

The Russian Central Government and Serf Relations in the Baltic Provinces before the Reign of Catherine II

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ABSTRACT

Early Baltic historiography was rather emotional in its presentation of manor-peasant relations in the Baltic provinces during the first decades under Russian rule. No doubt it was influenced by the case of the so-called Rosen Declaration of 1739, an exceptionally well-known document in which the Livonian nobility justified their harsh and repressive rights over the local peasantry. The article argues that, without a careful contextualization and detailed examination of materials from the archives of central institutions, it is not possible to critically assess or characterize either Livonian serfdom or the Rosen Declaration. The central St Petersburg institution responsible for overseeing the issue of serfdom in the Baltic province was the Justice College for Livland and Estland Affairs. Its archives have survived mainly in Moscow, partly in Tartu and in Helsinki, but have never received the attention they deserve. They show that, up until the reign of Catherine II, the Russian administration showed little interest in serfdom in its provinces of Livland and Estland. During the 1730s and 1740s the rights of the peasants were discussed several times in the Justice College, although only in the context of a concrete complaint or a case. Compared to Otto Fabian Rosen's statement with other similar explanations sent to the capital, Rosen's view was considered quite routine in St Petersburg. All such statements regarding serfdom made by the Baltic provinces were taken seriously by the Justice College for Livland and Estland Affairs. However, this does not mean that Rosen's memorial had any wider legal consequences. The local nobility saw their power over their peasants as something very absolute; but this was not unique to Livonia, being a quite typical attitude for landlords in the East Elbian region.

KEYWORDS: Baltic provinces, Russian Empire, serfdom, Rosen Declaration, Baltic historiography, the reception of Roman law

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Livonian serfdom refers to peasants' unfreedom in the Baltic provinces of Estland and Livland from the sixteenth century until its abolition in 1816 and 1819.* It is one of several cases of regional serfdom that existed during the early modern period across the southern Baltic coastal regions of Holstein, Mecklenburg, Pomerania and Eastern Prussia.¹ While the basic nature of the institution of serfdom was the same in both Baltic provinces of Estland and Livland, one cannot unambiguously speak of "Russian serfdom," as Tracy Dennison argues. According to her, serfdom "had no uniform meaning across Russia." Serfdom in Russia was rather

"a loose framework in which a wide continuum of different forms of estate governance (i.e. landlord policy) could be implemented. In economic terms, the Russian Empire was as much a 'composite state' as the Holy Roman Empire, if not even more so, with greater power in the hands of landlords to shape the institutional framework [...]."²

The Treaty of Nystad (1721) ended the Great Northern War and ceded the former Swedish provinces of Estland and Livland to Russia, with the condition that they retain their historical privileges and a form of special status within the Empire.³ In September 1710 Peter I had already recognized the Polish *Privilegium Sigismundi Augusti* of 1561 for the Livland nobility, which had been ignored under Swedish rule since 1621. Among other things, this sixteenth-century privilege established the allodial rights of Livonian landowners, including their rights of exploitation and jurisdiction over their peasants.⁴ Early Baltic historiography was rather emotional in its presentation

* I would like to thank Mati Laur, Roger Bartlett, Hesi Siimets-Gross, Keith Tribe, and the editors of the journal for their helpful comments on the earlier drafts of this paper.

¹ The case of Livonia has been typically listed among the territories of East European serfdom, see e.g. JEROME BLUM: *The Rise of Serfdom in Eastern Europe*, in: *The American Historical Review* 62 (1957), pp. 807–836; EDGAR MELTON: *Gutsherrschaft in East Elbian Germany and Livonia, 1500–1800: A Critique of the Model*, in: *Central European History* 21 (1988), pp. 315–349; BERNARD H. SLICHER VAN BATH: *Vrijheid en lijfeigenschap in agrarisch Europa (16e–18e eeuw)*, in: *AAG Bijdragen* 15 (1970), pp. 76–84; MARKUS CERMAN: *Villagers and Lords in Eastern Europe, 1300–1800*, Basingstoke 2012.

² TRACY DENNISON: *The Institutional Framework of Russian Serfdom*, Cambridge 2011, pp. 214, 222.

³ See REINHOLD JOHANN LUDWIG SAMSON V. HIMMELSTIERN: *Ueber die Anwendung des Schwedischen Rechts und der Russischen Ukasen in Livland*, in: *Jahrbuch für Rechtsgelahrte in Russland* 2 (1824), pp. 1–56; ROGER BARTLETT: *The Russian and the Baltic German Nobility in the Eighteenth Century*, in: *Cahiers du Monde russe et soviétique* 34 (1993), pp. 233–244; MATI LAUR, KATRIN KELLO: *Zum Rechtsstatus der livländischen Bauern im Übergang von der schwedischen zur russischen Zeit*, in: MATI LAUR, ENN KÜNG (eds.): *Die baltischen Länder und der Norden: Festschrift für Helmut Piirimäe zum 75. Geburtstag*, Tartu 2005, pp. 400–413, here pp. 400–401.

⁴ CARL SCHIRREN (ed.): *Die Capitulationen der livländischen Ritter- und Landschaft und der Stadt Riga vom 4. Juli 1710 nebst deren Confirmationen: Nach den Originaldokumenten mit Voraussstellung des Privilegium Sigismundi Augusti und einigen Beilagen*, Dorpat 1865, pp. 47–48. For the hopes of the Livonian nobility in connection with the

of manor-peasant relations under Russian rule in the first half of the eighteenth century.⁵ One cannot agree with Axel von Gernet's suggestion that the unrestricted form of serfdom established in Russia influenced the ambitions of Baltic landlords seeking to maximize the exploitation of their peasants following the Northern War.⁶ Nor can the view of extreme Soviet historiography be accepted, namely, that the exploitation of serfs was even harsher and more oppressive in Livland and Estland than in the provinces of the Russian interior, since the special status of the Baltic provinces came to embody backwardness and eighteenth-century serfdom in general.⁷ Most recently, Mati Laur has argued that there was no drastic deterioration of the situation of peasants in the provinces of Livland and Estland during the eighteenth century as compared with the seventeenth century.⁸

Thus, questions remain as to whether there was a change in attitude towards the status of the peasantry of Estland and Livland after the capitulation to Russia and to what extent the issue of serfdom was a priority for the Russian central government from Peter I until the reign of Peter III.⁹ Under Swe-

Privilegium Sigismundi Augusti, and especially for its article on landlords' manorial rights of jurisdiction, see CARL SCHIRREN (ed.): *Die Recesse der livländischen Landtage aus den Jahren 1681 bis 1711: Theils im Wortlaute, theils im Auszuge*, Dorpat 1865, pp. 403–408.

⁵ For an historiographical overview, see MATI LAUR, KATRIN KELLO: *Rootsi aja pärand 18. sajandi Liivimaa agraarsuhetes* [The Legacy of the Swedish Period in the Agrarian Relations of Eighteenth-Century Livland], in: ANDRES ANDRESEN (ed.): *Muinasaja loojangust omariikluse läveni: Pühendusteos Sulev Vahre 75. sünnipäevaks*, Tartu 2001, pp. 251–269, here pp. 252–255.

⁶ AXEL VON GERNET: *Geschichte und System des bäuerlichen Agrarrechts in Estland*, Reval 1901, pp. 39–40. The same argument was later repeated by: REINHARD WITTRAM: *Baltische Geschichte: Die Ostseelände Livland, Estland, Kurland 1180–1918*, München 1954, p. 152, and: ANDREAS KAPPELER: *Russland als Vielvölkerreich: Entstehung—Geschichte—Zerfall*, München 1992, p. 70.

⁷ GUSTAV NAAN (ed.): *Eesti NSV ajalugu (kõige vanemast ajast tänapäevani)* [History of the Estonian SSR (From the Earliest Times to the Present Day)], Tallinn 1952, p. 109.

⁸ MATI LAUR: *Eesti ala valitsemine 18. sajandil (1710–1783)* [The Administration of the Estonian Territory in the 18th century (1710–1783)], Tartu 2000, pp. 148–149; MATI LAUR (ed.): *Eesti ajalugu, IV: Põhjasõjast pärisorjuse kaotamiseni* [The History of Estonia, IV: From the Great Northern War to the Abolishment of Serfdom], Tartu 2003, p. 191.

