The End of the Right of Exclusion
Conclave of 1903 and the New Legislative of Pope Pius X

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HISTORICAL BACKGROUND

Pope Leo XIII, the first pope in modern history who from the beginning of his pontificate leads the Catholic Church in a new situation following the loss of the Papal States, died on 20th July 1903. The subsequent papal conclave, whose scandalous course would go down in the history of the 20th century, represented one of the last instances of the clash of European powers in the period before World War I. The College of Cardinals comprised several distinctive factions, each of which considered not only purely ecclesiastical interests, but also the political atmosphere in their home countries and their own ideas about the direction of the Apostolic See at the beginning of the 20th century.

From the very beginning, State Secretary and confidant of the deceased Pope, Mariano Rampolla del Tindaro, who was a Sicilian aristocrat of extraordinary abilities and corresponding self-confidence, was a crucial figure of the election. Under his leadership, the Catholic Church sought to restore its weakened international position after a period of cultural struggle and the loss of territorial sovereignty. The policy of bringing the Holy See closer to French Republicans seemed to be the best way (ralliéntement); however, it failed to yield the desired results. A discontent with the official course of the Catholic Church’s policy was gradually growing, particularly due to its excessive focus on political issues and the side-lining of ecclesiastic matters. The influence of national cardinals on the operation of the Church tended to decrease, yet mutual animosity between France and German-Austrian partners inevitably spread within the College of Cardinals as well. In this situation, Mariano Rampolla’s task was to convince the College of Cardinals of his ability to lead the Catholic Church in the new century.

The greatest obstacle to Rampolla’s election as the new pope was his previous reserved approach to Germany and Austria-Hungary. Austrian Emperor Franz Joseph I, in particular, resented the loss of influence on the situation in the Vatican and was ready to prevent the papacy from continuing its Francophile course. However, Austrian diplomacy had a negligible chance of changing the predominance of Rampolla’s direction. Perhaps it was this circumstance, together with the Emperor’s personal aversion to the State Secretary which was caused by Rampolla’s insensitive actions following the suicide of Crown Prince of Austria Rudolf that led Austrian diplomacy to intervene in the papal election through exercising the Emperor’s veto (jus exclusivae).

THE 1903 CONCLAVE AND AUSTRIAN VETO

The first papal election of the 20th century began on the last day of July 1903 in the presence of 62 assembled cardinals. Of the total number, Italian members of the collegium accounted for almost two thirds (38 cardinals), the French were seven, representatives of Spanish and Habsburg countries numbered five, Germany had three representatives, and Portugal, Ireland, Belgium and the United States of America each had one. It took place in the Sistine Chapel, traditionally guarded by a member of the Chigi family.2 The first day of the conclave was not yet dedicated to voting but provided space for all the necessary procedures associated with the election process. Cardinals assembled in the Pauline Chapel, praying together for a blessing by the Holy Spirit. Afterwards, they took a prescribed oath in the Sistine Chapel, pledging to approach the election with only the Church’s interests and their own conscience in mind. They were also reminded of the seriousness of the situation by the Leo XIII constitution Praedecessores nostri,3 an emergency electoral law by Leo XIII.

The actual election began on 1st August. The results of the first voting were awaited with much anticipation, since they could reveal how realistic the expectations of each party were and predetermine the favourites of the election. As expected, Cardinal Rampolla (24) won the most votes, his greatest competitor appearing to be Cardinal Gotti (17).4 Everything seemed to indicate that previous guesses were correct and Mariano Rampolla was very likely to be elected the new Pope. Yet it has to be noted that the College of Cardinals was from the beginning divided into several factions with their own favourites, and national cardinals proved to be quite disciplined, re-

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3 The constitution was written in 1882 but remained unpublished.

specting the interests of their governments. Rampolla was backed by a unified bloc of French and Spanish prelates, reinforced by the Secretary’s supporters mostly from the Vatican Curia. Prefect of the Congregation for the Propagation of the Faith Girolamo Maria Gotti (1834–1916), perceived as a moderate and compromising man, won Italian votes, as well as some Austrian ones. Votes for Giuseppe Sarto (five votes) confirmed for the first time the existence of a small yet united group of North Italian prelates.

