A magyar liberalizmus gyökerei és a rendszeres bizottsági munkálatok. Adalékok az operátumok történetéhez [The roots of Hungarian liberalism and the reform committees: Contributions to the history of their operation]. Edited by Kristóf Mihály Heil. Budapest: Gondolat Kiadó, 2023. 186 pp.

Published in 2023 as the 62nd volume in the series *Jogtörténeti Értekezések* (Essays on legal history), this collection of studies edited by Kristóf Mihály Heil is well worth the attention of the professional community. Founded by the legal historian Kálmán Kovács, the series has published several valuable volumes since 1971, covering a thematic spectrum that extends far beyond the narrower perspective of legal history. It presents works on topics such as the histories of press policy and censorship, the diet, political and legal thought, legal culture and rituals, national identity and language use, and the separation of the branches of power.

The book under review continues this tradition of interdisciplinary openness. As the title itself makes clear, it addresses the so-called "continuity debate," going far beyond the narrower aspects of legal history. This debate revolves essentially around the origins of political modernity in Hungary. At its core lies the question of how political thought and political action of the late eighteenth century is related to the reform ideas and strivings of the first third of the nineteenth century. Two main aspects of this debate can be distinguished: first, the relationship between political ideas in Hungary in the late eighteenth century, influenced to varying degrees by enlightened political thought and the nobility-based liberalism of the first half of the nineteenth century and, second, the relationship between the noble-national ideology of the estates in the first half of the 1790s and the later (still nobility-based) liberal nationalism that emerged around the turn of the 1830s. These two phenomena are interconnected in several respects and cannot be meaningfully examined in isolation from each other.

These aspects essentially correspond, first, to the two elements of the binary opposition inherent in the dilemma of "philantropist or patriot," a concept first articulated by József Hajnóczy (1750–1795), one of the most significant legal thinkers of the late eighteenth century, and, second, to the Reform Era version of this dilemma, in which the former alternative was softened into a coordinate relationship between "homeland and progress." This new slogan, formulated for the first time by Ferenc Kölcsey (1790–1838), became a cornerstone in the

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discursive toolkit of contemporary nobility-based liberal politics, encompassing values attached to patriotism and the principle of the gradual extension of political and social rights at the same time. The explicit debate can be traced back as far as the mid-nineteenth century, but it primarily took place in the twentieth. This discourse among Hungarian historians has been ongoing for over a century, sometimes explicitly and sometimes only implicitly. Primarily, it involves issues of political, legal, and intellectual history, but it can also be examined from the perspectives of social, institutional, and cultural history.

The history of the reform committees, studied from various perspectives in the volume under review, supports the thesis of continuity in political, legal, and intellectual history between the early 1790s and the initial phase of the Reform Era. Article 67 of 1791 ordered the establishment of nine "national" committees tasked with drafting legislative reform proposals for the next Diet. The committees operated between August 1791 and early 1795, but their proposals *(operata)* were ultimately shelved for more than three decades. Following the suppression of the Hungarian Jacobin movement, a modus vivendi developed between the monarch and the estates during the French Wars, and after the Diet of 1811–12, Francis I did not convene another Diet until 1825. At the Diet of 1825–27, the *operata* were revisited, and an 81-member committee was established to review and update the earlier proposals. After extensive county-level deliberations, the monarch designated the negotiations of the draft laws as the primary task of the Diet convening in December 1832. Although the 1832–36 Diet yielded only modest results, the debates that were held fostered the formation of the liberal camp and its reform agenda.

The direct impact of the wave of revolutions that swept through the heartlands of Europe in the early 1830s can hardly be overlooked. Simultaneously, the renegotiation of the *operata* in the counties and at the Diet of 1832–36 reinforced these processes, providing an opportunity for the intellectual elite among the nobility to infuse the old discursive tools with new content and gradually to establish a new paradigm to replace noble-national nationalism. Within the new conceptual framework of nobility-based liberal nationalism, alongside the traditional class-based interest-protection policies of the nobility, who had identified with the *natio* since the Middle Ages, aspects of the economic, social, and political reform of the estates system increasingly gained ground. The studies in this volume primarily discuss the long history of the reform ideas and, in particular, that of the *operata* from a legal historical perspective, but they

also touch on other important perspectives, particularly in terms of political and intellectual history.

