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# 1

## The Constitution and History

### **Poland's quest for security and modernization**

The achievement of political modernity in Poland has been dominated by the struggle to regain independence lost in the nineteenth century and to protect independence threatened in the twentieth century.<sup>1</sup> Against this, the domestic corollary since the eighteenth century has been the continual attempt to achieve constitutional government. Constitutions, therefore, have played a crucial role in this endeavour and are deeply embedded in the national consciousness. In Poland, they have represented important signposts in summarizing the progress achieved and the nature of the project at any particular point. Some of the constitutions achieved are held to have been progressive and 'real': mainly those promulgated under conditions of independence. They also proclaimed the principle of the separation, rather than the unity, of state power and thus of democratic rather than authoritarian rule.<sup>2</sup> Democratic principle applies in particular to the constitutions of 3 May 1791 and 17 March 1921; the 'Little Constitution' of 17 October 1992 and the fully rounded-off democratic constitution of 2 April 1997. Conversely, Pilsudski's constitution of 23 April 1935 and the previous 'Little Constitution' of 19 February 1947 are held to be less legitimate as they were, in their respective ways, more authoritarian drafts. The communist constitution of 22 June 1952, in the contemporary view, was 'a document devoid of all meaning', designed to mask the realities of PZPR hegemonic rule.<sup>3</sup> What is undisputed is that constitutions have been crucial to the modern Polish quest for viable and effective statehood.<sup>4</sup> The historical significance of Poland's independent constitutions, according to one Polish émigré newspaper, is that they provide 'evidence of the continuity of the state's legal system and its individual character in the international arena'.<sup>5</sup>

Poland's history as one of the great states of Europe up to early modern times was followed by interrupted statehood from 1795 to 1918 when the partitioned country was ruled by three external empires. In the twentieth

century, a threatened state independence during the interwar period and incomplete sovereignty between 1945 and 1989 have been matched by horrific extremes of subjugation by conquerors in two world wars.<sup>6</sup> There have been question marks over Poland's very existence at times. There have also been continual debates over her frontiers and what constitutes Polish territory as well as the very ethnic and political character of the Polish nation-state.<sup>7</sup> Only after 1989–91, with the passing of the communist system and of Soviet control, did the fundamental security issues which had plagued Poland's history since the seventeenth century achieve a favourable resolution.<sup>8</sup>

By the beginning of the twentieth-first century, Poland had entered NATO and was negotiating her entry, however fraught with difficulties, notably over the free movement of labour and capital and agricultural support into the European Union (EU). She had achieved a secure place in a postwar united Europe which safeguarded her against the external German and Russian threats which, since about 1700, had endangered her very existence. The modernization of her society and economy, which had been delayed by external factors for so long, was well under way. This transformation provoked varied reactions by what have been termed socioeconomic losers. However, extremist Catholic-authoritarian and *Poujadist* protectionist reactions, similar to those in 1950s France, were contained fairly easily. Democracy and market capitalism had been consolidated although long-ingrained patterns of political behaviour continued to affect governmental stability and the evolution of a stable and effective party system. The rule of law had been established and developed. Long-standing social pathologies of group *anomie* and distrust caused by foreign rule and wartime destruction, interplayed with the alleged Polish cultural vices of excessive individualism. Political scientists noted levels of corruption and clientelism at the political interface between the central political system and the economy, mass media and the emerging provincial and municipal elites. A decade earlier, comparisons tended to be made between Poland and Mexico and India, so progress, of sorts, was being confirmed. Above all, the enormous economic gap between Poland and the EU average and the inevitability that this would dominate and condition Poland's development for a whole generation loomed menacingly over the political scene. But the *normality* for which the country had longed, and only achieved for short periods during the twentieth century, now seems safe, short of unpredictable global cataclysms.

Poland's elites have maintained a general consensus and accepted the parameters for the country's development within the favourable postcommunist European framework. In sum, while the country's external long-term prospects are positively rosy compared with the experiences of the past three centuries, the short-term domestic problems will, nevertheless, loom large. The fate of large numbers of redundant industrial workers and

the threat of massive peasant displacements complicated Poland's EU entry negotiations. Considerable labour movement to the prosperous West may alleviate Poland's socioeconomic problems at the price of aggravating a serious identity crisis in the country's modernization drive. The historical factors which have hardened a strongly resilient, independently minded and Catholic national character will, doubtless, be undermined. It is unclear, at this stage, what new secular and market-orientated social synthesis will emerge as a result of the conflict between old and new values and interests.

It is understandable why Polish studies should have been dominated for so long by issues concerning independence, security and a backward socioeconomic position in Europe.<sup>9</sup> Social stresses and strains and political divisions also had an unfavourable impact on the country's political system, causing major recurrent, often basic, ideological and programmatic political divisions. The country's political culture has, therefore, often been characterized as being inherently fractious and quarrelsome. Long lines of historical continuity have been traced back to superficially similar patterns of disunity and lack of elite and state cohesion during the later periods of the Polish-Lithuanian Commonwealth, which was in gradual decline from the mid-seventeenth century onwards. A common charge is that internal division and bad state organization were crucial in causing the state's lack of competitiveness with more ruthlessly centralized and militaristic external rivals and her consequent erasure from the map of Europe. The accusation of Poland's 'external anarchy' was expressed in a most self-serving way by Frederick the Great of Prussia.<sup>10</sup> In the nineteenth century this theme was argued, rather more sorrowfully, by the Kraków historical school. It is, therefore, obvious why such a strong connection should have been established during the last two centuries, in both the political consciousness and in academic debates, over the need for effective state and political organization to ensure sovereign independence.

But is the opprobrium and low reputation attached to the state and political institutions – as being viewed as important contributory factors to Poland's disasters – wholly merited? This study argues from the contrary premise: that significant institutional and organizational continuities developed even during the divisions of external and partitioned rule. These counteracted the 'historical discontinuities' of external political control and rule, varied governmental forms and a changing territorial shape and frontiers as discerned by the American political scientist, Ray Taras.<sup>11</sup> A significant synthesis of state forms was achieved despite the superficial oscillation between the extremes of parliamentary democracy and guided authoritarianism in the interwar period. Many state and bureaucratic-legal forms continued unchanged, assuming a different character in reality during communist rule. Since 1989, they have blossomed out untrammelled with the consolidation of democracy.

The Polish political system and its state institutions thus have long historical and developed roots and traditions, although these have evolved dramatically in substance from their original forms. Poland has many indigenous and original features which merit study and comparison with more established and familiar European equivalents. The problem is a somewhat circular one, however, as very little Polish history and politics is taught in university courses in the western world. This study has, therefore, been cast rather more as a monograph than as a student textbook – although the student is invited to refer to the tables which summarize government in Poland up to the present.<sup>12</sup> One trusts, however, that both the general reader and the specialist will draw on it for interpretation as well as for reference.

