Servile Property", p. 205.

⁷⁴⁾ *Ibid.*

⁷⁵⁾ *Ibid.*, p. 206; *K ó n y i*, op. cit., I, p. 42.

⁷⁶⁾ *S a r l ó s*, "Servile Property", p. 206.

to organize the forces of reaction.⁷⁷) The most willing collaborators in this grand design were the *bocskoros nemesek*, the great, impoverished majority of the lesser nobility. They were directly affected by the proposed reforms, for many of them, since they resided on serf lots, would have to start paying taxes. And all of them were indirectly affected by the fact that, if the reforms were enacted, the hairbreadth difference between them and the former serfs would disappear, once the latter became full-fledged citizens, and the *bocskoros nemesek* would become irrevocably indistinguishable from the mass of peasants. If the reforms were defeated, the lesser nobility's privileges would continue and the *bocskoros nemesek*, despite being on the same economic level as the serfs, would still have the right to take part in the County Assemblies. They therefore made a point of attending the County Assemblies called by the high sheriffs in late 1834 and were instrumental in changing the instructions to the deputies of county after county. These new, conservative instructions made the work of the liberals in the Diet ever harder. *Deák* complained in a letter to *Wesselényi*: "Our position becomes more difficult every day. Although our prospects were never splendid, we now shudder, to see our hopes fade with every passing day."⁷⁸)

The great success of the counties' new policy demonstrated the immense political power the Habsburgs still wielded within the machinery of Hungary's constitution. In this struggle the counties completely reversed their traditional role of defending Hungary's separate constitutional status. For a century and a half they had striven against the Habsburg's attempts to use every means at their disposal to reduce Hungary's constitutional status to that of the Cisleithan provinces, which they ruled absolutely with no serious interference from local Diets. For brief periods the Habsburgs did manage to rule Hungary without the Diet: from 1576 to 1608 under *Rudolf*, from 1657 to 1681 and from 1703 to 1705 under *Leopold I*, from 1705 to 1711 under *Joseph I*, from 1765 to 1780 under *Maria Theresa*, from 1780 tho 1790 throughout the reign of *Joseph II*, and under *Francis I* from 1812 to 1825. These periods were insignificant, though, in comparison with the times the Habsburgs had to rule Hungary constitutionally. The cornerstone of Hungary's defense against the Habsburgs' efforts had been the counties. Now, however, from 1825 on, the Habsburgs were no longer trying to choke Hungarian constitutionalism, but instead wanted to enlist the forces of Hungarian feudal constitutionalism in an alliance

⁷⁷) *Ferenczi*, op. cit., I, p. 110; *Molnár*, op. cit., I, p. 448.

⁷⁸) *Ferenc Deák to Baron Miklós Wesselényi*, March 4, 1834. *Deák Ferenc emlékezete: Levelek 1822—1875* [The Memoirs of Ferenc Deák: Letters 1822—1875]. Budapest: Ráth Mór 1890. Hereafter referred to as "Deák Correspondence".

to preserve the social order. The *bocskoros nemesek* were willing allies and, for a time at least, the Hungarian counties became bastions of reaction.

By the new year of 1835 reaction was sweeping across Hungary. On March 2 *Francis I* died but nothing changed with the ascent to the throne of his son *Ferdinand V*, who had been crowned King of Hungary during his father's lifetime. To put teeth into the reaction, the new regime started a campaign of intimidation. The most celebrated example was the trial of *Baron Miklós Wesselényi*. *Wesselényi*, a Transylvanian aristocrat, was a member of the Hungarian and royal aristocracy by virtue of a small estate he owned in Hungary. At the opening of the Diet of 1832—36, he was the most respected of the leaders of the liberals. With the new turn of events he bent every effort to turn the tide of reaction. For this reason he joined *Ferenc Kölcsey*, who hurried back to his native Szatmár county to try to persuade the County Assembly to retract its new, reactionary instructions and restore its liberal ones. The County Assembly met on December 9, 1834, and was addressed by both *Kölcsey* and *Wesselényi*, who was a member of it because his estate was in Szatmár.

