

# WILLS – AN ALTERNATIVE SOURCE FOR GENEALOGY

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Different names were used in the history of the Kingdom of Poland: “Disposition of property in case of death”, “Last will of disposition”, “Statement of last will”, or “Act of last will”. Testamentary bequests have been known in the history of Poland since ancient times and as the centuries passed they became more and more popular, with a wave of growth at the end of the 15th century. Wills dealt with all social strata and representatives of the professions. They were most common, however, among townspeople and the nobility. Wills were even written by the bankrupt who entrusted or transferred their property to their creditors. The purpose of wills was primarily to arrange property matters and consequently to establish heirs. The main reasons for writing down wills were a desire to secure the property according to their intention; bad health; fear of raging plague; and other threats to life.

The historical value of wills is inestimable. In the best cases, we can expect information about material resources as well as genealogical data, often embellished with surprising knowledge of ancestral life. They show various aspects of the lives of testators and their families. Apart from their social and life status, wills sometimes reflect family ties, strong emotions, conflicts, characters. This is a source of knowledge we cannot find in ordinary registry records.

A great many wills have been preserved in the State Archives, and more and more are available online. I have accessed collections of Poznań townsmen’s wills from the 16th–17th centuries, from Kazimierz nad Wisłą and Kraków from the 17th–18th centuries, and from the Kingdom of Poland during the Napoleonic Code period. The wills were written by the local *rejenty* or regents, later called *notariusze* [somewhat like our notaries, but with a wider range of duties], in town and district offices, in the offices of mayors and councilmen, but also in the privacy of one’s home by local clerks.

The oldest formula of wills, up until the end of the 18th century, was modeled on Magdeburg law and did not differ from that used in other European countries. In the late Middle Ages, the law regulated the rules of inheritance, obligatorily dividing the estate due separately for daughters (so-called *gerada*) and sons (*hergewet*). The property of spouses was also kept separate; wives were only allowed to inherit from their husbands in case of lack of progeny. However, this principle did not diminish the position of women who, if they were enterprising and strong in character, could manage their lives independently of the will of their husbands or family.

Parent-child relationships are characteristic. Multiple marriages resulted in offspring from different parents. Children are mentioned with the names and surnames of their parents or a numerical designation—born of the first, second, or third relationship. In order to care for minor children, the testator provided guardians for them in the event of his death. There were cases of bequests to children not yet been born, so-called *pogrobowcy* (posthumous children).

Sometimes, wills contained conditions and even threats. For example, if a descendant did not finish school or improve his behavior, he would not inherit or receive the minimum amount of money necessary to survive. Testators even gave detailed instructions as to their children’s future.

Threats were also directed by husbands against people who might slander their widows in the

future, “so that no one will cause my wife trouble after my death under the threat of God’s judgment and curse...” In this way, loving husbands protected their wives from bad relationships with relatives or neighbors. Similar bequests were made for mothers protecting children from previous husbands. The phrase *nie turbować*, “not to cause trouble,” was commonly used in wills from Kraków and Kazimierz.

Close family members were not the only potential heirs, although in terms of percentages they were foremost. Approximately 80% of Poznań testators from 1572 to 1660 transferred their property to church institutions. What is interesting is that in the next century this percentage turned in favor of the family.

There are wills where the main heirs were distant relatives or persons not related at all, such as foster-children, friends, servants, local statesmen... The most important determining factor was not the degree of kinship but a cordial intimacy and trust. There were bequests relating to property which the testator had bestowed on the family earlier, disputing his later dispositions. Wills involving disinheritance were isolated cases.

All the testators, without exception, were obligated to formulate a statement that confirmed their good mental health and came at the beginning of their wills: “I remain in good health and sound of mind”, “being of a clear and conscious mind,” and so on. Then came an expression of general awareness of inevitable death, for example, “...knowing that the day of death is inescapable, that he who is born must die.....”

Another common feature of old Polish wills was the significant reference to faith and the Church. Religion was an important, even integral part of life, and almost all wills are marked by testimonies of piety to a greater or lesser degree. The title of the wills in Poznań proclaimed, “In the name of the Holy Trinity, Father, Son, and the Holy Spirit” and from there proceeded to the substance of the will. In the wills of Kazimierz, the testimonies of piety are much more extensive in relation to the content of the total document, usually demonstrated in the first part of the bequests.

Thus, from the testament of Grzegorz Gruszczakowic, 18 April 1709, we read: In the name of the Holy Trinity, Father, Son, and Holy Spirit. To begin with, as I was born and raised in the holy Catholic faith, and I wish to die in it. I commend my soul to the Lord God Almighty in the Holy Trinity, asking that he will accept it that through the deep merits of the Lord Jesus and through the cause of the Blessed Virgin Mary and all Saints. And I give back my body, which came from the earth, back to the earth, and ask that it be buried in the cemetery at Florian’s Church. Of my estate granted me by the Lord God I make this disposition. For funeral Masses one hundred złotych, and if God should take me from this world during a time of plague, and all this cannot be done at the funeral, I would ask that one hundred złotych be given for Masses and for the poor, twenty złotych for wine for Mass, twenty złotych for the Brotherhood of the Poverty of Christ the Lord twenty złotych...Then he lists the family heirs, their shares, and finally appoints the executors.

