

The Administrative and Judicial Status of the First Ottoman Parliament According to the 1876 Constitution¹

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Introduction

Midhat Paşa was a statesman who wished – and managed – to have a parliament in the Ottoman territory. His ideal – the first Ottoman parliament – held its opening session on March 19, 1877 despite the fact that he had been removed from the Sublime Porte one month earlier.

Among the most important reasons for the establishment of an Ottoman parliament was the fact that Sultan Abdülhamid II and Midhat Paşa were both convinced they needed England's support against Russia in order to save the empire. It was thought that England would be impressed if a constitution were proclaimed and a parliament established. Midhat Paşa had even believed that merely establishing a parliament before – or even without – writing and proclaiming a constitution, would be enough to secure England's support for the Ottoman cause.² Therefore Midhat wanted to make the parliament convene even before the constitution was promulgated. However, Abdülhamid II insisted on proclaiming the constitution before creating the parliament and calling elections.³

Finally Abdülhamid II named Midhat Paşa as grand vizier on December 19, 1876 and promulgated the constitution on December 23. However, the European states' and particularly England's reactions to the promulgation of the constitution were disappointing. On the other hand, what did impress was the appointment of Midhat Paşa as grand vizier.⁴ Abdülhamid II critically observed Midhat's

¹ I dedicate this article to Prof. M. Seyitdanlıoğlu (Ankara, Univ. of Hacettepe), and thank Dr. B. Sütçüoğlu (Istanbul, Univ. of Yeditepe), Asst. Prof. B. Ata (Ankara, Gazi Univ.) and Krista Yüceoral (Istanbul) for giving me very valuable support and advice.

² It must be remembered that Britain has never had a constitution.

³ Joan Haslip, *Bilinmeyen yönleriyle Abdülhamid*, trans. N. Kuruoğlu (Istanbul, 1964), 34, 112; Ahmed Sâ'ib, *Abdülhamid'in evâ'il-i saltanatı* (Cairo, 1326), 34; İhsan Güneş, *Türk Parlamento Tarihi. Meşrutiyete Geçiş Süreci: I. ve II. Meşrutiyet*, 2 vols., (Ankara: TBMM, 1997), 1:53; Niyazi Berkes, *The Development of Secularism in Turkey* (London: Hurst & Co, 1998), 242.

⁴ Victor Bérard, *La révolution turque* (Paris, 1909), 96-98. Lady Gwendolen Cecil, *Life of Robert Marquis of Salisbury* (1921), 2:117 quoted in Harold Temperley, "British policy towards parliamentary rule and constitutionalism in Turkey (1830-1914)," *Cambridge Historical Journal*, 4 (1932-1934), 156-191, here 175. For the evidence see Robert Devereux, *The First Ottoman Constitutional Period. A Study of the Midhat Constitution and Parliament* (Baltimore, 1963), 58, 87, 88, 93.

standing in Europe. He felt little incentive for retaining Midhat in his post and decided to banish him from the grand vizierate. Although he calculated that this might jeopardize England's support, he still hoped that the opening of an Ottoman parliament might serve as a political signal that was sufficient to ensure the permanence of England's support. Thus, Midhat was dismissed as grand vizier on February 5, 1877, charged with plotting against the throne, and therefore declared dangerous to the state. Europe was shocked.⁵ Yet during the following weeks the election of deputies was completed. On March 11, Abdülhamid II personally visited the building chosen for the parliament to inspect the progress of the work. He ordered the work to proceed night and day so that the building would be ready by March 19, the date fixed for the opening of the parliament.⁶ The Sultan opened the parliament on March 19, 1877 with a grand ceremony.

As indicated above, at the beginning of his rule, Abdülhamid II shared Midhat Paşa's idea concerning the necessity of seeking British support, and articulated the fact clearly in his speech on March 19, 1877 at the opening session of the parliament, saying that

[...] We proved our sincere and pure intention concerning the carrying out of the wills and advice given by England, above all, and other European states [...]. Connected with this, our purpose has always been to guard our right of sovereign power (*istiklâl*). Therefore, the mentioned purpose was taken into consideration when we decided to establish the parliament [...].⁷

England reacted as expected, and right after the opening of the parliament, a new English ambassador, Henry Layard, was appointed to Istanbul. He believed that the territorial integrity of the Ottoman Empire should be preserved to maintain the security of British hegemony in India, and he defended this view many times against Gladstone in the British parliament.⁸ This seemed to confirm the Ottoman strategy. The new ambassador became one of the important keys of Abdülhamid's and Midhat's policy. Abdülhamid II pursued this policy to the degree that even though he had suspended the parliament in 1878, he continued to appoint new members to the chamber of senators (*hey'et-i a'yân*) – the last appointment dating April 22, 1880.⁹ He also continued to promulgate the decisions consistent with the constitution as provisional laws, including in their titles cunning

⁵ For examples see Devereux, *The First Ottoman Constitutional Period*, 108.

⁶ *The Times* (March 17, 1877) quoted in Devereux, *The First Ottoman Constitutional Period*, 108.

⁷ Başbakanlık Osmanlı Arşivi [hereafter BOA], Yıldız Esas Evrak [hereafter YEE], 23/344; *Takvim-i Vekayi* [hereafter TV], no. 1867 (9 Mart 1293/ March 21, 1877); *Basiret*, no. 2043, (5 Ra 1294/ March 20, 1877); 1293 *Senesi Meclis-i Meb'usanın Küşadında Taraf-ı Padişahiden İrâd İdilen Nutk-ı Padişahi* (Dersaadet, 1326), 11-12; Soubhi Noury, *Le régime représentatif en Turquie*, (Paris: Giard & Brière, 1914), 68.

⁸ Yuluğ Tekin Kurat, *Henry Layard'ın İstanbul Elçiliği, 1877-1880* (Ankara: AÜDTCE, 1968), 22.

⁹ Ali Akyıldız, "Meclis-i A'yân," in: *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (İstanbul: İSAM, 1988ff), vol. 28 (2003), 243-244, here 244.

remarks such as “to be proposed as a law in the next session of the parliament’s general assembly (*meclis-i ‘umûmînin ictimâ’ında kânûniyeti teklîf olunmak üzere mer’iyetine*)”¹⁰ as if he were going to recall the members of the chamber of commons (*bey’et-i meb’ûsân*) to reopen the parliament.¹¹ It was only from April 1880 that the attitude of Abdülhamid II began to change. Why? Among the many reasons that can be cited, there is one that calls for particular attention: the fact that in the British election of March-April 1880 the Conservative Party under its leader Disraeli was defeated and the Liberal Party led by Gladstone came to power. As is well known, Gladstone opposed the pro-Turkish policy, i.e. preserving the territorial integrity of the Ottoman Empire. Under these circumstances, Abdülhamid II abandoned his policy aimed at appealing to Great Britain and stopped behaving as if he intended to reopen the parliament in the foreseeable future.

It should be remarked that even most of the deputies agreed with Abdülhamid’s general political assessment of the constitution and parliament. This was expressed in the speech presented to the Sultan by Ahmed Vefik Paşa, the president of the chamber of commons, on the occasion of the opening or the parliament. There he stated among other things that

[...] our main purpose has always been to fully guard the holy right of the state, sovereignty, and the Ottoman nation (*Osmanlı milleti*) as well [...]. In order to protect the sovereignty of the country, the constitution had been proclaimed with the benevolence of our Sultan and the guidance of England. At the time, we took pride in hearing the news of the establishment of a parliament with the same intent [...] in order to protect our country against assaults and molestations by foreigners [...].¹²

These lines of thought indicate the main reason for the establishment of the Ottoman parliament. But there were also other profound and practical reasons. Ottoman bureaucrats saw the parliament in the framework of a constitutional monarchy as only one method among others that guaranteed an institutionalized, practical, safe and trendy restriction of the Sultans’ despotic powers. In addition, by bringing the representatives of different millets under the roof of one parliament, Ottoman bureaucrats aimed to set their hearts upon a common emotion and to finally make them all feel as children of one – the Ottoman – motherland. Both Abdülhamid II and the Ottoman bureaucrats believed this policy allowed

¹⁰ For an example see “Meclis-i ‘Umûmînin ictimâ’ında kânûniyeti teklîf olunmak üzere mer’iyetine irâde-i seniyye-i hazret-i pâdişâhi şeref-sudûr buyrulmuş olan emlak vergisiyle aġnâm ve a’şâr karârnamesidir,” *Düstur*, tertib 1, 4:810-813.

