

THE LAWS OF THE MEDIEVAL KINGDOM OF HUNGARY

Volume 1

1000-1301

translated and edited by

János M. Bak, György Bónis†, James Ross Sweeney

with a critical essay on previous editions by

Andor Csizmadia†

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PUBLISHER'S FOREWORD

This new edition of Hungarian laws features a carefully prepared and edited bilingual text on facing pages for maximum utility by legal scholars and other interested parties. No less important are the extensive notes and commentaries accompanying the texts. They are placed in the back of the volumes to preserve a precise bilingual format. The text, translations, and notes provide the reader with state of the art access to the laws of Hungary.

In view of the important role the Jesuits played in promoting publication of legal texts in Hungary, it is appropriate that this publisher – a product of their secondary and university education – initiates this new edition: *Omnia ad maiorem Dei gloriam!*

Charles Schlacks, Jr.

June 6, 1989

P R E F A C E

In view of the turbulent history of East Central Europe, it may be useful to define briefly what is meant by "Hungary" in the context of this collection. Centuries after leaving their ancestral Finno-Ugric home east of the Ural Mountains for the southern Eurasian steppe, the Hungarians eventually turned west and reached the Carpathian basin in the late ninth century. There, the loose alliance of tribes, led by the Magyars from whom the Hungarians derive their name, became a monarchy, first under a grand prince and, from 1000 A.D. under a king. The medieval kingdom of Hungary, from the eleventh to the mid-sixteenth century, comprised the entire Carpathian basin. Magyar conquest and settlement of the land proceeded gradually from the river valleys to the fertile plains and toward the mountainous border regions. To the east, Transylvania was incorporated ever since King Stephen's time but retained some measure of regional autonomy. The kings of Hungary annexed the formerly independent southwestern kingdom of Croatia and Dalmatia around 1100. From the twelfth to the fifteenth century Hungary extended her sovereignty along the Sava and lower Danube Rivers into border areas called banates, whose shifting frontiers depended on political conditions in the northern Balkans. From the late fourteenth century the country frequently shared rulers with Bohemia and Poland; yet, Hungary remained an independent unitary political entity. Even the vicious factional strifes between competing aristocratic leagues in the fourteenth century could not shatter the cohesion of the state.

After the Ottoman Turks defeated the Hungarian royal army at the battle of Mohács (1526), the estates elected two rival kings: one native, another a Habsburg. During the ensuing civil wars the Turks occupied the central areas of the country and remained in control for a century and a half. Hungary was divided into three parts. Until the end of the seventeenth century Royal and Habsburg Hungary occupied the western and northern regions and a portion of western Croatia; the Principality of Transylvania, lying to the east and northeast, became a vassal state of the Ottoman Sultan; while the region in the center came under the Turkish administration of the Pasha of Buda. The recovery of Hungary from the Turks in the late seventeenth, however, did not result in the reunification of the country. The Habsburg rulers preferred to govern Transylvania from Vienna rather than from the Hungarian "capital" Pozsony, continuing a practice which had begun with the separation of south-

ern Hungary as a Military Frontier. The pre-1526 Kingdom of Hungary was only reestablished after the Compromise (*Ausgleich*) of 1867, although with increased autonomy for Croatia, and was maintained as part of the Austro-Hungarian Empire until 1918. Details of the complicated legal and constitutional status of Hungary within the Habsburg monarchy between 1688 and 1918 will be examined later in the appropriate volumes of Series II and III.

At the end of World War I Hungary became a republic from October 1918 to March 1919, and a soviet republic from March to July 1919. During these months most of historical Hungary was occupied by the successor states of the dissolved Habsburg Empire. Under the terms of the Treaty of Trianon in 1920 Hungary lost about 70 percent of her former territory and over 60 percent of her population, excluding Croatia-Slavonia, which land became part of the new South Slave state, Yugoslavia. The areas temporarily recovered by Hungary during World War II—mainly through the Vienna Arbitrations of Hitler and Mussolini—were later returned to Czechoslovakia, Romania, and Yugoslavia by the Paris Peace Treaty of 1946 which restored the borders essentially as they stood in 1920, except for Carpatho-Ukraine (Ruthenia) which became part of the USSR. In 1946 Hungary was declared a republic and on 20 August 1948 a people's republic. The territory of present-day Hungary comprises 92,000 square kilometers.

