

The forms, functioning, and influence of common rights on society and forest management in the feudal system of Austrian Galicia, 1772–1848*

by Joachim Popek

Abstract

Based on source materials primarily held in Lviv, Ukraine, this article examines how common rights over land and forests became established, functioned, and evolved in those Polish lands incorporated into the Austrian Habsburg monarchy at the end of the eighteenth century, and until the dissolution of the feudal economy. An afterword looks at the abolition of common rights in the latter part of the nineteenth century. It presents research on the impact of forest and pasture common rights on forest culture and management, the role of common rights in the economies of different social groups, the legal and institutional forms through which they were managed and contested, the impact of the removal of rights on peasant farms, the Austrian authorities' impact on relations between social groups, and how the actions of the central legislature affected access to and management of resources. A brief comparison is made between the fortunes of commons under the Austrian administration and those in the Prussian and Russian parts of partitioned Poland.

Historically, common rights played an important role in socio-economic relations in the Polish lands. The functioning of these rights clearly influenced both the standard of living and relations between social groups. They also affected historical processes such as the pauperization or modernization of entire provinces, and contributed to mass antagonisms and social conflicts. The research presented in this article aims to increase historical knowledge about common rights in the Polish lands incorporated into the Habsburg Monarchy at the end of the eighteenth century, the area which was known as the Kingdom of Galicia and Lodomeria, or simply Galicia. The timeframe is 1772–1848 when the feudal economy remained in place. The main research problem is to identify the nature and extent of common rights to land and forests, and the influence of changes to them on modernization processes in Galicia; that is, changes in agrarian society, the modernization of agriculture, and the management of forests.

* This article arises from the research project: 'The conflicts of easements in Galicia in the second half of the nineteenth century. The process of redemption and regulation of easements in the area of middle Galicia', funded by Poland's National Science Centre as part of the SONATINA 1 competition (No. 2017/24/C/HS3/00129). I would like to thank the two anonymous reviewers whose valuable advice and suggestions helped me enhance and refine the article.

The paper also seeks to address difficult and sensitive issues of development, the consequences of which can be seen in the modern pattern of forest ownership in Poland. The Roman legal codification and definition of '*servitutes praediorum*', which survived until the publication of the Austrian Civil Code of 1811, serves as a starting point of the study. The creation of land and forest common rights, the forms they took and their significance for Poland's economy until the fall of the state at the end of the eighteenth century are also considered.

The main part of this article considers the forms and functioning of land and forest common rights in Galicia's feudal economy until the agrarian reforms that began in 1848. Most of the examples in the sources pertain to the northern part of Galicia (the so-called 'forks of the Vistula and San'). These were more densely populated areas, resulting in a greater need and emphasis on acquiring raw materials. This contributed directly to the more intensive use of forest resources and led to more frequent tensions and social conflicts. Nevertheless, analysis of the sources has also been undertaken for areas in eastern Galicia, including the Lwów, Tarnopol and Sambor districts, as well as in western Galicia, a region with large forest complexes (Podhale and the Tatra Mountains). The latter in particular are used to show the contrasts and diversity of the forms of common rights in places with a smaller population and larger expanses of forest.

The Kingdom of Galicia and Lodomeria was a Crown land and province of the Habsburg Empire located in the central-eastern part of Europe in 1772–1918 (Map 1). It was the fragment of the Polish-Lithuanian Commonwealth's territory (part of the Kraków, Sandomierz, Ruthenian, Bełsk, Podolskie and Volhynia voivodships) incorporated by Austria in 1772, with an area of 81,900 km² and 2,650,000 inhabitants. Colloquially known as Galicia, it was a densely populated area with a mixture of nationalities and denominations. Most were Poles (mainly Catholics), but the areas east of the river San were more densely inhabited by Ukrainians (of Orthodox and Greek Catholic denominations). A significant share of the population were Jews (mainly concentrated in the cities). The few Germans beyond Silesian Cieszyn were the descendants of colonists from the Middle Ages and in the reign of Emperor Joseph II, lived in settlement groups no bigger than the aforementioned colonies (villages). Galicia's economy was primarily geared towards agriculture with contrasting social and economic inequalities – rich mansions and poor villages.¹

The region was notoriously poor. It was afflicted by overpopulation, economic backwardness, extensive agriculture, alcoholism, and natural disasters.² Difficult living conditions, misery and poverty were familiar sights in the Galician village; famine (caused by poor harvests or epidemics) and food shortages, especially before the harvest,³ worsened the situation.

¹ S. Grodziski, *Historia ustroju społeczno politycznego Galicji 1772–1848* (1971), pp. 27–30; W. Tokarz, *Galicja w początkach ery józefińskiej w świetle ankiety urzędowej z roku 1783* (1909), pp. 193–4; B. Limanowski, *Galicja przedstawiona słowem i ołówkiem* (1892), pp. 36–47; W. Kalinka, *Galicja i Kraków pod panowaniem austriackim* (1853), pp. 1–3.

² K. Stauter-Halsted, *The nation in the village: The genesis of peasant national identity in Austrian*

Poland, 1848–1914 (2001), pp. 21–3; J. Szewczuk, *Kronika klęsk elementarnych w Galicji w latach, 1772–1848* (1939), pp. 3–204.

³ This refers to the period between the end of the winter and the first harvest, when food stores were running low. Poorer people were forced to go hungry and prepare meals using anything edible (food that had gone off, weeds, bread made from couch grass). J. Słomka, *Pamiętnik włościanina od pańszczyzny*



MAP 1. Galicia with the administrative division and the main towns in 1867 with (inset) The Kingdom of Galicia and Lodomeria in the Habsburg Monarchy in 1815

Not without reason, Galicia was called the poorest region in the Habsburg monarchy and in Europe as a whole. After the first partition of the Polish lands, the Austrians did not pay much attention to the development of the province, treating it as an uncertain and temporary acquisition. Galicia served primarily to provide taxes and recruits for the army. Reforms during the reigns of Maria Theresa and Joseph II aimed to improve the situation of the peasants as the largest and poorest social group living in servile oppression and serfdom. After the death of Joseph II, his successors abandoned his reforming efforts and annulled some of his laws. Acting on the maxim *divide et impera*, the authorities used the poor relations between the peasants and the landowners, making the latter responsible for collecting taxes and recruiting men for the army. The peasants did not distinguish between tributes paid to the state and those for the manor. This strengthened mutual dislike, which culminated in the revolt (the 'Galician Slaughter') of 1846. The 'myth of the good Emperor', the defender of the peasants, also emerged in these circumstances.⁴

Note 3 continued

do dni dzisiejszych (1912), pp. 68–9; J. Bąk, 'Opieka społeczna nad sierotami w krakowskim Towarzystwie Dobroczynności w latach, 1816–1916', *Rocznik krakowski* 46 (1975), p. 104.

⁴ R. Łubieński, *Nieurodzaj i głód w Galicji. R., 1879–1880* (1880), pp. 21–2; S. Szczepanowski, *Nędza Galicji w cyfrach i program energicznego rozwoju gospodarstwa krajowego* (1888), pp. 1–12; Grodziski, *Historia ustroju*, pp. 30–9; R. Frucht (ed.), *Eastern Europe*.

This article will define and assess the Austrian legislature's influence on changes in common rights in Galicia, the influence of these rights on culture and forest management, and evaluate whether restrictions on rights contributed to the pauperization of peasant farmers, as the largest social group. The article also touches on the question of modernization, as understood by decision-makers at the time (primarily landowners) who saw the functioning of common rights as an unfair burden, a restraint on the rural economy, and detrimental to the improvement to their own property. The negative impact of common rights on the environment was one of the arguments used in favour of removing or regulating rights. As a result, 'modernization' was interpreted as a departure from the multi-functional forest and the establishment in its place of a forest economy producing timber for sale, which generated profits for the landowners. The nineteenth-century literature repeatedly encouraged the introduction of 'scientific forestry' in line with modern principles. The debate on common rights (including in the *Sejm* (parliament) of Galicia and Lodomeria at the start of the 1860s) was dominated by landowners who concentrated on clarifying the structure of property by abolishing common rights as quickly as possible. The social dimension addressed in this article is no less important. It focuses on the impact of common rights on relations between those entitled to common rights and those owners bound to respect those rights; above all, between the servile population and landowners.

The concept of common rights was well known across Europe. Conditions in different regions led to the use of specific descriptive terms and legal norms, but they shared a common feature: the land was used by multiple people or households at a given time. The most frequently encountered forms of common rights can be divided into three groups: common grazing after the harvest; the cutting of straw and hay; and grazing on permanent grassland and gathering wood from the forest.⁵ The 'common rights' in Austrian Galicia were similar common rights in England. They included common of pasture, common of piscary (right to fishing), common of turbary (right to dig turf), the right to dig coal, minerals or stones, and common of estovers (or just 'estovers'), and the right to gather wood.⁶ There were also similarities in the rights over common land use in other countries (including Flanders).⁷ Nevertheless, in the Polish lands, we must distinguish between common lands used by several communities (rural or urban), or a community and the manor, encompassing common pastures and meadows (called in Latin *rustical* commons, for which tax was liable from those communities), and forests (*dominical* commons, where the tax liability fell on the landlord). Moreover, in contrast to countries in western Europe, peasants' common rights in the Polish lands in the eighteenth and nineteenth centuries were directly linked to the system of serfdom ('second serfdom').