### **Historical traditions and constitutional values**

The great issues in Poland's early history concerned the definition of its frontiers, territorial shape and internal composition. Although it is a historical simplification to contrast a Piast model (named after Poland's first dynasty which ruled from the tenth century until 1370) with the Jagiellonian one (which ruled from 1386–1572, with a short Angevin interlude) what is nowadays important is the popular perception; this highlights the difference between their main orientations. Piast Poland is associated with the idea of an ethnically and territorially compact state, mainly concerned to repel German aggression and to consolidate itself in the West without overstretching itself in the East.<sup>13</sup> In practice, there was great expansion eastwards at various times. By the battle of Grunwald in 1410, the Teutonic Knights had also pushed the Poles out of much of Pomerania and East Prussia. The folk memory of the Knight's extermination of native populations was reinforced by Henryk Sienkiewicz's great nineteenth-century novel, *The Teutonic Knights (Krzyżacy)*. Unfortunately, its historically truthful depiction of Poles as victims jars somewhat with western liberals. The criticism has also been fostered by partisan German and Jewish writers. Universally read by Poles, *The Teutonic Knights* was made into a powerful film by Aleksander Ford during the time of the Polish People's Republic (PRL); it reinforced the renewed twentieth-century perception, strengthened by the horrors of Nazi occupation, of Germany as the genocidal enemy 'other' of the Poles.<sup>14</sup> Polish–German relations have been recast following Bonn's recognition of the Oder–Neisse frontier in 1970, since when Sienkiewicz' Catholic and mystical themes of forgiveness as the basis of reconciliation have become more relevant. Nowadays the idealized version of Piast Poland is also associated with a strong unitary state. In reality, there was much feudal fragmentation in the twelfth and thirteenth centuries.<sup>15</sup>

Poland emerged after 1945 with a new western frontier on the Oder-Neisse rivers, fairly close to where it had been a thousand years earlier. Its eastern frontier largely followed the Curzon Line, named after the British Foreign Minister who advocated it in 1920.<sup>16</sup> It now excluded the bulk of the Ukrainian and Belarusan minorities, gained by the 1921 Treaty of Riga, which were incorporated in 1939–40 in their respective Soviet Socialist Republics. Roman Dmowski, the interwar National Democrat ideologue of integral nationalism, had been closer to the historical Piast reality of eastward expansion into Polish-dominated areas susceptible to, what in modern times may be termed, 'Polonization'. The redrawing of Poland's new frontiers at the postwar Yalta Conference produced a compact rectangular territorial shape. Postwar Poland had an area of something over 120 000 square miles as a result of losing 69 290 square miles to the USSR and gaining 39 597 square miles from Germany. The country also rationalized its frontiers. These were reduced from 3445 miles prewar to 1905 miles, but Poland's Baltic seacoast increased from 87 miles to over 300. Large end-of-war population movements and transfers expelled the bulk of the Germans, leaving only a few hundred thousand Ukrainians and Belarusans in the new state. Similar numbers of Jews, who had survived the Nazi *Holocaust*, also remained, but most left, subsequently, at various times. National Minorities made up about a third of the population in the interwar Second Republic, but were at a roughly 4 per cent level at the Polish People's Republic's (PRL) inception. By the end of the century, minorities had dwindled to a mere 2 per cent when the country's population almost reached 39 million.

Equally significant in terms of territory lost and gained, eastern territories and cities like Lwów (Lv'iv) and Wilno (Vilnius), which had been part of Poland for centuries, were lost irrevocably as a result of the Second World War postwar settlements. This reality has been confirmed by the emergence of independent Lithuanian, Belarusan and Ukrainian national states after 1991. Jagiellonian Poland had, at its peak, stretched from the Baltic to the Black Seas. The residual historical memory is thus that of an *intermarium* which, if not Polish-dominated, is potentially one of Polish regional influence. With the permanent loss of the eastern territories being clearer now in the national consciousness than in 1940, the latter formulation, one of regional influence is residually more relevant to Polish foreign policy.

What then is left of the Jagiellonian tradition? Clearly, the idea of a far-flung, decentralized and loosely organized quasi federal state of various national groupings under general Polish hegemony is today no longer viable. Such a state lurked as a general possibility immediately after the First World War. The successful Polish–Soviet War of 1920 gave interwar Poland its Riga frontier, stretching well into West Ukraine and West Belarusan. This frontier went far beyond any strictly ethnic definitions for

organizing the borderlands on Jagiellonian confederal principles. Such schemes, despite much misleading historical controversy on the subject, were already recognized as unworkable by Pilsudski.<sup>17</sup> As Poland's dictator after 1926, Pilsudski carried out a very *realpolitik*-minded foreign policy. His domestic policy involved centralized control and 'Polonization' of East Slav minorities rather than autonomy.

As late as the outbreak of the Second World War, Raymond Buell could write that Poland was 'dominated by the dream of its greatness during the Middle Ages – a great culture and a vast domain which under one ruler sheltered a large number of nationalities'.<sup>18</sup> Poland's rulers at the time of the Second World War could seriously think 'in terms of unifying Central Europe'.<sup>19</sup> The idea of a centralized unitary state based on a Polish ethnic core has, however, triumphed over any federal or confederal alternative of a Polish-led grouping of peoples in the borderlands (*kresy*).<sup>20</sup> Residues of the latter conception survive in the Polish consciousness but are diminishing to almost zero amongst the young. They have largely been transformed into secondary derivative forms: that Poland has special historical skills and connections and actual regional security and economic interests in the area. On the other hand, as late as 1991, an (admittedly untypical) public opinion poll showed that a majority of Poles still thought that parts of neighbouring countries should belong to Poland itself.<sup>21</sup> The new states in this adjacent region, notably Lithuania and Ukraine, have elites that are strongly concerned to consolidate independence within a European framework.<sup>22</sup> The contrary Belarusan case of seeking reintegration with Russia is linked to President Lukashenko's maverick and authoritarian behaviour.<sup>23</sup> Since 1989, sentiments of distrust, contempt and fear of Russia as Poland's most hostile and barbarian 'other', fuelled by the original perception of the 'Return to Europe' as rejoining European civilization, have abated.<sup>24</sup> On the other hand, current pressures for regionalism and decentralization in Poland have a completely different meaning than in the past. Domestic opponents, nevertheless, often resort to archaic Jagiellonian vocabulary and parallels. The socialist experience of modernization had produced an exceptionally homogeneous nation-state. This state faces the global challenge of modern forms of multiculturalism rather than ethnic conflicts of the post-Yugoslav type, although defensive reactions against modernization are too easily depicted as forms of nationalist particularism.<sup>25</sup>

The other main strand of Jagiellonian state organization – estates or gentry democracy – however, remains far more germane in any discussion of Polish cultural patterns. From the second half of the fifteenth century onwards, the country's magnates, supported by a gentry (*szlachta*) class, which together was estimated as, at various times, totaling around 6–9 per cent of the population, controlled local assemblies or Dietines (*Sejmiki*). Siemiński defines this as the 'fundamental unit' of the Polish system: these were 'territorial communities (*communitates*) operating in the shape of

assemblies at which those present decided in the name of all'.<sup>26</sup> The landed gentry became increasingly differentiated in terms of property, but remained equal in legal status. They began an irresistible drive towards domination of the central executive and representative institutions. The fairly homogeneous Piast monarchy was transformed into a multiethnic commonwealth which turned increasingly into a 'Republic of Nobles'. As early as 1454, the general assembly of the gentry of Greater Poland forced the monarch into concessions embodied in the Statute of Nieszawa – described as 'the charter of Polish parliamentarianism'.<sup>27</sup> The King accepted the joint say of the Dietines and general assemblies over constitutional change and the declaration of war. These powers were gradually extended over the following century, especially over the Sejm which was the legislating body.<sup>28</sup>

An acceptable balance existed until the death of Zygmunt II Augustus, the last Jagiellonian, in 1572. The system allowed, what was for its time, a remarkably free and developed political life to flourish. The national parliament or Sejm (the Diet) assumed a recognizably modern form in 1493. The Senate representing the senior magnates and clerics began to sit separately from the lower house representing the ordinary, but legally equal, gentry. Waclaw Uruszczak has argued that henceforward 'the question of parliament constitutes the central problem of the history of the political system of old Poland'.<sup>29</sup> For its time, this produced an extremely wide and broad-based electorate which elected the deputies to the Sejm. However, this originally progressive development degenerated. Politically destructive, culturally negative and socially exclusive values developed to justify gentry rule. While the *Szlachta* was extolled as a Sarmatian noble warrior class, racially distinct from ordinary Poles, it gradually declined into xenophobia and megalomania as well as excessive hospitality and an empty ceremonial.<sup>30</sup>

The *Nihil Novi* statute of 1505 enshrining the principle of no taxation – and eventually legislation – by the monarch without parliamentary approval, contributed to a Golden Age of Renaissance culture. Early balanced constitutional development initially prevented the emergence of absolute monarchy and provided an acceptable framework for the varied religions and ethnic groups within the extensive Polish–Lithuanian union. The principle of toleration was extended to Protestants in 1555 and formalized by the Confederation of Warsaw of 1573.<sup>31</sup> The Polish–Lithuanian kingdom, based for a long time purely on a hereditary Jagiellonian dynastic union, was institutionalized by the Union of Lublin of 1569.<sup>32</sup> This transformed it into the Commonwealth of Poland and Lithuania. The crucial innovation was that the separate Sejms of both countries now met as a single parliament in Warsaw to enact national legislation. Kraków, consequently, lost its political significance and was replaced by Warsaw as the national capital in 1596.

