

**“SCRIPTA MANENT...” AN INNER-CHURCH DEBATE ON
INTRODUCTION OF PASSIVE ASSISTANCE
IN TRANSYLVANIA IN 1840**

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Abstract: In May 1840 the conference of Hungarian Catholic bishops decided to introduce passive assistance when no written promise was provided regarding children’s catholic education originating from religious intermarriages performed between Catholics and Protestants. This decision came in response to the bill of Hungarian parliament which tried to solve the problem of mixed marriages on the basis of religious equality and mutuality, considered by bishops of Hungarian Kingdom a serious danger to catholic faith and religion. Hungarian hierarchs – especially the primate of the country and the archbishop of Kalocsa, the immediate superior of Transylvanian diocese – tried to convince the Transylvanian bishop, Miklós Kovács, to introduce the same measures in his bishopric. But the hierarch was worried, careful and visibly reluctant despite of his contrary declarations. The cause of his behaviour was the different Transylvanian juridical framework of intermarriages and the clear protestant majority of the Grand Duchy. The bishop convoked the consistory of his diocese to discuss the possibilities of bringing into practice of the Hungarian regulations. But the consistory wasn’t keen on the issue at all. A substantial part of influent ecclesiastical elite considered, that in case of mixed marriages domestic civil laws prevail to canon law. They warned the bishop, that beyond the hazard the Hungarian project carries in itself, moral value and also theological ground of it are doubtful. This study presents the debate on the issue of intermarriages that emerged between a part of priesthood and the bishop in the consistory of Transylvanian Diocese.

Key words: intermarriages, passive assistance, Miklós Kovács

Introduction: Legal framework of religious intermarriages in Grand Duchy of Transylvania

On 21st April 1841, after almost nine months of delay related to his Hungarian colleagues, Transylvanian Roman Catholic bishop, Miklós Kovács finally issued his circular letter and pastoral instructions on intermarriages.²

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² *Litterae pastorales in negotio mixtorum matrimoniorum ad clerum suae dioecesis dimissae 1841*, [Pastoral Letter on Intermarriages Sent to the Clergy of Transylvanian Bishopric], Archives of Diocese of Alba Iulia (ADAI), 555/1841, Episcopal Documents,

The circular was unique because it required only oral commitment from the protestant part regarding catholic education of all his future children.³ The explanation for this curious manner to solve the question of intermarriages is given by Transylvanian regulation of mixed marriages.

To understand the bishop's way of acting, first of all, we have to provide a short historical sketch of intermarriage law development until 1840, the year when a substantial part of Transylvanian superior clergy disagreed with their bishop's decision to join his Hungarian fellows in introducing written promises regarding children's catholic education and passive assistance in Transylvanian Diocese.

The question of intermarriages in Grand Duchy of Transylvania – just as in Hungarian Kingdom – was regulated by states of the country during the 1791 Parliament. The 26/1791 Hungarian law on intermarriages ordered on one hand, if father was catholic, to baptize and educate all children in catholic religion, but if mother was catholic worshipper, female children were demanded to become Catholics *at least*. This way the law provided a let-out for written documents that promised catholic education of all offspring arisen of intermarriages, because it wasn't necessary for boys to be baptized Protestants in the latter case. It was just a possibility. The law prescribed that only catholic priests could bind such marriages.⁴

Contrarily to that Transylvanian law nr. 57 from 1791⁵ preserved the regulations of the Patent of Toleration issued by Emperor Joseph II.⁶ Accordingly to the Patent, the children had to follow their parents' religion by

Group I/a, Box nr. 355. We are going to quote the document using its title taken from József Szinyei, because the original manuscript found in archives has got no title. Cf. SZINYEI J., *Magyar írók élete és munkája*, vol. 6, Budapest, Hornyánszky Viktor Publishing House, 1346. We have already published a paper on the circular letter in 2011 in Hungarian quarterly *Egyháztörténeti Szemle*. Cf. NEMES I., “Kovács Miklós erdélyi püspök 1841. évi körlevele a reverzálisokról”, in *Egyháztörténeti Szemle*, 4 (MMXI) <<http://www.uni-miskolc.hu/~egyhtort/cikkek/nemesistvan-vh-2.htm>> [04.02.2012]

³ *Litterae pastorales*, 10.

⁴ “1791:26. törvénycikk. A vallás ügyéről,” [The 26/1791 Bill on Religionary Issues] in PAJKOSSY G. (ed.), *Magyarország története a 19. században. Szöveggyűjtemény*, Budapest, 2006, 56–60.

⁵ MÁRKUS D. (ed.), *Magyar törvénytár. 1540-1848. évi erdélyi törvények*, Budapest, Franklin Társulat – RévaiTestvérek, 1900, 543.