⁹ Research on the development of serfdom in early modern Russia has typically concentrated on the sixteenth and seventeenth-century enserfments, and also on the emergence of the peasant question as part of the reorganizations of Catherine II made in the 1760s, see e.g. VASILII IVANOVICH SEMEVSKIĬ: *Ocherki iz'' istorii krestnago prava v'' Velikorossii vo vtoroi polovine XVIII v.* [Outlines of the History of Serfdom in Great Russia in the Second Half of the 18th Century], in: *Russkaia mysl': Zhurnal'' nauchnyĭ, literaturnyĭ i politicheskii* 1 (1880), nos. 5, 6, 8, 9, 10; JOHANNES ENGELMANN: *Die Leibeigenschaft in Russland: Eine rechtshistorische Studie*, Leipzig 1884; V. A. ALEKSANDROV: *Rossiiskoe krest'ianstvo v seredine XVII—seredine XIX v.* [Russian Peasantry in the Middle of the 17th—the Middle of the 19th Century], in: *Istoriia krest'ianstva v Evrope: Èpokha feodalizma*, vol. 3, Moskva 1986, pp. 315–324;

dish rule during the seventeenth century, the majority of peasants in the Baltic provinces were viewed as serfs (*Leibeigene*).¹⁰ However, there was a noteworthy exception. After the *reduktion* (i.e., a reversion of the noble estates back to the crown in the 1680s), the Swedish state avoided referring to Estonian and Livonian crown peasants as “serfs,” instead referring to them as “king’s peasants” or “hereditary peasants” of a crown manor. Towards the end of the seventeenth century, Stockholm took a strikingly active approach to deal with the issue of serfdom in Estland and Livland. King Charles XI of Sweden placed crown peasants of the Baltic provinces under the protection of the state, resulting in detailed regulations regarding manor-peasant relations that adjusted peasants’ burdens according to their capacity and limited the power of crown manor leaseholders. The protection of the peasantry did not offer the peasants personal freedom, nor did it detach them from their manor, but guaranteed them the right to appeal in cases of unjust treatment by a landlord. This did not change under the rule of Peter I. The central government in the new capital St Petersburg seemed to have little interest in the status of the local peasants in the newly acquired Baltic provinces.¹¹

Baltic historiography was undoubtedly influenced by the case of the so-called Rosen Declaration of 1739, an exceptionally well-known document in which the Livonian nobility justified their harsh and repressive rights over the local peasantry. Brought to public attention in 1820 by Garlieb Merkel, this document came to symbolize peasant subordination and serfdom in Livonia.¹²

DAVID MOON: Reassessing Russian Serfdom, in: *European History Quarterly* 26 (1996), pp. 483–526; EDGAR MELTON: The Russian Peasantries, 1450–1860, in: TOM SCOTT (ed.): *The Peasantries of Europe: From the Fourteenth to the Eighteenth Centuries*, London—New York 1998, pp. 227–266; ROGER BARTLETT: Serfdom and State Power in Imperial Russia, in: *European History Quarterly* 33 (2003), pp. 29–64; ALESSANDRO STANZIANI: The Legal Status of Labour from the Seventeenth to the Nineteenth Century: Russia in a Comparative European Perspective, in: *International Review of Social History* 54 (2009), pp. 359–389.

¹⁰ See MARTEN SEPPEL: The Semiotics of Serfdom: How Serfdom was Perceived in the Swedish Conglomerate State, 1561–1806, in: *Scandinavian Journal of History* 45 (2020), 1, pp. 48–70.

¹¹ ARVED SCHWABE: *Grundriss der Agrargeschichte Lettlands*, Riga 1928, p. 258; LAUR, *Eesti ala valitsemine*, pp. 149–150.

¹² GARLIEB MERKEL: *Die freien Letten und Esthen*, Leipzig 1820, pp. 118–130. For an overview of the heated debates on the Rosen declaration since Merkel, see JURIS VI-GRABS: Poleemika “Roseni deklaratsioon” puhul [Controversy over the “Rosen Declaration”], in: *Ajalooline Ajakiri* (1932), 4, pp. 191–202; JURIS VIGRABS: *Die Rosensche Deklaration vom Jahre 1739: Ein Beitrag zur Geschichte der Leibeigenschaft in Livland und Estland*, Tartu 1937, pp. 15–42; ERICH DONNERT: *Agrarfrage und Aufklärung in Lettland und Estland: Livland, Estland und Kurland im 18. und beginnenden 19. Jahrhundert*, Frankfurt am Main 2008, p. 28. See also ROGER BARTLETT: The Question of Serfdom: Catherine II, the Russian Debate and the View from the Baltic Periphery (J. G. Eisen and G. H. Merkel), in: ROGER BARTLETT, JANET HARTLEY (eds.): *Russia in the Age of the Enlightenment: Essays for Isabel de Madariaga*, New York 1990, pp. 142–165, here p. 152; BARTLETT, *The Russian and the Baltic German Nobility*,

In 1739 Otto Fabian Rosen, the Land Councilor of Livland, testified in an inquiry by the Russian central government into the status of the Livonian peasantry that after the conquest of Livonia by the Teutonic Order the local peasantry had lost all freedoms and become manorial serfs. They had therefore existed in a condition of “full serfdom” (*in einer gänzlichen Leibeigenschaft*)¹³ ever since: attached to the land unless inherited by a third party, or sold or gifted by their lord. And since peasants belonged personally to their hereditary lords, their farmsteads and movable possessions were not their own property but also that of their lord. However, the landlords themselves had limited these powers, establishing the level of peasants’ dues and corvée so that they would not be excessively burdened. Similarly, the nobility had voluntarily relinquished the right of decision they had once possessed over their serfs’ lives and death, so that all criminal cases were now decided by the crown courts.¹⁴ All the same, landlords retained their arbitrary right to corporal punishment of serfs, who were permitted no right of appeal in these courts.¹⁵

The Rosen Declaration showed that, in the eighteenth century, discussion of the status of the peasantry was still very much shaped by commonplace prejudices, even occurring in cases where the state actually sought legal advice. Rosen simply expressed the view of serfdom held by the contemporary Livonian nobility.¹⁶ The issue of serfdom typically involved stereotypical and apologist thinking, and this has to be taken into account when studying debate on the subject. At the same time, serfdom was usually construed in a very simple way. Legally, it could be a very complex institution, barely definable in a comprehensible manner; but in argument and discourse, serfdom was usually treated as something uncomplicated, clear-cut, easily understood and expressed. This article will not therefore directly examine the existing con-

p. 236; ROGER BARTLETT: Defences of Serfdom in Eighteenth-Century Russia, in: MARIA DI SALVO, LINDSEY HUGHES (eds.): *A Window on Russia: Papers from the V International Conference of the Study Group on Eighteenth-Century Russia*, Gargnano 1994, pp. 67–74, here pp. 68–69; CERMAN, *Villagers and Lords*, p. 18.

¹³ VIGRABS, *Die Rosensche Deklaration*, no. 20, p. 45*.

¹⁴ Rosen did not specify when exactly the nobility had limited its own power on these aspects but, as known, these were imposed on the Livonian nobility by the Swedish administration during the seventeenth century, see MARTEN SEPPEL: *The Growth of the State and Its Consequences on the Structure of Serfdom in the Baltic Provinces, 1550–1750*, in: SIMONETTA CAVACIOCCHI (ed.): *Schiavitù e servaggio nell’economia europea. Secc. XI–XVIII / Serfdom and Slavery in the European Economy, 11th–18th Centuries: Atti della “Quarantec inquesima settimana di studi,” 14–18 aprile 2013*, Firenze 2014, pp. 291–305.

¹⁵ VIGRABS, *Die Rosensche Deklaration*, no. 20, pp. 44*–47*.

¹⁶ JULIUS ECKARDT: *Die baltischen Provinzen Rußlands: Politische und culturgeschichtliche Aufsätze*, 2nd ed., Leipzig 1869, p. 180. Most recently: MALLE SALUPERE: *Hinrich Baeri matsikompleks ja Roseni deklaratsioon [Hinrich Baer’s Rustic Complex and the Rosen Declaration]*, in: MALLE SALUPERE: *Tõed ja tõdemused: Sakste ja matside jalajäljed nelja sajandi arhiivitolmus*, Tartu 1999, pp. 34–43.

straints imposed upon peasants by serfdom, nor outline the legal relationship between landlords and peasants in the Baltic provinces. Instead it will consider the forms of argument made by local landlords and provincial authorities, and the arenas in which these arguments were presented, whenever the central government of St Petersburg expressed its interest in the relationships of serfdom existing in the provinces of Livland and Estland in the first half of the eighteenth century. The history of serfdom also entails a history of communication between local landlords, provincial authorities and the central government. It is important to examine what the dominant way of thinking was among the nobility, namely how they typically viewed their relationship with peasant parties and how they communicated it to the central authorities. The article argues that, without a careful contextualization and detailed examination of materials from the archives of central institutions, it is not possible to critically assess or characterize either Livonian serfdom or the Rosen Declaration.

The central St Petersburg institution to which responsibility for the issue of serfdom in the Baltic province fell was the Justice College for Livland and Estland Affairs (Iustits-kollegiia Lifliandskikh I Ėstliandskikh del, JCLE), which had been an independent part of Peter I's newly established system of colleges since 1719.¹⁷ A separate board was needed for the Baltic provinces because the legal and religious circumstances here remained very different from those in other Russian inner provinces. Thus, the JCLE was the main institution in St Petersburg that dealt with the special status of the Baltic provinces and formed a kind of buffer between the central government and the provinces. The role of the college was to respond to any legal questions related to Livland and Estland arising in St Petersburg, also including issues arising from the nature of the Protestant Church. It is striking that its archives suggest that, at least in the first half of the eighteenth century, it tended more to protect this special status rather than undermine it. For the entire eighteenth century, only Germans headed the college: in 1735–1740 its vice-president (a president was never appointed) was Carl Ludwig Mengden, and in 1741–1764 Friedrich Johann von Emme, who was originally from Mecklenburg.¹⁸ All the other members of the college were also Germans, and so the official working language was German. Its archives have survived mainly in Mos-

¹⁷ [FRIEDRICH GEORG VON BUNGE:] Zur Geschichte des Reichsjustiz-Collegiums und der in Liv-, Esth- und Finnland geltenden Rechte, in: *Archiv für die Geschichte Liv-, Esth- und Curlands* 5 (1846), 1, pp. 60–72, here pp. 60–63; ERIK AMBURGER: *Geschichte der Behördenorganisation Russlands von Peter dem Großen bis 1917*, Leiden 1966, pp. 2, 47–48. For the background to Peter I's reorganizations, see CLAES PETERSON: *Peter the Great's Administrative and Judicial Reforms: Swedish Antecedents and the Process of Reception*, Stockholm 1979; MICHAEL SCHIPPAN: *Die Einrichtung der Kollegien in Russland zur Zeit Peters I.*, Wiesbaden 1996.

