

Agnieszka LIS-LISTWON

Cardinal Stefan Wyszyński University in Warsaw, Poland

agnieszka.lis-listwon@wp.pl

GOLDEN LIBERTY: THE CRUCIAL POINT IN POLITICAL THOUGHT OF THE NOBLE STATE IN THE REPUBLIC OF BOTH NATIONS IN THE 17TH AND 18TH CENTURY

The purpose of this article is to show the political thought concerning „the liberty of the nobility” commented by writers and authors of political treatises of the 17th and 18th centuries. Such a timeframe allows the presentation of opinions about the liberty of the nobility expressed before and shortly after Poland’s loss of independence. The first part of the paper provides information on the social and political situation of the 18th century Poland and explains such concepts as the nobles’ democracy, privileges of the nobility, the „Golden Liberty of the Nobles”, free election, and the *liberum veto*. A short discussion of these notions contributes to a better understanding of the specific nature of the political system of the Polish-Lithuanian Commonwealth, and therefore, facilitates an analysis of the comments included in the second part. The summary of the paper groups the main opinions about Liberty; however, without evaluation of those opinions.

Keywords: *Golden Liberty, 18th century, noble state, Poland*

This year (2018) marks the hundredth anniversary of Polish independence restoration. After the Partitions (in 1772–1795), during which Prussia, Russia and Austria divided the territory of the Republic of the Two Nations among themselves, Poland disappeared from the map of Europe for 123 years. Steadfast Polish patriotism, political changes in Europe, as well as the determination of Polish political circles led by Józef Piłsudski enabled the Polish state to be recreated in November 1918. Nowadays, Poland celebrates its Independence Day on November 11th.

Such a meaningful anniversary is an important time for Poles, making us ponder the value of Freedom. This universal value is one of the most eminent human needs and, although understood in different ways, through the ages, it has been an integral part of the self-determination of Polish society. It has been a superior value, for which Polish citizens have often paid the highest price.

The purpose of this presentation is to show the political thought concerning “the liberty of the nobility” discussed by writers and authors of political treatises from the 17th and 18th centuries. Such a timeframe enables me to present opinions about the liberty of the nobility expressed before and shortly after Poland’s loss of independence.

The first part of my paper contains information about the social and political situation of 18th-century Poland and explains concepts such as: the nobles’ democracy, the privileges of the nobility, the “Golden Liberty of the Nobles”, and the *liberum veto*. A brief discussion of these notions will enable a better understanding of the

specific nature of the political system of the Polish-Lithuanian Commonwealth, and it will thus facilitate an analysis of comments included in the second part.

Poland in its present shape, formed by virtue of decisions made at the Yalta and Potsdam Conferences in 1945 (with a small correction of the eastern border in 1951), differs very much from the huge state existing before the first partition of 1772. The Crown of the Polish Kingdom transformed gradually into the Republic of the Two Nations, by way of conquest and by virtue of political treaties – starting from the personal union with the Grand Duchy of Lithuania signed in Krewo in 1385. Then the Republic of the Two Nations was confirmed with subsequent legal acts, until the Crown of the Polish Kingdom united with the Grand Duchy of Lithuania to become the Polish-Lithuanian Commonwealth pursuant to the Union of Lublin in 1569. As the Polish state grew, its political system also changed gradually from an absolute monarchy to a nobles' democracy.

The Polish society at the time of the Republic of the Two Nations was ethnically very diverse, because the country was populated by Poles, Lithuanians, Samogitians, Ruthenians, Tatars, Jews, and Armenians. Ethnic differences were reflected in the languages used by the inhabitants of that huge territory. Therefore, Polish identity was a choice for the nobility, and was not simply predetermined by history, culture, language or anything else. The Polish population was a kind of mixture of cultures, religions and ethnicities, where state affiliation of the nobility was actually, according to the historian Janusz Tazbir, a “cultural affiliation of free people, determined by their estate” (Tazbir, J., *Kultura szlachecka w Polsce*. Wiedza Powszechna. Warszawa, 1979, p. 65). The main elements of the Golden Liberty of the Nobility were: law-making, personal freedom, freedom of religion, freedom of speech, and equality of all noblemen. Each act of law, each duty (for example a tax) required an approval by the Sejm (Polish parliament). Freedom of speech, so important to the nobility, allowed citizens (noblemen) to express their opinions about governance. An anecdote has it that King Stephen Bathory, when criticised by Mikołaj Kazimierski, a deputy, cried out at him: “Tace nebulo!” (“Silence, scamp!”); Kazimierski replied: “I am no scamp, but a citizen who elects kings and overthrows tyrants”(transl. by Daniel J. Sax in: Grześkowiak-Krwawicz, A., *Queen Liberty: The concept of Freedom in the Polish-Lithuanian Commonwealth*. Brill. Leiden, 2012, p. 12).

