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The Lost Heroes of Austria's Fundamental Laws

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The Austrian *Staatsgrundgesetze* or Fundamental Laws of 1867 are a subject of critical importance both for Austrians and Europeans. In the 150 years since their creation, several distinguished historians of law and politics have published important analyses of their history, contents, and legacies. Already in 1967 on the occasion of their hundredth anniversary legal and constitutional historians published several unsurpassed analyses of these laws, laws that together came to be known as constitutional laws or simply as the constitution of 1867. It is not my purpose to offer an intellectual-historical analysis of the ideas, or of the legal concepts behind the 1867 laws. This is certainly an important subject, but it is not my subject. Far more knowledgeable historians than I am have already written on this question, including and especially Professor Gerald Stourzh, whose critical work on this subject has inspired and guided the works of many later historians. Nor will I speak of the state institutions that shaped these laws and were in turn, over time, shaped by them. Instead, I propose to discuss a critical aspect to the history of the Fundamental Laws that is rarely if ever considered. It is a crucial aspect of their own history that is shockingly missing from the consciousness of today's Austrians and most historians of Austria. This is the aspect of politics, of conflict, and of political struggle, not among different factions within the Imperial government or bureaucracy but rather between the government and a determined group of political activists who had been elected to Austria's new representative institutions starting in 1861. In particular I argue that these political struggles led to the adoption of Fundamental Laws in 1867 that included several elements that an unwilling Emperor and his largely mistrustful bureaucracy strongly opposed. Had there been no political

struggle, the Fundamental Laws would have looked much less liberal and much less constitutional.

The 1867 laws were not simply given to Austrians from above by the Emperor and his central state government. They were fought for tenaciously from below, so to speak, by activists, political parties, journalists, and their allies. These groups were predominantly made up of economically privileged male members of Austrian society, although several women of the privileged classes also supported and agitated discretely for the same goals from less visible positions. These were men with businesses or who held law degrees, men who sought for themselves a greater voice in the governance of the state, but who did so in the name of universal liberal principles. Many of these men had gained critical political experience as deputies to the Austrian or Frankfurt Parliaments in 1848, or to the crownland diets and municipal councils. Many were elected to the revived crownland diets and the new *Reichsrath* or Parliament starting in 1861, where they struggled to normalize the liberal principles that underlay the Fundamental Laws of 1867. They recognized their political opportunities in 1867 and came together to act on them.

Today's Austrians who may know something about the constitutional laws of 1867 nevertheless have little idea about how they actually came about. Even most historians view the 1867 laws in an historical context that emphasizes the centrality of the state and of reform given from above, starting with the Theresian and Josephenist reforms of the 18th century, through the bureaucratic modernization efforts of Emperor Francis Joseph (1830–1916) in the 1850s, to the suffrage reforms of the late 19th century. In this brief article I tell a different story. I seek to describe and analyze the politics – especially the liberal politics – that gave rise to this particular set of constitution laws.

The way in which these laws came into being has interested me – I would even say passionately – for the past thirty years. My earliest research investigated the forgotten Austrian Liberal movements and individuals who gave shape to the December Laws and fought for their adoption.¹⁾ It seems appropriate as we mark the 150th anniversary of the laws' publication also to remember the forgotten individuals and groups whose hard work eventually produced laws that guaranteed civil rights to Austrians as well as a system of ministerial responsibility at a time when such guaranteed rights were considered exceptional by European standards.

I. A Hard Won Constitution

On 12 December 1867 a Vienna newspaper proclaimed to its readers: "From this day forward we live under a constitution. The ruins of the bureau-

¹⁾ Pieter M. Judson, *Exclusive Revolutionaries. Liberal Politics, Social Experience, and National Identity in the Austrian Empire, 1848–1914* (= Social History, Popular Culture, and Politics in Germany, Ann Arbor 1996).

cratic police state lie at our feet.”²⁾ Many times during the twenty-year period from March 1848 until December 1867, political activists across the Austrian Empire had made similar proclamations, often with enthusiasm, and always with hope. But not until December of 1867 did these activists and their Emperor bring into existence a lasting constitutional system. The so-called Fundamental Laws – often called the December Constitution – created the framework and mechanisms for a stable system of civil rights and constitutional practice that would govern Imperial Austria for some fifty years. Indeed, without the First World War and the military dictatorship in Imperial Austria that suspended the *Rechtsstaat* that these laws had strengthened, this system might well have continued to provide a successful constitutional framework for stable government for many more decades. As it is, these December Laws influenced subsequent Austrian constitutions, even providing continuity in terms of the citizen's legal expectations and rights, well into the 21st century.

