
Abstracts

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ABSTRACTS

LENA FIJAŁKOWSKA
(ŁÓDŹ)

Ius cogens or ius dispositivum? a handful of remarks on the nature of legal norms in the ancient Middle East

The paper concerns the nature and scope of applicability of law in the ancient Middle East. It first discusses royal normative acts, especially the so-called codes of law and *mišaru* edicts, and proceeds to an analysis of customary law to conclude that while laws allowed parties a much greater freedom in shaping their legal relationships in the ancient Middle East law than they do today, such freedom was limited by imperative standards of customary norms.

Key words: law, ancient Middle East, ancient law of the Middle Eastern, customary law, Assyriology, *ius cogens*, *ius dispositivum*

ARKADIA PODGÓRSKA-MIKUŁA
(KRAKÓW)

The importance of the Premonstratensian Abbey in Brzesko–Hebdów for the structure of the Order and the Church in the 14th and 15th centuries

In the Middle Ages Premonstratensian monasteries were organised along a principle is typical of the Order, that is affiliation and the paternal right (*ius paternitatis*). All the monasteries were divided into regional groups, known as *cyrkarie* (provinces). Each province was inspected by representatives of the single abbey holding the paternal right.

In the 14th century, symptoms of a crisis became visible in not only in the Polish Province of the Order of St Norbert (Premonstratensian), and were especially intensified in the women's convents. Potential reasons for the crisis included the secluded situation of the monasteries, their poor financial standing, a drop in the number of vocations, and the social structure of the monasteries. The Abbey in Brzesko–Hebdów, overseeing the Premonstratensian parishes visited them regularly, manned them with their monks, and undertook other actions in an attempt to reform the Polish Premonstratensians in the 14th and 15th centuries.

The funding of another Premonstratensian Abbey by King Ladislaus (Władysław) Jagiełło in Nowy Sącz and populating it with monks from Brzesko was a proof of the great potential of the Hebdów Abbey in its capacity of the initiator and coordinator of the reform aimed at the revival of the Order and forcing its members to observe the monastic rule. The

article also emphasises the significant impact of the competition between individual monasteries of the Premonstratensian Order in the 15th century on the position of Brzesko.

Key words: monastery, Premonstratensians, Provinces of the Order, paternal right, reform

ADAM MONIUSZKO

(WARSAWA)

*Judges in nobles' courts of law in the Voivodship of Płock
in 1576–1600. An attempt at investigation*

The article concerns the issue of judges in nobles' courts of law (*Forum Nobilium*) in the Voivodship of Płock in 1576–1600. The study focused on judges nominated by the king, i.e. chamberlains (*succamerarius*), starosts (*capitaneus*), and land court judges: judges (*iudex terrestris*), deputy judges *subiudex terrestris*, and recorders (*notarius terrestris*) holding jurisdiction over nobility. Altogether 16 such judges were found, and their social and economic status, public functions held on the power of being elected by the nobility, denomination, education, and careers were examined as part of the study.

Social background, family connections, economic status, public service, and strong local roots can be listed as typical factors favourable for being granted the office of a judge. Another important element was the support of relatives ranking as bishops, as at that time discussed it seems to have played a greater role than the clientary relations operating in the Voivodship of Płock.

The list with of the judges with detailed data is provided in the appendix to the article.

Key words: 16th-century Mazovia, 16th-century Voivodship of Płock, 16th-century nobility in the Voivodship of Płock, 16th-century nobles' courts of law, judges in the 16th-century nobles' courts of law, 16th-century offices in Polish Kingdom, 16th-century officials in Voivodship of Płock, Stanisław Kryski the Voivode of Mazovia, Stanisław Miński Deputy Chancellor of the Crown, Paweł Garwaski the Castellan of Płock

WACŁAW ROSA

(KRAKÓW)

*On the side of criminals or security forces,
or the place of the executioner in the judicial system in bygone Poland*