An important explanation has to be made here about citizenship of the Republic of the Two Nations: not all the people living on Polish territory were Polish citizens; Polish citizenship was limited only to one estate originating from knighthood and lords: the nobility (burghers and peasants were simply subjects). All noblemen were equal before the law (regardless of their material status, connections or dignities held). We still have a saying: “a nobleman on his farmstead is equal to a voivode” (a voivode was a governor of a town or province). In the 17th and 18th centuries the whole of Europe saw a strengthening of absolutism, whereas in Poland noblemen passed laws granting them further privileges, i.e. rights giving them ever greater influence on state governance. And every king started his rule by signing an obligation to respect the existing privileges.

The nobles' democracy in Poland is considered to have started in 1454, when the Nieszawa statutes gave considerable state governance power to provincial *sejmiki* (meetings convened by the nobility). Sejmiki elected their deputies to represent them at the Sejm (in the House of Deputies, the lower house of the Polish parliament, composed of 170 deputies) and gave them instructions on how to vote. The second house of the Sejm was the Senate, composed of members of the former royal council, i.e. state and church officials, whereas the king was the head of the Senate and a one-person parliamentary estate whose competence was to call a general meeting of the Sejm every two years.

The first privileges of the nobility were of a rather financial nature, such as an obligation not to impose taxes without the nobles' consent, or compensation for losses incurred by knights during wars waged abroad. Further privileges included personal inviolability, protection from property confiscation without a court order, a ban for burghers to purchase land outside towns or limitation of peasant migration. Moreover, the nobility did not pay any duties for goods imported for their own needs and they did not have to fund fortifications. Some political changes were also made to introduce a two-house parliament (the House of Deputies and the Senate), to make the king head of the Senate and to impose an obligation on him to implement decisions taken by the Senate. In case a king refused to implement those decisions, members of the Senate had the right (also guaranteed by privileges) to renounce allegiance to him. Similar rules applied to all new acts of law and fiscal impositions – the king had no right to take any decisions important to the nobility without their participation (this pertained to imposing taxes, or ordering a levy *en masse*, i.e. a military mobilisation of the nobility). To those privileges of the nobility, which were the beginning of the Polish parliamentarianism, the Henrician articles were added – they had to be signed by every newly elected king before his coronation.

The Henrician articles were named after the first elective king of the Polish-Lithuanian Commonwealth. After King Sigismund II Augustus died without issue, in 1573, the election Sejm, whose main purpose was to choose a new monarch, wrote Polish-Lithuanian legal acts to guarantee the nobles' influence on the governance of Poland. The main points of these acts were a guarantee of free election (banning hereditary succession to the throne), a guarantee of freedom of religion, foreign policy in agreement with the Senate and a ban on levy *en masse* without consent of the Sejm, which was supposed to gather every two years or more often. The first king who had to sign these articles and to become dependent on the nobility was Henri de Valois (Henry III of France). Alongside the Henrician articles, every elective king of Poland signed *pacta conventa* before his coronation, which were a set of individual obligations of each king-elect pertaining to the specific political and social situation, for example an obligation to finance education or the army with the king's own funds, etc.

