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The First Constitution of Ukraine (5 April 1710)

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## The First Constitution of Ukraine (5 April 1710)

OMELJAN PRITSAK

One may claim that the modern history of a nation begins with its constitution. The eighteenth century was the period in which several nations received their constitutions: the United States in 1787–1789, France and Poland in 1791. Ukraine led in this respect, with a constitution adopted in 1710.

The Ukrainian and Polish constitutions are analogous in some ways. The Polish Constitution of 1791 was promulgated shortly before the second partition (in 1793) and could be applied only to a remnant of historic Polish territory for about four years until the final partition in 1795. The Ukrainian Constitution was accepted in Bendery (now in Moldova), which at that time belonged to the Ottoman Empire, and Hetman Pylyp Orlyk ruled only on the Right Bank of Ukraine for the next four years (to 1714). Nevertheless, both documents are important achievements in their respective constitutional histories.

There is no doubt that a stimulus for the Orlyk Constitution was the *Pacta Conventa*, the agreement which the Polish political elite (the *szlachta*) usually concluded with the successful candidate to the Polish elective throne. But Orlyk's constitution was not addressed specifically to the agreement between himself (the newly elected hetman) and the Ukrainian political establishment of the time; rather, it was meant to be obligatory for all his successors.

The Constitution of 1710 consisted of the following four parts:

- 1) The preamble
- 2) The text of the Constitution in 16 articles
- 3) Orlyk's oath
- 4) A confirmation charter by the Swedish protector, King Charles XII

The Constitution was written in two languages: Middle Ukrainian and Latin. Both versions had equal authority. The text of the Constitution dealt with all aspects of Ukrainian life at the beginning of the eighteenth century. The contents of the 16 articles are as follows:

- 1) Concerning religion
- 2) Concerning the territory and borders
- 3) Concerning relations with Crimea
- 4/5) Concerning specific problems of the Zaporozhian Host
- 6) Concerning the administration of the state and its parliamentary system (short constitution)
- 7) Concerning the judiciary
- 8) Concerning military affairs

- 9) Concerning fiscal matters
- 10) Concerning the protection of the peasantry
- 11) Concerning the protection of widows and orphans
- 12) Concerning the security and inviolability of municipal self rule
- 13) Concerning the capital, Kyiv
- 14) Concerning the fiscal conformity of town institutions
- 15) Concerning economic problems of the state's fiscal systems
- 16) Concerning the limitation of the power of leaseholders and tax collectors.

It is important to stress that the Constitution of 1710 was not just a work of the Ukrainian political elite in emigration. At that time Hetman Orlyk still had a part of the Ukrainian territory under his control. His statements (see appendix) bear witness to the fact that the project of the Constitution was also debated in Ukraine, in spite of the fact that most of the country was under the oppressive rule of Peter I of Russia.

Orlyk's statement finds corroboration in the fact that in 1717–1723, a copy of the Constitution was in the Chancery of the Ukrainian State in Hlukhiv (Heneral'na Viiskova Kantselariia). At that time the Ukrainian politician and memoirist Mykola Khanenko (1693–1760) was the assistant chancellor. He copied the Latin version of the Constitution and some other documents of Hetman Orlyk and kept these documents in his family archives. In 1847, when the Ukrainian Slavacist and historian Osyp Bodianskyi began publishing Ukrainian documents in the *Chteniia v Imperatorskom obshchestve istorii i drevnosti rossiiskikh pri Moskovskom universitete*, an unnamed member of the Khanenko family made the copy of the Constitution available to Bodianskyi, who subsequently published it. Unfortunately, the manuscript of the Latin text has not come down to us. Only an abbreviated version of it is preserved in the Swedish State Archives in Stockholm.

The Middle Ukrainian text was copied by the Ukrainian historian Dmytro Bantysh-Kamenskyi from a copy in the Archive of the College of Foreign Affairs in Moscow (the archive had been reorganized by his father, Mykola [1737–1814]). In 1859 Bodianskyi published it in the *Chteniia*, but, unfortunately, with numerous errors.