Historians have studied the agrarian reforms in Galicia, but the question of common rights over land and forests has not been researched or written about comprehensively. Works on

Note 4 continued

An introduction to the people, lands, and culture (2005), p. 20; J. Purchla, 'Małopolska or Galicia: Cracow's dilemmas in central Europe', in T. Hayashi and F. Hiroshi (eds), *Regions in central and eastern Europe, past and present* (2007), p. 263.

⁵ M. De Moor, L. Shaw-Taylor and P. Warde (eds), *The management of common land in north-west Europe,*

c. 1500–1850 (2002), pp. 18–19.

⁶ W. Blackstone, *Commentaries on the laws of England in four books with an analysis of the work* (1832), pp. 24–7.

⁷ M. De Moor, 'Commons and common rights in Flanders', in De Moor *et al.* (eds), *Management of common land*, pp. 117–21.

agrarian change characterize common rights in general terms and devote little space to them.⁸ In the case of Galicia, as well as the other Polish lands during the partitions, there has been no study showing systematically the role of common rights over land and forests in the system of serfdom present until 1861 in the area of the old Kingdom of Poland.⁹ Compared to the interest in western European countries,¹⁰ the subject of common rights in the Polish-Lithuanian Commonwealth has not been considered as a separate issue worthy of analysis.

Manuscripts from the Central State Historical Archives of Ukraine in Lviv played an invaluable role in the research. These sources are housed in the C. K. ('imperial and royal') Galician Governorship collection,¹¹ which contains several thousand references relating to the area. The files contain a wide variety of documents: applications and requests to the C. K. Galician Governorship, proxies for rural and urban settlements, complaints, petitions, applications, appeals, maps showing separated forest equivalents, lists of people authorized to collect raw materials from forests, reports from meetings regarding common rights,¹² income tables (detailing revenues), the testimony of witnesses, and correspondence with the district administration. This documentation remains fragmentary, and this research has selected materials from specific landed estates.

I

The common rights that existed in Austrian Galicia during the period in question had their roots in Roman legal codifications. This governing legal framework had emerged during the rule of the Polish commonwealth. Lawyers at the time defined the term *servitutes*, distinguishing between two main types: common rights to land (*praediorum*) and personal common rights (*personarum*).¹³ The term *servitutes praediorum* refers to a circumstance in which the owner of

⁸ Important contemporary works include Piotr Guzowski's article on commons in the Polish Commonwealth in the late medieval and early modern period. He characterizes both the subordinated population's common rights that allowed them to use natural resources located on manorial land and rural commons serving inhabitants, including as a commons for grazing cattle. P. Guzowski, 'The commons in late medieval and early modern Poland: An unattended historical phenomenon', in P. Guzowski, 'The commons in late medieval and early modern Poland: An unattended historical phenomenon', in N. Grüne, J. Hübner and G. Siegl (eds), *Ländliche Gemeingüter: Kollektive Ressourcennutzung in der europäischen Agrarwirtschaft* (2016), pp. 52–9.

⁹ S. Ogilvie and A. W. Carus, 'Institutions and economic growth in historical perspective', in P. Aghion and S. N. Durlauf (eds), *Handbook of economic growth* (2014), p. 417; S. Ogilvie, 'Communities and the "Second Serfdom" in early modern Bohemia', *Past and Present* 187 (2005), pp. 69–119; J. Nichtweiss and G. Seward,

'The Second Serfdom and the so-called "Prussian Way": The development of capitalism in eastern German agricultural institutions', *Review (Fernand Braudel Center)* 3 (1979), pp. 99–140; A. Kamiński, 'Neo-serfdom in Poland-Lithuania', *Slavic Review* 34 (1975), pp. 253–68.

¹⁰ H. R. French, 'Urban common rights, enclosure and the market: Clitheroe Town Moors, 1764–1802', *AgHR* 51 (2003), pp. 40–68; P. T. Hoffman, *Growth in a traditional society: The French countryside, 1450–1815* (1996), pp. 21–34; L. Shaw-Taylor, 'Labourers, cows, common rights and parliamentary enclosure: The evidence of contemporary comment, c. 1760–1810', *Past and Present* 171 (2001), pp. 95–126; G. Clark and A. Clark, 'Common rights to land in England, 1475–1839', *JEcH* 61 (2001), pp. 1009–36.

¹¹ Central State Historical Archives of Ukraine in Lviv [hereafter CSHAUL], corps 146/64.

¹² Covering lists of rights, and estimated values of common rights.

¹³ W. H. Hunter, *Introduction to Roman Law* (1864), pp. 59, 64–7; J. Pieńkos, *Praecepta iuris* (2010), pp. 82–5;

the property was entitled to dispose of the common right to the property. Acting in accordance with the principle of bringing benefits to immovable property, the law was assigned to a specific ruling property and applied regardless of its owner. The definition of *servitutes* had a practical equivalent in medieval Polish law, but the terms changed in the adoption of Roman law. The rights were based on a rule that referred to the Roman definition, but the legal relationship that emerged and the different terms used allow us to say that they were common rights. They were referred to as *libertates* or simply commons, as well as *unus*, the burden that the owner of the property subject to the law had to bear.¹⁴ They were defined precisely by Jan Wincenty Bandtkie-Stężyński: 'This can include details that did not have a separate name in Roman law, since their nature agreed with the Roman theory of servitutes'.¹⁵ Przemysław Dąbkowski's position corresponds with this view. Transcending semantics, he ascribed a greater importance to the name, indicating that – unlike Roman law – common rights in Polish law privileged the rightsholder. This meant that, most of the time, specific names were used, e.g. *wrąb* (the right to fell wood) or *zbiór żołądzi* (the right to gather acorns).¹⁶ It is extremely important to define the terminology used in relation to common rights precisely because both local terms characteristic of the Polish language and those used by the Austrian legislation were used in eighteenth- and nineteenth-century Galicia. During this period, all common rights that were part of the feudal system were referred to as *służebności* or *servituty*;¹⁷ in most cases, these were understood as rights to resources on the property owned by the manor. From the Austrian authorities' perspective, Galician common rights were referred to as *Servituten*. This term is present in historiography written in German, as well as in legislation.¹⁸ It was precisely defined by William Henry Hall, who wrote that 'In connexion with the *roboth* [corvée labour] was the system "servituten", or common rights of the lord and commune, respectively. These referred principally to collecting firewood and cutting down timber, and pasturing cattle on meadow lands.'¹⁹

According to Dąbkowski, the main reason why common rights were established in the time of the Commonwealth was the need to allow the population to use other people's property at a period of demographic growth and economic development. Peasants, townspeople, and clergy acquired the right to use common²⁰ and estate lands, in both private and royal properties.

Note 13 continued

A. Fermus-Bobowiec and I. Szpringer, 'Przegląd sposobów powstania służebności – od prawa rzymskiego do współczesnego prawa polskiego', *Studia z Dziejów Państwa i Prawa Polskiego*, 13 (2010), p. 12.

¹⁴ P. Burzyński, *Prawo polskie prywatne napisane i poświęcone pamięci ubiegłych w roku 1864 pięciuset lat istnienia Uniwersytetu Krakowskiego* (1871), p. 440; R. Hube, *Prawo polskie w wieku trzynastym* (1874), p. 114; M. Warciński, *Służebności gruntowe według kodeksu cywilnego* (2013), pp. 30–3; K. Szczaniecki, *O służebnościach ziemskich podług prawa rzymskiego* (1862), p. 20.

¹⁵ J. W. Bandtkie-Stężyński, *Prawo prywatne polskie napisane i wykładane przed r. 1830 w b. Warszawskim Aleksandryjskim Uniwersytecie* (1851), p. 299.

¹⁶ P. Dąbkowski, *Prawo prywatne polskie* (2 vols, 1911), II, pp. 254–5.

¹⁷ R. F. Leslie, A. Polonsky, J. M. Ciechanowski, Z. A. Pelczyński, *The history of Poland since 1863* (1981), p. 9; E. Till, *Prawo Prywatne Austriackie* (5 vols, 1884–1902), II, pp. 324–5.

¹⁸ Kaiserliches Patent, [...] über die Regulirung und Ablösung der Holz-, Weide- und Forstprodukten-Bezugsrechte, dann einiger Servituts- und gemeinschaftlichen Besitz- und Benützungrechte festgesetzt werden, 5.07.1853; *Die Grund- und Servituten-Streitigkeiten in Galizien* (1862), pp. 3–24.

¹⁹ W. H. Hall, *Polish experiences during the insurrection of 1863–4* (1864), pp. 92–3.

²⁰ Forests, meadows, pastures, stubble fields, fallow land, rivers, and lakes.

