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The Legal Dispute between Václav Hanka and David Kuh in the Light of Actions Taken by the Austrian Police Against the Revivalists of the Czech Nation

Generally speaking, a court case is designed to settle a dispute or to determine and punish the guilty party in a given crime. Both of these apply in the defamation case against David Kuh, who was brought before a Prague regional court [*Landesgericht*] in 1859 by plaintiff Václav Hanka. However, this litigation had a very particular context, the significance of which went far beyond the courtroom. Indeed, as if through a lens, it shows the problems that had to be contended with during the times of Bach's Neoabsolutism — not only by the Revivalists of the Czech nation, as the propagators of the Czech National Revival were dubbed, but also by the state organs of the Austrian Empire, whose task it was to combat dangers that threatened the Habsburg monarchy.

Nevertheless, in order to sketch this picture from the appropriate perspective, we must go back four decades earlier, to the year 1817. It was then that Václav Hanka¹, a young and ambitious student of Josef Dobrovský, discovered a manuscript in the tower of St John the Baptist's Church in the

1 Václav Hanka was born on 10 June 1791 in the village of Hoříněves, near Hradec Králové, where in 1804 he began his education at a gymnasium. Five years later, he went to Prague to attend university, and he was a student of Josef Dobrovský. In 1813, he went to Vienna to study law. Six years later he was employed at the newly founded Museum of the Kingdom of Bohemia, and in 1821 he became its librarian. As of 1848, he taught at the University of Prague, lecturing in Old Church Slavonic and Russian. See K. Homolová, M. Otruba, Z. Pešata, *Čeští spisovatelé 19. a počátku 20. století*, Praha 1982, pp. 75–78.

Bohemian town of Dvůr Králové nad Labem. This document was to play an important role over the coming years in the process of shaping the Czech nation. Owing to the place where it was found, the volume is known as *The Queen's Court Manuscript* (*Rukopis královédvorský* in Czech), and it was first published in print by Václav Hanka and Václav Alois Svoboda in the year 1819². Shortly afterwards, in 1822³, a work known as *The Green Mountain Manuscript* (*Rukopis zelenohorský* in Czech) was likewise published, having been found in 1818 by the same scholar. Hanka dated these manuscripts to the 13th century and the 9th-10th centuries respectively⁴. They had been written in Old Czech, and contained literary works which testified to the remarkably advanced stage of the language's development during those times. Indeed, certain epic songs from *The Queen's Court Manuscript* eulogised Czech heroes who had fought the Frankish invaders, while the *The Green Mountain Manuscript* included a poem entitled *Libušín soud* (Libuše's Judgement), revealing a developed Slavonic, and thereby Czech, legal system from the pre-Christian era. These manuscripts emerged at a time when the Revivalists of the Czech nation were trying to advance the Czech language in the face of a tide of Germanisation from the Habsburg authorities. The champions of the revival turned to the past in their search for sources for the development of their own national oeuvre — exploring the folklore and cultural heritage of the Slavs⁵. The manuscripts in question, nowadays referred to by the abbreviation RKZ (hereinafter referred to by the English, QGM), were in perfect consonance with the mood of the time and, to a large degree, the anticipations of the exponents of the Czech National Revival. Attempts to awaken a Czech national identity had been ongoing since the late 18th century, following almost two centuries under the Austrian yoke, beginning with the defeat of the Czech Army at the Battle of White Mountain in 1620. In fact, such an image of Czech history is not entirely representative of the truth⁶,

2 *Rukopis Královédvorský*, ed. V. Hanka, V. A. Svoboda, Praha 1819, <http://kramerius.nkp.cz/kramerius/MShowMonograph.do?id=30222> (30.09.2018).

3 The first Czech edition was published in the journal "Krok" in 1822, see *Soud Libušín*, ed. A. Jungmann, J. Jungmann, "Krok", no. 3 (1821), pp. 48–61; whereas the manuscript was first published in Warsaw in parts in 1820.

4 J. Opelík, *Lexikon české literatury, Osobnosti, díla, instituce*, Praha 2000, pp. 1329–1337.

5 J. Magnuszewski, *Historia literatury czeskiej. Zarys*, Warszawa 1973, p. 112.

6 See J. Rak, *Bývali Čechové. České historické mýty a stereotypy*, Praha 1994, pp. 129–140.

but it did indeed serve to build a Czech political community, and the QGM, as a testimony to the 'antiquity' of the nation, played a part in this.

