

# Appendix

*English translation by Max Bärnreuther and Ulrike Müßig based on the German translation of Dr. Inge Bily<sup>1</sup>*

## **Our Free Royal Cities<sup>2</sup> in the States of the Rzeczpospolita<sup>3</sup> of April 18, 1791**

### *Article I*

#### **On the Cities**

1. All Royal Cities in the states of the Rzeczpospolita are acknowledged as free [cities]<sup>4</sup> by us.
2. We acknowledge the inhabitants of these cities as free men. Furthermore, we acknowledge their land property in the cities in which they live, their houses, villages and *territoria*<sup>5</sup> which currently legally belong to these cities. All this is acknowledged by us as hereditary property of the inhabitants of these cities.

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<sup>1</sup>I cordially thank Prof. Dr. Danuta Janicka (Toruń/Thorn) and Prof. Dr. Zygfryd Rymaszewski (Łódź) for the critical perusal of the translation and the deliberation concerning the question of the Polish and German historical legal terminology.

<sup>2</sup>Annotation of the translator: in a legal sense, these free royal cities are not comparable to the German “Freie Städte” or “Königsstädte”. Rather, the free royal cities are cities within the state. From now on, they had new rights by means of which they were able to – amongst other things – free themselves of the feudal corset. What was understood by “free” is explained in Article I, 2.

<sup>3</sup>Foundation of this translation is the edition of J. Kawecki, “*Miasta nasze królewskie wolne w Rzeczypospolitej*”, in: “*Konstytucja 3 maja 1791*” PWN, Warszawa 2014, p. 125–136.

<sup>4</sup>Annotations of the translator are put into parentheses [].

<sup>5</sup>In the sense of *land property, land belongings*.

Currently ongoing and not yet terminated [legal] matters are not concerned hereby.

3. Those cities that have lost location privileges are issued *diplomata renovationis*<sup>6</sup> as the undoubtable proof of the [earlier] ownership of these privileges together with the transferal of the land that these cities currently own.
4. Those Royal Cities in which the Assemblies [Polish *sejmiki ziemskie*] take place are issued respective location privileges by the King even if these cities have not yet owned the like.
5. If a thorough city develops on royal land and territory out of a convenient settlement, then we, the King, issue a *diploma erectionis*<sup>7</sup> to this new city together with the dedication of the land and territory.
6. The landlords also were allowed to found cities with free people on their ground and territory and to free farmers as well as to transform their hereditary cities into local cities. The like settlements were not to be deemed free cities but for the case that the landlord had transferred hereditary land to them during the location. Then we, the King, will grant these cities the *diploma confirmationis*<sup>8</sup> and ordain to have the location of the landlord registered if we are being asked to do so.
7. As the law is one for all cities, the citizens of any city as of now enjoy the same privileges.
8. All state citizens, be they of noble or citizen decent, who wish to do commerce with pounds, lengths etc. and who already own or are about to acquire land in the city are obliged to acknowledge the town law and to subject themselves irrespective of what office, job or art they are undertaking. And the other noblemen are allowed to acknowledge the town law.
9. The assumption of the town law will take place as follows: everybody who accepts the town law,<sup>9</sup> who personally or represented by an empowered individual [Polish *plenipotent*] appears before the magistrate and who delivers the following: “I, NN, pledge allegiance to the greatest King and the Rzeczpospolita. I commit myself to the rights and law of the Sejm as the highest duty to be obeyed. I subject myself to the nobility of the city N in which I belong to the citizen class. And I will fulfil my duties. I commit myself as my descendants” shall, as the declaring party – after such a declaration – be entered into the town register.
10. The cities shall offer the admission to the class of citizens and the registration in the town book to all sober foreigners, craftsmen, all free men and Christians, that are not subject to any person by virtue of the law and they shall do so without asking for any consideration.
11. All noblemen as well as the members of the citizen class that have later been admitted to the nobility as well as their descendants shall from now on no lon-

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<sup>6</sup>Documents that renew the privilege.

<sup>7</sup>Founding document.

<sup>8</sup>Diploma of confirmation.

