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## **How reborn Poland became a republic**

**Keywords:** republic, monarchy, form of government, 2nd Polish Republic, Head of State

**Słowa kluczowe:** republika, monarchia, ustrój, II RP, głowa państwa

### **Abstract**

The article presents the genesis of the republican Head of State in Poland after the First World War. It was a particularly important moment when the election of the form of government of the Polish State being rebuilt took place. The Author draws attention to the significant relationship between historical events taking place during the First World War, including especially political changes happening in the partitioning states influencing the decision for choosing the republican path.

### **Streszczenie**

## **Jak odrodzona Polska została republiką**

W artykule przedstawiona została genezę republikańskiej głowy państwa w Polsce po I wojnie światowej. Był to szczególnie istotny moment, w którym dokonał się wybór formy ustrojowej odbudowywanego państwa polskiego. Autor zwraca uwagę na istotny związek dziejących się w czasie I wojny światowej wydarzeń historycznych, w tym zwłaszcza zmian ustrojowych zachodzących w państwach zaborczych na decyzję o wyborze republikańskiej drogi ustrojowej.

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## I.

The republican model of government had been established in Poland in a time dominated by *Zeitgeist*. The world of grand systemic politics was undergoing a change, which Hans-Hermann Hoppe named a “transition from the Austrian system to the American system”<sup>2</sup>. The end of the Great War was a moment when the fall of the *ancien regime* and “triumph of the great Western democracies”<sup>3</sup> was announced, and the world entered a new, unknown and republican stage<sup>4</sup>.

However, only several decades prior, authors discussing the subject matter of political systems found it unfathomable for the Polish lands to see a state with a different political model than a monarchy<sup>5</sup>. Events occurring during World War I seemed to confirm this belief, as just a short time prior, in the 5 November 1916 act, governors representing two emperors, rulers of partitioning countries, have announced the (future) establishment of the Polish state with a hereditary monarchy<sup>6</sup>.

It additionally seems, that in Polish history there has been a certain marginalization of the political significance of the 5 November Act. All the while – as written by Marian Kukiel – this act has “brought forward the matter of the Polish state in front of an audience. And there was nothing that could change that fact”<sup>7</sup>. For that reason Józef Piłsudski on that very same day wrote to Col. Rydz-Smigły “for the first time since this world war in our cities, publicly, the

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<sup>2</sup> H.-H. Hoppe, *Demokracja – Bóg, który zawiódł. Ekonomia i polityka demokracji, monarchii i ładu naturalnego*, Chicago, Warsaw 2010, p. 3 and further.

<sup>3</sup> J. Baszkiewicz, *Władza*, Wrocław 1999, p. 141.

<sup>4</sup> On the peculiar rivalry of the monarchic and republican ideals, see M.M. Wiszowaty, *W poszukiwaniu optymalnej formy państwa u progu niepodległości Królestwo Finlandii i Królestwo Litwy z 1918 r.*, “*Studia Iuridica Toruniensia*” 2012, vol. XI, p. 261 and further.

<sup>5</sup> Zob. J. Woronicz, *Rzecz o monarchii i dynastji w Polsce*, Paris, p. 15 and further.

<sup>6</sup> Zob. J. Pajewski, *Odbudowa państwa polskiego*, Warsaw 1985, p. 125.

<sup>7</sup> M. Kukiel, *Dzieje Polski porzobiorowej 1795–1921*, Paris 1984, p. 598. A similar position was expressed by W. Pobóg-Malinowski, *Najnowsza historia polityczna Polski 1864–1945*, vol. I, Paris 1953–Warsaw 1990, p. 305.

lips of the representatives of great army-nations speak words forgotten beyond the Polish lands: Polish Independence, Polish Government, Polish Army”<sup>8</sup>.

Reference literature has for a long time emphasized that the 5 November Act constituted a “significant step towards the restoration of Poland”<sup>9</sup>, Wilhelm II and Franz Joseph have previously announced the establishment of a Polish Kingdom, a state which would return to the map of Europe<sup>10</sup>. It is therefore important to ask, has the Act established the Polish state or only announced the fact? It should be agreed that “there had been an establishment of a state, although it was not based on the principle of self-determination. It had been, however, created – and in essence, as it had been specified, appointed as a separate state based on the decision of foreign bodies and based on foreign law”<sup>11</sup>.

