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## With no right to have rights. Conflict analysis and the common rights of the townsfolk of Rymanów in the latter half of the 19<sup>th</sup> century<sup>2</sup>

### Abstract

This article concentrates on an inquest held by the local commission in Sanok into the common rights claimed by the inhabitants of the town of Rymanów in the latter half of the 19<sup>th</sup> century. The negotiations, which commenced in 1859, sometimes took a heated turn. They were attended by much conflict and misunderstanding, equally between the manor and the town as among the townsfolk themselves. Conclusions drawn from the analysis of the archive source provided the basis on which to evaluate the activities of each of the parties – the town’s agents and the landlords – and, interestingly, those of the commissioners and other officials in the public administration, whose decisions exhibited bias. The townsfolk began the negotiation from a position of certainty and conviction of the legal force of Prince Czartoryski’s privilege granting the disputed common rights to them. The manor’s agent, on the other hand, took a bold position, which he consistently maintained. He disputed the authenticity of Czartoryski’s grant and even the fact that the Prince had ever held the manor. This approach ultimately proved successful. Attention is also drawn to the role played by local commissioners and the officials in the National Commission in Lviv, the latter making the most important decisions. The first phase demonstrates the commissioners’ influence on the original outcome. The rationale given for the second decision, on the other hand, shows the

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<sup>2</sup> This article arose from the research project: ‘The Conflicts of Easements in Galicia in the Second Half of the 19th Century. The Process of Redemption and Regulation of Easements in the Area of Middle Galicia’, as part of the SONATINA 1 competition (No. 2017/24/C/HS3/00129) funded by Poland’s National Science Centre.

arbitrariness with which the Lviv Commission made its ruling, based on just one official document.

Analysis of the proceedings highlights a more general trend prevalent in Galicia, first described in the example of Rymanów. This is a case in which two consecutive inquests in the same matter ultimately ended in a negative decision. In other words, the townsfolk's claims were dismissed, and they were denied any common rights eligible for buyout or regulation.

**Key words:** Galicia, common rights to land and forest, social conflict, agrarian reform

## I. Introduction

The legal and administrative path to the abolition and regulation of common rights in Galicia had many aspects. Taking a broader view can assist in explaining the main trends and transformations, as well as the impact that reform had on other facets of socio-economic life. Analysis of select cases, on the other hand, will serve to show the process from a different perspective, given that every single case of abolition, buyout, or regulation of rights was considered and dealt with on an individual basis. In this connection, besides the top-down framework and legal formulations (statutes and executive regulations) defining the administrative path, each inquest had its own unique particularities mainly reflecting extra-legal factors (local customs, disputes and conflicts, complicated social relationships, and other problems indirectly influencing the population's behaviour and attitude). Select-case analysis also makes it possible to highlight such issues that have eluded a more general study, i.e. social relations within a given community or between the village or town and the manor; the importance and use of natural resources collected as allowed by common rights in everyday life; forest administration; and the existence of idiosyncratic forms or rights unique to a specific locality.

Inquests held between 1857 and 1895 by local common-rights commissions led to varied outcomes, both as regards the decision (refusal, recognition and buyout, regulation, or a verdict containing a mixed proposal), as well as in detailed matters (such as the value, volume, and form of compensation for rights being abolished). Moreover, the proceedings themselves could take place either in a benign atmosphere (Popek 2020a: 75–97), conducive to the regulation of the rights, or amid violent conflict (Kargol 2014: 221–240; Himka 1988: 36–38), sometimes leading to a total boycott of the commission by either party to the dispute, or even armed resistance. Situations also occurred in which, in

a single domain incorporating several localities, extra-legal factors played the main role and determined the shape of the final outcome granting or denying compensation for the rights being abolished (Popek 2020b). A study of the inquests on a case-by-case basis shows that in many cases the human factor was a major driver in the context of subjective outlooks on local law and on the terms of operation of the various specific legal instruments establishing common rights to lands and forests in the manorial system. Many conflicts arose in this area, for the subjective views of the officials working in the commissions prevailed in the decision-making process. Hence, the main research problem in this article concerns the evaluation of the decisions made by local commissioners and central authorities in Lviv and Vienna, which in numerous cases rectified the frequently unjust decisions. Select strands also refer to the problem of social conflicts persisting within a given community or between the townsfolk as rights holders and the town's landlords. Finally, the article touches upon the evaluation of those inquests ultimately (through local authorities, the National Commission for the Regulation and Abolition of Feudal Duties in Lviv and the Ministry of Internal Affairs in Vienna) which ultimately led to a negative decision, that is one holding that a given community's common rights had not been positively verified, hence awarding no compensation for abolition.

