

POLISH SEYM IN THE LIGHT OF RECENT RESEARCH

A few years ago a view was expressed in these pages that the organization, composition and functioning of the Polish Sejm are increasingly attracting European historians.¹ This was ascribed to a general rise of interest in estate institutions in Europe, to which quite a number of more or less extensive papers has lately been devoted. This growth of interest over the last few decades has also been reflected by more comprehensive works. For example in the 4th volume of the well-known publication, *Histoire Générale des Civilisations*, we read that the Polish Sejm in the 16th century worked in accordance with the principle of unanimity “*ce qui rend toute décisions difficile.*”² The corresponding volume of the *New Cambridge Modern History*, published 8 years later, says with more precision that still in the 16th century more important matters were passed by a simple majority, though it admits that in other matters “there was a fatal tendency to seek to secure a unanimous vote at least a vote *nemine contradicente*,” and adds rightly that there was as yet no *liberum veto*.³

On the basis of the more important universal histories, it is possible to claim today that the European historian knows that the Polish Sejm was composed of three estates: the King, the Senate and the Chamber of Deputies and that the Chamber of Deputies comprised deputies of gentry origin elected by local diets (*sejmiki*), while in the Senate sat higher officials nominated by the king, ministers, voivods, castellans and bishops. He also knows that the Sejm had quite extensive powers which seriously restricted the king's prerogatives which — he can learn that even from the Polish literature — were relatively weak. Finally, he is aware of the fact that at some stage the Polish Sejm adopted the disastrous principle of unanimity which was later to paralyse completely its work.

In view of this noticeable growth of interest it may be useful to acquaint his-

¹ B. Leśnodorski, in his review of K. Grzybowski's *Teoria reprezentacji w Polsce w epoce Odrodzenia* [*The Theory of Representation in the Poland of the Renaissance Period*], “Acta Poloniae Historica,” vol. V, 1962, p. 203.

² *Histoire Générale des Civilisations*, vol. IV, Les XVI^e et XVII^e siècles, Paris 1954, p. 111.

³ *The New Cambridge Modern History*, vol. II, Cambridge 1962, p. 468.

torians unable to read Polish with the results of recent research on the history of the Polish parliament pursued by historians and historians of law.

It must be admitted that the death of the eminent historians of Polish parliamentarism, Stanisław Kutrzeba, Władysław Konopczyński and Józef Siemieński, left a gap which it took some time to fill. Also in the first years after World War II the study of the history of Polish parliamentarism was almost completely neglected. An exception here was the paper by the present writer dealing with the two Seyms of 1652.⁴ Only in the last ten years or so we note a rise of interest in this subject. In 1959 appeared a thorough study by the Cracow historian of law, Konstanty Grzybowski, dealing at length with the Polish Sejm in the Renaissance period.⁵ This was followed 8 years later by a comprehensive study by Henryk Olszewski, a Poznań lawyer, entitled *Sejm Rzeczypospolitej epoki oligarchii 1652 - 1763* [*The Sejm of the Polish Republic in the Period of the Oligarchy 1652 - 1763*].⁶ Both works, particularly the second, provoked discussion of the problems of the Polish Sejm and provided an impetus for studies on the history of individual Seyms undertaken by other centres. As a result we are able today provisionally to sum up both the results of research and the discussion that followet. It is necessary, however, to begin with the quoted works.

Grzybowski's study has been already reviewed in *Acta Poloniae Historica*,⁷ but since the author of the review was concerned with other problems of the book, I think it necessary to present Grzybowski's most important findings concerning the functioning of the Sejm in the 16th century, as only in relation to them will we be able to present the main aspects of the Polish Sejm's development.

The Polish Sejm was an institution which almost since the beginning worked in accordance with the principle of representation. Grzybowski draws attention to the fact that this principle emerges quite clearly at the end of the 15th and the beginning of the 16th century.⁸ Deputies elected by the different local diets would come for the Sejm debates equipped with instructions issued for them by their electors. It was in the interest of the king and the effective conduct of the debates that they should be framed as broadly as possible and did not restrict the deputies' freedom of action. Following a thorough study of documents, Grzybowski comes to the conclusion that deputies received "*plenam facultatem*" more often than "it is usually admitted".⁹ He maintains also that even when they came

⁴ W. Czapliński, *Dwa sejmy w roku 1652. Studium z dziejów rozkładu Rzeczypospolitej szlacheckiej w XVII w.* [*Two Seyms of 1652. A study on the History of the Decline of the Polish Gentry Republic in the 17th Century*], Wrocław 1952.

