

# ANNIBALE DELLA GENGA AND THE NEW FORMATION OF THE GERMAN CHURCH. HIS DIPLOMATIC EFFORTS TOWARDS THE GERMAN COUNTRIES AS NUNCIO IN THE YEARS 1794-1808 AND HIS LATER POLICY AS POPE

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The policy towards Germany of pope Leo XII was influenced by his former activity as nuncio for several years in these countries. From that time on he knew the tensions between the enlightened territorialism of the States and the ecclesiastical demands for ecclesiastical independence and autonomy. As policy options of the Papacy stand in opposition strict adherence to the principles or political concessions, through which the position of the Church could be strengthened. Although della Genga aimed for an anti-enlightenment restoration of the Church's life from the beginning, during his time as papal legate he could make a lot of perceptions, which have deeply influenced his later politic as pope. Therefore this presentation has to include these formative experiences.

## **The front line against Febronianism and Enlightenment**

On 21 February 1794 Annibale della Genga received the episcopal ordination and was appointed apostolic nuncio of lower Germany (Cologne), after he had finished his studies at the *Accademia dei Nobili Ecclesiastici* already in 1790. As for his predecessor Bartolomeo Pacca, who was in meantime appointed as papal representative in Lisbon, Cologne was the first nuntiatur for him, characterized by the neighborhood of protestant areas and by the influence of enlightenment<sup>1</sup>.

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1 Cf. R. COLAPIETRA, *La formazione diplomatica di Leone XII*, Istituto per la Storia del Risorgimento Italiano, Roma 1966, pp. 7-15.

Above all he wanted to combat the episcopalism of the German bishops like his predecessor. In 1786 in Bad Ems the four German archbishops had insisted on their traditional rights in a “Punktation” in view of increasing papal centralism. As French revolutionary troops occupied the city of Cologne in 1794, he took his residence in Augsburg as guest of the elector Clemens Wenzeslaus of Saxony, archbishop of Trier and bishop of Augsburg. Augsburg was the most important starting point for his diplomatic activities. The hosting archbishop was subsequently the only, whom della Genga judged positive<sup>2</sup>. In Mainz and Salzburg in his eyes an unecclesiastical enlightenment was predominant.

The postrevolutionary shifts of State borders and the enlightened territorialism of the States with secular heads constitute a profound threat to the existence of the Church of the Empire (*Reichskirche*). To secure the position of the Church had so to be one of the central concerns of della Genga. At the same time it was necessary to represent the Roman-papal interests as nuncio. In Bavaria since 1777 (the entrance of government of elector Carl Theodor) a convergence of interests between enlightened State and Roman Curia had come about: In 1785 this led to establish a Bavarian nunciature in Munich is. The nuncio should be at the same time bishop of the City of Munich as new bishopric<sup>3</sup>. The nuncios in Munich were paid by the Bavarian State, which received in return the Roman permission to tax the monasteries in its territory. In opposition to the nunciature, therefore, the bishops stood, who saw themselves curtailed by their traditional jurisdictional rights. So one of the basic questions for della Genga so was, if he wanted to strengthen either the traditional rights of the bishops and of the whole Church of the Empire, or is to strive to develop the influence of Rome on the German Church in an alliance with the territorial States. On the 13th of April 1795 died the nuncio in Munich, Giulio Cesare Zoglio. Della Genga was entrusted also with the intertemporal administration of the functions

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2 Cf. *Ibid.*, p. 18.

3 Cf. F. ENDRES, *Die Errichtung der Münchener Nuntiatur und der Nuntiaturstreit bis zum Emser Kongreß*, Junge, Erlangen 1908.

of the Munich nunciature (18th of May 1795-1726 of April 1796), because the new nuncio, Emidio Ziucci, only a brief year after his nomination in Munich arrived. During this time della Genga already attached contacts with Duke Max Joseph of Pfalz-Zweibrücken, who became the successor of elector Carl Theodor, who had no legitimate descendants. But the court of the duke already avoided to address della Genga with title “nuncio”<sup>4</sup>. The new elected pope Pius VII felt in 1800 constrained for multiple reasons – he head a burden of debt which made him to a compliant instrument of the elector – to draw off Ziucci from Munich<sup>5</sup>.

