

## The National Council and the Habsburg State Power in Hungary in the year of the Peace of Westphalia

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### I.

The definition of the aspect of Catholicism in the early modern period was apparently influenced by the councils. Not only the Council of Trent (1545-1563), but also the local synods, which intensified its resolutions, left their marks on the aspect of the Catholic confessionalisation organized from Rome<sup>1</sup>.

It was not otherwise in Hungary. On the initiatives of Miklós Oláh (1553-1568) in the seventeenth century, a series of important and significant resolutions were made on the diocesan, provincial, moreover national councils. Their critical publication and unrealised translation into Hungarian are among the crucial duties of the Hungarian church historical researchers<sup>2</sup>.

In their effect and significance, the national councils, which covered the whole primatial province, were the most important. First of all, the one, in 1611, was a milestone in the adaptation of the decrees of the Council of Trent. In its form, it was a provincial synod of Esztergom, however, through the voluntary acceptance of its resolutions by the archbishop of Kalocsa, *de facto* it can be referred to the whole Hungarian primacy<sup>3</sup>. On the other hand, the sessions of Péter Pázmány (1616-1637) in 1630 and 1633 on the initiation and execution of the Roman Rite. Finally, the national council

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<sup>1</sup> With further literature: P. TUSOR, *A barokk pápaság (1600-1700) [Baroque Papacy]*, Budapest 2004, 16-17.

<sup>2</sup> C. PÉTERFFY, *Sacra concilia ecclesiae Romano-catholicae in regno Hungariae celebrata*, I-II, Posonii 1742; I. BATTHYANY, *Leges ecclesiasticae regni Hungariae et provinciarum adiacentium*, I-III, Albae Carolinae-Claudiopoli 1785-1827; M. SZVORÉNYI, *Synopsis critico-historica decretorum synodaliū pro Ecclesia Hungaro-catholica aditorum*, Veszprimii 1807. On the first Catholic councils of Hungary in the early modern period with further literature: I. FAZEKAS, *Oláh Miklós reformtörekvései az esztergomi egyházmegyében 1553-1568 között [Miklós Oláh Reform Endeavours in the Diocese of Esztergom between 1553-1568]*, in: *Történelmi Szemle* 45 (2003) 1-2, 139-153.

<sup>3</sup> PÉTERFFY (as note 2), 202.

summoned by György Lippay (1642-1666) in 1648<sup>4</sup>. Later, only after 174 years was a national council convened in Hungary by Primate Sándor Rudnay (1819-1831) in Pozsony (Bratislava) in 1822<sup>5</sup>.

The national councils, namely the common synods of the given political entity's dioceses internationally fell into the background. According to the thesis of church history, the papacy, which was fighting against the rising episcopatism and Febronianism, opposed to their convocation, in addition, the spread of the royal absolutism proved to be a hindrance<sup>6</sup>. This latter either hindered the national councils or made the execution of their resolutions impossible, like it happened in Hungary in 1822.

Further on, I would like to shade this fundamentally true thesis. It is not evident at the first glance that the development of a well-organised, single, indoctrinated Catholicism in Hungary was not in the Habsburg state power's own interest. For instance, the programme of the council of Nagyszombat (Trnava) on 14 September 1648 and especially the proposals of Archbishop Lippay advanced this. On the one hand, they focused on the closer inner church life. These are the following: the problems of the Roman Rite and practicing the Divine Office (I-II), the questions of the diocesan councils and visitations (III-IV), the induction of the priests, the private advowson, the details of the clergymen's testamentary disposition, the duties of the church archives (V-VIII), the punishment of the refractory priests (XI), the privileges and insignia of the titular abbots and provosts (XX), the warnings of the ecclesiastics undertaken judicial duties in Croatia and Slavonia, the election of the synodal judges and the promulgation of the papal bulls of smaller importance (XXIV-XXV). Moreover, they include nothing but such proposals that one can come across in the Josephinian and Theresian church politics of the eighteenth century. The establishment of the general seminary (IX), the aid of the old, ill priests (X), the assurance of free education in noble boarding schools; at least the restoration of the Hungarian church jurisdiction in the territories of Szepes, which was pawned to Poland (XXI), furthermore the advancement of the Greek union (XXII). Apart from the partial protection of canon law con-

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<sup>4</sup> Their abstracts in Hungarian: K. NAGY, *A magyar kath. egyház nemzeti zsinatai* [The National Councils of the Hungarian Catholic Church], Gyöngyös 1943.

<sup>5</sup> Latest: G. ADRIÁNYI, *Die letzte ungarische Nationalsynode von 1822 und die Protestanten*, in: *AHC* 42 (2010) 103-118.

<sup>6</sup> With further literature: TUSOR, *A barokk* (as note 1), 16-17.

cerning the problems of the bishop nominations, papal confirmations and the papal Curia (the already consecrated bishops, who were transferred by the monarch, also had to ask for their repeated papal confirmation, and such transfers were to be preferably to the archiepiscopal chair), the primatial propositions strengthened the state supremacy, including the demand of the exemption from the *annata* and the defence of the Royal Patronage and Supremacy. This time, in connection with the bishopric of Belgrade – and Ráfael Levakovich's temporary archbishopric of Ochrida – (XIII-XVIII)<sup>7</sup>.

The last points of the proposal referred to three fields of the inner ecclesiastical life: to the resolution of the Council of Trent according to which the cases of those who pawned or alienated church property should be examined on the provincial councils (XXVI); to the complaint of Sigismundo Ferrari about regaining possession of the former Dominican estates (XXVII), and the resolution of the national council of 1630 that the tithes of the clergymen should be arranged in front of an ecclesiastic forum accompanied with the cases related to properties and chattels and arbitrary measures; in a way that these cases should be discussed in front of the archbishop in harmony with the national and canon law (XXVIII). Apart from Ferrari, there is only one living person's name indicated on the proposals, the name of the bishop of Győr. He was only mentioned in one question whether he, Bishop György Draskovith had paid enough attention to the filling and redress of some smaller neglected and Protestant-seized altar-benefice of Sopron (XIX)<sup>8</sup>.

## II.

In contrast to the other Hungarian national councils, it is rather a difficult task to draw an accurate historical picture about the character, significance and underlying content of the council of 1648. As opposed to the proposals – and the material of the other national councils – we are not aware of the events of the council and there is no verbals remained. Apart from the propositions, in his basic source book, Károly Péterffy only published the charter of Primate Lippay from 2 December 1648, which according to the resolution of the council, acknowledged the Jesuits as a part of

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<sup>7</sup> PÉTERFFY (as note 2), 77-382.

<sup>8</sup> The problem occurred already in 1638.

the Hungarian church order (*status ecclesiasticus*). He lists the names of the signatory bishops, prelates and superiors of the religious orders. However, we are looking for the name of György Draskovich, who was the oldest appointed and consecrated bishop out of the fifty-two signatories, in vain<sup>9</sup>.

