

ARTYKUŁY

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BETWEEN THE UNION OF LUBLIN
AND THE *MUTUAL PLEDGE OF THE TWO NATIONS*:
FROM THE UNION OF TWO STATES
TO THE COMMONWEALTH OF THREE PROVINCES

Słowa kluczowe: Polish-Lithuanian Commonwealth, Polish Crown, Grand Duchy of Lithuania, Union of Lublin, political system, law, changes of the political system

The aim of the paper is to demonstrate the changes in the basic legal institutions of the Grand Duchy of Lithuania, which were preserved or transformed by the Union of Lublin, and which functioned in the years 1569–1791 within the Commonwealth. At the same time, the mechanisms of such transformations are very interesting, as they may show how such transformations came about and how institutions became similar with one another. The *Act of the Union of Lublin* stipulated the fundamental equivalence of the Crown and Lithuania. The monarch and the parliament were to be shared, while the ministerial and local offices as well as the judiciary, law, treasury and army were to be separate¹. In spite of this, at first, by way of practice that was contrary to the provisions of the *Act of Lublin*, the inhabitants of the Crown often wanted to implement the execution postulates literally, i.e. incorporate Lithuania into the Crown². Fighting against this dangerous tendency took the political elite of the Grand Duchy almost 20 years³. During three periods of *interregnum*

¹ Robert FROST, *The Oxford History of Poland-Lithuania*, vol. 1: *The Making of the Polish-Lithuanian Union, 1385–1569*, Oxford 2015, pp. 477–494.

² For example, in the *Universal of Kaski* (1572): “napisano Litwę częścią Korony Polskiej, a nie Państwem” [“Lithuania was described as a part of the Polish Crown, and not as a state”]; Marek FERENC, *Mikołaj Radziwiłł „Rudy” (ok. 1515–1584). Działalność polityczna i wojskowa*, Kraków 2008, p. 437.

³ In 1574, Lithuanian senators complained to their peers from the Crown that “o narodzie naszym litewskim i o WKsL. nigdzie wzmianki” [“about our Lithuanian nation and the Grand Duchy no remark”] – in a letter to Henry of Valois – “czynić nie raczyli” [“has been made”]; *Akta zjazdów stanów Wielkiego Księstwa Litewskiego*, ed. Henryk LULEWICZ, vol. 1: *Okresy bezkrólewia*

(1572–1588), they ensured certain distinctness to their country⁴, which guaranteed their relative equivalence in comparison to the Crown⁵.

According to the *Act of Lublin*, the joint ruler of both countries was to be the Polish king and, at the same time, the Grand Duke of Lithuania. The separate election and crowning of the Lithuanian ruler in Vilnius was abolished. The king was to be elected in the Crown, in Warsaw, and crowned in Cracow, and at the same time proclaimed the Grand Duke of Lithuania⁶. The Lithuanians, however, introduced their own policy in this matter⁷. Although in 1573 they took part in the election of Henry of Valois, and in autumn 1575 they supported Maximilian II, together with a significant part of the Senate, they finally recognized Stephen Bathory. However, during the third election they did not associate themselves with any of the two competing camps of the Crown but established a third election circle on the bank of the Vistula River in Praga, under the direction of their own speaker⁸. This was very effective, as they forced Sigismund III to recognize their postulates⁹. They did not form any more separate circles.

Right after the Union of Lublin, the Lithuanians demanded that “Król Jego M[ilość] aby rok w Polsce, a rok w Litwie, mieszkał i sądził litewskie kauzy wedla Statutu [w] Wilnie” [“His Majesty the King should live one year in Poland and one year in Lithuania, and act as a judge in Lithuanian court cases in Vilnius, according to the *Statute*”]¹⁰. Stephen Bathory was in Vilnius eight times, in Grodno ten times, and from autumn 1585 onwards he lived there permanently. He spent the total of 32% of his reign in Lithuania¹¹. However, after his death the instruction of the Grand Duchy demanded that: “Król Pan nasz

(1572–1576, 1586–1587, 1632, 1648, 1696–1697, 1706–1709, 1733–1735, 1763–1764), Warszawa 2006, p. 104.

⁴ Jūratė KIAUPIENĖ, Ingė LUKŠAITĖ, *Lietuvos istorija*, vol. 5: *Veržli naujujų laikų pradžia. Lietuvos Didžioji Kunigaikštystė 1529–1588 metais*, Vilnius 2013, pp. 228–230.

⁵ Henryk LULEWICZ, *Gniewów o unię ciąg dalszy. Stosunki polsko-litewskie w latach 1569–1588*, Warszawa 2002, p. 31.

⁶ *Akta unii Polski z Litwą 1385–1791*, ed. Stanisław KUTRZEBA, Władysław SEMKOWICZ, Kraków 1932, no. 148, p. 343.

⁷ Tomasz KEMPA, *The issue regarding “the reform of the union” of Lublin in Lithuanian policy in the period of three interregna following the death of king Sigismund Augustus (1572–1588)*, *Zapiski Historyczne*, vol. 79: 2014, no. 4, pp. 53–88, DOI: <http://dx.doi.org/10.15762/ZH.2014.16>.

⁸ H. LULEWICZ, *op.cit.*, pp. 137–138, 230–235, 280, 381.

⁹ *Ibid.*, pp. 411–412; Anna PIEŃKOWSKA, *Zjazdy i sejmy z okresu bezkrólewia po śmierci Stefana Batorego*, Pułtusk 2010, pp. 340–344.

¹⁰ Henryk LULEWICZ, *Najstarsza znana instrukcja sejmikowa z Wielkiego Księstwa Litewskiego. Sejmik wileński przed sejmem warszawskim 1570 roku*, [in:] *Studia historyczno-prawne. Prace dedykowane Profesorowi Janowi Serecyce w siedemdziesiątą piątą rocznicę urodzin i czterdziestopięciolecie pracy naukowej*, ed. Janusz DOROBISZ, Włodzimierz KACZOROWSKI, Opole 2004, p. 179.

¹¹ Marek WREDE, *Itinerarium króla Stefana Batorego 1576–1586*, Warszawa 2010, pp. 37–40, tab. 2.

aby to asz trzecie[g]o roku w Litwie mieszkał, a dwie w Polsce, bo tesz skarb nasz dobrze mniejszy za odeszcziem Wołynia i Podlasia” [“Our Lord the King should live in Lithuania only on the third year after two years in Poland, because our treasure is well smaller now that Volhynia and Podlasie are gone”]¹². It can be assumed that the experience (and costs!) of accommodating Bathory in Grodno influenced the reduction of these demands. However, Sigismund III spent about 5% of his reign in the Lithuanian capital¹³. This postulate was also repeated in the 17th and 18th centuries¹⁴. Vital Hałubowicz indicates that the Lithuanian nobility treated the monarch, at least Władysław IV, as a guarantor of the rights and distinctness of the Grand Duchy¹⁵. The attitude of Lithuanian subjects towards other rulers still needs to be researched. However, monarchs resided in Vilnius relatively rarely and for a short period of time. The last Polish king and Grand Duke of Lithuania to stay in his Lithuanian capital was Stanisław Leszczyński, who spent there a whole week in the spring of 1708¹⁶. Stanisław II Augustus never appeared in Vilnius as a king, although back in the era of the Great Sejm the nobility of Vilnius district demanded that the capital’s castle be renovated and the monarch reside in it, and even taxed themselves for this purpose¹⁷.

In the aftermath of the Union, the Lithuanians were deprived of their own parliament: the Lower and Upper Houses, incorporating them to the Sejm and Senate of the Crown¹⁸. In this way, the Sejm of the joint Commonwealth was

¹² Archiwum Główne Akt Dawnych w Warszawie [Central Archives of Historical Records in Warsaw] (hereinafter cit. AGAD), Archiwum Radziwiłłów II supl., no. 63 (1).

¹³ M. WREDE, op.cit., p. 36.

¹⁴ See Adolfas ŠAPOKA, *Lietuva ir Lenkija po 1569 metų Liublino unijos. Jų valstybinių santykių bruožai*, Kaunas 1938, p. 13–14; Henryk WISNER, *Rozróżnieni w wierze. Szkice z dziejów Rzeczypospolitej schyłku XVI i połowy XVII wieku*, Warszawa 1982, p. 57; Mečislovas JUCAS, *Parlamentaryzm litewski w XVIII wieku*, [in:] *Spółczesność obywatelskie i jego reprezentacja (1493–1993)*, ed. Juliusz BARDACH, Wanda SUDNIK, Warszawa 1995, p. 123.

¹⁵ Віталь Галубовіч, *Стаўленне шляхты Вялікага Княства Літоўскага да асобы манарха і інстытута манархii ў час праўлення Уладзіслава Вазы* [Vital’ HALUBOVICH, *Stawlyennye shlyakhity Vyalikaha Knyastva Litovskaha da asoby manarkha i instytutu manarkhii w chas prawlyennya Uladzislava Vazy*], Беларускі гістарычны часопіс [Byelaruski histarychny chasopis], 2018, no. 8, pp. 3–10.

¹⁶ Jerzy DYGDAŁA, *Wizyta króla Stanisława Leszczyńskiego w Wilnie w dniach 22–29 marca 1708 roku*, [in:] *Inter Regnum et Ducatum. Studia ofiarowane Profesorowi Janowi Tęgowskiemu w siedemdziesiątą rocznicę urodzin*, ed. Piotr GUZOWSKI, Marzena LIEBKE, Krzysztof BORODA, Białystok 2018, p. 131.

¹⁷ *Lietuvos Didžiosios Kunigaikštystės seimelių instrukcijos (1788–1790)*, ed. Robertas JURGAITIS, Adam STANKEVIČ, Asta VERBICKIENĖ, Vilnius 2015, pp. 124–125. Although, of course, Stanisław Augustus was a member of the Sejm in Grodno in 1784 and 1793.

¹⁸ On the representation of Lithuania during the sessions of the Sejm in the second half of the 16th century, see Уладзімір Падалінскі, *Прадстаўніцтва ВКЛ на вальных соймах Рэчы Паспалітай (1569–1600 гг.)*. Да пытання рэгіянальных асаблівасцяў [Uladzimir PADALINSKI,

established. The deputies of the sejmiks of the Grand Duchy sat in the Chamber of Deputies. In the Senate, among 140 senators, there were only 27 Lithuanian senators, whereas in the Chamber of Deputies – 44 Lithuanian deputies compared to 114 representatives of the Crown¹⁹. It was possible, albeit with some difficulty, to establish a hierarchy of places to reflect prestige (the bishop of Vilnius received a place together with the bishop of Poznań, the bishop of Samogitia took a lower place, the voivode of Vilnius took a place behind the castellan and the voivode of Kraków and the voivode of Poznań), yet not all members of the Council of Grand Duke of Lithuania entered the Senate. There was no room for those members of the Council who, according to the Poles, were not senators: princes (*knyazes*), court clerks and marshals of the Grand Duke²⁰. The view that the representatives of the Grand Duchy were discriminated against in the Senate and in the Chamber of Deputies, because of their less numerous representation²¹, is only right to a certain extent. Immediately after the conclusion of the Union of Lublin, the Lithuanians clearly dreaded such a scenario. The voivode of Vilnius, Mikołaj ‘the Red’ Radziwiłł warned in a 1570 instruction: “aby nie rzeczono *maior pars concludit*, a ich i rady i posłów więcej niż nas” [“that *maior pars concludit* should not be spoken, as there are more of them [i.e. Poles – A.Z.] in the council and among the deputies than us”]²². However, safety was ensured by the principle of consent during the sessions of the Sejm. In order to pass a law and impose a tax, the consent of all deputies and senators was in principle necessary, or at least there should not be any objections²³. In this way the representatives of the Grand Duchy guarded their interests and did not easily agree to concessions²⁴.