The first study in the volume offers an excellent example of thematic complexity and interpretive nuance. It also provides a comprehensive overview of the domestic and international contexts in which the committees worked over the course of four decades, with a focus on the history of politics and ideas. The study, authored by Gábor Erdődy, fills a lacuna in the secondary literature as, until now, the transcultural aspects of the origins and content of the *operata* could only be inferred from sporadic remarks, and the subject itself has received virtually no comprehensive treatment. Erdődy convincingly demonstrates the extent to which the committees' work was embedded in both domestic and international contexts.

In his contribution, Tamás Dobszay seeks primarily to determine the impact that the committees' work had on legislative activity in the medium and long term. He treats this not merely as a technical issue, but rather as a constitutional and political problem closely interconnected with technical questions of legislation. As the author notes, in response to procedural difficulties caused by the interconnections of specific political and constitutional problems, by the end of the Reform Era, from the *ad hoc*, random, and momentary legislation tied to current events (which had prevailed even at the turn of the eighteenth and nineteenth centuries) the estates got to a systematic, planned working method that better took into account more general needs, circumstances, and possibilities. Furthermore, they increasingly moved away from the comprehensive deliberative method of the *operata* toward a piecemeal discussion of the issues contained therein.

Orsolya Völgyesi examines how the range of issues championed by the liberal reformist opposition became more defined and consistent and how the negotiation strategy necessary for their effective advocacy emerged thanks to the county-level deliberations on the *operata* between early 1831 and the fall of 1832, followed by the debates on the Diet of 1832–36, both of which played a fundamental role in this process. The scope of the reform issues that were taking shape at the time primarily encompassed the voluntary form of the so-called *örökváltság* (the redemption of the serfs' debts to their lords in a single payment and for all time), the right of non-nobles to hold land, the abolition of *aviticitas*/*avicitas* (which restricted the transfer of property and limited its inheritance to a circle of relatives), the elimination of the church tithe, matters concerning the Hungarian language, the cause of religion, and the union with Transylvania.

Regarding the new negotiation strategy, Völgyesi, like Dobszay, points out that the estates increasingly sought to break away from the "linked" method of negotiation (*junctim*), towards points extracted from the *operata* (*excerpta*). They saw these points as having a more realistic chance of being accepted and ratified.

In his study, Tamás Melkovics analyses county opinions and the subsequent debates in the Diet of 1832–36 relating to the proposals of the reform committee dealing with questions of political institutions *(Deputatio publico-politica)*. Melkovics examines one aspect of the broader political and historical process during which the estates-based political framework founded on class and social distinctions was increasingly replaced by a structure defined by political affiliation, thus shifting the system toward the paradigm of party(-like) structures. By interpreting this broader process from the perspective of the relationship between the two chambers of the Diet, he demonstrates how ideas evolved during this period about the political role of magnates not holding office and their participation in the Upper Chamber. He concludes that the opposition of the aristocracy in the Upper Chamber of the 1839–40 Diet emerged not independently of these shifting ideas, but as a formation that could now be described as party-like.

György Képes's study traces the history of the first attempt to codify Hungarian commercial law by analyzing the texts of the *operata* produced in the early 1790s. Képes begins by describing the background to the Curia's drafts of 1781 and 1787 and how these drafts were drawn up. He then moves on to the reform proposals on exchange and commercial law produced between 1791 and 1795. He first describes the circumstances surrounding the establishment of the reform committees and their mandates. He then presents the activities of the Commercial Committee *(Deputatio Commercialis)* and the Legal Committee *(Deputatio Juridica)*, both of which participated in drafting the commercial proposal. He emphasizes and substantiates with sources the contention that the two committees cooperated during the drafting process. Finally, Képes presents the completed proposal *(Codex Cambio-Mercantilis)* in detail and briefly outlines the subsequent fate of the commercial drafts.

