

The monarchical sovereignty and the ministerial responsibility in the course of works on the constitution for the Kingdom of Poland, 1814-1815¹

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The course of constitutional works

The fall of Napoleon and the occupation of the Polish territories by the Russian army since 1813 led to a political reconfiguration. The victorious tsar Alexander I decided to maintain the Polish statehood and to change its system, transforming the Napoleonic Duchy of Warsaw into the Kingdom of Poland, with a new, liberal constitution. Alexander I gave the Polish political elites considerable freedom. He promised that in the implementation of the new system, he would take advantage of their proposals. Starting from the issuing of a decree (ukase) of 3/19 May 1814, which established the so-called Civil Reform Committee, the task of elaborating the political and legal foundations of the Kingdom of Poland, comprising constitutional drafts and other bills connected to them, as well as setting the direction for the transformation of the normative order inherited from the Duchy of Warsaw, was given to prince Adam Jerzy

Czartoryski, who took it on with a group of collaborators of his choosing.

The drafting of the final wording of the constitution was preceded by the preparation of *Constitutional Principles for the Kingdom of Poland*, which was a framework Constitutional Charter². On 21 September 1814, that is on the eve of the Congress of Vienna, Czartoryski submitted a draft of the Constitutional Principles to tsar Alexander, during a meeting organized in his family home in Puławy. The majority of the tenets on which this draft rested was approved by the tsar. Yet almost an entire year passed before the Constitutional Principles could be signed, as the informal and unofficial arrangements between the tsar and the Poles, according to which a constitutional Kingdom of Poland in union with Russia would be restored, had to be sanctioned internationally, by way of Vienna treaties. This is why the tsar waited until the Congress of Vienna ended to officially announce the establishment of the Kingdom of Poland,

and signed the Constitutional Principles on 13/25 May 1815.

It seems that the constitutional events that had taken place in France in the first half of 1814 were the main point of reference for Polish political elites³. Polish constitutional drafts – as well as the constitution of United Netherlands – may have been the very first fruit of the then nascent new model of constitutional monarchism⁴. It may be surmised that the inspirations with the French constitutional works in 1814 ended with the granting *Charte constitutionnelle* of Louis XVIII on 4 June 1814, as the first fundamental document of European constitutionalism of the first half of the 19th century, did not only stem from the fact that France was to other European states the place «where the need to come to terms with the Revolution was most apparent. Thus, the restoration of the Bourbons in 1814 became, as the Revolution itself had been, an act of European importance, one which might now serve as a key to overcoming the revolutionary epoch permanently»⁵. Even though, unlike Alexander and the Russian dignitaries around him, Poles had not been eyewitnesses to the events that occurred in Paris in the spring of 1814, prince Adam Jerzy Czartoryski remained in contact with the tsar in France. They had met, although infrequently, and discussed the first tenets of the Polish constitutional draft⁶. On the other hand, one of Alexander's closest advisors was Karl Nesselrode who, as head of Russian diplomacy, assisted in the constitutional works of the French Senate following the deposition of the Emperor at the beginning of April 1814⁷. There were probably even more threads connecting the Polish and French drafts. Thus, even though there is no direct proof

to support this, it may be assumed that the French model, since it had the approval of Alexander, may have become an important point of reference for the authors of the *Constitutional Principles*, elaborated with Czartoryski's participation a mere few months later. In reality, the French sources of inspiration for Polish political elites that took up constitutional works may have been dual: both the «revolutionary» draft of the Senatorial constitution dated 6 April 1814 and *Charte constitutionnelle* ultimately destroyed by Louis XVIII.

After the Congress Vienna in the next stage of works on the new political and legal order of the Kingdom of Poland, based on the *Constitutional Principles* – in line with their contents and in elaboration of their provisions – Czartoryski, along with his collaborators, became involved in the works concerning the final version of the Constitutional Charter and its accompanying organic statutes. At first they commissioned the job to Ludwik Plater⁸, who submitted a very elaborate text of the draft of constitution, dated 26 August 1815⁹. Owing to the overly detailed approach to the constitutional matters, Plater's draft was rejected, but it became the main point of reference for the subsequent constitutional works, which in fact consisted in drafting an abridged and modified version of Plater's work. Unfortunately, the incomplete state of source materials renders a precise reconstruction of the events that followed impossible, but it is known that a larger group of Czartoryski's collaborators, with the prince himself at the forefront, was involved in these works, and the most likely authors of the constitution's title: On Government were Plater and Tadeusz Matuszewicz. Czartoryski himself probably

authored the title devoted to National Representation¹⁰. Following the tsar's arrival in Warsaw in November 1815, and upon submitting the ready draft to him, the last stage of editing works on the constitution began. For reasons that are not entirely clear, Alexander removed Czartoryski. It may be surmised, based on the analysis of the final corrections introduced in the text of the constitution, that this probably had an inconsequential effect on the contents of the aforementioned titles, as the core of the solutions presented in the draft submitted to the tsar was maintained¹¹.

The principle of the monarchical sovereignty and the Polish political situation in the years 1814-1815

Pursuant to the principle of monarchical sovereignty, the full power rested in the hands of the ruler, who could use it as he pleased. The monarch as the source of all power also had the authority to limit it by way of granting a constitution, sovereignly deciding on the scope of this limitation and retaining full prerogatives in the remaining matters. The principle of monarchical sovereignty implied, first and foremost, the king's full supremacy in the area of executive power, in line with the rule that stipulated that «the king alone is the complete and sole executor of government»¹².

Founding the constitutional system on the principle of monarchical sovereignty was one of the few necessary rules that the representatives of the Polish political elites involved in designing the political system of the Kingdom of Poland had to respect¹³. On the one hand, this resulted from the

fact that «a great majority of those monarchies that decided to adopt constitutions in the years 1815-1830 rested on the principle of monarchical sovereignty, on the monarchical principle»¹⁴. The directions and methods of the sovereign monarch's self-limitation in constitutional states of the first half of the 19th century had been set by the solutions popularized in Napoleonic constitutions. Their shared core was restriction of the role of representative body to participation in the legislative processes concerning civil, penal and fiscal law (this was the scope of competences guaranteed to them by, among others, the Constitution of the Duchy of Warsaw), as well as to participation in the enforcement of constitutional responsibility (which, in turn, was not guaranteed in this constitution)¹⁵. The designers of the political foundations of the Kingdom of Poland had similar ideas. A representative example of this was the draft by Tomasz Ostrowski. The author of *Idées* indicated, that as per the concept espoused by him, which would be accepted without reservations by the Polish side, the executive branch (that is the monarch along with the ministers and the entire administration («le Monarque avec les Ministres et tous les Corps administratifs»)), has the character of a dominant authority, but it cannot transgress onto the sphere of rights guaranteed to the nation – demarcated by the area of regulations safeguarding the property rights and civil liberties («propriété et à la liberté civile»). Within this scope, the legislative attributions should be reserved as a competence of the «constitutionally represented nation» («la nation représentée constitutionnellement»), that is of the legislative body («Corps législatif»). Nevertheless, the legislative competences of

the Sejm should not cover provisions governing the organization and operations of the administration («l'administration ou bien le pouvoir executif») within the scope in which they did not restrict civic rights¹⁶. As explained by the author of another draft, Andrzej Horodyski, the role of the government and the monarch as the legislative power could be dual: having only a share in the decision-making process concerning the sejm law, «or autonomous say in the sphere of public administration»¹⁷. And thus, in the European perspective, the extent to which constitutionalism in the first half of the 19th century could develop, as well as the very fact that it was founded on the principle of monarchical sovereignty, was an effect of the specificity of the period of restoration and legitimism.