The Polish word for both Commonwealth and Republic is *Rzeczpospolita* so the post-Lublin arrangements are often described in terms of a republican commonwealth organized on the principles of gentry democracy. There had been continual and long-drawn-out conflict between the Jagiellonian monarchs and the gentry, who demanded an extension of their privileges (the 'Execution of the Laws' movement); a balance was nevertheless maintained.<sup>33</sup> The extinction of the Jagiellonian dynasty in 1572, however, allowed the gentry to replace what had been the *de facto* hereditary basis of the monarchy with election by the *szlachta* assembled in a convocation Sejm presided over by the Roman Catholic Primate of Poland as *Interrex*.<sup>34</sup> This principle was enshrined in the 'Henrician Articles' produced by the very first such election; these have been described as the *Rzeczpospolita's* fundamental law, if not proto-constitution.<sup>35</sup> The direct sovereignty of the general assembly, allowing the supreme power of the whole of the legally qualified gentry, was thus established at the expense of rather less comprehensively representative, but more effective, parliamentary forms. The monarchy was weakened further by having to promise an increasing range of privileges, including exemptions from taxes and military service and guarantees of legal immunity and equality of rights, in a package known as the *pacta conventa*, in order to gain sufficient support to ensure election.<sup>36</sup> Foreign candidates also competed for ownership of the Polish state, from the contested royal election of Henri de Valois in 1573, onwards, with disastrous and debilitating consequences.

Although the reigns of Stefan Batory and of the first two Wazas, Zygmunt III and Zygmunt IV, partially camouflaged the decline of royal power, the consequence was ever-increasing weakening of the state's international competitiveness. Gentry privileges prevented social, economic and urban development and caused military weakness and civic and cultural decay. Pawel Skwarczyński summarized the main constitutional features of the Commonwealth as being 'the contractual conception of the state, elective monarchy, the reality of royal power, the organization of the diet and dietines'. He argued that three centuries of 'organic evolution' became 'fully crystallised in the Polish state of the sixteenth century' but that the latter was deformed and warped in the run up to the Partitions.<sup>37</sup>

The historic shift from the English 'King-in-Parliament' model to the gentry-dominated form of estates democracy, aggravated by such principles as the 'Imperative Mandate' and the *Liberum veto*, was, however, the root cause of the problem which affected Poland's constitutional and international viability. The former doctrine of representation regarded the Sejm not as a Burkean body of representatives free to take decisions in the national interest but as a meeting place of mandated delegates. Instructions from the provincial Dietines became fully binding from the end of the sixteenth century onwards. The Dietines also increasingly became dominated by the selfish, short-sighted and contentious interests of the landed mag-

nates.<sup>38</sup> The Sejm, in Raymond Buell's expressive words, became 'less a legislative body than a miniature League of Nations, composed of delegates from 50 to 60 sovereign "palatines"'.<sup>39</sup> Stanislaw Kutrzeba has also shown how the size of both the Sejm and Senate fluctuated considerably over time, thus worsening its unwieldy and quarrelsome character.<sup>40</sup> The 'Golden Freedom' of the gentry thus degenerated into the 'anarchy' expressed in the principle that 'Polska nierządem stoi' (Poland is governed by unrule).

From 1652 onwards, when it was used for the first time by Wladyslaw Siciński, most Sejm's (45 out of 55 in fact between 1652–1772, including all except one out of 14 during the reign of Augustus III) were incapacitated by the exercise of the *Liberum veto*.<sup>41</sup> This allowed a single deputy to veto, not just a bill under consideration, but all the legislation passed earlier by the sitting Sejm, thus 'exploding' it.<sup>42</sup> The practice of confederation also degenerated by the early seventeenth century into the *rokosz*, a form of institutionalized insurrection, directed as often as not against the king. As a result, Poland was unable to hold its own in the international arena.

The country was undermined by Chmielnicki's uprising which resulted, before too long, in the loss of half the Ukraine by the Truce of Andruszowo in 1667. Poland was ravaged by the Swedish 'Deluge' of the 1650s and unable to prevent the rise of its greatest external enemies, Prussia and Russia. The gentry commonwealth went down with a flourish with Jan III Sobieski's victory over the Turks at Vienna in 1683. After his death in 1696, Poland became a Russian satellite. The complacent rule of two Saxon kings, Augustus II and Augustus III, turned the country into the plaything and victim of Muscovy's conflicts with Sweden, France, Prussia and Austria.<sup>43</sup> The interplay between reforming and conservative confederations and a challenge to Russia's overall hegemony in Poland precipitated the First Partition in 1772.<sup>44</sup> The determined attempt to reform the country's political and educational structures during the reign of Stanislaw August Poniatowski, which culminated in the constitution of 3 May 1791, however, also provoked the final partitions of the country in 1793 and 1795.<sup>45</sup> The significance of this belated attempt to produce political and social regeneration and a modern state is that it helped the Polish nation to create the constitutional values and historical memories which allowed it to survive the very extinction of that state.<sup>46</sup> The Gentry Parliament would have been a wholly negative memory in the Polish historical consciousness without its transformation into a recognizably modern one by the Third of May constitution in 1791; Dyboski describes it as the foundation of all Polish modern development.<sup>47</sup> Stefania Ochman, a major constitutional scholar, also points out that 'parliamentary reform was an integral part of every programme aimed at improving the political system of the Commonwealth'.<sup>48</sup>

## The effects of foreign rule and war on state institutions

After the downfall of the old Commonwealth, different parts of Poland were subjected to Russian, German and Austrian rule as well as an initial period of very strong French links. Napoleon did not restore a greater Poland to balance his dynastic enemies in the east, only a short-lived rump, the Duchy of Warsaw, in 1807. Even that was ruled by the King of Saxony, although it was extended somewhat in 1809.<sup>49</sup> French practices and the Napoleonic Code, confirming the uniform and equal legal and administrative treatment of citizens, were introduced while serfdom was abolished. Although short-lived, such reforms were to affect popular memory as well as interwar Poland.<sup>50</sup> William Rose considers that the code set 'a new standard for civic relations' and that 'many of its principles can be discerned as lasting over' into its successors.<sup>51</sup> The Duchy only survived until it was replaced by the Russian-controlled Congress Kingdom in 1815 where the Sejm had some advisory powers.<sup>52</sup> Its autonomy was curtailed after the 1831 Uprising and completely subordinated after the 1863 insurrection. Prussia and Austria also reclaimed much of their respective Polish gains at the Congress of Vienna whose territorial arrangements for Poland remained largely unchanged until the First World War.<sup>53</sup>

The history of the country's rule by the partitioning powers, punctuated by uprisings, political emigration as well as the development of strong nationalist, revolutionary and anti-state traditions and mentalities, does not concern us directly.<sup>54</sup> What is relevant are the consequences for the independent Polish state and twentieth-century political institutions and practices. Much of the country's social and economic backwardness, in Austrian-controlled Galicia and Russian-run eastern Poland, could justifiably be blamed on their partitioning powers. Prussia on the other hand is held to have instilled better levels of labour discipline and even middle-class entrepreneurship in Poznań, Pomerania and Silesia. Jerzy Jedlicki argues that this instilled a schizophrenic attitude towards modernity in the mind of Poles by identifying it with a superior national rival.<sup>55</sup> Poor civic traditions and distrustful Polish attitudes towards the state have been traced back to Russification and Germanization and authoritarian rule. The Austrian partition is held to have fostered more responsible conservative and peasant political elites through its post-1867 decentralization.<sup>56</sup> Although mixed and patchy, the economic, social and civic-political legacy of nineteenth-century partition rule was largely negative. All authorities agree, however, that the dominant consequence was the creation of a strongly resilient Polish nationalist and predominantly Roman Catholic counter society to oppose the occupying powers.<sup>57</sup> Mark Brzezinski also points out that the Poles 'asserted and further refined their constitutional values' through the political programmes and constitutional drafts mooted in the 1830–31 and 1863–64 uprisings.<sup>58</sup>

The integration of society with the state and the development of more normal civic and economic attitudes and behaviour inevitably caused difficulties after independence. Writers such as Jerzy Jedlicki and Marcin Król argue that past heroic struggles and literary models made it difficult for twentieth-century Poles to come to terms with the prosaic nature of everyday life under democratic capitalism; Wiktor Herer and Władysław Sadowski also stress the schizophrenic effect of economic backwardness coexisting with a highly self-conscious intelligentsia and developed levels of western culture in Poland.<sup>59</sup> The coming together of state and society to support civic democratic politics of the Western European type was, however, to be delayed by the destruction of two World Wars. The PRL experience was also very diverse, with initial Stalinism mellowing into pluralist authoritarianism and domesticist nationalism by its end.