⁵ *Teoria reprezentacji w Polsce epoki Odrodzenia* [*The Theory of Representation in the Poland in the Renaissance Period*], Warszawa 1959.

⁶ H. Olszewski, *Sejm Rzeczypospolitej epoki Oligarchii 1652 - 1763, Prawo — Praktyka — Teoria — Programy* [*The Sejm of the Polish Republic in the Period of the Oligarchy 1652 - 1763, Law — Practice — Theory — Programmes*], Poznań 1966.

⁷ "Acta Poloniae Historica," vol. V, 1962 p. 203.

⁸ Grzybowski, op. cit., pp. 55 - 56.

⁹ *Ibidem*, p. 67.

armed with instructions they quite often departed from them “not regarding them as absolutely binding”.

The question of instructions is connected with another practice of fundamental importance for the Sejm's effectiveness, namely the taking of decisions either by unanimity, or by a majority vote. After a careful investigation of relevant Sejm documents, the author concludes that at that time “voting in the chamber of deputies by a simple majority seems to be [...] an ever more frequent practice in Poland”.¹⁰ He maintains also that in the contemporary parliamentary practice we do not encounter “documented cases of the majority succumbing to the minority”.¹¹ In other words the author confirms, though cautiously, the view previously propounded by some historians that in the period of the Polish Sejm's flourishing development the majority principle prevailed. He also notes that several serious contemporary parliamentarians, while recognising the unanimity principle as the better one, agreed that its adoption and fully consistent application would make it impossible to pass new laws.¹²

In discussing the role of the Sejm the author draws attention to the importance of the Senate and the king. In his opinion the Senate, which evolved from the old Royal Council, had gone through a different evolution than in the majority of European countries. In the West the Royal Council began to comprise an increasing number of specialists and experts, often of burgher origin. Hence members of this council did not belong to the higher chamber. The situation in Poland was different. The magnates did not succeed in transforming the senate into a hereditary institution; the appointment was for life, some of the members being eligible in view of the most important state offices they held. The Senate was in fact a representation of wealthy gentry and the magnates.¹³ As a separate Sejm estate, or in other words a higher chamber in the Sejm, members of the Senate had at least theoretically the right of veto. At the same time the gentry wanted them to be the custodians of the king and the laws (*custodes regis et legis*) as well as defenders of the privileges of the whole nobility and controllers of the king. In spite of this, the author says, Sigismund Augustus (1548 - 1572), the last representative of the Jagiellonian dynasty, was able to maintain his independence from the Senate and use it for his own purposes.¹⁴

One of the greatest merits of Grzybowski's study is the proper acknowledgement of the king's considerable role in the Polish Sejm. The fact that the last Jagiellon was a ruler with a great sense of his own dignity, who knew how to impose his will on both the Senate and the gentry, was noted still in the interwar period by the Polish historian Ludwik Kolankowski.¹⁵ It was, however, left to

¹⁰ *Ibidem*, p. 310.

¹¹ *Ibidem*, p. 312.

¹² *Ibidem*, p. 303.

¹³ *Ibidem*, p. 97.

¹⁴ *Ibidem*, p. 102.

¹⁵ L. Kolankowski, *Polska Jagiellonów [Poland under the Jagiellons]*, Lwów 1936, pp. 331 - 332.

Grzybowski to investigate this question thoroughly on the basis of sources. He has also demonstrated that in those days the gentry did recognise the king's suzerainty.

The king's role in the Sejm was not confined merely to the opening and closing of the debates and to the right of initiating legislation; he could also seriously influence the course of debates, for example by removing certain matters from the agenda, arbitrating disputes between the chambers and interpreting laws as "*summus, supremus et unicus interpres legum et privilegiorum.*"¹⁶

We will not make a mistake when we say that Grzybowski, sees primarily the resolute and intelligent king as the reason behind the Sejm's efficient and sound functioning in those days. He allots only secondary importance to the role of the enlightened and public-spirited representatives of the gentry. According to him the most important single cause of the Sejm's subsequent decline was the fact that after 1572 "there was no king able to combine an almost absolute power with a tactical adroitness in managing the Sejm," and that together with Sigismund Augustus disappeared from the political scene deputies, "who managed to turn the Polish Sejm into an efficient tool of government."¹⁷ As one of the reasons of the decline of the chamber of deputies the author mentions the fact that after the Lublin Union, i.e., the final binding of Poland with Lithuania in 1569, most of the deputies in the Sejm "had less political experience, represented a different level of culture and had a different attitude to the magnates."¹⁸

Thus, his indubitably exaggerated appraisal of the great king's role apart,¹⁹ it appears that he accepts that the period after the reign of Sigismund Augustus marked the beginning of the decline of the parliamentary institution in Poland.