The forms of expression of the testators’ piety differ, and speak to their personal preferences as regards their favorite saints and their religious commitment.

Of course, the most important part of wills were the provisions concerning the disposition of property itself, reflecting the material condition of the deceased and his family. An average peasant bequeathed a farm with agricultural buildings, equipment, and farm animals. An average craftsman or nobleman had cash, jewels, furs, and silverware, as well as landed property. Pearls and gold

from jewelry were often exchanged.

We will learn the details about items of the estate from the inheritance records drawn up after the death of the testators by the wills' executors. I have, however, found wills in which the testators listed their accumulated goods precisely. Let us use as an example an entry from 1676 from the will of Dorota Bukowiecka, the widow of a craftsman and innkeeper in Kazimierz. She had six hundred złotys in cash and four "red" złotys (*czzerwony złoty* was the former name of gold coins, comparable to ducats) hidden in a small box at the head of her bed. Then she mentions, in turn: two silver tablespoons; one gold ring; one gold wedding ring; six pots; a copper colander; two lids; three iron spits with hoops; a *muszkiet kątowy* (shotgun); some malt in the shop; a cerise skirt made from Turkish mohair; a second skirt made of *forsztat* (an oriental silk fabric); two pairs of everyday trousers; a black *kontusz* (a kind of robe typically worn by nobles) with fur; a skirt lined with lamb's fur; tableware worth twelve złotys; seventeen items of cotton; six shirts; three white aprons; four bed linen and *piierzyny* (feather comforters or quilts); seven pillows; two large sheets, one decorated with embroidery; three white bed covers; one Turkish quilt; fifty-three ells of linen cloth; eight large paintings; seven small ones; three large chests; a wardrobe with all locks; two beds, one with a base; two tables; three cows; two hogs; five hens; and two ducks. (There was more, but I have omitted items with names I could not understand or read.)

In the wills of craftsmen, there are often bequests for the poor, named first among the recipients. On 16 February 1692, Jadwiga Bukowiecka designated fifty złotys for five dinners for the poor, that is, ten złoty for each of five dinners—which, by my estimation, amounted to less than half a percent of the value of the whole estate. In this way, wealthier testators wanted to show their obedience to the teachings of the Church, and in the case of symbolic donations, wanted to satisfy their own conscience or to gain grace at the Final Court.

Some testators gave detailed instructions about their funeral and burial place. Here, the law allowed for free choice of the burial site, as opposed to the funeral site assigned to the parish where the death occurred. Among the craftsmen of Kraków, the Cemetery of the Reverend Carmelite Fathers in the Piasek section of town was a popular choice.

However, the choice of the executor of the last will, which was unrestricted until the beginning of the 19th century, was limited by Napoleon's Civil Code, which absolutely excluded relatives (up to the fourth degree of kinship) so that no abuse could occur. As a rule, trustworthy public persons were designated as executors (councilmen, mayors, bachelors, priests).

During the years 1808–1825, Napoleon Bonaparte introduced revolutionary changes in the Polish legal system, and these also applied to the provisions of wills. He dealt with inheritance in two main categories, reserved and disposable. In other words, the family had a guaranteed share in the inheritance, apart from which the rest of the estate could be disposed of according to the deceased's will. The reserved part guaranteed succession to legitimate, entitled and adopted children. A particular percentage of shares depended on the number of children; an only child was guaranteed half of the estate, while two children got seventy percent, and more shared seventy-five percent.

The Napoleonic Code narrowed the right of inheritance solely to blood ties, thus excluding spouses as statutory heirs. It was not until the Civil Code of the Kingdom of Poland (from here on CCKP) that the civil code secured for spouses the necessary inheritance, arguing that they had managed a farm together and raised children together. Here, the spouses inherited in equal parts with their children, except that the part inherited to the spouse could only be used during the

spouse's lifetime. The CCKP gave the testator the opportunity to limit the spouse's share in the inheritance; the statutory half could be reduced by another fifty percent. The spouse could inherit everything if there were no descendants or any relatives of the deceased spouse.

Returning to the Napoleonic Code, its contribution to Polish civil law is momentous and crucial. In regard to wills, however, the ambiguous terminology of the three categories of wills is discouraging: 1) General bequest, 2) Bequest under a general title, 3) Bequest under a special title. I suppose that the intricate and rigorous paragraphs were not very widely used. For example, the Napoleonic Code required that wills be signed by testators and witnesses with their own hands, and legibly enough that there was no doubt about their identity. However, I find wills with three crosses where names were supposed to be written. Napoleon probably did not know that illiterate people made up the overwhelming majority of Polish society.