⁶ JUHÁSZ I., *Hitvallás és türelem. Tanulmányok az erdélyi református egyház és teológia 1542-1792 közötti történetéből*, Kolozsvár, 1996, 130.

their gender, and any kind of obverse agreements were declared as non-valid.⁷ The law prescribed no specific measure on the copulation. It wasn't compulsory to be celebrated by catholic ministers. Or, at least, it seemed so. In 1792 Emperor Francis I decided this question through a high resolution, which ordered intermarriages to be celebrated by catholic priests. Married couples had to be separated in catholic ecclesiastical court too.⁸

But use of resolutions led to further debates between catholic and protestant states. Resolutions had not the same legal force laws did, so the Emperor left a back door open for Transylvanian states to contest the validity of the imperial act, charging Vienna with a new trial to decide over essential issues avoiding the states, which were exclusively in charge to dispose over this topic. In 1811, after a long-keeping controversy, Diet of Transylvania promoted law proposal nr. 93. on the celebration of intermarriages to his Majesty. The proposal suggested interreligious wedlock to be celebrated by priests of each part.⁹

In 1834 Transylvanian states, following baron Miklós Wesselényi's tactics, aimed to restore their rights that have been continuously and intentionally ignored during past 23 years of absolutism practiced by Emperor Francis I after Napoleonic wars.¹⁰ Lesions of religious rights were included in the same row with other grievances of political nature. Such they acquired political character,¹¹ and that's the way they appear in documents of 1834

⁷ *Az erdélyi három nemzetekből álló rendeknek 1793-dik esztendőben Kis Aszszony Havának 20-dik napjára szabad királyi városban Kolosvárra hirdettetett és több következő napokban tartatott közönséges gyűléseikben lett végzéseknél és foglaltosságoknak jegyző könyve*, [Proceedings of 1793 Diet of Transylvania], Kolosvárratt: Hochmeister Márton Ts. Királyi Priv. Dicasterialis Könyv-Nyomatató által, s.a., 89.

⁸ *Rescriptum Regium 29-a Augusti 1792. Nro. 7504. I. G. 6-ta Octobris, 1802. Nro. 9417* [Royal Rescript nr. 7504/1792], in *Statuta almae dioecesis Transsilvanicae Anno 1822 die 17-ma Aprilis in Synodo Dioeciesana publicata et Concordibus votis approbata*, Claudiopoli: Typis Lycei Regii, s.a., Pars II, Sectio V. Art. 18., 133.

⁹ *Az Erdélyi Nagy Fejedelemség MDCCCIXdik Esztendőről MDCCCXdikre által nyújtott és Sz. Jakab Havának 9-dik napjától fogva Kolosvár városában folytatva tartatott országos gyűlésének jegyző könyve*, [Proceedings of 1810 Diet of Transylvania], Kolosváronn: A Reformátum Kollégium Betüivel Török István által, 1811, 989.

¹⁰ PAJKOSSY G., "A reformkor", in GERGELY A. (ed.), *Magyarország története a 19. században*, Budapest, 2003, 205.

¹¹ Accomplishing religious equality and mutualism were the main goals of the new Hungarian liberal elite. So they handled religious debate no more as denominational but as political question. Their opinion was that religious dissention was dividing the nation, which needed more than ever unity in order to be able to carry out the modernization of

parliament.¹² Intermarriages constituted the main subject of religious grievances.¹³

But religious questions were really brought to front again in political debates only when Emperor Ferdinand V in 1837 retrieved the 1811 law proposals, stating that they don't fit to the spirit of Transylvanian constitution and asked for new laws on religious subjects.¹⁴ Once again Protestants promoted their gravamina to the parliament, and these documents reflected

Hungarian society. As Transylvania was meant to be reincorporated in Hungary, Hungarian liberal elite considered that Hungarian social and political program must be put in practice in Transylvania too, as much as it is possible. In conclusion, they tried a light version of Hungarian screenplay in Transylvania. The key figure of synchronizing Transylvania and Hungary was baron Miklós Wesselényi, a Transylvanian aristocrat who held dominions also on Hungarian territory. In Transylvania there were four accepted, legally equal religions, the so called *religiones receptae* (Catholic, Calvinist, Lutheran and Unitarian). But once Habsburgs took over Transylvania in 1690, protestant denominations had been discriminated and disadvantaged compared to their Catholic fellow citizens, despite of the fact that they constituted a clear majority. This picture becomes more complicated, if we consider, that accepted religions were not only subjects of religious rights but also of political ones. The laws prescribed that number of the representatives of all four denominations must be equal in the Transylvanian government and also on other levels of administration. So, Transylvanian religious equality gained a very strong political expression, which has been continuously ignored by Austrian absolutism since Charles VI. In Wesselényi's vision, the restoration of feudal constitution of the country was the first step towards the new order, through which Transylvanian states could regain their authority and self-confidence. Thus they could start the essential work that had to be done in order to modernize Transylvanian society. Restoring religious equality was a part of this program, as religious mutualism has been one of the cardinal rights incorporated in Transylvanian feudal constitution. So, whilst in Hungary religious equality had to be yet realized, in Transylvania this was a basic right that has been just waiting to be restored.

¹² "A 107. számú országgyűlési határozat által ő Felségéhez rendelt követség küldetése tárgyát felfejtő és kivilágosító utasítvány," [The 1834 Instructions of the Legation Sent to His Majesty the King in Vienna by the States of Transylvania] in *Erdély Nagyfejedelemség 1834-ik esztendőben Május 26 kára Kolozsvár szabad királyi városba hirdetett országgyűlésének irománykönyve*, [Documents of 1834 Diet] Kolozsvártt: Az Ev. Ref. Kollégium Könyv és Kő nyomó Intézetében, 1834, document nr. 23, session 37, 56.