Yet, besides Primate Lippay, he was the main character of the events. The sole decree (*deliberatio*) found in our archival researches on the national council of 1648 deals only with him and states the following: *Due to the transgressions of Right Reverend György Draskovich, bishop of Győr, namely he impoverished the possessions of the bishopric of Győr and after having created a debt he landed them into the hands of laymen, besides, he is intolerably vexing the subjects of the church in numerous ways to such an extent that the most beautiful diocese of Győr should be destroyed and its possessions would become absolutely abandoned, unless an effective remedy was applied. Therefore, he should be suspended from enjoying and managing the incomes of the episcopal, tithe and other goods, by letting him keep his residence in Győr and the spiritual guidance of his diocese. From the incomes of the bishopric, he is annually remitted five thousand Forints. In the meantime, Right Reverend György Széchényi elected bishop of Veszprém, János Bényi and György Berdóczy canons of Győr receive and administer the incomes of the bishopric of Győr. First, they should redeem the properties of the diocese of Győr in pawn taken and alienated by laymen, then make a full apology to those who suffered injustice, and have novices for the diocese of Győr, finally they have to restore the menacingly decaying episcopal houses and castles. His Majesty, and His Holiness if needed, shall be informed about these and asked for help in the execution*<sup>10</sup>.

A long, unique and detailed treatise, *Informatio pro Deliberatione Sacrae Synodi* belongs to the conciliar document, which was remained among the special documents (*Acta particularia*) of the Hungarian royal chancery. Its content and thoughts almost make up for the documents of the last national council of the early modern period and bring the particular atmosphere of the meetings in autumn of 1648 to very near.

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<sup>9</sup> PÉTERFFY (as note 2), 382-383. It seems from the narratives of NAGY (as note 4), 152, that he found the resolutions in the Primatial Archives of Esztergom (Archivum Ecclesiasticum Vetus, n. 231). However, the material that he used is nothing else but the contemporary version of the propositions published by Péterffy.

<sup>10</sup> National Archives of Hungary (MNL-OL), Archives of the National Chancery (MKL), Hungarian Royal Chancery, *Acta Particularia* (A 93), 8. cs., fol. 643<sup>v</sup>.

Consequently, the document most probably drafted by György Lippay, archbishop of Esztergom, with the assistance of the Jesuits is a key document of the Hungarian conciliar way of thinking of the seventeenth century. It can be divided into two parts. Firstly, Draskovich's possible objections are considered, and then they are refuted at great length to inform and convince the state power, namely the monarch, Ferdinand III<sup>11</sup>.

The following arguments are there in the *Informatio* against the legality of the *synodalis constitutio* and for its redress: 1. The decision was not made by the competent judge, namely the judge of such cases is the pope or his representative. 2. In relation to the method of the process: no one can be convicted, only after having been summoned and proven his guilt. The bishop of Győr, however, was not summoned and his culpability was not either confirmed by testimonies. 3. He cannot be deprived of his incomes, since they count as a deposition (*depositio*) to which the council was not entitled. 4. The right of appeal to the apostolic monarch should be assured. 5. Similarly to other *in foro spirituali* cases, the right of appeal to the apostolic nuncio, or rather to the pope should be made possible here, as well. 6. The rights of the monarch were violated, since he handles the secular goods of the bishopric and in case of vacancy, his chamber administers them, not three elected clergymen<sup>12</sup>.

The *Informatio* mentions the resolution of the Council of Trent (sess. XXIV, cap. 5 de ref.)<sup>13</sup> at first place to justify the competence of the national council and the presiding archbishop, namely the pope has jurisdiction over the dismissal and degradation of the bishops (*depositio et degradatio*), in smaller cases the provincial council is responsible, however, here the dismissal is out of question. Furthermore, it emphasises the rights of the archbishop in the cases of the suffragans' transgressions, which it finds stronger connected with the council, and highlights that primarily the provincial councils served for the redress and punishment of the episcopal abuses, by keeping the right of appeal to the Apostolic See, according to both the eastern and the western conciliar tradition<sup>14</sup>.

<sup>11</sup> Ibid., fol. 672<sup>r</sup>-682<sup>r</sup>. See the source publication at the end of our study.

<sup>12</sup> Ibid., fol. 672<sup>rv</sup>.

<sup>13</sup> The conciliar resolutions in Hungarian: H. DENZINGER - P. HÜNERMANN, *Hítvallások és az Egyház Tanítóhivatalának megnyilatkozásai* [Confessions and the Manifestations of the Magistry of the Church], tran. by B. F. LÁSZLÓ JÚG; ed. by B. ROMHÁNYI - G. SARBÁK, Budapest 2004.

<sup>14</sup> MNL-OL MKL Act. Part. (A 93), 8. cs., fol. 673<sup>r</sup>-674<sup>r</sup>.

In contrast to the second objection concerning the method of the summoning, the *Informatio pro Deliberatione Sacrae Synodi* argues that the invitation for the council properly replaced the summoning and that the Council of Trent commanded the provincial councils to amend the clergymen's transgressions and moral. Moreover, it cites an expressive example, the condemnation of Jan Hus in Constance. According to the paper, the formality and postponements of the legal proceedings on the council should not be kept, since the bishops cannot be away from their communities for long; the council passes judgement by ascertaining the simple and obvious truth as justice and the Holy Spirit implies. Besides, the testimonies are not necessary, since the deeds of the bishop of Győr are well-known, moreover the pawning was admitted by Draskovich, by saying that their repurchase is in progress (as a consequence he participated in the council). The verdict was urgent – continues the *Informatio* – to stop the debt increasing and to prevent the following diet – which the previous time had made numerous resolutions by violating canon law – from bringing an action against the bishop with the grievance of the ecclesiastical order and the pope. (We are highlighting only the essentials, there are altogether 10 points concluding the related aspects)<sup>15</sup>.

The memorial written to Ferdinand III is exceptionally short-spoken in its third point. It repeats that the deprivation from the incomes is not dismissal. At the same time it states that Draskovich could be deprived of his bishopric also because he guides it without a papal confirmation (which is barely extraordinary in the Hungarian hierarchy of the seventeenth century)<sup>16</sup>.

Although, in terms of the Hungarian conciliar way of thinking, the so far established statements are of no minor importance, the essential part of the *Informatio pro Deliberatione Sacrae Synodi* is being described in relation to the appeals and the offence of the royal rights by the resolution of the council.

It states that the sacred council agrees the right of appeal to the pope and if Innocent X sends a *mandatum apostolicum*, they will obey it. However, the declaration of Camillo Melzi, archbishop of Capua, nuncio of Vienna (1644-1652), namely *idem esse papam, quod nuntium, et nuntium quod papam* is sharply rejected. In Western Europe, especially in the territory of the so-

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<sup>15</sup> Ibid., fol. 674<sup>r</sup>-676<sup>v</sup>.

<sup>16</sup> Ibid., fol. 676<sup>v</sup>.

called reform nunciatures (Lucerne and Cologne)<sup>17</sup>, the debate of the nuncios and the local episcopal authority was common, yet, in Hungarian relation there was no previous example for it<sup>18</sup>. The *Informatio* aptly proclaims that as the bishops are not confirmed by the nuncios but the pope, the resolutions of the council are likewise. It explicitly finds it outrageous that the nuncio judges the whole council out of his ordinary faculty – unless he has a special authority given by the pope –, namely he was not the council's appointed chairman on behalf of the Apostolic See. It also states that the chairman of the council was the archbishop of Esztergom, who was otherwise a *legatus natus*<sup>19</sup>, from whom and the whole council (*ab ipso et universa Synodo*) it is impossible to turn to the nuncio. Furthermore, it mentions the contemporary process – which was confirmed by the abundant documentary from the archives of the nunciature of Vienna<sup>20</sup>, however waiting for a detailed exploration – that in the cases appealed to the tribunal of the nunciature in the third instance from the chair of the archbishop can be judged neither by the papal nuncio, nor his auditor, but it is relegated to a Hungarian bishop (*de lege nostra iuxta sacros canones et iura nostra*). It declares that the country and the clergy of the Hungarian Kingdom will never allow the nuncio or his auditor to apply censorship or correct, by chance repeal the resolutions and statutes which were unanimously voted for (*voto deliberarunt*) by the whole *status ecclesiasticus* (all the bishops and prelates)<sup>21</sup>.