The popularity of these two manuscripts is evidenced by consecutive editions, numerous translations into foreign languages (a Polish translation by Lucjan Siemieński of *The Queen's Court Manuscript* was published in 1836), and perhaps above all by operas, theatrical productions and works of poetry, in which hitherto unknown characters appeared in the Czech popular imagination, figures who apparently belonged to the ancient, and not solely mythical, national pantheon.

However, not everyone was convinced of the genuineness of the manuscripts. Among those who questioned the authenticity of the works were Josef Dobrovský⁷ and Jernej Kopitar⁸. Even after the manuscripts were published – a factor which cemented the QGM's status as classics of Czech literature – critical voices did not subside, as exemplified by those of Václav Bolemír Nebeskéh and Jan Erazm Vocel, who considered that the works were not as old as Hanka claimed them to be.

State institutions only started to take an interest in the QGM some forty years after their discovery, owing to the Chief of the Prague police, Baron Antoni von Päumann, who had been appointed to that position three years earlier⁹, and who had gained a reputation in that office as a staunch foe of Czech national activists. If one is to believe a reminiscence about him published in a newspaper after his death, he said that "if he had had the appropriate tools as his disposal, he would have quashed the Czech language and the entire Czech nation"¹⁰. It is difficult to assess the extent to which the opinions about 'The Caiman', as he was dubbed by the Revivalists of the Czech nation¹¹, reflected the truth, and how much was pure exaggeration, but he indeed saw in the QGM a threat that endangered the Habsburg monarchy.

Päumann's attention was drawn by the commemorative events that Czech activists organised on 29 September 1857 on Dvůr Králové nad

7 J. Dobrovský, *Literarischer Betrug*, "Archiv für Geographie, Historie, Staats- und Kriegskunst", no. 46 (1824), p. 260.

8 Jernej Kopitar published his thoughts on the matter in 1829 in "Jahrbücher der Literatur" as a commentary on the text of F. Palacký, *Kralodvorský rukopis: Zbírka staročeských básní...*, "Jahrbücher der Literatur", Bd. 48, October-December (1829), pp. 138–169.

9 "Wiener Zeitung", no. 240, 7 October 1854.

10 "Neues Wiener Tagblatt", no. 86, 28 March 1870.

11 J. R. Vilímek, *Ze zašlých dob – vzpomínky Jos. R. Vilímka st.*, Praha 1908, p. 7.

Labem's Market Square, on the 40th anniversary of Hanka's discovery of *The Queen's Court Manuscript*. The celebrations included the unveiling of a statue of Zábaj, one of the heroes of the unearthed songs. A great many figures from local cultural and civic circles attended, although the event did not make any ripples in Prague. Suffice it to say that aside from Václav Hanka himself, only one other person came from the Bohemian capital, which was after all the greatest centre of Czech culture at the time. However, this did not alter the fact that having learnt about the commemorations, the Prague police called for an explanation from the local authorities¹².

On 6 January 1858, Police Chief Päumann submitted a report about the aforementioned tributes to his superior Johann von Kempen, chief of Vienna's Supreme Police Authority (Oberste Polizeibehörde). Päumann did not fail to stress that in his opinion, the two manuscripts constituted a grave threat to state security. He conceded that these literary works were of historical and artistic value, but argued that they were being used to whip up national tensions against the Germans. Päumann claimed that Czech activists treated the manuscripts as national relics, rendering any discussion of their authenticity impossible. The chief likewise pointed out that ten years previously, similar events had been held to mark the 30th anniversary of the discovery, and that in all probability other such commemorations would continue in the future, which could further inflame nationalistic tendencies among the Czechs. Päumann also highlighted Hanka's activity to date, categorising him as anti-German¹³. He duly lamented the fact that because the manuscripts were treated as literary relics, they eluded censorship regulations¹⁴, and thus under the law of the day they could not simply be confiscated, nor could pu-

12 F. Roubík, *Účast policie v útoku na Rukopisy roku 1858*, in: *Od pravěku k dnešku. Sborník prací z dějin československých k šedesátým narozeninám Josefa Pekaře. II*, Praha 1930, p. 435.

