‘OLD WAYS’ VERSUS ‘NOVELTIES’ IN THE LEGAL AND ECONOMIC SOURCES OF THE GRAND DUCHY OF LITHUANIA CA. 1450–1700

Andrei Blanutsa, Dmitrii Vashchuk

ABSTRACT Researchers investigating the sources of the history of the Grand Duchy of Lithuania (GDL) often come across the text-book phrase, *старины не рухаем, а новин не вводим* (we do not change the old ways, nor do we introduce novelties), which became a sort of motto defining central government policy in the annexed lands. This article deals with how historians have interpreted this policy claim and concludes on the basis of examinations of regional charters, and land contracts preserved in the Lithuanian Metrica that the gentry were willing to accept legal innovations as part of ‘the old ways’, when it was expedient for them to do so, whilst appealing against ‘novelties’, which did not suit their interests. Close attention is paid to changes in rights to dispose of entailed property. In conclusion the authors press for further research into this subjects as a way to understand society within the Grand Duchy better and how reforms introduced by the Lithuanian Statutes were implemented.

Researchers investigating the sources of the history of the Grand Duchy of Lithuania (GDL) often come across the text-book phrase, *старины не рухаем, а новин не вводим* (we do not change the old ways, nor do we introduce novelties), which became a sort of motto defining central government policy in the annexed lands. First of all, this phrase reminds one of a certain inviolability of the existing order (norms, rules, etc.) that was regarded generally as ‘the old ways’. Consequently, ‘novelties’ should differ principally from ‘the old ways’ since the introduction of the latter, possibly in the form of legal acts, would lead to essential transformations both in the politico-judicial and socio-economic life of particular lands of the GDL.

However, did such professed ‘conservatism’ match the realities of life? The study of this issue will be the main aim of the present paper, and legal and economic sources will serve the basis for our analysis. Various statutes, court judgements, commercial transactions in land and so forth will be the main object of research.

1. The Relevance of Old Ways and Novelties in Legal Sources

Historians in the late nineteenth-, and early twentieth centuries actually did not doubt the application of the aforementioned formula. Thus, in the opinion of Matvei Lubavskii, in the organisation of the state Lithuanian grand dukes showed 'little creative will and intellect, continuously referring to old ways and customs and therefore 'that was the legal basis of social and political relations' and in this respect it was immovable.¹ Stanisław Kutrzeba, comparing general land charters with regional ones, pointed out some main differences: (1) the latter were usually written in Ruthenian and only occasionally were they repeated in Latin, while the former were set down only in Latin, and (2) the charters guaranteed the inviolability of 'the old ways' and local custom rather than freedom and liberties for the nobility.²

Aleksandr Grushevskii paid special attention to the functioning of the institutes 'of old ways' and 'novelties'. In one of the chapters of his monograph on the old ways and novelties in the life of small towns in the fourteenth and fifteenth centuries he wrote that from the end of the fourteenth century only cities were able to defend the 'old ways'. The administration of the grand dukes was very particular about this matter and issued special charters in which the permanence of the old customs and order was assured, and any attempts by grand-ducal lieutenants to depart from the provisions of the document aroused protests from burghers, who made appeals to the grand duke.³

On the other hand, the inhabitants of small towns, who also valued their old ways, were not strong and rich enough to protect the old order from the behaviour of grand-ducal lieutenants. According to Grushevskii, the main reason for this was the fact that 'the old ways of the cities were centuries old, while those of the small towns were only decades old'.⁴ In his fundamental work

¹ M. Liubavskii, *Ocherk istorii Litovsko-Russkogo gosudarstva do Liublinskoi unii vkluchitelno* (Moscow, 1910), pp. 100–101, 295.

² S. Kutrzeba, *'Unia Polski z Litwą' Polska i Litwa w dziejowym stosunku* (Warsaw, 1914), p. 540.; idem, *Historia ustroju Polski w zarysie: Część druga: Litwa* (Lwów, 1914), p. 44.

³ The modern researcher E. Makhovenko also considers that the preservation of the internal 'old ways' in the cities, non-interference and introduction of the norms and system of the institutions of self-rule was part of the policy of the Lithuanian grand dukes. Cf. J. Machovenko, *Nelietuviškų žemių teisinė padėtis Lietuvos Didžiojoje Kunigaikštystėje (XIV–XVIII a.)* (Vilnius, 1999), p. 173.

⁴ A. Grushevskii, *Goroda Velikogo kniazhestva Litovskogo* (Kiev, 1918), pp. 18–24.

Mikhailo Hrushevskyi wrote: 'Generally, conservatism [i.e. "we do not change old ways, nor do we introduce novelties"] became a catchphrase for Lithuanian government policy... the old Russian order introduced by Russian lands into this new body politic, the Grand Duchy of Lithuania, was to be preserved without alterations'. The only condition, imposed by the government, was military service. According to that researcher, this was the cause of 'essential changes in social relations'.⁵

One of the first scholars to doubt the validity of this postulate was Aleksandra Efimenko. To her mind, Lithuanian-Russian society in the fifteenth and sixteenth centuries 'had nothing in common with the social processes of the appanage period. We see a different regime, different social relations, different institutions, different customs and habits ...'. While continually asserting that 'we do not change old ways, nor do we introduce novelties', the administration of the grand dukes violated this rule and 'introduced novelties' by gradually eliminating the variety of local life'. Nevertheless, Efimenko was not consistent in developing the above-mentioned statement: she spoke about 'two phases of the development of one and the same social organism rather than about two different societies [viz. pre-Lithuanian and Lithuanian-Russian societies, which would have been logical]'.⁶ Ivan Kryp'akevych was more critical. He considered that 'although Lithuanian dukes professed that "they did not introduce novelties", in fact it was they who *introduced essential changes* into the political practice of Ukraine by depriving Ukrainian dukes of their authority and transferring power to their own lieutenants'.⁷

In modern historical scholarship the principle 'we do not change old ways, nor do we introduce novelties' was the subject of special research by Mikhail Krom. In actual fact, it was the first serious study of this theme. The main problem was formulated in the following way: 'how could changes take place in a society, whose motto was "we do not change old ways, nor do we introduce novelties"?'.⁸

⁵ M. Hrushevskyi, *Istoriia Ukrainy-Rusy*, vol. V.: *Sotsial'no-politychnyi i tserkovnyi ustroi i vidnosini v ukrainsko-rus'kykh zemliakh XIV–XVII vikiv*. 2nd ed. (Kiev, 1998), p. 5.