¹¹ Recai Galip Okandan, “7 Zilhicce 1293 Kanunu Esasîsine ve Bunun Muaddel Şekillerine Göre İcrâ ve Teşrî Fonksiyonlarıyla Bunları İfa Edecek Organlar Arasındaki Münasebetler,” *Hukuk Fakültesi Mecmuasının c. XIII, sayı: 1, 1947 nüshasından ayrı bası* (İstanbul, 1947), 9.

¹² BOA, YEE, 23/313/I; TV, 1881, 14 Ra 1294/16 Mart 1293/ March 28, 1877; Hakkı Tanık Us (ed.), *Meclis-i Mebusan 1293 Zabıt Ceridesi*, 2 vols. (İstanbul: Vakıf Gazetesi Matbaası, 1939-1954), 1:18-19.

them to prevent discontent ethnic groups and millets from breaking away from the Ottoman Empire.¹³

As the outcome of those considerations, the constitution was prepared and the parliament was opened. However, when we look at the Ottoman constitution carefully in order to understand the Ottoman parliamentary regime, we see that the constitution contained some crucial weaknesses and deficiencies that were to serve as a means to undermine the power and efficient functioning of the Ottoman parliament. These deficiencies resulted, according to the noted historian İlber Ortaylı, from the fact that the authors of the Ottoman constitution as well as the Ottoman bureaucrats in general were ignorant and/or careless of the conventional constitutional procedures of legislation and the basic principles of a typical constitutional regime.¹⁴ In fact, we learn from several primary sources that some Ottoman bureaucrats regarded the parliament only as a council of consultation (*istişare meclisi*), or as a council of supervision (*nezaret meclisi*) like the provincial councils (*vilayet meclisleri*) or the councils of non-Muslim communities (*cemaât meclisleri*).¹⁵ On the other hand, according to Robert Devereux, for Midhat and “the liberal party” the primary task of the parliament was to serve as a mechanism to exercise control over the government and its officials, while its legislative functions were only of secondary importance to them.¹⁶ It is therefore not surprising that the constitution and the parliament had weaknesses and deficiencies and were different from the conventional (European) examples of a typical constitutional regime, although some features of the Ottoman parliament, such as its bicameral (chamber and senate) aspect, were similar to European examples.

¹³ TV, no. 1867 (8 Mart 1293/ March 20, 1877); Us, *Meclis-i Mebusan*, 1:10-11, 17-18.

¹⁴ İlber Ortaylı, “II. Abdülhamit Döneminde Anayasal Rejim Sorunu,” (Türkiye’de Demokrasi Hareketleri Konferansı, 6-8 Kasım 1985, Ankara), *Hacettepe Üniversitesi Edebiyat Fakültesi Dergisi*, 4.1 (1986), 55-74, here 55.

¹⁵ BOA, YEE, k/23/11/71/e/1515; *Vakit Gazetesi*, no. 357 (9 L 1293/ October 27, 1877) quoted in Asımzade Hakkı, *Türkiye’de Meclis-i Meb’ûsân* (Cairo, Matbaa-i İctihad, 1907), 103-104, 108-109; Basiret, no. 2081 (19 R 1294/ May 3, 1877); Recai Galip Okandan, *Amme Hukukumuzda Tanzimat ve Birinci Meşrutiyet Devirleri* (Istanbul: Kenan Matbaası, 1946), 101; Okandan, “7 Zilhicce 1293 Kanunu Esasîsi,” 6; Yıldızhan Yayla, “Osmanlı Devleti’nde Meşrutiyet Kavramı,” in: *Tanzimat’tan Cumhuriyet’e Türkiye Ansiklopedisi*, 6 vols. (Istanbul: İletişim, 1985), 4:950-951; Ebubekir Sofuoğlu, “Ahmed Midhat Efendi’nin Kanun-ı Esasi ve Meclis-i Mebusan’a Dair Layihası: Tazîn-i Kelâm ve Tasrîh-i Merâm,” *Toplumsal Tarih*, 83 (2000), 55-57, here 55-56. For the discussions on whether a parliamentary regime is proper according to Sharia or not, see also the same references and Ahmed Saib, *Abdülhamid’in Eva’il-i Saltanatı*, 43.

¹⁶ Devereux, *The First Ottoman Constitutional Period*, 172. As will be discussed below, this concept was woven into the constitution, being exemplified primarily by the control over the budget which was granted to the parliament. Beyond this, deputies were granted the right to interpellate ministers; to voice complaints against them, which, if approved by the Sultan, could result in their being brought to trial before the Supreme Court; and to receive petitions from private citizens bearing on injustices being perpetrated by government officials.

In addition, it was the Achilles' heel of the Ottoman constitution that it gave full authority to the Sultan without making him accountable. Additionally, executive power was not under the authority of the parliament but of the Sultan. As we will see below, the whole cabinet of ministers was politically accountable to the Sultan only, while the ministers were only individually politically accountable to the parliament.¹⁷ Moreover, the parliament possessed the right to put the government's program neither to vote nor to a vote of confidence. On the other hand, even if all of these deficiencies made the constitution unsuitable for a regularly functioning constitutional monarchy, we have to admit that its Ottoman contemporaries frequently considered it as perfectly appropriate for the Ottoman case.¹⁸ This was the reason why, when Abdülhamid II suspended the parliament, not a single word was heard from the Ottoman bureaucrats or deputies. They considered the parliamentary regime as just one possible method to save the empire amongst others but not the only and therefore indispensable one. Neither the Ottoman bureaucrats (*seyfiyye*, *ilmiyye*, *kalemiyye*) nor the deputies formed a group that was unequivocal in its basic political attitude towards the constitution. For example, no one less than Hasan Fehmi Efendi, head of the parliament and deputy of Istanbul to the second session, declared that

[...] the parliament was established based on a necessity: an intermediary between the Sultan and the Ottoman public had been necessary, an intermediary which was to explain the Sultans' opinions to the public and to inform the Sultans of the public opinion [...].¹⁹

This main thesis informs our following analysis of the short-lived first Ottoman parliament caught between the Sultan and the bureaucrats.

The Life Cycle and the Political Power of the First Ottoman Parliament and its Relation with Other Parts of the State Apparatus

The first Ottoman parliament (general assembly or *meclis-i umumi*) consisted of two chambers: the chamber of commons (*heyet-i mebusan*), and the chamber of senators (*heyet-i ayan*).²⁰ However, in the current context when we use the expres-

¹⁷ Articles 35 and 38 of the Ottoman constitution of 1876. For the full text of the constitution, see *Düstur*, tertib 1, 4:4-20 and *Kânûn-i Esâsî* (Matbaa-i Amire, İstanbul 1293). İlhan Arsel, "Birinci ve İkinci Meşrutiyet Devirlerinde Çift Meclis Sistemi Tecrübesi," Ankara Üniversitesi Hukuk Fakültesi Dergisi, 10.1-4 (1953), 194-211, here 198-199. Cf. Okandan, *Amme Hukukumuzda*, 99, 109; Okandan, "7 Zilhicce 1293 Kanunu Esasîsi," 11-12; Cemil Koçak, "Meşrutiyet'te Heyet-i Ayan ve Heyet-i Mebusan," in: *Tanzimat'tan Cumhuriyet'e Türkiye Ansiklopedisi*, 4:961-973, here 964 and Ahmet Ali Gazel, "Osmanlı Mebusan Meclisi'nde Meclis Araştırması (Anket Parlamenter)," OTAM, 15 (2004), 309-331, here 330.

¹⁸ For other weaknesses of the constitution see Devereux, *The First Ottoman Constitutional Period*, 61, 63-79.

¹⁹ Us, *Meclis-i Mebusan*, 2:163.

²⁰ Article 42 of the Ottoman constitution.

sion Ottoman parliament in general, we mean the chamber of commons (*heyet-i mebusan*).