Hereupon della Genga was accredited also as temporary nuncio in Munich. The Munich Court refused the recognition having no more interest in a Nunciature. In vain he made attempts to be recognized<sup>6</sup>. Also della Gengas expenses were significantly higher than his income from the Roman salary. So he had to sell liturgical vestments. And to fight like Ziucci with enormous slander<sup>7</sup>. Again and again he complained about his financial situation to cardinal Ercole Consalvi and especially to cardinal Leonardo Antonelli<sup>8</sup>. Only on November 14, 1801, Consalvi allowed della Gengas departure to Rome; still at the end of the following month he leaved Augsburg. Arrived in Rome, he was kept informed by the reports from his Uditore Troni<sup>9</sup>.

After the peace agreement of Luneville and after the final cession of the areas left of the Rhine to France, in Regensburg the negotiations began on compensation for the German Princes. Compensation mass was the Holy Empire and thus especially the possession

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4 Cf. G. SCHWAIGER, *Die altbayerischen Bistümer Freising, Passau und Regensburg zwischen Säkularisation und Konkordat (1803-1817)*, Kommissionsverlag Max Hueber, München 1959, p. 90.

5 Cf. *Ibid.*, pp. 89 f., 92-94.

6 Cf. *Ibid.*, *Die altbayerischen Bistümer* cit., pp. 91 f.

7 Cf. B. BASTGEN, *Bayern und der Hl. Stuhl in der ersten Hälfte des 19. Jahrhunderts*, Lentner'sche Buchhandlung, München 1940, p. 489.

8 Cf. *Ibid.*, pp. 101 f.

9 Cf. *Ibid.*, pp. 127 f.

of the Church<sup>10</sup>. In the years of 1802 and 1803 a deputation of the Empire negotiated in Regensburg, which finally decided the mediation of nearly all imperial immediate territories, which were governed by a bishop or a monastery. A second important result was the secularization of the fortune of nearly all monasteries and collegiate chapter churches. While the fortunes of the parishes remained largely untouched, the congregations and religious communities and the whole diocesan organisation (episcopal office, also the universities and seminaries) received a serious blow. At the same time, however, the “Reichsdeputationshauptschluss” also stated that no changes should be made of the religious situation, so that the Church constitution had to be renegotiated at the level of the Empire. As the last guarantor of the unity of the Church of the Empire, the State of the archbishop of Mainz (of the arch-chancellor) was not secularized, although Mainz on the left bank of the Rhine has fallen to France. But the areas of Mainz on the right side of the Rhine were united with Wetzlar as seat of the “Reichskammergericht” (Imperial Chamber Court) and with Regensburg as seat of the “Reichstag” (Imperial Diet). So a new “Erzkanzlerstaat” was built and the seat of the Archbishop of Mainz was transferred to Regensburg. The archbishop was Carl Theodor von Dalberg (1744-1817), who had succeeded in 1802. Dalberg completely lived within the cultural tradition of the imperial Church<sup>11</sup>. He wanted to save into a new time as much of the imperial Church as possible. Such a supra-territorial Church with sufficient financial autonomy seemed to him as a guarantor for being able to oppose the ambitions of the individual German States relating to the jurisdiction of the Church.

Della Genga pursued these events from Rome. He condemned the toleration laws that had become necessary in many States, especially in Bavaria, because they had to integrate new areas with non-Catholic

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10 Cf. K. HAUSBERGER, *Reichskirche – Staatskirche – “Papstkirche”. Der Weg der deutschen Kirche im 19. Jahrhundert*, Pustet, Regensburg 2009, pp. 69-120.