On the other hand, another circumstance that weighed in on the fact that the principle of monarchical sovereignty was chosen, were the political conditions in which the Kingdom of Poland in union with Russia was established under the sceptre of the liberal tsar Alexander. However, as observed by E.C. Thaden

For Alexander, the word constitution in no way implied the willingness on his part to surrender any of his autocratic powers, it connoted, instead, a means of enabling himself to act more effectively promoting what he considered the welfare of his subjects on the basis of the rationalized administrative structure and a detailed description of the functions and activities of the principal branches of the government¹⁸.

Yet, even if we assume that the primary decision-maker in this matter, tsar Alexander I, was more of a liberal than the literature of the subject purports, even if his liberalism was not just for show, but indeed stemmed from his true allegiance, the pres-

sure that he was subjected to, both on the European arena, where a new continental order was in the making following the Congress of Vienna, and by the Russian conservatives, who had just begun to dominate the St. Petersburg salons, was strong enough for Alexander to heed, and he could not undertake any steps that would be viewed as revolutionary¹⁹.

The fact that Polish republicans and traditionalists, attached to the pre-partition political order, had the time to get accustomed to the new system introduced in the Duchy of Warsaw, also played a significant role. The decision to adopt the principle of monarchical sovereignty as the political cornerstone, and to subordinate to it the authority of the entire executive, constructed pursuant to the rule of centralism – in order to ensure its fullest possible realization – had been made already by Napoleon, when he established the Duchy of Warsaw. Already then, especially on the wave of enthusiasm connected to the restitution of a semi-autonomous state organism, no one protested against the king of Saxony Frederick Wilhelm's sovereign rule of the Duchy of Warsaw, which resulted from the constitution of 22 July 1807 octroyed by Bonaparte, even though a considerable portion of the public opinion expected the French emperor to bring back the May 3 Constitution. We may assume that they hoped that the political system would be founded on the principle of national sovereignty, and that the prerogatives of the Sejm, as the a national representation body, would be expanded²⁰. Thus, the constitutional provision which stipulated that «the government resides in the person of the King», who «exercises in all their plenitude the functions of executive power» did not give

rise to any controversy²¹. We also cannot forget that, as regards the organization of power, the Duchy of Warsaw had cleared the path for the Kingdom of Poland also in another way: in both these states, the new order of things was affected by the permanent absence of the ruler (who resided in Dresden, in the case of the Duchy, and in St. Petersburg, in the case of the Kingdom), and so his rule was not direct. Thus, his prerogatives were subject to a self-imposed, specific limitation.

Moreover, the traumatic experiences caused by the collapse of Poland's own statehood had left a lasting mark. The Polish political elites, with the benefit of some hindsight, looked at the events that unfolded in the second half of the 18th century and universally noticed that one of the sources of Poland's weakness had been «anarchy». The retrospective needed to learn the lessons of their own history strengthened the elite's conviction that the remedy against future weakening of the state is the consolidation of executive power, and this is furthered, among others, by adopting the principle of monarchical sovereignty. It had taught them to enjoy liberal freedoms with moderation and self-restraint.

To some degree, fear of revolution, present also in Poland, nourished the reactionary ideology. This was an effect of the negative experiences that came with the events in France, where the former order of things had been completely overturned and the gentry removed from power. Revolutionary spirits could only be countered by strong power, concentrated around the person of the king and based on the principle of monarchical sovereignty.

The principle of monarchical sovereignty in the course of works on the constitution

Of all the designers of the future constitutional system of the Kingdom of Poland, the first one to address the boundaries of the compromise that would be accepted by the Polish political elites without hesitation was an elderly president of the Senate and an acknowledged authority, Tomasz Ostrowski. In his *Idées sur une Constitution à Donner aux provinces polonaises* of 24 May 1814, sent to the tsar, he accepted the foundation of the political system on the principle of monarchical sovereignty. According to him, the point of departure should be the adoption of the rule that the monarch, as sovereign, can do anything («le Souverain peut tout»)²². Moreover – he added – the monarch should be deemed sacred («la personne du Monarque doit être Sacrée») and exempt from all responsibility («d'éloigner du Souverain toute responsabilité»)²³. He argued that a central authority should be created in the state, where all the threads of power would meet. All government and all administration, then, originate from the monarch as the sovereign. They have to be fully, completely subordinate to him. The superior authority should be concentrated in the hands of the monarch to ensure the proper functioning of the entire administration, respect for the law and for the avoidance of all conflicts between various state bodies.

On the other hand, the monarch – according to Ostrowski – should act in the character of a «constitutional heir of his country» («constitutionnellement héréditaire de Son pays»²⁴), who bestows (grants as «octroi»²⁵) the constitution upon the nation. This classic approach fit in with the European context. As Luigi Lacchè sums



Adam Jerzy Czartoryski. Painting by J. Oleszkiewicz

up, in reference to the Western European «constitutional experiments in Europe in the aftermath of the French revolution»: (1) «the *octroi* was the instrument employed to affirm the constitutional position of "restored" sovereigns»²⁶; (2) «the monarch of the granted constitution is the sovereign in the true sense of term, but at the same time, through the representative constitution [...] it is he who stipulates agreements with non-unitary representatives of the people»²⁷. Pursuant to these precepts, according to Ostrowski, all administrative forms should be specified in the constitution, so that each citizen can know in advance the institutions in favour of which he has given up a part of his rights, and what

mechanisms will prevent the abuses of public authority. This is because Ostrowski, similarly to the rest of the political elite involved in the designing of the political system, placed great emphasis on the condition that power should not be exercised arbitrarily. For this reason, he stressed that the legal boundaries of executive interference should be demarcated clearly and in detail. These boundaries should restrain the government while ensuring that the citizens can freely enjoy the rights and liberties guaranteed to them in the constitution. In order to safeguard these fundamental rights, the monarch should share his sovereign power with the nation represented in any way it sees fit, while the representative bodies should be equipped with both legislative competences and the possibility of bringing officials who abuse their authority to justice²⁸. In this way Ostrowski, as well as other representatives of the Polish political thought, argued that the dichotomous division of power, referencing its source – the monarch or the nation, was more significant for the political concepts constructed by them than the principle of tripartite division as per the functional criterion.