13 F. Roubík, *Účast policie...*, op. cit., pp. 436–437.

14 As of 1801, the Oberste Polizei und Censurhofstelle, whose work was taken over in 1852 by the Oberste Polizeibehörde, served as the principal censorship office. Uniform instructions for the censorship apparatus based on the criminal code from 1803 were introduced in 1810, and further regulations concerning the issue appeared in 1819 and 1830. In March 1848, censorship was lifted, but that liberty did not last long, as it was reintroduced on 2 January 1849. In 1852, a press act was passed, regulating matters involving press publications. See M. Bogus, *Cenzura czy troska, czyli 'spis książek poleconych i zakazanych' Jana Śliwki z 1899 roku*, "Slezský sborník", vol. CXI, no. 1 (2013), p. 41; Reichsgesetzblatt (hereinafter: RGBI) no. 36, 2 VI 1852, item. 122, pp. 603–615.

blication of them be forbidden. Nevertheless, if their authenticity could be undermined, their importance would diminish in the sphere of Czech public opinion, and hence their influence would be neutralised¹⁵.

Chief Päumann managed to interest Kempen in the matter, and thus it became the former's prerogative to trawl through the developments of the last 40 years, collating all the arguments that undermined and cast doubt upon the authenticity of the QGM. He took up the task with great energy and all the scrupulousness of a numismatist, which indeed he had been for many years¹⁶. Having consulted with several scholars whose names have largely been forgotten by history, by March 8th he was able to elaborate in great detail on all doubts concerning not only the QGM, but also other Old Czech manuscripts that had been published by Hanka, such as *Píseň Vyšehradská* and *Píseň krále Václava*, which indeed had also given rise to doubts about their authenticity. In his report, Päumann also cited voices in academic circles who had stressed the need to conduct thorough research on the matter of the QGM's authenticity. A commission of the Museum of the Kingdom of Bohemia had indeed been due to decide about this, but it had not met as of yet. Concluding his report, Päumann also informed his superior that Hanka had access to various types of ink in his workshop at the aforementioned museum, and that he was well known for his ability to imitate various examples of handwriting¹⁷. The information gathered by Päumann was enthusiastically received in Vienna. On March 17, the Supreme Police Authority replied via a certain advisor named Clanner, expressing the opinion that the bare facts mentioned in the report would be enough to undermine the authenticity of the manuscripts, which would amount to a triumph for the police¹⁸.

However, Chief Päumann did not want to conduct a head-on attack. Correctly assuming that any suspicion that the police were behind the undermining of the QGM would only damage the force itself, he decided to act with the utmost care. His plan was to place an article in widely-read foreign newspapers, ideally in "Augsburger Allgemeine Zeitung", the leading German title of the day¹⁹. The piece would refer to the doubts previously expres-

15 F. Roubík, *Účast policie...*, op. cit., p. 441.

16 I. Röskau-Rydel, *Niemiecko-austriackie rodziny urzędnicze w Galicji 1772-1918. Kariery zawodowe – środowisko – akulturacja i asymilacja*, Kraków 2011, p. 342.

17 F. Roubík, *Účast policie...*, op. cit., p. 437.

18 F. Roubík, *Účast policie...*, op. cit., p. 437.

19 See E. Heyck, *Die Allgemeine Zeitung 1798-1898. Beiträge zur Geschichte der deutschen Presse*, München 1898, pp. 15–81.

sed about the QGM. The chief was convinced that Hanka was behind the falsification²⁰, and he hoped that in this roundabout way, the Czech public would learn about the reservations regarding the authenticity of the supposedly historic documents, and that Czech activists would be forced to defend their position²¹.

The text that Chief Päumann prepared bore the title *Die altböhmi-schen Handschriften*, and it listed all the doubts hitherto raised by scholars – not only concerning the QGM, but all of the Old Czech manuscripts that had been discovered over the previous decades. The anonymous author thus referred to the opinion of Alois Vojtěch Šembera, who regarded *Píseň na Vyšehradě* as a forgery, and he also cited Julius Feifalik, who had likewise dismissed the narrative poem *Milostná píseň krále Václava* as fraudulent. He also recalled that Dobrovský had already deemed *Libušín soud* a forgery, pointing to Jungmann and Hanka as the authors. Yet this was just the beginning, as the anonymous author, citing among others the doubts of Jernej Kopitar and newer ones expressed by Julius Feifalik and Max Büdinger, also attacked *The Queen's Court Manuscript*, which had hitherto been universally regarded as authentic. He pointed to its anti-German character and the similarities with the Serbian heroic songs which had been published by Herder in the 18th century, and also to *The Tale of Igor's Campaign*, an 1808 translation of which had been published by Hanka in 1821. The author of the article called for commission-led research to be carried out with regards to the authenticity of *The Queen's Court Manuscript*, and suggested it would be better if Hanka did not 'find' any more manuscripts²².