11 Cf. K. UNTERBURGER, *Carl Theodor von Dalbergs Selbstverständnis als Bischof und Schriftsteller*, in C. WEBER (a cura), *Bischof und Landesherr in Regensburg. Carl Theodor von Dalberg (1744-1817) zum 200. Todestag*, Schnell & Steiner, Regensburg 2017, pp. 20-29.

inhabitants. The deep changes and the duty to negotiate a new constitution of the Church made della Genga's presence in Regensburg necessary. But his departure from Rome has been delayed more and more<sup>12</sup>: The emperor refused the acceptance of a papal Brief which disapproved the secularization; negotiations about the future of the Church began in Vienna and were led by the nuncio there, Gabriele Severoli; the papal finances lacked also the means to equip della Genga as nuncio; additionally there were reports from Germany, that della Genga was ill suited as a nuncio, because he would live too little spiritually and would love too much the ladies<sup>13</sup>. It was, after all, Napoleon, whose pressure forced the sending of the nuncio<sup>14</sup>. Dalberg wanted to save the Church of the Empire and the Corsican supported him at least temporarily, while a part of the German States, especially Bavaria, preferred in competition to these plans to conclude concordats between Rome and there individual States. These separate concordats contained the opportunity for extending sovereign rights over the Church in detriment of the bishops. The instruction which was given to della Genga determined to negotiate only at the level of the Empire, but just only, so long the Empire still exists. Should it come, however, to its dissolution, the way would free to conclude separate contracts with the single States<sup>15</sup>.

Della Genga did not have a very favorable opinion about the Christian population in Germany. Beer enjoyment makes them phlegmatic, so that they are indifferent to the confessional question<sup>16</sup>. In order to work not even more into the hands of unbelief, he was, however, ready for some flexibility: So he had little understanding of the anachronistic Roman insistence that the Catholic faith must be defined in mixed denominational States as a State religion. Also in the confirmation of the cardinal Joseph Fesch, Napoleon's half uncle,

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12 Cf. SCHWAIGER, *Die altbayerischen Bistümer* cit., p. 77.

13 Cf. *Ibid.*, pp. 129 f.

14 Cf. *Ibid.*, p. 129.

15 Cf. *Ibid.*, pp. 132 f.

16 Cf. *Ibid.*, pp. 148 f.

as coadjutor of Dalberg, he advised flexibility<sup>17</sup>. His judgement on ecclesiastical personalities and institutions was however not free from resentment: Although he worked in vain for his patron, archbishop Clemens Wenzeslaus, as the new archbishop of Munich and cardinal, other Church personalities were simply defamed, for example the later archbishop of Bamberg, Joseph Maria von Fraunberg (1768-1842), whom he characterized as a “*bestia*”<sup>18</sup>, or the consistory of Freising with the Apostolic vicar Johann Jakob of Heckenstaller (1748-1832) as its head: The result was a papal brief in 1808, which alleged that the consistory was completely worldly minded<sup>19</sup>. Heckenstaller defended himself in a reply. Important informants for della Genga were the ex-Jesuits in Augsburg, who continued to live together after the dissolution of their religious community 1773 and formed a journalistic center of a reactionary anti-enlightenment catholicism. The most important of them was Johann Jakob Zallinger von Thurn (1735-1813), who was an opponent of Roman rigorism in the matter of State religion in Bavaria<sup>20</sup>. He supplied him, for example, a comprehensive compilation of a catalog of heresies, allegedly represented by the vicar-general of Constance, Ignaz Heinrich von Wessenberg (1774-1860)<sup>21</sup>. From this source also fed the negative judgment on the theologian Johann Michael Sailer (1751-1832), although this did much to overcome the Enlightenment and to spiritually renew the German clergy<sup>22</sup>.

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17 HÖMIG, *Carl Theodor von Dalberg* cit., pp. 353 f.

