THE CURIOUS EVOLUTION OF THE *LIBERUM VETO*: REPUBLICAN THEORY AND PRACTICE IN THE POLISH-LITHUANIAN COMMONWEALTH (1639-1705)

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ABSTRACT

Historians of the Polish-Lithuanian Commonwealth have traditionally presented the 
*liberum veto*, a parliamentary practice that allowed any member of parliament to object to 
any measure and thereby suspend deliberations, as a result of Polish citizens’ (the 
szlachta’s) peculiar political culture, particularly their attachment to the principles of 
consensus and unanimity. This assumption led scholars to focus on theoretical 
justifications for the abuse of the veto that began during the second half of the 
seventeenth century and by the middle of the eighteenth century had paralyzed the Polish 
parliament (the *Sejm*) entirely. Until now, no one has considered the advent and 
persistence of the veto in the context of the long struggle between the two central 
political ideologies of the early modern period, republicanism and absolutism. By 
examining the writings of republican citizens who used and defended the veto during the 
heated battle over constitutional reform waged in the Commonwealth during the 1660s 
and early 1670s, we see that the veto was initially embraced as a tool to defend 
republican liberty against the illegal designs of a king bent on monarchical reforms. This 
tactic proved disastrous for the citizens who first used the veto to suspend parliaments as 
their opponents quickly embraced the practice for their own selfish ends. The result was 
partisan gridlock as well as a theoretical impasse between those who advocated a well-
regulated (but unfree) monarchy and those who advocated a free (but chaotic) republic. Not until Stanisław Dunin Karwicki wrote his *De ordinanda republica* in 1704 or 1705 were republican writers able to propose a constitution that guaranteed both efficient execution of laws and security without sacrificing the positive freedoms Poles understood to be the proper end of any constitution. Although Karwicki’s reforms were never put into practice, they shed invaluable light on the struggle that defined seventeenth-century politics across Europe and that in the Polish-Lithuanian Commonwealth led to the creation and curious evolution of the *liberum veto*. 
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Introduction:

The Conundrum of the Liberum veto in light of the work of

Stanisław Dunin Karwicki

And this is the true source of all diffidence, fights and domestic disturbances among us in Poland, that we have two things both important to us, which are inherently opposite and have an apparently inborn antipathy for each other: that is royal majesty and the people’s freedom. For the appetite for unlimited rule and ensnaring freedom is inborn in kings. Meanwhile, self-preservation is inborn in freedom, so that from its birth, freedom is increasingly frightened and suspicious, hence the constant mistrust of kings and courtiers. And so, when, because of discontent over some kind of grant or when a vacancy passes them by, the most powerful men beat the drum and there are fights and domestic disturbances... It has come to such an extremity that now we clutch at means to preserve freedom that could sooner bring about her ruin, such as uprisings and the breaking of parliaments, and other similar things.¹

Stanisław Dunin Karwicki

Exorbitancje in the Three Estates (c. 1705)

Faced with seemingly irreconcilable religious conflicts, seventeenth-century Europeans struggled to find political arrangements capable of reconciling warring parties all claiming to have God and right on their side. Political theorists like Jean Bodin and Thomas Hobbes rejected classical traditions of mixed government and argued that the only way to prevent civil war in their post-Reformation world was to accept a single,

indivisible and unquestionable sovereign as an ultimate authority. Meanwhile, republican theorists like Hugo Grotius and James Harrington maintained that a mixed republic based on Aristotle’s classical mixture of rule by the one, few and many, was the only way to maintain the civic freedoms that were the proper end of any constitution. While the theorists debated the shape of the ideal constitution, almost every country in Europe experienced protracted, often violent, power struggles between their kings and their citizens.² By the turn of the eighteenth century, it seemed that the autocratic model advanced by Louis XIV’s France, along with the rapidly centralizing states of Prussia, Russia and the Habsburg Empire, represented the way of the future. The proponents of autocracy had seemingly won out across most of the continent.³

There were, of course, exceptions to this trend. In some places citizens accustomed to self-government were able to defend their civic freedoms by rejecting their monarchs’ efforts to consolidate political power in royal hands. In England, the United Provinces of the Netherlands and the Polish-Lithuanian Commonwealth, the king’s attempts to increase his powers sparked successful popular uprisings. In the cases of England and the Netherlands, civil wars eventually produced new republican constitutions in which

² I refer to the much-studied “general crisis” of the seventeenth century, a concept that began with Eric Hobsbawm’s observations about the economic transformation Europe experienced during this era and was further developed by Hugh Trevor-Roper to include the conflicts between society and the state that characterized the period. A recent collection dedicated to this topic, The General Crisis of the Seventeenth Century (1997) edited by Geoffrey Parker and Lesley Smith presents the crisis as a global phenomenon and examines temporary climate change as a factor. See Eric Hobsbawm. “The General Crisis of the European Economy in the Seventeenth century.” Past and Present. vol. 5:1 (1954). Hugh Trevor-Roper. “The General Crisis of the Seventeenth Century.” Past and Present. vol. 16 (1959).

³ Louis XIV’s France is the model, but kings were expanding their prerogatives and estates were losing their rights in many places on the continent. The Spanish, Czechs and Moravians, Hungarians, Prussians, Danes, Swedes, all lost political power vis-à-vis their kings. For a particularly dark portrait see A.R. Myer. Parliaments and Estates in Europe until 1795. New York: 1975.
ultimate political power was invested in a representative body of citizens, not a king.\(^4\) The citizens of the Polish-Lithuanian Commonwealth also rose up—twice—during this period against kings bent on transforming their mixed republic into a monarchy, but the contest for ultimate authority never led to a republican revolution.\(^5\) Nor did it lead to a centralized autocracy like those in the states that surrounded the Commonwealth. Instead, after fighting about constitutional reform for many decades—at local assemblies and parliaments as well as on the battlefield—the monarchist and republican factions in Poland-Lithuanian deadlocked. In the mid-1670s, citizens who were unable to break the impasse and unwilling to resort to another civil war did what they had traditionally always done when consensus seemed impossible: they tabled the discussion.

The tool Poles used to postpone their irreconcilable argument about constitutional reform would eventually be known as the *liberum veto*. Before the middle of the seventeenth century, citizens’ *ius vetandi* (right to contradict) was a rarely used mechanism to ensure consensus among the three parliamentary estates (the king, Senate and House of Delegates) of the Commonwealth. Over the second half of the seventeenth century,

\(^4\) The Dutch Revolt (1568-1609) produced a federation of republics without a king. The English Civil War led to the beheading of Charles I in 1649 and a kingless republic until the Restoration in 1660. Protestants in both nations feared Catholic absolutism. The Dutch resented the heavy-handed, centralizing rule of their Habsburg king. The English rejected the autocratic designs of Charles II. The second act of the English battle over the constitution, the exclusion crisis, featured popular fear of Catholic invasion and repression under Catholic James II, was avoided by Glorious Revolution (1688) and ascension of William and Mary, who were bound by more explicitly limited prerogatives.

\(^5\) The Zebrzydowski or Sandomierz Rokosz (1606-7) and Lubomirski Rokosz (1665-6), while led by prominent aristocrats, became popular movements because they were framed in terms of defending citizens’ rights from a king trying to institute autocracy (*absolutum dominium*). It is important to note that, unlike in England and the Netherlands, religion played a very minor role in the political battles in the Polish-Lithuania Commonwealth. While English and Dutch opponents of absolutism raised the specter of a Catholic king bent on reconversion, the Poles became increasingly more Catholic as the century went on. The analogue for them was the specter of a French king like Louis XIV, who they believed, would take away their civic freedoms.
though, delegates’ right to protest specific motions at parliament developed into the
liberum veto, a practice akin to the American filibuster, which eventually allowed any
member of parliament to oppose any motion at any time and thus suspend the parliament
indefinitely. Much has been written about the pernicious affects of the liberum veto, but
no one has yet to examine the curious evolution of the veto in the context of the long
battle over the future of the Commonwealth’s constitution.

Polish historians have traditionally presented the veto as the product the szlachta’s extreme attachment to their privileges and their veneration of the principle of unanimity.

Since the second half of the eighteenth century, writers both Polish and foreign have cited the liberum veto as evidence of the flawed nature of the szlachta’s political system, as well as the supposed negative characteristics of the citizens themselves—their selfishness, inclination to anarchy and irrational fear of centralized authority. Well into the twentieth century, Polish historians were still trying to explain the tragedy of the partitions by finding the ultimate cause for the Commonwealth’s dismemberment and

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6 The word “szlachta” refers to the large hereditary estate that enjoyed civic rights in the Commonwealth. It was an incredibly diverse and somewhat open estate and therefore, translating szlachta as “nobility” can conjure up misleading connotations in the minds of Western readers. The English term “gentry” gives the sense of a numerous body of gentlemen farmers, but still does not capture the social, economic, and ethnic diversity of the estate. Andrzej S. Kamiński simply uses the term “citizens” to refer to members of the szlachta estate. This is quite sensible, for a shared civic identity is the one thing all szlachcicy had in common. I prefer to preserve the Polish to remind the reader of the uniqueness of the estate and to discourage confusion that might arise from conflating the szlachta with other Early-modern nobilities or modern citizens.

7 Władysław Czapliński (1905-1981) one of Poland’s leading experts on seventeenth-century political history, wrote about reform efforts in the middle of that century, “news of a planned reform to the constitution caused anxiety among the szlachta, who—as foreign observers attest—did not want to leave the sphere of privileges they had won despite the castastrophes they had experienced and stifled signs of political common sense.” He then quotes French ambassador Des Noyers, “these people are so attached to their own customs that they would rather perish, which they most certainly will do, rather than correct that which is defective in their laws.” “Próby reform państwa w czasie najazdu szwedzkiego.” In Polska w okresie drugiej wojny północnej (1655-1660). Warszawa: 1957. p. 318.
identifying the historical moment when things went irreparably awry. Most pinned the blame on the masses of conservative citizens who refused to reform an obviously ailing political system. Almost everyone traced the beginning of the end to the second half of the seventeenth century when parliaments began to be broken by the *liberum veto.*

According to the dominant narrative, shaped by Władysław Konopczyński’s influential monograph, *Liberum Veto: Studyum porównaczno-historyczne* (*The Liberum Veto: A Comparative-Historical Study*) (1918), Polish citizens failed to adopt the majority principle (and thus plunged their country into anarchy) due to their short-sighted and irrational devotion to the *liberum veto.*

According to Konopczyński,

“The veto occupied a place among the whole of old-Polish mechanisms [staropolskich urządzeń] as central as the majority rule in the constitutional life of early modern states. According to Montesquieu it

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*8 In his synthetic work about the *szlachta* first published in 1969, *Szlacha polska i jej państwo,* Jerema Maciszewski attempted to revise the almost universally negative stereotypes about the *szlachta.* He describes previous works on the subject, “All synthetic histories up until now—and there have been many—contain many holes, silences; they raise many doubts and criticisms. Some wish to see the main reason for the collapse of the state in its political system, which was determined by the supposed characteristics of the national character of Poles, their inclination to anarchy and disorder, their dislike of strong state power, which in that era could only by represented as monarchical absolutism. Others see the main reason for the tragedy of pre-partition Poland precisely in the distorted principle of *szlachta* communal self-government (gminowładztwo), the dominant position of the magnates and in the absolutist aspirations of kings from foreign dynasties.” p. 20.

*9 The first parliament to be broken by a single delegate’s veto was in 1652. Other parliaments broken in the seventeenth century happened in 1654, 1665, 1666 (twice), 1668, 1669, 1672, 1681, 1688, 1689, 1693, 1695, and 1699. The practice became even more common in the eighteenth century.

*10 Władysław Konopczyński. *Liberum Veto: Studyum Porównaczno-historyczne.* Kraków: 1918. Konopczyński (1880-1952) is arguably Poland’s most influential modern historian. Although his monograph on the *liberum veto* was one of his earliest works and is colored by both his positivist methodology and the political debates that raged among Poles on the eve of political independence, it remains the only significant work that attempts to explain the genesis and evolution of this critical aspect of Polish history. It was republished in 2000. Konopczyński’s synthetic *History of Early-Modern Poland* (*Dzieje polskiej nowożytnej*), which includes his assumptions about the *liberum veto* and *szlachta* political culture in general, continues to be widely read in Poland. It was most recently published in 1999.
became the very goal of the Polish constitution, causing the slavery of the whole in the name of the excessive freedom of the individual. It destroyed the Polish state…it plunged the whole country into anarchy—but it was not itself anarchy. Practically speaking, it was madness, the sort of madness about which old Polonius says, ‘though this be madness, yet, there is a method in’t.’”

In his attempt to understand this “madness,” Konopczyński devotes the first half of his book to a survey of parliamentary traditions across Europe beginning with the medieval period. He observes that decision making by consensus was an almost universal ideal, but argues that consensus was usually only an ideal. In practice, the dissenting minority either voluntarily conceded to the will of the majority or was forced to do so. After the fact, chroniclers would neglect to record any objections and instead would praise the harmonious and “unanimous” decisions of their communities. According to Konopczyński, Poland conformed to this model until the middle of the seventeenth century when the szlachta failed to follow the path taken by the rest of Europe and refused to institutionalize majority rule. Rather than pause to consider why, at precisely that moment, Poles began to insist that all legislation had to pass—literally—without contradiction, Konopczyński devotes the second half of his book to an at-times emotional description of more than a century of broken parliaments and the senseless obstruction of corrupt delegates who used the liberum veto to break parliaments.

He observes that these “breakers” (zrywacze) were often wrapped up in the partisan intrigues of oligarchs and foreign agents who, beginning in the later seventeenth century,

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11 Konopczyński. Liberum Veto, p. 15.
12 Mark Kishlansky has described a similar tendency to favor consensus and avoid any contestation that might divide the community in English parliamentary elections (or selections as he calls them) of the early seventeenth century. See Parliamentary Selections: Social and Political Choice in Early Modern England. Cambridge UP: 1986.
began to manipulate parliaments (sejmy) and local assemblies (sejmiki) for their own private ends. However, he does not suggest that these intrigues influenced the origin or evolution of the veto. In general, he glosses over political divisions among the szlachta and says very little about the pitched political battle that inspired the first uses of the liberum veto in the 1660s. Instead, he holds to the traditional historiography that heaps the majority of blame for the liberum veto upon the szlachta, specifically, their enchantment with free speech (głos wolny), which he calls “spell-binding (czarodziejski) and greedy with its own power,” and their unwillingness to admit any change to the constitution except by unanimous consent.\footnote{Konopczyński. Liberum veto. p. 180-1}

Konopczyński’s work attributes the longevity of the liberum veto (from the mid-seventeenth century until its abolition in 1791) to the decline of political culture among the Commonwealth’s citizens, to corruption and the loss of civic virtue. While political culture certainly suffered during the difficult decades of war and domestic conflict, the narrative of decline does little to elucidate the factors that led citizens to invoke the veto when they did or to tolerate (or even defend) it for as long as they did. The fact that citizens continued to defend the ideal of consensus and their right to free speech, which included the right to protest, even after numerous parliaments had been broken, suggests that there was something else behind the birth and long life of the veto other than the szlachta’s notorious conservatism.

Two obvious questions come to mind. Why did citizens who earned the right to approve all new legislation in 1505 suddenly begin to assert in 1652 that the opposition of a single

\footnote{Konopczyński. Liberum veto. p. 180-1}
deputy was sufficient to dissolve the parliament?\textsuperscript{14} And why, if everyone recognized the destructive the power of the veto, did it exist for nearly a century and a half? Curious to find answers to these questions, I began to read political tracts and reform proposals related to the *liberum veto* from the later seventeenth and early eighteenth centuries. I was surprised to find numerous reformist works that proposed all sorts of remedies for the Commonwealth’s ills, but very few that presented the *liberum veto* as a central problem. Most of the works written by republican citizens raised different issues, namely the corrupting influence of the king’s right to distribute public lands and offices, and the failure of the senators to perform their duties to defend the laws and to ensure harmony (*zgoda*) between the king and citizens. I began to suspect that the conundrum of the *liberum veto* was about more than Poles’ attachment to the principle of unanimity and individual rights. I, therefore, set out to examine the birth and long life of the *liberum veto* within the specific context of the power struggle between king and society that was waged in the Commonwealth—and across Europe—during the seventeenth century.

I became convinced that the curious evolution of the *liberum veto* could not be explained by the szlachta’s supposedly flawed political ideology after reading an important reform proposal written at the turn of the eighteenth century by a citizen from Poland’s republican heartland. Stanislaw Dunin Karwicki (c. 1640-1724) was a modest landowner and active participant in local and national politics, who served as a local official and soldier and was elected to the House of Delegates 12 times over his long life. Around 1705 he wrote a comprehensive proposal to reform the Commonwealth that presented the

\textsuperscript{14} The Privilege of *Nihil Novi* enshrined the powers of the House of Delegates. It reads, “…*nihil novi constitui debeat per Nos et successors nostros sine communi Consiliariorum et Nuntiorum Terrestrialium consensu.*” *Volumina Legum*. vol. I. p. 137.
*liberum veto* in entirely different terms than Konopczyński and other modern historians. For Karwicki the *liberum veto* had nothing to do with rejecting the majority principle. It was, instead, citizens’ wrongheaded attempt to defend their civic freedoms that had been exploited by self-interested oligarchs and foreign agents.¹⁵

In Karwicki’s mind the *liberum veto* was an unfortunate consequence of the eternal struggle between monarchy and popular government that was inherent in any mixed republic. His bold solution was to institute what he called an “absolute” republic. His plan would remove the king’s most powerful prerogatives so that political power would no longer be shared among the three estates but united in a sovereign parliament. Karwicki’s numerous other practical reforms would have made the Polish-Lithuanian Commonwealth look rather like a modern European parliamentary democracy. A new parliament would be elected each year and meet as often as needed; all delegates would be elected by secret ballot, be paid for their service and be answerable to their constituents upon returning home. The parliament would be divided into three houses, each with its own specific responsibilities, but there would be no upper chamber of life-long royal appointees like the Senate. Every member of parliament (as well as the king) would be elected.¹⁶

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¹⁵ Jarema Maciszewski pointed out the importance of political practice when considering the *liberum veto*, “And the famous *liberum veto*? Did it not become a symbol of the civic achievement and political thought of the ancient rulers of the Polish state? Many people see the *liberum veto* as the central mechanism of anarchy in old Poland and the fundamental reason for the internal disintegration of the Commonwealth, forgetting that legal regulations do not decide the functioning of governmental institutions nearly as much as political practice. *Szlachta polska i jej państwo.* p. 23.

¹⁶ The Polish monarchy became elective in 1386.
Unlike the stereotypical conservative szlachcic, Karwicki sees the shortcomings of the Polish political system clearly and proposes nothing short of revolutionary reforms. His remarkable work caused me not only to question common stereotypes about the liberum veto, but also stereotypes about the szlachta’s supposed conservatism and irrational devotion to their traditional constitution. If the rank and file szlachta was really so close-minded and opposed to reform, if they were merely the benighted pawns of magnates’ political intrigues as the historians often implied, then how could this regular szlachcic, a small land-owner from Sandomierz województwo, have imagined such a thoroughly detailed parliamentary democracy? Was he a curious outlier or part of a larger culture of republican citizens with a coherent (and rational) political agenda?

I found few answers to these questions by reading about parliaments from the early eighteenth century. By and large, these parliaments seemed to confirm the worst stereotypes about the szlachta and their political culture. Delegates argued about trivial pretexts while the success or failure of the sejm really depended on the will of a handful of oligarchs and foreign agents who bribed delegates to use the liberum veto. It seemed impossible to imagine how committed republican citizens like Karwicki found themselves in this kind of republic.

So I turned back the 1660s, when Karwicki was a young delegate to the sejm and when the liberum veto first began to be used. By studying the pitched political battles of this

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17 A województwo is an administrative unit roughly equivalent to an English county or American state. There were 33 województwa in the Commonwealth’s three provinces. Thirteen in Great-Poland (Wielkopolska), 11 Little-Poland (Małopolska) and 9 in Lithuania. Sandomierz województwo is located in Małopolska, northeast of Kraków. See map in Appendix 2.
era from the perspective of involved citizens like Karwicki, I discovered an entirely neglected dimension of the *liberum veto* story: its genesis and unexpected evolution in the crucible of the reform debate of the 1660s and early 1670s. Historians had been so focused on impugning the *szlachta’s* political ideology as a way to explain the demise of the Commonwealth that they had overlooked the critical importance of political practice and simple historical contingency.

The *liberum veto* was the product of an irreconcilable argument about constitutional reform, created by people with a unique republican political culture who were operating in a highly polarized political reality. In their quest to stave off the centralizing reforms of a would-be autocrat, Poles allowed the right to protest to evolve into a dangerous tool for political obstruction. Many citizens of the Commonwealth saw the dangerous precedent they were setting, but once they had let the genie out of the bottle, it became impossible to put it back in. The ability to obstruct parliament proved very convenient to many. The diverse Commonwealth was full of minorities that could use the *liberum veto* to advance their own interests. For more than a century various factions stubbornly opposed abolishing or even limiting it. During this period leaders of these groups drew upon the Commonwealth’s traditions of consensus and broad individual freedoms to construct an elaborate theoretical justification to camouflage their own exploitation of the *liberum veto*. Outside of this particular context—say from the distance of three centuries—the existence of the *liberum veto* in such a large and diverse republic might indeed look like madness. However, by looking at the veto from the perspective of the
citizens who created and defended it during the constitutional crisis of the 1660s, we can begin to perceive “the method in’t.”

The Liberum Veto in Seventeenth-Century Polish Political Theory

Throughout most of the seventeenth-century, citizens in Poland-Lithuania defended the Commonwealth’s traditional constitution with religious fervor. It was a mixed republic (forma mixta) composed of the three possible types of government (rule of the one, the few and the many), represented by the three parliamentary estates that met at the Sejm, the king, Senate and House of Delegates. According to the classical theory transmitted to Poland through Italian humanists, a mixed republic like theirs was the only constitution able to guarantee political stability and civic freedom to its citizens. 

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18 Since the fall of communism a new generation of Polish historians has begun to revise the worst stereotypes about the szlachta and the government of the Commonwealth, to a great extent by reevaluating their own history in a larger context. The head of Jagiellonian University’s (Kraków) history department, Mariusz Markiewicz, wrote in his recent synthetic history, Historia Polski (2002), “historians have often presented the Polish szlachta’s primitivism and inclination to drunkenness and scandals, but it did not differ from European standards. For example, British elections and parliamentary proceedings, considered the model for the democratic-liberal resolution, did not much differ from customs in the Commonwealth.” p. 143. Wójciech Kriegseisen introduces his 1995 survey of the Polish parliament, Sejm rzeczpospolitej szlachtnej do 1763, with the observation that since 1989 Poles have been able to bring “extra-textual” knowledge of democratic government to bear when evaluating the government of their ancestors, and have consequently become less critical of behaviors typical of democratic politics.

19 The classic text of this type is Łukasz Opaliński’s Polonia Defensa (1640).

20 According to the Henrician Articles passed in 1573 the king was bound to call the parliament at least once every two years, but during the sixteenth and seventeenth centuries the sejm met on average once a year. Historia sejmu polskiego, p. ? The king also called pre-sejm sejmiki to elect delegates and write instructions for those delegates six weeks before each sejm. Additional sejmiki for other purposes (i.e. to elect deputies to the Tribunal or hear reports from sejm delegates) were held several times a year.

21 Leading Polish citizens traditionally traveled to Padua, Bologna, and Venice (as well as France, the Netherlands and various German states) to study and observe during the sixteenth and seventeenth centuries. (Karwicki’s time in Venice in 1659 made a deep impression on him.) In northern Italy, particularly, they imbibed the ideas of mixed republics first laid out by Aristotle
Polish political thinkers, a sovereign monarch was no different than a tyrant, but as long as political power (maiestas) was shared among the three estates, the best features of Aristotle’s ideal politea could flourish without degenerating into tyranny, oligarchy or mob rule.\(^\text{22}\)

The central issue confronting republican theorists during the seventeenth century was an argument over a new concept of supreme political power within a given territory called sovereignty.\(^\text{23}\) In 1576 Jean Bodin published his influential *The Six Books of the Commonwealth* in which he introduced a new term, souveraineté, as a translation of the Latin word, maiestas.\(^\text{24}\) In the Latin of the Romans, maiestas referred to the supreme dignity or status of the Republic, or later, the Empire or emperor himself.\(^\text{25}\) In the Polish-Lithuanian Commonwealth maiestas described each estate’s dignities or powers within (see *The Politics* Book IV) and later developed by Italian thinkers like Machiavelli and Guicciardini. For an explanation of how classical republican theory was received and interpreted in Renaissance Europe and eventually, eighteenth-century America, see JGA Pocock’s classic, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*. Princeton: 2003.

\(^\text{22}\) This classical notion that the three ‘good’ types of government inevitably degenerate into their ‘bad’ versions in an inexorable cycle of monarchy, tyranny, politea, democracy (mob rule or anarchy), aristocracy, oligarchy, etc. was most famously posited by Polybius in his *Histories of the Roman Empire*. Book VII. Polybius wrote that only way to stop the cycle was to mix the three “good” types of constitutions as the Romans had in their republic.

\(^\text{23}\) I have encountered no use of the Polish equivalent suwerenność in seventeenth-century writings.

\(^\text{24}\) *Six Books of the Commonweal by I. Bodin*. Richard Knowles trans. London:1606. See Book I, ch. 8 for his definition, “Majesty or sovereignty is the most high, absolute, and perpetual power over the citizens and subjects in a Commonwealth, which the Latins call Majestas.” In later editions Bodin would clarify his meaning by referring to this highest power as summa potestas. For a clarifying explanation of the connection between Bodin’s theory and the theory of absolutism, see *James B. Collins. The State in Early Modern France. Oxford UP*: 2009. p. xii-xiii.