¹⁸ AMBURGER, p. 176.

cow¹⁹, partly in Tartu²⁰, and in Helsinki²¹, but have never received the attention they deserve.

The JCLE materials from the first half of the eighteenth century reveal that a very common practice in dealing with cases concerning the manors and villagers of the Baltic provinces was to request additional information from the local provincial authorities, and then make decisions based on reports that as a rule had arrived as memoranda. However, occasionally the college sought to answer inquiries made independently about the Baltic provinces by the Senate or another central office. For instance, in 1755 the Senate asked the college whether Livonian and Estonian landlords held a privilege to sell their vodka to St Petersburg and elsewhere; the college replied two weeks later that it did not know of any special privileges or ukaz, noting, however, that the profitability of manors depended on such sales and landlords could sell their own products as they pleased.²² In 1745, the Senate asked the JCLE to search its archives for any indication of whether pearls could be found in some areas of Livonia and Estonia, and if so, whether such pearls that had been found belonged to the King of Sweden. However, this question remained unanswered; the corresponding JCLE file is only two pages, since no archival record could be found.²³

The JCLE also supervised courts in the provinces, and acted as an appellate instance for decisions reached by the Supreme Land Court of Estland and the High Court of Livland.²⁴ For example, in 1738 a Livonian landlord from Rösthof turned to the JCLE for a pardon in the case of a serf farmhand who had married twice and had therefore been sentenced to death for bigamy by the Livonian district court, a decision confirmed by the High Court. The appeal to St Petersburg was granted in 1740, two and a half years later, and the farmhand was finally freed from arrest and the death sentence annulled by a

¹⁹ Rossiiskii gosudarstvennyi arkhiv drevnikh aktov (RGADA) [Russian State Archives for Ancient Acts], Moscow, sign. 284. Latvian historian Juris Vīgrabs studied these materials in Moscow in 1927. GEORG WIHGRABS: *Die rechtliche Lage der livländischen Bauern in der ersten Hälfte des XVIII. Jahrhunderts: Materialiensammlung aus dem Archiv der ehemaligen Livländischen Ritterschaft nebst Ergänzungen*, part 2, Riga 1930, p. XII; but then later Jānis Zutis had problems with access to the archives of the Justice College in the RGADA: IANIS ZUTIS: *Ostzeiskii vopros v XVIII veke* [The Baltic Question in the 18th Century], Riga 1946, p. 13.

²⁰ Rahvusarhiiv (RA) [Estonian National Archives], Tartu, sign. EAA.4923. See also LEA LEPPIK (ed.): *Arhiivijuht* [Archival Guide], vol. 1, Tartu 2003, pp. 365–366.

²¹ ELIAS ORRMAN, JYRKI PAASKOSKI (eds.): *Vanhan Suomen arkistot / Arkiven från Gamla Finland* [Archives of Old Finland], Helsinki 2012, pp. 235–239.

²² *Dirigirenden Senats Befragung ob die Liefländer die Freyheit haben von ihren Gütern Brandwein kommen zu lassen*, 1755, in: RGADA, sign. 284, vol. 1, no. 189.

²³ *Dirigirenden Senats Befragung ob zu Schwedischen Zeiten in Lief- und Ehtland Perlen gefunden worden*, 1745, den 6 Feb. eingekommen ohne Antwort geblieben, weil selbst desfalls keine Nachricht vorhanden, in: RGADA, sign. 284, vol. 1, no. 56.

²⁴ LAUR, *Eesti ala valitsemine*, p. 108; BUNGE, p. 61; BARTLETT, *The Russian and the Baltic German Nobility*, p. 235.

ukaz signed by the Empress. It was, however, only the very active engagement on the part of the local lord begging for the life of his farmhand that secured this result.²⁵

As regards the issue of serfdom itself, peasant status was debated at the JCLE as a rule only in cases of grievances received or appeals made against court judgments, and not on account of any initiative of its own, at least during the period under the study. Shortly after the Northern War, peasants from Estland and Livland began submitting their complaints to Tsar Peter I. In this way, the peasants continued their practice from the time of Swedish rule, when they had actively submitted their complaints to the King in Sweden. However, the central government in Stockholm had practically never conducted an investigation of complaints when they were received from the peasants of Estland or Livland; the royal clerical office always simply returned them to Reval or Riga with a direction to the provincial administration that the matter should be resolved.²⁶ In May 1721 the Governor-General of Livland forbade peasants to travel directly to St Petersburg to complain without first requesting permission, giving the order that they should first of all seek a solution for their problem at the provincial level.²⁷ This order was rather similar to one made in 1696 by the previous Swedish Governor-General of Livland, Erik Dahlbergh.²⁸ In May and June 1721, for example, peasants of Estland from the manors of Kuimetz, Kay, Pergel, Rickholtz, Kardina, Wieso, and Silms submitted written complaints to the Tsar.²⁹ Most of these complaints concerned the excessive burdens of corvée and other dues. The response of the Russian authorities was very similar to that of Stockholm—peasants and their supplications were returned to Reval with the order to resolve the issue locally. The peasants were not condemned for so doing, and the sole response from St Petersburg was to note the peasants' conditions and

²⁵ Akte in Supplikfachen des Kapitäns Carl Gustav Taube wegen seines zum Tode verurteilten Resthofschen Bauers Tatti Jury Thomas, 1738-03-10 to 1740-12-19, in: RA, sign. EAA.4923, vol. 1, no. 10.

²⁶ MARTEN SEPPEL: Liivi- ja Eestimaa talupoegade kaebereisid Stockholmi 1681–1700 [Complaint Visits of the Peasants of Livland and Estland to Stockholm in 1681–1700], in: *Acta et Commentationes Archivi Historici Estoniae* 17 (2009), pp. 361–400.

²⁷ Livländische Gouvernements-Regierungs-Patente: Gesammelt und nach Herrn General-Superintendenten Dr. Sonntag chronologischem Verzeichnisse geordnet v. C. F. W. GOLDMANN, no. 172 (1721-05-25), in: Tartu University Library, sign. Est.A-279.

²⁸ GUSTAV JOHANN VON BUDDENBROCK (ed.): *Sammlung der Gesetze, welche das heutige livländische Landrecht enthalten, kritisch bearbeitet*, vol. 2-1[B], Riga 1821, pp. 1453–1456.

²⁹ The provincial government of Estland to the judge of the vassal's court of Harrien, 1721-06-05, in: RA, sign. EAA.3, vol. 1, no. 210, fol. 408; The provincial government of Estland to the vassal's court of Wiek, 1721-06-05, *ibid.*, fol. 409; The provincial government of Estland to Fendrich von Lantingshausen, 1721-06-08, *ibid.*, fol. 410v.

seek to eliminate the situation that had led them to complain so bitterly.³⁰ Accordingly, in Reval the provincial government organized a court investigation into the manors from which complaints had originated. The district court was instructed to review the circumstances of the complaints, and to “regulate” the burdens of dues and corvée (*die Arbeit und Gerechtigkeit zu regulieren*) according to the size of the farmstead.³¹ If the complaints were found to be unsubstantiated the peasants were to be lashed.³² Nevertheless, by the 1730s at least, it seems that the administrative response to peasants’ complaints had altered. Most of the complaints that reached the capital from the Baltic provinces now ended up in the JCLE, which became involved when inquiries about the case were made in the capital, even making an initial investigation when peasants had complained to the Emperor or the Senate. This was the context for Rosen’s declaration.³³ The following three sections demonstrate that Rosen’s response was nothing exceptional by placing it in a wider context. Namely, there are other three cases that were processed by the JCLE in the 1730s and 1740s and that dealt with the status of Livonian peasants.

The Forlorn Efforts of Peasants to Find Justice

In 1743 complaints by two Latvian peasants, Luckuse Jan Jakovlev and Zimze Jan Petrov, were received by the JCLE in St Petersburg. Both men belonged to the state manor of Laitzen-Neuhoff, which was leased to Baron Carl Ludwig von Mengden, formerly vice-president of the JCLE from 1735 to 1740. In April 1742 these two peasants had already visited the Senate in Moscow,³⁴ and then in 1743 they brought a letter of complaint written in Russian to the Empress at Peterhof. They complained that the bailiff (*prikazchik*) of the manor, Friedrich Casimir Janckewitz, had beaten, imprisoned, and ruined them, depriving them of their farmsteads.³⁵ When these two peasants appeared at the Peterhof in June 1743 they were immediately arrested and taken

³⁰ The provincial government of Estland to Fendrich von Lantingshausen, 1721-06-08, *ibid.*, fol. 410v; The provincial government of Estland to the judge of the vassal’s court of Harrien, 1721-06-05, *ibid.*, fol. 408.

³¹ The provincial government of Estland to the judge of the vassal’s court of Harrien, 1721-06-05 and 1721-06-15, *ibid.*, fol. 408, 412; The provincial government of Estland to the vassal’s court of Wiek, 1721-06-05, *ibid.*, fol. 409.

³² The provincial government of Estland to the judge of the vassal’s court of Harrien, 1721-06-15, *ibid.*, fol. 412v.

