

Emperor Joseph II's "Buying-In" Patent (November 1, 1781)

Abstract

This ruling aimed to improve subject farmers' property rights in their holdings, so as to heighten their incentive to cultivate their lands more productively and to gradually dissolve the juridically defined seigneur-subject relationship, from which much conflict and ill-will flowed. Strong private property rights were postulates of Enlightenment economics. In practice, few subject farmers availed themselves of the opportunity this edict provided, either because they lacked the resources to "buy into" their holdings or because they chose to retain their monetary assets for other purposes.

Source

Patent of November 1, 1781, *in re* Manors and Subjects.

Manors must be prepared to cede to their peasants, on request, the possession of their holdings against an equitable remuneration. The advantages enjoyed by subjects already possessing their holdings, or acquiring possession of them in the future, are defined as follows:

- a. As soon as a subject acquires possession of his holding, he may, in virtue of the *dominium utile* now vested in him, but without infringement of the manorial rights, use, dispose of, mortgage, sell, or exchange it at will, except that the land going with the house may not be sold without the house.
- b. A subject is not obliged to obtain manorial permission before raising a mortgage on his holding; but shall not mortgage more than two-thirds of his real estate; if he does so, he may be dispossessed of his holding as prescribed by law.
- c. Debts are to be registered only if the creditor so desires.

Subjects not possessing their holdings in *dominio utile* are not serfs in respect of their persons, but must, however, subject themselves to the laws of their present *nexus* in respect of their holdings until they have effected the purchase. The manors, however, are strictly forbidden to force their subjects to make this purchase against their wills, or to impose onerous obligations on them in connection with the transaction. The Kreis offices and Provincial authorities must see to this.

Source: C.A. Macartney, ed., *The Habsburg and Hohenzollern Dynasties in the Seventeenth and Eighteenth Centuries*, in *Documentary History of Western Civilization*. New York, Evanston, and London: Harper & Row, 1970, p. 178. Introduction, editorial notes, chronology, translations by the editor; and compilation copyright © 1970 by C.A. Macartney. Used by permission of HarperCollins Publishers.

Source of German original text: Joseph Kropatschek, ed., *Handbuch aller unter der Regierung des Kaisers Joseph II. für die k.k. Erbländer ergangenen Verordnungen und Gesetze in einer systematischen Verbindung: enthält die Verordnungen und Gesetze vom Jahre 1780 bis 1784* [*Handbook of all Decrees*

and Laws issued under the Government of Emperor Joseph II for the Austrian Imperial and Royal Hereditary Lands in Systematic Assembly, including the Decrees and Laws from 1780 to 1784], volume 1. Vienna: Moesle, 1785, pp. 81-83.

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