The article involves the analysis of the problem of common rights to land and forest in the light of such rights' direct feudal context, which Anglophone literature dealing with this part of Europe refers to as 'the Second Serfdom' (Nichtweiss, Seward 1979: 99–140; Velkova 2012: 501–521). This underpinned the Rymanów townsfolk's main line of defence, which was attempting to prove that the rights to gather firewood and timber for construction from forests and to graze cattle in manorial pastures were based on consideration for payments made to the town's landlords as a form of feudal rent. In other words, common rights to lands and forests were grounded in the feudal jurisdiction of Rymanów's proprietors to which the townsfolk were subject, thus falling under the 1853 imperial patent abolishing such rights as were leftovers of the former manorial system (Ingłot 1948: 43–51; Ślusarek 2002: 164–165). The main turning point corresponds with the period of the inquest started by the local commission in Sanok in 1859; however, many strands refer to earlier periods, with direct influence on the negotiations, including the matter of Prince Jan Samuel Czartoryski's privilege of the later 18<sup>th</sup> century and the circuit (*Kreis*) documentation of the 1772–1848 period. Although the main research problem is exemplified by the town

of Rymanów (presently in the Subcarpathian Voivodeship (*województwo podkarpackie*) in South-Eastern Poland), for comparative purposes this article references examples from other towns and villages with their own commissions.

## II. Material and Method

The research results presented in this article enabled an exhaustive analysis of the process of the regulation of the common rights claimed by the Rymanów townsfolk and the attendant conflicts. In this connection, the main theses and reliable conclusions were derived from a rich and varied source base of the Central State Historical Archives of Ukraine in Lviv (hereafter CSHAUL), corps 146/64, vol. 1-12109), and subject literature from the latter half of the 19<sup>th</sup> and the former half of the 20<sup>th</sup> centuries. The contents of the archives are mostly in the nature of administrative legal documentation. These are mainly the records of the local commission in Sanok, rulings and verdicts, agreements and parties' pleadings, settlements, powers of attorney, motions and petitions, appeals to circuit authorities, interrogations involving town representatives, extracts from privileges and urbarial circumscriptions, internal reports of the National Commission as a body of the Imperial and Royal Governorate in Lviv, and appeals to the Ministry of Internal Affairs in Vienna. Archival sources also refer to the abolition of cattle-grazing and wood-gathering rights held by the parish of St Lawrence in Rymanów. The documentation was subjected to detailed critical analysis. This was the basis for conclusions from the main research problem. Supplementary material is provided by cadastral maps from the State Archive in Przemyśl, which underwent graphical processing, calibration, and vectorization with geospatial-information software (QGIS). This resulted in the colourful illustration of manorial pastures used by the parish for cattle grazing.

## III. Results

Common rights to lands and forests in the manorial system in Polish territories do not reflect the textbook sense of the term *servitutes praediorum*. Their definition was modified and grounded in the landlord's feudal jurisdiction. In other words, serfs or villagers living in a given manor and paying feudal rent to the landlord (the king, nobility

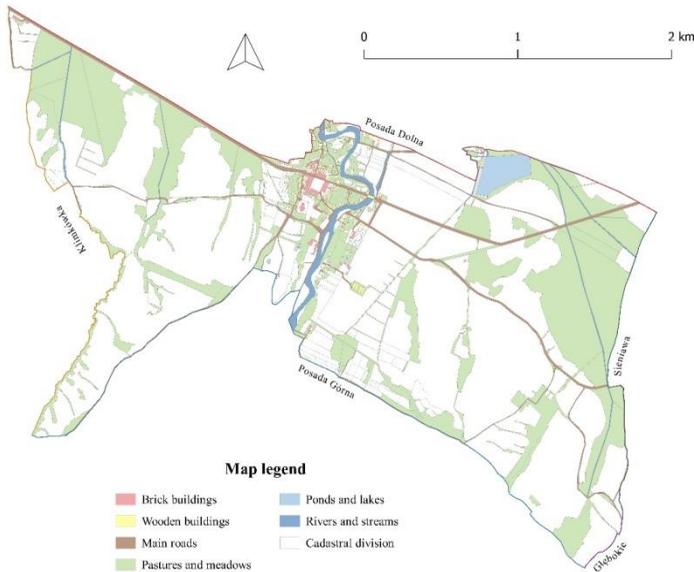
or clergy) by individual charters or privileges awarded to a given village or town, could usually use manorial land for their own use, for example by gathering raw materials (construction materials, fuel, brushwood, and forest produce), graze animals on meadows, fallow and stubble, and extract mining materials such as lime, clay, or peat. (For more extensive reference to the definitions and operation of common rights in Polish territories see – Dąbkowski 1911: 254–270; Till 1892: 324–340; Strzelecki 1901: 201–233). Polish law in the Middle Ages and the Modern Age referred to common rights with specific terms, either Latin (*libertates, onus*) or Polish (*żerne, gajne*) (Dąbkowski 1911: 254–256; Bandtkie-Stężyński 1851: 298–299; Burzyński 1871: 440; Szczaniecki 1862: 3–20), reflecting their substantive meanings.

