

Richard Butterwick

The Constitution of 3 May 1791

Testament of the Polish-Lithuanian Commonwealth

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*Is it better to live in perilous liberty
or in tranquil servitude?
(after Sallust)*

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Preface

The eighteenth century was a truly tragic period in Polish history. Beginning with the Great Northern War, it saw the successive acts of a drama: marches by foreign troops, the disintegration of the political system, domestic conflicts, often fuelled and exploited by foreign powers, the tragic Bar Confederacy, betrayal, and finally the three partitions and the collapse and elimination of the Polish-Lithuanian state from the map of Europe.

And yet, in spite of the disasters and misfortunes, or rather as a response to these challenges, a movement to reform the Commonwealth had been born: the treatise *A Free Voice, Freedom Securing* (*Głos wolny, wolność ubezpieczający*) published by the former king Stanisław Leszczyński, the activities of educational reformer, Reverend Stanisław Konarski, the establishment of the Cadet Corps (*Szkoła Rycerska*) and of the Commission for National Education, as well as many other reforms, led to the achievements of the Great *Sejm* and passing of the Constitution of 3 May 1791, as the culmination of that work.

The Constitution of 3 May was the second in the world and the first modern constitutional act in Europe. Its aim was to modernize and streamline the system of power, so it would be possible to build an efficient administration, an army and to carry out social reforms that would enable the economy to develop. The Constitution did not save the Polish-Lithuanian Commonwealth, but this in no way diminishes its historical significance. Above all, this act of wisdom on the part of the elites testified to their ability to communicate across divisions and to diagnose the country's greatest political problems. It also demonstrated their will to find much needed remedies for the weaknesses from which their country suffered.

Consequently, the attempt to adopt the Constitution on 3 May shows that – contrary to the claims of the surrounding powers – the Polish-Lithuanian state collapsed not because of its inability to govern itself, but because as a result of the reforms it would emerge as a dangerous political rival.

During the period of partition, the Third of May became one of the most important historical anniversaries for Poles, as it kept alive the memory of the political achievements of the Commonwealth. After Poland regained its independence in 1918, it was established as a national holiday by Parliament. The attitude of the modern independent Lithuanian state towards this anniversary was more ambivalent, as the Constitution had implied a deeper unification of the state, but in recent decades its positive assessment of the Constitution has prevailed, and the Constitution has been celebrated together many times.

The Constitution of 3 May is a document that every Polish student is made aware of during school history lessons, and yet our knowledge of this groundbreaking text is limited to a few generalities. For this reason the Museum of Polish History enthusiastically welcomed the idea of Professor Richard Butterwick, an eminent expert in eighteenth-century Polish-Lithuanian history, to publish a concise, accessible book on the subject, but at the same time one based on the latest historical research, that would present it to a wider Polish audience and foreign readers alike. Apart from publishing the Polish and English editions, the Museum is also a partner of the Lithuanian edition, which is being prepared on the initiative of the Lithuanian Institute of History in Vilnius.

I hope this book will be a fascinating explanation of a crucial part of their countries' history for Poles and Lithuanians alike, an important aid for history teachers and an excellent introduction to Polish and Lithuanian history for all foreign readers.

Robert Kostro

Director of the Polish History Museum

Foreword to the English edition

In writing this short book I have drawn heavily on the cumulative advice received during three decades' study of the remarkable polity that was the Polish-Lithuanian Commonwealth. I renew my thanks to all the scholars and students who have aided me over the years. On this occasion I wish to express my particular gratitude to Robert Kostro, Anna Kalinowska and all at the Museum of Polish History who have turned my text into a published book and e-book. I am also deeply grateful to the reviewer, Krzysztof Link-Lenczowski, and the copy editor, Anne-Marie Fabianowska. As always, Wioletta has been a loving inspiration.

The sensitive rendering of the names of persons, offices, institutions and places in English will always be an art, rather than an exact science. The names of persons are given in the language in which they most often expressed themselves (usually Polish), except for rulers and saints, which are given in English, where an acceptable version exists. Since I do not count 'Stanislaus' or Stanislas' as English names, the last king of the Commonwealth remains Stanisław August. The rich Polish and Latin terminology used in the Commonwealth

presents many challenges. Where there are clear and close equivalents, such as 'vice-chancellor' or 'court treasurer', these are used without further explanation. On the whole I prefer more literal to looser translations. Hence the use of 'envoy' for *poseł*, rather than the potentially misleading 'deputy' or 'representative', but I have used the variant 'parliamentarians' for envoys and senators together. Where the possible solutions are all problematic, then the Polish term is given in italics and explained. So, for example, *sejm* (plural *sejmy*) is presented on first mention with the rough equivalents (parliament or diet).

The only cities within the territory of the Commonwealth with genuine English names are Warsaw and Cracow. This necessitates emotive choices for the others. Rather than adopt the version in the official language of the state currently in possession, I have tried to express the cultural and historical realities of the time and place. This usually means a Polish or sometimes a German version, with the current name following in brackets on first mention. Hence 'Wilno (Vilnius)' and 'Danzig (Gdańsk)'. Of course this approach does not do justice to early modern multilingualism, but it is preferable to absurdities such as using 'Kaliningrad' instead of 'Königsberg' regarding times before 1945.

On the other hand, the provinces of 'Wielkopolska' and 'Małopolska' can be acceptably rendered in English as Greater and Lesser Poland respectively. Moreover, several of the constituent parts of the Commonwealth have well-established Latin-derived names in English (such as Mazovia and Volhynia). The name 'Rus' (*Русь*) can cause endless confusion, as it was translated into medieval Latin as

both 'Russia' and 'Ruthenia'. But 'Russia' is also the legacy of the Byzantine Greek form *Rhossia*, which then became *Rossiia* in Muscovite usage. Here Muscovy is used to denote the tsardom before 1721, Russia the empire declared in 1721 (the *Imperiia Rossiiskaia*), and Ruthenia those lands of Rus' which were part of the Commonwealth. The variants of *ruskii* spoken and written in the Commonwealth are here called the Ruthenian language, from which Belarusian and Ukrainian descend. By the eighteenth century, Ruthenian differed significantly from the Great Russian language used in Moscow. The Empress Catherine II claimed otherwise, as might have been expected.

I have used endnotes sparingly, mainly to provide references for quotations. Some of these hint at the wealth of the primary and secondary sources which bear on the subject. However, the recommendations for further reading are all in English. Given the still widespread view that Polish-Lithuanian history remains cut off from Anglophone readers by impenetrable Slavonic and Baltic languages, the length of this list may come as a welcome surprise. It is perfectly possible to study the Commonwealth at university-level in English. I very much hope that this brief book will encourage more teachers and students around the world to take the plunge.

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Glossary

- Commonwealth
(*Rzeczpospolita*,
Res publica)
- The body politic. This term referred both to the union of the Crown of the Kingdom of Poland and the Grand Duchy of Lithuania, with their territories and institutions of government and justice, and to the sovereign political community or nation dominated by the Polish-Lithuanian nobility. It was inseparable from its normative values founded on virtue, such as the common good, harmony, law, justice, equality and of course liberty.
- Confederacy
(*konfederacja*)
- An armed league of nobles formed in an emergency to defend or restore the Commonwealth and its liberty. A *sejm* held under the auspices of a confederacy could decide by majority vote when necessary.

- Hetman*,
pl. *hetmani* The senior military commanders. The Crown and the Grand Duchy of Lithuania each had a grand and a field hetman.
- Liberum veto* The right of a single envoy to object decisively to proposed laws and resolutions of the *sejm*, to halt its deliberations, and even prematurely to break it up and so prevent any legislation.
- Ministers The highest office-holders of the Commonwealth: the grand marshals, chancellors, vice-chancellors, treasurers and court marshals of the Crown and Lithuania respectively, joined *ex-officio* in the senate by the grand and field *hetmani* in 1768 and by the court treasurers in 1775.
- Pacta conventa* The contract negotiated with each new monarch. The *pacta conventa* contained the restrictive ‘Henrician Articles’ drawn up for the first fully elective monarch, Henry Valois, in 1573.
- Permanent Council
(*Rad Nieustająca*) Established in 1775, this body of thirty-six senators and envoys and the king, divided into five departments and served by officials, exercised supervisory and executive powers between *sejmy*.

- Sarmatism
(*sarmatyzm*) Nobles and some other inhabitants of the Commonwealth claimed descent from the Sarmatians who had fought ancient Rome. 'Sarmatia' became a synonym for Poland and 'Sarmatian' for a Pole. From the 1760s, 'Sarmatism' was reformers' pejorative label for reactionary attitudes and quaint customs among nobles. It is now used to characterize the distinctive culture of the Commonwealth's nobility.
- Sejm*, pl. *sejmy* The Polish-Lithuanian parliament or diet, which ordinarily met every two years for six weeks. The Estates of the *sejm* were the king, the senate and the Knightly Estate (*Stan Rycerski*) whose elected delegates constituted the chamber of envoys (*izba poselska*).
- Sejmik*, pl. *sejmiki* Dietines or local assemblies of the nobility, which elected and instructed envoys to the *sejm*, as well as many judges and local officials, and transacted much local business.
- Senate (*senat*) The upper chamber or middle Estate of the *sejm*, which evolved out of the medieval royal and grand ducal councils. It comprised bishops, palatines, castellans and ministers, and was presided over by

the monarch, who until 1775 chose its members from the nobility.

Starosta,
pl. *starostowie*

Formerly a royal representative, a *starosta* held undertaxed Crown estates (*królew-szczyzny*) supposedly as a reward for public service. Some *starostowie* had judicial responsibilities.

Starostwo,
pl. *starostwa*

The office and Crown estates held by a *starosta*.

Szlachta

The Polish-Lithuanian nobility, comprising between 5 and 8 per cent of the population of the Commonwealth. The *szlachta* increasingly came to regard itself as the nation.

1/ Symbols

As four o'clock strikes on the afternoon of 3 May 1982, a crowd fills Warsaw's Castle Square and the surrounding streets (fig. 1). White and red flags flutter in the sunshine. Thousands of voices chant in unison: '*Solidarność! Solidarność! Solidarność!*' A helmeted and shielded blue-grey cordon draws up, while vans discharge more functionaries of the Mobilized Units of the Citizens' Militia – ZOMO. Six thousand of these sinister paramilitaries – effectively licensed thugs – have been bussed in. They flex long rubber batons designed to maximize pain and damage internal organs. The crowd's chant changes: '*Gestapo! Gestapo! Gestapo!*' Itching to give the demonstrators 'a hiding to remember', the paramilitaries advance, seize those who cannot retreat fast enough, beat and kick them, and bundle them into vans. Many protesters funnel into St John's Cathedral and other nearby churches, but stragglers are picked off by blue-grey packs for more blood sport. A water cannon pins down and drenches a group against the portal of the Royal Castle. In the narrow streets of the Old Town barricades go up, reputedly with the know-how of Home Army (AK) veterans from the Second World



1. Demonstration at Castle Square, Warsaw, 3 May 1982.
Ośrodek KARTA, 012184



War. As tear gas turns the air acrid, canisters and petards are hurled back at the paramilitaries. The Barbican – the fortification which once guarded the gate to the other end of the Old Town – changes hands several times. Protesters hold the nearby bridge across the River Vistula for a while, and clashes erupt on the far bank. It is almost midnight before the security forces control the entire city. Demonstrators seek shelter. Their trainers, needed for swift escapes, are a badge of recognition for the vengeful paramilitaries prowling the streets. At least one Varsovian will die of his wounds; many more are injured. The state media blames ‘hooligans’ and ‘provocateurs’ for the trouble.

On one level, these events are not hard to explain. The premeditated violence against initially peaceful demonstrators was orchestrated by General Czesław Kiszczak. He was minister of the interior in the military dictatorship that imposed martial law, more dramatically described in Polish as a ‘state of war’, on Poland on 13 December 1981. Kiszczak was right-hand man to his communist comrade, General Wojciech Jaruzelski. They had desperately sought to rescue Poland’s rickety communist regime from collapsing in on itself. It had lost its self-belief when challenged by the workers it claimed to lead. A ten-million-strong independent, self-governing trade union movement – Solidarity (*NSZZ Solidarność*) – exposed the Polish United Workers’ Party (PZPR) as a sham. Jaruzelski and Kiszczak insinuated that the alternative to their dictatorship was military intervention by the Soviet Union, as in Hungary in 1956 and Czechoslovakia in 1968. It has since been shown that such an invasion was highly unlikely. In cities across Poland, 1 and

3 May 1982 saw the first major public demonstrations against the suppression of 'Solidarity', the internment of its leaders, and the continuation of the repressive and intrusive 'state of war'. Kiszczak was incensed by the spontaneous protests against the regime's triumphalist celebrations of 1 May, and so ordered ZOMO (ironically dubbed 'the beating heart of the Party'), to wreak havoc two days later.¹

Why, however, did this clash take place on 3 May? What was so special about the Royal Castle and St John's Cathedral? And why have Jaruzelski, Kiszczak and their comrades so often been branded with the choice insult of '*Targowica!*'? The emotional force of this expression, which functions as a synonym for treason in Polish, is multiplied by the etymology of the name of a small town in what is now central Ukraine: the site of a market or fair ('targ' in Polish; the town is now called Torhovytsia in Ukrainian).

Poland's communist dictatorship did its best to ignore the Third of May. As soon as the satellite regime had consolidated itself after the Second World War, it ended official ceremonies and obstructed or prosecuted unofficial ones. Part of the problem was that 3 May falls just after International Workers' Day on 1 May, always marked by the regime's own choreographed parades. So national flags had to be taken down by 2 May; householders who left them out longer faced fines. Perhaps worse was the fact that 3 May was one of the two principal state holidays of the interwar Second Republic of Poland. (The other was 11 November, celebrating the restoration of independence in 1918. That was replaced by 22 July, the anniversary of the issue in 1944 of a manifesto by reliable Soviet stooges, the nucleus of the postwar

regime.) The Second Republic, having defended its independence against Soviet Russia in 1920, had to be denigrated so that the subservient postwar Polish People's Republic (PRL) might appear in a better light. Then there was also the fact that the Roman Catholic Church celebrated the feast of the Blessed Virgin Mary, Queen of Poland, on 3 May – more salt (or consecrated water?) in the eyes of those who had removed the royal crown from the national emblem of the White Eagle.

Underpinning all these offences to communist sensibilities was the symbolism attached to the anniversary itself. On 3 May 1791 in Warsaw's Royal Castle, the *Sejm* (parliament or diet) of the *Rzeczpospolita* or Polish-Lithuanian Commonwealth (often referred to retrospectively by Poles as the First Republic) acclaimed a law widely considered the first modern constitution in Europe. Parliamentarians then swore an oath to uphold the Constitution and sang the *Te Deum* in the neighbouring collegiate (not yet cathedral) church of St John the Baptist. The Constitution remained in force for less than fifteen months. In May 1792 the Imperial Russian Army invaded the Commonwealth, and by the end of July it had installed a chaotic, corrupt and coercive clique in power: the Confederacies of Targowica and Wilno (Vilnius). In 1793 the Commonwealth was partitioned for the second time, and after an unsuccessful insurrection the following year, the amputated Commonwealth was dismembered completely in 1795. By then, the Constitution was already venerated as an expression of the sovereign will of the Polish nation to determine its own future, before it was subjected to foreign rule – until 1918–39. The Third of May came to symbolize

the cause of national independence, implying that the Polish communists who ruled the country on behalf of the Kremlin between 1944/45 and 1989/90 were a new 'Targowica'.

The Constitution of 3 May has also been associated with a moment of hope, the luminous dawn of a better future that was not to be. When the greatest of Poland's Romantic bards, Adam Mickiewicz (1798–1855), published his poetic masterpiece, *Pan Tadeusz*, in exile in Paris in 1834, he recalled his own youthful witness of the reminiscences of his elders:

And now resounds
The Polonaise of May the Third! It bounds
 And breathes with joy, its notes with gladness fill;
 Girls long to dance and boys can scarce keep still.
 But of the old men every one remembers
 That Third of May, when Senators and Members
 In the assembly hall with joy went wild,
 That king and nation had been reconciled;
 'Long live the King, long live the Sejm!' they sang,
 'Long live the Nation!' through the concourse rang.²

However, the joyous harmony conjured from the dulcimer by the musical genius, tavern-keeper and spy Jankiel, a Jewish symbol of Polish-Lithuanian patriotism, is soon broken by the dismal discords of '*Targowica!*'

The Third of May has been celebrated unofficially by many Poles during the long periods of foreign or servile rule, and celebrated officially when the Polish state has been sovereign. The national holiday was restored in 1990, when Jaruzelski was still clinging to the transition-era

presidency. A year later the bicentenary of the Constitution was celebrated with much pomp. These days, however, 3 May is part of the '*majówka*'. Because the Third Republic of Poland has retained the holiday of 1 May, there is usually an opportunity to take several days off work. Official ceremonies draw scant crowds; far more Poles are out enjoying barbecues, gardening or sunbathing. Many go abroad (although not in 2020, when the country's borders were closed by Covid-19). Although politicians tweet their tuppence-worth on the occasion, often hurling the insult '*Targowica!*' at their opponents for good measure, and the media publish or broadcast interviews with historians, the Third of May now plays a chiefly recreational role in Polish life.

The Constitution of 3 May 1791 merits so much more than a barbed tweet or a barbecued sausage. Not only Poles should study this extraordinary political event, rhetorical masterpiece, and testament of a vanished republic – the Polish-Lithuanian Commonwealth. It also belongs to the heritage of the Commonwealth's other successor-nations, especially Lithuanians, Belarusians and Ukrainians. Above all, it is for everyone who values liberty. Freedom, however, has many meanings.

2/ *The Commonwealth: Greatness and Decline*

The Confederates of Targowica and Wilno complained that the Constitution of 3 May 1791 introduced something new – a monarchy – in place of their free and ancient Commonwealth. Before we can judge the veracity or falsehood of their claim, we need to grasp what the Commonwealth was, and what it was not. We also need to understand its trajectory of change. The first part of the preamble to the Constitution tells us much about the Commonwealth's composition and evolution (fig. 2). Following the invocation of God in the Holy Trinity, the 'we' of the text is introduced: 'Stanisław August by the grace of God and the will of the nation King of Poland, Grand Duke of Lithuania, Ruthenia, Prussia, Samogitia, Mazovia, Kiev, Volhynia, Podolia, Podlasie, Livonia, Smolensk, Severia and Czernihów together with the confederated Estates assembled in double number representing the Polish nation.' Many territories, but one nation.

Multiple monarchical titles were common at the time. This one was much shorter than that of the Austrian Habsburgs. About half of the lands listed had already been lost, but those that remained stretched far to the east of Poland's

USTAWA RZĄDOWA
W IMIĘ BOGA W TROYCY
SWIĘTEY JEDYNEGO.

STANISŁAW AUGUST.

z Bożej Łaski i woli Narodu

KRÓL POLSKI,

WIELKI XIĘ LITEWSKI, RUSKI, PRU-
SKI, MAZOWIECKI, ŻMUDZKI, KIIOWSKI,
WOEYNSKI, PODOLSKI, PODLASKI, IN-
FLANTSKI, SMOLENSKI, SIEWIERSKI,
Y CZERNIECHOWSKI,

wraz

z STANAMI SKONFEDEROWANEMI

w Liczbie podwoyney,
NAROD POLSKI REPREZENTUJĄCEMI.

Uznając, iż los Nas wszystkich od
ugruntowania i wydoskonalenia Kon-
stytucyi Narodowej iedynie zawisł,
długim doświadczeniem poznawszy
zadawnione Rządu Naszego wady, a
chcąc korzyścić z pory, w iakiey się

A 2

2. The beginning of the preamble of the Constitution of 3 May 1791 (*Ustawa Rządowa*, Warsaw: M. Gröll, 1791). Polona, id 1196273

current borders. These territories had come together by various means, including conquest, marriage and inheritance. As elsewhere in late medieval and early modern Europe, much of the coalescence had been sanctioned by the socially and legally differentiated Estates – representative bodies – of the respective political communities. Across Christendom, monarchs might reign over otherwise unrelated territories. They generally swore to govern each in accordance with its own laws, privileges, liberties and customs, at separate ceremonies of coronation, enthronement or ingress. Unless conquest or a crushed rebellion dealt them a fresh hand to play, they could best raise revenues and recruits – the sinews of war – by negotiation with the Estates. Further concessions of liberties, rights and privileges might be wrung from monarchs anxious to assure the succession of their progeny. Some strategies were more effective than others, but all dynasties were subject to the slings and arrows of mortality, infertility and insanity (especially if they married within the family). Few of Europe's dynastic conglomerates evolved into modern nation-states. Sooner or later, most were split up by inheritance or crumbled under the attacks of their rivals.

All of the above applies to the territories ruled by the descendants of Pukuveras. Little is known of him, except that he died around 1295 and was the father of Gediminas and grandfather of Algirdas. They expanded their patrimony into the largest empire of fourteenth-century Europe: the Grand Duchy of Lithuania. These virile pagan warlords successfully exported their numerous relatives' testosterone-fuelled energy into Rus', that vast land which paid tribute to the Tatars (whose terrifying forefathers had ridden from

Mongolia across the steppes of Eurasia to conquer and plunder in the 1230s). A mixture of violence, brokerage and marriage alliances placed a bevy of Gediminids on the thrones of many of the Ruthenian principalities. Most of these rulers were baptized as Orthodox Christians, mastered the Ruthenian language and ruled their predominantly Slav subjects according to local laws and customs, while owing allegiance and aid to their dynastic patriarch.

The Grand Dukes came under increasing pressure in their Lithuanian heartland. Since the early thirteenth century, a crusading order – the Teutonic Knights – had brought Christianity by fire and sword to the pagans of the eastern Baltic region. The indigenous population faced the choice of slavery, death or exile. The Lithuanians, better shielded by forests and bogs than the neighbouring tribes, resisted fiercely. By the time the Order had fully subjected Prussia and Livonia to its rule, the belligerent Grand Dukes of Lithuania could call on the resources of their growing empire in Rus'. Nevertheless, the limits of expansion were apparent by 1377, when Jogaila succeeded his father Algirdas. With the Order pressing hard in the north-west, long-running disputes with Poland and Hungary in the south-west, and unremitting hostility from Muscovy in the north-east, not to mention a family racked with rivalry, he faced difficult political and strategic choices. His chance came after the end of the short-lived personal union between Hungary and Poland in 1382, which had followed the extinction of the principal line of the native Piast dynasty in 1370. The Polish throne was a far more attractive prospect than making far-reaching concessions to the Order or to Muscovy. Jogaila

agreed to be baptized in the Roman Catholic Church, marry the young heiress, Queen Jadwiga (Hedvig of the House of Anjou), and join his Lithuanian and Ruthenian lands to the *Corona Regni Poloniae* – the Crown of the Kingdom of Poland. This term signified both the territory and the community of the realm, for the Polish kingdom had long ceased to be the patrimony of its princes. Its monarchs governed with the consent of their leading subjects. The lords and knights were rapidly consolidating themselves into a privileged and hereditary noble estate – the *szlachta*. This term should always be translated as ‘nobility’, not as the more amorphous ‘gentry’.

Through Poles’ rose-tinted lenses of hindsight, the baptism, marriage and coronation of Jogaila (as King Władysław II Jagiełło) in 1386 heralded a golden age of power and prosperity which continued under his sons, grandsons and great-grandson. This was also how the Constitution of 3 May recalled the Jagiellonian era. In modern Lithuanian memories, however, it was Jogaila’s cousin and rival, Vytautas the Great, who led the Grand Duchy of Lithuania to its zenith, stretching from sea to sea, before the neglect of later monarchs left Lithuania vulnerable to Muscovite aggression. In reality things were far messier than in either national narrative. The terms and working of the union between two very different political communities took at least two centuries to settle. It fell to Jogaila’s wily second son, Casimir, to consolidate the dynasty during a long reign as Grand Duke of Lithuania and King of Poland (1440/47–1492). By the late fifteenth century the Jagiellons had become a spectacularly successful ‘family firm’, which intermarried with

several royal houses and reigned over a third of Europe. In the third generation of the dynasty, the eldest of six brothers ascended the thrones of Bohemia and Hungary, on which he was followed by his son. These realms, like Poland, had powerful and privileged Estates and elected their kings. Two more brothers succeeded their father in Poland and Lithuania respectively, while the ascetic Casimir provided the dynastic saint, and his higher-living brother became an archbishop and cardinal. It was left to the fifth son, Sigismund (later called 'the Old'), to succeed first in Lithuania and then in Poland, and sire a male heir. Meanwhile Sigismund's nephew, King Louis of Hungary and Bohemia, died in a swamp fleeing the Turks in 1526. That transferred responsibility for fighting the Ottoman Empire onto the Jagiellons' Habsburg in-laws – whose ambitions were truly global. On the southern front, the Jagiellons had already lost their claims to suzerainty over the principality of Moldavia.