³³ For an example of the questioning of the Fonal peasant at the JCLE in St Petersburg, see *Quaestiones worüber der Fonalsche Müller Jahns von diesem I.K.M. Reichs-Justice-Collegio vernommen worden*, 1743-06-17, in: RA, sign. EAA.862, vol. 1, no. 819, fol. 7–8v; VIGRABS, *Die Rosensche Deklaration*, pp. 64*–65* (no. 33).

³⁴ Ukaz of the Senate to the provincial government of Livland, 1742-06-08, in: RA, sign. EAA.4923, vol. 1, no. 50.

³⁵ Jan Jakovlev and Zimze Jan Petrov’s supplication to the Empress, a copy, June 1743, *ibid.*

to the JCLE in St Petersburg.³⁶ At the same time, three other peasants from Fonal of Estland were also arrested; they also had sought to complain to Her Majesty, and one of them was miller Jaan of Fonal whose case had given rise to the Rosen Declaration and in 1743 was in the capital for the third time.³⁷

In July 1743 the JCLE sent an inquiry about the circumstances of the Latvian peasants to the provincial government of Livland.³⁸ With some delay, the latter replied that all the peasants' complaints made to the Empress were completely unfounded and false.³⁹ It turned out that these two peasants from Laitzen-Neuhoff had already complained about the bailiff Janckewitz in May 1739 to the provincial government of Riga, following which the county court of Wenden had investigated the case.⁴⁰ Since their grievances had turned out to be unfounded the peasants had been imprisoned in their manor, from where they had fled to Moscow the following night by tunnelling under the wall.⁴¹ In 1742 the Senate had instructed the county court of Wenden to reinvestigate the case,⁴² but the court still concluded that the grievances were unfounded.⁴³

The JCLE in St Petersburg was aware that the peasants had also previously submitted their letter of complaint in Moscow, and that the Senate was investigating the case at the same time.⁴⁴ Only in January 1744 did a Senate ukaz arrive ordering that the JCLE send the Laitzen-Neuhoff peasants back to Riga in custody.⁴⁵ At the end of January 1744, a corporal (*Gefreyter*) arrived from the St Petersburg garrison, detained the two Latvian peasants and returned them to the provincial border town of Narva.⁴⁶ Thus, the central institutions, the JCLE and the Senate, did still investigate accusations made by peasants in the 1740s, but the appeal of even state peasants ended in imprisonment, and a failure to find justice. The Livonian provincial government had already requested that "these peasants should be punished in exemplary fashion to en-

³⁶ Pro Memoria JCLE-le in Sachen zweyer Lettischen Bauren von dem Lief. nun Sequestirten Krohn-Guthe Leyzins nahmens Jan Jacovlew und Jan Andrejew, 1743-07-19, *ibid.*

³⁷ Minutes of the Justice College for Livland and Estland Affairs, 1743-07-20 and 21, *ibid.*; JCLE to the Governor of Estland, 1743-08-19, in: RA, sign. EAA.862, vol. 1, no. 819; VIGRABS, Die Rosensche Deklaration, pp. 62–63, 96, 56*.

³⁸ Minutes of the Justice College for Livland and Estland Affairs, 1743-07-21, in: RA, sign. EAA.4923, vol. 1, no. 50.

³⁹ Memorial of the provincial government of Livland to the JCLE, 1743-10-15, *ibid.*

⁴⁰ Report of the County Court of Wenden to the Empress, 1742-08-17, *ibid.*

⁴¹ *Ibid.*; the office of the provincial government of Livland to the Senate, 1742-09-11, *ibid.*; Memorial of the provincial government of Livland to the JCLE, 1743-10-15, *ibid.*

⁴² Report of the County Court of Wenden to the Empress, 1742-08-17, *ibid.*

⁴³ Memorial of the provincial government of Livland to the JCLE, 1743-10-15, *ibid.*

⁴⁴ JCLE to the Senate, 1743-11-10, *ibid.*

⁴⁵ Minutes of the Justice College for Livland and Estland Affairs, 1744-01-19, *ibid.*

⁴⁶ Minutes of the Justice College for Livland and Estland Affairs, 1744-01-30, *ibid.*

sure that they do not cause rebellion (*Meuterey*) and resistance among the peasant population, or sow evil.”⁴⁷

One of the main grievances of the Latvian peasant Zimze Jan Petrov was that the state manor of Laitzen-Neuhoff had extended its fields at the expense of his farmstead; that land had been taken away from him and he had been “transported” to another state manor, Lentzenhoff. In 1742 the provincial government of Livland explained to the Senate that this was common practice on many state estates and that peasants did not have any say in the matter. Since peasants “have no ownership of anything” (*weilen dieselbe [die Bauern] nichts eigenthümliches besitzen*) their complaints were unfounded. At the same time, the provincial government pointed out that in Livonia there had “always” been a procedure (*Oeconomie*) in favor of the crown that, if there were more people on one crown estate than were needed to cultivate the manor, the surplus could be moved (*transportiret*) to another crown manor to fill the empty plots there.⁴⁸ According to the provincial government, this method served the purpose of increasing the state's revenues, especially in the cultivation of fields that were standing unused. But noble landlords also had the same right: “just as every private possessor has unhindered freedom to gather up a manor and move its peasants at will.”⁴⁹ Hence, the provincial government of Riga maintained the right to expropriate peasant lands on state manors when it served the state's interests, just as had already been the norm in the 1690s. In 1692, the governor of Riga, Erik Soop, declared after an investigation of a similar case involving a complaint of expropriation that the oeconomic governor had complete power to authorize the addition of peasant lands to the crown manors if it helped to “better cultivate the manor and increase its revenues,” according to the instruction of 1691. In his explanatory letter to the King, Erik Soop emphasized in addition that the crown peasants did not “own” their land (*daßelbe Land Ihnen nicht erb- noch eigenthümlich zukompt, sondern unter der Herrschafft des Gutes freyen disposition stehet*).⁵⁰

⁴⁷ Memorial of the provincial government of Livland to the JCLE, 1743-10-15, *ibid.*

⁴⁸ For the practices of moving the supernumerary peasants from one state manor to another, see e.g. a case from 1738–1739: IANIS ZUTIS: *Politika tsarizma v Pribaltike v pervoi polovine XVIII v.* [The Politics of Tsarism in the Baltics in the First Half of the 18th Century], Moskva 1937, pp. 86–91.

⁴⁹ The office of the provincial government of Livland to the Senate, 1742-09-11, in: RA, sign. EAA.4923, vol. 1, no. 50. Cf. the explanation of the Supreme Court of Estland to the vassal court in 1739 according to which the lord had full right to raise the peasant dues and to transport people from one private manor to another: VIGRABS, *Die Rosen-sche Deklaration*, p. 82, no. 12.

⁵⁰ Erik Soop to the King, 1692-08-17, in: Riksarkivet, Stockholm, *Livonica II*, vol. 119.

The Prospect of a Private Serf Denouncing His Lord

The case of Grigori Seick, a Livonian peasant who made a complaint against his landlord Major Reinhold Friedrich von Taube of Heringshof, was discovered and mostly published already by Juris Viġrabs.⁵¹ In 1748 Seick tried to submit a written complaint directly to the Empress, but encountered a hostile reception in the capital.⁵² As can be seen from a JCLE ukaz, Seick was detained by a guard in front of Her Imperial Majesty's palace when he had sought to submit his complaint to the Empress in person. Seick was sent straight to the Senate, accused of seeking to file his complaints in inappropriate places.⁵³ The case of Grigori Seick is remarkable as regards the nature of his allegations. He did not blame his lord Major Taube for offenses against him personally; the substance of his allegation concerned Taube's acts of theft and trafficking with respect to crown property and the established police order. Seick was worried about the losses Taube had caused the crown estate of Smilten, which had been leased to him. For instance, Taube had used crown peasants for private purposes on his hereditary manor of Heringshof.⁵⁴ The Senate sent Seick to the JCLE, ordering it to conduct an investigation into this peasant's complaint so that it might be verified and resolved. The college in turn asked the provincial government of Livland and the High Court in Riga whether, and to what extent, such a peasant had the right to lodge a complaint against his lord. The issue became solely the right of Livonian serfs to appeal, not the details of the concrete complaint. In particular, the JCLE wanted to know to what extent one bondsman or hereditary peasant (*ein Erbbauer*) can denounce (*denunciiren*) his lord in matters of public interest, to which court such cases should be presented, and what laws might be applicable in this regard.⁵⁵

The Livonian High Court completed its response in ten days. The court first explained that "there is no precedent known in this land where a peasant

⁵¹ WIHGRABS, *Die rechtliche Lage*, pp. 185–197; *Acta in Untersuchungssachen des Livl. Bauern Jacobsohn Seien wider seinen Erbherrn, den Major v. Taube, 1748*, in: RGADA, sign. 284, vol. 1, part 1, no. 68. See also ZUTIS, *Politika tsarizma*, pp. 186–187.

⁵² This clearly contrasts with the experience of the Estonian miller from Fonal Jaan who had triggered the investigation of lordly power over serfs in the Baltic provinces, resulting in the Rosen declaration of 1739. In 1737 Jaan of Fonal had actually managed to meet the Empress Anna, or at least her closest retinue, in the Summer Garden, and had received a promise from the Empress that his case would be reviewed in the Cabinet of Ministers. This gave him hope, and the desire to wait for two months in St Petersburg for the decision: VIĖRABS, *Die Rosensche Deklaration*, pp. 76–77, 39*; WIHGRABS, *Die rechtliche Lage*, no. 252 (pp. 125–126).