Areas over which common rights existed allowed the owner of the property to exercise rights such as hunting, tree felling,²¹ fodder,²² river-rafting, transport, fishing,²³ moving along roads and routes, digging clay or lime from the ground (among other materials), harvesting fruit, and cutting the branches of trees that intruded onto an adjacent property. An individual or a whole group of people, such as peasants from a given village, had the right to use the area covered by a specific right. There was no universal formula for ascribing the legal basis. In most cases, it resulted from local conditions and needs.²⁴

Land and forest common rights created relationships between the entitled and obligated parties. The commoners were mostly peasants, townspeople, and clergy using parts of the manorial estates. However, there were situations in which landowners used the right to graze cattle on pastures and meadows that remained in common ownership of villages. This led to many conflicts over ownership and attempts to appropriate property. There was a dispute of this kind between the owner of Mielec, Jan Pieniżek, and its inhabitants in the first half of the nineteenth century. The dispute arose out of Pieniżek's attempt to prove that the village's common was his property.²⁵

The circumstances in which common rights to land were established on the Polish lands varied. Most often it happened in one of two ways: in accordance with the intention of the owner of the manorial property, or contrary to his will. The first way refers to grants of all kinds often made as part of the acts founding new urban and rural settlements, acts establishing a parish, contracts, and donations.²⁶ Common rights that were established and shaped later in the second way were characterized by a relationship of sovereignty and serfdom – above all the sovereignty of the manor over peasants. These formed the largest group of rights. They survived for centuries until they were formally abolished in the nineteenth century. Common rights could also be established regardless of the obligated party's will. They included all rights resulting from manorial verdicts or laws. The nobility often exploited the latter, as the entitled party. In the early modern period, a rule was adopted that owners of private property adjacent to royal property had the right of the so-called right of 'entrance' (*prawo wstępów*). This allowed them to take wood from forests and fish from waters that belonged to the king.²⁷

The vast majority of common rights over land and forests operating in the Polish lands were linked to the manorial economy and serfdom. The biggest beneficiaries of the rights were the peasants and the townspeople. Required to perform servile work for free on manorial lands, the subordinate population received access to natural resources on lands owned by the feudal lord as a form of compensation. Common rights therefore resulted directly from the power relationship between the owner of the natural resources and the subordination of the people

²¹ Entering and collecting timber from the forest on specific terms.

²² Cattle grazing on fallow land, fields of stubble, pastures, and forests.

²³ In water common rights, also washing and watering cattle, soaking hemp, washing clothes, and bathing in rivers, brooks, ponds, and lakes.

²⁴ J. P. Himka, *Galician villagers and the Ukrainian*

National Movement in the nineteenth century (1988), pp. 36–7; Burzyński, *Prawo polskie prywatne*, pp. 440–3; S. Inglot, *Historia chłopów polskich* (3 vols, 1972), II, p. 245.

²⁵ CSHAUL, corps 146/64, vol. 5982.

²⁶ Dąbkowski, *Prawo prywatne polskie*, II, pp. 256–7; W. Woyzbun, *O służebności leśnych* (1867), pp. 6–7.

²⁷ Dąbkowski, *Prawo prywatne polskie*, II, p. 260.

living on their property.²⁸ The best example of the dependence of peasants' common rights on their servile status occurred in 1846 during the Galician Slaughter.²⁹ During the revolt peasants refused to perform the duties of serfdom. Landowners responded by ceasing to respect their common rights and forbidding them from using manorial forests, meadows, and pastures, further harming relations between the village and the manor. Poor relations, mutual dislike and distrust resulted from the landowners' irresponsible policy of increasing the burdens of serfdom and strengthening the subordinate relationship.

Peasants were subject to the lord's authority in a personal, administrative, judicial, and economic sense. The scale of the problem and manors' abuse of their subordinates were not exposed until the urbarial surveys made in Galicia during the reign of Emperor Joseph II towards the end of the eighteenth century.³⁰ The Habsburg reforms had a very positive influence on the personal and economic position of the peasantry. Labour services were limited to three days per week, the ability to lodge complaints with the state administration about manorial abuse (especially humiliating corporal punishment) was introduced and, above all, the distinction between land used by the peasants (*rustical* lands) and land that was part of manorial demesne farms (*dominical* lands) was introduced.

In the context of common rights, it was considered of particular importance to introduce a ban on the eviction of subordinates from farms they had hitherto worked, and to forbid the incorporation of *rustical* common land used for the common grazing of cattle (such as pastures jointly owned and used by the village and the landowner) into the *dominical* areas of the manor.³¹ An analysis of the sources indicates that, on the territory where the 1846 Galician Slaughter took place (including the Tarnów, Jasło and Rzeszów districts), there had previously been numerous social conflicts. These arose out of the displacement of peasants from farms, manorial appropriation of common land, unjustified abuse of the peasants (including their corporal punishment), the imposition of additional serf duties and extraordinary work (for

²⁸ Hall, *Polish experiences*, pp. 92–3; J. Broda, *Historia leśnictwa w Polsce* (2000), p. 110.

²⁹ The Galician Slaughter was a peasant uprising in Austrian Galicia in 1846 which directly targeted the excessive burdens of serfdom and the nobility. The slaughter mainly covered lands in western Galicia. The Austrian authorities exploited it as an instrument for punishing the nobility for organizing the anti-Austrian uprising (the Kraków Uprising), which ultimately only covered the area of the Free City of Kraków. The peasant uprising had an exceptionally violent character. Peasants attacked and plundered manorial property, murdered nobles, and their servants, and caught insurgents involved in the Kraków Uprising, passing them directly to the Austrian authorities (around 430 manors were robbed and around 1100 people were murdered, often in a cruel way). Ultimately, the peasants were suppressed by the army and forced to do serf work. T. W. Simons, 'The peasant revolt of 1846 in Galicia: recent Polish historiography', *Slavic*

Rev. 30 (1971) pp. 795–817; J. Sieradzki, C. Wycech, *Rok 1846 w Galicji* (1958), pp. 13–30; S. Dembiński, *Rok 1846. Kronika dworów szlacheckich* (1896), pp. 14–43; S. Kieniewicz, *Ruch chłopski w Galicji w 1846 r.* (1951), pp. 103–4; A. Polonsky, 'The revolutionary crisis of 1846–1849 and its place in the development of nineteenth-century Galicia', *Harvard Ukrainian Studies* 22 (1998), pp. 443–69; K. Daszyk, T. Kargol and T. Szubert, *Rok 1846 w Krakowie i Galicji: odniesienia, interpretacje, pamięć* (2016).

³⁰ An Urbar was a register of rights and rentals pertaining to a feudal lordship.

³¹ J. Blum, *The end of the Old Order in rural Europe* (1978), p. 222; M. Weber, *General economic history* (1961), pp. 88–9; P. M. Judson, *The Habsburg Empire. A new history* (2016), p. 70; K. Ślusarek, *Austria wobec polskiej szlachty w latach 1772–1861*, pp. 189–90; Rozdolski, *Stosunki poddańcze w dawnej Galicji* (2 vols, 1962), I, pp. 77–80; Kalinka, *Galicja i Kraków*, pp. 138–9; Himka, *Galician Villagers*, pp. 1–9.

example, on Sunday during the harvest), as well as landowners introducing or raising charges for collecting natural resources from manorial property as part of common rights.³² A similar pattern can be perceived in 1848 during the Spring of Nations when serfdom was abolished throughout the whole Habsburg monarchy. When the labour services required from peasant serfs were abolished in May of that year, landowners again ceased to respect their subordinates' common rights. This naturally led to disputes, conflicts, violent attempts to use manorial forests and pastures, as well as the theft of timber and the destruction of forests. The problem primarily concerned private goods in Galicia, despite the Austrian authorities' order that all common rights were to remain in place until regulated by a separate legal act.³³

II

Common rights to land and forests in the early Polish-Lithuanian Commonwealth operated on varying principles. For obvious reasons, they were defined by the provisions that established the rights, but the conditions for exercising that right could later change. This was particularly important in the case of forest and pasture rights. Entitled persons could use forest resources and graze cattle either freely and without restrictions or under certain conditions. For example, the town of Leżajsk had a common right which entitled them to free use of the forest. In 1524, alongside the town's founding charter, townspeople received the 'freedom to fell the forests for fuel and construction for free'.³⁴ This right was confirmed in the inventory of lands and rights made by the Leżajsk district office in 1664.³⁵ Nevertheless, restrictions on the exercise of the common rights were being imposed here in the eighteenth century.

Attempts to regulate the use of forests by commoners had a long history. Franciszek Bujak has described how, by granting the Bishop of Wrocław the right to use the forests, Prince Henry the Bearded (reigned 1232–8) also defined the rules for exercising this right. The first initiatives aimed at protecting forest areas against unjustified felling appeared in the fourteenth century.³⁶ The modern historian of Polish forestry Józef Broda noted that, in many parts of the Commonwealth, there was a conviction that forest resources were inexhaustible and indestructible. This was especially the case in densely forested areas, where the uncontrolled use of natural resources led to ravages, disordered logging, and the degradation of tracts of forest. As an example, he pointed to the nature of forest management on the vast *Żywiec* property in the sixteenth and seventeenth centuries. In addition to collecting materials from the forest for their own needs, the peasants sold timber, charcoal, and forest fruit collected from manorial forests. The landowner received a commission on the transaction or the lease of a specific area of forest in the form of cash or the equivalent amount of collected products. In the second half of the seventeenth century, the owner of the *Żywiec* property sought – to the maximum extent possible – to limit the right of peasants to free logging in manorial forests

³² CSHAUL, corps 146/64, vols. 4699–4703, 5234. Inglot, *Historia chłopów*, II, pp. 203–4.

³³ CDIAUL, f. 146, o. 64, spr. 319, 343, 4692–4704, 5092, 5182, 8741, 8774, 11014; W. F. Reddaway, J. H. Penson, O. Halecki and R. Dyboski (eds), *The Cambridge history of Poland* (1941), p. 432; Himka, *Galician villagers*,

pp. 36–7.

³⁴ CSHAUL, corps 146/18, vol. 2724.

³⁵ CSHAUL, corps 146/87, vol. 73.