This stage in the history of Polish Sejm has been investigated by another historian, Henryk Olszewski, in a comprehensive study. *Sejm Rzeczypospolitej epoki oligarchii 1652 - 1763* [*The Sejm of the Polish Republic in the Period of the Oligarchy 1652 - 1763*], published in Poznań in 1966.

The dates enclosing this work's chronological span should be sufficiently familiar to people interested in the history of Poland, but perhaps it would be useful to recall that in 1652 the Sejm was for the first time broken off by a single deputy's veto and that when after the death of Augustus III of Poland in 1763 the subsequent Sejms began to show signs of improvement.²⁰ The title itself perhaps needs no explanation since it is common knowledge that in the second

¹⁶ Grzybowski, op. cit., pp. 166 - 67, 188, 201 - 205.

¹⁷ *Ibidem*, pp. 89 and 317.

¹⁸ *Ibidem*, p. 89.

¹⁹ In my opinion the author impressed by the personality of Sigismund Augustus disregards the great role played by the idea of gentry democracy and the related struggle of the gentry against the magnates, the two factors contributing to the unification of the chamber of deputies. Nor should the role of religious ideology be dismissed.

²⁰ Already at the convocation Sejm of 1764 certain reforms of the legislature were carried through — cf. W. Konopczyński, *Dzieje Polski* [*History of Poland*], vol. II, Warszawa 1936, pp. 289 - 290.

half of the 17th and in the 18th century the magnates ascended to such an importance in the country's affairs that some Polish historians have introduced the term magnates' oligarchy to describe this period.²¹

At present Olszewski's book is the most comprehensive study dealing with the Sejm. Based on the great number of extant Sejm diaries, it is the most complete survey of the Sejm's structure and functioning, unfortunately at a time of its decline. The reader will find here portrayed, in the smallest detail, the course of Sejm debates, from the Sejm convocations to its termination and publication of resolutions, called "constitutions" in Poland.

There is no need to acquaint the reader with this work in detail, but perhaps it would be useful to draw his attention to certain characteristic features of the Sejm which will make it possible to appraise the extent of changes which occurred between the period when the Sejm functioned normally and the second half of the 17th century, when its slow but inevitable deterioration began.

Discussing the composition of the Sejm, the author points to the fact that the chamber of deputies, where still in the 16th century not only magnates' sons but even less important senators were to be found, was almost entirely dominated by the gentry.²² For the magnates' sons the mandate was only a *gradus ad Parnassum* — a step to the Senate. At that time the deputies, with few exceptions, did not consider themselves as representatives of the whole Republic but as "mandatories of individual local diets, representatives of their electors."²³ Consequently, the importance of the instructions they received increased, restricting correspondingly the freedom of action of individual deputies, although responsibility for not abiding by these instructions was "political" and not "legal."²⁴ As a result, it was more and more difficult to persuade a deputy to succumb to the will of the majority.

These developments in the chamber of deputies were paralleled by a marked deterioration in the importance of the monarchy. In the author's opinion the king was steadily losing his influence on the course of the debates in the chamber of deputies. His role as initiator of draft resolutions was declining, while the gentry began to refuse him the right to oppose the resolutions that have been passed, reducing his role to the "approval and endorsement of the deputies' decisions."²⁵ It is highly revealing that while in the 16th century the view was fairly common that Poland had a mixed system (*respublica mixta*), combining elements of monarchy, aristocracy and democracy, at the end of the 17th century M. Żalaszowski, a Polish lawyer, formulated a thesis on the Republic being a mixture of the aristocratic and the democratic system.²⁶

²¹ Probably the first to advance this view was S. Śreniowski at the methodological conference of historians in Otwock in 1952.

²² Olszewski, op. cit., p. 103.

²³ *Ibidem*, p. 112.

²⁴ *Ibidem*, p. 117.

²⁵ *Ibidem*, p. 164. The author wholly accepts here Śreniowski's concept.

²⁶ *Ibidem*, p. 140.