The article presents the functioning of the office of executioner in the cities of former Poland. The study investigated executioner activity on the border between two worlds: that of crime and the law enforcement environment connected to the judiciary. The research material includes testimonies of criminals recorded in the books of municipal courts, demonstrating contacts between the criminal world and torturers. Unlike in Western Eu-

rope and Silesia, where the profession of executioner often passed from father to son, executioners in bygone Poland often hailed from criminal circles. They lived in isolation from the society and were exposed to social ostracism because of their work. Criminals did not consider the executioner as a representative of the judiciary; relationships between both communities were facilitated by the fact that executioners and their wives were engaged in the organisation of prostitution in cities, and running and protecting the city's brothels. The cases quoted from judicial practice show that the office of the executioner was often identified with criminal activity rather than with justice, which had an impact on the effectiveness of fighting crime in Polish cities.

Key words: legal history, executioner, crime, law enforcement, justice

ŁUKASZ GOŁASZEWSKI
(WARSZAWA)

*Relationships between the residents of Knyszyn
and the army of the Kingdom of Poland in the light
of court records from 1650–51*

The article discusses the relationships between the residents of the town Knyszyn in the Polish-Lithuanian Commonwealth and the soldiers of the state army quartered in the town in 1650–51. The surviving excerpts from the records of the municipal court contain a wide array of cases (albeit always making use of physical violence) against the townspeople, who made use of soldiers in conflicts with their neighbours. On the other hand, the presence of soldiers let the townspeople trade with soldiers and their servants, and also level certain moral charges against the neighbours. Due to legal complexities, these were not the soldiers who were summoned to the municipal courts but rather the neighbours who supposedly inspired violent soldier behaviours.

Key words: army in the Polish-Lithuanian Commonwealth, military discipline, foreign style troops in the 17th and 18th centuries, damages caused by soldiers, municipal courts under the Law of Magdeburg in Poland, relationships between soldiers and civilians

PIOTR KITOWSKI
(GDAŃSK)

*Manumission as a legal action in the judicial practice of Royal Prussia
in the second half of the 17th and 18th c.*

Manumission (*manumissio*, liberation, emancipation) was essential for the existing rights and obligations of a serf and his former master. It is interesting to analyse the formal side of this legal action and its content in terms of legal and actual consequences. The more

so as awarding personal freedom was not at all uncommon in Prussia, and the literature on this subject usually refers to social consequences only.

Based on the rich source material, the author discusses the manumission as a legal action in the practice of Prussia in the latter half of 17th and in the 18th centuries, focusing on its role, form, and the ways for insuring the new status of the former subject.

Key words: serfs, manumission, Royal Prussia, liberation

SŁAWOMIR KOŚCIELAK
(GDAŃSK)

*Church sanctuary in Protestant Gdańsk
in the light of the incident from 1700, described in the diary
of the municipal syndic, Johann Ernst von der Linde*

The event from 1700 presented in the article was described in the diary of a contemporary municipal syndic, Johann Ernst von der Linde. A group of fugitives from the Gdańsk Penitentiary (i.e. prison) attempted to invoke the right of the church sanctuary. For this purpose they claimed sanctuary inside the Carmelite Monastery in the Old Town of Gdańsk (Danzig). The incident illustrates tendencies present in the transitional period between early modern times – when such right was accepted – and more recent times – when sense and legitimacy of such procedure were already questioned. The event took place in Gdańsk, a powerful, self-governing, economic centre with a very good system of local law, additionally being a mainstay of Protestantism in the region. The event was also a particular test of authority between the dominant religion and a religious minority. A successful escape from the municipal prison, negotiations between the stakeholders referring to the written law, custom and precedents, and the final lack of any consequences for the fugitives casts an interesting light on the penitentiary and criminal system of Gdańsk and the issue of maintaining order in the city in the late 17th and early 18th centuries.