## **Constitutions and political frameworks**

### **The constitution of 3 May 1791 and the failure of constitutional modernization**

The last 30 years of the Commonwealth, coinciding with the reign of Stanisław Augustus Poniatowski (1764–95), were marked by two quite contrary constitutional tendencies. The Cardinal Laws of 1668 and 1775 and reactionary confederations, notably of Radom in 1767 and Targowica in 1792, attempted to confirm the system of gentry privileges and local magnate rule under Russia's external patronage. The Czartoryski clan, however, worked for Sejm reform and constitutional monarchy through the 1768 Confederation of Bar and the Education Commission (established in 1773).<sup>60</sup>

A modern-looking governmental institution, the 36-strong Permanent Council (1775), elected by the Sejm, assumed many royal powers. Its five departments began to function as quasi ministries. The Council's policies were, however, profoundly ambiguous and contradictory, reflecting the conflicting currents which preceded the Four-Year Sejm of 1788–92. The doubling of that Sejm's size by new elections in 1790 allowed reform elements to seize the initiative. They attempted to profit from a favourable international situation, Catherine the Great's temporary weakness and the 1790 treaty with Prussia.<sup>61</sup> The result was the Constitution of 3 May 1791, the world's second modern written constitution after the American Constitution, and a most evocative part of Poland's political consciousness.<sup>62</sup>

Drafted by Ignacy Potocki and Hugo Kollątaj, with the support of King Stanisław Augustus, the constitution, described as an 'Ustawa Rządowa' (literally Government Law), was organized succinctly in a preamble and 11 articles.<sup>63</sup> It aimed to limit magnate and gentry excesses by strengthening the powers of parliament, creating a government responsible to it and producing a constitutional monarchy close to the English model of the

time. The formal equality of rights of the landed gentry were maintained, but the landless (*zagrodowa*) section was deprived of its capacity for causing political mischief. The middle and urban classes benefited from the declaration of liberal individual rights to justice, property and freedom of political life and religion (while maintaining the primacy of Roman Catholicism). The *Liberum veto*, the imperative mandate and right of confederation, were abolished while the elective monarchy was replaced, in principle, by a hereditary one.

The constitution declared that the nation was sovereign – ‘all authority derives from the will of the nation’ – but restricted the definition of the political nation in practice.<sup>64</sup> The peasant question was barely broached where this infringed gentry rights and this was left to Kościuszko’s Polaniec Manifesto during the 1794 insurrection.<sup>65</sup> Montesquieu’s threefold separation of the powers was accepted in the form of a bicameral parliament (an indirectly elected and constitutionally dominant 204-strong Chamber of Deputies and a 132-strong nominated Senate). The newly organized Cabinet of Ministers were accountable to parliament which could dismiss it by a two-thirds vote of both houses. The much reduced crown prerogative and the rule of law was to be supervised by this novel executive body, the ‘Guardians of the Laws’ (*Straż Praw*). Ministerial violation of laws could also be dealt with through an early form of constitutional responsibility to a Sejm Court, which was drawn from both chambers.

The constitution was an imperfect and compromise document by modern criteria but it reflected the best ideas of the Enlightenment and the views of the most progressive sections of Polish society of the time.<sup>66</sup> By itself it could do little to prevent, and may have actually precipitated, the Second and Third Partitions by threatening Russia and Prussia with domestic Polish regeneration.<sup>67</sup> A wide range of authorities, however, confirm that it became a ‘symbol of Poland’s national identity – an identity based on the values of constitutionalism, and limited, enlightened government’ during the long period of lost statehood and after.<sup>68</sup>

### **Democracy and the Second Republic: parliamentary sovereignty versus the strong executive**

Independent Poland was resurrected in November 1918 and the Second Republic soon assumed a parliamentary dominated form of democracy.<sup>69</sup> This became more authoritarian upon Józef Piłsudski’s armed seizure of power in May 1926.<sup>70</sup> The Sejm’s powers were limited by the constitutional amendment of 2 August 1926 which strengthened the presidency. Piłsudski did not, despite election, however, assume the post. He ruled indirectly through his nominee, Ignacy Mościcki, who remained in-office until September 1939. The initial four-year period of ‘rationalized parliamentarism’ saw conflict between Piłsudski and the Sejm, headed by its Marshal,

the Polish Socialist Party leader, Ignacy Daszyński. This culminated with Pilsudski's *Sanacja* (Moral Renewal) movement, organized in 1928 into a Nonparty Bloc for Cooperation with the Government (BBWR), gaining a majority in 1930 after opposition figures had been imprisoned in the Brześć camp.<sup>71</sup> Even then, the April 1935 constitution, which completed the turn-around in the balance of powers a few weeks before Poland's *de facto* dictator died, had to be passed by subterfuge. All this gave ammunition for foreign enemies and critics. They depicted interwar Poland as a *saisonstaat* (temporary state) which had failed to achieve a workable constitutional balance.<sup>72</sup>

The power struggle between Pilsudski, as Head of State (1918–22), and Roman Dmowski and the National Democrats, was settled initially in the latter's favour by the March 1921 constitution. That document confirmed most of the key aspects of parliamentary supremacy outlined in the temporary 'Little Constitution' of 20 February 1919 produced by the Constituent Sejm elected that January.<sup>73</sup> The 'Little Constitution' subjected Pilsudski's acts as Head of State, to countersignature by the appropriate minister and subordinated both him and the government formally to the Sejm, thus limiting the principle of the separation of the powers.<sup>74</sup> The 1921 document was made up of 126 articles grouped under seven chapters while its preamble began with a religious invocation – 'In the name of God Almighty'.<sup>75</sup> It was modelled on the theory of the French Third Republic and the practice of 1921–26 closely paralleled its behaviour.<sup>76</sup> The fundamental democratic principles of the sovereignty of the nation, the division of powers and the guaranteeing of civic and individual rights were confirmed. But the key feature was that the president (elected for a seven-year term by a National Assembly composed of the Sejm and Senate) was 'more or less a figurehead' while the prime minister was 'helpless unless he could command a majority in the House'.<sup>77</sup> The Sejm controlled the government very closely through almost unchecked powers of appointment, censure and dismissal. Both the 444-strong Sejm and the 111-strong Senate were elected by direct and universal suffrage. The latter was clearly inferior although it could participate in legislation and could agree to a presidential request for the dissolution of the two parliamentary chambers. Deputies had no formal checks, such as the threat of dissolution, on their capacity to maintain control over the government as well as individual ministers through repeated votes of confidence and censure; the same applied to their powers over the budget and legislation.