In the *Informatio*, the national council is mentioned as the *status ecclesiasticus*'s forum of self-government, which is also palpable concerning the

<sup>17</sup> Cfr. TUSOR, A barokk (as note 1), 239-240 and 330.

<sup>18</sup> A rather serious jurisdictional opposition evolved in the days of Lipót Kollonich in relation to the primatial tribunal of the third degree. Cfr. T. VANYÓ, A bécsi pápai követség levéltárának iratai Magyarországról 1611-1786 [The Documents of the Papal Legation's Archives of Vienna from Hungary 1611-1789], Budapest 1986 (= Fontes Historiae Hungaricae Aevi Recentioris), 192-201. The earlier conflicts were rather of practical character, for instance in connection with the process of the canonical examinations and with the duties of the nunciature.

<sup>19</sup> On the primatial rights: P. ERDŐ, Il potere giudiziario del primate d'Ungheria, in: Apoll. 53 (1980) 272-292 and 54 (1981) 213-231.

<sup>20</sup> Cfr. for example Gli archivi della Santa Sede e il regno d'Ungheria (secc. 15-20) (CVH I/4), a cura di G. PLATANIA - M. SANFILIPPO - P. TUSOR, Budapest - Roma 2008, 74-75; and Archivio Segreto Vaticano (ASV), Archivio della Nunziatura in Vienna, Cause Civili, n. 22. 23. 24. 33. 44. 60; Controversie n. 2. 79. 83; Criminali n. 83; Regolari n. 28. 67; d'Immunità, n. 22.

<sup>21</sup> MNL-OL MKL Act. Part. (A 93), 8. cs., fol. 677<sup>rv</sup>.

question of the appeal to the apostolic king. In this relation, the following statement is drafted so definitely that it does credit to the Roman consistorial lawyers: *The appeal of an ecclesiastical case to Your Majesty would be in contradiction with any secular and church rights*<sup>22</sup>. The thesis is immediately supported by an argument of canon law that relating to the cases of the bishops one cannot lodge an appeal from an ecclesiastical to a secular judge, and it states that the monarch has no intention to defame canon law, which clearly declares that one can appeal from the *forum spirituale* only to the pope or his delegate. Moreover, in the spirit of the medieval papal universalism, it risks the statement that after the honourable example of the Christian Catholic monarchs according to the decree of Emperor Constantine the Great, Ferdinand III does not get involved in the clergy's business and does not want to supervise them since they are the ones who are supposed to judge and absolve him. Obviously, the argumentation, which roots in the *Donatio Constantina* and caused many troubles throughout history, is tried to be eased by the analysis that – as it is customary in Hungary at the execution of the *forum spirituale*'s verdicts – in so far as the sanction of the *excommunicatio* proves to be ineffective, the *brachium regale*, the royal force of arms will be applied for. Namely, the execution will be via the monarch (*via regia*). The treatise supports the sole legitimacy of canon law in ecclesiastical processes with the example of the Hungarian judicial practice, namely, in the Hungarian Kingdom one cannot appeal to the monarch even in secular, civil cases but they are judged only on the palatine tribunals (starting from the last day of the eight-day long religious festivals), which practice should be followed in ecclesiastical cases, as well<sup>23</sup>.

The more and more distinct adumbrating of the *status ecclesiasticus*' self-government, which became complete after having formally introduced the Jesuits, naturally could not elude the question of the Hungarian Royal Patronage and Supremacy<sup>24</sup>. The *Informatio* establishes that *according to our laws, concerning the ecclesiastical goods the Royal Majesty has no other right but the patronage and supremacy, namely to bestow them on suitable people when*

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<sup>22</sup> *Ad suam maiestatem regiam contra omnia iura et politica et canonica esset causam Ecclesiasticam appellare.*

<sup>23</sup> *Ibid.* fol. 677<sup>v</sup>-678<sup>v</sup>.

<sup>24</sup> *Ibid.*, fol. 678<sup>v</sup>-682<sup>r</sup>.

they become vacant and to elect bishops for the presentaion for His Holiness<sup>25</sup>. The phrasing is masterly and it is almost precise in terms of canon law, since it refers the concept of the *collatio* – which was questioned by the Roman Curia for long – to the episcopal property and chattels and not to the bishoprics themselves in the spirit of the traditional Hungarian legal interpretation and practice. Likewise, it does not mean the royal heredity of the capitular *electio*, which ensures canonical rights, under the *electio*<sup>26</sup> but only the election for the introduction and presentation for the pope.

The *Informatio* interprets the Royal Patronage and Supremacy almost entirely in the way of the manorial patronage, and affirms: the patronage and supremacy is a right only at the moment of the filling, furthermore: they [the monarchs] are not responsible if the clergymen subject somebody to scrutiny either for preventing damages or for meeting a debt<sup>27</sup>.

In the *Informatio*, the monarch is obliged to support and secure the execution of the sacred council's decision – noted above in detail –, which serves salutary purposes (the redemption of church goods, keeping novices, etc.) and is invariable as such. Moreover, Péter Pázmány's view (*sententia*)<sup>28</sup>, which was circumscribed with the assistance of many theologians, is cited that the monarch is not free to dispose of the church incomes, neither in case of vacancy; furthermore, the incomes collected by the chamber belong to the newly appointed bishop. Yet, in this case, as it is repeated in the memorial, vacancy is out of question, because the bishopric is still filled: it has got a bishop, who was granted by His Majesty and in the life of this bishop he [the monarch] has no rights relating to those goods and incomes, only as the protector of the churches at most. Therefore not the right of the monarch, but that of the bishop's was temporarily suspended by the sacred council, and by no

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<sup>25</sup> *Ex legibus nostris nullum aliud jus habet regia maiestas in bonis ecclesiasticis, quam ius patronatus, conferendi videlicet illa personis idoneis, quando ea vacare contigerit, et episcopos eligendi suae sanctitati praesentandos. Ibid., fol. 678<sup>v</sup>-679<sup>r</sup>.*

<sup>26</sup> J. STOLPA, Adalékok a magyar királyi főkegyúri jog történetéhez (A konstanzi bulla) [Contributions to the History of the Hungarian Royal Patronage and Supremacy (The Bull of Konstanz)], in: Notter Antal Emlékkönyv. Dolgozatok az egyházi jogból és a vele kapcsolatos jogterületekről, ed. by P. A. JUSZTIN BARANYAY - M. MÓRA, Budapest 1941, 1007-1028, 1027, n. 2.

<sup>27</sup> *Neque pertinet ad ipsos, quando Ecclesiastici inter se convisunt aliquem vel in refusione damnorum vel in solutione debitorum. MNL-OL MKL Act. Part. (A 93), 8. cs., fol. 679<sup>r</sup>.*

<sup>28</sup> Published: Pázmány Péter ... összegyűjtött levelei I-II (The Collected Letters of Péter Pázmány), ed. By F. HANUY, Budapest 1910-1911, I, n. 153.

*means did it affect the royal right*<sup>29</sup>. In addition, it also adds: *the sacred council ... did not transfer the right of the bishop to laymen, or to his majesty, but to clergymen as the goods had earlier been administered by a churchman*<sup>30</sup>.

