

society for more developed liberal institutions. Therefore liberal institutions could be introduced only in reduced forms until society became educated enough for their full acceptance. But apart from their general scepticism, the Croatian liberals particularly feared the possibility that wider classes of the population would be included even in the limited liberal institutions. They feared their uncontrolled and passionate influence on the political system. Both aspects, general and particular, strongly determined the reduced scope of Croatian liberalism and to a degree contributed to the autocratic colour of the relevant Croatian legislation.

Unlike the approach of the central government, which was more pragmatic and rather openly rigid in respect to the liberalization of Croatian institutions, the Croatian liberals were half open to the practical introduction of liberal institutions and more 'liberally' coloured in their ideological approach when institutions in Croatia were considered. However, in spite of different rationales, the inclinations of both were complementary and contributed to the autocratic dimension of the Croatian political system. Strict political control of society was the common denominator. Basically similar attitudes among Serbian deputies in the Croatian Diet against jury trial make the press and jury trial legislation an interesting indicator and one of the possible focal points for study of the controversies between Croats and the Serbian minority in Croatia, in which the broader context should be taken into account as well. The 'liberal paradox' – both the Hungarian and Croatian liberals who held power declared their dedication to liberal principles but pursued autocratic and undemocratic policies – had a common basis in the intention to guarantee the domination of national or social interests through the political system.

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The press and jury trial legislation of the Croatian Diet 1875–1907: Liberalism, fear of democracy and Croatian autonomy

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SUMMARY

In the political reality of the nineteenth century the efficient guarantee of freedom of the press lay in trial by jury, which offered an additional guarantee of judicial independence; trial by jury was always (and sometimes only) connected with criminal offences committed through printed materials. Selection of jurors implied certain social preferences and was rooted in the ideological background. Therefore legislation dealing with press matters and jury trial can be taken as indicative of how liberal and democratic (or not) were political movements and political and judicial systems. Press and jury trial regulation was a particularly delicate issue in Croatia both because of internal politics and because of the special autonomous position of Croatia in the unbalanced union with Hungary. As a result the legislative policy of the Croatian Diet on freedom of the press and jury trial can be taken both as evidence of liberal and democratic attitudes and as a sensitive indicator of the actual and formal influence of the central government on the Croatian Diet. This legislation also reveals the real restrictions on Croatian autonomy and the actual channels of heterogeneous influences on it. Dalibor Čepulo reconstructs and analyses the substance and enactment of the press and jury trial legislation in the Croatian Diet from the first laws that regulated these fields in 1875 until the last amendments of the laws in 1907. The earlier press and jury trial regulation valid in Croatia is also reconstructed, as are the attempts to enact legislation in the Croatian Diet. The author indicates moreover the channels and degree of political influence of the central government in Budapest on the legislative policy of the Croatian Diet, i.e. on autonomous Croatian legislation in the mentioned fields. The central government exercised significant indirect influence on the Croatian press and jury trial legislation, basically using the procedures of sanctioning and 'pre-sanctioning' legislation as well as political pressure. Both the Hungarian and Croatian liberals declared

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their dedication to liberal principles but pursued autocratic and anti-democratic policies. In spite of their different rationales, the common denominator was strict political control of society through which the domination of particular national or social interests could be guaranteed.

In this paper, I will reconstruct and analyse the substance and enactment of press and jury trial legislation in the Croatian Diet beginning with the first laws that regulated these fields in 1875 up to the last amendments to the laws in 1907. My principal interests will be two-dimensional. First, I will try to indicate the prevailing illiberal and anti-democratic determinants of the legislative policy of the Croatian Diet. The liberals in Croatia occupied both sides, the majority and the opposition, and acted in a political environment that was basically characterized by the dominance of liberals in Austria and, particularly, Hungary. Second, I will try to indicate the channels and degree of political influence of the central government from Budapest on the legislative policy of the Croatian Diet, i.e. on autonomous Croatian legislation in the mentioned fields. I shall first clarify the key points of my interest and describe the basic outlines of the Croatian political system after the Croatian–Hungarian Compromise of 1868. Then I shall reconstruct the press and jury trial regulation valid in Croatia before the Compromise as well as the attempts to enact such legislation in the Croatian Diet. Finally I shall present the substance and enactment of the press and jury trial legislation in the Croatian Diet in the period after the Croatian–Hungarian Compromise of 1868.

I LIBERALISM, FREEDOM OF THE PRESS AND JURY TRIAL LEGISLATION

Both freedom of the press and jury trial were among the most emphasized political demands of liberal movements in European countries in the nineteenth century. In the reality of political systems of that period these two principles were highly interconnected. Freedom of the press was one of the cornerstones of liberal ideology, as the free press was a principal instrument for free expression of individual opinion. The importance of the press in the nineteenth century also lay in the fact that it was practically the only ‘mass medium’ enabling political communication on a national level. Considering the importance of literate individuals among the political élite as well as in the total population, the press had the potential to mobilize political activity. The political significance of the literate class in nineteenth-century societies particularly emerged because of franchises that, directly or indirectly, diminished the role of illiterates. The institution of the jury was considered important because it was seen as an instrument through which free and educated (i.e. liberal) society could participate in judicial procedures for criminal offences committed against the state or against the public order. The jury was seen as a guarantee that an objective decision would be reached in legal systems in which the independence of courts from the government did not have sufficient guarantees. Therefore, in the political demands of European liberal movements as well as in nineteenth-century legal systems with a liberal basis, jury trial was almost by definition connected with criminal offences committed through the press. Vice versa, freedom of the press was connected (although not necessarily) with jury trial. The role of the press was to be critical, and criminal

offences committed through the press were usually criticism of the government. It could therefore not be expected that the courts, as state organs, remained completely unbiased in cases in which the state was involved.

The liberal dimension of trial by jury presented here, which concentrates on the question of judicial independence, can be complemented with the question of the social criterion for selection of jurors; this should have guaranteed competence and objectivity as well as the representative function of the jury in respect of society at large. From the liberal point of view this issue can be extended to gauging the maturity of a given society, i.e. its readiness for an institution that presupposes a relatively high level of education and a high degree of individual freedoms. This problem opens up the question of how democratic were the attitudes of liberal movements as well as the extent to which the legislative policy of legislative bodies was either liberal or democratic. Literacy as the most elementary criterion already comprised undemocratic potentiality as it usually implied the exclusion of lower urban classes and peasants. Certain other criteria for the selection of jurors can also be taken as indicators of the degree of liberal and democratic orientation in liberal movements and the political élite in a particular society.

II THE CROATIAN–HUNGARIAN COMPROMISE OF 1868 AND THE AUTONOMY AND HETEROGENEITY OF THE CROATIAN POLITICAL SYSTEM

The roots of the autonomous position of nineteenth-century Croatia in the Kingdom of Hungary lay in the existence of the early medieval Kingdom of Croatia, whose independence was brought to an end after the Hungarian king took over the vacant Croatian throne in the late eleventh century. The compromise between the Croatian aristocracy and the Hungarian Arpád dynasty guaranteed the Croatian aristocracy specific rights while Croatia was governed as a distinct land. On this basis a distinct Croatian constitutional identity and the right of the Croatian nobility to govern themselves developed. The *Sabor* (Diet) appeared in the thirteenth century and developed during the time while the kings ruled in Croatia through the Ban, the Croatian political institution of early medieval origin. Four delegates (*nuntius*) of the Croatian *Sabor* participated in the Hungarian Diet and it was with their assent and with approval of the Croatian *Sabor* that laws enacted in the Hungarian Diet became valid in Croatia as well.¹ The extent of Croatian rights waxed and waned according to political circumstances while the size of the territory under the administration of the Ban and *Sabor* fluctuated. Nevertheless, the two institutions both symbolized and preserved Croatia’s special position for centuries.²

¹ For a review of Croatian medieval history and institutions see I. Beuc, *Povijest institucija državne vlasti kraljevine Hrvatske, Slavonije i Dalmacije (pravno-povijesne studije)* [History of the Institutions of State Power of the Kingdom of Croatia, Slavonia and Dalmatia. Legal Historical Studies] (Zagreb, 1985), pp. 3–230; A. Dabinović, *Hrvatska državna i pravna povijest* [Croatian Constitutional and Legal History] (Zagreb, 1940; reprinted 1989); F. Šišić, *Povijest hrvatskog naroda* [History of the Croatian People] (Zagreb, 1916; reprinted several times), pp. 67–366.