The same Act, however, had not made determinations on any significant issues, particularly the issue of borders or the scope of autonomy<sup>12</sup>. It had also not been decided who could become king, however the list of contenders became longer with every passing month. They included Karl I (emperor of Austria), Joachim Hohenzollern (son of the German emperor), Frederick Augustus III of Wettin (king of Saxony), Ludwig III Wittelsbach (king of Bavaria), as well as Leopold of Bavaria, Frederick Christian Wettin, Wilhelm Karl prince Von Urach (later candidate to the throne of Lithuania), and even Ciril (son of the Tsar of Bulgaria). Among the candidates there were also mentions of Poles: Zdzisław Lubomirski, Janusz Radziwiłł, Józefa Piłsudski (!) and – most frequently – archduke Karl Stefan Habsburg<sup>13</sup>.

<sup>8</sup> J. Piłsudski, *Pisma Zbiorowe*, vol. IV, Warsaw 1937, p. 86.

<sup>9</sup> Sz. Askenazy, *Uwagi*, Warsaw 1924, p. 109.

<sup>10</sup> Currently there are doubts as to the reasoning, which for a long time was considered paramount, i.e. the need to acquire a recruit (see T. Piszczkowski, *Odbudowanie Polski 1914–1921. Historia i polityka*, London 1969, p. 44), as the significance of the German vision of new states in Central Europe built at the time is emphasized (see Z.J. Winnicki, *Rada Regencyjna Królestwa Polskiego i jej organy (1917–1918)*, Wrocław 2017, p. 24 and M. Kornat, *Akt 5 listopada a umiędzynarodowienie sprawy polskiej podczas Wielkiej Wojny. Uwagi historyka dyplomacji*, “Historia Slavorum Occidentis” 2017, No. 2(13), p. 17).

<sup>11</sup> D. Makiła, *Moc prawna aktu 5 listopada 1916 roku*, “Przegląd Sejmowy” 2017, No. 1(138), p. 70.

<sup>12</sup> The Act discusses an “autonomous state” (*selbständig Staat*), and not an “independent state” (*unabhängig Staat*). See J. Knebel, *Rząd pruski wobec sprawy polskiej w latach 1914–1918*, Poznań 1963, p. 49.

<sup>13</sup> A. Chwalba, *Wojna Polaków 1914–1918*, Warsaw 2018, p. 300.

As a result of the act by two emperors, the Provisional State Council has been established<sup>14</sup>, and later also a 3-member Regency Council of the Kingdom of Poland. The Council, intended to rule until the election of a king, has undertaken actions intended to restore the Polish state and has made decisions necessary in the scope of ongoing governance<sup>15</sup>. However, the revolutionary events taking place in eastern, as well as central Europe has buried the hopes of Polish monarchists. The Regency Council had ceased to function and symbolically passed on its power to Józef Piłsudski<sup>16</sup> and since that time the Polish head of state has had a republican form.

It should be added, however, that there have been two more historic moments in which opinions of the restitution of Polish monarchy have been more loudly expressed.

The first of these had taken place following the May Coup, when Józef Piłsudski sought the support of the Polish right. In particular, Piłsudski's visit to the castle in Nieśwież reverberated at the time. It's formal reason was to decorate the coffin of the Marshal's late personal Adjutant, Cavalry Master Stanisław Radziwiłł, fallen during the Kiev excursion, with the Virtutti Militari Medal. However, in combination with the ongoing political events, the visit, as well as the later talks of Walery Sławek in Dzików, have been given a much broader significance<sup>17</sup>.

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<sup>14</sup> See more in W. Suleja, *Próba budowy zrębów państwowości polskiej w okresie istnienia Tymczasowej Rady Stanu*, Wrocław 1981 as well as the same author's, *Tymczasowa Rada Stanu*, Warsaw 1998.