Independent Poland's early political life thus became fragmented, quarrelsome and extremely unstable. The first president, Gabriel Narutowicz, was both elected – and murdered by a right-wing fanatic – in December 1922. His successor, the socialist Stanisław Wojciechowski was, in reality, deposed by Pilsudski in May 1926. Proportional representation produced a large number of parties in the Sejm, representing a wide range of Catholic,

nationalist, conservative, peasant, leftist and national minority groupings.<sup>78</sup> During 1921–35 about 28 communists (KPP) were also elected to the Sejm, supported by two dozen Belarusan and Ukrainian leftists, but they largely played a disruptive role.<sup>79</sup> Party fragmentation was counteracted by the formation of blocs, such as the National Democrat-dominated Christian Alliance of National Unity in November 1922.<sup>80</sup> Overall, Poland had 13 governments between January 1919 and May 1926, on average, lasting a mere seven months.<sup>81</sup> Five were coalitions and eight minority or non-party specialist governments. About a third of the 90 or so political parties established in this ‘turbulent’ period gained Sejm representation;<sup>82</sup> but the 23-month-long government of Stanislaw Grabski in 1923–25 also demonstrated that crisis conditions provoked stabilizing behaviour and party support.<sup>83</sup>

The initial Stalinist tendency in the PRL was to stress the ‘bourgeois-feudal landowner’ character of the Second Republic. Interpretations after October 1956 admitted the democratic value of the 1921 constitution in consolidating national independence and its progressive nature in relation to Pilsudski’s authoritarianism.<sup>84</sup> Church-State relations were also regulated, not by the 1921 constitution, but by the Concordat signed with the Vatican and ratified by the Sejm in 1925. This remained in force until it was revoked in 1945. The three Catholic rites (Latin, Greek Catholic and Armenian) were given full organizational and religious autonomy, although the president could object to nominations of archbishops and bishops.<sup>85</sup> Pope Pius XI also adjusted dioceses in late 1925, as agreed, to fit in with Poland’s state boundaries. The Roman Catholic church played a dominant role in interwar Poland’s public life; it benefited from a privileged position in relation to minority faiths although this was not enshrined constitutionally.<sup>86</sup> Minority religions still had not been regulated by 1939 because of their close connection with national minority issues.

The constitutional amendment of 2 August 1926 was made up of eight articles revising or replacing six articles in the March 1921 constitution. The changes tightened the government’s control over the passing of the budget, allowed the president to dissolve the Sejm before the expiry of its term and to issue decrees with the force of law subject to subsequent Sejm approval. Parliament became less capable of ‘ambushing’ a government by voting on a motion of censure at the same sitting as it was introduced.

The 1935 constitution aimed to produce a presidentially dominated system.<sup>87</sup> The *Sanacja* ideologue, Sejm Marshal Stanislaw Car, justified political unity in terms which were to be echoed by hardline postwar communists.<sup>88</sup> The constitution declared that the Polish state was ‘the common good of all its citizens’; it concentrated ‘united and undivided state power’ in the hands of a constitutionally irresponsible president answering only to God and History.<sup>89</sup> The president did not bear parliamentary responsibility as he was not subject to ministerial countersignature. On the other hand,

the government now became politically responsible to the president. He appointed and dismissed both the government and individual ministers and had unlimited powers of dissolution over both the Sejm and Senate. A new electoral system allowed *Sanacja* to pack both these bodies with its members and so constitute the majority of the college electing the president. In the event of conflict over the succession, an outgoing president could nominate an alternative candidate to challenge parliament's choice in a vote by universal suffrage. In the case of war, the president could nominate his successor, as Mościcki did with Władysław Raczkiewicz on internment in Romania.

Guided Democracy, of this type, based on principles of a Strong State and social solidarity, was tailor made for Pilsudski but it was promulgated just prior to his death. Poland was run, subsequently, by a triumvirate of President Mościcki, Marshal Edward Smigły-Rydz, who controlled the army, and Foreign Minister Józef Beck. Their power struggles permitted a fair bit of *de facto* pluralism in the four years before Nazi Germany and Soviet Russia joined forces to destroy the country.<sup>90</sup> Prewar experience is significant in that *Sanacja*, although a hegemonic force after 1926, and an unquestioned one after 1930, was forced to work through the Sejm and to evolve an authoritarian form of Guided Democracy.<sup>91</sup> It was unable to dispense wholly with democratic institutions and to set up a fascist corporate state. Although the ideological content of the PRL was wholly different, there were notable structural state-society similarities between interwar and postwar Poland.

## The usable past of Polish constitutionalism

The Second Republic had a difficult job in establishing its frontiers, gaining its western border at Versailles and extending its eastern one by the 1921 Treaty of Riga, after winning the Polish-Soviet war the previous year.<sup>92</sup> The new democracy also made considerable progress in the long-drawn-out process of unifying the different governmental, economic, financial, postal and transport systems inherited from the three partitioning powers.<sup>93</sup> It is, therefore, a very debatable matter to ascertain the extent to which this reconstruction was affected by older native traditions as against imposed foreign influences. Hubert Izdebski argues categorically that 'as a result of the absence of Polish statehood in the nineteenth century the home-grown model of public administration, which crystallized in the Stanisławian period, could not have any influence on shaping the institutions of public administration' in independent Poland. He goes on to argue, however, that the Second Republic adopted 'the Austrian model of administrative procedure and justice, the principles of the Prussian model of territorial organization and Russian patterns of financial institutions'.<sup>94</sup> This may well have been true in purely technical terms. There is, however, a considerable

weight of authority that the Poles referred back to, and adapted, many of the forms and values, and certainly the nomenclature, of their older native models and traditions. But irrespective of the influence of pre-partition traditions, one is undoubtedly on firmer ground in arguing that the diverse institutions and values of the Second Republic proved remarkably resilient in surviving the Second World War and communism.

The overview of Polish constitutionalism in this chapter has aimed to demonstrate that Poland inherited long-lived, tenacious and varied parliamentary traditions from its pre-communist history.<sup>95</sup> Extending all the way from gentry to modern forms of parliament they, in the short space of the two interwar decades, ran the whole gamut from one extreme of assembly, to another of executive, dominance. The PRL thus inherited a very mixed legacy of parliamentary traditions.<sup>96</sup> The traumatic Second World War experience and the vast postwar socioeconomic transformations were unable to obliterate the historical roots of Poland's political culture and many of its similarities to western Europe. External Soviet factors determined that the legacy of such experiences and values were to prove incapable of altering the formal structures of communist rule in the PRL period. The 1956, 1970 and 1980 upheavals, however, certainly had crucial implications, as will be argued in Chapter 2, on the manner and processes of that rule. As with Pilsudski's rule before them, the communists had to adapt, work within and eventually concede to many traditional Polish values and forms.

Geoffrey Pridham considers that long-established historical patterns of cultural values produce historical memories which affect the forms and limits of national identity when democratization occurs.<sup>97</sup> Poland's 'usable past' has, in this respect, been a very peculiar combination indeed. On the one hand, nineteenth-century independence seeking revolutionary traditions dominated until the Second World War and enjoyed a rebirth with the KOR-Solidarity generation.<sup>98</sup> On the other hand, the democratic tradition has itself been rather bifurcated between gentry-Stanislawian reform memories and interwar civic republican values. As we have seen, political memories of gentry democracy culminated in, and have been conflated, with the liberal constitutionalism of 3 May 1971.<sup>99</sup> A cyclical pattern of activist-passive, idealist-realist reactions to a lost, or incomplete, independence was gradually eroded during the PRL until 1989 produced the opportunity for the breakthrough to full sovereignty and constitutional democracy.<sup>100</sup> Reverting to Pridham's typology, one can argue that the post-communist Third Republic developed a form of 'political learning' which drew conclusions from the lack of constitutional balance and executive weakness in gentry democracy and the Second Republic up until 1926. For understandable reasons, the rehabilitation of interwar and 'London' Poland has protected Pilsudski's system from general condemnations of its authoritarianism. As we shall see, such political learning from historical

memory affected the detailed specifics of constitution making in the Third Republic. Overcoming the burden of Poland's historic legacy thus produced a general elite consensus on the priority of achieving workable institutions and an effective constitutional balance. The dispute over whether all, or just part, of the PRL legacy should be dispensed with reflected a major cleavage in the Third Republic's politics. It is not always appreciated, however, that this is part of a wider long-term division regarding the responsibility for Poland's delayed and incomplete modernization.