Pradstawitstva VKL na val'nykh soymakh Rechy Paspalitay (1569–1600 hh.). Da pytannya rehiyanal'nykh asablivatsyav, [in:] *Канструкцыя і дэканструкцыя Вялікага княства Літоўскага*, рэд. Натал'я У. Сліж, Мінск 2007 [*Kanstruksyya i dekanstruksyya Vyalikaha knyastva Litovskaha*, ed. Natal'ya U. SLIZH, Minsk 2007], pp. 57–67.

¹⁹ H. LULEWICZ, *Gniewów o unię*, p. 23. This is approximate data, as far as combining senatorial function is concerned.

²⁰ The postulates of the Olelkowicz-Słuckis joining the Senate were constantly reiterated and the issue was finally solved by the extinction of the family in 1592; Tomasz KEMPA, *Zabiegi kniaziów Olelkowiczów słuckich o uzyskanie miejsca w senacie*, *Odrodzenie i Reformacja w Polsce*, vol. 47: 2003, pp. 65–88.

²¹ Andrzej RACHUBA, *Wielkie Księstwo Litewskie w systemie parlamentarnym Rzeczypospolitej w latach 1569–1763*, Warszawa 2002, pp. 169–170.

²² H. LULEWICZ, *Najstarsza znana instrukcja sejmikowa*, p. 177.

²³ Richard BUTTERWICK, *Lawmaking in a Post-Composite State? The Polish-Lithuanian Commonwealth in the Eighteenth Century*, [in:] *The Eighteenth-Century Composite State*, ed. David W. HAYTON, James KELLY, John BERGIN, London 2010, pp. 228–229.

²⁴ See Kazimierz LEPSZY, *Rzeczpospolita Polska w dobie sejmu inkwizycyjnego (1589–1592)*, Kraków 1939, p. 151; *Volumina Constitutionum* (hereinafter cit. VC), vol. 2, part 2, ed. Stanisław GRODZISKI, Warszawa 2008, pp. 168–169.

The Lithuanians did not dissolve in the Sejm, but they created probably the only permanent, yet internally very divided, political faction, throughout the existence of the Commonwealth, which effectively fought for the interests of the Grand Duchy²⁵. In numerous Sejm assemblies, they took care of its prestige through political means²⁶. For example, in 1672 the Lithuanians left the Chamber of Deputies in response to the accusation against the Lithuanian Chancellor, who had allegedly lied about everything, as they claimed that “jest to istotna potwarz litewska” [“it was a serious affront to the Lithuanians”]²⁷.

However, even in the joint Sejm of the Commonwealth one could find numerous and permanent political factions connected with the Grand Duchy of Lithuania. From the very beginning of the joint Sejm, the principle of alternate chairmanship was adopted, according to which the sessions of the Chamber of Deputies would be chaired alternately by representatives of Greater Poland, Lesser Poland and the Grand Duchy. This rule was observed, but with some disturbances, and Andrzej Rachuba diligently calculated that of the 173 sessions in years 1569–1795, 56 speakers of the Sejm were the representatives of the Grand Duchy²⁸.

Alternating the place where the Sejm is held also dates back to the times of the Sejm of Lublin. It was then that the nobility of the Grand Duchy made attempts to hold half of the sessions of the Sejm of the Commonwealth in Lithuanian territory. During the first two *interregnums* they demanded that the sessions be held in the Crown and in Lithuania, alternately²⁹. The inhabitants of

²⁵ Robert KOŁODZIEJ, *Między współpracą a partykularyzmem – Litwini na sejmach w czasach Jana III Sobieskiego*, [in:] *Między Barokiem a Oświeceniem. Staropolski regionalizm*, ed. Stanisław ACHREMCZYK, Olsztyn 2008, pp. 127–134; Andrzej STROYNOWSKI, *Problem odrębności litewskiej w obradach sejmów lat 1778–1786*, [in:] *Rzeczpospolita – państwem wielu narodowości i wyznań, XVI–XVIII wiek*, ed. Tomasz CIESIELSKI, Anna FILIPczAK-KOCUR, Warszawa–Opole 2008, pp. 125–141.

²⁶ For example, in 1672, see Konrad BOBIATYŃSKI, *W walce o hegemonię. Rywalizacja polityczna w Wielkim Księstwie Litewskim w latach 1667–1674*, Warszawa 2016, p. 137.

²⁷ *Diariusz sejmii koronacyjnego 1672 roku*, ed. Kazimierz PRZYBOŚ, Kraków 2007, pp. XVII, 23. Other disputes during the sessions: Віталь Галубовіч, *Прадстаўніцтва ад Вялікага княства Літоўскага на соймах Рэчы Паспалітай падчас праўлення Уладзіслава Вазы (1633–1648 гг.)* [Vital' HALUBOVICH, *Pradstawnitstva ad Vyalikaha knyastva Litowskaha na soymakh Rechy Paspalitay padchas prawlyennya Uladzislava Vazy (1633–1648 hh.)*], [in:] *Парламенція структуры ўлады ў сістэме дзяржаўнага кіравання Вялікага княства Літоўскага і Рэчы Паспалітай у XV–XVIII стагоддзях*, рэд. Сцяпан Ф. Сокал, Андрэй М. Янушкевіч, Мінск 2008 [*Parlamentskiya struktury wladyy w sistemye dzyrzhawnaha kiravannya Vyalikaha knyastva Litowskaha i Rechy Paspalitay u XV–XVIII stahoddzyakh*], ed. Stsyapan F. SOKAL, Andrey M. YANUSHKEVICH, Minsk 2008], pp. 264–265.

²⁸ Andrzej RACHUBA, *Litewscy marszałkowie sejmów Rzeczypospolitej (1569–1793)*, [in:] *Kultura parlamentarna epoki staropolskiej*, ed. Andrzej STROYNOWSKI, Warszawa 2013, p. 33.

²⁹ Jonas LAPPO, *1588 metu Lietuvos Statutas*, vol. 1, part 1, Kaunas 1934, pp. 326–327; Иван И. Лаппо, *Великое княжество Литовское за время от заключения Люблинской Унии до*

the Crown did not agree to this, pointing to the inconvenience of travelling rather than ideological considerations, as the main reason. In 1632, the Lithuanians, trying to reach a compromise, demanded that every third Sejm was held in their country³⁰. From that time onwards, they constantly demanded that every third Sejm be held in Grodno³¹. Sometimes in Grodno, Vilnius or Brest³². However, the Sejm sessions were held in the Crown – mainly in Warsaw (sometimes in Cracow, and once in Toruń). When in 1653 the Sejm was held in Brest, King John II Casimir justified its convention there with a plague, which caused protests of the sejmiks of the Crown³³. After Lubomirski's rebellion, the idea of organising Sejm sittings in Lithuania was revived and accepted by the inhabitants of the Crown, yet without enthusiasm as had always been the case³⁴. In 1673, however, in view of the pressure from Lithuanian deputies and senators, bribed by some representatives of the Crown, it was decided that every third Sejm would take place in Grodno³⁵. It must be emphasised that this postulate was unanimously supported by the Lithuanian political factions that were fundamentally hostile to one another³⁶.

In practice, however, its implementation was not that straightforward. At the request of John III Sobieski, the Sejm of 1685, which was due to take place in Lithuania, was convened in Warsaw. A considerable number of Lithuanian deputies ostentatiously came to Grodno, and it was not until long and painstaking bargaining on the part of the ruler and senators of the Crown that finally convinced them to come to Warsaw for the Sejm sessions³⁷. The Lithuanians

смерти Стефана Батория, Санкт-Петербург 1901 [Ivan I. LAPPO, *Velikoye knyazhestvo Litovskoye za vremya ot zaklyucheniya Lyublińskiej Unii do smerti Stefana Batoriya*, Sankt-Peterburg 1901], p. 148; *Źródła dziejowe*, vol. 4, ed. Adolf PAWIŃSKI, Warszawa 1877, p. 34.

³⁰ H. WISNER, op.cit., p. 58.

³¹ Иван И. Лаппо, *Пинский сеймик после отречения Яна Казимира* [Ivan I. LAPPO, *Pinskiy seymik posle otricheniya Yana Kazimira*], Журнал Министерства народного просвещения. Новая серия [Zhurnal Ministerstva narodnogo prosveshcheniya. Novaya seriya], vol. 25: 1910, no. 2, part 2, p. 298.

³² *Акты издаваемые виленскою археографическою комиссиею для разбора древних актов*, vol. 4, Вильна 1870 [Akty izdavayemye vilenskoju arkheograficheskoyu komissiyeyu dlya razbora drevnikh aktov, vol. 4, Vil'na 1870], p. 169.

³³ Tomasz CIESIELSKI, *Sejm brzeski 1653 r. Studium z dziejów Rzeczypospolitej w latach 1652–1653*, Toruń 2004, p. 84.

³⁴ Stefania OCHMANN-STANISZEWSKA, Zdzisław STANISZEWSKI, *Sejm Rzeczypospolitej za panowania Jana Kazimierza Wazy*, vol. 2, Wrocław 2000, pp. 8–9.

³⁵ See more Leszek A. WIERZBICKI, *O zgodę w Rzeczypospolitej. Zjazd warszawski i sejm pacyfikacyjny 1673 roku*, Lublin 2005, pp. 220–231.

³⁶ K. ВОБИАТЫŃСКИ, op.cit., pp. 178–179.

³⁷ Robert KOŁODZIEJ, *Sejm z 1718 roku na tle pierwszych sejmów grodzieńskich. Uwagi na temat wybranych elementów procedury sejmów w Grodnie*, [in:] *W podróży przez wiek osiemnasty. Studia i szkice z epoki nowożytnej*, ed. Adam PERŁAKOWSKI, Monika WYSZOMIRSKA, Michał ZWIERZYKOWSKI, Kraków 2015, p. 42.

exceptionally agreed to the sessions held in Warsaw out of turn – *ob extremam Reipublice necessitatem* – and demanded that the following session of the Sejm should be held not in Warsaw, but in Grodno³⁸. The internal and foreign situation of the Commonwealth in 1703 caused the Sejm convened under the Lithuanian chancellorship in Lublin to be recognised as the Sejm of Grodno³⁹. It was only the Sejm of 1718 that was held again in Grodno⁴⁰. The subsequent ‘Grodno’ Sejm sessions were held in Warsaw, whereas the postponed Sejm of 1726 was held in Grodno. Afterwards, the Sejm was held in Warsaw in 1728, and then two sessions were attempted to be held in Grodno (1729 and 1730), which ended in a break-up before the speaker was elected. The next Grodno Sejm in 1744 was ended without any resolutions, the following one was dissolved in 1752, and still the following one took place only 32 years later⁴¹. However, a profound reform of the Commonwealth at the Great Sejm, based on the principle of unifying the state, preserved the principle of holding every third General Sejm in Grodno, in the *Law on Sejm* passed in May 1791⁴².

Provincial sessions, which consisted in holding joint sessions by senators and deputies of the Grand Duchy during the sittings of the General Sejm, were an important element of the distinctness⁴³. In the era following the Union of Lublin, they were initiated by the Lithuanians during the 1590–1591 Sejm, and then taken over by the deputies of the remaining provinces (Royal Prussia, Greater Poland and Lesser Poland)⁴⁴. In Warsaw, they took place mostly in the Jesuit church⁴⁵. The rules of their organisation and activity were shaped in practice and they were changeable; feuds between Lithuanian factions also took place, such as the one in 1677⁴⁶. In mid-17th century onwards, Lithuanian

³⁸ Vilniaus universiteto biblioteka [Vilnius University Library], F. 7–12, 15/5963a (księga grodzka trocka za lata 1683–1686 [the court book of Trakai for the years 1683–1686]), f. 1105.

³⁹ Jarosław PORAZIŃSKI, *Sejm lubelski w 1703 roku i jego miejsce w konfliktach wewnętrznych na początku XVIII wieku*, Warszawa 1988, p. 68.

⁴⁰ R. KOŁODZIEJ, *Sejm z 1718 roku*, p. 43.