For five Habsburg and three German cardinals, finding a joint candidate was quite difficult. Emperor Franz Joseph and his Minister of Foreign Affairs, Count Agenor Gołuchowski, agreed that the new pope had to be a moderate and wise man, rather apolitical and impartial. Mariano Rampolla or any cardinal of French origin would be clearly rejected. German cardinals were not united and shortly before the election, the German government also stepped back, leaving it to its cardinals’ best judgement to determine who would do the least harm to German interests. Upon a joint discussion, Cardinal Gotti was chosen as their candidate.

A second vote in the afternoon of the same day only confirmed the distribution of powers, with Rampolla increasing his number of votes to 29, and Gotti with 16 votes essentially maintaining his previous result. It was interesting to note, however, that

5 French cardinals Mathieu, Richard, Labouré, Langénieux, Lécot, Couillé a Perraud clarified their positions before leaving for the conclave and also maintained a close contact with the French government and the Vatican legate. Mathieu confirms the contacts (MA-THIEU, F.-D., op. cit., pp. 261–264), and Kopp also indicated Rampolla as a candidate of the French government (BÜLOW, B. von, op. cit., pp. 620–621).

6 It is almost certain that the Spanish cardinals consulted the Spanish government. Although previous instructions by the government apparently followed the older idea of cooperation between the Central Powers’ cardinals and Spanish and Portuguese cardinals, they were not fulfilled due to a change of government. Judging by the testimonies of people close to Cardinal Vives, they also gave preference to the former Madrid nuncio. More on the positions of Spanish cardinals at Bülow: BÜLOW, B. von, op. cit., p. 620.


the Venetian Sarto also won five additional votes, indicating the growing strength of a group of Italian prelates who favoured as pope someone who would stand apart from political fights, and provide prospects for conciliation with the Italian state.\footnote{The results of the scrutiny see \textsc{Mathieu, F.-D.}, op. cit., pp. 276–277, \textsc{Bülow, B. von}, op. cit., p. 621.}

A complicated election situation first brought the Krakow Archbishop Jan Puzyna de Kosielsko (1842–1911) to the fore. Emperor Franz Joseph I had such confidence in this man that he entrusted him with the “secretum” — the right to raise objections and veto the election on behalf of the Emperor in case an unsuitable candidate were to be elected. Puzyna was determined to prevent the accession of Rampolla but, at the same time, he had no experience with backstage negotiations and wanted to “get rid” of his burden as soon as possible. In a conversation with ambassador Szécsen, he even came up with the idea that he would announce the exclusion of Rampolla to Dean Oreglio before the conclave began. The shocked ambassador, keeping in mind the traditional principle that the right of exclusion may only be applied in an extraordinary case, dissuaded him from doing so, but then he tried to assert the Austrian position all the more by other means. To that end, he sent a special letter to the Dean of the College of Cardinals, informing him indirectly that Puzyna had been given a special authority by the Emperor and would not hesitate to exercise it. He hoped that this would help Rampolla realize the seriousness of the situation and rethink his candidacy.\footnote{For more see \textsc{Engel-Janosi, F.}, \textit{Österreich und der Vatikan II. ...}, p. 34; \textsc{Obertyński, Z.}, \textit{Kardinal Puzyna und sein Veto}, in: \textsc{Kovacs, E. (ed.)}, \textit{Festschrift für Franz Loidl zum 65. Geburtstag (Aus Christentum und Kultur)}, Vol. 3, Wien 1971, p. 189. It was Cardinal Kopp who drove the ambassador Szécsen to send a written warning to Dean Oreglio about a threatened use of the right of exclusion. \textsc{Bülow, B. von}, op. cit., p. 621.}