18 BASTGEN, *Bayern* cit., pp. 150-156.

19 Cf. SCHWAIGER, *Die altbayerischen Bistümer* cit., pp. 191-194.

20 Cf. COLAPIETRA, *Formazione* cit., p. 177.

21 Cf. BASTGEN, *Bayern* cit., pp. 162 f.

22 Sailer an Papst Pius VI. [1796], in H. SCHIEL (a cura), *Johann Michael Sailer. Leben und Briefe. I: Leben und Persönlichkeit in Selbstzeugnissen, Gesprächen und Erinnerungen der Zeitgenossen*, Pustet, Regensburg 1948, pp. 271-273; C. HENZE, *Zur Rechtfertigung des Sailer-Gutachten des Hl. Clemens Maria Hofbauer*, “*Spicilegium historicum Congregationis SSmi Redemptoris*”, VIII, 1960, pp. 69-127, here pp. 85-93.

### **The negotiations for a concordat with Bavaria 1806/1807**

At the end of June, 1806, della Genga reached the town of Regensburg. There Dalberg knew that the envoy had no special interest in a concordat for the whole Empire<sup>23</sup>. Really della Genga travelled already in July to Munich to begin with negotiations with Bavaria about a separate concordat. After the peace of Bratislava Bavaria was proclaimed as a Kingdom on the 1st of January, 1806. At the middle of June the Confederation of the Rhine was proclaimed, so that the Holy Roman Empire broke down and the emperor laid down his crown on the 6th of August. Now in della Genga's perception the way was free for separate negotiations with the single States. This contradicted to the conception of Dalberg, who wanted a uniform concordat with the Confederation of the Rhine. In this manner Dalberg wanted to keep alive a piece of the old Empire.

The negotiations with Bavaria were characterised by a strange competition of negotiation: Since November 1803, bishop Johann Casimir Häffelin was the Bavarian ambassador to the Apostolic See and so the competitor of della Genga. Bavaria wanted a Separate Concordat and instructed Häffelin: The aim was the circumscription of bishoprics, especially of an archepiscopal see in Munich. This archbishop should have ceremonial significance for royalty and should exercise supervision over the Church. Another goal was the acceptance of a tolerance legislation which did not hurt the new Protestant subjects. When della Genga entered official negotiations with Munich 1806, the Bavarian part was represented by Count Aloys von Rechberg (1766-1849). A first disagreement over the question of a royal right of nomination of the bishops could be overcome, as the papal envoy finally admitted it<sup>24</sup>. The Roman examination of the draft of the concordat lasted, however, very long. Finally, one demanded that in Bavaria the Catholic faith must again become State religion<sup>25</sup>.

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23 Cf. H. HÖMIG, *Carl Theodor von Dalberg. Staatsmann und Kirchenfürst im Schatten Napoleons*, Ferdinand Schöningh, Paderborn etc. 2011, pp. 320-322.

24 Cf. A. DOEBERL, *Die bayerischen Konkordatsverhandlungen in den Jahren 1806 und 1807*, Datterer & Cie., München-Freising 1924, pp. 68-94.

25 Cf. DOEBERL, *Die bayerischen Konkordatsverhandlungen* cit., pp. 111-117.

Thereupon the Bavarian government broke off the negotiations. In these negotiations, della Genga regretted the Roman rule-riding, which still makes a question of principle out of trifling matters. Thus only plays into the hands of the anti-Church forces in the government around the leading minister, Maximilian count of Montgelas<sup>26</sup>.