My effort here is to narrate the genesis of the December Laws from a perspective that focuses on political conflict and not simply on the well-known narrative of events (the defeat by Prussia and the Settlement with Hungary). I also want to take seriously the significance of the political party conflicts of the 1860s, rather than marginalizing them as largely irrelevant debates in a political system that many contemporaries and later historians contemptuously called *Scheinkonstitutionalismus* or phony constitutionalism. The December laws were not granted by the Emperor merely to fulfill a requirement of the Settlement with Hungary, as is commonly believed. Nor did the Emperor and his chief minister Friedrich Ferdinand von Beust (1809–1886) dictate these laws to the Parliament. Instead, I examine this story from the perspective of a determined group of activist politicians, many of them lawyers, who with the help of journalists and indeed the voting public, actually forced the Emperor to adopt these particular laws.

I make this argument first, because it is my belief that most people in today's Austria have little knowledge of the importance of the December Laws to their common history. Austrians apparently share no common folklore about the origins of their constitution, no common memories of it, and certainly no mythology about any of its creators, who today remain relatively unknown. Every now and then one does see their names on street signs in certain Viennese districts, or on nameplates under paintings in the halls of the parliament. For 35 years this fact has continued to surprise me, perhaps because I come from a United States society that continues – perhaps far too strongly – to mythologize the founders of its own constitutional system, even if most of these founders and their ideas are badly misunderstood today. Why is it, I have wondered, that the individuals who worked for years to pressure – yes even to force – Emperor Francis Josef to accept their vision of constitutional rule – why is it that these men play no part in Austria's common historical consciousness? Without their daily hard work, without their creative political and legal maneuvering, without their confidence in the righteousness of their cause, without their mobiliza-

²⁾ “Die Ruinen des Polizei- und bürokratischen Staates liegen uns zu Füßen.” *Konstitutionelle Vorstadt-Zeitung*, 23 December, 1867, 1.

tion of public opinion, the December Laws would never have come into being, and Austria's constitution would have looked much less liberal. Without their radical – yet highly bourgeois – principles, embodied in the December Laws, Austria's subsequent reforms of education, of the judiciary, and of the powers of the Church might never have happened. Or these reforms would have looked a lot less radical for the times. We ought to recognize these historical figures as significant agents of change. Constitutions don't simply happen. People make them, under specific circumstances. And in this case it was not simply government bureaucrats and cabinet ministers that made the constitution but rather independent legislators.

If I cannot explain why Austrians have never mythologized and in fact have forgotten their constitutional forefathers, I will instead try to explain the critical role played by these upstart men in the creation and implementation of the December Laws. To begin with, as I said earlier, the December Laws were neither inevitable, nor freely given by Emperor Francis Josef. Certainly the Settlement with Hungary – and the advice of his new chief Minister Beust – required that Francis Josef confirm a constitutional regime in the non-Hungarian half of the new Dual Monarchy. But the constitutional laws adopted by the Parliament and later ratified by Francis Josef were not the laws that Beust originally submitted to Parliament in the summer of 1867, and this is an important point. In fact, the Imperial regime was not able to control the adoption of the constitutional laws that were meant to reform the February Patent and October Diploma for the new post-Settlement circumstances. To understand why this was the case, we have to return very briefly to the revolutionary year 1848–49.

II. The Historical Context

In that revolutionary year, thousands of Austrian citizens, sometimes women as well as men, had mobilized to participate in formal and informal elected institutions to influence policy for the very first time. Men and some women, especially in cities and towns, had the experience of electing deputies to various parliaments such as the Frankfurt Parliament, then later the Vienna Parliament, to the various crownland diets, and to municipal councils, often under very broad franchise provisions.³⁾ But the citizens also elected officers in their new politi-