Wesselényi's speech was an impassioned one. At issue was the status of the serfs. He described honestly how miserable their condition was and criticized a government that pretended to protect them but really strove to pit them against the nobility. He said that this was why Vienna was trying to mislead the estates into opposing the serf reforms and called on the assembled nobles to defy the regime. He warned them that, if they did not, they would incur the wrath of the embittered peasantry, and even though the court would suppress a revolt, "then woe betide our national independence!" His speech did not sway the assembly, and *Kölcsey* resigned as Szatmár's deputy rather than follow its latest instructions. "The loss of *Kölcsey* is a very severe blow. No one could replace him", *Deák* wrote to *Wesselényi*. *Wesselényi* for his pains was accused of *lèse majesté* and was exposed to prolonged prosecution, imprisonment and great suffering.⁷⁹⁾

The *Wesselényi* case became a *cause célèbre* in which the liberals and the court-conservative alliance collided head-on. *Deák's* part in this struggle thrust him into greater prominence as a national liberal leader. *Deák's* personal and political relationship with *Wesselényi* involved him deeply in the case and he brought his considerable legal talents to bear on preparing *Wesselényi's* defense.⁸⁰⁾ Besides this, he also launched a campaign to persuade their Diet colleagues that *Wes-*

⁷⁹⁾ *Ferenc Deák* to *Baron Miklós Wesselényi*, January 9, 1835. "Deák Correspondence", p. 7; *Acsády*, op. cit., pp. 447—448.

⁸⁰⁾ *Ferenczi*, op. cit., I, p. 149.

Wesselényi's trial was not just a personal affair but also a national issue. It was, *Deák* said, an unconstitutional violation of the freedom of expression⁸¹⁾, because *Wesselényi* had made his statements at a constitutional meeting of a County Assembly: "The County Assembly is the institution that allows direct and personal participation in the legislative process and in administration through free expression by all those who share that constitutional right."⁸²⁾

Deák vigorously denied that *Wesselényi* had offended the person of the king by his denunciation of the regime, as he had been charged. Criticism of the government in a constitutional system was inevitable, he said, and if it were illegal, then even peaceful consultations on political questions would be impossible without the risk of *lèse majesté*.⁸³⁾ Acting in accordance with the freedom of expression that he was defending, *Deák* himself drafted a "Petition of Grievances" to be presented to the king by the Diet. The petition sought assurance that all liberal principles would be respected and that *Wesselényi's* civil rights would be protected. *Deák's* purpose was to make of *Wesselényi's* trial a constitutional issue. This petition was an important step in *Deák's* career as a codifier of laws and drafter of state documents. Sarlós's "unknown" *Deák* was in the making.