<sup>15</sup> See also: on the functioning of the first government appointed by the Regency Council J. Goclon, *Gabinet Jana Kucharzewskiego – pierwszy rząd Królestwa Polskiego 1917–1918. Ustrój, skład osobowy i działalność*, "Studia Prawnoustrojowe" 2013, No. 22, p. 143 and further.

<sup>16</sup> On 11 November 1918 the Regency Council transferred to J. Piłsudski authority over the military and on 14 November issued an address in which "for the good of the Homeland" it announced its dissolution and transferred the highest state authority to J. Piłsudski. See further Z.J. Winnicki, *Rada Regencyjna...*, p. 325 and further, and J. Kolasa, *Odzyskanie przez Polskę niepodległości w 1918 r., w świetle prawa międzynarodowego*, "Przeгляд Sejmowy" 2008, No. 5(88), p. 12 and further.

<sup>17</sup> See M. Romeyko, *Przed i po maju*, Warsaw 1967, pp. 576–581. Restitution of the monarchy, while not the dominant idea, could still count on the support of conservative circles. In particular, this idea was raised by Stanisław Cat-Mackiewicz, who celebrated the Nieśwież congress by placing on the first page of "Słowo" the portraits of Stanisław August and Piłsudski. Also, Cat several times repeated the anecdote to Piłsudski, who accepted a certain matter

The second of such moments occurred during World War II. In November 1939 during negotiations on the establishment of the Poland and Czechoslovakia federation, Władysław Sikorski proposed that the throne of the combined state should be taken by George, the duke of Kent, brother to the ruler of Great Britain at the time<sup>18</sup>. Subsequent events, political (the skeptical standpoint of the Czechoslovakian president Edvard Beneš) as well as random ones (the death of prince George in a plane crash), prevented the realization of such plans.

## II.

The fall of partitioning countries provided an opportunity to fulfill the Poles' dreams of independence. This difficult moment was when Poland was to build its country, which not only did not have its state authorities, but – most of all – did not have its borders. This transitional period was divided by W Komarnicki into two parts, dubbing them as “the period of the Provisional Head of State’s dictatorship” and “the period of the Legislative Parliament”<sup>19</sup>. The highest position of power at the time was held by Józef Piłsudski, however, his formal status during the period was varied to a degree.

Of particular interest is the period between 14 and 22 of November 1918. Its beginning is determined by the issue by Józef Piłsudski of a document which in actuality constituted a proclamation of him taking over the entirety of power<sup>20</sup>. However, it lacks any form specifying the role which was or would be held by Piłsudski, and the document itself is signed only “Józef Piłsudski”<sup>21</sup>.

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adding “but how it will be on Wandzia, that I do not know”; see S. Mackiewicz (Cat), *Historia Polski od 11 listopada 118 r. do 5 lipca 1945 r.*, London 1993, p. 195.

<sup>18</sup> On the planned federation, see more in I.T. Kolendo, *Unia polsko-czechosłowacka Projekt z lat 1940–1943. Ukochane dziecko premiera gen. Władysława Sikorskiego*, Łódź 2015, *passim* oraz J. Sadowski, *Polscy federaliści i konfederaliści w czasie II wojny światowej (cz. 1)*, “Studia Europejskie” 2005, No. 3, p. 11 and further.

<sup>19</sup> See W. Komarnicki, *Ustrój państwowy Polski współczesnej. Geneza i system*, Wilno 1937 – Cracow 2006, p. 21.

<sup>20</sup> J. Piłsudski, *Pisma zbiorowe*, vol. V, Warsaw 1937, pp. 18–19.

<sup>21</sup> See more in P. Sarnecki, *Zasady ustrojowe odradzającej się Rzeczypospolitej*, “Przegląd Sejmowy” 1998, No. 2(28), p. 29.