After the second scrutiny, in which Rampolla obtained 29 votes, the inexperienced Puzyna was afraid that there might be a threat of his election in any following round. In addition, on the evening of August 1, Antonio Agliardi, a former Viennese nuncio, who was perceived particularly negatively by the Austrians, visited Cardinal Kopp and made him a proposal which later contributed to a shift in the vote. According to Agliardi, a further exhausting fight should be prevented by rejecting both candidates, Rampolla and Gotti, and transferring preference to Sarto. Kopp presented this suggestion to his German-speaking colleagues and, obtained their approval. This reversal counted on Sarto’s acceptability for most of the collegium, but even the supply of six new votes did not necessarily mean anything. Cardinal Puzyna, who did not personally know any Italian cardinal and had almost no idea about ties or antipathies within the curia, wanted to prevent the possibility of a similar reinforcement in favour of Rampolla. In this foreign environment he therefore decided, faithful to his character, to act directly. On Sunday, 2 August 1903, before the session began, he visited Dean Oreglio and informed him, both orally and in writing, that he held the right of exclusion of Cardinal Rampolla. He asked him to tell this to the Secretary of State and compel Rampolla to resign voluntarily. But the Dean refused to acknowledge the veto, let alone tell anybody about it. When Puzyna did not succeed with the Dean, he had to go straight to Rampolla and tell him the same thing — he had to resign or Puzyna
would exercise the right of exclusion. The Secretary of State received the information with a stone face and left him.

We can safely deduce that Cardinal Puzyna knew the formal prerequisites for presenting the veto — to first inform the Dean of the College who was competent to announce the veto publicly to the cardinal collegium. However, the Krakow Archbishop was afraid of exercising the veto, therefore choosing an alternative, half-hearted approach of persuasion and intimidation. When both Oreglia and Rampolla made it clear that they would not acknowledge the veto, Puzyna had to appear before the College of Cardinals if he really wanted to proceed with the matter. In considering the development of the right of exclusion, each party’s behaviour is extremely important. While the Vatican circles and Curia cardinals had already come to the conclusion that the Catholic Church did not have to consider the interests of Catholic countries and keep awarding them privileges even if they harmed the Church’s interests, another group of top Catholic representatives — some national cardinals and, in particular, Austrian political elites — still adhered to traditional forms, and despite some concerns and uncertainty were willing to apply them.

Upon consulting Cardinal Kopp, Puzyna resolved to take a step that would symbolically complete the centuries-old right of exclusion. When the third scrutiny commenced, and cardinals were preparing to fill out their ballots, Puzyna requested the floor, and when he got his place, read out the Latin text of the official veto of the Austrian Emperor. According to most preserved reports, this act by Krakow’s prelate caused a great uproar. The collegium began to roar. The affected Cardinal Rampolla stood up and gave a speech that can be described as an ultimate rejection of secular interventions in Church elections. He was raising a protest because the veto was a serious blow to the freedom of the church and offended the honour of the College of Cardinals. As for him personally — nothing more honourable and pleasant could happen to him. The Dean of the college, Oreglio, also spoke and strictly refused the exclusion. These two reactions triggered avalanches of dissatisfaction — even those who did not favour Rampolla saw the state intervention in the election as a gross offence.

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12 Puzyna asked Kopp: „Was sollen wir tun?” Kopp replied: „Sarto; Sie sofort vorgehen.” This comes from Kopp’s letter to Chancellor Bülow. In: BÜLOW, B. von, op. cit., p. 621.
14 „Je regrette qu’une grave atteinte soit portée en matière d’élection pontificale à la liberté de l’Église et à la dignité du Sacré-Collège par un puissance laïque, et je proteste donc énergiquement. Quant à mon humble personne, je déclare que rien de plus honorable et rien de plus agréable ne pourrait m’arriver. (Nihil honorabilius, nihil jucundius mihi contingere poterat).” MATHIEU, F.-D., op. cit., p. 281.
The next scrutiny took place in an agitated atmosphere, but the presented veto was not yet manifested in the voting (Rampolla still had “his” 29 votes, while Sar¬to’s support expanded to 21 votes and Gotti’s dropped to 9). Only in the afternoon, in the fourth scrutiny, did a reaction to Puzyna’s speech become evident. Rampolla obtained one more vote and now had 30. Sarto reinforced his position by three votes to reach a total of 24, at the expense of Gotti (3), whose support had now definitely diminished. Rampolla’s support in the fourth scrutiny was undoubtedly an expression of aversion to the Emperor’s intervention. The votes slowly began to shift toward Sarto (27), which confirmed him as the main favourite. For our topic of the jus exclusivae in the early 20th century, the results show an interesting picture. First, it is obvious that a vast majority of cardinals no longer allowed interventions in papal elections and ignored the veto. The traditional legal institute had definitively exhausted its practical potential. The cardinals’ actions further show that despite this, or perhaps exactly because of this, the wave of opposition against the Austrian Emperor’s intervention did not prompt the electors to demonstrate ostentatious support for Cardinal Rampolla. Only one member of the College of Cardinals made his protest in this way, while the others maintained their priorities. The election of the new Pope became a purely ecclesiastical issue, and the cardinals were more interested in the perspective on the Church’s direction that each candidate represented.