¹³ BOCHKOR M., *Azerdélyi katolikus autonómia*, Kolozsvár, K. Albert Könyvnyomdája, 1911, 320.

¹⁴ "1091/1837 sz. királyi leirat. L. ülés irományi, 32. szám alatt," [Royal Rescript nr. 1091/1837], in *Az Erdélyi Nagy Fejedelemség 1837-ik esztendőben május 26-kára Nagyszében szabad királyi városba hirdetett Országgyűlésének irománykönyve*. Nagyszében: Tiltsch Sámuel könyvnyomó intézete, 1837, 82.

intermarriages as being the second major problem as importance, after that one of free conversion from Catholicism to Protestantism.¹⁵ Although states promoted no new law proposal,¹⁶ the problem became again one of the most disputed issue in Transylvanian Diet.

Correspondence between Miklós Kovács and his Hungarian colleagues

The position of Hungarian episcopacy regarding the question of intermarriages radicalized in May 1840, when, following a long-drawn debate, a new law proposal was born in the Hungarian parliament which was destined to regulate various questions of denominational interrelations. The goal of the states was to bring into practice interreligious equality and mutuality.¹⁷ In matter of intermarriages the new law prescribed that all children had to follow their father's religion. Hungarian bishops – lords spiritual and members of the peerage at that time – officially protested, and held a conference on 14 May 1840, to decide their position on the issue. They decided to introduce the same measures all over Hungary. The rules they adopted were the following: to apply passive assistance when no promise letter is supplied on the catholic religion of all children arisen from an interreligious wedlock; to issue circular letters in order to provide appropriate teaching and regulations for clergymen and to appeal to the Pope to obtain the approval of the new practice.¹⁸

¹⁵ “Az Erdélyi Ev. Reformátusok Fő Egyházi Tanácsok úttyán a Karok és Rendek eleibe terjesztik némely sérelmeiket orvoslás eszközlése végett,” [Grievances of Reformed Kirk-Assembly Presented to the States of Transylvania, 1837] in *Az Erdélyi Nagy Fejedelemség 1837*, document nr. 72, session XCVII. 172–194. See also “Az Augustanum Fő Consistorium kérelme,” [Grievances of Lutheran Kirk-Assembly Presented to the States of Transylvania, 1837] in *Az Erdélyi Nagy Fejedelemség 1837*, document nr. 79, session CV, 212–214. respectively „Az Erdélyi Unitária valláson lévők kérése,” [Requests of Unitarian Kirk-Assembly Presented to the States of Transylvania, 1837] in *Az Erdélyi Nagy Fejedelemség 1837*, document nr. 106, session CXXVII, 265–266.

¹⁶ See document nr. 116, session CLIII, in *Az Erdélyi Nagy Fejedelemség 1837*, 337.

¹⁷ MESZLÉNYI A., *A jozefinizmus kora Magyarországon*, Budapest, 1934, 399–404.

¹⁸ *Protocollum conferentiae, apud Celsissimum ac Reverendissimum Dominum Principem Primatem die 14^a Maii 1840 per infrascriptos episcopos celebratae...*, [Proceedings of the Conference Held by Hungarian Bishops at 14th May 1840 at the Residence of Primate of Hungary in Pozsony] ADAI, Episcopal Documents, nr. 1055/1840, group I.1/a, box 354. The document was an attachment to the letter of primate József Kopácsy addressed to bishop Miklós Kovács dated on 16 June 1840. See below.

Joseph Kopácsy, archbishop of Esztergom, primate of Hungary informed Transylvanian bishop Miklós Kovács about the new regulations.¹⁹ He attached a copy of the proceedings of the conference to his letter and also the copies of regulations brought in his own diocese. He informed Transylvanian bishop that they had a recourse to the Pope and mentioned that in the document which was going to be presented to the Holy See by bishop Lonovics²⁰ there was a distinct paragraph, in which the Pope was informed about the special situation of Transylvania. Kopácsy was fully aware, that the situation was different in Transylvania and it needs to be handled differently. He pointed out that his attachments were only informative.²¹

Meanwhile, Miklós Kovács tried to gather further information on what had happened in the other Hungarian dioceses. He wrote several letters to his colleagues, first of all to Péter Klobusiczky, archbishop of Kalocsa, his immediate principal, and consequently to János Hám, bishop of Szatmár and also to archbishop of Eger, János László Pyrker.

On 1st August János Hám announced the bishop know, that, beginning with 26th June he decisions of Pozsony conference were put into practice.²²

The response of Archbishop Klobusiczky, given on 3rd August, stroke a quite different key, as he was not only a simply colleague of Miklós Kovács, but the eparch of Transylvanian bishop. He expressed that he had no doubt over the intention of Transylvanian bishop to join his Hungarian fellows' decision over the outstanding situation, but as he understood from the letter of his correspondent, the Transylvanian circular on intermarriage hadn't appeared so far. He vigorously urged the bishop to adopt the appropriate measures. He also pointed out, that is very hard to overestimate, the harm, which an eventual disagreement could cause to the commonly elaborated position. He also indicated that he's aware of Transylvania's specific laws on religious issues. But once a particular way to bless marriages wasn't prescribed by laws, he couldn't see any impediment to introduce passive assistance in Transylvania. The archbishop was the one, who invented the way to require cautions regarding catholic education of children in order to avoid eventual repression:

¹⁹ *Letter of Primate József Kopácsy to Bishop Miklós Kovács on the Decision of Hungarian Bishops Regarding Intermarriages*, Posonii, 16 June 1840, ADAI, Episcopal Documents, nr.1055/1840, group I.1/a, box nr. 354.