\(^\text{25}\) Likewise, the crime of laese maiestatis or lese majesty originally referred to an act that offended the dignity of the Roman people, but eventually became to be associated with acts that offended the dignity of a monarch.
prescribed spheres, its traditional prerogatives. Bodin’s sovereignty shared the sense of supremacy connoted by Roman *maiestas* in that it described a power bound by natural and common law, but not subject any higher earthly authority. What Bodin added to the ancient term was a new connotation of indivisibility, the idea that sovereignty or ultimate power could not be shared. As the bearer of the highest and completely independent (n.b. *not* unrestricted) power to make law in a land, a sovereign ruled his subjects. Writing during France’s devastating Wars of Religion, Bodin rejected the position of Huguenot theorists who supported the right of citizens to rebel against a tyrannical king and insisted that subjects had no right to refuse their obedience to their sovereign. A prudent king respected traditional laws and customs, but when push came to shove, Bodin argued that subjects had no veto power. Ultimately, a divinely sanctioned king answered to no judge other than God himself. Monarchical apologists who justified Louis XIV’s state building used Bodin’s theory of the king’s supreme and indivisible power to justify the expansion of royal prerogatives and the state’s infringement upon the traditional powers

26 For the best explanation of Polish republican theory during the Renaissance in English see James Miller’s two-part article “The Polish Nobility and the Renaissance Monarchy: The ‘Execution of the Laws’ Movement.” in *Parliaments, Estates & Representation*. vol. 3 no. 3 (1983) and vol. 4. no. 1 (1984). pp. 65-87 and 1-24. See also his “Sixteenth-century roots of the Polish Democratic Tradition” *Polish Democratic Thought from the Renaissance to the Great Emigration: Essays and Documents*. E.M. Biskupski and James Pula. EE Monographs, Columbia UP, 1990 p. 27. “Between the Jagiellonian monarchy and the szlachta as a whole, the common ground was republicanism as the Renaissance defined that ideal: a state based on the rule of law, recognizing that each estate had unique rights and responsibilities and held together by the expectation that all members of the body politic would strive for the common good by exercising public virtue and self-restraint.” The Commonwealth never produced a theorist of absolutism. Bodin could therefore not make sense of a mixed republic in which there was no clear division between ruler and ruled. He often used the Polish-Lithuanian Commonwealth as a counter example. See See Julian Franklin. *Jean Bodin and the Rise of Absolutist Theory*. Cammbridge UP: 1973. P. 26-7

27 Franklin, p. 93-4.

28 Of course, this does not mean they had no recourse. The Parlement of Paris refused to register royal acts they disagreed with and local officials neglected to comply with orders they did not like. Still, there was no formalized institutional veto to the king’s powers.
of the estates. Similarly, English theorists of the divine right of kings like Robert Filmer argued that subjects had no right to oppose the political hierarchy evidenced in the Bible as a means of defending the early Stuart monarchs’ efforts to expand their own prerogatives.  

Bodin’s absolutist theory solved the theoretical problem raised by the Reformation and Wars of Religion—it designated a single, final authority to settle the dispute between otherwise irreconcilable parties. Thomas Hobbes came to a similar conclusion when confronted by the intractable disagreement between king and parliament that led to political disintegration and the English Civil War. In his famous work *Leviathan* (1651/1668) he argued that citizens must cede their rights to a strong state or monarch who is endowed with ultimate and indivisible sovereignty in order to prevent the republic from destroying itself through political divisions and civil war.  

The problem with Bodin’s and Hobbes’ sovereignty from the republican perspective was not so much that it was absolute (i.e. not subject to any higher power like the Emperor or Pope), but that it was indivisible and generally assumed to reside with the king. According to classical teachings, later interpreted by Machiavelli and other Italian

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30 Filmer’s *Patriarcha or The Natural Power of Kings* is thought to have been written in the 1630s or early 1640s during Charles II’s struggles with Parliament. It was not published until 1680. John Locke addresses Filmer explicitly in his *Two Treatises on Government* in which he defends citizens’ right to resistance.  
31 Here it is important to note that unlike France, England or the Empire, the Commonwealth did not fight any wars of religion during the Reformation and Counter-Reformation. Religious disagreements were worked out peacefully with the Warsaw Confedercy of 1573 that guaranteed religious freedom to all the numerous sects in the Commonwealth. Because of this, citizens of the Commonwealth did not confront a truly intractable disagreement between factions with irreconcilable worldviews until the battle over the French election broke out in the 1660s.
humanists, a monarchical constitution in which the power to make and execute laws resided in a single person could not be a free republic. Free republics had constitutions that allowed citizens to participate freely in governing themselves as well as to be free from arbitrary restraint.\textsuperscript{32} A monarchy in which supreme power to make and enforce law rested with the king made both positive and negative freedoms impossible. Even if an absolute monarch (i.e. one who enjoyed undivided sovereignty) did not infringe upon the traditional rights and privileges of his subjects, the fact that he could legally do so at any moment without fear of rebellion made the people who lived in his realm subjects, not free citizens.\textsuperscript{33} For this reason, Polish republicans rejected Bodin’s and Hobbes’ call to vest supreme power in an indivisible (and ultimately unquestionable) sovereign. Instead, beginning in 1574 they insisted that kings swear an oath upon their election to preserve

\textsuperscript{32} Zbigniew Ogonowski explains how the all-important the concept of freedom was generally understood in seventeenth-century Poland-Lithuania: “It was considered, first, that a citizen of the Commonwealth enjoyed full freedom because he did not have to fear any sort of interference from the state authorities in matters which he considered important to himself...In some way this freedom which relates to the modern understanding which may be called “negative,” was in the Commonwealth guaranteed by law and it was known universally that any sort of changes in this area could not occur without the knowledge and consensus of its citizens. But secondly, freedom was understood, and maybe most importantly in the sense that we have today when we talk of “positive freedom,” that is the freedom to participate in public life, to influence the course of local affairs—in the county or in the województwo—and to active, cooperative shaping of the nation and state with other citizens.” Filozofia polityczna w Polsce XVII wieku i tradycje demokracji europejskiej. Warszawa: 1992. p. 78-9.

\textsuperscript{33} For a modern explanation of this understanding of freedom, called freedom from domination or freedom from arbitrary power, see the works of Phillip Pettit such as Republicanism: A Theory of Freedom and Government. Oxford: 1997. Quentin Skinner points out how English republicans in the 1640s drew upon Cicero’s distinction between freedom and slavery expressed most famously in the Philippi. Cicero was extremely popular in the Commonwealth. About slavery Cicero famously says, “For the most miserable feature of this condition is that, even if the master happens not to be oppressive, he can be so should he wish.” Skinner. “Classical Liberty and the English Civil War.” In Republicanism: A Shared European Heritage. Vol. II. Cambridge, 2002. p. 10-11.
the laws and privileges of the Commonwealth—including citizens’ right *de praestanda obedientia* (the right to refuse obedience to a king who failed to uphold this oath).  

Polish political thinkers assumed that sovereignty vested solely in an absolute monarch would quickly result in *absolutum dominium*, the sort of rule enjoyed by a lord over his servants. Therefore, they followed the logic of Dutch theorist Hugo Grotius, who posited that ultimate power (*summa potestas*) rested with the commonwealth as a whole and viewed the estates as magistrates who administered specific forms of *maiestas* in the name of the sovereign Commonwealth. Polish political theorists were, therefore, not troubled by the tension between the divine right of kings and the traditional rights and privileges of citizens like their counterparts in England and France. They did not legalistically argue about the rights of the crown as an institution versus those of a particular king. They did not discuss social contracts or the true state of nature, nor did they question citizens’ right of resistance. Throughout the seventeenth century Poles continued to refer to any state in which ultimate political power was vested in a single ruler as *absolutum dominium*, a term they unhesitatingly equated with tyranny.

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34 This right *de protestanda obedientia* was included in the Henrician Articles and accepted by all subsequent kings after 1574 upon their election.

35 Hugo Grotius (1583-1645) Dutch thinker and author of *De iure belli ac pacis* (1625) had great influence on Łukasz Opalinski, discussed in Chapter Two. They shared admiration for mixed republics dominated by the aristocratic element.

36 As one pamphlet from the era of the Zebrzydowski Urpising (1607) put it, “we call *Absolutum dominium: the power of one, the orders of one, the reign of one, who has in his nature to desire the obedience of all, that they do according to his will, not their own, that no one is free under him or in himself free in his own home; he is allowed to take everything, whenever he wants and give it to whomever he wants, and order what he wants and no one can oppose this and on the contrary, must bend the faith of his conscience, honor and health whenever he wants it and demands it...* Jan Czubek. *Pisma polityczne z rokoszu zebrzydowskiego. Vol. II. “Libera respublica—Absolutum dominium—Rokosz.”* P. 409
Having reached consensus on the key issues that preoccupied political thinkers in the
West during the seventeenth century, Polish political thinkers participated in a related,
but differently conceived discussion about the proper distribution of political power in
their republic. The tension that animated political discourse in the Commonwealth
throughout the seventeenth century was that between the *maiestas* of the king, and
*libertas*, the people’s (the regular *szlachta’s*) desire to govern their own affairs free of
arbitrary restraint. Balance between the first and third estates was maintained by the
second, the senatorial estate. These elite members of the *szlachta* were supposed to
function as Aristotle’s aristocrats, “the best men,” whose reason and virtue would
mediate between the two extreme forms of government in the mixed republic, monarchy
and popular rule. According to the neo-Stoic philosophy then popular in the
Commonwealth, these aristocrats would preserve and promote harmonious consensus in
the republic.

In 1505 the king had granted a privilege that enshrined the legal requirement for
consensus among the three estates and formally established the House of Delegates.
Known as the privilege of *Nihil novi*, it declared, “nothing new should be decided by Us
and Our Successors without the universal consensus of the Council and Delegates of the
Land.”

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37 One of the central translators of Civic Humanism to Poland was Andrzej Frycz Modrzewski,
who wrote in the seminal *On Correction of the Republic (De republica emendanda)* (1551),
“…the best form of the republic is when there are three types of rule, rule of a king, rule of the
best, and rule of the people, that is in which the virtue of the king rules all, the highest dignities
are attained by the best, and everyone has an even field upon which to pursue honor and praise

38 *Volumina Legum*. vol. I. p. 137. “…nihil novi constitutī debeat per Nos et successors nostros
sine communi Consiliariorum et Nuntiorum Terrestrium consensu.”
Consensus (zgoda) among the three estates thus became the lynchpin of the Commonwealth’s mixed constitution.\(^{40}\) When the republic could not reach consensus, Poles exhorted their fellow citizens to consider the common good and to give up their selfish interests so that consensus could be achieved. Depending on their own political leanings, republican writers suggested shifting the balance of power in favor of the aristocrats or in favor of the people, but no one openly suggested giving a single estate ultimate power in order to break any impasses that arose.

The *liberum veto* most obviously arose from a literal interpretation of the requirement for consensus among the three estates. Consensus, of course, does not mean that everyone agrees, but that no one objects. As seventeenth-century Poles put it, matters should be decided *nemine contradicente*, with no one objecting.\(^{41}\) Citizens expected the king to inform them about important issues affecting the Commonwealth and obtain their counsel and consent before undertaking any important initiatives.\(^{42}\) Citizens’ most effective way to force the king to respect the requirement for consensus was to use their *ius vetandi* (right to object) to hold up parliaments (and taxes) until the king conceded to their

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39 This is the same concept expressed by the Roman law *quod omnes tangit...* (that which concerns all should be decided by all) which was revived by medieval consent theorists across Europe. See Arthur P. Monahan *From Personal Responsibilities to Personal Rights: Late Medieval and Early Modern Political Thought 1300-1600*. McGill-Queens University Press, 1994.

40 Edward Opaliński describes the near universal approval that the mixed constitution enjoyed through the middle of the seventeenth century, “Characteristically, the *monarchia mixta* suited both her apologists (like Orzechowski) and advocates of increasing monarchical power (like Piotr Skarga). This attests to the strong roots of approval for the political system of the Commonwealth in the general consciousness. *Kultura polityczna szlachty polskiej w latach 1587-1652: System parlamentarny a społeczeństwo obywatelskie*, Warszawa: 1995. p. 39.

41 Latin for “no one contradicting.” Many Latin terms were used interchangeably with their Polish equivalents. The veto was often called “*nie pozwalam,*” “I do not allow it,” the literal Polish translation of “veto.”

42 Such as sending diplomatic delegations, declaring war or making peace treaties as outlined in the *Henrician Articles*. 

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demands. The existence of the veto served to encourage consensus or, when consensus seemed impossible, to table a disputed issue until a more agreeable time in the future.

For consensus to be authentic and citizens to be truly free, they had to be able to speak their minds freely without fear of reprisal. Poles called this free speech (głos wolny).

This concept is critical to understanding Karwicki’s work and also to understanding the curious evolution of the liberum veto during the later seventeenth century. Free speech, first of all, gave every citizen the right to have his say (domawianie się) at his sejmik and every delegate the right to have his say at a sejm. Free speech also gave each estate the right to have its say—and to be heard. Any attempt to intimidate a szlachcic into silence or to bully an entire estate into acquiescing to another’s agenda could be portrayed as a violation of free speech. Following this logic, citizens used their right of free speech to defend themselves against nearly every form of political coercion as well as to participate actively in the political process.

The right of free speech was seen as one of the three central pillars of the constitution of the Commonwealth. The others were every citizen’s right not to be arrested or have his

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43 Free speech is not an exact translation of głos wolny. The word “glos” also carries the meanings of “vote” and “voice.” Głos wolny, therefore, can also refer to freedom of expression (ius sentiendi) and the right to vote for a person or policy without constraint.

44 After the Zebrzydowski Uprising in 1607, the sejm passed a law confirming citizens’ right to refuse obedience that guaranteed the right to have one’s say. “…without diminishing the free ‘having one’s say’ (wolne domawianie się), freedom and entirety of the rights of every szlachcic at a county sejmik…or of delegates at the Sejm according to ancient custom inscribed in law.” Volumina legum. vol. II. p. 463.

45 Anna Grzeskowiak-Krawicz, who has written extensively on the meaning of freedom in Polish political theory, particularly in the eighteenth century, observes that free speech was about more than the right to express one’s opinions freely. It was about “a demand for law and to participate in the making of political decisions.” Regina libertas: Wolność w polskiej myśli politycznej XVIII w. Gdańsk: 2006. p. 148.
property seized without a proper court verdict, which was granted in the early fifteenth century, and every citizen’s right to elect the next king freely and in person (\textit{virîtim}), which was established and exercised by a surprising portion of the citizenry beginning in 1573.\footnote{Polish kings were elected beginning with Queen Jadwiga’s husband, the Lithuanian Władysław Jagiello in 1386. Jagailło (in Lithuanian) was the hereditary Grand Duke of Lithuania and until the Jagiellonian dynasty died out in 1572, Poles elected the eldest son of the former king (with one brief exception) as their king. Beginning in 1573 princes from throughout Europe as well as Polish szlachta were considered for election. Tens of thousands of citizens traveled to Warsaw to participate in royal elections, which were held in the open air just outside the city. The privilege of \textit{neminem captivabimus nisi iure victum}, akin to the English \textit{Habeas Corpus} Act (1679), was granted in 1433.} Unlike their English counterparts, seventeenth-century Poles did not worry about unlawful arrest and seizure much. They had their own courts (the Crown and Lithuanian Tribunal) and enjoyed a great degree of personal security and autonomy.\footnote{Janusz Tazbir cites numerous foreign observers who were surprised by the degree of personal freedom, specifically freedom of conscience and religion that Poles enjoyed even during the height of the Reformation. See \textit{A State without Stakes: Polish Religious Toleration in the Sixteenth and Seventeenth Centuries}, New York: 1972.} The other two fundamental rights, though, were seen as much more vulnerable and therefore constantly in need of defense. Both free speech and the right to free royal elections were both called \textit{“lex legum”} or the freedoms that guaranteed all others.\footnote{A.M. Fredro first referred to the right to elect kings freely as the \textit{pupilla libertatis} in his 1660 \textit{Discourse on the Naming of a King for the Kingdom of Poland during the lifetime of his Majesty, arguing that this right was the source of all others (omnes in se compлектitur libertates). Lubomirski made a similar claim about freedom of speech in his \textit{Manifesto of my Obvious Innocence...} in 1665. The reference is to the biblical “apple of one’s eye.”}

An important part of a citizen’s free speech was his \textit{ius vetandi} or right to protest. The requirement of consensus necessarily implied the possibility of objection. Thus, limiting citizens’ \textit{ius vetandi} or \textit{veto} meant limiting their free speech—the very freedom that guaranteed all others. Citizens feared that limiting the right to veto (or abolishing it outright) would usher in majority rule. Majority rule was an entirely alien concept to
people accustomed to weighing “voices” or opinions based on their merit and the status of the men who offered them. Reducing public deliberation to the numerical tabulation of votes struck them as senseless and likely to return decisions favored by the mob or those who could buy the most votes or best manipulate the voters. If majority rule were to be introduced at the parliament, they feared the king would be able to use his significant influence to buy majorities, silence the minority, and thus make a fiction of their shared sovereignty. On this level, the *liberum veto*—understood as a manifestation of citizens’ free speech as well as the guarantor of their ability to participate in their free republic—was seen as the *sine qua non* of the Commonwealth’s constitution.

The Liberum Veto in Seventeenth-century Practice

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49 Mark Kishlansky observes a similar reluctance to resort to polling during parliamentary elections in England before the Civil War. The counting of votes brought a whole host of complications including determining who exactly was allowed to vote. Most of all, it ran counter to the hierarchical foundations of their society by literally equating the voice of the most powerful lord with that of the poor farmer. English citizens scrupulously avoided voting in the rare occasions of disputed elections and often preferred to draw lots or roll dice instead. While citizens in the Polish-Lithuanian Commonwealth enjoyed theoretical political equality, theirs was still a hierarchical society. Moreover, the wise and virtuous were assumed to be a minority and thus majority rule would silence their presumably superior opinions. See the discussion of A.M. Fredro’s defense of the veto in Chapter Two.

50 Poles often dismissed significance of the English Parliament on these grounds.

51 The connection between the veto and the all-important concept of freedom became cemented in political theory as time went on. Grześkowiak-Krawicz observes that in the eighteenth century the veto was seen to protect “freedom from attacks by the king or magnates, and allowed each citizen to use his political freedom to an equal degree and gave him the power to decide about himself and his country. Finally, it preserved his individual freedom from violation, either due to the decisions of the ruler or his fellow citizens.” “Veto-wolność-władza w polskiej myśli politycznej w XVIIIw.” *Kwartalnik historyczny.* vol: 111, number 3 (2004) p. 149.
Stanisław Dunin Karwicki’s treatise was the first significant proposal made in the Commonwealth to overturn the central assumption of mixed government—that sovereignty must be divided in order to ensure civic freedom. What caused a citizen raised in one of the Commonwealth’s most staunchly republican counties, Sandomierz, who served the republic his whole life at both the local and national level, to reject the very foundation of its constitution? The simple answer is his experience with political practice in the Commonwealth during the second half of the seventeenth century.

Critical to understanding how politics worked in the Commonwealth in the seventeenth century is an understanding of how political power was distributed among the citizens. First, the Polish szlachta was unusual because of its size. Historians now estimate that the szlachta made up between 5.5% and 8% of the Commonwealth’s population, but that percentage varied greatly region to region. Second, the szlachta was unusual because of the extensive civic and civil rights membership in this estate conveyed. Privileges granted in the fifteenth and sixteenth centuries guaranteed szlachcicy broad legal protections as

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52 His work marked a significant shift in the political theory of the Commonwealth and became the starting point for nearly every significant reform proposal written in the eighteenth century. For example, Karwicki’s influence can be seen on the most important reform proposal of the 1730s, A Free Voice, Guaranteeing Freedom. Stanisław Konarski, the author who first advocated abolishing the liberum veto in his influential work, On an Effective Means of Council (1660-44) also owed much to Karwicki.

53 Marius Markiewicz estimates the szlachta to have been somewhere between 5.5% and 6.5% of the population (approximately 10 million) in the middle of the seventeenth century: approximately 3-4% of the population in Wielkopolska, 4-5% in Małopolska, 3% in Royal Prussia, and 3-4% in Ukraine. (But 23% of the population in Mazowia and 20% in Podlasia). Historia Polski 1492-1795. Kraków: 2002. Only Spain and Hungary had similarly large nobilities. Lithuanian population figures are much less certain. One recent work estimates that 10-11% of the population of Lithuania (but only 5-6% of Ruthenia) was szlachta. Zigmantas Kiaupa, Jurate Kiaupiene and Albinas Kuncevicius. Historia Litwy: od czasów najdawniejszych do 1795. Warszawa: 2008. p. 245.
well as self-government at the local and national level. Finally, the _szlachta_ was unusual because of the huge socio-economic diversity and mobility that existed within the estate. Historians have not always drawn attention to these two features of the _szlachta_ or considered how they affected the relative political power or ideologies of different groups within the _szlachta_.

_Szachectwo_ (membership in the _szlachta_) was inherited, but had no economic requirements. Landless nobles who farmed leased lands or those who farmed their own modest holdings were probably the majority. The custom of partitive inheritance and the vagaries of fortune meant that families’ wealth and influence rose and fell (sometimes dramatically) over time. Every _szlachcic_—from the landless Mazowian _szlachcic_ who eked out an existence on lands leased from a wealthier neighbor to the great lord (_wielki_

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54 Civil rights included the security of their persons and properties ( _nemine captivabimus nisi iure victum_), the right to own land and not to be taxed without their consent. Civic rights included the right to attend and participate in their local _sejmik_, and to stand for election to the _sejm_ and to the Crown Tribunal that heard cases involving their fellow citizens.


56 Most historians suggest that approximately half of the _szlachta_ owned no lands of their own or farmed their own smallholdings themselves. Mariusz Markiewicz. _Historia Polski_. Kraków: 2002. p. 141. According to the tax records of 1662 just over half of the _szlachta_ in the Kraków _województwo_ were classified as _possessores_. Similar records from 1674 reveal that 54% of _szlachta_ in the _województwa_ of Poznań and Kalisz were categorized as _possessores_. L. Polaszewski „Szlachta wielkopolska na podstawie rejestrów pogłównego z lat 1673-1676“ in A. Wyczaska, ed. _Społeczeństwo staropolskie_, vol. III. (Warsawa, 1983), pp. 229-266. A. Laszuk, „Szlachta w województwie krakowskim w świetle rejestrów pogłównego z 1662 roku.“ _Przegląd historyczny_. 79 (1988), pp. 425-456.

57 Inherited titles were reserved for literally a handful of families from Lithuania who negotiated this privilege as part of the Union of Lublin in 1569. Entails were also exceedingly rare.
pan) who owned hundreds of villages and kept his own court, protected by a private army of thousands—belonged to the same legal estate and enjoyed the same civic and civil rights.\textsuperscript{58}

At least this was the case in theory. The reality was surely different, but very difficult to describe generally. There were huge differences among the provinces in terms of how wealth and social influence were distributed. Most obviously, the two Polish provinces of Małopolska and Wielkopolska (called the Crown) differed from Lithuania. In the Crown only about a third of the lands belonged to the king and church, the rest to the szlachta.\textsuperscript{59}

Here a szlachcic could be politically independent if he owned at least a couple prosperous villages.\textsuperscript{60} If he enjoyed the esteem of his peers, he could be elected to local office and his chances of being elected to parliament were good. If he owned less than one village, though, his chances of getting elected delegate to parliament were slim and he probably depended heavily upon one of the wealthy families in his region or the Church for leases.

\textsuperscript{58} Civil rights included the security of their persons and properties (\textit{nemine captivabimus nisi iure victum}), the right to own land and not to be taxed without their consent. Civic rights included the right to attend and participate in their local sejmik and stand for election to the sejm and to the Crown Tribunal that heard cases involving their fellow citizens.

\textsuperscript{59} According to Antoni Maćzak, royal lands accounted for 33\% of the lands in Małopolska, 15\% in Wielkopolska and 14\% in Mazowia. (Quoted in Teresa Zielińska Magnateria polska w epoce saskiej. Wrocław: 1977. p. 88.) Royal influence in Mazowia was great despite the small percentage of royal lands because Warsaw was the capital of Mazowia and the court could manipulate local sejmiki attended by the numerous poor szlachta of the region.

\textsuperscript{60} Agricultural holdings were assessed in terms of villages rather than acreage as the availability of labor was often the limiting factor of productivity. Andrzej Kamiński and Władysław Dworzaczek divide the szlachta into five groups: the “very wealthy” who owned more than 20 villages, “wealthy,” who owned 10-20 villages, “well-to-do” who owned six to ten, “middle” who owned one to five villages, and “poor” who owned less than one village. Dworzaczek observes that because estates in Wielkopolska were usually more productive, a landowner who owned five villages in Wielkopolska might earn as much as the owner of 10 villages in Małopolska. “Uwagi o genezie magnaterii” Magnateria polska jako warstwa społeczna. Toruń: 1974. p. 3.
on land, help providing an education for his sons, etc.\textsuperscript{61} At the top of the economic ladder were very wealthy szlachcicy who owned more than 20 villages. These citizens vied for the highest offices of the land (in the Senate and at court) and were usually in a position to use their wealth and influence to support their friends and clients.

In Lithuania and Ukraine the economic scale was more polarized. A handful of families were fabulously wealthy and accustomed to having a near monopoly on political power. Until the Union of Lublin in 1569 Lithuania had been ruled by a hereditary Grand Duke who enjoyed absolute power and his council of Lords (Boyars) whose members enjoyed greater rights and privileges than the regular nobility. Even after the Union, these great lords (zamożni or wielcy panowie) dominated the political landscape so thoroughly that even a szlachcic who owned 20 villages could not consider himself politically independent.\textsuperscript{62} Ukraine was also dominated by a handful of extremely wealthy families, including those who made quick fortunes by leasing royals lands in these fertile, but often unstable borderlands. In these regions there were few independent “middle” szlachta. The ever present danger of Tatar raids or Cossack revolt in the southeast forced regular szlachcicy in these regions to depend on their castle-dwelling, private-army-holding neighbors for physical security as well.

\textsuperscript{61} According to tax records from Małopolska from 1563, 10% of the households there paid 55% of the taxes collected, while 50% of households paid only 6% the total. This left a broad middle group, 40% of the households that paid 40% of the taxes. These were families that owned a couple villages or more. Approximately half of parliamentary delegates from Małopolska came from this group. Cited by James Miller In “Polish Nobility” p. 80.