³⁶ F. Bujak, 'Studia nad osadnictwem Małopolski', *Rozprawy Akademii Umiejętności*, 22 (1905), pp. 197–8.

and to trade in timber. Officially, manorial actions sought to protect forests from overuse, but the main motive was generating additional income by removing peasant intermediaries and establishing a monopoly on the supply of timber.³⁷

Unlike in the Polish lands – where forests were owned by the nobility, monarchy, or clergy – in parts of western Europe forest areas could be owned by communities. Residents paid more attention to controlling people exercising their common rights; regulations that limited those rights (to sell timber, among other things) or restricted the use of natural resources, resulted from disputes and conflicts between different social groups.³⁸

The practice of introducing limits on the use of forests is also seen on crown properties. In the eighteenth century, the townspeople of Horodło exploited their felling rights to an excessive degree and caused too many trees to be cut down and destroyed. This led to limits being placed on their entitlement.³⁹ The example of Horodło reflects the general tendency for limits to be imposed as an ad hoc response to over-exploitation. Nevertheless, it would be mistaken to think that supervision of forests and efforts to introduce effective forest management were not introduced until the nineteenth century. An undoubted breakthrough came with plans to manage forests by separating forest areas from agricultural land; that is, treating forests as a separate branch of the manorial economy (by planning total felling, renewal, and long-term wood management plans). Initiatives of this kind mainly appeared on the large noble estates, including the Zamoyski, those in Kock and Siemiatycze owned by the Jabłonowski family, and the Radziwiłł estate in the Wilno Region (*Wileńszczyzna*) during the second half of the eighteenth century.⁴⁰ Dąbkowski has shown how, at the time that common rights were granted, payment for their use was envisaged; for example, people using the royal forests paid fees defined as forest, grove, or foraging fees.⁴¹ A similar solution was also used in Galicia in the late eighteenth century, when peasants were obliged to participate in paying a forest tax. In the nineteenth century, though, setting limits on the exercise of particular rights was common practice (for example, by demarcating common forest areas).⁴²

Parish priests and their supporting household members – both Roman Catholic and Greek Orthodox – also had common rights. In most cases, they were established when the parish was being formed: they could survive unchanged until common rights were abolished. This was the case in the parish of the Holy Trinity in the village of Babice by the river San. From its establishment in 1792 until the second half of the nineteenth century the parish priest's household had the right to fell trees freely in the manorial forests for fuel, repairs, and building; fish freely from the San, all manorial ponds, and lakes; and graze cattle and pigs freely in manorial forests and pastures.⁴³ The Greek-Orthodox parish of the Nativity of the Blessed Virgin Mary in Wasyłkowce had similar rights. An inventory from 1805 shows that the parish had the right to graze cattle on both manorial and communal lands. Unlike other parishes, though, it did not refer to old grants but rather to customary law and long-term use.⁴⁴

³⁷ J. Broda, *Gospodarka leśna w dobrach żywieckich do końca XVIII w.* (1956), pp. 46–50.

³⁸ P. Warde, 'Fear of wood shortage and the reality of the woodland in Europe, c.1450–1850', *Hist. Workshop J.*, 62 (2006), p. 41.

³⁹ Ossoliński National Institute [hereafter ONI],

vol. 2847/II.

⁴⁰ Broda, *Historia leśnictwa*, pp. 16–18.

⁴¹ Dąbkowski, *Prawo prywatne polskie*, II, p. 255.

⁴² CSHAUL, corps 166/118, vol. 44.

⁴³ ONI, vol. 4884/III.

⁴⁴ ONI, vol. 7214/III.

III

After the First Partition of Poland in 1772, the way common rights to land and forests in Galicia operated did not change fundamentally. There were, however, attempts to limit some of the rights, especially the rights of those residing on Austrian state property. The authorities' first attempt was the patent of 16 October 1772,⁴⁵ which primarily aimed to counter the destruction of the forests. However, Roman Rozdolski has noted that the rule limiting rights did not come into force. The first patent actually removing some rights to wood was enacted on 28 January 1773. Entitled persons could continue to gather firewood from the forests, but lost the right to fell timber freely for building or sale. Encouraged by the authorities' actions, landowners started acting similarly, guided by freedom in the interpretation of legal provisions.⁴⁶ The forest law of 20 September 1782, which aimed to regulate forest use, had a similar fate. The manorial authorities' arbitrary understanding of the rules led to the restriction of peasants' rights on private estates.⁴⁷ One of the rules stated that the days of the week on which subjects, assisted by rangers or gamekeepers, could enter the forest and collect materials they required, had to be defined. This led to the custom colloquially referred to as *wolnice*,⁴⁸ which survived until common rights were abolished in the second half of the nineteenth century.⁴⁹ The sources show that after this date the right of peasants to enter forests freely was restricted. They could still collect firewood, but the provision of wood for building became the owner's responsibility. In this way, manorial authorities repeatedly tried to make up for the 1781 reduction of serfs' labour services to three days a week.⁵⁰ A similar practice was also used in the first half of the nineteenth century. Peasants who carried out their responsibilities as serfs required permission to fell timber. In return for wood or grazing cattle, they were required to do additional work on manorial land. The problem of manorial abuse resulting from the forest law was noticed by the Austrian authorities. In a patent issued on 12 January 1784, they ordered that the common rights of peasants (who had enjoyed them without restriction) be maintained and that their right to collect wood be based on the decree of 1782. The patent also allowed the owners of certain landed property to retain the right to fell trees for sale, as long as the landowner could prove they had granted peasants permission to use the forest, and as long as the living standards and viability of the farms of any so entitled persons would not suffer if they were thereby deprived of the opportunity to sell wood.⁵¹

In 1789, the authorities began implementing a long-intended cadastral reform. Ultimately, it did not come into force because the monarch died, and his successor scrapped most of the reforms. Still, some of the changes, such as limiting serfdom, had a positive impact on subjects' living conditions.⁵² One of the direct effects of the reform was the formation of so-called urbarial descriptions. The burdens on serfs were carefully documented and, information recorded on the

⁴⁵ T. Kargol, 'Lasy i gospodarka leśna w Galicji w świetle austriackich aktów normatywnych przełomu XVIII i XIX wieku', *Studia i Materiały Ośrodka Kultury Leśnej*, 15 (2016), pp. 80–1.

⁴⁶ Rozdolski, *Stosunki poddańcze*, I, p. 218.

⁴⁷ Kargol, 'Lasy i gospodarka', p. 91.

⁴⁸ Free trading or weekly days when prices were

lowered.

⁴⁹ CSHAUL, corps 146/64, vol. 4694, 5124, 7793.

⁵⁰ Blum, *End of the Old Order*, p. 222.

⁵¹ Stefanyk National Scientific Library of Ukraine in Lviv [hereafter LNNLU], corps 9, vol. 3822.

⁵² Grodziski, *Historia ustroju*, pp. 71–81.

new ones that would be introduced once the reforms came into force.⁵³ The sources also describe peasant common rights over land and forest. Determining whether the village had use-rights over manorial land, and what those rights were, formed an integral part of the enquiry.

The manuscripts reveal the importance of forest rights. If a given landowner had a forest then – usually – his subjects and clergy exercised rights to take wood in a defined part of it. The descriptions emphasized that, without these rights, the subjects would be forced to buy fuel and building materials from nearby estates. That was already the case with the towns of Tyczyn and Łańcut, along with the village of Bzianka, among others.⁵⁴ The descriptions provided those settlements with a common forest or meadow with a written confirmation of their rights, which they would repeatedly invoke later. In the case of the rights to wood, the urbarial descriptions defined the type of rights and the conditions for exercising them. The example of places such as Leżajsk and Bratkowice confirms that subjects residing on Austrian state landed property were in a privileged position when compared to the inhabitants of private estates. The descriptions often emphasize that ‘from the imperial forests [...] the subjects had wood for fuel, construction, and farm utensils free of charge’.⁵⁵ The right of fodder on pastures, fallow land, meadows, and forests operated on similar rules. Peasants grazing cattle in common areas could be charged a natural or cash payment that depended on the number of cattle.⁵⁶ The levy was also imposed on people living in the territory of a town who had the right to graze cattle on a pasture or meadow owned by another village or town. Tensions over charges, the number of cattle grazed, and property rights frequently led to conflicts between entire villages and towns. However, it should be noted that the urbarial descriptions show a considerable diversity of common rights in Galicia and these could change over time.

Pressure from landowners was the main source of change over how rights operated. Common rights could evolve through separate contracts, judgments, and manorial decisions. This happened in the village of Białobrzegi. In 1712, Prince Franciszek Lubomirski struck an agreement with his subjects, which stated that the village could graze cattle on manorial pastures. In the second half of the eighteenth century, peasants from Białobrzegi who wanted to continue exercising their grazing rights were compelled to accept four days of additional serfdom during the harvest season.⁵⁷ The practice of restricting common rights was most often used in private estates. A classic example are the efforts of Jerzy Tyszkiewicz, the owner of the Kolbuszowa property, who fell out with the townspeople in the 1810s over rights of ownership and the use of the town common. After years of lawsuits at all levels of Galicia’s judiciary, the people of Kolbuszowa won the dispute and the count had to pay the court’s costs.⁵⁸ Some of the cadastral descriptions also contain additional peasant obligations, enclosed as a separate declaration. In these, they confirmed the rules and quantity of the materials gathered from manorial forests. In return for the listed rights, they accepted certain obligations. These included additional days of corvée

⁵³ K. Ślusarek, *Drobna szlachta w Galicji 1772–1848* (1994), p. 20; id., ‘Dwór, wieś i plebania w zachodniej Małopolsce w końcu XVIII i na początku XIX wieku w świetle najnowszych badań’, *Galicja Studia i Materiały*, 1 (2015), p. 55.

⁵⁴ CSHAUL, corps 146/18, vol. 2601, 2734, 2842.

⁵⁵ CSHAUL, corps 146/64, vol. 2600, 2724.