²⁰ Bishop of Csanád Diocese, József Lonovics was the one the Royal Court in Vienna agreed to send in Rome to treat about intermarriages with the Pope.

²¹ Episcopal Documents, nr.1055/1840, group I.1/a, box nr. 354.

²² *Informative Response of Bishop János Hám to Bishop Miklós Kovács*, Sathmarini, 1 August 1840, ADAI, Episcopal Documents, nr.1055/1840, group nr.I.1/a, box 354.

the non-Catholic part had to perform a verbal oath (*se jurata fide ad id obligaret*) in the presence of the local consistory or two, perhaps three credible witnesses, to baptize and educate all of his children in catholic religion.²³ It must be mentioned, that verbal commitments were not forbidden by laws and regulations, but they still hadn't got the power of written contracts.

We must also note the response of Archbishop of Eger, János László Pyrker. He informed Bishop Miklós Kovács – what's true, after a few months of delay – of the fact that he also put Pozsony decisions into practice. The effect was ambivalent: some people agreed to sign the contracts, some not, and in consequence, they were passively assisted during their wedding, while others backed off the marriage.²⁴

Debate in the consistory²⁵

The information gained from his colleagues and Archbishop Klobusiczky's categorical demand made unambiguously clear for bishop Kovács, that he had no choice, but to bring in some kind of promise regarding the catholic upbringing of children, and in case of denial, passive assistance will be applied. As bishop he certainly possessed the faculty²⁶ to work out a circular on his own, in which he could link the teachings elaborated for

²³ *Response of Archbishop Péter Klobusiczky to Bishop Miklós Kovács on Matter of Promise Letters*, Colocae, 3 August 1840, ADAI, Episcopal Documents, nr. 1055/1840, group I.1/a, box 354. (Registered under nr. 1142/1840 in the Archives of Archbishopric of Kalocsa).

²⁴ *Informative Response of János László Pyrker, Archbishop of Eger to bishop Miklós Kovács on Intermarriages*, Agriae, 3 November 1840, ADAI, Episcopal Documents, nr. 1593/1840, group I.1/a, box 354.

²⁵ We have already quoted few documents registered under nr. 1055/1840. This registration mark denominates not only a single document, but a pack of letters, proceedings and notes. They all are witnesses of a single event: the debate of intermarriages within Transylvanian Kirk-Assembly. The letters of Hungarian bishops were used also as instruments during the disputations. This is why almost all of them have got the same registry number. This chapter deals with the presentation of these documents and makes clear the circumstances which result from their content.

²⁶ According to the canons the bishop was the lawmaker of his own diocese, and his right to bring in new regulations could only restricted by written laws or unwritten customs of universal Church, decisions of ecumenical councils, respectively the rights of the Pope or regional councils. The bishop had also the right to publish his resolutions apart from diocesan council. So he didn't need any assistance, advise or supervising to issue his decisions, only in case of contradicting universal or national church. SZEREDY J., *Egyházjog, különös tekintettel a Magyar Szent Korona területének egyházi viszonyaira*. Vol 2, Pécs, Ifj. Madarász K. Könyvnyomdája, 1879, 673.

Hungary with the solutions suggested by the Archbishop of Kalocsa, and finally set them up with pastoral and liturgical instructions specific to Transylvanian situation. But he didn't. Instead he convoked the consistory of the diocese on 3rd September. He also explained why he acted in this way: he wanted to rule his diocese fatherly, and his wish was to avoid any kind of arbitrariness and constraint.²⁷

The catholic consistory in Transylvania consisted of several deans, churchmen of higher rank and clericals detaining important position in the diocese.²⁸ According to our sources, from 1831 to 1840 a significant number of professors of theology and members of the chapter became officials of the assembly.²⁹

On the first meeting the bishop made a speech in which he advanced his proposal on intermarriages. First of all he recalled the Prussian events³⁰ and the victory of Catholic Church in this country, which was widely known among Transylvanian clergy. In the next place he reminded his fellows, that intermarriage question in Hungary was the topic of the conferences of Hungarian bishops too. He also participated in these conferences. Hungarian bishops decided to apply passive assistance in cases where protestant part refuses to provide a written promise. But bishops have still avoided to recourse to the Pope or the King. Then, when some counties required sanctions over the law breach caused by the first promise letters and passive assisted copulations in Diocese of Nagyvárad, debates in the Diet became worse day by day. Bishops decided to introduce uniformly written contracts and to bring passive assistance into practice after a derogatory counter-move of the parliament.³¹

²⁷ *Hungarian Manuscript of Speech Held by Bishop Miklós Kovácsin the Assembly of Consistory Congregated on 17 September 1840*, ADAI, Episcopal Documents, nr. 1055/1840, group I.1/a, box 354.