The establishment of a relationship giving rise to such rights usually involved founding charters, privileges, grants, patents, and wills. Roman or Greek Catholic parishes and prebends usually derived their rights from the instrument erecting the parish (Polish National Ossoliński Institute Library, vol. 4884/III: 2; vol. 7214/III: no pagination). A written confirmation of the charter was the most precious bargaining chip should a conflict arise, for example due to landlord change or tenancy. Moreover, courts and administration regarded specific written patents differently from customary law. In numerous Galician localities a single instrument establishing common rights on lands, forests, or rights such as passage or cattle-driving was sufficient proof, as recorded in official documentation (e.g. urbarial circumscriptions of 1789 or other administrative pronouncements), for a given right to operate until the reform abolishing common rights in the latter half of the 19<sup>th</sup> century.

The main conflict between the landlords of Rymanów Manor and the townsfolk involved the recognition of the legal basis establishing common rights and played out in a multistage inquest by the local commission in Sanok in 1859–1867. The problem directly concerned the inhabitants of the city, i.e. the Catholic commune, relying on a 24 January 1698 grant by Prince Jan Samuel Czartoryski (Kiryk 1985: 33; Ossadnik 2020: 114), part of which stated: *I permit them to gather fuel from the forests, provided no harm is done, which foresters are to observe, provided they so take only from windfallen trees, old wood and dry wood. For construction or repair [of buildings] they should take by manorial notice and receipt. (...) urban cattle such as they graze on manorial fallows and slopes, they should give half a bushel of fodder oats and four grosses for each cow and a quarter of a bushels for a heifer* (CSHAUL, corps 146/64, vol. 9239: 60–61). The first round of negotiation between the manor and the town took place in 1859, that

is two years after instructions were given for the 1853 imperial patent for the abolition and regulation of common rights to lands and forests. On 15 February of the same year the townsfolk wrote a petition to the Royal and Imperial Governorate of Galicia for an inquest to abolish their common rights for compensation. Already in the same year the local common-rights commission in Sanok took the initial steps to assess such rights as the town could have to use the manorial property then belonging to the sisters, Zofia Urbańska and Józefa Gorczyńska, of the Skórski family. The first step was to determine the legal basis on which the rights were exercised. The officials focused, however, on documentation from the 1772–1848 period, without accounting for the aforementioned Czartoryski grant. Nor were detailed inquiries made, such as interrogating witnesses or experts (foresters, manorial clerks, public officials). The city then delegated four agents to represent the townsfolk's collective interests – Józef Sołtysik, Stanisław Szajna, Wawrzyniec Białas, and mayor Wojciech Solecki – who, during the session on 23 November 1860 in Sanok, acting on behalf of all townsfolk, renounced all rights and declared the manorial property to be and have been free of any common rights, while firewood gathering from manorial forests and cattle grazing on manorial right was by the proprietor's consent for a fee. After an expedited inquiry, the local commission forwarded a decision to the national Commission in Lviv. The latter held that – since the town's representatives were of one mind with the manorial party and confirmed the manor's freedom of any common rights such as the townsfolk might have had, with the townsfolk waiving any claims – an agreement had been reached. In that connection, on 2 March 1861, the Commission in Lviv confirmed the Sanok findings and issued a final decision denying the townsfolk any compensation for the abolition of their common rights (CSHAUL, corps 146/64, vol. 9236: 40–42).

When that decision reached the town's representatives, it was met with a determined protest, not exclusively on account of the outcome itself. The inhabitants' outrage was the result of how the case had been handled, as the process had possibly involved the officials violating the law, forging signatures, and issuing an unjust verdict. The seemingly efficient proceedings sparked many a dispute, both between the town and the manor and among the inhabitants themselves. The Rymanów townsfolk did not waive their right to appeal, and in 1861 they appealed to the Ministry of Internal Affairs in Vienna, describing a number of irregularities, as well as the possibility that a crime may have been committed.



**Map 1. Map of Rymanów with a visible cadastral division from the mid-19th century**

Mapa 1. Mapa Rymanowa z widocznym podziałem katastralnym z połowy XIX wieku

Created by the author in QGIS 3.10.3 (Source: State Archive in Przemyśl, corps 126, vol. 1454M, sheets 1-7)

The document filed in Vienna left no trace of doubt that forgery of signatures and breach of duty by the officials may have occurred. The ministry granted the appeal in full and ordered both a new hearing of the townsfolk's case and an investigation into irregularities in the commissioners' conduct. Ultimately, the investigation showed that only townsperson Walenty Sapecki and mayor Wojciech Solecki had attended the hearing in Sanok on 23 November 1860 and *they had not been instructed by the town to represent it in matters of abolition of feudal duties and the aforesaid mayor undersigned the absent agents on said transcript* (CSHAUL, corps 146/64, vol. 9236: 87–88). It is not known why the first hearing was attended by unauthorized persons who, without attempting any negotiation, renounced the common rights on behalf of the community as a whole. The second enigma is the absence of the town's legal agents. One can only surmise they had intentionally not been cited to appear. This is also confirmed by the fact that several months prior to the commission's hearing, on 19 March 1860, a general assembly of the inhabitants of Rymanów took place (with mayor Wojciech Solecki in attendance), who selected five agents: Józef Soltysik, Stanisław Szajna, Michał Pniak, Wawrzyniec Białas, and