⁵⁶ CSHAUL, corps 146/64, vol. 2665.

⁵⁷ CSHAUL, corps 146/18, vol. 2610.

⁵⁸ State Archive in Rzeszów [hereafter SAR], corps 416, vol. 3.

labour (whether on foot or whether peasants had to provide their own teams and gear) over the course of the year, rent, or work on the dykes and roads as unpaid labour.⁵⁹

Emperor Joseph II's urbarial reform also proposed imposing a forest tax on the peasantry. This is indicated by annotations in the urbarial descriptions, which mention that the inhabitants of every village or town (both private and state) who were entitled to gather materials from the forest had to pay a new tax. This provision was annulled in a circular dated 29 October 1789.⁶⁰ Nevertheless, the projected charges were maintained on many landed estates, and owners arbitrarily sought to introduce new burdens in return for subjects' continued access to manorial forests and pastures. One example is the conflict with the Targowisko dominium over ownership of a 20-morgen (11–12 ha) pasture between the village of *Łężany* and the manor at the start of the nineteenth century. The peasants ultimately lost the dispute and subsequently had to pay for access to the resources. A literate peasant who had been helping the village to write complaints was accused of causing unrest among the peasantry and threatened with punishment.⁶¹

Restricting common rights or introducing charges for using natural resources located on manorial property or common land had real consequences for peasant families and the condition of their livestock. They included decreased living standards and quality of life, material status, and the reduced ability of the wealthier category of serfs (*pańszczyzna sprzężajna*) to perform work on manorial lands (if, for example, they lost their cattle). Any restrictions on the peasants' ability to graze cattle on manorial meadows and pastures therefore directly affected their ability to keep livestock.⁶² The cow was seen as the nourisher of the family (through dairy production), while oxen and horses enabled the farm to be run. Restrictions on the right to collect raw materials from the forest were equally damaging. Wood was used for heating and cooking while forest litter, moss, and undergrowth made up for the lack of straw in barns and stables, and were commonly used to insulate buildings from the outside. This meant that collecting natural resources from the forests was vital for the peasants and that restrictions placed on it could impoverish and undermine their basic living conditions.⁶³ Small, fragmented peasant farms (often unable to keep a family fed over an entire year) were dependent on the manor in many respects. Until 1848, the peasants were unable to exercise control over the land they were using without the landowner's permission. It was not until serfdom was abolished in the mid-nineteenth century that peasants were granted property rights to their land.⁶⁴ For this reason, the use of manorial property and the collection of natural resources from it – as part of common rights – was extremely important for the peasants. The numerous small farms that had to pay taxes to the state, and provide the manor with work and tributes, did not have their own forests, pastures, and meadows, and most of the land used was for agriculture. The exception were pastures and meadows,

⁵⁹ CSHAUL, corps 146/18, vol. 3956, 4089, 4261.

⁶⁰ Rozdolski, *Stosunki poddańcze*, I, p. 220.

⁶¹ CSHAUL, corps 146/64, vol. 5145.

⁶² ONI, vol. 721/III.

⁶³ Sylwan, 18 (1842), pp. 77, 443–4; W. Tyniecki, 'Uwagi o ściółce leśnej w zarysach', *Rozprawy C.K. Galicyjskiego Towarzystwa Gospodarskiego*, 29 (1861), pp. 161–70; M. Dembińska and W. Hensel (eds), *Historia kultury*

materiałnej Polski w zarysie (6 vols, 1978), I, p. 102.

⁶⁴ J. Jedlicki, *A suburb of Europe: Nineteenth-century Polish approaches to western civilization* (1999), p. 19; J. Sperber, *The European revolutions, 1848–1851* (2005), p. 144; K. Grzybowski, *Galicja, 1848–1914* (1959), pp. 28–30, 123–4; Inglot, *Historia chłopów*, II, pp. 200–2.

that is, *rustical* land used in common by the whole rural or urban community. During the feudal period, repairing buildings, heating cottages, cooking meals and keeping cattle was therefore based on common rights, as well as the manor's grace and good will. Landowners' refusal to respect common rights after the end of serfdom in May 1848 meant that in most cases peasants and townspeople were forced to buy raw materials and pay charges for grazing cattle on manorial pastures and meadows, which had a negative impact on their economic situation. Moreover, in the face of the loss of free labour and famine (1846–48), landowners often used common rights as an effective bargaining chip. In exchange for access to manorial forests and pastures, peasants worked on farm land (for instance, one day a year for a load of firewood). As a result, until common rights were purchased and regulated in the second half of the century, peasants and townspeople were still mostly dependent on the will of landowners seeking income from the sale of natural materials.

IV

The Austrian Civil Code of 1811 permitted urban and rural common rights (*Servituten*). However, the terms 'urban' and 'rural' did make a clear-cut distinction, as the latter included rights that townsfolk and even town magistrates could use. Rural rights were defined in Article 477, which encompassed water, hunting, mining, and road rights as well as forest and pasture common rights commonly found in Galicia.⁶⁵ However, these rights functioned without a generally accepted regulation that would have defined the time, place, means, and extent of their use; as a result, they were seen as damaging and an impediment to the running and development of forest holdings.⁶⁶ Documents record precisely show the rights exercised by subjects in villages and towns, as well as by the clergy, schools, magistrates, foundations, and other institutions in Galicia. The sources also describe the owners of estates subject to common rights. Above all, this group included the Austrian state, as the administrator of state goods, landowners, and the clergy,⁶⁷ as well as villages and cities whose ownership and use of land were listed as *rustical* in the Galician cadastres.

Serfs living in rural and urban settlements constituted the largest group in possession of common rights over land and forests. Entire rural or urban settlements, defined groups (such as categories of farmer) or individual farmers could be entitled to exercise a certain right. Villages that were part of dominiums usually possessed rights that their general inhabitants could use. One of the most important common rights was the possibility to collect firewood from manorial forests, which was done in many ways. Entering the forest on chosen days of the week sometimes required manorial dispensation. The basic unit for measuring collected firewood was the so-called *fury*.⁶⁸ Poorer farmers wrapped branches or brushwood in canvas, which they carried out of the forest by hand. Firewood usually referred to dry branches

⁶⁵ *Allgemeines Bürgerliches Gesetzbuch* § 477; *Księga ustaw cywilnych wszystkim niemiecko-dziedzicznym krajom Monarchyi Austriackiej powszechna* (1811), p. 82.

⁶⁶ B. K. Kiraly, 'The emancipation of the serfs of east central Europe', *Antemurale*, 15 (1971), p. 64; Till, *Prawo*

Prywatne, II, p. 335; K. Ślusarek, *Uwłaszczenie chłopów w Galicji zachodniej* (2002), pp. 160–1.

⁶⁷ Parishes, religious congregations and episcopal states.

⁶⁸ A horse or cattle cart.

that were lying around or brushwood. In certain cases, manorial authorities allowed green branches to be collected when they had been cut as part of more extensive forest clearance. The restriction was on the thickness of the branches. Selected farmers could also have the right to use axes and to dig up stumps. The collection of wood for building, which was much more valuable, usually required a clear dispensation from the owner of the forest, who estimated how much the farmer needed and assigned the necessary amount and type of building material.⁶⁹ The felling took place in the presence of the manorial forest wards, with transport and the processing of the wood the farmer's responsibility.⁷⁰ Wood for building, as its name indicates, was used to erect and repair all sorts of buildings, farm equipment and public infrastructure, such as roads, pavements, bridges, canals, signposts, and passenger and freight ferries.⁷¹ The right to collect forest litter⁷² for cowsheds – to make up for the shortage of straw – constituted a special form of land and forest right. The fertilizer obtained this way, in the form of manure, helped keep farmland in better condition.⁷³ The final group of forest common rights encompassed the right to collect various forest products and fruit. Authorized persons could collect tree resin, beech nuts, acorns, wild fruit,⁷⁴ tinder, mushrooms, herbs, and flowers. Forest products also included mowing and collecting dry hay from forests and meadows.⁷⁵

Different common rights could be granted to selected groups of farmers or individual property owners. This was the case with the mountain villages in Podhale. The vast Tatra forests were private property, while the mountain meadows and adjacent clearings used by shepherds belonged to the inhabitants of the villages (for instance those of Zakopane, Kościelisko, Witów). Based on ancient privileges, the owner or co-owners of particular alpine meadows (*hal*) had the right to use the manorial forests. The form of common rights in the Tatra Mountains resulted primarily from the pastoral character of the high-altitude farms, which granted shepherds the right to collect wood from the forest to make bonfires while guarding sheep, to build summer huts and fences around their meadows. They could also collect forest litter and graze sheep in forests and clearings.⁷⁶

Alongside the right to collect raw materials from the forest, fodder rights were common; that is, the right to graze cattle in forests, on pastures, fallow land, stubble, meadows, and in bushes. In Galicia, the largest group of entitled persons were subjects and clergy with livestock, for whom manorial land was the common area. As was the case for wood harvesting, there were designated grazing areas in forests and other areas, and a maximum number of days a year that animals could graze. In some cases, accurate cattle registers were drawn up for every farm, stating how many animals there were, along with their species, weight, and age. The lists were primarily used to control and ensure the transparency of the right being exercised and, in

⁶⁹ Such as the diameter and type of tree.

⁷⁰ CSHAUL, corps 166/118, vol. 20.

⁷¹ CSHAUL, corps 146/64, vol. 11766.

⁷² Foliage with needles.

⁷³ CSHAUL, corps 146/64, vol. 2971.

⁷⁴ Raspberries, blackberries, wild strawberries and blueberries.