The Middle Ukrainian copy is still preserved in the Russian State Archive of Ancient Documents (RGADA) in Moscow (fond 13, ed. khr. 9). Judging by its hand, it was copied sometime in the eighteenth century—probably in the first half—by a professional scribe for the use of the Russian government. Ukrainian words, not familiar to the Russians, are underlined and glossed in marginalia with Russian equivalents. I was able to obtain a xerox copy of this important document through the kindness of the Director of the Archives, Mikhail P. Lukichev and its curator, Svetlana R. Dolozova. I would like to express my thanks and appreciation to them. It is the RGADA copy that is being reprinted here.<sup>1</sup>

## APPENDIX

In his unpublished second edition of *P. Orlyk's Deduction* (written between ca. 1945–1950), Elie Borschak [Il'ko Borshchak] mentions the Château Dinteville (near Chaumont, France) copy of the Constitution.<sup>2</sup> It was, in his words, a Latin abbreviated version “brevi style” (apparently not unlike the Stockholm “Contenta pactorum”). The specific feature of the Dinteville text was Pylyp Orlyk's addition in Polish. Borschak assumes that Pylyp Orlyk made his remarks originally in Latin, and it was his son, Hryhor, who in the 1740s translated them into French, while copying the Latin text of the Constitution.

In September 1988, I tried to trace and verify several documents known only from Borschak's publications. Accompanied by Professor Arkady Joukovsky [Arkadii Zhukovskiy] of Paris, I visited the present owner of the Château Dinteville, the Marquis de La Ville Baugé, both in Dinteville and in his apartment in Paris. I had access to all of their “Orlikiana,” but was unable to trace several crucial documents, among them the text of the Constitution with Pylyp Orlyk's remarks.

Joukovsky, who was Borschak's successor at the Institut des Langues Orientales Vivantes in Paris, made available to me those parts of Borschak's unpublished works and materials which dealt with Pylyp and Hryhor Orlyk. Among them was the unpublished typescript of his second edition of Orlyk's *Deduction*.<sup>3</sup> To be found there are Ukrainian translations of four remarks by Pylyp Orlyk and one remark of Hryhor Orlyk as well as the translation of the unfinished Polish-language addition by Pylyp Orlyk. These included the following (in English translation, with my own and Borschak's parenthetical explanations):

#### A. Pylyp Orlyk's Remarks

1. “I myself composed most of the Treaty [i.e., the Constitution—E.B.] and edited the entire Treaty [Constitution]. I composed it according to a certain plan, following the way such public treaties were being composed by other nations. I was using specimens in the Library of Mr. [Gustav Henrik von] Müllern, to whom I used to show at that time different articles of the Treaty” (p. 30).<sup>4</sup>

2. “Among the persons who deliberated on the articles of this document [Constitution] were Messrs. [Andrii] Voinarovskiy, [Kost' ] Hordiienko, [Dmytro] Horlenko, [Il'ia] Lomykovskiy, [Fedir] Myrovych, [Ivan] Maksymovych, Ivanenko [?—E.B.], Kostenko [?—E.B.]. Some names I cannot remember any more due to the passage of time, but there were in deliberation with me people of both the secular and the religious estates, and many eminent persons, who took with them our decisions to Ukraine” (p. 10).

3. “Several times, when I would like to stress more exactly some point, I was told [by my co-workers] that they are satisfied with the *generalia*, having trust in my dedication” (p. 77).

4. "We worked on this [article 6 of the Constitution] longer than one month. My emissaries traveled twice to and from Ukraine. This inflicted a burden on me, since I had to code the [Constitution] project in ciphers for the distinguished officers of Ukraine. Mr. Voinarovs'kyi helped me in this task" (p. 12).

*B. Translation of Hryhor Orlyk's French Remarks*

"This charter [Constitution] has a long preamble which I possess in the Cossack language and which describes the fortunes and misfortunes of the Cossack people. This preamble was accepted unanimously, after short discussion. It was my father himself who inserted there a passage saying that the Cossack people was always vocal against the autocracy.

"Concerning the notion that the Cossack people is the immediate successor to the Khazar state, my father learned it from the Old Latin authors, and one churchman [Parthenius—E.B.], an educated person and friend of my father, found the same proofs in the theological [!—E.B.] books. My father also wrote to me that if the Cossack people had preserved their ancient princes, those princes would have a greater right to the patrimony of the Eastern Empire than the present Russian Empress [Elizabeth, 1741–1762]" (pp. 11–12).

*C. Translation of the Polish Addition by Pylyp Orlyk*

"The fortress of Bendery is elevated along the Dnister. Down near the river itself lies the plain where His Swedish Highness had his camp at the beginning of our peregrination [1710]. To the south and to the southwest of the Swedish camp on the plain my election to the office of Hetman took place. The town itself, which is commanded by a *serasker* [Ottoman commandant], has a garrison of 1,000 men. Here live Greeks, Armenians, and Jews. The latter live in the suburbs, where they even have their synagogue, rather interesting in appearance, which I, however, failed to view in a detailed way" (p. 14).