When we take a look at the life cycle of the parliament, we see that the first Ottoman parliament, after holding two sessions – the first one between March 19, 1887-June 28, 1877, and the second one between December 13, 1877-February 14, 1878 – was closed down just after the Russian threat was repelled with English support, and remained closed until 1908. The parliament held 56 meetings in the first session, and 29 meetings in the second in the old building of the university in the St. Sophia district.²¹ The opening ceremony of the parliament occurred in the hall of the *divan* of the palace in Beşiktaş. According to the protocol, the ministers and high ranking bureaucrats stood in line just on the two sides of the Sultan's throne and the deputies were in front of the throne.²²

Let us now focus on the legislative power and the political role of the parliament. Today we know that the ongoing debates in the Ottoman parliament and the complaints and dissatisfactions that were expressed there served as a kind of a relief valve that reduced tension in the Ottoman political system. It should be remembered that deputies of the first Ottoman parliament were to enjoy complete freedom in giving their opinions and votes, and by no means, could a deputy be accused for opinions declared during discussions in the parliament unless his respective chamber waived his immunity by majority vote.²³ Contrary to widespread belief, the parliament had no serious share in either the process of political decision-making or in the supervision of the implementation of decisions. Evidence to support this claim is found in the Ottoman constitution and other primary sources.

The legislative power of the Ottoman parliament was rather restricted: article 53 in the Ottoman constitution of 1876 specifies: "The enactment of laws or their

²¹ BOA, Dosya Usulü İradeler Kataloğu [hereafter DÜİT], 5/1-4/1/1; 5/4-3/1/2; *Vakit Gazetesi*, no. 464 (28 M 1294/ February 12, 1877) quoted in Asımzade Hakkı, *Türkiye'de Meclis-i Meb'usan*, 17-19, 32. For the decoration of the parliament, see *Basiret*, no. 2034 (25 S 1294/ March 12, 1877). "Le Parlement ottoman," *L'Illustration*, no. 59 (April 7, 1877), 215 and *Illustrated London News*, (April 14, 1877) quoted in Devereux, *The First Ottoman Constitutional Period*, 119.

²² For the protocol ("Meclis-i 'Umûmînin resm-i küşâdî hakkında olıcak teşrîfât-ı hümayûn"), see BOA, YEE, 23/313/11/71; TV, no. 1867 (4 Ra 1294/ March 20, 1877); Ahmed Midhat, *Üss-i İnkılâb*, 2 vols. (İstanbul, Takvim-i Vekayi Matbaası, 1295), 2:218-222; Mahmud Celâleddîn, *Mirât-ı Hakikat*, 3 vols. (Dersaadet: Matbaa-i Osmaniyye, 1326-1327), 1:273; Noury Soubhy, *Le régime représentatif*, 68, Us, *Meclis-i Mebusan*, 1:4-6; Devereux, *The First Ottoman Constitutional Period*, 111, 116, 117; Hasene Ilgaz, "Yüz yıl önceki Meclis-i Âyan ve Meb'usan," *Eğitim ve Öğretim. Eğitim, Fikir ve Sanat Dergisi* 19.218-219 (1977), 18-22, here 18; Selda Kaya Kılıç, "1876 Kanun-ı Esasî'nin hazırlanması ve Meclis-i Meb'usan'ın Toplanması," unpubl. MA Thesis, (Univ. of Ankara, 1991); Hakan Karateke, "I. Osmanlı Mebusan Meclisi'nin Açılış Törenleri (19 Mart 1877)," 150. *Yılında Dolmabahçe Sarayı Uluslararası Sempozyumu: Bildiriler*, 2 vols., ed. K. Kahraman (Ankara, TBMM, 2007): I, 34-40.

²³ Articles 47, 48, 79 of the Ottoman constitution.

amendment belongs to the council of ministers. The chamber of senators and the chamber of commons may propose them as well [...].”

A look at the constitution reveals that the right of submitting proposals to enact or amend a law was essentially given to the council of ministers. The council of ministers (*heyet-i viikela*) was empowered to propose the introduction of laws to the parliament in any matter. On the other hand, a deputy could request a proposal for or an amendment of a law only in areas falling under its jurisdiction (*vazife-i muayyene*). For this he had to present his proposal to the chamber of commons. In the event of a favorable committee report, the chamber of commons forwarded a memorandum to the grand vizier, asking that the proposal be sent to the council of state for drafting.²⁴

Although the council of ministers had no right according to the constitution to return the draft bills approved by the chamber of commons to the parliament by partially or entirely declining them, the council did this several times in practice by working the respective ruling of the constitution (“The enactment of laws or their amendment belongs to the council of ministers”) to its own advantage. Yet again, according to an official report of the council of ministers (*meclis-i viikela mazbatast*) dated 10 S 1295/ February 13, 1878 and prepared by the council of ministers for the closure of the parliament, the only duty of the parliament had been to discuss and to examine a draft of a law enacted by the council of ministers.²⁵

When the parliament wanted to propose a bill or request the amendment of an existing law, it had first to submit a proposal through the grand vizierate to the Sultan. If he agreed on its necessity, then details and comments would be demanded from the appropriate authority that was responsible for the specific subject matter of the respective law, and finally the Sultan would forward the chamber’s proposal to the council of state (*şura-yı devlet*) for elaboration into a draft law.²⁶ A deputy or senator without submitting his proposal through the grand vizierate to the Sultan could still have achieved the same result by persuading a minister of the need for a particular law. But even ministerial bills had to be drafted by the council of state. As understood, the main office for the preparation of a draft was the council of state. The law bills prepared by the council of state had to be submitted first to the chamber of commons (*heyet-i mebusan*), and then to the chamber of senators (*heyet-i ayan*).²⁷ If a law bill was refused by one of two chambers, it could not be discussed again during the period of assembly of that year.²⁸ If the chamber of senators had wished, it could have refused all drafts com-

²⁴ *Heyet-i Meb’usan Nizamname-i Dabilisi* (Istanbul, 1293), article 27, 28; see also *Düstur*, tertib 1, 4:36-58.

²⁵ Us, *Meclis-i Mebusan*, 2:407.

²⁶ Article 53 of the Ottoman constitution.

²⁷ Article 54 of the Ottoman constitution.

²⁸ Ibid.

ing from the chamber of commons, thereby completely blocking the constitutional way of legislation. Yet this possibility never materialized.²⁹ When a law bill was being debated in the chamber of commons, the members of the council of ministers and the council of state or their representatives, on behalf of the government, had the right to take part in the chamber's proceedings in order to answer the critical remarks of the deputies about the bill.³⁰ Interior Minister Cevdet Paşa, for example, was generally present in the chamber of commons during the first session whenever the provincial administrative law was being discussed.³¹ The session could be held as a closed session if fifteen deputies or one of the ministers proposed it.³² In addition, during the debating of the draft bill, the ministers did not have the right to influence the decision in favor of the draft or otherwise. When the chamber of commons decided to conduct a secret vote, the minister or his representative had to leave the room.³³ If the bill was finally approved by the parliament, again the Sultan's permission was necessary for it to become effective.³⁴ No draft bill could become effective if the Sultan did not approve it. In addition, since the ministers were servants of the Sultan but not civil servants, Abdülhamid II was clearly in a position to control the business placed before the parliament. The Sultan also had the right to send any draft bill he wanted to be debated first to the council of state, then to the council of ministers, and finally to the chamber of commons. But the Sultan had no need to send any decree anywhere. It was nowhere stated that a decree issued by the Sultan would not have the force of law as had always been the case. In addition, the Sultan had the right of absolute veto. When we read written reports of assemblies to be found in Hakkı Tarık Us's collection *Meclis-i Meb'usan Zabıt Ceridesi* or as archival materials, we have to conclude that in practice the parliament could take an active part in

²⁹ Okandan, *Amme Hukukumuzda*, 103; Arsel, "Birinci ve İkinci Meşrutiyet," 196-197.

³⁰ Article 37 of the Ottoman constitution; *Hey'et-i Meb'usan Nizamname-i Dahili*, article 79.

³¹ See Us, *Meclis-i Mebusan*, 1.

³² Article 78 of the Ottoman constitution; *Hey'et-i Meb'usan Nizamname-i Dahili*, article 85. For examples see Us, *Meclis-i Mebusan*, 1:100-102, 282; 2: 104.

³³ Article 37 of the Ottoman constitution; However, Ahmet Oğuz, "I. Meşrutiyet Meclis-i Umumisinin Açılışı, İşleyişi ve Kapanması," unpubl. PhD. Thesis, (Univ. of Hacettepe, 2003) Ankara, 140 writes that he couldn't discover even a single incident of this practice during the sessions of the first Ottoman Parliament.