Therefore della Genga had acquired through direct contact extensive knowledge of the state of the Church within the German countries. After 1815 the future belonged to separate conventions. Dalberg's idea of an unitary concordat for Germany as a whole failed due to the opposition of many individual German States and also of the Roman Curia<sup>27</sup>. Fundamental tensions remained:

- (a) Respect to the principles of religious freedom and tolerance or insisting on the traditional catholic point of view of the Catholicism as State religion. This problem also concerned the matrimonial law. The pressure factor there was that priests could refuse the assistance, which was necessary for the validity of marriage in the opinion of the Church.
- (b) For hedging the Church by a concordat in order to strengthen their financial and institutional position, concessions to the States were required. Catholic rulers claimed the right to nominate the bishops and other ecclesiastical executive positions, protestant rulers at least usually a veto right. However also here the basic question was, how far some concessions of the Church concerning some state co-determination rights could help to improve the standing of the Church in general.

For Bavaria a concordat was negotiated 1817 strongly favouring the interests of the pope<sup>28</sup>. To the king were conceded many nomina-

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26 Cf. BASTGEN, *Bayern* cit., pp. 144 f.

27 Cf. K. HAUSBERGER, "Untereinander und mit dem Oberhaupte der Kirche enge geeint". Dalbergs Pläne für die Neuordnung der deutschen Kirche nach der Säkularisation, "Rottenburger Jahrbuch für Kirchengeschichte", XXIII, 2004, pp. 123-139.

28 The text of the concordat in E. R. HUBER, W. HUBER, *Staat und Kirche im 19. und 20. Jahrhundert. Dokumente zur Geschichte des deutschen Staatskirchenrechts. Vol. I: Staat und Kirche vom Ausgang des alten Reichs bis zum Vorabend der bürgerlichen Revolution*, Duncker & Humblot, Berlin 1973, pp. 170-177.



tion rights in particular concerning the appointment of the bishops; otherwise the ecclesiastical maximum demands were largely conceded. This was made possible with to the overthrow of the minister Montgelas and the power vacuum within the government thereby created. Another factor was that the Bavarian negotiator, bishop Häffelin, was working simultaneously on his ecclesiastical career, hoping to earn the cardinalate for successful negotiating. In this way he made concessions not covered by his instructions<sup>29</sup>. To safeguard the rights of the State the government published 1818 together with the new constitution a religion edict<sup>30</sup>. This edict should alleviate the provisions of the concordat; they should be made compatible with the enlightened idea of tolerance. The tensions and contradictions between concordat and religion edict defined the Church political conflicts in Bavaria since then. Important controversial questions were (according to Church's opinion) the incomplete implementation of the concordat (insufficient financial foundation of the episcopal sees, lacking restitution of monasteries; insufficient creation of the promised seminaries). Added to this was the control of the Church by the State (*recursus ab abusu; placet regium*). Catholicism in Bavaria was indeed the majority religion, but not as demanded by the Curia and the nuncios the official State religion<sup>31</sup>.

To dissolve these conflicts pope Leo XII had great hopes for the crown prince Ludwig. Ludwig succeeded his father to throne in 1825. Already before he had given signals of strengthening and rebuilding the status of religion and Church<sup>32</sup>. Nuncio Francesco Serra Casano (1783-1850) was thus instructed to not disturb him (for example 1826 and 1828 on the issue of the *placet regium*) and so to

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29 Cf. K. HAUSBERGER, *Staat und Kirche nach der Säkularisation. Zur bayerischen Konkordatspolitik im frühen 19. Jahrhundert*, EOS Verlag, St. Ottilien 1983, pp. 137-201.

30 The text of the edict, 1818 V 26, in HUBER, HUBER, *Staat cit.*, pp. 128-139.

31 Cf. HAUSBERGER, *Staat cit.*, pp. 222-234.

32 Cf. R. HACKER, *Die Beziehungen zwischen Bayern und dem Hl. Stuhl in der Regierungszeit Ludwigs I. (1825-1848)*, Max Niemeyer Verlag, Tübingen 1967, pp. 43 f.