Attila Barna's study focuses on the question of sovereignty. He begins by providing an overview of the intellectual history of the issue. Starting with its ancient roots, he discusses the concept of estates that emerged in the Middle Ages, followed by early modern models of absolutism. Following a discussion of the seventeenth- and eighteenth-century theories concerning limitations on powers, Barna briefly touches on the erosion of the concept of sovereignty in the twentieth century. He then provides an overview of conditions in

Hungary, focusing on the struggles between royal power and the ideology of the estates that emerged in the late Middle Ages. Barna also traces the historical development of sanctions and penal provisions related to violations of supreme political authority. The study concludes with a brief history of efforts, from the early eighteenth century onwards, to regulate treachery and high treason norms. In this discussion, the Barna covers the 1795 proposal and also briefly outlines the relevant elements of penal code proposals from the Reform Era.

Elemér Balogh examines the origins of the 1830 criminal law draft and analyses the texts produced in the course of the codification process. He outlines the general modern development in legal thought, during which process a dynamic relationship developed between legal theory, legislation, and the application of law. In this regard, he views the omission of the introduction titled *Principia* from the 1795 proposal of the first reform committee, which formed the basis for the 1830 draft, as a step backward. Balogh also highlights that the authors of the 1830 draft developed additional legal sources loosely connected to the main text. These sources encompassed prison regulations, guidelines for judicial authorities responsible for carrying out capital punishment, and the basic principles of forensic medicine. Balogh analyses these, along with the detailed justifications attached to the individual articles, in depth, emphasizing domestic precedents and occasionally supplementing them with international comparisons. Finally, he presents the legal opinions on the 1830 *operatum* issued by local authorities (counties and free royal cities), with a particular focus on the issue of abolishing the manorial courts *(úriszék)*, which had become a pressing concern by that time.

Barna Mezey provides a detailed yet concise overview of the concepts surrounding imprisonment as a punishment between 1790 and 1843, as well as the related legislative proposals. In his discussion of the proposal prepared by the reform committee on legal issues established in 1791, he notes that it reflects the influence of Enlightenment in many regards. The drafters identified rehabilitation as the primary goal of punishment and only considered depriving the offender of their capacity to cause harm when rehabilitation no longer seemed possible. The 1829 draft, based on the initial proposal, demonstrates the prevalence of imprisonment as a punishment. While it did not abolish the death penalty, it restricted its application. In the early 1840s, the issue of criminal law once again reached the level of codification. Although no law was enacted on this occasion either, Mezey argues that the 1843 proposal marked the culmination of a process that had begun in the early 1790s, involving the rise of

imprisonment as a punishment, the spread of modern scientific principles of penal administration, and the humanization of the system of criminal sanctions.

Mária Homoki-Nagy's study focuses on how counties responded to the committees' proposals, with particular consideration of the draft bills on private law and the manorial tenure system *(úrbéri rendszer)*. Homoki-Nagy highlights gaps in the existing secondary literature with regard to county debates, emphasizing that, for the overwhelming majority of counties, the records of county assemblies relating to the committees' proposals remain unexamined. Regarding the 1795 private law code draft, she notes that it essentially regulated rules pertaining to noble estates, preserving everything contained in Werbőczy's *Tripartitum*. Homoki-Nagy also emphasizes that the second commission, established in 1827, did not deviate from these parameters. The idea of actually codifying private law and enforcing new principles on which it could be based emerged only during the county debates on the 1830 draft, composed by this second commission. In this regard, debates surrounding the legal institutions of *fiscalitas* (according to which the estate passed to the royal treasury upon the death of the last person entitled to inherit or in the event of the heir's disloyalty) and *aviticitas/avicitas* played central role. Linked to these issues were the questions concerning the manorial tenure system. Homoki-Nagy presents the relevant sections of the committee's proposal dealing with the latter in detail.

In the concluding essay, Kristóf Heil summarizes the history of the reform committees and the *operata* from the early 1790s to the early 1830s, followed by a discussion of the key issues of the continuity debate, recalling the observation made by Ambrus Miskolczy (who summarized and analyzed the debate in several studies in the 2000s) that one of the main questions is the extent to which one can consider Hungarian democratic culture an "organic" phenomenon and how deep and extensive we consider the historical roots of Hungarian democratic culture. Finally, Heil examines the relationship between the 1790s and the early Reform Era through the lens of Alexander Gerschenkron's five criteria for continuity, ultimately concluding that the relationship between the two periods meets all five.

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