⁵³ Ukaz to the governmental office of the province of St Petersburg, 1748-03-03, in: RGADA, sign. 284, vol. 1, part 1, no. 68, fol. 9–10; WIHGRABS, *Die rechtliche Lage*, no. 317.

⁵⁴ WIHGRABS, *Die rechtliche Lage*, nos. 310–311.

⁵⁵ *Ibid.*, nos. 312–313.

has brought an indictment against his lord” (apparently meaning an appeal in the public interest), and therefore that there is no law or statute indicating the degree to which such an action by a peasant might be justifiable. However, the High Court held that if such a case should arise in the province, the court’s decision should be in accordance with the highest-approved *General-Capitulation* and *ad jus civile Romanum*,⁵⁶ given the absence of more proper statutes. The court also felt obliged to emphasize that “the peasants here are known to be completely enserfed to their masters” (*die hiesigen Bauren beandtermaßen Ihren Erb-Herrn mit Leib-Eigenschaft gänzlich unterworfen sind*). In conclusion, the High Court, in a decision signed by seven court members, including Gustav von Budberg and Johann Schrader, declared to the JCLE that, in the absence of any precedent, they would not be able to provide further explanation. They relied essentially on subsidiary Roman law.⁵⁷

In February 1748, three days after the High Court response, the provincial government of Livland formulated its position to the JCLE. The provincial government also explained that due to the lack of sufficient and relevant laws and statutes in Livonia, such cases would call upon Roman law (*das jus commune*). This would indicate that *servi* lack the right to sue their master unless it involved a crime against his Majesty (*bloß das crimen laesae Majestatis ausgenommen worden*).⁵⁸ A reference was also made to the order by Emperor Peter II of 24 May 1727, which had also been published in translation in Riga, according to which the Senate must be informed immediately if anyone in Estland and Livonia heard anything about evil intentions against the Emperor’s life and health, or about betrayal, rebellion or riot.⁵⁹ The provincial government admitted that the local serfs “are not equivalent to Roman slaves in all respects” (*ohneachtet sie denen Servis romanis in allen nicht zu aqvi-pariren*), but still believed that a number of provisions in *jus commune* would apply to them.⁶⁰ And as for the investigation of peasants’ complaints, the Livland provincial government emphasized on this point that such matters are al-

⁵⁶ For the reception of Roman Law in eighteenth-century Livland, see HESI SIMETS-GROSS, MERIKE RISTIKIVI, KATRIN KELLO: *Favor libertatis: The Ancient regula iuris as an Argument for Freedom in the Courts of the Late 18th Century in the Provinces Estland and Livland of the Russian Empire*, in: MATHIAS CASTELEIN, PAOLO ANGELINI et al. (eds.): “Ius commune graeco-romanum”: Essays in Honour of Prof. Dr. Laurent Waelkens, Leuven 2019, pp. 209–223, here pp. 215–217.

⁵⁷ High Court of Livland to the Empress, 1748-02-09, in: RGADA, sign. 284, vol. 1, part 1, no. 68, fol. 7–8; WIHGRABS, *Die rechtliche Lage*, no. 314.

⁵⁸ Memorial of the provincial government of Livland to the JCLE, 1748-02-12, in: RGADA, sign. 284, vol. 1, part 1, no. 68, fol. 5–6; WIHGRABS, *Die rechtliche Lage*, no. 315. For this principle in Roman law, see ALAN WATSON: *Roman Slave Law*, Baltimore—London 1987, pp. 83–84.

⁵⁹ Livländische Gouvernements-Regierungs-Patente, no. 330 (1727-05-24, the translation was published on 1727-06-17).

⁶⁰ Memorial of the provincial government of Livland to the JCLE, 1748-02-12, in: RGADA, sign. 284, vol. 1, part 1, no. 68, fol. 5–6; WIHGRABS, *Die rechtliche Lage*, no. 315.

ways judged locally within the province, and not by any other court elsewhere. Such charges must first be brought before the provincial government, from where they would be forwarded to a county court or to the High Court for investigation and trial.⁶¹

When, at the end of February, the JCLE in St Petersburg received these two responses and explanations from the province, the board found that, according to the memoranda received and to the law as practiced in Livonia, local peasants did not enjoy the right to sue their lord if the case did not concern his Majesty and the government. Therefore, “that serf was to be punished by whipping in the public marketplace [of St Petersburg] for his misdemeanor, as an example to others”, and then handed back to his lord, Major Taube.⁶² Three days later this decision was enforced.⁶³

Could a Lord Dictate the Confession of His Serfs?

In 1743 the Synod turned to the JCLE in St Petersburg with a question: could a Livonian lord dictate the confession of his serfs (it was assumed that Livonian peasants were all completely enserfed)?⁶⁴ A religious issue of this kind was new to the college, and clarification was needed from the province. The Synod’s appeal was prompted by a case involving a peasant from Livland, Jürgen Peick. He had been serving Lieutenant Carl Bayer von Weissfeld of the Kazan dragoon regiment, but had escaped and converted to Greek Orthodoxy. Jürgen had himself approached the Holy Synod and requested that his conversion from his Lutheran confession to the Greek Orthodox church be accepted. However, his lord Bayer von Weissfeld still owned him and was searching for him.⁶⁵

In this case the central source of advice for the JCLE was not the Livland provincial authorities but Bayer von Weissfeld himself, who was consulted on the matter. Lieutenant Bayer emphasized that the peasant Jürgen was a serf (*Leibeigener*) from the state manor of Pattenhof in Livland, owned by his father. Jürgen had accompanied him as a servant when he was travelling to St Petersburg in 1741, but had fled en route in Novgorod.⁶⁶ Bayer made clear

⁶¹ Ibid.

⁶² Minutes of the JCLE, 1748-02-29, in: RGADA, sign. 284, vol. 1, part 1, no. 68, fol. 13; WIHGRABS, *Die rechtliche Lage*, no. 316.

⁶³ Minutes of the JCLE, 1748-03-03, in: RGADA, sign. 284, vol. 1, part 1, no. 68, fol. 13v; WIHGRABS, *Die rechtliche Lage*, no. 318.

⁶⁴ *Protocolla et Acta betr. die Befragung des Heiligst Dirigirenden Synods—ob in den Livländischen Rechten u. Privilegien eine Bestimmung vorhanden wenn ein Livländischer Leibeigener von der Lutherschen Confession zur Rußisch-Griechischen Kirche übertritt*, 1743, in: RGADA, sign. 284, vol. 1, part. 1, no. 52.

⁶⁵ Minutes of the JCLE, 1743-02-01, in: RGADA, sign. 284, vol. 1, part 1, no. 52, fol. 1–2.

⁶⁶ As proof, Lieutenant Bayer submitted to the Justice College an extract from a landholding revision of 1738, the originals of which survive: *Wackenbuch des Publiqven Gutthes Pattenhoff in Saara Kirchspiel*, 1738-02-18, in: RA, sign. EAA.567, vol. 3,

that all he wanted was the return of his runaway serf as soon as possible, since he was about to leave for Kazan with his regiment.⁶⁷

This explanation was enough for the JCLE, and a decision was made quickly, beginning with the statement: “That all peasants in Livland are serfs, and can acquire no kind of freedom without the consent of their hereditary lord” (*Daß alle Erb-Bauren in Liefland Leibeigen sind und ohne Einwilligung ihrer Erbherren auf keine Art zur Freyheit gelangen können*). The college concluded that peasants of Lutheran faith could not be freed from subordination to their lord even if they converted to Orthodoxy, since it would be contrary to the established right of inheritance and property of these lords (*denen Erb-Herren ihr wohlerworbenes Erb- und Eigenthums Recht*), hence contrary to all the confirmed privileges and the capitulation of Livonia. It would also mean “the complete ruination of all state manors in Livonia.” The JCLE also emphasized that Orthodox peasants could belong to a Lutheran lord or, conversely, peasants belonging to the Lutheran Church might be owned by an Orthodox lord. Thus, peasants were primarily subordinated to their lord, but their serfdom (*in Ansehung ihrer Leibeigenschaft*) was not linked to their faith.⁶⁸

Interpretations of the Rosen Declaration

The Rosen Declaration can be properly interpreted only when it is placed in its appropriate institutional and cultural context. Rosen’s 1739 memorial⁶⁹ was just one of several explanatory notes addressed to the JCLE on the situation of peasants in the Baltic provinces. The processing and investigation of the complaint made by the miller Jaan of Fonal to the JCLE in 1739 followed the same lines as other grievances registered in St Petersburg by Estland and Livland peasants. The first reaction of the college was to make inquiries in the provinces, seeking explanations from the provincial authorities involved, establishing the local circumstances concerning the peasants’ right of complaint, and the extent of the power of lords over their serfs. Rosen clarified the position of the Livonian nobility in a substantive administrative investigation. It is also important to add that it was not the existence of serfdom in Estland and Livland that was in question, only some of the aspects that required attention in order for a decision to be made in St Petersburg regarding the case of Jaan of Fonal.

no. 151, fol. 27v–28v, 33v–34v; Specification derer zu dem publicqem Guthe Pattenhoff in Saara Kirchspiel gehörigen besetzten und wüsten Baur-Gesinder und Ländern, 1738-02-10, *ibid.*, fol. 23v–24v, 30v–31v.

⁶⁷ Carl Bayer v. Weisfeld to the Empress, registered in the JCLE on 1743-09-21, in: RGADA, sign. 284, vol. 1, part 1, no. 52, fol. 26–27.