\textsuperscript{62} The classic example of the Ukrainian magnate Prince Jarema Wiśniowiecki, who before the Cossack Rebellion of 1648 owned some 400 villages, numerous castles and controlled tens of thousands of acres.
Royal Prussia had yet another social and economic profile. The Prussian provincial sejmik included representatives from the wealthy, self-governing, German-speaking towns in the Vistula delta as well as szlachta from the three województwa of the province.\textsuperscript{63} The burghers and szlachta of Prussia took great care to defend their regional privileges. The high percentage of royal lands in Royal Prussia (51\%) combined with the towns’ dependence upon the king to guarantee their particular privileges meant that the king could usually count on the support of Prussian delegates at the parliament.\textsuperscript{64}

Another reason why describing the distribution of economic power and political influence in the Commonwealth is so complicated is that the situation was particularly dynamic. It changed over time depending on the economic fortunes and political skills of all the players. In general, though, a trend toward centralization of land holding and political power can be detected in the later the seventeenth century. The devastation of almost constant wars and inflation ruined many a small landholder, while magnates whose holdings were distributed more widely were better able to ride out the storm. \textsuperscript{65}

Wealth also became more concentrated due to the marriage patterns of elites. Over the course of the seventeenth century a small group of exceptionally wealthy families

\textsuperscript{63} These towns were centers of trade for the whole country, Gdańsk, Elbląg and Toruń and thus enjoyed outsized power and influence. See Karin Friedrich’s The Other Prussia: Royal Prussia, Poland and Liberty, 1596-1772. Cambridge UP: 2000.

\textsuperscript{64} The number of delegates from the three Prussian województwa was unlimited (other województwa generally sent two delegates each), but usually numbered around 25. Representatives of the cities also attended parliaments, but did not have the right to participate. They often negotiated directly with the king. Friedrich, p. ?

\textsuperscript{65} As Robert Frost explains in his monograph about the 1650s, “by the mid-seventeenth century the balance of power between rich and poor nobility had shifted dramatically. Those families who had access to the profits to be gained from royal lands used the proceeds to build up their private estates…As the number of landless and impoverished noblemen increased and the average size of estates held by the middle szlachta declined, the importance of magnate courts as centers of employment and patronage grew.” After the Deluge: Poland-Lithuanian and the Second Northern War 1655-1660. Cambridge UP: 1993. p. 21. This trend continued into the eighteenth century.
gradually emerged and began intermarrying with other wealthy families from across the entire Commonwealth. This practice transformed these families’ power bases from being based in a particular region to being more nationwide.

While legal privileges and patterns of landholding can tell us a lot about the distribution of political power in the Commonwealth, teasing out the informal power structures at work in a given place or time is extremely complex. To begin to untangle this knot of relationships and dependencies, let us first consider the position of the king. A Polish king’s prerogatives were highly circumscribed by the *Henrician Articles* (a compact outlining the king’s powers and responsibilities accepted by each king beginning with Henri Valois in 1573)\(^6\) and his *pacta conventa* (a specific set of promises each king he signed upon his election), but he still had significant powers and great influence. He was supreme commander of the army, lord in all royal cities and most importantly, sole dispenser of all public lands and offices. Because the szlachta was formally banned from participating in trade and commerce, leases on public lands and offices were practically the only way to make or expand one’s fortune. Even though custom and rivalries among powerful families made it difficult for the king to take back leases on public lands (and nearly impossible to take back offices) once he granted them, the king still had the power to make or break a citizen’s economic future. In theory, a king was supposed to use his power to distribute lands and offices (*ius distributiva*) to reward the Commonwealth’s “well-deserving” citizens, but with a little bit of luck and time, a politically astute king could leverage this power to build a powerful court party. The szlachta was keenly aware

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\(^6\) An English translation of the Henrician Articles can be found in *Polish democratic thought from the Renaissance to the Great Emigration: Essays and Documents*. Eds. M.E. Biskupski and James Pula. Columbia UP: 1990.
of this possibility and endeavored to limit or influence the king’s right of distribution as much as possible.  

The power of influence was perhaps most significant in the case of the senatorial estate. While senators had no more formal privileges than the rest of the szlachta, those willing and able to leverage their political acumen, wealth, and social position had decisive influence upon both local and national affairs. These informal systems of power and influence have been widely studied across early-modern Europe. Historian Antoni Maczak has investigated how clientele networks, as he calls them, functioned in the Commonwealth. He observes that the system in the Commonwealth differed somewhat from much of the rest of Europe in that powerful magnates competed with the king as dispensers of patronage while they relied on their less-wealthy and less-connected clients for their main source of political power. “The magnate’s strength lay in his ability to mobilize and manipulate noble constituencies. The mighty neighbor was able to call together mounted and armed followers—against robbers, for political display and last but

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67 Jerzy Michalski observes that the szlachta lived in fear of possibility that the sejm would be transformed into a British-style parliament. They considered Parliament to be an instrument of the king because of his ability to buy a majority with patronage. “Z problematyki republikanskiego nurtu w polskiej reformatorskiej myśli politycznej w XVIII wieku.” Kwartalnik Historyczny. 1983, s. 327 – 337.

68 Maczak investigated the question of political dependence and the functioning of clientele networks in the Commonwealth in his 1994 book Klientela: nieformalny system władzy w Polsce i Europie (Clientelism: The Informal system of Power in Poland and Europe) and more recently, on a global level in his Nierówny przyjaźń: układy klientelne w perspektywie historycznej. Wrocław: 2003.

69 “Magnate” (magnat, from the Latin magnas, magnatis) is a term often used to describe members of the senatorial estate, a legally undefined and fluid group within the szlachta that enjoyed both wealth and political power at the national level. One must resist the temptation to think that members of this group shared similar political views. A magnate’s power came from some combination of wealth, family connections, political skills and luck. Some used their influence to promote what they saw as the common good and should be called aristocrats in the Aristotelian sense. Others acted to expand their own personal wealth and influence or that of their family and should rather be called oligarchs.
not least, in defense of ‘noble freedoms’ against the king.” If a magnate was both wealthy and influential with the local szlachta, he could win from the king public lands and offices that would give him access to still more wealth and power. A wealthy and influential magnate could generally count on a seat in the Senate, particularly if his forefathers had also enjoyed such a position. At the same time, this group of highly influential citizens was extremely small, and turnover within the estate was quite high. In his study of the szlachta Włodzimierz Dworzaczek listed only 79 families that fell into this unofficial “senatorial class” during the Commonwealth’s entire existence. During the second half of the seventeenth century about 30% of the men kings appointed to the highest senatorial positions and dignities of the Crown were “hominis novi,” the first in their families to serve at that level. It is therefore difficult to make sweeping generalizations—about their political influence or ideology—in regards to this small, fluid, but very influential subset of citizens.

In places where several magnate families competed for the good will and support of their modestly well-off neighbors, like in Małopolska, the relationship between magnate and client was much less “lop-sided” than in places where a single magnate family dominated

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71 Stefan Ciara. Senatorowie i dygnitarze koronni w drugiej połowie XVII w. Wrocław: 1990. p. 27—8. The senate had 147 members, but Ciara limits his study to the top 81 positions (the five ministers, 20 court dignitaries, 27 wojewodowie, and upper 29 castelans in the Crown. (Lithuania had its own set of offices.) Participation in parliaments and the senate council was limited to those who could afford to travel with their expensive retinues and were not openly opposed to the king at the time. Usually, most of the 18 Catholic bishops would attend, while only 25-40 “higher” lay senators (governors or wojewodowie and a couple prestigious castellans) would turn up at an average sejm. “Lower” (drużkowi) senators, who were mostly castellans from more distant, smaller places, often could not afford to make the trip. Lithuanian turnout was usually small until the 1660s.
72 I am referring to the three województwa of Kraków, Sandomierz and Lublin, excluding Ukraine.
their much poorer neighbors, like in Lithuania. Marcin Sokalski makes this point in his recent *Między królewskim majestatem a szlacheckiej wolnością: postawy polityczne szlachty małopolskiej w czasach Michała Korybuta Wiśniowieckiego* (Between Royal Majesty and Szlacha Freedom: Political Attitudes of Małopolska Szlachta in the Times of Michał Korybut Wiśniowiecki). Szlachta in this region were relatively insulated from royal influence because royal lands comprised 21.5% of Kraków województwo and only 11.9% and 10.9% of Sandomierz and Lublin województwa, respectively. Most church lands were owned by the Bishop of Kraków, then Andrzej Trzebicki (1607-1679), who was generally sympathetic to popular concerns. Most of the land (62% in the Kraków województwo) was owned by smaller landowners.\(^{73}\) The few magnate families in the area, most notably the Lubomirskis, were certainly very powerful, but did not run huge estates with armies of clients like the magnates of Lithuania and Ukraine. They relied on the politically independent szlachta of the influential Kraków sejmik nearly as much as the middle szlachta relied on them.\(^{74}\)

Due to the Commonwealth’s mixed constitution these middle szlachta enjoyed far more political influence than their relatively modest economic power might suggest.\(^{75}\) In

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\(^{73}\) Sokaski. p. 17-18.

\(^{74}\) The Kraków sejmik alternated with the leading sejmik of Wielkopolska (Kalisz and Poznań) for first place in the hierarchy of sejmiki of the Crown. These sejmiki sent six delegates (rather than the usual two), spoke first, and generally set the agenda for discussion at parliaments. It was virtually impossible to pass any legislation without the approval of these leading sejmiki (górné województwa). Sandomierz was nearly as influential and another bastion of middle-szlachta democracy. Kriegsceisen observes that delegates from Małopolska, particularly Sandomierz, distinguished themselves as the parliamentary elite in terms of participation and “political culture.” He has less kind words for delegates from Lithuania, Podlasia and Ukraine. He accuses them of being “narrow minded” and “exhibiting low levels of political culture,” especially during the second half of the seventeenth century. *Sejm rzeczypospolitej szlachectnej do 1763.* p. 108.

addition to managing local affairs, these citizens formed the backbone of the House of Delegates. While the king and magnates always had delegates willing to support their interests in the House, the delegates from the middle szlachta of the Crown dominated the discussions and played a decisive role in House deliberations.\textsuperscript{76}

The szlachta’s egalitarian political philosophy existed alongside the reality of a citizenry highly stratified in terms of wealth and power.\textsuperscript{77} During the first century of the Commonwealth’s existence, the slogan of “freedom and equality” generally benefited all citizens in their quest to preserve their privileges and their mixed republic. In 1606-7, an attempt by King Zygmunt III, the first member of the Swedish Vasa dynasty to sit on the Polish throne, to expand his prerogatives by violating szlachta privileges was frustrated by a huge popular uprising (the Zebrzydowski Uprising) supported by several key magnates. When his son Władysław IV, who ruled 1632-1648, tried to overstep his royal authority in the late 1630s and early 1640s, powerful magnates were able to marshal stubborn parliamentary opposition and nipped his plans in the bud.

In the middle of the seventeenth century, however, everything began to change. The first shocks came in the form of military defeats. In 1648 Bogdan Chmielnicki (Khmelnytsky), a Ukrainian szlachcic and recently-elected Cossack hetman, led to a

\textsuperscript{76} Young magnates usually began their political careers in the House of Delegates—some served for many years.

\textsuperscript{77} As chancellor Jan Zamoyski (who was arguably the most powerful man in the country at the time) famously wrote in 1605, “I am satisfied with the prerogatives of a Polish szlachcic and preferred and still prefer to exercise my freedoms equally with my worthy szlachta brethren and not ascribe to myself any freedom above any one of them, indeed I consider myself equal to the least szlachcic. It is this aequalitas that sustains us and in ea libertas nostra consistit.” Jan Czubek, ed. Pisma polityczne z czasów rokoszu Zebrzydowskiego. Kraków: 1916. p. 85
massive Cossack uprising in the Ukraine that the Commonwealth’s armies could not suppress. In 1654 tsar Alexei Mikhailovich, who had offered his protection to the Cossacks, marched his armies west, burned Vilnius and occupied much of Lithuania. The next year Charles X Gustavus’ mighty Swedish army invaded from the northwest. The next year Transylvanians invaded from the south. The Commonwealth literally dissolved as king Jan Kazimierz was forced to flee the country and large numbers of discontent szlachta withdrew their allegiance from Jan Kazimierz and signed agreements with his Swedish cousin.

In the wake of these disasters criticism of the republic’s inability to defend itself grew into a diverse reform movement. Republicans proposed various reforms to curb corruption and curtail the powers of the king and senate and to shift more power to citizens’ sejmiki. At the same time, Jan Kazimierz and his French queen, Louise Marie Gonzaga, launched a reform campaign designed to centralize the Commonwealth’s government. Their first step was to be the election of a French prince to the Polish throne in Jan Kazimierz’s lifetime—a plan that contradicted the first article of the Henrician Articles as well as violated one of szlachta’s most prized freedoms, the right to elect their king freely. The citizens of the Commonwealth stubbornly opposed these plans, seeing absolutum dominium as the inevitable outcome. However, few denied that limited reforms were necessary. Some aristocrats harkened back to reforms proposed in the 1630s and 1640s that would have shifted more power to the senate, but many elites fell
under the sway of the court and French agents. The majority of senators began to express sympathy for the king and queen’s monarchist reform proposals.\footnote{78 Tadeuz Korzon’s classic, \textit{Dola i niedola Jana Sobieskiego}, describes the activities of the French party in great detail, but with the exception of a few leaders (i.e. Prażmowski, A.M. Lubomirski and Jan Wielopolski) it is unclear how much they were motivated by a genuine faith in superiority of monarchical government and how much they were motivated by hope for pensions and personal advancement. It was common for people to accept French money and then do little to support their agenda.}

The battle over the election \textit{vivente rege} (in the king’s lifetime) polarized the citizenry of the Commonwealth. Citizens raised on the classical \textit{respublica mixta} and the civic values of Renaissance Humanism were confronted with the corruption and power politics practiced by the monarchist court party, which was generously supported by the French. The argument about the future of the constitution quickly reached an impasse that, despite two popular uprisings and nine broken parliaments, proved genuinely intractable.\footnote{79 I am referring to the Lubomirski Uprising (1665-6) and the Confederacy of Gołęb (1672), two popular uprisings in defense of the republic’s traditional constitution. Parliaments that were broken because of this disagreement, although often under other pretexts, were 1664-5, 1665, 1666 (spring and fall), 1668 (spring), 1669 (coronation), 1670 (spring), 1672 (spring and summer).} Parliaments met frequently, but could rarely overcome partisan divisions stemming from the two camps’ mutually exclusive agendas.

Previously, when the king and House of Delegates could not reach consensus, the veto was used to end debate.\footnote{80 Regular parliaments met for six-weeks and were often prolonged to work out difficult issues. When it appeared that the body could not find consensus, delegates either simply went home or used their veto (in Polish, \textit{nie pozwalam}, “I do not allow it”) to oppose a motion to extend debate. This occurred at the first two parliaments broken by the opposition of a single delegate (what would later become known as a \textit{liberum veto}), in 1639 and 1652. Konopczyński traces the \textit{liberum veto} to these protests, but contemporaries saw nothing out of the ordinary about the conclusion of these parliaments. \textit{Liberum veto: Studyum porównaczno-historyczne}. Kraków: 1918.} A new interpretation of this right to protest evolved during this
extraordinarily divisive period. In 1661 the court party set about winning the *sejm*’s approval of a royal election in the king’s lifetime, but by 1664 they were trying to put the Duc d’Enghein on the throne by any means possible—including illegally prosecuting the leader of the opposition, Jerzy Lubomirski. The opposition, composed mostly of middle szlachta from the Crown, tried to protest the court party’s actions. The court party conspired to have their protests ignored. Citizens insisted that a delegate’s protest, his *liberum veto*, could not be ignored. The struggle escalated into civil war. Before long the opposition asserted that a delegate had the right to use his veto at any time for any reason. If he suspended deliberations and then left the capital, the other delegates could not legally continue.

During the early 1670s, when the tables had turned and members of the French faction found themselves in the opposition, they redefined the szlachta’s prized free speech (*glos wolny*) to be synonymous with the right to protest at parliaments. They used the argument that had been first articulated by citizens defending the constitution in the 1660s to legitimate their own breaking of parliaments. In the name of the free speech, these magnates argued that the *liberum veto* was inviolable and could not be limited in any way. Even though oligarchic factions were obviously abusing their free speech, republicans could not imagine a way to limit their opponents’ free speech (i.e. their right to protest) that would not imperil their own.

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81 The initial candidate was Henri Jules Bourbon, Prince d’Enghien, the son of the Great Condé, whom the Poles generally called “Kondeusz,” even though he did not inherit the title until his father’s death in 1686. In 1663 he married queen Ludwika Maria’s (Marie Louise Gongaza) niece, Anna Henrietta, Princess of Palantine.
During the last quarter of the seventeenth century, oligarchic factions abused the *liberum veto* in ever more egregious ways; in 1688 one delegate’s protest prevented the opening act of a new parliament and thus broke up the parliament before it had even begun. This corruption of the *liberum veto* made debate about reform of the Commonwealth practically impossible. Jan Kazimierz and Louise Marie’s extended campaign for a French succession sowed distrust among citizens who suspected each other of taking bribes or being in league with foreign powers. It also created a partisan atmosphere in which the aim of the parties at any *sejm* was to gain advantage against their rivals. Political writings constantly cite these two factors—distrust and partisanship—as the sources of parliamentary paralysis and all the evils it entailed.\(^8^2\) The economic effects of decades of war and inflation brought on by Jan Kazimierz’s disastrous monetary policy contributed to the sense that the Commonwealth’s government was not up to the challenges of the current day.\(^8^3\)

Yet on a practical level, constitutional reform, or even discussion of reform, became impossible once the *liberum veto* had become a tool of partisan factions. The reform debate became a caricature of itself. Factions led by powerful oligarchs accused each other of destroying the hallowed constitution, all the while paying delegates to break

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82 Complaints about *diffidencje* (or in Latin *diffidentia*) among the estates are constant in every form of political writing of the period. ‘Partisanship’ is my translation for the difficult term *zawziętość*, which means ‘doggedness’ or ‘tenacity’ in the negative sense of ‘unwillingness to compromise.’ This is by far the most common word used to describe the source of the Commonwealth’s ills. This was the quality that made *zgoda* (harmonious consensus) impossible to achieve.

83 Decades of war devastated the countryside caused an enormous loss of population and economic capacity. See Markiewicz *Historia Polski* or Mączak *East-Central Europe in Transition* or *Money, Prices and Power in Poland of the Sixteenth and Seventeenth centuries* for statistics.
parliament for their own interests. As the decades of war and parliamentary paralysis dragged on, serious doubt and even hopelessness about the fate of the Commonwealth crept into political writings.  


*Breaking the Impasse: Karwicki’s Undivided Sovereignty and Limited Liberum Veto*

Until Karwicki presented his ideas to the Commonwealth at an important assembly in 1710, most citizens saw no way out of the impasse. The only two choices appeared to be to tolerate the gridlock caused by factions’ abuse of free speech or do away with the whole mixed republic and adopt an autocratic constitution like those of neighboring states. As troubling as abuse of the *liberum veto* was in his day, Karwicki’s treatise is not about the veto, *per se*. As the title of his first draft (*Exorbitancje* in All Three Estates of the Commonwealth Gathered and a Means to put these Exorbitancje in Order and Assuage Diffidence among the Estates Presented by a Szlachcic of the Crown for the Review of Leading Citizens) suggests, this work addresses all the problems that were preventing the Commonwealth from functioning as Karwicki felt it should. The primary challenge as he presents it is not how to curb abuse of the veto, but how to reform the republic’s constitution so as to remove the sources of distrust and corruption that led

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84 The Commonwealth was at war almost constantly from 1648 until the early 1720s. The best known work of this genre is *De vanitate consiliorum* or *The Futility of Councils* (1700) by Aleksander Herakliusz Lubomirski.  
85 *Exorbitancje* is a difficult term to translate. From the Latin expression “ex orbita,” it describes all practices inconsistent with the proper functioning of the Commonwealth. These *exorbitancje* were not exactly illegal, but somehow improper or excessive. Poles wrote of the need to correct them (*naprawić*) or as Karwicki does in his title, to reign them in (*wprawić w ryzę*), that is, to bring them back into their proper “orbit.”
citizens to use the *liberum veto* to break parliaments. His ultimate goal is to create a system in which citizens could govern the republic efficiently without endangering key civic freedoms, first and foremost, the freedom of speech.

Karwicki was not a republican like the English Roundheads who wanted to do away with the monarchy as an institution. Nor was he an early incarnation of Rousseau, advocating for democracy based will of the people. In fact, he does not veer into the language of political theory at all to justify his plan. He seems to have come upon his solution empirically, after observing 40 years of corruption and partisan gridlock. As can be seen by comparing his first version, *Exorbitancje in all Three Estates*... with his second draft, the much longer *De ordinanda republica*, Karwicki does not start with a sovereign parliament. He begins by removing the king’s right to distribute the lands and offices of the Commonwealth, which republican reformers had long cited as the source of corruption, rivalry and distrust among the estates. He then quietly folds the senators, who, he says, have failed to fulfill their duty as mediators between king and citizens, into a newly expanded parliament. In the end, he is left with one sovereign body.

Once Karwicki has disempowered the first two estates, he revamps the parliament so that serious and qualified delegates will be able to govern the Commonwealth full time. He suggests a whole array of innovations—from secret ballots, to term-limits and age-requirements and salaries for delegates—to enable citizens to govern the Commonwealth.

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86 See Blair Worden’s “Republicanism, Regicide and Republic: The English Experience” And Martin Dzelzainis’ “Anti-monarchism in English Republicanism” both in *Republicanism: A Shared European Heritage*. Vol, I. Cambridge: 2002. Incidentally, Karwicki remained true to all the kings who reigned during his lifetime and was particularly loyal to Jan Sobieski, under whom he served in the campaigns of the late 1670s and early 1680s.
efficiently without sacrificing civic freedoms. Indeed, Karwicki’s plan would enhance civic freedoms as civic-minded members of the szlachta would have more opportunities to participate in political life.

Karwicki solves the conundrum of the liberum veto by untangling the right to veto from the right of free speech. He explains that głos wolny, understood as the ability to have one’s say and protest, is appropriate when discussing matters that require general consensus at sejmiki, but that elections must be decided by majority vote. Moreover, delegates at the sejm, who were bound by the instructions of their home sejmik, should not have głos wolny understood as the right to protest unless expressly instructed by their sejmik to oppose a specific proposal. Any protests made at this new standing parliament could be referred back to the protesting delegate’s województwo for judgment without breaking parliament. By making the citizens in their provinces the ultimate arbiters of the legitimacy of protests and disempowering the king and senators, Karwicki solves the puzzle of how to curb abuse of the liberum veto without endangering free speech. He also preserves the most distinguishing characteristics of Polish-style republicanism, broad civic participation and local self-government.

Karwicki’s is a distinctly Polish brand of middle-szlachta republicanism, one born of necessity and imagined by citizens who were accustomed to managing their own affairs. They did not need to assert a new theory of popular sovereignty to be able to imagine governing themselves without a king. Citizens took power into their own hands during every interregnum. At the time Karwicki wrote his treatises, he was one of the leaders of
the Sandomierz confederacy, a group of citizens that came together during the chaos of
the Great Northern War to manage local government in the absence of an uncontested
central authority.\footnote{During the Great Northern War, Swedish and Russian forces
occupied the Commonwealth. In spring of 1704 Charles XII captured Warsaw and
orchestrated the election of Stanisław Leszczyński. He then invaded Saxony, the home of the
ruling king, August II Wettin. August abdicated the Polish throne in 1706 as a provision of the
Peace of Altranstadt. After Peter the Great defeated the Swedes at Poltava in 1709, Leszczyński was
forced to return the throne to August II. For more about the confederacy’s independent initiative, see
Andrzej S. Kamiński \textit{Konfederacja sendomierska wobec Rosji w okresie po-altrasztadskim (1707-9).}
Wrocław: 1969.} To Karwicki, removing the king’s most essential powers and turning
sovereignty over to parliament must have seemed like the logical solution. Indeed,
Karwicki’s republicanism has much in common with the republicanism of the American
government had become deaf to the demands of average citizens.\footnote{During Jan Sobieski’s 22-year reign (1674-1696) only 11 \textit{sejm} were held and only six
(Coronation sejm in 1676, 1677, 1679, 1683, 1685 and 1690) concluded. In the second half of his
reign only one (1690) concluded successfully. The situation worsened under August II.} In a similar situation,
American colonists rejected the British king and set out to govern themselves. The
benefits of having a king must have seemed dubious to many Poles too, after August II
had illegally dragged the Commonwealth into the devastating Great Northern War and
then abdicated to save his own skin.

Historian Robert I. Frost suggests that Polish citizens failed to adopt reform in the years
following the Deluge because they could not free themselves from their “Aristotelian
cage.”\footnote{“Liberty without License? The Failure of Polish Democratic Thought in the Seventeenth
Century.” \textit{In Polish Democratic Thought from the Renaissance to the Great Emigration.}
Biskupski and Pula. Columbia UP: 1990.} While it is true they were not willing to forsake the mixed republic when the
only option on the table seemed to be Louis XIV-style absolutism, Karwicki’s work
shows that citizens were able to imagine a different constitution with undivided sovereignty that would be capable of preserving all the freedoms Aristotle argued (and they believed) were necessary to live well. The challenge Karwicki’s work overcame was how to change the political institutions without endangering widely-shared civic values. Although his work had little immediate effect, it was the necessary first step to give the Polish reform movement a path forward. Once he had shown a way to reform the constitution without sacrificing civic freedoms, and to limit the *liberum veto* without threatening citizens’ ability to participate freely in governing, the next generation of reformers could imagine a new kind of Commonwealth. The failure of these later reform efforts has much more to do with external forces than fundamental flaws in the proposals themselves.