## Notes

- 1 The list of main general histories rightly starts with Norman Davies, *A History of Poland: God's Playground* 2 vols (New York: Columbia University Press, 1981). Its English-language rivals are for the most part heavily dated: Vaclav L. Benes, *Poland* (New York: Praeger, 1970); Aleksander Gieysztor *et al.*, *History of Poland* 2nd rev. edn (Warsaw: PWN, 1979); Oskar Halecki, *A History of Poland* 2nd edn revised by Antony Polonsky (London: Routledge and Kegan Paul, 1983); William Fiddian Reddaway (ed.), *The Cambridge History of Poland* 2 vols (Cambridge: Cambridge University Press, 1941, 1950). Jerzy Lukowski and Waclaw Zawadzki, *A Concise History of Poland* (Cambridge: Cambridge University Press 2001) is a more recent work. More popular overviews are provided by Jerzy Topolski, *An Outline History of Poland* (Warsaw: Interpress, 1985) and Adam Zamoyski, *The Polish War* (London: John Murray, 1987).
- 2 See Wojciech Sokolewicz, *The Principle of the Separation of Powers in Law and Constitutional Jurisprudence of the Republic of Poland*, *Polish Contemporary Law*, no. 1–4/109–12 (1996), p. 17.
- 3 Deputy Jan Maria Rokita, cited in Mark Brzezinski, *The Struggle for Constitutionalism in Poland* (Basingstoke: Macmillan, now Palgrave Macmillan 1998), p. 1.
- 4 There has naturally been much Polish interest in the contrasting British case and in recent trends towards more 'written' forms of constitutionalism and arguments such as those put by Charter 88 for a Bill of Rights in Britain; see also Maria Kruk, *Nowe projekty brytyjskiej konstytucji pisanej*, *Państwo i Prawo*, XLVIII, no. 8 (1993), 69–78.
- 5 Grzegorz Lukomski, *Konstytucje Rzeczypospolitej Niepodległej*, *Tydzień Polski*, 5 May 2001.
- 6 For the modern period, see: Marian K. Dziewanowski, *Poland in the Twentieth Century* (New York: Columbia University Press, 1977); Robert F. Leslie (ed.), *The History of Poland since 1863* (Cambridge: Cambridge University Press, 1983), Władysław Pobóg-Malinowski, *Najnowsza historia polityczna Polski, 1864–1945* 3 vols (London: B. Swiderski, 1956–60).
- 7 On Poland's changing historical frontiers, consult the following: Richard Crampton and Ben Crampton, *Atlas of Eastern Europe in the Twentieth Century* (London: Routledge, 1996), Władysław Czapliński and Tadeusz Ładogórski, *Atlas historyczny Polski* 4th edn (Warsaw: PPKW, 1979), Iwo Cyprian Pogonowski, *Poland, A Historical Atlas* (New York: Hippocrene Books, 1987).

- 8 This is the underlying thesis of George Sanford, *Poland, The Conquest of History* (Amsterdam: Harwood Academic Press, 1999).
- 9 The constant reinterpretation of Poland's history to reflect the needs of the time as well as pre-1989 cyclical swings between political idealism and realism, is examined by Adam Bromke, *The Meaning and Uses of Polish History* (New York: Columbia University Press, 1987).
- 10 Cited in William H. Hagen, *Germans, Poles and Jews: the Nationality Conflict in the Prussian East, 1772–1914* (Chicago: University of Chicago Press, 1980), p. 36 ff.
- 11 Raymond Taras, *Consolidating Democracy in Poland* (Boulder CO: Westview Press, 1995), Ch. 1.
- 12 Politics specialists of my own generation lament the decline in the viability of student textbooks for even medium-sized countries like Poland. This was confirmed to me by Vincent Wright before his untimely death in 1999. As the distinguished author of books that included *The Government and Politics of France*, widely regarded as one of the best textbooks on France ever written, which both described and interpreted the politics of the Fifth Republic, Wright's judgement was both authoritative and depressingly realistic.
- 13 Jerzy Krasucki in *Polityka*, 26 December 1993.
- 14 Cf. Michael Burleigh, The Knights, Nationalists and the Historians in *Ethics and Extermination, Reflections on Nazi Genocide* (Cambridge: Cambridge University Press, 1997), pp. 10–11.
- 15 See Witold Hensel, *The Beginnings of the Polish State* (Warsaw: Polonia, 1960); Paweł Jasienica, *Piast Poland* (New York: Hippocrene, 1985); Paul Knoll, *The Rise of the Polish Monarchy: Piast Poland in East-Central Europe, 1320–1370* (Chicago: Chicago University Press, 1970); Tadeusz Manteuffel, *The Formation of the Polish State: the Period of Ducal Rule, 963–1194* (Detroit: Wayne State University Press, 1985).
- 16 Cf. Tytus Komarnicki, *The Rebirth of Poland* (London: Heinemann, 1957). See also George Sanford and Adriana Gozdecka-Sanford, *Historical Dictionary of Poland* (Metuchen NJ: Scarecrow Press, 1994), p. 54.
- 17 Cf. Marian K. Dziewanowski, *Joseph Pilsudski: a European Federalist, 1918–1922* (Stanford CA: Hoover Institution Press, 1969).
- 18 Raymond Leslie Buell, *Poland: Key to Europe* (London: Jonathan Cape, 1939), p. 45.
- 19 *Ibid.*, p. 43.
- 20 For the interplay between Piast and Jagiellonian ideas in the interwar *Endek* and *Sanacja* camps, see Jarosław Książek, Historyczne i współczesne watki *idei Jagiellońskiej* w narodowodemokratyczne publicystyce i historiografii okresu międzywojennego, *Studia Polityczne*, no. 4 (1995), 147–63.
- 21 Klaus von Beyme, *Transition to Democracy in Eastern Europe* (Basingstoke: Macmillan, now Palgrave Macmillan, 1966), p. 155.
- 22 The filming of Sienkiewicz's great *Trilogy* was completed with the appearance of 'With Fire and Sword' (*Ogniem i Mieczem*) in 1999 – an historical romance set against the background of Chmielnicki's uprising. It is symptomatic that the director, Jerzy Hoffman, was generally praised for diverging from the author's more primordial stereotypes in presenting a very sympathetic picture of the Ukrainian Cossack anti-hero, Bohun.
- 23 See George Sanford, Nation, State and Independence in Belarus, *Contemporary Politics*, III (1997), 225–45.