⁴¹ Wojciech KRIEGSEISEN, *Sejm Rzeczypospolitej szlacheckiej (do 1763 roku)*, Warszawa 1995, pp. 203–206. Cf. Andrzej STROYNOWSKI, *Znaczenie alternaty sejmów dla Wielkiego Księstwa Litewskiego w epoce stanisławowskiej*, *Przegląd Nauk Historycznych*, vol. 17: 2018, no. 1, pp. 121–142.

⁴² *Volumina Legum* (hereinafter cit. VL), vol. 9, ed. Aleksander BOJARSKI, Zbigniew KNIAZIOŁUCKI, Kraków 1889, p. 250.

⁴³ Cf. Antanas TYLA, *Lietuvos Didžiosios Kunigaikštystės iždas per dvidešimtmetį karą (1648–1667)*, Vilnius 2010, pp. 48–51.

⁴⁴ Edward OPALIŃSKI, *Sejm Srebrnego Wieku 1587–1652. Między głosowaniem większościowym a liberum veto*, Warszawa 2001, p. 157.

⁴⁵ Robert KOŁODZIEJ, „Ostatni wolności naszej klejnot”. *Sejm Rzeczypospolitej za panowania Jana III Sobieskiego*, Poznań 2014, pp. 233–234, 237–238, tab. 12.

⁴⁶ Mariusz SAWICKI, *Dom sapieżyński 1666–1685. Droga do hegemonii w Wielkim Księstwie Litewskim*, Opole 2016, p. 147.

sessions were held regularly, unlike in other provinces⁴⁷. In the era of King John III, the Lithuanians kept to themselves, without even paying attention to the sessions of the joint chambers; in 1677 they did not appear in the Senate for 3 weeks, preparing drafts of the Lithuanian constitution in their own company⁴⁸. During such sessions, it was not only the positions of Lithuanian deputies that were agreed upon, but also drafts of the constitution were prepared, which were later adopted during the sessions of the Sejm, usually without any problems⁴⁹. Occasionally, the Lithuanian treasury bills inspection or the decision to prolong the sessions of the Sejm took place⁵⁰. Provincial sessions lasted until the end of the common state, and their importance in the times of the union with Saxony and the reign of Stanisław Augustus perhaps even increased⁵¹. The *Law on Sejm* of 1791 mentioned above also maintained it⁵².

On the other hand, smaller, yet more explicit examples of distinctness include: the Lithuanian Senate councils, the celebration of the Sejm mass in Grodno by a Lithuanian bishop, the participation of one Lithuanian in a three-person delegation to the monarch informing about the election of the speaker⁵³, and the appropriate proportion in the representations of the Sejm and the Senate⁵⁴. An important factor that distinguished Lithuania from other countries was the constitutions adopted for Lithuania in parliament, which will be discussed below.

The ministerial offices of the Grand Duchy were, in principle, the same as in the Crown or very similar from the time of the Union of Lublin. In the case of the chancellors, who were closest to the monarch, this initially created some competence problems. Eventually, after long disputes⁵⁵, they were solved in a way that the duties towards the monarch were performed by the Crown

⁴⁷ S. OCHMANN-STANISZEWSKA, Z. STANISZEWSKI, op.cit., pp. 186–189.

⁴⁸ R. KOŁODZIEJ, „*Ostatni wolności naszej klejnot*”, pp. 230–231.

⁴⁹ S. OCHMANN-STANISZEWSKA, Z. STANISZEWSKI, op.cit., pp. 184–190; R. KOŁODZIEJ, „*Ostatni wolności naszej klejnot*”, pp. 419–420.

⁵⁰ R. KOŁODZIEJ, „*Ostatni wolności naszej klejnot*”, p. 235.

⁵¹ Wojciech SZCZYGIELSKI, *Rola sesji prowincjonalnych w początkach obrad Sejmu Wielkiego*, [in:] *Konstytucja Stanów Zjednoczonych Ameryki. Reminiscencje w 220. rocznicę uchwalenia*, ed. Jolanta A. DASZYŃSKA, Łódź 2009, pp. 159–160; Wojciech SZAFRAŃSKI, *Józef Weyssenhoff – polityk, prawnik, legislator czasów Oświecenia*, Poznań 2017, pp. 177–178. However, this issue required some research.

⁵² VL, vol. 9, pp. 251, 254.

⁵³ R. KOŁODZIEJ, *Sejm z 1718 roku*, pp. 44–47.

⁵⁴ Although it is harder to find a rule in the latter, see R. KOŁODZIEJ, „*Ostatni wolności naszej klejnot*”, pp. 272–273.

⁵⁵ See Tomasz KEMPA, *Mikołaj Krzysztof Radziwiłł Sierotka (1549–1616) – wojewoda wileński*, Warszawa 2000, pp. 62–63.

officials when the monarch was staying in the Crown, and by the Lithuanians, whenever he crossed the borders of the Grand Duchy⁵⁶.

In the times of the House of Vasa, the creation of offices in Lithuania was motivated, among others, by the desire of its inhabitants to establish a similar hierarchy of land offices in both parts of the Commonwealth. In the era of King Sigismund III the competences of the Crown and Lithuanian referendaries were made equal⁵⁷. In the years 1589–1590, the offices of the master of the pantry and vice-master of the pantry were established in the districts, and in the years 1635–1636 the same happened to the offices of a cupbearer, butler, treasurer, and perhaps also a sword-bearer and the master of the hunt⁵⁸. In 1635, the decisions of the Union of Lublin were finally realised by granting Lithuanian seal bearers: the chancellor and the vice-chancellor, seats in the Senate, after the grand marshal of Lithuania, before the court marshals, who were seated after the grand treasurers⁵⁹. In both parts of the country, almost simultaneously, the office of the artillery general was established under Władysław IV⁶⁰. The very same ruler established the court office of the grand guardian and restored the office of the Lithuanian chamberlain. In all likelihood it was John II Casimir who added the offices of the guardian and the master of the horse to the hierarchy, while Michał Korybut Wiśniowiecki or John III added the commander of a military camp (*oboźny*) and restored the bridge supervisor, headman (*horodniczy*) and builder, i.e. the offices that were well-known from the period before the Union of Lublin. Additionally, John III or Augustus II ‘the Strong’ established the offices of the trencher, steward (*strukczaszy*) and the quartermaster⁶¹.

⁵⁶ *Akta unii Polski z Litwą 1385–1791*, no. 161–162, 169–171, 174–176; VC, vol. 2, part 1, ed. Stanisław GRODZISKI, Irena DWORNICKA, Waclaw URUSZCZAK, Warszawa 2005, p. 242; Albrzycht S. RADZIWIŁŁ, *Pamiętnik o dziejach w Polsce*, vol. 1, ed. Adam PRZYBOŚ, Roman ŹELEWSKI, Warszawa 1980, p. 306; Jan SEREDYKA, *Konflikty marszałków koronnych z litewskimi od Unii Lubelskiej do połowy XVII wieku*, [in:] *Świat pogranicza*, ed. Mirosław NAGIELSKI [et al.], Warszawa 2003, pp. 211–221. See also A. ŠAPOKA, *Lietuva ir Lenkija po 1569 metu Liublino unijos*, pp. 146–170.

⁵⁷ *Urzędnicy centralni i dygnitarze Wielkiego Księstwa Litewskiego XIV–XVIII wieku. Spisy*, ed. Henryk LULEWICZ, Andrzej RACHUBA, Kórnik 1994, p. 169.

⁵⁸ *Urzędnicy Wielkiego Księstwa Litewskiego. Spisy*, vol. 1: *Województwo wileńskie XIV–XVIII wiek*, ed. Andrzej RACHUBA, Warszawa 2004, pp. 23–24.

⁵⁹ See Jan SEREDYKA, *Rzeczpospolita w ostatnich latach panowania Zygmunta III (1629–1632)*, Opole 1978, p. 88; VC, vol. 3, part 2, ed. Stanisław GRODZISKI, Marcin KWIECIEŃ, Anna KARABOWICZ, Warszawa 2013, p. 265; VC, vol. 2, part 1, p. 241.

⁶⁰ *Urzędnicy centralni i dygnitarze Wielkiego Księstwa Litewskiego*, p. 37.

⁶¹ *Urzędnicy Wielkiego Księstwa Litewskiego. Spisy*, vol. 1, pp. 23–24.

Lithuanians were more willing to accept the offices and titles that had already existed in the Crown than to get rid of their own and former titles. For that reason, in the Sejm of 1638, they persistently defended the 'ancient titles' used by Lithuanian princes before the Union of Lublin. They treated the proposal to abolish them as an attack on the conditions of the Union of Lublin, even though their particular interests were at stake⁶². The Lithuanian nobility, in turn, demanded that 'for the sake of keeping the nations parallel', vacant Lithuanian offices should be filled, if analogous offices of the Crown were imposed⁶³.

Thus, Lithuania had a system of state administration partially separate from the Crown. However, at the beginning of the reign of Stanisław Augustus (1764), this began to change. Both in the Crown and in Lithuania, separate but analogous institutions, such as treasure and military commissions⁶⁴ started appearing. In 1775, on the other hand, a joint body with functions similar to those of the government was established – the Permanent Council. A third of its members were the subjects of the Grand Duchy⁶⁵, who, although they belonged to different factions, defended its interests⁶⁶. The entire Commonwealth was also covered by the activities of the Commission of National Education.

During the era of the Great Sejm, a joint government, or the Guard of Laws, described in the *Constitution of 3 May*, was formed; however, it did not provide for the parity for Lithuanian ministers. However, in the administrative bodies that were subordinated to the Guard, i.e. the Great Commissions (army, treasury and police), the *Mutual Pledge of the Two Nations* adopted six months later, ensured Lithuania with half of the commissioners in the military and treasury commissions and, in the future, in the police commission. It also ensured their own ministers, offices, separate treasury and financial jurisdiction. The commissions were to be run alternately by the inhabitants of the

⁶² Andrzej TOMASZEK, *Sejm 1638 r. w obronie szlacheckiej równości*, Czasopismo Prawno-Historyczne, vol. 39: 1987, no. 2, pp. 27–29.

⁶³ Konstantinas AVIŽONIS, *Bajorai valstybiniam Lietuvos gyvenime Vazu laikais*, Roma 1975, p. 460.

⁶⁴ Some differences between the commissions of the Crown and Lithuania concerned the composition and number of terms of office, see Roman RYBARSKI, *Skarbowość Polski w dobie rozbiorów*, Kraków 1937, p. 11. About the practice, see Stanisław KOŚCIAŁKOWSKI, *Antoni Tyzenhauz, podskarbi nadworny litewski*, vol. 2, Londyn 1971, pp. 132–134.

⁶⁵ Marek KRZYMKOWSKI, *Wybory członków Rady Nieustającej (aspekty organizacyjno-prawne)*, Studia z Dziejów Państwa i Prawa Polskiego, vol. 16: 2013, p. 123; Witold FILIPCZAK, *Wybory Rady Nieustającej na sejmie 1778 roku*, Acta Universitatis Lodziensis. Folia Historica, vol. 64: 1999, p. 125.

⁶⁶ Like, e.g. Gedeon Jeleński, see Dariusz ROLNIK, *Województwo mińskie i Jeleńscy w życiu publicznym Rzeczypospolitej w latach 1764–1795 w świetle ich korespondencji*, Katowice 2018, p. 217.

Crown and Lithuanians⁶⁷. However, the implementation of these provisions posed certain problems⁶⁸.

As seen above, the systems of local government in both parts of the Commonwealth were constantly coming closer to each other, starting with the adoption of the Union of Lublin, and after more than two centuries from its conclusion, joint central government bodies began to be established⁶⁹. In this respect, Lithuania's distinctness from the Crown diminished.

As already mentioned, both parts of the Commonwealth had separate judiciary. However, after the Union had been established, Lithuania lost the court of the Grand Duke with the Council of Lords. It came under the jurisdiction of the Sejm Court, which ruled during the sessions of the Sejm, whose territorial jurisdiction at that time covered the entire Commonwealth, and Lithuanian cases were generally ruled on Tuesdays⁷⁰. At least since mid-17th century, 1/3 of the Chamber of Deputies representation was constituted by Lithuanians⁷¹.