⁷⁵ L. Biegelmajer, *Ustawy dla posiadaczy dóbr*

ziemskich w Galicji we względzie politycznym, sądowym i finansowym potrzebne (1858), pp. 130–1.

⁷⁶ CSHAUL, corps 146/64, vol. 6999, 7068; P. Bąk and M. Guzik, 'Obraz dóbr zakopiańskich w 1889 r. na podstawie map katastralnych, ksiąg gruntowych i operatu urządzania lasu', in A. Liscar, M. Sarkowicz and Z. Ładygin (eds), *Działalność Zamoyskich w dobrach zakopiańskich* (2010), pp. 33–6.

special cases, were used to impose obligations on serfs. Whether right was exercised for free or fees were collected – in the form of money⁷⁷ – depended on local relations and resulted from old privileges and prevailing custom.⁷⁸ The common area was usually owned by the manorial authority, but in many cases hamlets and villages had their own pastures or forests, where farmers in neighbouring towns might have the right to graze their cattle. Problems arose when a pasture or glade where animals grazed together was jointly owned by several villages, or a single village and a landowner. Attempts to appropriate property, change the class of land or impose unjustified charges caused many disputes and conflicts; not just during the feudal economy but, above all, during the agrarian reforms when common rights in Galicia were abolished in the second half of the nineteenth century.⁷⁹

Selected common rights could be regulated by negotiations between the commoners and the area's owner. Changes usually resulted from disputes over the form and limits of rights. Complaints from commoners were in the first instance addressed to the manorial authorities, exercising patrimonial jurisdiction. If there was a conflict of interest, the village or town had to appoint proxies to represent the village's interests in negotiations with the manor. An agreement could be concluded to improve mutual relations. Otherwise, subjects had the right to appeal to the higher-instance Austrian authorities.⁸⁰

For every particular right, the owner of the estate subject to rights allocated so-called common areas; specific plots of land from which authorized persons could collect raw materials or graze cattle.⁸¹ In terms of manorial forest management, designating specific areas for common rights was important because it allowed for a properly managed economy to be maintained in the remaining forest space. Some historiography and archival sources were critical of the impact of common rights on forest culture, noting the negative consequences of disorderly collection and felling, the undercutting of branches, the depletion of forest resources, the destruction of young trees by grazing cattle, the raking of litter (which dried out and sterilized the soil), and – above all – theft, devastation, overstepping of rights, appropriation of property, and the exchange of devastated forests for other classes of land, such as pastures or arable fields.⁸² Figure 1 shows an example of forest common areas in Odrzykoń. Using the cadastre and manuscripts from the first half of nineteenth century, it was possible to determine, which parts of the forest were common areas. The map shows the practice, commonplace for Galician villages, whereby the area of forest designated for common use was significantly larger than the forest belonging exclusively to the manor. In such cases, the landowner assumed that allowing the peasants to gather fuel from the greater part of the forest would not cause as much damage as when a confined area was intensively exploited by the village's inhabitants. This solution was particularly successful in places where

⁷⁷ Serf contributions or natural items.

⁷⁸ CSHAUL, corps 166/118, vol. 31; C. A. MacArtney, *The Habsburg Empire, 1790–1918* (2014), p. 68.

⁷⁹ SAR, corps 416, vol. 3; CSHAUL, corps 166/118, vol. 12; Rozdolski, *Stosunki poddańcze*, I, p. 222.

⁸⁰ CSHAUL, corps 146/64, vol. 368, 370.

⁸¹ CSHAUL, corps 166/118, vol. 68, 70.

⁸² Woyzbun, *O służebnościach*, pp. 13–14; J. Miklas-

zewski, *Lasy i leśnictwo w Polsce* (1928), pp. 182–3; K. Wodzicki, *Własność i służebnictwa w Galicji* (1867), p. 35; H. Strzelecki, *Gospodarstwo lasowe* (1874), p. 60; L. Pączewski, *Lasy, Przemysł i handel drzewny w Polsce* (1924), pp. 11–12; Z. Mazurek, 'Walka chłopów Ordynacji Zamojskiej o prawa serwitutowe w końcu XIX wieku', *Annales Universitatis Mariae Curie-Skłodowska*, 12 (1957), pp. 200–3, 209.

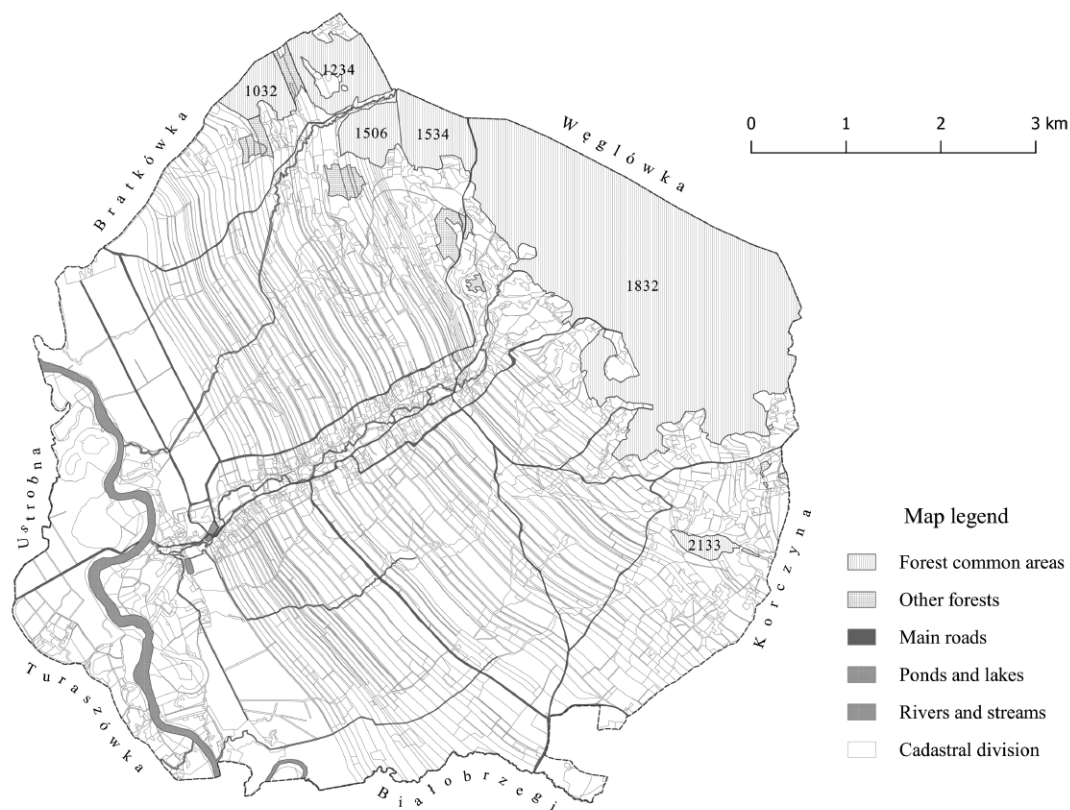


FIGURE 1. Forest common areas in Odrzykoń

Source: Created by the author in QGIS 3.4.4, based on sources from State Archive in Rzeszów, corps 1313, col 2665.

the tensions between the community and the manor were fewer, and the theft of firewood, conflicts, and misunderstandings were infrequent.

V

The impact of land and forest common rights on the natural environment features repeatedly in the historical literature. The relatively small amount of literature on forests in the Polish lands dating from the first half of the nineteenth century discusses common rights as one of the many aspects of the multi-functional forest of larger land holdings. The focus was primarily on the principles of the correct and fair execution of rights, minimizing their unfavourable influence on plant ecosystems and guidelines – when and where cattle could be grazed and raw materials from the forest collected. This was an attempt to reconcile the subordinated population's rights with a proper plan for managing the forest.⁸³

⁸³ F. A. L. Burgsdorf, *Umiejętność lasowa czyli Rękopiśm dla właścicieli lasów i ich leśniczych* (2 vols, 1810), II, pp. 214–16; A. P. Schweska, *Theoretisch-praktisches Forst-Handbuch für Galizische Forstbeamte, Gutsbesitzer und*

A broader discussion of the problem of common rights over land appeared in the Galician press after serfdom was abolished. The heated polemic between Kraków daily *Czas* (representing the landowners' perspective) and the Viennese press (echoing the authorities' decisions) has been described by the historian Krzysztof Ślusarek. The discussion in *Czas* argued for the abolition of common rights. The articles' authors argued that common rights had a detrimental impact on the natural environment, and cited numerous cases of abuse by peasants. They showed that every form of usage carried the risk of damaging meadow, pasture, and forest vegetation. This, however, articulated the landowner's point of view.⁸⁴

There were more reliable attempts to assess the actual impact of land and forest common rights during the period of Galician autonomy (1867–1918). Nevertheless, most of the literature from this period remained critical of common rights, treating them as part of the feudal system that limited landowners' freedom to manage the forest. It is worth noting that the authors were often representing the perspective of associations and institutions for the development and protection of forests in Galicia, which makes their attitude towards common rights unsurprising. The most eloquent exposition of this viewpoint was a paper presented by Ignacy Szczerbowski at the First General Congress of Polish Foresters in 1907, in which he stated outright that common rights were a 'disaster and obstacle [to] farm development'. His firm opinion coincided with the views of other authorities on 'scientific forestry', including Henryk Strzelecki and Cyryl Kochanowski.⁸⁵ The raking of forest litter and grazing cattle in young woodland were considered the most damaging activities. These authors drew attention to people exceeding their rights and grazing in closed areas, which led to the trampling of young plants and the stunting of whole groups of trees (by biting off the tops and young shoots). Raking forest litter should only be allowed when rejuvenating groups of trees or thinning out the thick layer of litter that prevented seeds from germinating. In other cases, collecting litter (leaves, pine needles, moss, heather, and bilberry) was treated as harmful because it deprived the forest of the layer that forms humus and maintains moisture.⁸⁶

Discussion of common rights in the Diet of the Kingdom of Galicia and Lodomeria in the 1860s was also heated. Peasant deputies had the opportunity to present their perspective in this forum which was undoubtedly a breakthrough on their path to empowerment and politicization. Nevertheless, the central part of the discussion concerned speeding up the process of repurchasing and regulating common rights, as well as resolving the many disputes and conflicts between the village and the manor.⁸⁷

Note 83 *continued*

alle Jene, welche sich vorzüglich der Forstkultur widmen wollen: in zwey Theilen (1820), p. 4; A. Cotta, *O uprawie lasów* (1838), p. 89; K. F. G. Henke, *Nauka urządzania, szacowania i oceniania lasów* (1846), pp. 27, 79, 329–34.