- 24 Cf. Ilya Prizel, *National Identity and Foreign Policy, Nationalism and Leadership in Poland, Russia and Ukraine* (Cambridge: Cambridge University Press, 1998), pp. 129–37.
- 25 On the former, see David Bennett (ed.), *Multicultural States. Rethinking Difference and Identity* (London: Routledge, 1998) Chs 1–6. On the latter, see *inter alia* Andreas Klinke, Ortwin Renn and Jean-Paul Lehnens (eds), *Ethnic Conflicts and Civil Society. Proposals for a New Era in Eastern Europe* (Aldershot: Ashgate, 1997).
- 26 See J. Siemienski, Constitutional Conditions in the Fifteenth and Sixteenth Centuries, in William Fiddian Readdaway, J. H. Penson, Oskar Halecki and Roman Dyboski (eds), *The Cambridge History of Poland. From the Origins to Sobieski (To 1696)*. (Cambridge: Cambridge University Press, 1950), p. 417.
- 27 Roman Dyboski, *Outline of Polish History* 2nd edn (London, George Allen & Unwin, 1931), p. 68.
- 28 Jerzy Michalski (ed.), *Historia Sejmu Polskiego*, volume 1. *Do schyłku szlacheckiej Rzeczypospolitej* (Warsaw: PWN, 1984).
- 29 Wacław Uruszczyk, in Juliusz Bardach (ed.), *Parlamentaryzm w Polsce w współczesnej historiografii* (Warsaw: Wydawnictwo Sejmowe, 1995), p. 55.
- 30 See Gieysztor *et al.* *History of Poland*, pp. 297–9.
- 31 Cf. Janusz Tazbir, *A State without Stakes: Religious Toleration in Reformation Poland* (Warsaw: PWN, 1973).
- 32 See Harry E. Dembinski, *The Union of Lublin in the Golden Age* (New York: Columbia University Press, 1982).
- 33 See Paweł Jasienica, *The Commonwealth of Both Nations (Poland and Lithuania). The Silver Age* (New York: Hippocrene, 1985).
- 34 On the historical role of clerics in parliament, see Marian Kallas and Jerzy Gutkowski, *Kościół a Sejm Polski* (Warsaw: Wydawnictwo Sejmowe, 1999).
- 35 Cf. Marian Kallas, *Historia ustroju Polski, X–XX w.* (Warsaw: PWN, 1999), pp. 87–93.
- 36 See Oskar Halecki, *A History of Poland*, *op. cit.* Chs 13–15.
- 37 The Constitution of Poland before the Partitions, in *The Cambridge History of Poland, 1697–1935*, *op. cit.*, p. 49.
- 38 But see the balanced appraisal by Wojciech Kriegseisen, *Sejmiki Rzeczypospolitej szlacheckiej w XVII i XVIII wieku* (Warsaw: Wydawnictwo Sejmowe, 1991) which revises the *Sejmiki*'s negative popular stereotype.
- 39 Buell, *op. cit.*, p. 48.
- 40 Stanisław Kutrzeba, The Composition of the Polish Sejm, in Władysław Czapliński (ed.), *The Polish Parliament at the Summit of its Development* (Wrocław: Osolineum, 1985), pp. 13–20.
- 41 Henryk Olszewski, *Sejm Rzeczypospolitej epoki oligarchii, 1562–1763* (Poznań: Wydawnictwo UAM, 1966).
- 42 Władysław Konopczyński, *Le Libérum Veto. Étude sur le développement du principe majoritaire* (Paris: Bibliothèque Polonaise, 1930).
- 43 See Władysław Konopczyński in *The Cambridge History of Poland (1697–1935)*, chs 1 and 2. Jerzy T. Lukowski, *Liberty's Folly: The Polish-Lithuanian Commonwealth in the Eighteenth Century, 1697–1795* (London: Routledge, 1991).
- 44 Herbert H. Kaplan, *The First Partition of Poland* (New York: Columbia University Press, 1962).
- 45 Jerzy T. Lukowski, *The Partitions of Poland 1772, 1793, 1795* (London: Longman, 1999).

- 46 This is stressed in the older and classical interpretations by Reddaway, Dembinski and Kukiel in *The Cambridge History of Poland (1697–1935)* Chs 5–8, but downplayed by Lukowski in the work cited in the previous reference.
- 47 Dyboski, op. cit., p. 133.
- 48 Stefania Ochman, Plans for Parliamentary Reform in the Commonwealth in the Seventeenth Century, in Czaplinski, op. cit., pp. 163–87.
- 49 Cf. B. Grochulska, *Księstwo Warszawskie* (Warsaw: Wiedza Powszechna, 1966) and J. Holland Rose, Napoleon and Poland in *The Cambridge History of Poland (1697–1935)*.
- 50 See Marcelli Handelsman in ibid., Ch. 11; Marian Kallas, *Konstytucja Księstwa Warszawskiego* (Toruń: PWN, 1970). Władysław Sobociński, *Historia ustroju i prawa Księstwa Warszawskiego* (Toruń: PWN, 1964).
- 51 See William John Rose, *The Rise of Polish Democracy* (London: Bell, 1944), p. 11.
- 52 See Marian Kukiel, *Dzieje Polski porozbiorowe, 1795–1921* (London: Puls, 1993). See Anna Rosner, Sejmy Księstwa Warszawskiego i Królestwo Polskiego, in Bardach, *Parlamentaryzm w Polsce*, op. cit.
- 53 The fate of Poland's institutions under their rule is discussed by Andrzej Ajnenkiel, *Historia sejmku polskiego* volume 2, part I. *W dobie rozbiorów* (Warsaw: PWN, 1989). Along with the Congress Kingdom, up until 1830, the other semi-autonomous region was the Free City of Kraków; see Wojciech Bartel, *Ustrój i prawo Wolnego Miasta Kraków 1815–1846* (Kraków: Wydawnictwo Literackie, 1976).
- 54 See Stefan Kieniewicz, *Historia Polski, 1795–1918* (Warsaw: PWN, 1987); Robert F. Leslie, *Polish Politics and the Revolution of November 1831* (London: Athlone Press, 1956); Robert F. Leslie, *Reform and Insurrection in Russian Poland, 1856–1865* (London: Athlone Press, 1963); Piotr Wandycz, *The Lands of Partitioned Poland, 1795–1918* (Seattle: University of Washington Press, 1975).
- 55 See Jerzy Jedlicki, *A Suburb of Europe: XIX Century Polish Approaches to Western Civilization* (Budapest: Central European University Press, 1999).
- 56 See Józef Buszko, *Sejmowa reforma wyborcza w Galicji, 1905–1914* (Warsaw: PWN, 1956) and *Polacy w parlamencie Wiedenskim, 1848–1918* (Warsaw: Wydawnictwo Sejmowe, 1996); Stanisław Grodziski, *Sejm Krajowy galicyjski, 1861–1914* (Warsaw: Wydawnictwo Sejmowe, 1993); Konstanty Grzybowski, *Galicja, 1848–1914. Historia ustroju politycznego na tle ustroju Austria* (Wrocław: Ossolineum, 1959).
- 57 Cf. *The Cambridge History of Poland (1697–1935)*, Chs 13–19.
- 58 Brzezinski, op. cit., p. 47.
- 59 Contained in a highly thought provoking and much discussed symposium – Stanisław Gomulka and Antony Polonsky (eds). *Polish Paradoxes* (London: Routledge, 1990).
- 60 See Juliusz Bardach, Bogusław Leśnodorski and Michał Pietrzak, *Historia państwa i prawa polskiego*, (Warsaw: PWN, 1976) Ch. 7; Ryszard Łaszewski, *Sejm polski w latach, 1764–1793* (Warsaw: PWN, 1973); Michalski, *Historia Sejmu polskiego*, vol. 1, Ch. 6.
- 61 Jerzy Lojek, *Geneza i obalenie Konstytucji 3 maja: polityka zagraniczna Rzeczypospolitej, 1787–1792* (Lublin: Wydawnictwo Lubelskie, 1986).
- 62 Cf. Jerzy Kowceki, *Sejm Czteroletni i jego tradycje* (Warsaw: PWN, 1991). See also Bogusław Leśnodorski, *Dzieło Sejmu Czteroletniego, 1788–1792. Studium historyczno-prawne* (Wrocław: Ossolineum, 1951); Rett Ludwikowski and William Fox, *The Beginning of the Constitutional Era: a Bicentennial Comparative Analysis of*