### III.

The feudal dualism in the early modern period: within the frameworks of the mutual exercise of power of the monarch and the estates regulated in 1608, the feudal rights and the protection of the feudal freedom were always rather delicate questions in Hungary<sup>31</sup>. According to the signs, apart from the secular estate the clergy also should be included in this problem, which practically has not been paid attention to by historians.

A natural element of this “freedom” is the self-governance, the let’s say *autonomy*, which is based on canon law, secular and feudal rights, whose most important representative institution is nothing else but the national council. The existence and decisions of this considerably restrict the Royal Patronage and Supremacy; beside the licences related to the filling of the benefices, only one sort of protectorate is acknowledged, whose essence is nothing else but the assurance of the conciliar resolutions’ execution.

It is obvious: in this context, the repression of feudalism and the development of absolutism could not tolerate the institution of the national council: not only its stabilization, but its further summon. As a consequence, the state power did not oppose to the councils for ecclesiastical reasons at all – for sake of which it would have been even concerned in their summon – but, until 1848, it saw the inner legislative, self-governing forum of one of the state-creating orders in them. On the highest level, in

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<sup>29</sup> *Nullo modo vacet episcopatus, sed habeat suum episcopum, cui sua maiestas iure patronatus sui contulit ac per manus tradidit, neque amplius vivente illo episcopo ius nullum habet in illis bonis et proventibus, nisi tanquam protector Ecclesiarum. Ius ergo istud non regis, sed episcopi ad tempus suspendit Sacra Synodus, nec attigit vel in minimo ius regis.* MNL-OL MKL Act. Part. (A 93), 8. cs., fol. 680<sup>v</sup>.

<sup>30</sup> *Neque enim Sacra Synodus ius episcopi in saeculares, vel etiam in suam maiestatem transtulit, sed prout antea ecclesiastico incumbabat ea gubernare, ita similiter et modo administratio eorundem non aliis, quam ecclesiasticis personis commissa est.* Ibid., fol. 680<sup>v</sup>-681<sup>r</sup>.

<sup>31</sup> On the main characteristics of the feudal dualism: B. KÁLMÁN - P. KATALIN, *Az országgyűlések a kora újkori Magyarországon* [Diets in Hungary of the Early Modern Period], Budapest 1987 (= *Előadások a Történettudományi Intézetben* 6); and M. ISTVÁN SZIJÁRTÓ, *A diéta. A magyar rendek és az országgyűlés 1708-1792* [The Diet. The Hungarian Orders and the Diet 1708-1792], Keszthely 2010, especially 29-42.

the national councils, on lower levels in the provincial and diocesan councils, whose number reduced to minimum from the second half of the seventeenth century. Consequently, in this sense, the European trend of spreading absolutism can be also detected in the Carpathian basin. Moreover, due to the stronger feudalism than that of in Western Europe, the political genesis of the state's "opposition towards councils" is even more noticeable here owing to the arguments of the *Informatio pro Deliberatione Sacrae Synodi*. The church autonomy in Hungary, which was constructed along the conciliar idea in the early modern period, appeared 200 years later in an absolutely different historical context: not in relation to the state absolutism, but to the fight with liberalism and it became the most vital problem of church and domestic policy from 1848 and 1867 until the great powers dissolved the historical Hungarian state and church constitution in 1920<sup>32</sup>.

The national council of 1648 set itself over the practical and the most obvious factor of the supremacy of Rome, the papal nunciature. Therefore, it is no surprise that the summon of the council was not supported by the papal court later, despite the fact that the council's views concerning the relations with the state power were "friends with canon law". As a token of the propositions, in contradiction to the Curia the hierarchy continued to support the interpretation of extending the Royal Patronage and Supremacy by defending the number of its bishoprics, primarily for the sake of maintaining the Hungarian historical territorial claims. However, concerning the origin and extent of the state patronage it does not contain the principle that was represented by the Hungarian bishops already in the sixteenth century, namely *their Majesty Saint Stephen founded every diocese and their monarchs are superior to all the European monarchs, they exercise certain hallowed jurisdiction over the bishoprics*<sup>33</sup>, which becomes the main

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<sup>32</sup> With further literature G. ADRIÁNYI, *Documenta Vaticana. Vatikáni okmányok a magyar katolikus autonómiáról 1891-1920* [Documenta Vaticana. Documents from the Vatican on the Hungarian Catholic Autonomy 1891-1920], Budapest 2012 (= *Dissertationes Hungaricae ex Historia Ecclesiae* 18); see also on this B. NÁDORI, *A katolikus autonómia történetéhez. A II. autonómia-kongresszus 9-es albizottságának működése és az erre tett püspöki észrevételek* [On the History of the Catholic Autonomy] (1898), in: *Új Magyar Sion* 4 [46] (2010) 2, 201-232.

<sup>33</sup> "Santo re Stefano di Ungaria ha fondato tutte quelle chiese, et che i re loro hanno azione sopra i vescovati più privilegiata, che gli altri re dell'Europa et giurisdizione quasi sacrata", in: *Consistorialia Documenta Pontificia de Regnis Sacrae Coronae Hungariae* 1426-

ideological pillar of Maria Theresa's church policy in Hungary by the eighteenth century<sup>34</sup>. We can neither find the trace of the bellicose anti-curialism, which characterized the Hungarian episcopacy at the end of the 1630s and which, in the case of extreme necessity, proposed the legitimacy of the bishop consecrations without the Apostolic See's confirmation by referring to the practice of the "Early Church"<sup>35</sup>.

The strengthening of the Hungarian state church's system is a determining characteristic of the Hungarian Catholicism in the early modern period. Namely, the consolidation of the Catholic dynasty and hierarchy's alliance and interdependence as a result of the struggle against Protestantism and sometimes the papacy (especially under the Barberini-pontificate)<sup>36</sup>. In this process, the ideas appearing in relation to the national council of 1648 – that is, the execution of the disposition passed against the bishop of Győr – count as extremely special and can be primarily explained by the church political events of the near past. 1648, the year of the Peace of Westphalia, is more than expressive. The Habsburg dynasty had to make significant power and confessional concessions not only in the imperial field, but the ratification of the Peace of Linz of 1645 – concluded with György Rákóczi I, who attacked in French and Swedish league – on the diet of 1646/1647 also significantly worsened the Catholic positions, since the confiscation of 90 churches ruined the achievements of decades' work. Despite the royal prohibition, the church order led by Primate Lippay ceremoniously protested against the acts. The *status ecclesiasticus* could justly

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1605 ed. by P. TUSOR - G. NEMES, Budapest - Róma 2011 (= *Collectanea Vaticana Hungariae* I/7), XLVII.

<sup>34</sup> On the Theresian church policy, the most fundamental: F. ECKHART, *A püspöki székek és a káptalani javadalmak betöltése Márai Terézia korától 1918-ig* [The Filling of the Episcopal Sees and the Capitular Benefices from the Days of Maria Theresa to 1918], Budapest 1935.

<sup>35</sup> Cfr. P. TUSOR, *Az 1639. évi nagyszombati püspökkari konferencia (A magyar klérus és a római Kúria kapcsolatainak válsága és reformja)* [The Council of the Bench of Bishops in Nagyszombat, 1639 (The Crisis and Reform of the Relations Between the Hungarian Clergy and the Roman Curia)], in: *Századok* 134 (2000) 431-459.