² In the nineteenth century it was only the territory of the ‘kingdoms’ of Croatia and Slavonia that had preserved constitutional identity while the other parts of the medieval Croatian kingdom were

The institutions of the *Sabor* and the Ban served as vehicles through which Croats exercised various degrees of autonomy into the nineteenth century when traditional feudal institutions evolved into modern political institutions. That process interfered with the building up of modern Hungarian and Croatian national statehoods and brought the traditional solidarity of the Croatian and Hungarian nobility to an end. After centuries of feudal solidarity, a separate Croatian constitutional identity appeared as an obstacle to building up the Hungarian national state inside the borders of the feudal Kingdom of Hungary. The Hungarian–Croatian disputes culminated after certain laws that regulated the issues for the Croatian autonomous sphere had been enacted in the Hungarian Diet in March 1848 despite the protests of the Croatian delegates, thus challenging Croatian autonomy itself. Soon afterwards the Croatian Diet and Ban proclaimed a rupture of the *unio realis* with Hungary on the grounds of a Hungarian breach of the feudal constitution and declared that only the person of the king remained as a connection between the two lands. Croats collaborated closely with the Court in destroying the Hungarian revolution, but after the Hungarian government had been defeated, the absolutist rule of the Court was introduced and constitutionality in both countries abolished throughout the 1850s. The period of a provisional constitution and government in the Habsburg Monarchy during the 1860s passed in the search for a new formula for organizing the Monarchy. It finally ended in 1867 with the Austro-Hungarian Compromise dividing the Monarchy into two halves, Croatia (Croatia–Slavonia) being included in the *Lands of the Holy Crown of St. Stephen*, i.e. the Hungarian half.³

The Austro-Hungarian Compromise was followed by the Croatian–Hungarian Compromise, reached in 1868 between the Hungarian Diet and the Croatian Diet. The Compromise regulated the autonomous position of Croatia in the Hungarian half and basic issues of the Croatian political system. However, the Compromise was accepted by a Croatian Diet which had been packed at the elections. The Croatian National Party therefore declared it as void, objecting that it had been negotiated and accepted by an unconstitutional ‘assembly’. The

ripped away down the centuries. Principal parts still separated from Croatia–Slavonia in the nineteenth century were Dalmatia and the Military Border. Dalmatia had been under Venetian rule since the beginning of the fifteenth century and became an Austrian province in 1797 and (definitely) in 1813. The Military Border was part of Croatia–Slavonia that bordered with territories occupied by the Ottomans and therefore was put under Austrian military administration at the end of the sixteenth and the beginning of the seventeenth centuries. The same happened with the Hungarian border territories. Part of the Croatian Military Border was returned to civil Croatian administration in 1871, while the largest part was reintegrated in 1882. When I speak of Croatia I refer to the kingdoms Croatia and Slavonia and when I speak of the Croatian Diet I refer to the Croatian–Slavonian Diet. The plural ‘kingdoms’ has only nominal significance as the organization of power was completely integrated and unitary. Most historians of modern Croatia use the terms Croatia and Croatia–Slavonia interchangeably.

³ For a review of Croatian history and institutions, 1790–1918, see Beuc, pp. 190–320; F. Čulinović, *Državnopravna historija jugoslavenskih zemalja XIX. i XX. vijeka* [The Constitutional History of the Yugoslav Lands in the nineteenth and twentieth Centuries], vol. I (Zagreb, 1956), pp. 56–160; J. Šidak et al., *Povijest hrvatskoga naroda g. 1860–1914* (Zagreb, 1968). See also C.A. Macartney, *The Habsburg Empire 1790–1918* (London, 1969), pp. 734–9.

Compromise approximately followed the model of the Austro-Hungarian Compromise and established a kind of sub-dualistic structure in the Hungarian half of the Monarchy from which *unio realis inequalis* emerged. It distinguished the sphere of common Hungarian–Croatian government which was enumerated and which basically covered public finances, commercial contracts, commercial and maritime law, customs and trade, the postal office and telegraph, railways and certain other questions while the remaining affairs (i.e. internal administration, judicial matters, education and religion) belonged to the Croatian autonomous government. Common institutions were the common Diet and the central government. The central Diet was in fact an extended variant of the Hungarian Diet as it consisted of members of the Hungarian Diet augmented with representatives of the Croatian Diet when issues of common government were on the agenda. The number of Hungarian deputies was ten times higher than the number of Croatian representatives, who had only individual votes and could be outvoted at any time.⁴ The central government was *de facto* the Hungarian government from which – when acting in matters of common government – ministers for (Hungarian) inter-

⁴ According to the Croatian–Hungarian Compromise, the Croatian Diet sent twenty-nine representatives to the House of Representatives and two to the Upper House of the Hungarian Diet, but the number should have been adjusted to the changes in the share of the population of Croatia–Slavonia in the whole population of the Kingdom of Hungary. However, in spite of the fact that the population of Croatia–Slavonia almost doubled after the reintegration of the Military Border into Croatia in 1882, the Hungarian Diet made it a condition for the reintegration that the Croatian Diet accepted that the number of Croatian delegates be fixed at forty. The number of deputies in the Hungarian Diet was 413, most of whom by far were Hungarians, so that Croatian influence was insignificant; the Croatian representatives usually joined the parliamentary club of the governing Liberal Party. The Hungarian government feared that a larger number of Croatian delegates might tip the scales between the Hungarian parties in the parliament. Croatian representatives (some of whom did not speak Hungarian) had the right to speak in Croatian. However, they sometimes had problems in exercising that right and most of the delegates were anyway not able to understand Croatian. The Hungarian electoral and political system was known to be undemocratic and hegemonic. In Hungary (not counting Croatia–Slavonia!) the number of persons who spoke Hungarian was only 40–42 per cent of the total population in 1848 (below five million) and only in 1910 rose to 54.5 per cent (9.5 million) owing to permanent and intensive Magyarization. However, although they were a relative majority, ethnic Hungarians prevailed absolutely in the political and social elite. In 1914 the number of native speakers of Magyar among the civil servants, county officials and judges in Hungary was 95–97 per cent; they made up 89 per cent of lawyers and physicians and 64 per cent of clergy. The rather liberal Hungarian law XLIV:1868 on the equality of ‘nationalities’ recognized the freedom to use the national languages but nationalities were not given collective cultural rights, not to mention political rights. Besides, guarantees contained in that law were only partly effective in practice. Controlled autonomy of the Serbian and Romanian Orthodox churches in religious and school matters partly substituted for the deficiency. Only the Croats were recognized as a ‘political nation’ through Croatian political autonomy, the principle of which was not challenged because of its traditional roots. Fear of losing their privileged position was probably an important reason conditioning the general conservatism of the Hungarian liberals. Liberalization and democratization of political rights would have indirectly contributed to the growing influence of the prevailing non-Hungarian population in the Hungarian political system. An orientation to strengthening state power as the principal agent of (ethnic) Hungarian interests also explains the authoritarian policy of the Hungarian liberals towards Croatian autonomy. On the problem of nationality in Hungarian politics see O. Jászi, *The Dissolution of the Habsburg Monarchy* (Chicago, 1929; reprinted 1961). On the statistics see also Macartney, *Habsburg Empire*, pp. 275 ff.

nal administration, justice, education and religion were 'excluded' (because these matters were part of separate internal Hungarian and Croatian government) and extended with a Croatian Minister without Portfolio. The Croatian Diet and the Croatian Provincial Government with the Ban at its head and three councillors acted within the Croatian autonomous government. Croatia also had its own judiciary, with the Croatian supreme court at its head (the Table of Seven).⁵

The grave burden on Croatian autonomy was the fact that all public finances belonged to the sphere of common government. It deprived the Croatian government and the Croatian Diet of its own budget and any possibility to carry on its own fiscal policy and improve transport conditions. It put Croatia into the position of hostage of the central bodies which effectively controlled Croatian finances.⁶ However, that obstacle did not have a direct impact on Croatian legislation. But apart from the obviously unbalanced participation in decision-making in the sphere of common government, even the Croatian autonomous government was under the influence of the central organs, which acted in favour of Hungarian interests. The important means of influence lay in the procedure for appointment of the Croatian Ban, who played a central role in the Croatian political system. The Ban was appointed by the king but nominated by the minister-president of the central government, who also countersigned the king's act of appointment. Therefore, the Ban had to be a man with the confidence of the king as well as the Hungarian government. The Ban countersigned and executed Croatian laws sanctioned by the king as well as other important royal decisions in the sphere of the Croatian autonomous government and could have been impeached by the Croatian Diet if he had breached the law (*causa maiores*) but in such a political context legal responsibility did not mean much in practice.⁷

⁵ On the Croatian–Hungarian Compromise and the reform of Croatian institutions, see D. Čepulo, 'Hrvatsko-ugarska nagodba i reforme institucija vlasti u Hrvatskom saboru 1868–1871' [The Croatian–Hungarian Compromise and Reforms of the Organization of Powers in the Croatian Diet 1868–1871], *Zbornik Pravnog fakulteta Sveučilišta u Rijeci* (2000), Supplement 1, pp. 117–48; N. Krestić, *Hrvatsko-ugarska nagodba* [The Croatian Hungarian Compromise] (Belgrade, 1968); J. Pliverić, *Das Verhältnis Kroatiens zu Ungarn* (Zagreb, 1885); J. Pliverić, *Beiträge zum Ungarisch-kroatischen Bundesrecht* (Agram, 1886); J. Pliverić, *Der Kroatische Staat* (Agram, 1887). See also A. Buczynsky and S. Matković, 'Korespondencija Josip Pliverić – Georg Jellinek 1885. godine', *Zbornik Pravnog fakulteta u Zagrebu* (2000), no. 6, pp. 1053–84.

⁶ M. Gross, 'Financijski temelji nagodbene autonomije civilne Hrvatske i Slavonije 1868–1880', [The Financial Basis of the Autonomy of Civil Croatia–Slavonia Under the Compromise, 1868–1880] *Historijski zbornik*, 41 (1988), pp. 2–94.