Cardinal Rampolla had a tragic fate. As a matter of principle, he could not resign his candidacy even if he wanted to. The pride of a Sicilian nobleman and high clergy¬man would not allow him to bear a withdrawal of his candidacy, which could be seen as surrender to the Austrian veto.15 However, the remainder of his supporters did not want to protract the election and promised their support for Cardinal Sarto. On 4th August 1903, Sarto was elected pope in the seventh scrutiny, with 50 cardinals voting for him. The 10 most loyal stayed with Rampolla.16 This concluded the last attempt by the secular powers to influence the selection of the head of the Catholic Church.

ADMISSIBILITY OF JUS EXCLUSIVAE
AT THE BEGINNING OF THE 20TH CENTURY

The reason our attention inevitably turns to jus exclusivae is not just its existence and nature, of which all the involved parties were well aware, but rather the surprise and agitation that its exercise actually provoked. For a substantial number of countries, as well as for the Vatican circles, this was more of a theoretical issue, with which they concerned themselves but without reaching a clear position. This shows that most stakeholders basically ruled out its exercise, perceiving it as a tool of coercion and intimidation, and were not ready for the alternative that it would be applied.17 The long

15 MATHIEU, F.-D., op. cit., p. 283.
16 See DAL GAL, H., Pius X., Freiburg 1952, p. 296–298.
17 Right before the election, French ambassadors to the Vatican and Vienna also ruled out the exercise of the Austrian veto. See FREI, P., Die Papstwahl des Jahres 1903 unter besondere Be¬rücksichtigung des österreichisch-ungarischen Vetos, Bern 1977, p. 46.
span of time that elapsed from the previous exercise of the right also played a role. However, we cannot overlook the fact that one of the “players” — Austria-Hungary — still approached the Emperor’s veto as a standard, albeit rarely used, means of achieving its goals.

According to the traditional practice, three countries — Austria, France and Spain — had the option of excluding an unacceptable candidate. However, only the Habsburg Monarchy maintained an uninterrupted tradition, including standard diplomatic and monarchist structures. In Vienna, every papal election naturally meant careful preparations and clear instructions as to the most suitable course of action for imperial representatives. Emperor Franz Joseph did not deviate from these routine mechanisms in any way but tended to consolidate them with his thoroughness and extensive interventions in the administration of the Monarchy. These Austrian practices were known in Vatican and European diplomatic circles; however, since in the last three conclaves prepared instructions had not been applied, there was not much inquiry into details, and backstage negotiations mostly did not reach beyond Austrian diplomatic channels.

However, the Vienna foreign office continued working according to routine practices. The first concern was to maintain contacts with so-called national cardinals, who were supposed to represent the Emperor’s interests in the conclave. Regardless of how current the papal election was, it was always determined in advance who would be the bearer of the „secret“ (secretum) in case the conclave was summoned, that is, who would present the Emperor’s formal veto if necessary. If the appointed cardinal or his deputy died, the replacement was immediately dealt with. Therefore with regard to the 1903 conclave, in no case can we say that Austrian diplomacy began to consider who would present the Emperor’s objections only at the moment of Leo’s death. It was more of a personnel issue, for the existing cardinals had either just died, or were not able to succeed in their posts. The choice was therefore made for the Krakow Archbishop Jan Puzyna, who enjoyed good relations and mutual respect with the Emperor.18 The Polish nobleman Puzyna thus assumed the post of one of the crucial men of the Austrian delegation, and of the conclave as a whole.19

In addition to these “regular” tasks, Austrian diplomacy in the years before the conclave focused on the question of a joint course of action with other countries. During the 1890’s, the possibility of arriving at a unified policy arose several times, but there was never enough readiness and will to achieve a satisfactory goal. This also explains why no vision of a joint course of action existed, and each country saw the veto issue differently. Negotiations between the German and Austrian parties got the furthest; however, some testimonies show that at least between 1898 and 1902, the issue was not mentioned at the highest level at all. German politicians were convinced before the conclave that even though the Austrians still operated with the veto, they would almost certainly not use it. The French were of the same opinion, as the Viennese embassy confirmed as late as July 1903. French diplomacy was reassured in this position by the fact that they did not consider their right of exclusion at all, which

18 ENGEL-JANOSI, F., Österreich und der Vatikan II. ..., p. 27.
19 See OBERTYŃSKI, Z., op. cit., p. 187.
could be responsibly claimed about the Spanish party as well. The eventual Austrian course of action therefore drew and captured extraordinary attention, much more than was originally admitted in the backrooms.