Law and life also diverged in other fields. It happened at that time that notaries broke the law by practicing outside their limited territorial administration or by making wills for their relatives or for their relatives.

The Napoleonic Code imposed an obligation on third parties to participate in the drafting of wills: two notaries and two witnesses, or else one notary and four witnesses. According to paragraph 980, an adult man and citizen of the Kingdom could be a witness. In this case, Napoleon excluded women, legatees, their relatives, and foreigners. He also introduced the right to *redukcja* or reduction of wills; that is, creditors had the right to protest against the will if it reduced the share due them. This applied when the estate at the time of writing the will was much larger than at the time of death. The Napoleonic Code precisely indicated the method of calculating the real value of the assets.

Handwritten wills written without witnesses and without notaries were honored in the Napoleonic Code according to conditions stated in paragraph 970: "A hand-written will is not valid if it is not written in full, dated, and signed by the testator's hand..." Any additions or deletions invalidated the bequests. Persons holding such wills had to produce them before the Court of First Instance of the district where they were authenticated. This requirement was maintained by the later Civil Code of the Kingdom of Poland.

The *Dziennik Urzędowy Województwa Lubelskiego*, the Official Gazette of the Province of Lublin, 8/20 September 1836, included decree No. 38: "Decree of the Civil Court of First Instance to all mayors and commune heads, to submit wills of deceased persons to the President of the Court, represented by the appropriate Regents."

The CCKP clarified the paragraph on the clarity of wills. The text had to be legible, written without interruption, breaks, or abbreviations, and the numbers had to be given in verbal form. However, the level of education of the person drawing up the will had a definite impact on the content and form. Therefore, among the wills there were some that were unreadable, sloppy and of a low degree of linguistic correctness.

The arrangement of wills under the Napoleonic Code and CCKP was similar. In the heading were given the town, date, first and last name of the notary, and his place of residence. Next came the testator's data: surname, marital status, place of residence, witnesses' data; first name/surname, place of residence (they had to live in the same region). Only then came the disposition of property, designation of executors, and, finally, signatures.

As a rule, the genealogical data in wills will not include birth or marriage dates; sometimes they indicate age. And they do not deal only with living people. Justyna Korowska's testament,

written down on 21 November 1908 in Zamość, gives information on her late first husband, Józef Lisawacki; about her living second husband, Józef Romuald Korowski; about her brothers, the Carmelite monk, Tomasz Lutomski, and Jędrzej Lutomski; about her deceased mother, Rozalia Lutomska; and about her son from her second marriage, Adam Korowski. It does not give the names of children from the first marriage who had already been secured.

The 1712 will of Zofia Markowicowa née Klikowska, who was at the time the wife of Jakub Markowic and who had been ill for several months, describes her life up to that point. By her first marriage she was the widow of Wojciech Bossakowic, with whom she had a daughter, Katarzyna. As soon as she became a widow, her stepson drove her out of the house. She sought justice from the court and the castle, in vain, wandering around Kazimierz for a long time, until she met Jakub Chrostkowic in Podzamcze. She married him and they had three daughters, two of them being Anna and Teresa; they all died. And even though her second husband provided her with a dowry, she again became a widow with no property. Fortunately for her, she got married for the third time; but she soon became very ill.

As a dessert, let me serve up a very funny will from 1744, printed as a curiosity by the *Warsaw Courier* on 13 April 1824 in the memories section:

.... a certain Kasper Tuczyłkowski, a citizen of Warsaw, left a legacy in his will: to my elder brother, Jan, I bequeath forty *Węgrzynów* [Hungarians]; to my second brother, Józef, four *Francuzów* [Frenchmen]; to my youngest, Antoni, two *Arabów* [Arabs]; to my uncle, Rottman, one *Turka* [Turk] and one *Janczara* [Janissaries]; to his son, Karol, four *Niemców* (Germans); to my daughter-in-law, Anna, seven *Barbantów* [Barbants]; and to my niece, Kunegunda, eight *Włochów* [Italians]; while my son, Klemens, will take 784 *Holendrów* [Dutchmen] and the rest of the whole estate. Here is an explanation of the meanings of the strange terms. The court decided that the Hungarians were old wines, the French were French pistols, the Arabians were horses, the Turk was a saber, the Janczarek was a rifle, the Germans were Dresden porcelain cups, the Barbants were lace, the Italians were paintings, and the Dutchmen were ducats.

Now, although I have some doubts about the veracity of this will (perhaps a journalistic hoax?) because I haven't found any Tuczyłkowski in the whole Kingdom, it is impossible to deny the existence of all the mentioned names and their meanings. Products of foreign origin, numerous present in old Polish wills, are a sign of the times due to the Kingdom of Poland's location on major trade routes.

Wills can be found in *księgi grodzkie i ziemskie* (town and country registers), offices of village executives and councilmen, notaries, courts, parish documents, archives of manors and other landed estates, files of towns and *gminy* or communes, family archives, and town guilds.

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