One of the most important and the most controversial freedoms enjoyed by deputies of the Republic of the Two Nations was the liberum veto. This right,

originating from the principle of unanimity, allowed every deputy to break off Sejm proceedings and cancel all decisions made during the entire session. This right was not granted by any legal act, but was very deeply rooted in the Polish parliamentary tradition. Poland was composed of many voivodeships and lands, which had equal rights. Deputies representing those lands at the Sejm were elected by provincial sejmiki and were accountable to the province citizens for the laws they established. The right of liberum veto protected the principle of systemic equality, which assumed that no law could be imposed against the will of citizens, even if those citizens were in minority (even a single provincial sejmik). The principle of unanimity was also important for another reason: the Commonwealth had no administration to enforce the law – the executive power depended on voluntary support from the citizens (the nobility), so it would be impossible to enforce any law that was not supported by society. Initially, the liberum veto principle was not implemented in the same form as in the 17th and 18th centuries (it was applied in the form of negotiations conducted until unanimity was achieved). Sejm proceedings were disrupted for the first time in 1669 by the Wołyń deputy Jan Aleksander Olizar. Overall, Sejm proceedings have been broken 73 times. It happened most often under the rule of Augustus II the Strong and Augustus III (during the rule of this monarch not a single Sejm session ended successfully). Many attempts were made to abolish or at least limit the liberum veto principle; however, to no avail. There were attempts to circumvent the principle, as the liberum veto did not apply to confederate sejms, so confederations were established at the beginning of Sejm sessions. Eventually, the principle was abolished by the first constitution in Europe (and the second one in the world) – the Constitution of May 3rd, which was enacted by the Four-Year Sejm in 1791, that is four years before the disintegration of the Republic of the Two Nations. This constitution changed the political system of Poland to hereditary monarchy, significantly reduced the nobles' democracy, and gave equal rights to nobility and burghers; however, some Polish magnates did not like these changes, so they established the Targowica Confederation (in fact the confederation was set up in Saint Petersburg) under the auspices of Empress Catherine II and asked her for military help to restore the previous order in the country. Empress Catherine sent her army to Poland, and she thus started a Polish-Russian war. The situation of Poland continued to deteriorate, so King Stanisław August Poniatowski ordered the fighting to cease. The Polish army defended itself no more, but many commanders, such as Tadeusz Kościuszko and Józef Poniatowski, resigned from their posts, and part of the officers and civil activists went into exile in order to avoid repression. During the Kościuszko Insurrection (Polish uprising against Russia and Prussia in 1794, when representatives of different estates, nobles, burghers and peasants, fought for Poland), leaders of the Targowica Confederation were tried and publicly executed for treason, and their property was confiscated.

When talking about the Golden Liberty of the Nobility, especially in the 18th century, royal elections and the liberum veto are usually mentioned, because both of these state institutions have aroused the most emotions (often extreme). “Both

became at one time considered not a guarantee, but a basic threat to freedom”, as Anna Grześkowiak-Krwawicz (Grześkowiak-Krwawicz, A., *Regina libertas- wolność w polskiej myśli politycznej XVIII wieku. Słowo/obraz terytoria. Gdańsk, 2006*, p. 85) writes. While free royal elections (which came under criticism only in the late 1770s) were doubtful only to some noblemen, the right to oppose, which the liberum veto was, caused concern even among its greatest proponents (because they feared the privilege might be used improperly), and in the end of the century, the right was recognized by Polish political life commentators to be the cause of the state crisis.

