

NOTES

ON THE SENATE



SENATE
OF THE REPUBLIC
OF POLAND

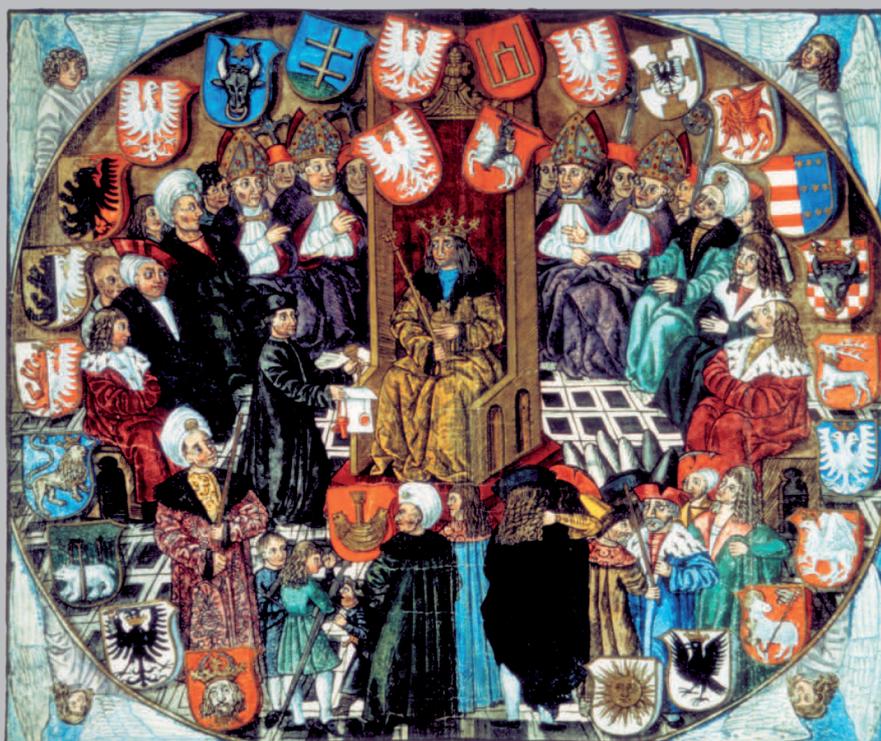
The History of the Polish Senate

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ORIGINS

The Second Chamber of the Polish Parliament originates from the Royal Council, which was the monarch's consultative body created in the middle of the 14th century. Its composition was not constant. It was appointed every time by the King. Roman Catholic archbishops and bishops, the highest state officials, i.e. the Chancellor, the Vice-Chancellor, the Treasurer and the Grand Marshal of the Crown and also land officials – Voivodes and Castellans were always invited. Those offices were awarded by the King for life.

The Royal Council also participated in provincial and general gatherings convened by the monarch. Noblemen as well as representatives of towns and cathedral chapters also took part in such gatherings. For the King, the gatherings served the purpose



King Alexander Jagiellon in the Sejm (Wood engraving, Krakow, 1506)
(photo by M. Glinicki, Archives of the Sejm Publishing House)

of obtaining social support, primarily in tax issues. Such gatherings also had their ceremonial, including joint deliberations held by the King and the Royal Council. The remaining participants deliberated separately. This custom took shape most probably in the middle of the 15th century. In the same period, the Council gradually ceased to be convened as a whole. It was decided to appoint 4 of its members to assist the King on a permanent basis.

General gatherings gradually evolved into the Sejm. Starting from the general gathering in Piotrków in 1493, nobles began to send their representatives to such assemblies, i.e. deputies elected at voivodship provincial parliaments. This is how the Chamber of Deputies came into being. The Royal Council came to be called the Senate (Latin *senatus* – council of elders), while its members were called Senators (Latin *senex*: old man). The King also participated in the debates of the Sejm. Thus, the Sejm was composed of 3 deliberating estates: the Chamber of Deputies, the Senate and the King. Beyond the Sejm gatherings, the Senate continued to function as the Royal Council.

THE PERIOD OF OLD POLAND

Originally, the Senate's status in the Sejm was neither independent nor equal to that of the Chamber of Deputies. This situation was changed by the *Nihil novi* constitution (Latin: nothing new) of 1515, according to which the King could not enact new laws without the approval of the deliberating estates, i.e. the Sejm. Consequently, the Senate, in its capacity as a separate deliberating estate, achieved the same status as the Chamber of Deputies.

The composition of the Senate became established in the first half of the 16th century. It included: Catholic archbishops and bishops, Voivodes, Greater and Lesser Castellans and ministers, i.e. the Great Marshal, the Chancellor, the Vice-Chancellor, the Great Treasurer and the Court Marshal. All those officials were appointed by the King for life. The most important senator, i.e. the President of the Senate, was the Archbishop of Gniezno (the Primate). In the absence of the King, who presided over the deliberations of the Chamber through the intermediary of the Great Crown Marshal, the Primate presided over the debates.