³⁾ The franchise provisions for the Austrian Parliament that met first in Vienna in 1848 and later in Kremsier/Kroměříž were broader than any later franchise rules until the 1897 suffrage reforms that created universal manhood suffrage within the restrictions of a curial voting system. See Karl Obermann, "Die österreichischen Reichstagswahlen 1848. Eine Studie zu Fragen der sozialen Struktur und der Wahlbeteiligung auf der Grundlage der Wahlakten," *Mitteilungen des Österreichischen Staatsarchivs* 26 (Wien 1973) 342–347. See also the excellent survey by Andreas Gottsmann, "Der Reichstag 1848/49 und der Reichsrat 1861 bis 1865" in Helmut Rumpler, Peter Urbanitsch (eds.), *Die Habsburgermonarchie 1848–1918 VII/1: Verfassung und Parlamentarismus. Verfassungsrecht, Verfassungswirklichkeit, zentrale Repräsentativkörperschaften* (Wien 2000) 569–665, especially 578–582.

cal associations or in their National Guard units. Women too elected officers to their associations, a few of which were specifically political in character.⁴⁾ In cities, towns, and even some villages, both women and men became accustomed to hearing political speeches. Many of them also became adept at making persuasive speeches. Across the Monarchy men of non-noble backgrounds – including quite a few peasants elected from Galicia – gained firsthand experience of complex legislative procedures. Some helped to write new constitutions for their crownlands. Others sought to shape public opinion and to make money from the many newspapers that suddenly proliferated in all regions of the Monarchy, thanks to a relaxation of censorship laws. Some activists even became radicalized to violence by their experiences during the revolutionary year. But most remained loyal to the state and the dynasty, even as they added these new elected bodies to the list of institutions that commanded their loyalty.

The high point of all of this parliamentary activity in Austria came in the late fall and winter of 1848–49 in Kremsier/Kroměříž, the Moravian town to which the parliament had been removed in order to minimize the daily political pressures that had been exerted on it in radical Vienna. Here the Imperial parliament elected a constitutional committee that struggled to write a constitution for the Empire excluding the Hungarian lands.⁵⁾ In January of 1849, that committee presented the Parliament with a draft preamble to Austria's new constitution. That preamble abolished titles of nobility, gave the Catholic Church an equal status with other recognized religions and sects, and outlined several rights of citizenship including equality before the law, freedom of movement, freedom of the press, and rights to association. Most famously, the draft preamble guaranteed the right to use one's own language in education, in public communication with the bureaucracy, and generally in public life.⁶⁾

To be fair, this constitutional draft affirmed several rights of citizenship that many Austrians already enjoyed in their Civil Code, the *Allgemeines Bürgerliches Gesetzbuch*, first published in 1811. Among other things, that code whose drafting had already begun during the reign of Joseph II (1780–90), guaranteed civic equality among all citizens regardless of gender, and it had outlawed slavery.⁷⁾ And while the constitutional guarantees of language use were indeed new in 1849, to some extent they simply codified the regime's longstanding pragmatic linguistic practices in the different crownlands. The point was, however, that in 1848 a lot of men who had never had the opportunity to sit in an elected legislative body now actively asserted their right to shape their country's

⁴⁾ Some men and women of the middle and noble classes in the period since 1815 had gained similar experience in associational life that had also involved the regulation election of officers. On women's activism in Vienna in 1848, Gabriella Hauch, *Frau Biedermeier auf den Barrikaden. Frauenleben in der Wienerrevolution 1848* (Wien 1990).

⁵⁾ Hungary by this point was in the process of declaring its independence from Austria and was in any case subject to the "April Laws" that had been adopted by the Hungarian Diet and ratified by Emperor Ferdinand earlier in 1848. Istvan Deak, *The Lawful Revolution. Louis Kossuth and the Hungarians 1848–1849* (New York 1979).

⁶⁾ The Kremsier draft: <http://www.verfassungen.at/at-18/verfassungsentwurf49-i.htm>.

⁷⁾ For the text of the code: <http://www.wipo.int/edocs/lexdocs/laws/de/li/li053de.pdf>.

future. When the young Emperor Francis Joseph dismissed the parliament and imposed his own octroyed constitution (the Stadion constitution) for the next two years, some of these critical rights from the Kremsier draft remained in force. Eventually in the December Patent of 1850 the Emperor abandoned his own constitution in order to rule as an absolute monarch. But even in the 1850s, although the possibility to participate in legislation had vanished, the regime maintained elected municipal governments and in 1850 instituted locally elected Chambers of Commerce.⁸⁾