The Kingdom of Poland had itself been partly reassembled in the fourteenth century from some of the duchies into which the twelfth-century realm had divided. Those duchies had an afterlife in the divisions between the kingdom's provinces, palatinates, lands and districts. The process of reunion continued into the early sixteenth century as the Duchy of Mazovia was gradually reincorporated into the realm. The fourteenth-century kingdom had also expanded south-eastwards, creating the palatinates of Ruthenia and Podolia, but border disputes with the Grand Duchy of Lithuania caused ructions for decades.

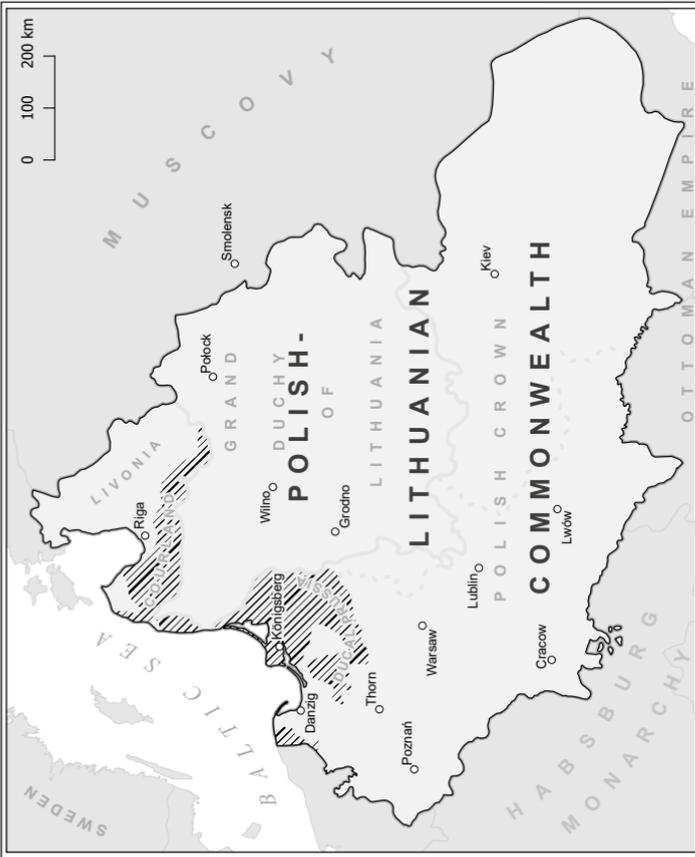
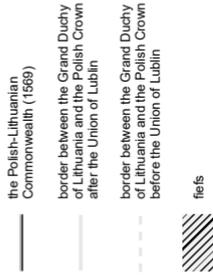
Perhaps the Polish Crown's most complex relationship was with its economic powerhouse of Royal Prussia.

The overwhelmingly German-speaking cities and nobles subject to the Prussian branch of the Teutonic Order had risen up against its oppression and pledged their allegiance to the king of Poland in 1454. Thirteen years of war ended with the richer, western part of Prussia uniting with the Crown – or was it just the king? Nowhere were particular privileges and liberties so well entrenched, and nowhere was the position of the burghers vis-à-vis the nobles so strong as here. The eastern rump of the *Ordensstaat* was undermined by the Lutheran Reformation. In 1525 it became a duchy ruled by the last grand master and his Hohenzollern successors (albeit as vassals of the kings of Poland until 1657). An analogous fate befell the Livonian branch of the Order in the 1550s, leading to the division of its territory into the vassal Duchy of Courland ruled by the last grand master and his Kettler heirs, and the Duchy of Livonia, most of which became a condominium of Lithuania and Poland. This solution was linked to a three-way struggle for domination of the Baltic region with Muscovy and Sweden. The long conflict would not only bring further dynastic complications. It catalysed the tightening of the unions between Poland, Lithuania, Prussia and Ruthenia into a shared Commonwealth.

The outbreak of war with Tsar Ivan the Terrible over Livonia in 1558 led to Muscovite incursions deep into the Grand Duchy of Lithuania, putting pressure on the last Jagiellonian monarch in the male line, Sigismund II Augustus. As he entered middle age and his chances of an heir diminished, he began to cooperate with the parliamentary tribunes of the middling nobility of the Polish Crown. They passed measures ‘for the execution of the laws’, directed at

over-mighty lords in possession of Crown lands. Some such revenues were applied to the defence of the realm. Sigismund Augustus also restructured Lithuania's institutions and territorial structure, whose palatinates and districts were henceforth tidier than those which had evolved piecemeal in the Crown. Lesser nobles in the Grand Duchy began to demand equal rights and liberties with their Polish counterparts. Given the need for aid against Muscovy, it was clear that closer Union with Poland would come; at issue was whether this would be a union of two equal nations, as the leaders of the Lithuanian political community insisted, or involve the incorporation of Lithuania into Poland as a mere province, as reformers in the Crown demanded.

The key clause of the Act of Union passed by the joint *sejm* held at Lublin in 1569 states that 'the Polish Crown and the Grand Duchy of Lithuania are one indivisible and uniform body, and also one uniform and shared Commonwealth which has already joined and united two states and two nations in one people'.³ The term 'people' (*lud*) took the place of the Latin *populus* used in previous acts of union, a term inspired by the wider political community of ancient republican Rome. This ambiguous compromise was reached after the monarch had transferred much of the Grand Duchy's territory – Podlasie, Volhynia and the Ukrainian lands centred on Kiev (Kyiv) – to the Polish Crown (map 1). The evidence suggests that local elites, satisfied by respect shown for their laws and customs, welcomed the change. Despite the grief and bitterness felt by Lithuanian lords, the Union of Lublin did preserve separate treasuries, armies and hierarchies of office for the Grand Duchy



and the Crown. Lithuanian senators and envoys would sit among, rather than after their Polish brethren in the common *sejm*. There would be one jointly elected monarch, who would be crowned once only – in Cracow. Even so, much remained unresolved; the third and final legal codification, the Third Lithuanian Statute of 1588, did not even mention the 1569 act. Contrary to one of the provisions of the Union, the Statute reiterated the ban on foreigners – including Poles – from holding office and purchasing landed estates in the Grand Duchy. Although this rule was honoured more in the breach than in the observance, Lithuanian political identity proved tenacious, even as the Grand Duchy's nobles increasingly chose to communicate in Polish rather than Ruthenian, Lithuanian or Latin.

The shared Commonwealth established at Lublin faced its decisive test during the interregnum after the death of Sigismund Augustus in 1572. Decisions made rapidly, to safeguard the external existence and internal peace of the political community, would harden into hallowed constitutional principles and values before a generation had passed. The mode of electing kings – by any nobleman who came in person to the election field outside the Mazovian city of Warsaw – became a pillar of the Commonwealth. So did the articles which imposed far-reaching obligations and restrictions on the first fully elected monarch, Henry Valois. These included the summoning of biennial, bicameral *sejmy* which alone could authorize taxation and legislation, as well as a provision releasing nobles from obedience should the king break his sworn contract. These 'Henrician Articles' (*Artykuły Henrykowskie*) were incorporated into the particular

agreements negotiated with all subsequent kings – their *pacta conventa*. These conditions still left monarchs with an extensive prerogative and the ability to lead the political community, if they had the skill. The Catholic French Prince Henry Valois had been implicated in the infamous massacre of Protestants in Paris on St Bartholomew's Eve in 1572. He was firmly told to swear to uphold the agreement to eschew bloodshed, confiscations and persecutions, reached between Polish nobles who were 'divided in religion', during the preparations for the royal election under the auspices of the Confederacy of Warsaw. A confederacy was something between a state of emergency and an armed league of the nobility, formed in an exceptionally perilous situation (such as an interregnum) in order to safeguard the Commonwealth, its laws and its liberty.

Poland and Lithuania had long been religiously plural. Besides Roman Catholic and Orthodox believers, there were Armenian Christians, Muslims, Karaites and a rising number of Jews who found haven from persecutions further west. During the sixteenth century various strands of the Protestant Reformation sapped the dominance of Catholicism in the north and west of Poland and Lithuania, and of Orthodoxy in the east. Besides many burghers, perhaps a fifth of all Polish and Lithuanian nobles embraced one or other of the Reformed creeds. The proportion was highest among the wealthiest and best educated. Anti-Trinitarians were well represented among the most vocal tribunes of the Crown nobility, while most Lithuanian senators professed Calvinism. Given that there were also some Orthodox senators, less than half of the combined senate were Catholics. Although

the Roman Catholic Church had commenced its long post-Tridentine recovery from its mid-century nadir, there was no question in 1573 of a Catholic realm indulgently granting privileges of toleration to erring 'heretics' and 'schismatics'. Instead, despite the indignation of the more zealous Catholic bishops, the solution involved an agreement to differ, reached between equal citizens of a shared Commonwealth. Many, perhaps most Catholic nobles felt more solidarity with fellow nobles of a different confession than with the Catholic clergy whose wealth, jurisdiction and interference they resented. On the other hand, lords were authorized to enforce their peasants' obedience in spiritual as well as temporal matters. The Confederacy of Warsaw was both more and less than the monument of 'tolerance' which has become a prominent feature of contemporary Poland's politics of history.

During its turbulent first half-century, the new political system had to cope with a king who absconded, two royal elections that were resolved by armed force, and a king (a Jagiellon on the distaff side) who tried to give up his elective throne to the Habsburgs, but demanded the resources of the Commonwealth in unsuccessful endeavours to keep his hereditary Swedish throne and take that of Muscovy for his son. Yet the polity met these and other challenges. The precarious constitutional balance that emerged from these trials was expressed in the idea of *monarchia mixta*. This owed much to the political concepts of Aristotle, filtered through ancient Greek and Roman histories, staple fare in the education of sixteenth-century nobles and burghers. It was believed that monarchy – the rule of one person – was liable to degenerate

into tyranny, that aristocracy – the rule of the elite few – tended to slide into oligarchy, and that democracy – the rule of many – would break down into ochlocracy, or anarchic mob rule. The best government was a mixed and balanced form.

In the Commonwealth these three elements were visible in the three Estates of the *sejm*: the monarch, the senate (which had evolved out of the spiritual and temporal lords of the royal council) and the delegates – called envoys – sent by the ‘Knightly Estate’ (*Stan Rycerski*) assembled at *sejmiki* (dietines) for the various palatinates, lands and districts. Envoys were initially sent by some of the royal cities as well. The more aristocratic interpretation of *monarchia mixta* cast the senate as mediators between the *maiestas* personified by the king and the *libertas* which infused the nobility as a whole. Unchecked, majesty would become tyranny, while liberty would decay into licence. Virtue was the key to maintaining the delicate balance, and so a well-educated elite was of prime importance in assuring the general good of the entire community. The very name *Rzeczpospolita* was a translation of the Latin *res publica* or public good, just like another early translation: the English ‘Commonwealth’. The form ‘republic’ (*republika*) later entered usage, but Poland calls itself a *Rzeczpospolita* to this day.

Some of these aristocratic assumptions were vigorously contested by tribunes of the middling nobility. Virtue was also crucial to their world-view, but it was construed as a self-sacrificial patriotism in defence of the Commonwealth, its liberty and its laws – especially from the monarch. Self-serving senators were part of the twin problem of tyranny

and licence, rather than the solution. The noble insurrection (*rokosz*) against King Sigismund III in the first decade of the seventeenth century helped republican ideology to cohere. The many privileges and liberties enjoyed individually and collectively by Polish nobles, prised from monarchs over the centuries, depended on that general liberty which restricted the king's ability to intimidate or corrupt citizens and their envoys. So widely accepted were these axioms that they became commonplaces which hardly changed through several generations. Liberty, connected intrinsically with values such as justice, law, equality, virtue, harmony and antiquity, became the supreme jewel fervently prized and guarded by Polish and Lithuanian nobles.

Blessed by a shared republican liberty, nobles of different ethnic origins and confessions were receptive to ideas of shared ancestry and shared honour, which distinguished them from other nations as well as the plebeians who surrounded them. Hence the power of the Sarmatian myth. At one level, this was a typical late medieval and early modern imagined pedigree – in this case tracing ancestors back to the valiant Sarmatian horsemen who had long defied the Roman legions. However, it became more than a fanciful collective genealogy. 'Sarmatia' and 'Sarmatians' became a synonym for Poland and Polish nobles. Although the greatest Lithuanian families continued to claim descent from ancient Roman patricians, Lithuanian, Polish and Sarmatian identities proved easily compatible for most nobles of the Grand Duchy. Nobles' costume evolved distinctively, influenced by contact with the Tatars, and with similarities to that worn in Hungary. It gradually acquired the familiar

features of a plumed fur cap on a partly shaven head, luxuriant whiskers, doublet (*żupan*), overcoat (*kontusz*), wide silken belt and soft leather boots.

More fundamentally, nobles came to share political institutions and values. These gave them much in common, without undermining their local traditions and identities. Within 'Sarmatia', circles of family, neighbourhood and fatherland could harmoniously overlap. So the shared Commonwealth of Polish, Lithuanian, Ruthenian and Prussian nobles cohered into a nation during the long seventeenth century. The gloomy clouds of war and pestilence, punctuated by the sunbursts of victories on the battlefield and miraculous recoveries, generated emotions and gestures perfectly expressed by the theatrical culture of the Baroque. This paired with the demonstrative religiosity and liturgical magnificence that characterized the resurgent Roman Catholic Church. The Commonwealth's martial kings manifested their piety, but there was a clear contrast to the obedient *pietas austriaca* promoted by the Habsburgs. North of the Carpathian Mountains, God and His Mother evidently protected the 'golden freedom' of Polish nobles from the insatiable appetites of monarchs. 'Confessionalization', which in much of Europe involved a mostly top-down enforcement of religious conformity, loyalty to the monarch, and social cohesion, proceeded in Poland, and more slowly in Lithuania, far more spontaneously and upwardly. The Commonwealth thus diverged from the once similar kingdoms of Bohemia and Hungary and took a different path to that of Europe's other 'composite monarchies'. Catholic Sarmatians' favourite comparison was with the Republic of Venice. The liberty

of the Dutch, the Swiss and later the English was tainted by their 'heresy'.

The consolidation of the nation among noble citizens of Polish, Ruthenian, Lithuanian, German or other ethnic origins implied a widening gulf with the rest of the population. Nobles obtained laws limiting ennoblements, privileging themselves in commerce and taxation, and tightening their control over their peasants. While the wealthy burghers of Royal Prussia (who also considered themselves Sarmatians and citizens) could hold their own, the *szlachta's* refusal to acknowledge the claims to nobility of many senior Cossacks in the Ukraine had catastrophic consequences. Frustrated social ambitions combined with the split in Eastern Christendom caused by the botched ecclesiastical union in 1596 between Catholicism and Orthodoxy, and with festering socio-economic grievances among the peasants, to produce a perfect storm. The Commonwealth was unable to crush the great revolt which broke out in 1648 among the Cossacks of Zaporozhe (Zaporizhia, meaning 'beyond the cataracts' on the River Dnieper) who allied themselves to the Crimean Tatars. The ensuing cycle of wars devastated the Commonwealth and its peoples. The territorial losses included lands listed in the preamble to the Constitution of 3 May: Smolensk, Severia, Czernihów and Kiev to Muscovy. The Commonwealth also had to recognize Sweden's possession of most of Livonia, and the sovereignty of Ducal Prussia.

A further problem with the cohering noble nation was a creeping conformism that discouraged critical reflection on the condition of the Commonwealth. Crises prompted

laments about slippage from ancestral virtue. It was convenient to attribute plagues and invasions to Divine anger against 'heresy' and 'schism', so from the middle of the seventeenth century non-Catholics were increasingly subjected to discrimination and harassment (although less so than in Habsburg Bohemia and Austria). As Protestant competition waned, initially high standards in Catholic schools – many of them run by the Jesuits – fell steeply. It was still possible to raise taxes and armies in emergencies, and even to beat the Turks in battle, but not to agree on the fiscal and military innovation which might have enabled the Commonwealth to keep up with its neighbours. By the start of the eighteenth century, stronger fortresses, improved field artillery and larger, better equipped and better trained standing armies had transformed the continent's military environment. Poland-Lithuania was left trailing.

Consensus had built the Commonwealth. It contributed much and more to its resilience to repeated body-blows. Yet the political community's profound preference for unanimity over majority voting (not only at the *sejm*, but also at the *sejmiki*) would ultimately not only paralyse the legislature, but clog up the Commonwealth's fiscal and judicial arteries as well. The *liberum veto* originated in the parliamentary procedure whereby all legislation, including taxes, was confirmed by a joint sitting of the two chambers, before the *sejm* concluded. Each measure required a threefold cry of agreement ('*zgoda!*') before it could be inscribed into the lawbooks. Objections were often overcome, sometimes by exhortations, occasionally by threats, but usually by the thrashing out of compromises ('*ucieranie zgody*'). However, the term of an

ordinary *sejm* was only six weeks, and the amount of business to be transacted grew after the 1569 union. Prolongations themselves required consensus. When it was lacking, the *sejm* broke up, usually soon to be convoked again in extraordinary mode, if taxes and troops were urgently needed. However, in 1652 a single envoy vetoed a further prolongation, and then departed before he could be persuaded to change his mind. All the resolutions and laws agreed until that point were lost. Worse followed in 1669, when a single objection to the continuation of the *sejm* was upheld, ‘rupturing’ it before its six-week term had expired. A further watershed was crossed in 1688, when the *sejm* was broken up before its speaker or marshal could be chosen, that is, before it was legally constituted. By this time, more parliaments were failing than successfully concluding.

In practice, behind every wielder of the *liberum veto* stood powerful domestic and/or foreign backers interested in preventing decisions favoured by the majority. The *veto* helped the Russian Empire repeatedly to frustrate the attempts of King Augustus II (1697–1733), who was also hereditary elector of Saxony, to escape his dependency on Tsar Peter I. In consequence, by about 1720 the Commonwealth had passed its tipping point and was no longer *de facto* a sovereign polity. The brutal realities of power were revealed when the Russian Empire effectively decided the outcome of the split royal election of 1733. A Russian army overrode the clear choice of most of the noble electors: for Stanisław Leszczyński. When his son-in-law, King Louis xv of France, failed to send him sufficient armed support, Leszczyński’s cause was doomed and a second Saxon elector ascended

the Polish-Lithuanian throne. This debacle stimulated awareness of the half-forgotten link between Poland's internal and external freedom – that nobles' liberty depended on the Commonwealth's '*independentia*'. However, attempts made during the following decades to increase taxes and expand the army foundered on the rock of the *liberum veto*. During the reign of Augustus III (1733–1763), only the *sejm* of 1736 passed any legislation at all. Although the senate council and most of the law courts and *sejmiki* continued to operate after a fashion, political life became a carousel on which magnate factions postured in defence of liberty while competing for the spoils of royal patronage. This situation ideally suited the court of St Petersburg, which could usually rely on Prussian or French bribes paralysing the *sejm*.

There was a legal way forward out of the impasse – the holding of an extraordinary *sejm* under the aegis of a confederacy. Unlike a 'free *sejm*', the general council of a confederacy was not divided into two chambers and if unanimity was not forthcoming, a majority vote sufficed for a binding decision, which could become law without delay. Confederacies, let us recall, were formed to defend or restore the Commonwealth in time of peril. Interregna were dangerous times which also involved the repair of any damage done by the late monarch. So the convocation *sejm* and election *sejm* were always held within a general confederacy, before it was wound up together with the coronation *sejm*. However, whenever a confederated *sejm* was mooted, Russian diplomatic pressure persuaded the Saxon royal court to desist.

During the middle decades of the eighteenth century, the Commonwealth's worsening political malaise contrasted

with the economic recovery that had at last followed seven grim decades of war, plague, famine and global cooling. Much abandoned land was brought back into cultivation. Rising expectations of domestic comfort stimulated demand for a wider range of goods and services, encouraging the growth of provincial market towns. On the one hand, this period of relative peace and prosperity for landowning nobles encouraged many of them to accept political and even judicial disorder as a natural consequence of freedom. If the *liberum veto* prevented change, so much the better. Life was easier and more predictable than it had been in their youth, so perhaps all was well – or well enough – with the Commonwealth.

On the other hand, the passing of the long crisis, in which individual and communal survival had been at stake, may have lessened some nobles' fear of novelty. New ideas related to the European Enlightenment, in philosophy, natural science, jurisprudence and history, began to shake up education in the Commonwealth. These impulses first affected the Lutheran, Germanophone schools of Royal Prussia. Later, during the reign of Augustus III, they transformed the colleges and academies run by some Catholic religious orders. Leading the way was a small Italian congregation – the Theatines, who in 1737 opened an elite school in Warsaw, attended by, among others, the future King Stanisław August Poniatowski. During the next few years, the Piarists established larger colleges catering for the sons of the wealthiest and most ambitious noble families. The much more numerous Jesuits followed suit. Their academies in Wilno and Lwów (L'viv) and their principal college in Poznań once again buzzed with intellectual inquiry. Not the least contribution

was made by the Congregation of the Mission, also called the Lazarists or Vincentians. Their seminary attached to the Church of the Holy Cross in Warsaw trained some of the most prominent churchmen of the later eighteenth century, including Michał Jerzy Poniatowski, the future primate of Poland, and Michał Franciszek Karpowicz, the outstanding preacher of his generation.

Disruptive intellectual currents coursed through the body politic as well, although not all the ideas that were voiced polemically could be called 'enlightened'. Hardly any such could be found at the level of the *sejmiki*. Here, however, there was much concern with finding practical solutions to pressing problems with communications, trade, public order and the courts. The austere and idiosyncratic palatine of Poznań, Stefan Garczyński, preached the need for cleanliness, sobriety and industriousness in order to reduce infant mortality, in his scathing *Anatomy of the Commonwealth* (*Anatomia Rzeczypospolitej*, 1751–53). Not everyone was quite as moralistic. As early as the Great Northern War, older republican traditions were dusted off, as some of the Commonwealth's brightest minds realized the need to 'repair' or reform institutions as well as to cultivate civic virtue. The veteran statesman Stanisław Dunin Karwicki argued for the reduction of the royal prerogative and the consignment of the government of what he strikingly called the 'absolute Commonwealth' between *sejmy* to an elected council. The events of 1733–36 provided a further stimulus to fresh thinking. The twice-exiled former monarch, Stanisław Leszczyński, adopted similar ideas in circulation, in adapting and publishing a wide-ranging critique of the status quo

titled *A Free Voice Securing Freedom* (*Głos wolny wolność ubezpieczający*, 1743). In 1744 Stanisław Poniatowski the Elder looked to other 'free states and republics', unusually including England, for examples of how to combine liberty with order and prosperity. He urged the suspension or limitation of the *liberum veto* in order to expand the army and improve the Commonwealth's standing among the European powers. The augmentation of the army was a popular cause among the *szlachta*, although reaching agreement on how to fund and command it would have been difficult enough, even without foreign interference in Polish-Lithuanian politics.

The greatest of the would-be reformers was the Piarist pedagogue, Reverend Stanisław Konarski. His masterpiece was *On the Means of Efficacious Counsels, or on the Maintaining of Ordinary Sejmy* (*O skutecznym rad sposobie, albo o utrzymywaniu ordynaryjnych sejmów*). Published in four volumes between 1760 and 1763, this work systematically demolished the arguments for the *liberum veto*. Konarski exposed as wishful thinking the belief that a single virtuous patriot might use the *veto* to save the Fatherland from a corrupted majority; on the contrary, a single corrupt envoy could frustrate the work of a virtuous majority for the common good. No alternative was better than simple majority voting (although given the anxieties of his readers, he contemplated qualified majorities). Following Karwicki, Leszczyński and others, he also proposed somewhat unwieldy collegial bodies to look after the Commonwealth between parliaments.