tolerate actes emerging from his strong self-awareness as sovereign. The Congregation for Extraordinary Ecclesiastical Affairs advised the pope in a report dated the first of June to work towards an official statement of the king of the priority of the concordat over the religion edict from 1818, because one couldn't count in this matter on the liberal majority of the state Parliement<sup>33</sup>. Within the instruction for the new papal legate Carlo Giuseppe Mercy d'Argenteau (1787-1879) in 1827 there was also the directive to work towards such a declaration. The nuncio however wanted to avoid a direct confrontation on this matter<sup>34</sup>. Later, in the years 1829 and 1830, after the death of the pope, the king's attitude towards the sovereignty of the State over the Church has hardened: The reason for this was that the king was annoyed about the increasing agitation of the backward-oriented ultramontane catholic movement. The minister Joseph von Armansperg (1787-1853) declared in a report for the king 1829 that the main cause of the new ecclesiastical rigidity was the change in the pontificate in Rome, because pope Leo XII possessed good knowledge and cosmopolitan spirit, while the new pope Pius VIII shows zealous tendencies<sup>35</sup>. To the issue of mixed marriages the single bishops followed different maxims during the pontificate of Leo XII<sup>36</sup>. Only the conflicts of the year 1830 led to negotiations between the government and Rome. There the pope insisted in a brief of May 27, 1832, on the position of the canon law<sup>37</sup>. Only the massive pressure by the king and the petitions of the Bavarian episcopate induced the pope to a pastoral mitigation. On September 12, 1834, he issued a corresponding instruction<sup>38</sup>.

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33 Cf. *Ibid.*, pp. 51 f.

34 Cf. *Ibid.*, pp. 52 f.

35 Cf. *Ibid.*, pp. 57-61.

36 Cf. *Ibid.*, pp. 74-80.

37 The brief of the pope, 1832 V 27, in HUBER, HUBER, *Staat* cit., pp. 464-466.

38 Instruction of the cardinal secretary of State, 1834 IX 12, in *Ibid.*, pp. 468-470.

## The relationship to Prussia

Prussia was by far the biggest German State, which due to the transformation after Napoleon gained new and great territories in the West and in the East; a large number of Catholics lived in these areas, so that the proportion of these in Prussia as a whole amounts ca. one third. They had to be integrated into the State; together with the Holy See Prussia pursued besides an anti-revolutionary orientation. That's why the government in 1814 decided to open the legation in Rome again. The historian of antiquity Barthold Georg Niebuhr (1764-1831) retained this position<sup>39</sup>. The Prussian Protestants refused the conclusion of a concordat. Therefore it was determined to publish the results of the now beginning negotiations separately as a state law and as a papal bull<sup>40</sup>. The bull of circumscription *De salute animarum* (1821)<sup>41</sup> regulated not only the boundaries of dioceses, but also the allocation of the bishops, the cathedral chapters and the seminaries. Determined was the right of the cathedral chapters to elect the bishops, but the State could remove candidates from the electoral list. During the papal administration of Leo XII the Prussian government metted the obligations of the contract only gradually.

But the main issue should become the question of living together with the Protestants, especially in the question of mixed marriages. This issue was tightly connected with the integration of the catholics into the Prussian State. For the first the question was intensively discussed when the marriage between the Crown-prince Friedrich Wilhelm IV. and the Bavarian catholic princess Elisabeth Ludovica (1801-1873) was negotiated<sup>42</sup>. Nuncio Serra-Cassano asked, whether he was allowed to participate in such an event. In 1823, Rome dispensed after all from the obligation to baptize and educate the children as catholics, considering the chance to have a catholic queen in Prussia.

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39 F. HANUS, *Die preußische Vatikanengesandtschaft*, Pohl & co., München 1953, pp. 154-195.

40 HAUSBERGER, *Reichskirche* cit., pp. 168-172.

41 The bull "*De salute animarum*", 1821 VII 16, in HUBER, HUBER, *Staat* cit., pp. 204-221.

42 Cf. HANUS, *Preußische Vatikanengesandtschaft* cit., pp. 209 f.

The papal legate heard about this dispensa too late and stayed away from the ceremony. Meanwhile Christian Karl Josias Bunsen (1791-1860) succeeded Niebuhr as Prussian legate in Rome<sup>43</sup>.