Key words: Gdańsk (Danzig), Carmelites, Catholics and Lutherans in Gdańsk, penitentiary (prison), diaries of town clerks, Gdańsk and Pomeranian official court

MARCIN GŁUSZAK
(ŁÓDŹ)

*Permanent Council: achievements
and prospects for research*

As yet the extensive academic literature on the rule of King Stanisław August Poniatowski has failed to produce a detailed monograph on the Permanent Council: the first central, collective body with executive power in the history of the Polish-Lithuanian Com-

monwealth. Past studies merely deal with selected aspects of its functions. Yet, the importance of the Council and the role it played in the shaping of the political system of the Polish state in the last years of the 18th century require that this gap is filled. The source materials stored in archival collections provide a broad field for research by historians of the state and law.

Key words: Permanent Council, Department of Justice, Department of Treasure, Department of Policy, Military Department, state of research, AGAD

ANNA KLIMASZEWSKA, MICHAŁ GAŁĘDEK
(GDAŃSK)

*Use of the norms of the French Commercial Code
in the Duchy of Warsaw, the constitutional Kingdom of Poland,
and the Free City of Kraków in the light of notarial deeds*

The French *Code de commerce* was adopted in the Polish territories in 1809 and remained formally binding for over 120 years. It was nonetheless transferred from post-revolutionary France into a feudal reality, where no commercial code had been in place before, without the necessary preparatory works, implementation of the legislation accompanying the *Code de commerce* or even an official translation. Moreover, legal scholars paid scarce attention to it in the first decades. Taken together, all these factors affected its application. Being a contribution to the complex study of the issue, the present publication examines selected notarial deeds documenting individual commercial transactions to show how the process of practical implementation of the norms of French Commercial Code developed in the Polish territories.

Key words: *Code de commerce*, French Commercial Code, translation, notarial deeds, implementation, commercial law, Duchy of Warsaw, constitutional Kingdom of Poland, Free City of Kraków

JUSTYNA BIEDA
(ŁÓDŹ)

Types of detention centres in the Kingdom of Poland

In the 19th century imprisonment became the fundamental sanction in many European criminal and penal codes, including that of the Kingdom of Poland (Congress Poland). In the face of these changes an extensive discussion on the reform of the whole penitentiary system began in the state. Reformers of the Polish penal system, notably Julian Ursyn Niemcewicz, Ksawery Potocki, and Fryderyk Skarbek proposed numerous concepts. In

such circumstances, central administration attempted to create a system of penitentiary institutions.

The article describes six different centres of detention which operated in the Kingdom of Poland: police custody for the detention of people arrested by the police and convicted by courts operating by city mayors; detention centres operating by the Ordinary Police Courts, for criminals detained by the court decision in the course of the so-called elementary investigation, and criminals convicted for embezzlement and smuggling; civil custody for debtors to force them to perform their obligations; remand institutions for the detention of people awaiting sentencing; and criminal prisons for those already convicted. For those convicted for the gravest crimes the so-called *roty aresztanckie* (prisoner bases) were introduced in 1834.

Key words: history of law, criminal law, administrative law, detention, prison, Kingdom of Poland (Congress Poland)

PATRYCJA BEDNARSKA
(KRAKÓW)

*English judiciary in the eye
of Prince Adam Jerzy Czartoryski*

The subject of this article is an attempt at analysing Adam Jerzy Czartoryski opinions on the operation of English courts and the specificity of the common law system. The text presents Adam Jerzy Czartoryski's familiarity and level of fascination with the functioning of the above-mentioned court system, which the prince probably intended to apply as a model in the reborn Poland. Such a claim is supported by a detailed analysis of his notes. Czartoryski used original English sources and fell back on the experiences from his stay in England. His subjects of interest included types of judiciary in England, the activity of the so-called justices of peace, objectives of the judiciary, procedures for jury debates, and the administrative division of England.

Key words: the judiciary in England, English law, views of Adam Jerzy Czartoryski

MATEUSZ MATANIAK
(KRAKÓW)

*Establishment of the Assay Office in Kraków
and its activities in the years 1843–53*

The article presents the circumstances of setting up the Assay Office in the Free City of Kraków and also its activity in 1843–53. The source base consisted of regulations of the Governing Senate on the organisation and competence of the Assay Office, and documen-

tation related to its activity, being a part of the complex of the Archive of the Free City of Kraków. The fundamental task of the Assay Office was to supervise Kraków jewellers and goldsmiths. The supervision especially focused on gold and silver objects brought for stamping. The office charged fees defined by the government for its services. The article also mentions prosecution of crimes against the assay stamp, which was a prerogative of the administrative authorities: the Senate, and later the Administrative Council and the City Council.