Konarski both exemplified the trend in eighteenth-century republican thought while being an outlier within it. On the one hand, the reduction or removal of the royal

prerogatives of distributing Crown lands and nominating senators and ministers reduced the risk of the king being able to corrupt a majority of the *sejm*. This obviated the principal justification for the *liberum veto*. Indeed, it might even be possible to conceive of hereditary succession to the throne, given that it should no longer be necessary to correct the abuses of the previous reign during an interregnum. On the other hand, Konarski retained a healthy realism about human nature that most later reformers lacked. So while he inculcated virtue in the Piarists' pupils, he designed institutions to withstand sinful and ambitious men. Some, but not all of these lessons would be learned during the next three decades. For the moment, the Commonwealth's politics were stuck fast.

3/ *The Perils of Change*

The political impasse was shattered after the death of Augustus III on 5 October 1763. The dramatic events of the Commonwealth's remaining thirty-two years would show the value of the adage, expressed by the election *sejm* of 1669, that no novelty could be introduced '*sine periculo et revolutione magna*' – 'without danger and great revolution'.⁴ Much of this period's novelty, danger and revolution resulted from the decisions of the empress of Russia. Catherine II, having recently seized the throne from her hapless husband Peter III, needed an early success in projecting her power abroad. Russian influence had seeped through the Commonwealth in the three decades since the last royal election, but under Catherine it became blatantly obvious. She had the support of King Frederick II of Prussia, who was desperate for an alliance, however unequal, having barely survived the wrath of the previous Russian empress, Elizabeth, during the Seven Years' War (1756–63). Catherine backed the powerful faction led by the Princes Czartoryski, and ensured the election in 1764 as king of their nephew, her former lover Stanisław Poniatowski. She tolerated their

introduction of some long planned fiscal, judicial and administrative reforms, probably without realizing their full significance. She even allowed the continuation of the general confederacy after the coronation, enabling the king and his uncles to maintain momentum for two years.

The new monarch, who chose the regnal names of Stanisław August, could hardly contain his enthusiasm for reform. At the *sejm* of 1766 he hailed a 'new, or rather a second creation of the Polish world, (...) when it is necessary to move almost everything at once.'⁵ In the essay-periodical *Monitor* and on the stage of the new National Theatre, the follies and vices of traditionalist, provincial nobles were satirized as old-fashioned 'Sarmatism'. Many of them felt deeply offended. For all his impatience, Stanisław August was no aspiring enlightened despot. He admired the limited and parliamentary monarchy he had seen in England the previous decade. It was to an English friend that he expressed his fervent desire to do what the great French philosopher Charles de Montesquieu had written. The context, however, differed greatly. Whereas Montesquieu had feared the absolutist aspirations of the Bourbon monarchy as the chief threat to Frenchmen's liberty and viewed the law courts as their principal shields, Poniatowski saw Poland's path to felicity in a balanced partnership between a revitalized legislature and an effective executive. He would doggedly pursue this goal, through many setbacks, until he achieved most of it in the Constitution of 3 May 1791.

Stanisław August also believed that it would be in Russia's interest to have an enlightened, prosperous and well-governed neighbour and ally in Poland. Perhaps he was right,

but the empress did not agree. If Catherine underestimated his persistence in seeking to renew his country, he failed to grasp her determination to keep the Commonwealth weak and subservient. Her ambassador, Nikolai Repnin, ensured that the *sejm* of 1766 demolished the king's plans to remove fiscal and military matters from the scope of the *liberum veto*. Instead the *veto* was put on firmer legal foundations than ever before.

It got worse. The German-born and Lutheran-raised tsaritsa wished to present herself at home as a pious defender of the Orthodox Church, while parading her crusade for *la tolérance* in front of enlightened European opinion. Her intransigent demands for the restoration of almost complete political and civic equality for non-Catholics were indignantly rejected by the great majority of the Polish-Lithuanian noble nation. Stanisław August tried in vain to convince her it could not be done, and to settle for greater practical religious toleration. Having been rebuffed by the *sejm* of 1766, Catherine ordered the formation of confederacies directed against the increasingly isolated king. Many traditionalist nobles took the bait, only to discover that the empress would not permit Poniatowski's dethronement, but did insist on equal rights for the 'dissidents'. The ambassador cowed the ensuing confederated parliament of 1767–68, soon dubbed 'the Repnin *sejm*', into accepting all her demands. After his seizure and despatch to captivity in Russia of three recalcitrant senators – two bishops and a *hetman* – resistance evaporated. Immutable 'cardinal laws' were then adopted in order to petrify the constitutional system, 'guaranteed' by

the Russian Empire. The Commonwealth was now *de iure*, as well as *de facto*, no longer sovereign.

The outraged reaction began even before 'the Repnin *sejm*' had concluded. On 29 February 1768, far away in Podolia, the Confederacy of Bar was formed in defence of 'faith and liberty'. The confederates rejected the king's overtures, and the insurgency spread to different parts of the Commonwealth. Provoked by the Russian presence in Poland and given a pretext by a frontier violation, the Ottoman Empire declared war on Russia. With most Russian forces preoccupied by the Turks, the conflagration in the Commonwealth could not be controlled. When extinguished in one area, it flared up in another. One of the Confederacy's most dashing commanders, Szymon Kossakowski, even led a spectacular raid through much of the Grand Duchy of Lithuania into the Russian Empire. Stanisław August and the Czartoryskis fruitlessly tried to broker a compromise settlement and interest other European powers. In the end some of the remaining loyal units of the Crown army were led against the confederates by Ksawery Branicki, a boon companion of the monarch.

Still hoping for victory, the confederate leadership sought advice abroad on how to rebuild a free Poland. The most startling counsel came from a rebel who found a cause: Jean-Jacques Rousseau. He opined that the Poles had, alone among European nations, kept their love of freedom; they should reinforce their cultural distinctiveness, pursue economic self-sufficiency and avoid drastic constitutional changes. Yes, the peasants should be freed from serfdom, but only when they were fit for liberty, a food not every stomach could digest. Cast in a fiery new political language, Rousseau gave

a shot in the arm to the nascent Sarmatian revival. The confederates upped the stakes first by declaring Poniatowski's election as king null and void, and then by botching an attempt to abduct him. He escaped his captors and the confederates were widely stigmatized as 'regicides'. By the summer of 1772 the armed struggle was all but over.

Retribution followed. The long insurgency had severely inconvenienced the Russian Empire as it fought its victorious war against the Ottoman Porte. Catherine was also angered by Stanisław August's procrastinating and by his uncles' refusal to cooperate. She had hitherto followed Peter I's strategy of maintaining hegemony over the entire Commonwealth, but by the end of 1770 she was minded to listen to Frederick II's overtures for a partition. The Austrian court provided a precedent by seizing the territory of Spisz (Spiš, or Zips, which a king of Hungary had mortgaged to a king of Poland three and a half centuries earlier) and extending a cordon over the adjacent mountainous borderlands. The rulers of the Habsburg Monarchy were alarmed at the prospect of being outflanked by substantial Russian gains from the Ottoman Empire along the shores of the Black Sea. The sabre-rattling from Vienna speeded the conclusion of a deal between St Petersburg and Berlin at the beginning of 1772. Empress Maria Theresa wept tears of guilt, but soon joined in (fig. 3).

Frederick II's gains were the smallest in terms of land and population, but strategically vital. Prosperous and fertile Royal Prussia now linked the core of the Hohenzollern monarchy with the sands, forests and lakes of East Prussia. Although he was denied the cities of Danzig (Gdańsk)



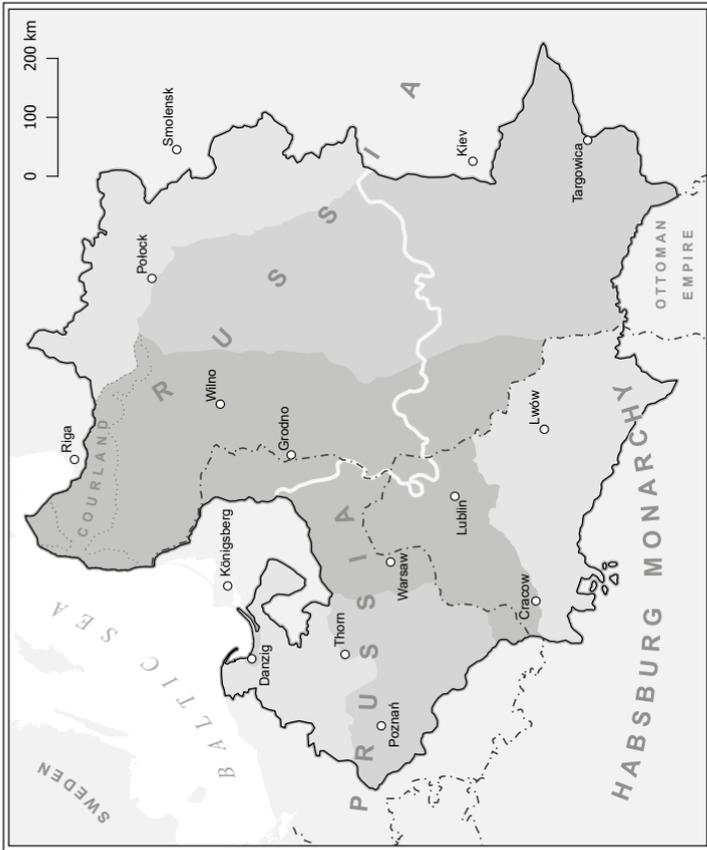
3. A caricature of the first partition of Poland
(*Picture of Europe for July 1772*). Polona, id 1196273



and Thorn (Toruń), he could – and did – exploit his chokehold on the Vistula trade. The Habsburg Monarchy took almost two and a half times as much land as Prussia, and five times as many people (about 2.65 million). However, the ‘Kingdom of Galicia and Lodomeria’ was strategically vulnerable beyond the Carpathian Mountains. Catherine II annexed even more territory than Maria Theresa, although only half as many souls. Russia gained control of the economically and strategically valuable Dvina and Upper Dnieper river basins. In all the Commonwealth lost almost a third of its territory and over a third of its population. The economic dislocation was severe, not least because of the chronic lack of salt. Wieliczka and other mines were acquired by Austria. Among the political consequences of the partition was the division of many aristocratic latifundia by the new frontiers. These *sujets mixtes* owed loyalty to new sovereigns – most often in Vienna.

The Commonwealth had to undergo the humiliation of entering the amputation into its own law books. A *sejm* was called for April 1773. The dramatic protests led by the Lithuanian envoy Tadeusz Reytan against the legality of the parliamentary confederacy were morally eloquent but easily overridden. As in 1767–68, a delegation of pliant envoys and senators did Russia’s bidding. The full *sejm* duly ratified the partition treaties on 30 September 1773. The remaining eighteen months of this unprecedentedly long parliament saw a number of important measures. They included the well-lubricated swallowing of unfavourable trade treaties with the partitioning powers. The rights of non-Catholic citizens were slightly reduced compared to those imposed in 1767–68,

- border of the Polish-Lithuanian Commonwealth before the Partitions
- boundary between the Crown and the Grand Duchy of Lithuania
- fields of the Polish-Lithuanian Commonwealth
- country borders in 1795
- territories annexed by Prussia, Russia and Austria in 1772 (First Partition)
- territories annexed by Prussia and Russia in 1793 (Second Partition)
- territories annexed by Prussia, Russia and Austria in 1795 (Third Partition)



which helped to calm emotions. More positively, the *sejm* established the Commission of National Education in the wake of the pope's suppression of the Society of Jesus. It was charged not only with the former Jesuit schools, colleges and University of Wilno, but also with supervising other schools, and the venerable but decayed University of Cracow. However, the educational fund, based on the Jesuits' considerable properties, was systematically purloined by the same clique, led by the infamous Adam Poniński, that had pushed through the partition. In the short-term, the most important reform was the establishment of a new form of government between *sejmy*: the Permanent Council (*Rada Nieustająca*).

On the face of it, the Permanent Council was just the kind of republican solution which reformers including Konarski had been proposing for decades. Much of the royal prerogative would henceforth be exercised by a collegial body composed of senators and members of the 'Knightly Estate', in which the king could easily be outvoted. The thirty-six councillors would all meet in plenary sessions. The Military, Police, Treasury and Justice Departments had eight councillors each, and that for Foreign Affairs – four. They were serviced by secretaries and lesser officials called 'subalterns'. The Permanent Council was also comparable to the cumbersome institutions which had given Sweden its 'age of liberty'. That inglorious half-century had just come to an end. Not coincidentally, King Gustav III's monarchist (but not absolutist) coup in 1772 had emancipated him and his kingdom from Russian tutelage. The system thus imposed on the Commonwealth by Russia was designed

to emasculate the monarch, while providing a modicum of order and predictability that would help to prevent a recurrence of the Barist chaos. The Permanent Council was part of the system guaranteed by Russia, which was enough to taint it in the eyes of many nobles.

However, things did not turn out quite as the empress intended. Her ambassador, Otto Magnus von Stackelberg (a baron from the Livonian provinces annexed by Peter I) discovered that the creatures he had paid to procure the ratification of the partition were incapable of running the Commonwealth on his behalf. So he came to an arrangement with Stanisław August. The king had to accept the ambassador's surveillance, put up with his caprices and suffer his favourites, but he was allowed leeway in transacting the business of government and in local politics. He soon convinced Stackelberg, and the ambassador persuaded the empress, to allow the sejm of 1776 to be confederated in advance, so that the authority of the Permanent Council could be strengthened, and some minor royal prerogatives restored.

During the following twelve years, the king was able to advance an agenda of incremental reform through successive majorities of supportive councillors. The Police Department sought to improve the condition of the royal towns, with mixed results. Success or failure depended largely on its relationship with the municipal councils and local Commissions of Good Order (*Komisje Boni Ordinis*) established since the 1760s. The Justice Department was authorized in 1776 to interpret the law in cases of doubt. When consulted, as it often was, especially in the Crown, it used this power to advance humanitarian and rational principles

of jurisprudence. Although the Treasury Department essentially supervised the Crown and Lithuanian Treasury Commissions established in 1764, the network of customs and excise officials gradually became less venal and more professional, trading patterns readjusted and recovered, and the Commonwealth enjoyed modest, but regular budget surpluses – some of which was applied to military needs. The king's own servants and chancelleries helped him to take effective control of the Commonwealth's small, but increasingly well-drilled and equipped army, as well as its nascent diplomatic service.

Such changes in governance were not to the taste of those magnates, often with estates in Galicia, who had lost the favour of Russia. An old feud was buried by a series of marriages between the four beautiful daughters of Izabella Lubomirska née Czartoryska (Elżbieta, Aleksandra, Julia and Konstancja) and three younger Potockis (Ignacy, Stanisław Kostka and Jan) and Seweryn Rzewuski. They and their uncle-in-law Adam Kazimierz Czartoryski, together with his wife Izabela née Flemming, found a leader in Ksawery Branicki. This swaggering rogue (who had duelled with Casanova) had fallen out with Stanisław August after being promoted to the highest military office, that of the grand *hetman* of the Crown, only to see its prerogatives hollowed out. To start with at least, he amused Grigorii Potemkin who in the mid-1770s became the lover, and then probably the morganatic husband, of Catherine II. Branicki even became a member of the extended imperial family in 1781 when he married Potemkin's favourite niece. So the magnate opposition's strategy was to use Branicki's access to his *'cher*

oncle' Potemkin to persuade the empress to allow the 'first families' to run the Commonwealth on her behalf, instead of Stanisław August. Oligarchy could not have been better defined. They lobbied in St Petersburg for a new ambassador in place of Stackelberg, whom they denounced as under the influence of the 'untrustworthy' king.

Catherine II had indeed lost trust in Stanisław August, but she preferred to use the opposition aristocrats to keep him in check, rather than replace him. After 1776 she regularly refused his requests to pass further reforms at confederated *sejmy*. In 1778, fearing instability while Prussia and Austria were at war over the Bavarian succession, she encouraged the opposition, and Stackelberg ensured that the *sejm* elected some of its leading members to the Permanent Council. The pendulum soon swung back towards the king, but he was kept forever anxious, not least about recurrent rumours of a new partition. Stanisław August made much and more of the Russian mediation that induced Prussia and Austria to return some of the Polish territory they had annexed beyond that specified in the treaties of partition. But violations in the frontier zones continued, often involving the arbitrary seizure of resources: the abduction of peasants and livestock, and the cutting down of woodland. Russia was at least as guilty as Prussia of such abuses. Moreover, the hitherto un-demarcated border in the far south-east of the Polish Crown was delineated to the advantage of the Russian Empire.

The king was more successful in building up a royalist party across the Commonwealth. He sought the support of noblemen of substantial and middling fortunes, as

well as most of the bishop-senators, some of whom came from quite humble noble families. With most lay magnates either in or inclining to opposition, the monarch had little choice. But his was also a well-thought-out political strategy. To build up a following, Stanisław August made targeted use of his remaining patronage, as well as distinctions such as his own order of St Stanisław. He excelled in expressions of regard such as gracious personal letters and gifts of exquisite snuff-boxes. In the Polish Crown he entrusted the preparation of *sejmiki* in particular regions to his principal supporters. His closest collaborator was his youngest brother Michał Jerzy Poniatowski, who reluctantly became Bishop of Płock in 1773, then administrator of the diocese of Cracow in 1782, and finally Archbishop of Gniezno and Primate of Poland in 1785. He looked after *sejmiki* in most of Mazovia and parts of Lesser Poland (*Małopolska*). Political management in the Grand Duchy of Lithuania was initially delegated to the court treasurer, Antoni Tyzenhauz, who had multiplied the revenues from the royal domain estates and founded an ambitious complex of manufactories around Grodno (Hrodna). However, Tyzenhauz overreached himself and was brought down by his enemies in 1780. Thereafter the king maintained direct contacts with Lithuanian royalists. Stanisław August enjoyed comfortable majorities at the five parliaments held between 1778 and 1786. However, at these 'free *sejmy*' majority voting only applied to relatively minor 'economic matters' and elections to government bodies. The opposition used its opportunities to criticize and frustrate some of the king's proposals. The legislative harvest of these *sejmy* was extremely modest.

Most historians of the period have agreed that the royalist party was built almost entirely on patronage, rather than on any positive programme. This verdict may seem odd, given the sophistication of the political ideas conveyed in the monarch's architectural, artistic and literary activity, as well as in sermons preached on state occasions and royal anniversaries. These, after all, were the years when Montesquieu's *Spirit of the Laws* (*Esprit des Lois*) appeared in Polish translation, dedicated to the king, and a group of writers expressed ideas of civil liberty, universal rights and natural law in a new political language. Several of these learned authors were Piarist priests, but the most prominent layman among them was a former confederate of Bar, Józef Wybicki. An enlightened alternative to noble republicanism was emerging, which in retrospect can be called proto-liberal. Stripped down, the monarchist case was that citizens' liberty and property were far better assured by fairer and speedier courts, and by stable and efficient government presided over by an enlightened and patriotic monarch, than in the former anarchy, where the strong oppressed the weak. This anti-aristocratic discourse would resonate powerfully during the Polish Revolution of 1788–92. Perhaps, for the moment, media and message were disconnected. More research is needed on channels of communication between the royal court and parishes, manor houses and market towns.

By the mid-1780s the king was steering into stiffening headwinds of cultural nostalgia. After several decades in retreat, 'Sarmatian' attire was returning to fashion. Modish noblewomen no longer rejected moustachioed suitors out of hand. Particularly popular were the voluntary 'uniforms'

which subtly differentiated national costume for each palatinate. At the Czartoryskis' country seat of Puławy, Princess Izabela staged and played the titular heroine in an especially composed opera: *The Spartan Mother* (*Matka Spartanka*). Its message was austere patriotic and republican, and the excitement it aroused worried Stackelberg. The monarch and the magnates were both bidding for their support of middling nobles, but neither side could control outbursts of anger at continuing depredations by Russian and Prussian military units and the arrogance of the Russian ambassador and his staff. Middle-aged provincial worthies were by this time much better educated (often in reformed Piarist or Jesuit colleges) and less politically malleable than their fathers and grandfathers had been. In some ways the middling nobles of the Stanisławian period resembled their more distant forebears of the sixteenth century, who had taken on the magnates and curbed some of their abuses.

Stanisław August believed he could seize the political initiative, and gain the support of 'the prevailing strength of the nation in the attachment of the middling and wealthy nobility (...) against the great names of the opposition', if only he could obtain some concessions from Russia and mobilize the Commonwealth in the international arena.⁶ Late in 1786, he saw his chance in the plan of the Empress Catherine to visit the newly-acquired Crimea, as well as the fertile southern steppes being settled and developed by Potemkin. Given that another Russo-Ottoman war was brewing, he might at last be able to persuade her of Poland's value as an ally. This would entail a confederated *sejm* to approve the alliance, a larger army, increased taxes and other

administrative, judicial and legislative improvements. She agreed to meet him during her progress down the River Dnieper in the spring of 1787.

Magnates flocked to Kiev in order to pay homage to the empress; some were more graciously received than others. Downriver at Kaniów (Kaniv) the king waited for the ice floes to clear. Finally on 6 May Stanisław August boarded Catherine's galley in the midst of her great flotilla, for their first and only meeting since they had parted as lovers in 1758. He submitted his project, but she remained non-committal. She then kept him waiting for well over a year, during which time the expected Russo-Ottoman war broke out. She finally communicated her agreement to a scaled-down version of his proposals in September 1788. By then, the political scene had already been transformed by what the king called 'a ferment of minds, especially among youth'.⁷ Nevertheless, the events of that autumn took everyone by surprise. Contemporaries hailed or decried the 'Polish Revolution'. It remains better known to posterity as the Great or Four Years' *Sejm*, and it is chiefly remembered for the Constitution of 3 May 1791.

4/ *The Great Sejm*

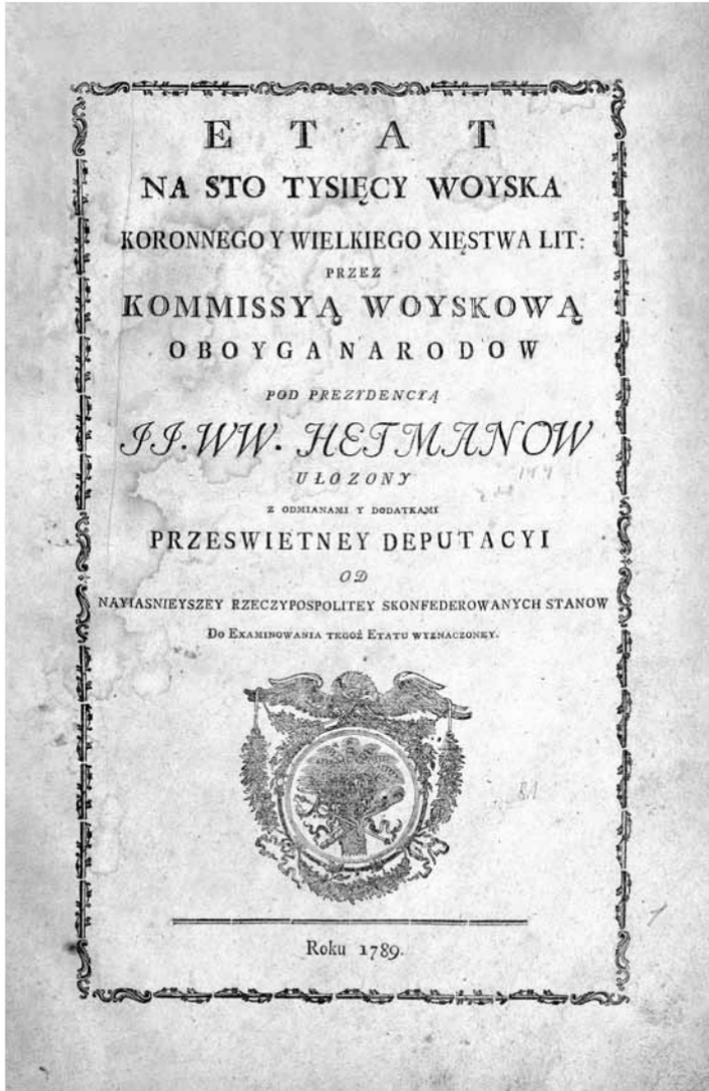
Across the Commonwealth, *sejmiki* met in August 1788 to elect and instruct envoys to the *sejm* (fig. 4). They were the most keenly contested in many years, although only a few were disorderly. The opposition magnates and their clients did better than usual, especially in their strongholds in the south and east of the Polish Crown. However, the king's candidates prevailed across most of the Grand Duchy of Lithuania and Mazovia, and both sides expected a reduced majority for the monarch at the *sejm*. It was the *sejmik* instructions that best revealed the 'ferment' among provincial nobles. These often lengthy and not always coherent documents were generally considered binding on envoys, although there were no effective sanctions for ignoring them, except unpopularity and reduced chances of future election. Even those *sejmiki* which conventionally expressed trust in the monarch and gratitude for his tireless work for the common good also vented aspirations which he was unable to satisfy. Where the opposition was strongest, instructions criticized the Permanent Council, especially for presuming to interpret the law. No *sejmik* was keen



4. Jean-Pierre Norblin de la Gourdain,
A meeting of a sejmik (Zebranie sejmikowe, 1790). MNK XV-Rr.-962

on Polish participation in the Russo-Ottoman war; some expressly forbade it. On the other hand, there was almost universal support for the expansion of the army, a fine thing for impoverished and unoccupied young noblemen. Some *sejmiki* grudgingly accepted that taxes on noble properties would have to rise to fund the army, while others refused to accept any such increases. Either way, nobles demanded that most of the burden should be borne by the Catholic clergy, burghers and Jews, as well as swingeing cuts to civil expenditure. Not only was the educational fund often seen as a source of revenue for the army, but some *sejmik* instructions complained about pedagogical novelties in the schools of the Commission of National Education. Particularly in the Polish Crown, there were also xenophobic calls to ban or restrict foreign travel, and enforce the wearing of national costume.