The provisional political shape of the country has been specified in the 22 November 1918 decree “*O najwyższej władzy reprezentacyjnej Republiki Polskiej* (Eng.: Of the highest representative authority of the Republic of Poland)”<sup>22</sup>. Said document was considered the first systemic act of the restored state<sup>23</sup>. It stipulated that executive power – until the calling of the Legislative Parliament – would be held by the Provisional Head of State<sup>24</sup>, which became Józef Piłsudski. The Provisional Head of State nominated the president of the council of ministers (prime minister), ministers and other higher officers, and it was him that the government answered to.

### III.

At the third session of the Legislative Parliament, on 20 February 1919, Józef Piłsudski resigned his power and in a declaration submitted at the time stated, among other things, that “I believe that upon its [the Parliament’s – note RB] establishment my role is completed. I am content, that in adherence to my soldier’s vow and my convictions – I may now leave my authority which I have until now held in the nation, in the hands of the Parliament. I hereby declare, that I submit my office of Head of State into the hands of the Parliament’s Marshal”<sup>25</sup>.

To prevent the state from being left without a highest authority which could represent it, during the session of the Convention of Seniors it had been decided that representatives of parliamentary caucuses would jointly submit a draft of a resolution on the further exercise of the office of Head of State. The submitted resolution was passed unanimously and the marshal presiding over

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<sup>22</sup> Cf. decree kontent, [In:] M. Adamczyk, S. Pastuszka, *Konstytucje polskie w rozwoju dziejowym 1791–1982*, Warsaw 1985, p. 196.

<sup>23</sup> Cf. J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia państwa i prawa polskiego*, Warsaw 1987, p. 425.

<sup>24</sup> The title “Head of State” in an obvious manner referenced the title which on 24 May 1794 was given to Tadeusz Kościuszko – the Supreme Head of the National Armed Forces; see P. Szubarczyk, *Naczelnik*, “Biuletyn Instytutu Pamięci Narodowej” 2008, No. 5–6, p. 16, 24.

<sup>25</sup> Cf. *Declaration on resigning from the office of Provisional Head of State*, [In:] Józef Piłsudski, *Pisma...*, vol. V, p. 61.

the session declared to J. Piłsudski that the Legislative Parliament entrusted him to further hold the function of Head of State<sup>26</sup>.

The abovementioned resolution – which was the first to be named the “small constitution”<sup>27</sup> – is likely the most brief modern organic law act. Its official title was: *Uchwała Sejmu Ustawodawczego z 20 lutego 1919 roku w sprawie powierzenia Józefowi Piłsudskiemu dalszego sprawowania urzędu Naczelnika Państwa*<sup>28</sup>, while substantively it consisted of two parts.

In part one – the Parliament “accepts the statement” of the Provisional Head of State on resigning from his office, and simultaneously expresses its gratitude for holding said function. The second part is a brief introduction, establishing the temporal frameworks of holding the office of Head of State by Józef Piłsudski and – grouped in five points – the normative terms of exercising power by the Head of State.

The Parliament’s resolution regulated only relations between the legislative and executive power, leaving other matters outside the normative scope. On its basis, authority in Poland was in the hands of the Legislative Parliament. The resolution thus broke away from the principle of sovereignty of the people, in its place introducing sovereignty of its representation, i.e. the Legislative Parliament. This also stipulated abandonment of the separation of powers and introduction of committee rule – in accordance with the term introduced by Hans Kelsen. This system – introduced directly after the war not only in Poland, but also in Germany, Austria, Czechoslovakia and Estonia – was based on bringing the roles of other primary national authorities down to the of executive committees of the parliament<sup>29</sup>.

The adopted resolution to a significant degree reduced the powers of the Head of State. He remained “a representative of the State and supreme executor of the Parliament’s resolutions in civil and military matters”, however, the creation of government by it would take place on the basis of “agreement

<sup>26</sup> See Józef Piłsudski. *Pisma...*, vol. V, p. 62.

<sup>27</sup> Despite this – what is worth emphasizing – this act was not a constitutional act, nor even a regular legislative one, but a parliamentary resolution.

<sup>28</sup> Eng.: The 20 February 1919 Legislative Parliament’s Resolution regarding entrusting Józef Piłsudski to further hold the office of Head of State. Cf. M. Adamczyk, S. Pastuszka, *op.cit.*, pp. 197–198.