Samuel Tarnower (CSHAUL, corps 146/64, vol. 9236: 87–88). A full explanation comes from mayor Solecki's statement before the Commission in Lviv, which appears to show that a misunderstanding between the inhabitants and the mayor unintentionally violated the law. On several pages of explanation filed to the Imperial and Royal Governorate on 12 June 1861, he claimed that neither he, nor his companion W. Kopecki, had ever renounced the city's claim to common rights and that they had been misled by commissioner Ludwik Felsztyński. The mayor explained that the negotiations of November 1860 were perceived as preliminary and thus, due to more important duties, the remaining agents did not go to Sanok but instead delegated the mayor and townsperson Kopecki to act on their behalf. W. Solecki admitted that he had placed the signatures for Sołtysik, Szajna, and Białas, claiming it was with their permission. Moreover, during the November meeting with the town's representatives, L. Felsztyński decided on his own initiative that the town had no legal grounds on which to claim the recognition of common rights. The mayor and Kopecki had agreed with the commissioner only as regarded fees for wood and pastures and had not renounced the inhabitants' claims or declared the manorial land free of common rights. Also, the town's legal agents supported the mayor's statement and his motion to vacate the Sanok commission's decision of 23 November 1860. The whole situation shows numerous ambiguities. The town's agents may have underestimated the importance of the commission's first hearing and sent agents without a formal authorization. Nonetheless, the presiding common-rights commissioner in Sanok was unquestionably lax in his duties, as he had not demanded that Solecki and Sapecki produce documents to establish their authority to represent all of Rymanów's inhabitants and allowed a decision prejudicial to the town to be made without a formal inquest. It is probable that Felsztyński acted out of a desire to push the matter to a speedy conclusion, for which reason he omitted in-depth inquiry and arbitrarily decided that the townsfolk had no legal grounds for the common rights they were claiming. In all likelihood, the commissioner was disqualified from the case, as he did not conduct the proceedings following the inhabitants' appeal to the Ministry in 1861 (CSHAUL, corps 146/64, vol. 9237: 23–26).

By a decision of the Ministry of Internal Affairs in Vienna of 15 November 1861, the local commission in Sanok was ordered to hold a new, comprehensive inquest. The manorial party was represented by Józefa Gorczyńska's husband's Adam (CSHAUL, corps 146/64, vol. 9239: 46–47), while the city, on the basis of a power of attorney with 152 signatories, was represented by Piotr Topolski, Franciszek

Cetnarski, and Wojciech Kilar. For reasons unknown, the main hearing only took place on 27 October 1866. Commissioner Roman Zdankiewicz presided (Zajac 2002: 18) while Józef Bornatowicz assisted as secretary. Accompanying the city's agents were observers – Wojciech Solecki, Jan Ryglewicz, Walenty Sapecki and Walenty Mazurkiewicz. In the first order the town's agents attempted to prove that the townsfolk's relationship with the landlords of the entire manorial estate was feudal in nature. Similarly to other private towns in the feudal period, they had paid annual rent, a total of 66 Rhenish guilders and 11 kreutzers, which was abolished in 1848, and they were now making payments toward the indemnity capital. The full statement of the town's agents shows that the Jewish population in Rymanów had waived claims of common rights, which was why only the Catholic commune was advancing them. Their requests included recognition of the right to gather firewood and timber for construction from forests and to graze cattle on manorial fallows, meadows, and pastures (CSHAUL, corps 146/64, vol. 9239: 1–3).

The legal basis for the common rights was to have consisted primarily in Prince Czartoryski's grant of 1698. Exhibiting a copy, the village's representatives noted that in 1772–1848 there had been friction between the town and the landlords concerning the recognition of the Czartoryski's grant. Eventually, it was not confirmed either in the urbarial circumscriptions of 1789 (CSHAUL, corps 146/18, vol. 3369), nor in land cadastres (CSHAUL, corps 19/XV, vol. 213) or tax reports (CSHAUL, corps 146/17, vol. 723; corps 146/19, vol. 2952–2956), for which reasons the proprietors of the manor refused to acknowledge it during the initial negotiations. The second and more important legal basis cited was usucaption (positive prescription), that is the uninterrupted exercise of common rights until 1848. According to the testimonies of the town's oldest dwellers, born at the turn of the 19<sup>th</sup> century, the townsfolk could enter the manorial forests within the confines of the neighbouring commune of Posada Górna free of charge to gather fallen-off dry branches and boughs, break dry branches off of trees, or put an axe to whatever in fallen branches could not be used as construction timber. The wood was transported by horse or ox carriage and if someone did not have one, then the fuel was carried on one's back, strapped with ropes. According to the townsfolk, manorial servants had allowed them to enter the forest with no written permits, on any day of the week. The situation changed with the death of the landlord, Józef Skórski, in 1826. The administration was taken over by his wife's brother, Piotr Signo (Kamiński 1856: 216; Aftanazy 1996: 399), who made new rules for the commons. Some of the rights were curtailed.