From 1566, in the Grand Duchy itself, the structure of the judiciary modelled on the Crown was introduced. It was characterised by rationality that was typical of the Lithuanian adoption of the institution, yet unattainable in the Crown. In each of the districts that were created at that time, not only judicial, like in the Crown, but also sejmik, administrative and military districts, a District Court (*sąd grodzki*), a Land Court (*sąd ziemski*) and the Court of the Chamberlain (*sąd podkomorski*) were established⁷². The Lithuanians obtained

⁶⁷ Juliusz BARDACH, *The Constitution of 3 May and the Mutual Guarantee of the Two Nations*, [in:] *Constitution and Reform in Eighteenth-Century Poland: The Constitution of 3 May 1791*, ed. Samuel FISZMAN, Bloomington 1997, pp. 357–378; Leonas MULEVIČIUS, *Lietuvos savarankiškumas ir Abiejų Tautų savitarpio garantijos įstatymas*, *Lituanistica*, 1992, no. 4 (12), pp. 70–78; Eligijus RAILA, *1791 m. Gegužės 3 d. Konstitucija*, Vilnius 2001.

⁶⁸ Ramunė ŠMIGELSKYTĖ-STUKIENĖ, *Nuo 1791 m. gegužės 3 d. iki spalio 20 d. ir po jos. Lietuvos ir Lenkijos valstybinių institucijų „suliejimo“ problema (Iždo komisijos pavyzdžiu)*, XVIII Amžiaus Istorijos Studijos, vol. 1: 2014, pp. 128–147.

⁶⁹ The changes in the administration of the Grand Duchy during the reign of King Stanisław Augustus are presented in the following publication: Ramunė ŠMIGELSKYTĖ-STUKIENĖ, Eduardas BRUSOKAS, Liudas GLEMŽA, Robertas JURGAITIS, Valdas RAKUTIS, *Modernios administracijos tapšmas Lietuvoje. Valstybės institucijų raida 1764–1794 metais*, Vilnius 2014.

⁷⁰ Zbigniew SZCZĄSKA, *Sąd sejmowy w Polsce od końca XVI do końca XVIII wieku*, *Czasopismo Prawno-Historyczne*, vol. 20: 1968, no. 1, pp. 93–124.

⁷¹ VC, vol. 4, part 1, ed. Stanisław GRODZISKI, Marcin KWIECIEŃ, Krzysztof FOGT, Warszawa 2015, p. 346. See Witold KŁACZEWSKI, *W przededniu wojny domowej w Polsce. Walka sejmowa lat 1664–1665*, Lublin 1984, p. 74.

⁷² Of course, these courts sometimes changed, depending on the needs, see Ramunė ŠMIGELSKYTĖ-STUKIENĖ, *The Modernisation of the Court System in the Grand Duchy of Lithuania: Changes to the Organisation of the Local District Courts and Regulation of Judges' Duties in 1764–1793*, *Lithuanian Historical Studies*, vol. 21: 2017, pp. 1–30, DOI: <https://doi.org/10.30965/25386565-02101002>.

their own court of appeal – the Tribunal – only three years after the Poles, as a result of the efforts of the middle nobility and the reluctance of the lords⁷³. In contrast to the Lithuanian Court of Assessors (*sąd asesorski*), it ruled only in the territory of the Grand Duchy, and therefore it became a symbol of its distinctness. Similarly, to the Court of Assessors, it also outlived the reforms of the Great Sejm that unified the state.

At the time of establishing the Union, Lithuania had an advantage over the Crown as it had the *Second Statute* (1566) – its own modern codification of not only judicial but also political law. This code was to apply also to the Ukrainian lands of the Grand Duchy annexed to the Crown in Lublin in 1569. After 22 years it was seriously modernized after drawing conclusions from the observed deficiencies, but also to emphasize the distinctness of Lithuania more clearly⁷⁴. Thus, the *Third Statute* was created, which gradually replaced the previous one also in Ukrainian provinces, but it also served as the auxiliary law in the Crown⁷⁵, which, for various reasons, did not provide for its own codification⁷⁶. This was pointed out by a famous eighteenth-century writer on legal matters, Teodor Ostrowski: “w wielu artykułach prawodactwo koronne nie dorównywa doskonałości litewskiego: w tym lepszość jego i większa z zdrową polityką stosowność widocznie okazuje się” [“in many articles, the law of the Crown is not a match for Lithuanian perfection. It turns out to be much better and much more appropriate”]⁷⁷. The scale of the phenomenon is yet to be studied.

However, the needs of the Commonwealth and its society required new regulations. Attempts to amend the *Statute* were unsuccessful⁷⁸, so the Sejm

⁷³ *Deputaci Trybunału Głównego Wielkiego Księstwa Litewskiego (1582–1696)*. Spisy, ed. Henryk LULEWICZ, Andrzej RACHUBA, Warszawa 2007, pp. 12–13.

⁷⁴ Уладзімір Падалінскі, *Партыкулярызм vs уніфікацыя. Распрацоўка і прыняцце Статута Вялікага Княства Літоўскага 1588 г.* [Uładzimir PADALINSKI, *Partykularyzm vs unifikatsyya. Raspratsowka i prynyatstsyje Statuta Vyalikaha Knyastva Litowskaha 1588 h.*], Журнал Беларускаго государственного университета. История [Zhurnal Belorusskogo gosudarstvennogo universiteta. Istoriya], 2018, no. 2, pp. 10–20.

⁷⁵ Zygmunt KOLANKOWSKI, *Zapomniany prawnik XVI wieku Jan Łączyński i jego „Kompendium sądów Króla Jegomości”*, Toruń 1960, p. 48.

⁷⁶ Adam MONIUSZKO, *III Statut a próby kodyfikacji prawa koronnego za panowania Zygmunta III*, [in:] *Lietuvos Statutas ir Lietuvos Didžiosios Kunigaikštystės bajoriškoji visuomenė*, ed. Irena VALIKONYTĖ, Lirija STEPONAVIČIENĖ, Vilnius 2015, pp. 63–74.

⁷⁷ Teodor OSTROWSKI, *Prawo suwiltne narodu polskiego*, vol. 1, Warszawa 1787, p. 321; idem, *Prawo kryminalne angielskie przez Wilhelma Blakstona zebrane a przez x. T. Ostrowskiego S.P. wytłumaczone i uwagami do prawa polskiego stosownemi pomnożone*, vol. 2, Warszawa 1786, pp. 295–296.

⁷⁸ Андрей А. Радаман, *Сістэматызацыя права ВКЛ і пытанне наравы Трэцяга статута ВКЛ на соймаках Новагародскага ваяводства ў 1587–1632 гг.* [Andrey A. RADAMAN, *Sistematzatsyya prava VKL i pytanneye papravu Tretsyaha statuta VKL na soyamikakh Novaharodskaha vavavodstva w 1587–1632 hh.*], Журнал Беларускаго государственного

passed new laws (constitutions). Some of them were intended only for the Grand Duchy⁷⁹. They started to appear, often with interruptions, from the end of the 16th century⁸⁰ and remained until 1776. Their decline is probably associated with the need to bring order to constitutional matters in the Sejm and the endeavour to unify the state; however, this remains an open question. For example, in the era of John III, Lithuanian constitutions accounted for nearly 50% of the total number of acts, while in the era of John II Casimir – 44%⁸¹. Zigmantas Kiaupa demonstrated the structure of laws that related to the 18th century in a poll, as they regulated: fiscal, court, political, personal and local matters. Of course, they were not only an expression of Lithuania's separateness, but also guaranteed its efficient functioning⁸².

However, these constitutions did not regulate all the problems, as they could not do that. Hence the search for the norms that functioned in the Crown. In 1640, the nobility of Ashmyany wished to apply the Crown constitution on the incompatibility of the functions of a deputy to the Tribunal and a deputy to the Sejm in the Grand Duchy, and 5 years later the nobility of Grodno demanded that the constitution on outlaws be adopted⁸³. In the era of the Great Sejm, Hugo Kołłątaj recommended extending some of the Crown laws to the Grand Duchy⁸⁴. In 1790, the nobility of Orsha wished such favourable solutions to be added to the provisions on Lithuanian order commissions⁸⁵. Recently, Marcin Głuszak drew attention to the policy of the Permanent Council which allowed both the application of Lithuanian law in the Crown and the Crown law in the Grand Duchy⁸⁶. However, the issue of the validity of the laws passed by the

университета. История [Zhurnal Belorusskogo gosudarstvennogo universiteta. Istoriya], 2018, no. 2, pp. 21–31.

⁷⁹ A. ŠAROKA, *Lietuva ir Lenkija po 1569 metu Liublino unijos*, pp. 128–144.

⁸⁰ The researchers can find firsts laws of this kind in 1578, 1581 or 1590, see Andrzej B. ZAKRZEWSKI, *Wielkie Księstwo Litewskie (XVI–XVIII w.). Prawo – ustroj – społeczeństwo*, Warszawa 2013, pp. 114–115.

⁸¹ R. KOŁODZIEJ, „Ostatni wolności naszej klejnot”, p. 471.

⁸² Zigmantas KIAUPA, *Konstytucje Wielkiego Księstwa Litewskiego na sejmach Rzeczypospolitej Obojga Narodów jako wyraz życia politycznego*, [in:] *Kultura parlamentarna epoki staropolskiej*, ed. Andrzej STROJNOWSKI, Warszawa 2013, pp. 29–30.

⁸³ Віталь У. Галубовіч, *Палякі і Карона Польская ў пасольскіх інструкцыях шляхты Вялікага княства Літоўскага ў час праўлення Уладзіслава Вазы* [Vital' U. HALUBOVICH, *Palyaki i Karona Pol'skaya w pasol'skikh instruktsyyakh shlyakhty Vyalikaha knyastva Litovskaha w chas prawyennya Uladzislava Vazy*], [in:] *Шлях да ўзаемнасці*, рэд. Іван П. Крэнь, Гродна 2009 [Shlyakh da wzajemnasti, ed. Ivan P. KREN', Hrodna 2009], p. 201.

⁸⁴ Hugo KOŁŁĄTAJ, *Listy Anonima i prawo polityczne Narodu Polskiego*, vol. 1, ed. Bogusław LEŚNODORSKI, Helena WERESZYCKA, Warszawa 1954, pp. 205, 234.

⁸⁵ *Lietuvos Didžiosios Kunigaikštystės seimelių instrukcijos (1788–1790)*, p. 285.

⁸⁶ Marcin GŁUSZAK, *O recepcji prawa w rezolucjach Rady Nieustającej, XVIII amžiaus istorijos studijos*, vol. 3: 2016, pp. 272–278.

Sejm of the Commonwealth in both its parts has been the subject of scientific discussion for over a century⁸⁷. Recently, Lithuanian researchers have joined in this discussion⁸⁸, so we should hope for the problem to be clarified.