Of course, these two pillars of liberty of the nobility were not its only determinants – those also included compliance with the law, which was supposed to be one of the main duties of a noble citizen. The Polish nobility made the country’s law themselves, for they participated in state governance as a house of the parliament. Freedom and law were the foundations of the noble culture: kings had to guarantee them, and noblemen, who loved these values, had to safeguard them. “Protection of freedom was treated like protection of law and vice versa, so strong is the relation between these concepts” (Ochman-Staniszevska, S., *Od stabilizacji do kryzysu władzy królewskiej. Państwo Wazów, Warszawa, 1994*, p. 231) in the mentality of the Polish nobility. Law was considered mainly to protect freedom from the king’s ill will and violence of other citizens, as well as to maintain the ability of free governance. What is also important, it was supposed to form citizens for freedom and responsibility for the state (Grześkowiak-Krwawicz, A., *Regina libertas- wolność w polskiej myśli politycznej XVIII wieku. Słowo/obraz terytoria. Gdańsk, 2006*, p. 87). Jean-Jacques Rousseau, fascinated by the political system of Poland, wrote in *The Social Contract* that “obedience to the law one has prescribed to oneself is liberty” (Rousseau, J. J., *Du contract social; ou Principes du droit politique, [The Social Contract]*, Amsterdam, 1762, ch. I, 8). It was the superior institution of law that allowed proponents of hereditary succession to the throne (such as the main authors of the Constitution of May 3rd, Bishop Adam Krasiński and Hugo Kollątaj) to refute the arguments of free election proponents, because if law is superior and made by the people, every king has to be obligated to respect it, so a hereditary successor to the throne, same as an elected ruler, would have to guarantee his obedience to laws before his coronation. After ages, laws established by the people became considered to be “a kind of watchman of monarchs” (Grześkowiak-Krwawicz, A., *Regina libertas [op. cit.]*, p. 90). The deputy Łukasz Opaliński wrote: “laws become, as it were, a warden of the rulers” (Opaliński, Ł., *Obrona Polski przeciw Janowi Barklayowi, Wrocław, 1959*, p. 199). This was the purpose of noble privileges, the Henrician articles and pacta conventa, compliance with which had to be guaranteed by each king chosen in free elections. As early as the 17th century, opinions were voiced (for example by Łukasz Opaliński or Walenty Pęski) that a mindful nation should reduce its own freedom in order to ultimately keep it. Such opinions were supported also by some 18th century commentators on the political life of the Commonwealth, such as Józef Wybicki, Stanisław Leszczyński, Stanisław Konarski. They advocated the “golden liberty” to be limited so it would not turn into baneful lawlessness. Polish understanding of

liberty assumed that laws made by citizens were not only meant to deter wilfulness, but also to foster behaviours contributing to greatness of the state, even if they would be conflicting with one's personal interest.

Law-making was undoubtedly an expression of Polish citizens' freedom, but the peak of freedom was the liberum veto. This right, originating from the ancient principle of unanimity, finally turned into social consent to the rule of a single person, who, by rebuttal, made decisions about the country. For centuries the liberum veto was deemed to be a determinant of citizen equality; it was guarded as the most important civil right, "the apple of the eye of freedom", as Jan Stanisław Jabłonowski put it (Jabłonowski, J, S., *Skrupuł bez skrupułu w Polsce albo oświecenie grzechów narodowi naszemu zwyczajnych a za grzechy nie mianych*, Lwów, 1730, p. 42). And Wojciech Bystrzonowski wrote: "on this one word the Polish libertas is founded," (Bystrzonowski, W., *Polak sensat w liście w komplemencie polityk, humanista w dyskursie, w mowach statysta na przykład dany szkolnej młodzi*, Lublin, 1730) and any attempt to limit it would be the beginning of enslavement. In the 18th century, many commentators on the political system of the Commonwealth (such as Stanisław Konarski, Hugo Kołłątaj or Stanisław Staszic, influenced by the works by J. J. Rousseau) were of the opinion that laws should be made by a majority vote, and should not depend on the whims of individuals. The largest group of participants in Polish political life recognized the disadvantages of the liberum veto and the need for reform, but they didn't dare raise a hand against "the ornament of each Polish nobleman and the pillar of freedom" (Dunin Karwicki, *Egzorbitancje we wszystkich trzech stanach Rzeczypospolitej krótko zebrane*, unknown place of publication, 1703, p. 49). In this group were, among others, two Polish kings: Stanisław Leszczyński and Stanisław August Poniatowski.

Opinions of opponents of the liberum veto principle could be summarized with the words of Kazimierz Konstanty Plater, written in 1790: "There is a great and crucial difference between unanimity and the liberum veto [...] the former is the will of all, and the latter is the will of one, hence, the former results from agreement and the latter results from violence" (Plater, K. K., *Kosmopolita do narodu polskiego*, unknown place of publication, 1790, p. 51).

Opponents of the veto principle (such as Stanisław Konarski) believed that it hindered reforms, so necessary for their homeland, because the power bestowed upon the people (the nobility), instead of being "an active participation in the decision making about the state's policy" (Grześkowiak-Krwawicz, A., *Regina libertas [op. cit.]*, p. 129), could practically be limited to protection of the political and social status quo. Stanisław Leszczyński pointed out the paradox of freedom manifested by the liberum veto, saying that a disagreeing deputy puts all the others in the position of "peasants and subjects" (Leszczyński S., *Głos wolny wolność ubezpieczający*, Nancy (?), 1733, p. 47), whose opinions do not matter at all.