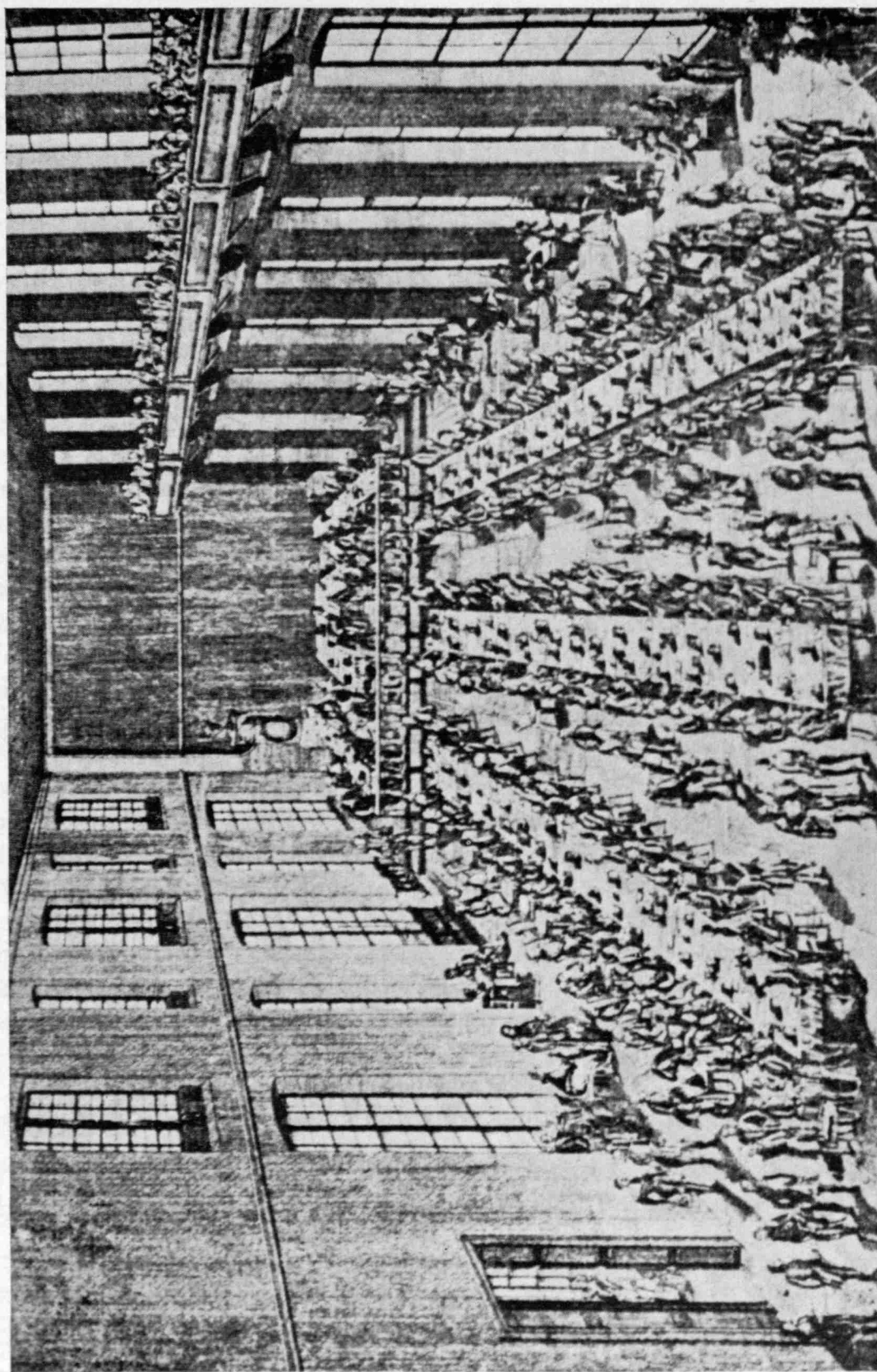
The petition, however, turned out to be one of those strange defeats that seemed only to enhance *Deák's* prestige. The Palatine Archduke *Joseph* threatened his immediate resignation if the Diet were to endorse *Deák's* petition. He also threatened to apply the full rigor of the law against anyone who violated it, just as had been done to *Wesselényi*, but many liberals ignored his warning. *János Balogh* of Bars county solemnly declared that he agreed with all that *Wesselényi* had said to the Szatmár County Assembly; the court responded by charging him, too, with *lèse majesté*. Such a pitch did things reach that *Deák* began to fear the Diet would be dissolved before it could do anything meaningful on the serf issue, so he bowed to defeat and withdrew his petition. To further ease tensions, he persuaded *Balogh* to withdraw temporarily from the Diet on the pretext of having to visit his son, who happened to be ill. By this display of *realpolitik*, *Deák* compromised none of his principles but simply delayed direct action in the Diet and thwarted the court's probable intention of dissolving it.

Deák's next step was to turn to the public to try to mobilize opinion in support of the liberals in order to strengthen their hand in pushing for reforms, especially serf reform. With his encouragement Bars county published a circular denouncing *Balogh's* indictment as a "public grie-

⁸¹⁾ Ibid.

⁸²⁾ Ibid., I, p. 150; K ó n y i, op. cit., I, p. 48.

⁸³⁾ F e r e n c z i, op. cit., I, p. 151; K ó n y i, op. cit., I, p. 81.



A pozsonyi országgyűlés alsó táblájának ülése
The Lower House of the Diet in Plenary Session in Pozsony [Preßburg]

vance" and retained a lawyer to defend him at public expense. Both the county and *Deák* hammered away at the question of freedom of expression, a concept that found wide public support. Finally a royal decree was issued on October 31, 1835, annulling the charge against *Balogh*.⁸⁴) This was no conciliatory gesture, though. The court merely sought to be rid of a highly sensitive and popularly supported issue, especially at a moment when it was having to face an equally touchy problem.

