



SENAT RP

NOTES ON THE SENATE

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Constitutions

The term “constitution” was used in Poland from the late 15th century onwards to define resolutions by the national assembly, called the General Sejm. The first constitutions date back to 1493. They were drafted in the House of Deputies, and their content was often agreed with the senators and the king by a deputation from the lower house to the Senate. Laws (constitutions) were approved at the joint final sitting of both chambers, held in the Upper House in the presence of the king. According to the “Nihil Novi” constitution of 1505, a law passed by the Sejm had to be agreed by the three estates sitting there – the king, the lords of the councils (the Senate) and deputies from the landed gentry (the House of Deputies). From the mid-seventeenth century onwards, any objection to a Sejm resolution from either a deputy or a senator automatically caused other, previously approved resolutions to be rejected. This was because all resolutions passed by a given Sejm formed a whole and were published as constitutions of the Sejm e.g. Anno Domini 1667.

The final version of approved acts, which from the late 15th century until the early 16th century were divided into perpetual and temporary constitutions (‘constitutiones perpetuae’ and ‘constitutiones temporales’), was drawn up at so-called sealing sessions, held after the close of the Sejm debate. These sessions were attended by the chancellor, the Marshal of the Chamber of Deputies and deputations from the Chamber of Deputies and the Senate. From the end of the 16th century, the constitutions they signed were printed and – stamped with the royal seal and bearing the signatures of the Sejm Marshal and the chancellor – sent to the chancelleries of the municipal councils of all Provinces and lands of the Crown and the Grand Duchy of Lithuania. Until 1543 the resolutions were written in Latin, and later on in Polish.

In accordance with the act of 1613, immediately after the close of Sejm debates, the constitutions it had passed were published by entering them in the registers of wherever the Sejm was meeting. Copies of them still had to be sent to municipal councils throughout the country, where they were entered or – more commonly – incorporated in their printed form in the municipal registers.

The first printed sets of acts began to appear in the 17th century. In the 18th century (1732–1782), all the Sejm constitutions from the 14th to the 18th century were published in eight volumes under the general title of “Volumina Legum”, by Stanisław Konarski and Józef Załuski. In 1889, during the partitions of Poland, the ninth volume was published, covering the Sejm constitutions of 1782–1792. In 1952, the tenth volume appeared, containing the constitutions of the Grodno Sejm of 1793.

In the 18th century, during Sejms which lasted several years (e.g. those of 1773–1775 and 1788–1792) and not six weeks as stipulated by King Henry’s Articles (artykuły henrykowskie) of 1573, their entire legislative work was not recorded, but only certain separate resolutions. In the second half of the 18th century, the term “constitution” began to take on additional meanings. Besides the traditional meaning of each resolution or all the resolutions passed by a given Sejm, “constitution” meant the state system, the form of government (constitution in the material sense) or the basic act (constitution in the formal sense). This ambiguity was the reason for calling the basic act passed on 3rd May 1791 the Government Act and not the “Constitution”. Although its formal name was the Government Act (at the time, the word “government” was used to mean the political system, the organization

of state authority), it went down in history as the Third of May Constitution, and was the modern world's second constitution after the American Constitution of 1787.

The Polish basic law was inspired above all by the political and social thinking of the European Enlightenment. It was linked to the model of the American Constitution of 1787, to the work of the French Constituent Assembly which produced the Declaration of Human and Civil Rights of 26th August 1789 and the Constitution of 3rd September 1791, and also to the system in Great Britain, where a parliamentary monarchy was taking shape. It also took account of Polish traditions.

It should be emphasised how logical and lucid the Government Act was. Its first part, concerning the social system, consists of articles, corresponding to the social classes in Poland at the time. The second part, concerning the political system, divides the authorities into legislative, executive and judicial. The vast range of issues covered here made it necessary to deal with the problems of the regency, the education of the heirs to the throne and the armed forces in separate Articles. The Law on Towns of 18th April 1791 is an integral part of the Constitution.

In terms of the social order, the Government Act, although it preserved the class structure of the state, made an attempt at compromise between the nobility and the bourgeoisie.

There were small changes in the peasants' circumstances.

The Constitution confirmed the nobility's dominance of the country's political life, by guaranteeing them all their previous rights and privileges.

In terms of political reform, the Government Act was also the result of personal compromise and various political trends and programmes. Its authors were King Stanisław August Poniatowski, a great admirer of the English constitutional monarchy; Ignacy Potocki, the Lithuanian grand marshal, who strove to ensure that the state was dominated by an efficient and sovereign Sejm of the nobility; and Hugo Kołłątaj, who favoured a compromise between the nobility and the bourgeoisie and a continuation of Poland's "gentle revolution".

Article V of the Government Act based the system of government on Rousseau's doctrine of the sovereignty of the nation, and Montesquieu's idea of dividing the authorities into legislative, executive and judicial.

The "liberum veto" was abolished, and all issues were to be decided by a majority vote. The formation of confederations was also banned. After the death of King Stanisław August Poniatowski, members of the Senate, just as hitherto the House of Deputies, were to be elected. The king appointed one life senator from two candidates chosen by the local assembly. The king was now merely the leader of the Senate, without the right of legislative sanction and no longer one of the three estates sitting in the Sejm.

Executive power was vested in the king and the newly established Legal Guard. The monarchy was to be hereditary from then onwards, and was to pass to the Saxon Wettin dynasty after King Stanisław August's death. As in England, the king was no longer responsible for his actions: ministers countersigning his decisions took the responsibility for him. The king chaired the Legal Guard, which was made up of the Primate, as chairman of the National Education Commission, and five ministers appointed by the king: the ministers of the treasury, the army, the police, foreign affairs and seals.

Independent courts were the judicial authority. The Third of May Constitution was in force for just over a year. Overthrown by foreign intervention and Polish traitors, it remained, after the fall of the independent Republic, during the years of partition, the symbol of the struggle to regain Poland's sovereignty. In the words of its authors, Potocki and Kołłątaj, it was "the last will of the dying Fatherland".



The Third of May Constitution