⁶ A. Efimenko, *Istoriia ukrainskogo naroda* (Kiev, 1990), pp. 112–113 (republication of the 1906 edition).

⁷ I. Kryp'akevych, *Istoriia Ukrainy* (Lvov, 1990), p. 114.

⁸ M. Krom, '„Starina“ kak kategoriia srednevekovogo mentaliteta (po materialam Velikogo Kniazhestva Litovskogo XIV–nach. XVII vv.)', *Medievalia ucrainica: mentalnist' ta istoriia idei*, vol. III (Kiev, 1994), p. 68.

Interestingly, this historian noticed that ‘it was at the very time the authorities proclaimed most loudly about their adherence to the “old ways” that sweeping changes were taking place in the Grand Duchy’.⁹ Krom came to the conclusion that

the principle of the inviolability of the old ways did not at all mean precluding the possibility of any changes and innovations. It was a sort of ‘immunity’, a selective immunity – only changes, ruinous from the point of view of the population, were labelled as ‘novelties’ and were rejected; meanwhile innovations linked to benefits and privileges easily became accepted norms of life.¹⁰

One publication dealt with the reception of the norms of *Ruskaia Pravda* in the law records of the GDL. A comparative study of the charters of Novgorodok, Žemaitija, Kiev, Volyn on the one hand and *Ruskaia Pravda* on the other produced rather interesting results: the reception of the norms of the Russian judicial record was evident only in several regional charters. Firstly, it was apparent in relation to widows and children. In *Ruskaia Pravda* their privileges were presented in greater detail, while their compactness can be accounted for possibly by the existence of the norms of local law, which evidently did not require any written recording. Secondly, it was evident in restrictions on the culpable responsibility of a thief’s wife and children (in *Ruskaia Pravda* this article was applied only to serfs and with some limitations to free people, and in the Kiev privilege to the gentry). Thirdly, serfs were forbidden from serving as witnesses. At the same time, the system of jurisdiction and the articles on theft (*pro tat’bu*) in the statutory land charters had no bearing on *Ruskaia Pravda*.¹¹

Consequently, in our opinion, *Ruskaia Pravda* did not leave any permanent imprint on the regional charters of Kiev, Volyn, Žemaitija and Novgorodok. Therefore it would not be reasonable to speak about the reception of the old Russian legal heritage in the GDL.

This conclusion discredits the statement that local charters were a kind of safety measure for protecting local ‘old ways’, which went

⁹ Ibid., p. 71.

¹⁰ Ibid., p. 76.

¹¹ D. Vashchuk, ‘Retsepsiia norm “Rus’koi Pravdy” v pam’iatkakh prava Velykoho kniazivstva Litovs’kogo (na materialakh oblasnykh pryvileiv drugoi polovyny XV st.)’, *II Mizhnarodnyi naukovi kongres ukrain’skykh ystoriikiv ‘Ukrains’ka istorychna nauka na suchasnomu etapi rozvytku’*. Kam’ianets-Podil’s’kyi, 17–18 veresnia 2003 r. (Kam’ianets-Podil’s’ky, Kyiv, N’iu-Iork, Ostrog, 2005), vol. 1, pp. 136–142.

back to old Russian law¹². Thus the articles of statutory charters transmuted into nothing less than 'novelties', against which regional gentry fought so actively and at the same time petitioned a newly elected Lithuanian grand duke for local charters. Thus, the Charter of 1507, issued by Sigismund I the Old to Kiev ended in the following note: 'we do not change the old order, nor do we introduce novelties; we wish to keep everything as it was in the days of Vytautas and Žygimantas Kęstutaitis'.¹³ Additionally, the grand duke himself added several preferential articles (new ones, in comparison with the charter of Grand Duke Alexander¹⁴) at the request of the Kiev gentry: 'thus we were asked by the princes and lords and gentry of the land of Kiev, for our officials, the palatines of Kiev had introduced novelties ... and they made obeisance to us that we might remove those novelties'.¹⁵

A question naturally arises as to how this conformed with the inviolability of 'the old ways'. It seems that at the time of their granting various 'new' preferences had become 'old ways' even before standing the test of time and in accordance with the conservative declaration had not to be subject to modification. On the other hand, the introduction by local officers of some innovations disliked by the population of the region before long became the object of appeal, and according to the sources such lawsuits were often won.

A lawsuit brought by the sovereign's people and townsmen of Mozyr rural district (8 December 1510) against the local lord lieutenant, Andrei Nemirovich can serve as an example. They appealed to Grand Duke Sigismund on the grounds that his lieutenant had

done them injustice and had introduced novelties taking from them six *kopy* (360) of groats from each entail for himself for food, ordering them to cut hay for him, transport firewood, form guards against the Tatars, provide

¹² Prior to the introduction of the First Lithuanian Statute (September 1529) local charters or statutory land charters were official judicial acts regulating the internal affairs of GDL lands.

¹³ Moscow, Rossiiskii gosudarstvennyi arkhiv drevnikh aktov (RGADA), f. 389, Litovskaia Metrika, storage unit 8, fo. 214; *LM (1499–1514), Užrašymų knyga 8 (Vilnius, 1995)*, p. 242.

¹⁴ Concerning the reconstruction of the protograph of the Kiev charter, see D. Vashchuk, 'Oblasni pryvilei Kyivshchyny to Volyni: problema pokhodzhennia, datuvannia ta kharakteru', *Ukrainskyi istorychnyi zhurnal*, 1, 2004, pp. 90–101.

¹⁵ RGADA, f. 389, Litovskaia Metrika, storage unit 8, fo. 213v; *LM (1499–1514), Užrašymų knyga 8*, p. 241.

accommodation for our envoys and provide them with maintenance...'. Andrei replied that he had not done them injustice, for surely had they not spoken with him themselves about giving him six *kopy* of groats every week for food. And as for the other dues, the first lieutenants of Mozyr also required of you such services and dues because you served them and paid them tribute.¹⁶

We should note that according to the charter of 1507 unfree people had to perform acts of service for their lord: 'Article 27. Servants of the Church, princes and lords shall not maintain dams, cut hay or settle on manors, but they shall inform their masters of who owes service to whom'.¹⁷ Since the plaintiffs were people belonging to the master, the Mozyr lieutenant had infringed the quoted article of the privilege and Sigismund's judgement was more in favour of the plaintiffs.