The rights of some men at least to elect deputies to a legislative body only really returned after Austria's crushing defeats in war in 1859 forced a government in desperate need of money to share the right to legislate with some new quasi-parliamentary institutions. The Emperor's bourgeois creditors made it clear that they would not advance his government any more funds if he did not subject the budget to regular review by an elected institution. The creation of the so-called "irrevocable" October Diploma of 1860 and its immediate successor, the February Patent of 1861 developed out a complex series of political calculations on the part of the Emperor and his different advisors. They sought to satisfy demands for more responsible government while making as few political concessions as possible. The February Patent of 1861 revived the elected crownland diets (*Landtage*) and created an expanded central Parliament or *Reichsrath* – so named to emphasize its consultative role rather than any legislative role – for the entire empire.⁹⁾

The deputies to this Parliament were not even to be elected directly by the voters, but rather by the individual diets. This practice made clear that the parliament was to represent the interests of the individual diets, not of "the people". The deputies to the diets in turn were to be elected according to a complex electoral geometry that favored large landowners and wealthy urban businessmen.¹⁰⁾ Only in 1873, thanks to a liberal reform of the system, were the members of the Chamber of Deputies elected directly from constituencies instead of by the diets. A relatively high tax requirement for the right to vote for the diets limited the number of eligible voters to the diets and the parliament to around 5% of the population.¹¹⁾

⁸⁾ Pieter M. Judson, *The Habsburg Empire. A New History* (Cambridge MA 2016) 233; Carl von Czörnig, *Österreichs Neugestaltung 1848–1858* (Stuttgart and Augsburg 1858) 206–208.

⁹⁾ For the text of the February Patent: <http://www.verfassungen.at/at-18/februar/patent61-i.htm>.

¹⁰⁾ On the complex system of electoral geometry and indirect election, see Bernd Rottenbacher, *Das Februarpatent in der Praxis. Wahlpolitik, Wahlkämpfe und Wahlscheidungen in den böhmischen Ländern der Habsburgermonarchie 1861–1871* (= Europäische Hochschulschriften, Reihe 3 Geschichte und ihre Hilfswissenschaften 910, Frankfurt a. M. 2001).

¹¹⁾ The complexities of determining eligibility to vote and the fact that Austrian women could inherit or own businesses meant that in some voting curia in some regions women were technically enfranchised. However, in order to vote they had to make use of a male proxy.

It is important to recognize that at the time neither the October Diploma nor the February Patent were considered full constitutions comparable to the Kremsier or Stadion constitutions, given Francis Joseph's limited intentions for them and according to contemporary expectations regarding what a constitution should include. The February Patent, for example, did not enumerate any civil rights of the citizens, it did not create a parliamentary system of ministerial responsibility, and it envisioned a house of lords [*Herrenhaus*] to moderate any legislation that might be passed by the chamber of deputies. Moreover the Patent included a paragraph that gave the cabinet the power to legislate as it wished whenever parliament was not in session. Especially given the more democratic and constitutional institutions of 1848–49, this set of institutions in 1861 could hardly be considered constitutional bodies but rather consultative bodies at most.

As originally imagined by Francis Joseph and many of his advisors, the legislative rights of the *Reichsrath* were intended to be extremely limited solely to oversight of the budget. In consequence, many contemporaries and later historians adopted the term *Scheinkonstitutionalismus* to describe these institutions. This term was meant to mark the political powerlessness and irrelevance of the new Parliament, compared to the true wielders of power in Austria. What is important here, however, is not the limited form of phony constitutionalism that an unwilling Francis Josef conceded in 1861. Rather, what is important is how the men elected from the diets to serve in the first Parliaments behaved in actual fact. How they treated their jobs and their function as deputies laid the political foundations for the creation of the December Laws six years later in 1867.

III. Representatives avant la lettre

These indirectly-elected deputies to the chamber of deputies – and many of the most effective of them were lawyers – immediately attacked the various shortcomings of this new system and tried to bring about a constitutional – if not democratic – regime. Members of many different parties from different regions of the empire, federalists and centralists, conservatives and liberals all participated in this early attack, although the most sustained attacks on the system came from the German-liberal centralists. This was partly because each group argued for its own particular vision of the future organization of the empire. Their strategy, especially that of the centralist liberals, was simple and remarkably effective: they acted with great confidence *as if they already enjoyed those very rights that they were trying to attain*. They also made certain that the media represented them in this way in order to normalize their claims as much as possible.