<sup>36</sup> Cfr. P. TUSOR, *Episcopal Crisis in the Hungarian Episcopate (1639)*, *Il papato e le chiese locali*, Viterbo 2015 (= *Studi di storia delle istituzioni ecclesiastiche* 4), 147-166; *Id.*, *I vescovi ungheresi e Santa Sede nel Seicento (Problemi e svolte decisive)*, in: *Annuario dell'Accademia d'Ungheria in Roma 1998-2002*, a cura di G. KOMLÓSSY - L. CSORBA, Roma - Budapest 2005, 138-161, [http://institutumfraknoi.hu/sites/default/files/i\\_vescovi\\_ungheresi\\_e\\_la\\_santa\\_sede\\_apostolica\\_nrl\\_seicento\\_0.pdf](http://institutumfraknoi.hu/sites/default/files/i_vescovi_ungheresi_e_la_santa_sede_apostolica_nrl_seicento_0.pdf).

assume that: it is its vital interest to extend its scope for action and independence – at least theoretically – by expressing and debating the “conciliar self-government” with the monarch, who was more and more driven by the almighty *raison d'état*<sup>37</sup>.

The Habsburg-state power, which had previously allowed the summon of the national council, realised the danger that the national council meant in terms of the self-organisation of the *status ecclesiasticus*. Despite the vehement protest of Primate Lippay, Ferdinand III suspended the execution of the conciliar resolution and took the case of the bishop of Győr into his own hands<sup>38</sup>. In January 1649, a mixed tribunal of clergymen and seculars passed sentence on György Draskovich<sup>39</sup>. However, the monarch revised this sentence, as well, and was satisfied with the large fine of the refractory bishop<sup>40</sup>. In the autumn of 1648, the court of Vienna – presumably to outwit the council – proposed the launch of a canonical process at the Curia; in February 1649, Legate Federigo Savelli was ordered not to deal with the case anymore, since it had already been solved<sup>41</sup>. Therefore, the role of papal nuncio Camillo Melzi was limited only to the informal collection of data<sup>42</sup>.

The denouement clearly shows that the national council as a self-governmental form failed against the absolutistic state-power in 1648. Yet, the

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<sup>37</sup> With further literature: P. TUSOR, *Purpura Pannonica. Az esztergomi bíborosi szék kialakulásának előzményei a 17. században* [Purpura Pannonica. The “Cardinalitial See” of Strigonium and its Antecedents in the 17th Century] Budapest - Róma 2005 (= *Collectanea Vaticana Hungariae* I/3), 113-114.

<sup>38</sup> In detail with further literature: P. TUSOR, *Nemzeti zsinat, 1648. Katolikus rendi autonómiaörekvés a kora újkori Magyarországon* [National Council, 1648. Catholic Endeavour to Autonomy in Hungary of the Early Modern Period], in: *Zsinatok és katolikus nagygyűlések Magyarországon a 16-20. században. Tanulmányok* (ed. by S. VARGA et al.), Pécs 2013, 69-130.

<sup>39</sup> B. SZABADY, *Draskovich György győri püspök élete és kora (1599-1650)* [The Life and Age of György Draskovich, Bishop of Győr (1599-1650)], *A 300 éves soproni szent benedekrendi Sz. Asztrik Kat. Gimnázium jubileumi értesítője az 1935/36. isk. évről*, Sopron 1936, 15-115, 104.

<sup>40</sup> MNL-OL MKL *Conceptus Expeditionum* (A 35), n. 44/1649. Cfr. SZABADY (as note 39), 104, 33. n.

<sup>41</sup> Ferdinand III to Innocent X and Federigo Savelli, Vienna, 12 September 1648; Federigo Savelli to Ferdinand III, Rome, 24 October 1648; Ferdinand III to Savelli, Vienna, 10 February 1649. MNL-OL MKL *Conc. Exp.* [A 35], n. 365/1648; MNL-OL MKL *Litt. Roma exar.* [A 29], n. 32/1648; MNL-OL MKL *Conc. Exp.* [A 35], n. 38/1649.

<sup>42</sup> *Archivio Segreto Vaticano, Segreteria di Stato, Germania*, vol. 147, fol. 52<sup>r</sup>-59<sup>v</sup>.

fact that there were practical steps taken towards its realisation, and its grounds and necessity were expressed also on theoretical level is significant, especially given the knowledge of the problematic relations of the state and church in the eighteenth and nineteenth century. Thus, the roots of these problems – whose substance can be mainly apprehended in the movements for autonomy of the nineteenth century, around the development of the civil societies<sup>43</sup> – can be explored already in the feudal circumstances of the seventeenth century. The lack of their exploration is explained by the insufficiency of the professional church historical researches of the given period. Namely, one should not be astonished at the results, at all, since rationalism of the eighteenth century, then liberalism of the nineteenth century is actually the exponential acceleration of those processes of de-confessionalisation, whose origin can be found in the European relations being altered in the Thirty Years' War. The beginning of the state, politics, society, science and culture's secularization is clearly indicated by the Peace of Westphalia. To avoid its resolutions, immediately, already in the year of its conclusion, there was a really special step taken in Hungary which could have opened up new prospects, even if the conciliar idea of self-government was composed in connection with a very unique case of church discipline.

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<sup>43</sup> In the course of the nineteenth century, from 1848, then from 1867, the Hungarian Catholicism endeavoured to build its constitutional and financial autonomy against the civil, liberal state. This re-reviving endeavour was not successful due to the historical intertwining with the Hungarian state, especially due to the reservations of the Roman canon law against the continuing Royal Patronage and Supremacy and the participation of the laity. Cfr. latest: ADRIÁNYI, *Documenta Vaticana* (as note 32).

## APPENDIX

*Memorial to Ferdinand III*  
 Arguments for the legitimacy of the conciliar resolution  
 passed against Draskovich, bishop of Győr  
 (MNL-OL MKL Act. Part. [A 93], 8. cs., 671r-682v fol. – orig.)

*Informatio pro deliberatione sacrae Synodi*

*Cum animadvertam a reverendissimo domino episcopo Iauriensi omnem moveri lapidem, qualiter Sanctae Synodi deliberationem evertat, eiusque executionem impediat, necessarium esse existimavi maiestatem suam humillime uberius informare et refutare omnia illa, quibus forte dominus episcopus impugnare synodalem constitutionem posset,*

1.<sup>o</sup> *ex eo quod non sit a competenti iudice facta, similium enim casuum iudex est papa vel eius delegatus.*

2.<sup>do</sup> *Quoad procedendi modum; nemo debet condemnari, nisi citatus convictus, episcopus vero Iauriensis neque est citatus, neque etiam testium fassionibus convictus.*

3.<sup>io</sup> *Quoad poenam non potuit suspendi a proventibus, haec enim videtur esse depositio, quae a Synodo non potuit infligi.*

4.<sup>to</sup> *Appellatio admitti debet ad regem apostolicum.*

5.<sup>o</sup> *Uti in aliis causis fori spiritualis, ita et in praesenti admitti debet appellatio ad nuncium apostolicum, tanto magis ad papam. [fol. 672<sup>v</sup>] Praeiudivatur regiae maiestati, a quo bona temporalia traduntur, et in casu mortis episcopi pertinent ad eiusdem Camerae directionem et administrationem, non vero ad trium electorum ecclesiasticorum. [fol. 673<sup>r</sup>]*