⁷ Regulation of the responsibility of the Ban was based on the Austrian fundamental law on ministerial responsibility of 1867. The Austrian law was adapted to the structurally different Croatian political system but the conditions for initiating and exercising the responsibility of the Ban were made more rigid, compared to those for Austrian ministers. However, the formulation of the Ban's responsibility for the deliberate severe endangering of the constitutional independence of Croatia–Slavonia in the union with Hungary, or even of the union itself, opened the possibility for accounting the Ban responsible for his political behaviour. However, the discussion would be purely academic as both of the two initiatives for impeachment of the Ban undertaken in the Croatian Diet (1885 and 1907) failed in the early phases, although the second could have succeeded if the king had not dissolved the Diet. Both initiatives were started on the grounds of the Ban's infringement of Croatian independence in relation to Hungary. See D. Čepulo, 'Odgovornost i položaj bana i članova hrvatske

More effective means of interfering in the Croatian legislative procedure were the king's sanctioning of laws of the Croatian Diet and pre-sanctioning of draft laws of the Croatian government. Laws enacted in the Croatian Diet (as well as in the Hungarian Diet) should have been submitted to the king for his approval ('sanction') and promulgation. The king's refusal to sanction had the effect of veto and was not limited in any way. The Croatian–Hungarian Compromise prescribed that laws accepted in the Croatian Diet should be sent to the king through the Croatian Minister in the central government. According to the revision of the Croatian–Hungarian Compromise of 1873, the Croatian Minister could not intervene in a Croatian piece of legislation and was obliged to send it to the king without delay. However, he could object to the king about the substance of the law on the ground that it breached common government or that it violated common interests, thus provoking royal refusal of the sanction. In such cases the king theoretically appeared as an arbiter between the Croatian Diet and the central government, but in reality he always accepted the arguments of the stronger party, i.e. of the central government. In practice this procedure allowed the central government to interfere indirectly even in the autonomous Croatian government. In order to provoke the king's refusal to sanction a Croatian piece of legislation devised by the autonomous government that regulated a particular issue, the central government could search for some minor breach of common government in the law or it could interpret it as a violation of common interests. The central government also imposed quite doubtful interpretations of the Compromise, if it considered it necessary. Owing to such practices the Croatian government and the Croatian Diet had to take care in advance of the substance of the Croatian laws, drafting them in a way that would not challenge the central government.⁸

Even more effective a means of interference was the procedure of pre-sanctioning. The Croatian government was obliged (as were the Hungarian and central governments in relation to their respective diets) to obtain the king's approval for draft laws before submitting them as bills to the Croatian Diet. The draft laws of the Croatian government had to be submitted to the king through the Croatian Minister. But, unlike in the procedure of sanctioning, the Croatian Minister was not bound to send the draft laws to the king without delay. Besides that, the procedure of pre-sanctioning was not transparent because it was a preliminary and 'internal' communication between executive organs that was not visible to the public. Therefore in cases of pre-sanctioning the political behaviour of the central government was not restrained by Croatian public opinion, of which it should have taken account when deciding about laws enacted in the Croatian Diet. The central government could keep draft laws of the Croatian government in its 'pocket' for a long time or it could apply a more rigid criterion than it would dare to when laws enacted in the Croatian Diet were considered, and return the draft laws to the Croatian Diet. Therefore, in order to avoid the risk of obstruction in

Zemaljske vlade 1868–1918. i ministarska odgovornost u Europi' [The Responsibility and the Position of the Ban and the Members of the Croatian Provincial Government of 1868–1918 and Ministerial Responsibility in Europe], *Zbornik Pravnog fakulteta u Zagrebu* (1999), no. 2, pp. 229–74.

⁸ On the institution of the sanction see Čepulo, 'Hrvatsko-ugarska nagodba', p. 124.

the central government, some Croatian Bans developed the practice of semi-formal consultations with the central government on the substance of draft laws even before officially asking for pre-sanctioning. Considering that the great majority of the laws of the Croatian Diet were initiated by the Croatian government and not by deputies, the institution of pre-sanctioning developed into an effective way for the central government to control Croatian autonomy. Both sanctioning and pre-sanctioning in a way ensured that a degree of self-censorship on the part of the Croatian executive and legislature developed. In that way *a posteriori* means of control that should have disabled excesses turned into the *a priori* control that effectively limited the scope of parliamentary activity. On the other hand, the Croatian side did not have any effective means of reacting to this breach of the autonomous government by the central government.⁹

III THE PRESS AND TRIAL BY JURY LEGISLATION IN CROATIA BEFORE THE CROATIAN–HUNGARIAN COMPROMISE

Up to 1848 the press in Croatia – as well as in the whole Habsburg Monarchy – was the object of rigid official censorship. Because of that, criticism of the rigidity of censorship and political demands for the introduction of guarantees for the freedom of the press often appeared in articles in the Croatian opposition press. However, censorship in Croatia was abolished only by the proclamation of King Ferdinand's Manifesto on the abolition of censorship in the whole Monarchy on 15 March 1848.¹⁰ Demands for the introduction of jury trial also appeared in the Croatian press and political statements, probably as the result of the influence of ideas from abroad, since jury trial had not previously existed in the Croatian legal tradition.¹¹

However, none of the demands was reflected in the legislative work of the one-month session of the Croatian Diet in 1848 that had been elected on the basis of the equal rights of citizens. The first Croatian act on the press and on jury trial was The Provisional Act on the Press decreed by the Croatian Ban Jelačić acting as 'Ban and dictator' on 9 May 1849.¹² The Act was compiled on the basis of the

⁹ On the institution of pre-sanctioning see Čepulo, 'Hrvatsko-ugarska nagodba', pp. 124–5; A. Gerö, *Modern Hungarian Society in the Making. The Unfinished Experience* (Budapest, 1993), p. 171; M. Gross, 'Madarska vlada i hrvatska autonomija u prvim godinama nakon Nagodbe' [Hungarian Government and Croatian Autonomy in the First Years after the Croatian–Hungarian Compromise], *Historijski zbornik* (1985), p. 2.

¹⁰ On the events of 1848 in Croatia see T. Markus, *Hrvatski politički pokret 1848–1849* [The Croatian Political Movement 1848–1849] (Zagreb, 2000); J. Šidak, *Studije iz hrvatske povijesti za revolucije 1848–49* [Studies on Croatian History in the Period of Revolution 1848] (Zagreb, 1979).

¹¹ See the fundamental programmatic document of the Croatian movement of 1848, *Zahtijevanja naroda* [The Demands of the People], in Šidak, *Studije*, pp. 51–2.

¹² The Croatian Diet unanimously empowered the Ban Jelačić with dictatorial power which he could exercise 'through the time of the threat of danger'. This obviously false reaction of the Croatian Diet in confronting possible military confrontation with Hungary was in fact the act by which the Diet dissolved itself. The Diet 'temporarily' adjourned a couple of days later but was not convoked again. By decreeing the law on press matters Jelačić intended to stop the 'radical' writing of Zagreb's journals and lost a considerable part of his popularity, Šidak, *Studije*, pp. 199–200; T. Markus, 'Dokument o hrvatskom pokretu 1849. godine' [A Document on the Croatian Movement of 1849], *Časopis za suvremenu povijest*, 3 (1998), p. 58.

relevant Austrian laws on the press and on jury trial of March 1849 and was as rigid as its Austrian model. According to the Act, the constitutive prerequisite for publishing a political journal was a concession from an institution of the state, and among necessary preconditions for obtaining a concession was the deposit of a (considerably high) security. The Act prescribed high fines and severe punishments as well as severe and rather arbitrary administrative repression of the political journals (including an optional permanent closure of the journal after the second repetition of the offence and an obligatory permanent closure after the third repetition). Criminal responsibility basically burdened the publisher and the editor, while the author was responsible in the cases of political offences. However, apart from these rigidities, trial by jury was prescribed in cases of criminal offences committed through printed materials. The state attorney and the mayor were to choose 36 candidates for jurors among the town dwellers (no prerequisites were prescribed), out of whom 12 jurors were selected in a procedure in which both parties (the state attorney and the defendant) had the right to exclude up to 12 candidates.¹³

The Act had been bitterly attacked in Zagreb's press even before it was proclaimed and even the Banal Council – which acted as the *de facto* Croatian government since Jelačić was most of the time on the battlefield in Hungary – unsuccessfully tried to moderate it before publication. Criticism in the press was particularly directed against the introduction of security provisions and their level, against rigid punishments and administrative repression, and also against the absence of criteria in the primary selection of jurors. The only jury trial that was held on the basis of the Act ended in scandal as one of the jurors, a retired judge, left the trial in protest against the unconstitutionality of the decreed Act. However, Jelačić simply abolished the jury by a new decree.¹⁴ Trial by jury was guaranteed for the whole Monarchy by the proscribed Constitution of March 1849 (proclaimed in Croatia in September 1849) but it was explicitly abolished by the Sylvester Patent of 1851, which introduced a period of absolutism during 1852–59. Press matters in the whole Monarchy were regulated by the extremely rigid *Presseordnung* of 1852, which instituted rigid prerequisites for obtaining a state concession for publishing a political journal. It prescribed severe sanctions against the press as well as administrative reprimand, optional prohibition of publishing the journal after the second reprimand and obligatory prohibition after the third reprimand.¹⁵

The *Presseordnung* of 1852 remained valid in Croatia up to the relevant Croatian legislation of 1875, although attempts to enact press and jury trial laws were made

¹³ Provisional Act on the Press, in *Novine dalmatinsko-hercegovačke-slavonske* [Croatian–Dalmatian–Slavonian Newspaper] (Zagreb), no. 62 of 24 May 1849.

¹⁴ *Novine*, no. 56 of 10 May 1849, no. 61 of 22 May 1849 and no. 62 of 24 May 1849; *Slavenski jug* [Slavic South] (Zagreb), no. 60 of 22 December 1848 and no. 57 of 15 May 1849 that contained the text of the Act; V. Bayer, 'Suci-porotnici' [Judges-Jurors], *Zbornik Pravnog fakulteta u Zagrebu*, (1955), nos 3–4, p. 148; M. Gross, *Počeci moderne Hrvatske* [The Beginnings of Modern Croatia] (Zagreb, 1985), p. 402; J. Horvat, *Povijest novinstva Hrvatske* [A History of Journalism in Croatia], (Zagreb, 1962), pp. 174–5.