Shortly before the *sejm* opened on 6 October 1788, Ambassador Stackelberg assured the opposition leaders that his court had no intention of concluding a military alliance with the Commonwealth. However, it was agreed that the *sejm* would confederate itself – after it had commenced. Crucially, the act of confederation enabled individual envoys to insist that secret voting follow open voting on all questions except taxation: this reduced the monarch's majority in some early votes. Both houses deliberated together in the senate chamber; the envoys sat on benches behind the senators. The king's legislative programme was modestly couched: to augment the army insofar as increased revenues permitted, and other, unspecified improvements. These 'propositions from the throne' were underwhelming: they were read out after



5. Project of the army establishment (*Etat na sto tysięcy woyska koronnego y Wielkiego Xięstwa Lit: ...*, 1789). Polona, id 81751501

a game-changing Prussian diplomatic note. King Frederick William II assured the Poles of his friendship and respect for their liberty, independence and security, and advised against an alliance with Russia. The effect was extraordinary. A few days later, as soon as parliamentarians had approved the grateful response, they roared their assent to a proposal to expand the Commonwealth's army to the totemic figure of 100,000 men (fig. 5).

Before the *sejm* would agree even to discuss the necessary funds, it addressed the question of control and command of the expanded army. In a dramatic series of debates, the opposition demanded the abolition of the Permanent Council's Military Department and its replacement by a Military Commission, elected by and directly responsible to the *sejm*. Although a Russophobic tide swept along many waverers, the Council's problems went beyond the shameful circumstances of its establishment. It was accused of usurping the competences of the *sejm*. Several orators insisted on the division of the executive power, some even citing Montesquieu's dictum that 'power should check power'. They were not worried, however, by the concentration of powers in the legislature: some even gloried in the absolute sovereignty of the Commonwealth or 'the nation' constituted in the *sejm*, that is to say themselves. When royalists warned against 'absolutism', 'tyranny', 'oligarchy' or 'anarchy', mocking laughter cascaded from the public galleries. A sixteen-hour session on 3 November 1788 concluded with a secret vote to replace the Military Department with a Military Commission.

This decision openly challenged the Russian ‘guarantee’ of the Commonwealth’s form of government. Stackelberg demanded that the king, the primate and their supporters leave Warsaw and ‘re-confederate’ the provinces against the *sejm*. Had they done so, a Prussian corps would have crossed into the province of Greater Poland at the invitation of a group of opposition magnates. That road – a wholly plausible ‘virtual history’ – would have led straight to the second partition, without the Constitution of 3 May 1791. However, the king refused to separate himself from ‘the nation’, and chose the path of persuasion. After the ambassador’s note of protest was read out on 6 November, Stanisław August tried to calm things down by adjourning sessions for several days. In the short term, this only heightened emotions: ‘the spirit of opposition has so increased hatred towards Muscovy in all estates and kinds of people, that it is almost impossible to believe’, he wrote.⁸

On 15 November 1788 an irate *sejm* demanded the withdrawal of all Russian forces from the Commonwealth. Five days later, a second Prussian note informed the Poles that the king of Prussia had already asked the empress to pull out her troops. Frederick William II endorsed their right to change their own laws and wished only to guarantee their independence. The enthusiastic reaction entangled him further in Polish-Lithuanian affairs. As Prussian influence grew, fear of Russia evaporated. Most of the opposition magnates joined Ignacy Potocki (whom Catherine had snubbed in Kiev) in re-orientating themselves from St Petersburg towards Berlin. Motives and intentions were not always clear. Kazimierz Sapieha led the frenzied chorus against ‘Muscovy’, while his

uncle Ksawery Branicki kept in with Potemkin. Similarly, the richest magnate of the south-east, Szcześny (also known as Felix) Potocki, remained on friendly terms with Russian generals. Stackelberg, left without instructions, was isolated and impotent. The empress's forces were fighting hard on two fronts – in the south against the Turks and in the north against the Swedes. Poland-Lithuania's international conjuncture was more favourable than for many decades.

The Commonwealth's regained sovereignty was embodied in its parliament. By the end of 1788 the *sejm* had taken control not only of the army, but also of the diplomatic service. The culmination came on 19 January, when the *sejm* voted overwhelmingly to abolish the Permanent Council. The opposition triumphed: 'We have the government in ourselves, we have it in *sejmy*.'⁹ With power came responsibility, and the learning curve was steep. Republican eloquence had done much to bring down the system carefully constructed by the king, the primate and the Russian ambassador. But it obstructed the theoretically omnipotent *sejm*'s endeavours to agree the details of legislation on the army, diplomatic missions and above all, taxes. Long-standing parliamentary procedure prevented the marshal from curtailing harangues, however irrelevant to the point supposedly being considered. Moreover, because legislation had to be discussed and approved clause by clause (*categoratim*), wrecking amendments were easily introduced. The marshal (or speaker) of the *sejm* (and also the Crown marshal or head of the parliamentary confederacy), Stanisław Małachowski, was widely liked and trusted, but he lacked the personality to impose himself. One of the most loquacious



6. Prince Kazimierz Nestor Sapieha,
the Lithuanian marshal of the parliamentary confederacy.
Portrait by Józef Franciszek Jan Pitschmann, Polona, id 9568152

orators, a master of improvization and gesticulation, was the complementary Lithuanian marshal of the parliamentary confederacy – Kazimierz Sapieha (fig. 6).

After the abolition of the Permanent Council had completed the overthrow of Russian hegemony, the *sejm* refocused on revenue. The measures it took in 1789 ultimately tripled the Commonwealth's tax revenues and transformed its creditworthiness, but did not suffice to pay for an army of 100,000 men. Before the envoys and senators acclaimed a voluntary 'offering' of a tenth of all secure and stable income from nobles' landed estates and capital sums on 26 March, they sought to drain other sources. The Crown estates (*królewsczyzny*) attached to *starostwa* were obvious targets. The office held by a *starosta* had once been that of a royal representative, but it had long become a more or less lucrative sinecure, although some retained judicial responsibilities. Many *starostwa* remained, despite the phased reduction in their number envisaged by legislation in 1775. *Starostowie* would henceforth pay a reassessed double 'kwarta' on the revenues of the Crown estates in their possession. Because many parliamentarians also held *starostwa*, they got off relatively lightly. Onerous fees were imposed for the stamped paper that authenticated central and local offices, with disproportionately heavy levies on the bishops, abbots, prelates and canons of the Catholic Church. Moreover, in addition to the existing *subsidium charitativum*, the Catholic clergy of the Latin and Ruthenian (Uniate) rites would pay a fifth of their revenues, although there were reductions and exemptions for poorer parish clergy and religious houses. Protestant and Orthodox clergy were also to be taxed at a fifth – the *sejm* rejected

calls for higher rates, partly because of the fear of reigniting the tinder in the Commonwealth's Ruthenian lands, where nobles, Jews and burghers had panicked over a purported peasant rebellion in the spring of 1789.

The Commonwealth constituted in the *sejm* trumpeted its untrammelled sovereignty by voting on 17 July 1789 to seize the properties of the vacant bishopric of Cracow and apply the revenues to the army. That entailed putting the next bishop, and other bishops as sees fell vacant, on equal salaries paid by the treasury. It also meant redrawing diocesan boundaries so as roughly to equalize duties. Although the decision had been triggered by the revelation and collapse of 'intrigues and simonies' regarding episcopal promotions, and the opposition's hostility to Primate Poniatowski, the solution, the doctrine and the rhetoric echoed the anti-clerical sentiments that had been vented in many *sejmik* instructions and pamphlets. If ecclesiastical land was indeed the 'patrimony of the Commonwealth', then the Commonwealth as 'a sovereign mistress' (*samowładna Pani*) could decide whether it was being used for its proper purposes, and if it so chose, reallocate it for the public good. The Holy Apostolic See was horrified by this unprecedented act by a Catholic power in peacetime – even Joseph II had not gone quite so far in the Habsburg Monarchy. Schism loomed between Rome and Warsaw before a compromise was hammered out by a parliamentary deputation, the bishops and the papal nuncio. It was passed the following May, during the contrived absence of the envoy who had submitted the original project – on his patron's business. The circumstances and secrecy of this ruse testified to magnates' evaporating control

over their parliamentary clients. Ironically, given his reputation, the patron in question was none other than Ksawery Branicki.¹⁰

Some parliamentarians appealed to the verdict of 'the public'. The older Latin word *publicum* had long meant the common good, integral to the *Res publica* or Commonwealth. However, by the later eighteenth century it was being supplanted by the Polish version: *publiczność*. This term also denoted persons beyond the *sejm* or *sejmiki*, who commented on political and cultural events. They included spectators in the parliamentary chamber, readers of periodicals and pamphlets, theatre audiences and even the crowds in public spaces such as the gardens of the Saxon Palace in Warsaw. This venue, rather like the Palais-Royal in revolutionary Paris, became notorious for impromptu orators, hecklers, hustlers, and seekers of sexual adventure and gossip. 'The public' comprised women as well as men, burghers as well as nobles, and clergy as well as laity. In market towns and manor houses across the Commonwealth there was an unparalleled appetite not only for news, but also for printed speeches, pamphlets and sermons, and scurrilous, handwritten riddles and lampoons.

Booming Warsaw led the way. The city's population had barely topped 30,000 by the end of the reign of Augustus III. The patronage generated by the permanent presence of Stanisław August's royal court was not the only factor in the spectacular growth of the next three decades. Much of the anti-Varsovian vitriol that suffused political culture in the provinces was provoked by the preference of many wealthy nobles (or at least their wives and offspring) for

metropolitan dissipations. Many of these noble residents and visitors were eager to do business with the rising financial and commercial elite (and their heiresses). Demand soared for all manner of goods, victuals and services, and so did prices. The presence of the Commonwealth's political and social elite sucked in lawyers, traders, artists, artisans, servants, labourers, beggars, urchins, prostitutes, pimps, card-sharps, thieves, swindlers, runaway serfs and many, many others in search of a better life. By 1788, notwithstanding insanitary conditions, the population had tripled, and during the course of the Four Years' *Sejm* it grew by a further 25,000–30,000. Warsaw briefly became one of the dozen most populous cities in Europe. It was also one of the most politicized.

An urban political movement first emerged among the Varsovian burghers. It spread to many other towns across the Commonwealth, and delegations assembled in Warsaw the summer of 1789. The burghers' longstanding grievances about nobles' interference and arrogance, and privileged exemptions from municipal jurisdiction, gained both coherence and menace from their principal ally and ideologue. Hugo Kołłątaj was from a middling noble family that originally hailed from lands which the Grand Duchy of Lithuania had lost to Muscovy. He himself grew up in the palatinate of Sandomierz in Lesser Poland. A graduate of the unreformed University of Cracow and the reformed University of Vienna, he gained a doctorate and took holy orders in Rome. An absentee parish priest and cathedral canon, he poured his energies into work for the Commission of National Education, reforming his Cracovian *alma*

mater first as visitor and then as rector. As the *sejm* of 1788 approached he began to publish his *Letters of an Anonymous Correspondent to Stanisław Małachowski* (*Do Stanisława Małachowskiego (...) anonima listów kilka*, 1788–89), and he became the marshal's speechwriter. His *Letters* and their follow-up, *Political Law of the Polish Nation* (*Prawo polityczne narodu polskiego*, 1789), expounded a vision of citizenship rooted in Enlightenment ideas of universal human rights and freedom. The qualifications for political participation would be property and education rather than birth, so he recast the *sejm* as an upper chamber of landowners and a lower chamber of urban proprietors. However, as an advocate of a 'mild revolution', and an accomplished political tactician adept at matching his register to his audience, he also advocated republican ideas such as the subordination of the *sejm* to the *sejmiki*, and far-reaching restrictions on the royal prerogative.

Kołątaj helped draft the burghers' demands. On 2 December 1789 they were handed to the king after a procession of carriages carrying black-coated patricians drove into the courtyard of the Royal Castle. Many envoys and senators felt offended by this 'black procession'. Even when toned down at the king's insistence, the implicit threats of French-style violent revolution still resonated with millenarian undertones. Some suspected Stanisław August of plotting to emulate King Gustav III of Sweden who in February of that year had allied with representatives of the clergy, burghers and peasants against the nobility in the *Riksdag* and further strengthened royal power. The *sejm* appointed a deputation to work out a project for the towns, but it soon

got bogged down. The limited parliamentary representation which the monarch and some of his allies wished to grant to the burghers encountered vehement objections that only nobles were fit to legislate.

The burghers' cause also became entangled with that of the Commonwealth's Jews. For a variety of reasons including lower ages of marriage and better midwifery, their numbers were rising faster than those of their Christian neighbours. About three quarters of a million Jews had lived in Poland-Lithuania in the 1760s, when the overall population was between twelve and fourteen million, and those numbers had been made up in the truncated Commonwealth of nine to ten million people during the Four Years' *Sejm*. Although a minority of wealthy financiers and merchants attracted attention, most Jewish families were poor, and communal institutions were often in debt. Jews were unevenly settled; there were fewer in the north-west, but they were vital to privately owned small towns in the Ruthenian lands. Wilno was called the 'Jerusalem of the North' – roughly two fifths of its inhabitants were Jewish, and it was the seat of the 'Gaon' or Genius, Elijah ben Solomon Zalman. Both rabbinical orthodoxy and the emotionally charged Hassidic movement spreading from the south-east frowned on Jews fraternizing with gentiles, but the first impulses of the *Haskalah* or Jewish Enlightenment did incline some highly educated and prosperous Jews towards closer integration with the fast-changing Christian world.

While wealthier nobles often welcomed Jews as merchants or estate managers (provided they knew their place), peasants had long resented them as agents of their exploitation

by lords, and Christian burghers regarded them as unfair competitors. Jews were prohibited from settling in many royal towns, but were often able to do business there via noble- and even Church-owned enclaves (*jurydyki*) where the municipal writ did not run. Jews had long been allowed into Warsaw to reside and trade temporarily, for the convenience of the nobles during parliaments. This *sejm*, however, showed no sign of ending. Tensions boiled over with a riot against Jews and their property in May 1790. The violence prompted some senators and envoys to contrast the ‘insolence’ of the burghers with the ‘humility’ of the Jews who petitioned for their affairs to be put in order. A parliamentary deputation for the Jews was formed, but it could not reach consensus on reform. Essentially the Jewish delegations asked for unrestricted access to royal towns while enjoying communal autonomy and protection from unfair impositions by the Christian town councils. The burghers, if they had to admit Jews into their towns at all, insisted on the Jews’ subjection to municipal authority without any corresponding civic rights. Kołłątaj not only wished to eliminate most barriers to Jewish integration, but also favoured far-reaching cultural assimilation, unacceptable even to the minority of *maskilim* or enlightened Jews. The king pragmatically hoped that a compromise solution would involve Jews gratefully settling his mountainous debts. In the end the Four Years’ *Sejm* never quite managed to debate any of the proposals that were drafted.

Less attention was paid to the condition of the peasants, although Kołłątaj compared serfdom to slavery in the New World. Unlike Rousseau, he did not want to make

emancipation dependent on prior 'enlightenment', for there was 'nothing more terrible in human nature than an enlightened slave'.¹¹ Few echoed his eloquent pleas, but unresolved social questions affected the ongoing constitutional disputes. Berlin had made its offer of an alliance conditional on an outline of the future form of government. The hastily appointed deputation informally led by Ignacy Potocki managed to complete such a document by December 1789. The *Principles for the Correction of Form of Government* (*Zasady do poprawy formy rządu*) were reassuringly republican in their subordination of the executive to the legislature and of the *sejm* to the *sejmiki*. However, the open-ended references to 'citizens' and 'the nation' aroused well-founded suspicions of the thin end of the wedge. The *sejm* amended the text so that throughout it referred unequivocally to 'the noble estate' or 'the Commonwealth'. Attention shifted to the defensive alliance concluded with Prussia in March 1790. It included neither the trade deal desired by the Poles, nor the territory coveted by Frederick William II. Potocki considered the cession of Danzig and Thorn as ineluctable *raison d'état*, and so did Prussia's British ally. To help persuade parliamentarians to accept this pared down treaty with Prussia, it was presented for ratification during a pause in the reading out of a long report on how the Russian Empire had taken control of the Orthodox Church in the Commonwealth and supposedly fomented rebellion among Ruthenian peasants in the spring of 1789.

Ignacy Potocki then returned to his labours at the forge of constitutional dilemmas. He encountered obstruction from some other members of the deputation and felt dissatisfied

with the resulting *Project for the Form of Government* (*Projekt do formy rządu*). This 658-clause behemoth was printed in folio and then presented to the *sejm* on 5 August 1790. The *Project* retained all of the republican suspicion not only of executive, but also of central legislative power. The most sensitive matters would be decided by qualified majorities of *sejmik* instructions. Beside the government commissions, to be elected by and directly responsible to the *sejm*, would be a purely supervisory body called a Custodial Council of the Laws (the literal meaning of *Straż Praw* was the Platonic-sounding ‘Guard of the Laws’). It would be able to proceed without the king if necessary. Because the monarchy would be so enervated, Potocki and his allies believed it would be safe to make the succession to the throne hereditary. This was not just about avoiding the perils of interregna. It was part of a strategy of attracting a powerful ally – preferably Prussia – with the prestige of a hereditary throne. The route would involve offering the succession to Elector Frederick Augustus of Saxony – the grandson of King Augustus III – whose only child, a daughter, might then marry a Hohenzollern. Given the conflicting interests at stake, both domestically and internationally, this was always going to be a long shot.

Before that battle could be joined, others had to be fought over the ‘cardinal laws’ which opened the *Project*. Heated exchanges preceded the *sejm*’s agreement on 2 September 1790 that the ‘holy Roman Catholic Faith of both rites with all the rights of the holy Church *in spiritualibus* in the two nations of the Polish Crown and the Grand Duchy of Lithuania, as well as in the provinces appertaining to them, shall be eternally dominant.’¹² Fears of the temporal

rights of the clergy were reflected in the wording. So were Lithuanian sensibilities. The next day, it was agreed that the king had to be a Catholic, and that if the queen were not, she could not be crowned. Then a dispute broke out over 'apostasy' from Catholicism and the toleration of other confessions. Despite Stanisław August's evocation of the Inquisition, the former would remain a crime, albeit without a specified penalty. Only those who professed faiths hitherto tolerated would be assured 'peace in confession and worship'. Although this was the first time that the dominance of the Catholic Faith was explicitly enshrined in law, this formula (which would be put more concisely and generously in the Constitution of 3 May) hardly represented the zenith of Polish-Lithuanian 'confessionalization'. That had come at least a quarter of a century earlier.¹³ Now that '*tolerancya*' had taken on a positive connotation in political discourse, perhaps it was time to reassure the more zealous clergy and laity.

Next came the royal prerogative. The king had never conceded that with the abolition of the Permanent Council former royal prerogatives such as nomination to the senate had reverted to 'the nation', rather than to himself. He had kept the *pacta conventa*; so should the nation. The time was now right to press the point. After almost two years of deliberations, Stanisław August's stamina, patience and moderation had finally earned him sympathy and trust. His slogan of 'the King with the Nation, the Nation with the King', launched at his nadir in November 1788, had gained in credibility when he accepted the Prussian alliance. Meanwhile, middling nobles' intensifying hostility to magnates had been

memorably expressed in the crushing diatribe penned by the maverick writer Stanisław Staszic. Who was responsible for each and every one of the Commonwealth's disasters? In each and every case the succinct answer was: 'The lords.' (*Panowie*).¹⁴

The skirmishes on 2 September 1790 were inconclusive. Royalists demanded the confirmation of the king's prerogatives according to the *pacta conventa*, while the opposition tried to avoid affirming them. The alliterative argument made by an enlightened republican envoy, Ignacy Zakrzewski, showed which way the wind was blowing: unlike the present king, future monarchs might exercise the prerogative of nomination to maintain 'aristocratic anarchy'; 'anarchic aristocrats' might be uncontrollable unless the form of government were properly settled now.¹⁵ On 10 September, a more aristocratic republican, Seweryn Potocki, caused grave offence when he appealed: 'O king! Do not attempt the corruption of the nation.'¹⁶ Three days later, the king declared that he could not be of use to the nation without the power to reward and encourage, then left the chamber. Royalists piled into the fray, none more demagogically than Pius Kiciński. The modestly born former head of the royal Cabinet had manifested his duties as an elected envoy, occasionally displeasing the monarch. Clad in his *kontusz*, Kiciński not only looked the part. He was a more authentic 'Sarmatian' than the opposition leaders in their powdered periwigs, whom he mocked without mercy. He accused 'a dozen or so lordlings' of 'a silent conspiracy to comprise *the first class of citizens*', subordinating their despised noble brethren to their 'absolute rule'. Part of the alleged plot involved their

manipulation of the burghers who, if admitted to the legislature, would gratefully help the magnates to destroy the noble estate. The other part was to reduce the king to impotence, so he could no longer defend the *szlachta*. 'They are your lords, they are your tyrants', he thundered. Soon afterwards, the opposition capitulated, and the *sejm* confirmed the monarch's prerogative of nomination.¹⁷

It was thus a bruised Ignacy Potocki who attempted to steer the Commonwealth towards hereditary succession to the throne. On 24 September 1790, the *sejm* agreed a proclamation asking the nation to agree to the election of the elector of Saxony as successor *vivente rege* (during the lifetime of the present king). The advantages of hereditary succession were contrasted with the inconveniences of free royal election, but the forthcoming *sejmiki* were not asked to decide that question. The pamphleteers had no such scruples. Ignacy Potocki's brother-in-law, Seweryn Rzewuski (who two decades earlier had accompanied his aged father into Russian captivity, and later succeeded him as field *hetman* of the Crown), wrote one pamphlet under his own name, and over a dozen more anonymously, in order to create the impression of a swell of opinion in defence of free royal elections. Kołłątaj led the counter-attack – anonymously.