³⁴ Article 54 of the Ottoman constitution. In the constitution of 1876 there was no deadline indicated for the Sultan's decision (article 54); Okandan, *Amme Hukukumuzda*, 104; Okandan, "7 Zilhicce 1293 Kanunu Esası," 8. Therefore Abdülhamid II saw no harm in ratifying the bill concerning the election of deputies accepted by the parliament in 1877 31 years later, in 1908. Cezmi Eraslan and Kenan Olgun, *Osmanlı Devleti'nde Meşrutiyet ve Parlamento* (İstanbul: 3F Yayınevi, 2006), 55. After 1908 the chiefs of the Committee of Union and Progress had inserted a deadline in the modifications of the constitution for this reason. Henceforth the Sultan had to decide within two months whether to ratify or return a law bill ("Zilhicce 1293 Tarihli Kanun-i Esası'nın Bazı Mevadd-i Mu'adelesine Dair Kanun," 5 Ş 1327/8 Ağustos 1325/ August 21, 1909, article 54; *Diüstur*, tertib-i sâni, 1:638).

legislation only in those areas falling under its jurisdiction (*vazife-i muayyene*) and was a mere legislative tool in the hands of Abdülhamid II.

The chamber of commons, like the chamber of senators and the council of ministers, had the right to propose the modification of any article of the constitution, only if the modification was absolutely necessary. In order to become law, the bill needed to be passed first by the chamber of commons with a two-thirds majority, then to be confirmed by the chamber of senators with a two-thirds majority, and finally ratified by imperial decree.³⁵

On the other hand, the legal interpretation of the articles of the constitution was made not by the chamber of commons, but only by the chamber of senators, whose members were appointed by the Sultan.³⁶ The chamber of senators also took up matters on which the members of the chamber of commons could not come to an agreement.

In addition to all that, there was the phenomenon of *provisional law*. According to the constitution, when the parliament was on holiday, dissolved or unable to convene for any reason, binding decisions, as long as they were not contrary to the constitution, were taken by the council of ministers and were called provisional law.³⁷ Therefore, in spite of their provisional state, the decisions that were taken by the council of ministers, as long as they were not unconstitutional, had the force of law (if approved, of course, by the Sultan) until parliament made a decision on them in its first session.³⁸ However the constitution failed to state what would happen if the parliament refused to approve the decrees. Although it can be presumed that the drafters of the constitution intended the provision to mean that the decrees would become invalid in such an event, this was not stated in the constitution. Therefore, as Devereux points out, this article could also be interpreted to mean that the decrees were merely to be presented to parliament for its information.³⁹

How limited the legislative power of the parliament actually was can be gleaned from the fact that despite approximately twenty laws' coming into force during the parliament's active period, only one among the several bills proposed by the parliament was accepted and ratified into law. This was the *Dersaadet Bele-diyye Kânûnu*.⁴⁰

³⁵ Article 116 of the Ottoman constitution.

³⁶ Article 117 of the Ottoman constitution; Güneş, *Türk Parlamento Tarihi*, 1:88, 90.

³⁷ Article 36 of the Ottoman constitution; Okandan, "7 Zilhicce 1293 Kanunu Esası," 9.

³⁸ *Hey'et-i Meb'usan Nizamname-i Dabilisi*, article 36. For how this looked in the political practice, see Oğuz, "I. Meşrutiyet Meclis-i Umumisinin Açılışı," 74-75.

³⁹ Devereux, *The First Ottoman Constitutional Period*, 68, 69.

⁴⁰ BOA, YEE, 23/313-I/e/11/71; Ahmed Midhat, *Üss-i İnkılâb*, 2:229-248; Ahmed Saib, *Abd-ülhamid'in Eva'il-i Saltanatı*, 200-201; Us, *Meclis-i Mebusan*, 1:399; Necdet Öklem, *1877 Meclis-i Mebusanında, Bütçe, İller Kanunu ve İç Tüzük Üzerinde Tartışmalar* (İzmir: Ege Üniversitesi Yayınları, 1987), Jongil Kim, "Birinci Meclis-i Mebusan Zabıt Ceridelerinin Tahlili (1293/1877-1294/1878)," unpubl. MA Thesis, (Univ. of İstanbul, 1993); Oğuz, "I. Meşrutiyet

In brief, the parliament was a debating society and a sounding board for grievances rather than a legislative assembly. It spent all its time debating and commenting on the draft bills that came from the council of state. Political thinking in the Ottoman Empire, in general, also supported this kind of role allocation between the bureaucrats and the deputies. In fact, we know of several controversies between the deputies and the council of ministers or the council of state. Some of the deputies distinguished themselves in the first session of parliament by their generally critical stand toward the government. Despite their critics in the second elections, the same deputies, like Yenişehirizade Hacı Ahmed (Aydın), Mustafa Bey (Salonica), Yusuf Ziya (Jerusalem), Nafi Efendi (Aleppo) etc., were re-elected. According to Devereux, this constitutes the best available proof that the deputies were far from being mere creatures of the Sublime Porte.⁴¹ Nevertheless, the members of the council of state or of the council of ministers regarded themselves as superior to the deputies. For instance, when the provisional instructions concerning the election of deputies (*meclis-i mebusan azasının suret-i intihabı ve ta'yinine dair ta'limat-i muvakkate*)⁴² were being debated in the chamber of commons, a member of the council of state, Midhat Bey stated, “[...] I’m requesting that you not oppose them in the name of the state [...]”.⁴³

The weakness of the Ottoman parliament arose also from its limited supervisory powers. Neither the grand vizier nor the council of ministers needed a vote of confidence from the parliament to carry out their duties. They were independent from the parliament and only accountable to the Sultan. As mentioned before, not the cabinet but only individual ministers were politically accountable to the parliament.⁴⁴

The parliament did not have the right to call for an interpellation nor a way to achieve a change in the cabinet. But when a deputy requested for a minister to give an explanation before the chamber of commons or when a deputy made a complaint about a minister, depending on the rule, this request or complaint had to be approved by the parliament’s general assembly (*meclis-i umumi*). Next, a motion would be sent to the grand vizierate, and after the Sultan’s approval, it would be passed on to the council of state and then back again to the chamber of com-

yet Meclis-i Umumisinin Açılışı,” 74; Eraslan and Olgun, *Osmanlı Devleti’nde Meşrutiyet*, 54-55.

⁴¹ Devereux, *The First Ottoman Constitutional Period*, 148.

⁴² For its full text dated 10 Ş 1293/ October 29, 1876, see TV, no. 1844, 18 L 1293/ November 6, 1876; Serkis Karakoç, *Ta’şiyeli Kavânîn*, 2 vols. (Dersaadet, 1341/1343), 2:34-36; “Meclis-i Meb‘usan-i Osmani. İntihabât Hakkında Ta’limât” (Library of the University of Istanbul, no. 78881).

⁴³ Us, *Meclis-i Mebusan*, 1:296.

⁴⁴ Articles 35 and 38 of the Ottoman constitution; Arsel, “Birinci ve İkinci Meşrutiyet,” 198-199. Cf. Okandan, *Amme Hukukumuzda*, 99, 109; Okandan, “7 Zilhicce 1293 Kanunu Esasısı,” 11-12; Koçak, “Meşrutiyet’te Heyet-i Âyan ve Heyet-i Mebusan,” 964 and Gazel, “Osmanlı Mebusan Meclisi’nde,” 330.

mons.⁴⁵ A complaint could be brought forward even by ordinary citizens. Once received, the petition had to be studied by the parliament. If the parliament did not reject the petition, it would be forwarded to an appropriate ministry for further action.⁴⁶ Afterwards, the minister in question had to respond to the parliament's questions either himself or by appointing a subordinate in his stead.⁴⁷ When the chamber of commons would carry out secret voting, the minister or his representative had to leave the room.⁴⁸ The minister, however, could postpone his appearance if he deemed it necessary to do so by assuming the full responsibility for his act. Moreover, if the minister had accepted to appear before the chamber and if the absolute majority of the deputies present at the session where the interrogation took place decided that the minister had to be further investigated, an official note of complaint would be sent to the grand vizierate. Only with the permission of the Sultan, would the minister's file be sent to the Supreme Court (*divan-i âli*).⁴⁹ Even then the chamber of commons' right of accusation pertained only to a minister's criminal actions, not to his political acts. The chamber of commons interpreted this right as extending not only to ministers in office but also to former ministers and even to all state officials.⁵⁰ However, there was no case requiring the application of this rule during the parliament's existence, although the parliament demanded trials several times during both sessions.⁵¹ In any case, it would have been unclear how a minister was to be tried because the procedure for such trials had not been determined.⁵²

After the chamber of commons had experienced delayed responses from the ministers it had summoned, the chamber decided that in such cases if there was no reply within two weeks, the request would be repeated by the president of the

⁴⁵ For example, individual deputies interpellated various ministers from time to time on the conduct of the war with Russia. Us, *Meclis-i Mebusan*, 1:274-276.