We have understood that these subjects of ours have suffered great hardship in this and we have set down the tasks which he and our other Mozyr lieutenants must effect. First of all every year each town, district and household must pay half a *kopa* of groats and half a barrel of grain. This should provide maintenance for him and his servants, upkeep for our envoys and emissaries, lodging for them and protection from the Tatars... Also our townsmen and district people in Mozyr should not pay him any further the tribute set down in our previous letter. They do not have to pay him what they used to pay him.¹⁸

Thus an annual payment – a half *kopa* of groats and half a barrel (*bochka*) of rye – became established.

One of the articles of the Kievan charter freed gentry subjects from the participation in pursuing criminals: 'Article 33. Servants of the Church, princes and lords do not have to perform pursuit service'.¹⁹ A breach of this privilege provoked an appeal from the citizenry of Kiev to Sigismund against their palatine Andrei Nemirovich on 18 June 1522, as the grand duke informs his representative: 'they have suffered distress and all manner of hardship from you as you introduce novelties, for if a townsman has no horse you order him to join the campaign on foot, whereas previously such

¹⁶ *Akty Litovsko-russkogo gosudarstva*, ed. M. Dovnar-Zapolskii, Part 1 (1390–1529) (Moscow, 1899), pp. 144–145.

¹⁷ RGADA, f. 389, Litovskaia Metrika, storage unit 8, fo. 213; *LM (1499–1514)*, *Uzrašymų knyga* 8, p. 241.

¹⁸ *Akty*, p. 145.

¹⁹ RGADA, f. 389, Litovskaia Metrika, storage unit 8, fo. 213v; *LM (1499–1514)*, *Uzrašymų knyga* 8, p. 241.

townsmen were sent off to the castle’. The monarch’s resolution was as follows: ‘In this case we have instructed you in our presence that if a townsman owns a horse he should take part in campaigns with your grace, but he who lacks sufficient money to buy a horse, should stay behind in the castle’.²⁰ Consequently, only those people that were able to buy horses participated in pursuits; others worked in the castle.

A literal interpretation of the saying ‘we do not change old ways, nor do we introduce novelties’ does not conform with historical reality. Moreover, after some time the reference to ‘the old ways’ disappears gradually even from official legal documents. The following comparative table of two proclamations of the Charter of Kievan rights vividly illustrates this conclusion.

Kiev Charter, 8 Dec. 1507	Kiev Charter, 1 Sept. 1529
Article 15: The duty to provide accommodation shall be as it was <i>in the reign of Grand Duke Vytautas</i> .	Article 42: People shall not provide the accommodation due for us, the sovereign, unless they are bound to provide this due to the master they serve.
Article 24: People belonging to the Church, princes and lords shall not provide carting services, village to village, <i>as was the case under Grand Duke Vytautas</i> .	Article 21: People belonging to the Church, princes or lords shall not provide carting services, village to village.
Article 27: People belonging to the Church, princes and lords shall not keep dams, mow hay, settle on manors, except at the wish of the masters they serve and it shall <i>be as it was under Grand Duke Vytautas</i> ; we shall settle our manors with our own people.	Article 24: People belonging to the Church, princes and lords shall not keep dams, mow hay or settle our manors, but do as the masters they serve require. We shall settle our manors with our own people.

²⁰ LM (1440–1523), *Užrašymų knyga 10* (Vilnius, 1997), p. 97.

Article 30: We shall not hunt beavers in villages belonging to the Church, princes, lords and gentry; our beaver hunters shall hunt in the same places where beaver hunters hunted <i>under Grand Duke Vytautas</i> .	Article 27: Our beaver hunters shall not hunt in villages belonging to the Church, princes, lords and gentry; they shall hunt in our lands and waters.
Article 31: Those people belonging to the Church, princes and lords in Chernobyl, who maintain indivisible property do not have to provide fodder for horses or cart firewood, but they should look to their indivisible property, envoy and emissary.	Article 41: In our mercy we release those people belonging to the Church, princes, lords and gentry in Chernobyl, who maintained indivisible property and provided carting services for lieutenants, envoys and emissaries from us and the Tatars, from such dues forever.
Article 34: Princes, lords and gentry shall not go as envoys to the Horde; servants shall go. Any gentleman who has to go to the Horde with our envoys and we have to send them by our letter and they must go, <i>as it was under Grand Duke Vytautas</i> .	Article 30: Princes, lords and gentry shall not go as envoys to the Horde; servants shall go. Any gentleman who has to go to the Horde with our envoys and we have to send them by our letter and they must go on the embassy.

The situation is analogous with respect to the Žemaitian Charter. Interestingly, the original document and its later endorsements are extant.²¹ A comparative analysis of the articles shows the disappearance of the reference to ‘the old ways’, the so-called time of Vytautas, with the approach of the publication of the First Lithuanian Statute (FLS), i.e. the end of the first third of the sixteenth century.

²¹ The Table covers three redactions, those of 1441, 1492, and 1529, issued by the grand dukes Casimir, Alexander, and Sigismund respectively. The first privilege comprises thirteen articles, the two others are more extensive and their contents differ slightly. Therefore we selected only those norms which partly coincide with the earliest version.

Charter of 1441	Charter of 1492	Charter of 1529
<p>Whatever villages and other property they held of old through our grant and under <i>Grand Duke Vytautas of Lithuania</i>, they may hold without change according to the old tradition.</p>	<p>We also wish them to enjoy the same graces and marks of our friendship, <i>as were granted to those princes and lords by Vytautas and our father, Casimir</i> and which they have maintained. We also wish nobles and gentry to hold and keep what was granted to them by <i>Princes Vytautas, Švitrigaila, Žygimantas and our father</i>.</p>	<p>For the manors and estates we have taken into our hands and our gift and that of our descendants... we make and set down a new order, payments and officials... and these holders of our manors and the tivuni of the Žemaitian districts shall order and control them no differently than according to our will and written instructions.</p>
<p>They shall serve us now as they served <i>the great king and prince and our uncle, Grand Duke Vytautas</i> and we must do them no hurt.</p>	<p>All those who were nobles <i>in the time of King Wladyslaw and Duke Vytautas and our father</i> do we wish to hold and keep as nobles. And the people who acted as envoys and served <i>in the time of King Wladyslaw and Duke Vytautas and our father</i>, shall pay us the same services.</p>	<p>If during the summer time there is cause to serve us and the land, and our subjects come to serve us, the land of Žemaitija shall also serve us at that time.</p>
<p>Those who served our castles and manors <i>under our uncle, Grand Duke Vytautas</i> in Žemaitija shall owe us service on those manors according to the old tradition.</p>	<p>Nor shall they provide castle service, <i>as was the case under Princes Vytautas and Casimir</i>.</p>	

They shall hunt wild animals in the forest and fish in the lakes and rivers according to old tradition, as it was <i>under Grand Duke Vytautas</i> .	Nowadays we shall allow them to hunt any wild animal in the forests or fish in the rivers, <i>as they hunted from days of old</i> .	
Marten-keepers who provided martens in the time of our uncle, <i>Grand Duke Vytautas</i> , must now provide us with martens according to the old tradition.	Those who paid tribute in martens <i>in the time of Prince Vytautas</i> shall pay marten tribute today.	... without overlooking the ancient custom of paying marten tribute, which our servants the marten-keepers used to pay us to the value of 16 groats; in our mercy we have released them from providing these martens, requiring 4 groats...