The secret police had intercepted circulars sent out by Békés county to the other Hungarian counties, appealing for their backing for a new draft bill on the redemption of serf obligations and the establishment of their personal and property rights. The government suspended the autonomy of Békés, placed it under the administration of a royal commissioner, and announced that the county's circular contained incitement to subversion.⁸⁵) "If even this is subversive incitement", *Deák* declared in the Diet, "then the estates should put out their hands to be manacled individually and collectively, for there is scarcely a single man among us who has not at some time spoken out on one problem or another equally or even more openly."⁸⁶) The crisis rapidly increased and extraordinarily sharp messages were exchanged between the two houses of the legislature. Meanwhile, in the absence of both *Wesselényi* and *Kölcsey*, *Deák's* stature grew as the leader of the liberals.

This debate over freedom of expression was not without precedent. As early as 1833 the Lower House had declared that freedom of the press was a national right, which the regime's censorship violated. On June 9, 1835, the house elected a committee to draft a law on the freedom of the press. *Deák* was a member of the committee and it was he who penned the draft, which the house passed on January 26, 1836. The dynasty and the aristocracy were not ready for a free press, however, and on April 27 the House of Lords rejected the bill. The beleaguered liberals on May 2 shelved the draft for consideration by the next Diet but, so that idea should not die, they urged the counties to press for action on the bill for as long as the Diet was in a position to do anything about it.⁸⁷)

Excerpta, Concertatio and *Deák's* Recognition as Liberal Leader

As prorogation neared, the liberals fought to save what they could of their progressive motions. Hungarian legislative practice contained

⁸⁴) *Ferenczi*, op. cit., I, p. 159.

⁸⁵) *Ibid.*, I, p. 160.

⁸⁶) *Ibid.*; *Kónyi*, op. cit., I, p. 82.

⁸⁷) *Ferenczi*, op. cit., I, p. 161; *Wlassics*, op. cit., pp. 32—35.

a mechanism to save whatever was of value from legislative defeats. Known as the *excerpta* system, it allowed for parts (*excerpta*) of a defeated major bill to be extracted and passed as separate laws. In 1836 the *excerpta* were of importance to the regime itself. To extend *Maria Theresa's Urbarium*, *excerpta* had to be passed to adjust its provisions to changed circumstances.⁸⁸⁾ These modifications had been under discussion since September 1835, when the prospects for major reforms were fading. Three main *excerpta* were under consideration: the taxation of nobles living on serf holdings, the lords' liability to pay taxes on uncultivated serf holdings, and a draft on *deperdita*.⁸⁹⁾

These *excerpta* were the last chance for *Ferenc Deák* and the liberals to make some piecemeal progress on emancipating the serfs. In the case of the taxation of the *bocskoros nemesek* who cultivated serf holdings, *Deák* was insistent that their legal status should not be altered. *Deák's* concept of progress was not to advance the conditions of the serfs by depriving other classes but by extending the rights enjoyed by others to the serfs. He was resolute, nevertheless, that landless nobles who worked peasant lots should pay the same taxes as the serfs did and should contribute as much to the military commissariat as the serfs. The draft legislation had two objectives. One of these was to ease the tax burden on the serfs. Taxes were to be levied not on individuals but on whole villages, so that the landless nobles' contribution to the community's taxes would lessen the amount the serfs would have to pay. In some parts of the country where the *bocskoros nemesek* were particularly numerous, this measure would have a notable impact on the tax liability of the peasant families. The second objective was to drive the thin end of the wedge into the centuries-old principle of the nobility's tax exemption. Though the tax measure would affect the poorest stratum of the nobility, the *bocskoros nemesek* were the most numerous rank of nobility. The two tax measures thus constituted a social reform of major proportions.

Deák's conduct in the debate on the *excerpta* was a political *tour de force*. With superior legal knowledge and the sophistication of a skillful legislator, *Deák* was also keenly aware of the mentality and

⁸⁸⁾ *Ferenczi*, op.cit., I, p. 163.