Also the Senate, in the author's opinion, lost much of its importance. He maintains that the senators, apprehensive lest they should fall out of favour with the chamber of deputies, resisted efforts to increase the role of the Senate.²⁷

Simultaneously the role of the chamber of deputies was increasing, although the conduct of its debates was steadily deteriorating. In the author's opinion even efforts to hold debates in commissions proved insufficient to prevent an internal decline.²⁸ The reason for this is to be attributed chiefly to the ever more frequent recourse to the principle of unanimity and a growing respect for *liberum veto* which was becoming the "cornerstone of freedom." In consequence, the author maintains, sovereignty was exercised not so much by the chamber of deputies as a whole as by individual members.²⁹ At that time the right of dissent ceased to be a legal custom and became law by virtue of the constitutions of 1673 and 1669.³⁰

The author describes in detail the passage of a draft resolutions from its initiation in the chamber of deputies to the moment when it became constitution. In his opinion this passage, or in other words Sejm procedure, in the period covered by his study, was a "chain of absurdities."³¹

We do not want to examine critically this view here, since we have already done so elsewhere.³² We would only like to confine our comments to the question of Sejm procedure which the author tends to describe too statically without making allowance for the brighter side of the picture which existed even in the years 1652 - 1763, a gloomy period indeed, and thus takes unduly critical view of the Sejm and the way it conducted its business. Nonetheless, it is true that the period in question witnessed a deepening decline of Polish parliamentarism.

When we remember that Grzybowski puts the end of the peak period of Polish parliamentarism at 1572, the question arises what was the situation like during the 80 years' transitional period. This is a very important question as it is essential to determine whether the Polish Sejm functioned properly 80 years (1492 - 1572, the opening date being tentative), or whether it functioned properly 160 years (1492 - 1652), the period of its decline and decay lasting 110 years (1652 - 1763).

Naturally, more questions beg to be asked. Namely, how was it possible that Seyms could at all be convoked when the principle of unanimity was adhered to roughly from 1572? Although Polish history text-books explain that in many cases the appearances of unanimity were created by persuading the opponents to retain

²⁷ *Ibidem*, p. 246.

²⁸ *Ibidem*, pp. 281 - 291.

²⁹ *Ibidem*, p. 267.

³⁰ *Ibidem*, p. 312.

³¹ *Ibidem*, p. 213.

³² W. Czapliński, *Sejm Rzeczypospolitej epoki oligarchii* [*The Sejm of the Polish Republic in the Period of Oligarchy*], "Czasopismo Prawno-Historyczne," vol. XIX, 1967, No. 2, pp. 171 - 180.

their views, opposed to those of the majority, as long as they did not protest publicly.³³ However, this manner of circumventing the difficulties inherent in the principle of unanimity was possible only when the opponents represented a relatively high awareness of public duty. But what had to be done when the number of such public-spirited men declined, when the deputies felt increasingly bound by their instructions, quite often representing a narrow point of view of a local diet. The question becomes even more serious when we remember that apart from the principle of unanimity the Polish Sejm was bound by the principle of unity thanks to which a firm opposition to one constitution involved the annulment of all constitutions passed by a given Sejm. Surprisingly, Olszewski pays practically no attention to this well-known principle, though even the university text-book on the History of the State and Law says that attainment of unanimity was rendered particularly difficult as "all the constitutions of one Sejm constituted an entity."³⁴

It is not easy to answer the above mentioned reservations and doubts since the history of the Sejm in the period under discussion has not been properly researched. It was only a few years ago that investigations of the various Sejms of that period were undertaken, mainly by the Wrocław centre; nonetheless they have already thrown much new light. Some of these studies, for example, Jan Sereďyka's history of the Sejm of 1626,³⁵ Janusz Byliński's history of the Sejm of 1611 and Stefania Ochmann's history of the Sejms of 1615 and 1616 have been published.³⁶ The present author has examined Sejm diaries and other documents pertaining to more than a dozen Sejms of the period. All these studies have brought a number of interesting findings and make it possible to formulate a number of conclusions which, in our opinion, are of far-reaching importance for the history of the Polish Sejm in general and for the period 1572 - 1652 in particular.

Before we proceed to discuss the more important of these findings and conclusions, we think it necessary to draw the reader's attention to a number of questions. First, it should be recollected that in the 80 years between 1572 - 1652, 69 Sejms (not including Election Sejms) were held.³⁷ Only 11 of them concluded without results, i.e., no laws (constitutions) being passed. As can be seen, the number of

³³ *History of Poland*, (collective work), Warszawa 1966, p. 125.