* * *

The complex historical geography of Hungary is matched by the thorny problem of the definition of her law. In the course of a thousand years the notion of law, decree, statute, or legal act underwent so many changes that a detailed legal history would be necessary to provide adequate definitions. The task of clarification is left to the introductory essays in the individual volumes where specific terms of reference valid for each age will be established. Only the main principles of selection need be stated here.

The Laws of Hungary widens the framework of the old *Corpus Juris Hungarici*. The laws presented are the ones which the supreme authorities of the Hungarian state or parts thereof have proclaimed as such and under which the population of Hungary was obliged to live at a given time. Consequently, we shall include in *The Laws of Hungary* enactments of rebel and revolutionary assemblies, rival assemblies, rump or otherwise, so long as they were able to impose their laws on a significant part of contemporary Hungary and claim jurisdiction over the rest, as well as the laws (patents, and so forth) of rulers, regardless of their legitimacy in the eyes of later lawmakers or legal historians. Accordingly, the editors recognize the *de facto* as *de jure*. While the laws contained in the traditional collections may essentially be found here, they have been supplemented with acts uncovered by scholars in the last century and a half and with laws in effect but considered unconstitutional by the editors of previous collections. The texts, moreover, have been amended in light of modern critical textual analysis.

In another sense, however, this collection of statute law would still be an incomplete record of legal realities of the past ten centuries. As significant as royal legislation from the time of the first king may have been, custom and customary law reigned supreme well beyond the Middle Ages virtually to 1848. According to the legal historian J. Illés, "a statute cannot be upheld by its own force. . . . it does not survive the legislator, only the force of custom keeps it alive." While this may have been literally the case until the close of the fifteenth century, the overwhelming force of custom continued well beyond that time. The clearest indicator of the ongoing role of legal custom is the preeminence enjoyed for centuries by a collection of customary law, namely, the compilation by the practical lawyer and high court judge István Werbőczy (1458-1541). The collection was never approved or promulgated by any ruler, but was clearly the summary of centuries of custom and hence regarded as the law of the land par excellence until 1848. Its inclusion in the editions of the laws of Hungary ever since the seventeenth century – and in the present enterprise as well – suggests the paramount significance of custom, not all of which was ever written down, not even in the *Tripartitum*.

* * *

The Laws of Hungary will consist of six parts. The present volume is the first in Series I, which will contain the laws issued between 1000 and 1526. Series II contains the laws from 1526 to 1867; Series III from 1867 to 1919; Series IV from 1920 to 1945. Series V, the last historical set, will conclude with 1947. In Series VI we will present the living laws of Hungary since 1948. In addition, we shall publish two supplementary sets: the laws of Transylvania and the laws of Croatia-Slavonia.

For first names and geographical terms our translators were encouraged to use the English equivalents. The editors prefer St. Stephen to St. István and Louis Kossuth to Lajos Kossuth. Less well-known Hungarian names are spelled in the Magyar manner, as people addressed each other at the time. Since we are publishing the laws of the state of Hungary, in the absence of English geographical terms Hungarian place names are used regardless of other names in use at the time (German or Latin) or presently (Romanian, Slovak, Serbo-Croatian, or Russian). The subjects or citizens of Hungary are identified as Hungarians but Hungarian-speaking people are often referred to as Magyars. The translators are encouraged to follow the original Latin or Hungarian texts, both in sense and style, as faithfully as possible, but never at the expense of clarity. Only rarely do we introduce Hungarian terms into the English text. *The Chicago Manual of Style*. Thirteenth Edition, Revised and Expanded (Chicago and London: The University of Chicago Press, 1982) serves us mainly as editorial guide.

* * *

The Publisher and his Editor-in-Chief recruited experts from the internationally scholarly community for the production of this mammoth enterprise. Scholars from both sides of the Atlantic, and at various points on the ideological spectrum, are giving their talents and time so we may print the first complete bilingual edition of the laws of Hungary compiled in any language including Hungarian. With the support of the University of Budapest (ELTE), the Historical Institute of the Hungarian Academy of Sciences, and the Social Sciences and Humanities Research Council of Canada the editors and translators have held two roundtable conferences in Budapest (1983, 1984) to coordinate the project. There was also a meeting in Montreal in 1986. In the spirit of this internationalism the Publisher and the Editor-in-Chief are proud to introduce the first volume of *The Laws of Hungary* under the editorship of Professors György Bónis of Hungary, János M. Bak of Canada, and James Ross Sweeney of the United States.

Peter I. Hidas