²⁸ *Catalogus venerabilis cleri dioecesis Transsylvaniensis pro anno MDCCCXXXI*. (s. l.: s. a.), 3–5.

²⁹ The Kirk-Assembly hadn't the same role in the Catholic Church as it had in Protestant Churches. Catholic Consistory was the ecclesiastical Court of the diocese of Transylvania.

³⁰ K. HEUSSI, *Az egyháztörténet kézikönyve*, Budapest, 2000, 449–450. Cf. A. FRANZEN, *Kis egyháztörténet*, Szeged, 1998, 351–352.

³¹ The parliament elaborated an intermarriage bill-proposal which explicitly ordered, that all intermarriages must be copulated by the minister of the groom, and children must be baptized and educated in the faith of their father. But the trial failed as the Emperor refused to sanction the law. Anyway, after this turn of events church-leaders decided to make the last move they had: a recourse to the Emperor and also to the Holy See. SZÁNTÓ K., *A katolikus egyház története*, vol. 2., Budapest, 1988, 403–405.

They also braced themselves up to appeal to the Pope and the King. After presenting the current situation, the bishop read the letters of the Primate, the Archbishop of Kalocsa and respectively that one of the Bishop of Szatmár. The eparch finished his speech by giving the opportunity to the members of the consistory to present their opinions on the issue. He pointed out that in case of momentary unwillingness of declaring their position, they may also provide their observations in writing, as soon as possible.

It is essential to notice, that the bishop stressed on the fact that the question wasn't about *to vote the introduction* of promises, but he needed *the opinion* of the assembly on *how to introduce them* without the lesion of the homeland laws. The members of the congregation finally chose to provide scripted statements.³²

A number of seven written opinions have been drawn in the next few days passed till the following congregation.

One of them was worked out by a group that consisted of canons; the others were signed by individuals.

The canons declared themselves for the introduction of passive assistance and promises of catholic education. They mentioned in the very first point of their paper that they completely agree with the teaching of Hungarian bishops and their statement is fully based on Hungarian episcopal teaching. In Grand Duchy of Transylvania existed no law, they wrote, that prescribed the way of celebrating marriages. Furthermore, the Council of Trent required only the *presence* of the local vicar or other enabled clergymen, the *assistance* of two or three eyewitnesses³³, but no more action. Furthermore, passive assistance could and should be applied to all cases of intermarriages, but where non-Catholic part voluntarily promised to educate all his children in catholic faith, but still giving no written evidence of it, they think, the marriage can be performed. Nevertheless, in order to avoid any scandal and defection, they recommended the following things to do: deans of the diocese should convoke assemblies of subordinated clergymen in their districts, where they should present and explain the instructions and measures of Hungarian bishops, and check out if priesthood clearly understood the sense of it. The records of these assemblies must be sent to every parish in every district. In order to develop a common way of acting, they suggested bringing back the practice of dispensation abandoned in 1816. They also promoted the idea of broadcasting the teaching

³² *Extractus Protocolli Consistorialis...*

³³ *Decrees of Council of Trent. Session XXIV. Decree Concerning the Reform of Martimony.* Ch. I. <<http://www.catholic-forum.com/saints/trent24.htm>> [15.09.2012.]

among the faithful via catechesis and also by editing and printing a short *opusculum*, in assurance of uniformity in procedure and moral.³⁴

But the provost of the chapter didn't agree. He wrote his recommendations on 4th September 1840, on the following day of the assembly, and he was extremely reluctant. He wrote that in case of intermarriages the church *mustn't take any measure*. The laws of the country are safe enough. He pointed out that – because of a surely predictable hazard – he disapproves any kind of promises or passive assistance. “The evil placed on a tolerable place is not to be moved away” – he said.³⁵ However, his opinion caused the biggest scandal during the next assemblies.

More thoroughgoing and circumstantial were the opinions of other participants, including those ones written by professors of theology in the seminary of the Diocese.

In Dániel Kovács's view passive assistance could not be applied without irritating Catholics, as long as intermarriages had been blessed without any discrimination up to the present times. He declared himself for maintenance of the old praxis. He argued also with the 57th art., stating that due to its prescriptions, “we must temporarily yield to evilness of times.”³⁶

István Andrassy, professor of theology, was extremely firm when speaking about moral qualification of the trespass which was about to occur once with the introduction of promise letters: who breaks the laws of his own homeland, he said, becomes traitor by offending gospel, oath of union³⁷ and obedience to the Majesty. Nobody can be constrained by any rule to act against another rule. Andrassy dedicated a separate part of argumentation to the question of passive assistance. Passive assistance is unjust, because once with

³⁴ *Ad quaestionem in Consistorio die 3^a cur. mensis Septembris, sub Praesidio Excelentissimi Domini Praesulis celebrato, gratiose propositam...*, [Proceedings of Catholic Kirk-Assembly], Albae-Carolinae, 5 september 1840, ADAI, Episcopal Documents, nr. 1055/1840, group I.1/a, box 354. Signatures: József Bede, Pál Veszprémi, Sándor Eröss, Miklós Gyárfás, János Ráduly, all canons in the Chapter of Alba Iulia.