³⁴ *Historia państwa i prawa [History of State and Law]*, collective work, vol. II, Warszawa 1966, p. 125.

³⁵ J. Sereďyka, *Sejm w Toruniu w 1622 roku [The Toruń Sejm of 1622]*, Wrocław 1966. This is a doctoral dissertation submitted at the Chair of Polish and Universal History of the 16th-18th Centuries of the University of Wrocław.

³⁶ Both these contributions doctoral dissertations submitted at the same chair, are published by the Wrocław Scientific Society J. Byliński, *Sejm z roku 1611 [Sejm of 1611]*, Wrocław 1970; S. Ochmann, *Sejmy z lat 1615 i 1616 [Sejms of 1615 and 1616]*, Wrocław 1970.

³⁷ This calculation was carried out on the basis of W. Konopczyński's, *Chronologia sejmów polskich [Chronology of Polish Sejms]*, "Archiwum Komisji Historycznej PAU," series 2, vol. IV.

unsuccessful Seyms constitutes no more than 16 per cent of the total. This is even more striking when we remember that both Stephen Batory and Sigismund III were of foreign extraction; brought up abroad, they were not properly acquainted with the Sejm procedure; this might have led to conflicts with the Sejm, to quote the case of the first Stuarts and the English Parliament. As Sigismund III presided over 37 Seyms, only 5 of which were broken off, it is quite evident that this ruler, as has been already noted by Konopczyński, knew how to deal with his legislature.³⁸ Thus, it is possible to question Grzybowski's contention that Sigismund Augustus was the last monarch capable of handling the Sejm.

This is not the only conclusion which can be drawn from the above statement. If in fact during the reign of Sigismund III the Sejm functioned reasonably well, it stands to reason that the principle of unanimity and even more of unity was not strictly adhered to in his times. Moreover, it seems very probable that the king in his relations with the Sejm availed himself of the support of the Senate. It would be possible to form more working conclusions of this kind. However, before we do so, it seems necessary to draw the reader's attention to a number of points.

First, the Sejm's rules of procedure. Although these customary regulations were defective in many respects and provided an opportunity for bringing useful debates to nought, in general they were quite sensible and clear. As far as elasticity and forms of parliamentary procedure were concerned, they were superior to those, for example, of various German Landtags.

It is instructive in this context to study the main course of debates in the Polish Sejm. First came the election of the marshal of the chamber of deputies: then both chambers together greeted the king and one of the chancellors outlined the king's plans in what was called the proposal from the throne, resembling the contemporary speech from the throne or the premier's exposé. This was immediately followed by senators' votes, i.e., speeches by senators and ministers in which they put forward their views on the chancellor's proposals, setting out their arguments for and against. Next, the chambers parted and the second stage of debates began; although conducting their business separately, the chambers kept in touch through special emissaries, the lower chamber being busy drafting constitutions in writing. During the third and final stage both chambers again sat together and in the presence of the king proceeded to vote the previously drafted resolutions. Let us add that Polish Sejm also used special commissions to consider some problems, their recommendations being subsequently read out at the general assembly. As the rules of procedure were not very precise, much depended on the energy and prestige of the marshal of the chamber of deputies. When this office was held by an intelligent and efficient parliamentarian like, for example, Jakub Sobieski, the father of king Jan III, the debates, to instance the Sejm of 1623, were conducted with energy and brought results. The marshal saw to it that representatives of

³⁸ W. Konopczyński, *Dzieje Polski [History of Poland]*, vol. I., p. 282.

individual voivodships, speaking in turn, did not repeat arguments that had already been used by other speakers.³⁹

It can be seen as the Sejm's undoubted weakness that the deputies were elected for only one term of office, the composition of the Sejm changing constantly, in consequence new deputies lacked the necessary experience. Fortunately, the custom of electing some deputies several or, in some cases, even more than a dozen times, offset this shortcoming to a certain extent.⁴⁰

Finally, in appraising the Polish Sejm of that period, it is necessary to take two more aspects into account. First, it would be a mistake to evaluate the operation of contemporary Sejms solely on the strength of accounts by foreigners, who had no occasion in their countries to acquaint themselves with parliamentary institutions and to whom a group of people freely discussing matters of state importance must have seemed very strange and unusual. It would be equally wrong to make comparisons with present-day parliaments which after all have a very much longer experience at their disposal and, operating in most cases on the simple majority vote, can conduct their debates in a systematic and orderly fashion; their stability rests on strong parties which have comfortable majorities at their command. Nor would it be proper to form judgement on the Sejm of the first half of the 17th century on the strength of sometimes excellent studies of different Sejms, mainly unsuccessful ones, to cite the assemblies of 1605 and 1606, investigated by serious historians.⁴¹ A thorough examination of the successful Sejms of the period is required before a more balanced judgement can be arrived at.