⁸⁹⁾ The *Regulamentum*, a royal patent issued by *Maria Theresa* in 1751, set the prices paid for supplies rendered in kind to units of the Standing Army stationed in Hungary. The value of the supplies computed according to this formula was deducted from the taxes due to the state from the communities where the troops were garrisoned. Despite immense increases in costs over the years, the prices fixed by the *Regulamentum* had remained unchanged and caused the serfs great losses. The difference between the real value of the supplies given to the army and the prices credited against a community's tax liability was known as the *deperdita*. *Barta*, op. cit., V, pp. 272—274. For a full list of the *excerpta*, see *ibid.*, V, pp. 270—271.

feelings of his colleagues. When promoting reformist or progressive ideas, he wrapped his message in feudalist verbiage. He persuaded the deputies to pass laws without their realizing the liberal principles carefully entrenched in them or the liberal direction in which they would steer future legislation. The government, for instance, gave reasons why the sources of state revenue had to be safeguarded and why therefore it was necessary to levy taxes on serf lots that were not being cultivated by serfs or had been illegally attached to manorial lands. Deák espoused the argument eagerly, for he realized that taxing the *bocskoros nemesek* on urbarial lands would cut the serf tax burden, and even more that it would undermine the exclusive property rights of the nobility and so foster the concept of the serfs' right to own land. As amended by Deák, the draft read that the nobles "shall pay taxes for all lands that are of such a nature that they no longer fall under the jurisdiction of the lords". The implication of this wording was grasped by the defenders of feudal rights and it was proposed in the House of Lords that Deák's phrase should be replaced simply by "taxable lands". The draft secured sources of state tax income, however, so, regardless of the legal niceties of property rights, the court backed Deák's amendment and it passed into law. That ostensibly innocuous phrase at the same time codified the serfs' usufruct.⁹⁰⁾

It was by a similar masterstroke that Deák practically predetermined in 1836 the amount of redemption that would be payable to the lords for serf holdings when emancipation was finally legalized by the 1848 April Laws. Deák's approach was oblique, for the groundwork for 1848 was laid in a draft law on compensation for land expropriated for the railroads, which Deák himself wrote and which was promulgated as Act XXV, 1836, sect. 6.⁹¹⁾ This set forth how much the state would pay landowners for the railroads' right-of-way. It stipulated that the landowner would receive "the value of the servile payments and services" that he would lose as a result of the expropriation, not any other assessment. In consequence, the legislators' hands were tied in 1848, for it was not feasible to demand from the serfs a higher

⁹⁰⁾ Property rights as legally defined at the time of the Diet of 1832—36 involved two forms of landholding (*dominium*). (All landholding was only titular because all the land in Hungary belonged to the lords, the crown or the church). One form was *proprietas*, legal possession of the land; the other was usufruct (*usufructus*), the right to enjoy the product of the land. The serfs were entitled to the fruits of their labor on their *urbarial* holdings (*dominium utile*). When both forms coincided in the same hands, as was the case of the lords' manorial lands, the landholding was known as *dominium plenum* (total possession). S a r l ó s, "Servile Property", pp. 194, 206—207. Deák argued that the lords were entitled to *proprietas* and the serfs to *usufructus* of their *urbarial* lands. He did not, of course, challenge the lords' *dominium plenum* of their manorial lands.

⁹¹⁾ Corpus Juris Hungarici 1836—1868 . . . , pp. 64—65.

rate of reparation for redemption than the state had paid only twelve years earlier. This act also reinforced the concept of the serfs' right of usufruct⁹²⁾ and dealt a blow to the entail system and, by extension, to feudalism.

The matter of *deperdita* rallied all the supporters of the court. The purpose of the proposed *excerpta* was to eliminate the enormous injustice that the Hungarian peasantry had to provision the Habsburg army's men and mounts for compensation based on the prices of food and fodder in 1751. This was probably the cheapest legally established military supply system of all time.

Ferenc Deák attempted to put together a *junctim* of the three *excerpta*: taxation of the *bocskoros nemesek*, taxation of uncultivated urban land, and the *deperdita* issue. This he tried to do because the court wanted the first two *excerpta* passed but had no interest in any measure that would increase military costs. In response to the court's wishes, however, the House of Lords rejected Deák's bid for a *junctim*. Ever the pragmatist, Deák went along with the court in order to save the first two *excerpta*, especially as reform of the *deperdita* was to be considered by the next Diet. The government presented a bill to elect a joint committee of both houses to recommend changes in the *deperdita*, so, even though this grievance was not redressed this time, it was at least put on the legislative agenda. The other two *excerpta* were enacted by the Diet and promulgated by the king.⁹³⁾ Though they fell far short of the liberals' overall hopes, they did make a breach in the walls of Hungarian feudalism, a breach contributed to notably by Deák.