¹⁵ Austrian *Presseordnung* of 27 May 1852, in *Reichs-, Gesetz-, und Regierungsblatt für das Kaiserthum Oesterreich. Jahrgang 1852* (Vienna), pp. 603–15.

at the Croatian Diets of 1861 and 1865–67. Both attempts basically failed because of the impact of Vienna or Budapest. Thus the Croatian Diet of 1861 was dissolved seven months after its convocation because it had refused to send delegates to the *Reichsrat* on the grounds that it would have meant self-denial of the traditional constitution. The unfinished drafts of the press and jury laws that were prepared in the Diet's committees were a combination of both rather liberal and repressive elements.¹⁶ The Croatian Diet convoked in 1865 was dissolved in 1867 because it refused to accept the Austrian–Hungarian Compromise on the grounds that it had been set up without Croatian consent and without recognition of Croatian constitutional individuality. A short time before its dissolution, the Diet decided to enact the press law in order to guarantee a minimal degree of freedom of the press in the days to come. The Diet refused to accept the bills drafted in the Diet of 1861 because they had included jury trial. Instead of that, the Diet adopted the appropriate Austrian legislation of 17 December 1862 as a provisional solution, but removed jury trial from it. It was estimated that the king would have not accepted the introduction of jury trial in Croatia nor a higher degree of freedom in the period in which negotiations between the future Croatian Diet and the Hungarian Diet on Croatian–Hungarian relations would have taken place.¹⁷ However, even that moderate version of the Austrian press legislation was not accepted because the king denied his sanction to most of the laws enacted in the Croatian Diet in 1865–67.

IV PRESS AND JURY TRIAL LEGISLATION OF THE CROATIAN DIET IN THE PERIOD AFTER THE CROATIAN–HUNGARIAN COMPROMISE (1868–1918)

The Croatian–Hungarian Compromise of 1868 set down the new institutional framework for Croatian autonomy which was the basis for new relationships in

¹⁶ According to the draft of the press law the constitutive prerequisite for publishing a political journal was registration with the head of the municipal authorities (and not by way of a concession from the state authorities) but the possibility of administrative reaction against the press based on reprimands and injunction remained. As to jury trial, the draft of the press law and the draft of the criminal code were not harmonized. The draft of the press law prescribed that jury courts be established as county courts only; their jurisdiction was limited to offences committed through the press. The draft of the criminal code prescribed that jury courts be established in districts as jury courts of the first instance and in counties as jury courts of the second instance. The juries in the district jury courts were to be composed of six jurors and in the county jury courts of 12 jurors. According to the draft of the criminal code the jurisdiction of the jury courts included criminal offences committed through the press and criminal offences that were not exclusively reserved for district courts. The press law prescribed stricter conditions for the selection of jurors (who had to be 30 years of age, and payers of considerably high tax or of a higher intellectual level) than did the draft of the criminal code (where the criteria were 25 years of age and passive and active knowledge of the Croatian language, but for the next ten years this was not mandatory in district courts if the number of candidates was lower than 200). Relevant parts of the drafts of the press law and the criminal code in *Spisi saborski sabora kraljevinah Dalmacije, Hrvatske i Slavonije od god. 1861* [Journals of the Croatian Diet], vol. IV (Zagreb, 1862), pp. 174, 177–8, 183–210, 265–6.

¹⁷ *Saborski spisi sabora kraljevinah Dalmacije, Hrvatske i Slavonije od godine 1865–1867* [Journals of the Croatian Diet] (Zagreb, 1900), pp. 326–7.

Croatian politics. In 1870 the Ban Levin Rauch, an old-fashioned and rigid Croatian noble of Hungarophile orientation who supported the Compromise in the Croatian Diet, drafted a set of laws that regulated the use of printed matters and jury trial. Rauch's intention was to show that political conditions in Croatia would be improved in the new political framework and that he personally was not an obstacle to liberal reforms, as the opposition press charged. However, even though the drafts came from a reliable Croatian government, the central government was not favourable to the introduction of trial by jury in Croatia, especially because it had experienced problems with freedom of the press and trial by jury in Hungary and did not want to repeat the experience in Croatia.¹⁸ Therefore the central government informed the Croatian government that it would submit the drafts to the king for pre-sanctioning, but it discreetly warned Rauch of the challenges that could be expected with trial by jury and also that he was responsible for political conditions in Croatia. It was more than enough for Levin Rauch, who gave up the idea of submitting the drafts to the Croatian Diet.¹⁹ However, Rauch withdrew from his post in 1871 as the result of attacks from the Croatian opposition press that accused him of corruption.²⁰

¹⁸ In Hungary, jury trial (only) for offences committed through printed materials was introduced with The Law on Printed Matters of 1848. The Law gave only basic outlines but empowered the government to establish a jury court by decree. In the period of provisional constitutionalism of the sixties, jury trial was reinstated. Two ministerial ordinances of 1867 regulated criminal procedure for press matters but the initiative of the liberal fraction of the ruling party that jury trial be made a general institution failed because of the resistance of the conservative wing. In 1897, the Hungarian Diet accepted the law on the organisation of jury courts and on the introduction of criminal procedure in press matters. The Law XIII:1914, which basically adopted the Austrian Law on Criminal Procedure, introduced significant changes in Hungary. See V. Bayer, *Problem sudjelovanja nepravnika u savremenom kaznenom sudovanju* [The Problem of the Participation of Non-lawyers in the Contemporary Penal Trial] (Zagreb, 1940), pp. 50–51; N. Ogorelica, *Kazneno postupovno pravo* [Criminal Procedure Law, university manual] (Zagreb, 1899), vol. I, p. 82; F. Sugar (gen. ed.) et al., *A History of Hungary* (Bloomington, 1990), p. 256.

¹⁹ *Dnevnik Sabora trojedne kraljevine Dalmacije, Hrvatske i Slavonije držana u glavnom gradu Zagrebu god. 1868* [Journals of the Croatian Diet] (Zagreb, s. a.), p. 1288; D. Čepulo, 'Sloboda tiska i porotno sudenje u banskoj Hrvatskoj 1848–1918' [Freedom of the Press and Trial by Jury in Croatia 1848–1918], *Hrvatski ljetopis za kazneno pravo i praksu* (2000), no. 2, p. 144; Gross, 'Madarska vlada', pp. 13–14.

²⁰ The story of Rauch and the opposition press is interesting and illustrative. Rauch reacted to the accusations in the press by reprimands and an injunction on the journal *Pozor* [Attention] that belonged to the National Party. The editors registered the new journal *Novi Pozor* in Vienna and distributed it in Croatia by post. Rauch managed that postal privileges to the journal were withdrawn, owing to which the journal ceased. The editors registered the new journal in the Croatian Military Border. At that time the Military Border was still administered by the Ministry of War but it was in transition towards civil administration, so that the modified Austrian regulation was introduced, including the regulation of the press. Of course, it would not have sufficed, but the editors were backed by the Ministry of War. Austrian military circles at that time obstructed the dualistic structure of the Monarchy, which was seen as a step towards the disintegration of the Monarchy. Military circles hoped that the defamation and withdrawal of Rauch would speed up the end of dualism. Rauch was forced to sue the editors before the military court in the Military Border but it acquitted the editors and put the blame on Rauch. V. Ciliga, *Vera. Slom politike Narodne stranke 1865–1880* [The Breakdown of the Politics of the National Party] (Zagreb, 1970), pp. 99–100; Horvat, *Povijest novinstva*, pp. 231–2.

Koloman Bedeković, a moderate member of the Unionist Party appointed as Ban, soon decreed the Ordinance on the Press that liberalized the valid *Presseordnung* of 1852. A basic novelty was that the constitutive prerequisite for publishing a political journal was registration instead of concession. But the Ordinance did not remove the possibility of administrative repression, besides being a fragmentary and provisional regulation which only amended and did not replace the *Presseordnung* of 1852.²¹ The prospects for liberalization opened up after the repeated success of the National Party at the elections for the Croatian Diet in 1872. The political compromise reached before the summer of 1873 between the central government and the National Party included a slight revision of the Hungarian–Croatian Compromise and the appointment of Ivan Mažuranić, liberal reformer and a member of the National Party as well as a man of the king's confidence, to the post of Ban. A concession by the National Party was its silent abandonment of its view of the Hungarian–Croatian Compromise as an unconstitutional act and the fusion of the National Party with the remnants of the Unionist Party which was in the process of disintegration.²²

The period of Mažuranić's administration (1873–80) was one of intensive reforms in which the Croatian Diet enacted some sixty acts. Central reforms were rationalization of the judiciary and administration (the separation of the judiciary and administration, and guarantees of the independence of courts), regulation of the responsibility of the Ban to the Diet, liberalization of the electoral system, reforms of the criminal law, liberalization of press regulation and the introduction of trial by jury, regulation of the right to assembly as well as reforms in the field of education. The reforms were grounded on liberal ideological foundations and the German idea of *Rechtsstaat* as well as on the Austrian legislation which had been most often made somewhat more restrictive. The reforms were limited in the first place by the influence of the central government in Budapest, but limitations also arose from the limited concepts of the Croatian liberal reformers. The reform activity was intensive up to 1875, while it started to lessen significantly afterwards. That was due to the legislative dynamics of the Croatian government, but the principal reason was the change in the political situation in Hungary as well as the change in the central government and its policy toward Croatia. In spite of the prevalence of liberal factions, the period up to 1875 in Hungary was characterized by a crisis in political authority, internal confrontation among the parties and instability of the central government. At that time the liberal central government was ready to tolerate – not without precautions and scepticism – moderate liberal reforms in Croatia in so far as they would not too greatly underline Croatian identity and would not challenge Hungarian interests. The central government hoped that this policy would demonstrate the benefits of close Croatian–Hungarian relations and at the same time would not endanger the predominance of Hungarian interests. But the coming into power of a radical–nationalist liberal,

²¹ Ban Ordinance no. 43, *Sbornik zakonah i naredabah valjanih za kraljevinu Hrvatsku i Slavoniju. Godina 1871* [Gazette of Croatia and Slavonia] (Zagreb, 1872), pp. 233–4.