However, on the basis of largely unpublished research, it is already possible to say that in the first half of the 17th century the same elements as in the past, i.e., the king and the Senate, continued to play an important role. The king's importance was still quite considerable since in many cases he could count on the support of the Senate, particularly its ecclesiastic members, who played a more important role than would appear from their number (there were 16 bishops among the 150 senators).⁴²

The politicians of those times and even most of the gentry thought that the king, as the Sejm's third estate, could overrule the resolutions of both cham-

³⁹ The most detailed account of the proceedings of this Sejm is provided by S. Kutrzeba in *Sejm Walny dawnej Rzeczypospolitej Polskiej* [*The General Assembly of the Old Polish Republic*], Warszawa, no date. The proceedings of the Sejm of 1623 were studied on the basis of records by Gdańsk agents, The State Voivodship Archives in Gdańsk 300/29/102, p. 154 ff.

⁴⁰ Many cases of deputies being elected several times are mentioned in *Akty sejmikowe województwa poznańskiego i kaliskiego* [*The Records of the Local Diets of the Poznań and Kalisz Voivodships*] and in similar documents of the Cracow Voivodship.

⁴¹ A. Strzelecki, *Sejm z r. 1605* [*The Sejm of 1605*], Kraków 1921; W. Sobieski *Trybun ludu szlacheckiego* [*The Tribune of the Gentry*] and *Pamiętny sejm* [*A Memorable Sejm*], London 1963.

⁴² W. Czapliński, *Blaski i cienie kościoła katolickiego w Polsce w okresie potrydenckim* [*The Lights and Shadows of the Catholic Church in Poland in the Post-Trident Period*], "Odrodzenie i Reformacja," vol. XIV, 1969, p. 13.

bers. In fact, an instance of this was noted as late as 1668, when the king firmly and effectively resisted the will of the lower chamber.⁴³ We come across the king's opposition against draft resolutions proposed by the chamber of deputies also in other instances: for example at the Sejm of 1627 the king, who supported the ecclesiastics, stated later that not only the ecclesiastics but he himself "would not allow such a constitution." When the deputies, desiring to curtail the right enabling the ecclesiastics to cumulate offices persisted, the Crown and Lithuanian marshals, following the king's instructions, stamped their staffs on the floor and ordered the marshal of the chamber of deputies to pass on to another constitution. The deputies had to be content with a promise that this matter would be reviewed again at the next Sejm.⁴⁴ At the same Sejm the king, defending his prerogatives, did not agree, despite the gentry's pressure, to close the state mint.⁴⁵ Similar instances are to be met with at other Sejms. For example in 1634 king Władysław IV did not approve the gentry's resolution aimed at taxing townsmen and forced through another resolution whereby they were to pay only a general and much less onerous tax.⁴⁶

That is why in one of the numerous pamphlets circulating among the gentry during the reign of Sigismund III we read that the king often resisted resolutions passed jointly by both chambers. The author maintains that the king's opposition "*per aliquem ex secretariis vel aulicis marsalco nuntiorum insussurata*" was sufficient to kill a resolution, since on the king's instructions the marshal would shelve it.⁴⁷

At the same time the king still regarded himself as the supreme and most competent interpreter of the law; it was in his power either to apply a given law or not. For example, when at the Sejm of 1627 the lower chamber urged, in connection with the king's appointments, that the law proscribing the holding of several highest state offices by one person be respected, the chancellor on king's behalf told the chamber that "the Republic would never have been happy had it been impossible to revoke sometimes the laws in case of need." He added that the king did not think he had in any way infringed the law.⁴⁸ On another occasion, at the Sejm of 1615, when the deputies wanted the law imposing on the senators the duty to give account of their deliberations in the lower chamber, the king gave instructions that they be told that this was a matter at his discretion and the

⁴³ W. Czaplinski, *Sejm Rzeczypospolitej...* [*The Sejm of the Polish Republic...*], p. 178.