Since then the townsfolk were only allowed to gather fallen-off dry branches, without using an axe. Moreover, the new administrator appointed two fixed days a week (Wednesday and Saturday) when the forest could be entered and forbade horse or ox carriages. Fuel could be carried off only on one's back. Only in extraordinary cases (e.g. long frosty winters), at the townsfolk's express request, permission was granted to gather thicker wood (fallen trees or branches). The new manorial administrator also demanded consideration for the fuel gathered. In exchange for a single voucher he demanded that one of the family members (usually the children) perform certain works around the manor. This was usually weeding flowerbeds or tending the flowers in the summer period for several hours a day. Entering the forest required a voucher, which was valid for a single day. Accordingly, on a single day one could make several trips to the forest and bring back as much firewood as one could carry on one's back. The above rules continued until 1854. Later, Signo demanded financial compensation. From 1854–1858 the townsfolk paid one kreutzer for each canvas of firewood brought from the forest, and from one year after the currency reform in 1857 to the time the inquest was held (Ihnatowicz 1967: 91–93) this increased to two kreutzers (CSHAUL, corps 146/64, vol. 9239: 4–11).

Somewhat different rules applied to construction timber used to build new buildings or repair old ones. From 1772 to 1848 the custom had been that a destitute person would petition the manor for construction timber. Next, at the landlord or the administrator's request, the local forester went to the house and assessed the realistic need. On that basis the inhabitant would receive a written voucher naming a specified quantity of wood. One had to cut and transport it out of the forest at one's own cost. Similarly to firewood, vouchers for construction timber were restricted with Piotr Signo's takeover in 1826. Townsfolk of more substantial means were required to purchase it direct from manorial forests or other manors. Free wood was given only to the neediest in a time of natural disaster. That was the case, for example, in 1834, when a town fire claimed 50 buildings (Szulc 1999: 223). At the victims' request Piotr Signo provided the needed wood both for Catholics and for Jews. Moreover, the town's agents candidly testified that between the fire and the time of the transcript the townsfolk for the most part purchased their construction timber.

Prince Czartoryski's grant also allowed the Rymanów townsfolk to graze cattle on the manor's fallows and beaten fields. There were scant pastures within the town's confines, so there was not a single property burdened with grazing rights. The townsfolk drove their cattle onto

available arable fields fallowed for the year. Things were similar with beaten fields – *tłoki* – arable fields turned, because of low yields, into pastures. The rules for grazing rights were substantially the same as anywhere else in Galicia. Usually they meant cattle belonging to the townsfolk, the manor and the parish could feed for approximately 9 hours a day. In Rymanów's case the animal headcount was not controlled. The grazing started in spring months, around 24 April, and continued until late autumn every year. The town's agents noted that since the very beginning (that is 1698) grazing rights required mandatory compensation to the manor. Half a bushel of oat and 4 grosses were paid per cow per year, or a quarter of a bushel for a heifer or calf. Around 1815 Józef Skórski waived in-kind payments and ordered fees to be paid at 2 Rhenish guilders per cow and 1 per heifer or calf. The payments, however, did not merely serve as consideration, but they were used to pay salaried herdsmen watching over the manorial and the townsfolk's cattle. After Piotr Signo's takeover, similarly to the rules for wood taken from manorial forests, the rules also changed for pastures. First of all, the townsfolk were required to hire their own herdsmen. The fee also went up – 4 guilders for a cow and 2 for a heifer. The worst conditions, however, came when the Rymanów manor was leased to Franciszek Ritterschild (Potocka 1973: 167). The prices then went up by 1 guilder per animal. Moreover, both Signo and Ritterschild controlled the headcount. The custom was then that in spring, before the first grazing, each inhabitant had to report to the manorial administrator with the number and age of the animals to be grazed on manorial land throughout the year and pay the agreed grazing fee – *spašne* – in advance. (CSHAUL, corps 146/64, vol. 9239: 12–20).

The townsfolk's complaints during the main hearing before the Sanok local commission in 1866 were met with an impulsive reaction from Adam Gorczyński, whose line of argument resembled the arbitrary imposition of his subjective point of view. First thing off, he denied the townsfolk's claim that until 1848 they had been under the manor's feudal jurisdiction. He admitted that for several decades the landlord had exercised patrimonial jurisdiction and administration over the town but only in its own stead, as it had been unable to maintain a council. Furthermore, he claimed that the townsfolk's rent paid to the manor had nothing to do with feudal rent but was simply a payment for gardens and yards near houses. He also cited the decision of the Lviv indemnity commission of 17 August 1855. Gorczyński's conduct in negotiation clearly reflects his supercilious and patronizing attitude, best reflected by disputing the authenticity of the Czartoryski's grant, as well as that