²² Čiliga, *Slomp*, p. 129 ff; M. Gross and A. Szabo, *Prema hrvatskome građanskom društvu* [Towards Croatian Civil Society] (Zagreb, 1992), pp. 251–7.

Kalman Tisza, in 1875 meant enhancement of the restrictive policy towards Croatia, whose autonomy was seen as too wide and therefore needed to be 'returned' within its limits.²³

In the eyes of deputies elected in the Croatian Diet in 1872, one of the main imperatives was liberalization of press regulation. The press regulation that was valid at that time was still the basis for autocratic interventions by the government and some of the deputies in the Diet had direct or indirect experience with obstruction and repression against the press by the previous Rauch government. Therefore it was expected that the new government would soon propose bills that would guarantee judicial protection of the freedom of the press, particularly by making provisional prohibition of the distribution of an incriminated issue and its permanent seizure exclusively judicial matters. However, the reform government primarily took care of the organizational reforms and neglected the issues of political rights. Only after pressure from deputies did the Croatian government propose press and jury legislation, later followed by a bill on public assembly. The press and jury law was probably the same as that prepared by Rauch's government in 1870 but not submitted to the Diet.²⁴ The press and jury trial legislation consisted of The Law on Press Matters and two criminal procedure laws that regulated the establishing of juries and the procedure before a jury in cases of crimes and misdemeanours committed through the press (The Law on Criminal Procedure in Printed Matters, The Law on Establishing a List of Jurors), while The Law on Criminal Procedure was a subsidiary source. The press and jury trial legislation was compiled on the basis of the moderate liberal Austrian legislation but certain substantial changes made the Croatian laws more rigid.²⁵

However, the debate on the bills in the Diet showed some fundamental doubts among Croatian liberals and the limits to legislative procedure in the Croatian Diet. The Law on Press Matters legalized registration with the state attorney and police as a constitutive prerequisite for publishing a political journal but it also

²³ On the liberal reforms of the Croatian Diet, 1873–80, see D. Čepulo, 'Središte i periferija: europske i hrvatske odrednice Mažuranićevih reformi ustroja vlasti i građanskih prava (1873–1880)' [Centre and Periphery: the European and the Croatian Determinants to Mažuranić's Reforms of the Organization of Government and Civil Rights], *Zbornik Pravnog fakulteta u Zagrebu* (2000), no. 6, pp. 921–36. On the conservatism of Hungarian liberals in the post-1867 period, particularly during the government of Kálmán Tisza (1875–90), see Gerő, pp. 128 ff and 169 ff; Sugar, *History of Hungary*, pp. 256–8.

²⁴ Čepulo, 'Sloboda tiska', p. 940. See also D. Čepulo, 'Pravo na javno okupljanje u Hrvatskoj 1848–1918. i odrednice razvoja u europskim zakonodavstvima' [The Right of Assembly in Croatia 1848–1918 and Determinants of Development of its Legislation in Europe], *Zbornik Pravnog fakulteta u Zagrebu* (1999), nos. 3–4, pp. 412–14.

²⁵ The Austrian *Presse-Gesetz* of 17 December 1862 (RGBl, No. 6), *Reichs-, Gesetz-, Regierungsblatt für das Kaiserthum Oesterreich. Jahrgang 1863* (Vienna), pp. 145–56; The Austrian *Gesetz über das Strafverfahren in Pressesachen* of 17 December 1862 (RGBl, No. 7) *Reichs-, Gesetz-, Regierungsblatt 1863*, pp. 157–61; the changes of those laws (*Gesetz* of 15 October 1868; RGBl, No. 42), *Reichs-, Gesetz-, Regierungsblatt für das Kaiserthum Oesterreich. Jahrgang 1868*, (Vienna), pp. 409–11; *Gesetz betreffend die Bildung der Gerichtsgeschwornenlisten* of 23 May 1873 (RGBl, No. 121), *Reichsgesetzblatt für die im Reichsrathe vertretenen Königreiche und Länder. Jahrgang 1873* (Vienna), pp. 503–8. The Austrian *Strafprozess-Ordnung* (RGBl, No. 119), *Reichsgesetzblatt 1873*, pp. 400–498.

retained depositing of an obligatory security as well as prohibiting the street sale of newspapers. It also retained the obligation of the printer to submit an example of the printed matter to the police and to the state attorney at the time of its distribution or even a day before. In such circumstances the provisional prohibition against distributing the issue that, according to the law on criminal procedure for printed matters, could be ordered by the state attorney, appeared as *de facto* censorship. The Law ascribed responsibility to the editor and the printer, in their respective spheres, on the grounds of negligence. The publisher was made subsidiarily responsible if the author was unknown or did not have a domicile in Croatia at the time when the publisher received the manuscript from him. The opposition to The Law on Printed Matters was very modest. Some deputies of the opposition admitted that the Law was great progress over the *Presseordnung* of 1852 but that it was still too repressive. The deputies objected that the reasons for provisional suspension of the journal (in cases when fulfilment of the administrative prerequisites was challenged) were too wide and security too high. They proposed that the amount of security should depend on the number of inhabitants of the town in which the journal was published, as in the Austrian regulation, but the idea of a security was not challenged. In fact the debate did not show any principled disagreements between the government, the majority and the opposition. The opposition criticized the government on the grounds of the rigidity of its proposal but the government, the majority and the opposition shared the same fundamental attitudes on the issue of the freedom of the press. That liberal platform was well expressed in the criticism of one opposition deputy who demanded that 'the people should be given as much freedom as their maturity can accept'.²⁶ Both sides saw freedom of the press as a right derived from the state; the difference was in the estimation of scale. The legislation in fact implied a confrontation between the state and 'pure' freedom of the press and the dichotomy was resolved by putting the accent on repressive regulation.

The Law on Criminal Procedure in Printed Matters, The Law on Establishing a List of Jurors as well as The Law on Criminal Procedure that were proposed together with The Law on Press Matters were also based on Austrian regulations (The Law on Criminal Procedure and The Law on Establishing a List of Jurors) but contained certain important changes from the Austrian models. The most important difference concerned the jurisdiction of a jury. The Austrian Criminal Procedure Law prescribed jury trial in cases of political crimes, in cases of criminal offences in which imprisonment of more than five years was prescribed, and in cases of crimes and misdemeanours committed through the press. However, the government's bill provided for jury trial only in cases of crimes and misdemeanours committed through the press. In fact, the narrower jurisdiction of the Croatian jury was in a way announced by omitting the guarantee of jury trial in comparable

²⁶ For legislative procedure in the Croatian Diet on The Law on Printed Matters, see *Saborski dnevnik kraljevinah Hrvatske, Slavonije i Dalmacije godina 1872–1875* [Journals of the Croatian Diet] (Zagreb, 1875), vol. II, pp. 1152, 1157, 1295–303, 1317–18. The Law on Printed Matters, in *Sbornik zakonah i naredabah valjanah za kraljevino Hrvatsku i Slavoniju. Godina 1875*. [Gazette for Croatia-Slavonia] (Zagreb, 1876), pp. 373–90.

cases in The Law on Judicial Power enacted and proclaimed in 1874. That Law adopted the Austrian Fundamental Law on Judicial Power, but from the article that guaranteed jury trial in cases of severe punishments, political offences and offences committed through the press, the Croatian variant accepted only the last.²⁷ Unlike its Austrian model, The Law on Criminal Procedure in Printed Matters proposed in the Croatian Diet prescribed that the only jury court be established at the County Court in Zagreb with territorial jurisdiction for the whole of Croatia-Slavonia. The Bill adopted the model of jury trial from the Austrian Criminal Procedure Code. The court consisted of the senate and the jury. The senate consisted of three or five judges (when imprisonment of more than five years was prescribed) appointed for a one-year term by the president of the Banal Table (i.e. the High Court), and presided over by the president of the County Court. The jury decided on guilt and on mitigating and aggravating circumstances that affected the degree or type of punishment. The Bill regulated in detail procedure and methods for the jury to reach its decision as well as the authority of the senate over the findings of the jury. If the defendant was found not guilty, he was immediately released by verdict of the senate. The senate could order an immediate new session if the findings of the jury were inarticulate, incomplete or contradictory. If the defendant was found guilty and the senate unanimously decided that the jury was wrong in a matter of principle, it could assign the case to new jurors. In that case, none of the judges from the senate could preside over the new senate. The senate was bound by the repeated verdict of the new jury.²⁸

Prerequisites for jurors and the reasons which precluded somebody from being a juror were adopted from the Austrian legislation in The Law on Establishing a List of Jurors. Candidates for jurors were to be male, 30–60 years of age, able to read and write, and with at least one year's domicile in Zagreb; they had to be payers of at least 20 florins of tax or (alternatively) 24 years of age and with intellectual achievements (a university degree or high technical education or an academician) or with professional qualifications (lawyers or notaries public or professors). Persons who could not become jurors were priests, teachers at public schools, judges and state officials, soldiers, public clerks (in post, telegraph, railway and steamship companies), while incapable for that duty were persons with appropriate physical, psychic or legal limitations (persons who were partly deprived of civil rights, convicted in criminal procedure, or who by law were not eligible for the town council). The mayor was obliged to make a preliminary list of eligible persons. This list had to be made public, with the right of town-dwellers

²⁷ D. Čepulo, 'Dioba sudstva i uprave u Hrvatskoj 1874. godine – institucionalni, interesni i poredbeni vidovi' [The Separation of Administration and Judiciary in Croatia 1874: Institutional, Interest and Comparative Aspects] *Hrvatska javna uprava* (Zagreb, 1999), no. 2, pp. 241–55. The Austrian *Staatsgrundgesetz über die richterliche Gewalt* of 21 December 1867 (RGI No. 144) in E. Bernatzik (ed.), *Die österreichischen Verfassungsgesetze mit Erläuterungen* (Vienna, 1911), pp. 427–9.