⁴⁶ For details see article 52 of the Ottoman constitution and *Hey'et-i meb'usan nizamname-i dâbilisi*, articles 44-50, chapter VIII. Devereux pointed out that the first chamber of commons received and processed several hundred petitions, while during the second session they constituted one of the chamber's principal occupations. Devereux, *The First Ottoman Constitutional Period*, 176.

⁴⁷ For an interesting example (the speech of Mustafa Bey, deputy of Thessalonica) that demonstrates how deputies interpreted their right to call the ministers to the parliament, see Us, *Meclis-i Mebusan*, 2:391: "[...] 'the minister' means 'the servant of the nation'. The ministers have to do what the nation wants. They should come just in time when the nation calls."

⁴⁸ Articles 37 and 38 of the Ottoman constitution. However, according to Oğuz this was never applied during any sessions of the first Ottoman Parliament. Oğuz, "İ. Meşrutiyet Meclis-i Umumisinin Açılışı," 140.

⁴⁹ *Hey'et-i meb'usan nizamname-i dâbilisi*, articles 29 and 31-32; articles 31, 38 and 92 of the Ottoman constitution of 1876.

⁵⁰ For examples see Us, *Meclis-i Mebusan*, 1 and 2.

⁵¹ Oğuz, "İ. Meşrutiyet Meclis-i Umumisinin Açılışı," 139.

⁵² Devereux, *The First Ottoman Constitutional Period*, 68.

chamber.⁵³ However, the chamber of commons had no means to enforce sanctions if a minister failed to reply.⁵⁴ Because members of the council of ministers or the council of state regarded themselves as representing state authority, they would not consider themselves accountable to the parliament. If a deputy suggested otherwise, serious debates would follow.⁵⁵

The chamber of commons made attempts at a better control of the council of ministers, especially in the second period.⁵⁶ The most important reason for this was the decision made by the council of ministers to enter into war with Russia in 1293 (1877-78) and the fact that this war was not going favorably for the Ottoman side. This development became directly visible to the deputies when Istanbul was flooded by countless refugees, which caused the government numerous problems.⁵⁷ Under these circumstances, deputies were much less reluctant to criticize ministers than before.⁵⁸

It has to be remarked, however, that the first Ottoman parliament had relatively more power in the financial and budgetary area. Two aspects have to be taken into consideration here: First of all, the budgets of the state, prepared by the council of ministers, had to be submitted to the parliament for ratification each year immediately after the opening of the session.⁵⁹ Moreover, the Ottoman government was forbidden to levy and collect any taxes and to expend any funds which were not provided for in the budget as approved by parliament.⁶⁰ Secondly, the members of the court of accounts (*divan-i muhasebat*), which was to ex-

⁵³ Us, *Meclis-i Mebusan*, 1:40, 41. For examples of the reply to the request see Us, *Meclis-i Mebusan*, 2:304, 388.

⁵⁴ For example, 33 days after the deputy of Janina, Daviçon Efendi, had sent a note to the council of ministers, the parliament still had not received a reply; Us, *Meclis-i Mebusan*, 2:261. Neither in the Ottoman constitution of 1876 nor in its modification dated 5 Ş 1327/ August 21, 1909 was a deadline for how long a minister could postpone the interrogation mentioned (article 38). Later the chiefs of the Committee of Union and Progress put a limit for such a postponement in the new modifications of the constitution. Henceforth a minister had to request permission from the chamber of commons if he wanted to postpone the questioning ("Zilhicce 1293 tarihli Kanun-i Esasi'nin Bazı Mevadd-i Mu'adelesine Dair Kanun," 5 Ş 1327/8 Ağustos 1325/August 21, 1909, article 38, *Düstur*, tertib-i sani, 1:640-641).

⁵⁵ Oğuz, "I. Meşrutiyet Meclis-i Umumisinin Açılışı," 140. Devereux states in addition that the article was also silent on the consequences of rejection of a minister's explanations as unsatisfactory by the chamber of commons. Devereux, *The First Ottoman Constitutional Period*, 69. This must also be seen as another weakness of the parliament.

⁵⁶ Okandan, *Anme Hukukumuzda*, 123; Us, *Meclis-i Mebusan*, vol. 2.

⁵⁷ Alexandre Toumarkine, *Les Migrations des populations musulmanes balkaniques en Anatolie (1876-1913)* (Istanbul: Isis Press, 1995); A. Teyfur Erdoğan, "Dahiliye Nezareti teşkilat tarihi (1836-1922)," unpubl. Ph.D. Thesis, (Univ. of Hacettepe, 2005), Ankara, 269, 272-273.

⁵⁸ Mahmud Celaleddin, *Mirat-ı Hakikat*, 3:22. For an example of harsh criticism made by Nafi, deputy of Aleppo, see Us, *Meclis-i Mebusan*, 1:241.

⁵⁹ Article 99 of the Ottoman constitution.

⁶⁰ Articles 97 and 100 of the Ottoman constitution.

amine all financial operations and to submit a yearly report on its work to the chamber of commons, would be appointed by the Sultan but, once appointed, could not be dismissed except by a majority vote of the chamber of commons.⁶¹ On the other hand, the parliament's control of finances was still limited for three reasons: first of all, if a session should end before the budget law was enacted, the council of ministers could apply the budget of the previous year.⁶² And with this provision the Sublime Porte gained the possibility to avoid parliamentary financial control entirely by not submitting the new budget until the session was near its end, when the parliament would no longer have time to act. This was possible because the constitution failed to include provisions that would ensure the council of ministers' submitting the budget to the chamber of commons at the time stated.⁶³ Devereux pointed out that the ministry according to article 44 could also achieve the same effect "by persuading the Sultan to curtail the length of the session."⁶⁴ But in practice Abdülhamid II acted responsibly to the constitution. The first session of the parliament had been scheduled to end on June 19, but on that date the chamber of commons was informed that Abdülhamid II had extended the session for another ten days. It seems, he took this decision in order to enable the chamber of commons to rework the budget law, one article of which the chamber of senators had rejected.⁶⁵ This constitutionally correct behavior of Abdülhamid II might be explained by the fact that the Ottoman Empire was still at war with Russia and in this desperate situation needed England's support more than ever before.

The second limitation on the budgetary power of the parliament was stipulated in article 101. According to this article, the council of ministers could in the case of urgency caused by extraordinary circumstances when the General Assembly was not sitting, obtain imperial decrees for raising and expending the necessary resources, provided that the decrees were submitted for legislative action of the parliament immediately after the opening of the next session.⁶⁶

Thirdly, the draft on the actual operation of the definitive budget (*muhasebe-i kat'iyye kanununun layihası*) did not need to be submitted to the general assembly until four years after the end of the year to which the accounting pertained.⁶⁷ It is clear that, as Devereux aptly pointed out, after that period of time

⁶¹ Article 105-107 of the Ottoman constitution. But the special law of the court of accounts' organization and functions did not pass through the legislative process before the parliament was on holiday.

⁶² Article 102 of the Ottoman constitution.

⁶³ Article 99 of the Ottoman constitution.

⁶⁴ Devereux, *The First Ottoman Constitutional Period*, 72.

⁶⁵ Cf. Devereux, *The First Ottoman Constitutional Period*, 206.

⁶⁶ Article 101 of the Ottoman constitution. Devereux is right in asking what consequences would follow in the event that parliament refused to accept the council of ministers' justification. Devereux, *The First Ottoman Constitutional Period*, 72.