<sup>9</sup>Annotation of the translator: in the original, only referred to as *miejskie* ‘city-’.

ger be exposed to any disadvantage resulting from the admission to the citizen class, the participation in it, the holding of office, the exercise of any kind of trade and craftsmanship in relation to their noble class and the rights and privileges associated herewith.

12. The election of an own magistrate, more precisely, of a mayor, by bailiffs as well as all officials by the citizens of the town is a symbol of liberty and this liberty will remain vested in the cities. The cities may furthermore ordain decrees and survey their enforcement. The Police Commission<sup>10</sup> is to be informed in the form of a report.
13. All inhabitants of the cities that are registered in the town book and that own hereditary land may vote and be elected by a majority of the votes cast which applies to all town offices that there are. However, nobody may combine the executory office<sup>11</sup> and the noble office with the office and the function of the town representative [Polish *plenipotent miejski*].<sup>12</sup> The latter would lead to the invalidity of both functions. Moreover, nobody may have a military rank in the active service while being a town official.

## Article II

### On the Rights of the Town Citizens

1. The fundamental right *neminem captivabimus – nisi iure victum*<sup>13</sup> applies to everybody who lives in the cities. Only thievish bankrupts as well as those who have not left a sufficient bail amount at court and those having been seized when committing the offence are excepted herefrom.
2. The towns in which appellate courts have been set up elect a representative [Polish *plenipotent*] before the Ordinary Sejm [Polish *sejm ordynaryjny*] with a majority of the votes of the citizens who own land in the city, who fulfil the criteria enabling them to hold office, who are *crimine non notatos*,<sup>14</sup> who have not yet been involved in a trial and who have already held office. The cities are at liberty to elect such a representative [Polish *plenipotent*]. These representatives [Polish *plenipotenti*] have to act in the respective city in which the

<sup>10</sup>Annotation of the translator: Police Commission = formerly the Polish Ministry for Interior Affairs.

<sup>11</sup>Annotation of the translator: the office of execution = an office that focuses on the compulsory execution in the field of aristocratic jurisdiction.

<sup>12</sup>Annotation of the translator: Polish *plenipotent miejski* was a representative of a city for the Parliament (*Sejm*). His title (*plenipotent*) referred to his incomplete position in comparison to the noble representative. In the Sejm, there were 204 noble representatives and 24 representatives of the cities [Polish *plenipotenti*]. We will use the English term of empowered representatives for the Polish *plenipotent*.

<sup>13</sup>We will keep nobody imprisoned who has not been legally condemned.

<sup>14</sup>Respectable.

Sejm-Marshall will hand over the confirmation of the election at the day of the opening of the Sejm. The representatives [Polish *plenipotenti*] of the cities for the Police and Finance Commission as well as the assessor college are elected at the assemblies of the provinces. Furthermore, it is provided who shall belong to which commission and which assessorium. Everybody can have a seat in the named commissions and assessoria, however, not more than two representatives from each province in the financial and police commission and not more than three in the assessorium. These commissioners and assessors shall have *vocem activam*<sup>15</sup> in the commissions and the assessors' court [actually assessoria (plural)<sup>16</sup>] in the matters that concern the cities and the commerce and *vocem consultativam*<sup>17</sup> in all other matters. If one or all of these empowered representatives [Polish *plenipotenti*] of the cities that derive the right to elect from empowered representatives are confirmed in their office again, then they may hold office for two further years. For these commissioners and assessors, we will fix a salary when setting up the table of expenditure but only for the fixed number of those empowered representatives [Polish *plenipotenti*] that have the right to participate in the commissions and the assessorium [Polish *plenipotenti*].

3. In order to ensure that the safeguarding of the government and the necessary justice accrued to all cities and their claims, we allow our cities to bring forth *desideria*<sup>18</sup> of the cities in the Sejm by means of the assessors or citizen commissioners in the assessors' court [actually assessoria (plural)<sup>19</sup>] as well as by means of the representatives in the finance and police commissions. And these [assessors and commissioners] are to address – if this is necessary and to their liking – the Sejm-Marshall and ask for an audience which may not be denied. And they shall express themselves in a manner as it is usual for the delegates from the commissions when giving a speech.
4. After two years of public service in the offices of the named commissions or the assessors' court [actually assessoria (plural)<sup>20</sup>] the representatives that are elected by the cities are to be made noblemen at the Sejm without having to pay the *nobilitatis*-fee provided they are not yet noblemen.
5. From now on, every citizen will be allowed to acquire to own and to pass on by hereditary law all noble goods as well as other goods to their descendants as the legitimate heir and to own goods by means of inheritance or *iure potioritatis*.<sup>21</sup> They are to refer to these goods before the Regional Court even if they are citizens.

