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DOI: <http://dx.doi.org/10.18290/rnp.2017.27.3-10-en>

13<sup>TH</sup> LEGAL HISTORY COLLOQUIUM  
“CITY – IDEA, HISTORY, AND LAW. ON THE 800<sup>TH</sup> ANNIVERSARY  
OF THE GRANTING OF CITY RIGHTS TO OPOLE”

BRZEG, MAY 10–11, 2017

On May 10–11, 2017, the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole” was held in the historical interior of the Museum of the Silesian Piasts in Brzeg.

This year’s meeting of legal historians and political-doctrine historians, specialists in Roman studies, and philosophers of law was organised by: the Faculty of Law and Administration of Opole University, Faculty of Law, Administration and Economics of the University of Wrocław, Centre of European Documentation in Opole, Catholic Association “Civitas Christiana” in Opole and the Museum of the Silesian Piasts in Brzeg. The roles of colloquium secretaries were fulfilled by Dr. Ewa Kozerska, Rev. Dr. Piotr Sadowski, Dr. Tomasz Scheffler, Dr. Hab. Andrzej Szymański, an associate professor of Opole University.

On the first conference day, May 10, the guests were welcomed at 2 pm by Dr. Hab. Piotr Stec, an associate professor of Opole University – the dean of the Faculty of Law and Administration of Opole University, and by Professor A. Szymański – the head of the Department of Legal History and History of this faculty. Moments later the first plenary session started, chaired by Prof. Dr. Hab. Adam Bosiacki of the University of Warsaw. The first speaker was Rev. Dr. Piotr Sadowski – the Conference co-organiser. His address was entitled “Competition among cities in Roman antiquity”. Then Dr. Dobromiła Nowicka of the University of Wrocław contributed her presentation entitled “Some remarks on the regulation concerning “breach of domestic peace (*domum vi introire*) in ancient Rome.” The speaker highlighted the fact that “the issue concerning the act described as *vi domum introire* in Roman law is typically addressed in terms of supplementary considerations of doctrine representatives regarding Sulla’s *lex Cornelia de iniuriis*, making two other breaches of personal inviolability (*pulsare* and *verberare*) punishable.<sup>1</sup>

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<sup>1</sup> Application form of Dr. Dobrosława Nowicka for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

The next paper was delivered by Dr. Hab. Rafał Wojciechowski, an associate professor of the University of Wrocław. The title of the contribution was “Medieval *lex mercatoria* as a manifestation of economic relations in the cities of Western Europe.”

Next, the floor was taken by Dr. Rafał Kania (Pawel Wlodkowic University College in Plock). He presented “[...] an outline of the conception of city reconstruction, realised in the constitutional era by the authorities of the Polish Kingdom. The establishment of strong municipal centres, in Dr. Kania’s opinion, was an integral element of the economic development of a country, therefore that was treated as a priority of the State.”<sup>2</sup> The speaker sought to reconstruct the governmental policy of the Kingdom based on the legislation of 1815–1830. Among other sources, he took into consideration selected documents as well as the plans of investment projects pursued at the time in this regard.

The next contributor was Prof. Dr. Hab. Marek Maciejewski of Opole University. He spoke about the criticism of cities and urban lifestyle voiced by nationalist German ideologists.

The first session was closed by Dr. Hab. Jerzy Nikołajew, an associate professor of Opole University, who delivered a paper entitled “The Lublin foundation charter of 1317. 700 years of the Lublin town privileges.” To round up his speech, the speaker said the following: “The foundation charter, granted by Ladislaus I the Elbow-high in 1317, was an element of his reintegration policy, and a reflection of his willingness to win over the inhabitants of Lublin to support him in his regaining of the crown. Hence the decision to appoint a founding agent [Lat. *locator* – Translator’s note] represented by a burgher, Maciej of Opatowiec. The foundation charter itself was drafted using Magdeburg Law at a Kraków legal office and was modelled on the Kraków town privilege. The powers of the burgh mayor [Pol. *wójt* – Translator’s note] and those of the burghers of Lublin were defined in a similar way as in other founding charters issued by the King [...]. They concerned land, income from rent and toll fees. In the case of Lublin, the «advantage» of this document is that it has survived in the original and constitutes the greatest attraction of the Lublin jubilee.”<sup>3</sup>