Ostrowski's claims, representative of a broader circle of the political elite involved in the political design of the Kingdom of Poland, reflect the essence of the concept behind monarchical principle. Although it implies an unlimited nature of monarchical prerogatives, the king is morally and teleologically obliged to protect the nation's rights and freedoms, by sharing with its representative bodies a part of its power, and especially, the legislative competences. Thus, the monarch may, although he does not have to, respect certain general rules in the exercise of his sovereign rights. So this

was a concept of monarch's sovereignty that was self-restrained in the interest of the subjects. The fundamental instrument for this self-restraint was the constitution. Its bestowing was proof that the ruler intends to safeguard the interests of the nation and that he is acting on it. Alexander, as the sovereign, decided not only to bestow the constitution, but he also agreed for it to be drafted by the Poles, represented by the entourage of prince Adam Jerzy Czartoryski. Thus, concessions in favour of the nation included consent for its chosen representatives to participate in the design process of the new constitution.

Ostrowski wrote his memorandum even before the commencement of works on the political system of Poland. Yet the republicans of the Polish political elite were not willing to give up their republican views altogether. They strove toward «combining the Polish political tradition [...] with the monarchical power, which required the executive authority to be the king's exclusive prerogative»²⁹. It may be said that their aim was to make the nation, via its representative organs, a «lesser joint sovereign»³⁰.

What comes to attention within this context is that none of the constitutional drafts included a provision that would explicitly stipulate the monarchical power, and especially that would guarantee the ruler the freedom to change the constitutional order at his will. In this respect, the Polish drafts differed for example from the *Charte constitutionnelle* octroyed by Louis XVIII on 4 June 1814. In confronting the two constitutional acts, let us look to Luigi Lacchè, who observed that, contrary to the constitution of the Kingdom of Poland, the Charter of Louis XVIII explicitly stated that the decision to bestow it is an exclusive

prerogative of the sovereign («nous avons volontairement, et par le libre exercice de notre autorité royale, accordé et accordons, fait concession et octroi à nos sujets, tant pour nous que pour nos successeurs, et à toujours, de la Charte constitutionnelle qui suit»). Lacchè comments: «In granting the Charter, Louis XVIII and his entourage intended to assert the monarch's uncontested paternal rights over the constitution». According to Lacchè, this does not exclude a situation whereas the monarch bestowing the constitution is considered the sovereign, but, at the same time, since he transfers a part of his authority onto the national representation by way of this *Charte*, he enters into something akin to a contract with the nation³¹.

Was the redaction of Polish constitutional drafts affected by the fact that in the *Charte constitutionnelle* the principle of popular sovereignty was repudiated? This principle had been supported by the French Senate in the first draft of constitution prepared on 6 April 1814³². The proposed provisions of the Senate's draft, pursuant to which: «Le peuple français appelle librement au trône de France Louis-Stanislas-Xavier de France, frère du dernier Roi, et, après lui, les autres membres de la maison de Bourbon, dans l'ordre ancien» and «la présente constitution sera soumise à l'acceptation du peuple français dans la forme qui sera réglée» were rejected by the monarch, who demanded the guarantee of his *pouvoir constituant*³³. In his declaration dated 2 May 1814, the monarch asserted that it is not the will of the people, but the "grace of God" that legitimizes his power. He is not, then, the king of the French people who entrusted power to him, but a king of France and Navarre, legitimized centuries before, whose

person concentrates the entire power in the state, unlimited at its source³⁴.

It must be emphasized that authors of the Polish drafts, certainly aware of these events and of the contents of the French 1814 constitution, even though they steered clear of the phrases used in the draft of the senatorial constitution, offered less to Alexander than Louis XVIII demanded for himself. Nevertheless, the Russian tsar accepted their proposals. The essence of the problem seems to be grasped by the remarks made by Józef Kalasanty Szaniawski concerning the constitutional draft of Ludwik Plater from 27 August 1815. Szaniawski noticed that Plater's draft, besides making constitutional amendments subject to the consent of the National Representation, was also constructed in such a way that, «while giving the king numerous prerogatives, disguised itself as a constitution granted by the nation». According to Szaniawski, if its author had wanted to express his unconditional respect for the monarchical principle, he would have listed in the draft «only what the king bestows upon the nation». Only then there would be no confusion as to who, as the sovereign, is the source of all power, free to decide which part of it he wishes to keep as an «attribution of the throne». As a consequence – argued Szaniawski – if a given nation accepts the monarchical principle, it is in its «very interest [...] to only see the boundaries of the ruler's authority. And if the ruler divides this power, entrusting a part of it to its subjects, it is not up to the nation at all and cannot be limited in the constitution», especially by way of laying down the procedure for amending the constitution³⁵.

Perhaps, as a result of the doubts that Plater's draft had arisen, the authors of the

final version of the Polish constitution decided to express their respect for the monarch's sovereignty a bit more emphatically, although still not unambiguously. It was articulated especially in the provision stipulating that the monarch, in granting the constitution (which had been drafted by the representatives of the Polish nation), does so to «determine the manner, the principle and the exercise of the sovereign authority», the source of which he had to be as the sovereign³⁶. Were the Poles satisfied with the granting of constitution, preceded by giving them the right to draft it? Considering the political situation, they certainly were. It is much more difficult to answer this question if we try to isolate their doctrinal views from the contemporary political context. It may be assumed that to some members of the political circles that were tasked with laying down the political principles for the Kingdom of Poland, acceptance of the monarchical principle was a result of a necessary political compromise and that they were much more inclined toward the concept from the times of Stanisław August Poniatowski, pursuant to which the king's power had to be «limited by the requirements of morality, determined by law and by the political freedom of the subjects», and thus, evidently, could not be sovereign³⁷. This is how we may interpret the absence of an explicit constitutional declaration addressing the «pure idea of sovereign power»³⁸. Surely, the entourage of prince Adam Jerzy Czartoryski was fully aware that no further restrictions of the ruler's power could succeed. For the very same reason, the restoration of the political system designed in the times of the Four-Year Sejm was not possible. In the course of debates of 1814-'15, there was however «a visible

sentiment for the system established by the May 3 Constitution», which was reflected in the contents of Constitutional Principles that addressed the need for «approximation» of the planned political «improvements and corrections» to the *Government Act of 1791*³⁹. The very concept of nation's sovereignty represented the essence of Polish republicanism and of the theoretical skeleton of the pre-partition state. And so, its relinquishment – imposed by the political circumstances, realism and pragmatism – must have been particularly difficult for the authors of the constitutional drafts⁴⁰.

Ministerial responsibility in the course of works on the constitution

Pursuant to the concept espoused by the Polish political elites, the adoption of the monarchical principle should be accompanied by some control of the representative organs over the government and administration, including, especially, by effective instruments of bringing ministers and other administrative officials who abused their position to justice.

The problem of the absence of a system that would make it possible to hold officials accountable was becoming increasingly pressing. The constitution of 22 July 1807 was very laconic in this respect; it only mentioned that ministers are liable for their actions. The enforcement of this provision, however, left a lot to desire. As an effect, the lack of a real device to enforce responsibility for the breach of legal provisions was one of the most nagging issues concerning the administration of the Duchy of Warsaw. Thus, already in the

Napoleonic times, a special Deputation (a member of which was the aforementioned Tadeusz Matuszewicz) appointed in 1810 to «enquire into the reforms that the Duchy of Warsaw necessitates» and «for the drafting of bills and remarks for the improvement of the national administration» reported this problem as an urgent one that required immediate attention⁴¹.