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<sup>15</sup>An active and decisive voice.

<sup>16</sup>In the Polish text, the plural is found at this place, despite the fact that there is only **one** Royal Assessorial Court.

<sup>17</sup>A consultative vote.

<sup>18</sup>Postulates, claims.

<sup>19</sup>Compare annotation 15.

<sup>20</sup>Compare annotation 15.

<sup>21</sup>Pre-emptive right.

6. Every citizen who acquires an entire village or city in accordance to hereditary law and who pays 200 Złoty of the tenth *Groschen* as taxes will be made a nobleman at the *Sejm* provided he has asked for the same in a written form that has been given to the *Sejm-Marshall* and forwarded to the estates.
7. Furthermore, 30 people at the *Sejm* coming from the citizens that had hereditary land in the cities were to be made noblemen. The following merits were to be especially acknowledged: accomplishments in the military, the participation in civil-military commissions, new foundations in the field of craftsmanship as well as the commerce with regional agricultural products. This was to take place on the basis of the recommendations of the land messengers as well as the cities.
8. In the entire armed forces (except the national cavalry), in each corps, regiment and pluk there is from now on free citizen access to the officer ranks. And if somebody has reached the rank of a field or banner captain in the infantry or of a cavalry captain in a group, he and his descendants will be made noblemen with all privileges associated herewith. And we, the King, will issue the *diploma nobilitatis*<sup>22</sup> and free from the stamp tax if the respective certificate is presented.
9. The members of the citizen class are from now onwards allowed to participate in the work of the chambers and palaces of all governmental commissions, in the tribunal offices and other smaller courts. They are further allowed to act as defense lawyers as well as to undertake other kinds of services and to ascend in the respective chamber in accordance with their merits and gifts. And if somebody has reached the level of the board of the chamber in the governmental dicasteries,<sup>23</sup> he shall be made a nobleman at the first *Sejm* to follow and we, the King, will issue a *diploma nobilitatis*<sup>24</sup> without the obligation of having to pay a fee.
10. In the class of the clergy, members of the citizen class may acquire the position of the prelate and the capitular at the abbey churches or the position of the capitular at the cathedral – provided they fulfil the further requirement of having a doctoral title in the latter case – furthermore all *beneficia saecularia et regularia*<sup>25</sup> with the exception of the foundations explicitly reserved for the nobility.
11. In the civil-military ordering commission of the voivodeships, the countries and counties may elect – from the cities that are found in the territory of the commission – three commissioners into each commission. They may either be of noble birth or of citizen origin provided they possess hereditary land in their city.

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<sup>22</sup> Certificate of ennoblement.

<sup>23</sup> Annotation of the translator: dicasteries in the sense of public authorities.

<sup>24</sup> Certificate of ennoblement.

<sup>25</sup> Benefices secular and religious.

12. If our cities<sup>26</sup> Gdańsk [Danzig (German)] and Toruń [Thorn (German)] have requests for the estates, then they will hand them in to the Marshal's baton via the secretary or will directly deliver it via a delegate by virtue of the right to do so if they so please.
13. The punishment for those that falsely inform about their possession is the following: who hands down a hereditary piece of land violating a respective reverse will lose it forever. And the court will attribute the property of such an object encumbered with such a reverse to the person who is capable of proving the reverse. If the person possessing the hereditary piece of land by virtue of a reverse is able to prove the encumbrance, he will be attributed the land forever. The Regional Court will decide on the like matters *praecisa appellatione*.<sup>27</sup>
14. All earlier rights and statutes that contradict the current law on the cities are hereby removed. And the current provisions on the cities are hereby fixed as constitutional rights.