Key words: Free City of Kraków, Assay Office, Jewellers and Goldsmiths Guild, jewellery, assay of gold

JOANNA MACHUT-KOWALCZYK
(ŁÓDŹ)

*Source base for research on the intermediate level administration
in Kingdom of Poland before 1866*

The research on district (county) administration in 1816–66 requires aggregation of archival materials. There are digital databases and traditional educational inventories available to researchers. Researches are also welcome to make use of digital libraries that contain many printed sources.

The main sources database for the research on the intermediate level of administration are district and county files kept in State Archives. The operation of commissioners delegated to districts (1816–42) and counties (1843–1866) is sufficiently documented in 32 sets of files. The query can be extended to cover regional (voivodship, and after 1837 – governorship) and governmental files. As the volume and variety of archival material is impressive, it is worthwhile to stage the queries. Any conclusions and detailed evaluation will only be possible after a large share of the files have been investigated.

Key words: district administration, commissioners delegated to districts, district governor

PAULINA KAMIŃSKA
(ŁÓDŹ)

*Selected research on the auction procedure
in the Kingdom of Poland before 1875*

In the Kingdom of Poland, auctions were an important element of commerce, both with regard to state, territorial authority and private property, and to the attainment of other purposes, including protection of creditor interests.

Investigation of the issue requires examination of not only legislation but also practice. No conclusions must be made prior to the examination of operation of this important tool of acquiring and selling property. Instead it is best to examine materials concerning practice, a great deal of which have been preserved. The documents of interest concern the preparation of auctions (announcement, bidding conditions), their conduct (auction protocols), and the subsequent consequences (contracts). Examination of the files on practice allows to determine the objects of auction, the reasons why the auctions were conducted, as well as economic, social and legal factors that influenced auctions. The wealth of legislative material, which can be combined with the plentiful files on of auction practice, opens a broad field for researching issues associated with the use of this procedure.

Key words: auction, auction announcement, bidding conditions, auction protocol, Napoleonic Code (*Code civil des Français*, 1804), Code of Civil Procedure (*Code de procédure civile*, 1806), Commercial Code (*Code de commerce*, 1807), Civil Code of the Kingdom of Poland (1825)

MAŁGORZATA WEREDYŃSKA-SZPAKOWSKA
(KRAKÓW)

*Legal grounds for obtaining Polish citizenship
in the former Austrian Partition after 1918*

The subject of this paper is the question of the “initial composition” of citizens of the revived Polish state i.e. the Republic of Poland, which uses the example of the former Austrian Partition due to a considerable number of applicable regulations. The article indicates principal sources of law regarding this partition and discusses in detail the three main means of acquiring Polish citizenship: 1) based on residence in the territory of Poland, 2) based on the place of birth in that territory, and 3) by means of executing the right of option. Specific legal norms regulating these methods of obtaining citizenship are brought up, pointing out the mutual dependencies between them as well as interpretational difficulties. By exemplifying the regulations regarding the former Austrian Partition the author makes an effort to display the level of intricacy and complication of the domestic and international law regulating the consequences of establishing the Republic of Poland in matters concerning citizenship. The discussion of the principles of obtaining Polish citizenship is preceded by a short introduction on history and remarks on the contemporaneous understanding of the concept of citizenship, which add a more extensive context to the main subject of the paper.

Key words: citizen, Polish citizenship, revived state of the Republic of Poland, acquiring the Polish citizenship, former Austrian Partition of Poland

DAWID MICHALSKI
(GDAŃSK)

*The Constitution Act of 1919:
the first constitution of independent Finland*

The study is an attempt to describe and analyse the first constitutional act of independent Finland. The Constitution Act of 1919 defined the Finnish political system. Although it was an object of ideological arguments (monarchist vs. republican tradition), its provisions, and especially the strong position of the president as an executive power with legislative competences, resulted from a compromise. Despite that, the classical division into three powers was introduced into the Finnish political and legal system.

