

# Franciszek Nowodworski – The lawyer

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**Abstract:** The article presents the silhouette of Franciszek Nowodworski – a Polish lawyer whose career came at the end of the 19th century and the beginning of the 20th century. He was an outstanding advocate and social activist involved in the process of Poland’s regaining independence, and then, as President of the Supreme Court, he laid great merit in shaping the case law of the Republic of Poland of the interwar period. Many of his thoughts can so far serve as a motto to modern lawyers.

**Key words:** history of law, independence, Supreme Court

Franciszek Nowodworski, born in 1859 in the then Kingdom of Poland – a country dependent on the Russian Empire, erected at the Congress of Vienna, which in the following decades was deprived of its initial autonomy. For years, he was an excellent lawyer, social and independence activist, and then, until the end of his life, an outstanding judge and the first president of the Supreme Court in the Second Polish Republic. After graduating from law school in Warsaw in 1880, before he became famous as a young defender, as a twenty-something he became famous for his poems published in popular weeklies and recited at rallies, with the most famous “Gladiator” describing the famous statue exhibited - moreover to this day, in a copy – in the building of the Warsaw Society Friends of Fine Arts.

Shortly after obtaining independent advocacy rights, Franciszek Nowodworski was appointed one of the defenders in the famous case of twenty-nine activists of the so-called First Proletariat – an illegal political party on the Polish soil with a utopian-communist program, with an admixture of anarchism. The exact names of the three party-members he defended are unknown today. It was, however, a very well-known process in the society, although it was not admitted to the Warsaw Citadel where it took place, neither the public nor the representatives of the press. However, it is known from the lawyer Cezary Ponikowski that the fellow advocates spoke with great appreciation about the courage and artistry of their young colleague. It should be noted that the Nowodworski family adhered to traditional social values, so the ideas of the Proletariat Party were completely foreign to Franciszek.<sup>1</sup>

In later years, Franciszek Nowodworski, already as a reputable lawyer, undertook other difficult defenses. In 1908, he appeared before the court in Warsaw, at an away session of this chamber in Kalisz, in the so-called “Kalisz case” in which several people were accused of belonging to a national democratic party before 1906; secret circles were the basis for the functioning of this rather fragile

organization; it set itself the main goal of separating the Kingdom of Poland from Russia and creating an independent Polish state, while ad hoc – demanding respect for national interests and the restoration of Polish to schools and administration.

In the same 1908 he was a defender in the process of plenipotentiaries of the Kały commune in the Grójec powiat; these people spontaneously caused the commune government to adopt a resolution refusing to finance, at the expense of local lodging, the accommodation for the so-called land guards imposed by the Russian authorities; moreover, at the municipal assembly, they publicly claimed that the tsarist police or its assistants were not needed in this area, that the Polish police would have been enough and that the money from the municipal coffers should be spent on educating peasant children rather than on regime officers.

In 1909, he became involved in the defense of his native speech, appearing before a court in a case brought to the commune judges that after the revolutionary events of 1905 they restored the Polish language in the local judiciary. In the same 1909, at the away session of the Warsaw Court Chamber in Łomża, he defended six communal male-teachers and eleven female-teachers who, having formed an association, demanded that the schools used Polish in the Kingdom of Poland.

A few years later, in 1915, he successfully defended notary Turczynowicz who was accused in court of using Polish in a notarial deed.

1910 – and here Franciszek Nowodworski stands, at the away session in Częstochowa of the Piotrków District Court, as a defender in the case of incidents between socialists and nationalists, workers of one of the factories in Zawiercie, which occurred in connection with the attempt to celebrate the 3rd of May – the Anniversary of adoption of the democratic, sovereign Polish constitution in 1791 (in fact, it was the first written constitution in Europe, four months ahead of the famous French Constitution).

In 1913, he was appointed a defender of one of the main accused in the trial that was pending before the

<sup>1</sup> GALEZOWSKI M., see: *Słownik Biograficzny Adwokatów Polskich*. V. 2, Warszawa: 1988, p. 382–383.

court in Piotrków against members of the organization called the National Workers' Union; Franciszek Nowodworski's client was acquitted, after a very good and flaming speech of his defender, who with a high fever and a terrible pain in his leg was brought to the court building and then literally transported on a stretcher, only kneeling on the defensive bench because of ailments he could neither sit nor stand still; the result of this trial was for Franciszek Nowodworski a real defense success because only three of a dozen accused were acquitted.<sup>2</sup>

He kept a meticulous record of the processes in which he appeared – and there were about one thousand two hundred cases!