Chief Päumann sent the text to Kempen in March 1858, who duly forwarded it to be evaluated by Lieutenant Colonel Schmidt, an expert of the Supreme Police Authority, along with a plan Päumann had devised. However, Schmidt did not share Päumann's enthusiasm, and advised against such a provocation. In Schmidt's opinion, the QGM manuscripts were no more political than the works of Schiller on Wallenstein, while the dispute about the authenticity of the manuscripts should be left to the narrow

20 F. Roubík, *Účast policie...*, op. cit., p. 440.

21 F. Roubík, *Účast policie...*, op. cit., p. 438.

22 F. Roubík, *Účast policie...*, op. cit., p. 438. See also *Chronologie hlavních událostí spojených s recepcí Rukopisů královédvorského a zelenohorského ve vědě (1816–1885)*, in: D. Dobiáš, M. Fránek, M. Hrdina, I. Krejčová, K. Piorecká, *Rukopisy královédvorský a zelenohorský a česká věda (1817–1885)*, Praha 2014, pp. 245–250.

circles of Slavonic philologists and historians. Furthermore, as Lieutenant Colonel Schmidt argued, if the police's activity should come to the surface, it could elicit the dissatisfaction of the loyal Czech nobility. Kempen acceded to Schmidt's opinion, and did not consent to publication²³.

Chief Päumann must have been taken aback by such a response from his superior, because as early as the beginning of May 1858, he tried to convince him of the soundness of his idea, although he did not receive a reply. However, before long the situation changed, as new circumstances emerged in relation to the matter. During the July sitting of the Museum of the Kingdom of Bohemia's council, a motion was submitted by Josef Wenzig calling for the establishment of a special commission that was to investigate the authenticity of *The Queen's Court Manuscript*. As it was, the assembled persons rejected the idea, claiming that there were no reasons to doubt the authenticity of the manuscript. However, Chief Päumann managed to obtain the minutes of the meeting, and he was above all intrigued by a comment made by Erazim Vocel, who noted that the manuscripts had supposedly been seen in the town of Dvůr Králové in 1817, in other words prior to their discovery by Hanka. Päumann stressed in a report sent to Vienna that it would be sensible to look into this issue. Kempen agreed with his inferior, but recommended that he address himself – and his doubts – to the Viceroy of Bohemia, and inform him about the result²⁴.

The Chief of the Prague police was thus compelled to inform the Viceroy of Bohemia about his plans, of which the latter knew nothing, as of yet. Therefore, Päumann expounded his views on the matter in an extensive letter to the presidium of the viceroy, dated 14 July 1858. He described therein all the circumstances and doubts that he was aware of concerning *The Queen's Court Manuscript*, which had been published by Hanka, and he noted the outcome of the recently held session of the council of the Museum of the Kingdom of Bohemia. He underlined the anti-German overtone of the manuscripts, and the influence which he believed they had on whipping up nationalist moods in Bohemia. As heritage works, they were not subjected to censorship, and hence he argued that it would be productive to prove that they were forgeries, and thus the texts could be removed from schools. According to Chief Päumann, the forgery would have to be confirmed by

23 F. Roubík, *Účast policie...*, op. cit., p. 439.

24 F. Roubík, *Účast policie...*, op. cit., p. 440

academics, although the authorities could help in this regard. Finally, the chief requested that it should be clarified as quickly as possible whether Vocol's claim that *The Queen's Court Manuscript* had been seen before its purported discovery had any basis in fact²⁵.

The presidium took on board Päumann's arguments and consequently decreed that the circumstances of the discovery of *The Queen's Court Manuscript* should be investigated in more depth. However, the actions duly taken in this respect did not bring much to light.

Meanwhile, a new development occurred in Prague that corresponded perfectly with Päumann's original plan – the scheme that had indeed been rejected by Kempen in April. In late October, the political daily *Tagesbote aus Böhmen* published a series of articles under the title 'Handschriftliche Lügen oder palaeographische Wahrheiten'²⁶. These texts, which were written by an anonymous author in an ironic, anti-Czech tone, recalled a number of infamous forgeries, and in this context likewise referred to the manuscripts published by Hanka which had already been deemed bogus (*Milostná píseň krále Václava, Píseň na Vyšehradě*) or probably were (*Libušin soud*). However, the author's main aim was to arouse doubts as to the authenticity of *The Queen's Court Manuscript*. Noting that the so-called 'Old Czech' school of writing had in all likelihood existed until as late as the 19th century, the anonymous author insinuated that Hanka 'had been very much in contact with it' in recent times. The series of five articles ended with a call for the authenticity of *The Queen's Court Manuscript* to be clarified once and for all, via appropriate academic research, which hitherto had not been carried out²⁷.