The *sejmiki* to elect envoys to the next *sejm*, due in August 1790, had been postponed to February 1791. However, it became clear that the present parliament would not have concluded by then, so the *sejmiki* were held in the middle of November 1790, and the newly elected envoys would serve alongside those chosen in 1788. This was a pragmatic decision to assure continuity of leadership; besides, many

parliamentarians had long since gone home, having run out of money, patience or both. Nevertheless, it was taken amiss at some *sejmiki*. Much of the *szlachta* was in an irascible mood. There were fulminations against foreign travel and fashions. Even the Volhynian *sejmik* – Branicki's stamping ground – denounced magnates' influence. Several Crown *sejmik* instructions barred burghers from the legislature, while some Lithuanian ones forbade the emancipation of serfs. Stanisław August lamented that 'almost everywhere the instructions are filled with old-fashioned oddities, and especially for the spoiling of education'.¹⁸ A majority of *sejmiki* endorsed an appeal from a group of ex-Jesuits: if the Commonwealth would persuade the pope to restore the Society of Jesus, they would gladly teach noble youth without any claim to their order's property. The educational fund could then be diverted to the army. The key question, however, was hereditary succession or free royal election, and the answer came loud and clear, especially in the Polish Crown. A majority explicitly forbade hereditary succession, although there was widespread support for the choice *vivente rege* of Elector Frederick Augustus. Evidently memories of his grandfather's soporific reign had grown fonder during the past generation.

As Ignacy Potocki took in these torrid instructions, he concluded that at least in the short term, 'limited monarchy' was preferable to noble democracy. If he persisted in taking the *Project for the Form of Government* through the *sejm*, it would die a slow death, clause by clause. He needed a new strategy. It would involve a discreetly forged compromise with Stanisław August, not least because most

of the new envoys were supportive of the monarch. The idea of a realignment dated back to the summer of 1789, when tensions had mounted between enlightened republicans led by Potocki, and the more traditionalist republicans who were often swayed by the demagogues led by Branicki and Sapieha. Much invective about 'true and false patriots' was exchanged. However, the mistrust between Potocki and Stanisław August ran deep. The king emerged stronger from the contests of the autumn, and so the realignment would be largely on his terms. A chastened Potocki visited the monarch on 4 December 1790, and asked him to take the initiative in drafting the new form of government.

5/ *The Revolution of 3 and 5 May 1791*

The preamble to the Constitution of 3 May contains the words ‘willing to profit from the present circumstances of Europe, and from the passing moment which has restored us to ourselves; free from the disgraceful shackles of foreign influence’ (fig. 7). Among the reasons for Ignacy Potocki’s pivot towards Stanisław August was his awareness that the conjuncture which had enabled the Commonwealth to recover its sovereignty was ending. The summer of 1790 had seen two unfavourable developments among the European powers.

The first was the peaceful resolution of the stand-off between Prussia and Austria. The court of Berlin had taken advantage of the widespread resentment against Joseph II’s breakneck reforms, and the strains of his war against the Ottoman Empire, to encourage rebellious plots. If it came to war between Prussia and Austria, then the Poles would be expected to invade their former lands in Galicia, which they might hope to keep in return for ceding Danzig and Thorn to Prussia. However, Joseph died a broken man in February 1790, and the Prussian plan was scuppered by the deft diplomacy of his successor. Rowing back from some

) 4 (

Europa znayduie, i z tey dogorywiają-
 cey chwili, która Nas samym sobie
 wrocila, wolni od hańbiących obcey
 przemocy nakazow, ceniąc drożey
 nad życie, nad szczęśliwość osobi-
 ślą exystencyą polityczną, niepodle-
 głość zewnętrzną, i wolność wewnę-
 trzną Narodu, którego los w ręce
 nasze jest powierzonym, chcąc oraz
 na błogosławieństwo, na wdzięczność
 współczesnych i przyszłych pokoleń
 zasłużyć, mimo przeszkod, które
 w Nas namiętności sprawować mo-
 gą, dla dobra powszechnego, dla u-
 gruntowania wolności, dla ocalenia
 Oyczyzny Naszey, i iey granic, z nay-
 większą stałością ducha ninieyszą
 Konstytucyą uchwalamy, i tę całko-
 wicie za świętą, za niewzruszoną de-
 klaruiemy, dopokiby Narod w czasie
 Prawem przepisany wyrażną wolą
 swoją nie uznał potrzeby odmienio-
 nia w nięy iakiego Artykułu. Do
 której to Konstytucyi dalze ustawy
 Seymu teraznieyszego we wszystkich
 słowac się mają.

7. Part of the preamble of the Constitution of 3 May 1791
 (*Ustawa Rządowa*, Warsaw: M. Gröll, 1791). Polona, id 1196273

of his older brother's policies, Leopold II pacified the revolt which had broken out in the Austrian Netherlands (Belgium) and quietened Hungary. He mobilized huge forces both against the Turks and against the Prussians. Frederick William II dithered. He finally demanded that Leopold make peace with the Ottoman Porte on the basis of the *status quo ante bellum*, that is to say, relinquishing all conquests. Unexpectedly, the Habsburg agreed, and on 27 July 1790 a convention was signed at Reichenbach (now Dzierżoniów) in Silesia. Perhaps this was just as well for the Commonwealth, as Catherine and Potemkin had been planning to invade the Polish Ukraine in case the Poles had joined in a Prussian attack on Russia's Austrian ally. Nevertheless, Reichenbach closed one conceivable path to a future beyond the Russian orbit. Shortly afterwards, on 14 August, the Treaty of Värälä ended the two-year war between Russia and Sweden. After sailing close to disaster, Gustav III obtained peace with honour. Refocusing his attention on revolutionary France, he was no longer interested in an alliance with Poland against Russia.

Although the possibility of an alliance with the retreating Ottoman Empire remained open, the Commonwealth was now even more dependent on the fickle king of Prussia. Frederick William II's interest in keeping his promises was further diminished by the *sejm's* decision on 6 September 1790 to forbid any cession of the Commonwealth's territory. Nevertheless, the new year brought another escalation of international tension. Great Britain and Prussia demanded that Russia make peace with the Ottoman Empire on the basis of the *status quo ante bellum*. In particular, Russia must return

the fortress of Ochakov on the Black Sea coast, bloodily taken by Potemkin in 1788, otherwise Britain would send a fleet to St Petersburg and Prussia would invade Russian Livonia. Catherine II defied the ultimatum. Prime Minister William Pitt the Younger and King Frederick William II were both bellicose; however, British merchants and Prussian generals were anything but enthusiastic at the prospect of war with Russia. Left without clear instructions and hamstrung by the prohibition on ceding territory, Poland's diplomatic mission in London was unable to press the case that the Commonwealth offered superior trading prospects to those of Russia, especially in naval stores such as timber and hemp. Meanwhile the Russian embassy orchestrated a media campaign to sway public opinion, Pitt's parliamentary majority vanished, and the British withdrew their ultimatum in April. Prussia would not invade Russia alone. It was now a question of when the unbowed empress would make peace on her own terms with the Ottoman Empire and order her armies to retake control of the Commonwealth.

While these storm clouds were billowing, Stanisław August and Ignacy Potocki sparred. Their go-between was Scipione Piattoli. This democratically inclined Tuscan cleric in minor orders had moved into royal service from that of Potocki's capricious mother-in-law, Izabella Lubomirska. The king's draft, which he called 'The Daydream of a Good Citizen' (*La Rêverie d'un bon citoyen*), would have put the monarch at the head of a strong ministerial executive, and also allowed him the legislative initiative. He hoped to realize his long-standing ambition to establish a form of government resembling that of England. Potocki pushed back in a republican

direction. Stanisław August reiterated his principal goals in a new draft written in Polish, before Stanisław Małachowski and Hugo Kołłątaj helped them reach agreement. Towards the end of April 1791, the circle of initiates widened. It now included leading royalists, such as Pius Kiciński, and enlightened republicans, such as Ignacy Zakrzewski. Gathering in Piattoli's rooms in the Royal Castle, they helped add the finishing touches to the project, titled the *Law on Government* (*Ustawa Rządowa*).

While the new constitution was taking shape behind the scenes, the *sejm* was kept busy by hard-fought debates on procedure, the *sejmiki* and royal towns. Another stupendous philippic from Kiciński (compared by an observer to Mahomet handing down the Koran) speeded acceptance of a swifter mode of deliberating. Instead of deciding legislation clause by clause, the *sejm* would either accept a project, reject it, or send it back for amendment to the Constitutional Deputation, which was responsible for drafting and correcting laws.

The law *Sejmiki*, passed on 24 March 1791, restricted active participation to noble landowners, as well as those who leased land worth 100 Polish florins a year in tax. Soldiers and other 'dependents' were also barred. Proponents of the measure justified it by lurid accounts of magnates and *hetmani* manipulating petty nobles and intimidating those of middling fortune. However, this substantial restriction of the franchise (removing it from about two fifths of adult noblemen) was also a clear step towards a Commonwealth in which political participation was based on property, rather than birth. Binding instructions remained, despite Kiciński's

eloquent recommendation of the English example: 'There, from the moment an envoy learns he has been legally elected, he ceases to be an envoy from a part of the country, and is considered as a representative of the entire nation, and his only precept is the public happiness.'¹⁹ Reverend Franciszek Salezy Jezierski, one of the Commonwealth's most talented political writers and preachers, similarly distinguished a 'representative' from an envoy, and associated the former with England. This was indeed the doctrine of Edmund Burke, who rebuked his constituents for presuming to instruct him. However, the parliamentary mood still favoured Rousseau, who had criticized the English for giving away their liberty at every septennial election. His paean to the *sejmiki* as 'the true palladium of liberty' was quoted in the *sejm*.²⁰

Next came the question of royal towns (for the moment, ecclesiastical and private towns were not on the agenda). This may well have served as a kind of litmus paper for the reception of the new constitution – it may well have seemed safer to pass a significant social reform separately from the controversial changes planned for the monarchy and executive power, rather than risk inundation at the confluence of two old noble phobias. At the beginning of April, even modest proposals for a limited number of burgher representatives in the *sejm* ran into fierce opposition, with dire warnings of 'absolutism' or 'despotism' should the noble monopoly on law-making be broken. The deadlock was broken on 14 April 1791, when the eccentric, ultra-republican envoy for Kalisz, Jan Suchorzewski introduced a project which envisaged purely advisory urban 'plenipotentiaries' to the *sejm*. At the same time, however, it satisfied all

the burghers' expectations of self-government and civil liberties. Rumours have long since circulated (not least in historical fiction) that it was not entirely Suchorzewski's own work. The king seized this 'providential' opportunity and urged the adoption of the project. This was done at the next session, on 18 April, once the draft had been tidied up. However, approval was delayed by an unexpectedly fierce dispute about whether or not Catholics should have priority for municipal office. It was pointed out that many towns along the country's western frontier had predominantly Protestant populations, and that one of the main purposes of the reform was to encourage immigration. In the end, no reference was made to religion, a major success for the proponents of a more generous approach to religious toleration.

Among the most important provisions of the new law on *Free Royal Towns in the Territories of the Commonwealth* (*Miasta nasze królewskie wolne w państwach Rzeczypospolitej*) was a structure of elections which brought even the owners of small workshops into the political process. The 'advisory' roles of elected urban plenipotentiaries extended to membership of the Treasury and the projected Police Commissions – and thus the executive power of the Commonwealth. Burghers would also elect judges to urban courts. Appeals would go to the assessors' courts presided over by their allies Kołłątaj and Joachim Chreptowicz, the vice-chancellors of the Crown and Lithuania respectively. Human dignity was underlined by the extension to all urban inhabitants of the medieval noble privilege of no imprisonment without trial – *neminem captivabimus nisi iuri victum*. The law also facilitated the ennoblement of meritorious burghers. This

wide-ranging reform stirred authentic enthusiasm, not only among townspeople. Amidst joyous ceremonies of fraternization, Stanisław Małachowski led twenty noble envoys who accepted urban citizenship. At the top, elite convergence was proceeding apace, but many middling, modest and poor nobles also desired the abolition of the remaining barriers to their engagement in trade, manufacturing, commerce and finance – occupations which would once have brought derogation from the nobility. The *szlachta* had undergone a ‘revolution in its way of thinking’, concluded the Austrian chargé d’affaires, who was both impressed and anxious.²¹

Critics of the Constitution of 3 May would denounce it as a different kind of revolution. It was, they claimed, a plot hatched in secret and suddenly sprung on the *sejm*. Moreover, it was acclaimed despite the protests of ‘patriots’, under pressure from troops and the vulgar ‘public’. They had a point. Projects were supposed to be introduced in the *sejm*, printed and to remain in ‘deliberation’ for at least three days, before being debated and decided. If unanimity was not forthcoming, projects should be put to an open, and if demanded, a secret vote. But even after the procedural reform, the authors of the constitutional project could not risk the piecemeal destruction of the entire package. They needed an overwhelming majority to carry it all at once. And time was of the essence. They decided to introduce the project on 5 May, when many parliamentarians would not yet have returned to Warsaw after the break for Easter (which fell late, on 24 April). Those reckoned reliable were asked to return. The secret leaked out, so the day was brought forward to 3 May. The previous evening and throughout

the night and early morning, about a hundred envoys and senators pledged themselves to support the *Law on Government*. With about thirty parliamentarians expected to be opposed to the project, much would depend on whether the other fifty or so of doubtful convictions, who had not been let into the secret, could be swayed during the session.

The morning of Tuesday 3 May saw the public galleries and streets around the Royal Castle packed with expectant crowds. Units of the Royal Guard, commanded by the king's nephew, Prince Józef Poniatowski, kept order. In the Senate Chamber, Stanisław Małachowski tapped his marshal's staff to begin the day's proceedings at eleven o'clock. Many clamoured to be heard. The successful envoy was Stanisław Sołtyk, whose palatinate of Cracow enjoyed precedence at this *sejm*, according to an old parliamentary alternation shared with the palatinates of Poznań and Wilno. One of those in the know, Sołtyk referred to disturbing despatches received by the parliamentary Deputation for Foreign Affairs, and asked for them to be read out, so that all might realize the urgency of establishing the Commonwealth's form of government. However, Jan Suchorzewski shouted that he had 'great and terrible things to reveal'. Even after the king had spoken of the need to hear the despatches, Suchorzewski would not yield. He crawled on the floor towards the throne until he was permitted to speak. He warned 'you, Most Serene Estates, and you, the public, (...) that a revolution is plotted similar to the Swedish one, which introducing a new government to the country, changed the nation's liberty into slavery'. He complained of 'rumours that all those who are of an opposing opinion are Muscovites. Because this was

done in Sweden, when it was desired to introduce absolutism'. Similarly, in Sweden, the burghers had been used to fetter the nobles. The real threat was closer to home. 'We should fear not a foreign, but a domestic enemy, not violence, but intrigues, so that they should not lead us to despotism, to [hereditary] succession, which is fatal to freedom.'²²

The despatches were read out anyway. In fact these were carefully selected excerpts which evoked an imminent threat to the nation's very existence, justifying the abbreviated procedure. Ignacy Potocki asked the king how the country might be saved. The monarch, emphasizing the grave peril for 'our Fatherland', announced that he had been shown a project which could avert the danger. Even in two weeks' time, it might be too late. A cry for it to be read out filled the chamber. It was. The acclamation was all but deafening. However, a few demanded that the project enter deliberation, as procedure required, while Suchorzewski objected even to that.

Małachowski then commended the project as the best republican form of government he had seen: 'Among others in this century we have the two most famous republican governments, that is: the English government, and the American, which corrects the faults of the former, but above them, the one which we are to establish today will be more perfect, for it combines in itself whatever in either of them could be best and most appropriate to our form.' He asked the king, whom he had thanked for yielding the 'ornaments of the throne' to the 'existence' and 'sovereignty' of the Commonwealth and the nation, to release the nation from its obligations to him. Assenting gladly, Stanisław August asked to be released from his vow in the *pacta conventa* not to

seek the election of a successor in his own lifetime, and declared that until his dying day he would repeat: 'the King with the Nation, the Nation with the King'.

As many strained their vocal chords in agreement, Suchorzewski led his young son into the middle of the chamber, crying he would rather kill his own child, than see him grow up in slavery. He was led back to his bench, but he and other protesters ensured a proper debate would be held. It lasted until about six o'clock. Several times it seemed that the pressure to acclaim the project was overwhelming, yet a group of objectors continued to make themselves heard. Many were the eloquent appeals to seize the fleeting opportunity, offered by Divine Providence, to save the very existence of the nation. However, at the heart of the rhetoric were fundamental arguments over republican liberty, limited monarchy and the vexed question of election or succession to the throne. These reveal much about continuity and change in the Commonwealth's values. The main sticking point was not the popular choice of the elector of Saxony as the next king, but the replacement of royal elections by hereditary succession to the throne.

Jan Korsak opined that the threat of partition would not extinguish all hope, but that hereditary succession would. Antoni Czetwertyński, castellan of Przemyśl, equated the abolition of royal elections with slavery. Jan Orłowski made the point that since a temporary reign in Poland already interested neighbouring powers, how much more would they desire 'absolute hereditary government?' However, Ignacy Zakrzewski declared that the election of kings was 'never a prerogative of liberty, but always fatal to it' – a feast at which

magnates gorged themselves for generation upon generation. He knew ‘no other liberty essential for a republican in a republican government, than that when he himself makes the law, and is subject to nothing but the law.’

While several supporters of the project sought to bolster its republican credentials, the extent to which ideas of limited monarchy and universal rights had moved to the mainstream of political discourse is evident from the speech of Stanisław Kostka Potocki, Ignacy’s younger brother. He took on ‘private interests’, ‘personal animosities’ and ‘ancient prejudices’, and even declared himself ashamed of his own palatinate for having instructed him to maintain royal elections. This former pillar of the aristocratic opposition to Stanisław August called for trust in ‘the king, whom I call the image of God’, who had shown how the nation might be saved from foreign violence and domestic disorder. He appealed directly to the monarch: ‘Save our entirety and liberty; not the unbridled liberty which holds government and laws in contempt, not the lawless liberty of aristocrats alone, above equality, but the liberty of each person, who is but counted as an inhabitant of the country of Poland.’

Stanisław August compared himself to the setting sun and his successor to the rising sun. He recalled a dire warning made by one of his predecessors to the *sejm* of 1661:

that infelicitous, but also prudent and valiant king, John Casimir, who from a conviction of the good of the country, with the intention of best securing the happiness, freedom and existence of Poland, put forward the establishment of the succession as

the only means of preventing the disasters brought by interregna, but not only was he not listened to, but persecuted and mortified, he abandoned the throne on which he could not successfully serve the Fatherland. His sad and fulfilled prophecies have become a lesson for us, which I hear in the demands of a great part of the nation, [and] the greater part of the Estates of the *Sejm*, to secure forever the tranquillity and happiness of the country.

The king's oration prompted Małachowski to appeal for unanimity through silence. He assured those who demanded the project enter deliberation of his respect, 'but on this day, which becomes a day of revolution in our government, for the salvation of the Fatherland, all formalities must be set aside. In extreme danger, it is necessary to reach for extreme medicine.' Yet the resistance continued.

Małachowski's Lithuanian colleague, Kazimierz Sapieha, probably expressed the feelings of many who had been taken by surprise. He professed himself unable to determine whether an elective or a successive throne was the more dangerous. He saw 'the form of government changed in its essentials, ancient laws overthrown'. However, 'there, where the fate of the Fatherland is at stake, my voice should yield to the voice of the nation'. So he asked for the project to be read out again. Amidst the din, Michał Zabiełło intervened decisively. He had been 'opposed to the unlimited power of kings, and would be still, were it not for the changes made in this respect, which should reassure the greatest concern to save liberty.' Anyone who wished the good of the Fatherland

should back the project, and he called on the king to lead everyone in swearing an oath to the constitution.

Stanisław August raised his hand to speak. As he wrote the following day, 'our side took it as a sign of my oath. They stormed towards the throne. And I, seeing that the thing could be done, did it.'²³ He climbed on a chair, visible above the throng. He placed his left hand on the gospel book held by the Bishop of Smolensk and, raising his right hand, repeated the words of the oath after the Bishop of Cracow. Suchorzewski again threw himself on the floor in histrionics, and was again carried back to his place. The king led the great majority of parliamentarians along the street to the nearby collegiate church of St John the Baptist. The wavering Sapieha was chaired by his colleagues, alongside his fellow-marshal Małachowski. The monarch, marshals, bishops, senators, envoys and public swore to uphold the new Constitution, before thousands outside joined in the singing of the *Te Deum laudamus*. The sacristy bell quietened the hubbub, allowing the king and parliamentarians to return to the senate chamber. Having remounted the throne, Stanisław August showed presence of mind. He asked the marshals to ensure that the oath was immediately taken by all government commissioners and officials, and especially by soldiers. He also asked them to 'sign the Constitution, which is to secure liberty and the independence of the government, and confirm our happiness, and that of future generations'. At that he adjourned the session to Thursday 5 May. Warsaw's celebrations were only beginning.

The next day, twenty-seven envoys and one senator were permitted to enter a formal protest, albeit couched in very

general terms, in the records of Warsaw's castle court (*sąd grodzki*). They had wanted to do so the previous evening, but found the chancellery closed. According to Stanisław August, Suchorzewski declared his intention to emigrate to America, but had second thoughts on discovering that the United States had a stronger executive power than did Poland. The king found much to admire in George Washington's powerful presidency.

The *Law on Government* was put on a firmer legal footing at the next parliamentary session. The chairman of the *sejm's* Constitutional Deputation was Bishop Józef Kossakowski, a talented writer with an enlightened concern for peasants, but also a long-standing client of the Russian Embassy. The previous autumn he had assailed hereditary succession to the throne. Perhaps if his ambitions had earlier been sated with a more lucrative bishopric than Livonia, he might have taken a different political path to the one that led him to the gallows. On 5 May 1791 he hedged his bets. He asked how members of the deputation, who had sworn not to sign any project which had not been concluded '*unanimite vel pluralitate*', could sign this 'constitution, or law, passed by the voice of the public, when it did not have the usual formalities due to a law'. Aleksander Linowski, an envoy elected in 1790, who had helped the king draft the *Law on Government*, provided an eloquent answer. Hailing the 'salutary revolution' which had brought a 'mere society' out of 'complete anarchy' and made it a 'nation', he prioritized the oath of 3 May over the Deputation's previous oath: 'the first law is the urgent need of the Fatherland, its salvation'. He flattered the bishop: 'This worthy senator was present in the church when we

swore our oath before God, and he raised his consecrated hand, because he felt that God had looked upon an unhappy nation.’ Kazimierz Sapieha then stated that he had followed the example of the king and ‘virtuous citizens’. At his suggestion a unanimous acclamation enabled the deputation to sign the law. Oaths were presented from the government commissions based in Warsaw. Several parliamentarians who had opposed the Constitution informed the Estates of their change of heart, and at the request of one of them, all senators and envoys present kissed the king’s hand as a sign of unity.²⁴ Henceforth supporters of the Constitution often referred to ‘the Revolution of 3 and 5 May’, in order to emphasize its legality.

The references made to the Constitutional Deputation indicate the traditional meaning of the word *konstytucya* – a law or statute passed by the *sejm*. This usage continued, but it was joined and soon eclipsed by the meaning of ‘constitution’ that is more familiar today: a solemn, legal framework, usually but not always in the form of a single written document, outlining a country’s form of government and the relationship between citizens and government, the whole being derived from the fundamental values shared by the community. Not coincidentally, an almanac published several months later compared ‘four constitutions: the English, which served others as a model, the American, which was formed from it, the Polish, which made use of both, and in the end the French, which has had these three models together before it.’²⁵ The *Law on Government* was thus a constitution in both the older and newer senses of the word.

6/ *The Law on Government*

With a brevity and fluency unknown to recent constitutions, the Constitution of 3 May 1791 set out the Commonwealth's values, structure and principal institutions (fig. 8). It either left the detail for subsequent legislation, or conferred its own exceptional status on previous laws. The text proceeds from an invocation and preamble, through one article on religion, three on the social order, four on the powers of government, two providing for the regency and education of royal children, and one on the armed forces, to a conclusory 'Declaration of the Assembled Estates'. This Declaration was read out and approved together with the rest of the text on 3 May; only later did it assume a separate and secondary status. The language of the *Law on Government* is simultaneously supple, didactic and solemn. Its combining of the styles of a law, a proclamation, a pamphlet and a sermon reflected the need to persuade the members of the political community in whose name the Constitution was established.²⁶

The rhetorical *tour de force* of the preamble rests on no less than eight consecutive arguments: first, that 'our common fate depends entirely upon the establishment and rendering



8. Title page of the first printed edition of the Constitution of 3 May 1791 (*Ustawa Rządowa*, Warsaw: M. Gröll, 1791). Polona, id 1196273

perfect a national Constitution'; second, experience of 'long-standing defects in our government' which needed to be corrected; third, the opportunity to benefit from a passing international conjuncture; fourth, pride in the recovery of national sovereignty; fifth, the patriotic virtue of sacrificing all for 'the political existence, external independence and internal liberty of the nation'; sixth, responsibility for the nation 'whose care is entrusted to us'; seventh, the ambition to earn the gratitude of contemporaries and posterity; and eighth (to some extent repeating the fifth), the spirit of 'zeal and firmness' with which 'passions' are overcome 'for the sake of the public good, for securing our liberty, and saving our Fatherland and its frontiers'.