³⁵ “[...] malumve tolerabili loco positum movendum esse non ratur.” *József Tamási's Opinion on Introduction of Passive Assistance*, Albae Carolinae, 4 September 1840, ADAI, Episcopal Documents, nr. 1055/1840, group I.1/a, box 354.

³⁶ “[...] iniquitati temporum pro hic et nunc cedendum esse.” *Dániel Kovács's Opinion on Introduction of Passive Assistance*, Borbánd, 4 September 1840, ADAI, Episcopal Documents, nr. 1055/1840, group I.1/a, box 354.

³⁷ The oath of union was the official vow every Transylvanian official had to attest. The form of the oath contained also a passage about preservation of religious equality and mutuality. MÁRKUS, 68–69.

its application those people who respect the law, will be punished. Apart from juridical considerations, it is doubtful also from theological angle of view, that marriage can be contracted through passive assistance.³⁸ If marriage comes that way into existence, then any denial of blessing is redundant, because the effect is the same as in case of usual ministry. If marriage doesn't come into being, then the Church commits abuse against the spouses, because administration of sacraments cannot be denied from someone who demands them and is also disposed to accept them. Namely, everyone has equal right to enjoy the benefits of the sacraments of Christian religion. Of course, if intermarriages could be completely avoided, that would be an ideal situation, and this is the teaching of Catholic Church too. But testimonies of oldest times show, that the Church has always been aware of true reality and tolerated intermarriages. If intermarriages cannot be excluded by fair means, we can't conclude that we must apply unfair ones. None can be forced to follow such a thing, that religion is. In conclusion, in Transylvania mustn't be anything innovated in matter of intermarriages, but Church has to wait patiently until God will allow better times for her.³⁹

Another extensive critical opinion was that one of professor Antal Andrásy. He put the question whether *domestic laws and circumstances* allow the introduction of Hungarian measures in Transylvania. In his view the peculiarity of the *status quo* was, that in Transylvania Catholicism wasn't a dominant religion, and the four accepted denominations enjoyed equal rights

³⁸ At that time wasn't clear even for theologians, whether the priest or the spouses are the ministers of sacrament. In today's theology the question seems to be solved. The minister of sacrament is the marrying couple itself. Note that this is not a dogma, but only a *certum*, i. e. a theological statement, that tallies with the dogmas of the church for now, but it can easily be easily eliminated, if any doubt or inconsistency occurs. ELŐD I., *Katolikus dogmatika*, Budapest, 1978, 617–618. The problem is related to history of dogmas. It is evident, that under circumstances of denial of assistance, only the ministry of spouses could save the validity of marriages and the legality of children. Liberal media alarmed public opinion that all passive assisted marriages could be invalid, and children originating of them illegal. In Transylvania that was emphasized even more, because passive assistance affected all marriages where protestant part denied to promise his children's catholic education. In Hungary only those weddings were implied where the father was protestant. See for example “Küküllői gyűlés vége (vegyesház. erdélyi szempontból)”, in *Pesti Hírlap*, June 19, 1841, 410. [*The End of Küküllő Shire Assembly. The Question of Intermar[rriages] from Transylvanian Point of View*]

³⁹ ANDRÁSSY I., *Humillima Opinio infrascripti, Innegotio Reversalium, atque Adsistentiae sic dictae Passivae*, [*Opinion of István Andrásy on Promise Letters and so Called Passiva Adsistentia*] Albae Carolinae, 5 September 1840, ADAI, Episcopal Documents, nr. 1055/1840, group I.1/a, box 354.

and free exercise of religion.⁴⁰ That's why it is impossible to introduce Hungarian measures in Transylvania without a certain risk of exacerbated protest. He also warned, that Christian principles require from Catholics loyalty to civil laws. He called "inequitable" the eventual advantages that Catholicism could gain through extorting promises of catholic education of the children arisen from intermarriages. Namely, if the protestant spouse will not keep his oath, there will be no way that to constrain him to do that. Beyond that, the church will assume the shame of encouraging mendacity and fraud, i.e. making people to do something immoral. So, the only acceptable solution is to interdict Catholics to contract intermarriages, or to completely deny benediction to these marriages. But that was impossible at that time. The praxis of the Church itself shows that beginning with Holy Augustine⁴¹, there always were cases of intermarriages within the church, even examples of marriages between believers and non-believers. So, passive assistance proved to be a novelty related to the age-long exercise of the church, and it could spark an explosion that could comprehend the whole country, just as examples of other countries in Europe have already showed that. In addition, Catholic Church may easily face a similar situation to that one occurred in 1833, when Transylvanian counties banned six week long education for people who intended to convert to Protestantism, and, once this obstacle vanished, entire groups of Catholics became suddenly Protestants. So, passive assistance was considered neology by Andrassy.⁴² That's why he insisted on observance of old customs saying that he couldn't act and speak against his consciousness. He also warned that applying passive assistance wasn't opportune, because by now, Church has not only non-Catholic opposition, but lots of Catholic critics too.⁴³

⁴⁰ Andrassy refers to the 53/1791. law. This law reinforced the previous Transylvanian bills regarding equality and mutuality of the accepted religions in Transylvania. MÁRKUS, 543.