⁸⁴ Ślusarek, *Uwłaszczenie chłopów*, pp. 160–4.

⁸⁵ I. Szczerbowski, *Pogląd na rozwój polskiego leśnictwa w XIX wieku – w Galicyi. Referat przedłożony na ogólnym zjeździe polskich leśników w Krakowie, dnia 18 sierpnia 1907 roku tematu 1 C* (1907), p. 55; H. Strzelecki, 'O rozwoju leśnictwa w Galicyi w ostatnich pięćdziesięciu latach i o służebnictwach leśnych

(Die Fortschritte der Forstwirtschaft Galiziens in den letzten fünfzig Jahren und die Ablösung der Servituten)', in *Geschichte Der Österreichischen Land-Und Forstwirtschaft und ihrer Industrien 1848–1898* (1901), p. 231; Sylwan, 24 (1906), pp. 462–9.

⁸⁶ T. Chociński, *Urządzanie lasów. Podręcznik dla obywateli ziemskich* (1873), pp. 29–36; E. Till, 'O reformie ustawy leśnej', *Rolnik, Czasopismo dla gospodarzy wiejskich*, 20 (1877), pp. 9–10.

⁸⁷ *Sprawozdania stenograficzne z posiedzeń Sejmu krajowego galicyjskiego we Lwowie odbytych od dnia 15. do 26. kwietnia 1861 r.* (1861), pp. 298–367.

The negative assessment of land and forest common rights in terms of their detrimental impact on the natural environment contained in the nineteenth-century literature continued into the Second Republic (1918–39). That part of independent Poland which had previously been in the Russian partition contained many complicated common rights which had not been regulated or abolished in the mid-nineteenth century. As a result, the problem of common rights was the subject of heated discussion both in the literature⁸⁸ and in the Polish parliament, which moved to abolish rights that were being used and revise those that had already been regulated.⁸⁹ Moreover, in the communist-era literature after 1945, the question of common rights was repeatedly treated as an ideological argument in support of the theory of class struggle (between peasants and landowners). There was considerable interest in peasant themes but, in the context of common rights, the focus was mainly on economic questions and the struggle of peasants to secure their rights, which meant that the impact of common rights on the environment was pushed into the background, or bypassed entirely.⁹⁰

The principles of forest management developing elsewhere in Europe show similarities with the tendencies emerging in Galicia in the second half of the nineteenth century. One example is the introduction of 'scientific forestry' by legal means. In Galicia, the forest laws of 1782 and 1852 regulating the general rules for grazing cattle, as well as publications recommending rules for running forest holdings, favoured the production of timber, which was incompatible with people grazing cattle. However, it is worth noting that in the second half of the nineteenth century, most forests in Galicia were owned by private landowners who sought to produce timber for profit. The common rights of peasant and townspeople were therefore a natural obstacle for forest owners. As in western Europe, arguments about damage to vegetation can be treated as part of a strategy to have those rights regulated. In Galicia, however, the factor of serious timber shortages was not considered; mainly because it was an agricultural region with very poorly developed industry, where demand for firewood was much lower and usually intended for everyday needs.⁹¹

VI

Until the agrarian reforms in Galicia, the conditions in which land and forest common rights operated did not change fundamentally. However, there was no legal rule that meant that uniform practices were applied throughout the province. In addition to the provisions on collecting forest resources in the law of 1782, the extent and scope of benefits largely depended

⁸⁸ S. Janicki, *Stosunki rolnicze Królestwa Kongresowego* (1918), p. 80; Miklaszewski, *Lasy i leśnictwo*, pp. 182–200; Z. Ludkiewicz, *Podręcznik polityki agrarnej* (1931), pp. 54, 138, 175–6, 180–1; W. Kawecki, *Lasy Żywiecczyzny, ich teraźniejszość i przeszłość* (1939), pp. 136–9.

⁸⁹ Książnica Cieszyńska (scientific library), vol. TR 078.051.

⁹⁰ B. Radlak, *Socjaldemokracja Królestwa Polskiego i Litwy w latach 1893–1904* (1979), p. 19; H. Brodowska,

'Spory serwitutowe chłopów z obszarnikami w Królestwie Polskim w drugiej połowie XIX wieku', 63 (1956), pp. 283–98; Z. Stankiewicz, 'Serwituty w dobrach rządowych Królestwa Polskiego przed reformą uwłaszczeniową', *Przegląd Historyczny*, 41 (1959), pp. 45–68; Mazurek, 'Walka chłopów', pp. 197–220.

⁹¹ Warde, 'Fear of wood shortage', pp. 35–9; Kargol, 'Lasy i gospodarka', pp. 88–9; J. Radkau, *Nature and power. A global history of the environment* (2008), pp. 138–42.

on local conditions, including old laws that remained in force, the size and condition of the forests in noble ownership, relations between the village and the manor, and the nature of the property, whether private or state. Archival documents provide information on the state of common rights in specific localities. Detailed provisions in the 1853 patent laid out how to estimate the right, amount, and value of compensation based on annual income and the prices of raw materials in 1836–45.⁹² Registers from this period on managing manorial forestry also refer to the forms and rules for all authorized commoners' rights, as well as the additional feudal obligations levied in exchange for raw materials from the forest. The register of fund forests owned by the Congregation of the Sisters of Mercy, who ran a hospital and an orphanage in Moszczany from 1820, is an example of these surveys. The list shows that firewood was regularly and freely issued to subjects and the parish priest as a jumble of dry branches. In exchange for wood for building, the peasants committed to provide an extra day's labour service that year. They were less likely to pay cash for access to the forest's resources.⁹³ In special cases, landowners allowed timber for building to be felled for free. Following natural disasters, victims were granted permits, the details of which, such as the name of the farmer, the reason, and the amount of raw materials granted, were recorded in separate books by the manorial administration.⁹⁴ Landowners made sure that forestry operated properly, and that forest products (timber, firewood) was used in accordance with their conditions. There were many disputes and conflicts at this level. Peasants who exceeded their common rights were documented in the form of detailed lists of so-called forest and land pests – lists of people who used the manorial grounds without the dominium's permission. The most common forms of damage included stealing logs, tops, fuel, forest litter, brushwood, and even entire trees, as well as the unauthorized grazing of cattle in forests and pastures.⁹⁵

Disputes and antagonisms over common rights were common in Galicia in the first half of the nineteenth century. The peasants usually responded to every attempt to limit their rights with complaints to the district authorities, courts, and even the Emperor himself. If the state administration did not act on their demands, they tried to exercise their rights by force, which the manor [*dwór*] treated as a crime. For example, in 1810 there was an attempt to exercise common rights in the village of Kobylany, which provoked a clash with the manorial servants. In a complaint to the authority of the Jasielski district, a witness wrote: 'Today, a steward, forester, ranger, leaseholder, and peasants, blocked subjects of the undersigned – travelling with wood on a public road in Kobylany – taking their things away from them by force'.⁹⁶

The peasants' complaints against the manorial authorities were not limited to violence committed by officers of the court or the restriction of their rights. There were cases of the manorial officials committing damage in forests or pastures belonging to villages, like in the village of Desznica in 1813, when the owner of the dominium ordered his servants to fell a dozen or so trees in the village's forest. The village's representatives complained to the Austrian authorities and asked them to intervene.⁹⁷ There were many similar occurrences in

⁹² S. Inglot (ed.), *Maurycego Kraińskiego Regesty materiałów do historii zniesienia stosunku poddańczego w Galicji* (1948), pp. 46–7.

⁹³ CSHAUL, corps 146/64, vol. 11474, 11475, 11476.

⁹⁴ CSHAUL, corps 146/64, vol. 1836.

⁹⁵ CSHAUL, corps 146/64, vol. 310.

⁹⁶ CSHAUL, corps 146/64, vol. 5153.

⁹⁷ CSHAUL, corps 146/64, vol. 11584.

Galicia, with many landowners treating the areas used by their subjects – defined as village or municipal property in cadastres from the reigns of Francis I and Joseph II – as their unconditional property that they could dispose of as they pleased. The number of disputes in the sources shows that they most often concerned pastures, such as town commons.