The article sparked a veritable storm, not only in Prague and Bohemia, but also across the entire monarchy. This direct attack on the authenticity of *The Queen's Court Manuscript* could not go unanswered by Czech activists, particularly as it was clear to all concerned parties that the anonymous articles had political resonance. Just one week after the publication of the last article in the series, František Palacký responded to the accusations made in "Tagesbote aus Böhmen". In the introduction to his polemic printed in the

25 F. Roubík, *Účast policie...*, op. cit., p. 441.

26 *Handschriftliche Lügen und palaeographische Wahrheiten*, "Tagesbote aus Böhmen", no. 276, 6 October 1858; no. 285, 15 October 1858; no. 289, 19 October 1858; no. 292, 22 October 1858; no. 299, 29 October 1858.

27 F. Roubík, *Účast policie...*, op. cit., pp. 441–442.

newspaper "Bohemia"²⁸, he drew attention to the 'dishonourable intentions' which had guided a certain German journal for some time. According to Palacký, these intentions were clear and involved dismissing all 'the flowers of Old Czech literature' as fakes, for the only reason that they were not German. In Palacký's opinion, the anonymous author of the articles published in "Tagesbote aus Böhmen" plainly conformed to this trend. As the doyen of Czech national activists ironically noted, this was most clearly demonstrated by the fact that the accusations regarding the authenticity of the manuscripts were published in a newspaper that was normally concerned with the stock market. Palacký asserted that there were no doubts as to the authenticity of either *The Queen's Court Manuscript* or *The Green Mountain Manuscript* (although in the latter case he himself had had doubts in 1834), and he set about proving this with recourse to both historical and paleographic arguments. Palacký even went as far as to claim that if Hanka himself were to confess to forgery, he still would not believe him, as in his opinion there was no one in Bohemia who could write in such a style at the time²⁹.

Before Palacký had published an entire series of articles in *Bohemia*, the anonymous author of the "Tagesbote aus Böhmen" pieces hastened to pen a riposte, entitled 'Herr Palacký und der kategorische Imperativ seiner palaeographischen Moral'. He sought to smash Palacký's arguments, pointing out the suspicious ink and parchment of *The Queen's Court Manuscript*, and likewise referring to the doubts expressed previously by Pertz, Wattenbach and Miklosich³⁰. The anonymous author also stressed that if his articles had any hidden agenda, then it was solely to establish the truth about the Old Czech manuscripts³¹. In remarks printed alongside this rebuttal, the editor of "Tagesbote aus Böhmen", David Kuh stated that although he was not the author of any of the anonymous articles, he completely agreed with their contents³².

28 F. Palacký, *Handschriftliche Lügen und palaeographische Warheiten. Eine Entgegnung*, "Bohemia", no. 288, 5 November 1858; no. 289, 6 November 1858; no. 292, 10 November 1858.

29 F. Roubík, *Účast policie...*, op. cit., p. 442.

30 See G. H. Pertz, *Reise nach Böhmen, Österreich, Salzburg und Mähren im September 1843*, *Archiv der Gesellschaft für ältere Geschichte* 1847, Bd. 9, p. 465; W. Wattenbach, *Verzeichnis alter und neuer Fälschungen*, in: W. Wattenbach, *Deutschlands Geschichtsquellen im Mittelalter*, Berlin 1858, p. 447; F. Miklosich, *Entgegnung auf Herrn Hanka's Albernheiten und Lügen*, Wien 1851.

31 F. Roubík, *Účast policie...*, op. cit., p. 443.

32 *Herr Palacký und der kategorische Imperativ seiner paläographischen Moral*, "Tagesbote aus Böhmen", no. 310, 9 November 1858; no. 312, 11 November 1858.

Palacký responded to this declaration with a further article in "Bohemia", stating that Kuh had joined the ranks of those stirring nationalist animosities, echoing figures who propagated the thesis that the Slav was a creature that could only be moulded into a complete person by Germans. According to the greatest proponent of Austro-Slavism, this was indeed the motive behind the attack on the authenticity of *The Queen's Court Manuscript*, and he argued that the Germans were making political capital out of the whole affair. Meanwhile, although the anonymous author had not yet finished his polemics with Palacký on the pages of "Tagesbote aus Böhmen", the latter declared that he would take no further part in the discussion³³.