⁶⁸ Minutes of the JCLE, 1743-02-01, *ibid.*, fol. 1–2.

⁶⁹ Rosen’s memorial was called a “declaration” for the first time in historiography in the last quarter of the nineteenth century: VIGRABS, *Die Rosensche Deklaration*, p. 20.

However, in the context of similar cases, the case of Fonal was exceptional in that the vice-president Carl Ludwig von Mengden decided not only to seek an opinion on the extent of landlords' powers over their serfs from Reval (to which Fonal's manor belonged administratively), but also from the provincial government of Livland and the High Court in Riga.⁷⁰ Both the provincial government of Livland and the High Court wished to include the Livonian nobility in the process of replying, on the grounds that the issue concerned the privileges and rights of landlords.

Juris Vīgrabs vigorously opposed the idea that Rosen's declaration was merely a formal "clerical matter," as argued by Hermann von Bruiningk in 1880.⁷¹ Instead, he tried to show that it was a comprehensive official statement on the position of the nobility.⁷² However, comparing Rosen's statement with other similar explanations sent to the JCLE in response to inquiries made during the second third of the eighteenth century, in St Petersburg Rosen's view was considered quite routine. In fact Rosen's account was no more significant for the college than the position taken by the Estonian Supreme Court in 1740, registered by the JCLE in St Petersburg on exactly the same day as Rosen's.⁷³ In 1743 the lord of Fonal, Hinrich Baer, maintained the same position in his letter to the Empress: everything, apart from a peasant's life, belonged to the lord according to the privileges of the nobility and the law of the land.⁷⁴

However, the High Court of Livland expected that the reply by the Land Councilors of the Ritterschaft should not be just an expression of their opinion, but should rely on archival documents and records.⁷⁵ When the High Court forwarded Rosen's memorial to the JCLE it added a comment to the effect that Rosen's statements were based on the statutes and rights of the nobility as well as the latter's "established practice" with respect to their peasants.⁷⁶ The two key documents that Rosen referred to throughout his reply were the Livonian police orders (*Lieffländische Landes-Ordnungen*) and the *Privilegium Sigismundi Augusti* of 1561.⁷⁷ In spite of some very concrete references to sources, Rosen was not very exact in his quotations; for instance, reviewing the peasant's right of complaint he makes use of county court ordi-

⁷⁰ WIHGRABS, *Die rechtliche Lage*, no. 261 (pp. 134–135); no. 264 (p. 138).

⁷¹ HERMANN VON BRUININGK: *Apoletische Bemerkungen*, in: *Baltische Monatsschrift* 27 (1880), pp. 253–272, here p. 260.

⁷² E.g. VIGRABS, *Die Rosensche Deklaration*, p. 32.

⁷³ *Ibid.*, p. 50* (no. 21).

⁷⁴ Hinrich Baer to Empress Elizabeth, registered 1743-06-20, in: RA, sign. EAA.862, vol. 1, no. 815, fol. 21–26; VIGRABS, *Die Rosensche Deklaration*, p. 65* (no. 34).

⁷⁵ WIHGRABS, *Die rechtliche Lage*, nos. 273, 275–276, 279 (pp. 144–147, 150).

⁷⁶ *Ibid.*, nos. 289–290 (p. 165).

⁷⁷ Rosen attached an extract of the *Privilegium Sigismundi Augusti* (§§ 7, 22–24) to his reply: VIGRABS, *Die Rosensche Deklaration*, pp. 47*–48*.

nances from 1632 (part of the collection of *Landes-Ordnungen*) in a very arbitrary and selective manner.⁷⁸

A more restrictive legal document that Rosen cited was the Livland rules for the oeconomy officials of 1696 (*Reglementet för Oeconomie-betienterne sampt Arendatorerne och bönderne på Cronegodzen i Lifland*), which had been retained as a basic regulation for the crown estates from the Swedish period. However, Rosen emphasized that private lords were not constrained in setting peasant obligations because the “rules of oeconomy establish the norm only for the possessors of public manors.”⁷⁹

In any case, despite his many references to legal sources, Rosen’s reply very much reflected the contemporary ingrained views of the nobility. The Rosen Declaration was a mixture of legal opinion and ideological construction. Rosen added references where possible, and attached extracts from copies of nobles’ privileges. But the issue of serfdom remained an emotional one, and could not be dealt with in a purely legal manner. It is of no consequence whether Rosen drafted his reply alone or on behalf of the entire Ritterschaft (as Viġrabs tried to prove and officially Rosen did reply on behalf of the Livland Ritterschaft), since the traditional perception of peasant status was widely shared among the nobility both in Livland and Estland. In fact, when later cameralist and enlightened critics began to attack Livonian serfdom they depicted the status of the Livonian peasantry in rather the same way as Rosen, or even worse (for example, Rosen never called peasants slaves, nor equated them with animals).

Rosen did not speak of the total power of lords over their peasants, but admitted many limitations. Politically, however, he always added that these limitations derived from the generosity of the nobility, stressing the independence of the Ritterschaft. However, at the end of his declaration Rosen recognized in a remarkably direct manner the supreme interests of the Imperial Majesty over private lords, limiting the latter’s arbitrary power over their peasants. The relationship between the manor and the peasantry was in principle accepted by Rosen as one that must also involve the interests of the state, an aspect that has hitherto been ignored in the historiography. Rosen seemed to accept that the lord’s powers were limited in this way so that his activities would not harm the interests of the crown.⁸⁰ Nor did he deny that the noble estates would be subject to revision made by the state until the

⁷⁸ VIĖRABS, Die Rosensche Deklaration, p. 47*; cf. Liefvländische Landes-Ordnungen nebst dazu gehörigen Placaten und Stadgen, Riga 1707, pp. 57–58; LEONID ARBUSOW: Das Bauernrecht des sog. Budberg-Schraderschen Landrechtsentwurfs von 1740 in ursprünglicher Gestalt, in: Mitteilungen aus der livländischen Geschichte 25 (1933–1937), 4, pp. 377–404, here p. 383.

⁷⁹ VIĖRABS, Die Rosensche Deklaration, p. 46*.

⁸⁰ [...] die Ritterschaft ihre [Rechte] über derer Erbbauren Person und Vermögen sowohl in Ansehung auf die von ihnen zu leisten seiende Pflichten und Gerechtigkeiten als die Bestrafung und Privatcastigation dererselben Vergehen derart exercieret, daß I. Ksl’en Mt höchstes Interesse auf keine Weise präjudicieret werde: Ibid., p. 47*.

number of cultivated fields reached the level that had prevailed under Swedish rule (ad 3). Furthermore, he admitted that lords had no power of life and death (*jus vitae et necis*) over his peasants (as foreseen in the *Privilegium Sigismundi Augusti*); according to Rosen, the Ritterschaft itself had relinquished this power and accepted the limits of moderation in disciplinary corporal punishment (ad 4).⁸¹

However, Rosen's explanation was also partly based on Roman law. That is particularly clear when it comes to the denial of peasant property rights.⁸² He almost cites verbatim the maxim *accessorium sequitur principale* ("the accessory follows the principal") as stated by Ulpian, and then later even more clearly by Thomas Aquinas and in Canon Law.⁸³ His argument that everything acquired by a peasant is acquired by the peasant's lord is based on the principles of slavery in Justinian's Institutes.⁸⁴ In 1739, in the same year as Rosen's memorandum, the Chamber Office (later Chamber College) for Livland and Estland Affairs received a very similar statement from Sigismund Adam von Wolff, who maintained that, according to existing rights in Livland, everything "a slave acquires, he obtains for his lord."⁸⁵ In fact, no law or regulation in Livland directly confirmed a peasant's right to his movable property before 1765.⁸⁶ Rosen applied Roman Law as subsidiary law. All the same, the understanding that a peasant could own no property, and that even his movable property could be seized by his lord, was very widespread across the whole of the East Elbian region.⁸⁷ In the Baltic provinces during the seventeenth century, landlords repeatedly emphasized their view that peasants owned nothing. For instance, in Estland Wilhelm Johan Taube, lord of the manor of Kirdal, declared in 1697 to the Governor-General that a peasant's complaint against him that he had taken everything from him was nonsense, because the peasant personally had nothing; everything belonged to the farm-

⁸¹ Ibid., pp. 45*–46*.

⁸² See also SCHWABE, p. 262.

⁸³ Rosen: [...] *die Habseligkeit des Bauren, so auf und von der Herrschaft Güter erworben wird, dem "principali," nämlich der Person des Bauren, als ein "accessorium" folgen müsse*: VIGRABS, Die Rosensche Deklaration, p. 45*. Cf. Dig. 34.2.19.13: *ut accessio cedat principali*.

⁸⁴ Rosen: [...] *der Baur nichts sich selbst, sondern seiner Herrschaft alles "acquiriret"*: VIGRABS, Die Rosensche Deklaration, p. 45*. Cf. PAUL KRUEGER (ed.): *Iustiniani institutiones*, 3rd ed., Berlin 1908, p. 13 (Inst. 1.8.1): *quodcumque per servum acquiritur, id domino acquiritur*.

⁸⁵ ZUTIS, *Politika tsarizma*, p. 186.

⁸⁶ ARBUSOW, pp. 384–386; BENNO ĀBERS: *Piezīmes par latviešu zemnieku tiesībām uz kustamu mantu 18. g.s.* [Notes on the Rights of Latvian Peasants to Movable Property in the 18th Century], in: *Latviešu vēsturnieku veltījums profesoram Dr. hist. Robertam Viperam*, Rīga 1939, pp. 189–206, here p. 189.