It was not only Lithuania that applied the Crown law. The Crown sometimes used Lithuanian solutions. The constitution of the Crown which created the royal estates in 1590 was, according to Anna Filipczak-Kocur, adopted from the Lithuanian law, whose origins date back to 1587⁸⁹. In the era of King Stanisław Augustus, as Richard Butterwick put it, “litewskie prawo utorowało drogę prawu koronnemu” [“Lithuanian law paved the way for the Crown law many times over”]⁹⁰. The cardinal laws of 1768 adopted the provisions on the death penalty for intentional manslaughter from the Lithuanian *Statute*, regardless of the condition of the perpetrator and victim. Following the Lithuanian example, Stanisław Konarski and Hugo Kołłątaj recommended the introduction of a permanent institution of the speaker of the sejmik in the Crown. H. Kołłątaj also recommended the adoption of the manner in which the Lithuanian Court of *Compositi Iudicii* ruled. The constitution on the order of sejmik proceedings in the Grand Duchy of Lithuania of 1764 became the model for the Crown. The principle of holding electoral and deputational sejmiks on the first Monday after the feast of Our Lady of Candles, developed in the Grand Duchy through practice and approved by the constitution in 1764, was adopted in 1790 for the entire Commonwealth, for selecting the composition of the civil-military order commissions. Setting the new February date

⁸⁷ It was started, with a practical overtone, back in 1893 by Sergei A. Berszadskiy, who claimed that in the Grand Duchy of Lithuania the only constitutions which were in force had been issued specially for it, or contained a reference to the extension of their powers on it. Stanisław Ptaszycki was of a different opinion, as he recognized that the national constitutions were also applied. Stefan Ehrenkreutz presented a similar position. Several years later it was rejected by Adolfas Šapoka, who gave examples of constitutions, where the text indicated that they were adopted or rejected by the Grand Duchy. Karol Łopatecki recently returned to the issue, pointing out that the military articles of 1609 which were approved by the Sejm were used in the Grand Duchy next to the *Third Statute*, which contained similar norms, see Andrzej ZAKRZEWSKI, *Statut w konstytucjach, konstytucje w Statucie, XVI–XVIII w.*, [in:] *Lietuvos Statutas. Temidės ir Klejos teritorijos*, ed. Irena VALIKONYTĖ, Neringa ŠLIMIENĖ, Vilnius 2017, pp. 206–208.

⁸⁸ Gintautas SLIESORIŪNAS, *Lietuvos istorija*, vol. 6: *Lietuvos Didžiosios Kunigaikštystės istorija XVI a. pabaigoje – XVIII a. pradžioje (1588–1733 metais)*, Vilnius 2015, pp. 27–28; Zigmantas KIAUPA, *Lietuvos istorija*, vol. 7, part 2: *Trumpasis XVIII amžius (1733–1795)*, Vilnius 2018, pp. 267–268.

⁸⁹ Anna FILIPCZAK-KOCUR, *Skarbowość Rzeczypospolitej 1587–1648. Projekty – ustawy – realizacja*, Warszawa 2006, p. 363.

⁹⁰ Richard BUTTERWICK, *Finis Poloniae, finis Lituaniae, finis Reipublicae?*, [in:] *Lietuvos Didžiosios Kunigaikštijos tradicija ir tautiniai naratyvai*, ed. Alfedas BUMBLAUSKAS, Grigorijus POTAŠENKO, Vilnius 2009, p. 115.

for deputational and administrative sejmiks for the entire Commonwealth by the *Law on sejmiks* of 24 March 1791 had the same origin⁹¹. Examples can be multiplied. In the same era, the Crown nobility wished to adopt Lithuanian solutions in the trials of fugitive subjects⁹². And all this was conducive to the unification of the law and the legal system.

Coaequatio iurium of the Grand Duchy of Lithuania with the Polish Crown from 1697 was a special case, which was the effect of several dozen years of struggle of the middle nobility, supported by the military confederation, against the dominance of magnates⁹³. The nobility wished to make the laws of the Crown and Lithuania equal, and more precisely to introduce more favourable solutions of the Crown to the Grand Duchy, in order to make more equal the procedures of the Crown and Lithuanian Tribunals, rights of the chancellors and vice-chancellors, principles of banishment, as well as competence of hetmans and their courts. It is not certain whether all the principles of this act have actually entered into force. Some of them were explicitly reversed – the Fiscal Courts (*sądy skarbowe*) modelled on the Crown⁹⁴, introduced in 1697 in order to keep the economy in check with taxes, were abolished by the Silent Sejm in 1717⁹⁵. However, all in all, the *coaequatio iurium* brought the Lithuanian legal system closer to that of the Crown.

There is no doubt that the sense of Lithuanian distinctness was based, as Mathias Niendorf noted, on the legal system of the *Statutes*⁹⁶. The first three chapters of the *Second* and *Third Statute* contained regulations in the field of public law: on the ruler, on defence, and on the freedom of the nobility. However, this system was often – although its extent needs to be investigated – supplemented by constitutions of the Sejm, which were common to the entire Commonwealth. The *Statute* itself, supplemented and modified by this law, remained as it was, but in the era of the Great Sejm it was destined to be repealed

⁹¹ A.B. ZAKRZEWSKI, *Wielkie Księstwo Litewskie (XVI–XVIII w.)*, pp. 278–279.

⁹² Witold FILIPCZAK, *Życie sejmikowe prowincji wielkopolskiej w latach 1780–1786*, Łódź 2012, p. 569.

⁹³ Gintautas SLIESORIŪNAS, *Lietuvos Didžioji Kunigaikštystė vidaus karo išvakarėse. Didikų grupuočių kova 1690–1697 metais*, Vilnius 2000, pp. 245–259; *Akta zjazdów stanów Wielkiego Księstwa Litewskiego*, vol. 1, pp. 337–343.

⁹⁴ VL, vol. 5, ed. Jozafat OHRYZKO, Petersburg 1860, p. 867; VL, vol. 6, ed. Jozafat OHRYZKO, Petersburg 1860, pp. 75–76.

⁹⁵ VL, vol. 6, p. 280. See more Gintautas SLIESORIŪNAS, *Sejm Niemy a rewizja reform ustrojowych, zainspirowanych przez litewskich republikantów na przełomie XVII i XVIII w.*, [in:] *Sejm Niemy. Między mitem a reformą państwa*, ed. Michał ZWIERZYKOWSKI, Warszawa 2019, pp. 197–199.

⁹⁶ Mathias NIENDORF, *Das Großfürstentum Litauen 1569–1795. Studien zur Nationsbildung in der Frühen Neuzeit*, Wiesbaden 2006, pp. 45–47, 211.

and replaced by the *Code of Stanisław Augustus*, which was intended for the whole Commonwealth⁹⁷.

In principle, from the Union of Lublin, the Lithuanian treasury system was similar to the Crown model⁹⁸. However, Lithuanian taxes differed from those of the Crown, even after the fiscal reforms of 1775 and 1776. Even though the names were similar, the method of collection was different⁹⁹. The complete convergence of tax systems in both parts of the country took place in October 1791 under the constitution titled *Comparison of the tax types in the Crown and the Grand Duchy of Lithuania*¹⁰⁰. At that time, a joint Treasury Commission (*Komisja Skarbowa*) appeared, in which, as mentioned already, half of the commissioners were guaranteed to Lithuania.

In the history of the Grand Duchy after the Union of Lublin had been established, two tendencies can be observed. The first of them is the desire to emphasize its distinctness from the Crown and to clearly distance itself from its problems¹⁰¹, the second one, quite paradoxically, is the belief in the unity of the Commonwealth. The emphasis laid on distinctness can be clearly seen in the years 1572–1588 in the Lithuanians' efforts to revise the resolutions of the Union of Lublin, as mentioned above: a separate election or recovering Ukrainian lands, detached by the Crown¹⁰². Later, however, one can observe a more relaxed stance. In 1601, the Lithuanian sejmiks stated that “IchMP Koronni za wzięciem Wołynia, Podlasia i Kijowa na się przyjąć raczyli” [“upon taking Volhynia, Podlasie and Kiev, the nobles of the Crown took upon themselves”] the Tatar threat¹⁰³. In 1616, the nobility of Ashmyany ordered that its deputies carry out their mandates “całości i bezpieczeństwa Rzeczypospolitej, zwyczajów dawnych narodu naszego Wielkiego Księstwa Litewskiego pilno postrzegając” [“making sure that the Commonwealth remains whole and safe, and that the old customs of the people of the Grand Duchy of Lithuania are carefully observed”]¹⁰⁴. Three years later, the nobility of Navahrudak demanded that the parliamentary constitutions be handed over to the deputies

⁹⁷ See W. SZAFRAŃSKI, *op.cit.*, pp. 353–447.

⁹⁸ Antanas TYLA, *Lietuvos Didžiosios Kunigaikštystės išdas XVI amžiaus antroji pusė – XVII amžiaus viduryis*, Vilnius 2012, p. 27.

⁹⁹ S. KOŚCIAŁKOWSKI, *op.cit.*, vol. 2, pp. 152–154.

¹⁰⁰ VL, vol. 9, p. 315, no. CCCLII.

¹⁰¹ H. LULEWICZ, *Najstarsza znana instrukcja sejmikowa z Wielkiego Księstwa Litewskiego*, p. 177.

¹⁰² T. KEMPA, *The issue regarding “the reform of the union”*, pp. 53–88.

¹⁰³ Henryk WISNER, *Rzeczpospolita Wazów*, vol. 3: *Sławne Państwo Wielkie Księstwo Litewskie*, Warszawa 2008, p. 9.

¹⁰⁴ Idem, *Sejmiki litewskie w czasach Zygmunta III i Władysława IV*, *Miscellanea Historico-Archivistica*, vol. 3: 1989, p. 64.

of the Grand Duchy, authenticated by Lithuanian seal bearers¹⁰⁵. One can see here the fear of merging Lithuania and its institutions with the Crown.

In the 17th century, when the distinctness of the Grand Duchy was no longer threatened, this tendency fluently transformed into an instrument of political struggle: “stałe wysuwanie odrębności odmiennych tradycji i ‘prerogatyw’ prowincji litewskiej w przeciwstawieniu do Korony” [“constantly making demands of the distinctness of different traditions and ‘prerogatives’ of the Lithuanian province as opposed to the Crown”], as Stanisław Kościałkowski aptly described it, referring to the reign of Stanisław Augustus¹⁰⁶. From 1573 until the reign of Stanisław Augustus and the Grodno Sejm of 1793, it was demanded that district marshals be included in the Senate¹⁰⁷. Of course, this was a purely political postulate, as before the Union of 1569 these marshals never sat in the Council of the Grand Duke, as such an office did not exist. This was all about granting them the position of Crown minor castellans¹⁰⁸. In this way the representation of Lithuania would be increased and the desire for the dignities of those twenty Lithuanians would be satisfied. In 1676, the monarch was expected to confirm all the rights and freedoms of Lithuania, but in reality the aim was to limit the powers of the Lithuanian field hetman (*hetman polny*) – a competitor of the grand hetman (*hetman wielki*)¹⁰⁹. In 1697, demands were put forward to abolish the newly adopted *coaequatio iurium*. This reform violated the interests of the magnates, and it was argued that it proved “jakoby naród W.Ks.L. nie był równy koronnemu i bez prawa przystąpił” [“that the people of the Grand Duchy of Lithuania was not equal to that of the Crown and joined the Union not by its own right”]¹¹⁰. In 1764, it was demanded that the archbishopric of Vilnius be established, as Lesser Poland and Greater Poland had their archdioceses. In 1780, the draft *Collection of Judicial Laws*, which was to result in the repeal of the Lithuanian *Third Statute*, was

¹⁰⁵ Idem, *Przedsejmowy sejmik nowogródzki w latach 1607–1648*, Przegląd Historyczny, vol. 69: 1978, no. 4, p. 683.

¹⁰⁶ Stanisław KOŚCIAŁKOWSKI, *Antoni Tyzenhauz, podskarbi nadworny litewski*, vol. 1, Londyn 1970, p. 103.

¹⁰⁷ *Akta zjazdów stanów Wielkiego Księstwa Litewskiego*, vol. 1, p. 63; Jerzy MAŁEC, *Szkice z dziejów federalizmu i myśli federalistycznej w nowożytnej Europie*, Kraków 2003, pp. 56–89; Ryszard ŁASZEWSKI, *Sejm polski w latach 1764–1793*, Warszawa–Poznań 1973, p. 64.

¹⁰⁸ Andrzej B. ZAKRZEWSKI, *Marszałek powiatowy Wielkiego Księstwa Litewskiego – marszałkiem sejmikowym (XVI–XVIII w.)*, [in:] *Parlament, prawo, ludzie. Studia ofiarowane Profesorowi Juliuszowi Bardachowi w sześćdziesięciolecie pracy twórczej*, Warszawa 1996, p. 360.