### Article III

#### On the Justice for the Citizens

1. The cities are left to their own town jurisdiction within their territory. The cities with boards are also left to their own town jurisdiction and excepted from all other jurisdictions, namely the following: tribunal, country, voivodeship, starosta and castle courts. Excepted herefrom are the ongoing cases of the commissions that have already been allocated to the tribunals. The court of the Court Marshal that was only competent for the residence city and by virtue of

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<sup>26</sup>Annotation of the translator: the geographic names (esp. town names) in the Polish text are partially also names for the geographic objects beyond the territory of the contemporary Poland and are mostly left unaltered as of the Polish text.

In the translation, the geographic names of places or rivers in the contemporary Poland are put into parentheses [] as far as there are *exonyms* and parentheses () are used to indicate the country whose language has been used, e.g. *Gdańsk* [Danzig (German)], *Kraków* [Krakau (German)], *Toruń* [Thorn (German)], *Warszawa* [Warschau (German)], *Warta* [Warthe (German)]. *Exonyms* are names that are used out of the territory in which the respective geographical object is located, e.g. *Krakau* (German) for Polish *Kraków* or *Warthe* (German) for Polish *Warta*. There are not German *exonyms* for all Polish geographic names.

As to geographic names for places that are located out of the territory of contemporary Poland, apart from the Polish form that is extracted from the Polish template, the respective *endonym* will be put into parentheses [] and the addition of the respective linguistic reference as (Lithuanian), (Ukrainian) and (Belarussian) will be put into round parentheses (). An *endonym* is the official geographic name that is being used in the territory where the respective geographic object is nowadays located, e.g. *Vilnius* (Lithuanian), compare Polish *Wilno* or *Kyjiv* (Ukrainian), compare Polish *Kijów* or *Minsk* (Belarussian), compare Polish *Mińsk*.

This approach respects the current indigenous spelling of the names and allows for a localisation of the places on up-to-date maps. The principle proves especially valuable in regions in which the state-political affiliation changed in the course of history or where territory was renamed.

<sup>27</sup>With the abolition of the appellation.

- the King is hereby deprived the competence for all other excessive jurisdiction.
2. Wordly and clerical *juridica*<sup>28</sup> are hereby abolished. Small towns that have been set up on the property that has originally been attributed to the cities are dissolved in respect of their jurisdiction and police competence as they are now still in possession. Yes, we sign the *juridica* of the jurisdiction of the citizen magistrates. And we ban all actions as the income of any kind for the owners of this property.
  3. However, where the cities have hereditary (country) villages, they can address the competent jurisdiction in the villages concerned with the respective matters.
  4. All citizens who are the owners of land in the city or who conduct commerce or a craft are subjected to the citizen jurisdiction and are all obliged to pay the same taxes without the possibility of an exemption.
  5. In every city, the elected magistrate has the judicial power in disputed matters. In these magistrates, the litigations are decided in a *in prima instantia*<sup>29</sup> matter. Legal matters that do not exceed the value of 300 Złoty and offences with a prison sentence of up to three days are to be decided by the magistrates without a certification themselves. In greater legal matters, however, the appeal to higher appellate courts shall be allowed.
  6. For these Appellate Courts, we hereby define the following cities and in the province of Małopolska [Kleinpole (German)] the cities of Kraków [Krakau (German)], Lublin, Łuck [Luc'k (Ukrainian)], Żytomierz [Żytomyr (Ukrainian)], Winnica [Vinnyc'ja (Ukrainian)], Kamieniec Podolski [Kam'janec'-Podil's'kyj (Ukrainian)], Drohiczyn [Drahičyn (Belarussian)], in the province of Wielkopolska [Großpole (German)] the cities of Poznań [Posen (German)], Kalisz [Kalisch (German)], Gniezno [Gnesen (German)], Łęczyca [Lenczyca (German)], Warszawa [Warschau (German)], Sieradz [Schieratz (German)], Płock [Plock (German)], in the province of Lithuania the cities of Wilno [Vilnius (Lithuanian)], Grodno [Hrodna (Belarussian)], Kowno [Kaunas (Lithuanian), Kauen (German)], Nowogródek [Navahrudak (Belarussian)], Mińsk [Minsk (Belarussian)], Brześć Litewski [Brest-Litowski (German)], Pińsk [Pinsk (Belarussian)]. The cities in the voivodeship Kraków [Krakau (German)] that are located in the county of Sandomierz [Sandomir (German)], Wiślica and Chęciny will belong to the appellate court that is located in Kraków [Krakau (German)]. The cities that are located in the voivodeship of Lublin as well as those of the country of Stężyca as well as those located in the counties of Radom, Opoczno and in the country of Chełm [Cholm