- the First Modern Constitutions* (Washington DC: Catholic University Press of America, 1993).
- 63 The text is in Jerzy Kowecki (ed.), *Konstytucja 3 Maja 1791* (Warsaw: PWN, 4th edn 1991). The traditional view on Stanisław Augustus' positive role in producing the constitution presented by Emanuel Rostworowski, *Ostatni król Rzeczypospolitej, Geneza i upadek konstytucji 3 Maja* (Warsaw: Wiedza Powszechna, 1966) has been challenged by Jerzy Lojek, *Upadek konstytucji 3 maja. Studium historyczne* (Wrocław: Ossolineum, 1976).
  - 64 Andrzej Ajnenkiel, *Polskie konstytucje* (Warsaw: Wydawnictwo Szkolne i Pedagogiczne, 1991), pp. 62–75.
  - 65 Wojciech Bartel, *Ustroj władz cywilnych powstania Kościuszkowskiego* (Wrocław: Ossolineum, 1959).
  - 66 Cf. Andrzej Zahorski (ed.), *Konstytucja Majowa* (Warsaw: PWN, 1991).
  - 67 Hertzberg, the Prussian Minister in Poland, conceded that the constitution of 3 May 1791 'was much better than the English' one and that 'a numerous and well-governed nation' now posed a basic threat to Prussia's territorial gains and state interests. Cited in Gieysztor *et al.*, *History of Poland*, p. 320.
  - 68 See Brzezinski *op. cit.*, p. 45; Manfred Kridl, Józef Wittlin and Władysław Malinowski (eds), *The Democratic Heritage of Poland* (London: George Allen & Unwin, 1944), pp. 43–4.
  - 69 For a detailed overview situating interwar parliamentarianism in its historical context; see Andrzej Ajnenkiel, *Parlamentaryzm II Rzeczypospolitej* (Warsaw: Wiedza Powszechna, 1975). Some of the best examinations remain the contemporary overviews by Buell, *op. cit.*, and Robert Machray, *The Poland of Pilsudski* (London: Dutton, 1937).
  - 70 Joseph Rothschild, *Pilsudski's coup d'etat* (New York: Columbia University Press, 1966).
  - 71 Andrzej Chonnowski, *Pilsudzczy u władzy. Dzieje Bezpartyjnego Bloku Współpracy z Rządem* (Wrocław: Ossolineum, 1986). Andrzej Garlicki, *Od maja do Brześcia* (Warsaw: Czytelnik, 1981).
  - 72 But even such a Germanophile and pro-Pilsudski history like that of Hans Roos reached more balanced conclusions – see Roos, *A History of Modern Poland* (London: Eyre & Spottiswoode, 1966), pp. 168–9. For the reality, see Ryszard Mojak, 'Ewolucja polskiego konstytucjonalizmu w okresie Drugie Rzeczypospolitej', in Artur Korobowicz *et al.*, *Zarys dziejów konstytucjonalizmu polskiego* (Lublin: Wydawnictwo UMC-S, 1996).
  - 73 The 30-strong Constitutional Committee produced the Little Constitution within a week. *Kronika Sejmowa*, First Sejm, nos 2–3, 30 January–12 February 1992, pp. 47–50. Cf. Stanisław Krukowski, *Geneza konstytucji z 17 marca 1921r* (Warsaw: Ludowa Spółdzielnia Wydawnicza, 1977).
  - 74 Kallas, *Historia ustroju Polski*, pp. 307–8.
  - 75 For a discussion of the rival preliminary drafts and its final contents, see Leon Grosfeld and Henryk Zieliński (eds), *Historia Polski*, vol. IV, part 1 (1918–1926, Chs 1–13), (Warsaw: PWN, 1969), Ch. 12.
  - 76 For the constitutional and political debates, see Andrzej Ajnenkiel, *Spór o model parlamentaryzmu polskiego do roku 1926* (Warsaw: KiW, 1972). See also Tomasz Nałęcz, *Spór o kształt demokracji i parlamentaryzmu w Polsce w latach 1921–1926* (Warsaw: Wydawnictwa Prywatnej Wyższej Szkoły Businessu i Administracji, 1994).
  - 77 See Rose, *op. cit.*, p. 162.

- 78 Jerzy Holzer, *Mozaika Politycznej Drugiej Rzeczypospolitej* (Warsaw: KiW, 1974).  
Andrzej Micewski, *Z geografii politycznej II Rzeczypospolitej* (Warsaw: Znak, 1964).
- 79 Their activities were naturally played up during the PRL; see Tadeusz Daniszewski, *Posłowie rewolucyjni w Sejmie, 1920–1933* (Warsaw: KiW, 1961). Such discussions, however, raised issues about the Marxist-Leninist attitude towards democracy and parliamentarianism; cf. Andrzej Gwiżdż, *Posłowie Komunistycznej Frakcji Poselskiej o ustroju państwowym Polski przedwrześniowej*, *Państwo i Prawo* XIII, no. 12 (December 1958).
- 80 Antony Polonsky, *Politics in Independent Poland, 1921–1939* (Oxford: Clarendon Press, 1972) Chs 2 and 3.
- 81 Michał Pietrzak, *Rządy parlamentarne w Polsce w latach 1919–1926* (Warsaw: KiW, 1969), pp. 309–10.
- 82 Peter D. Stachura (ed.), *Poland Between the Wars, 1918–1939* (Basingstoke: Macmillan, now Palgrave Macmillan, 1998), p. 5.
- 83 Equivalent to the Mendès-France phenomenon in the French Fourth Republic in 1954. Philip Williams, *Crisis and Compromise. Politics in the Fourth Republic* (London: Longman, 1972), pp. 45–6, 419–21.
- 84 Cf. Andrzej Gwiżdż, *Przyczynek do genezy i losów konstytucji marcowej*, *Państwo i Prawo*, XLII, no. 12 (December 1977).
- 85 Jerzy Wisłocki, *Konkordat Polski z 1925r: zagadnienia prawne-polityczne* (Poznań: Wydawnictwo UAM, 1977).
- 86 Kallas, *Historia ustroju Polski*, pp. 349–56.
- 87 Ewa Gdulewicz, 'Niektóre zagadnienia ustroju politycznego w Konstytucji z 23 kwietnia 1935r', *Państwo i Prawo*, XXX no. 3 (March 1975).
- 88 Cf. Jacek Majchrowski (ed.), *Stanisław Car – polska koncepcja autorytarizmu* (Warsaw: Wydawnictwo Sejmowe, 1996).
- 89 *Dz. U. RP*, 1935, n. 30, position 227.
- 90 See Hanna and Tadeusz Jędruszcak, *Ostatnie lata Drugiej Rzeczypospolitej, 1935–1939* (Warsaw: KiW, 1970); Edward D. Wynot, *Polish Politics in Transition. The Camp of National Unity and the Struggle for Power, 1935–1939* (Athens GA: University of Georgia Press, 1974).
- 91 Cf. Zbigniew Zaporowski, *Sejm RP 1919–1939* (Lublin: Wydawnictwo UMC-S, 1992).
- 92 Paul Latawski (ed.), *Poland between the Wars, 1918–1939* (London: Macmillan – now Palgrave Macmillan, 1992).
- 93 Cf. Wojciech Roszkowski and Zbigniew Landau, *ibid.*
- 94 Hubert Izdebski, *Administracja publiczna. Zagadnienia ogólne* (Warsaw: LIBER, 1998), p. 69.
- 95 Cf. George Sakwa, *The Role of Parliament in a Communist Political System: the Polish Sejm, 1952–1972* (University of London PhD dissertation, 1974), pp. 27–8.
- 96 Some authorities consider that the 'rich and broad inheritance' of Polish constitutionalism makes it difficult to call on any single dominant tradition. See Jan Wawrzyniak, *Zarys Polskiego ustroju konstytucyjnego* (Bydgoszcz: Branta, 1999), p. 56. While I agree, to some extent, with the residual Marxist view that constitutions are specifically located in their historical and social contexts I feel that countries also develop continually recurring patterns of values which can be regarded as autonomous and long-term traditions.
- 97 See Geoffrey Pridham, *Confining Conditions and Breaking with the Past: Historical Legacies and Political Learning in Transitions to Democracy*, *Democratisation* VII (Summer 2000), 36–64.

- 98 On the relationship between nation building, Romantic Nationalism and revolutionary stirrings for constitutional democracy within an independent statehood, consult the seminal works by Andrzej Walicki: *Philosophy and Romantic Nationalism: the case of Poland* (Oxford: Clarendon Press, 1982); *The Enlightenment and the Birth of Modern Nationhood: Polish Political Thought from Noble Republicanism to Tadeusz Kościuszko* (Notre Dame IN: University of Notre Dame Press, 1989).
- 99 In my view, Arista Cirtautas underestimates the domestic roots of Polish liberal constitutional values in her attempt to identify Solidarity and the Polish revolution of 1989 with the tradition of the American revolution, *The Polish Solidarity Movement, Revolution, Democracy and Natural Rights* (London: Routledge, 1997).
- 100 Adam Bromke, *Poland's Politics: Idealism versus Realism* (Cambridge MA: Harvard University Press, 1967).

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