

ARTYKUŁ

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Free from Obedience: Constitutional Expressions of the Right of Resistance in Early Modern Transylvania and Poland-Lithuania

Data opublikowania: 25.07.2019

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Czasopismo	European History Quarterly
Skrócona nazwa czasopisma	EHQ
Numer/tom	47: 1(2017)
Ilość stron	6-31

ISSN: 0265-6914, (eISSN) 1461-7110

Historia, Politologia, Nauki prawne

Angielski

With its tradition of elected kings and rebellious nobility, Poland-Lithuania has acquired a certain amount of fame that extends beyond its own region. To anybody who has heard of the Polish-Lithuanian political system, it would probably come as no surprise that the Commonwealth's laws included the right to disobey a king who broke the promises he had made at his election. This version of the right of resistance was introduced in Poland-Lithuania's laws in 1573, and, with very few modifications, it was confirmed by all of Poland-Lithuania's subsequent monarchs and remained valid until the late eighteenth century, when the country disappeared off the map of Europe. In contrast to that of Poland-Lithuania, Transylvania's history is much more obscure to outsiders, even though it too included elected rulers, enthronement conditions and the right of resistance. The latter was introduced into Transylvania's constitutions later than in Poland-Lithuania; its first explicit mention dates from 1613. Its lineage, however, can be traced back to one of Europe's earliest known versions of a resistance clause: the Hungarian Golden Bull of 1222. While the Polish-Lithuanian formulation was milder, more passive and less specific than some of the Transylvanian versions, its practical application was more effective than it ever became in Transylvania. This article discusses the development and variations of the right of resistance in early modern PolishLithuanian and Transylvanian constitutions and it offers some reflections on the complex relationship between constitutional theory and political practices. The Transylvanian case is analysed in more detail because it is relatively less well known.

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