CONSEQUENCES OF THE EXERCISE OF JUS EXCLUSIVAE AND LEGAL REGULATIONS

The election of Pius × attracted much attention, even though the public was initially not informed about the course of its development. The new pope began a different era in the direction of the Catholic Church, though in many things he continued in the footsteps of his predecessors, Pius IX and Leo XIII. Austrian diplomacy was satisfied with the election, even though their candidate did not succeed. With respect to the threat of Rampolla’s election, the apolitical Sarto, focused on church matters and conservative in his opinions, appeared to be ideal for Austrian interests. Pius × showed his benevolent face to the Habsburg Monarchy after a short time — he twice granted a personal audience to Cardinal Puzyna, and promises of restoring relationships were pronounced during the initial audience of the ambassador Szécsen. However, for our topic of the jus exclusivae, subsequent developments in the spheres of church and politics are not so significant as the consequences for further developments which exercising the right of exclusion brought about.

Although jus exclusivae played a role in the election of Pius, the Pope was actually no different from most members of the College of Cardinals. For him too, any state interventions in internal matters of the Catholic Church were inadmissible, and with his straightforwardness and certain simplicity, he quickly decided not to allow any more overuse of this institute. We cannot say, however, that legal regulations implemented under this Pope’s pontificate were purely the result of his single-mindedness. As a matter of fact, in many ways he only continued in processes already initiated by his predecessor Leo XIII and former Secretary of State Rampolla.

Leo XIII’s efforts to better provide for a future conclave began with the above-mentioned constitution Praedecessores nostros, which was completed in 1882. However, it was not until the late 1880s that the Vatican began to seriously deal with the jus exclusivae issue. Historians agree that the reason for this was an 1888 book Das Ausschließungsrecht (Jus Exclusivae) der katholischen Staaten Österreich, Frankreich und Spanien bei den Papstwahlen by Ludwig Wahrmund, a prominent expert in the question of the monarchical veto. This author later expanded his research to include more findings.20 The results were problematic for the Vatican — Wahrmund came to the conclusion that jus exclusivae was actually a legal tool, rather than just a custom or tradition.21 It was cer-

tainly no coincidence that at the same time, the Austrian foreign ministry charged its expert, section head Count Carl Kuefstein, to prepare an analysis of the same issue to be used in the service of Austrian diplomacy. He too reached the conclusion that it was a law even though its exercise aroused increasing opposition.22

The Vatican naturally disagreed with such an interpretation. Yet works in the consistory in the early 1890s did not yield any concrete results. Further work on the issue only commenced in June 1903, when Pope Leo XIII ordered that the right of exclusion be subject to more research. It is believed that the reason for reopening the issue was the Vatican’s concern about the exercise of *jus exclusivae* in the next papal election, even though it was probably more of a theoretical question. The Pope and his State Secretary reacted to information from the Paris Nunciature that the Austrian Ambassador to London, Albert Mensdorff-Dietrichstein, had investigated the French cardinals’ opinion on *jus exclusivae* and whether they would agree with its exercise.23

Following the Pope’s death, however, all that was put aside and a conclusion was left to Pius’s new administration. Needless to say, thanks to the previous veto, involvement in this area gained a whole new dimension and level of activity.

The task of assessing *jus exclusivae* and preparing appropriate documents to prevent its further misuse was entrusted to a special committee supervised by the Congregation for Extraordinary Ecclesiastical Affairs, with a particular involvement by Pietro Gasparri.24 Materials for the Roman Curia’s final decision on this matter were prepared by Eugenio Pacelli — one of many men who significantly influenced the direction of the Catholic Church in the following years. Even though we do not have much information on the committee’s activity, we can assume that it was well aware of the attention that the Austrian veto attracted worldwide after its application came to light. For weeks on end, the daily press dissected various details and speculations,25 and discussions also spread to the grounds of Parliament.