⁴⁴ J. Seredyka, *Walka o incompatibilia na sejmie warszawskim 1627 r.* [*The Struggle for Incompatibilities at the Warsaw Sejm of 1627*], "Sprawozdania Opolskiego Towarzystwa Przyjaciół Nauk," 1966(1968), pp. 54 - 56.

⁴⁵ The Diary of the Sejm of 1627, MS in the Jagiellonian University Library 102, p. 940 ff.

⁴⁶ *Recessus comitorum 1634*, The State Voivodship Archives in Gdańsk 300/29/144.

⁴⁷ S. Ochmann, doctoral dissertation.

⁴⁸ J. Seredyka, *Walka o incompatibilia...* [*The Struggle for Incompatibilities...*], p. 46.

deputies “should not burden His Majesty and themselves with such affairs.”⁴⁹ In the end the deputies were not able to force the king to abide by the constitution. At the Sejm of 1638 king Władysław IV gave instructions that the deputies asking for the observance of this law be told that “*leges derive robur ex usu et observantia and lose it propter non usum.*”⁵⁰

Moreover, the king was still able to exert influence on the course of the debates by curtailing excessive use of the freedom of speech. For example, when at the previously mentioned Sejm of 1627 the deputies sharply clashed with one of the bishops and interrupted his speech, Sigismund III had them admonished “in order that these new, indecorous practices be no longer continued.”⁵¹ When at the Sejm of 1626 deputy Bagniewski opposed the king, the latter reprimanded him himself, to quote a Gdańsk diary, saying: “Several such speeches have been made by individual deputies in the past, but His Majesty recollects that they brought adverse effects. For this reason he [the deputy] should take care of what he says in the future.”⁵² Still in 1652, when one of the deputies remarked that Poland was ruled by law and not the king, he had to apologize to the offended king under the pressure of the chamber.⁵³

Thus, it is little wonder that at least until the end of the thirties of the 17th century the king as the head and symbol of the state enjoyed a considerable prestige among the gentry. In 1628 in a talk with secretary Radziwiłł one of the magnates thus spoke of Sigismund III: “[...] he is powerful. He controls the entire Senate and the chamber of deputies *excepto uno atque altero in sua potestate*. He has much support behind him—the Hetmans [military commanders], money, the whole clergy [...] it is useless to oppose him.”⁵⁴

As far as the Senate is concerned, its members too enjoyed considerable respect among the deputies. It appears from recent research that they still initiated some resolutions. Where the rights of the Senate or of individual higher state officials were concerned, they resisted deputies’ resolutions aimed at restricting these rights. In most instances the king could count on their support; this was important from his point of view since the senators, particularly the wealthy ones, had a numerous clientele with whose help they were able to influence the resolutions of local diets.

Naturally, the most important problem to be studied in connection with the working of the Sejm in the period under discussion was the procedure of passing draft resolutions by the General Assembly. The question to be asked here is to what extent the principle of unanimity was implemented in practice. It must be admitted that although from time to time the more sober-minded of the gentry had doubts as to whether a rigorous application of this principle would not prove detrimental to the state, the general consensus of opinion favoured unanimity.

⁴⁹ S. Ochmann, doctoral dissertation.

⁵⁰ *Recessus comitorum 1638*, The State Voivodship Archives in Gdańsk 400/29/121.

⁵¹ J. Seredyka, *Walka o incompatibilia...* [*The Struggle for Incompatibilities...*], p. 54.

⁵² J. Seredyka, *Sejm w Toruniu z 1626 r.* [*The Toruń Sejm of 1626*], p. 122.

⁵³ W. Czapliński, *Dwa sejmy w roku 1652* [*The Two Sejms of 1652*], pp. 111 - 113.

⁵⁴ J. Seredyka, *Sejm w Toruniu z 1626 r.* [*The Toruń Sejm of 1626*], p. 93.

“Uno contradicente,” one of the senators remarks in 1653 “nothing can be decided.”⁵⁵ This was the view of a great many senators and deputies. “Only thanks to the right of protest,” one of the deputies states at the Sejm of 1616, “can the gentry protect their freedom from harmful and dangerous constitutions.”⁵⁶

Before we look at the practice of those days, it is worth drawing the reader's attention to an important aspect of this question. The claim that the gentry were able, mainly with the help of *liberum veto*, to defend their privileges and freedoms is not as absurd as it looks. For if the entire business of the Sejm, including new constitutions, was dealt with on the basis of the principle of unanimity, the king would always have been able to impose his will on the gentry.