In the very first sessions in the spring of 1861, for example, several deputies repeatedly described themselves as “representatives of the people”, [something like *Volkvertreter*] despite the fact that neither the October Diploma nor the February Patent ever mentioned “the people” or even the term “representatives”. In the second session, Viennese lawyer Eugen Megerle von Mühlfeld (1810–1868) proposed that the Parliament free itself from the government's

dictated *Geschäftsordnung*, and write its own rules and order of business. On that very same day, lawyer Karl Giskra (1820–1879) from Brünn/Brno, a veteran of the Frankfurt Parliament of 1848, proposed that the Parliament should formally reply to the opening address of the emperor with its own list of policy demands. A few weeks later the same Giskra introduced legislation to make the cabinet ministers directly responsible to the *Reichsrath* for the execution of legislation. This measure would have strongly curtailed the independent power of the imperial bureaucracy by making it responsible to the legislature. To justify this demand, Giskra in fact cited the “demands of the people” or the “public opinion”. It was, he argued, “[...] public opinion [...] that has clearly recognized the mistakes and missing elements of the constitution and that has called for these mistakes and missing elements to be remedied.”¹²⁾ It was thus the public itself, albeit through the voices of its elected representatives, that demanded ministerial responsibility according to Giskra.

In the same speech Giskra also sought to reconcile the absolute nature of Habsburg kingship with ministerial responsibility and constitutional rule. Absolute power of the ruler was, he said, “a necessary legal fiction that placed the ruler and the state above attack in a constitutional monarchy.” For Giskra, only a law on ministerial responsibility could ensure that the crown’s servants would nevertheless uphold the wishes of the people as reflected in the parliament’s legislation.¹³⁾ On 2 July in yet another debate about ministerial responsibility, Mühlfeld too, while recognizing the sacrosanct status of the monarch, nevertheless asserted a broad claim for the deputies that was neither anchored in the October Diploma nor the February Patent. “The right and vocation of the *Volksvertretung* to oversee the execution and discharge of the laws and to watch over the administration that is entrusted with their execution, and to be responsible for it, derives from the principle of the participation of the people through its representatives in the legislative process.”¹⁴⁾

Mühlfeld, Giskra and many of their colleagues repeatedly asserted that the deputies were in fact *representatives of the people* rather than simply representatives of the crownland diets or of the curia that had elected them. Their very representative status, Mühlfeld claimed, was rooted in the fundamental right of the people to participate in the legislative process, another claim not actually supported by the texts of the October Diploma or February Patent. This claim could, however, be found, for example, in an early draft paragraph to the section of the Kremsier constitution on basic rights, which had declared that “all sovereignty proceeds from the people.”¹⁵⁾ For Mühlfeld the deputies’ rights

¹²⁾ *Stenographische Protokolle*, 1. Reichsraths-Session, 13. Sitzung, 11. Juni, 1861, 263.

¹³⁾ *Stenographische Protokolle*, 1. Reichsraths-Session, 13. Sitzung, 11. Juni 1861, 267.

¹⁴⁾ *Stenographische Protokolle*, 1. Reichsraths-Session, 19. Sitzung, 2. Juli, 1861, 418.

¹⁵⁾ C. A. Macartney, *The Habsburg Empire, 1790–1918* (London 1969) 417. The original draft had eventually been removed. See paragraph I (*Grundrechte*) <http://www.verfassungen.at/at-18/verfassungsentwurf49-i.htm>.

derived not purely from the Monarch, but were anchored in a general right of the people to participate in the legislative process, somehow parallel to the royal prerogative. Mühlfeld next asserted that the lack of a law guaranteeing the people's ability to oversee the execution of the law, that is, ministerial responsibility, threatened the very integrity of the *Rechtsstaat*. "The wisest laws, passed for the good of the people," he argued, "are worthless if they are not carried out, if the administration that is charged with their execution in this case is not responsible [to the people]; indeed, the law itself would lose all influence or meaning."¹⁶) In raising concerns for the *Rechtsstaat* itself, Mühlfeld cleverly invoked the legal logic that the Habsburgs themselves had repeatedly developed since the days of Maria Theresa, for asserting the unitary character of the lands over which they ruled.

IV. Politicians and the Press

The uncensored, or rather the less-censored press, both in Vienna and in the crownlands repeated these claims, both with enthusiasm and regularity. In so doing they gradually normalized these claims for Austria's large reading public. After a decade of political absolutism, newspaper readers followed these parliamentary speeches and interventions with great interest. Newspapers too obliged their readers by printing the transcripts of speeches and debates in the early years of the February Patent. As in 1848, interest in political issues and debates remained high through 1867 when the Settlement with Hungary and the Fundamental Laws created new constitutional regimes in both Austrian and Hungarian halves of the new Dual Monarchy. And as mentioned above, this strong interest in and this powerful belief in the role of the deputies as representatives of the people extended well beyond the liberals who constituted a majority of the deputies in the Parliament, to federalists and nationalists as well.