When we look at the conundrum of the *liberum veto* in the context of Polish republicanism and we look at Polish republicanism in the context of other European republicans’ reactions to the rising tide of centralization and autocracy during the later seventeenth century, the narrative of European republicanism changes. There are cases like England and Netherlands and (later) America where republicans and free constitutions won out, there are cases like France, Sweden, Denmark where they lost, but there is also the case of Poland-Lithuania where republicans battled monarchists to a draw. Republican theory and practice did not lead to a republican revolution in Poland-Lithuania, but they both continued to exist and hold great significance to citizens. Popular self-government continued in the Commonwealth at the local level and republican theory continued to develop in the numerous reform proposals written in the
later eighteenth century, some of which were eventually incorporated into the reforms of the Four-year Sejm and the Constitution of the 3\textsuperscript{rd} of May. These ideas and these customs remained rooted in Polish popular consciousness through 123 years of statelessness. Even after the devastation of World War II and decades of Soviet occupation, the most basic principle of self-government sprang spontaneously from Solidarity protestors’ lips, \textit{nic o nas bez nas}—nothing about us without us.\textsuperscript{91}

\textit{Methodology and Sources}

My dissertation analyzes the debate over political reform in the Commonwealth chronologically from the late 1630s through the mid-1670s. Over the course of these 35 years or so the reform movement reached a series of impasses. With each impasse, the breaking of parliaments evolved into a more powerful weapon for obstruction—until the \textit{liberum veto} itself became an issue. Quite logically, the conversation about reform was shaped by the practice of obstructing parliaments, and the failure of parliaments shaped citizens’ perceptions of the need for reform.

I have, therefore, organized my first four chapters around precedent-setting parliaments that shaped the evolution of the \textit{liberum veto}: Chapter One: the \textit{sejmy} of 1639 and 1652; Chapter Two: the \textit{sejmy} of 1661 and 1662; Chapter Three: the \textit{sejmy} of 1664-5, 1665 and 1666; and Chapter Four: the \textit{sejmy} of 1669 and 1672. After the Pacification Sejm of 1673, the conversation about reform and the shape of the veto was all but frozen in time,

so a detailed historical narrative of the 1680s and 1690s becomes much less important to understanding the theoretical impasse that Karwicki’s work was able to break through. I pick it up again in 1688 when Karwicki made an (unsuccessful) appeal to limit the veto at the parliament at Grodno in Lithuania and then briefly to explain his role in the Sandomierz Confederacy. The final chapter, however, is dedicated primarily to Karwicki’s work itself.

Throughout my work I have analyzed the most influential reform tracts from each period and analyzed them in conjunction with the writings of citizens who participated in these parliaments and reacted to their outcomes. Through this juxtaposition of formal reform proposals and the public comments of engaged citizens, I hope to give my reader a rich sense of how Polish republicans made sense of changes in their Commonwealth’s political system and why the reform movement, particularly in regards to the *liberum veto*, developed as it did during these critical decades.

There were numerous challenges involved in my “political theory in historical context” approach. The most notable was the problem of sources. A typical dissertation topic for a young political historian in Poland these days is a single parliament. To make my case that the *liberum veto* evolved in conjunction with and in reaction to the public conversation about reform, I had to analyze the workings of 18 parliaments in significant detail. 92 Fortunately for me, a great number of parliamentary diaries and monographs about individual parliaments have been published in recent years. I was able to read

92 They are the parliaments of 1637, 1639, 1652 (2), 1661, 1662, 1664-5, 1665, 1666 (2), 1667, 1668, 1669 (2), 1670 (2), 1672 and 1673.
diaries or monographs about all the parliaments I identified as being pivotal in this process. I supplemented these works with the memoirs of citizens who attended the parliaments in question, such as A.S. Radziwiłł, Jan Chryzostem Pasek, Jakub Łoś, Erazm Otwinowski, and Jan Antoni Chrapowicki.

In addition to finding sources about parliaments, I needed to find a consistent body of documents from this entire period that would reflect the attitudes and desires of my elusive “average republican citizen.” Memoirs are, of course, helpful, but I needed an entrée into the political mindset of these citizens. For this, I turned to the instructions and proclamations of their local assemblies (sejmiki). These sejmiki records reflect the concerns and convictions of citizens who met regularly three or four times a year to manage local affairs, to pass taxes and regulations, and to elect local officials and write instructions for their delegates to parliament. They contain comments and recommendations, demands, and complaints about practically everything that was happening in the Commonwealth. By reading them in order over several decades (rather than taking a survey of all extent records at a single moment as is often done by authors of monographs about particular sejmy) I was able to discern a coherent set of civic values that informed their reactions to current events. At the same time I was able to observe what events struck them as genuinely extraordinary (like the breaking of certain parliaments) and see what remedies they suggested.

I chose to focus on the sejmiki records from four of the most influential palatinates (województwa) of the Crown: Krakówskie, Sandomierskie, Wielkopolskie (Poznań and
Kalisz), and Ruskie. In each case, the records are quite complete for the mid-seventeenth century and in the case of the Krakowskie and Ruskie województwa, have been published. Sejmiki records from Wielkopolska are mostly complete and available at the PAN-PAU archive in Kraków, where one can also find most of the extant records from Sandomierz in the Teki Pawinskiego and Ulanowskiego. (For an even broader perspective on critical moments, I also consulted the published sejmiki records from Ziemia dobrzyńska. These citizens were the true opinion makers in the Polish political scene. The traditional hierarchy observed in parliaments, in addition to these regions’ wealth and prestige, gave their delegates great influence. Delegates from these województwa often spoke first and set the tone for discussion. Others deferred to their opinions. In addition to being influential, these sejmiki were the traditional seats of middle szlachta republicanism, places where citizens could usually express their expectations, frustrations, and desires in their sejmiki instructions without a lot of interference from local aristocrats or the court.

93 I limited myself to sejmiki of the Crown (as opposed to Lithuania) for two reasons. First, the sejmiki records from Lithuania are sparse and studies of particular województwa are few indeed. (See Andrzej Rachuba. Wielkie Księstwo Litewskie w systemie parlamentarnym Rzeczypospolitej w latach 1569-1763. Warszawa: 2002. And Andrzej B. Zakrzewski. Sejmiki Wielkiego Księstwa Litewskiego XVI-XVIII w. Ustrój i funkcjonowanie: sejmiki trockie. Warszawa: 2000.) Secondly, while I heard occasional republican arguments and convictions from delegates from several Lithuanian sejmiki, particularly Wilno and Oszmianski, at parliaments I studied, the political culture represented by most of the Lithuanian delegates I encountered was different from that espoused by Karwicki’s colleagues in the Crown. Since the central project of this dissertation was to put Karwicki’s work in context, I chose to stick with the województwa of the Polish kingdom that shared his political culture and traditions.

94 Many were lost in a fire in Sandomierz at the end of the eighteenth century.


The easiest body of documents to identify was that of the significant political reform texts that shaped public discourse about reform over the life of the *liberum veto*. Scholars of political reform have created a virtual canon of these texts that includes: Łukasz Opalinski’s *Discussion between a Priest and a Squire* (1639), Jerzy Lubomirski’s *Manifesto of my Obvious Innocence* (1666), The Act of Confederation at Gołąb (1672), Antoni Szczuka’s *Eclipsis Poloniae* (1699), Karwicki’s *De Ordinanda republica* (1705-7), Stanislaw Leszczyński’s *Free Speech Protecting Freedom* (1743) and Stanislaw Konarski’s *On an Effective Means of Council* (1760-64).97

I supplemented these core documents with occasional writings (letters, pamphlets and the like) that I was able to find at the Czartoryski Archives (mostly *Teka Naruszewicza* from the years of broken parliaments) and the Jagiellonian Library also in Kraków. To get the flavor of political discourse during the years critical to my analysis, I relied upon published collections of political writings.98 Obviously, this approach risks overlooking significant works, but my point was not to make an exhaustive review of Polish political writings from the mid-seventeenth century. (That would take more than one lifetime.)

My goal was to gain an understanding the arc of the reform debate and how citizens participating in this debate understood the evolution of key political ideas such as civic


freedom, free speech and the right to protest, so as to place Karwicki’s remarkable work in its proper context. I will leave it up to the reader to judge whether I have accomplished that.
The Politics of the Possible: Opaliński’s Modest Proposal

In 1641 in the wake of three turbulent parliaments, a young aristocrat named Łukasz Opaliński published a fictional dialogue between a parish priest and a nobleman, [ziemianin] who has just returned from an unsuccessful parliament. During their conversation both speakers bemoan the political discord and self-interest that prevented recent parliaments from reaching productive conclusions. Using the history of the Roman republic as his guide, the priest predicts that failure to reach conclusions at parliament will inexorably lead to a loss of freedom in the Commonwealth. When the nobleman presses him for a solution to inconclusive parliaments, the priest suggests granting more power and authority to the king so he can correct the corrupted mores of

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100 “…no one wishes to acknowledge the fact that the speediest means of losing your freedom is through the loss of the iuris intercendi and the freedom of speech. Since these play the greatest role in parliament, and only there do these words “Nothing about us without us” find their place, thus when discord causes even these to elapse, one has to take care that what happened in the Roman state does not happen to you, when suspecto Senatus Populique imperio ob certamina potentium et avariatiam Magistratum, bono Reipublicae interfuit omnem potestatem ad unum conferri.” [Latin quote from Tacitus Annales, 1:2.2.] I took my English translations from Maria Pryszłak’s The Well-Ordered State in the Political Philosophy of the Polish Aristocracy: Łukasz Opaliński’s Rozmowa plebana z ziemianinem and Polonia Defensa. Diss: Columbia University, 1988. p. 316-7.
the Commonwealth’s citizens.\textsuperscript{101} The priest further suggests that the institutional foundation of the Commonwealth has been corrupted as well. He complains that the \textit{szlachta} has usurped the powers of the other two estates to such an extent that it now acts as the first estate, leaving the senators and king with nothing to do but draw in the sand \textit{(in pulvere pignunt)}.\textsuperscript{102} In order to right the Commonwealth, he believes more power must be returned to the king and his council.\textsuperscript{103}

The nobleman agrees that vices like greed and luxury have corrupted the Commonwealth’s citizens, but stridently rejects the priest’s claims that citizens’ freedoms need to be restrained and more power needs to be given to the king and his council. This, he says, would bring the certain end of freedom. If the choice is between the disorder of freedom and the order of despotism, he chooses the former. Moreover, he argues that the reforms the priest proposes are both impractical and unnecessary. Quoting Machiavelli and Lipsius, the nobleman points out the discrepancy between theory and practice and the folly of forsaking that which already exists for that which ought to exist.\textsuperscript{104} In his mind, once freedom has been granted to a people it should not be “overly constricted or

\textsuperscript{101} “Consequently, all hope is with the king. He can strengthen the laws and punish those who cross their boundaries. And curb those who are evil, if only he were to have greater authority and power than that which your liberty allows him.” Pryszlak, 362.

\textsuperscript{102} “for it came to be that the knightly estate \textit{(stan rycerski)}, though last in terms of status, yet in terms of power and privileges granted it by various laws, is presently, and I can confidently state this, first in our Commonwealth. It has seized everything from the Senate except its right to sit nearer the king.” Pryszlak, p. 334-5.

\textsuperscript{103} “What is the remedy for this? In my opinion none other than granting authority to the king and the council at his side.” Pryszlak, p. 367.

\textsuperscript{104} “Machiavelli says (though it leads to a perverse discussion, yet I shall use it for my purpose of turning poison into medicine) that the way we live is so far removed from the way we ought to live, that anyone who forsakes what already exists for that which ought to exist, rather speeds up his own downfall than gains anything. Everyone living in a Commonwealth should bear this in mind, and understand without mistake, that \textit{eos hominess tutissime agere, qui praesentibus moribus legibusque etiam si deteriores sint rempublicam administrant.” Pryszlak, p. 373-4.
restrained.”\textsuperscript{105} The only way to reign in freedom and what he calls “private might” would be to use the kind of force that would lead \textit{ad violentam mutationem} or “murder, bloodshed, and civil war.”\textsuperscript{106}

Having argued that it would be impossible to change the constitution peacefully, the nobleman turns his attention to the problem of civic virtue. In contrast to the priest, he believes that citizens’ mores could be reformed without the coercion of a dictator. In his mind, persuasion and virtuous leadership on the part of the king and his councilors should be sufficient to right the Commonwealth and conclude parliaments harmoniously—if only the king would sincerely dedicate himself to the common good, enforce the laws and reward virtue. For the nobleman, the key to a king’s success is combining the seemingly irreconcilable: freedom and \textit{principatum} (sovereignty).\textsuperscript{107} A king must not let greed cause him to confuse his possession of the throne with dominion over the kingdom \textit{(possessionem et dominium rerum)}.\textsuperscript{108} Once he realizes that “by serving he rules with great dignity, but with much less effort and fewer duties…he would not mind his subjects’ liberty, nor take their rights and freedoms to be a burden upon his majesty; he

\textsuperscript{105} Pryszlak, p. 374.

\textsuperscript{106} “As for private might and the danger of it forming, I say that it too serves liberty, which (certainly) shall not allow itself to be harnessed and saddled, except (of course) by force. And thus the Commonwealth should come \textit{ad violentiam mutationem}, which your lordship vehemently and rightly tells us to fear. Pryszlak, p. 375. (Opaliński, p. 26-7.)

\textsuperscript{107} The usual opposition is \textit{libertas et maiestas}, but Opaliński seems to be referring to the tension between a people’s freedom and a king’s sovereignty in the sense of political supremacy.

\textsuperscript{108} “Man’s foolish greed confuses \textit{possessionem et dominium rerum}, for it often causes men to call something their own which really belongs to everyone, and to love only what they believe to be their own…” Pryszlak, 386.
would willingly do what they told him to do."\textsuperscript{109} The nobleman’s idea of an ideal king is an executive who takes direction from the true governors of the republic, the citizens.\textsuperscript{110}

At the end of the first day, the republican nobleman and the monarchist priest have reached a theoretical impasse. The priest believes that the Commonwealth’s only salvation can be found in turning more power over to the king and his council, while the nobleman calls this both impossible and unnecessary, and advocates just the opposite: a king who would relinquish more power to the citizens. Once it is clear that there is no way to reconcile their conflicting views about the need for constitutional reform and the ideal balance of power between the king and citizens, the priest and nobleman do the only reasonable thing. They take a break and agree to continue their discussion the next day.

The next day, the two men put aside questions of constitutional reform and discuss how parliaments might be concluded successfully within the existing constitution.\textsuperscript{111} According to the priest, the senate should mediate between the king and his subjects to maintain the balance between popular and autocratic government in their mixed constitution. Using the words of Plutarch’s Lycurgus, he says, “these elders aid the king in seeing that the highest power does not pass on to the people, and conversely they strengthen the people, so that power does not fall into the hands of an autocrat.”\textsuperscript{112}

\textsuperscript{109} Pryszlak, 388-9.
\textsuperscript{110} Here the nobleman’s reasoning follows that of Hugo Grotius. He argues that sovereignty rests with the people and that the king serves as a magistrate of the republic.
\textsuperscript{111} The nobleman cautions the priest not to “advise us on what should be rather than what can be.” The priest finally agrees, but adds “Truly, if I were to follow the dictates of sound reason in this matter, then your means of holding councils would have to be completely changed.” Pryszlak, 403.
\textsuperscript{112} Pryszlak, 417.
problem, in the priest’s opinion, is that the House of Delegates refuses to let the “older brothers” (as the senators were called) fulfill this role and instead insists on defending itself—particularly by using its *ius vetandi* (the right to veto). Earlier in their discussion the nobleman argued that a change in the king’s mindset and behavior would be sufficient to right the Commonwealth. Here, the priest argues that the change of mindset and behavior needs to come from the *szlachta*. They should defer more to their “older brothers” and must stop using their right to veto licentiously “to hinder the Commonwealth’s affairs.”

Having reached another impasse about whose mindset and behavior need to change in order for consensus to once again reign in the Commonwealth, the two men finally turn to a much narrower and more concrete topic: what sorts of procedural reforms might bring more order to parliamentary proceedings and thus increase the likelihood of successful parliaments. The result of this part of their conversation is a modest proposal to institute an agenda in the House of Delegates so that delegates could determine in advance which issues would be discussed in what order and ensure that all issues be dealt with one at a time. They also agree that it would be helpful if delegates were more punctual, if non-delegates were not allowed in the House chambers, and if late-comers were not allowed to bring up matters that had been decided before their arrival. In general, they would like the delegates to stick to the agenda and not be distracted by extraneous affairs such as ceremonies and scandals.

*113 The priest accuses the *szlachta* of using the veto to obstruct the affairs of the Commonwealth, but he admits that they also use it to defend their freedoms—something he believes the senators are better suited to do.*
The modest outcome of this dialogue, as well as the issues raised therein, provide key insights into the state of political dialogue in the Commonwealth during the first half of the seventeenth century. Other than the influential Jesuit Piotr Skarga (1536-1612) there were few in the Commonwealth who openly advocated for a stronger monarch. While there was a rich tradition of criticizing the poor functioning of the republic and claiming that it was on the edge of ruin, the source of this dysfunction was always seen as the corrupted mores of the citizens, not the constitution itself. The fundamental form of the republic was assumed to be ideal and therefore any “reform” would inevitably upset the balance among the estates and eventually lead either to anarchy or autocracy. Autocracy, called *absolutum dominium* by nearly every Polish political writer of the seventeenth century, would mean the end of freedom. In this theoretical universe the priest’s proposal for a law-abiding but autocratic king could not hope to attract many proponents. As Opaliński’s nobleman put it, giving ultimate sovereignty to the king would be both “unnecessary and impossible.”

This focus on the practical politics of a given situation is typical of Polish political writing. Political writers, as citizens of the Commonwealth, were actively engaged in local and national politics and thus wrote with a keen sense of what was politically possible. Opaliński himself had served as marshal of the House of Delegates in 1638 and knew first hand that the key to passing new laws in the large and diverse Commonwealth

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114 “...the absolutist current, which dominated in seventeenth century Europe, particularly on the continent, was an insignificant current, hardly noticeable [in the Commonwealth]. It had a few advocates at the beginning of the century, but then it was pushed to the margins and finally all but disappeared from the scene.” Zbigniew Ogonowski. *Filozofia polityczna w Polsce XVII w. i tradycje demokracji europejskiej*. Warszawa: 1992. p. 75. See Piotr Skarga. ed. Janusz Tazbir. *Kazanie sejmowe*. Wrocław: 1995.

115 “...ani jest podobna, ani jest też potrzebna.” Opaliński, p. 26
was compromise. Opaliński’s nobleman understands Polish political culture and customs and thus advocates for a king who will encourage reason and reward virtue rather than try to force his will upon the citizens.

Perhaps the most important lesson of Opaliński’s dialogue is that since institutional change was largely unthinkable (for theoretical as well as practical reasons), the only possible areas of reform were civic attitudes and behaviors and parliamentary procedure. Both the priest and nobleman devote much of their attention to discussing how the mindsets of the estates (mostly king and szlachta) have to change if future parliaments are to conclude productively. In the nobleman’s opinion, the king needs to reign in his congenital desire to rule absolutely and be more accommodating to the szlachta’s demands. In the priest’s opinion, the szlachta has to reign in its own desire to rule independently as well as its jealous defense of its prerogatives and freedoms. Regular citizens need to trust (or perhaps, defer to) their “older brothers” in the senate, so that the king may govern without being troubled by unnecessary objections from below.¹¹⁶

¹¹⁶Maria Pryszlak has argued that Opaliński’s explication of the struggle between maiestas et libertas, between the king and citizens, contains a subtle moral that would not have been lost on his seventeenth-century readers. Given that the extremes of autocracy and democracy were both undesirable, the only solution was to preserve the mixed republic by relying more on the mediation and counsel of the senatorial estate (i.e. upon aristocrats like Opaliński). Pryszlak and Andrzej Kamiński have gone so far as to label aristocrats like Opaliński “constitutionalists.” I prefer to think of them as aristocratic republicans, as opposed to more popular/democratic republicans like Karwicki and his fellow middle szlachta from Sandomierz. Not unlike the tension between Jefferson and Hamilton in early America, aristocratic and popular republicans in the Commonwealth imagined a different balance of powers within the mixed republic: the former sought a stronger executive power and more influence for the wealthy, educated aristocrats; the latter for more local control and more power for small-holders. These distinctions are particularly difficult to pin down as aristocrats depended on the good will and support of regular citizens and therefore, could not openly advocate an aristocratic republic that would have marginalized regular citizens. Thus, republican political writings generally present the only threat to liberty as coming from the king and gloss over any differences among various republican agendas.
Opaliński’s Conversation in Context

The specific historical context in which this dialogue was written sheds more light onto the true value of Opaliński’s work. Written around 1639 and published in 1641, A Conversation Between a Nobleman and Priest captures the essence of political debate in the mid-seventeenth century, during the reign of Władysław IV (1632-1648) and the first years of the reign of his brother Jan Kazimierz (1648-1668). It is during this period that the liberum veto, understood as an individual delegate’s right to suspend parliamentary proceedings, was born. Some historians consider Jerzy Lubomirski’s objection to continuing debate at the end of the sejm of 1639 as the first use of the liberum veto. Most see Władysław Siciński’s objection to continuing debate at the end of the first sejm of 1652 as the actual first use of the veto.\(^{117}\) In both cases, though, an explicit decision was made to abandon the parliament without passing any legislation. The similarities between the two parliaments hardly end there. Both parliaments were showdowns between a king trying to push the limits of his prerogatives and a united szlachta (regular citizens and powerful magnates) trying to reign in the king while demanding more oversight of and participation in the Commonwealth’s affairs. Like Opaliński’s Conversation, both parliaments ended in an impasse.

\(^{117}\) There were important differences between the two vetoes. Lubomirski was apparently speaking for his delegation from the Kraków sejmik and many others who had instructions not to allow the prolonging of the parliament beyond its six-week term. When he made his objection, it was immediately embraced by the majority of delegates who had already lost hope of bringing the sejm to a successful conclusion. Siciński, on the other hand, submitted his objection in writing somewhat surreptitiously and then left the House of Delegates. While there were many other delegates who had already given up on the parliament by this point, his was an individual protest made by a delegate who then left the parliament—and therefore could not be persuaded to change his mind. Additionally, many delegates suspected that Siciński had been paid by Lituanian hetman Janusz Radziwiłł to break the sejm. Delegates hesitated before accepting this veto, but moved to the closing ceremonies the next day.
In both 1639 and 1652 the king pressed the szlachta for new taxes to pay for troops to defend the Commonwealth against a military threat. In both cases the szlachta doubted the immediacy of the threat and had recently agreed to grant significant subsidies. Moreover, shortly before both parliaments, the kings, Władysław IV and Jan Kazimierz, had exceeded the king’s traditional prerogatives in attempts to gain more financial and political independence from the sejm. The szlachta arrived at both parliaments with long list of grievances, called exorbitancje. After meeting for the legally prescribed six weeks and discussing numerous exorbitancje, the House of Delegates had not agreed to any of the king’s proposals.

This situation was hardly unprecedented. Most contentious issues were only worked out at the very end of parliaments when the House met in joint session with the Senate and king. During these final hours the senators and king could use their influence and the pressure of a deadline to bribe, intimidate or otherwise force compromise upon reluctant delegates. Staying in Warsaw during parliaments was expensive and tiresome for delegates and sejmiki often expressed the fear that their delegates would make

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118 Exorbitancja: from “ex orbita” out of the orbit of usual law and custom and therefore objectionable.
119 When the estates could not reach consensus, parliaments dissolved without passing any new legislation. This happened fairly often, particularly after the Henrician Articles instituted the six-week time limit. Sejmy dissolved in 1576, 1582, 1585, 1597, 1600, 1605, 1606, 1615, 1637. W. Konopczyński. Chronologia sejmów polskiego. Kraków, 1948. Additionally, Wojciech Kriegseisen cites three cases in the early seventeenth century when a minority of delegates protested and threatened to leave, but were unable to dissolve parliament. In 1611 it was the Calvinists, in 1620 the Lithuanians, and in 1627 the Kraków delegates. When the majority called their bluff, each group withdrew its protest. Sejm rzeczypospolitej szlacheckiej, 40.
120 Of the 15 parliaments held during Władysław’s reign, eight were prolonged, three were broken and only four ended “normally” (i.e. within the six-week limit). Jan Dziegielewski Izba poselska w systemie władzy pod panowania Władysława IV. Warszawa: 1992.
concessions to the king rather than bear the burden of staying in Warsaw longer than six
weeks. The delegates, however, had a powerful weapon of last resort against this sort
of last-minute arm-twisting: their *ius vetandi*.

In the traditional historiography, the *liberum veto*es of 1639 and 1652 mark the beginning
of an era when the *szlachta* irrationally clung to its traditional privileges and the principle
of consensus rather than adopt majority rule. Historians like Władysław Konopczyński
tend to read Polish history backwards, letting the parliamentary paralysis and corruption
that characterized much of the eighteenth century cast a long shadow back into the
century before. In their haste to condemn the *szlachta* for not adopting the majority
principle, they fail to differentiate individual uses of the veto and assume that they all
were issued and accepted for similar, disingenuous reasons. Rather than examining the
parliaments individually, they present the parliaments of 1639 and 1652 as grave
precedents when a single delegate selfishly invalidated an entire parliament and left the
Commonwealth defenseless.

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121 Warsaw was not a sizable city until the middle of the 18th century. The annual influx of 150 or
so delegates with all their servants plus another 30-40 or so senators with their (often very large)
entourages put a strain on the city’s economy. Food and lodging were usually in short supply and
expensive. Sometimes delegates received pensions for their service from their *sejmiki*, but these
were uncertain and not always generous. See Henryk Olszewski. *Sejm Rzeczypospolitej epoki

122 Władysław Czapliński writes about the *szlachta*’s traditional devotion to consensus in the
*sejm*, “however there was no shortage of statements, not just from senators, but even from the
more rational *szlachta*, attesting to the fact that they realized the dangers using this principle
entailed. In any case, we cannot accept that the *szlachta*, which especially during the first half of
the seventeenth century was educated and aware of the general situation in Europe, insisted on its
preservation only out of irrationality (not to say stupidity). Undoubtedly, one of the reasons for
this was the rather universal conviction at that time that ancient customs must be preserved, that
changes to the existing constitution should not be carelessly instituted.” *Historia sejmu polskiego.*

123 Konopczyński devotes most of his *Liberum veto: studium porównaczno-historyczne* to the
eighteenth century, glossing over the birth and early evolution of the veto.
While historians often blame the breaking of these *sejmy* on the delegate who employed the *liberum veto*—especially the notorious Siciński—the breaking of these parliaments was not the work of a single individual. While it is true that a single delegate protested against prolonging the parliamentary session in both cases, the rest of the House of Delegates accepted this use of the veto as legitimate. Many delegates had instructions from their *sejmiki* not to allow any prolongation of the *sejm*. In any case, after the *veto* had been issued, they all willingly got up and proceeded to the closing ceremonies.