⁶⁷ Article 104 of the Ottoman constitution.

“it would have been difficult, even impossible in many cases to bring derelict ministers to account for illegal expenditures. And if the Sultan were shown to have ordered the expenditures in question, nothing could possibly be done.”⁶⁸

This could happen because the minister had to act on the Sultan’s orders, and the Sultan himself, it should be remembered, was not accountable for his acts.⁶⁹

Then again on budgetary issues the Ottoman parliament generally used to criticize the policies of ministers and of the council of state more harshly than on the other issues.⁷⁰ It can therefore be stated that even if the parliament had only very limited capabilities to legislate and control, it had been equipped with the means to prevent the enforcement of any law that the majority of its members did not accept, in particular when it came to budgetary issues.⁷¹

The Relationship Between the Ottoman Chamber of Commons and the Sultan

The relations between the first Ottoman parliament and the Sultan may provide us with further insight into the role and importance of the parliament. One may ask whether the parliament was docile all along or only in the beginning. Was the parliament a yes-man parliament as Engelhardt contended⁷² or a bastion of hard-headed opposition? The architectural features of the parliament building can provide some clues to the questions. At the end of the hall of the parliament stood a box, for use by the Sultan as in ancient times in the council-chamber (*divan-ı hümayun*) in Topkapı Palace.

To answer these questions exactly we should focus on the details. In this context we have to give up the idea that all rights and all duties of the chamber of commons were meticulously defined by law. There is more than one instance of the Sultan commissioning some of the deputies to perform a duty the constitution did not provide for. For example, on April 25, 1877 Abdülhamid II ordered a few deputies to inspect the imperial shipyard (*tersane-i amire*) and to produce a report about their inspection during the parliamentary holiday.⁷³

⁶⁸ Devereux, *The First Ottoman Constitutional Period*, 72.

⁶⁹ Article 5 of the Ottoman constitution.

⁷⁰ Okandan, *Amme Hukukumuzda*, 121; Ali Birinci “I. Meşrutiyet Meclis-i Mebusanında Hükûmete Yöneltilen Tenkitler,” *Sanat, Bilim ve Kültürde Orkun* 8 (1983), 22-25, here 24; Öklem, *1877 Meclis-i Mebusanında*, 55-136. For an example of harsh criticism made by As-tarcılar Kâhyâsı Ahmed, deputy of Dersaadet, see Us, *Meclis-i Mebusan*, 2:74. For the objection of Yanko Efendi, a member of the council of state, to criticisms of deputies, see Us, *Meclis-i Mebusan*, 2:121-126.

⁷¹ Yıldızhan Yayla, *Anayasalarımızda Yönetim İlkeleri, Tevsi-i Mezuniyet ve Tefrik-i Vezaif* (İstanbul: İstanbul Üniversitesi Yayınları, 1982), 23-25.

⁷² Ed. Engelhardt, *La Turquie et la Tanzimat ou histoire des réformes dans l'empire ottoman depuis 1826 jusqu'à nos jours*, 2 vols. (Paris: Cotillon, 1882-1884), 2:170.

⁷³ BOA, YEE 71/22 quoted in Oğuz, “I. Meşrutiyet Meclis-i Umumisinin Açılışı,” 127.

However, it is not only this kind of extra-constitutional work imposed on the deputies but also the details of the rights and duties of the parliament towards the Sultan as prescribed in the Ottoman constitution which testify to the weak position of the chamber vis-à-vis the Sultan. The members and the president of the chamber of senators were selected and appointed by the Sultan, but the president of the chamber of commons was elected.⁷⁴ The members of the chamber of commons had to pledge their allegiance to the Sultan as well as to the country and the constitution.⁷⁵ Nevertheless, the members of parliament were free in their voting and in expressing their views and opinions.⁷⁶

Article 77 of the Ottoman constitution of 1876 provided that the chamber of commons should have a president and two vice presidents, and that the Sultan had to appoint the president and two vice presidents from among three candidates for each of the three posts elected by the chamber of commons by majority vote. The names of the candidates were then to be forwarded through the grand vizier to the Sultan. However, as a head of the chamber of commons was needed at the first opening of the parliament, its president was selected and appointed by the Sultan. Abdülhamid II chose and appointed Ahmed Vefik Paşa on March 20, as the president of the chamber of commons in this way. Ahmed Vefik Paşa was not even a deputy at the time, for the Istanbul elections had not yet taken place. Therefore Abdülhamid II made Ahmed Vefik Paşa a deputy, and the Istanbul electors ratified the Sultan's action with little choice on March 1. It is also worth mentioning here that the last post of Ahmed Vefik Paşa before he was appointed president of the parliament had been member of the council of state. He is known to have acted disrespectfully towards the deputies on a number of occasions, silencing speakers in a rude manner, and was famously reported to have addressed a *molla* in the chamber with the words "Sus eşek! (Shut up, you donkey!)."⁷⁷ It is also remarkable in this context that he was a well-known opponent of constitutional government.⁷⁸ *Lupos apud oves custodes relinquere*. The deputies were quite aware of his arbitrary and autocratic nature. For this reason, at the parliament's first public sitting, some deputies denounced the Sultan's action. A courageous deputy, Yusuf Ziya (Jerusalem), rose in the chamber and exclaimed "The member for Istanbul, His Excellency, Ahmed Vefik Efendi, tells us that he is our president. Who made him so?"⁷⁹

⁷⁴ Articles 60-62 of the Ottoman constitution.

⁷⁵ Article 46 of the Ottoman constitution.

⁷⁶ Article 47 of the Ottoman constitution.

⁷⁷ Sir Edwin Pears, *Forty Years in Constantinople* (London 1916), 68 quoted in Devereux, *The First Ottoman Constitutional Period*, 158.

⁷⁸ Recai Galip Okandan, *Amme Hukukumuzun Ana Hatları* (Istanbul: İÜHF Yayınları, 1977), 179-184; İbnülemin Mahmud Kemal İnal, *Osmanlı Devrinde Son Sadrazamlar*, 4 vols. (Istanbul: Dergah Yay., 1982), 2:666.

⁷⁹ Devereux, *The First Ottoman Constitutional Period*, 156.

At the beginning of the second session, the parliament elected its candidates, on December 22, and three candidates for the presidency, three candidates for the first vice-presidency, and three candidates for the second vice-presidency were presented to the Sultan. Abdülhamid II on December 30, showed a certain measure of disrespect for the constitutional procedure and appointed Sheikh Bahâeddin as the first vice-president even though his name was with two other names on the list of the candidates for the presidency. An even more serious breach of the constitutional rules occurred with the Sultan's selection of Hüdâverdizade Ohannes Efendi as the second vice-president of the parliament despite the fact that Ohannes Efendi had not been nominated on any of the three lists presented to the Sultan by the parliament.⁸⁰ The designation by the Sultan of Hüdâverdizade as second vice-president aroused protests. And Yenişehirizade Hacı Ahmed (Aydın) said at the December 31 sitting that "[...] there must be some error here. We did not elect him."⁸¹ The Sultan's action was clearly a violation of the constitution and internal regulation (*Heyet-i Mebusan Nizamname-i Dahilisi*). But in the end the protests changed nothing: *Suprema lex regis voluntas est*.

The Sultan used to supervise the chamber of commons through the chamber of senators, whose members he chose and appointed as mentioned before. In the legislative field, the constitution gave the chamber of senators superiority in comparison to the chamber of commons. In other words, the chamber of senators had supervisory power over the chamber of commons' bills. The chamber of senators had the right to veto the commons' bills, or to return them. The former used to examine the bills given by the latter according to the following points: religious matters, sublime rights of the Sultan, liberty, rules of the constitution, indivisibility of country and state, internal and external security of the state, and general customs. When it found any objection, it had the right to refuse or modify the bill, or return it to the chamber of commons. On the other hand, when it accepted a bill proposed by the latter, the bill could be submitted to the grand vizierate only by the former.⁸² However, it is not clear how the chamber of senators applied this right in practice.⁸³ The chamber of commons in turn had no right to criticize the chamber of senators, by law, and the head of the chamber of commons would not permit those who wanted to criticize the senators.⁸⁴

Moreover, there were rumors that Abdülhamid II had had 'agents' in the parliament since its inception, and the deputies reacted harshly the rumor. It is remarkable, however, that during the discussions over the potential agent, Kadri Efendi, the deputy of Aleppo, wrote a report (*jurnal*) to inform Abdülhamid II

⁸⁰ Us, *Meclis-i Mebusan*, 2:22, 26, 30.