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<sup>28</sup>Annotation of the translator: Polish *jurydyka*, Pl. *jurydyki* = settlement with a town like character that has been set up on the ground of or next to a royal city. *Jurydyki* were usual in the *Rzeczpospolita* of the sixteenth to eighteenth century. Such a settlement was noble or clerical property. There was no mandatory membership of a guild and there were no limitations for merchants. This is why the *jurydyki* correspond to the interest of the magnates.

<sup>29</sup>In the first instance.

(Ukrainian)] will belong to the appellate court of Lublin. To the appellate court of Łuck [Luc'k (Ukrainian)] will belong the cities that are located in the voivodeships of Wolhynien [Volyns'ka zemlja (Ukrainian)] and Bełz [Belz (Ukrainian)]. To the appellate court of Żytomierz [Żytomyr (Ukrainian)] will belong the cities located in the voivodeship of Kijów [Kyjiv (Ukrainian)]. To the appellate court located in Kamieniec Podolski [Kam''janec'-Podil's'kyj (Ukrainian)] will belong the cities that are located in the voivodeship of Podolien [Podillja (Ukrainian)]. To the appellate court in Winnica [Vinnyc'ja (Ukrainian)] will belong the cities of the voivodeship of Braclaw [Braclav (Ukrainian)]. To the appellate court located in Drohiczyn [Drahičyn (Belarussian)] shall belong the cities of the voivodeship of Podlachien. To the appellate court of Poznań [Posen (German)] will belong the cities of the voivodeship of Poznań [Posen (German)] and of the country of Wschowa [Frauenstadt (German)]. To the appellate court located in Kalisz [Kalisch (German)] will belong the cities of the voivodeship of Kalisz [Kalisch (German)] and of the county of Konin, as well as the cities of the county of Pyzdry [Peisern (German)] on this side of the Warta [Warthe (German)] are to be long to Kalisz [Kalisch (German)]. To the appellate court of Gniezno [Gnesen (German)] shall belong the cities of the voivodeship of Gniezno [Gnesen (German)], of the county of Kcynia [Exin (German)] as well as of the county of Pyzdry [Peisern (German)] the part which is located on the Gnesian [Gniezno: Gnesen (German)] side of the Warta [Warthe (German)]. To the appellate court of Sieradz shall belong the cities of the voivodeship of Sieradz and of the country of Wieluń. To the appellate court of Warszawa [Warschau (German)] shall belong the cities of the earldom of Masowia and of the voivodeship of Rawa. To the appellate court of Łęczyca shall belong the cities of the voivodeships of Łęczyca, Breść Kujawski [Brest (German)] and Inowrocław [Inowraclaw (German)]. To the appellate court of Płock [Plock (German)] shall belong the cities of the voivodeship of Płock [Plock (German)], of the country of Zawskrzyn and of the country of Dobrzyń. To the appellate courts of the cities in the Grandduchy of Lithuania shall belong: to the appellate court of Wilno [Vilnius (Lithuanian)] the cities of the voivodeship of Wilno [Vilnius (Lithuanian)], of the counties of Ašmjany (Belarussian), Lida (Belarussian) [Lityn (Ukrainian)], Wiłkomierz [Vilkmergė (Lithuania, today: Ukmergė (Lithuanian)), Brasław [Braslaŭ (Belarussian)], of the voivodeship of the county of Troki [Trakai (Lithuanian)]. To the appellate court of Grodno [Hrodna (Belarussian)] shall belong the cities of the county of Grodno [Hrodna (Belarussian)], Wołkowysk [Vaŭkavysk (Belarussian)] and Merecz [Merkinė (Lithuanian)]. To the appellate court of the city of Kowno [Kaunas (Lithuanian), Kauen (German)] shall belong the cities of the earldom of Żmudzkie [Žemaitija (Lithuanian), Samogitien (German)], of the counties of Kowno [Kaunas (Lithuanian), Kauen (German)], Preny [Prienu (Lithuanian)] and Upita [Upytė (Lithuanian)]. To the appellate court of the city of Nowogródek [Navahrudak (Belarussian)] shall belong the cities of the voivodeship of Nowogródek [Navahrudak (Belarussian)] and of the county of Słonim [Slonim (Belarussian)] and of the county of Słud [River Sluč (Belarussian, Ukrainian)]. To the appellate court of Brześć Litewski