¹⁰⁹ Konrad BOBIATYŃSKI, *Spór o prerogatywy buławy wielkiej litewskiej podczas sejmiku kononacyjnego Jana III Sobieskiego*, [in:] *Król Jan III Sobieski i Rzeczpospolita w latach 1674–1683*, ed. Dariusz MIŁEWSKI, Warszawa 2016, p. 163.

¹¹⁰ *Akta zjazdów stanów Wielkiego Księstwa Litewskiego*, vol. 1, p. 338.

fought against¹¹¹. Thus, it was a certain mechanism of political mobilization of the noble masses, used, among others, by Antoni Tyzenhauz¹¹², while the demands themselves were for the Grand Duchy, not only in the 18th century, an issue of secondary importance.

However, almost simultaneously, a different tendency began to develop, i.e. the belief in the unity of the state of the Commonwealth which was clearly growing at the time of peril¹¹³. In 1624, the Vilnius Convocation stipulated: “gdyż nasze i rady i ratunki według praw i starożytnych związków spólne z ichmm. pany koronnemi być mają” [“as our counsel and our aid, by the laws and ancient alliances, are to be common with those of the nobles of the Crown”]¹¹⁴. During the *interregnum* following the death of Sigismund III, instructions of one of the Lithuanian sejmiks stated: “miła Ojczyzna nasza Korona Polska i W[ielkie]o Ks[ięstw]a Lit[ewskiego]” [“our beloved Homeland, the Polish Crown and the Grand Duchy of Lithuania”]¹¹⁵. It should be emphasized that this was about the Commonwealth, as in the first half of the 17th century the Lithuanian’s homeland was both the Commonwealth and the Grand Duchy of Lithuania, and not the Polish Crown¹¹⁶. Andrzej Rachuba, when examining the Lithuanian sejmiks in the difficult year of 1655, clearly showed their fears of breaking the Union, especially because of Lithuania’s inability to cope with Muscovite aggression on its own¹¹⁷. That is why the convocation in Kamyenyets (Kamieniec Litewski) in 1657 clearly reproached that: “Bracia nasi ichmm. P[anowie] koronni uwolniwszy się od nieprzy[jació]ł o nas nie myślą” [“Our brothers, the nobles of the Crown, having freed themselves from the enemies, have no consideration for us whatsoever”]¹¹⁸. Shortly afterwards, the deputies from Navahrudak, Jan Kiersnowski and Jan Starliński, as they

¹¹¹ Ibid.; Ewa BORKOWSKA-BAGIEŃSKA, „Zbiór praw sądowych” Andrzeja Zamoyskiego, Poznań 1986, p. 318.

¹¹² S. KOŚCIAŁKOWSKI, op.cit., vol. 1, pp. 59, 103, 133–134.

¹¹³ Edward OPALIŃSKI, *Kultura polityczna szlachty polskiej w latach 1587–1652*, Warszawa 1995, p. 28.

¹¹⁴ *Akta zjazdów stanów Wielkiego Księstwa Litewskiego*, vol. 2: *Okresy panowań królów elekcyjnych, XVI–XVIII wiek*, ed. Henryk LULEWICZ, Warszawa 2009, p. 243.

¹¹⁵ Lietuvos mokslų akademijos Vrublevskių biblioteka, Vilnius [The Wroblewski Library of the Lithuanian Academy of Sciences], F. 198-4, f. 1v, 11 VIII 1632.

¹¹⁶ Henryk WISNER, *Rzeczypospolite szlachty litewskiej (schyłek wieku XVI – pierwsza połowa XVII wieku)*, Barok, vol. 13: 2006, no. 1 (25), p. 28. The question that arises here is: since when did the Crown become this ‘homeland’, at least for those Lithuanians with properties in the Crown?

¹¹⁷ Andrzej RACHUBA, *Konwokacja litewska w Białej w 1665 roku*, [in:] *Studia historyczno-prawne. Prace dedykowane Profesorowi Janowi Seredyce w siedemdziesiątą piątą rocznicę urodzin i czterdziestopięciolecie pracy naukowej*, ed. Janusz DOROBISZ, Włodzimierz KACZOROWSKI, Opole 2004, pp. 274, 277.

¹¹⁸ *Akta zjazdów stanów Wielkiego Księstwa Litewskiego*, vol. 2, p. 369.

were going to the Sejm, promised, among other things, “*ze unum sentire będziemy z Panami Koronnemi posłami et unionem sacrosancte fermare*” [“that we will be *unum sentire* with the nobles of the Crown, the deputies *et unionem sacrosancte fermare*”]¹¹⁹. According to the research conducted by Przemysław P. Romaniuk, at the turn of the 17th and 18th centuries the sense of distinctness of Lithuania coexisted with the feeling of belonging to the Commonwealth¹²⁰. Also Mindaugas Šapoka noticed in the era of the Silent Sejm (*Sejm niemy*) “poczucie wspólnoty i tożsamości wartości politycznych” [“a sense of community and identity of political values”], which caused the appeals of the Lithuanian nobility to the nobility of the Crown for support¹²¹.

Of course, sometimes the principles of the Union were used to mask important political goals. In 1665, a convocation of the Grand Duchy was convened in Biała. Its purpose was to pass laws on the taxes and the way of paying the army. When the deputies arrived, it turned out that some districts were protesting against the convention, claiming that it was breaking the union with the Crown, because the monarch was present. The argument was that if there was a Senate and the deputies of the nobility, or the ruler, then it meant that the Lithuanian Sejm was present. And yet the acts of the Union forbade convening separate Sejm sessions¹²². Also Jan Paweł Sapięha proclaimed that he was afraid that the union with the Crown might be broken¹²³. In reality, the reason was the Sapięha family's aversion to the monarch's participation in the convocation, and the ban on convening separate Sejm sessions was supposed to be an argument in the political struggle.

However, the declarations on the unity of the Commonwealth were often followed by deeds. In 1638, Lithuania “*miłość swą braterską oświadczając*” [“declaring its brotherly love”] helped the Crown *subsidiūm ex fraterno affectu* to pay the Crown army, which suppressed the Cossack uprising¹²⁴. The instruction of the Vawkavysk sejmik of 25 August 1639 clearly stated it was: “*nie z powinności, tylko z miłości do panów koronnych*” [“not out of duty, but out of love for the Crown nobles”]¹²⁵. A year later, however, the nobility of

¹¹⁹ AGAD, Zbiór Branickich z Suchej 124/147, f. 167. A similar earlier commission for the deputies of Slonim from 1608 – Biblioteka X.X. Czartoryskich, MNK 750c.

¹²⁰ Przemysław P. ROMANIUK, *Pojęcie „Rzeczpospolita Litewska” w ruchu republikańskim na przełomie XVII i XVIII wieku*, Barok, vol. 13: 2006, no. 1 (25), pp. 31–40.

¹²¹ Mindaugas ŠAPOKA, *Konfederacja Wielkiego Księstwa Litewskiego 1715–1716 roku i jej wpływ na negocjacje przed Sejmem Niemy*, [in:] *Sejm Niemy. Między mitem a reformą państwa*, ed. Michał ZWIERZYKOWSKI, Warszawa 2019, pp. 30–31.

¹²² *Pamiętniki Filipa, Michała i Teodora Obuchowiczów (1630–1707)*, ed. Henryk LULEWICZ, Andrzej RACHUBA, Warszawa 2003, p. 372.

¹²³ A. RACHUBA, *Konwokacja litewska w Białej w 1665 roku*, pp. 267–278.

¹²⁴ VL, vol. 3, ed. Jozafat OHRYZKO, Petersburg 1859, p. 943.

¹²⁵ Cit. after: A. FILIPCZAK-KOCUR, op.cit., p. 322.

Ashmyany and Braslaw forbade their deputies to accept taxes for the Crown army¹²⁶. In 1654, 20% of the Crown troops were involved in the Lithuanian theatre of operations, in the number of about 5,300–5,400 soldiers, compared to about 8,000 soldiers of the Lithuanian army¹²⁷. During the 1660 campaign, the Crown troops constituted 40% of the forces of the Commonwealth operating on the Lithuanian battlefield¹²⁸. Examples might be multiplied.

The mobility of the noblemen pursuing a career not only in their own province, but also in the entire Commonwealth, gradually increased. The petty, sometimes even middle nobility of the Crown headed for Lithuania in a constant stream. They had been settling there since the 15th century in search for a living, being in the service of the Grand Duke of Lithuania and the Lords of the Council. It was a demographic and economic process. At the end of the 16th century the population density in the Crown was about 20–22 people per square kilometre, while in the Grand Duchy, 6–7 people per square kilometre. At the end of the 18th century this density was 28 people per square kilometre in the Crown and 15 people per square kilometre in Lithuania. However, Lithuania was much more affected than the Crown by the war with Sweden and especially Moscow in the middle of the 17th century and the consequences of the Great Northern War (1700–1721). It first lost about half and then third of its population¹²⁹. Thus, the Crown nobility moved, filling in the empty spaces, increasing their own income, the income of the lords and the treasure. Probably the vast majority of newcomers settled in the Grand Duchy permanently, establishing Lithuanian lines of Crown families. Jonas Drungilas aptly showed the mechanisms of such a process, which took place in Samogitia in the second half of the 16th century¹³⁰.

Lithuanian magnate families did not restrict themselves to their province – they married into Crown families and purchased landed estates there¹³¹. It can be safely assumed that in the 18th century, the elites of the Crown and the

¹²⁶ B. У. Галубовіч, op.cit., p. 200.

¹²⁷ Konrad BOBIATYŃSKI, *Od Smoleńska do Wilna. Wojna Rzeczypospolitej z Moskwą 1654–1655*, Zabrze 2004, pp. 88–90.

¹²⁸ Krzysztof KOSSARZECKI, *Kampania roku 1660 na Litwie*, Zabrze 2005, p. 69.

¹²⁹ Cezary KUKLO, *Demografia Rzeczypospolitej przedrozbiorowej*, Warszawa 2009, pp. 212–213, 217.

¹³⁰ Jonas DRUNGILAS, *Adaptacja i integracja pierwszego pokolenia szlachty polskiej osiedlającej się na Żmudzi (II połowa XVI – początek XVII wieku)*, Europa Orientalis. Studia z Dziejów Europy Wschodniej i Państw Bałtyckich, vol. 1: 2009, pp. 255–277.

¹³¹ Teresa ZIELIŃSKA, *Magnateria polska epoki saskiej. Funkcje urzędów i królewskich w procesie przeobrażeń warstwy społecznej*, Wrocław 1977, p. 169; Rita R. TRIMONIENĖ, *Polonizacja*, [in:] *Kultura Wielkiego Księstwa Litewskiego. Analizy i obrazy*, ed. Vytautas ALIŠAUSKAS [et al.], trans. Paweł BUKOWIEC, Beata KALĘBA, Beata PIASECKA, Kraków 2006, p. 557.

Grand Duchy were more and more active in the whole Commonwealth. If they had large estates in the Crown and Lithuania, like the Radziwiłłs or the Sapiehas, they could occupy the offices of all the provinces. By degrees, it became increasingly difficult for the noble elites to determine which of the common parts of the Commonwealth they belonged to. Janusz Antoni Wiśniowiecki from Ruthenia was probably the most glaring example. At the beginning of the 18th century he started his career in the Grand Duchy, where he quickly reached its highest secular office, the voivode of Vilnius, and after two years he left Vilnius, only to become the voivode of Cracow¹³². Richard Butterwick aptly pointed out that “niektóre rody, między innymi Czartoryscy, mogły uchodzić zarówno za koronne, jak i litewskie” [“some families, including the Czartoryski family, could be considered both Crown and Lithuanian families”]¹³³. In the 18th century, the Crown origin was no impediment to the middle nobility. The aforementioned J. Drungilas showed the efforts of the Nagórski family from Samogitia (the first mention of which dates back to 1594) to ‘find’ an ancestor from Łęczyca land in the Crown, who would belong to the local elite in the 16th century. The circumstances that excluded the relationship (a different coat of arms, etc.) were overlooked and the worthy ancestor was ‘found’¹³⁴.