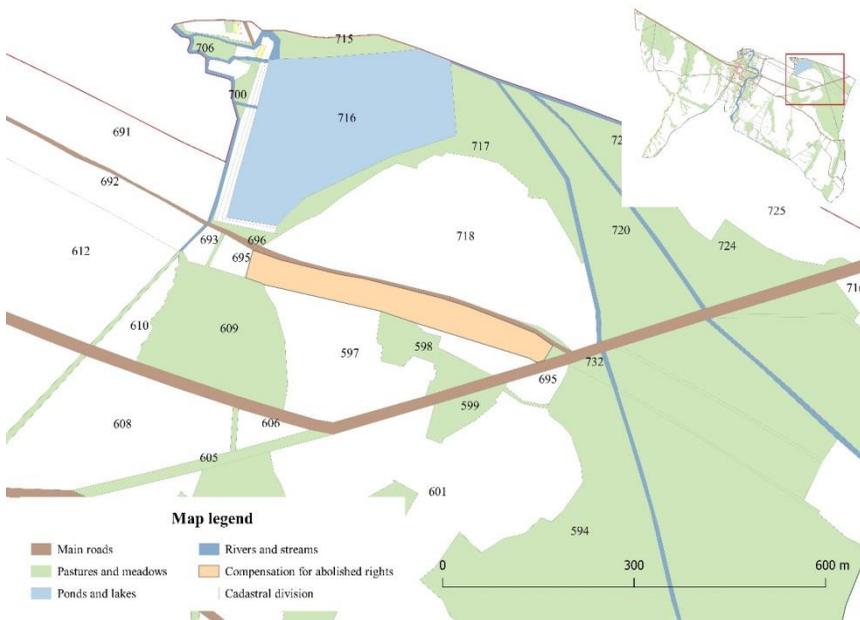
*Prince Jan Samuel Czartoryski had ever been the proprietor of Rymanów entitled to issue similar documents to the townsfolk of Rymanów or anyone else* (CSHAUL, corps 146/64, vol. 9239: 22). Moreover, citing the city's urbarial circumscription of 1789, he noted that he was not aware whether any mention had been made there of common rights, but *even had it been there, it only could have slipped in there by mistake and of course must be deemed null and void* (CSHAUL, corps 146/64, vol. 9239: 22). Gorczyński's main argument was the 1820 tax reports, stating clearly the townsfolk had no wood-gathering rights and no right to graze cattle on manorial land. Dismissing the townsfolk's second legal ground, usucaption, he asserted that even if they had exercised their rights regularly until 1826, they could not call any living witness who would remember and confirm the operation of the rights 30 years back (from 1796 to 1826). The manorial party's last contention was evidence of having misunderstood the landlords' intentions. According to Gorczyński, providing firewood and especially construction timber from manorial forests was the result of free will and charity. He cited the example of assisting the victims of the 1834 fire and the Jewish community with the construction of a steam bath in 1865. He did not conceal his embitterment when speaking about the townsfolk having received construction materials *that they endeavour to transform the manor's grace and charity into a right; the court is in the present circumstances, therefore, constrained from showing any grace or charity to anyone* (CSHAUL, corps 146/64, vol. 9239: 29). He provided similar arguments against the townsfolk's claims of grazing rights. Dismissing the existence of a common right, he argued that he had been entering into contracts with certain farmers for the lease of specific property. Gorczyński's explanation, however, was quickly impeached by the town's agents. They noted that the townsfolk had always grazed their cattle together with the manor's (without having the exclusive use of any property), while Gorczyński was unable to produce even a single lease (CSHAUL, corps 146/64, vol. 9239: 30–36).

For obvious reasons, the town's agents did not acquiesce in the manorial party's position. They submitted in evidence the original Czartoryski privilege of 1698, and as regarding the 1820 tax reports, they noted the townsfolk had had no participation in the drafting. Both the urbarial circumscriptions and the tax reports were drafted by the landlord. They agreed, nonetheless, with Gorczyński that no witnesses could be called to testify to the exercise of common rights in 1796–1826 out of their own experience. It is worth noting that the townsfolk's own inclination and attitude was not one of seeking compromise. During the

final stage of the discussion they advanced an additional claim for swine-grazing rights in the Gąsiorówka manorial pasture located in the neighbouring village of Posada Dolna. As before, they relied on the 1698 privilege and long-term use of the property in the period until 1826. The hearing ended in a synthetic summary of the parties' debate and claims. Next, the whole documentation was forwarded to the National Commission in Lviv for a final decision (CSHAUL, corps 146/64, vol. 9239: 37–45).

The ruling made on 22 May 1867 doubtless came as a surprise to Rymanów's inhabitants, as all of their claims were denied. In its rationale the Commission concurred in the majority of arguments advanced by Gorczyński, relying on the tax reports of 1820. The reasons given for the judgment are vague and show examples of subjective selection of which various legal instruments to recognize. The townsfolk were denied recognition of the 1789 urbarial circumscriptions as written evidence of common rights, as they made only a brief mention of gathering dry firewood from manorial forests. Most of all, however, the Lviv commission dismissed the reliability of the Czartoryski privilege, citing the fact that it had not been entered in the National Tabula near the end of the 18<sup>th</sup> century and the townsfolk had failed to prove its authenticity, hence it was of no legal consequence. The later part refers to the turning point of 1826 that is the death of Józef Skórski and the establishment of a new *modus vivendi* under Piotr Signo. That was the time when the gathering of wood from the forest and cattle and swine grazing on manorial land was curtailed, but the townsfolk lodged no complaint at the time with the circuit authorities. In that connection, even had they managed to prove by witness that they had – for 30 years until 1826 regularly and uninterruptedly exercised common rights on manorial land – by the time of the 1866 inquest (in accordance with Article 1488 of Austrian Civil Code (ABGB 1811: § 1488)), prescription would already have run its course (CSHAUL, corps 146/64, vol. 9238: 133–142). The National Commission's decision was served on one of the town's agents, Piotr Topolski, on 10 July 1867. The only way out for the townsfolk, theoretically, was to appeal the Lviv authorities' ruling to the Ministry of Internal Affairs in Vienna. Such document was filed exactly one month later through the Imperial and Royal Governorate of Galicia. In four main counts Rymanów's agents attempted to prove the authenticity of the Czartoryski's grant, the existence of a feudal relationship until 1848, and the regular and uninterrupted exercise of common rights. The townsfolk's appeal did not neglect to respond to the various points of the decision's rationale. By way of a general summary,