²⁸ For the legislative procedure in the Diet, *Saborski dnevnik 1872–1875*, vol. II, pp. 1152, 1348, 1558–65, 1567, 1583. The Law on Criminal Procedure in Printed Matters, *Sbornik 1875*, pp. 253–354. See also Bayer, *Problem*, pp. 40–48.

to complain about it to the town council. From that list the yearly list of jurors was formed by selecting persons known for their wisdom, honesty, cleverness and significance, on the basis of one juror per 50 inhabitants. The yearly list was created by the town commission, half of whose members were appointed by the president of the court of first instance, while the other half were appointed by the mayor. From that list 36 jurors were drawn for each session of the jury court (every three months). From those 36 jurors the jury of 12 was selected in the absence of the public at a hearing before each trial. The reasons that disqualified somebody from the duty of a juror in a particular trial were enumerated in the Bill (connection with the parties that were involved and similar reasons) and the attorney and the defendant could each exclude up to 12 jurors without explanation.²⁹ However, The Law on Criminal Procedure in Printed Matters introduced the 'objective verdict' by which the court could determine the existence of a criminal offence in a journal and pronounce a sanction against that journal (prohibition of its distribution and seizure of the incriminated issue) even though culpability was not determined, i.e. nobody was convicted. That procedure was to be initiated by the state attorney in the name of public interest and the trial held before a single judge (not before a jury) in the absence of the public. A decision of the court in that type of procedure did not exclude future prosecution before the court of persons culpable of the offences; in such cases the court was not bound by the decision of the previous judge.³⁰

The government admitted that the proposed jurisdiction of the Croatian jury was narrower than in comparable new legislation in European countries. That probably referred to Austria, where juries also tried severe political crimes. The government explained its reduced proposition for the Croatian jury by 'the present conditions in Croatia', which did not allow extension of trial by jury in the Austrian manner because useful results could not be expected from jury trial in the circumstances of Croatia.³¹ However, the Diet's legislative committee rejected the government's proposal of reduced jurisdiction for the jury and drafted its own version of The Law on Criminal Procedure and The Law on Criminal Procedure in Printed Matters. The committee's version of The Law on Criminal Procedure extended trial by jury to political crimes. But apart from the difference between the government's and the Diet committee's bills, the debate in the Diet did not show radical disagreement of the majority with the government. In the end, it was basically the government's proposal that was accepted.

The debate in the Diet almost exclusively concentrated on broadening the jurisdiction of the jury in political crimes. The government and the vast majority in the Diet rejected the committee's proposal to accept jury trial for two basic reasons. One was scepticism about the preparedness of Croatian society for ac-

²⁹ For the legislative procedure, *Saborski dnevnik kraljevinah Hrvatske, Slavonije i Dalmacije godina 1872–1875* [Journals of the Croatian Diet] (Zagreb, 1875), vol. I, pp. 1328–30. The Bill on Establishing a List of Jurors in *Sbornik 1875*, pp. 368–72.

³⁰ Čepulo, 'Sloboda tiska', p. 954. More on 'objective verdict' in 'objective' and 'subjective' procedure in Ogorelica, *Kazneno postupovno pravo*, pp. 777–82.

³¹ *Saborski dnevnik 1872–1875*, vol. I, p. 1352.

cepting such jurisdiction. The government and the deputies from the majority agreed on the importance of jury trial as a counterbalance to the judge as a state agent in politically sensitive cases. However, they warned that the institution of jury trial is interconnected with the general progress of the people, particularly considering their level of education and enlightenment. They stressed that the cautious approach was necessary in a country which lacked any tradition of jury trial, without big towns and without a significantly developed middle class. They warned that inclusion of political crimes in the lay jurisdiction in Croatia would have meant the politicization of the jury and inclusion of political passions in the judiciary. The capital Zagreb was considered as the only place fulfilling demands for such a liberal institution; as a result the proposal for establishing the only jury court there was justified. Besides that, most of the Croatian political journals were published in Zagreb. Similar elitist and anti-democratic attitudes among liberals were displayed by the deputies in the Diet when deciding on electoral reform in the same year.³² The liberal opposition helplessly insisted on the extension of trial by jury, pointing out that in the times of political instability ordinary judges are more open to the influence of government and ready to reduce individual rights, so that the extension of jury trial to political crimes contributes to an objective trial. Finally, apart from the ideological reason there was another very important pragmatic reason for refusing the proposed extension of jurisdiction. The government and some deputies discreetly indicated that the central government might block the whole jury trial legislation in the process of sanctioning in order to stop the extension of trial by jury to political crimes. In that case, even The Law on Criminal Procedure, which adopted the model of the modern Austrian law of 1873, would be endangered. That Law was a crucial step for the reform of criminal law in general and it should have replaced the conservative Austrian Law on Criminal Procedure that had been introduced in Croatia by royal decree in 1852 but was still valid. Some deputies also warned that if the central government and the king refused jury trial because of its extension to political crimes, then jury trial could not be proposed again even in the reduced form.³³ In the end, the government's bills were accepted without significant changes. How-

³² The electoral reform enacted in the Croatian Diet in the same year fully complemented such anti-democratic scepticism by Croatian liberals. The electoral reform liberalized electoral procedure, considerably reducing the involvement of the Croatian government in it. Also, the reform extended the right to vote directly to certain new 'intellectual' categories of voters in towns. However, the provocative proposal of one deputy that tax limits for direct voting in rural areas be gradually reduced, which would have resulted in only a modest extension of the social basis of the Diet, was bitterly refused by the great majority of the Diet on the same illiberal and anti-democratic grounds as in the case of the extension of trial by jury, *Saborski dnevnik 1872–1875*, vol. II, pp. 1830–64.

³³ For the legislative stages for the law on Criminal Procedure in the Croatian Diet, *Saborski dnevnik 1872–1875*, vol. II, pp. 1152, 1157, 1238–330, 1340–43, 1346, 1348, 1558–65, 1567, 1583. The Law itself in *Sbornik 1875*, pp. 253–354. See also V. Bayer, 'Stogodišnjica donošenja hrvatskog Zakonika o krivičnom postupku iz 1875 god.' [The Centenary of the Enactment of the Croatian Criminal Procedure Code of 1875], *Zbornik Pravnog fakulteta u Zagrebu* (Zagreb, 1976), no. 1, pp. 17–33; Lj. Vladimir, '120. obljetnica donošenja i sankcioniranja hrvatskog Zakona o kaznenom postupku od 17. svibnja 1875' [120th Anniversary of the Croatian Law on Criminal Procedure], *Hrvatski ljetopis za kazneno pravo i praksu* (Zagreb, 1994), no. 1, pp. 237–69.

ever, it took seven months for the Croatian government to submit the laws for the king's sanction. The government explained the delay with technical reasons – the translation into German of laws that altogether were of a considerable size. But the truth was that the government had waited for a particular criminal process against one opposition politician to be finished on the basis of the rigid *Presseordnung* of 1852.³⁴

In practice the candidates for the duty of jurors tended to avoid it, thus creating a problem of absenteeism. In judicial practice the jury usually sympathized with the weaker party, i.e. the press. That was why cases before a jury were not numerous. The government reacted by extensively using the possibility of evading jury trial. The state attorney initiated an 'objective procedure' before an ordinary court against a particular journal in which seizure of the incriminated issue could be pronounced without accusing or convicting a particular individual. The 'objective verdict' was followed by 'subjective procedure', initiated by the state attorney against the author or the editor. In that procedure the state attorney deliberately lowered the degree of responsibility of the defendant, if necessary (*culpa* instead of *dolus*) in order to avoid a jury court and sue the case before a court with a single judge with general jurisdiction for petty offences, including offences committed through the press.³⁵ Such practice was sharply criticized in the Croatian press as well as in the Diet, but it did not affect the government's behaviour.³⁶

However, apart from such government behaviour, significant liberalization of press regulation in 1875 encouraged the flourishing of political journals and an extension of criticism against the government in the Croatian press. In fact, despite all limitations, the modernization of Croatian institutions undertaken in the 1870s laid the ground for a more independent position for Croatia in its unbalanced union with Hungary. But it was also precisely the reason for significant changes for the worse undertaken in the period from 1883 to 1903. This was under the administration of the Ban Karoly Khuen-Héderváry, a noble of Hungarian origin with domicile in Croatia. Khuen-Héderváry was a man with the king's personal confidence and a member of the governing Liberal Party in Hungary. He was appointed after the central government had realized that it needed a reliable agent in Croatia who would be able to impose his own policy and would not depend on the support of the Croatian political parties. Karoly Khuen-Héderváry's task was to defend the dualistic structure of the Monarchy and guarantee that Hungarian interests prevailed. Therefore he was to take care that Croatian autonomy did not become a challenge to Hungarian domination in the Hungarian half of the Monarchy. During the twenty years of his administration Karoly Khuen-

³⁴ *Saborski dnevnik 1872–1875*, vol. II, pp. 1881–3, 1938–9.