The other assumption historians often make about the inconclusive *sejmy* of 1639 and 1652 is that the delegates had no good reason for going home without consenting to the kings’ demands for taxes. They accept the judgment of contemporary commentators who blamed the delegates’ failure to reach consensus on private or particular interest.\(^\text{124}\) While private interest certainly played a significant role in these parliaments (as it does in any political system), careful reading of the instructions delegates received from their fellow citizens at their local assemblies reveals that many had good reason to support the use of the *liberum veto* at both parliaments. Examining these instructions in the context of the struggle then being waged between the king and the citizens (between *maiestas et libertas*), reveals that citizens were advancing a coherent and consistent program to oppose the king’s policies and to assert their own prerogatives to participate in the shared project of governing their republic.

\(^\text{124}\) The term “*prywat*” referred either to the particular interest of an individual or to the interests of a particular region. In either case, it meant the opposite of the common good.
The Sejm of 1639: Agreeing to Disagree

Relations between Władysław IV and the szlachta had been stormy for several years when the king called the parliament for October of 1639. It was the fourth parliament in two and a half years and in many ways it was a continuation of the three before. After spending the first several years of his reign waging largely successful wars with Muscovy and Sweden, the king had turned his attentions to domestic affairs in 1637.\textsuperscript{125} Like his father, the exiled king of Sweden, Zygmunt III, Władysław longed for hereditary lands and a permanent income independent of parliamentary control. He had recently undertaken several unpopular projects towards this end.\textsuperscript{126}

In instructions to their parliamentary delegates, the leading województwa of the Crown complained about the king’s recent attempts to raise funds for his treasury such as instituting a new maritime customs tax and granting feudal rights to Courland to the Elector of Brandenburg (for a hefty fee). Most of their complaints, however, center on decisions that were made without their knowledge or consent. They complain that Władysław left the country the year before (to take the waters in Baden) without consulting them. They complain that the king drafted additional troops into the army without their approval. They complain that he secretly allowed the Emperor to draft troops in the Commonwealth, thereby risking reigniting conflict with the Swedes. The

\textsuperscript{125} See Robert Kołodziej’s \textit{Pierwszy sejm z 1637r.} (2002) for an excellent overview of the international and domestic situation at this point in Władysław’s reign. In his \textit{Władysław IV i jego czasy} (1976) Władysław Czapliński’s describes 1638 as the turning point of this king’s reign, “during which Władysław unsuccessfully tried to defend his position as independent monarch against the nation.” p. 219.

\textsuperscript{126} These included instituting a new maritime customs tax and creating the Order of the Immaculate Virgin in an attempt to cultivate a group of loyal supporters.
Latin expression *sine scitu et consensu reipublicae* echoes through all the instructions, emphasizing the *szlachta’s* frustration that they were not consulted about all these matters.

As they had for the previous two years, *sejmiki* demanded that the king’s senate council share the records of its proceedings with the House of Delegates and that the crown treasurer provide a full accounting of military expenditures.\(^{127}\) They asked numerous leading questions about how money was spent, particularly why taxes passed the year before had been insufficient to pay the army. Clearly distrustful of the king’s ministers, the Wielkopolka and Kraków *sejmiki* refused to send their taxes to the royal treasury in Warsaw; instead they insisted that their own deputies in Rawa would pay soldiers’ salaries.

These instructions often went further than just complaining about decisions the king made without the *szlachta’s* consent. In several cases, the *sejmiki* demanded that royal acts, such as the granting of feudal rights in Courland, be annulled. The Kraków, Wielkopolka and Ruski *sejmiki* observed that the king’s grant was contrary to express law and therefore asked their delegates to demand its repeal.\(^{128}\) Later in the same instructions the Kraków *sejmik* demanded that all “*transakcje publiczne*” carried out without the consent of the Republic be annulled and that in the future such things not be

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\(^{127}\) *PAN 8596 t. 2 (Laudum sredense 1639).* ASWK t. II, p. 234. Zofia Trawicka reports that the Sandomierz *sejmik* also asked their deputies to demand records from the senate council and to examine the treasures’ accounts and report back to them. “Sejm 1639.” *Studia Historyczne* r. XV (1972), Z. 4, p. 555.

\(^{128}\) “*Feudum Księstwa Kurlandzkiego przeciwko prawu bez zgody wszech stanów jest dane, za czym konstytucją ma być zniesione.*” ASWK, t. II, p. 236.
allowed. The Ruski sejmik went one step further and threatened the king’s vice-chancellor who approved this grant of feudal rights, saying that if a chancellor were to repeat such an act without consent of the republic in the future, he would be removed from office. Such threats are evidence of the szlachta’s indignation that their right to share in deciding all matters concerning the republic had been disrespected. As the Ruski sejmik put it in 1639, “in a free republic all estates should participate in governing.”

The sejmiki’s calls to be more involved in making decisions that affected the Commonwealth reflected a growing trend among the szlachta of the Crown. Historian Edward Opaliński has pointed out an ideological current arising toward the end of the sixteenth century, particularly among the active citizens of Małopolska, which sought to shift the balance of powers in the Commonwealth toward the szlachta and their House of Delegates. Radical examples of this sort of thinking can be seen in the political writings of the Zebrzydowski Uprising era when some citizens demanded that the king’s right to distribute lands and offices be transferred to the sejm and that the Commonwealth’s ministers be made responsible to the sejm. While these were extreme examples, the general conviction that the szlachta should have more control over key aspects of governing became incorporated into republican ideology and this time and resurfaced regularly in seventeenth-century political writings.

129 ASWK, t. II, 236.
130 AGiZ, t. XX, 423.
131 …in libera republica Stany wszystkie ad consilia onej należą. AGiZ. t. XX. p. 426.
132 Edward Opaliński. Kultura polityczna szlachty polskiej (1587-1652): system parlamentarny a społeczeństwo obywatelskie. Warszawa: 1995. p. 29. He quotes the wojewódą of Kraków, Mikołaj Firlej at the sejm of 1592, “as I see it, the Republic should have the power not only to correct the King, but to show what his Majesty has the power to decide.”
133 Ibid, 40.
The Ruthenians’ demand that a chancellor who acts without the consent of the republic be removed from office also reflects the distrust and suspicion that characterized relations between the court and the szlachta. Citizens suspected that kings were naturally predisposed to absolutist rule. Even apparently minor changes in law or custom could strike fear of impending absolutum dominium into the hearts of sejm deputies. One such change occurred in 1633. In an effort to make the conclusion of parliaments more regular, the sejm passed a law stipulating that the House meet in joint session with the king and Senate for the last five days of every six-week sejm. In theory, this new custom would guarantee more orderly and certain conclusions to parliaments. In practice, it introduced a situation in which the House of Delegates would likely be forced to share its traditional prerogative to draft bills independently. Moreover, delegates would now be subject to the exhortations and manipulations of the king and senate during the critical final days of each sejm.

In response to this new situation, sejmiki became more strident in their demands that parliaments not be prolonged beyond the six-week mark or be held at night (or by candlelight, as the usual formulation went). They also began to demand that no issue that had not been unanimously approved in the House be discussed in joint session with the

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134 This law reads, “As the tardy arrival of the delegates to us and the Senate is a no small impediment to the conclusion of the sejm, which leads to the prolongation of sejmy, which is contrary to law and custom; we declare that from now on at every six-week general sejm, delegates will come to Us and our Lord Councilors five days before the conclusion (even if the Marshal of the House has nothing that has been already decided to read) and through these five days will treat the matters of the Commonwealth with Us and the Senate, and will be able to procede to the conclusion of the sejm without either shortening or prolonging sejmy.” Volumina legum. Vol. 3, p. 373.
king and Senate. The Kraków sejmik bound their deputies, as the usual expression went, “by faith, honor and conscience” not to allow any extension of parliament. The Wielkopolski sejmik ordered their delegates not to allow a prolongation even if it meant the dissolution of the sejm.  

Sejmiki instructions also reveal the szlachta’s suspicion that the king and his ministers were trying to sneak things by them. The sejmiki feared that even if deputies were able to wait out the king through the end of the parliament, bills would somehow be surreptitiously inserted into the final laws (konstytucje) or edited by the king’s ministers to reflect the court’s wishes. The Kraków, Wielkopolska and Ruski sejmiki all stipulated in 1639 that konstytucje be collated and edited immediately following the close of parliament in the House chamber, not later in the chancellor’s chambers. All three sejmiki asked that new laws be witnessed and signed by sworn deputies, and the Kraków sejmik added that laws not properly filed with the Warsaw gród should not be printed.  

During this period the sejmiki repeatedly asked for a definitive collection of laws to be compiled and published.  

Along with complaints about not being involved in decision making, we see repeated calls to be more involved in governing and to get the tools necessary to do so, namely a complete accounting of the activities of the Senate Council and treasurers and a definitive compendium of laws. While the king was trying to free himself from parliamentary control, the szlachta (from these województwa at least) were demanding to be more more

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135 ASWK, t. II. p. 234. Wielkopolska: Lauda sredense 25 Augusti 1639r. PAN 8598 t. 2  
involved in nearly every aspect of governing. There was little room for compromise between these two camps. They soon reached an impasse.

The \textit{Sejm} of 1639 was a showdown between the court and \textit{szlachta} from the very beginning.\textsuperscript{137} The delegates first seized on the issue of the king’s distribution of \textit{incompatibilia} (multiple offices or leases to royal lands held by a single person), particularly those held by the king’s loyal chancellor, Bishop Piotr Gembicki. The king refused to take these “excess” positions away from their present occupants, and the Sandomierz delegation refused to consider any other issues until this issue was resolved. Two weeks later Lithuanian Chancellor Albrecht Stanisław Radziwiłł reports the two sides were even more sharply divided over this issue: “embitterment between the sides sharpened,” and deliberations were consumed by squabbles.\textsuperscript{138} The impasse was so intractable, that many thought the \textit{sejm} might end the day before when the Sandomierz delegation, led by Aleksander Lubomirski, refused to continue until the \textit{incompatibilia} and royal leases held by commoners were distributed to members of the \textit{szlachta}. At this point, Lithuanian leader Janusz Radziwiłł apparently said, “What are we sitting here for? Let’s go,” and then got up and left the chamber, taking the delegates from Lithuania, Mazowia, Sieradź, Podlasia and a few others with him.\textsuperscript{139}

The next day a group of delegates arrived in the Senate chambers to present the king with a list of grievances, topped by the distribution of \textit{incompatibilia}, and to demand the

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\item \textsuperscript{138} A.S. Radziwiłł, p. 168.
\item \textsuperscript{139} Trawicka, p. 579.
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complete records of the Senate Council as well as treasury receipts. While the issue of *incompatibilium* was eventually worked out through compromise, the delegates’ other demands, namely the reading of the minutes of the Senate Council and treasury receipts remained unsatisfied. In his diary entry from November 1st, A.S. Radziwilł recorded that the king felt “beleaguered” knowing that the delegates would return the next day “with the same demands, expressed in harsh words,” and passed a sleepless night. The delegates did indeed return and continued to demand the records of the senate council, which neither the king nor the council wanted to turn over. Ten days later a group of delegates again came to the Senate Chamber to present a similar list of grievances—to which they had now added a demand to repeal of the Elector’s feudal rights in Courland.

Five weeks into the parliament and not a word had been spoken about the king’s proposed taxes. At this point various groups in the House began raising their own issues. The Mazovians demanded to know why the king’s vice-chancellor Jerzy Ossoliński had granted the Elector of Brandenburg (a vassal of the Commonwealth) the right to administer justice over nobles and non-nobles alike in Ducal Prussia. On the penultimate day of the *sejm*, delegates’ tales of the Elector’s excesses stirred up animosity toward the unpopular vice-chancellor and led to a verbal confrontation between Ossoliński and the

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140 Delegates had done the same thing at the *sejm* of 1637. Five weeks into the *sejm*, a group of delegates arrived in the senate chamber to present the king with a formal list of *exorbitancje*, which were never formally addressed. Robert Kołodziej. *Pierwszy Sejm 1637r.* p. 150.

141 AS Radziwiłł, p. 172.
The king’s hopes that the House would take up the issue of taxes on the final day of the session were dashed when Baranowski raised Ossoliński’s affront from the previous day. Baranowski claimed the vice-chancellor had attacked his dignity and freedom of expression, and—by extension—the dignity and freedoms of the entire House of Delegates. The vice-chancellor had been a lightning rod for szlachta dissatisfaction for several years already. An ardent Catholic and sharp-tongued executor of many of Władysław’s most controversial policies, Ossoliński was particularly disliked by the powerful (Calvinist) Lithuanian hetman Krzysztof Radziwiłł (whose influence at court waned while Ossoliński’s waxed) and other non-Catholics who felt threatened by his policies. Delegates vented their resentment until the Lithuanians and other enemies of Ossoliński began to demand that the king try the vice-chancellor for his attack on Baranowski.

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142 Trawicka cites an eyewitness who heard Ossoliński threaten to “shake the wool out of” Baranowski (baran means ‘ram’ in Polish) p. 584. A.S. Radziwill reports the less poetic threat that after the sejm Ossoliński would treat Baranowski to a rod.“ p. 176.
143 A.S. Radziwill reports that Baranowski, “shouted in a loud voice that the vice-chancellor was assaulting freedom.” p. 176.
144 Non-Catholics, supported by Radziwill, had tried in vain to get their grievances addressed at the sejm of 1637. Ossoliński was particularly unsympathetic and at one point called Arian Jerzy Niemirycz a pagan. He also supported a plan to expel Arians from the Commonwealth. Niemirycz claimed his right to free speech thusly, “no one has the right to harangue Arians because of their religion because they are free citizens in a free republic. Therefore, as free citizens, they have the right to demand that the House consider their exorbitance.” Quoted in Kołodziej, p. 174.
In a last ditch effort to save the sejm, the king sent a 12-senator delegation (including Ossoliński, who wisely elected not to go) to the House to try to broker a deal. After struggling to get the attention of the House, the leader of the delegation, the Bishop of Kraków, asked the delegates to consider prolonging the sejm so that there would be time to discuss taxes for defense. Amidst such rancor and outrage there was little hope of compromise and many delegates had already stated publicly that they would not accept any extension of the six-week limit. As Zofia Trawicka observes in her article about this sejm, the majority of delegates were probably quite relieved by aristocrat Jerzy Lubomirski’s proposal to adjourn and move immediately to the closing ceremonies. In any case, the entire House soon got up and went to the Senate to bid farewell to the king.

As can be seen from this brief synopsis of the parliament of 1639, Jerzy Lubomirski’s objection to continuing deliberations can hardly be blamed for destroying the sejm. The szlachta’s grievances were clear from their sejmiki instructions and after the king had put off their demands and exorbitancje for six weeks, few delegates had any interest in considering the king’s request for taxes. The delegates’ call to punish Ossoliński forced the king to abandon his aspirations because pressing on might have very well led to the

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145 A.S. Radziwiłł observes, “if he had gone, it certainly would have come to the use of weapons.“ p. 177.
146 Trawicka, 585.
147 Konopczyński puts Lubomirski’s breaking of the sejm in quotation marks: “Jerzy Lubomirski, by saving Ossoliński from the vengeance of the offended szlachta, ‘broke’ the sejm of 1639.” Still, he considers Lubomirski’s objection a significant step in the development of the liberum veto: “After the 1609 law about the right to have one’s say (domówienia się) at parliament, thirty years had to pass, until the delegates’ circle, shaped by obstruction, blindness and political hypocrisy, took one big step closer to the proper honoring of a new idol.” Liberum Veto. p. 230.
trial of his trusted vice-chancellor. By the end of six weeks, it was clear that no compromise was possible, so they all just went home. Observers at the time chalked it up to personal disagreements and private interest. While everyone agreed the inconclusive sejm was an unfortunate waste of time and resources, no one found it particularly remarkable.

Because there was no pressing military threat to force the delegates to pass taxes at the time, the Sejm of 1639 provides an excellent opportunity to observe the issues that defined the struggle between the king and szlachta. From the above discussion of sejmiki instructions, we know that republican szlachta were upset about having been left out of important decisions affecting the Commonwealth and demanded to be consulted. Although their rhetoric claimed that the king had overstepped his traditional prerogatives, the szlachta’s demands at this sejm (as well as at the two preceding parliaments) also reflected a desire to enhance their own prerogatives—particularly in the area of ministerial oversight. Their desire to be involved in all matters involving the Commonwealth led them to demand the records of the Senate Council—something they were entitled to according to laws from 1607 and 1609, but apparently had not received of late. The sejmiki wanted more than a general accounting of the Senate Council’s

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148 The Lubomirski brothers were acting as tribunes of the people of Kraków and Sandomierz, but the whole situation had a private subtext. Aleksander was married to Ossoliński’s daughter, and thus Jerzy’s suggestion to end the parliament not only conformed to his instructions, it also protected his sister-in-law’s father.

149 Trawicka cites several contemporary pamphlets and letters that explain the dissolution of the sejm as the result of private squabbles and delegates placing their personal interests before the common good. p. 586.

150 The laws in question refer to resident senators, 16 appointed senators who, according to the Henrician Articles, were supposed to live with and advise the king in between parliaments. The fact that this law had to be reiterated in 1609 and then again in 1641 suggests its neglect. The
activities, though, they wanted each senator to sign his approval of each of the council’s resolutions so that they could know exactly who was responsible for which policies. This demand struck many senators as an affront to their senatorial dignity. The king tried to put the delegates off, saying that the law was unclear (presumably about who exactly would sign which reports) and besides had fallen out of use in the proceeding 30 years.\textsuperscript{151}

This disagreement ended in a bit of a stalemate. After several weeks they had received only unsigned reports relating to less important matters. The delegates then shifted tactics and focused on the repeal of the Courland grant.

The delegates’ insistence that ministers and other officials be held accountable to the citizenry and the king’s unwillingness to accept any interference with his royal appointments or the appointees themselves reveal the central tension in the Commonwealth’s system of shared sovereignty and the overlapping prerogatives of each of the three estates. Legally, the king had the power to distribute offices and royal lands as he wished. But these lands and offices were not his personal possessions; they were the lands and offices of the Commonwealth to be granted as rewards to well-deserving citizens. Moreover, many of these royal appointees—most notably ministers—carried out vital functions of government.\textsuperscript{152} Citizens understandably wanted both to influence royal appointments and to criticize appointees who broke the law or simply failed to act in the

\textsuperscript{1609 law reconfirmed the previous one and doubled the fine for senators who failed to serve. \textit{Volumina Legum} vol. II p. 433-4.}
\textsuperscript{151} A.S. Radziwiłł reports that the king tried to put off the delegates, saying that reading the \textit{senatus consulta} to the House was up to the senators and that because the laws were “not particularly clear“ (\textit{niezbyt wyraźnie brzmiać}), he’d have to talk it over with the senators and get back to them at the end of the \textit{sejm. Pamiętniki}, p.169.
\textsuperscript{152} There were 12 ministers, six of each from the Crown and from Lithuania: Marshal, Chancellor, Vice-Chancellor, Treasurer, Great Hetman and Field Hetman. In addition to these, judicial \textit{starostowie} had responsibilities for local government and courts.
interests of the common good as they understood it. Consequently, discussions about ministers and other royal appointees were often about more than the specific individual in question. They were about the direction in which each side wanted to take the Commonwealth. When the szlachta criticized their monarch’s appointments, they were often criticizing his policies as well.\textsuperscript{153}

During the reign of Władysław IV, the szlachta focused their criticism of the king’s unpopular policies on vice-Chancellor Jerzy Ossoliński. The issue that blew up in the final days of the sejm of 1639 is a perfect example of this practice. Ossoliński most certainly did not grant the Elector the right to administer justice in Ducal Prussia without the king’s knowledge, nor did he stamp the grant of Feudal rights in Courland without the king’s approval. Still, rather than confront the king personally, opposition delegates demanded that Ossoliński be punished and dismissed from office. At this point we remember that the Ruski sejmik instructed their delegates to demand that ministers who confirmed illegal acts (like the granting of feudal rights in Courland) be dismissed.\textsuperscript{154} Primarily, they were demanding that the king (and his ministers) obey the law. However, by demanding that the king dismiss one of his ministers, these citizens were also treading upon the king’s prerogatives as well as a senator’s prerogative to hold his office for life.

\textsuperscript{153} It would have been an affront to the king’s dignity to confront him personally at parliament. In fact, delegates and the king rarely spoke to each other during parliaments. One of the chancellors usually served as intermediary. Even in the Commonwealth where citizens prided themselves on their free speech and status as electors of kings, citizens showed the king a great deal of public respect and deference.  
\textsuperscript{154} AGiZ. t. XX. p. 422.
At the level of political theory, the king’s prerogative to appoint the Commonwealth’s officials clashed with the szlachta’s prerogative to participate in the governing of the republic as well as the senators’ prerogative to serve as independent mediators between the king and the House of Delegates. In practice though, arguments about royal appointments and appointees were often fueled by greed. These offices not only brought power and prestige; they were the keys to wealth in the Commonwealth. The most powerful families in the Commonwealth vied for the highest offices and the wealth and influence that came with them. Therefore, the process of appointments often caused as much controversy than the actions of the appointees. In fact, in the later seventeenth and eighteenth centuries, many a parliament was broken by magnates trying to manipulate the distribution of powerful offices.

The 1640s: A Temporary Compromise

During the 13 years between the broken parliaments of 1639 and 1652 the szlachta’s argument with the king continued. After the three unsuccessful parliaments of 1637, 1638 and 1639, the two sides finally reached a compromise in the spring of 1641.

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155 The pyramid of elite families in the Commonwealth was quite steep. Those few at the very top held numerous powerful offices and lucrative leases on royal lands. Of the 186 families represented in the Commonwealth’s 81 top offices during the second half of the seventeenth century, 31 families had members in three or more offices, 11 families had members in five or more, and the Potocki, Leszczyński, Denhoff, Lubomirski, Opaliński, Koniecpolski families held seven or more. Stefan Ciara. Senatorowie i dygnitarze koronni w drugiej połowie XVII wieku. Wrocław: 1990. p. 26-7. See also Janusz Dąbrowski. Senat Korony: Stan sejmujący w czasach Jana Kazimierza. Kraków: 2000.

156 Konopczyński estimates that three-quarters of broken sejmy were caused by discontent ministers—half of them by hetmans. Liberum veto. p. 293.

157 The parliament of 1638 passed only limited tax legislation; none of the political issues separating king and szlachta were settled.
Simply put, the szlachta got its key political demands met and the king got his taxes. The laws passed in 1641 satisfied the sejmiki’s repeated demands that: 1) the lessees of royal lands (economia) pay their due taxes, 2) the Chancellery turn over complete records of senate council proceedings, signed by each senator who approved measures passed there; 3) the king not leave the Commonwealth without the express permission of the estates; 4) titles among the szlachta not be allowed; 5) a committee to correct the laws be formed; 6) nobility and citizenship be granted only by the estates at the sejm; and 7) pardons and reductions of sentences passed by the szlachta’s Tribunal court not be granted by the king’s chancellery. In exchange for these concessions, the king’s younger half-brothers, Jan Kazimierz and Karol Ferdinand, received lucrative land grants and the sejm promised to work out an equitable plan to pay the army during a special two-week parliament held in February 1642.\textsuperscript{158} At this time the sejm also agreed to pay off Władysław’s sizable debts, but not without first prohibiting him and future kings from ever again borrowing money in the Commonwealth’s name.\textsuperscript{159}

Upon closer examination, the 1641 law about the senatus consultus provides an interesting insight into the dynamics of the struggle between maiestas et libertas. The 1641 law entitled De reddenda senatus consultorum confirmed the law concerning resident senators that was passed in 1607, which was itself a reconfirmation of the original law included in the Henrician Articles of 1573. The 1607 law had been enacted

\textsuperscript{158} Volumina legum. vol. IV. p. 5-10. After their father Zygmunt III lost his Swedish inheritance, his younger sons were left with no hereditary lands and uncertain prospects. Both eventually found ecclesiastical positions. Karol Ferdinand became Bishop of Breslau (Wrocław). Jan Kazimierz took Jesuit orders and was offered a cardinal’s cap before he changed his mind, withdrew from the order and returned to the Commonwealth to be elected king in 1648 after Władysław’s death.

\textsuperscript{159} Volumina legum. vol. IV. p. 31.
in the wake of the Zebrzydowski Uprising, which was led by szlachta concerned that Władysław’s father, Zygmunt III, was overstepping his prerogatives and attempting to institute autocratic rule.\cite{zetw16} In its text Zygmunt III explicitly acknowledges that the purpose of the law is to assuage the szlachta’s fears that he was pursuing absolutum dominium, “and so that no one has any qualm about usurpation by absolutum dominium contrary to the laws of the Commonwealth, from which we are far in both heart and mind, we confirm the laws about resident senators of our ancestors, kings Henry and Stefan...”

The reiteration of the law in 1641 makes no mention of absolutum dominium, but is otherwise very similar.\cite{zetw16} The significant difference is that the second law more clearly stipulates that the records of the senate council be signed by those senators who approved them and read aloud to the House of Delegates at each parliament—so that senators may explain their reasoning in facie totius reipublicae.\cite{zetw16} Although the standoff between king and szlachta between the years 1637-39 was not nearly as violent as that of 1606-7, the outcome was similar. In the end the szlachta achieved its demand to have senate council proceedings (and the senators who approved controversial policies) held up to parliamentary scrutiny.