The Constitution so established was declared 'sacred and inviolable in every part, till such period as shall be prescribed by law, when the nation, if it should think fit, and deem it necessary, may alter by its express will such articles therein as shall be found inadequate.' Those disturbed by the Constitution's novelties or dissatisfied by its shortcomings were thus reassured that significant changes would be possible at some point in the future. It was only the sixth article which clarified that an extraordinary constituent *sejm* would be held every quarter-century. Having done its persuasive work, the preamble concludes: 'And this Constitution shall be the standard of all subsequent laws of the present *sejm*.' The closing Declaration added that the *Law on Government* abolished all previous laws, including those passed since 1788, which might be in conflict with it. This would enable inconvenient decisions to be reversed in the Commonwealth's present emergency.

Article I condensed three Cardinal Laws passed in September 1790, commencing: ‘The dominant national religion is and shall be the holy Roman Catholic faith with all its rights.’ It was only at a late stage that the prohibition on conversion to another confession, albeit without specifying the penalty for ‘apostasy’, was inserted into text, probably to reassure traditionalists. However, there was a significant extension to religious toleration:

Given, however, that the same holy faith commands us to love our neighbours, therefore we owe peace in faith, and the protection of the government to all people, of whatever confession, and so we guarantee the freedom of all rites and religions in the Polish territories, according to the laws of the country.

No longer was the promise of peace confined to those confessions which had hitherto enjoyed it (the caveat ‘according to the laws’ bowing to the priority of the Constitution itself). Crucially, religious freedom was assured to all people. This ended the possibility of lords applying the principle *cuius domini, eius religio* to their peasants, and was thus a major advance on the 1573 Confederacy of Warsaw. In sum the Constitution of 3 May was both more enlightened regarding religion than the policies of Joseph II, which restricted toleration to specified confessions, and less so, because in the Habsburg Monarchy conversion from Catholicism to those other confessions was possible under certain conditions.

At first glance the second article’s contents look more suited to medieval parchments weighted with waxen seals.

It confirmed all privileges and liberties of the entire noble estate granted by former monarchs, as well as the hallowed equality among all its members, including their eligibility for office and reward. However, the article's ambiguously formulated title, 'Nobles [and?] Landowners' (*Szlachta ziemianie*) implicitly questioned the status of landless nobles. Explicitly guaranteed to 'every individual' were 'personal liberty and security of territorial and moveable property' from 'the least encroachment on either by the supreme national power', as 'we regard the preservation of personal security and property, as by law ascertained, to be a tie of society, and the very essence of civil liberty, which ought to be considered and respected for ever'. This emphasis reflected the changing understanding and language of liberty in the later eighteenth century. It also shone a more universal light on the concluding entrustment to the noble estate of the defence of 'our liberties and the present constitution'. This should be read in conjunction with the third article which declared the recent law on free royal towns an integral part of the Constitution, 'as a law giving new, true and effectual strength to the free Polish nobility, the security of its liberties and the entirety of the shared Fatherland'. The nobles, in other words, would have allies in the shared cause of freedom.

At a late stage in the drafting process, the fourth article on 'Peasants [and] Serfs' was retitled 'Peasants [and] Villagers'. Kołłątaj, who was responsible for this correction, also took out many of the specific provisions Stanisław August had wished to include, and kept the terms as general as possible. The Constitution of 3 May has been persistently

criticized for having offered the peasants little more than words. Yet what words they were:

The agricultural populace, from whose hands flows the most plentiful source of the country's riches, which is the most numerous in the nation, consequently forming the most considerable part of its force, from the motives of justice, humanity and Christian duties, as well as our own interest well understood, we receive under the protection of the country's law and government (...).

Not only had the burghers joined the nobles in the nation, so had the peasants – as its largest and most useful part. In this context, the specific content had greater momentum. True, the article stopped short of requiring contracts between lord and peasant, stipulating only that existing ones must be upheld. However, their number would rapidly multiply, because anyone immigrating or even returning to the Commonwealth,

as soon as he sets his foot on Polish land, becomes free and entirely at liberty to exercise his industry, wherever and in whatever manner he pleases, to make contracts to settle, for labour or rent, and until he makes such a contract, is free to settle either in towns or villages, is free to live in Poland, or to return to the country of his choice, after having fulfilled the obligations he may have voluntarily entered into.

Given that the eighth article, on the judicial power, provided for the adjudication of appeals from such free peasants by courts presided over by the chancellors or vice-chancellors of the Crown and Grand Duchy of Lithuania, it is hard to see how serfdom could have been maintained for more than a generation. Especially in border regions.

The heart of the *Law on Government* is its concise fifth article, 'Form of Government, or the Definition of Public Powers', which introduced articles VI, VII and VIII. It blended an old republican assumption expressed in the vigorous language of Rousseau with Montesquieu's tri-partition of powers:

All power in civil society should be derived from the will of the nation, its end and object being the integrity of the territories, the civil liberty, and the good order of society, on an equal scale, and on a lasting foundation. Three distinct powers shall compose the government of the Polish nation according to the present Constitution, viz. 1st. *Legislative* power in the Estates assembled; 2nd. *Executive* power in the king and the Custodial Council; 3rd. *Judicial* power in the jurisdictions existing, or to be established.

The threefold purpose of power, loosely corresponding to the three types of power, echoed the message that had twice been expressed in the preamble.

Of these three powers, the legislative was the highest. The legislature could interfere in the work of the executive,

but not *vice versa*. The title of the seventh article – ‘The *Sejm* or the Legislative Power’ – indicated that the legislative power was not equated with the *sejmiki*. Although the recent law on *sejmiki* was declared ‘a most essential foundation of civil liberty’, the Constitution took precedence. Crucially,

Because the legislative power cannot be exercised by all, and the nation acts in this regard through its representatives, or freely elected envoys, we enact that envoys elected at *sejmiki* shall in the legislature and the general needs of the nation be considered as *representatives of the entire nation*, in them reposing our trust.

The promise of the preamble – ‘the confederated Estates (...) representing the Polish nation’ – was thus fulfilled. Without explicitly saying so, *sejmik* instructions lost their imperative force. Besides the example of the British Parliament, so important to Stanisław August, the principle of representation, as opposed to delegation, also reflected the practice of the confederated *sejm*, whose members had become accustomed to the idea that the nation was represented in themselves.

The monarch paid for this signal victory. The elevation of the chamber of envoys as the ‘temple of legislation’ and the ‘representation and composition of the supreme national authority’ entailed a reduction in the powers of the senate to a mere suspensive veto. Moreover, senators who were currently ministers in the newly created Custodial Council of the Laws (the *Straż Praw*) or commissioners could not

vote, and could only appear in the *sejm* in order to answer questions. The king had a single vote, plus the casting vote, in the senate. The three Estates of the *sejm* had effectively become one and a half – even though the text repeatedly referred to ‘the assembled Estates’.

One change was long overdue:

The majority of votes shall decide everything and everywhere; therefore we abolish and utterly annihilate the *liberum veto*, all sorts of confederacies and confederated *sejmy*, as contrary to the spirit of the present Constitution, as undermining the government, and as being ruinous to society.

We should note, however, the continued need to explain and persuade, as well as the doubly emphatic repeal of the *liberum veto*, which for so long had been called the *pupilla libertatis* (the apple of liberty’s eye). The *sejm* would ordinarily meet every two years, but could be reconvened when needed.

At the last minute the title of the seventh article was subtly but significantly differentiated from that of the sixth, so that it read ‘The king. Executive power’. Just in case anyone failed to see the point, the text admonished them:

The most perfect government cannot exist or last without an effectual executive power. The happiness of nations depends on just laws, but the good effects of laws flow only from their execution. Experience has taught us that the neglecting of this part

of government has overwhelmed Poland with disasters.

Nevertheless, only after 'having secured to the free Polish nation the right of enacting laws, the power of inspection over all executive power and the choice of officials' was the highest executive power consigned to the king in the Custodial Council of the Laws. These Custodians would be owed not only reports, but obedience by all central and local governmental bodies, and it could call on armed assistance if necessary (a point reinforced in the eleventh article). On the other hand, the Council was strictly forbidden to enact or interpret laws, impose taxes or duties, contract public debts, reallocate public expenditure determined by the *sejm*, start a war or make a definitive peace; its diplomatic negotiations would be subject to parliamentary approval.

The Polish throne would henceforth be 'elective in regard to families' – an obvious euphemism, not least because the text powerfully justified hereditary succession:

Having experienced the fatal effects of interregna, periodically subverting government, and being desirous of assuring the tranquillity of each inhabitant of Polish territory and preventing for ever all influence of foreign powers, remembering the glory and happiness of our Fatherland under families which reigned continuously, and conscious of the need to avert foreigners' ambitions for the throne and to return powerful Poles to the united cultivation of national liberty, we have, from these prudent

motives, resolved to grant the Polish throne with the right of succession.

The 'dynasty of future kings of Poland' would commence with Frederick Augustus, the present elector of Saxony. His eldest son would succeed him – if he had one. Otherwise, male primogeniture would follow the line of his daughter Maria Augusta, who was named the *infantka polska*. However, the elector's choice of her husband would require the assent of the assembled Estates. None of these provisions had been agreed with the elector; nevertheless, it was expected that he and his successors would swear 'to God and the nation to support the present Constitution', and that this would be settled through his *pacta conventa* (which would also regulate his royal income). Effecting this *fait accompli* with regard to foreign powers was a risky strategy. However, had prior negotiations with Dresden and Berlin failed, the secret could not have been kept: the credibility of the Constitution's authors would have been destroyed.

The hereditary monarch would be 'the father and head of the nation', his person inviolable, in whose name all public acts and judgements would be carried out, and all coins struck. He could not be held responsible for his actions, but the corollary was that he could do nothing by himself, except perhaps in wartime, when he would command the armed forces. He also held the prerogatives of commissioning army officers, and nominating bishops, senators and other officials.

Crucially, the king was placed at the head of the executive power. His decisions would prevail in the Custodial Council (after all opinions had been heard), but would require

the countersignature of at least one minister. Kołłątaj introduced this late change, replacing voting. He probably feared some of the likely members of the Council more than he did Stanisław August. The king would choose five ministers – of police, of war, of the treasury, and two ‘of the seal’ (one of them for foreign affairs) – for two-year terms. The primate, ‘as head of the Polish clergy and as chairman of the Educational Commission’, would sit in the Council *ex officio*, or else be replaced by the next bishop in the hierarchy, but could not countersign resolutions. The heir to the throne, having taken an oath to the Constitution, could be present and learn statecraft. Finally, the marshal of the *sejm* would sit in the Council without contributing to its resolutions, as a republican sentinel. If he judged it necessary to reconvene parliament in an emergency (such as war, revolution, famine, or the death or incapacity of the king) and the monarch was unwilling or unable to do so, he would issue the summons. He could also do so if the king was unable to secure a ministerial countersignature and refused to give way. The Council would be served by two secretaries, appointed by the king, one of whom would be for foreign affairs.

Ministers sitting in the Custodial Council could not sit in the central Police, Military and Treasury Commissions, thereby weakening the ministerial principle in administration. Collegiality was preferred. However, the primate chaired the Commission of National Education, while foreign affairs were under the direct control of the relevant minister, king and the Council. Ministers, whether they sat in the Council or the commissions, would be responsible ‘to the nation’ both politically and legally. The *sejm* could, by

a two-thirds majority, compel the king to dismiss and immediately replace a minister who had lost its confidence. It also could decide by simple majority of the combined chambers to try a minister accused of a crime before the *sejm* court.

Article VIII, 'Judicial Power' was much briefer than its two predecessors. The authors emphasized that 'judicial power is incompatible with the legislative, nor can it be administered by the king', but in practice the separation of powers would remain incomplete. At the apex of the system was the *sejm* court, to judge crimes against the nation and the king. Lower down, central government commissions kept their administrative courts and jurisdictions. There would be no equivalent to the old Justice Department of the Permanent Council, but one of the 'ministers of the seal' in the Custodial Council did have an unspoken responsibility for judicial matters (the contemporary English translation unhesitatingly specified a 'Minister of Justice'). The vice-chancellors would head the final appeal courts for burghers and free peasants. For both the noble and burgher estates, the key principle of the court system was to be elective judges, thereby directly deriving the judicial power from 'the nation'. Those serving in landowners' courts of the first instance and the Tribunals would be elected at *sejmiki*; those in urban courts would be chosen by the relevant electoral assemblies. Finally, the *sejm* would appoint persons to compile a new civil and criminal code.

Article IX provided for the Custodial Council to hold the regency during the minority, incapacity or wartime captivity of the king. It would be chaired by the queen, or in her absence, the primate. Perhaps with the 1788–89 British

Regency Crisis in mind, clear procedures were set out. In case of the king losing his faculties the primate should reconvene the *sejm* (or else its marshal would do so). Parliament would have to confirm the verdict by a majority of three quarters and then legally establish the Regency. The Regents would be obliged to account for their decisions at the end of the Regency, and also at each ordinary *sejm*.

The tenth article, on the 'Education of Royal Children', also provided for significant oversight by the nation constituted in the *sejm* ('without encroaching, however, on the right of their parents'). The king and the Custodial Council would appoint the children's governor, who would realize a programme devised by the Educational Committee. The aim was to inculcate 'religion, love of virtue, of country, of liberty and of the Constitution'.

Article XI, on the 'National Armed Force', first emphasized that 'the nation is bound to preserve its possessions against invasion; therefore all citizens are defenders of their country and its liberties'. The nation owed its army – 'an extract of the general force of national strength' – respect and reward. It then explained that the aims of guarding the frontiers and maintaining public tranquillity required the army's obedience to the executive power. Moreover, the army could if necessary be used to enforce the law. This provision gave the executive real teeth.

The purpose of the 'Declaration of the Assembled Estates' was to mobilize the political community in sworn defence of the Constitution. In words described by the monarch as 'fearsome to those who would oppose the Revolution',²⁷ those who fomented opposition to the Constitution, especially by

forming confederacies, were to be tried by the *sejm* court as enemies, traitors and rebels. The *sejm* court and army were placed in readiness, and the executive power was instructed to begin carrying out its duties immediately. More positively, services of thanksgiving were to be held in all churches on the nearest Sunday (8 May, the feast of St Stanisław), and a votive Church was pledged to 'the Highest Providence'.

Evaluations of the *Law on Government* cannot be separated from the subsequent legislation that filled it out, its fourteen and a half months in operation, and the hopes and fears it aroused. First, however, it is worth analysing some aspects of the Constitution's language, which has been amply quoted above. It sounded archaic in places, but in crucial respects it was forward-looking.

Some of the Constitution's first critics claimed they could not find the word *Rzeczpospolita* (Commonwealth) in the text. In fact it appears twice, once in the title of the incorporated law on free royal towns, and once in the article concerning peasants. In both cases the phrase is '*w państwach Rzeczypospolitej*' which means in the territories or dominions of the Commonwealth (the word *państwo* now means 'state' in the modern sense). In other places where 'the Commonwealth' might ordinarily have been used, we find *naród* – the nation – thirty-one times, *Ojczyzna* – the Fatherland – twelve times, *kraj* – the country – six times, and *Polska* – Poland – six times. In four cases 'nations' appear in the plural, and in just one of these (in the Declaration) do we find 'the two nations'. The adjectives *narodowy* – national – and *polski* – Polish – figure eleven and fourteen times respectively. Only the Declaration contains

‘in the territories of the Polish Crown and the Grand Duchy of Lithuania’. The title of Grand Duke of Lithuania appears twice: once at the very start and once in a confirmation of privileges granted to nobles by Vytautas (Witold). This choice of language, significantly different to the phrasing of prior and subsequent laws, would facilitate the future evolution of the political community. The Polish-Lithuanian noble estate, associated by long usage with the term *Rzeczpospolita*, could thus expand into a common Polish nation composed of all inhabitants and defenders of a shared Polish Fatherland and country. Perhaps at some point in future, ‘the Commonwealth’ might have resumed its function as the preferred term for the political community. This would by then have expanded far beyond the *szlachta*, like the similarly freighted word for the citizenry – *obywatelstwo*.

Besides the nation, the Constitution’s other leitmotifs were independence, government and above all, liberty. The word *niepodległość* – independence – appears just once, in the preamble, but the defence of the nation/Fatherland/country and its borders is emphasized a further nine times. Moreover, the preamble, the Declaration and the justification of hereditary succession in the seventh article all contain clauses directed against foreign powers’ interference. The preservation of the country’s independence, sovereignty and frontiers required the strengthening or even restoration of *rząd* – government. This word is used no less than seventeen times, although one of the two mentions in the second article qualifies it as a ‘free government’ and the other guarantees noble property against the incursions of government.

Wolność – liberty or freedom – figures twelve times in the text (only once in the old-fashioned plural). The adjective *wolny* – free – appears thirteen times. Adjectival and adverbial variants of *dobrowolny* – voluntary – are used four times. Several uses denote the rights of free peasants. Freedom (in the singular) is left unqualified four times, but is thrice qualified by *obywatelska* – civic or civil – and once each by ‘internal’, ‘personal’, ‘complete’, ‘national’ and ‘true’. The very frequency with which many-splendoured liberty was invoked in the *Law on Government* was doubtless intended to reassure those who might have been anxious about the way in which freedom was henceforth to be understood. The Declaration ordained

thanksgiving to God for the gift of a favourable moment to extract Poland from foreign violence and domestic disorder, for the restoration of government, which can most effectively secure our true liberty and the entirety of Poland, for the placing in this way of our Fatherland on a level able to gain true consideration in the eyes of Europe.

The contrast between ‘foreign violence and domestic disorder’ on the one hand, and ‘government’ securing ‘true liberty’ on the other, was at the heart of the case made for the Constitution at home and abroad.

7/ *Absolute Monarchy or Orderly Liberty?*

'The King of Poland had just told them how the neighbours were about to partition Poland again, and immediately everyone agreed to confer arbitrary power on him', huffed Catherine II after hearing the news from Warsaw. Somehow the empress managed to reconcile that judgement with her determination to deal with 'Jacobins' in Poland before she did so in France.²⁸ She was not the only one apparently unaware of the incongruity. Among the outcomes of the Russian invasion of the Commonwealth in May 1792 was a humiliating revocation by Stanisław August of his part in the 'revolutionary Warsaw *sejm*'. He made this extraordinary confession 'before the republican nation': 'The desire for novelty, and new maxims, dangerous for the tranquillity of nations, daring to crush almost completely the timeless laws of the Commonwealth, sought to transubstantiate Poland into a monarchical-democratic government.'²⁹

This mendacious text was dictated to the king by the marshal of the Confederacy of Targowica, Szcześny Potocki. It perfectly corresponded to the propaganda of the counter-revolutionary regime installed by Russia. Before and after

they gained power, the confederate leaders continually condemned the Constitution of 3 May: on the one hand for having destroyed the republican Commonwealth and replaced it with a monarchy; on the other as a French-style revolutionary and philosophical plot, seeking ‘the overthrow of altar and government’ as well as ‘the destruction of the noble estate’.³⁰

In fact many Polish-Lithuanian nobles had shown considerable sympathy with the initial stages of the French Revolution, seeing it primarily as the French nation’s long-overdue curbing of its absolute monarchy. *Absolutyzm*, like *despotyzm*, was already in the Polish political lexicon. The frontispiece of the official sejm diary recording the sessions held at the turn of 1790 and 1791 even featured an image which would have been easily recognizable on the banks of the River Seine: a personification of victorious liberty carrying a pike with a Phrygian-style ‘liberty cap’ (fig. 9). Previous sejm diaries had displayed the combined arms of Poland, Lithuania and the reigning monarch. Nevertheless, the differences, especially in social context and content, between the French and Polish Revolutions were vast. Their trajectories diverged sharply from the summer of 1791 onwards.

Without doubt, a revolution had taken place in Polish-Lithuanian political culture. The boundaries of acceptable political discourse had shifted during the Four Years’ Sejm, leaving both sides complaining that the other was distorting the meaning of words such as ‘freedom’ and ‘slavery’, ‘government’ and ‘anarchy’. Even some of the confederates’ stock phrases sound rather like the language used by defenders of the Constitution. A model act of confederation at palatinate

**DYARYUSZ
SEYMU ORDYNARYJNEGO**
 POD ZWIĄZKIEM KONFEDERACYI GENERALNEJ
OBOYGA NARODOW
 W PODWOJNYM POSŁOW SKŁADZIE
 ZGROMADZONEGO
 W WARSZAWIE

Od Dnia 16. Grudnia, Roku 1791.

TOM I. CZĘŚĆ I.



W WARSZAWIE,

W Drukarni Uprzywilejowanej Michała Grölla,
Księgarza Nadwornego Jego Królewskiej Mości.

9. Victorious liberty: the frontispiece of the 1791 diary of the sejm (*Dyaryusz seymu ordynaryjnego...*, Warsaw: M. Gröll, 1791). Polona, id 127886361

level includes this justification: ‘for the defence of the entire territory, liberty and independence of the Commonwealth, for the crushing of the new monarchy established by the law of slavery on the third of May, for the restoration of the free and well-governed (*rządna*) Commonwealth.’³¹

The adjective *rządna* can also be translated as ‘orderly’. This fits best when qualifying liberty, for example in a polemic by Aleksander Linowski:

As many times as national independence has been lost, or when it has been desired to preserve anarchy, which is so convenient to personal ambitions, so the expressions of liberty, liberty and liberty have been heard most loudly in the air. This experience teaches us to know what to understand by liberty, and what kind of liberty to love – orderly liberty.³²

Similar messages echoed through pamphlets, speeches, sermons and verses, many of them composed for celebrations held during the extraordinary year that followed 3 May 1791. The case for ‘government’ was made strongly in the text of the *Law on Government*. The punchline of the proclamation issued on 7 May 1791 was: ‘Not government, but anarchy leads to slavery and the loss of the country.’³³

Such arguments were echoed in numerous votes of thanks from the local Civil-Military Commissions of Good Order (*Komisje Porządkowe Cywilno-Wojskowe*). These had been established at the end of 1789, and proved one of the Great *Sejm*’s most successful and popular reforms. According to the commissioners in Gniezno:

Such a great work, desired for ages in the heart of enlightened and zealous citizens, a work which raises our Fatherland from the precipice of anarchy and slavery to the glory of a free and well-governed nation, secures laws and liberties, breaks the shackles of slavery, puts a strong brake on violence, and in all things places the entire nation in uninterrupted happiness and lasting prosperity, cannot but be the work of Providence.³⁴

And so it continued throughout the *annus mirabilis*, as toasts were drunk, paeans were sung, cannons were fired and incense was burnt in thanksgiving to Divine Providence. The celebrations culminated in the ceremonies held on 3 May 1792.

Much of the intoxicating propaganda of success concerned the boost to national pride. Expressions of appreciation from abroad were reported in the press, none more raptly than those of Edmund Burke. He devoted an extended passage to the Polish Revolution in his *Appeal from the New to the Old Whigs*. First published in August 1791, this polemic maintained the consistency of his political views regarding the revolution in America, which he had largely supported, and that in France, which he had abhorred. Poland served him as a contrast to France. 'We have seen anarchy and servitude at once removed; a throne strengthened for the protection of the people, without trenching on their liberties; all foreign cabal banished, by changing the crown from elective to hereditary,' he purred. He also applauded the gradual and gentle manner of implementing salutary

changes: 'Every thing was kept in its place and order; but in that place and order every thing was bettered.' Best of all, Poland had entered 'a regular progress, because founded on similar principles, towards the stable excellence of a British constitution'.³⁵ It was all music to the ears of Stanisław August, himself fulsomely lauded, not least because it helped distance the Polish Revolution from 'Jacobinism'. The king sent Burke a medal, and a Polish translation of the passage was published in the pro-Constitutional newspaper, the *National and Foreign Gazette* (*Gazeta Narodowa i Obca*).