That period was also marked by the Executionist movement. Its leaders put forward the concept of the Senate as guardian of the rights and freedoms of the nobility. This approach did not meet with the understanding of the King, who still viewed the Senate in the role of his advisor.

As from the conclusion of the Polish-Lithuanian Union in 1569, the Senate of the Crown and the Senate of Lithuania were merged together. This state of affairs lasted until the end of the existence of the Polish-Lithuanian Commonwealth.

After the death of the last Jagiellon, in 1572 a new King election procedure was shaped. The Republic became an elective monarchy. At each subsequent interregnum, the state power was taken over by the Primate, who took up the function of interrex, replacing the King. At every election Sejm, which was preceded by a convocation Sejm in charge of preparing the election, the Senate deliberated separately, however Senators voted together with the nobility from their voivodeship. The election of the King was announced by the Grand Marshal of the Crown. The coronation was performed by the Primate during the coronation Sejm.

At the election Sejm of 1573, a set of fundamental principles of state governance were enacted (the so-called Henrician Articles), which the elected King committed himself to respect. The Senate gained new competences – the monarch had to consult the Chamber when convening the Sejm, receiving foreign envoys and sending out his own envoys, increasing the army and in marital plans. Four senators present on a permanent basis by side of the King were to provide him with advice. At the same time, they scrutinised the exercise of power by the King and presented reports at Sejm sessions. During subsequent years, the institution of resident senators was not governed by binding law. It is only in 1607 that the residents were appointed for the first time. At that time, the Royal Chancellery was also ordered to take down in writing the Senate council's resolutions. From 1576, the Senate had the right to admonish the monarch if the latter broke the law.

The first half of the 17th century was a time of growing importance of the Senate. The so-called small Senate, i.e. the trusted group of senators of whose counsel and opinions the King availed himself when exercising power, had the greatest influence on the exercise of the royal power. Due to the necessity of adopting Sejm constitutions by acclamation, exercise by the Senate of the right of veto over acts passed by the deputies in the years 1631–1632 became significant. From the middle of the 17th century, the right of veto came to be considered as the right of each deputy and senator to question any procedural act connected with the course of the debate (*liberum veto*). Putting this principle into practice led to interrupting deliberations of the Sejm and nullifying the results of its hitherto legislative work. Over

time, this led to a total paralysis of the Sejm's work. A potential solution to this problem was convening a Sejm after having established a confederation. Such an assembly was exceptional, because it could not be interrupted, resolutions were passed by majority vote and senators deliberated together with deputies.

In the 18th century, the crisis of the state and its institutions began to deepen. In 1768, the cardinal laws were adopted, which were the fundamental and invariable principles of the political system of the Republic. The law was to be enacted by the Sejm, consisting of 3 estates: the King, the senators and the knights. The right of veto was upheld, but it was limited and the possibility to interrupt the Sejm on the grounds of the veto was eliminated. The composition of the Senate was extended

to include the Great and Field Hetmans. In 1775, the institution of the King's resident senators was abolished and the Permanent Council composed of deputies and senators was established. Deliberations of the Permanent Council were chaired by the King.

The end of the 18th century brought profound changes in the political system. On 3 May 1791, the Sejm deliberating in the years 1788–1792, called the Great Sejm or the Four-Year Sejm, enacted a constitution, which overhauled the political system of the state. The role of the Senate was reduced in favour of the Chamber of Deputies. The King ceased to be a separate debating estate and became the chair of the Senate. The chamber was deprived of the right of legislative initiative, but retained the right of suspending the veto with respect to political, civil and criminal issues passed by the deputies. In the future, subsequent Kings were to appoint senators among candidates selected by the provincial parliaments.

The 3rd of May Constitution was abolished by the Sejm held in Grodno in 1793. During this last Sejm of the Republic of Poland, it was decided that both Chambers would deliberate jointly, i.e. the concept of a unicameral Sejm was adopted. The Permanent Council, which had been abolished by the Great Sejm, was also reinstated. After the failure of the Kościuszko Uprising in 1794, the third partition of Poland was carried out (1795), which put an end to the existence of the Polish state.

THE DUCHY OF WARSAW AND THE KINGDOM OF POLAND

The Duchy of Warsaw was established in 1807 and a constitution was bestowed upon it by Napoleon. The Polish tradition was partly taken into account,

the Sejm was made up of the Chamber of Deputies and of the Senate. The Senate was composed of bishops, voivodes and castellans, appointed by the King. They deliberated under the leadership of the monarch or another chairman appointed by him. In line with the old tradition, the office of senator was held for life. The competences of the Sejm were limited. It made decisions with respect to tax issues and currency issuance. It also had the right to amend civil and criminal law provisions. The Senate controlled the activity of the Chamber of Deputies as far as respecting the provisions of the constitution and of the legislative procedure was concerned. It also supervised the lists of persons with electoral rights in elections to the Chamber of Deputies, decided on the validity of elections to this Chamber and on the validity of Provincial Parliaments and communal gatherings.