The entente established by this law did not last long. Władysław’s plans to start a war with the Tatars and Turks led to another showdown between the king and szlachta in

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\item[\textsuperscript{160}] See Waclaw Sobieski Pamiętny sejm. Kraków: 1913. and Jan Czubek. Pisma polityczne z czasów rokoszu Zebrzydowskiego (1606-8). Kraków: 1916.
\item[\textsuperscript{161}] The 1641 law states that the dignity of the king and freedoms of the estates depend on the execution of the law about resident senators. Volumnia legum. t. IV. p. 6.
\item[\textsuperscript{162}] Volumnia legum. t. IV. p. 6.
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1645-6. The Sejm of 1645 definitively rejected his call to prepare for an offensive war by refusing to levy any taxes to fund troops. Despite this rejection by the sejm and opposition of many sejmiki and senators, the king continued with his plans and began recruiting troops in the spring of 1646. The sejmiki preceding the sejm that began in November of that year were outraged that the king was recruiting troops and making treaties with neighboring powers without their permission. In Warsaw the delegates demanded to discuss the matter with the senate directly. In the face of overwhelming opposition, Władysław gave in to a colloquium between House and Senate in his absence as well as particularly strident legislation banning him and his successors from ever raising troops or starting a war “inscia et inconsulta Reipublica” ever again. The law also prohibited the king from using his private seal to legitimate Commonwealth documents, a practice he had resorted to when vice-chancellor Andrzej Leszczyński refused to stamp his recruiting orders. The king’s efforts to circumvent the Commonwealth’s ministers by relying instead on a group of palace insiders, many of whom were foreigners, were thus effectively stymied by the sejm of 1646.

Unfortunately for the future of parliamentary government in the Commonwealth, the compromise that was achieved under the sickly and relatively flexible Władysław IV was shortlived. His younger brother Jan Kazimierz and his French wife Louise Marie Gonzaga, who managed to retain her position as queen of Poland by marrying her dead husband’s brother, were not the compromising type.

163 Volumina legum. t. IV. p. 43
164 Władysław Czapliński describes the tensions between Władysław’s foreign advisors and several leading senators in his biography, Władysław IV i jego czasy, p. 300-1.
In 1648 the “golden peace” that the Commonwealth had enjoyed during the first half of the seventeenth century came to an abrupt end. In the spring of that year Bogdan Khmelnytsky (Chmielnicki), a disgruntled Ruthenian szlachcic who had recently been elected Cossack hetman, allied with the Tatars and led a massive Cossack uprising in the Commonwealth’s Ukrainian territories. Fueled by long-standing religious and economic grievances, Cossacks and Ukrainian peasants murdered and terrorized Polish szlachta, Catholic priests and Jews, and quickly took control of huge territories in the Commonwealth’s southeast. Powerful magnates with huge Ukrainian estates, like the wojewoda of Ruthenia and popular war hero Prince Jerema Wiśniowiecki, fought back and burned much of the countryside in unsuccessful attempts to put down the uprising.

In the midst of this crisis, Władysław IV died and the Commonwealth was plunged into an uncertain interregnum. The leading candidates for the throne were the former king’s

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165 The Cossacks emerged from the multi-ethnic mixture of peoples who settled the borderlands between the Commonwealth, Russia and Turkey in the later sixteenth and seventeenth centuries. They were generally Orthodox and many felt pressured by the Catholic Uniate Church, which was established in the territory in 1596. Tens of thousands of them served in the Commonwealth’s armies during wartime and enjoyed the benefits of being “registered” Cossacks. After the wars ended the size of these registers would be reduced and former soldiers would lose their privileges. As Polish settlement expanded in Ukraine many Cossacks were pressured by their new Polish landlords to accept the status of peasants. The combination of political, economic and religious discontent proved explosive and eventually led one Cossack faction to turn to the tsar for protection. For a brief introduction to the Cossacks during this period, see Andrzej Kamiński’s “Polish-Lithuanian Commonwealth and Its Citizens (Was the Commonwealth a Stepmother for Cossacks and Ruthenians?)” in Poland and Ukraine: Past and Present. ed. Peter Potichnyi. Edmonton: 1980. And “The Cossack Experiment in Szlachta Democracy: The Hadiacz Union.” Harvard Ukrainian Studies vol. 1 (1977) p. 178-97. For more detail see Frank Sysyn. Between Poland and Ukraine: The Dilemma of Adam Kisiel. Harvard UP: 1985.
younger half brothers, Jan Kazimierz and Karol Ferdinand. The Commonwealth had been sharply divided by the crisis in Ukraine and these divisions intensified during the brief interregnum and election. Prince Jerema, as Wiśniowiecki was known to his loyal soldiers, led the hawks, those who thought Ukraine could be pacified by force as had been the case during previous uprisings. This party supported Karol Ferdinand. Chancellor Ossoliński led the doves and negotiated directly with Khmelnytsky to pressure the election sejm to chose Jan Kazimierz.

With the help of Ossoliński and Khmelnytsky, Jan Kazimierz eventually won election in November of 1648. The powerful chancellor and the ambitious new king immediately set in motion a plan to concentrate political power at court. The king’s first step was to refuse to grant the hetman’s baton to Wiśniowiecki in retaliation for his support of Karol Ferdinand. This step agitated the opposition that also included powerful magnates like vice-chancellor Andrzej Leszczyński and Prince Janusz Radziwiłł as well as Price Jerema’s many supporters among the regular szlachta that composed much of the army at the time. The court’s ill-fated plan to negotiate a political settlement with the Cossacks further exacerbated tensions between the parties. Negotiations with Khmelnytsky, who became more powerful as his rebellion took the shape of a popular religious and ethnic liberation movement, blew up the following spring. Jan Kazmierz led a military campaign against the Cossack army in the spring and summer of 1649. This campaign

166 Zbigniew Wójcik remarks about Ossoliński in his biography of Jan Kazimierz, “one of the main goals of his policies was to strengthen royal power in Poland, and by this curtail the rather excessive golden freedom of the szlachta.” Jan Kazimierz Waza. Wrocław: 2004. p. 64.
167 Wójcik quotes a source in which the king says to Wiśniowiecki, “you served the Commonwealth, but you did not serve Us. You did not want to have Us as king and We do not want to have you as hetman. We will hold the baton for now and later give it to whomever We want.” p. 68.
ended in defeat and the humiliating Treaty of Zborów. The sejm that began in November 1649 was charged with confirming this treaty.

The atmosphere at the sejm was so tense that Ossoliński and the king called troops to the capital for their own protection. The opposition spread rumors that the king, who personally led the army after the two Crown hetmans, Mikołaj Potocki and Stanisław Kalinowski, had been captured by the Cossacks, was plotting to institute absolutum dominium with the help of Cossack and Tatar forces. The unpaid army was threatening to rebel and form a confederation and the king was reluctant to call out the general levy because of his great unpopularity among the szlachta. Eventually, in mid-December the king was forced to come to terms with the opposition. On December 23rd the king granted the baton to Wiśniowiecki. The Prince’s reassurances, along with huge sums raised by taxes and a loan secured by treasurer Bogusław Leszczyński, staved off rebellion in the army.

The truce with the Cossacks held until 1651. In the spring of that year hostilities flared up again. This time the military campaign went much better for the Commonwealth’s army and, despite disorganization and shortages at camp, it culminated in the victory of Beresteczko and Treaty of Biała Cerkiew (August 28, 1651).

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168 They were no doubt worried about the opposition as much as about the Cossacks. Kersten, Hieronym Radziejowski: Studyum władzy i opozycji. Warszawa: 1988. p. 206.
169 The king’s refusal to grant the batons was seen as an attempt to consolidate military power in his own hands. The Commonwealth, like all republics, refused to grant the king command of a standing army for fear that he would use this military might to take away their liberties.
The sejmiki that met in Opatów, Proszowice, Wiśnia and Środa in December of 1651 in advance of the first sejm of 1652 reflected citizens’ concerns that Jan Kazimierz had overstepped his prerogatives during the first two years of his reign. In many ways their instructions are reminiscent of those from 1639 in that they demand more oversight and control over the court’s activities and demand that the king not decide matters of state without them. However, the instructions for the sejm of 1652 include even more pointed criticisms of the king’s ministers and court appointees than had the instructions from 1639.

Citizens had good reason to focus their attentions on the king’s appointments at this particular moment. The king was making many more of them than usual. Fortune and the casualties of the Cossack war had given Jan Kazimierz the unusual opportunity to fill nearly half of the most important offices and dignities of the Crown in the first four years of his reign (1649-1652). The king did not miss this opportunity to build a loyal court party and appointed many homines novi and people likely to follow his lead. He also took the unprecedented step of asking even the most powerful members of the senatorial estate to sign secret agreements to resign their posts upon his request. These provocative actions, combined with Jan Kazimierz’s decision to lead the army personally alienated citizens at every level of society and raised the usual specter of a king bent on absolutum dominium.

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171 Stefan Ciara. Senatorowie i dygnitarze koronni w drugiej połowie XVII w. Wrocław: 1990. p. 20. Ciara bases his statistics on the 81 offices he counts as part of the senatorial-dignitary group (the castelan of Kraków, 27 wojewodowie, 28 greater castelans, five ministers and 20 court dignitaries). He reports that 47% of these offices turned over between 1649-1652.
The citizens from the leading województwa lodged numerous complaints about the court’s misappropriation of their tax money\(^{172}\) and criticized the king’s decision to conclude a truce with the Cossacks rather than fight to the end.\(^{173}\) Sandomierz citizens were particularly upset with commissioners who brokered the peace of Biała Cerkiew ultra mentem Rzeczypospolitej.\(^{174}\) However, the biggest rub between majestas et libertas, as usual, was the question of royal appointments, specifically the most powerful positions in the land, the hetmans. While the Ruthenian sejmik (Wiśniowiecki’s home sejmik) requested that hetmans’ batons be conferred “according to the laws and customs of the kingdom to a well deserving citizen of the republic,” the Sandomierz and Kraków sejmik both suggested that the office not be held for life and instead be conferred at each sejm. As Sandomierz observed, “great abuses and inconveniences arise connected with the high honor of the Crown [hetman’s] baton. Therefore, our delegates will stipulate that the Hetman of the Crown not be for life, but be approved by a konstytucja from sejm to sejm with the addition of an oath specific to this office.\(^{175}\) Kraków similarly recommended, “as we observe many examples of great harm [from the fact] that the baton of the Crown is legally conferred for life, therefore our delegates along with the estates of the Kingdom support with great insistence to His Royal Highness a law stipulating that it be conferred temporarily to noble people of tested virtue and ability.”\(^{176}\)

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\(^{172}\) As the Sandomierz sejmik put it, “the monies of the Republic squeezed from bloody tears of the people” were manipulated and squandered by the king’s ministers and those he had charged with raising troops for the Ukrainian campaign.

\(^{173}\) The Kraków sejmik demanded to know “why was the war concluded with treaties rather than sabers?” ASWK. t. 2. p. 421.

\(^{174}\) Oświecim, p. 382.

\(^{175}\) The four offices of hetman (Grand and Field Hetmand of both the Crown and Lithuania) had become life-long in the sixteenth century because of custom, not express law. Elite members of the senatorial estate traditionally held these offices.

\(^{176}\) ASWK t. 2 p. 419.
In light of the recent political showdown caused by the king’s refusal to grant the batons according to custom, the sejmiki’s demands to reduce the power of the office by making it temporary and to put its appointment in the hands of the sejm seem reasonable. However, they are actually quite provocative in that such reforms would have fundamentally shifted the balance of power in the Commonwealth. The appointment of supreme military commanders was the king’s prerogative, and powerful aristocratic families had become accustomed to consolidating their power and wealth as hetmans.¹⁷⁷ There was no way either the king or the senatorial estate would willingly give up (or even share) such a power with the House of Delegates.

In addition to making proposals about the hetmans, citizens from these sejmiki continued to push for more influence and oversight of the king’s government in the areas of royal appointments and the operations of his senate council. Each sejmik’s instructions begin with a reminder to the king to distribute all vacant offices and incompatibilita at the very beginning of the parliament (so that he could not bribe sejm delegates with the promise of vacant positions) as well as to read the records of recent proceedings of the Senate Council. Sandomierz immediately followed up this reminder with an exhortation to all officials to perform their duties responsibly or face punishment, “it is in the greatest interest of the republic to see to it that those in all offices, both senatorial and other offices, observe their appointments according to all legal prerogatives and responsibilities, and our delegates will identify those found to be wanting or neglecting

¹⁷⁷ In Lithuania these offices were virtually passed down from father to son. Janusz Radziwiłł was a third-generation hetman of Lithuania.
their offices and urge punishment for them.” They then criticize the treasurer, Bogusław Leszczyński, directly for “unnecessary extraordinary expenditures” as well as for the devaluation of the zloty. The treasurer is hardly the only royal minister to receive censure. The Sandomierzanie tacitly criticize the chancellor for giving away ennoblements (another popular way to win supporters for the king). The Krakowianie remind the Senate Council that they are not allowed to spend the Commonwealth’s money without the sejm’s approval and that a law from 1649 explicitly forbids this. The Ruski sejmik criticizes the king’s court marshal for overreaching his prerogatives by trying members of the szlachta in his court and annulling verdicts handed down by the szlachta’s Tribunal.

Citizens also sought to influence the king’s future appointments—ministerial and otherwise. In addition to urging the king to choose well-qualified hetmans, the Ruski sejmik urged the king to grant all vacancies to well-deserving citizens from the territory where the office was located. This restriction would have obviously limited the king’s ability to grant offices for political or financial reasons. It also evinces a concern that regional officers be locals, likely to be more willing and able to carry out the responsibilities of the office than an outsider who simply bought it for its accompanying income. Sandomierz and Wielkopolska explicitly demand that the king grant offices only to those who are well deserving and capable—and not sell them for his own benefit. The Kraków instructions read, “All offices, all fases honors, and also starostwa are for the

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178 Oświęcim, p. 383-4. Bogusław Leszczyński had the reputation of being particularly corrupt. A contemporary joked that he would be unable to die until he settled up with God.
179 Sandomierz also criticizes the practice of granting pardons, but does not mention the Court Marshal or his court explicitly. Oświęcim, p. 383.
180 AGiZ. t. XXI. p. 92.
well deserving, not for the greatest amount of compensation, so they should not be sold, for that does not satisfy the *pacta conventa*. And if someone buys one, that office should be considered vacant."\(^{181}\) The Wielkopolenie instructed the king to distribute vacant offices within two weeks and “that it be guaranteed by law that honors, dignities or grants be given for free, not for honoraria out of special favor from the His Royal Majesty.”\(^{182}\)

Underlying all these specific complaints and admonitions one can sense the szlachta’s fundamental concern that the king has exceeded his authority—mostly by exploiting his power to grant (or withhold) royal lands and offices. This conviction is most clearly expressed by the instructions of the Ruski sejmik, which suggest that the king does not understand his proper role in the Commonwealth’s constitution. They remind him that he was elected freely by a free people and that he should not treat the nobility harshly (*acerbius*). They encourage mutual trust and respect, asking the king “that he remember that we put him on the throne by free vote, not by extortion (*extorto*), that standing willingly by his royal majesty’s side, watering the Martian plains with the blood of our brothers, we never gave [him] any reason for displeasure (*nielaski*), [we ask] then that his royal majesty behave benevolently with his loyal subjects.”\(^{183}\)

Despite such appeals for trust and harmony, it is clear that the sejmiki still fear the king and his ministers will try to force the passage of legislation contrary to their wishes at the end of the sejm. The Sandomierz sejmik tells its delegates not to allow nighttime sessions as they “are always harmful to honorable and common sense” and “bring offense and

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181 Oświęcim, p. 386-7.
182 Quoted in Czapliński’s *Dwa Sejmy*. p. 59.
183 AGiZ, t. XXI. P. 89.
danger to the estates of the Crown.” The Kraków sejmik concludes its instructions with the admonition not to allow any nighttime conclusions or prolongations of the sejm, and also not to allow “anything upstairs [i.e. in the Senate] that has not been decided unanimi consensu in the House of Delegates.” The Ruthenians explicitly reject the practice of passing laws at the very last minute while in joint session with the Senate, and like the other sejmiki, insist that all laws be passed unanimously.

“A very injurious to the Republic fato has crept in, that having decided absolutely nothing at several parliaments, the delegates went upstairs and only there began new parliaments. Our delegates will insist that this be avoided so that it does not bring such in conventia to the state of the republic, so that which is not passed by unanimous agreement (powszechna zgoda) in the House of Delegates not be discussed upstairs.”

Their insistence on unanimity clearly springs from their desire to prevent the king and senators from taking away their legislative prerogative. They make this point explicitly. They say that by excluding the szlachta from public deliberations, the king and senators were trying to change the very constitution of the Commonwealth.

As ancient laws describe the equestrian order as the most powerful part of the kingdom, they also want the equestrian order to be part of all joint consultations and deliberations. Therefore our delegates will demand that no convocation or public council will occur without the third estate, as though introducing a new form of republic.

184 Oświęcin. p. 385.
185 ASWK, t. II. p. 427
186 AGiZ. t. XXI. p. 93.
187 Ibid. p. 93.
For these citizens, shared sovereignty, and thus shared participation in “all joint consultations and deliberations,” defined their constitution. A powerful king who failed to respect the traditional balance of powers in the Commonwealth and built his own independent court party threatened to exclude the third estate from these deliberations. As far as they were concerned, this sort of behavior represented an attack on the fundamentals of their republic.

No Compromise: The Winter Sejm of 1652

From their instructions we know that deputies arrived at the parliament in January 1652 already upset with Jan Kazimierz’s government and ready to defend their prerogatives. Once in Warsaw they encountered the scandal of their day: shortly before the opening of the sejm, Jan Kazimierz had tried his new vice-chancellor Hieronim Radziejowski for laesae majestatis in the court marshal’s court, found him guilty and sentenced him to death, infamy and confiscation of property. The vice-chancellor had risen to great

188 The story of how Radziejowski fell from the king’s graces is complicated and involves both personal and political motivations. In brief, the king and queen wanted to fill ministerial posts with individuals who would be beholden to them and willing to execute their policies. Radziejowski was ideally suited for this task and was rewarded with both the vice chancellorship and the hand of the rich widow Elżbieta Słuszczanka in 1650. Słuszczanka had apparently caught the king’s eye and the two of them had worked out some sort of “arrangement“ (as Radziejowski put it) with their spouses. In June of 1651 while at camp with Jan Kazimierz in Ukraine, Radziejowski wrote a letter to the queen in which he complained of both the king’s ineptitude and Elżbieta’s behavior. The king’s secretaries intercepted the letter. The king was outraged and refused to lay eyes on Radziejowski from that moment on, which seriously hampered the functioning of the vice-chancellery. Their argument only intensified over the fall. Elżbieta filed for divorce and threw Radziejowski out of her palace in Warsaw (which neighbored the royal palace). In early January her brother Bogusław Słuszka, court treasurer of Lithuania, who had recently been indicted for embezzlement by the Lithuanian Commission chaired by Janusz Radziwiłł, attacked Radziejowski’s entourage as it was moving out of a neighboring palace. Several days later Radziejowski’s men retaliated and threw Słuszka’s entourage out of Elżbieta’s palace. The palace guards showed up and Radziejowski and Słuszka were brought before the
power and wealth very quickly as a result of the king’s favor. Since being named vice-
chancellor at the end of 1650, he had played an important role in the king’s plans to create a ruling coterie of officials responsible to him alone.\textsuperscript{189} The king’s unprecedented and obviously political attack on a minister was widely viewed as a not so subtle attempt to cow anyone who might oppose him in the future.\textsuperscript{190}

The king’s treatment of Radziejowski was literally unprecedented. As Lithuanian chancellor A.S. Radziwiłł observed, “it surprised everyone, for never in the Commonwealth had it been heard that someone like Radziejowski would be removed from such an office.”\textsuperscript{191} Although Radziejowski was not mentioned in the \textit{sejm} until nine days into the parliament, everyone was keenly aware of Jan Kazimierz’s lightning fast execution of the politically motivated judgment against him. The king must have realized that the verdict against the vice-chancellor issued by the marshal’s court was of questionable legitimacy, because on January 31st he ordered Radziejowski to appear before the \textit{sejm} court on the same charges. Five days later, before the \textit{sejm} court had even heard the case and while Radziejowski was busy appealing to the Tribunal, the king gave Marshal’s court the next day. Because all this occurred in the shadow of the royal palace, their crime of firing weapons and disturbing the peace in the king’s presence was considered \textit{laesae maiestatis} and tried by the Court Marshal, who was responsible for law and order in the capital. While Radziejowski received a sentence of death and loss of property, Słuszka was sentenced to a year and six weeks in jail. The king promptly pardoned Słuszka. See Kersten’s \textit{Hieronymi Radziejowski: Studium władzy i opozycji}. Warszawa: 1988.

\textsuperscript{189} Adam Kersten describes the king’s manipulation of the appointment process, most notably his introduction of secret oaths in which he insisted new appointees promise to step down at his request. \textit{Hieronim Radziejowski}, p. 226-7.

\textsuperscript{190} A minister of state had never been convicted by the marshal’s court. \textit{Laese majesty} cases were extremely rare; the last one had been held in 1587. “This sentence was also meant to be a kind of warning to other magnates, who wanted to oppose the will of the king. The Marshal’s court was used in this case because no other tribunal would have passed such a quick and categorical condemnation of the minister who was, when all was said and done, rather popular among the szlachta.” Czapliński. \textit{Dwa sejmy z roku 1652}, p. 69.

\textsuperscript{191} A.S. Radziwiłł, p. 326.
away Radziejowski’s office. As Adam Kersten points out in his monograph Hieronim Radziejowski: Studyum Władzy i Opozycji (Hieronim Radziejowski: A Study in Power and Opposition), the king’s summary dismissal of one of the highest officials in the land was simply unimaginable to Radziejowski—and to the szlachta as a whole.

At first, the opposition made little of Jan Kazimierz’s treatment of Radziejowski. In his opening oration the elected marshal of the House, Andrzej Maksymilian Fredro, called for mutual trust and reminded Jan Kazimierz that kings maintained their power in the Commonwealth by not fearing their subjects and not surrounding themselves with guards. On February 7th, though, delegate Marcin Dębicki from Sandomierz opened for the opposition with complaints that the court was selling the Commonwealth’s offices. He also demanded that the king reinstate Radziejowski.

The opposition’s demands had little effect on the king. When Radziejowski’s friend and delegate from Sieradź, Stefan Zamoyski attempted to protest the king’s granting of Radziejowski’s office to someone else, he was silenced by the court marshal.

According to Radziwiłł, “He was told that the king may allow the delegates to assist in

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192 The king was unable to bestow the chancellor’s seal upon the new vice-chancellor because Radziejowski refused to surrender it.
193 “…the belief about the inviolability of laws, freedoms and rights, guaranteed by statutes, konstytucje and pacta conventa so was deeply rooted in the mentality of szlachta society that as one of the highest officials of the Commonwealth, he felt secure. He believed that not even the king could so obviously transgress the boundaries outlined by the long-standing system of szlachta democracy. He was not a courtier, but a minister…in a state where not the king but law ruled.” Kersten p. 265.
194 The king had surrounded himself and the parliament with guards, causing great consternation on the part of the delegates. Czapliński observes, this “must have convinced the szlachta arriving for the sejm that the king was not only aiming at increasing his power, but planed to realize these plans with force.” p. 69.
195 This was Łukasz Opaliński, author of Conversation between a Priest and Nobleman, who had been appointed in 1650.
the distributing of other royal benefices, but now they were not allowed to importunate [naprzykszać się] with their voice.” At this point, the king’s unwillingness to tolerate any criticism of this actions against Radziejowski—even though they were both illegal and unprecedented—became clear.

After a recess for Mardi Gras and Ash Wednesday, the opposition decided to press Radziejowski’s case. Just as they were getting close to the heart of the matter (i.e. the king’s manipulation of the courts for his own political ends), the Prussian delegates interrupted and insisted their issues be discussed immediately. Having been outmaneuvered by the court party, the opposition tried a new tactic the next day. Rather than argue that the king had unjustly punished Radziejowski, they argued that he unjustly pardoned Radziejowski’s brother-in-law Bogusław Słuszka. Again, just as the opposition began to close in on the issue of the king’s annulment of verdicts passed by Tribunal, they were thwarted. Unbelievably, Słuszka himself appeared in the House and attempted to take his seat as a delegate. Dębicki protested, “our rights are being assaulted,” and stormed out of the chamber, followed by many others. Słuszka was carried out in the general exodus. Many thought the sejm was over then and there, but there was no precedent for ending a parliament before the six-week term had expired. Delegates returned the following Monday.

For the next three weeks the opposition tried various tactics to force the king to relent and consider at least some of their grievances. Jan Kazimierz, however, showed no signs of compromise. Just the opposite, he seemed bent on provoking the opposition to a

showdown. The opposition, which included many of the same deputies who had forced Władysław to compromise in 1646, played its hand as it had in the past. It ratcheted up the volume of its protests and threatened to walk out of the sejm. When the House heard that the king had overruled the original verdict against Słuszka, which was issued by the Wilno Commission and confirmed by the last sejm, there was general outrage. A.S. Radziwiłł writes that the delegates were, “outraged, some leaped from their seats with protests, others called for going to the king immediately to ask on what grounds can these verdicts overturn the dignity (powaga) of the sejm?” Delegates demanded that Słuszka’s offices be distributed immediately as Radziejowski’s were. When one of the king’s delegates opposed this motion, delegates from Mazuria stormed out in protest, claiming that their freedoms were being assaulted.

Insight into exactly what freedoms the Mazurians were talking about can be found in A.S. Radziwiłł’s record of the next day’s events. The delegates returned to discuss the king’s right to grant pardons and to overturn convictions issued by other courts. Various opinions were offered, and eventually Dębicki proposed a new law “that lawsuits not be brought to the sejm for the oppression of freedom of speech.” Wolny głos, understood as the right to speak freely, would obviously be threatened if politically motivated verdicts and pardons became the norm. Still, other delegates insisted that granting clemency was the king’s right. When no conclusion could be reached about how to proceed, they proposed a colloquium with Senate. As they had in 1646, delegates asked that the king not attend.