Burke's reputation as a stout defender of freedom also served the Commonwealth's finest preacher, Reverend Michał Karpowicz: 'That zealous English republican, Mr Burke, could hardly find the words, in marvelling at this law before all Europe.'³⁶ In a barnstorming sermon, Karpowicz deployed the full repertoire of Providential favour and orderly liberty against the preening magnates who had resorted to violence and anarchy to keep middling nobles poor, ignorant and dependent. He sought to persuade the *szlachta* of the Lithuanian district of Preny (Prienai) to swear to defend the Constitution of 3 May, and succeeded. A press report praised this newly established *sejmik* in the Grand Duchy of Lithuania for its exemplary decorum and patriotic spirit.

Preny was one of seventy-eight *sejmiki* held in February 1792. Their formal purpose was to elect judges to the Crown and Lithuanian Tribunals, but their real significance was in their response to the Constitution of 3 May. The leadership of the Polish Revolution hoped that a decisive show of support from the *szlachta* would discourage 'malcontents' from

seeking Russian intervention. Direct persuasion of local worthies was more important than patronage, although promises of royal favour played their part. The king's ideal outcome was an oath – as at Preny. Next best would be a solemn pledge to uphold the Constitution, and after that a vote of thanks. If the *sejmik*'s mood proved hostile, he asked his supporters to ensure that its resolutions did not explicitly criticize the Constitution. In the event, no *sejmik* opposed the Constitution, and only eight remained silent. Almost three quarters of the *sejmiki* either swore or pledged their support. Even where *sejmiki* confined themselves to voting thanks, their resolutions were often couched in the discourse of orderly liberty. In the Grand Duchy of Lithuania, an oath was taken at no less than twenty-seven out of thirty-three *sejmiki*. Admittedly, the records of some *sejmiki* can be analysed to suggest that much of the *szlachta* in the Polish Crown remained suspicious of novelties in government and society. However, the crucial point was that contemporaries, whether hostile or well-disposed, reported a triumph for the pro-Constitutional camp. A critical mass of the *szlachta* thus endorsed the Polish Revolution.

By this time the Constitution of 3 May had been in operation for nine months. Most of the supplementary legislation had been enacted, many of the reformed institutions were functioning, and a new kind of politics was bedding down. The *sejm* passed laws on the institutions of the legislative, executive and judicial powers. It began with future ordinary and extraordinary *sejmy*, the quarter-centennial constituent *sejm* and the *sejm* court, before moving on to the Custodial Council and the Police and Treasury

Commissions. At the turn of 1791–92, it reformed the courts: for the towns, for landowners, for boundary disputes and last but not least, the Crown and Lithuanian Tribunals. The two existing central commissions – for the military and education – waited their turn.

The language of these laws was more traditional than that of the *Law on Government*. Expressions such as ‘the Estates’, ‘the Commonwealth’, ‘the Two Nations’, ‘the Polish Crown’ and ‘the Grand Duchy of Lithuania’ resumed their former places. So, in some respects at least, was their content. Given the political imperative of mobilizing support and neutralizing opposition among conservatively inclined nobles, the Constitution justified stronger executive power, backed by armed force, by an appeal to the present emergency and fleeting opportunity. However, the relationship between the legislative, executive and judicial powers defined in detail by the subsequent legislation was significantly more republican than that sketched by the *Law on Government*.

In some respects these solutions harked back to the *Project for the Form of Government* which had brought Ignacy Potocki so much grief in 1790. For example, qualified majority voting was reintroduced for some categories of legislation, rising to three quarters for new taxes. The subordination of the government commissions to the Custodial Council was weakened by enabling the former to appeal against the latter directly to the *sejm*. For its part, the *sejm* could directly intervene in the work of the Council and commissions, whose authority was hedged about with general and particular prohibitions. The royal prerogative was pruned as well. The king lost most of the limited powers of clemency

left to him by the Constitution. His choice of ministers in the Council was limited to the respective marshals, chancellors, *hetmani* and treasurers, and there was no provision for him to dismiss them, except through the *sejm*. Although Stanisław August retained his right to nominate senators, his successors would choose between two candidates presented by the relevant *sejmik*. Had the elector of Saxony been minded to accept the throne, he might have pursued this point when negotiating his *pacta conventa*.

The politics of reassurance had a particular resonance in the Grand Duchy of Lithuania. Stanisław August and Hugo Kołłątaj, despite their partly Lithuanian roots, aimed to shape a single Polish nation, reflected in unitary structures and hierarchies. The *Law on Government* left open that possibility. However, the new Police Commission established in June 1791 was named 'of the Two Nations'. This easily gained parliamentary approval: more Lithuanian envoys voted for a joint commission than for two separate ones. Four months later, the question arose of replacing the separate Crown and Lithuanian Treasury Commissions, established in 1764, with a joint body. This was not expected to be problematic, especially after a proportionately allocated tax burden was accepted. However, the Lithuanian parliamentarians then demanded a separate commission, and denied the right of the Crown to outvote them. As one of them put it, 'in the circumstances of the union, Lithuania cannot be considered as a province with regard to a single body, but as one nation with regard to another'.³⁷ Agreement was reached on 20 October 1791. The common Treasury and Military Commissions were to contain equal numbers

of Crown and Lithuanian commissioners and the chairmanships would alternate. Moreover, Lithuania would retain its separate coffers and treasury court, both located in the Grand Duchy. Stanisław August was content to accept these conditions, because they offered a further opportunity for the *sejm* unanimously to reaffirm the Constitution, in which the new law, the *Mutual Assurance of the Two Nations*, was solemnly enshrined.

Post-Constitutional politics were distinguished by their swift tempo and relative harmony. Enlightened royalists and enlightened republicans, joined in ‘the patriotic party’, carried along those of less certain convictions. Virtually all the decided opponents of the Polish Revolution left Warsaw, although a few, notably Bishop Kossakowski, bided their time. The ‘patriots’ organization was facilitated by the Association of the Friends of the Constitution *Fiat Lux*, which had coalesced from looser groupings after 3 May 1791. At least until the end of that year, ‘the Club’ functioned as a political caucus, its parliamentary members having pledged themselves to support the position first decided among them. About a third of its two hundred or so members were neither senators, envoys, nor urban plenipotentiaries. They included soldiers, clergymen and burghers, enabling its critics to claim, at the time and later, that it was a ‘*sejm*’ above the *sejm*. Although meetings were chaired by all members in rotation, Kołłątaj, Ignacy Potocki and Adam Kazimierz Czartoryski (now reconciled with his royal cousin) exercised an informal leadership, in close touch with the king and the marshal of the *sejm*, who were not members. The monarch’s political cooperation with Potocki, Małachowski and

KoŃtątaj, whom he made Crown vice-chancellor in the teeth of episcopal opposition, defused the inter-institutional tensions implicit in the constitutional legislation.

Far from ruling as an absolute monarch, Stanisław August effectively became his own prime minister. His 'broad-bottomed' ministry (to use a contemporary English idiom) was seated on a comfortable parliamentary majority and the supportive *National and Foreign Gazette*. The king missed none of the eighty-eight meetings of the Custodial Council held between 19 June 1791 and 18 July 1792. The other most active members were Ignacy Potocki, who chose to be Minister of Police, the royalist Joachim Chreptowicz, who therefore became Minister of the Seal for Foreign Affairs, and Tomasz Ostrowski, the zealous Minister of the Treasury. Reasonably conscientious in discharging his duties was the other Minister of the Seal (for justice), Jacek Małachowski, the brother of Stanisław and Crown grand chancellor. A long-standing Russophile by conviction, and a confirmed Sarmatian in his *mœurs*, he resigned his office after 3 May 1791, but the king persuaded him to return. A still greater concern for political breadth is apparent in the choice of Ksawery Branicki as Minister of War. The reasoning was that it would be easier to keep an eye on him in Warsaw, but after Potemkin's death on 16 October 1791 he twice sought and was twice granted extended leave in order to sort out his wife's inheritance. On the second occasion he remained in St Petersburg until the Russian armies invaded the Commonwealth. The Council was also attended by Stanisław Małachowski and Kazimierz Sapieha, who facilitated cooperation with the *sejm*. The final Custodian of the Laws was the primate.

Michał Poniąkowski had departed Poland in September 1789, broken in health and spirits after the debacle of his plans for the bishopric of Cracow. He had recuperated in Italy, France and England, whence he was recalled by the king. The primate had been shocked by what he had seen in Paris, but impressed by Protestant England's welcome to exiled French Catholic bishops. He had met Burke, agreed with his *Reflections on the Revolution in France*, and had become as great an admirer of the liberty and property assured to Britons by their laws and well-balanced form of government as his brother Stanisław August. After the news of the Third of May, he had taken pride in the respect accorded to Poland and Poles. Moreover, he had begun to mend his fences with former foes, notably his cousin Princess Izabela Czartoryska who was touring Great Britain.

Having returned home, on 15 September 1791 the primate declared to the *sejm* his admiration of the Constitution and his willingness to contribute to the continuing reform of the country. He took the reins of the Commission of National Education firmly in hand. However, Poniąkowski found it increasingly hard to conceal his irritation at the influence on the monarch exercised by Kołłątaj and other radicals – notably the Tuscan democrats Scipione Piatoli and Filippo Mazzei (a veteran of the War of American Independence who had been Stanisław August's agent in revolutionary Paris). The tensions erupted when in three speeches to the *sejm* the primate condemned the plans to sell off the Crown estates attached to *starostwa*. He warned against a Jacobinical lack of respect for property and economic disruption. His next battle, just as unsuccessful, was

against unrestrained liberty of the press. Ignacy Potocki did not explicitly refuse the episcopal demand for ecclesiastical censorship in matters touching on religion and morality, but he deflected it by citing the legal obligation of both the Custodial Council and the Police Commission to maintain press freedom. Despite his foreboding, however, Poniatowski remained loyal to his royal brother, and continued to support the Constitution into the summer of 1792.

The primate's former protégé, Kołłątaj, was steadily advancing his vision of a nation of personally free inhabitants and propertied active citizens. The urban reforms took on a momentum of their own, especially after the municipal elections of September 1791 widened the political process. Nonetheless, *starostowie* mounted a rearguard action against burghers' 'insolence', especially in the Grand Duchy of Lithuania where many towns had recently gained or regained urban status. Less changed for the peasants. In some places troops painfully disillusioned serfs who had hoped that labour services had been abolished. However, parts of the project for the *starostwa* would set the standard more generally for a countryside filled with viable tenant farms, held from landowners by personally free peasants on firm legal contracts. This was the vanguard of Kołłątaj's envisaged 'economic constitution' dealing with labour, land and investment. It was to follow the 'political constitution' begun on 3 May 1791, and precede a 'moral constitution'.

The latter remained a misty vision, supposedly based on the teaching of Jesus Christ. It may well have been associated with the work of legal codification and the plans for the Commission of National Education. The commission's

responsibilities would have been extended into seminaries and confessional schools, including Judaic *yeshivot* and Islamic *madaris*, with the aim of inculcating a uniform set of civic values. To encourage this shared patriotism, Kołłątaj wished the Polish language to be adopted by the Commonwealth's religious communities for all but liturgical use. For their part, Civil-Military Commissions began with increasing frequency to fine Catholic parish priests for not maintaining elementary schools. Moreover, the Police Commission advanced an expansive agenda that included mergers and supervision of hospitals and hospices, almost all of them ecclesiastical foundations, and moving cemeteries outside town boundaries. While most bishops cooperated, most religious orders and many parish priests did not. The Police Commissioners also found themselves adjudicating disputes between Christians and Jews. Among their decisions was that Jewish inhabitants of free royal towns also enjoyed the privilege of *neminem captivabimus nisi iure victum*.

This creeping expansion of Caesar's moral realm vexed the papal nuncio, despite the king's reassurances. The Holy Apostolic See lost a major battle on 21 May 1792, when the *sejm* voted overwhelmingly to approve an autonomous episcopal hierarchy, independent of St Petersburg, for the Commonwealth's Orthodox communities. The debate revealed that the restrictive concept of toleration expounded by the more zealous bishops, suffering 'schismatics', 'heretics' and 'infidels' to worship in peace, but not to enjoy privileges reserved for the dominant religion or disseminate their 'errors', no longer commanded parliamentary assent. It had yielded to

the enlightened conviction that people of all faiths would be bound to their common Fatherland by a shared freedom.

The catalyst for the *sejm*'s belated approval of the Orthodox hierarchy, negotiated almost a year earlier, was the Russian invasion of the Commonwealth. Ever since the *sejm* had cast off the Russian 'guarantee' in the autumn of 1788, Catherine II had planned to re-subjugate Poland by whatever means necessary, when the circumstances were right. The signing on 9 January 1792 of the Peace of Jassy (Iași) with the Ottoman Empire allowed her battle-hardened soldiers to recuperate and redeploy. As in 1764, she preferred to intervene on the side of one party in a conflicted Commonwealth, rather than formally to declare war on her neighbour. Hence her concern that Szcześny Potocki and other 'malcontents' lodge numerous protests against the Polish Revolution. She could never have tolerated the Constitution of 3 May for long, even had the Polish-Lithuanian leadership immediately offered the succession to the throne to her second grandson, Constantine, rather than saving her embarrassment by waiting until hostilities had begun. It was axiomatic for the empress that Poland must remain weak, whereas the Constitution greatly increased Polish prestige and promised to restore the country's strength. Moreover, her experience of the Commonwealth allying with Prussia, and seeking further alliances against her, ensured that Stanisław August's familiar case, made on his behalf by the primate following the Russian diplomatic note announcing armed intervention, would fail to persuade her:

I am well persuaded that the current order of things in Poland, which is so close to the heart of the nation and which ultimately shows only reforms strictly subordinated to republican principles, far from being incompatible with the maintenance of this desired harmony, could even offer Your Majesty a more useful ally and friend in Poland.³⁸

There was no more mileage in the idea of a 'useful ally and friend'. Only subjection and partition remained on the table, unless the Poles could emulate the Swedes and negotiate from strength.

By the end of April 1792 the empress had everything in place. Admittedly, she had hoped for better collaborators than the 'malcontents' who gathered in St Petersburg to supplicate her to restore 'republican government' to the Commonwealth. Besides the intrinsic merits of the Constitution and the aura of success around it, the king's efforts to assuage critics and mollify doubters had neutralized much domestic opposition. There was an obvious purpose to the leadership's emphasis on the Constitution's 'republican principles' and the slow pace of agrarian reform. Nevertheless, the 'malcontents', scarcely more than a dozen in number, gave Catherine her fig leaf. On the banks of the River Neva on 27 April, they formed a confederacy for the Polish Crown, which was post-dated to 14 May. It was equally fictionally named after Szczęsny Potocki's border market town of Targowica. Potocki became marshal, while *Hetmani* Ksawery Branicki and Seweryn Rzewuski assumed command of whatever military forces it might raise. Among the councillors, most of them

clients of Potocki, the most ideologically motivated was the fanatical Jan Suchorzewski. The other significant player was Szymon Kossakowski. The erstwhile Barist hero had become a major-general in Russian service. Together with his brother Józef, the bishop of Livonia, he would confederate the Grand Duchy of Lithuania separately – in the family interest. The Kossakowskis' ambitions had long outrun their means. By the standards of the Commonwealth's own laws, dating back to the sixteenth century, the leading confederates were traitors to their country.

The *sejm* responded to the Russian declaration of 18 May by raising taxes and intensifying recruitment, as well as concentrating powers and responsibilities in the hands of Stanisław August. After a year in which supplementary legislation had pushed the form of government some way back towards republicanism, the teeth which the *Law on Government* had given the executive power were now bared. Civil and military authorities were placed on the alert. Such measures hardly amounted to absolute monarchy, though. The king's leadership continued to rest on the same political constellation as before, even after the *sejm* prorogued itself in the small hours of 30 May 1792.

By that time, the bulk of the heavily outnumbered Crown army had already begun its retreat from the south-eastern corner of the Commonwealth. Its commander, Prince Józef Poniatowski, although inexperienced at this level, avoided encirclement and the Poles inflicted severe casualties on the pursuing Russians. Nevertheless, by mid-July the Russian forces had crossed the River Bug. Despite sabotage and ineptitude among the generals of the Lithuanian army, the final

outcome of the campaign in the Grand Duchy was quite similar. As the two Russian armies converged towards Warsaw, their numbers depleted and supply trains extended by their long march, the military question was whether the Poles, reinforced and enjoying interior lines of communication, could fight and win two decisive battles. Given that ultimately the Commonwealth could not win a war against the Russian Empire, and that any Prussian intervention would lead to a new partition, the political question was whether the Polish-Lithuanian leadership would take the military risks in the hope of gaining an advantage in the peace negotiations.

Instead, Stanisław August did as the empress demanded. On 24 July 1792 he acceded to the Confederacy of Targowica and ordered a ceasefire, provoking rage and despair in his nephew and most of the officer corps. Many of them resigned, including Major-General Tadeusz Kościuszko, who had previously fought the British in America (fig. 10). The king's plan was to capture the confederacy from within. He was backed by the majority of the expanded ministerial council he had called on 23 July, including Kołłątaj. Even those who had recorded their dissent and gone into exile, notably Ignacy Potocki and Stanisław Małachowski, hoped that the monarch would be able to negotiate a tolerable settlement permitting their return to public life. It proved a delusion. The king had to sign an abject second accession on 25 August, including the revocation quoted at the start of this chapter. As their hopes faded, Kołłątaj and Potocki composed a propaganda tract, *On the Establishment and Fall of the Polish Constitution of 3 May 1791* (*O ustanowieniu i upadku Konstytucji Polskiej 3 maja 1791*). They exonerated themselves and heaped blame



10. Tadeusz Kościuszko (*Thaddeus Kosciuszko*).
By Franz Gabriel Fiessinger, Polona, id 23044296

on the king for the debacle. This tract, intended to prepare minds for an uprising, still influences Polish perceptions of the last years of the Commonwealth.

The counter-revolutionary triumph rang hollow. Szczęsny Potocki, Branicki, Rzewuski and the brothers Kossakowski were also deluding themselves. Nowhere had the confederates encountered the enthusiasm they had promised their imperial mistress. They often had difficulty in mustering even their illiterate petty clients to form local confederacies. Only after news of the king's accession had spread did more respectable landowners join. Even then, the confederation of many districts, lands and palatinates 'around the king' led the confederate leaders to order the correction of these objectionable documents. Passive resistance and stinging criticism prompted them to resort to repressive measures against recalcitrant citizens, including sequestrations, punitive tax assessments, quartering of Russian units, deprivation of political rights, surveillance and intrusive censorship. In the Crown, Szczęsny Potocki initially hoped that propaganda might work, although Branicki used violence with fewer scruples. The Kossakowskis, under cover of restoring the historic rights of the Lithuanian nation, extorted whatever they could from the Grand Duchy. Things did not improve after the Crown and Lithuanian confederacies formed a combined General Council at Brześć Litewski (Brest) on 11 September 1792. A few nobles took the opportunity to settle old scores against their neighbours in the corrupt confederate courts, but as winter approached, with an occupying Russian army to feed, the overwhelming mood among the *szlachta* was one of sullen resentment.

The restoration of 'republican government' proclaimed *ad nauseam* by the confederates brought unprecedented restrictions on individual and collective liberty. As the year closed, Primate Poniatowski excoriated their misrule:

Poland will for a long time yet be forced to tolerate the arbitrary and inconsistent government established by the General Council or its head, which in setting up the police in Warsaw has given the most shocking example of inconsistency and despotism ever seen in Poland, reserving to itself the approval of decrees which hitherto have not been subjected even to revision by *sejmy*, and when it appointed as intendants of this police people who flee the police in almost all Europe.³⁹

The procedural short-cuts, appeals to 'the public' and occasionally threatening discourse of the pro-Constitutional camp were as nothing compared to the violence and venality of the counter-revolutionary regime.

Szczęśny Potocki was still fantasizing about symmetrically reconstructing a decentralized republican Commonwealth, when news broke early in the new year that the Prussian army had entered Greater Poland, supposedly to root out 'Jacobins'. The confederate leaders were utterly discredited as the second partition of the Commonwealth became reality in the course of 1793. The monarchs of Russia and Prussia carved off vast slices of Polish-Lithuanian territory. A *sejm* was held at Grodno to ratify these treaties. It also established a nominally republican form of government, designed to

shackle the twice amputated Polish-Lithuanian torso in tranquil servitude to the Russian Empire.

The new system had no chance to settle down, because on 24 March 1794 in Cracow Kościuszko proclaimed an insurrection. The people of Wilno and Warsaw bloodily liberated themselves from their Russian occupants and hanged the brothers Kossakowski. Although the acts of the counter-revolutionary regime and the Grodno *sejm* were declared null and void, the democratically inclined Kościuszko judged the Constitution of 3 May 1791 as no more than a tolerable compromise, pending the nation's final decision on its form of government. Although himself a native of the Grand Duchy, he sought to bring the Lithuanian rising under closer control. A principled opponent of serfdom (and of slavery in America), he was caught between two imperatives: to recruit more peasant soldiers and to retain the cooperation of their noble lords. Despite the morale-raising victory at Raclawice achieved with the help of hastily trained scythe-wielding peasants, the impact in the countryside of the half-measures limiting serfdom was disappointing. The towns were a different matter, especially Wilno and Warsaw, which beat off Russian and Prussian sieges. Kościuszko held the balance between radical Jacobins advised by Kołłątaj, intent on denouncing and purging 'traitors', and high-born moderates such as Ignacy Potocki, who wished to maintain social stability, restore the Constitution and cooperate with the king. In the end, the Insurrection neither attempted a French-style *levée en masse*, nor descended into sanguinary terror. Insurrectionary propaganda neither spelt out the benefits of orderly liberty nor emphasized 'republican' principles. The latter

were probably obvious. It was clear that the enjoyment of freedom – collective or individual – depended on national independence, and that required patriotic sacrifice.

That autumn, superior Russian numbers told. Kościuszko was defeated, wounded and captured. Warsaw capitulated after witnessing the River Vistula run red with blood after the slaughter by General Aleksandr Suvorov's troops of most of the inhabitants of the suburb of Praga. The remnants of the Polish army surrendered on 16 November 1794. The Insurrection was over, but the world knew that the Commonwealth had gone down fighting. This war had been fought against worse odds with far more determination than in 1792. For subsequent generations of Poles it provided the model of one of the responses to foreign rule: insurrectionary struggle to restore the nation's statehood and independence.

1795 brought the third partition. Russia allocated lesser shares to Austria and Prussia. The inhabitants of the former Commonwealth were now all ruled by absolute monarchs. This final dismemberment was ratified not by a *sejm*, but by the king's abdication (on 25 November, the anniversary of his coronation). Stanisław August could no longer reasonably maintain, as he had done on several previous occasions, that he had chosen the lesser over the greater evil for his country. For all his merits, his abdication on Catherine II's terms remains an indelible stain on his reputation. His beloved Constitution of 3 May, which had briefly brought the Commonwealth a better balanced form of government, evolutionary social change and orderly liberty, had already become a symbol.

8/ *Evaluations*

Later evaluations of the Constitution of 3 May have partially overlapped with judgements on the Commonwealth as a whole. Modern Poles' views of their 'First Republic' have been ambivalent. There was greatness: the old Commonwealth spread over more than a million square kilometres at its early seventeenth-century zenith, when its famous 'winged horsemen' – the *Husaria* – terrorized its foes. There was decline: old Poland shrank, lost its sovereignty and was dismembered. The Commonwealth is hailed for its liberty and cursed for its anarchy. Some of its kings are martial heroes after whom streets are named; others are reckoned villains or non-entities. Today more Poles identify imaginatively with the minority of noble citizens than with the unfree peasants most Poles actually descend from. The 'First Republic' is celebrated for its 'tolerance' and diversity, yet often assumed to be essentially Polish and Catholic. Almost three quarters of its territory in 1791 are now in Ukraine, Belarus, Lithuania and Latvia, while more than half of Poland's current territory then lay outside the borders of the Commonwealth. At that time less than half of the country's nine

or ten million inhabitants spoke a form of Polish as their first language. While about five sixths of the population were formally Catholics, those of the Ruthenian or 'Greek' rite constituted almost a third. The Commonwealth formed by the 1569 union of 'two nations' was often referred to by contemporaries simply as Poland. It is now often described as 'the Polish-Lithuanian Commonwealth' or 'the Commonwealth of the Two Nations', although neither name was used in official documents. Yet these usages accurately capture important aspects of its structure.