The formal liquidation of the Duchy of Warsaw took place at the Vienna Congress in 1815. The Kingdom of Poland was created from part of its territory, linked by a real union with the Russian Empire. According to the constitution bestowed by the tsar, it was a constitutional monarchy. The legislative power was wielded by the Sejm, composed of the King, the Senate and the Chamber of Deputies. The Senate was thus one of the 3 deliberating estates with the same competencies as the Chamber of Deputies. It was composed of bishops, voivodes and castellans. They could not make up more than one half of the Chamber of Deputies. The competencies of the Sejm included: law-making in the area of law applied in law courts and administrative law, mint, tax and budgetary topics, decisions on military drafts, constitutional legislation (after the first organic statutes of the King) and limited scrutiny of the government. However, in practice the Sejm only dealt with amendments in the scope of civil and criminal law. The Senate was also assigned the function of Sejm tribunal, ruling in cases concerning constitutional responsibility of officials. It also ruled on cases of high treason i.e. the most serious political crimes.

As a result of the failure of the November Uprising, in 1832 the constitution of the Kingdom of Poland was replaced by the Organic Statute that incorporated the Kingdom into the Russian Empire as a province. The Sejm was abolished.

THE SECOND REPUBLIC OF POLAND

After Poland regained independence in 1918, it was only the March Constitution of 1921 that made it possible to hold elections to the Senate and established the legislative power in the form of a bicameral parliament. The elections took place in 1922. The term of the Chamber

lasted for 5 years and it was composed of 111 senators, i.e. 1/4 of the Sejm seats. The rights of the Senate were limited. It did not have the right of legislative initiative, which was vested in the Sejm and the government. The chamber did not have the right of government scrutiny either; senators only had the right to submit parliamentary questions. The Senate and the Sejm jointly formed the National Assembly that elected the President of the Republic of Poland. The Chamber examined each draft act adopted by the Sejm; it had the right to voice its objections or to propose amendments to be introduced. The Senate functioned until the end of its term or was dissolved at the same time as the Sejm. The approval of 3/5 of the Senate was required to enable the President to dissolve the Sejm.

The April Constitution of 1935 limited the competencies of parliament in favour of the President, but at the same time reinforced the position of the Senate with regard to the Sejm. It conferred the function of President, in the case of the latter's death or incapacity to perform his duties, upon the Marshal of the Upper Chamber and not upon the Marshal of the Sejm, as before. The Marshal of the Senate also chaired the Electors' Assembly and convened the joint Chambers. The Constitution did not confer the right of legislative initiative upon the Senate, but it increased the Sejm majority required to reject the Senate's amendments to draft acts or to dismiss a resolution rejecting a draft act. The Upper Chamber was also given a certain role in the procedures of parliamentary scrutiny of the government. Among others, the Sejm and the Senate could, as joint chambers, call the Prime Minister or ministers to constitutional responsibility. The term of the Senate still lasted 5 years, but the Chamber was composed of 96 senators, of which 32 (1/3 of the Chamber) were appointed by the President and 64 (2/3 of the Chamber) were elected in indirect elections, in which only citizens with at least secondary education, with particular merits for the state – honoured with state decorations, commissioned officers, exercising functions in local government institutions, social institutions and trade unions – had the right to vote.

During the twenty year interwar period, there were 5 terms of the Senate: 1922–1927, 1928–1930, 1930–1935, 1935–1938, 1938–1939. The last session of the Chamber was held on 2 September 1939. The Senate and the Sejm were dissolved on 2 November 1939 by the President in exile. At the beginning of December of that same year, the President ordered elections to both Chambers to be held after 60 days from the end of the war.

THE POST-WAR PERIOD

After the end of the Second World War, the political situation in Poland changed radically. The communist authorities intended to abolish the bicameral parliament. Therefore, the pre-war Senate came under propaganda attacks, portrayed as an opponent to reforms. The culmination of that campaign was the so-called people's referendum held on 30 June 1946, in which the nation expressed its opinion, among others, on the liquidation of the Senate. On the basis of the forged results of that referendum, the second chamber was liquidated. The so-called Small Constitution passed on 19 February 1947 established a unicameral parliament, which functioned until 1989.



As a result of the Round Table agreements of 5 April 1989, which marked the beginning of political changes in Poland, the Senate, as well as the office of President, were reinstated. Free and democratic elections to the Senate were held on 4 June 1989. Elections to the Sejm were not fully democratic as the opposition was assigned only 35% of the seats.

The Constitution of the Republic of Poland of 2 April 1997 maintained the bicameral legislative power in Poland.