The debate on the *excerpta* in the closing months of the long Diet brought Deák into national prominence as the undisputed leader of the liberals. He was more active than ever before, exerting all his efforts for the serfs' improvement and to break the back of feudalism in Hungary. The supremacy of the Lower House over the House of Lords, the legislative's independence from domination by Vienna, the exclusion of royal appointees from all the Lower House working committees to free them from executive tutelage — on every topic of debate Deák argued with the same objectives in mind. He also pressed for an increase in Diet control over the budget to put an end to the medieval system in which the Diet was obliged to vote tax revenues which the crown was free to spend as it saw fit. Here he was successful,

⁹²⁾ S a r l ó s, "Servile Property", p. 210.

⁹³⁾ Acts Nos. IV—X, 1836. *Corpus Juris Hungarici 1836—1868 . . .*, pp. 15—49. On the Diet Committee on the *Deperdita*, see B a r t a, op. cit., V, pp. 635, 647. "A breach was made in the centuries-old system of the nobility's tax exemption . . . and the expenses of the Diet were in future to be covered by the estates [rather than by the serfs as in the past]." M o l n á r, op. cit., I, p. 448.

at least, in defeating a government bill that would have enabled it to collect for an unlimited period the same amount of tax revenue as the Diet approved for that present year. *Deák's* final success in the Diet of 1832—36 was to obtain new concessions on the very sensitive legislative procedure known as *concertatio*.⁹⁴⁾

Concertatio was a parliamentary practice that originated in the Middle Ages under the Árpád dynasty.⁹⁵⁾ The medieval estates were an active part of the Hungarian productive system and could not afford to be absent from their home districts for unlimited periods in order to attend the Diets. For this reason medieval Diets debated and adopted draft laws without taking time over the niceties of exact legal wording. The precise drafting of adopted laws (*concertatio*) was entrusted to the king, on whose behalf the Royal Chancellery elaborated the final texts of laws for promulgation. This practice had survived under the Habsburgs, who often abused it by proclaiming laws, the texts of which differed in substance from those passed by the Diet. The Habsburg Diets tried to eliminate this abuse by having the final texts of enacted laws worded jointly by the Royal Chancellery and an *ad hoc* Diet committee. Even this system did not prevent the Habsburgs from promulgating laws that contradicted the intent of the Diets. His sense of legality outraged by the practice, *Deák* fought throughout the Diet of 1832—36 for reform of the *concertatio* and finally succeeded, despite the Royal Chancellery's opposition, in getting through a bill making the wording of the final text of adopted laws the prerogative of the Diet without interference from the executive branch. In cases where the texts passed by the two houses differed, a joint committee elected by secret ballot produced the *concertatio*, not a royal office. This almost one-man battle secured an extremely important privilege for the legislative⁹⁶⁾, and earned *Deák* all-round recognition as leader of the liberals.

Ambition alone had not been enough to bring *Deák* to this preeminence. There were no formal party organizations, no discipline to achieve a concerted approach by the liberal opposition, no clear distinctions along party lines and no liberal caucuses. *Wesselényi* had tried and failed to introduce them.⁹⁷⁾ *Deák's* leadership evolved neither

⁹⁴⁾ Ferenczi, op. cit., I, p. 178. *Deák* told the Diet on January 14, 1834: "I believe that a legislative that is dependent on the executive is only a shadow of a legislative . . . The executive is subject to the whole of legislation, which is jointly executed by the king and the nation." Kónyi, op. cit., I, p. 50.

⁹⁵⁾ The Árpád dynasty reigned in Hungary as dukes from 892 to 1000 and as kings from 1001 to 1301.

⁹⁶⁾ Barta, op. cit., V, pp. 609, 656—661, 673—674; Ferenczi, op. cit., I, p. 179.