The question of mixed marriages involved explosive potential. Unilateral, without negotiations with the Holy See, an order of council on August 17, 1825, mandated<sup>44</sup>, that the practice of the eastern areas of the country has to be extended to all other provinces: Children have to be educated within the confession of their father; different agreements are null and void. A part of the clergy now resisted and refused the consecration of marriages. Thus Prussia had to seek negotiations through Bunsen. Against resistance within the College of cardinals the pope signaled to Bunsen concessions<sup>45</sup>. By the time the pope died on February 10, 1829, the hopes of the Prussian emissary disappeared reporting: Despite the reactionary beginning of the pope, a good relationship to him has been developed through the influence of cardinal Tommaso Bernetti (1779-1852)<sup>46</sup>. Finally the negotiations of Bunsen with the pope's successor, Pius VIII, had a satisfactory result. A papal brief decided on March 25, 1830, that the catholic wedding mass should only be allowed, when the catholic education of the children was conceded. A catholic priest however could be present and could in this manner make the marriages valid according to the formal obligations of the Council of Trent<sup>47</sup>. In this way the state practice was accepted in substance. And yet the Prussian part was not very happy about this solution: Still the catholic part was admonished by the clergy to work towards the catholic education of the children and the catholic wedding liturgy. The conflict escalated later, when pope Gregory XVI wanted to implement the provisions of the canon law fully.

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43 Cf. *Ibid.*, pp. 196-244.

44 Kabinettsordre 1825 VIII 17, in HUBER, HUBER, *Staat cit.*, p. 312.

45 Cf. HANUS, *Preußische Vatikangesandtschaft cit.*, pp. 213 f.

46 Cf. *Ibid.*, p. 214.

47 The brief of pope Pius VIII, 1830 III 25, in HUBER, HUBER, *Staat cit.*, pp. 317-321; Instruction of the cardinal secretary of State, 1830 III 27, in *Ibid.*, pp. 321 f.

## Negotiations with the Kingdom of Hannover and with the States of the new established Upper Rhine Church province

At the Congress of Vienna in 1815 also Hannover was raised to Kingdom and received further regions. Some of them had a catholic character like the Emsland or the Untereichsfeld. Thusly the proportion of catholics exceeded 10% within the Kingdom. So early the government was open to separate negotiations for a concordat<sup>48</sup>. As delegates negotiated Friedrich von Ompteda (1770/1772-1819) and then Franz von Reden (1754-1831) with Consalvi<sup>49</sup>. On crucial issues remained many points of divergence, concerning the government's control of the Church and the appointment of officials, jurisdiction and the property of the Church. When in Prussia the State and the Holy See passed laws in an analog manner instead of a concordat, also the Kingdom of Hannover requested this solution. Shortly before the death of the pope Pius VII, an agreement was negotiated which was very similar to that in Prussia. Against the objections of the *zelanti*-group, but also against the reserve of a part of the royal lawyers, the agreement came into force at the beginning of the pontificate of pope Leo XII (pontifical bull *Impensa Romanorum Pontificum*, on March 26, 1824)<sup>50</sup>. This bull divided the Kingdom of Hannover into two bishprics, Hildesheim and Osnabrück. The financial allocation and the nomination of bishops of Osnabrück was postponed for the moment and had taken place only in 1858<sup>51</sup>. Until then the diocese was administrated in personal union from Hildesheim. But also the foundation of the cathedral chapter of Hildesheim took place only later, in 1828.

Concluding these separate concordats three important States of the German Confederation were thus pulled out of the common negotiations with the Holy See. The States in South-West remained. The

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48 Cf. H.-G. ASCHOFF, *Das Verhältnis von Staat und katholischer Kirche im Königreich Hannover (1813-1866)*, Lax, Hildesheim 1976.