This question requires a fuller consideration. There is no doubt that the king could count on a bigger or smaller number of conformists in the Sejm, for whom the authority's wish was a command. Apart from them, a considerable number of the deputies had no very firm views and the king could gain their support by means of material benefits. It is generally accepted that Polish kings were not particularly well supplied with funds, but, even accepting this, they certainly were no paupers.⁵⁷ In necessity the king could raise quite substantial sums of money. In addition, he could almost always distribute among the gentry a certain number of estates, known in Polish terminology as *panis bene merentium*, on very favourable terms, ensuring sizeable income. Finally, the king had always at his disposal a certain number of honorary offices which in Poland, where orders were unknown, were greatly coveted. When we remember that the king had also other means of dispensing his patronage to the people whose services he needed, it seems more than likely that he was always able to fall back on material incentives to get a majority for his plans. This contention is not a product of theoretical speculations, but is borne out by a detailed study of a score of Sejm of that period. It is not really surprising. In the English Parliament too Walpole for a long time was able to ensure himself a working majority by similar means.

When we consider the practice and study the procedure of passing constitutions, we can readily see that, despite a theoretical acknowledgement of the principle of unanimity, various Sejms adopted resolutions, even if they pertained to matters of less than fundamental importance, which lacked universal approval. This is not always brought out by Sejm diaries; sometimes, however, these records, particularly those written by Gdańsk agents, provide clear evidence of this. For example, one of them in reporting the Sejm of 1634 remarks that a certain resolution was passed: “Although not everybody gave his consent to the constitutions.” Elsewhere he notes, with regard to another resolution, that “there was no full sup-

⁵⁵ *Recessus comitorum 1616*, The State Voivodship Archives in Gdańsk 300/29/115.

⁵⁶ *Recessus comitorum 1616*, The State Voivodship Archives in Gdańsk 300/29/89, card 119.

⁵⁷ I drew attention to this in my book *Na dworze Władysława IV [At the Court of Władysław IV]*, Warszawa 1959, pp. 308 - 312.

port for it;" and yet it became law.⁵⁸ Examples of resolutions being passed in this manner, i.e., by a simple majority, could easily be multiplied.

Still more interesting facts emerge from other diaries in accordance with which the principle of the unity of all constitutions was on the whole not respected. It appears that when an individual or a group opposed some constitution, it was taken off the agenda, the chamber proceeding to debate the next resolution. Those familiar with the political literature of the subsequent period realize that some writers and politicians proposed this manner of partial overcoming of *liberum veto* — but with no result. Yet it appears that in the first half of the 17th century this procedure was often resorted to. This is clearly attested by the diary of the 1611 Sejm. In describing the closure of the Sejm the diarist writes that when at the beginning of October the reading of a whole host of constitutions begun, "those contradicted were crossed out and torn, and those unopposed stood. And so 140 constitutions remained and at 2 o'clock in the morning, having closed the debates by candlelight, they harmoniously took leave of the king and one by one kissed his hand."⁵⁹

This is no accidental testimony. The diary of the 1638 Sejm in the chapter dealing with the passage of constitutions says that some of them were "very necessary but in view of Mr Szczucki and Mr Fredro opposition had to be crossed out."⁶⁰ There is no doubt that had this system been perpetuated in the second half of the 17th century and later, *liberum veto* would have been so much less harmful.

Here we would like to terminate our remarks. As it can be seen, the results of research on the Sejms of the first half of the 17th century are very promising and throw much new light on the functioning of the Polish Parliament in that period. It appears that the Polish gentry were still able to draw a proper distinction between theory and practice and on the whole managed to pilot the ship of Sejm through the reefs of unanimity. It seems thus that the view alleging a rapid decline of Polish parliamentarism immediately after 1572 is, to put it cautiously, questionable.

(Translated by Krzysztof Klinger)

⁵⁸ *Recessus comitorum 1634*, The State Voivodship Archives in Gdańsk 300/29/114.

⁵⁹ The Diary of the Sejm of 1616, Deutsches Zentralarchiv, Merseburg 6 Rep. Preussen 27 F 6.

⁶⁰ The Diary of the Sejm of 1638, Wrocław University Library, MS. Steinwehr, Polonica 37, vol. II, card 475.