In the First Lithuanian Statute [LS1] the term ‘the old ways’ is not to be found. Admittedly, the grand dukes Vytautas, Žygimantas, Casimir, and Alexander are still mentioned in the introductory part. E.g. Article 19 reads:

Those who held property and patrimony in peace under King Casimir and no one forgot this under Alexander, shall keep it in peace. He who wishes to gain land and the king gives him it shall not have anything other than what the king gives him and shall hold it as the king did; anyone who wishes to change what the sovereign gave shall have to ask. If anyone took the land away from him and held it under Vytautas, Žygimantas and Casimir, he shall hold it now.²²

However, codified law began to play a dominant role and it was a sort of ‘novelty’ for society. But it was fully accepted by the population of the GDL and after the introduction of LS1 the sources attest the new situation. For example, on 4 October 1529 a case between Blazhenyi Zhikhovskii and Ian Kovolevich was heard and it was lost by the latter who had to pay his sister Dorota, B. Bykhovskii’s

²² *Pirmasis Lietuvos Statutas. Tekstai senąja baltarusų, lotynų ir senąja lenkų kalbomis*, Pirmoji dalis, ed. E. Gudavičius et al. (Vilnius, 1991), pp. 80–82.

wife, a fourth of the value of the estate 'according to the current new law' (i.e. LS1).²³ That was done without any objections. On 20 October 1530 Grand Duke asked the starosta of Lutsk, Fedor Chartoriskii to decide the case between Gritsk Siniuta, servant of Prince Konstantin Ostrozhskii and the Volyn landowner Iatsek concerning the Prusy estate:

That your grace summon this Iatsek to come before you and examine the case between them and give judgement according to *our current laws which we have issued for the whole of our state*, so there be no hurt to them and they make no further complaint to us.²⁴

The number of examples can be multiplied. Thus the analysis of legal sources shows that 'the old ways' were not a manifestation of 'conservatism' of Lithuanian policy. Moreover, the administration of grand dukes gradually introduced 'new laws', which were accepted slowly by the local gentry as being 'the old ways'. Therefore, the extension of gentry powers and the ensuing prevalence of 'new' laws over 'old' ones led to the actual disappearance of these categories from the official juridical documentation by the first third of the sixteenth century. Under these conditions the thesis 'we do not change old ways, nor do we introduce novelties' would have seemed an anachronism.

2. Purchase and Sale of Land as an Economic Component of the Institution of 'Old Ways' Here we are going to investigate how the categories of 'the old ways' and 'novelties' affected the social relations in the GDL within a wider context of the purchase and sale of land. It must be noted that land and, in particular, the forms of its ownership were traditional components of society in the GDL and other European countries in the Middle, and Early Modern Ages. Therefore the analysis of the evolution of the development of the concept 'the old ways' in documents of land operations (primarily contracts of purchase and sale) would explain related innovations and the way they became traditional 'old ways' for the GDL gentry.

In the pre-statute period, in the GDL, issues dealing with the relations between grand-ducal authorities and local administration at territorial (*zemlia*) and sub-territorial level were regulated by regional charters (*privilegii*), or territorial legislative charters (*gramoty*). At present researchers of law of the GDL are familiar with thirteen

²³ *LM (1528–1547), 6-oji Teismų bylų knyga* (Vilnius, 1995), p. 104.

²⁴ *Archiwum ksiągąt Sanguszków w Sławucie*, ed. B. Gorczak, vol. III (1432–1534) (Lvov, 1890), p. 366.

extant charters, granted to the following lands: Žemaitija (in 1441, 1492, and 1529), the *uezdy* of Bielsk (1501), Volyn (1501, and 1509), Vitebsk (1503, and 1509), Smolensk (1505), Kiev (1507, and 1529), Polotsk (1511), and Novgorodok (1440).²⁵ In the period prior to the adoption of LS1 (September 1529) one manifestation of ‘the old ways’ was the sanctioning of the sales of ancestral lands, purchases, and possession in perpetuity²⁶ by the Lithuanian grand duke. All sales and purchases on the territory of the GDL were conducted under his supervision. According to the law of alienation of gentry landed property, such alienation needed the prior consent of the grand duke or his officers for the sake of greater ‘importance’ (validity).²⁷ For example, on 28 August 1482 the Lithuanian grand duke Casimir permitted pan Martynas Goštautas (Martin Kgashtovich) to buy ‘Bee lands and pastureland, hay meadows and lakes and dams ... on the Nemunas at Likhovichi and further downstream from Liakhovichi at Dubrovki and further along the Nemunas’.²⁸ On 23 January the grand duke approved another purchase, when a servitor of Lord Mikalojus Radvila (Nikolai Radzivil), Andrei Ivanovich bought a service village Voinichi, indicating that one soldier with armour had to be equipped from that village. Andrei Ivanovich had expressed his readiness to equip three armoured soldiers from that village and therefore he received the duke’s permission: ‘and we allowed him to buy that little village’.²⁹

The main point in the alienation of landed property of the GDL gentry was the functioning of the so-called affinity law. Practically it meant that the priority in buying a particular estate depended on the closeness of affinity between the seller and the buyer. For example, in the lawsuit of 18 February 1529 the boyar Bukovin Markovich of

²⁵ Vashchuk, ‘Oblasni pryvilei’, pp. 90–91.

²⁶ Dovnar-Zapolskii noted that the type of the full ancestral law, which doubtless existed both in Lithuania and in old Rus’, was replaced by conditional and restricted law. Supreme economic law ousted the law of private persons and the latter was somewhat revived in the form of land law. The historian also distinguished two forms of service land holding in the GDL: (1) terminable and interminable holdings, and (2) perpetual holdings, ancestral lands and purchases. Cf. Dovnar-Zapolskii, *Gosudarstvennoe khoziaistvo Velikogo Kniazhestva Litovskogo pri Iagellonakh*, vol. 1 (Kiev, 1901), pp. 591–592.