Subjects residing on Austrian state property were not subject to the same pressure on and loss of rights as those on private estates. However, changes could take place when these properties were sold. In the first half of the nineteenth century, the process of selling state land by auction began.⁹⁸ Before the transaction, the interested party could familiarize itself with the state of the farm, existing rights, and revenues. As a rule, at the time of sale the new owner accepted their new subjects' existing rights and undertook to respect them in future. A commitment of this kind was signed by Karol Nitsche as the purchaser of the Raniżów property, a former state estate, in 1833. However, he had no intention of maintaining serfs' existing obligations or respecting common rights in the long term. Within a few years of his acquisition, conflicts between the manor and its subjects began. Peasants from several localities complained to the authorities about the imposition of additional duties on the serfs and demands for extraordinary work and other forced labour. However, their main complaint was their exclusion from the manorial forests where they had exercised the right to take wood for construction and heating, along with forest litter. They also invoked the words of the state commissioner, who – at the time of sale – had guaranteed that the existing common rights would be inviolable.⁹⁹ Nitsche's actions were not an isolated case; they reflected a general tendency throughout Galicia. Landowners were rarely indulgent, as common rights symbolized a fundamental conflict of interest. Peasants' exercising of rights went against the efforts of manorial estates to establish regular forest management, which generated a real profit. The logic of the dispute was best illustrated by Władysław Reymont in his novel *Chłopi* ('Peasants') of 1904 although this was set in the region of Poland assigned to Russia in the partition. The common forest that the rural population collected wood from was going to be cut down, which obviously led to a deep conflict between the village and the manor. Nevertheless, instances in which landowners sought to reach an agreement with subjects after purchasing new property were not unusual, as the example of the good relations between count Alfred Potocki and the inhabitants and magistrate of Leżajsk in the first half of the nineteenth century confirms.¹⁰⁰

VII

The agrarian reforms in 1848 provided for the purchase of common rights by the commoners. However, in the minds of Galician landowners, the abolition of serfdom – which deprived them of free labour – also brought to an end their subjects right to common on manorial land. This led to massive antagonism between the village and the manor which took the form of disputes over the peasants' right to common and the introduction of fees for their use in 1848. These disputes – which lasted many years – were fought before all the administrative and judicial authorities, from the manorial [*dwór*] authorities to Emperor Franz Josef I, via district

⁹⁸ K. Czemeryński, *O dobrach koronnych w byłej Rzeczypospolitej* (1870), pp. 50–68.

⁹⁹ CSHAUL, corps 146/64, vol. 4713.

¹⁰⁰ CSHAUL, corps 146/64, vol. 11766, 11768.

courts, local authorities, the Lemberg governor's office, and the Ministry of the Interior in Vienna. There were also attempts to exercise forest and pasture rights by force, which led to clashes with the manorial service that sometimes had to be pacified by the army.¹⁰¹ The law abolishing common rights, which was not published until 1853, did not immediately lead to actions to buy or regulate them. This was only allowed by provisions and instructions for the implementation of the law issued a few years later, which meant that the problem only really started being resolved in the late 1860s.¹⁰² However, the law's provisions did not anticipate a *general* abolition of common rights but abolition only on the petition of an interested party. Moreover, the rule for implementing the patent offered compensation for the abolished rights in the form of money or the physical equivalent in forests or pastures. The rights could also be regulated (defining the conditions of use precisely), but only when there was no possibility of purchase, or when doing so could significantly worsen the community's material situation. The sources clearly show that peasants and townspeople preferred to regulate the rights and continue to use manorial land in the way they had before 1848, seeing this as the best way to maintain access to natural resources and ensure that their farms could continue to function. In the vast majority of cases, the local commissions rejected requests for regulation and forced the peasants to purchase their rights. This led to fundamental conflicts of interest linked to the form of compensation. Rural and urban communities, as well as landowners, were aware that purchasing the rights for monetary compensation could expose peasant farms to impoverishment over time and would make them dependent on the purchase of timber from forest owners again. Compensation for the abolished rights in the form of a physical equivalent was therefore an opportunity for peasants and townspeople to free themselves from the manor's monopoly, improve their material status and keep a larger number of cattle.¹⁰³ Nevertheless, the transfer of tracts of forest to villages was not free from criticism. Representatives of 'scientific forestry', including Henryk Strzelecki, condemned the practice.¹⁰⁴ He argued that villages receiving forest used it primarily to rake forest litter, which damaged vegetation, leading to the deforestation of entire areas and the changing their character from wood to pasture. His opinion probably stemmed from the belief that landowners were the best protectors of forests but contemporary accounts of communal forests and land communities (formed with the purchase of common rights) shows that his fears were exaggerated.¹⁰⁵

As a result, the process of purchasing and regulating land and forest common rights in Galicia led to the formation of communal forests and community land, which were separated from manorial land. Most of them have survived to this day (in the regions of Subcarpathia

¹⁰¹ Stauter-Halsted, *Nation in the village*, p. 61; Ślusarek, *Uwłaszczenie chłopów*, pp. 159–60; C. Kochanowski, 'Uporządkowanie ciężarów gruntowych w Małopolsce', *Sywan*, 3 (1923), pp. 55–7; A. Kudłaszyk, *Mysł społeczno-polityczna Bolesława Wysloucha, 1855–1937* (1978), p. 33; P. R. Magocsi, *A History of Ukraine* (2010), p. 450.

¹⁰² P. Pajkowski, 'Dynamics of Galician Polish Conservatism in the late nineteenth century', *Jahrbücher für Geschichte Osteuropas*, 1 (1995), pp. 24–5; B. Danckelmann, *Die Ablösung und Regelung der*

Waldgrundgerechtigkeiten (1888), pp. 115–16; *Allgemeines Landes-Gesetz- und Regierungs-Blatt [...]* (1853), pp. 430–42.

¹⁰³ Inglot, *Mauryczego Kraińskiego Regesty*, pp. 22, 44–7; Ślusarek, *Uwłaszczenie chłopów*, pp. 158–66.

¹⁰⁴ Henryk Strzelecki (1819–1901) – one of the greatest Polish foresters, co-founder of the Galician Forest Society.

¹⁰⁵ Strzelecki, 'O rozwoju leśnictwa', p. 230.

and Lesser Poland in present-day Poland). Until 1880, the total monetary compensation for the abolished rights amounted to 1,206,497 Gulden. In terms of separated land provided in compensation, this amounted to 123,868 ha, including 61,581 ha of forest areas.¹⁰⁶ The abolition and regulation of common rights in Galicia gave hope for further reforms on the path to a healthy agrarian structure. This was also a necessary condition for dismantling the mechanisms of social conflict and improving relations between landowner and village. The snail-like process of abolishing common rights, and the many conflicts this engendered, meant that some of the reforms were never implemented. The separation of common land was also sluggish; only a symbolic area of land was consolidated. Accordingly, the problematic chessboard of land plots and fragmented farms survived until modern times, and is part of the landscape in south-eastern Poland to this day.¹⁰⁷

Elsewhere in Poland there were clear differences in the economic and social development of the regions of Poland determined by their treatment in the years when the country was partitioned. In Prussia reforms abolishing the feudal system began as early as 1807 with an edict abolishing serfdom. The abolition of serfdom and the granting of property rights to peasants was linked to the end of the fragmentation of peasant farms, the enclosure of common lands, the consolidation of agricultural areas (still clearly visible in the size of farms in modern Greater Poland) and the radical liquidation of common rights to land and forests by the law of 1823. This led to the development of a more effective agrarian structure and, most importantly, it removed those activities and rules that had given rise to social conflict between manor and village. The situation in the parts of Poland annexed by Russia was completely different. In contrast to the 'Prussian Way', the Russian authorities were in no hurry to abolish serfdom; reforms did not come until the 1860s. Furthermore, the granting of property rights to peasants and abolition of serfdom was not accompanied by a consistent process of abolishing the chessboard of land plots and fragmented peasant farms. Most land and forest common rights were left in place. As a result, after the First World War, the parts of the Polish Second Republic that had been in the Russian partition had the highest concentration of complicated common rights (around 10,000 villages had various rights).¹⁰⁸ It may therefore be held that Hapsburg Galicia represents a middle way between the early and comprehensive agrarian reforms of the Prussian state and the late and incomplete agrarian programme of the Russians.

¹⁰⁶ Strzelecki, *Gospodarstwo lasowe*, p. 61.

¹⁰⁷ P. Leń, 'Analiza rozdrobnienia gruntów indywidualnych na przykładzie powiatu Brzozów', *Infrastruktura i Ekologia Terenów Wiejskich / Infrastructure and Ecology of Rural Areas*, 1 (2010), pp. 65–7; J. Janus and J. Taszakowski, 'Wybrane parametry rozdrobnienia gruntów w powiecie myślenickim', *Infrastruktura i Ekologia Terenów Wiejskich / Infrastructure and Ecology of Rural Areas*, 1 (2010), pp. 679–80.

¹⁰⁸ W. Mędrzecki, *Mechanizmy modernizacji wsi polskiej do zakończenia I wojny światowej*, in P. Grata

(ed.), *W drodze ku niepodległej. Przemiany modernizacyjne na ziemiach polskich w II połowie XIX i na początku XX wieku* (2019), pp. 248–56; S. Kalembka, *Studia z Dziejów Polskiej Myśli Politycznej, Polska myśl polityczna w dzielnicy pruskiej w XIX w.* (2 vols, 1990), II, pp. 61–2; W. Jakubczyk, *Uwłaszczenie chłopów w Wielkopolsce w XIX w.* (1951), pp. 94–8; W. Arczyński, 'Zagadnienie zniesienia służebności oraz świadczeń i danin', *Polska gospodarcza*, 20 (1939), pp. 284–93; F. Brodowski, *Zasady Ustawodawstwa Agrarnego w Królestwie Polskim, 1864–1915* (1920), pp. 24–36.