The act was not ideal, yet at that stage in the history of Finland it was an expected result of a compromise with strong constitutional foundation for the political and legal progress of a developing country.

Key words: Republic of Finland, Carl Gustaf Mannerheim, constitutionalism, constitution, form of government

SEBASTIAN KWIECIEŃ
(LUBLIN)

*Principles governing training
to industrial professions in the light of legal regulations
of the industrial law of 1927*

Strong development of labour law was characteristic of the period between the two world wars in Poland. Its provisions for the first time provided protection to employees, also the ones who need such assistance most, that is minors in vocational training.

The Industrial Law regulation of 1927 contained a separate chapter with regulations concerning training in industry, guaranteeing employer fairness and remuneration for the work performed by the trainees. The legal relationship between the trainees and the employer was based on a contract defining mutual obligations of the parties. Should the contractual clauses be violated, the parties had the right to claim damages in accordance with the principles defined in the liabilities code. Once the period of training was over, the trainee was issued an appropriate certificate corroborating the time of training and providing grounds for applying to work already as a skilled labourer. While learning, trainees were covered by special protection both by industrial authorities and industrial societies, as the latter took over the duties resulting from the provisions of industrial law in circumstances defined in the act.

Key words: industrial law, industry trainees, education contracts, employer

AGNIESZKA MACHURA
(KRAKÓW)

*Responsibility of officials for crimes committed for profit
in Poland between the two world wars*

Between the two world wars a new model of public administration, with a new type of civil servants, was created. Officials from the parts of Poland that had belonged to different partitions had different qualifications and represented different moral and ethical standards. Clerical matters required solutions going beyond administrative structures and staff training, and also included fraud prevention. Despite the euphoria of independence, poverty, hunger, unemployment, and uncertainty of the future led to an increase in crime, also among civil servants. The situation was also hampered by the lack of uniform legislation. To prevent crimes committed by civil servants, an array of disciplinary rules were introduced including the penalty of death by firing squad. It was the most rigorous legislation punishing dishonest civil servants in Polish history. Historical sources based on the press releases from the period demonstrate that most such judgments concerned the military. Later, the law relaxed, and crimes such as passive and active bribery received model regulation in the Criminal Code of 1932, on which current criminal legislation is partially based.

Key words: civil servant responsibility, bribery, crimes committed for profit, death penalty, Poland between the two world wars

KAROL DĄBROWSKI
(LUBLIN)

*Educational activities run by industrial and commercial organisations
in Poland in 1929–39; case study of the Chamber of Industry
and Commerce in Lublin*

The Chamber of Industry and Commerce in Lublin was established in 1929. It did not run any educational institutions on its own, yet it supported (financially and organisationally) schools in the Voivodeships (regions) of Lublin and Volhynia, especially the Vetter Secondary School for Boys and the Syroczyński School of Crafts and Industry. The Chamber approved draft education acts for the Ministry of Denominations and Public Education, cooperated with Lublin Education Authority, awarded scholarships and grants for schools, and delegated its representatives to school councils. An interesting educational project was the psycho-technical laboratory.

Key words: chambers of industry and commerce, psycho-technical laboratories, vocational education, Lublin

KONRAD GRACZYK
(KATOWICE, BERLIN)

*The case of Roman Gawronski before the Special Court in Katowice
as an example of changing the valid sentence*

The article analyses a criminal case before a German Special Court in Katowice in 1943. The valid and binding decision was successfully appealed by a prosecutor resorting to an extraordinary legal remedy, complaint caused by the invalidity of such a sentence. In the first trial, Roman Gawronski was convicted of illicit trading and theft, and sentenced to a total of 12 years hard labour. After a complaint lodged by the prosecutor, the Special Court in Katowice issued the correct sentence, being the death penalty. The article examines the legal foundations of both rulings and arguments of the prosecutor supporting the invalidation of a final judgment. It also provides an overview on the structure and procedure in the special courts.