However, the picture cannot be idealized. There were episodes in the politics of both countries of the Commonwealth, when they took care of their own interests, in a more or less pronounced way. Sometimes it was about finding an immediate relief in a strategic disadvantage, while on other occasions it was also about gaining an advantage in the power struggle among the Lithuanian elite, and not about a permanent separation from the Crown. Fortunately, the problem of Lithuanian particularism or separatism is currently of interest not to politicians but to scholars, so there is a chance to explain it¹³⁵. Of course, an unlimited influx of the inhabitants of the Crown was not in the interest of the Lithuanians. In the second half of the 16th century, the local nobility in Samogitia showed aversion towards foreigners who were settling there, not

¹³² Janusz A. WIŚNIEWIECKI, *Ilias Polski (1700–1710)*, ed. Przemysław P. ROMANIUK, Jacek BURDOWICZ-NOWICKI, Warszawa 2018, pp. 11–14.

¹³³ R. BUTTERWICK, *Finis Poloniae, finis Lituaniae, finis Reipublicae?*, pp. 107–108.

¹³⁴ Jonas DRUNGILAS, *Szukając przodków. Poszukiwanie rodowodu przez podkomorzego żmudzkiego Jakuba Ignacego Nagórskiego w II połowie XVIII wieku*, *Rocznik Lituanistyczny*, vol. 2: 2016, pp. 143–165.

¹³⁵ Gintautas SLIESORIŪNAS, *Problemy separatyzmu Wielkiego Księstwa Litewskiego w końcu XVII wieku*, [in:] *Rzeczpospolita wielu narodów i jej tradycje*, ed. Andrzej K. LINK-LENCZOWSKI, Mariusz MARKIEWICZ, Kraków 1999, pp. 85–94; Tomasz AMBROZIAK, *The necessity to re-examine the question of Lithuanian particularism during the reign of Sigismund III and Władysław IV*, *Zapiski Historyczne*, vol. 89: 2014, no. 4, pp. 89–108, DOI: <http://dx.doi.org/10.15762/ZH.2014.17>.

only towards Poles, but even Lithuanians¹³⁶. And in the middle of the 18th century the prelates and canons of the Vilnius Cathedral Chapter did not agree, as a rule, to grant Lithuanian clerical offices to the inhabitants of the Crown, explaining that: “w tej prowincji, w której się tyle znajduje osób z urodzenia i nauki godnych, a beneficjów mało” [“in this province, there are so few benefices, and so many worthy people, either by birth or education”]¹³⁷. And it was not an exceptional situation. At that time, the Lithuanians were not enthusiastic about the policy of eliminating particularisms based on the principles of the Enlightenment, proposed by Stanisław Augustus, who aimed at maximum unification of the Commonwealth¹³⁸. To what extent this resulted from the fear of Polish competition for the resources, which were limited, and to what extent it was the issue of political tactics, remains an open question.

From the conclusion of the Union of Lublin, parallel to the struggle of the Lithuanians to preserve their individuality, the Commonwealth of two relatively equal states transformed into the Commonwealth of three provinces: Lesser Poland, Greater Poland and Lithuania, in which the latter had a special status. Gradually, a sense of political community of the Crown and Lithuanian nobility emerged, which is clearly visible in the 17th and 18th centuries, in e.g. information on the Crown sejmiks intended for Lithuanians¹³⁹, as well as sejmik letters (and speeches of their representatives) and letters of the Lithuanians to the sejmik of Poznań and Kalisz voivodeships, or in the responses to them¹⁴⁰. The laws, which were becoming increasingly close to each other, were an important binding force for both parts of the Commonwealth. Petro Kulakovskiy nicely named this process ‘commonwealthization’¹⁴¹.

¹³⁶ Eugenijus SAVIŠČEVAS, *Influx of the “outside” nobility into Samogitia in the 16th century*, *Zapiski Historyczne*, vol. 89: 2014, no. 4, pp. 5–24, DOI: <http://dx.doi.org/10.15762/ZH.2014.14>.

¹³⁷ Tadeusz KASABUŁA, *Ignacy Massalski biskup wileński*, Lublin 1998, p. 271.

¹³⁸ Ramunė ŠMIGELSKYTĖ-STUKIENĖ, *The Idea of the Union in the Boyar Confederation of the Grand Duchy of Lithuania During the Period of the Rule of Stanisław August (1764–1795)*, *Lituanus*, vol. 62: 2016, no. 3, pp. 23–47.

¹³⁹ *Akta sejmikowe województw poznańskiego i kaliskiego. Lata 1668–1675*, ed. Michał ZWIERYKOWSKI, Robert KOŁODZIEJ, Andrzej KAMIEŃSKI, Poznań 2018, pp. 169–170; *Akta sejmikowe województw poznańskiego i kaliskiego. Lata 1733–1763*, ed. Michał ZWIERYKOWSKI, Poznań 2015, pp. 289, 294, 296–297, 828–833.

¹⁴⁰ *Akta sejmikowe województw poznańskiego i kaliskiego. Lata 1668–1675*, pp. 318–322, 494–495; *Akta sejmikowe województw poznańskiego i kaliskiego. Lata 1676–1695*, ed. Michał ZWIERYKOWSKI, Robert KOŁODZIEJ, Andrzej KAMIEŃSKI, Poznań 2018, p. 562; *Akta sejmikowe województw poznańskiego i kaliskiego. Lata 1696–1732*, ed. Michał ZWIERYKOWSKI, Poznań 2008, pp. 83–84, 203–204, 209, 215–217, 233–234, 357–361, 373; *Akta sejmikowe województw poznańskiego i kaliskiego. Lata 1733–1763*, pp. 16–17, 186–188.

¹⁴¹ Петро Кулаковський, *Чернігово-Сіверщина у складі Речі Посполитої (1618–1648)*, Київ 2006 [Petro KULAKOV’S’KYI, *Chernihovo-Sivershchyna u skladі Rechi Pospolytoi (1618–1648)*, Kyiv 2006], p. 7.

The reasons for the evolution should be sought not only in systemic transformations. The Lithuanians did indeed get to the Sejm, where the parity of Lesser Poland and Greater Poland had already formed. They were immediately treated there not as an equal partner of the Crown, but as one of the three provinces of the new state, besides Lesser Poland and Greater Poland. However, the economic and demographic reasons and territorial losses in the following century consolidated this position. In 1569 in Lublin, through the separation of the Ukrainian lands, Podlasie and Volhynia, the Lithuanian state was territorially and demographically reduced, and, in contrast to the enlarged Crown, its treasury income and military capabilities were also reduced¹⁴². Hence in 1670, it was noted in Greater Poland that the Lithuanian army had only 4,000 soldiers instead of 6,000, compared to 12,000 of Crown soldiers, and their enlargement was demanded¹⁴³. However, the Grand Duchy was an unusual province¹⁴⁴, as it had a separate treasure, army, courts and law, in contrast to Lesser Poland and Greater Poland¹⁴⁵. In political debates, on the other hand, the term ‘province’ was used very flexibly by Lithuanians, as a name of the state or province¹⁴⁶.

Lithuania and the Crown gradually evolved. From two countries with a common monarch and the parliament, and of course common enemies, to approximately equal parts of the Commonwealth. Initially, the Crown wanted to dominate Lithuania, which in the last quarter of the 16th century managed to slow down this process. However, in order to catch up with the inhabitants of the Crown, the Lithuanians gradually unified the political system and competences of both parts of the Commonwealth, their elites became similar and their culture became uniform. I believe that the term ‘commonwealthization’, rather than the term ‘Polonization’, can also be used to refer to the creation of a common culture of the Commonwealth, based on the Polish language, however, shared by the inhabitants of the whole state, although it was certainly not the only culture within its borders¹⁴⁷.

¹⁴² Estimates: Henryk WISNER, *Rzeczpospolita Wazów*, vol. 2: *Wojsko Wielkiego Księstwa Litewskiego, dyplomacja, varia*, Warszawa 2004, p. 9.

¹⁴³ *Akta sejmikowe województw poznańskiego i kaliskiego. Lata 1668–1675*, p. 218.

¹⁴⁴ Zigmantas KIAUPA, *Dwa państwa i dwie prowincje Rzeczypospolitej Obojga Narodów w drugiej połowie XVIII wieku*, Europa Orientalis. Studia z Dziejów Europy Wschodniej i Państw Bałtyckich, vol. 1: 2009, pp. 337–346; Ramunė ŠMIGELSKYTĖ-STUKIENĖ, „Wielkie Księstwo” i „prowincja litewska” w piśmiennictwie politycznym okresu rozbiorów, Europa Orientalis. Studia z Dziejów Europy Wschodniej i Państw Bałtyckich, vol. 1: 2009, pp. 350–363.

¹⁴⁵ Wincenty Skrzetuski, an eighteenth-century political writer, points to such a ‘systemic schizophrenia’ in his *compendium*: Wincenty SKRZETUSKI, *Prawo polityczne narodu polskiego*, vol. 1, Warszawa 1782, p. 13.

¹⁴⁶ R. BUTTERWICK, *Finis Poloniae, finis Lituaniae, finis Reipublicae?*, pp. 111–113.

¹⁴⁷ See Jakub NIEDŹWIEDŹ, *Kultura literacka Wilna (1323–1655). Retoryczna organizacja miasta*, Kraków 2012, passim; *Kultura Wielkiego Księstwa Litewskiego. Analizy i obrazy*, ed.

However, it should be emphasized that from the 17th century the term ‘Poland’ and ‘Polish’ were used increasingly often to describe the Polish-Lithuanian state¹⁴⁸. However, this did not mean the disappearance of the Lithuanian sense of distinctness. The instructions of the Grodno sejmik of 1790 can prove to support it. On the one hand, the local nobility demanded then that the Sejm sessions should be held regularly also in Grodno, the Lithuanian Courts of Assessors and the Archives of the *Lithuanian Metrica* should be transferred to Lithuania and “JM. Pana Tadeusza Kościuszki obywatela prowincji litewskiej [...] z wojska koronnego do litewskiego z rangą wedle zdolności przyzwoitą” [“Sir Tadeusz Kosciuszko, a citizen of the Lithuanian province [...] should be transferred from the Crown army to the Lithuanian army with a rank matching his ability”]. On the other hand, however, the sejmik stated: “Przez liczne wieki naród polski układał umowy z królami, Bóg błogosławił zamiarom” [“For many centuries the Polish nation had been making agreements with kings, and God blessed their intentions”] and also: “Rzeczpospolita Polska władzę najwyższą założyła w trzech stanach: królewskim, senatorskim i rycerskim” [“The Commonwealth of Poland established the highest authority in three estates: royal, senatorial and knightly”]¹⁴⁹.

This created a country in which Lithuania had been demoted to being one of the three provinces. The *Governance Act (Ustawa rządowa)* of 3 May 1791, passed with the active participation of Lithuanian deputies¹⁵⁰, ignored the existence of the Grand Duchy. It also created a common government for the entire Commonwealth – the Guard of Laws. This was the result of the concessions of the majority of the Lithuanian parliamentary representation that saw a difficult political situation. However, it gave the possibility of regulating this issue in the course of further parliamentary work. This resulted in a compromise – on 20 October 1791, the *Mutual Pledge of the Two Nations* was unanimously passed. On this basis, Lithuania received half of the commissioners in the military and fiscal commissions and, in the future, in the police commissions. It also preserved its ministers, offices, separate treasury and financial jurisdiction. The commissions were to be run alternately by the representatives of the Crown and Lithuanians. In addition, the Tribunal and the Court of Chancery

Vytautas ALIŠAUSKAS [et al.], trans. Paweł BUKOWIEC, Beata KALĘBA, Beata PIASECKA, Kraków 2006, passim.

¹⁴⁸ Henryk WISNER, *Rzeczpospolita Wazów*, vol. 1: *Czasy Zygmunta III i Władysława IV*, Warszawa 2002, pp. 12–13.