⁸¹ Us, *Meclis-i Mebusan*, 2:30.

⁸² Article 64 of the Ottoman constitution.

⁸³ Oğuz, "I. Meşrutiyet Meclis-i Umumisinin Açılışı," 120.

⁸⁴ Us, *Meclis-i Mebusan*, 1:79.

about the contributions of deputies criticizing him.⁸⁵ In fact, there were many other formal ways that the Sultan could find out about the discussions taking place in the parliament: for example, the members of the council of ministers or of the council of state could attend the parliamentary meetings. We know that three types of sittings were held for the parliamentary meetings: public, closed, and secret. In addition, summaries of the proceedings of the commons were published in the official journal *Takvim-i Vekayi* just as for public sittings.⁸⁶ Nevertheless, Abdülhamid II obviously wanted to know about the gossip whispered even in the small galleries and lounges as well.

The Regulations Concerning the Opening and Closure of the Parliament

The parliament would be opened each year by the summons of the Sultan at the beginning of November and would cease to function at the beginning of March, again by imperial will (*irade-i seniyye*).⁸⁷ However, the Sultan could convene or close the parliament earlier than the normal period.⁸⁸

Deputies and senators all pledged allegiance to the person of Sultan, the country, and the rules of the constitution in the presence of the grand vizier on the first day of parliament.⁸⁹

In case of a disagreement that could not be resolved between the council of ministers and the parliament (for example, if the parliament refused the same bill of the council of ministers twice), it was the Sultan who could either replace the

⁸⁵ BOA, YEE, 71/11 and 84/112 quoted in Oğuz, "I. Meşrutiyet Meclis-i Umumisinin Açılışı," 207, 211.

⁸⁶ *Hey'et-i Meb'usan Nizamname-i Dabilisi*, article 87 provided that the minutes were to be published in *Takvim-i Vekayi*. Ahmed Midhat, *Üss-i İnkılâb*, 2:224. However, the minutes published there were not the verbatim accounts taken down by the clerical staff but rather summaries prepared by Ahmed Midhat, the director of *Takvim-i Vekayi*; cf. Ahmed Midhat, *Üss-i İnkılâb*, 2:226-228. Therefore the deputies and even the ministers complained frequently that debates were being reported incorrectly in the press. Us, *Meclis-i Mebusan*, 2:250, 256. Thereupon on January 9, 1878 the chamber of commons voted to have summaries published in a journal other than *Takvim-i Vekayi*, and *Basiret* was selected for this purpose; Us, *Meclis-i Mebusan*, 2:106, 250. Concerning the chamber of senators, according to *Hey'et-i Meb'usan Nizamname-i Dabilisi*, article 71, all of its sittings were to be closed to visitors except ministers or their representatives and such deputies as might have been specifically invited to attend. As a result, newspapers of the day, including *Takvim-i Vekayi*, never published any information about this chamber's proceedings. Therefore, as Devereux pointed out rightly, how often the chamber of senators met, what decisions it made, the positions taken by individual senators on various question, etc. must remain forever shrouded in mystery. Devereux, *The First Ottoman Constitutional Period*, 234.

⁸⁷ Article 43 of the Ottoman constitution.

⁸⁸ Article 44 of the Ottoman constitution.

⁸⁹ Article 46 of the Ottoman constitution; *Basiret*, no. 2044 (6 Ra 1294/ March 21, 1877); Us, *Meclis-i Mebusan*, 1:22.

minister or dissolve the chamber of commons and order the parliament to go on recess until the next general election.⁹⁰ We know that Abdülhamid II applied this rule. He replaced İbrahim Edhem Paşa as grand vizier with Ahmed Hamdi Paşa on January 11, 1878 because a disagreement occurred between the grand vizier and the chamber of commons. Abdülhamid II also requested Ahmed Hamdi Paşa to get along well with the chamber of commons.⁹¹ The grand vizier was not a head of government in the parliamentary sense of the term, and his only rights were to preside over cabinet meetings (article 28) and to resolve matters not falling entirely within the competence of a single ministry (article 29). He remained a *primus inter pares*, and the other ministers would keep their posts as long as they retained the confidence of the Sultan even when in disagreement with the Grand Vizier. However, we know that the replacement of a grand vizier meant, in Ottoman political practice, in most case the alternation of the council of ministers. Therefore the replacement of İbrahim Paşa caused the downfall of his cabinet. In the second period of the parliament, Abdülhamid II changed the cabinet once again after being informed that there would be a major disagreement between the parliament and the council of ministers after the defeat of the Ottoman army in Shipka and the opening of the route to Istanbul to the Russians as a result of the Armistice of Adrianople of January 31, 1878.⁹² In this situation the opposition deputies met in the parliament building on February 3 to discuss the current situation of the war. They agreed to raise opposition in the parliament on the following day. But when the chamber of commons convened the following day, it discovered that Ahmed Hamdi Paşa had been dismissed as grand vizier and Ahmed Vefik Paşa had taken his place. Abdülhamid changed the post of the grand vizierate (*sadr-ı azamlık*) into the post of prime minister (*başvekillik*) to make sure that there would be a better dialogue between the council of ministers and the

⁹⁰ Articles 7, 35, 73 of the Ottoman constitution. Devereux points to a sin of omission: if the Sultan wished neither to dismiss the minister nor to dissolve the chamber of commons, he had merely to order the minister to withdraw the law bill in question, which he could then promulgate directly by virtue of his inherent decree power. Here again the power of parliament was tempered as is clearly seen. Devereux, *The First Ottoman Constitutional Period*, 68. But Abdülhamid II never exercised this possibility.

⁹¹ BOA, YEE, 75/19 quoted in Oğuz, "I. Meşrutiyet Meclis-i Umumisinin Açılışı," 147; Mahmud Celaledin, *Mirat-i Hakikat*, 3:22-23. Devereux, however, on the authority of Mahmud Celaledin's book, *Mirat-i Hakikat*, claims the true reason had been that İbrahim Edhem Paşa had failed to take what the Sultan considered a sufficiently determined stand against the deputies. Devereux, *The First Ottoman Constitutional Period*, 235.

⁹² Although Abdülhamid II changed the cabinet twice and didn't dissolve the parliament during these periods, Prof. Aldıkaçtı points out that the authority of Sultans to change cabinets or dissolve the parliament was vested by the constitution in article 35 not in order to make him an arbitrator between these two state apparatuses, but to force the parliament to obey the Sultan's wishes; cf. Orhan Aldıkaçtı, *Anayasa Hukukumuzun Gelişmesi ve 1961 Anayasası* (İstanbul: İÜHF Yayınları, 1982), 58.

parliament.⁹³ However, this intervention of the Sultan was criticized by the opposition in the parliament since the modification of the title (from grand vizier to prime minister) was not in accordance with articles 27-29, 115, 116 of the Ottoman constitution. On February 9, the special committee of the parliament reported back that the change had indeed violated the constitution⁹⁴ because the constitution called specifically for a grand vizier and constitutional government required strict compliance with the constitution. The opposing deputies also requested on February 5, that the Supreme Court be constituted to try Mahmud Nedim Paşa, former grand vizier, and numerous military leaders for criminal behavior and incompetence. After heated debate the motion was accepted despite strong opposition and warnings by the moderate and pro-government deputies.⁹⁵

In brief, the Sultan had all rights in case of necessity (*lede'l-iktizâ*) to convene the parliament, to send it on holiday, or even to close it down for good according to the Ottoman constitution.⁹⁶

Towards the Anxious End

*Ne cesaretle olur münkeşif ebna'-yı vatan
Dehşet-âlûd-i cebânet eb-i meşrûtiyyet
Yoksa dünyada nasîb olmayacak mı bilmem
Bize, nev'-i beşerin hakkı olan hürriyet.*⁹⁷

By then, a strong opposition not only against the council of ministers but also towards Sultan Abdülhamid II had developed. Opposition in the parliament argued that “*the chamber of commons should either function according to the constitution or be abolished.*”⁹⁸ The end was in sight.