Key words: special court, criminal trial, invalidity appeal, death penalty

NATALIA RZENNO
(KRAKÓW)

*Legal grounds for the decision concerning Polish citizenship.
A comparative analysis of legal regulations
in force from the Second Republic of Poland to the present*

Past Polish citizenship has a direct impact on current cases concerning the corroboration of Polish citizenship. This is extremely important with respect to current inheritance proceedings by citizens other than Polish, and there is a presumption regarding Polish citizenship of their ancestors. The applicable decision corroborating or refusing to corroborate Polish citizenship is issued by the governor (voivode) holding jurisdiction over the place of residence or the last place of residence of the person mentioned in the application. It should be noted that such procedures follow of a number of laws no longer in force, including the Act of 20 January 1920 on citizenship of the Polish State (*Polish Journal of Laws* of 1920, No. 7, item 44), the Act of 9 April 1938 on universal military duty (*Polish Journal of Laws* of 1938, No. 25, item 220), the Act of 8 January 1951 on Polish citizenship (*Polish Journal of Laws* of 1951, No. 4, item 25), the Act of 15 February 1962 on Polish citizenship (*Polish Journal of Laws* of 2000, No. 28, item 353, with later amendments), and others.

The decision corroborating Polish citizenship does not have a solely material dimension, i.e. referring to such tangible financial benefits as recovery of inheritance, but also an emotional one connected to the return to homeland and confirmation that one is a full-fledged citizen.

Key words: citizenship, Polish citizen, confirmation of Polish citizenship, acquisition of Polish citizenship, loss of Polish citizenship, refusal to corroborate Polish citizenship, governor (voivode), military duty

GRZEGORZ NANCKA
(KATOWICE)

*Teaching Roman law at the newly established
University of Silesia in Katowice*

Roman law is one of the most important courses in the education of prospective lawyers. Hence, it simply had to be included in the law curriculum at the newly established University of Silesia, established in 1968. However, the history of teaching Roman law in Katowice reaches an earlier date, as it was taught since 1966 at the Katowice branch of the Jagiellonian University. The course in Roman law during the first academic year at the University of Silesia was taught by Professor Wacław Osuchowski, Dr Wiesław Litewski, and K. Kolba. When the University of Silesia was established, the course was handed over to assistant professor Michał Staszków, who moved to Katowice from the University of Wrocław. In addition to Roman law, Professor Staszków was interested in law on inventions, which he practiced from the 1970s.

Key words: Roman law, University of Silesia, University of Silesia Faculty of Law and Administration, Michał Staszków, law curriculum

GRZEGORZ SMYK, ANDRZEJ WRZYSZCZ
(LUBLIN)

*Department of History of State and Law
at the UMCS in Lublin in 2008–16*

The article describes the research conducted at the Department of History of State and Law of the Faculty of Law and Administration at Maria Curie-Skłodowska University (UMCS) in Lublin in 2008–16. At that time the Head of the Department was Professor Wojciech Witkowski, DLL. The presentation also includes the academic degrees and key publications, and discusses teaching activities carried out by the faculty of the Department in several fields of studies. The most outstanding achievements in the organisational activity at the levels of faculty, university, and national institutions of the science and higher education sector.

Key words: department, scientific research, teaching, organisational activity

TADEUSZ MACIEJEWSKI, MICHAŁ GAŁĘDEK, PIOTR KITOWSKI,
ANNA KLIMASZEWSKA, MARIA LEWANDOWICZ, MARCIN MICHALAK,
DAWID MICHALSKI, JACEK WAŁDOCH
(GDAŃSK)

*Current directions of research at the Chair
of Legal History of the University of Gdańsk*

The article provides a summary of current research trends at the Chair of Legal History of the University of Gdańsk. Most important lines include research on European constitutionalism, medieval and early modern legal systems, administrative thought in the 18th and 19th centuries, codification of law, and history of American law. The Head of the Chair is Professor Tadeusz Maciejewski.

Key words: University of Gdańsk, legal history, Gdańsk, Chair of Legal History