*Ad 1.<sup>m</sup> Respondetur habuisse Sacram Synodum iurisdictionem et potestatem ferendi hanc deliberationem 1.<sup>o</sup> ex conilii Tridentini sessionis XXIV, cap. 5. de ref., ubi habetur, quod graviore causae episcoporum ad depositionem vel degradationem spectantes per suam sanctitatem vel eius delegatum iudicentur, minores autem in concilio provinciali, cum ergo neque de depositione, minus de degradatione episcopi Iauriensis hic actum sit, potuit et debuit causa eius in Synodo provinciali agitari et decidi. 2.<sup>do</sup> Archiepiscopus per se habet potestatem iudicandi, puniendi, suspendendi episcopum, imo et excommunicandi, tum ex iure canonico et ordinario, tum etiam ex privilegiis summorum pontificum, regum et regni, tanto magis una cum Synodo. 3.<sup>o</sup> Ratione debitorum, damnorum aliis illorum et similium aliorum excessuum potest archiepiscopus iudicare, et etiam partem proventuum episcopi deputare a perceptione illorum suspendere, censuris ecclesiasticis compellere; ergo etiam in praesenti causa, ubi propter convictionem et violentias aliis illatas bona episcopalia per saeculares ablata sunt, ante annos [fol. 673<sup>v</sup>] quidem octo circiter quatuor pagi, recenter pagus unus et praedium unum. Insuper denuo in Comitatu Castriferrei<sup>44</sup> convictus est in aliquot millibus florenorum, ad quae refundenda executio in procinctu est, et occupatio bonorum ecclesiasticorum. Ad refundendum [?] igitur damnum ecclesiae Dei et episcopatus illatum, ad redimendos pagos ecclesiae occupatos de manibus haereticorum, apud quos cum evidenti periculo salutis quoque animarum subditorum habentur, potuerunt sequestrari proventus episcopi, et ipse a perceptione eorundem suspendi. 4.<sup>o</sup> Concilium Tridentinum iubet synodos celebrari ad moderandos excessus, mores corrigendos, controversias componendas ec-*

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<sup>44</sup> I.e. Comitatus "Vas".

clesiasticorum, ex quibus fuit iste. 5.º Omni iure tam canonico, quam politico ecclesiasticis incumbit mores depravatos ecclesiasticorum corrigere, punire, castigare, et id quidem in prima instantia nullibi opportunius et commodius, quam in synodo provinciali, et ad quid essent utiles synodi provinciales, si in iis mores ecclesiasticorum corrigi non possent. 6.º Exemplo omnium tam orientalium, [fol. 674<sup>r</sup>] quam occidentalium ecclesiarum, ubi patet episcopos de suis excessibus in synodis provincialibus fuisse pro prima instantia correctos, punitos, relicto appellationi ad sedem apostolicam ulterius loco.

Ad 2<sup>dam</sup>. Neque in procedendi modo quidquam erratum. 1.º Citationis loco fuisse vocatorias ad concilium, et Synodi Tridentinae constitutionem, quae iubet synodos provinciales indici ad corrigendos excessus et mores ecclesiasticorum. 2.º In synodis non esse opus iudiciaria eiusmodi citatione, legitur etiam in actis concilii Constantiensis in causa Ioannis Husz contra querelas Bohemorum, et passim probari potest tam ex sacris canonibus, tam exemplis ecclesiarum quam plurimis. 3.º Eiusmodi longi iuris processus, neque sunt necessarii in synodis, neque adhiberi possunt, tales enim processus multos terminos, remedia iuridica, dilationes varias admittunt, quibus parum est septimana una alterave, quin et menses, facileque eludi per haec media synodus eiusque iudicium posset, et inde causa extrahi. Neque semper ad provincialem synodum convenire ex longe dissitis [fol. 674<sup>v</sup>] et periculosis locis episcopi, aliique possunt, neque oves suas toties deserere et tam diu abesse; in provincialibus ergo synodis neque potest, neque debet observari processus eiusmodi et forma iudicii, sed de simplici et plano comperta rei veritate iudicium fieri, prout iustitia et Spiritus Sanctus dictaverit. 4.º Quantum ad testimonium fassiones, eae non sunt necessariae, quando res est evidentissima et notoria, toti regno sole clarior meridiana, qualis fuit hic amissio pagorum et afflictio miserorum Rakosiensium<sup>45</sup>. 5.º Nulla potest evidentior probatio reperiri, quam proprii oris confessio. Dominus episcopus non negavit, imo confessus est in Synodo se pagos illos ecclesiae ob convictionem et violentias amisisse, occupatos a saecularibus et quidem haereticis etiamnum teneri, imo produxit litteras domini Iudici Curiae<sup>46</sup> recenter ab eo extractas, quibus dicebat sperare se iudice autore amissos pagos iterum recuperaturum. Non est igitur opus testibus, ubi adest proprii oris confessio, et res omnibus plusquam notoria et evidentissima. 6.º Nec potuit, neque debuit res ista differri, et iuridice dilationes similiaque procuratoria remedia adhiberi, tum quia in manifestissimo periculo amittendi destruendique versabantur reliqua bona etiam episcopatus, quae occupanda erant iam iam propter novas convictiones in comitatu. Destruerentur indies et vastabantur ab episcopo, uti apparet in exemplo Rakosiensium, quos monitus licet et ignominia affectus in publicis regni comitiis transmissa etiam infamia eius in omnem posteritatis memoriam per legem contra ipsum conditam iudicio insuper subiectus saeculari. Tantum abfuit, ut corrigeretur, quin peius egerit, post talem correctione, quam unquam immittendo banderium domini palatini in ipsos, qui diuturniori tempore ibi commorati, absumptis quae rustici habebant, accederunt pagum et ita recesserunt. Neque eo contentus dominus episcopus immisit praedones conductos, vagabundos, qui omnes res miserorum rusticorum episcopatus diriperent, quod ne Turca quidem severissimus Tyrannus suis subditis fecisset, et [fol. 675<sup>v</sup>] per istos milites et praedones, quae auferri non potuerunt, vina dissectis vasis in terram effundere non dubitavit, ita ut lacunis vini refertus ubique pagus conspiceretur. De quibus excessibus cum ab archiepiscopo monitus fuisset, nihil profectum usque adeo ut insuper et fruges demessas eorundem subditorum invaderet, ac ad libitum pro se occuparet, quae quidem cum non absque enormi scandalo omnium catholicorum aequae ac haereticorum gesta essent, publicusque omnium clamor, lamentatio, fletus et ejulatus miserorum subditorum et coelum et aures homi-

<sup>45</sup> Now called Fertőrákos.