NOTES

1. The only study dealing with the Constitution of 1710 known to me is by Mykola Vasylenko, published in *Uchenye zapiski Instituta Istorii RANIIION* (Moscow 1929) 7: 153–71. It was translated into English in *The Annals of the Ukrainian Arts and Sciences in the U.S.* 6(3–4) 21–22 (1958): 1260–1295.
2. Borschak visited Dinteville in 1922 as a guest of the grandfather of the present owner.
3. It is titled *Pylyp Orlyk: Vyvid prav Ukraïny. Z rukopysu rodynnoho arkhiva Dentevil' u Frantsii. Zi vstupom i prymitkamy podav Il'ko Borshchak. Vydannia druhe, vypravlene i dopovnene*. It comprises 3 unnumbered and 92 numbered pages.
4. Numbers in parentheses here represent the pagination of the unpublished typescript of the Borschak second edition.











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Летника, за вышотоу рече, отпечени  
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Три годъ Лепкинской войнѣ (1770-72)  
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 напередѣти, имѣть яче величюмъ  
 Лепкина доносити, и дѣлѣнціи  
 отъясити, а не сѣки терпѣтими  
 фромши, «отъясиле до ~~дѣлѣнціи~~ <sup>дѣлѣнціи</sup> сирѣчь  
 фромши, и дѣлѣнціи войскамъ не  
 пошлѣности и дѣлѣнціи, и тоы  
 койе наймѣншихъ пѣ и дѣлѣнціи  
 войскамъ отъясити.

Тонко

Въ Лепкинѣ пѣрѣ сѣмъ пѣ войско  
 зотого войскамъ пѣрѣ вѣдѣти пѣ  
 сирѣчь. Вѣдѣти, «отъясиле сирѣчь  
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 до сирѣчь войскамъ напередѣти, а  
 пѣрѣдѣти, и оныи за вѣрѣ  
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 и пѣрѣ пѣрѣ пѣрѣ, пѣрѣ  
 пѣрѣ Архиповѣ вѣрѣ, пѣрѣ  
 и пѣрѣ пѣрѣ вѣрѣ, пѣрѣ  
 зы нашоу за Лепкинской войскамъ  
 зотого Лепкинской и сирѣчь  
 ошлѣти, пѣрѣ сирѣчь пѣрѣ

В

нагоно

и пѣрѣдѣти войскамъ на  
 пѣрѣ конскѣ, пѣрѣ, пѣрѣ  
 дѣлѣнціи, пѣрѣ, пѣрѣ  
 ошлѣ до пѣрѣ, пѣрѣ  
 и пѣрѣ пѣрѣ, пѣрѣ  
 отъясиле пѣрѣ пѣрѣ

3.

Сѣмъ пѣрѣ зы Вѣдѣти ошлѣ  
 пѣрѣ, Вѣдѣти, сирѣчь  
 пѣрѣ, зычѣнціи пѣрѣ, и  
 пѣрѣ, вѣрѣ войскамъ зычѣнціи  
 ошлѣ, пѣрѣ пѣрѣ и сирѣчь, зы  
 пѣрѣ Лепкинской дѣрѣ  
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4.

Пѣрѣ Вѣдѣти ошлѣ зычѣнціи

















22

Ты не гонят Малороссийских Стари-  
 шинкоу Бегекиноу, и тыишь де бои:  
 сиакиб затюгоуришии ошчор ошакъ  
 стюгонъ зхадюор законгерныа и на  
 волюй Свещи отъ пото Яене -  
 величюто детишка стипиа е.  
 гоиу дуй - тосочюор тисакюор спш.  
Свещи, бидри, похдалии, и за  
свещи, звонки; яко мш тыишь.  
тонепо де не иши дур сест за-  
мтениши хеттис, пшшио дурюсто  
 и тосочюор тосочюор спш, сикъ  
тисакюор тосочюор спш и за  
иттис мтени, свещюор кюо  
мтени кшши спш, дсюор  
шмш зюоритти туден, и спш  
всичюто наси спш дурше и  
не на спш дурше; того вс.  
то дур во шш в тш тш  
дур шш на шш тш шш  
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