Both Pacelli and Gasparri had to first of all take a stand on the widespread opinion that *jus exclusivae* was an actual legal institute based on common law. Pacelli disagreed with this interpretation, and through a historical and legal analysis came to a clear conclusion that it was only a Church-tolerated means of coercion by Catholic monarchs, which had evolved from the times of monarchical absolutism. Pacelli’s opinion was also supported by a supplementary exposition by a Roman canonist and future Jesuit general, Francesco Saverio Wernz, and the future cardinal Augusto Sili.26

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22 See FREI, P., op. cit., pp. 31–34.
23 It cannot be determined to what extent this information was correct. Friedrich ENGEL-JANOSI, F. (Österreich und der Vatikan II., p. 24) found it in the work of the Jesuit M. Scaduto (SCADUTO, M., *I precedenti di una riforma e le leggi di Pio X. sul conclave*, in: Civiltà Cattolica, Vol. 95, 1944, p. 148).
24 Pietro Gasparri later became the Secretary of State, for both Benedict XV and Pius XI. We also cannot omit his major contribution to the new codification of the canon law.
25 Analysis of the daily press can be found at FREI, P., op. cit., pp. 75–87.
26 Eugenio Pacelli also became the Secretary of State and subsequently reached the Papal See. His 120-page work was called *Il veto di esclusione nel conclave*, and in addition to Pacelli’s analysis also contained analyses by Wernz (pp. 86–107) and Sili (pp. 108–120). The
Several things made it possible to finally do away with this tolerated interference in papal elections. First among them was certainly the determination of the Roman Curia, strengthened by the joint opposition and disgruntlement of all groups at the Vatican court. Another factor was a concern that in case of passivity a similar development might occur during the next conclave. The centralized Church was no longer willing and able to “turn a blind eye” to infringement of its autonomy. Gradual “burn-out” of those who had been endowed with the veto was a third element. This was obvious in the case of France, which embarked on a path to full separation of church and state, thereby basically losing any rights. Spain stood aside and did not play any major role during the last election. The only remaining problem was with Austria-Hungary, which tried to step back and ward off the commotion after Puzyna’s appearance but definitely did not want to surrender its right. This is why a fourth element had to be brought into play — the ambiguous legal classification of *jus exclusivae*. In fact, even Austrian diplomacy was not sure how to present the veto. In his speech, Cardinal Puzyna talked about an old right and privilege,\(^27\) which was confirmed by Foreign Minister Gołuchowski, who called the monarchic veto common law.\(^28\) However, after intense pressure from conservative and Catholic deputies, he explained that the Emperor had only expressed his opinion and wish. It was up to the cardinals to what extent they would follow this “request”.\(^29\)

Work on the relevant legislative decrees was finished quite quickly, by the end of 1903. The constitution *Commissum nobis*, prohibiting the monarchic veto once and for all, was issued on 20\(^{th}\) January 1904. Its main argument was that *jus exclusivae* was never acknowledged by the Church. And since previous measures adopted by Pius’s predecessors proved insufficient, it was necessary to issue this constitution. There was an interesting claim that space for any tolerance had come to an end: “the changed situation shows that such infringement by secular power has lost any justification in our time....”\(^30\) It was therefore to be forbidden to use any means that would lead to the veto and to exercise the actual *jus exclusivae*. After this passage which considered relations between the Church and secular power, the constitution turned to its “own ranks”. Under penalty of excommunication, cardinals were prohibited from accepting instructions for the exercise of the veto from the secular power even if they concerned a mere wish. Any measure of this kind which even remotely resembled *jus exclusivae* was to be of no interest to the cardinals. In order to clarify all details, the constitution was followed by an “implementing regulation” by the State Secretariat.

\(^27\) “...*jure et privilegio antiquo*...” MATHIEU, F.-D., op. cit., p. 280.

\(^28\) See the draft of memorandum (18. 9. 1903). ENGEL-JANOSI, F., Österreich und der Vatikan II. ..., pp. 50–51.

\(^29\) ENGEL-JANOSI, F., Österreich und der Vatikan II. ..., p. 51.