49 Cf. HAUSBERGER, *Reichskirche* cit., pp. 179-182.

50 The Bull "*Impensa Romanorum Pontificum*", 1824 III 26, in HUBER, HUBER, *Staat* cit., pp. 299-308.

51 Cf. HAUSBERGER, *Reichskirche* cit., p. 185.

negotiations with them proved to be very difficult for a long time<sup>52</sup>. In 1821 one could only agree to the new circumscription of five bishoprics, namely Freiburg, Rottenburg, Mainz, Limburg and Fulda<sup>53</sup>. The old bishopric of Constance therefore went under. One reason for this was that the Holy See wanted to prevent that the elected Wessenberg in fact could take his office. He was regarded as an exponent of the enlightenment and he was even defamed in circles of the Roman Curia. Since 1818, at the headquarters of the German Confederation in Frankfurt it was consulted about the future structure of the catholic Church in Germany. The delegates pursued a more cooperative design of the future leadership of a diocese. The bishop should be integrated into a collegial governance structure together with cathedral chapter, thus not to govern like a monarch with the help of a general vicariate<sup>54</sup>. Point of contention has been also the mode to find a new bishop in case of vacancy and the public supervisory authority over the Church. Only 1827 the Holy See succeeded by making the offer to the grand duke of Baden to designate as archbishop of Freiburg his preferred candidate. The grand duke left the alliance and was willing to conclude a separate concordat<sup>55</sup>. Little by little even the other States relented subscribing to the compromise. The pontifical bull *Ad Dominici gregis custodiam* and related legislation of the states regulate the election of bishops according to the Prussian model, also the foundation of bishoprics, cathedral chapters and seminaries<sup>56</sup>. The balance between state control and ecclesiastical freedom subsequently was relocated by unilateral legislation on behalf of the States. Nonetheless, the foreign policy of pope Leo XII achieved reliable contracts by a certain readiness to compromise.

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52 D. BURKARD, *Staatskirche – Papstkirche – Bischofskirche. Die “Frankfurter Konferenzen” und die Neuordnung der Kirche in Deutschland nach der Säkularisation*, Herder, Rom etc. 2000.

53 The bull “*Providasolersque*”, 1821 VIII 16, in HUBER, HUBER, *Staat* cit., pp. 246-257.

54 Cf. BURKARD, *Staatskirche* cit., pp. 174-248.

55 Cf. *Ibid.*, pp. 634 f.

56 The bull “*Ad Dominici gregis custodiam*”, 1827 IV 11, in HUBER, HUBER, *Staat* cit., pp. 268-271.

## **Conclusion**

During his time as papal legate (1794-1801, 1806/1807) della Genga's aversion was reinforced to the principles of Enlightenment both inside and outside of the Church. He realized however also the necessity of political compromises to safeguard the institutional basis of the Church. He maintained this flexibility also later as pope. Despite of all restorative and anti-enlightening intentions, he was even able to make compromises, so that he could conclude contracts between the States and the Church and could promote the peaceful co-existence of Catholics and Protestants in Germany.

## **ABSTRACT**

Concerning his policy towards the German States pope Leo XII was able to draw on his former experiences as papal legate in these areas (1794-1801, 1806/1807). During this time della Genga's aversion to the principles of Enlightenment both inside and outside of the Church was reinforced, but realized also the necessity of political compromises to safeguard the institutional basis of the Church. He maintained this flexibility also later as pope. Despite of all restorative and anti-enlightening intentions, he was even able to make compromises, so that he could conclude contracts between the States and the Church and could promote the peaceful co-existence of Catholics and Protestants in Germany. The most important field of conflict was there the question of confessional mixed marriages.

**Keywords:** Enlightenment; concordat; confessional mixed marriages; Bavaria; Prussia; Holy Roman Empire; political flexibility; rigorism; nomination of bishops.