In 1914, Franciszek Nowodworski was elected, during the first general congress of the Polish bar that took place in Lviv, one of the three presidents of this body and gave a famous speech about the tasks of the Bar in future Poland; he understood these tasks very broadly, which is best demonstrated by the following quote from this speech: "Defense status is a civil knighthood order, indispensable and indestructible, established to combat the abuse of force. Defenders are born opponents of arbitrariness and violence. They are on the good side of life, on the good side of history. They are on the side of justice."

Invariably, for years, he publicly expressed the belief that the mission of the lawyer state is to serve the needy. And when in 1905, on the wave of revolutionary turmoil, the proclamation of a bar and notary strike was considered, during the convened meeting of these two professional groups, Franciszek Nowodworski took the floor and after a nearly two-hour speech he managed to convince the gathered that such a step would be reckless.

He did not escape the fate of the exile (a Russian court sentenced him for journalistic activity) however, thanks to happily conducted interventions friendly to him, instead of Siberia he was forced to settle in Odessa, and for a not too long period. After returning to the Kingdom of Poland, he again fell into the whirlwind of professional and social work. He was a depute to the Russian Duma, as a representant of the Polish nationality.

The outbreak of World War I intensified the activity of Franciszek Nowodworski. Initially involved in organizing the life of war-torn Warsaw, he then considered it his duty to accompany a significant group of compatriots confused in the international turmoil of immigrants to Russia. In St. Petersburg, he developed various civic activities.

Finally, in late autumn 1918 he returned to Warsaw, where he was immediately offered the position of the president of the Criminal Chamber of the new-established Polish Supreme Court. In 1922, he would take over the office of the First President of this Court and hold it until the end of his busy days – until August 1924.

It was the culmination of all his previous activities. At that time, the position of the First President was combined with the simultaneous chairmanship of one of the Cham-

bers of this Court - in this case the Criminal Chamber.<sup>3</sup> There were four chambers in the Supreme Court at that time, with a different division of functions than now. There was, therefore, the First Civil Chamber and the Second Criminal Chamber for cases from the former Russian partition, the Third Civil and Criminal Chamber for cases from the former Austrian partition and the V Civil and Criminal Court for cases from the former Prussian partition; at first there was also a Chamber IV for administrative matters, which then separated into a separate judicial body, i.e. the Supreme Administrative Court, but after this separation the old numbering was maintained for some time.

While holding the supreme judicial office, Franciszek Nowodworski tried very hard to do two things, of course, apart from the best substantive level of the Supreme Court's work: total impartiality and – clarity of the Polish legal language. A communist whose case reached the Supreme Court Criminal Chamber reportedly expressed great satisfaction at the news that Judge Nowodworski had his case in his paper. And as far as care for shaping legal vocabulary is concerned: the President reportedly reviewed and corrected before publishing, still in a draft, each of the justifications prepared by the judges of his directly subordinate chamber.

He left to all future generations of Polish judges a message in the form of a speech given in 1923 at the celebration of the fifth anniversary of the revived judiciary: "Polish Themis must be a stronghold of the law of order and freedom. Because the constitution of the Republic of Poland (we are talking about the so-called March Constitution of 1921) wants to confirm the existence, power, security and social order of the Fatherland on the eternal principles of law and freedom. The slogans are not new in Poland! We had their glory and great testament in the Constitution of May 3, 1791, and the inseparable coherence of freedom and law has been understood in Poland for centuries (...) Courts are the temple of justice, judges – they are its priests. If any of us judges were asked about party affiliation, we could all respond with the poet's words: <If you want to mark me with what sign, mark me with a Pole>."

The funeral of Franciszek Nowodworski at Warsaw's Stare Powązki Cemetery was a great event. Established shortly thereafter, the foundation of his name set itself the goals of helping in educating the legal youth and creating a Polish legal dictionary.

He had two daughters and a son – Leon Nowodworski, a lawyer, a professional self-government activist and a politician; a man who gave testimony of patriotism and courage of the highest test during the Nazi occupation. Daughter of Leon, granddaughter of Franciszek – Hanna Nowodworska-Grohman for almost sixty years appeared in court as a lawyer and worked in the bar self-government. Thanks to her perfect memory and unique materials stored, it is possible to bring closer the great figures of her father and grandfather.

<sup>2</sup> *Fundacja imienia Franciszka Nowodworskiego*. Collective work, Warsaw: 1934.

<sup>3</sup> MOGILNICKI, A. *Wspomnienia adwokata i sędziego*. Warszawa: 2016, p. 251.