²⁷ J. Bardach, ‘Trzecizna – część swobodna w litewskim prawie majątkowym XV–XVI wieku’, *O dawnej i niedawnej Litwie* (Poznań, 1988), pp. 133–134.

²⁸ *LM (1479–1491), Užrašymų knyga 4* (Vilnius, 2004), p. 110.

²⁹ *Ibid.*, pp. 125–126.

Oshmiana *volost* lodged a complaint against his sister Anna Bartoshova concerning her sale of her maternal estate Starinki according to kinship law to Lady Sologubova without having the right to do so: 'I am kin with as much right to the property as she'. The suit was resolved in favour of Bartoshova because her arguments based on affinity law seemed more convincing to the judges: 'I hold that estate from my kinswoman Kropivna and I have court records to prove it'.³⁰ On the other hand, according to kinship law the gentry could not sell the ancestral estate in its entirety thus alienating it from other members of the family. An example of such a case is the lawsuit of 15 May 1529 between Iurii Matskovich Petrovich and the boyar Barbara Tomkova. Matskovich made a complaint against Tomkova and her son Stanislav because they held his ancestral estate in Kuseni, the part belonging to his dead brother Kryshtof, on unknown grounds. However, the economically-minded lady informed the judges that Kryshtof Matskovich had sold the indicated part of the estate to her husband Tomek and presented a bill of sale. The bill contained a note that Iurii Matskovich himself was present at the conclusion of the transaction. The plaintiff's answer was: 'He ordered me to be included in the sale contract and this I did with fear and reluctance'. After having listened to both sides, the judges asked whether Kryshtof Matskovich had sold the entire part of his ancestral estate. The answer was in the affirmative, and consequently the judges passed the sentence:

And we, having found that this Kryshtof sold the whole of his patrimonial estate and cut out his brother, which is not the custom, for the gentleman had to sell his share and when he has brothers or kin he may sell a third part or mortgage the whole of his patrimony but he cannot sell his patrimony forever and *cut out his brothers or his kin*.³¹ Thus, according to kinship property law, Iurii Matskovich obtained the right to repurchase the ancestral estate from Tomkova and her son for the sum formerly paid to Kryshtof Matskovich: 'for twenty nine and a half *kopy* of groats'.³²

It was just a third of gentry landholdings that was that part which the gentry could alienate according to kinship property law. A good example of the practice of kinship property law in practice is the contract for the sale of one third of the ancestral estate Nesudovchina by the royal servitor Kostiuszko in 1503. When drafting the contract the seller indicated that he was selling only one third of

³⁰ *LM, 6-oji Teismų bylų knyga*, p. 71.

³¹ *Ibid.*, pp. 90–91.

³² *Ibid.*, p. 91.

the estate in order not to deprive himself and his descendants of the Nesudovchina estate: 'retaining no rights there for himself and his progeny'.³³

The Polish mediaeval historian Juliusz Bardach was the first to subject the term *tretina/trzecizna* to a thorough examination. In historical scholarship he introduced this term in the sense of the part appropriate for separation. In his major article he investigated the functioning of affinity law, in particular, the norms relating to *tretina* in the sources. Bardach noticed that the practice of free alienation of one third of gentry estates and the preservation of two thirds became dominating in the GDL in the last quarter of the fifteenth century.³⁴ 'Sources indicate that such practice was primarily a result of the activity of the grand-ducal court, which, within the limits of its jurisdiction, treated the alienation of one third of *didetstva* as an article of law'.³⁵

In general, issues associated with affinity law, were dealt with in passim by historians of the late nineteenth and early twentieth centuries. In one of his works, P. Dąbkowski described the permission to sell only a third of the ancestral landholdings as a way of safeguarding gentry families from the total loss of their ancestral estates.³⁶ The well-known scholar of Lithuanian history Mikhail Vladimirkii-Budanov also touched upon the question of *tretizna* in his fundamental study *Zastavnoe vladenie*. He stressed that 'the law on the right to sell only a third of estates and the retention of two thirds was a substitute for the old law of familial ransom'.³⁷ He also expressed a supposition that 'actually the law on the prohibition of the sale of over one third of estates was in force for such a long time that it could not but make an established custom in the population'.³⁸

In our opinion, this supposition of Vladimirkii-Budanov is flawed. In actual fact, an established custom not to sell over a third of estates could not exist in the population of the GDL after 1566 at least to such an extent that the transactions of sale and purchase of

³³ *LM (1380–1584), Užrašymų knyga I* (Vilnius, 1998), p. 30.

³⁴ Bardach, 'Trzecizna – część swobodna', p. 125.

³⁵ Ibid.

³⁶ P. Dąbkowski, *Dobra rodowe i nabyte w prawie litewskim od XIV do XVI wieku* (Lvov, 1916), pp. 87–91.

³⁷ M. Vladimirkii-Budanov, *Zastavnoe vladenie*, Arkhiv IUZR, 8, VI (Kiev, 1911), p. 11.

³⁸ Ibid.

a third of estates exceeded numerically similar transactions covering all estates in their entirety.³⁹

It is noteworthy that the norm of *tretizna*, like many other matters, was approved in LS1.⁴⁰ It had been widely used previously, before 1529, by the GDL gentry. That is attested by the sale of gentry's estates even in the fifteenth century. Vladimirskii-Budanov indicated that the norm about the sale of a third of the estate was first recorded in LS1 instead of the former prohibition of the sale of two thirds.⁴¹ It is difficult to agree with this statement, since references to the sale of a third of estates are often found in the sources before the adoption of LS1. Thus, on 13 May 1494 Kuz'ma Grigor'evich, a Kievan landowner, complained that the lieutenant of Zviagel, Iatsek Mezinets' possessed Koniachii Island unlawfully. In reply Mezinets' informed the grand duke Alexander that he bought the island from his uncle Kuz'ma Grigor'evich for six *kopy* of groats, asserting that 'an uncle may sell a third part of his property to whom he wishes without the permission of his nephews and nieces'. In his decree the grand duke Alexander confirmed Mezinets' right to the island. Incidentally, Grigor'evich himself acknowledged that the island did not exceed in area one third of his uncle's estate.⁴²

Similar cases can be found in the first third of the sixteenth century as well. For instance, on 3 October 1517 the Brest landowner, Iurii Zbudinskii asked Lord Mikalojus Radvila, palatine of Vilnius to confirm his purchase of a third of the Tuminskii estate belonging to his aunt Oliukhina Tuminskaia. This document clearly defined the size of a third of the estate, and that was again confirmed in the act:

A third part of the Tumin estate, two stud farms, Khodorov'skii and Denisovskii, and the people who dwell on those stud farms, Gostilo Khodkevich

³⁹ It is worth noting that the reception of the norm of *tretizna* was really practiced in the GDL up to the end of the sixteenth century. In greater detail, see A. Blanutsa, 'Norma pro „treciznu“ v Pershomu Litov'skomu Statutu ta ii retseptsia do kintsia XVI stolittia', *Pirmasis Lietuvos Statutas*, comp. I. Valikonytė, L. Steponavičienė (Vilnius, 2005), pp. 99–106. However, the concept 'reception of the norm' should not be replaced by 'starina', because in the case of 'starina' permission to sell the whole estate, legitimized by the Second Lithuanian Statute in 1566, should not have been applied in practice, which was not in fact the case.