The second session was presided over by Professor J. Nikołajew. The first contributor was Prof. Dr. Hab. Grzegorz Białuński (University of Warmia and Mazury in Olsztyn), who presented a paper entitled “«For more successes and faster development». The granting of town privileges for Masurian cities in the Duchy of Prussia (1525–1701).” The professor argued: “The historiography to date has rather accurately addressed the establishment and functioning of cities in Prussia during the rule of the Teutonic Knights, but much less attention has been paid to the history of cities in the Duchy of Prussia. Admittedly, not many of

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<sup>2</sup> Application form of Dr. Rafał Kania for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

<sup>3</sup> Application form of Dr. Hab. Jerzy Nikołajew, an associate professor of Opole University for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

those cities were created, but their beginnings were indeed interesting: from the lightning founding on barren soil to long-term struggle of the inhabitants for the privilege promised by the ruler.”<sup>4</sup>

The next paper was contributed by Dr. Daniel Wojtucki of the University of Wrocław. He presented a paper entitled “Trials and executions of «living dead» before municipal and rural courts in Silesia from the 16th to 18th century.” The paper raised questions related to beliefs regarding the returning dead (“living dead”) in Silesia from the 16th to 18th centuries. Also, an attempt was made to answer the question how the contemporary Silesians performed exorcisms on their own fears? What sort of system of protection did they develop to guard against the returning dead? Was the fear of the “returners” so great – perhaps greater than fear of witches – that over time the people started to classify those into certain categories, depending on the degree of their harmfulness? How was their wicked activity manifested or, finally, how could anyone “kill” a person again if he or she was already dead, and what sort of rituals accompanied that kind of “execution?” What involvement and assistance did the authorities, municipal and rural courts or appeal institutions provide in the area under scrutiny to mitigate or eradicate the problem?<sup>5</sup>

The next presentation, entitled “An outline of the judiciary in the Land of Grodków,” was delivered by Mateusz Menzel (MA) of the University of Wrocław. He presented the activity of the court in Grodków in the time extending from the foundation to 1970s.

Session 2 was closed by a lecture delivered by Dr. Paweł Wiązek, representing the University of Wrocław. In his address entitled “Towns and townspeople in the political life of Poland before the Partitions against general European trends” he sought to define the scope of involvement of towns and townspeople in the political life of Poland of the older era. He also attempted to address the question concerning the dynamics of this phenomenon, its developmental forms. The speaker also undertook to compare the legal facilities available domestically with those used in the public life of other European states and societies.

Session 3 of the first day of the Conference, chaired by Professor Szymański, was initiated by a lecture presented by Dr. Tomasz Dolata of the University of Wrocław, entitled “Invention as a factor of urban development in the Kingdom of Poland until 1867.” The speaker said: “The 19th century is a period of dynamic industrial growth, driven doubtlessly by inventions. The increased number of inventions called for the protection of inventors’ interests, which was achieved by means of patent protection. This institution was implemented

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<sup>4</sup> Application form of Prof. Dr. Hab. Grzegorz Białuński for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

<sup>5</sup> Application form of Dr. Daniel Wojtucki for the 13th Legal History Colloquium “City – Idea, History and Law. On the 800th Anniversary of the Opole Town Foundation,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

also in the Kingdom of Poland as early as in 1817. Separate legislation on patent protection functioned here until 1867, when Russian patent regulations were introduced.”<sup>6</sup>

The next speaker to take the floor was Janusz Oszytko (MA) of the Branch Office of the Archive Department of the Institute of National Remembrance (Pol. abbrev. IPN – Translator’s note) in Opole. He presented a report entitled “Nazi elites in pre-war Opole and the anti-Nazi resistance in the light of IPN files in the years 1933–1945” contained an analysis of files concerning NSDAP, SS and SA parties, and other affiliated institutions. The examined files originate mainly in the old collection of the former National Commission for the Investigation of Crimes against the Polish Nations, Warsaw, Poland.