The interdependent relationship between the press and the parliamentary deputies and their parties was also not the product of some coincidence. Starting in 1861, in a concerted effort to shape public opinion, many leading deputies cultivated close personal relationships with reporters and publishers both in Vienna and in the other cities of the empire. Journalists from Vienna and the crownlands socialized freely with deputies in Vienna, and several leading deputies often gave journalists advance copies of their speeches or leaked secret information.¹⁷)

¹⁶) *Stenographische Protokolle*, 1. Reichsraths-Session, 19. Sitzung am 2. Juli, 1861, 418.

¹⁷) For some examples of relationships between journalists and politicians, see Heinrich Pollak, *Dreißig Jahre aus dem Leben eines Journalisten*, 3 Bde. (Wien 1898) I 68; Franz Krones, *Moritz von Kaiserfeld. Sein Leben und Wirken als Beitrag zur Staatsgeschichte Österreichs in den Jahren 1848 bis 1884* (Leipzig 1888) 203 f.; Kurt Wimmer, *Liberalismus in Oberösterreich am Beispiel des liberal-politischen Vereins für Oberösterreich in Linz* (1869–1909) (= Beiträge zur Zeitgeschichte Oberösterreichs 6, Linz 1979) 194.

Francis Joseph and his advisors, especially Anton Ritter von Schmerling (1805–1893), the architect of the February Patent and for some time the Prime Minister, strongly rejected the radical presumptions of this parliamentary discourse. With regard to the question of ministerial responsibility, Schmerling referred to a public “mania” for ministerial responsibility in one early cabinet meeting. This “mania”, however, hardly constituted a spontaneous phenomenon. It was instead the product of a carefully orchestrated campaign. Schmerling also angrily blamed the persistent collusion between deputies and press for the failures of his political reforms. In his memoirs he recalled that when a committee meeting ended “[...] the reporters who lurked near the door received notes from various committee members, from which they derived their stories about the results of the meetings. [...] [Thus it happened that] decisions which had been negotiated in committee the evening before, appeared for all to read in the morning papers.”¹⁸⁾ Of course both the Emperor and Schmerling employed their own publicists to popularize the government’s positions in the press, but often to less effect. Over time in the 1860s, the more public the process of decision making became, the more the Emperor and his cabinet lost direct influence over events. As historian Andreas Gottsmann has pointed out with regard to this increasingly public character of political decision-making, “the Emperor could only have a retarding influence on this development, but he could not stop it.”¹⁹⁾ Schmerling was reduced to giving the deputies constant warnings not to act too independently, not to legislate excessive reform, and not to alienate the Monarch from the new system.²⁰⁾ These developments culminated in 1865 in a final slap at Schmerling (and indirectly at the emperor) when by a vote of more than two to one, the lower house voted to reform the hated paragraph thirteen that had allowed the government to pass legislation when parliament was not in session. The Constitutional Committee of the Lower House made a strong (and legally questionable) claim that “the February Patent does not allow the government to publish laws without the constitutionally required consent of the legislature, even when the Parliament is not in session.”²¹⁾

V. A New Parliament

For the Emperor, this act was the final straw that illustrated the failure of this constitutional experiment and in June 1865 Francis Joseph dismissed Schmerling and suspended the Vienna Parliament. Of course for the Emperor,

¹⁸⁾ *Der Vater der Verfassung. Aus den Denkwürdigkeiten Anton Ritters von Schmerling* (Wien 1993) 157, 52, 136–139.

¹⁹⁾ Gottsmann, “Der Reichstag 1848/49 und der Reichsrat 1861 bis 1865,” in Helmut Rumpler and Peter Urbanitsch (eds.), *Die Habsburgermonarchie 1848–1918 VII*, 569–669, 653 f.

²⁰⁾ For a more detailed discussion of Schmerling’s strained relationship to the liberal deputies, Judson, *Exclusive Revolutionaries* 97 ff.

²¹⁾ Gustav Kolmer, *Parlament und Verfassung in Österreich*, 5 vols. (Wien and Leipzig 1902–1905), here vol. I, 180–181; Judson, *Exclusive Revolutionaries* 104.