⁴⁰ In his special address to the population of the GDL Grand Duke Sigismund settled the date (19 September 1529) when LS1 came into effect. *LM, Užrašymų knyga 15*, pp. 123–124.

⁴¹ Vladimirskii-Budanov, *Zastavnoe vladenie*, p. 10.

⁴² *Akty Litovskoi Metriki*. Comp. F. Leontovich (Warsaw, 1896), I, 1 (1413–1498), p. 45.

and Danilo Khodkevich and their brothers, and the mill near the manor with all its arable land, hay meadows and forests, its oak groves and all that Tumina holds as her third part.⁴³

On 5 May 1518 Grand Duke Sigismund confirmed the purchase made by Lord Aleksandr Khodkevich from the landowner Ignat Mikitinich and his wife Marina of a third of the estate in Ovdovi (*tretiuiu chast' na vechnost*) and the mortgage of two thirds of the same estate valued at 300 *kopy* of groats.⁴⁴ On 1 June 1519 Sigismund approved one more purchase according to which Ian Zbzhhezinskii, palatine of Novogorodok, bought *trzecią czesc [dobr] zamienonskich*⁴⁵ from the royal landowner Ian Mikhnovizc.

An interesting document, supporting our thesis, is found in the record books of towns. Thus, in a bill of sale of 8 April 1576 a landowner from Chelm District (*uezd*), Shchasnii Vankovich Lukovskii, reported that

First of all we have sold in perpetuity a third part of our patrimonial estate in the Vladimir powiat called Lazkovo to our brother and kinsman, his grace the king's gentlemen, Lord Semen Grigorevich Oranskii and Lord Pavel Grigorevich Oranskii, two parts of the said estate of ours Lazkovo and we have taken a mortgage in a sum of money according to the Old First Statute. They have held the third part in perpetuity and the two mortgaged parts for more than forty years [i.e. the sale took place before 1527] until this day, and as is written in the New, Second Statute, any gentleman may sell his whole estate to whomever he wishes.⁴⁶

Further Lukovskii gives his consent to Semion and Pavel Oranskii's purchase of two thirds of the mortgaged estate for 12 *kopy* of groats, making an allusion to the norm of Second Lithuanian Statute (SL2) of 1566: 'We have made peace with him and according to the *current statute* have we sold our Lazkovo property'.⁴⁷

Accordingly, *pace* Vladimirskii-Budanov's hypothesis, we support the opinion of Vladimir Picheta. Investigating the origins of the Second Lithuanian Statute he emphasized that the Statute did not initiate any new legal norms, instead it merely summarized, systematized and licensed those legal norms which already were practiced by the inhabitants in their socio-economic and political life in all lands of

⁴³ LM, *Užrašymų knyga 9* (Vilnius, 2002) p. 368.

⁴⁴ LM, *Užrašymų knyga 10*, pp. 34–35.

⁴⁵ LM, *Užrašymų knyga 1*, p. 75.

⁴⁶ *Volyns'ki gramoty XVI st.*, comp. V.B. Zadorozhnii, A.M. Matvienko (Kiev, 1995), p. 44.

⁴⁷ *Ibid.*, p. 45.

the GDL.⁴⁸ One more representative of Soviet historiography, D.I. Myshko, remarked without special investigation of the importance of the norm of *tretizna* and only generally summarising LS1, that 'attention was primarily focused on protecting the rights of landowners, maintaining their landholding rights "in perpetuity"'.⁴⁹

The practical implementation of the right of the sale of one third of ancestral estates in the period between the Statutes of 1529 and 1566 is attested by a number of historical sources. Here are some examples of such cases. On 6 January 1542 Polotsk palatine, Marshal Ian Iurievich Glebovich bought the estate of Basine from the brothers Bogufalovich. First he settled the bill of sale for one third of the estate with Iakov Bogufalovich, for the second third with Ivan Bogufalovich, and lastly for the last third with Vasiliï Bogufalovich. Each of the Bogufaloviches received 200 *kopy* of grosh for their purchases from Glebovich.⁵⁰ On 1 December 1555 Sigismund Augustus confirmed a purchase by the marshal of the GDL, Ostafii Bogdanovich Volovich, from the landowner Stepan Ianovich Sapega and his wife Bogdana. He bought a part of an estate near Grodno, above the Markovo Ford ('his part of the *folwark* estate, a third part of his property in perpetuity for 20 *kopy* of groats'⁵¹). Here is one more example of the functioning of LS1 in relation to the sale of a third and the mortgage of two thirds of an estate. On 2 May 1559 the landlady of Kaunas county Zofiia Ianovna Telichanka and her husband Mikhail Sebast'anovich Shembel' raised a mortgage of 300 *kopy* of groats by loaning two thirds of their estates Lin'kov and Malyi Lin'kov to Stanislav Nikolaevich Rokitskii.⁵² On the same day they sold Rokitskii a third of the aforementioned estates for 20 *kopy* of groats.⁵³

⁴⁸ V.I. Picheta, 'Litovskii statut 1529 g. i ego istochniki', *Uchionye zapiski Instituta slavianovedeniia Akademii nauk SSSR*, 4 (Moscow, 1952), p. 256.

⁴⁹ D.I. Myshko, 'Persnyi Lytovskii Statut i jego istorichne znachenii', *Istorichni dzherela ta ikh vykorystannia*, 4 (Kiev, 1969), pp. 17–18.

⁵⁰ *Metryka Vialikaga Kniastva Litouskaga. Kniga 28 (1522–1552)* (Minsk, 2000), p. 127.