³⁵ The Croatian Criminal Law on Crimes, Misdemeanors and Petty Offences of 1852 – which was in fact the parallel Austrian Law of 1803 that had been introduced in Croatia by the king's decree in 1852 – was based on the French trichotomy of offences into *crimes*, *délits* and *contraventions*. See *Kazneni postupnik. Po predavanju prof. Dr. Janka Čakanica na zagrebačkom sveučilištu* [University lectures on criminal procedure; lithographed], (Zagreb, 1889).

³⁶ Čepulo, 'Sloboda tiska', pp. 959–60.

Héderváry developed a skilful authoritarian policy within the constitutional framework. Not departing from the methods of pressure and corruption, he utilized perturbations in Croatian political life and the National Party became his instrument in the Croatian Diet.³⁷ The opposition in the Croatian Diet was silenced through changes in the standing orders of the Diet. Karoly Khuen-Héderváry also made an alliance with the political élite of the Serbian minority in Croatia to whom he guaranteed privileges and protection. In return, he was backed by the Serbian political élite and Serbian deputies in the Croatian Diet. In fact, Khuen practised a classical *divide et impera* policy in a hostile environment, privileging the minority in order to control the majority.³⁸

Neither Khuen-Héderváry nor the central government wanted clearly unconstitutional forms of rule to be introduced in Croatia as they could become a precedent that in future could encourage the Court to introduce unconstitutional measures in Hungary. Therefore, in order to exercise authoritarian policy in Croatia in constitutional forms, Khuen-Héderváry had to change the liberal institutions established in the previous reform period of the 1870s. Two principal institutional changes were undertaken soon after Khuen-Héderváry's arrival, in 1884. First, the guarantee of security of tenure for judges was abrogated in the Croatian Diet following the proposal of Khuen-Héderváry's government, which opened the judiciary to the government's pressure.³⁹ Second, jury trial was suspended by the Diet for three years and then for another two years.⁴⁰ It was the institutional cover for the pursuit of the opposition press which followed. The government justified the suspension by arguing that even the most obvious offences prosecuted by the State Attorney before a jury finished with acquittal. Because of that, according to the government, jury trial lost its meaning while criticism of the press had gone

³⁷ M. Polić, *Ban Dragutin grof Khuen-Héderváry i njegovo doba* [Ban Karoly Khuen-Héderváry and His Time] (Zagreb, 1901).

³⁸ Of course, the full explanation of Croatian and Serbian ideologies and political behaviour is much more complex and deeper. Ethnic Serbs in Croatia mostly lived in the territory of the Military Border, so that their number considerably increased after the reintegration of the Military Border into civil Croatia in 1882. However, Serbian demands in Croatian politics were present since 1861. On the politics of ethnic Serbs in Croatia in Khuen-Héderváry's administration, M. Artuković, *Ideologija srpsko-hrvatskih sporova. Srbobran 1884–1902* [The Ideology of Serbian-Croatian Disputes: the Contextual Analysis of the Serbian Journal *Srbobran*] (Zagreb, 1991); M. Artuković, *Srbi u Hrvatskoj (Khuenovo doba)* [Serbs in Croatia, Khuen's Period] (Slavonski Brod, 2001); V. Krestić, 'Politički, privredni i kulturni život u Hrvatskoj i Slavoniji' [The Politics, Commerce and Culture (of Serbs) in Croatia and Slavonia], in A. Mitrović, ed., *Istorija srpskog naroda* [History of the Serbian People] (Belgrade, 1983), vol. VI, pp. 375–431. On the period from 1861 to 1883 see Gross and Szabo, *passim*; M. Radenić, 'Srbi u Hrvatskoj i Slavoniji 1868–1878' [Serbs in Croatia and Slavonia 1868–1878], in V. Stojančević, ed., *Istorija srpskog naroda* [History of the Serbian People] (Belgrade, 1981), vol. V, pp. 232–79; V. Krestić, 'Srbi u Hrvatskoj 1850–1868' [Serbs in Croatia 1850–1868], in *ibid.*, pp. 136–52.

³⁹ See the two relevant laws of the Croatian Diet of 3 August 1884 in *Sbornik zakonah i naredabah valjanih za kraljevinu Hrvatsku i Slavoniju. Godina 1884* [Gazette of Croatia and Slavonia] (Zagreb, 1884), pp. 207–11, 215–16.

⁴⁰ Laws of the Croatian Diet of 2 December 1884 and 24 April 1887, *ibid.*, pp. 522–3; *Sbornik zakonah i naredabah valjanih za kraljevinu Hrvatsku i Slavoniju. Godina 1887* [Gazette for Croatia and Slavonia] (Zagreb, 1887), pp. 251–2.

beyond the acceptable. Therefore jury trial should be temporarily suspended and then reinstated after acceptable conditions in the press had been achieved. In the debate in the Diet, the government and the majority tried hard to explain that the suspension was not directed against liberal principles and that it would help strengthen liberalism in Croatia. They spoke of the radicalism of the opposition press which endangered the foundation of the state as well as the fundamentals of liberalism. The government warned that the only alternative to temporary suspension would have been a new, much more rigid law, so that suspension was presented as a liberal measure. Some deputies even suggested that jury trial should be abandoned because freedom of the press was not interconnected with jury trial and that even the most liberal institutions, like a jury, could not succeed in an environment which did not provide the conditions for them. Those appeals to liberal principles came because both ruling parties, the Liberal Party in Hungary and the reformed National Unionist Party in Croatia, declared themselves the agents of liberalism. Khuen-Héderváry also presented himself as a strong supporter of liberal ideology. Serbian deputies were particularly radical in advocating a hard line against jury trial and the opposition press, arguing that in practice decisions of the jury were mainly directed against Serbian defendants. On the contrary, the opposition bitterly defended jury trial by insisting that it was justified as a guarantee of the objectivity of the court in a country in which the judiciary was not guaranteed independence from the government. Trial by jury therefore appeared as being interconnected with the liberal principle of freedom of the press. The opposition generally interpreted the suspension as a means for the 'pacification' of political life in Croatia in the interests of dualism and Hungarian domination.⁴¹

Trial by jury was reinstated in 1890 after the Croatian political scene had been 'pacified'. However, in 1897 – following a political crisis of that year – jurisdiction of the jury was again restrained in the Croatian Diet. Jurisdiction for misdemeanours sued by citizens was transferred from the jury court to county courts. That change was the government's reaction to bitter polemics in the Croatian and the Serbian press that evolved into attacks of the Croatian press on the Croatian–Hungarian Compromise. The polemics were triggered by an insulting article about Croats in the Serbian journal and soon turned into attacks of the Croatian opposition press on the Serbs because of their support for the authoritarian and Hungarophile politics of the Croatian government. The change made it possible for state officials to sue critics of their politics in the press as private citizens and on grounds of misdemeanours. In such cases jurisdiction belonged to the regular instance of single judges in county courts, which had been divested of the guarantees of judicial independence since 1884. The debate in the Diet about that change gave an opportunity to some influential politicians of the majority, one of whom was a professor of law at Zagreb University, to express their scepticism

⁴¹ See the legislative process in the Croatian Diet on the laws on the suspension of jury trial in *Saborski dnevnik 1887*, pp. 232–48; *Stenografski zapisnici sabora kralj. Hrvatske, Slavonije i Dalmacije. Petogodište 1887–1892. od 1. do uključivo XXIV. saborske sjednice od 1. rujna do 5. prosinca 1887. Svezak 1. Godina 1887* [Journals of the Croatian Diet] (Zagreb, 1889), pp. 204–31.

towards the institution of jury trial in general. They insisted that the complexity of modern legal regulation required educated judges with professional ethics and not laymen open to political passions and influences of the moment, particularly in such a small country as Croatia, which was also burdened with complex relations with Hungary. Also, it was stressed that the transfer of jurisdiction from one single jury court to a number of ordinary courts in various parts of Croatia meant bringing legal protection nearer to the citizens, which would no longer depend on the single jury court in Zagreb. Serbian deputies strongly supported the reduction of trial by jury, explaining that Serbian state officials were frequently objects of incorrect attacks in the press but their cases against the press had always been rejected by juries. The opposition warned that such restraints of jury trial would suppress any criticism of state officials and suggested that lawsuits of state officials should be decided before the jury while the number of jury courts should be increased – but both proposals were rejected. The idea of establishing more jury courts was rejected because of 'the circumstances and relationships in Croatia', an explanation that included an estimation that other Croatian towns were still not prepared for such sensible institutions. However, this refusal also occurred because it was obvious that even the single jury court in the political centre could not be well controlled, let alone new jury courts that would have been widespread in a few distant centres.⁴² But in spite of that restriction, jury trial was suspended again in 1903. The reason was largely anti-government and anti-Hungarian demonstrations in Zagreb which were bitterly commented on in the Croatian opposition press in continuation of the polemics between the Serbian and the Croatian press that had started a year before. The government charged the opposition press that it had inspired large demonstrations in that year and that the atmosphere did not make it possible for jurors to reach objective decisions. Although this time the suspension was not limited in time, it passed anyway through the Diet without objection.⁴³

However, a change in the political context brought in moderate re-liberalization of the press and jury trial legislation. Khuen-Héderváry left Croatia in 1903 when he was appointed by the king as the president of the Hungarian government in order to suppress Hungarian tendencies to independence. At the same time political processes in Croatia and in the Monarchy led toward political changes. In Croatia a cluster of moderate opposition parties (the Croato-Serbian Coalition)

⁴² The Law of the Croatian Diet of 11 March 1897 which changed The Law on Criminal Procedure for Printed Matters in *Sbornik zakonah i naredabah valjanih za kraljevinu Hrvatsku i Slavoniju. Godina 1897* [Gazette for Croatia and Slavonia] (Zagreb, 1897), pp. 253–54. The parliamentary debate on the law in *Stenografski zapisnici sabora kralj. Hrvatske, Slavonije i Dalmacije. Petogodište 1892–1897. od CXLII. do uključivo CLXXVIII. saborske sjednice od 19. studenoga 1896. do 29. travnja 1897. Svezak V. Godina 1896/7* [Journals of the Croatian Diet] (Zagreb, 1897), pp. 3332–451.