Rymanów's agents concluded that the decision was injurious and null and void, because the Sanok commission did not allow an interrogation of witnesses confirming the operation of the common rights in the period until 1848. The document culminates in an extensively elaborated petition to vacate the Lviv commission's decision and order a new inquest to be held (CSHAUL, corps 146/64, vol. 9239: 143–148). It is not known how the townsfolk's appeal to the ministry in Vienna turned out, for the Imperial and Royal Governorate's files contain no response to their submission. One can surmise that, similarly to numerous other appeals submitted by rural and urban communes across Galicia, the ministry did not accede to the inhabitant's request and the case was closed. This hypothesis finds confirmation in the fact that the Governorate in Lviv, as the main mediating authority, did not add any further records relating to Rymanów common rights.



**Map 2. Pasture equivalent granted to parish from Rymanów as compensation for the abolished right to cattle grazing on manorial pastures**

Mapa 2. Ekwiwalent pastwiskowy przyznany parafii z Rymanowa jako rekompensata za zniesione prawo do wypasu bydła na pastwiskach dworskich

Created by the author in QGIS 3.10.3 (Source: State Archive in Przemyśl, corps 126, vol. 1454M, sheets 1-7; CSHAUL, corps 146/64, vol. 9240: 100)

Things went altogether differently with the abolition of the common rights held by the Roman Catholic Parish of St Lawrence in Rymanów and adjoining villages, such as Posada Górna, Posada Dolna, Wisłoczek, Deszno, Wołuszowa, Bałucianka, Wólka, Polany, Tarnawka, Rudawka, and Sieniawa. In the case of rural communes, the inquest held by the local commission in Sanok recognized the peasants' common rights in the forests. They were also awarded compensation for the abolished rights in the form of forest equivalents of selected manorial areas from 5 to 32 morgens in size (CSHAUL, corps 146/64, vol. 9239: 78–152). The parish's case was somewhat different. On the basis of the erection charter, the judgment of the Supreme Court of Justice in Vienna of 15 March 1818, internal Church files, and many years of uninterrupted use, the parson's grazing rights were bought out and compensated in 1860. The manorial party provided the parish with a pasture (Map 2) of 11 morgens and 502 fathoms, situated in the north-eastern part of the town. Ten years later, another inquest was held, leading to detailed regulation of the parson's wood-gathering rights. On the basis of a settlement entered on 5 May 1871, the manorial party was required to provide the parish with 30 cubic chords of firwood timber (Ślusarek 2018: 235) (CSHAUL, corps 146/64, vol. 9240: 75–83, 98–99).

#### IV. Discuss

The inquest held on Rymanów townsfolk's claims for common rights shows that the nature of the problem in a generalized outlook does not diverge from the trend in Galicia as a whole. Conflicts, disputes, and tension between the village or town and the manor during the process of the abolition of common rights were common. More comprehensive analysis of the available source base on Rymanów has made it possible to see the problem in a complete perspective, highlighting the factors that determined the shape of the ultimate decision. The proceedings initiated upon the townsfolk's petition of 1859 can be divided in two phases. The former features prominently the activity of commissioner L. Felsztyński, who was assigned to the case and whose decisions ultimately turned out to have been in error. During the repeat inquest ordered by the ministry he was replaced by a different official. It is possible the replacement was occasioned by the unjustified abbreviation of the administrative legal procedure for inquests to abolish common rights according to the government's dispositions. Also, the official publications from the latter half of the 19<sup>th</sup> century show evolution in positions held by

Felsztyński. From 1859 to 1865 he was a commissioner (*Leitender Commissär*) for the abolition of feudal duties with the district authorities in Sanok (Handbuch des Lemberger 1860: 14; Handbuch des Lemberger 1865: 36). Later, he served as a judge in the district court in Brzostek (Handbuch des Lemberger 1866: 96) and Sanok (*Szematyzm* 1870:125). During the latter phase, from 1866–1867, commissioner Roman Zdankiewicz's attention was concentrated on proceeding efficiently with the inquest, establishing the most important points and conclusions from the main hearing and forwarding the entire documentation to the National Commission in Lviv for a final decision.