Dr. Hab. Paweł Sobczyk, an associate professor of Opole University, addressed “Constitutional basis for the capital status of Warsaw and its significance for the establishment of the Warsaw Agglomeration/Metropolitan Area,” and Prof. Dr. Hab. Artur Mezglewski, of the same university, presented the operation of municipal guards in the context of road safety in cities.

Next, the floor was taken by Dr. Michał Poniatowski of Cardinal Stefan Wyszyński University in Warsaw to deliver a paper entitled “Legal aspects of contemporary law concerning social assistance for homeless people living in urban areas.” In it, the speaker defined the object of such assistance, the entities providing it, its recipients, as well as its legal framework.

The deliberations of that day were closed by Rev. Dr. Hab. Piotr Steczkowski, an associate professor of the University of Rzeszów. He presented a paper entitled “The impact of the medieval city on the development of the law on the sacrament of Penance.” Professor Steczkowski reported on the development of medieval penitential practices in the context of the creation and consolidation of urban centres.

The first session of Day 2 of the Conference was chaired by Professor Marek Maciejewski. The deliberations were inaugurated by Dr. Hab. Józef Koredczuk, an associate professor of Opole University, who gave a paper entitled “Conrad of Opole and his work.” “The goal of the contribution [was] to present the figure of Conrad of Opole and his work. He was the first to translate Magdeburg Law into Latin, a translation which was to become the basis for the founding and the legal system of medieval cities in Poland which were founded with German law.”<sup>7</sup>

The next speaker was Prof. Dr. Hab. Bronisław Sitek of the SWPS University of Social Sciences and Humanities in Warsaw. His speech was entitled “The scope of responsibility of municipium authorities. Modern reflections.” The author explained: “The bodies of authority in Roman municipia (duumvirs, aediles, quaestors, and decurions) held their offices *pro bono publico*.

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<sup>6</sup> Application form of Dr. Tomasz Dolata for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

<sup>7</sup> Application form of Dr. Hab. Józef Koredczuk for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

Additionally they were materially liable for any damage to the city caused by their decisions.”<sup>8</sup> This solution can serve today as a model for solutions used in the law on self-government.

The next speaker was Prof. Dr. Hab. Adam Bosiacki of the University of Warsaw. He contributed a paper entitled “The city as a legal and social institution in the system of territorial self-government.” He was followed by Prof. Dr. Hab. Magdalena Sitek of the Alcide De Gasperi University of Euroregional Economy in Józefów. Her presentation was entitled “Deforestation in cities. Deliberations of the right to a healthy environment – politics vs. good law.” Professor Sitek argued that: “Uncontrolled urbanisation of cities, especially those in Poland, and political needs lead to uncontrolled loss of green areas. Forests as well as the green areas of cities constitute some of the greatest natural assets in Poland. Therefore, a cautious and responsible policy is needed with respect to their conservation, due to, for example, the right of man to a healthy environment.”<sup>9</sup> In the lecture, the speaker examined the provisions of law together with political goals, as well as their impact on the protection of these green urban areas, particularly in Poland.

The next speaker to take the floor was Dr. Said Edaich of the Opole University of Technology. His paper was entitled “The city of Fez and the University of al-Qaraouiyyine – the common destiny,” and the morning session of the second day of the Colloquium was closed with the presentation by Dr. Mateusz Szymura (University of Wrocław), entitled “*Leges Quator Burgorum* as the monument and source of the Scottish town law.” The presentation focused on the monument of the Scottish town law entitled *Leges Quator Burgorum* (a common law document specifying town rights for Berwick, Edinburgh, Roxburgh and Stirling), dating back to the 13th century. The speaker outlined the origin of this law, various theories as to its sources and its inspirations drawn from other (especially English) solutions in terms of legal regulation, and its status in the Scottish legal system.<sup>10</sup>