The members of Deputation argued that the Saxon monarch, absent from Poland, not only could not exercise appropriate control over the ministers, but he was also incapable of extracting reliable information on the state of the country, which may have served as a basis for properly assessing its situation and for adjusting his actions. They pointed out that the monarch's knowledge was based on dexterously manipulated information contained in ministerial reports. They concluded that what was lacking was a «legal path [...] for transmitting an impartial opinion about the steps taken by ministers and their consequences»⁴². The Deputation believed that to this end, the monarch should engage senators, who would personally tour all departments at least once every two years and hear the complaints of the people, in order to «have reliable and impartial information about the manner in which the administration is exercised» and, based on this, to draft reports on administrative practices. Concerned for the tripartite division of power, the Deputation made a reservation that the inspecting senators should only have oversight competences, without the «power to change, pause or stop the administrative service in any way», or to «impose any penalty or give praise to the serving officials»⁴³.

The authors of the report of the Deputation also indicated that there were no ex-

ecutive provisions to precisely determine «when, for what, how and who is to hold the ministers responsible»⁴⁴. The issue of ministers' responsibility stood in intimate connection with the universally criticized quality of legislation demarcating the scope and forms of administrative activities, which could act as a «dam and watchtower» against the «lawlessness» of the administration⁴⁵. Both ministers and other administrative officials should only exercise the role of «guardians of the law»⁴⁶. Meanwhile, the deputies of the 1811 Sejm of the Duchy of Warsaw, who had written the *Address to the King*, observed that

the objects of competences, duties and bounds of the ministers' activities, regarding both the ruler and the general populace, still have not been set in a clear and permanent way. As a result, every day emerge new laws and rescripts that are mutually contradictory, as should not take place under an orderly administration, and which lowest-ranking officials take the liberty to issue, although a rescript may only be the work of the highest national governing authority⁴⁷.

Members of the Deputation decided not to go any further in their proposals and not to appeal for the Sejm to be equipped with some, at least limited, instruments of influence over the executive branch. The monarch, in establishing the Deputation, reserved that the reformation proposals may not lead to amendments in the constitution of the Duchy of Warsaw, which – as reads the *Report of Deputation* – «bestows all executive power onto the king, not leaving any participation or influence in this matter to the legislative assembly»⁴⁸.

These limitations no longer held after the collapse of the Duchy. Alexander did not oppose expanding the competences of Sejm in relation to those it had in the Napoleonic

times and in particular, he was not against holding the ministers and other administrative officials accountable for violation of the law by the Sejm and the monarch. This was reflected already in Tomasz Ostrowski's *Idées sur une Constitution à Donner aux provinces polonaises* dated 24 May 1814. The author of this memorandum was of the opinion that the legislative body should be equipped with an attribute allowing it to enforce legal responsibility of governmental and administrative authorities. Yet, he argued, this body should be denied any instruments that would make it possible for it to influence the executive, which is a completely separate branch of power, with no connections to the legislative («pouvoirs totalement distincts et qui ne doivent avoir aucun rapport avec le Corps législatif»⁴⁹). Ostrowski was of the opinion that the monarch cannot be held to account for his acts, but – he added – the ministers and officials who execute his will, should be subject to an elaborate system of control and strict responsibility before the nation («un contrôle multiplié et sévère, et à une responsabilité nationale et rigoureuse»⁵⁰). Ostrowski emphasized the need for provisions providing a precise determination of the scope of ministerial powers, stressing at the same time that the role of ministers is to enforce the law⁵¹. Clarifying his point of view, he argued that

the burden of responsibility must be [...] shifted onto ministers and executive officials. Ministers should act within the boundaries of the law and in accordance with the monarch's will. Ministers should [only] be armed with sufficient power to enforce the law and be limited in their inclination to make any arbitrary decisions; in particular, they cannot violate the sphere of civic freedoms and property rights.

In order to avoid this, underscored Ostrowski, ministers should at all times be under strict and expansive control exercised by their «counselors» (who together formed the collegial ministerial council), be subject to rigorous responsibility, and their removal from office should be not only one of the king's prerogatives, but also of the body representing the nation, in cases where they breach their competences and act in contravention of the law⁵².

Ostrowski's views were characteristic of the opinions held by the authors of political designs for the Kingdom of Poland, and generally by the liberal representatives of the Polish political thought. Even though they were aware of the tendency of strengthening the national power, characteristic of the first half of the 19th century, and believed it was in a way unavoidable, they still thought that the activities of the executive should be approached with caution. Just as the monarch was to remain inviolable, the government and administrative apparatus required control mechanisms capable of effectively enforcing constitutional responsibility for breaches of law⁵³. As noted by Alina Kulecka, the republican-liberal tenets underpinning this concept boiled down to recognizing that

the constitutional king [...] makes decisions based on the knowledge collected and presented to him by the officials. This practice liberated the king from evaluations of his actions, and partially also from responsibility for the orders that he issued. It was instead [...] shifted onto the administration, which was deemed to be the element of the power structure that elaborates the decisions and prepares orders. Yet, it did not enjoy the royal majesty [...], it was made up of fallible people, who had their weaknesses. [As a consequence], its actions could be analyzed and controlled; they were subject to oversight and criticism that aimed to improve its work. Placing the system of offic-

es and officials within the sphere of *profanum* of governance made it possible to apply rational criteria of evaluation, to reject the mystical image and model of authority, and so to demystify it to some degree⁵⁴.

According to Tomasz Ostrowski, the proper functioning of the entire administration hinged primarily on the introduction of an appropriate system of accountability as regarded ministers and other officials, and on the implementation of various checks and balances covering all public offices. In additional explanations to his proposals, Ostrowski clarified that «it is precisely in the Senate, convened as the supreme court, where the ministers, their counsellors, directors of various public divisions, as well as all other head administrators, should explain their acts if accused of breaches by controllers, by a member of the Sejm or by a single citizen». A citizen who lodged a complaint against an official, however, had to be aware that if his words were not proven to be true, he could be penalized for libel. Moreover, «officials who will deal with public money», should be obliged to pay a deposit when taking office. Nevertheless, crediting the deposit amount toward the losses suffered by the State Treasury could not exempt these officials from penal measures for their violations. The rules concerning the penal responsibility of officials were to be codified by the Senate, as the supreme court. Officials of the lower rungs, according to Ostrowski, should be subject to judgements by the «council of their minister», that is by the ministerial collective body, pursuant to the provisions of the aforementioned code drafted by the Senate. The accused would be able to appeal rulings of the collective body with the supreme court (Senate) in cases concerning

offences subject not only to disciplinary removal from office but also to penal sanctions. Both the accused and the accusing would have the right to appeal⁵⁵.