Czapliński and Kersten both note the similarities between the dynamics of the two parliaments of 1646 and 1652.
Unlike his brother six years earlier, Jan Kazimierz insisted on being present at this colloquium. In preparation for this discussion, the opposition drafted 12 points that outlined their grievances. From this list we can see that the Radziejowski case had been incorporated into their overall concern that the king had seriously upset the balance of powers in the Commonwealth. Their complaints against the king were directed at the ministers who had neglected their responsibility as “custodes legum.” Their first three points referred to the unjust legal precedent raised by the Radziejowski case. Their fourth point raised the age-old complaint that in their absence, the king and senators were governing the Commonwealth according to their own private interests without the consent of the third estate and even contrary to their expressed will. This practice is said to damage both the szlachta’s private affairs and their liberty.

Not only do the szlachta’s points criticize the senators’ failure to restrain the king, they criticize the mediating order (medius ordo) for their own failings, asserting that senators’ venality and jealous ambition have poisoned the republic. The next five points attack the senators’ corrupt and venal behavior: promoting themselves and their clients for offices that should be granted instead on the basis of virtue and service to the Commonwealth; allowing harmful novelties at court such as armed guards; spending the Commonwealth’s tax money while unpaid soldiers pillage the countryside. By neglecting

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198 In colloquio z pp. senatorami expostulanda is included in Kubala’s appendices. Szkice historyczne, p. 304-5. Czapliński calls this copy “damanged and incomplete” and cites a more percise text found in Wrocław’s University Library, Steinwehr III, p. 1002-3. There were no doubt various versions of this list. Despite the lacuna in Kubala’s version, which are found mostly towards the end of the text, the main sources of the opposition’s discontent are quite apparent. 199 Ibid. p. 1002. 200 „iż dworu omnia venalia w Rzpltej czynią same suo exemplo...” Kubala, p. 304.
their duties as mediators and guardians of the law and instructing their clients to do their private bidding, they cause multa inconvenientia to the Commonwealth. In this document we see characteristic emphasis on the central role virtue was to play in maintaining balance and harmony among the estates. Right along with objecting to specific exorbitancje, the authors exhort the senators (and king) to place the common good before their own.

Despite all their impassioned and principled pleas, four trips to the Senate, and several threats to break the parliament, the szlachta received no sign that the king was willing to compromise. The opposition must have found it impossible to believe that the king would let the parliament break up without ratifying the peace of Biała Cerkiew with the Cossacks or passing taxes for the unpaid and grumbling army, but he seemed prepared to do just that.\textsuperscript{201} In the final days of the parliament during the colloquium with the king and senators, an exasperated Stefan Zamoyski attacked the king personally, culminating with the memorable declaration, “Among us law reigns, not a king!” [\textit{u nas regnat lex, non rex!}]\textsuperscript{202} The king made a production of being offended, eventually forcing Zamoyski to apologize and withdraw his comment. Zamoyski had stated what had long been considered a political truism in the Commonwealth; Jan Kazimierz made it known such sentiments would not be tolerated in his presence.\textsuperscript{203}

\textsuperscript{201} Jan Kazimierz first delayed the colloquium several days and then filled the following days with discussions about foreign affairs (i.e. reports from the Lithuanian hetman and delegates from the Cossacks.)
\textsuperscript{202} Several diaries of the winter sejm of 1652 make reference to this moment, which must have been quite memorable, but do not all cite exactly these words.
\textsuperscript{203} “He demonstrated that now and in the future, regardless of what was written in the statutes, konstytucje and Pacta Conventa, no one would publicly criticize the king.” Kersten, p. 307.
After the Zamoyski incident, it seemed certain that this parliament would end much like the Sejm of 1639—in deadlock. Marshal Fredro managed to convince the House to vote a one-day extension to consider the Treaty of Biała Cerkiew and tax legislation. But the next day delegates arrived in the Senate late and refused to consider new taxes. Everyone sat there until the chamber grew dark. Finally, the chancellor proposed prolonging the sejm for one more day. Amidst the discussion about whether to allow an extension, an undistinguished delegate from Lithuania protested the chancellor’s motion and left the House. A lengthy discussion about whether or not to accept this protest ensued. The delegates’ indecision suggests that Władysław Siciński’s veto surprised many and had not been orchestrated by the opposition led by Dębicki and Zamoyski.204

Most commentators after the fact attributed the veto to Siciński’s patron, Prince Janusz Radziwiłł, but it hardly matters who ultimately inspired for Siciński’s act.205 Almost no one was motivated to see the parliament conclude. In the wee hours of the morning, the king demanded that the delegates make a decision about extending the session or he would begin the closing ceremonies himself.206 Finally, Marshal Fredro convinced the

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204 A.S. Radziwiłł reports, “Meanwhile many various desires were raised, some wanted to prolong the sejm, others wanted to bid the king farewell immediately. And then a delegate from Upita, Siciński, secretly disappeared from the senate, bearing a protest about the invalidity of the sejm. Hence the question, can the sejm be broken by one delegate issuing a protest? There were reasons for and against, and then they dispersed ordering that Siciński be brought back on Monday.” p. 342.

205 Over the eighteenth and nineteenth centuries the legend of Siciński’s veto grew. The Encyklopedia staropolska shows a picture of a mummified corpse, supposedly Siciński’s, that long hung in his parish church in Upita. The story went that due to his ignominious act, he was struck by lightning and the earth refused to take his body. Brukner. Encyklopedia staropolska. Warszaw: 1937. p. 770-73. The truth is much less sensational. Siciński progressed up the ranks of local government to become cześniik and eventually podsecdeł of Upita. He was elected to parliament again in 1659, signed the Polish-Swedish peace treaty of 1660 and in 1661 became podstarosta of Upita. He died sometime before 1674. Kriegseisen. Sejm, p. 56.

206 Kersten, p. 309.
delegates to return on Monday with the hope that Siciński could be found and induced to rescind his veto. On Monday Siciński was nowhere to be found. The few delegates who had stayed in Warsaw headed home. The Senate Council confirmed the verdict against Radziejowski the next day.

In the end, the negotiation between the king and republican-minded szlachta ended just as Łukasz Opaliński’s dialogue between the priest and the nobleman had—in deadlock. There could be no common ground between a king willing to manipulate the legal system in order to cow the opposition and citizens who wanted to enforce the laws that protected their ability to participate in governing the Commonwealth—that is, to protect their free speech. Since no one considered altering the mixed constitution of the Commonwealth, the king’s only hope for increasing his powers was to make appointments and pass judgments that promoted his interests. In response to the king’s provocative behavior, republican-minded szlachta could only complain, suggest minor procedural changes and, of course, demand more civic virtue from all involved.

Adam Kersten has written that Jan Kazimierz and Ludwika Maria were not intent on introducing absolutist reforms at the time of the Radziejowski affair and instead wanted to execute their own policies “without the constant pressure of certain groups of magnates and the groups of szlachta masses which were manipulated by them.” From our reading of sejmiki instructions from the leading województwa, we know that the szlachta

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207 The king’s victory (the condemnation of Radziejowski) was short-lived. Radziejowski soon fled to Sweden, joined the service of Jan Kazimierz’s cousin Karl Gustav and accompanied him during his invasion of the Commonwealth three years later. Despite his service to Sweden during the Deluge, Radziejowski eventually won exoneration. In 1662 he regained his position and properties in the Commonwealth.
was not merely the pawn of self-interested magnates. Although the interests of republican citizens and powerful magnates aligned at the parliaments of 1639 and 1652, they were not the same. In 1639 sejmiki reasserted prerogatives originally granted by the Henrician Articles in order to stymie Władysław’s attempts to exclude the third estate from deciding important matters affecting the Commonwealth. Stubborn parliamentary opposition at the end of the 1630s led to significant legislation in the 1640s that limited the king’s powers and guaranteed those of the szlachta. In 1652 szlachta opposition tried again to check a king who had exceeded his prerogatives. Jan Kazimierz’s and Ludwika Maria’s plan to create a coterie of loyal senators and the king’s persecution of Hieronim Radziejowski were clearly designed to increase the powers of the court and intimidate the opposition. This abuse of royal power understandably provoked citizens, who had for the previous generation or more been successfully pressing their agenda to be equal co-rulers of the republic.

Both parliaments dissolved due to irreconcilable arguments about the balance of power between the king and szlachta. In both cases one delegate’s objection to extending the parliament was accepted by the overwhelming majority of delegates who could not see the point of continuing.²⁰⁸ The primary differences between 1639 and 1652 were rising

²⁰⁸ Kriegseisen points out that the chain of events at the first sejm of 1652 was rather typical of the time. “In the second half of the seventeenth century, situations often arose in which the game of parties’ interests meant that the problem was not how to get the parliament to conclude, but how to break it conveniently.” Sejm rzeczypospolitej szlacheckiej, 57. The second sejm of 1652 concluded despite attempts by those who had lost properties to the Cossacks to blackmail the parliament into granting them all the vacant offices at the time. Czapliński quotes Piotr Ożga, the leading delegate from Ruthenia and podkomorzy ruski, “the whole Republic should not perish for the private interest of these gentlemen…and while I know that here publica consilia must be decided nemine contradicente, still these gentlemen treat us so that we may have to separate these
antagonism between the two sides and the court’s increasingly aggressive manipulation of the parliament. Whereas Władysław IV mostly observed the parliament’s deliberations and waited for the delegates to arrive in the senate with their proposed legislation, Jan Kazimierz actively manipulated the parliament by directing loyal delegates to block and obstruct opposition motions, allowing Słuszka to appear in the House, and delaying and then monopolizing the colloquium with the senators. While Władysław IV had been willing to compromise with the szlachta to work out a deal to pay off his debts and those owed the army in the 1640s, Jan Kazimierz refused to give an inch at the winter Sejm of 1652 and contributed to its dissolution. Two years later, the king actually inspired the liberum veto that ended the parliament of 1654. After the Swedish Deluge (1655-60) Jan Kazimierz and Ludwika Maria took their plans to strengthen monarchical power in the Commonwealth to a new level and attempted to force fundamental constitutional reform upon the unwilling citizens. This attempted coup d’état was what eventually caused the delegates’ traditional ius vetandi to evolve into the liberum veto.

members whose voice is negated, in order to save the whole body. Let these gentlemen take their protest outside and at the next God-willing sejm remind us about it…” Dwa sejmy. p. 172.
Chapter Two

Reform and the Liberum Veto:

From Three Estates to Two Factions (1658-1662)

If, therefore, someone criticizes the principle of unanimity and the freedom to veto, it is not because he wants to introduce the principle of majority rule, but because he wants to destroy liberty and the power of the sejm.209

Andrzej Maksymilian Fredro, 1660.

During the 1660s debates about political reform consumed the Commonwealth. In the wake of the Deluge many experienced parliamentarians suggested a variety of procedural reforms designed to make the sejm more efficient and orderly. At the same time another group organized by the king and queen sought to change the way kings were elected in the Commonwealth. This camp advanced a plan for an election vivente rege (in the king’s lifetime) and tried repeatedly to circumvent citizens’ traditional right to free royal elections in order to place a French prince on the Polish throne. In the midst of these heated reform debates, a leading statesman from Red Ruthenia named Andrzej Maksymilian Fredro (c. 1620-1679) published a brief but unequivocal defense of the liberum veto. His essay would be the only text ever published in the Commonwealth to make explicitly the case for the necessity of the liberum veto.210

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210 Grześkowiak-Krwawicz writes, it was “actually the only text dedicated not only to the defense, but to the presentation of the ideological foundations and meaning of the liberum veto for the functioning of the Commonwealth’s constitution.” “Veto-wolność” p. 142.
Fredro’s argument is simple: without the *liberum veto* the virtuous few would be unable to prevent the king from buying a ruling majority in parliament and taking away the *szlachta*’s freedom to share in the governing of the Commonwealth. Without the *liberum veto*, political power in the Commonwealth “could easily pass into the hands of a single ruler”—a disaster for citizens who believed that their mixed republic was the only constitution able to guarantee stability and political liberty. In his essay in defense of the veto, Fredro presents the *szlachta*’s right to veto like a “fortress,” because of which “it is possible to fight against excessively burdensome decrees or harmful novelties.”  

After the tumultuous 1660s, when the *szlachta* used its *liberum veto* to defeat repeated attempts by the king and queen, French agents and corrupt courtiers to carry out an autocratic coup, this reasoning must have seemed rather obvious. As Fredro and many likeminded citizens saw it, broken parliaments caused by the *liberum veto* were disasterous failures, but far preferable to the ultimate disaster of *absolutum dominium*.  

*The Meaning of Reform: Court vs. Szlachta*  

After two parliaments in 1652 and 1654 were broken by the protests of individual deputies, the *szlachta*’s long-running struggle with the king for more oversight and control of key government functions was interrupted by an almost unimaginable series of foreign invasions, collectively called The Deluge (*Potop*). In the summer of 1654 tsar

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212 Zbigniew Ogonowski explains Fredro’s rationale thusly, “He saw the veto as the only guarantee against the spreading illness of absolutism, particularly against the cancer of corruption, which began to spread among the political elite of the country, [only] the veto was able to protect the constitution of the republic from a coup by the court. “*Nad pisami A.M. Fredro o obronie liberum veto.*” *Filozofia polityczna w Polsce XVII wieku i tradycje demokracji europejskiej.* Warszawa: 1992, p. 54.
Aleksei Mikhailovich, who had extended his protection to the rebellious Cossacks, invaded from the east, burned Wilno and occupied much of Lithuania. A year later Jan Kazimierz’s Swedish cousin Charles X Gustav invaded from the northwest. He quickly won the allegiance of many citizens, notably in Wielkopolska and Lithuania, who had been alienated by Jan Kazimierz’s autocratic behavior during the previous six years. The king and queen fled to Silesia with a few loyal senators, and for a more than a year, from late 1655 through 1656, foreign troops occupied most of the Commonwealth. The penniless, exiled king had only his crown to bargain with. In late 1656 he offered it to the tsar in exchange for peace. Shortly thereafter he offered the Habsburg Emperor succession to the Polish throne in exchange for military assistance. These diplomatic maneuvers, combined with popular resentment of the harsh Swedish occupation and the tireless efforts of troops led by Grand Marshal Jerzy Lubomirski, allowed Polish forces to drive most foreign troops from their territory by the end of 1657. The king returned to the Commonwealth and offered amnesty to citizens who would renew their loyalty to him. By the time Jan Kazimierz called the parliament for June 1658 (the first in just over three years) most believed that the miraculous salvation of the Commonwealth could only be explained by divine providence.²¹³

Different groups drew different conclusions from the events of the Deluge. Many among the szlachta saw the Commonwealth’s ability to withstand such an onslaught virtually

²¹³ For a general overview of the Deluge see Konopczyński’s Dzieje polski nowożytny (1996) or for more detail see Ludwik Kubala’s Wojna szwedzka 1655-6 (1914) and Wojny duńskie i pokój oliwski 1657-1660 (1922). For more recent interpretation of these events see Adam Kersten’s biography Hieronim Radziejowski: studium władzy i opozycji (1988), Zbigniew Wójcik’s biography Jan Kazimierz Waza (1997). Robert Frost’s After the Deluge provides an excellent overview of the period in English.
unscathed as a sign of divine approbation and confirmation of the rightness of their
constitution and way of life.\textsuperscript{214} Others, particularly those at court, saw the initial
disintegration of Poland-Lithuania in the face of foreign invasion as a sure sign that the
republic needed fundamental reform.\textsuperscript{215} As they had before, citizens passed a konstytucja
seeking a new “modus concludendum consiliorum” at the sejm of 1659. A committee of
senators and szlachta met in 1660 to discuss a variety of proposals, but no specific plan
emerged. After the committee failed to submit a plan to the sejmiki for comment as the
1659 legislation directed, the Kraków sejmik instructed their delegates to inquire about
the plan in February 1661.\textsuperscript{216} The issue of concluding parliaments was raised at the sejm
of 1661, where delegates instituted a formal set of procedures to bring more order to its
deliberations. However, at the critical moment when specific proposals were to be
considered, the court distracted delegates with an entirely different sort of “reform”
agenda.

\textsuperscript{214} The devastation of the Deluge was staggering. Population losses from 1650-1660 have been
estimated as high as one-quarter across the Commonwealth. The demand for grain fell by 50%.
Stanisław Płaża. \textit{Rokosz Lubomirskiego}. Kraków: 1994. p. 31. In addition to the material and
social devastation, the Commonwealth lost East Prussia as a vassal when the Elector of
Brandenburg won sovereignty over the territory in the Peace of Oliva (1660) and it lost much of
the Inflanty (more or less present-day Latvia) to Sweden. This, however, seemed quite minor
given the disastrous beginning of the war. Ogonowski reminds us that a kind of curious
schizophrenia characterized Poles’ self-image in the seventeenth century. Along with the oft-
repeated claim that there was something gravely wrong with the Commonwealth (a view repeated
so often and so floridly as to lose effect), many citizens also professed an almost megalomaniacal
belief that the Commonwealth was uniquely blessed among all nations because of the freedoms
enjoyed by its people. The Commonwealth’s experiences during the Deluge confirmed both
points of view. Zbigniew Ogonowski. \textit{“Nad pisami A.M. Fredry w obronie liberumveto.”} p. 36.
\textsuperscript{215} In his \textit{After the Deluge: Poland-Lithuania and the Second Northern War}, Robert I. Frost cites
the conventional wisdom that “a vital psychological shift took place” during this period, and that
political elites were “shocked out of their complacency” and convinced that “reform was
\textsuperscript{216} \textit{Volumina legum}. vol. IV. p. 282. ASWK vol. III. p. 18.
Of course, there had been talk of reform for decades, particularly reform of the parliament’s perpetually divisive and protracted conclusions. We have several interesting proposals by republican authors of this time, which suggest a variety of reforms designed to improve the functioning of their republic. These authors fit into a long tradition of republican reformers including Łukasz Opaliński. They typically call for harmony (zgoda) among the estates and more civic virtue, as well as minor procedural reforms to encourage punctuality and order at the sejm. Polish historians have tended to dismiss or belittle these republican reform proposals because of their own narrow definition of reform.\textsuperscript{217} Traditionally, they have associated reform only with radical proposals aimed at creating a more centralized state. Several such plans to consolidate political power with the king and his government originated at Jan Kazimierz’s court in the late 1650s. These reforms sought not only to limit or abolish the liberum veto, but to revolutionize the way parliament made decisions by replacing the consensus-based system of the Commonwealth with majority rule. While republican reformers discussed limiting the liberum veto, none imagined “reform” to mean doing away with the system of consensus that served as the foundation for the constitution of their mixed republic.

In part, the campaign for parliamentary reform withered on the vine due to the genuinely irreconcilable nature of reformist ideas advanced by the szlachta and those advanced by the court.\textsuperscript{218} The szlachta was willing to consider reform so long as reform meant


\textsuperscript{218} Stefania Ochmann-Staniszewska, the leading expert on parliaments during Jan Kazimierz’s reign, writes, “The reason why no concrete plan for a parliamentary reform was put forward and adopted at the convention of 1660 was on the whole, the same as in previous years. Both the king
procedural changes that would have made the sejm, particularly the House of Delegates, more orderly and more capable of expressing their concerns and defending their freedoms. The court, on the other hand, wanted to introduce majority rule as way to increase the powers of the king and his ministers and to transform the House of Delegates into a body that would efficiently approve court policies and necessary taxes. In this chapter we will examine several reform proposals from each camp to highlight the differences between their authors’ fundamental assumptions about the parliament’s proper role in the Commonwealth’s constitution and about what sort of reforms were necessary. This comparison shows that, contrary to the usual historiography, the szlachta did not reject all reform efforts out of hand due to an irrational attachment to their traditional liberties. In fact, after the Deluge the szlachta suggested a variety of reforms intended to make the government more efficient and only rejected those “reforms” that would have undermined their position in the republic.

Before a thorough discussion of these different visions of reform could be had, though, the court launched another campaign that quickly overshadowed all realistic proposals for parliamentary or constitutional reform. This second campaign, curiously called the campaign for election “reform” in the historiography, was an effort to overthrow (or at least suspend) the most fundamental law of the Commonwealth, that of the free election.219 Inspired by the childless queen’s plan to put her niece and an eligible French

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219 Władysław Czapliński and his student Ochmann-Staniszewska fail to draw a sharp distinction between the campaign to reform the Commonwealth by modifying the rules of parliament and the relations among the estates, and the campaign for election vivente rege, which aimed not to
prince on the Polish throne, this campaign for election *vivente rege* sought to deprive citizens of their right to elect the next king freely by orchestrating the early election of Jan Kazimierz’s successor. By 1660, the court had a specific French prince chosen and hundreds of thousands of *livres* from France with which to advance his candidacy. The court’s purported rationale for holding the election in Jan Kazimierz’s lifetime was to avoid the dangers of an uncertain interregnum. Ironically, the campaign for an election *vivente rege* led to a divisive battle between foreign-backed factions that turned out to be far more destructive than even the longest and most tumultuous interregnum. Although the court’s campaign for an election *vivente rege* eventually failed, it transformed the political landscape in the Commonwealth irreparably.

It is only within the context of this incredibly divisive period that Fredro’s defense of the liberum veto can be properly understood. Like most senators, he had considered the court’s plan to elect a king in Jan Kazimierz’s lifetime during the dark days of the Deluge when there seemed no better alternative. By 1660, though, he and many others had begun to doubt the necessity of such a radical change. At this time Fredro wrote *A Discourse* reform the republic, but to replace it with a hereditary monarchy. The campaign for election *vivente rege* was more an attempted autocratic coup than a reform effort. See Czapliński: *Sejm Rzeczypospolitej epoki oligarchii, O Polsce siedemnasieciecznej*. „Próby reform państwa w czasie najazdu szwedzkiego“ in *Polska w okresie drugiej wojny północnej 1655-60*. (Warszawa, 1957). See Ochmann-Staniszewska *Sejmy lat 1661-1662: Przegrana batalia o reformie Rzeczypospolitej*. (Wrocław, 1977).


221 While the idea of suspending the free election disturbed many citizens, there was support for the idea of trading Jan Kazimierz for another king. It had seemed a real possibility during the Deluge and eventually, citizens did rid themselves of him. Jan Kazimierz abdicated in 1668.

222 Since the Henrician Articles had established the right of the free election as the first and fundamental law of the Commonwealth in 1573, several kings had made attempts to designate their successors, but never succeeded. Fredro reminds his readers that the law was reconfirmed in 1576, 1587, 1588, 1593, 1607 and 1631.
on the Naming of a King for the Kingdom of Poland during the lifetime of his Majesty in which he outlined 12 reasons why an immediate election was both unnecessary and potentially dangerous. In addition to predicting a contentious and divisive election campaign, he argued that a king elected in the lifetime of the reigning monarch would attribute his throne to the royal court and not to free election by the people (eligenti populo). He cited the Czechs’ and Hungarians’ loss of freedom to the Habsburgs as a cautionary tale. The sum of Fredro’s arguments, though, is that the right to a free election is the “pupilla libertatum,” the freedom that contains all other freedoms within it, “omnes in se complectit libertates.” If citizens were not free to choose their own king, they would cease to be free. Any change at all to this right would put all others at risk.

Fredro’s understanding of the traditional liberties of the Commonwealth as an interconnected and inviolable whole helps explain his unequivocal defense of the liberum veto. Earlier than most, Fredro saw that the court’s efforts to institute majority rule at parliament had a similar aim to their efforts to elect a king vivente rege: to undo the mixed constitution the szlachta had built to protect their civic liberties. As the court pursued its agenda, szlachta opposition to the election grew and totally eclipsed discussion of any reform of parliamentary practice. The parliaments of 1661 and 1662 were consumed by the issue of an election vivente rege, which the szlachta rejected in no uncertain terms. Undeterred, the court continued pushing for a French election, finally resorting to convicting the leader of the opposition, Marshal Jerzy Lubomirski, of treason.

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223 “pupil of freedoms” refers to the pupil or “apple” of the eye (i.e. the most precious part of an indispensable organ) as in “Keep me as the apple of thy eye” Psalms 17:8.
and laesae majesty in an attempt to remove what they viewed as the most stubborn obstacle to their goal.

When we examine the two campaigns to reform the parliament and introduce an election vivente rege, we see two fundamentally different visions of the Commonwealth at work. The majority of citizens continued to envision the Commonwealth as a mixed republic based on law and custom. Reform, as they saw it, should seek to restore the constitution to its most ideal state—laws that had been neglected should be observed, harmony (zagoda) among the three estates should be restored, and citizens should emulate their virtuous forefathers by placing the common good before their own self-interest. Jan Kazimierz, Ludwika Maria and their loyal courtiers, on the other hand, saw the Commonwealth as fundamentally flawed precisely because sovereignty was divided. Because of its mixed constitution the republic lacked a powerful executive and the efficient execution of laws. Therefore, court “reforms” sought to overthrow the mixed constitution to create a more “modern” state, (i.e. a central government controlled by the king and his ministers that would be able to raise taxes and large armies quickly). Their desire to introduce majority rule and a hereditary monarchy arose from their vision of how a well-ordered kingdom ought to be organized.224

Arising from these two philosophical positions, two factions quickly formed and attempted to make their case to the other side. Not surprisingly, neither side really heard the other. Historians have typically looked at this dysfunctional conversation from the

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224 Wójcik observes, “It is essential to note that the queen, who was raised in a classically absolutist country like France, saw entirely different possibilities for the development of Poland if it became a hereditary monarchy with strong royal power.” Jan Kazimierz Waza, p. 139.
court’s perspective and come to the conclusion that the szlachta was irrationally deaf to reason.\textsuperscript{225} This chapter looks at the campaigns for reform and the election from the perspective of the republican szlachta. This way we can understand their opposition and more importantly, their mounting frustration as the court repeatedly ignored their objections. By looking at sejmiki instructions from the leading województwa as well as opposition propaganda, we discover that while the election vivente rege was their central issue, republican citizens were generally alarmed by the court’s consistent disrespect of the Commonwealth’s traditions of shared sovereignty and compromise. As the court flouted their laws and customs, citizens turned up the volume of their protests. They began to make threats. They railed at senators, who rather than defending the constitution allowed themselves to become pawns of factional politics. Sejmiki demanded that delegates take oaths to follow their instructions and not to take bribes. Delegates protested at parliaments and threatened to blow up the sejmy of 1661 and 1662—tactics that caused both parliaments to last more than 10 weeks.