Abdülhamid II, on February 13, 1878, invited the president of parliament and two deputies together with forty other distinguished persons to serve as members on his new advisory board (*meclis-i meşveret*) formed after the Russian approach towards Istanbul. One of the deputies, Astarçılar Kethüdası Ahmed Efendi, a deputy of Istanbul, replied in the meeting critically with unprecedented frankness:

⁹³ BOA, YEE, 75/20, 1 S 1295/5 Şubat 1878; William J.J.R.N. Spry, *Life on the Bosphorus. Doings in the City of the Sultan. Turkey, Past and Present. Including Chronicles of the Caliphs from Mahomet to Abdul Hamid II* (London: Nichols, 1895), 267.

⁹⁴ Mahmud Celaleddin, *Mirat-i Hakikat*, 3:61; Osman Nuri, *Abdülhamid-i Sani ve Devr-i Saltanatı: Hayat-i Hususiyye ve Siyasiyyesi*, 3 vols. (Istanbul: Matbaa-i Osmaniyye, 1327), 1:340; Abdurrahman Şeref, *Tarih Musabeheleri* (Istanbul: Matbaa-i Amire, 1339), 261, 265; Us, *Meclis-i Mebusan*, 2:310-312, 371, 372; Sina Akşin, “Birinci Meşrutiyet Meclis-i Mebusanının Ele Aldığı Başlıca Sorunlar,” *Ankara Üniversitesi Siyasal Bilgiler Fakültesi Dergisi*, 25.2 (1970), 101-122, here 115.

⁹⁵ Us, *Meclis-i Mebusan*, 2:296-302.

⁹⁶ Articles 7 and 27 of the Ottoman constitution; Okandan, “7 Zilhicce 1293 Kanunu Esası,” 10.

⁹⁷ Ziya Paşa in İnal, *Son Sadrazamlar*, 1:345.

⁹⁸ Us, *Meclis-i Mebusan*, 2:346, 347.

Our help should have been sincerely requested when it was possible to avert disaster. You are asking for our opinion far too late[...] Thus, we do not accept any responsibility. No decision of the parliament has been carried out [...].⁹⁹

This kind of criticism was not new, but voiced by a deputy directly to Abdülhamid II was the last straw. *Vulnerant omnes, ultima necat*. In fact, during the war with Russia, the deputies had not hesitated to blame Abdülhamid II and the ministers for what they regarded as a scandalous conduct of the war.¹⁰⁰ Abdülhamid II wanted this deputy to be punished and declared he had made a mistake in imitating the soft-minded reform policy of his father Sultan Abdülmecid, and hence felt forced to follow in the footsteps of his grandfather Sultan Mahmud II.¹⁰¹ *Alea iacta est*.

Abdurrahman Şeref, the last official chronicler in the Ottoman Empire, gave another reason, besides internal and external (for the latter particularly the Russian factor) reasons¹⁰² (the latter particularly being the Russian factor) for the closure of the first Ottoman parliament, stating that in the second session of the parliament criticisms and attitudes of deputies towards the government and bureaucrats went too far, and he wrote “[...] the end became inevitable and disaster is mutual [...]”.¹⁰³ Tension between the deputies and the ministers was actually tremendous in the second period.¹⁰⁴ Sir Edwin Pears, the correspondent of *The Daily News* in Istanbul commented aptly that “[...] the hostility between the Chamber and the pashas became serious, and various correspondents predicted that within a short time the Chamber would upset the rule of the pashas, or the pashas would get rid of the Chamber [...]”.¹⁰⁵ Indeed the Ottoman cabinet wrote to the Sultan proposing to close down the parliament temporarily.¹⁰⁶

⁹⁹ Said Paşa, *Said Paşa'nın Hatıratı* (Istanbul: Sabah Matbaası, 1328), 207; Mahmud Celaleddin, *Mirat-i Hakikat*, 3:81. More, slightly differing versions of this incident are documented in Us, *Meclis-i Mebusan*, 2:401-404.

¹⁰⁰ BOA, YEE, 23/1797/11/71, 2 M 1295/5 January 1878; BOA, DÜİT, 5-1/5-4, leff 1, 11 S 1295/ February 14, 1878.

¹⁰¹ Mahmud Celaleddin, *Mirat-i Hakikat*, 3:82; Us, *Meclis-i Mebusan*, 2:401.

¹⁰² For other reasons, see Bülent Tanör, *Osmanlı İmparatorluğunda Anayasal Gelişmeler* (Istanbul: Der Yayınları, 1991), 90-91; Yılmaz Kızıltan, “I. Meşrutiyetin İlanı ve İlk Osmanlı Meclis-i Mebusanı,” unpubl. PhD. Thesis (Gazi Üniversitesi, 1994), Ankara, 157-158; François Georgeon, *Abdülhamid II, le Sultan calife* (Paris: Fayard, 2003), 89.

¹⁰³ Abdurrahman Şeref, *Tarih Musabebeleri*, 265, 266.

¹⁰⁴ BOA, YEE, 23/1821/11/71, 10 S 1295/ February 13, 1878; Us, *Meclis-i Mebusan*, 2:105-117. For the diverse criticism of and opposition to the government during the first and second sessions see Devereux, *The First Ottoman Constitutional Period*, 149, 150.

¹⁰⁵ Quoted in Bernard Lewis, *The Emergence of Modern Turkey* (London: Oxford Univ. Press, 1961), 165. For the similar observation of another British correspondent, see *The Times* (January 8, 14 and 15, 1878) and Layard (Istanbul) to Derby, June 2, 1877 *Accounts and Papers, Turkey*, no. 26 (1877). Further correspondence respecting the affairs of Turkey quoted in Devereux, *The First Ottoman Constitutional Period*, 149, 150, 152.

¹⁰⁶ BOA, DÜİT, 5-1/5-4, leff 1, 11 S 1295/ February 14, 1878; Us, *Meclis-i Mebusan*, 2:407.

The next day on February 14, 1878, when the chamber of commons was in the middle of the meeting, the Sultan's decision to ask the parliament to prorogue for an undetermined period arrived.¹⁰⁷ *Humiles laborant, ubi potentes dissident.*

In addition, Astarçılar Kethudası Ahmed was arrested and jailed but released a few hours later. Soon after, ten opposing deputies were exiled from Istanbul on February 20, according to article 113 of the constitution which authorized the Sultan to exile anyone deemed dangerous to the security of the state.¹⁰⁸ *Le grand coup vient d'être porté contre eux.* Although parliament ceased to exist, the chamber of senators legally continued to exist, and its members continued to hold the dignity of senator; they also continued to be paid.

In the end, the parliament was suspended¹⁰⁹ without notable opposition. Only the ten deputies protested the order as completely illegal and unconstitutional, and one of them, Yusuf Ziya (Jerusalem), wrote two letters to the prime minister in order to get him to enforce the provision of the constitution.¹¹⁰ Perhaps it was not easy to raise opposition in that period. In any case, the constitution granted this right to the Sultan. We should also remember that if there was opposition by some deputies and some journalists, it was not about the closure of the parliament but about the exiling of deputies from Istanbul.¹¹¹

¹⁰⁷ BOA, DÜİT, 5-1/5-4, leff 1, 11 S 1295/ February 14, 1878; Us, *Meclis-i Mebusan*, 2: 406-407. Yavuz Ercan, "Tartışma," (Türkiye'de Demokrasi Hareketleri Konferansı, 6-8 Kasım 1985, Ankara), *Hacettepe Üniversitesi Edebiyat Fakültesi Dergisi* 4.1 (1986), 106-109 calls for prudence in the speculation of possible reasons for the closure of the parliament.

¹⁰⁸ Us, *Meclis-i Mebusan*, 2:410, 412; Bekir Sıdkı Baykal, "93 Meşrutiyeti," *Belleten*, 6.21-22 (1942), 45-83, here 81; Georgeon, *Abdülhamid II*, 89.

¹⁰⁹ In juridical terms the imperial *irade* ordered the parliament not to be dissolved (according to articles 7 or 35) but to be suspended (according to article 7); BOA, DÜİT, 5-1/5-4, leff 1, 11 S 1295/February 14, 1878.

¹¹⁰ Us, *Meclis-i Mebusan*, 2:410-411.

¹¹¹ Us, *Meclis-i Mebusan*, 2:410-412.