Authors of other constitutional drafts of this period also envisaged the introduction of legal responsibility of ministers before the Sejm. Andrzej Horodyski, in his draft of the *Government Act for the Polish Countries*, proposed the introduction of impeachment, pursuant to which

for disregarding the law [...] by way of pressure, state crimes or mismanagement of the state matters and various parts of the government to the detriment of the public good, ministers [...], that is members of the Supreme Guardianship, are accountable to the Main Sejm, where charges are brought by the Chamber of Deputies to the Senate. In such events, neither the circumstance of enforcing the orders of the king, not the king's pardon of his faults, shall clear the official before the national laws. A separate detailed law, determining the specifics of this issue, should be enacted⁵⁶.

Moreover, Horodyski wrote, since «each minister is particularly responsible for his own behavior», also «the king may call him before the Senate court if he receives complaints requiring court examination or penalization»⁵⁷. At the same time, the author of this draft envisioned the Senate as a standing control organ, which «whenever it sees the need», would «have the power to submit to the king requests for the clarification, explanation, expansion or cancellation of provisions regarding the general administration of the state»⁵⁸.

Authors of the Constitutional Principles took a more succinct approach to this issue. Addressing the responsibility of ministers and members of the Council of State in charge of various divisions, they only stipulated that the Senate would be the «su-

preme national tribunal for matters of this type», while the «manners and forms» of holding them accountable would be «laid down in laws»⁵⁹. There was no room for a more detailed elaboration of legal responsibility in the general Constitutional Principles also because its authors, for reasons unknown, but likely politically motivated, did not determine specifically the role of the Sejm within the structure of power. Owing to this, they did not declare explicitly that it would have the prerogative of holding officials accountable. Nevertheless, like the other authors of constitutional drafts, they did contemplate that the representative body would exercise control over the operations of the administration. In this document, the Council of State was obliged to give annual «reports regarding the state of affairs in the country, comprising accounts of each separate part of the administration». Next, such «accounts» were to be submitted to the Senate, «and examined by it closely, as well as by the Sejm». The authors of the Principles also envisaged that the reports would be accessible to the general population, which was to be guaranteed by the duty to «publish them in print»⁶⁰.

In reference to these provisions, also Ludwik Plater (in his project of the Constitutional Charter draft from 26 August 1815) planned to equip the Sejm with the right to «hear reports of the Council of State as ordered by the king: about the state of the Kingdom and progress of administration in all divisions of the government», as well as to «hear reports of the Council of State concerning the manner in which public income is spent by each of the ministers»⁶¹.

Moreover, Ludwik Plater's draft was in stark contrast from the Constitutional Principles, as its author decided to elabo-

rate on the issue of responsibility. He proposed a principle, according to which

both heads of governmental divisions [this group would probably include especially the general directors] as ministers and members of governmental commissions, are obliged to strictly enforce the provisions of the Constitutional Charter, the laws, king's and government's judgements, and shall be accountable for treason and abuses before the sejm courts⁶².

Thus, higher-ranking officials would be accountable for each instance of violating the law, especially if they countersigned illegal decisions made by the monarch or by the Government of Namiestniks. This is because Plater demanded that «each decree and order» of the king be countersigned by a minister, so that those who signed them could be accountable for «everything [in those decrees and orders] that is in contravention of the present act and of the laws»⁶³. The draft did not stipulate, however, which minister would countersign the documents presented by the king, which suggests that this signature could be of any minister, regardless of his area of competence. Things looked differently in the case of judgements of the Government of Namiestniks: in order to be valid, they required the signature of a namiestnik and of the minister responsible for the given matter⁶⁴. As per the proposed concept, a minister could only refuse his countersignature if he believed it to be in breach of the law, but in such event, he would be obliged to «resign from office»⁶⁵. In the case of decisions made collectively by governmental commissions, «a member who [...] wished to be liberated from responsibility [...] and for this reason disagreed with a commission decision, had to make a relevant remark in the session minutes»⁶⁶.

The draft by Ludwik Plater distinguished two categories of graded types of prohibited acts, on the one hand stipulating that

a minister [...] may be committing treason if, by way of an act signed or issued by him: (1) he acts against the security of the state or of the king; (2) strives to undermine the king's majesty, the order of succession to the throne or the constitutional authority of any of the three parts of the legislative body; (3) breaches the public rights of Poles guaranteed by the present charter⁶⁷.

On the other hand, however, Plater distinguished the category of financial «abuses», which were to consist in: (1) «signing an act aiming to establish any taxes, fees, deliveries or requisitions not approved by the sejm»; (2) «signing an act pursuant to which public income is used against the law»; (3) «accepting gifts or promises for the performance of any of his duties»; (4) «having a direct or indirect share in contracts entered into by his division». These prohibited acts could be committed not only by ministers, but also by the heads of divisions and other commission members⁶⁸.

In any of such events, be it if the accusation concerned an ordinary breach of law (countersigning an unlawful decision), financial abuses or treason, the «right to decide on the responsibility of ministers and general directors» was to be vested with the Chamber of Representatives, and the decision required 25 signatures of envoys or deputies. Such a resolution of the Chamber had to be approved by the Senate. However – and this made the legislative's decision sovereign in this case – it did not require the king's validation⁶⁹. Upon the Senate's approval, the case would be put before «sejm courts». Officials ranking lower than ministers or general directors could

also be put on trial before the sejm courts, but in this case without the participation of envoys. All it would take was a king's order, submitted via the grand judge to the Senate's acceptance⁷⁰.

In commenting this part of Plater's draft, Józef Kalasanty Szaniawski expressed the opinion that, analogously to what had been drafted in the Constitutional Principles – «formalities concerning placing an official, and namely a minister, before court, must be elaborated in minute detail in the organic act». This remark was likely in intimate connection with this reviewer's fear of «exposing the executive branch to the impulsive harassment of parties of tribunes» in the delicate situation in which the country found itself⁷¹. Szaniawski anticipated that the results of potential abuse of this competence, and using it in political power play, could have much worse repercussions.

Ultimately, the Polish constitution adopted the following principles. Firstly, the king «exercises full executive power» («exerce dans toute leur plénitude les fonctions du pouvoir executive») without any responsibility for it, as a sacred and inviolable person («sacrée et inviolable»). Secondly, the ministers «respond to and are subject to Sejm courts» («les Ministres [...] repondent, et sont justiciables de la haute Cour Nationale») for each violation of the law, that is the «Constitutional Act, the royal laws and royal decrees» («pour chaque infraction dont ils se seraient rendus coupables, de l'Acte constitutionnel, des Lois, et des décrets du Roi»). Such a construction of the principles of accountability of the executive before the legislative had many similarities to the solutions

included in the French draft of Senatorial Constitution from 1814.