It was clear to everyone that the specialist knowledge that the anonymous author possessed ruled out the possibility that David Kuh had written the articles. Yet if it was not the editor of "Tagesbote aus Böhmen", then who indeed was the author?

Suspicion fell on the poet Václav Bolemír Nebeský, also the secretary of the Museum of the Kingdom of Bohemia. However, he dissociated himself from the anonymous articles, publishing a statement in the press that he was not the author³⁴. Another suspect was a Bohemian official named Weber, but it would prove impossible to prove these suspicions, both then and today³⁵.

In a report sent to Vienna on the subject of the anonymous publications, Chief Päumann did not conceal his satisfaction that doubts about the authenticity of the manuscripts had been sown, and that the anti-Czech tone of the anonymous articles had compelled 'the Czech side' to defend its standpoint. Päumann had reason to be pleased, as he did not fail to boast to his superior in the report that it was he who had orchestrated the entire situation. Recounting the details to his superior, he even enthused that the materials that had served to inspire the anonymous articles had been provided by him to the editorial office of "Tagesbote aus Böhmen", in an exceptionally careful manner, and that the newspaper itself was chosen for the reason that from among all the German-language papers published in Prague, this one was the least suspected of having connections with the authorities³⁶. His assumption was most probably based on the fact that only

33 F. Roubík, *Účast policie...*, op. cit., p. 443.

34 V. Nebeský, *Erklärung*, "Bohemia", no. 326, 20 December 1858.

35 F. Roubík, *Účast policie...*, op. cit., p. 444.

36 Národní archiv Praha, Presidium policejního ředitelství Praha – tajné, inv. no. 477 (1858).

two years previously, he himself had wanted to shut down that newspaper, as in his opinion it was a 'constant enemy of the throne, monarchical governments, the unity of the state and the empire, public morality (...) and it is heading in a direction that is irreconcilable with public order'³⁷.

The first direct attack on the authenticity of the manuscripts prompted a lively polemic, but it did not develop quite as Päumann would have wished, as the anonymous author remained alone in his stand. Indeed, as it was, other defenders of the manuscripts' authenticity appeared on the scene. Philological, chemical and even legal arguments were taken up³⁸. Owing to this turn of events, Päumann insisted in his subsequent reports that a decision had been taken in patriotic Czech circles that the authenticity of the manuscripts should be defended at all costs. Simultaneously, Päumann could not deny that the arguments of the Czech authorities had been better received by Czech society, and that the polemics — chiefly due to Palacký's article — had shifted from the realm of purely academic matters to national ones, which in practice constituted a failure of the police chief's original plan. Concluding his reports on this matter, he had to admit that he did not possess irrefutable proof that the manuscripts were bogus, and that the dispute could only be settled by chemical studies. In order to conduct that task, it would first be necessary to find a Czech who had the appropriate specialist knowledge and status — a figure who would be bold enough to stand up in public and challenge the authenticity of the manuscripts³⁹.

To be sure, Päumann did not manage to accomplish the goal he had set himself, which was to undermine the faith in the authenticity of the manuscripts amongst the Czech public, but the matter did not end there. The polemics concerning the Old Czech manuscripts reached ever wider circles⁴⁰, and voices began to emerge calling for Hanka, who was after all an esteemed scholar, to respond in some form to the suggestion that it was he

37 J. T. Leigh, *Austrian Imperial Censorship and the Bohemian Periodical Press, 1848–71*, London 2017, p. 171.

38 See. M. Hattala, *Obrana Libušina soudu ze stanoviska filologického*, in: D. Dobiáš, M. Fránek, M. Hrdina, I. Krejčová, K. Piorecká, *Rukopisy královédvorský a zeleňohorský a česká věda (1817–1885)*, Praha 2014, pp. 432–439. On 26 November 1858, J. Staněk, a chemistry professor with a background in law, gave a lecture claiming that the parchment of *The Queen's Court Manuscript* was very old.

39 F. Roubík, *Účast policie...*, op. cit., p. 446.

40 An extensive article on the subject of the authenticity of the manuscripts was published for example in "Wiener Zeitung" 23 March 1859.

who was behind the QGM. It was not necessary to wait long for action from his quarters, because as early as April the following year, Hanka's lawyer filed a suit in a Prague regional court concerning 'defamation of honour' pertaining to sections 488 and 493 of the then criminal code (although it was a criminal case, the state was not represented in the trial) against David Kuh, who did not reveal the name of the author of the articles published in his paper. Hanka levelled the accusation against Kuh that the anonymous articles he had published insinuated that he was the author of *The Queen's Court Manuscript*. In Hanka's opinion, an additional slur on his honour was the placing of his name alongside figures associated with a particular modus operandi. He mentioned for example Symonides, the first poet for whom writing poetry was a means of making a living, and Count Alessandro di Cagliostro, one of the figures in the notorious Affair of the Diamond Necklace, which unfolded in 1785.