⁵¹ *Metryka Vialikaga Kniastva Litouskaga. Kniga 42 (1532–1560). Kniga zapisau 43* (Minsk, 2003), p. 51.

⁵² *Ibid.*, pp. 105–106.

⁵³ *Ibid.*, pp. 107–108.

LS2 removed restrictions on the sale of a third of gentry estates.⁵⁴ It must be noted that traditional society treated it as a kind of 'novelty', which eliminated the established time-honoured 'old ways'. An analysis of the sources indicates how the gentry of the GDL saw the 'novelty'. It must be borne in mind that abiding by 'the old ways' the gentry had to sell their landholdings in parts, which could not exceed a third of their estates. In actual fact, the situation was different. Thus, in the Vladimir land court (Volyn palatinate), in the course of 1566–1570, sixteen cases were recorded when the county gentry sold or bought their estates. And it was only in one case that the object of the transaction was a third of an estate,⁵⁵ and that made up 0.06 per cent of all recorded transactions. Ten contracts were found in the documents of land and town registers of the neighbouring Lutsk *uezd*, dealing with the third of gentry estates as the object of transactions.⁵⁶ Altogether 379 contracts of sale and purchase were recorded.⁵⁷ In this count the transactions relating to the third of the estate made up only 0.03 per cent. The analysis of the registers of the Ruthenian (Volyn) Metrica for 1569–1599 revealed twenty contracts of estate transactions, among which not a single contract had to do with the third of the estate.⁵⁸

An analysis of the documents of the Books of Inscription and Books of Judicial Affairs discloses telling results. During the period between 1556 and the end of the sixteenth century only eleven con-

⁵⁴ Restriction on the sale of one third of gentry estates was lifted in the Brest sejm on 1 July 1566. The authority of the grand duke was forced to agree to such a regulation by the gentry, who had been requiring it at various times. See A. Blanutsa, 'Pravovi osnovi shliakhets'kogo zemlevolodinnia za Drugim Litovs'kym Statutom 1566 r.', *Ukraina v Tsentral'no-Skhidniy Europi (z naidavnishykh chasiv do kintsia XVIII st.)*, 3 (Kiev, 2003), pp. 130–131.

⁵⁵ The count was done on the basis of the following sources: *Volodymyrs'kyi grods'kyi sud. Podokumentni opysy aktovykh kny, 1, Spravy 1–5 (1566–1570)*, (Kiev, 2002).

⁵⁶ The count was done using the following materials: *Tsentral'nyi derzhavnyi istorychnyi arkhiv Ukrainy*, f. 25 (Lutskiyi grods'kyi sud), spr. 8–19, 21–17, 29, 31–32, 34, 37–40, 43–46, 48, 50, 53–55, 57, 459–460; f. 26 (Lutskiyi zems'kyi sud), spr. 1–13, and 62.

⁵⁷ For more information of the dynamics of transactions in Lutsk *uezd*, see A. Blanutsa, 'Chastota ukladennia zemel'nykh kontraktiv mizh volyns'koiu shliakhtoioi (za materialamy Luts'kykh aktovykh kny 1566–1599)', *Ukrains'kyi istorychnyi zbiryk*, 6 (Kiev, 2003), pp. 85–102.

⁵⁸ The count was done on the basis of these materials: *Rus'ka (Volyns'ka) metryka. Regesty Koronnoi kantseliarii dlia ukrains'kykh zemel' (Volyns'ke, Kyivs'ke, Bratslavs'ke, Chernigivs'ke voievodstva) 1569–1673*, ed. P.K. Grimstead (Kiev, 2002), pp. 227–495.

tracts of sale and purchase (actually they were confirmations of the transactions by the grand duke) were distinguished, and only one of them was associated with a third of the gentry estate.⁵⁹ That makes merely 0.09 per cent of the total number of contracts. Altogether in the period prior to the introduction of the SLS the documents of the Lithuanian Metrica recorded over 450 confirmations or permissions of the sale and purchase of gentry estates.⁶⁰

Various sources attest that the practice of sale and purchase of a third of gentry estates was not common (between 0.03 and 0.09 per cent). Therefore our analysis leads to the conclusion that the norm of the *tretizna*, which in the course of the fifteenth and sixteenth centuries became established as 'old ways', immediately after its invalidation (and that must have meant 'a novelty' for the gentry) vanished both as a legal norm and as tradition. Such innovations were not viewed by the GDL gentry as 'a novelty' for one more reason – an unrestricted sale of landholdings appeared as a provision of LS2 in the aftermath of the requests and pressure of the gentry. Therefore, such 'novelty' soon turned into 'old ways' in the eyes of the gentry.

A favourable reception of 'the novelty', a free sale of estates, by the gentry is evidenced in the contemporary documents. A clear emphasis on the permission to sell not only a third of the estate was made in the contract of 9 April 1571, according to which the princess Ekaterina Ruzhinskaia sold Rogovitsa estate to the boyar Ivan Voritskii for 600 *kopy* of groats: 'it is possible for anyone of noble estate to sell or transfer in perpetuity not only one third part of his property but all of it with mortgages to whomever he pleases, alienating it from his children, descendants and kin'.⁶¹ Similarly the accent was placed on the right to sell more than a third of the estate by Fedor Kopot' in the contract of the sale of his Opol'sk estate in Brest county to the palatine Iurii Ostik on 10 June 1568. In particular he noted that according to the stipulation of the Brest sejm in 1566: 'each is permitted to dispose of his property as he

⁵⁹ Transactions dealing with one third of the estates were found only in two Books of Inscriptions: *LM (1566–1574)*, *Užrašymų knyga 51* (Vilnius, 2000); *LM (1569–1570)*, *Užrašymų knyga 52* (Vilnius, 2004).

⁶⁰ The count was done on the basis of the Books nos. 1, 3, 4, 5, 8, 9, 10, 11, 12, 15, 25, 28, 43, 44, 51, 52 and in Books of Judicial Affairs nos. 4, 6, 8, 10, and 11 of the Lithuanian Metrica.

⁶¹ Natsional'na biblioteka Ukrainy im. V. Vernads'kogo. Instytut Rukopysu, f. II, spr. 222245, ark. 49 ev.

wishes whether he do so with the whole or in part, not speaking of two or a third part, *as used to be the case*, by transferring, selling or donating it'⁶².