In comparison, the ultimately adopted *Charte constitutionnelle* of Louis XVIII was clearly less liberal, although it too belonged to the rather small group of constitutions that provided for any possibility of holding a minister to legal accountability before the parliament⁷². In French and Polish constitutions «La personne du Roi est inviolable et sacrée», and the Polish charter pretty much repeated the words of the French: «Au Roi seul appartient la puissance exécutive». The principle of monarch's untouchability was accompanied by the principle of ministerial counter signature («Tous les actes du Gouvernement sont signés par un ministre»). As stipulated further by the draft of Senatorial constitution: ministers are responsible for everything that these bills would cause «in the area of breaching acts, public freedoms and individual rights of citizens» («Les ministres sont responsables de tout ce que ces actes contiendraient d'attentatoire aux lois, à la liberté publique et individuelle, et aux droits des citoyens»)⁷³. The intentions of the authors of the Polish constitution seem to have been identical. They too concentrated ministerial accountability around unconstitutionality and unlawfulness of actions, while passing over in silence the mechanism of enforcing this accountability. This part of the draft of Senatorial constitution did not receive Louis's approval in France, while the Polish project was accepted by Alexander. This is because Louis significantly limited the scope of ministers' accountability by stipulating: «Ils ne peuvent être accusés que pour fait de trahison ou de concussion» and, at the same time, providing that their breaches would be investigat-

ed according to the English impeachment procedure («La Chambre des députés a le droit d'accuser les Ministres, et de les traire devant la Chambre des pairs qui seule a celui de les juger»)74.

Conclusions

Even without any interference by Alexander, the context of political events left a mark on the proposals for the future political system for Kingdom of Poland. Its designers, regardless of the views they held, had to be aware that certain concepts were simply out of the question in their reality and that putting them forward could jeopardize the Polish cause and strain the tsar's patience. It was unrealistic to expect that ideas that could undermine the monarch's position by subordinating the government to the Sejm could materialize. In this respect, there was no going back to the political system as designed in the May 3 Constitution75. Based on the available sources, however, it is impossible to establish the degree to which the lack of support for the idea of weakening the monarch's position was an effect of political calculation and of the realistic assessment of the situation, and to which it stemmed from the doctrinal views of the Polish political elite. After all, they too may have been taken by a vision of a political system based on the monarchical principle, which guaranteed supremacy of the ruler and which thus limited the prerogatives of the Sejm. Nonetheless, it seems, in the context of the elite's attitude toward the constitution after 1815, that the scope of competences of the Sejm that the tsar ultimately consented to by approving

the Constitutional Charter, was satisfactory to most Polish politicians that had participated in the works on the new system also in the ideological aspect76. With this context, the variety of republicanism that was widely supported also in the circles grouped around prince Adam Jerzy Czartoryski, seems to have been devoid of its more radical, anti-monarchical features. The dominance of more moderate stance is understandable in light of the trauma caused by the collapse of the Polish-Lithuanian Commonwealth, of the events that unfolded in the wake of the French Revolution, as well as of the fact that the constitution of the Kingdom of Poland was still the most liberal such act in the Europe of those times77.

- ¹ The present paper has been prepared under the project "Administrative thought in the Kingdom of Poland (1814-1831)" financed by the Polish National Science Centre (Narodowe Centrum Nauki).
- ² M. Gałędek, *Koncepcje i projekty nowego ustroju administracji dla przyszłego Królestwa Polskiego. Studium z dziejów myśli administracyjnej*, Gdańsk, Arche, 2017, pp. 100-105.
- ³ V. Sellin, *European Monarchies from 1814 to 1906: A Century of Restorations*, Berlin-Boston, De Gruyter, 2017, p. 27. Compare relaunch of constitutional discussions since 1814 in Bavaria and Baden: M. Prutsch, *Making Sense of Constitutional Monarchism in Post-Napoleonic France and Germany*, Basingstoke-New York, Palgrave Macmillan, 2013, pp. 79, 82-103.
- ⁴ Prutsch, *Making Sense* cit., pp. 56-61; M. Kirsch, *Die Entwicklung des Konstitutionalismus im Vergleich: Französische Vorbilder und europäische Strukturen in der ersten Hälfte des 19. Jahrhunderts*, in M. Kirsch and P. Schiera (ed. by), *Denken und Umsetzung des Konstitutionalismus in Deutschland und anderen europäischen Ländern in der ersten Hälfte des 19. Jahrhunderts*, Berlin, Duncker & Humoldt, 1999, pp. 149-150; H. Brandt, *Europa 1815-1850: Reaktion-Konstitution-Revolution*, Stuttgart, Kohlhammer, 2002, p. 142; Kirsch, *Monarch and Parlament im 19. Jahrhundert*, Göttingen, Vandenhoeck & Ruprecht, 1999, pp. 49-57.
- ⁵ Kirsch, *Die Entwicklung des Konstitutionalismus* cit., p. 148; Prutsch, 'Monarchical Constitutionalism' in *Post-Napoleonic Europe: Concept and Practice*, in K. Grothe and M. Prutsch (ed. by), *Constitutionalism, Legitimacy, and Practice: Nineteenth-Century Experiences*, Oxford, Oxford University Press, 2014, p. 70.
- ⁶ Gałędek, *Koncepcje i projekty* cit., p. 99.
- ⁷ Kirsch, *Monarch und Parlament* cit., p. 299.
- ⁸ A.J. Czartoryski, *Notatki o pracach nad konstytucją Królestwa Polskiego*, manuscript in Biblioteka Książąt Czartoryskich, n. 5242 V, pp. 343-344; H. Izdebski, *Litewskie projekty konstytucyjne z lat 1811-1812 i ich upływ na Konstytucję Królestwa Polskiego z 1815 r.*, «Czasopismo Prawno-Historyczne», n. 24/1, 1972, p. 124; H. Izdebski, *Ustawa Konstytucyjna Królestwa Polskiego z 1815 r.*, in M. Kallas (ed. by), *Konstytucje Polski. Studia monograficzne z dziejów polskiego konstytucjonalizmu*, vol. 1, Warsaw, PWN, 1990, p. 196; Gałędek, *Koncepcje i projekty* cit., p. 474.
- ⁹ [L. Plater], *Ustawa konstytucyjna Królestwa Polskiego [26 VIII 1815]*, manuscript in Biblioteka Książąt Czartoryskich, n. 5261, p. 31; Izdebski, *Litewskie projekty* cit., pp. 127-128; Gałędek, *Koncepcje i projekty* cit., pp. 209, 211.
- ¹⁰ S. Barzykowski, *Historia powstania listopadowego*, Poznań, Księgarnia Żupańskiego, 1883, vol. I, p. 67; Izdebski, *Ustawa Konstytucyjna* cit., p. 197.
- ¹¹ Drafts of the *Charte Constitutionnelle du Royaume de Pologne*, in Rossijskij Gosudarstvennyj Archiv Drevnich Aktov in Moscow, Fond 12, opis 1, dzieło 269.
- ¹² H. Kołtąj, *Postrzeżenia nad Ustawą Konstytucyjną Księstwa Warszawskiego*, manuscript in Biblioteka Naukowa PAN i PAU in Cracow, n. 179, p. 62.
- ¹³ H. Izdebski, *Rada Administracyjna Królestwa Polskiego w latach 1815-1830*, Warsaw, PWN, 1978, p. 14.
- ¹⁴ *Ibidem*; M. Michalak, *Postanowienia króla, namiestnika, Rady Administracyjnej jako źródła prawa w Królestwie Polskim do 1830 r.*, in L. Mazewski (ed. by), *System polityczny, prawo, konstytucja i ustrój Królestwa Polskiego. W przededniu dwusetnej rocznicy powstania unii polsko-rosyjskiej*, Radzymin, von boroviecky, 2013, pp. 371-373.
- ¹⁵ Izdebski, *Rada Administracyjna* cit., pp. 14-16.
- ¹⁶ T. Ostrowski, *Idées sur une Constitution à Donner aux provinces polonaises*, 24 V 1814, manuscript in Biblioteka Książąt Czartoryskich, ref. no. 5220 IV, pp. 68-69. Andrzej Horodyski, Ludwik Plater and authors of the Constitutional Principles proposed a similar, and usually even broader, spectrum of legislative prerogatives of the Sejm.
- ¹⁷ Ivi, p. 38v; M. Kallas, *Zapomniany projekt konstytucji polskiej z 1814 roku*, «Zeszyty Naukowe UMK. Nauki Humanistyczno-Społeczne», n. 37, 1969, p. 113.
- ¹⁸ E.C. Thaden, *Russia's Western Borderlands, 1710-1870*, Princeton, Princeton University Press, 1984, p. 72. Cf. M. Raeff, *Michael Speransky - Statesman of Imperial Russia*, The Hague, Martinus Nijhoff, 1969, pp. 41-43.
- ¹⁹ A.J. Minakow, *Russkij konserwatizm w pierwszej czwartej XIX wieku*, Voronezh, Izd-wo Voronezh, 2011, pp. 174-210.
- ²⁰ W. Sobociński, *Historia ustroju i prawa Księstwa Warszawskiego*, Warsaw, PWN, 1964, p. 296; Kallas, *Ustawa konstytucyjna Księstwa Warszawskiego z 1807 r.*, in *Konstytucje Polski* cit., p. 121.
- ²¹ *Ustawa konstytucyjna Księstwa Warszawskiego*, «Dziennik praw Księstwa Warszawskiego», n. 1, p. 4; Kallas, *Konstytucja Księstwa Warszawskiego, jej powstanie, systematyka i główne instytucje w związku z praktyką i ustawodawstwem szczegółowym*, Toruń, PWN, 1970, pp. 71-72; Izdebski, *Ustawa Konstytucyjna* cit., p. 204.
- ²² Ostrowski, *Idées sur une Constitution* cit., IV, p. 69.
- ²³ Ivi, p. 68.
- ²⁴ *Ibidem*.
- ²⁵ L. Lacchè, *Granted Constitutions. The Theory of, octroi" and Constitutional Experiments in Europe in the Aftermath of the French Revolution*, in *History and Constitution. Developments in European Constitutionalism: the comparative experience of Italy, France, Switzerland and Belgium (19th-20th centuries)*, Frankfurt am Main, Vittorio Klostermann, 2016, p. 229, footnote 3.
- ²⁶ Ivi, p. 230.