⁸⁷ See e.g. WOLFGANG PRANGE: *Die Anfänge der großen Agrarreformen in Schleswig-Holstein bis um 1771*, Neumünster 1971, pp. 574–575, 596; LIESELOTT ENDERS: *Die Uckermark: Geschichte einer kurmärkischen Landschaft vom 12. bis zum 18. Jahrhundert*, Weimar 1992, p. 455.

stead that Taube had benevolently allotted to the peasant for his use.⁸⁸ In 1699, Moritz Wrangell, a nobleman from Saage in Estland, considered it perfectly justified and in accordance with established practice that the lord had the full right to take a farmstead and its inventory away from a disobedient and useless peasant because everything that the peasant had ever had had been acquired on the land of the manor. Hence, if such a peasant complained, he would be punished as a warning to others.⁸⁹ It was widely understood that the lord could, at his own discretion, give the peasant a farmstead and then take it away again and give it to another peasant.⁹⁰

Rosen's memorial was not therefore a provocation or a bluff. It represented a traditional way of thinking on the part of the nobility during the seventeenth and eighteenth centuries. Even if one can agree with some earlier historians that Rosen's memorial had little effect on the decisions of the JCLE regarding the case of the Fonal miller Jaan,⁹¹ there is no reason to doubt that Rosen's views were accepted in St Petersburg. All such statements regarding serfdom made by the Baltic provinces were taken seriously by the JCLE during the 1730s and 1740s, as we have seen. But this does not mean that Rosen's memorial had any wider legal consequences. The status of peasants in the Baltic provinces was rendered neither better nor worse on account of the Rosen declaration. It became just one more document among thousands of others in the archives of the JCLE. When, in July 1740, the JCLE finally made its decision, neither Rosen's nor any of the other statements elicited from Riga and Reval were referred to; only the earlier district court decision on the case was ap-

⁸⁸ [...] *er nichts eigenes hat noch besizet, sondern alles dem Gesinde (worauff ich ihm nur aus vergünstigung und so lange es mir gefällt gesetzet) zukommt*: Wilhelm Johan Taube to the Governor-General of Estland, 1697-08-16, in: RA, sign. EAA.1, vol. 2, no. 579, fol. 23.

⁸⁹ *Vor Alters her im Gebrauch gewesen, daß ein FrälseMan oder Erb-Herr Freyheit hätte denen ungehorsahmen Bauren das ihrige zu nehmen, und dann, wann Sie nichts gutes thun wollen, endl. wegzujagen*: Moritz Wrangell to the vassal's court of Wierland-Jerwen, registered on 1699-02-25, in: RA, sign. EAA.861, vol. 1, no. 1791; copy in: RA, sign. EAA. 862, vol. 1, no. 509. See also SALUPERE, Hinrich Baeri, p. 41, where the case has been wrongly associated with the manor Sagadi. Moritz Wrangell owned the private manor of Saage (Est. Kuusiku; parish of Rappel). Unfortunately, I myself confused the earlier complaints of the peasants of Saage (Kuusiku) with the manor of Sage (Saha): SEPPEL, Liivi- ja Eestimaa talupoegade kaebereisid, pp. 365–366, 376, 382, 397. The same mistake in KERSTI LUST, ENN KÜNG et al. (eds.): *Ajalooarhiivi varasalvest: Dokumente Eesti ajalooost Rootsi ja Vene ajal (17.–20. sajandi algul)* [From the Hoard of the Historical Archives: Documents on the History of Estonia in Swedish and Russian Times (17th – Early 20th Centuries)], Tartu 2011, no. 23 (pp. 106–108).

⁹⁰ See also WIHGRABS, *Die rechtliche Lage*, p. 32; KARL PHILIP MICHAEL SNELL: *Beschreibung der russischen Provinzen an der Ostsee*, Jena 1794, pp. 114, 173.

⁹¹ ZUTIS, *Politika tsarizma*, p. 185; SALUPERE, Hinrich Baeri, p. 40.

proved, and therefore the application made by the miller Jaan was turned down.⁹²

The Legal Clarification of Serfdom by the Estland Nobility in 1746

In the 1930s Juris Vīgrabs argued strongly that the Rosen declaration was not only an expression of the aspirations of the Livonian nobility, but was also used by the Russian central government in St Petersburg as a guide in defining legal relations between landlords and peasants in Livland and Estland.⁹³ Vīgrabs' position was subsequently accepted by official Soviet historiography.⁹⁴ However, Vīgrabs failed to provide any supporting evidence from the sources. Nor did the JCLE ever cite Rosen's memorial when serfdom issues were raised. When St Petersburg subsequently raised questions about lord-peasant relations in the Baltic provinces there was never any reference to the Rosen declaration; inquiries were simply made again to Riga or Reval. This happened in 1746 when the Chamber College for Livland and Estland Affairs asked the Ritterschaft of Estland for legal clarification regarding the competence of the nobility to sell, gift and set free their bondsmen (*Erb-Bauren*).⁹⁵ Unfortunately, the background to this Chamber College inquiry is unknown; but Axel Gernet, who first discovered the response in the archives of the Ritterschaft of Estland, may be right when he associates St Petersburg's interest with the ongoing land revisions to landholding, since the state taxes paid by a manor were based on the number of working men established in these revisions.⁹⁶

The Estonian nobility's reply to the Chamber College, written by the Head of the Ritterschaft Magnus Wilhelm von Nieroth, is almost as remarkable a document as the Rosen Declaration. It made heavy reference to the nobility's privileges and to land laws while clarifying landlords' rights over their peasants, but none of the legal sources used to support the existence of serfdom in

⁹² VĪGRABS, Die Rosensche Deklaration, pp. 51*–52* (no. 22).

⁹³ Ibid., p. 119; JURIS VĪGRABS: Aufgaben und Ergebnisse der Erforschung der Lage der Bauern in Livland und Estland im XVIII. Jahrhundert, in: *Conventus primus historicorum Balticorum*, Rigae, 16.–20. VIII. 1937: Acta et relata, Rigae 1938, pp. 492–500, here pp. 494–495.

⁹⁴ GUSTAV NAAN, ARTUR VASSAR (eds.): *Eesti NSV ajalugu* [The History of the Estonian SSR], vol. 1, Tallinn 1955, p. 433; JUHAN KAHK, ARTUR VASSAR (eds.): *Eesti NSV ajaloo lugemik* [Reader of the History of the Estonian SSR], vol. 1, Tallinn 1960, p. 260. See also MATI LAUR: *Talurahva olukorrast 18. sajandi Liivimaal* [On the Status of the Peasantry in 18th-century Livland], in: *Kleio: Ajaloo ajakiri* (1996), 2 (16), pp. 12–18, here p. 12.

⁹⁵ The Head of the Ritterschaft of Estland to the Empress, 1746-03-01, in: RA, sign. EAA.854, vol. 2, no. 661, fol. 239v.

⁹⁶ GERNET, p. 41. See ILO SILDMÄE: *Feodaal-pärisorjusliku tootmise ja feodaalrendi dünaamikast Eestimaal XVIII sajandil* [On the Dynamics of Feudal Serf Production and Feudal Rent in Estland in the 18th Century], Tartu 1962, pp. 48–50.

Estland were the same as those Rosen had used in his argumentation about Livland. Nonetheless, the tone and basic understanding of lord-peasant relations were very similar in the two documents. When it came to legal explanation of the initiation of serfdom, both Rosen and Nieroth referred back to the conquest of Livonia in the twelfth–thirteenth centuries. Rosen stated: “As far as the domination of hereditary lordship over their bondsmen is concerned, this was founded when this land was first conquered.”⁹⁷ And Nieroth maintained: “This kind of competence and freedom [to sell, gift and set free their serfs] belonged to the nobility of this dukedom even *ex capite juris gentium* 700 years ago (*von 700 Jahr her*).”⁹⁸ Nieroth directly pointed out that Estland serfdom originated in war over Livonia, for Roman Law and *ius gentium* treated the fate of captives as one common to all nations. Obviously, Rosen presumed the same legal foundation for serfdom in Livonia.⁹⁹ Any such explanation regarding the origins of serfdom in Livonia was quite traditional, expressing the common view held in the seventeenth and eighteenth centuries that the Teutonic Order had not only made the indigenous people Christians, but also enserfed them.¹⁰⁰ It was not nineteenth-century Estonian and Latvian nationalist writers who created the myth of 700 years of slavery in Livonia; this was already a cornerstone of the Baltic nobility’s apologia in the eighteenth century. It is also noteworthy, then, that, already in the eighteenth century, the people had been speaking of “700 years,” although this would take us back 200 years before the conquest of Livonia. This again emphasizes the emotional side of this apologia for serfdom.

More concretely, Nieroth referred to the 1525 confirmation of vassal privileges by Wolter von Plettenberg, the Master of the Livonian branch of the Teutonic Order, which conferred the highest penal authority (*an Hals- und Hand Gerichte [...] in Sachen, die Leib und Leben angehen*) on a nobleman within his manor.¹⁰¹ This right of capital punishment with respect to peasants was approved in the provinces in 1550, 1552, 1558, and 1559, as well as by

⁹⁷ VIGRABS, *Die Rosensche Deklaration*, p. 45*.

⁹⁸ The Head of the Ritterschaft of Estland to the Empress, 1746-03-01, in: RA, sign. EAA.854, vol. 2, no. 661, fol. 241v, 285.