⁴¹ He probably refers here to the *parents* of Holy Augustine. His mother, Holy Monica was Christian, while his father, Patricius was baptized only on his deathbed, and remained pagan during all his lifetime.

⁴² Neology was banned by Transylvanian laws. Only the organizational reform was allowed. Any change in teaching, which implied the risk of schism or appearance of a new denomination, was forbidden. See "Approbatæ Constitutiones, Pars I, Titulus I, Articulus III", MÁRKUS, 10–11.

⁴³ *Opinion of Professor Antal Andrassy on Introduction of Promise Letters and Passive Assistance*, Alba Carolinae, 5 September 1840, ADAI, Episcopal Documents, nr.1055/1840, group I.1/a, box 354.

Ádám Sándor represented the same standpoint. He put the bishop on guard on risks, writing, that the bishop’s plan was unaccomplishable without hazard of serious harm to the Church.⁴⁴

In consequence of these counter-advice, during the next assembly of consistory, which took place on 10th September, the bishop attenuated his position. He made allusion to more members of the congregation that refused the idea of requiring promise letters. This time, he advanced the idea of his superior, the Archbishop of Kalocsa, who advised him to require only verbal vow, and to refuse the blessing of marriage in case of denial.⁴⁵

The records of the assembly contain only an abstract of the bishop’s speech. But, fortunately, the full version of the oration is also available, as it was included in the pocket of documentation. An essential moment of this speech was, when the bishop moderately criticized the opinions of consistorial members, without nominating anyone of them, of course.

In his opinion, most of them missed the mark, because they have reflected on topics they hadn’t been asked to do. Regarding the presence of the priests at the copulation, the bishop’s opinion was that it is essential to the validity of the marriage.⁴⁶ He stated again, that without a firm promise regarding catholic education of children of both sexes, there is no way to bless intermarriages. He made clear again, that his question was: *how* to apply promises without violation of domestic laws and he did not aim to decide *to introduce them or not*.⁴⁷

Following the bishop’s speech something unexpected happened. The provost Tamási stood up, and solemnly protested against bishop’s proposal. Finally, the assembly accepted the bishop’s standpoint, but also recorded Tamási’s protestation.⁴⁸

The members of consistory were shocked, the bishop wrote in a letter addressed to the primate and to the Archbishop of Kalocsa. They all listened to

⁴⁴ *Ádám Sándor’s Opinion on Introduction of Promise Letters and Passive Assistance*, Albae Carolinae, 5 September 1840, ADAI, Episcopal Documents, nr.1055/1840, group I.1/a., box 354.

⁴⁵ *Extractus ddo 10 Septembris anni eiusdem*, [Proceedings of Catholic Kirk-Assembly, 1840] ADAI, Episcopal Documents, nr.1055/1840, group I.1/a, box 354.

⁴⁶ Not the blessing was essential, but the presence of the priest.

⁴⁷ Written by the bishop himself and provided with following date: *A Carolinae 10^a Sept 840 in Consistorio in Residentia Celebrato*, ADAI, Episcopal Documents, nr. 1055/1840, group I.1/a, box 354.

⁴⁸ *Extractus ddo 10 Septembris anni eiusdem*. [Proceedings of Catholic Kirk-Assembly, 1840].

the objection with consternation – he reported to Hungarian hierarchs. This is hard to believe, but as far as only the “official” version of the assembly is available, we must admit, that Tamási’s declaration triggered astonishment amidst participants, but surely not due to the same reasons.

After the assembly the bishop invited Tamási to discuss in private and tried to convince him about his error. He asked him to consider, what could happen, if the rumour of his statements would get abroad. Therefore he asked him to withdraw his protestation during the next assembly, or, at least, to explain his reasons of his behaviour. But the provost kept on firm as a block.⁴⁹

On 17th September the bishop held a speech again. He expressed his stupor and indignation. He stated that he was surprised because Tamási not only dissented, but also solemnly protested. In order to “heal the scandal” and to “avert” it of his person, the bishop ordered to record the facts just as they happened in the proceedings of the assembly, and announced that he will inform his fellow bishops about the incident. He firmly refused to agree with the provost.⁵⁰

Now, we have to consider, what caused this categorical resistance of a considerable group of highly positioned clergymen in Transylvania. Based on their statements, we can assert, that Transylvanian clergy was worried about a whole set of issues. Principles of dogmatic and moral nature were just as important for them as the violation of civil law. At the same time they realized, that measures as passive assistance and promises could provide a dangerous weapon to the liberals, not only because of the breach of law, but also because of expectable public disapproval too. If it would be cleared up, that marriages without blessing could be void and null, and so children arisen of them could be illegitimate, it would cause public outrage.⁵¹ But this fact also shows that moral and disciplinary questions were just as important for the Church, as political

⁴⁹ *Letter of Bishop Miklós Kovács to Primate József Kopácsy and Archbishop Péter Klobusiczky Regarding Consistorial Consultations on Intermarriages*, Albae Carolinae, 18 September 1840, ADAI, Episcopal Documents, nr. 1591/1840, group I.1/a, box 354.