- ²⁷ Ivi, p. 244.
- ²⁸ Ostrowski, *Idées sur une Constitution* cit., pp. 68–69.
- ²⁹ M. Mycielski, *Rząd Królestwa Polskiego wobec sejmików i zgromadzeń gminnych 1815–1830*, Warsaw, Wydawnictwo UW, 2010, p. 51.
- ³⁰ *Ibidem*.
- ³¹ Lacchè, *Granted Constitutions* cit., pp. 229, 231, 244.
- ³² The draft of Senatorial constitution belonged to the group of the last «revolutionary constitution» aiming at weakening monarchical power alongside with constitutions of Sicilia of 1812, Spain of 1812, and Norway of 1814. See R. Herr, *The Constitution of 1812 and the Spanish Road to Constitutional Monarchy*, in I. Woloch (ed. by), *Revolution and the Meanings of Freedom in the Nineteenth Century*, Stanford, Stanford University Press, 1996, pp. 65–102; C.W. Crawley, *England and the Sicilian Constitution of 1812*, «The English Historical Review», n. 218, 1940, pp. 251–274; G-C. von Unruh, *Eidsvoll. Das norwegische Grundgesetz von 1814 als konstitutionelles Modell*, Kiel, 1977.
- ³³ P. Rosanvallon, *La Monarchie impossible. Les Chartes de 1814 et de 1830*, Fayard, Paris, 1994, pp. 17–18; M. Morabito, D. Bourmaud, *Historia konstytucyjna i polityczna Francji (1789–1958)*, Temida 2, Białyłstok, 1996, pp. 206–209.
- ³⁴ Morabito, Bourmaud, *Historia konstytucyjna* cit., pp. 210–211. On the origins of the *Charte constitutionnelle* see P. Rosanvallon, *La monarchie impossible* cit., pp. 29–43; V. Sellin, *Die geraubte Revolution. Der Sturz Napoleons und die Restauration in Europa*, Göttingen, Vandenhoeck & Ruprecht, 2001, pp. 225–273; M. Prutsch, *Die Charte Constitutionnelle Ludwigs XVIII. in der Krise vom 1830: Verfassungsentwicklung und Verfassungsrevision in Frankreich 1814 bis 1830*, pp. 13–55.
- ³⁵ [J.K. Szaniawski], *Uwagi nad projektem Ustawy konstytucyjnej [1815]*, manuscript in Biblioteka Książąt Czartoryskich, n. 5222 V, pp. 395–396; Izdebski, *Ustawa Konstytucyjna* cit., p. 197.
- ³⁶ Izdebski, *Ustawa Konstytucyjna* cit., pp. 200–201.
- ³⁷ A.M. Stasiak, *Teoria władzy monarchicznej czasów stanisławowskich*, Lublin, Wydawnictwo KUL, 2013, p. 202; A. Tarnowska, *Sovereignty Issue in the Public Discussion in the Era of the Polish 3rd May Constitution (1788–1792)*, in U. Müssig (ed. by), *Reconsidering Constitutional Formation II National Sovereignty. A Comparative Analysis of the Juridification by Constitution*, Heidelberg–New York, Springer, 2016, pp. 249–257.
- ³⁸ Stasiak, *Teoria władzy monarchicznej* cit., p. 202.
- ³⁹ *Bases de la Constitution de Pologne (1815) / Zasady konstytucji Królestwa Polskiego (1815)*, in H. Dippel (ed. by), *Constitutions of the World from the Late 18th Century to the Middle of the 19th Century: Sources on the Rise of Modern Constitutionalism/ Verfassungen der Welt vom späten 18. Jahrhundert bis Mitte des 19. Jahrhunderts: Quellen zur Herausbildung des modernen Konstitutionalismus*, vol. 5: A. Tarnowska (ed. by), *Constitutional Documents of Poland: Polskie dokumenty konstytucyjne 1790–1848*, München, 2008, p. 55.
- ⁴⁰ U. Müßig, *Juridification by Constitution. National Sovereignty in Eighteenth and Nineteenth Century*, in Müßig, *Reconsidering Constitutional Formation I* cit., pp. 29–34; A. Tarnowska, *The Sovereignty Issue in the Public Discussion in the Era of the Polish 3rd May Constitution (1788–1792)*, in Müßig, *Reconsidering Constitutional Formation I*, pp. 233–235, 247–249.
- ⁴¹ *Ustawodawstwo Księstwa Warszawskiego*, vol. 2, Warsaw, PWN, 1964, p. 164; Kallas, *Projekt reform ustrojowych w Księstwie Warszawskim (1810–1811)*, «Zeszyty Naukowe Uniwersytetu Mikołaja Kopernika w Toruniu. Nauki Humanistyczno-Społeczne», n. 42, 1971, p. 77.
- ⁴² Kallas, *Projekt reform ustrojowych* cit., pp. 82–83.
- ⁴³ *Raport deputacji*, manuscript in Biblioteka Naukowa PAN and PAU in Cracow, n. 139, pp. 41, 43–44; A. Rosner, *Czy członkowie rad departamentowych sami z siebie potrafili być obywatelami?*, in W. Uruszczak, J. Malec (ed. by), *Ustrój i prawo w przeszłości dalszej i bliższej: studia historyczne o prawie dedykowane Prof. Stanisławowi Grodzkiemu w pięćdziesiątą rocznicę pracy naukowej*, Cracow, Wydawnictwo UJ, 2001, p. 166.
- ⁴⁴ *Raport deputacji* cit., p. 31; Cfr. also ivi, pp. 6, 47–49.
- ⁴⁵ Ivi, p. 241.
- ⁴⁶ *Uwagi nad rządem i stanem Księstwa Warszawskiego przez księcia Lubецkiego z alegatami [1813/14]*, manuscript in Biblioteka Książąt Czartoryskich, n. 5232 IV, p. 31.
- ⁴⁷ [J. Godlewski], *Głosy posła Maryampolskiego na Sejmie roku 1815 w Warszawie miane*, Warsaw, Jan Dąbrowski, 1814, p. 5.
- ⁴⁸ *Uwagi ogólne deputacji [1811]*, manuscript in Biblioteka Raczyńskich in Poznań, n. 9, p. 239v.
- ⁴⁹ Ostrowski, *Idées sur une Constitution* cit., pp. 68–69.
- ⁵⁰ Ivi, p. 69.
- ⁵¹ Ivi, p. 68.
- ⁵² *Ibidem*.
- ⁵³ Izdebski, *Rada Administracyjna* cit., pp. 11–15.
- ⁵⁴ A. Kulecka, *Naród i władze rządowe. Dyskurs o biurokracji w Królestwie Polskim (1815–1867)*, in A. Górak, I. Łuć, A. Magier (ed. by), *Dzieje biurokracji na ziemiach polskich*, vol. 1, Lublin–Siedlce, RSIL, 2008, p. 180.
- ⁵⁵ Ostrowski, *Idées sur une Constitution* cit., pp. 73–74.
- ⁵⁶ A. Horodyski, *Projekt do Ustawy rządowej dla Krajów Polskich*, manuscript in Biblioteka Naukowa PAN and PAU in Cracow, n. 152/2, p. 26v.
- ⁵⁷ Ivi, p. 40.
- ⁵⁸ Ivi, p. 33; Kallas, *Zapomniany projekt* cit., p. 113.
- ⁵⁹ *Bases de la Constitution de Pologne* cit., p. 59.
- ⁶⁰ *Ibidem*; A. Kulecka, *Wapno i alabaster. Biurokratyczna wizja rzeczywistości w raportach urzędowych*