<sup>29</sup> Zob. A. Ajnenkiel, *Polskie konstytucje*, Warsaw 1991, s. 217 oraz J. Wawrzyniak, *Zarys historii instytucji ustrojowych i konstytucyjnych w Polsce*, Warsaw 1996, s. 55.

with the Parliament”. The Head of State has not been provided the right of legislative initiative, right to dissolve the parliament or the right of veto. Every act of the Head of State required a countersignature of the appropriate minister, however direct responsibility of the Head of State in front of the Parliament was also introduced.

Reference literature raises the issue, that introduction of the rule of personal responsibility of the Head of State (likely contrary to the resolution creators’ intentions) resulted in a paradoxical increase in his independence. This is because, while he would need to receive a countersignature for each of his decisions, his position became stronger than in a situation where only the minister countersigning the given act would be held responsible for it<sup>30</sup>.

It should be emphasized that such far reaching brevity of the 1919 Small Constitution was dictated by the creators’ conviction of its brief applicability. However, in reality its provisions remained in force even after the passing of the March Constitution, up until the final establishment of the highest authorities in the Republic, which took place in December 1922.

#### IV.

Work on systemic regulation of the rules of state functioning has already been undertaken by the government of Moraczewski in January 1919, by creating the Constitutional Office by the Presidium of the Council of Ministers. However, this was not the only place where work has been undertaken on a draft of a future constitution. The government of Ignacy Paderewski decided on appointing a special commission under the name “Ankieta dla oceny projektów konstytucji” (Survey to evaluate drafts of the constitution), while in the Legislative Parliament itself, a 30 person Constitutional Commission was appointed<sup>31</sup>.

Among the submitted drafts none have repeated the solutions contained in the draft previously presented by the Provisional State Council and none

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<sup>30</sup> S. Krukowski, *Mała konstytucja z 1919 r.*, [In:] *Konstytucje Polski*, t. 2, ed. M. Kallas, Warsaw 1990, s. 13.

<sup>31</sup> In total there were 11 drafts of the basic law submitted; see M. Kallas, *Historia ustroju Polski X–XX wiek*, Warsaw 1996, p. 308.



have referenced the monarchic system. The draft of the constitution presented by Constitutional Commissions of the Legislative Parliament also had a republican nature. The Constitution was presented as a reference to the 3 May Constitution – which is in particular emphasized by Prof. Stanisław Kutrzeba, when discussing the similarities in terms of the spirit, as well as numerous detailed regulations<sup>32</sup>. However, its creators did not make efforts at originality – the model they have adopted was of the III French Republic, which was a model of parliamentary government in its extreme form (“parliamentary absolutism” dominated by the Sejm (its actual position has been described by W. Komarnicki as the “ruling oligarchy”), with the role of the president being weak, reduced practically to a representative function<sup>33</sup>.

Thus, Poland became a republic, however, due to a destructive political rivalry in the Legislative Parliament, the adopted model of exercising authority was dysfunctional, and the state was headed by a president with a very weak position in the system. In the near future this would lead not only to the degradation of the state’s authority, but also to a coup and fratricidal fighting.

The March Constitution was not the conclusion of works on the state’s political model, but only the first step in a long road which awaited Poland.

## Literature

Adamczyk M., Pastuszka S., *Konstytucje polskie w rozwoju dziejowym 1791–1982*, Warszawa 1988.

Ajnenkiel A., *Polskie konstytucje*, Warszawa 1991.

Askenazy Sz., *Uwagi*, Warszawa 1924.

Bardach J., Leśnodorski B., Pietrzak M., *Historia państwa i prawa polskiego*, Warszawa 1987.

Baszkiewicz J., *Władza*, Wrocław 1999.

Chwałba A., *Wojna Polaków 1914–1918*, Warszawa 2018.

Goclon J., *Gabinet Jana Kucharzewskiego – pierwszy rząd Królestwa Polskiego 1917–1918.*

*Ustrój, skład osobowy i działalność*, “Studia Prawnoustrojowe” 2013, No. 22.