After a short break, the last session (chaired by Professor Sitek) was started by Dr. Artur Lis of the John Paul II Catholic University of Lublin who contributed a presentation entitled “Legal issues of self-governmental heraldry.” The audience found out about “the legal basis of the contemporary self-governmental symbolism: coats of arms, flags, seals and attributes of power. The granting of own system of symbols by the legislator to units of self-government was not associated with any detailed specification of the rules for the creation, adoption and application of these symbols in official practice. Legislation concerning self-governmental symbolism has not been finalised yet; this is not a uniform collection

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<sup>8</sup> Application form of Prof. Dr. Hab. Bronisław Sitek for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

<sup>9</sup> Application form of Prof. Dr. Hab. Magdalena Sitek for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

<sup>10</sup> Application form of Dr. Mateusz Szymura for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

of acts, but its regulations are scattered around various acts from different periods, along with their amendments. They are inaccurate in terms of heraldry, flag designation and legal archaeology.”<sup>11</sup> Problems connected with the definition of “emblem,” “insignia,” and the closely associated notion of “attributes” were highlighted. Issues connected with research focusing on historical-heraldic designs of coats of arms. The speaker indicated that municipalities often commit the mistake of using unchanged coats of arms of the nobility as well as designing combined coats of arms. Importantly, the design of coats of arms, flags and insignia of units of territorial self-government is consulted with the Heraldry Commission. The modern symbolism associated with state authority at the levels of territorial, provincial, district and municipal self-government should be supported by three pillars: the historical tradition, principles of heraldry and the applicable law.<sup>12</sup>

Prof. Dr. Hab. Tomasz Kruszewski (University of Wrocław) delivered a paper entitled “Wójt offices in the hands of the Griffins of Lesser Poland during the Middle Ages. An attempt at characterisation.” He provided examples of selected wójt offices in the cities of Lesser Poland, which became the possession of the powerful house of Griffins, identified with the Pomeranian dukes.

Paweł Fikturs (MA), representing the same university, delivered a paper entitled “The Drobner Republic – goals and their realisation,” describing the functioning of Wrocław (Germ. Breslau – Translator’s note) in the first weeks following the Liberation, when the city was governed by the first after-war president Bolesław Drobner (March 14 – June 9, 1945).

Dr. Andrzej Pasek (also of the University of Wrocław), discussed the “Decree of 26 October 1945 on the ownership and use of land in the area of the capital city of Warsaw in relation to the case law of common and administrative courts.” The speaker presented its goals and principles as well as interpreting its provisions.

The deliberations of the 13th Legal History Colloquium were closed with the presentation of Prof. Dr. Hab. Tadeusz J. Zieliński of the Christian Theological Academy in Warsaw entitled “The progression of academic career in individual conceptions of the draft law on higher education.”

After the last paper had been delivered and the discussion was over, Peregrinus Opoliensis awards were presented – for the love of justice – funded by the Civitas Christiana Catholic Association, Branch in Opole. In 2017, the winners were: Anna Myszyńska, a social and regional activist from Biała Nyska, Brother Ryszard Winiarz, the manager of Saint Albert Hostel in Pępice near Brzeg, and Professor T. J. Zieliński, a lawyer and protestant theologian, a former MP, the founder and long-time chairman of the Polish Society of Religious Law.

And so the next Colloquium has become history... It should be noted that the papers presented were of good quality, which was confirmed by practically all of the attendees

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<sup>11</sup> Application form of Dr. Artur Lis for the 13th Legal History Colloquium “City – Idea, History and Law. 800th Anniversary of the City of Opole,” Brzeg, Castle of the Silesian Piasts, May 10–11, 2017 (in Author’s possession).

<sup>12</sup> Idem.

in backstairs conversations. The conference was very well organised, and the venue – Castle of the Silesian Piasts in the town of Brzeg – provided an unforgettable atmosphere for the event. The conference materials will be published soon to make all of the presentations available to audiences nationwide and abroad.

*Translated by Tomasz Pałkowski*



The preparation of the English version of *Roczniki Nauk Prawnych (Annals of Juridical Sciences)* no. 3 and its publication in electronic databases was financed under contract no. 753/P–DUN/2017 from the resources of the Minister of Science and Higher Education for the popularization of science.