¹⁴⁹ *Lietuvos Didžiosios Kunigaikštystės seimelių instrukcijos (1788–1790)*, pp. 124–125.

¹⁵⁰ Andrzej STROYNOWSKI, *Reprezentanci Wielkiego Księstwa Litewskiego w czasie uchwalenia Konstytucji 3 Maja*, *Acta Universitatis Lodziensis. Folia Historica*, vol. 41: 1991, p. 10; Liudas GLEMŽA, *The May Third Constitution and the Grand Duchy of Lithuania*, *Lituanus*, vol. 58: 2012, no. 4, pp. 11–40.

with the seat in Vilnius remained separate. The rule that every third Sejm was to be held in Grodno was also observed. In this way, despite the fact that parity was granted in joint bodies and some separate institutions were maintained, the Great Sejm strengthened the ties between the Crown and Lithuania. Thus, one can see a gradual unification of the Polish-Lithuanian Commonwealth, while maintaining the distinctness, so important for the Lithuanians, though of secondary importance for the sake of the Commonwealth. This process was interrupted by partitions.

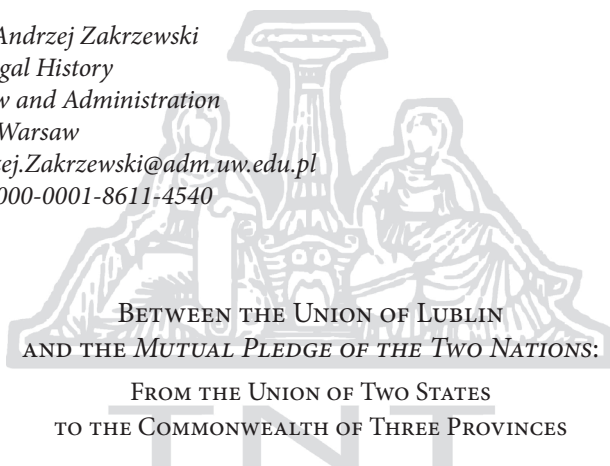
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Abstract

Key words: Polish-Lithuanian Commonwealth, Polish Crown, Grand Duchy of Lithuania, Union of Lublin, political system, law, changes of the political system

The aim of the article is to present changes in the position of the Grand Duchy of Lithuania towards the Polish Crown within the Polish-Lithuanian Commonwealth in the years 1569–1791. The analysis was based on the transformation of both common (monarch, Sejm) and separate (central and local offices, judicial system and law) institutions in the context of economic, social and cultural changes of the era.

Gradually, the Commonwealth was transforming into a state in which Lithuania was not so much one of its two parts – along with the Crown, but one of its three provinces – along with Lesser Poland and Greater Poland. It was, however, a special province since it had its own ministers, offices, courts, treasury and fiscal courts along with its own codification of political and private law. The rule introduced in 1673 that every third Sejm was to be held in Grodno, however, was rarely observed.

The reasons for this change were: the smaller population of the Grand Duchy, its lower fiscal income along with the war damage and territorial losses suffered in the mid-17th century. This transformation was also facilitated by the fact that the Lithuanian political system and laws became increasingly similar to the Polish ones. Another factor was the slow creation of a sense of political community among nobles of both the Crown and Lithuania. This feeling was born not only out of the same rights and privileges, but also owing to the immigration of the Crown noblemen to the lands of the Grand Duchy and joining – by marriage – Lithuanian noble families, which was especially the case among magnate families. During this period, the common culture of the Polish-Lithuanian Commonwealth based on the Polish language – *lingua franca* of the whole state – was also created. Other languages also functioned in the Polish-Lithuanian state, but Polish, enriched by Lithuanian, Ruthenian, Latin, German and Oriental elements, began to dominate.

The *Government Act* of 3 May 1791 did not mention the Grand Duchy at all, but created a common government for the whole of Commonwealth – the Guard of Laws and Great Commissions. *Mutual Pledge of the Two Nations*, unanimously adopted on 20 October 1791, constituted an attempt to return to the dualism from the era of the Union of Lublin. This act granted Lithuanians half of the commissioners in the military and fiscal commissions and – in the future – in the police commission. Lithuania also retained separate ministers, offices, a separate treasury and tax judiciary. Thus, the gradual unification of the Polish-Lithuanian Commonwealth was still visible, while maintaining some separate aspects, which were important for Lithuanians, albeit secondary in the scale of the entire state. Nevertheless, this process was interrupted by the upcoming partitions.

ZWISCHEN DER UNION VON LUBLIN
UND DER GEGENSEITIGEN GARANTIE BEIDER NATIONEN –
VON EINEM BUND ZWEIER STAATEN
BIS ZUR KÖNIGLICHEN REPUBLIK DREIER PROVINZEN

Abstract

Schlüsselwörter: polnisch-litauische Republik, Krone Polen, Großherzogtum Litauen, Union von Lublin, Staatsform, Recht, Umwandlungsprozesse

Der Artikel hat zum Ziel, die wechselnde Position des Großherzogtums Litauen gegenüber der polnischen Krone im Rahmen der Königlichen Republik in den Jahren 1569–1791 zu schildern. Die Analyse basiert auf der Darstellung der Veränderungen sowohl im Rahmen gemeinsamer Institutionen (des Monarchen, des Parlamentes) als auch getrennter (zentraler und lokaler Ämter, der Justiz und des Rechts) vor dem Hintergrund wirtschaftlicher, sozialer und kultureller Veränderungen jener Epoche.

Allmählich verwandelte sich die polnisch-litauische Republik in einen Staat, in dem Litauen, neben Kleinpolen und Großpolen, lediglich eine von drei Provinzen darstellte, und nicht einen Teil neben der Krone. Es war jedoch eine Sonderprovinz – sie hatte eigene Minister, Ämter und Gerichte sowie ihren eigenen Schatz, eine eigene

Finanzgerichtsbarkeit und eine eigene Kodifizierung des politischen Rechts wie auch des Privatrechts. Das 1673 eingeführte Prinzip, dass jede dritte Sejm-Tagung in Grodno abgehalten werden sollte, wurde jedoch nur selten angewendet.

Die Ursachen dieser Veränderungen waren u. a. die geringere Bevölkerungszahl des Großherzogtums Litauen, seine geringeren Finanzeinnahmen oder auch Kriegsschäden und territoriale Verluste in der Mitte des 17. Jh. Die Veränderungen wurden auch dadurch begünstigt, dass sich die Staatsformen und die Rechtssysteme anglichen sowie dass unter dem litauischen Adel und dem Kronadel langsam das Gefühl einer politischen Gemeinschaft entstand. Dieses Gefühl verdankte sich nicht nur dadurch, dass sie die gleichen Rechte und Freiheiten genossen, sondern auch dadurch, dass Vertreter des Kronadels in die Gebiete des Großherzogtums Litauen einwanderten und litauische Adelsfamilien sich mit jenen aus der Krone, insbesondere Magnatenfamilien, durch Eheschließung verbanden. Zu jener Zeit entstand auch eine gemeinsame Kultur Polen-Litauens, die sich auf die polnische Sprache – die *Lingua franca* des ganzen Staates – stützte. Im Gebiet des polnisch-litauischen Staates gab es unterschiedliche Sprachen, Polnisch begann jedoch zu dominieren – bereichert durch litauische, ruthenische, lateinische, deutsche oder auch orientalische Elemente.

Im *Regierungsgesetz* vom 3. Mai 1791 wird das Großherzogtum Litauen überhaupt nicht erwähnt. Dafür wurde kraft dieses Rechtsaktes eine für die Königliche Republik gemeinsame Regierung – die sog. Wache der Rechte und die sog. Großen Kommissionen – gebildet. Einen Versuch, den Dualismus aus der Zeit der Lubliner Union wiederherzustellen, stellte die am 20. Oktober 1791 einstimmig angenommene sogenannte „Gegenseitige Garantie beider Nationen“ (poln. *Zaręczenie wzajemne Obojga Narodów*) dar. Dieser Rechtsakt garantierte den Litauern die gleiche Anzahl an Kommissaren in der Militär- und Schatzkommission sowie – in Zukunft – in der Polizeikommission. Auf der Grundlage seiner Vorschriften wurden auch getrennte Minister, Ämter, Kassen sowie getrennte Finanzgerichtsbarkeit beibehalten.

Die allmähliche Vereinheitlichung Polen-Litauens hielt als weiter an, wobei die für die Litauer wichtigen Unterschiede, wenn auch zweitrangig in der Größenordnung des gesamten Landes, aufrechterhalten wurden. Dieser Prozess fand ein Ende durch die Teilungen Polens.

MIĘDZY UNIĄ LUBELSKĄ
A ZARĘCZENIEM WZAJEMNYM OBOJGA NARODÓW –
OD ZWIĄZKU DWÓCH PAŃSTW
DO RZECZYPOSPOLITEJ TRZECH PROWINCJI

Abstrakt

Słowa kluczowe: Rzeczpospolita polsko-litewska, Korona Polska, Wielkie Księstwo Litewskie, unia lubelska, ustrój państwowy, prawo, przemiany ustrojowe

Celem artykułu jest ukazanie zmian pozycji Wielkiego Księstwa Litewskiego wobec Korony Polskiej w ramach Rzeczypospolitej w latach 1569–1791. Analiza została

oparta na ukazaniu przekształceń zarówno instytucji wspólnych (monarcha, sejm), jak i odrębnych (urzędy centralne i lokalne, sądownictwo i prawo) na tle przemian ekonomicznych, społecznych i kulturalnych epoki.

Stopniowo Rzeczpospolita przekształcała się w państwo, w którym Litwa była nie tyle jedną z jej dwóch – obok Korony – części, lecz jedną z trzech – obok Małopolski i Wielkopolski – prowincji. Była to jednak prowincja szczególna – miała własnych ministrów, urzędy, sądy, skarb i sądownictwo skarbowe oraz własną kodyfikację prawa politycznego i prywatnego. Wprowadzoną w 1673 r. zasadę, że co trzeci sejm miał odbywać się w Grodnie, jednak rzadko stosowano.

Przyczynami tej zmiany były m.in. mniejsza liczba ludności Wielkiego Księstwa, jego niższe wpływy skarbowe czy zniszczenia wojenne i straty terytorialne w połowie XVII w. Ową transformację ułatwiło też upodabnianie się ustroju, prawa oraz powolne tworzenie się poczucia wspólnoty politycznej wśród całej szlachty koronnej i litewskiej. Poczucie to rodziło się nie tylko z korzystania z tych samych praw i wolności, lecz także z imigracji szlachty koronnej na ziemie Wielkiego Księstwa oraz łączenia się – przez małżeństwa – szlacheckich rodzin litewskich z koronnymi, zwłaszcza w przypadku rodów magnackich. W tym okresie powstawała również wspólna kultura Rzeczypospolitej oparta na polszczyźnie – *lingua franca* całego państwa. Na terenie państwa polsko-litewskiego funkcjonowały również inne języki, ale dominować zaczęła polszczyzna, wzbogacana przez elementy litewskie, ruskie, łacińskie, niemieckie czy orientalne.

Ustawa rządowa z 3 V 1791 r. w ogóle nie wspominała o Wielkim Księstwie, powołała natomiast wspólny dla całej Rzeczypospolitej rząd – Straż Praw i Komisję Wielkie. Próbą powrotu do dualizmu z epoki unii lubelskiej było jednomyślnie uchwalone 20 X 1791 r. *Zaręczenie wzajemne Obojga Narodów*. Akt ten przyznał Litwinom połowę komisarzy w komisji wojskowej i skarbowej oraz – w przyszłości – w komisji policji. Na jego mocy zachowano też odrębnych ministrów, urzędy, osobny skarb i sądownictwo skarbowe. Nadal więc widać było stopniową unifikację Rzeczypospolitej Obojga Narodów, przy zachowaniu istotnych dla Litwinów – choć drugorzędnych w skali całego państwa – odrębności. Jednak proces ten został przerwany przez rozbiory.

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