Hoppe H.-H., *Demokracja – Bóg, który zawiódł. Ekonomia i polityka demokracji, monarchii i ładu naturalnego*, Chicago, Warszawa 2010.

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<sup>32</sup> See S. Kutrzeba, *Konstytucja a tradycja polska*, [In:] *Nasza Konstytucja*, Cracow 1922, p. 25.

<sup>33</sup> See W. Komarnicki, *Ustrój państwowy Polski...*, pp. 60–61.

- Kallas M., *Historia ustroju Polski X-XX wiek*, Warszawa 1996.
- Knebel J., *Rząd pruski wobec sprawy polskiej w latach 1914–1918*, Poznań 1963.
- Kolasa J., *Odzyskanie przez Polskę niepodległości w 1918 r., w świetle prawa międzynarodowego*, "Przeгляд Sejmowy" 2008, No. 5(88).
- Kolendo I.T., *Unia polsko-czechosłowacka Projekt z lat 1940–1943. Ukochane dziecko premiera gen. Władysława Sikorskiego*, Łódź 2015.
- Komarnicki W., *Ustrój państwowy Polski współczesnej. Geneza i system*, Wilno 1937–Kraków 2006.
- Kornat M., *Akt 5 listopada a umiędzynarodowienie sprawy polskiej podczas Wielkiej Wojny. Uwagi historyka dyplomacji*, "Historia Slavorum Occidentis" 2017, No. 2(13).
- Krukowski S., *Mała konstytucja z 1919 r.*, [In:] *Konstytucje Polski*, ed. M. Kallas, t. 2, Warszawa 1990.
- Kukiel M., *Dzieje Polski porozbiorowej 1795–1921*, Paryż 1984.
- Kutrzeba S., *Konstytucja a tradycja polska*, [In:] *Nasza Konstytucja*, Kraków 1922.
- Mackiewicz (Cat) S., *Historia Polski od 11 listopada 118 r. do 5 lipca 1945 r.*, Londyn 1993.
- Makiła D., *Moc prawna aktu 5 listopada 1916 roku*, "Przeгляд Sejmowy" 2017, No. 1(138).
- Pajewski J., *Odbudowa państwa polskiego*, Warszawa 1985.
- Piłsudski J., *Pisma zbiorowe*, t. IV, V, Warszawa 1937.
- Piszczkowski T., *Odbudowanie Polski 1914–1921. Historia i polityka*, Londyn 1969.
- Pobóg-Malinowski W., *Najnowsza historia polityczna Polski 1864–1945*, t. I, Paryż 1953–Warszawa 1990.
- Romeyko M., *Przed i po maju*, Warszawa 1967.
- Sarnecki P., *Zasady ustrojowe odradzającej się Rzeczypospolitej*, "Przeгляд Sejmowy" 1998, No. 2(28).
- Sadowski, J. *Polscy federaliści i konfederaliści w czasie II wojny światowej (cz. 1)*, "Studia Europejskie" 2005, No. 3.
- Suleja W., *Próba budowy zrębów państwowości polskiej w okresie istnienia Tymczasowej Rady Stanu*, Wrocław 1981.
- Suleja W., *Tymczasowa Rada Stanu*, Warszawa 1998.
- Szubarczyk P., *Naczelnik*, "Biuletyn Instytutu Pamięci Narodowej" 2008, No. 5–6.
- Wawrzyniak J., *Zarys historii instytucji ustrojowych i konstytucyjnych w Polsce*, Warszawa 1996.
- Winnicki Z.J., *Rada Regencyjna Królestwa Polskiego i jej organy (1917–1918)*, Wrocław 2017.
- Wiszowaty M.M., *W poszukiwaniu optymalnej formy państwa u progu niepodległości Królestwo Finlandii i Królestwo Litwy z 1918 r.*, "Studia Iuridica Toruniensia" 2012, vol. XI.
- Woronicz J., *Rzecz o monarchii i dynastyi w Polsce*, Paris 1839.