The Constitution of May 3rd, passed by the Four-Years Sejm in 1791, introduced many systemic reforms and significantly reduced the golden liberty of the nobility, for example by establishing hereditary succession to the Polish throne

and by abolishing the liberum veto. The enthusiastic reception of the first European constitution showed that most nobles recognized the need for change. Unfortunately, the change came too late and was not welcomed by some magnates, who, in order to protect their own interests and influences, established the Targowica Confederation, which was used by Russia and, to a lesser extent, Prussia. The invaders had pursued expansionary policies against Poland before and had destroyed every attempt to conduct reforms aimed at strengthening the state; and finally, as a result of domestic conflicts, they easily led to the collapse of the Polish-Lithuanian Commonwealth.

The “Golden Liberty” of the Nobility was based on three pillars: the law, or rather laws made by the nobles and for the nobles, the free royal elections, and the liberum veto principle. Every newly elected king had to pledge he would observe the obligations signed before his coronation (the Henrician articles and *pacta conventa*) on pain of losing the citizens’ allegiance. Freedom was a superior value. Even those who criticised its pillars, mainly the free royal elections and the liberum veto, while recognizing threats of injudicious use of the nobles’ freedoms, did not intend their complete abolition. Polish society of the 18th century would have certainly not felt good in an absolute monarchy, because the parliamentary system shaped through the ages gave it a sense of freedom and responsibility for the state. Polish nobles were accustomed to the principle of “nothing about us without us”. Unfortunately, after the third partition, the Polish state ceased to exist for 123 years and throughout those years two battles were waged: one to regain independence, and another, a more important one, to keep and protect Polishness, understood not only as continuity of language, culture and history, but also as dignity of a society that has the right to decide about itself – “to elect kings and overthrow tyrants”. (Grześkowiak-Krwawicz, A., *Queen liberty* [op. cit.], p. 12).

BIBLIOGRAPHY

- Bystrzonowski 1730:** Bystrzonowski, W. *Polak sensat w liście, w komplemencie polityk, humanista w dyskursie, w mowach statysta na przykład dany szkolnej młodzi*. Drukarnia Dominika Siarkowskiego. Lublin, 1730.
- Davies 2005:** Davies, N. *God’s playground: a history of Poland: in two volumes*. Oxford University Press. Oxford, 2005.
- Dunin Karwicki 1703:** Dunin Karwicki, S. *Egzorbitancje we wszystkich trzech stanach rzeczypospolitej krótko zebrane*, manuscript, 1703.
- Grześkowiak-Krwawicz 2006:** Grześkowiak-Krwawicz, A. *Regina Libertas – wolność w polskiej myśli politycznej XVIII wieku*. Słowo/obraz terytoria. Gdańsk, 2006.
- Grześkowiak-Krwawicz 2012:** Grześkowiak-Krwawicz A. *Queen Liberty: The Concept of Freedom in the Polish-Lithuanian Commonwealth*, transl. Sax, D. J.. Brill. Leiden, 2012.
- Jabłonowski 1730:** Jabłonowski, J. S. *Skrupuł bez skrupułu w Polsce, albo oświecenie grzechów narodowi naszemu zwyczajnych a za grzechy nie mianych*. Lwów, 1730.
- Leszczyński 1733:** Leszczyński, S. *Głos wolny wolność ubezpieczający*, Nancy(?), 1733 (real time of publication 1743).

Ochmann-Staniszevska 1994: Ochmann-Staniszevska, S. *Od stabilizacji do kryzysu władzy królewskiej. Państwo Wazów*. Warszawa, 1994.

Opaliński 1959: Opaliński, Ł. *Obrona Polski przeciw Janowi Barklayowi*. Wrocław, 1959.

Plater 1790: Plater, K. K. *Kosmopolita do narodu polskiego*. (unknown place of publication), 1790.

Rousseau 1762: Rousseau, J. J., *Du Contract Social, ou Principes droit politique*. Marc Michel Rey. Amsterdam, 1762.

Tazbir 1979: Tazbir, J. *Kultura szlachecka w Polsce*. Wiedza Powszechna. Warszawa, 1979.