[Brest Litowski (German)] shall belong the cities of the voivodeship of Brześć Litewski [Brest Litowski (German)] and of the county of Kobryń [Kobryn (Belarussian)]. To the appellate court of the city of Pińsk [Pinsk (Belarussian)] shall belong the cities of the counties of Pińsk [Pinsk (Belarussian)], Pińsk zarzeczny [Pinsk-behind river area], Mozyrz [Mazyr (Belarussian)] and Rzeszyca [Rêčyca (Belarussian)]. To the appellate court of the city of Mińsk [Minsk (Belarussian)] shall be the cities of the voivodeships of Mińsk [Minsk (Belarussian)], Połock [Polock (Belarussian)], Witebsk [Vicebsk (Belarussian)] and of the county of Orsza [Orša (Belarussian)].

7. In these appellate cities, every two years, five people are elected to the appellate courts from the nobility and the non-nobility, i.e. those citizens owning land property, as well as persons of the magistrates from these as well as other cities of this department<sup>30</sup> that have been specifically fixed for these appellate courts. And these elected people are to form the Appellate Court. The condition is that those elected to the Appellate Court who are active in the magistrate or the laymen court – as long as they exercise the office in the appellation – may not sit in the courts *primae instantiae*<sup>31</sup> of the magistrates by whom they were elected and that they may also not adjudicate on these magistrates.
8. These courts will adjudicate on the appeals lodged by the magistrate of a value of 3000 Złoty or a penalty of up to three weeks. These decisions are final without the possibility of further appeals. In all legal matters that exceed the value of 3000 Złoty and a prison sentence of three weeks, the appeal of the magistrates *primae instantiae*<sup>32</sup> to the appellate courts of the cities is no longer allowed but the appeal to the assessorial courts and to the relation court, both in the Kingdom of Poland<sup>33</sup> as well as the Grand Duchy of Lithuania according to the law.
9. Criminal law matters may be decided by the magistrates but they may directly send them to the appellate courts who may also adjudicate on criminal matters. However, the attention had to be drawn to the fact that the criminal who has been condemned to a temporary prison sentence has to abide to its enforcement. If, however, there is a condemnation to life imprisonment or to death, the appellate court will send the accusation elaborations as well as the verdict to the assessorial court. At the assessorial and relation courts, we leave the legal matters on the abuse of power to the town offices as well as on the income from citizen property and all other matters that are arranged for by the laws of the Rzeczpospolita.
10. We hereby order that the cities, according to our order, are subjected to police commission<sup>34</sup> in matters of the interior order and the general town income.

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<sup>30</sup> Annotation of the translator: Polish *wydział* = department, it has been the second level of the citizen self-administration since 1791. The Rzeczpospolita was divided into 24 departments, the frontiers of the voivodeships not coinciding with the frontiers of the departments.

<sup>31</sup> First instance.

<sup>32</sup> First instance.

<sup>33</sup> Annotation of the translator: Kingdom of Poland: in Polish referred to as the Crown.

<sup>34</sup> Annotation of the translator: the Police Commission was set up in 1791 as an organ of supervision over the cities.

## About the Authors

**Brecht Deseure** is a historian specializing in the political and constitutional history of the revolutionary era. The focus of his research is on the political culture of the succeeding regimes in Belgium between the last quarter of the eighteenth and the middle of the nineteenth century. He has published a book on the politics of history pursued by the French revolutionary and Napoleonic governments in the Belgian departments. He is currently employed as a postdoctoral researcher at the University of Passau, where he studies the genesis of the Belgian Constitution in a comparative perspective.

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