⁹⁹ For such an interpretation of Rosen see also NIKOLAI WIKSNINSCH: *Die Aufklärung und die Agrarfrage in Livland*, vol. 1, Riga 1933, pp. 58–59; JAAN UNDUSK: *Die schwere Aneignung der Gesetzlichkeit: Über die rechtliche Wende im Baltikum Anfang des 19. Jahrhunderts*, in: LIINA LUKAS, MICHAEL SCHWIDTAL et al. (eds.): *Politische Dimensionen der deutschbaltischen literarischen Kultur*, Münster 2018, pp. 75–122, here pp. 92–93.

¹⁰⁰ PAUL EINHORN: *Historia Lettica: Das ist Beschreibung der Lettischen Nation*. Dorpt 1649, in: *Scriptores rerum Livonicarum*, vol. 2, Riga—Leipzig 1853, pp. 567–604, 599; WILHELM CHRISTIAN FRIEBE: *Etwas über Leibeigenschaft und Freiheit, sonderlich in Hinsicht auf Liefland*, in: *Nordische Miscellaneen* (1788), 15/17, pp. 744–768, here p. 752; UNDUSK, pp. 96–97; VIGRABS, *Die Rosensche Deklaration*, p. 56; SEPPEL, *The Semiotics of Serfdom*, p. 53.

¹⁰¹ The Head of the Ritterschaft of Estland to the Empress, 1746-03-01, in: RA, sign. EAA.854, vol. 2, no. 661, fol. 240–240v.

Swedish Kings in 1561, 1570, 1594, 1600, and 1617. However, from 1570, executions could only take place in the presence of the royal governor,¹⁰² and Nieroth had to admit this restriction.¹⁰³

Another central legal source that Nieroth cited was the 1650 Land Law (*Ritter- und Landrecht*) of Estland, later known by the name of its compiler—Philipp Crusius’ codex. Nieroth pointed out that the first article in Section 18 of Book Four refers to the landlords’ “unlimited ownership” of their peasants.¹⁰⁴ Hence, Nieroth concluded that landlord-serf relations in Estland were in all respects comparable with Roman doctrine on slaves, freemen and freedmen (*was in sothanen Rechten in der doctrin de servis libertis und libertinis anzutreffen seyn möchte*).¹⁰⁵

The volume including the minutes of the 1746 Ritterschaft meeting includes both a fair copy and a draft of Nieroth’s response. The draft shows that, following the first version of this legal clarification, a very remarkable addition was made, and a quote inserted from legal sources in the neighboring province of Livland. The Ritterschaft appears to have understood that the laws of Estland did not say anything directly about the rights of lords to set their serfs free. But there was such an article in Livonian Land Law: “All have discretion to free their bondsman using either the district court or letters of relief, and children subsequently fathered by him [i.e. this freed bondsman] also remain free people and are not bound to the lord.”¹⁰⁶

Nieroth concluded on behalf of the Ritterschaft of Estland that “every hereditary lord is authorized to do with his property whatever he wishes and [thus] also to sell, gift and set free his serfs (*seine Leibeigene*) as he pleases.”

¹⁰² Ibid. For a clear outline of the historical privileges of the Ritterschaft of Estland, including the nobility’s right of high justice, see JOHANN PHILIPP GUSTAV EWERS: *Des Herzogthums Ehsten Ritter- und Land-Rechte: Sechs Bücher*, Dorpat 1821, pp. 23–34.

¹⁰³ The Head of the Ritterschaft of Estland to the Empress, 1746-03-01, in: RA, sign. EAA.854, vol. 2, no. 661, fol. 240–240v.

¹⁰⁴ Ibid., fol. 240v. Nieroth quoted here the aforementioned article: *Die Erb-Bauren und die von ihnen geboren werden, imgleichen ihre Haabe und Güter sind in ihrer Herrschaft Gewalt*. The quote is very exact, cf. EWERS, p. 380. For its application in the eighteenth century, see HESI SIIMETS-GROSS, KATRIN KELLO: *Plurality of Legal Sources in Trials Concerning a Person’s Status at the End of the 18th Century*, in: MARJU LUTS-SOOTAK, IRENE KULL et al. (eds.): *Legal pluralism—cui bono?*, Tartu 2018, pp. 55–75, here pp. 58–60.

¹⁰⁵ The Head of the Ritterschaft of Estland to the Empress, 1746-03-01, in: RA, sign. EAA.854, vol. 2, no. 661, fol. 241.

¹⁰⁶ Ibidem, fol. 240v–241, 284–285. Nieroth quoted here rather freely the two last articles (§§ 8–9) from book 2, title 11 of “Hilchen’s Land Law” of 1599: *Latvijas Valsts vēstures arhīvs (LVVA)* [Latvian State Historical Archives], Riga, sign. 4038, vol. 2, no. 689, fol. 34v (D. Hilchen: *Lieffländische Land-Rechte*). The same articles can be found also in Engelbrecht von Mengden’s draft “Livonian Land Law” of 1643 (chapter 5, book 1, §§ 18–19), in: LVVA, sign. 4038, vol. 2, no. 537, fol. 11 (Engelbrecht von Mengden: *Land-Recht des Fürstenthums Livland*). Neither land law was ever officially approved or published.

He also emphasized that all the privileges, freedoms and customs of the Estland nobility had been confirmed by the Empress and all her predecessors.¹⁰⁷ Nieroth's response proves once again that, in the mid-eighteenth century, serfdom in the Baltic provinces was neither explicitly defined nor written down in law. To answer a very simple question about the sale and release of peasants—something that should be one of the key features of serfdom—the Ritterschaft had to cite many different legal sources, although none of them directly conferred such rights on the nobility. Only indirect evidence could be quoted.

Conclusion

Unlike during the previous period of Swedish rule, up until the reign of Catherine II the Russian administration showed little interest in serfdom in its new provinces of Livland and Estland. No initiative from the central government was ever made regarding serfdom in the Baltic provinces before the 1760s. But when provincial peasants' complaints were made in the capital the central government paid attention to the status of the peasantry. This was not treated as only a local provincial matter, as emphasized in the historiography.¹⁰⁸ During the 1730s and 1740s the rights of the peasants of Livland and Estland were discussed several times in the JCLE, although only in the context of a concrete complaint or a case. All the same, this means that the central government did not entirely ignore the issue of serfdom in the Baltic provinces.

By the mid-eighteenth century there was still no regulation or code that described in full the rights of local lords over the peasants of the Baltic provinces. Some elements of serfs' unfreedoms were legally defined, but not the institution of serfdom in itself. At this time, the Russian authorities did not engage in sanctioning the institution of serfdom as a whole in the provinces of Estland or Livland, treating serf relations as only a part of the existing manorial economy. Surviving material and minutes of the JCLE show that St Petersburg did not pursue any independent understanding or policy regarding peasant status. As a rule, their views were formed on the basis of explanations elicited from the Baltic provinces, which the JCLE accepted. The Rosen Declaration is just one such explanation, and therefore deserves no special emphasis. Of course, the provincial government and the local nobility were well aware that the statements they made would form the basis for any decision by

¹⁰⁷ The Head of the Ritterschaft of Estland to the Empress, 1746-03-01, in: RA, sign. EAA.854, vol. 2, no. 661, fol. 241.

¹⁰⁸ LAUR, *Eesti ajalugu*, IV, p. 194; ANDRES ANDRESEN: Can a Clergyman Possess Serfs? The Interventionist State and Particularistic Privilege Clashing in the Courts of the Estland Province during the Regency Era (1783–1796), in: MARJU LUTS-SOOTAK, FRANK L. SCHÄFER (eds.): *Recht und Wirtschaft in Stadt und Land / Law and Economics in Urban and Rural Environment*, Berlin—Bern 2020, pp. 25–36, here p. 26.

the JCLE. This was in contrast to the previous period of Swedish rule, where Stockholm had pursued an independent policy on the issue of serfdom during the last two decades of the seventeenth century, which in some aspects differed majorly from the attitudes of the local Ritterschaften.

Serfdom was not only a legal, but above all a social and cultural institution. No doubt serfdom has many, equally important layers, and one cannot ignore the fact that the topic of serfdom has always involved emotions, prejudices and labels. At the same time, dominant ideologies and constructions of serfdom were rather similar across regions of manorial society in Central and Eastern Europe. Studying the ways in which people thought of serfdom is still one of the main ways to understand this institution. As for the views Rosen expressed concerning the unlimited power of the Livonian landlords over their serfs, they were mostly unoriginal, and already widespread among the seventeenth-century nobility. All the local legal sources Rosen and later Nieroth quoted dated exclusively from the sixteenth and seventeenth centuries. Although serf relations in Livonia were not so pervasive, the local nobility still interpreted their power over their peasants as something very absolute. This was not unique to Livonia, but was a rather typical attitude for landlords in the entire East Elbian region.¹⁰⁹ The Rosen Declaration was a document in which the nobility clearly expressed its views, but which had very little legal, administrative, and historical significance. Above all, it stands as a historiographical landmark.

¹⁰⁹ It can be considered a widespread and common phenomenon that landlords exaggerated when talking about their power and rights over serfs, cf. e.g. the case of thirteenth-century England: CHRISTOPHER DYER: *Villeins, Bondmen, Neifs, and Serfs: New Serfdom in England, c. 1200–1600*, in: PAUL FREEDMAN, MONIQUE BOURIN (eds.): *Forms of Servitude in Northern and Central Europe: Decline, Resistance, and Expansion*, Turnhout 2005, pp. 419–435, here p. 428.

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