<sup>46</sup> Pál Pálffy, later (1649-1653) palatine of Hungary.

num feriret, et ecclesiasticos ad iustitiam administrandam provocarat, non potuerunt secus facere, quam in re tam evidenti ac notoria in Synodo certi aliquid determinare. 7.<sup>o</sup> Neque differri potuit causa etiam ex eo, quod imminerent regni comitia, in quibus infallibiliter et ipse dominus episcopus per status et ordines regni fuisset episcopatu suo spoliatus, quin et forte in persona detentus non obstantibus sacris canonibus, contra quos plurima etiam in proxima dioeta [!] acta sunt et decreta. Tunc et archiepiscopo et Synodo ablata fuisset potestas ac iurisdictio [fol. 676<sup>r</sup>] et ad saeculares translata, et ipse dominus episcopus severius multo quam defacto in praeiudicium sanctitatis suae et totius status ecclesiastici fuisset condemnatus ac depositus ab episcopatu. Ne ergo talia evenirent, satius fuit praeveneri et hac via corrigi dominum episcopum etiam pro bono eiusdem. 8.<sup>o</sup> Propter gravissimos excessus et scandala istius domini episcopi ecclesiastici in regno Hungariae odio sunt et abominatione, non tantum haereticis, sed etiam catholicis. Magnatibus et aliis, qui habent alios etiam pro talibus, quando vident enormia quaeque non corrigi, quin potius dissimulando approbari. Imo palam aiunt, si reliqui similium delictorum sibi conscii non essent, punirent utique tam enormia. Ad notificandum ergo, nos non esse tales, neque metu laborare, quominus eiusmodi vitia nobis quoque inpingantur, id oportuit publico hoc testimonio et iudicio totius cleri comprobari. 9.<sup>o</sup> Superiores non castigantes vitia subditorum participes fiunt eorum, timere non immerito possumus, atque etiam credere, [fol. 676<sup>v</sup>] quod poenae immissae a Deo hisce temporibus in religionem et ordinem ecclesiasticum ob delicta enormia a quibusdam patrata a superioribus non correctae iusto iudicio fuerunt.

10.<sup>o</sup> Adduxerunt seniores fratres exemplum simile in hoc ipso regno Hungariae, quando Franciscus Forgach archiepiscopus Strigoniensis<sup>47</sup> ante annos triginta et aliquot Valentinum Lépes episcopum Nitriensem<sup>48</sup> a perceptione proventuum suspendit.

Ad 3<sup>m</sup>. Potuit haec poena infligi a Synodo, uti patet ex responsione ad primum, quae non est aliud, quam suspensio ad tempus a perceptione et administratione proventuum cum assignatione nihilominus ipsi tertiae partis proventuum sui episcopatus. Et haec non est depositio, cum depositio sit non tantum partis proventuum, sed omnium ablatio, non modo proventuum, sed et iuris ipsius in episcopatum privatio, non ad tempus, sed absolute, neque in parte solum temporalium, sed in toto in temporalibus videlicet et spiritualibus, quod hic factum non fuit, sed potius sequestratio quaedam limitata ad tempus bonorum, ne penitus desolentur proventuum pecuniariorum, ut et ipsi pagi alienati recuperentur etc.

Acedit, quod a sede apostolica nunquam pro hoc episcopatu fuit confirmatus, et si aliud non esset, secundum canonicas constitutiones vel ob hoc ipsum potuisset per iudicem competentem episcopatu privari. [fol. 677<sup>r</sup>]

Ad appellationem quod attinet, quo minus ad sedem apostolicam appellet dominus episcopus, impedire nec possumus, neque debemus. Caeterum ut ad nuntium apostolicum fiat appellatio, nullo modo admittet Sacra Synodus. Primo. Quia sicut confirmari a nuntio non debent, sed a papa Synodi constitutiones, ita nec a nuntio approbari vel reprobantur. Secundo. Inauditum est, quod nuntius apostolicus ordinaria sua facultate, nisi peculiariter a summo pontifice sit ipsi delegatum, iudicet totam Synodum, cum ipse non sit constitutus a sua sanctitate praeles [!] Synodo nomine sedis apostolicae. Tertio. Alias etiam causas ab episcopis et sede metropolitana ad ipsum appellatas, cum eae de lege nostra iuxta sacros canones et iura nostra debeant decidi, quorum notitiam auditor nuntii non habet neque ipse nuntius. Non solet ipse nuntius revidere, sed delegare alicui episcopo ex regno Hungariae, ut post senten-

<sup>47</sup> Ferenc Forgách cardinal and archbishop of Esztergom (1607–1615).

<sup>48</sup> Bálint Lépes bishop of Nyitra (1608–1619), and archbishop of Kalocsa (1619–1623).

tiam illius cum a duabus causis conformibus non detur appellatio, sit causa totaliter terminata<sup>49</sup>. Cum ergo nulli episcoporum [fol. 677<sup>v</sup>] regni possit praesens causa delegari, neque poterit ad nuntium appellari. Quarto. Sacrae Synodo praesidebat archiepiscopus Strigoniensis, qui cum sit alioquin etiam legatus natus<sup>50</sup>, ab ipso et universa Synodo non datur ad nuntium appellatio. Quinto. Nunquam sive regnum sive status ecclesiasticus in regno Ungariae admittet, ut quod totus status omnes episcopi et praelati nullo excepto unanimi consensu et voto deliberarunt, subiciatur censurae unius auditoris nuntii, vel ipsiusmet nuntii, qui possit emendare, mature corrigere, destruere deliberationes et statuta nostra. Sexto. Ad papam si appellaverit, tuleritque nobis mandatum apostolicum, non poterimus non esse suae sanctitati obedientes. Septimo. Negamus id, quod dicebat heri dominus nuntius, idem esse papam, quod nuntium, et nuntium, quod papam, rem enim prorsus aliter se habere non est opus probatione.

*Ad suam maiestatem regiam contra omnia iura et politica et canonica esset causam ecclesiasticam appellare.* [fol. 678<sup>r</sup>]

Primo. Quia in causis episcoporum non appellatur a iudice ecclesiastico ad saecularem. Secundo. Quia nec quidem in causis civilibus et saecularibus fit hodie de lege nostra appellatio ad personam regis, sed omnes causae terminantur ac deciduntur finaliter in octavis coram palatino<sup>51</sup>, a quo nulla est appellatio ad regem, tanto magis in causis fori spiritualis et ecclesiasticis. Tertio. Sua maiestas non intendit cursum iuris nostri destruere, et leges nostras convellere, quae habent, ut appellationes ex foro spirituali non nisi ad papam vel eius delegatum fiant. Quarto. Sua maiestas Caesarea secuta laudabile exemplum Christianorum et catholicorum principum et imperatorum, non desiderabit se immiscere causis et negotiis ecclesiasticis, et iuxta decretum Constantini imperatoris illos iudicare a quibus iudicari et a peccatis absolvi debet. Quinto. Processus iuris nostri in regno Ungariae est ille in causis fori spiritualis, ut posteaquam iudex [fol. 678<sup>v</sup>] ecclesiasticus protulerit sententiam, etiam executionem illius sententiae procuret primum quidem per sententiam excommunicationis, cui nisi obtemperaverint, vel si non curent excommunicationem, tum demum impetretur brachium regale. Eadem ergo regia via processit Synodus et archiepiscopus prolataque sententia excommunicationis, si qui executionem impediverint, ea si non iuverint, et ad quos attinet, non curaverint excommunicationem, implorabitur brachium regale suae maiestatis.

Unde apparet nullum hinc praeiudicium emergere iuribus suae maiestatis, quando videlicet via regia tot legibus et saeculorum usu firmata in causis ecclesiasticis et fori spiritualis procedimus, sicut neque in causis saecularibus, quando pergunt suo consueto processu et cursu. 2.<sup>do</sup> Quoad bona temporalia, ex legibus nostris nullum aliud ius habet regia maiestas in bonis ecclesiasticis, quam ius patronatus, conferendi videlicet illa personis idoneis, quando ea vacare contigerit, et [fol. 679<sup>r</sup>] episcopos eligendi suae sanctitati praesentandos. Cum igitur constet patronatus ius habentes saeculares, quid et quantum iuris habeant in bonis ecclesiasticis, neque pertineat ad ipsos quando ecclesiastici inter se convisunt [?] aliqua vel in refusione damnorum, vel in solutione debitorum, ex proventibus pendentibus, ita de sua quoque maiestate praesumendum est. Vacare etiam beneficium vel episcopatus dici non potest, propter causas, quibus probatum est supra, hanc non esse depositionem, sed tantum a perceptione proventuum suspensionem. Tertio. Neque satis constat, quid sua maiestas posset in praesenti casu praetendere, vel enim praetenderet emendare, immutare iudicium Sacrae Synodi, quod non puto

<sup>49</sup> Cfr. ASV Arch. Nunz. in Vienna, Cause Civili, n. 22.