A. Gorczyński's entering into negotiation and attitude shown therein was deliberate, consistent and predicated on the protection of his own interests. Disputing the authenticity of the Czartoryski privilege, as well as the fact he had ever held Rymanów, was a logical move. The Rymanów townsfolk would need to have been Czartoryski's subjects, so he could grant rights to them. In other words, a feudal relationship would need to have existed between them, which Gorczyński disputed. Despite his patronizing and sometimes ostentatious bearing, these activities brought the intended result. The manorial party did not have to pay any compensation to the townsfolk. Attention is drawn, especially in the latter phase of the inquest, to the subjective outlook on the legal force of the various instruments. The stipulations of the tax reports of 1820 were the principal and decisive argument in the rationale of the decision. Moreover, dismissing the authenticity of the 1698 privilege exemplifies the trend present in numerous abolition proceedings throughout Galicia. Oftentimes officials attached greater weight to written confirmations of common rights from the 1772–1848 period than to legal instruments from the pre-Partition Commonwealth.

The National Commission's rationale gave no clear answer to whether the use of forests, pastures, and other manorial land, especially in the period until 1826, had common rights as its basis. It was only noted that even if that had been so, and the inhabitants could prove it by witness testimony, prescription would already have run. There is no doubt that the Rymanów townsfolk, thanks to the Czartoryski privilege, gathered raw materials from the forests and grazed cattle on manorial land for more than a century. Specific restrictions (e.g. in 1826) did not, however, induce the town to lodge any complaints with the circuit authorities. They were met with acceptance, probably out of fear of worsening the relationship with the manor. In the last appeal the town's agents complained that the inhabitants, not willing to pay elevated fees for the use of manorial pastures, were punished by having their sons

drafted into the army. They argued that was the case with one townsperson Tomasz Solecki, who refused to pay rent and the draft board sent three of his sons to the army (CSHAUL, corps 146/64, vol. 9239: 145). The townsfolk's inaction certainly emboldened the landlords to continue encroaching on common rights, eventually to phase them out altogether, which the local commission notably was supportive of. Gorczyński himself recalls as much, noting that the townsfolk did not respond to the imposition of fees or restrictions on wood rights. In the case of other towns, such as Kolbuszowa or Leżajsk (CSHAUL, corps 146/64, vol. 4692–4698; 11760–11769), all complaints were considered by the local commission and were a decisive influence on decisions regulating or abolishing common rights in the latter half of the 19<sup>th</sup> century. The judicial or administrative resolution of those disputes during that time could often take decades to accomplish. That, however, did not cause prescription to run on the common rights, for which urban and rural communities could obtain written confirmations. In Rymanów's, case such documents are scarce.

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## Bez prawa do praw. Analiza konfliktu i kwestia służebności mieszczan rymanowskich w drugiej połowie XIX wieku

### Streszczenie

Artykuł koncentruje się na dochodzeniu przeprowadzonym przez sanocką komisję lokalną względem praw służebnych, o których uznanie pretendowali mieszczanie rymanowscy w II połowie XIX w. Pertraktacje rozpoczęte w 1859 r. miały chwilami gwałtowny przebieg. Towarzyszyły im konflikty i nieporozumienia zarówno między samymi mieszczanami, jak i na linii miasto – dwór. Wnioski płynące z analizy źródeł archiwalnych posłużyły do oceny działań każdej strony biorącej udział w dochodzeniu – pełnomocników miasta, właścicieli ziemskich oraz, co wyjątkowe, komisarzy i administracji państwowej, której decyzje nosiły znamiona stronniczości. Mieszczanie stanęli do pertraktacji w pewności powodzenia i z przekonaniem o mocy prawnej przywileju księcia Czartoryskiego nadającego im służebności. Pełnomocnik dworu natomiast przyjął odważną pozycję w negocjacjach i konsekwentnie ją utrzymywał. Zanegował autentyczność wspomnianego przywileju, jak również to, że Czartoryski był kiedykolwiek właścicielem Rymanowa, co finalnie okazało się skuteczne. Na uwagę zasługuje również rola komisarzy lokalnych oraz decydentów urzędujących w Komisji Krajowej we Lwowie, podejmującej najważniejsze decyzje. Pierwszy etap dochodzenia pokazuje bowiem wpływ komisarzy na kształt początkowego orzeczenia. Uzasadnienie drugiego wyroku wskazuje natomiast na dowolność w postrzeganiu aktów prawnych przez lwowską Komisję, która oparła swoją decyzję na zapisach jednego dokumentu urzędowego.

Analiza przebiegu postępowania ukazuje znajdującą odzwierciedlenie w wielu miejscach Galicji tendencję, która na przykładzie Rymanowa została opisana po raz pierwszy. Koncentruje się na przypadku, w którym dwukrotnie podejmowane dochodzenie skończyło się ostatecznie decyzją odmową. Innymi słowy, odrzucono pretensję mieszczan i zanegowano istnienie praw służebnych, które podlegałyby wykupowi lub regulacji.

**Słowa kluczowe:** Galicja, służebności gruntowo-leśne, konflikty społeczne, reformy agrarne