⁹⁷⁾ Ferenczi, op. cit., I, p. 181. "There is no talk even about private meetings [caucuses], there is no concord, no concentration on plans, no effort to eliminate differences." From *Kölcsey's* diary, quoted in Horváth, op. cit., I, p. 371.

from his ambition nor from technical arrangements but from the fact that, as the Diet proceeded, more and more deputies heeded and followed him. The conservatives in their efforts to defeat reform projects did their best to confuse men and issues, but the more confusion they generated, the more deputies listened to *Deák*, who had a remarkable facility for clarifying issues and providing the most rational solutions. *Deák* entered the Diet as a 30-year-old politician skilled in county maneuverings but firm in his liberal beliefs. He ended it a national statesman.

His experience in the counties trained him in all Hungary's contemporary legal matters and made him aware of all the problems facing the lesser nobility economically, socially and politically. He was a master of constitutional law, legal codification and local government. He had made exhaustive comparative studies of Hungarian law and that of the other Habsburg lands, as well as of Prussian and French law.⁹⁸⁾ He was exceptionally well versed in the records of earlier Diets. His philosophy was based on legality and he was devoted to the highest ideals of the rights of man. For Hungary's continued survival he was convinced that political, social and economic reforms were essential and his sense of *realpolitik* enabled him to realize a practical synthesis of liberal ideas and Western models suited to Hungarian realities. His polished, classical prose also stood him in good stead and opened a new era in Hungarian literature, a kind of renaissance in the long process of the renovation and rejuvenation of the Hungarian language.⁹⁹⁾

The Balance Sheet of Ferenc Deák as Legislator

On May 2, 1836, after all the newly enacted laws had been promulgated, the Diet was prorogued and *Ferenc Deák* returned to his home in Zala, the county that had delegated him to the Diet. On June 22 he delivered a three-hour report on the Diet to the County Assembly. This report was recorded in full¹⁰⁰⁾ and the following day it was discussed paragraph by paragraph and unanimously approved. In the report *Deák* commented: "Legality should be rigorously observed at all times in our deeds and in our omissions: in deeds so that the estates

⁹⁸⁾ "Deák was considered by his contemporaries very well read in legal literature." *S a r l ó s*, "Servile Property", p. 199.

⁹⁹⁾ *F e r e n c z i*, op. cit., I, p. 186.

¹⁰⁰⁾ The full report is in *K ó n y i*, op. cit., I, pp. 264—312. "Deák's most remarkable work yet was his report to the County Assembly (*Követjelentés*). This document gives an extraordinary portrayal of the state of contemporary legislative procedure [in Hungary]." *H a l á s z*, op. cit., p. 142.

should adhere strictly to the law and do whatever is not forbidden by law for the sake of progress; in omissions so that they should not implement unlawful decrees."

Despite his acknowledged leadership of the liberal opposition, *Deák* at this stage of his career was still a county politician. He shared the long-traditional view of the counties as the guardians of Hungary's constitution. Although it was not consecrated by the law, the counties considered that they were entitled to refuse to execute royal decrees that clashed with existing laws or the constitution. *Deák* believed this to be necessary as a defense against any resurgence of Habsburg absolutism.¹⁰¹⁾

If future legislation was to be successful, *Deák* emphasized, it would be necessary to concentrate selectively on the most urgent reforms, so that the forces of liberalism might overcome those of reaction. When too much was attempted at once, there was the risk that the reformers might be fragmented and achieve nothing. Aware of the strength of reaction, he noted: "Every step forward is a gain to the one desiring progress" — however small that step might be.

Deák proposed to the assembly a program, the most important point in which was to strive for enfranchisement of the largest sector possible of those who still enjoyed no political rights. "In this century it is necessary not to curtail but to increase the electorate, for the liberty of the citizen is strong only where all the citizens defend it as a public property . . . Repression gives birth to cowardice, but the heart-warming feeling of liberty can inspire independent decisions in the bosom of free citizens."

Under the spell of *Deák's* logical and beautiful words, the estates promptly passed a resolution setting the aim of the county's future legislative initiatives: "The representatives of commoners should share the rights of citizens to contribute to legislation." "Everything depends on us, on how we take advantage of present circumstances", *Deák* pragmatically told the assembly in his closing remarks. Just as the man of 1833—36 had taken advantage of existing circumstances in pressing for social reforms, so the man of 1867 was to do the same in his negotiation of the *Ausgleich*.