⁴³ The law of the Croatian Diet that suspended jury trial in 1903 in *Sbornik zakonah i naredabah valjanih za kraljevinu Hrvatsku i Slavoniju. Godina 1903* [Gazette for Croatia and Slavonia] (Zagreb, 1903). Parliamentary debate on that law in *Stenografski zapisnici i prilozi sabora kralj. Hrvatske, Slavonije i Dalmacije. Petogodište 1901–1906. od LIII. do uključivo LX. saborske sjednice od 17. lipnja do 25. lipnja 1903. Svezak IIII. Godina 1903* [Journals of the Croatian Diet] (Zagreb, 1903), pp. 129–31 and Appendix 8.

won the elections for the Diet in 1905 on the programme of moderate liberal and democratic reforms. The Coalition compromised with the central government and shared power in the Croatian government. In 1906 the new government had already reinstated jury trial and promised to develop that institution. In 1907 the government undertook a small set of reforms of the outdated press and jury trial legislation. The requirement of a security was forbidden and a second jury court was established in the second largest Croatian town of Osijek. In the debate in the Diet bitter complaints were addressed against the possibility of seizure of the issue of a journal through 'objective process'. The government replied by giving a hint that some repressive parts of the press law had not been removed out of fear of the reaction of the central government, but also because the government still needed such instruments in the process of transition from repressive regulation to freedom of the press. One deputy complained of the rigidity of the age limit for jurors (30 years) and the tax threshold (it was equal with the highest tax threshold in elections for the Diet in the towns) because they excluded a wide range of the educated population.⁴⁴ It was the last legislative action taken in the field of press and jury legislation before the First World War. The Ordinances of the Ban of 27 July 1914 introduced administrative control of printed matters and suspended jury trial. Both Ordinances were withdrawn by the Ban Ordinance of 30 October 1918, the day after the provisional State of Slovenes, Croats and Serbs was established in Zagreb.⁴⁵

The dynamics and the character of the press and jury trial legislation of the Croatian Diet between 1875 and 1918 were dependent on internal and external political conditions which can partly be presented graphically (see Table 1).

V CONCLUSION

The legislative politics of the Croatian government and the Croatian Diet in press and jury trial matters substantially depended on the political context. The institutional changes corresponded with the characteristics of the administration of the time, especially the relations between the Croatian and the central government (see Table 1). Generally speaking, the outcome can be ascribed to both external and internal forces, i.e. to the indirect influence of the central government and to

⁴⁴ The law which reinstated jury trial in 1906 in *Sbornik zakona i naredaba valjanih za kraljevine Hrvatsku i Slavoniju, godina 1907* [Gazette for Croatia and Slavonia] (Zagreb, 1907), pp. 1–2. Parliamentary debate on the law, *Stenografski zapisnici i prilozi Sabora kralj. Hrvatske, Slavonije i Dalmacije petogodišta 1906–1911. od 1. do uključivo XXIX. saborske sjednice od 9. svibnja do 18. prosinca 1906. Broj priloga od 1. do 28 – svezak I – godina 1906* [Journals of the Croatian Diet] (Zagreb, 1907), pp. 245–54 and Appendix 3/3. The law which changed press regulation in 1907 and the Ordinance of the Government that referred to it in 1907 in *Sbornik zakona i naredaba valjanih za kraljevine Hrvatsku i Slavoniju, godina 1907* [Gazette for Croatia and Slavonia] (Zagreb, 1907), pp. 356–96. Parliamentary debate on the law in *Stenografski zapisnici i prilozi Sabora kralj. Hrvatske, Slavonije i Dalmacije petogodišta 1906–1911. od 1. do uključivo LXXII. saborske sjednice od 1. ožujka do 12. prosinca 1907. Broj priloga od 1. do 19 – svezak II – dio II – godina 1907* [Journals of the Croatian Diet] (Zagreb, 1907), pp. 678–718.

⁴⁵ *Zbornik zakona i naredaba valjanih za Kraljevine Hrvatsku i Slavoniju. Godina 1918* [Gazette for Croatia and Slavonia] (Zagreb, 1919), pp. 453–54.

Table 1: The dynamics and character of press and jury trial legislation of the Croatian Diet

Croatian government	Legislation
'National-liberal' (1873–80)	1875 – Law on the Use of Printed Matters – Law on Criminal Procedure in Printed Matters – Law on Establishing a List of Jurors – Law on Criminal Procedure
'Hungarophile-liberal' (1883–1903)	1884 – Abrogation of the principle of security of tenure for judges (independence of the judiciary abrogated) – Suspension of jury trial for three years 1887 – Suspension of jury trial for two years 1890 – Reinstatement of jury trial 1897 – Limitation of jurisdiction by jury 1903 – Indefinite suspension of jury trial
'National-liberal', moderately democratic (1905–)	1906 – Reinstatement of jury trial 1907 – Liberalisation of the Law on the Use of Printed Matters (security abolished) – A second jury court established

conditions in the Croatian political system, primarily the relevance of Croatian political factors and the ideological tenets of the majority in the Diet. However, the degree of liberalization mostly depended on the external influence.

On the external level, the reconstruction indicates two things. First, in spite of the guarantees of Croatian autonomy some of the institutional channels in the common Hungarian-Croatian structure of power were effectively used for the central control of the Croatian autonomous government. Second, the central government was particularly concerned with the scope of liberal rights because they were seen as a medium for articulating the tendency for a more independent Croatian position. Therefore the central government – whose policy was not very liberal in Hungary either – did not want to allow that the liberal institutions which already existed in Hungary be introduced in Croatia. 'Liberalism' of the Hungarian liberals towards Croatia was reduced to tolerance of moderate reforms or concealing an autocratic policy in constitutional forms through the manipulated majority in the Croatian Diet.

On the internal level, the reconstruction indicates that the attitudes of the Croatian liberals were also a serious limitation on press and jury trial legislation. The ideological basis of the Croatian liberals was a narrow and anti-democratic liberalism, most completely expressed in scepticism about the readiness of Croatian

society for more developed liberal institutions. Therefore liberal institutions could be introduced only in reduced forms until society became educated enough for their full acceptance. But apart from their general scepticism, the Croatian liberals particularly feared the possibility that wider classes of the population would be included even in the limited liberal institutions. They feared their uncontrolled and passionate influence on the political system. Both aspects, general and particular, strongly determined the reduced scope of Croatian liberalism and to a degree contributed to the autocratic colour of the relevant Croatian legislation.

Unlike the approach of the central government, which was more pragmatic and rather openly rigid in respect to the liberalization of Croatian institutions, the Croatian liberals were half open to the practical introduction of liberal institutions and more 'liberally' coloured in their ideological approach when institutions in Croatia were considered. However, in spite of different rationales, the inclinations of both were complementary and contributed to the autocratic dimension of the Croatian political system. Strict political control of society was the common denominator. Basically similar attitudes among Serbian deputies in the Croatian Diet against jury trial make the press and jury trial legislation an interesting indicator and one of the possible focal points for study of the controversies between Croats and the Serbian minority in Croatia, in which the broader context should be taken into account as well. The 'liberal paradox' – both the Hungarian and Croatian liberals who held power declared their dedication to liberal principles but pursued autocratic and undemocratic policies – had a common basis in the intention to guarantee the domination of national or social interests through the political system.

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The press and jury trial legislation of the Croatian Diet 1875–1907: Liberalism, fear of democracy and Croatian autonomy

DALIBOR ČEPULO

SUMMARY

In the political reality of the nineteenth century the efficient guarantee of freedom of the press lay in trial by jury, which offered an additional guarantee of judicial independence; trial by jury was always (and sometimes only) connected with criminal offences committed through printed materials. Selection of jurors implied certain social preferences and was rooted in the ideological background. Therefore legislation dealing with press matters and jury trial can be taken as indicative of how liberal and democratic (or not) were political movements and political and judicial systems. Press and jury trial regulation was a particularly delicate issue in Croatia both because of internal politics and because of the special autonomous position of Croatia in the unbalanced union with Hungary. As a result the legislative policy of the Croatian Diet on freedom of the press and jury trial can be taken both as evidence of liberal and democratic attitudes and as a sensitive indicator of the actual and formal influence of the central government on the Croatian Diet. This legislation also reveals the real restrictions on Croatian autonomy and the actual channels of heterogeneous influences on it. Dalibor Čepulo reconstructs and analyses the substance and enactment of the press and jury trial legislation in the Croatian Diet from the first laws that regulated these fields in 1875 until the last amendments of the laws in 1907. The earlier press and jury trial regulation valid in Croatia is also reconstructed, as are the attempts to enact legislation in the Croatian Diet. The author indicates moreover the channels and degree of political influence of the central government in Budapest on the legislative policy of the Croatian Diet, i.e. on autonomous Croatian legislation in the mentioned fields. The central government exercised significant indirect influence on the Croatian press and jury trial legislation, basically using the procedures of sanctioning and 'pre-sanctioning' legislation as well as political pressure. Both the Hungarian and Croatian liberals declared

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