⁵⁰ *Hungarian manuscript of Miklós Kovács’s speech held in the consistory on 17 September 1840*, Albae Carolinae, 17. September 1840, ADAI, Episcopal Documents, nr.1055/1840, group I.1/a, box 354.

⁵¹ We meet this argument also in preliminary opinion of the commission on religious questions of Transylvanian Parliament in 1841-43. *Az Erdélyi Nagy Fejedelemség 1841-k esztendőben november 13-ára Kolozsvár szabad királyi várossába hirdetett Országgyűlésének irománykönyve*, [Documents of the 1841-43 Diet of Transylvania] Kolozsvártt: Ev. Ref. Kollégium könyv és kö-nyomó intézete, 1841-43, 151–153. See also NEMES I., “Reverzális instrukció és vita a vegyesházasságokról az 1841-42. évi erdélyi diétán”, in *Studia Theologica Transsylvaniaensia*, 2 (2011), 248.

aspects. For the liberal party the problem of intermarriages was purely political: their goal was to obtain full religious equality for protestant denominations in Hungary and Transylvania, and also to weaken the positions of Catholic Church, which was supporting pillar of the absolutism. Howsoever true this is, we still must admit, that Church was interested in defending her teaching and discipline and also in keeping his worshippers inside the fold.

However, Transylvanian clergymen didn't sympathize with the liberals when fighting the bishop. Despite of the fact, that their counter-arguments were very similar to the ones emerged during the 1842 debate of the question in the Transylvanian parliament, their worries about the enemies of the church and the unpropitious circumstances of the times were witnessing their clear standpoint against liberalism. Their opinions certainly reflect a sense of patriotism, but their attachment to the homeland and the laws had a conservative nuance.

So, their resistance against the bishop was more of Josephinistic nature than liberal. If we consider, that the 57/1791 law on intermarriages became an article of bishop Szepessy's notorious *Statuta*,⁵² their reasons become clear. The canons and professors of theology (as bishop Kovács too) were educated in the Josephinistic spirit of obedience to the power and the King. Many of them were priests and highly positioned Church-officials already in the era of Szepessy. Their present bishop was an outsider, nominated by Vienna without traditional proposal of catholic states, just after Szepessy was removed from Transylvania.⁵³ So, not only patriotism, but the reverence for law, state and order springing off of an enlightened absolutistic ground was speaking from their protests.

The postlude of the debate was a short correspondence about the events between the bishop and his superiors. Bishop Kovács tried yet on 5th September to calm down the anxious Metropolitan of Kalocsa, by trying to convince him that he is already on the brink to edit and broadcast a circular on intermarriages in Transylvania too, but at the same time he expressed his doubts regarding the 57th law.⁵⁴

On 17th September, he reported happenings of the of the meetings in a more extensive letter addressed both to the Archbishop of Kalocsa and the Primate. He made clear, that provost Tamási's dissent will not hinder his measures in matter of intermarriages. He also asked his superiors to send him

⁵² *Statuta...*, Pars II, Sectio VI, Articulus 3, 138.

⁵³ BOCHKOR, 335.

⁵⁴ *Response of Bishop Miklós Kovács to Péter Klobusiczky's Letter Written on 3rd August 1840*, Albae Carolinae, 5. September 1840, ADAI, Episcopal Documents, nr. 1055/1840, group I.1/a, box 354.

the report addressed to the Pope, in order to be informed about the paragraph concerning Transylvania, included in the document. It's very interesting, that the bishop made no mention about the other contra-indications made by professors of his seminary.⁵⁵

In his response the Archbishop of Kalocsa condemned provost Tamási, and pointed out, that there is no innovation in the procedure of the church. If Tamási can't be persuaded to change his mind, the provost must be at least impeded to act contradictory to the procedure of the church (i. e. to bless intermarriages lacking the oath on all children's catholic education).⁵⁶

The Primate referred to the concordance of universal church on the topic, and he sent a printed extract of the Ritual of Paris, respectively the orders of diocese of Passau on intermarriages to make clear once and forever the state of the question.⁵⁷

The Primate suggested bishop Kovács to leave Tamási alone. Maybe thus he will change his mind on his own and so there will be no more scandal that could harm the church.⁵⁸

⁵⁵ *Letter of Bishop Miklós Kovács to József Kopácsy and Péter Klobusiczky...*, nr. 1591/1840.

⁵⁶ *Response of Péter Klobusiczky to Bishop Miklós Kovács on Consistorial Assemblies*, Colocae, 16 October 1840, ADAI, Episcopal Documents nr. 1055/1840, group I.1/a, box 354.

⁵⁷ *Extractus e Rituali Parisiensi, Auctoritate Illmi et Rndmi, in Christo Patris et Domini, D. Hyacinthi-Ludovici de Quelen, Parisiensis Archiepiscopiedito Lutetiae Parisiorum 1839.* [Excerpt from the Parisian Ritual] Attachment to the letter quoted in previous note. Colocae, 16 October 1840, ADAI, Episcopal Documents nr. 1055/1840, group I.1/a, box 354.

⁵⁸ *Response of József Kopácsy to Bishop Miklós Kovács on Kirk-Assemblies Meetings*, Colocae, 16 October 1840, ADAI, Episcopal Documents nr. 1055/1840, group I.1/a, box 354.