Królestwa Polskiego (1815-1867), Warsaw, Neriton, 2005, pp. 50-51. This author noticed that «the contents of Principles referred to the control functions performed by the sejm of the Polish-Lithuanian Commonwealth until 1795». The duty of drafting reports was also stipulated in the legislation of the Duchy of Warsaw. We should also mention a remark by Fryderyk Skarbek, who was of the opinion that the aforesaid competence «to criticize governmental activities», in combination with the Sejm's right of petition, led to the implosion of the political order in the Kingdom of Poland, as such a solution was ill-suited to the situation of a nation that «was dependent on the goodwill of a [sovereign] conqueror», F. Skarbek, *Dzieje Polski*, vol. II: *Królestwo Polskie od epoki początku swego do rewolucji listopadowej*, Poznań, Księgarnia Żupańskiego, 1877, p. 61; P. Szymaniec, *Fryderyk Skarbek o konstytucji Królestwa Polskiego z 1815 roku i o statucie organicznym z roku 1832*, «Czasopismo Prawno-Historyczne», 26/2, 2014, p. 288.

⁶¹ Plater, *Ustawa konstytucyjna* cit., p. 61.

⁶² Ivi, p. 27.

⁶³ *Ibidem*.

⁶⁴ *Ibidem*.

⁶⁵ Ivi, pp. 42-43.

⁶⁶ Ivi, p. 43.

⁶⁷ Ivi, p. 41.

⁶⁸ Ivi, pp. 41-42.

⁶⁹ Ivi, p. 65.

⁷⁰ Ivi, p. 87; Szaniawski, *Uwagi nad projektem* cit., p. 403.

⁷¹ Szaniawski, *Uwagi nad projektem* cit., p. 402.

⁷² The introduction of the principle of ministerial accountability, even in limited and imprecise form, was not anything obvious, even in constitutional states. During the period of 1815-1830, even those constitutions based on *monarchises Prinzip*, which provided for this principle, were still rare. Besides the Polish constitution and Louis XVIII's *Charte*, the only other constitutions that

addressed the issues of ministerial accountability were those of Württemberg, to a certain extent the 1818 constitution of Baden, and the 1820 constitution of the Grand Duchy of Hesse. The higher stage of constitutional development, connected with political accountability of the government before the parliament (parliamentary cabinet monarchy) was not in existence yet in its pure form, although Great Britain was already close to it. The remaining constitutions either did not address the issue of ministers' accountability (or even altogether omitted the organization of executive), or they limited themselves (e.g. the constitution of the Duchy of Warsaw) to the simple statement that ministers are responsible. Such a stipulation was universally deemed to express the principle of accountability solely before the monarch. H. Bischof, *Ministerversantwortlichkeit und Staatsgerichtshöle in Deutschland*, Giessen 1958, p. 99; Izdebski, *Rada Administracyjna* cit., pp. 14-15.

⁷³ Rosanvallon, *La monarchie impossible* cit., p. 18; Morabito, Bourmaud, *Historia konstytucyjna* cit., p. 209.

⁷⁴ Rosanvallon, *La monarchie impossible* cit., pp. 85-89; Morabito, Bourmaud, *Historia konstytucyjna* cit., pp. 213-214.

⁷⁵ Izdebski, *Instytucje przedstawicielskie w myśli politycznej Księstwa Warszawskiego i Królestwa Polskiego*, in S. Dubisz (ed. by), *Polska myśl liberalno-demokratyczna w latach 1795-1830*, Warsaw, Epoka, 1986, p. 28.

⁷⁶ *Uwagi obywatela polskiego nad Konstytucją tegoż Królestwa*, «Pamiętnik Warszawski czyli Dziennik Nauk i Umiejętności», n. 1, 1816, pp. 210-211.

⁷⁷ T. Kizwalter, *Między Konstytucją 3 Maja a Nocą Listopadową: dzieje państwowości, przemiany społeczne, ewolucja polskiej myśli politycznej*, in Dubisz, *Polska myśl liberalno-demokratyczna* cit., p. 16.