\(^30\) “... mutata temporum adiunctas huiusmodi civilis potestatis immixtio nostra aetate mul‑to videatur magis omni rationis et aequitatis fundamento destituta...”
On 29th January 1904, the new legislation was sent out to all cardinals and on 30th January to all nuncios. Countries were not informed, but we can assume that they presently learned about the constitution and its diction. The Vatican left nothing to chance and enhanced the importance of the constitution by incorporating it into another constitution that dealt with the papal election, the *Vacante Sede Apostolica* of 25th December 1904. At the same time it was decided that the constitution would be read out during the appointment of new cardinals, as well as after the pope’s death at the first general assembly of cardinals and then at the opening of the election conclave. Cardinals had to pledge to adhere to the provisions. The long history of *jus exclusivae* was formally closed by these stipulations.

The extent to which the new legislation had a real impact can be best judged from the next conclave following the death of Pius X in 1914. The election took place at the very beginning of the World War, i.e., under the impression of events that stirred European politics after the assassination of the Austro-Hungarian successor, the Serbian ultimatum and a declaration of war. The governments of Spain and France did not get significantly engaged in the election, which is understandable particularly in the case of France, which completed its separation of church and state. Austro-Hungarian diplomacy, on the other hand, maintained its routine mechanisms even through it was aware that there was no return before 1903. Ambassador to the Apostolic See Prince Schönburg kept relating to Vienna the prospects of each cardinal in the expected conclave, and the imperial diplomacy maintained contacts with national cardinals, including the appointment of the crown cardinal, the holder of “the secret” (secretum).

Yet this situation has to be clearly distinguished from that which allowed the events of the 1903 conclave. For one thing, there was the new legislation which definitely prohibited the use of *jus exclusivae*. Holders of the secretum formally operated, but that did not necessarily mean they would be willing to present the veto in public. The position of Cardinal Skrbensky therefore represented more of an authorization to promote imperial interests and closely cooperate with the Emperor’s ambassador to the Apostolic See. The change in atmosphere is also documented by Vienna’s explicit instruction to its representatives not to use the veto this time. The Austrian party was aided in its decision-making by a relatively favourable distribution of powers and the absence of an utterly “unsuitable” or “dangerous” person that could fa-

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31 Austrian Ambassador Count Szécsen sent the text of the constitution to Vienna as early as on 8th March 1904 (FREI, P., op. cit., p. 96). The public officially learned about the provisions only in 1909.
32 “Et Ego N. Cardinalis N. spondeo, voveo, ac iuro.”
34 Prague Archbishop Lev Skrbensky, who “backed” Cardinal Puzyna in 1903, became the holder of secretum. See ibidem, p. 295.
tally harm Austrian interests upon his election. The election stretched over several days, but agreement on the respected and acceptable Bolognese Cardinal Giacomo Della Chiesa was achieved without any major complications. The course of the election, with no noticeable secular intervention, and the dissolution of Austria-Hungary after 1918 completed the process of extinction of the *jus exclusivae* institute.

**ABSTRACT**

**THE END OF THE RIGHT OF EXCLUSION**

**CONCLAVE OF 1903 AND THE NEW LEGISLATIVE OF POPE PIUS X**

The study presents and analyses events that took place at the beginning of the 20th century in connection with the election of a new pope Pius X and the ending of Right of Exclusion. The existing Secretary of State Mariano Rampolla del Tindaro played a crucial role in these events. Personal ambitions of this man and a complicated situation in foreign policy made the 1903 papal conclave an extraordinarily complex encounter of European powers, which heralded many developmental trends of the upcoming years. The constitution *Commissum nobis*, prohibiting the monarchic veto once and for all, was issued on 20th January 1904. The Vatican left nothing to chance and enhanced the importance of the constitution by incorporating it into another constitution that dealt with the papal election, the *Vacante Sede Apostolica* of 25th December 1904. At the same time it was decided that the constitution would be read out during the appointment of new cardinals, as well as after the pope’s death at the first general assembly of cardinals and then at the opening of the election conclave. The long history of *jus exclusivae* was formally closed by these stipulations.

**KEYWORDS**

Right of Exclusion, Papacy, Catholic Church, Pius X, Mariano Rampolla

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