Given these and other contrasts, it has been easy for sceptics to attack the notion that the Third Republic of Poland resumed where the Second left off, and that the Second Republic restored the First.⁴⁰ Some therefore dismiss today's Poland, like its interwar predecessor, as another 'new state', 'new nation' or 'new democracy' in blighted 'Eastern Europe'. Yet the case for complete discontinuity is faulty. The 123 years between 1795 and 1918 fit within two lifetimes. Those numerous veterans of the 1863–64 'January' Uprising against the Russian Empire who lived to see independent Poland could remember elderly veterans of the 1794 Insurrection. Even the 230 years that divide us from 3 May 1791 are equivalent to only three or four lifespans.

While Poland's thread of continuity has often stretched and sometimes frayed, it has never broken. For about a millennium (or forty generations) people have been brought up to consider themselves Poles and to love Poland – however construed. The idea of Poland has changed greatly over the centuries, generating passionate polemics about a living national tradition. If, as most theorists of nations and

nationalism now insist, nations are communities imagined by people who do not know each other personally, then some of these communities have been imagined for longer, with greater intensity, and by more people than others. Communities can be imagined across time as well as space, 'between those who are living, those who are dead, and those who are to be born', as the great Anglo-Irish admirer of the Constitution of 3 May put it.⁴¹ Vivid re-imaginings of continuity between generations of Poles do not mean that such continuity was ever severed. Just as the Polish literary language, which has evolved since the Renaissance, did not have to be assembled and codified by scholars and activists from rural dialects, so the idea of 'restoring' an independent Polish state did not have to rest on ambiguous phrases in medieval chronicles. 'Poland' continued as a political as well as a cultural cause throughout the long nineteenth century.

Fierce arguments over whether and how Poland could be restored were inseparable from dissensions over the Commonwealth of nobles. Critics outnumbered and out-argued apologists; indeed their judgements often resembled the dismissals of old Poland – as a failed state put out of its anarchic misery by its better governed neighbours – spread by the partitioning powers and their official historians. No verdict was more blistering than that of the 'modern Pole', the National Democrat ideologue and politician Roman Dmowski (1864–1939). He blamed the easy victory of the *szlachta* over its monarchs and the burghers for the domination of the country's economic life by Jews (whom he detested), the apathy of the peasants, and the failure to inculcate Polish culture in the east of the Commonwealth. He insisted that 'the object

of patriotism, or strictly speaking, nationalism, is not a certain collection of liberties which was formerly called the Fatherland, but the nation itself, as a live social organism'. That organism had spiritual distinctiveness, culture, language and interests. In contrast, the attachment to privileges that passed for patriotism among Polish nobles extended to seeking foreign aid against the state itself.

Because there was no *étatiste* element, which would have created a counter-balance to the liberalism of the nobility, which would have defended the state against it, we lacked the political equilibrium necessary for the normal development of the state, and in consequence the fall of Poland followed.

Interestingly, however, Dmowski credited the Constitution of 3 May, created 'under the influence of fresh breezes from the West', with revealing the road to renewal. It expressed, he argued, 'two fundamental aspirations' of a truly Polish reform party:

the first of these was the extension of political rights, bringing new elements to political life, giving the reform party a democratic character; the second – increasing the duties of the citizen with regard to the state, the strengthening of government, the establishment of a dynasty, in a word, a reaction to the monstrous political liberalism of noble society.

In contrast, *Targowica* symbolized all that was wrong with the Commonwealth – noble privileges enjoyed at the expense of the nation and of the state. Dmowski appreciated the Constitution insofar as it trimmed civil liberties for the sake of a stronger Polish nation-state.⁴²

Up to a point, Dmowski's views on the Polish nobility coincided with those of his greatest rival. This was despite the fact that Józef Piłsudski (1867–1935) was born into a landowning family of venerable noble lineage. Piłsudski, conscious of his ancestors' roots in the Grand Duchy of Lithuania, imagined the Polish nation very differently to Dmowski, but concurred with him in excoriating liberties and privileges opposed to the state. Speaking against the National Democrats, Piłsudski thundered:

Poland, Poles themselves have claimed, subsists by anarchy. Poland means private interest, Poland means ill will. Poland means anarchy. And if after our fall we liked ourselves, we have never respected ourselves. We aroused not trust, but uncertainty, hence the desire to foist on us curators appointed for a nation of anarchy, powerlessness, licence, a nation which was led to its downfall by private interest, which could accept no authority.⁴³

Dmowski and Piłsudski are the best-known among the many Poles who have agreed that anarchic and licentious Polish nobles were ultimately responsible for the fall of the old Polish state. After the recovery of independent statehood, it was easy to believe that the Second Republic

had to succeed where the First Republic had failed – to be a great power. That meant collective discipline at the expense of individual liberty. The Third of May was celebrated as a symbol of independence and sovereignty, but the Constitution itself received tepid praise as a belated corrective to the worst faults of the old Commonwealth.

After the Second World War, communist party hacks unsurprisingly portrayed the *szlachta* in the worst possible light. There was but a slight change of emphasis from Dmowski: the nobles' oppression of the peasants leapfrogged their emasculation of the burghers and disobedience to their kings in the register of their crimes. Residual appreciation for the modernizing role of the Constitution of 3 May grew faint indeed. Even a critical edition of its text, introduced by one of People's Poland's most ideologically reliable historians, was held back by the regime for ten years. Only in 1981, during the Solidarity 'carnival', did it finally leave the presses of... the October Revolution Printing House.

Reactions to such relentless negativity about the old Commonwealth were visible by the 1960s. Some were popular and nostalgic. The regime tried to appease them by permitting large print-runs of Henryk Sienkiewicz's *Trilogy* (*Trylogia*) and big-budget films of the geopolitically safer parts of the epic (set in the wars of the mid-seventeenth century). The late nineteenth-century Nobel prize-winning novelist contributed to the critique of an anarchic *szlachta* wasting the victories won by disciplined warriors. Nevertheless, his swashbuckling heroes were moustachioed Polish, Polish-Lithuanian, Polish-Ruthenian or Polish-Scottish nobles. Many descendants of ethnically Polish peasants have

identified with them, but very few members of the Commonwealth's other successor nations.

Other reactions were more scholarly. Some historians deepened much earlier appreciations of the Commonwealth's last decades as a period of reform and renewal after a long period of decline. The 'Polish Enlightenment', approved by the regime as a progressive solvent of 'feudalism', became an important field for academic research. The Constitution of 3 May strengthened the case that the neighbouring powers carried out the second and third partitions in order to curtail this budding revival. The drafting of the *Law on Government* itself was brilliantly reconstructed by Emanuel Rostworowski, who did much to rehabilitate Stanisław August's reputation. So did his friend Jerzy Michalski, whose scholarly *œuvre* was still more prodigious. Their works have provided an indispensable foundation for much of this brief book. Other historians, such as Józef Andrzej Gierowski, took a more positive view of the Polish liberty of old, and began to upturn the conventional criticism of the Commonwealth for not becoming what it never sought to be: a strong, centralized monarchy.

Both these historiographical tendencies have continued since 1989/90. The trend, however, is running in favour of celebrating the Commonwealth as a whole, rather than just its late revival. The emotional, theatrical culture of the 'Sarmatian baroque', lasting from the end of the sixteenth century until it merged into its own revivals late in the eighteenth, now attracts more research than the Enlightenment. The latter is sometimes dismissed as a shallow, rationalist, elitist episode before Romanticism once more

stirred the depths of the Polish soul. A populist strand of this tendency has fed on nostalgia for moustachioed, militantly Catholic warriors, and exploited nationalist hostility to a supposedly cosmopolitan, effeminate, irreligious and 'Western' Enlightenment.

In contrast, a socially and culturally liberal strand of opinion has imagined a decentralized, tolerant and pacific 'Commonwealth of many nations and faiths'. This is favourably contrasted to the overwhelmingly Roman Catholic and ethnically Polish nation-state that emerged from the forge of the Second World War and the ensuing communist dictatorship. It has become fashionable to enthuse over the especially diverse Grand Duchy of Lithuania, the international study of which has been transformed since the fall of the Soviet Union demolished most of the barriers of access and ideology. Modern Lithuanians have long been taught that the Constitution of 3 May ended the separate statehood of the Grand Duchy, but in recent decades, the excavation of the memory of the 'Mutual Assurance of the Two Nations' of 20 October 1791 has enabled joint Polish and Lithuanian celebrations of 'the first modern Constitution in Europe'. The latter claim, conveniently for the two countries' aspirations within the European Union, is plausible, given that the first French revolutionary constitution was not ratified until 3 September 1791. Although the Cossack *Hetman* Pylyp Orlyk's *Pacta et Constitutiones Legum Libertatumque Exercitus Zaporoviensis* of 1710 and the Swedish *Regeringsform* of 1772 are older documents, the first was an exile's manifesto, and the latter was less far-reaching in scope than the *Law on Government* of 1791.

By far the most intellectually interesting development, however, is the writing of the Commonwealth's political values into the early modern Euro-Atlantic republican tradition. Nineteenth- and twentieth-century liberalism contrasted 'ancient', 'republican', 'political' or 'positive' liberty with 'modern', 'liberal', 'civil' or 'negative' liberty. The first essentially meant the freedom of a community to govern itself, the other the freedom of individuals to live their lives and dispose of their property as they please, protected by the law, but with minimal interference from the state. Although the latter concept of liberty was faulted for encouraging selfishness, the former seemed to facilitate the totalitarian subjection of the individual to the state. At the height of the Cold War this danger was traced back to the French revolutionary Terror and thence to Jean-Jacques Rousseau, who notoriously urged that those who would not submit to the 'general will' should be 'forced to be free'.⁴⁴

Before the French Revolution, a different concept of 'republican liberty' prevailed. In a monarchy, individual citizens might enjoy privileges, liberties and properties, but these could never be secure if rulers could take them away without their subjects' consent. Freedom(s), in other words, depended on a 'free state', whereby citizens participated in their own government. The 'republican turn' in Western historiography began in the 1960s, focusing on Renaissance Italy, seventeenth-century England and eighteenth-century America. More recently it has attracted historians of the Commonwealth, notably Anna Grześkowiak-Krwawicz. For it was just such a republican, 'neo-Roman' understanding of liberty that helped bind together the Polish-Lithuanian

political community. The attendant disorder was worth it: '*potiorque visa est periculosa libertas quieto servitio*' ('it is better to live perilous liberty than in tranquil servitude'), nobles and burghers repeated after the ancient Roman historian Sallust.

The Constitution of 3 May 1791 has been caught in cross-fire. The lament of the Confederates of Targowica – that a 'monarchy' replaced the 'republican' Commonwealth – has found new adherents. On the one hand, the Constitution has been stigmatized as a plot by enlightened, cosmopolitan, anti-Catholic Freemasons. On the other hand, some of those who fondly imagine the Commonwealth as a tolerant and diverse idyll, unscarred by the pox of modern nationalism, view the Constitution as part of an unwelcome process of nation-state-building which flattened older provincial and local identities, imposed the Polish language in new spheres, and proclaimed Roman Catholicism the 'dominant and national religion'. Dmowski's praise is grist to their mill. The long-standing criticisms of the Constitution's social impact – that it removed the franchise from landless nobles, did too little for burghers, next to nothing for peasants and nothing at all for Jews – can often be encountered.

Here I have argued a different case. The authors of the Constitution of 3 May – King Stanisław August, Ignacy Potocki, Hugo Kołłątaj and Stanisław Małachowski – sought not to destroy the republican liberty of the Commonwealth, but to refresh, extend and secure it. They adapted strands of Enlightenment thought, as well as proven solutions from other 'free states', including elements of limited and parliamentary monarchy. Their remarkable success in agreeing a generally coherent compromise, persuading the *sejm* and

szlachta to accept it, and turning constitutional laws into political, administrative and cultural reality, made the Commonwealth ready for the social and political challenges that would have awaited it, had it survived into the nineteenth century. Alas. The overthrow of the Constitution of 3 May by the neighbouring absolute monarchies and the traitorous confederates of Targowica and Wilno closed the path of 'orderly liberty' – which had pointed beyond the Commonwealth's Sallustian dilemma.

Further reading

The following suggestions are chosen from among numerous relevant works published in English. The Constitution itself can be read in *New Government of the Constitution of Poland*, 2nd edn, London: Debrett, 1791, repr. in *Constitution of 3 May 1791: English Translation by Franciszek Bukaty*, foreword Anna Grześkowiak-Krwawicz, Warsaw: AGAD and Muzeum Łazienki Królewskie, 2018, freely available at: http://agad.gov.pl/wp-content/uploads/2018/12/Konstytucja-3-maja_Eng-v4.pdf.

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Notes

- ¹ Tadeusz Ruzikowski, 'Zima wasza, wiosna nasza! Solidarnościowe obchody 1 i 3 maja 1982 r.', *Biuletyn Instytutu Pamięci Narodowej*, 2007, 5/6, pp. 57–61; Grzegorz Majchrzak, 'Bitwa o most, czyli 3 maja 1982', 2 May 2017, *Dzieje.pl. Portal historyczny*, Muzeum Historii Polski (<https://dzieje.pl/galerie/grzegorz-majchrzak-bitwa-o-most-czyli-3-maja-1982>, accessed 18 September 2020); *Soviet Deliberations during the Polish Crisis, 1980–1981*, edited, annotated, translated and introduced by Mark Kramer, Washington, DC: Woodrow Wilson International Center for Scholars, 1999.
- ² 'Brzmi Polonez Trzeciego Maja! – Skoczne dźwięki /Radością oddychają, radością słuch poją, /Dziewki chcą tańczyć, chłopcy w miejscu nie dostoją – /Lecz starców myśli z dźwiękiem w przeszłość się uniosły, /W owe lata szczęśliwe, gdy senat i posły /Po dniu Trzeciego Maja w ratuszowej Sali /Zgodzonego z narodem króla fetowali; /Gdy przy tańcu śpiewano: "Wiwat Król kochany! /Wiwat Sejm, wiwat Naród, wiwat wszystkie Stany!": Adam Mickiewicz, *Pan Tadeusz or the Last Foray in Lithuania*, transl. and intr. by Kenneth R. MacKenzie, 7th edn, Łomianki: LT, 2009, pp. 564–65 (book 12, verses 682–90).
- ³ 'Iż iuż Korona Polska, y Wielkie Xięstwo Litewskie, iest iedno nierozdzielne y nierozne ciało, a także nie różna ale jedna a spolna Rzeczpospolita, ktora się z dwu Państw i narodow

- w jeden lud zniosła y spoiła', *Volumina Legum*, vol. 2, St Petersburg: Jozafat Ohryzka, 1859, p. 89.
- ⁴ *Volumina Legum*, vol. 5, St Petersburg: Jozafat Ohryzka, 1860, p. 14.
- ⁵ Quoted after Zofia Zielińska, "Nowe świata polskiego stworzenie". Stanisław August – reformator 1764–1767', in *Stanisław August i jego Rzeczpospolita. Dramat państwa, odrodzenie narodu*, ed. Angela Sołtys and Zofia Zielińska, Warsaw: Arx Regia, 2013, p. 15.
- ⁶ Stanisław August to Augustyn Deboli, 7 November 1787, quoted after Emanuel Rostworowski, *Sprawa aukcji wojska na tle sytuacji politycznej przed Sejmem Czteroletnim*, Warsaw: PWN, 1957, pp. 223–24.
- ⁷ Stanisław August to Augustyn Deboli, 3 May 1788, quoted after Rostworowski, *Sprawa aukcji wojska*, p. 224.
- ⁸ Stanisław August to Augustyn Deboli, 7 November 1788, quoted after Walerian Kalinka, *Sejm Czteroletni*, 4th [sic – 5th] edn, Warsaw: Volumen, vol. 1, p. 191.
- ⁹ Michał Zaleski, 19 January 1789, quoted after Richard Butterwick, *The Polish-Lithuanian Commonwealth, 1733–1795: Light and Flame*, New Haven, CT, and London: Yale University Press, 2020, p. 217.
- ¹⁰ Richard Butterwick, *The Polish Revolution and the Catholic Church, 1788–1792: A Political History*, Oxford: Oxford University Press, 2012, quotations from Nuncio Ferdinando Saluzzo on 22 July 1789 at p. 118, Wojciech Suchodolski on 21 July 1789 at p. 120, and Suchodolski's project *Fund for the Army (Fundusz dla Wojska)* at p. 103.
- ¹¹ Hugo Kołłątaj, 'Do prześwietnej deputacyi do ułożenia projektu konstytucyi rządu polskiego od Sejmu wyznaczony' [1789], in idem, *Listy anonima i Prawo polityczne narodu polskiego*, ed. Bogusław Leśnodorski and Helena Wereszycka, Warsaw: PWN, 1954, vol. 2, p. 174.
- ¹² *Volumina Legum*, vol. 9, Cracow: Akademia Umiejętności, 1889, p. 203.

- ¹³ Pace Urszula Augustyniak, *History of the Polish-Lithuanian Commonwealth: State – Society – Culture*, Frankfurt am Main: Peter Lang, 2015, p. 205; cf. Wojciech Kriegseisen, *Between State and Church. Confessional Relations from Reformation to Enlightenment: Poland – Lithuania – Germany – Netherlands*, Frankfurt am Main: Peter Lang, 2016, pp. 575–78, 591–92.
- ¹⁴ Stanisław Staszic, *Przestrogi dla Polski* [1790], ed. Stefan Czarnowski, 3rd edn, Wrocław: Zakład Narodowy im. Ossolińskich, 2008, pp. 80–81.
- ¹⁵ MS Diary, 2 September 1790, Archiwum Główne Akt Dawnych, Archiwum Sejmu Czteroletniego (henceforth: AGAD ASC), vol. 9, fol. 9.
- ¹⁶ *Przymowienie się JW. Seweryna Potockiego posła braclawskiego na sessji seymowej dnia 10. września 1790. roku miane*, s.l.d.
- ¹⁷ *Głos Jaśnie Wielmożnego Jmci Pana Piusa Kicińskiego posła ziemi liwskiej na sessji seymowej dnia 13 września 1790. po wyjściu Króla Jmci z Izby Senatorskiej miany*, s.l.d.
- ¹⁸ Stanisław August to Deboli, 21 November 1790, quoted after Richard Butterwick, *Polska Rewolucja a Kościół katolicki 1788–1792*, Cracow: Arcana, 2012, p. 665.
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- ²⁰ Jean-Jacques Rousseau, *Considérations sur le gouvernement de Pologne et sur sa réformation projetée*, ed. Jean Fabre, in J.-J. Rousseau, *Œuvres complètes*, ed. Bernard Gagnebin and Marcel Raymond, vol. 3, Paris: Gallimard, 1964, p. 979.
- ²¹ Benedikt de Caché to Wenzel Anton von Kaunitz, 27 April 1791, quoted after Butterwick, *Polish Revolution*, p. 247.
- ²² Quotations from the session of 3 May 1791 are taken from the fair copy in the MS diary, AGAD ASC 19, fols. 23–40, 43–47, 96–97. This was the basis for the fullest record, *Dzień trzeci maja roku 1791*, Warsaw: M. Gröll, 1791, which was slightly edited in order to emphasize the significance of the events described.

- ²³ Stanisław August to Deboli, 4 May 1791, quoted after Butterwick, *Polish-Lithuanian Commonwealth*, p. 259.
- ²⁴ MS Diary, 5 May 1791, AGAD ASC 9, fols. 75–92.
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- ²⁷ SA to Deboli, 4 May 1791, quoted after Grześkowiak-Krwawicz, ‘Konstytucja 3 Maja. Rewolucja – Prawo – Dokument’, p. 51.
- ²⁸ Catherine II to Friedrich Melchior Grimm, 10/21 May 1791, *Sbornik Imperatorskogo Russkogo Istoricheskogo Obshchestva*, vol. 23, St Petersburg: Tip. Imp. Akad. Nauk, 1878, p. 535, cf. Catherine II to Grimm, 9/20 May 1792, *ibid.*, p. 567.
- ²⁹ Stanisław August, second accession to the Confederacy of Targowica, 25 August 1792, quoted after Władysław Smoleński, *Konfederacja targowicka* [1903], repr. Poznań: Wydawnictwo Kurpisz, 2006, pp. 296–97.
- ³⁰ Act of Confederation, Wilno, 25 June 1792, in *Zbiur [sic] wszystkich druków Konfederacji Targowickiey y Wileńskiej*, Warsaw, 1792, p. 16.
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- ³³ Stanisław Małachowski and Kazimierz Nestor Sapieha, *Uniwersał*, 7 May 1791, *ibid.*, p. 28.
- ³⁴ Address of the Gniezno Civil-Military Commission of Good Order, 24 May 1791, AGAD ASC 21, fol. 112.
- ³⁵ Edmund Burke, *An Appeal from the New to the Old Whigs*, in *The Writings and Speeches of Edmund Burke*, vol. 4: *Party, Parliament, and the Dividing of the Whigs: 1780–1794*, ed. P. J. Marshall, Donald C. Bryant and William B. Todd, Oxford: Oxford University Press, 2015, pp. 463–64.
- ³⁶ *Kazanie x. Karpowicza archidiakona smoleńskiego, proboszcza preńskiego, teologii y pisma ś. w Szkole Gł: Lit: profesora, na pierwszym ufundowaniu powiatu preńskiego i rozpoczęciu pierwszych seymików w kościele parafialnym preńskim 14 lutego, 1792. Roku*, Wilno: Drukarnia xx. Bazylianów, 1792, p. 22.
- ³⁷ Konstanty Plater, Castellan of Troki, quoted after Jerzy Michalski, ‘Zagadnienie unii polsko-litewskiej w czasach Stanisława Augusta’, in *idem, Studia historyczne z XVIII i XIX wieku*, vol. 1: *Polityka i społeczeństwo*, Warsaw: Stentor, 2007, p. 64.
- ³⁸ Michał Poniatowski to Catherine II, Jabłonna, 22 May 1792, in Walerian Kalinka, *Ostatnie lata panowania Stanisława Augusta*, part 2: *Dokumenta do historii drugiego i trzeciego podziału*, 2nd edn, Cracow: Nakładem Księgarni Spółki Wydawniczej Polski, 1891, pp. 72–73.
- ³⁹ M. Poniatowski to Gaetano Ghigiotti, 27 December 1792, in *Między Konstytucją a Targowicą. Korespondencja i pisma polityczne prymasa Michała Jerzego Poniatowskiego z lat 1792–1793*, ed. Angela Sołtys, Warsaw: Rambler Press, 2018, pp. 172–73.
- ⁴⁰ Tomasz Kamusella, *The Un-Polish Poland: 1989 and the Illusion of Regained Historical Continuity*, Cham: Palgrave Macmillan, 2017.

- ⁴¹ Edmund Burke, *Reflections on the Revolution in France* [1790], in idem, *Revolutionary Writings*, ed. Iain Hampsher-Monk, Cambridge: Cambridge University Press, 2014, p. 101.
- ⁴² Roman Dmowski, *Myśli nowoczesnego Polaka* [1903], 12th edn, Wrocław: Wydawnictwo Nortom, 2002, pp. 26–33.
- ⁴³ *Przemówienie Marszałka J. Piłsudskiego na bankiecie w hotelu „Bristol” w dn. 3 lipca 1923*, offprint from *Kurjer Poranny*, 4 July 1923 (<http://www.pilsudski.org/archiwa/dokument.php?nrar=701&nrzesp=1&sygn=135&handle=701.180/4684>, accessed 22 January 2019).
- ⁴⁴ Jean-Jacques Rousseau, *Du contrat social*, I, 7, in idem, *Œuvres complètes*, ed. Bernard Gagnebin and Marcel Raymond, vol. 3, Paris: Gallimard, 1964, p. 364.

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