The trial was keenly followed by the media, with David Kuh personally repudiating the accusations against him. However, on 25 August 1859, the Prague regional court found the editor of "Tagesbote aus Böhmen" guilty of a crime pertaining to section 488 of the then criminal code, and handed down a two-month prison sentence with limited sustenance, with a bail set at 100 florins, and he was ordered to pay the court costs. The Prague court of second instance [Oberste Landesgericht] upheld the verdict on 26 September 1859⁴¹.

However, David Kuh did not accept defeat. Indeed, he submitted an appeal against the verdict to no less than 'the Supreme Majesty', who transferred the case to the Supreme Court [Oberste Gerichtshof]. This court decided to review the case, and in April 1860, it issued an unexpected, yet highly interesting settlement of the matter⁴².

Above all, the court noted that the manuscripts published by Hanka did not constitute sources that were subject to any special rights or privileges. Therefore, they solely belonged to the sphere of literature. Consequently, as works of literature, they had to be open to criticism, which cannot be limited or prohibited, for in order for the critic to accomplish his intended purpose, he must be able to articulate everything that is necessary. As the

41 F. Roubík, *Účast policie...*, op. cit., p. 446; see also *Process gegen den Redakteur des "Tagesbote aus Böhmen"*, David Kuh, "Gerichtshalle", 7 May 1860, p. 149.

42 Oberstgerichtliche Entscheidung vom 12. April 1860, no. 3166, contents after: *Proceß 'gegen den Redakteur des "Tagesbote aus Böhmen"*, David Kuh, "Gerichtshalle" 7 May 1860, pp. 148–151.

Supreme Court noted, the original applicant felt particularly offended by the comparisons with Symonides and Count di Cagliostro supposedly made in the anonymous articles in "Tagesbote aus Böhmen". However, the text did not only refer to those personages, but indeed also to Old German manuscripts and James Macpherson, hence there was no basis for claiming that the anonymous critic had specifically compared Hanka with Symonides, given that by that reasoning one could also claim that a comparison had been made with Macpherson, who purported to be the discoverer of the supposedly medieval Celtic epic poems known as *The Works of Ossian*. Analysing the anonymous article, the Supreme Court also noted that the references to earlier texts that had turned out to be fraudulent only constituted a prelude to the criticism of the Old Czech texts, and that a comparison with specific figures was not the point of the piece. The judges also very intelligently noted that any ultimate accusation of forgery could only be levelled against the actual author of the manuscripts which had been subjected to criticism, but after all Hanka had rejected the authorship. Moreover, the court regarded the manuscripts as works of great merit, as was clearly reflected by the fact that up until the day on which the verdict was pronounced, they had been translated into 17 languages. Thus, contrarily, the court considered that even if Hanka turned out to be their author, this would be no reason to file a complaint about defamation, but rather a source of pride. If it were at all possible to speak of any kind of accusation, then it would be that the anonymous author had suspected Hanka of 'ageing' the manuscripts, yet this is in itself is an element of literary criticism, expressed in the framework of raising doubts concerning the age of the manuscripts, a factor which did not constitute a breach of section 488 of the criminal code. Owing to this, the *Oberste Gerichtshof* ruled that the earlier verdicts had been handed down in glaring violation of the law, and duly acquitted David Kuh of the charges against him.

It is clear that the Supreme Court perfectly grasped the scale of the problem that they had been compelled to address. Thus, by issuing a 'Solomonic Judgement' which skilfully skated over the question of the authenticity of the manuscripts themselves, the court decided against inflaming the dispute, which had already begun to cause a stir in the monarchy⁴³.

43 See for example "Blätter für literarische Unterhaltung", no. 28, 12 July 1860, "Die Presse", no. 126, 8 May 1860, "Fremden-Blatt", no. 122, 2 May 1860.