<sup>50</sup> Cfr. ERD<sup>o</sup> (as note 19).

<sup>51</sup> Palatinus i.e. vicereus of the country, leader of the secular nobility.

aut appellationem ad se trahere, de qua iam supra dictum est, aut intendit exequi iudicium ecclesiasticum, protegere autoritate sua et brachio regio, quod non solum admittimus, sed et humiles gratias agimus, imo et imploramus a sua maiestate. Vel sua maiestas intendit et<sup>a</sup> in suos usus convertere proventus episcopales, a quibus suspenditur [fol. 679<sup>v</sup>] episcopus, quod alienum est a pietate sine dubio et conscientia suae maiestatis, quae novit optime a principibus saecularibus Deo dicatas res et proventus usurpari sine gravi periculo non posse. Et alioquin iam declaravit Sacra Synodus ob quid et quem in usum voluerit sequestrare proventus episcopi, videlicet ad redimenda bona amissa, ad contentandos iniuriatos et laesos, ad subveniendum spirituali maximae necessitati illius ecclesiae, alendos videlicet alumnos ecclesiasticos, quorum defectu proprii etiam episcopatus lauriensis pagi facti sunt et fiunt in dies haeretici, et saeculares magnates nolunt solvere pretia decimarum. Demum ad restaurandas ruinas domorum episcopatus, quae ita sunt constitutae pleraeque, ut casum et totalem ruinam quavis hora minentur. Haec igitur cum sit pars deliberationis Sacrae Synodi immutanda non est. Ad extremum non apparet, quid aliud sua maiestas hic praetendere possit, quae tanquam supremus patronus et protector ecclesiae laborare iure merito [fol. 680<sup>r</sup>] debet, ne destruat et intereat penitus, ab externisque occupetur episcopatus, cuius ipsa ius patronatus habet. Et hoc est quod intendit Sacra Synodus. Nisi forte in eo praeiudicetur suae maiestati, quod proventus episcopatus percipi et administrari ordinaverimus per certos ecclesiasticos, cum in casu vacantis episcopatus non ecclesiastici, sed saeculares, Camera videlicet soleat administrare bona et proventus ecclesiarum. Sed hic longe diversa est ratio, utrum enim sit in casu vacantis beneficii, quando existimat regia maiestas suos esse proventus beneficiorum, de quo scio cardinalis Pazmany<sup>52</sup> cum pluribus theologis sententiam fuisse, id sine laesione conscientiae fieri non posse, sed quicquid sit de tempore vacantis episcopatus, qui debet per manus regias dari et assignari electo episcopo. Hic certe longe diversa ratio est, cum nullo modo vacet episcopatus, sed habeat suum episcopum, cui sua maiestas iure patronatus sui contulit ac per manus tradidit, neque amplius vivente illo episcopo ius ullum [fol. 680<sup>v</sup>] habet in illis bonis et proventibus, nisi tanquam protector ecclesiarum. Ius ergo istud non regis, sed episcopi ad tempus suspendit Sacra Synodus, nec attingit vel in minimo ius regis, percipi iussit proventus ab ordinatis, iuxta praemissa recuperationem amissorum bonorum, solutionemque debitorum convertendos, sicut ergo quando superior ecclesiasticus de rebus inferioris solvit debitum, quod contraxit, cogit ad dandam satisfactionem, quem laesit, transfert ius episcopi, quod habuerat in proventus et pecuniam suam in illum, cui debet, ita et modo ius episcopi percipiendi fructus sui episcopatus transfert ad solvenda debita, contentandos laesos, ad redimenda ecclesiastica bona sine ulla laesione regii iuris. Porro cum aliter malo isti subveniri non potuerit, ne videlicet penitus corruat episcopatus in remedium huius mali, debuit ab administratione illius, id est potestate immediata destruendi subduci, neque enim Sacra Synodus ius episcopi in saeculares, vel etiam in suam maiestatem transtulit, sed prout antea ecclesiasticum incumbat ea gubernare, [fol. 681<sup>r</sup>] ita similiter et modo administratio eorundem non aliis, quam ecclesiasticis personis commissa est. Ut vero sua maiestas reddatur securior, contenti manent ecclesiastici etiam suae maiestati communicasse rationes, quas isti administratores dabunt, ut si quid ex illis proventus conversum alio, quam quo debebat, fuisset, emendetur ac refundatur. Cum igitur Sacra Synodus provincialis et nationalis procul dubio Spiritu Sancto assistente et dictante solum Deum et iustitiam eius prae oculis habens ita decreverit unanimi omnium patrum consensu, nemine prorsus dissentiente, applaudentibus universis in regno tam catholicis, quam haereticis, non minori perfusis laetitia, quam si aliquam celebrem victoriam obtinuissent, Synodo interfuerint omnes ex toto regno

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<sup>52</sup> Cfr. HANUY (as note 28), n. 292 and 298.

*etiam Sclauoniae et Croatiae episcopi et praelati, episcopi in universum quatuordecim, duo quidem per legatos, alii personaliter, praepositi et abbates infulati viginti et amplius, alii non infulati circiter triginta, et complures viri doctissimi, sapientissimi et piissimi, religiosi etiam utpote generalis [fol. 681<sup>v</sup>] ordinis S. Pauli primi eremitaie cum duobus theologis, archiabbas sancti Martini cum duobus abbatibus sui ordinis, pater commissarius generalis Franciscanorum cum duobus theologis, pater provincialis Iesuitarum cum duobus theologis, rectores omnium collegiorum ratione abbatiarum cum suis sociis<sup>53</sup>. Humillime supplicatur maiestatis vestrae dignetur unanimi eorum iudicio clementissime acquiescere, neque illud ad quorumvis suggestiones aut instantias in aliqua sui parte immutare, quin potius benignissime protegere, defendere et adiuuare ad executionem, cum nulla penitus appareat necessitas, aut etiam utilitas, totum ecclesiasticum ordinem disgustandi, perturbandi, pudoreque et ignominia afficiendi. Legantur ecclesiasticae historiae, apparet ex iis semper Deo displicuisse, neque impune constitisse, quandocunque principes saeculares et imperatores, ecclesiasticis rebus sese ingerbant, vel auctoritatem super eos usurpabant, eorum iudicia evertabant, permutabant. Optimum igitur est permittere sacerdotes [fol. 682<sup>r</sup>] agere sua sacerdotalia, praesertim quando munus suum secundum Deum et iustitiam eius exequentur<sup>54</sup>.*

<sup>a</sup> Lippay's autograph interpolation

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<sup>53</sup> For the participants of the council see PÉTERFFY (as note 2), 382-383.

<sup>54</sup> My researches has been promoted by Hungarian Academy of Sciences–Péter Pázmány Catholic University Church History 'Lendület' Research Institute. Cfr. <http://institutumfraknoi.hu/en>.