Thus, in lifting restrictions on the sale of gentry landholdings the issue of 'novelty' appeared ineffective, since such 'novelty' was useful to the gentry. The situation was different in the case of affinity law, which, according to LS2, covered only mortgage contracts 'under threat of loss' or 'threat of punishment'.⁶³

It is noteworthy that a boyar who held a mortgage could become enjoy full property rights owner on one condition, i.e., if the relatives of the boyar who had mortgaged the estate could not pay off the mortgage (Chapter VII, art. 18).⁶⁴ In this connection Vladimirskii-Budanov advanced an opinion that after 1529 the law of familial redemption disappeared.⁶⁵ From our viewpoint, this statement is inaccurate, since it disagrees with the facts found in the sources. For instance, on 7 July 1556 Sigismund Augustus confirmed the GDL marshal Ostafii Volovich's right to a third part granted him by the gentleman, Stanislav Chizh of the estates of Gorodei, Moshevichi, tribute-payers in Zditov (Novgorodok *uezd*), Berestovichi, Gornitsy (Grodno *uezd*) and also two third's purchase of these same properties on 8 January 1556 for 2,000 *kopy* of groats. This permission for the sale of more than a third of ancestral estates was given by Sigismund Augustus on the grounds that Stanislav Chizh was a subject of the Polish Crown and did not reside in the GDL. He inherited the aforementioned estates on the death of his paternal cousin, Adam Chizh. At that time Ostafii Volovich had married Fedora, the widow of Adam Chizh, and therefore he was entitled to the right of the familial redemption of land. Consequently, Stanislav Chizh 'gave, donated and transferred in perpetuity one third to Lord Ostafy with all the appurtenances of that third part. And he transferred and sold *two parts of the same property* mentioned above with its villages and estates to Lord Ostafy Volovich'.⁶⁶

The functioning of the right of familial redemption (affinity law) after 1529 and 1566 is corroborated by N. Starchenko. On the basis

⁶² *LM (1566–1574)*, Užrašymų knyga 51, pp. 148–149.

⁶³ I.e., the loss of the right to redeem mortgaged property.

⁶⁴ 'Statut Velikogo kniaz'stva Litovskogo 1566 goda', *Vremennik imperatorskogo moskovskogo obshchestva istorii i drevnostei rossiiskikh*. Kniga 23 (Moscow, 1855).

⁶⁵ Vladimirskii-Budanov, *Zastavnoe vladenie*, p. 10.

⁶⁶ *Metrika Vialikaga Kniastva Litauskaga. Kniga 43 (1523–1560)*, p. 71.

of the registers of Vladimir *uezd* of Volyn Palatinate she investigated the peculiarities of the functioning of affinity law after the abrogation of the restrictions on the sale of the third of gentry estates. According to her count, 48 per cent of the persons participating in sale/purchase contracts were not kith and kin,⁶⁷ and 52 per cent belonged to the same family. Our data on Lutsk *uezd* show that the percentage of the purchasers not related with the sellers was much higher and reached over 80 per cent.⁶⁸ Therefore it could be stated that commercial relations developed gradually on the local land market after 1566 and until the end of the sixteenth century. At the same time kinship property law was still a crucial factor in the gentry community.

Thus, the functioning of the right of familial redemption as a constituent of kinship property law after its major restriction by the norms of LS2 leads to the conclusion that 'novelties', which proved to be inexpedient for the gentry were not accepted. Instead, 'the old ways' as practically useful were still in use, in this case in the form of the right of familial redemption of gentry landholdings. Sources show that even after the abrogation of the legal norm of priority sale to the nearest relatives, the percentage of transactions between relatives was high.

Finally it should be stated that, in our opinion, modern historical scholarship needs an extensive research into the aforementioned categories, the extent of their influence, and their reception by the population of the GDL and its governmental institutions. That, in its turn, will shed new light on the society, in which the implementation of reforms assured the preservation of the 'old' order.

⁶⁷ N. Starchenko, 'Khto skupovuvav zemliu na Volyni v kintsi XVI st.?', *P'iatyi kongres Mizhnarodnoi asotsiatsii ukrainistiv. Istoriia*, 1 (Chernivtsi, 2003), p. 161.

⁶⁸ A. Blanutsa, *Obig zemel'nykh volodin' volyns'koi shliakhty v drugii polovyni XVI st. (na materialakh Lutskykh aktovykh knygh 1566–1599 rr.)*, dissertation of candidate of history, Instytut istorii Ukrainy (Kiev, 2005), pp. 132–133.

Author Details

Dr Andrei Blanutsa is a researcher of the Institute of History of Ukraine of the National Academy of Sciences of Ukraine. His sphere of scholarly interests is the social and economic situation in the Grand Duchy of Lithuania in the fifteenth and sixteenth centuries.

Address: Institute of History of Ukraine, NASU; ul. Grushevskogo 4, room 509; Kiev, 01001, Ukraine

Email: an_blan@mail.ru

Dr Dmitrii Vashchuk is a researcher of the Institute of History of Ukraine of the National Academy of Sciences of Ukraine. His sphere of scholarly interests is the political and legal situation in the Grand Duchy of Lithuania between the late fourteenth and the first half of the sixteenth centuries.

Address: Institute of History of Ukraine, NASU; ul. Grushevskogo 4, room 509; Kiev, 01001, Ukraine

Email: dvashchuk@mail.ru

SAVOKŲ „SENA“ IR „NAUJA“ OPOZICIJA TEISINIUOSE IR EKONOMINIUOSE LDK ŠALTINIUOSE (XV A. ANTROJI PUSĖ – XVII A.)

Santrauka

ANDREJ BLANUCA, DMITRIJ VAŠČIUK

Straipsnio tyrimų objektas – LDK teisiniai ir ekonominiai šaltiniai, kuriuose atsispindi socialinių sąvokų „sena“ ir „nauja“ tarpusavio sąveikos praktika. Teisinio pobūdžio šaltinių analizė atskleidžia, kad valdžios institucijų deklaruojamas „senujų“ nuostatų nekintamumas neatitiko vadinamojo LDK politikos „konservatyvumo“ prakalbus apie vietos įstatymų leidybos tradicijų išsaugojimą. Kita vertus, tyrinėti ekonominiai šaltiniai, daugiausia nekilnojamojo turto pirkimo-pardavimo sutartys, patvirtino, kad LDK bajorija praktikoje aktyviai rėmėsi tomis „naujovėmis“, kurios jiems buvo naudingos: pavyzdžiui, 1566 m. II Lietuvos Statuto panaikintais apribojimais parduodant bajorų valdas. Būtinybė remtis „senove“ pamažu nyko visuomenėje įsigalint kodifikuotai teisei, kuri, viena vertus, sociumui buvo „nauja“, tačiau drauge veikė visa savo galia.