Deák's report reverberated across the country. The County Assembly had it printed and mailed it to the other counties and elsewhere in

¹⁰¹⁾ The liberals were divided on the counties' role in a Hungarian government reformed along liberal lines. Some stressed their role as safeguards against Habsburg absolutism; other saw them as bastions of feudal social privilege. Gyula Szekfű, *Három nemzedék: Egy hanyatló kor története* [Three Generations: The History of an Era in Decline]. Budapest: "Élet" 1920, pp. 121—122.

Hungary. *Lajos Kossuth* printed extracts from it in his periodical *Törvényhatósági Tudósítások* (Reports on the County Assemblies), until the latter was banned by the increasingly reactionary Habsburgs. The *Consilium locumtenentiale* reprimanded Zala county for allowing the report to be published without prior clearance by the censor, who on government orders seized all the available copies of it. The county in response rejected the reprimand, expressed its satisfaction with *Deák's* report, and defended its publication as a manifestation of the freedom of expression. *Deák* became identified not only in Zala but all over the country as the symbol of progress and the leader of liberalism. According to *István Széchenyi*, *Deák's* "preeminence was recognized on all sides". County after county honored *Deák* by electing him a magistrate (*táblabíró*); the first to do so had been Borsod on August 29, 1835.¹⁰²⁾

There was no sign in all this, however, of any calculated effort on *Deák's* part to seek popularity, fame, prestige or influence. Had these been his aims, his career would have been quite different. His driving force was the need for liberal reform. He fought for it and was repeatedly defeated. A self-seeking man would never have exposed himself to such failures for the sake of his principles. There is little doubt that, at this early stage, *Deák* would have been content to have led a quiet life in the country rather than be caught up in the hurly-burly of national politics. He indicated as much in a letter he wrote to *Kossuth* as reactionary ideas began to take root in Zala, one of the most liberal counties earlier:

You should not be too happy with Zala county and its assembly, my friend, for here too an army of hissing serpents have raised their heads at us . . . I fear for the fate of the resolutions just passed, because so much less brain is needed to make someone able to mobilize the blind and savage aristocracy than to appease them. As for me personally, I do not care, I am even glad to some extent for all that has happened, because it gives me not only an excuse but also a right to retire to the solitude I so desire, should our ideas be defeated.¹⁰³⁾

Deák is described as a tactician, because, among other characteristics he never considered a case closed or an issue defeated for all time, if he believed in the justice of the cause. Whenever he was in difficulties and had to yield ground, he did so step by step, fighting all the way in an effort to exhaust his opposition and salvage whatever he could. He believed the least gain was worth fighting for. He was always eager to hear others' views, including those of his opponents, which enabled him to maintain his composure against all odds, even the most overwhelming. His approach was never to humiliate anyone or to force

¹⁰²⁾ *Ferenczi*, op. cit., I, p. 180. "In the Diet of 1832—36 the leader of the opposition, acknowledged as such by everyone, was the 30-year-old Ferenc Deák." *Halász*, op. cit., p. 143. For the election by Borsod county, see "Deák Correspondence", p. 19.

¹⁰³⁾ *Ferenc Deák to Lajos Kossuth*, September 10, 1836. *Ibid.*, pp. 20—21.

anyone to submit to his ideas. He was most diligent about attending legislative sessions and drafting sessions. This first Diet made it perfectly clear that *Deák's* life was in national politics and legislation. In his own eyes he was simply a codifier of progressive laws.¹⁰⁴⁾

And what of Deák the man? From the innumerable pages of his contemporaries' memoirs he emerges as straightforward both in appearance and speech. He was a man of consequence whose strong will was tempered by good humor and whose ready smile won love and respect. Ferenczi, his major biographer, summed him up as a man with "a mind like that of an ancient sage and a heart like a child's."¹⁰⁵⁾

¹⁰⁴⁾ For an interesting account of *Deák's* character and methods by one of his contemporaries, see Ferencz Pulszky, *Deák Ferencz: Jellemrajz [Ferenc Deák: A Portrait]*. Budapest: Franklin-Társulat 1876, pp. 6—14. Also Antal Csengerly, *Deák Ferenc emlékezete [Memoir of Ferenc Deák]*. Budapest: Franklin-Társulat 1877, pp. 26—36.

¹⁰⁵⁾ Ferenczi, *op. cit.*, I, p. 187.

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