Although Hanka died not long after this judgement, suspicions regarding the authenticity of the QGM were not allayed. In 1879, Antonín Vašek published his critical study of the works, openly pointing to Hanka as the author of the manuscripts⁴⁴, and seven years later, the dispute about their authenticity erupted again with renewed force, following Jan Gebauer's publication of an article in the journal "Athenaeum", which called for further research into the subject of the QGM's veracity⁴⁵. This time the dispute was essentially between older Czech activists, who defended the authenticity of the manuscripts that Hanka had supposedly found, and the younger generation, which believed that one could not build a national community on the basis of forgeries, which had most probably been made by Hanka⁴⁶. This dispute is of key importance for the history of Czech literature as a whole, and although today it is widely believed that the QGM amounts to an artful hoax by Václav Hanka and Josef Linda, not everyone agrees with this view⁴⁷.

David Kuh never revealed the identity of the author of the texts that had ignited the affair. Only in 1913, following the funeral of Antonín Zeidler, a retired director of the university library, did it emerge that indeed he had admitted to being the author of the anonymous articles published in "Tagessbote aus Böhmen" in 1858. However, Zeidler had asked for this to be kept secret until after his death⁴⁸.

44 See: A. Vašek, *Filologický důkaz, že Rukopis kralodvorský a zelenohorský, též zlomek Evangelia sv. Jana jsou podvržená díla Václava Hanky*, in: D. Dobiáš, M. Fránek, M. Hrdina, I. Krejčová, K. Piorecká, *Rukopisy královédvorský a zelenohorský a česká věda (1817–1885)*, Praha 2014, pp. 536–553.

45 J. Gebauer, *Potřeba dalších zkoušek Rukopisu Královédvorského a Zelenohorského*, "Athenaeum", February 1886, pp. 152–164; see also T. G. Masaryk, *List redaktora Athenaeae prof. T. G. Masaryka, ke spisovateli článků předešlých*, "Athenaeum", February 1886, pp. 164–168.

46 J. Kočí, *Spory o Rukopisy v české společnosti*, in: *Rukopis královédvorský a zelenohorský, Dnešní stav poznání, Sborník Národního muzea v Praze, Řada C – literární historie*, v. XIII–XIV, ed. M. Otruba, Praha 1969, pp. 27–28.

47 In 1993, the pre-war society named Česká společnost rukopisná, which had been dissolved during the communist period, resumed its activities, which principally involved defending the authenticity of the QGM. On the 200th anniversary of Hanka's 'discovery' of *The Queen's Court Manuscript*, the society published a monograph devoted to the manuscripts, see K. Nesměrák, D. Mentzlová, J. Urban, J. Žytek, *RKZ dodnes nepoznané*, Praha 2017.

48 F. Roubík, *Účast policie...*, op. cit., p. 448–449.

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Abstract

Andrzej Spyra

The Legal Dispute between Václav Hanka and David Kuh in the Light of Actions Taken by the Austrian Police Against the Revivalists of the Czech Nation

Keywords:

Bohemia, National
Revival, police,
provocation,
Czechs

This essay presents the activity of the Austrian secret police that led to legal action being taken up in 1859. That year, Václav Hanka sued David Kuh, the founder and editor of the Prague newspaper "Tagesbote aus Böhmen", for defamation, after the latter published a series of anonymous articles in his paper, accusing Hanka of forging *The Queen's Court Manuscript* and *The Green Mountain Manuscript*. For several decades, both works influenced the shaping of the Czech political nation, and as it later transpired, the Austrian police were behind the attacks on their authenticity. Further piquancy is added by the fact that thirty years later, Hanka was indeed recognised as the author of the aforementioned manuscripts.

Abstrakt

Andrzej Spyra

Spór sądowy pomiędzy Václavem Hankou a Davidem Kuhem w świetle działań austriackiej policji przeciwko czeskim budzicielom narodowym

Artykuł prezentuje działania austriackiej tajnej policji, które doprowadziły do tego, że w roku 1859 Václav Hanka pozwał Davida Kuha, wydawcę praskiej gazety „Tagesbote aus Böhmen”, o to, że ten naruszył jego dobre imię, publikując w swojej gazecie serię anonimowych artykułów zarzucających mu, że sfałszował on rękopisy królowodworski i zielonogórski. Oba dzieła przez kilka dziesięcioleci miały wpływ na kształtowanie się ówczesnego politycznego narodu czeskiego, a za tym atakiem na ich prawdziwość, jak się później okazało, stała austriacka policja. Pikanterii sprawie dodaje fakt, że trzydzieści lat później Hanka rzeczywiście został uznany za autora wspomnianych rękopisów.

Słowa kluczowe:

Czechy,
Odrodzenie
Narodowe, policja,
prowokacja