Royal ministers like the much-despised Chancellor and future primate of Poland, Bishop Mikołaj Prażmowski, accused the opposition of ruining the Commonwealth with their protests, but those who opposed the autocratic machinations of the court saw themselves—and their protests—as patriotic. They blamed parliamentary paralysis and its woeful consequences on the king’s ministers and other senators who had been swayed by

\textsuperscript{225} Much of the historiographical bias can be explained by the source base historians have used until very recently. It relies heavily on the reports and letters of people at court and foreign secretaries and envoys, which are relatively easy to find and read. Sources of the szlachta’s perspective on these matters can only be found by patiently sifting through huge volumes of sejmiki documents, occasional pamphlets, political tracts, copies of speeches and other texts collected in numerous collections all over the former Commonwealth.
French pensions to forsake their duties and to support the court’s attempted coup. In this context, opposing the court’s agenda by using the liberum veto appeared to many republicans as down right virtuous—exactly as Fredro had described it in his essay in defense of the veto. The virtuous few were defending the republic with the tool Fredro had called their “fortress, shield and defense” against a new and dangerous change to their constitution.

*The Reform Discussion before the Battle for an Election vivente rege*

After the liberum veto was used to break parliaments in 1652 and 1654, numerous pamphlets and occasional pieces lamented the loss of freedom caused by broken sejmy. A typical example from 1654, a poem entitled *The Tombstone of Polish Freedom 1654*, explains that freedom had flourished in the Commonwealth until the reign of Jan Kazimierz when she (wolność) had married Mr. Luxury and given birth to three daughters: license, pride and private interest (swawola, pycha y prywata). License broke laws and Private Interest undermined good council and government by breaking sejmy. The daughters finally turn to treason and poisoning their own mother (freedom). In the final lines of the poem the Commonwealth is left to pray next to freedom’s tomb and hope that freedom might somehow be resurrected. Such works reflect the popular realization that parliamentary paralysis could very easily deprive citizens of an effective forum in which to participate in governing. As was the case in Opaliński’s *Conversation*,

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the only apparent solution is for citizens to pray that they may overcome their moral failings, their license, pride and selfish interests, and achieve consensus.

The belief that the best way to prevent broken sejmy was to call for virtue and pray for a miracle seems to have been shared by the sejmiki of the Crown after the chaos of the Deluge had subsided. As was the case in the late 1630s and 1640s, their concerns were financial oversight and the excesses of the king’s ministers. Their instructions to their parliamentary delegates in 1658 and 1659 do not include any calls to limit licentious use of the liberum veto. The Kujawy sejmik in Radziejów even mentioned sejm reform, but only repeated the long-standing request that a means of concluding parliaments be worked out among the województwa.227 Mostly, they expressed a desire to return to the status quo ante bellum, to reconfirm their freedoms, and to address the most pressing issues of the day: making peace with neighboring powers and finding an equitable way of paying the army.

The main issues raised by the sejmiki in June of 1658, February of 1659 and March of 1661 resemble those raised before the war. In the key area of finances, the szlachta’s desire to have more oversight and control over policy had only increased during the three years without a sejm. After thanking God for returning the state of the republic to the form in which they received it from their ancestors, the Kraków sejmik’s instructions from 1658 quickly turn to money matters. They express discontent with the taxes Jan

227 “…we direct our delegates that before anything else they propose in the House of Delegates that deputies belonging to both the Senate and House of Delegates be named to decide a reliable means for consultation and conclusion for both the House and Senate…” Dzieje ziemi Kujawskie. Vol. II. p. 87-8.
Kazimierz had decreed without their consent and demand that all money collected goes to the troops, not to private pockets. They demand that the new sales tax be administered by the województwa (not the central treasury) and that all taxes thus far collected by the king’s collectors be turned over to the localities. As was the case before the war, the sejmik demanded a specific accounting of the republic’s expenditures from the treasurer, but these citizens make the additional demand that the records be brought back to the relational (relacyjny) sejmik after the sejm. They argue that the entire szlachta of their województwo wants to have these records so that “the equestrian order can look over and know about these expenses not only at the sejm but also at the sejmiki.”228

From Kraków, Ruthenia and Wielkopolska there is great concern about koekwacja or coequatio, making equal the contributions of all województwa, both in terms of money and men provided. The instructions of the Ruski sejmik demand a commission appointed to organize the payment of soldiers—administered by the counties and województwa, of course, not the central treasury.229 They want accurate lists of soldiers who served in the army, and they, too, want copies of treasury records brought back to the sejmiki for their review.

The sejmiki instructions from 1658 give the general impression that the citizens wanted to get a handle on all that happened during the previous three years and to reassert their authority, particularly in the area of taxation. The Kraków sejmik called for a sejm exorbitancji as soon as possible. By 1661 their demands and complaints became more

pointed. The Kraków instructions state that they will not consider any issues and certainly not consider any new taxes until a means of koekwacja is worked out among all the województwa. The Ruski sejmik echoes this sentiment and demands that a conference be held among the województwa to work out how much has been paid and by whom. They insist that the treasury explain where “the sum belonging to the army has gone” and propose that an “audit of the crown treasury by commissioners from the Senate and House of Delegates be held to record faithfully everything with its true value, which could be assigned to the payment of the army.” They further suggest that a tribunal be established like the Radom Tribunal of 1643 to manage the whole process of koekwacja to ensure that their taxes are being dedicated to the common good (in commune bonum wydane uznane i decydowane były).

In addition to their lengthy instructions about koekwacja and paying the army, the sejmiki raise issues related to the king’s chancellery and treasury similar to those they complained about in the early 1650s. As usual, they demand to hear the records from the Senate Council and want them signed by the senators who approved them. They also want to know what is in the skrypty ad archiwum, top-secret documents passed without open discussion in the sejm. In 1661 a distrustful Kraków sejmik proposes that a permanent home be found for these secret documents so that citizens can find out their contents and ensure that nothing “nocivum libertatibus, ancient laws, et dignitati ordinis nostri equestris” has been decided without their approval. Finally, they demand that secret resolutions fitting this description be annulled.\footnote{AGiZ, vol. XXI, p. 271.}  \footnote{ASWK vol. III, p. 19.}
All the sejmiki are particularly upset that konstytucje from the previous sejm were overridden by decrees from the court chancellery and moreover, were not immediately printed and sent out to the sejmiki. The Kraków and Ruski sejmiki demand that they now be signed by the Marshal of the House and deputies and printed without modification immediately following the conclusion of the sejm. They also want oversight of the court treasury and its staff. Kraków demands that it be staffed solely by local, land-owning (osiadli) szlachta, not foreigners, and that officials be sworn to perform their duty honestly. The Ruski sejmik seconds these conditions.

The szlachta’s objections to the king’s appointment of foreign officials appears elsewhere in their complaints about the court’s support of numerous ennoblements and granting of land and offices to foreigners and commoners. These complaints should be seen as more than simple xenophobia. They stemmed from a larger concern about the way the king was distributing patronage. The king was bound by custom to reward the well deserving citizens of the Commonwealth. Instead, Jan Kazimierz often granted citizenship and offices to foreigners and/or clerics who would loyally carry out his

233 Legally, only the sejm could approve ennoblements and grant citizenship (indygenat). The konstytucje passed in 1658 contain some 40 grants of nobility or Polish citizenship. Most of the recipients have French, German or Italian names and many are identified as courtiers (i.e. secretaries, ambassadors, clerks, etc.). Volumnia Legum. Vol. IV. p. 263-66.
234 As the 1660s progress one can certainly observe rising antipathy among the szlachta to all things French. However, this apparent xenophobia had a rational basis. Foreigners (particularly Frenchmen) were taking jobs and/or fulfilling roles the szlachta viewed as rightfully theirs. Worse, these foreigners carried out court policies that were often designed to undermine the szlachta’s influence in the republic. I see their sentiments less like xenophobia and more akin to unionized workers’ feelings towards replacement workers brought in by management unwilling to negotiate with strikers.
policies. The Ruski sejmik objected to this practice and suggested that new citizens (foreign nobles) not be eligible to hold crown offices for ten years and new nobles (former commoners) not be eligible to do so for twenty years. Moreover, they insist that any benefices granted illegally by the chancellery be annulled.

From this brief overview of sejmiki instructions from the leading województwa of the Crown we see that constitutional reform was hardly at the top of their list of priorities in the years immediately following the Deluge. Rather, they continued their long-standing tug of war with the king by focusing on the traditional points of contention: money and ministers. Their instructions reveal a clear mistrust of the king’s treasury and the desire to keep taxes receipts under their control. They all agree that paying the army should be the sejm’s first priority and therefore demand a thorough audit of finances and army registers so that the województwa could organize an equitable system to pay the soldiers. They protest the king’s exorbitancje by criticizing his chancellery for failing to send complete and unaltered konstytucje to the sejmiki and overriding verdicts of the Crown Tribunal by granting illegal pardons. They complain about foreigners appointed to offices for political reasons and remind the king of his responsibility to reward the well deserving. From these sejmiki instructions we see that the szlachta viewed the court’s infringement upon law and custom as the primary source of the Commonwealth’s problems. The liberum veto was not even on their radar screen.

*The Szlachta’s Ideas for Reform*
While the sejmiki focused on straightening out the finances of the Commonwealth and paying the unpaid soldiers, some members of the szlachta were considering reforms to improve the overall functioning of the republic. Numerous interesting proposals from the second half of the 1650s give a sense of the reforms under consideration in different circles as this time. By examining five of the best known, we can begin to appreciate the gulf that separated the court’s ideas about reform and ideal parliamentary practice and those that circulated among the szlachta.

The first of these works, Advice to Improve the Polish Republic (Rada do poprawy Rzeczypospolitej Polskiej) appears to have been written during the Deluge (1657) by a citizen unconnected to the court. Reflecting the sejmiki’s financial concerns and concerns about the king’s abuse of his right of distribution, this essay contends that the solution to nearly all the Commonwealth’s problems is to place the administration of public lands into the hands of the republic (i.e. the szlachta as represented by the House of Delegates). The author advocates taking away the king’s right to grant leases on royal lands and starostwa. In his estimation this change would bring great economic wealth to the country because the Republic would appoint citizens who have the skills and desire

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236 A starostwo was a parcel of crown land overseen by a starosta (similar to the English sheriff). They varied in size greatly (the largest Knyszyńskie-goniatzkie in Podlasia contained 55 villages and two towns while the smallest, Sanockie or Żydaczkowskie in Ruskie województwo, contained only one village and one town). Legally, 20% of their revenues (the kwarta) were supposed to go towards funding the army, but studies have estimated that the holders of starostwa usually kept 92% of the properties’ profits. Starostwa grodowe included the additional responsibility of overseeing the courts in their territory and executing judicial verdicts. These lucrative positions were often granted to a magnate, who collected the revenues and appointed a podstarosta to actually carry out the duties associated with the office. Stefan Ciara. *Senatorowie i dygnitarze koronni w drugiej połowie XVIIw*. Wrocław: 1990. p. 69-70.
to improve public lands rather than political appointees who were often tempted to exploit them for short-term gain or neglect their responsibilities altogether. This change would bring not only public wealth, but also harmony at *sejmy* and *sejmiki* because citizens would no longer need to compete for leases and offices and would not resent the king for making grants to others. The author optimistically suggests that senators would be able to come to agreements more easily once this source of rivalry and resentment was removed. In addition to these benefits, returning public lands to the Commonwealth would increase individual freedom. If the Commonwealth could collect sufficient funds from its own lands, the *szlachta* would not have to pay regular taxes, the king would not have to beg for money, and the senators would not have to seek royal favors. In conclusion, the author of *Advice to Improve the Polish Republic* imagines replacing the king’s appointees with a fledgling bureaucracy composed of well-deserving citizens who would receive salaries for performing their duties and face punishment for neglecting them. *Wojewodowie* would be responsible for supervising these officials and new offices would be created “so that the right of distribution (*iustitia distributiva*) would be much more equitable and no one could complain.”

The king would be left with the power to nominate Commonwealth officials, but only those who had served “either at war or at court by the Lord’s side for several years” would be eligible. To compensate for the loss of *maiestas* or royal authority, the king could be granted a larger income and larger and more prestigious royal guard.

What is most interesting about this reform proposal, of course, is that there is no talk of *sejm* reform and no mention of the *liberum veto*. According to this author, the root of all

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the Commonwealth’s problems, including its stormy parliaments and lack of consensus, is the current system of granting offices and leases on Crown lands. The king’s unlimited powers to grant starostwa and other leases on royal lands to his favorites has led to the impoverishment of the Commonwealth and a decline in virtue and harmony among her citizens. If the system functioned as it was supposed to—as a means of encouraging civic virtue—the Commonwealth would enjoy untold benefits. This argument resonates with Fredro’s explanation that other republics (notably Venice) are able to get by without a liberum veto because they do not have the corrupting influence of a powerful king to contend with. The solution proposed by the author of Advice to Improve the Polish Republic is also quite reminiscent of reforms advanced of the szlachta-driven “Execution of the Laws” movement, which a nearly a hundred years earlier led to a fundamental reorganization of royal lands and the establishment of the kwarta (quarter of profits) tax on royal lands to support the army.

While Advice to Improve the Polish Republic makes no explicit reference to parliamentary reform, there were many other proposals from the era that did. One from 1660 called A Consideration Necessary for the Quick Conclusion of Parliaments (Uważenie potrzebne do prędkiego zawierania sejmów) reflects the concerns about order and punctuality during sejm proceedings that had been circulating among the szlachta for

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238 The similarities between this proposal and the central premise of Stanisław Dunin Karwicki’s works, which were written half a century later, are also striking.
decades. The author begins with the usual call for punctuality. Any delegate who arrived more than three days late to the parliament (without a good excuse) would be excluded from the parliament altogether. He explains that latecomers are “one of the leading causes of mix-ups (mieszaniny) at parliaments” because they bring up issues that have already been discussed and settled by their more punctual brethren. “Let the województwa see and consider whom they elect” carefully, advises the author.

In addition to these measures designed to increase punctuality, the author of A Necessary Consideration... proposes three significant changes to sejm procedure, only one of which relates to the liberum veto. First, in order to increase the secrecy and dignity of deliberations, he would not allow non-delegates (“onlookers and eavesdroppers”) to attend sessions by stationing deputies by the door to ensure that “no one who did not belong entered.” Echoing sentiments expressed by Fredro in his defense of the veto, the author suggests that deliberations have more gravity or authority (powaga) when no one knows how decisions were made or what was decided until the conclusion of the parliament.

241 Ibid. p. 232.
242 Fredro suggests holding sessions in a more private location because “laws have greater gravity (powaga) when the way they are made is not known; there also exists another danger: that along with the not great number of those rightfully participating, swarms a great crowd of people known and unknown, the curious, the critics, and the gossips, mean spirited and treasonous. These toadies and parasites who have easy access to other’s tables spread poisonous words, [they are] obliging eavesdroppers for court officials, servants of the court, ready to blab everything to various ears, not exactly as things happened of course, but submitting everything they heard to free interpretation, either to make a good impression or inspire hatred or obtain favor, depending on the situation: being one way towards the one from whom he heard the news and being another way towards the one to whom he tells it.” Responsor in gratiam cujusdam sermonis privati, bonone fiat Reipublica Polonae, ubi non pluralitas vocum, verum consensus ponderatur. (from the Polish translation in 700 lat polskiej myśli, p. 307.)
He presents a new order for parliaments that conscientiously addresses the moments when parliaments were often hung up by disagreements or confusion. Revealing his understanding of how parliaments usually got sidetracked, the author proposes procedures to handle typically contentious moments or issues: how to adjudicate cases of disputed delegates (rugi), how to name deputies to compile konstytucje, and how to open communications with the Senate (i.e. ask for the distribution of vacant offices, the reading of the records of the Senatus Consulta and the reading of the Pacta Conventa).

He then proposes that delegates get right down to business and dispense with senatorial vota “because the speeches of the gentlemen senators rather take up time than bring something to the discussion of things.” He would replace senatorial speeches with vota by each of the sejmiki delegations. Reasoning that one of the greatest impediments to efficient deliberations is every delegate’s fear that his concerns will not be heard, the author suggests that the House open deliberations with readings of each sejmik’s concerns, presented by one delegate from each województwa in turn. During this process the marshal could note down all the areas of concern and use this as a template for writing new legislation. This would be a great boon to efficiency, as “that time that had been put aside for the vota of the lord senators would be made useful for the sharing of the sejmiki’s sentiments (sentencyjowanie sejmików).” He assures his reader that everyone would have a chance to have his say during the harmonizing of bills (ucieranie artykułów) at the end of the session. The author’s proposed changes to parliamentary deliberations reveal his fundamental assumption that sejmy are primarily a means for the województwa to share their concerns and recommendations with the whole republic. The

Ibid. p. 233.
sense that every sejmik, even every szlachcic, had the right to have his say at the parliament was typical of republican writings of the time.

Finally, after removing many of the impediments to efficient deliberations, the author of A Necessary Consideration... gets to the issue of the liberum veto. He states that in order for a veto to be valid, the delegate issuing it must stay in the chamber to defend his position “with law and the reason of soundness itself or of the common good, not by license and obstinate walking out.” Indeed, many who complained about the breaking of sejmy in 1652 and 1654 found the delegates’ departure from the chamber (and Warsaw) particularly scandalous. The only exception to this rule would be if delegates wanted to use their right to object after the official term of the parliament had ended. At that time a protest followed by walking out would be valid so long as at least two delegates protested and then left. With this stipulation the author confirms the right of delegates to give up on parliaments they viewed as fruitless and thus reject a king’s proposals. At no point does he suggest that there is anything wrong with delegates using their right to protest, and he expects that in normal circumstances, a delegate could be persuaded by his colleagues to withdraw any frivolous protest, for he would be “ashamed to be stubbornly in contradiction without good reason.”

As is the case with Fredro’s defense of the veto, A Necessary Consideration... expresses no doubts about the soundness of the Commonwealth’s parliamentary system and its reliance on consensus. As these authors present things, there were a few minor barriers or

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244 Ibid. p. 235.
procedural issues that needed to be worked out and sources of discord and selfishness that needed to be removed—namely, the king’s unlimited right of patronage cited by *Advice to Correct the Polish Republic*—but once these were remedied, the Commonwealth would flourish once again. None of these works reveals even the suspicion that the *liberum veto* could be exploited by unscrupulous individuals or factions to paralyze the Commonwealth. This should not surprise us. At this point in time, only two parliaments had been broken by individual uses of the *liberum veto*. In both cases most everyone had already given up on finding consensus and was ready to accept the validity of protests issued after the expiration of the parliament’s six-week term. Moreover, both broken *sejmy* were followed several months later by extraordinary parliaments that concluded successfully.246 In these early cases the *liberum veto* was used as a negotiating tool, a way to both enforce a deadline for finding consensus and to suspend deliberations when the two sides had reached to an impasse. One must keep this state of affairs in mind when trying to understand the szlachta’s reaction to the proposals for radical constitutional reform that were proposed in court circles at this time.

*The Court’s Reform Proposals*

During the first half of the seventeenth century there were isolated suggestions for parliamentary reform from individual senators. Władysław Czapliński and Władysław Konopczyński identify several senators (mostly bishops) who even advocated majority

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246 The first *sejm* of 1652 ended on March 2\textsuperscript{nd}. An extraordinary *sejm* opened on July 23. It concluded successfully 25 days later on August 17\textsuperscript{th}. The first *sejm* of 1654 was broken on March 28\textsuperscript{th}. An extraordinary *sejm* opened on June 9 and concluded successfully 41 days later on August 20, 1654. W. Konopczyński. *Chronologia sejmów polskich*. (Kraków: 1948).
voting, but there was no organized campaign led by the king or his ministers to change any specific feature of the Commonwealth’s constitution.\footnote{Czapliński cites Bishop Baranowski in 1611, Szyszkowski in 1613, Spytek Ligeza in 1635, Kasper Denhoff in 1637 and Bishop Sokolowski in 1639 as examples of those who openly criticized the veto and suggested majority voting. \textit{Próby reform państwa w czasie najazdu Szwedzkiego.” Polska w okresie drugiej wojny północnej.} Warszawa: 1957. p. 303-4. Konopczyński cites bishop Jan Kuczborski in 1635. \textit{Liberum Veto}, p. 238.} In 1650 in the midst of the devastating Cossack uprising, Jan Kazimierz began to encourage the szlachta to consider quicker means to come to parliamentary conclusions, “so that we are not just opening parliament (\textit{sejmowanie}) when the enemy is already within our borders.”\footnote{King’s instructions to \textit{sejmiki} 1650. \textit{ASWK}. Vol. II. p. 385.} Two years later he asked again that the szlachta “find a means both to consider parliamentary matters and to conclude \textit{sejmy}.” Neither appeal produced much response from \textit{sejmiki}.

The need for significant reform seemed more pressing to some senators and courtiers, though, particularly those forced into exile with the king after the 1655 Swedish invasion. In the dark days of the Deluge, a whole range of options was considered, from minor reforms to shift more power to the Senate, all the way to suspending the free election in order to elect a new king who could provide immediate financial and military assistance. In his article about reform efforts during the Swedish invasion Władysław Czapliński contrasts the modest programs of aristocrats like wojewoda Jan Leszczyński, “who wanted preserve Polish freedom as a whole, not changing the smallest things, only correcting \textit{exorbitancje},” with radical plans advanced by foreign courtiers like the queen’s secretary Pierre des Noyers, who wanted to reduce the powers of \textit{sejm} so that the
king could rule with the Senate, leaving the House with only with the right to approve legislation and petition the king’s government.\textsuperscript{249}

We know that as early as 1656 some at court were advocating doing away with or at least suspending the \textit{liberum veto}. In November of that year the king issued a public declaration entitled \textit{A Means for Successfully Calling, Beginning and Concluding a Sejm in the (God-willing) Near Future} (\textit{Szcześliwego złożenia, zaczęcia i konkludowania sejmu da Pan Bóg blisko przyszłego sposób}).\textsuperscript{250} This text lists all the truly pressing issues then facing the Commonwealth that needed to be addressed by the next \textit{sejm}, which, as it turned out, was not called for another year and a half. Numerous fundamental issues had to be worked out, including gaining control of all the Commonwealth’s territory, making peace with the tsar, devising a plan and finding means with which to continue the war effort, sorting out enemies and friends of the king among the Commonwealth’s citizens and offering amnesty to all who were willing to renew their allegiance to Jan Kazimierz. (The reader will recall that many of the Commonwealth’s citizens had renounced their allegiance to Jan Kazimierz and signed on with his Swedish cousin Charles only a year before.)

At the end of this short document, echoing his appeals from 1650 and 1652, the king asserts that a different way and method (\textit{modus et ratio}) of concluding parliaments must be adopted while the Commonwealth is at war. He explains, “it is not expedient to prolong the \textit{sejm} by means of a veto motion, so that our final ruin comes about because of

\textsuperscript{249} Czapliński, “\textit{Próby reform państwa…}” p. 311.
Damnable delays.” Without further ado, the king writes, “If universal consensus cannot be, the greater part will conclude and approve (Jeżeli universalis consensus być by nie mógł, maior pars concludat et subscribat). The king presents this change as a necessary expedient, “so that contradicting the majority will not be a tyrant and enemy to me just like the Swede.” He points out that minorities concede to the majority during confederacies and at Tribunals and that this is not considered harmful to freedom. He also makes the utilitarian argument that often appeared in arguments against the veto: that sacrificing the rights of the few for the sake of the many is sometimes necessary. “For it is sincere and sheer love (charitas) when 10 województwa want to save one differing with them by equal means and reasons, while it is sheer and sincere enmity when one województwo wants to destroy the other 10.” This is ultimately why the king argues that the ancient “nemine contradicente” must be left for another time—because a small minority will otherwise bring ruin upon the rest.

A year later, after the invasion by Rakoczy’s Transylvanians had been repulsed, the Commonwealth still faced a host of serious issues that could only be solved by parliament. Most urgent was the need to raise funds to satisfy the unpaid army. Additionally, the court still hoped to achieve some sort of parliamentary reform that would strengthen the king’s powers vis à vis the szlachta. As Kubala puts it, “The court had not lost hope that under the pressure of the moment it might accomplish all these matters [paying the army, concluding treaties, etc.] with the help of parliamentary reforms and in this way increase the king’s power and incapacitate the all-powerful szlachta.”

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251 Ibid. p. 169.
252 As Kubala puts it, “The court had not lost hope that under the pressure of the moment it might accomplish all these matters [paying the army, concluding treaties, etc.] with the help of parliamentary reforms and in this way increase the king’s power and incapacitate the all-powerful szlachta.” Kubala, Ludwik. Wojny duńskie. p. 62.
Cossack troops.\textsuperscript{253} In advance of the \textit{sejm} Court Marshal Łukasz Opaliński (the younger) suggested that the king call a meeting of his senate council to prepare for what would certainly be a busy and contentious parliament.\textsuperscript{254} In February 1658 many senators and leading members of the \textit{szlachta}, whom the king had secretly invited to join them, met to discuss all the issues then facing the Commonwealth as well as potential reforms. The proposal entitled \textit{Jan Kazimierz’s Resolution that the ancient ways of parliament will be preserved and bonds made will be faithfully kept} (Decyzja Jana Kazimierza, że sposób sejmowania starożytny zachowany będzie, że związki zawarte wiernie dochowane zostaną) came out of this meeting.\textsuperscript{255}

\textit{Jan Kazimierz’s Resolution}... has a lot in common with both the king’s earlier \textit{Means for the Successful Calling, Beginning and Concluding of a Parliament in the (God-willing) Near Future} and reform ideas circulating in the Commonwealth at the time. Czapliński suggests Opaliński himself as its most likely author.\textsuperscript{256} The text opens with the same concerns as the king’s earlier decree, explaining that he and his council had to make the following decisions for the good of the fatherland while war prevented a regular meeting

\begin{footnotesize}
\textsuperscript{253} Kubala, p. 62
\textsuperscript{254} This is the same Łukasz Opaliński (1612-1662) who wrote \textit{A Conversation between and Priest and Landowner} in 1640. He assumed the office of Court Marshal (marszałek nadworny) when his uncle Łukasz Opaliński (the elder) (1581-1654) resigned the office at the turn of 1650 at Jan Kazimierz’s request. In exchange for resigning from public life he became wojewoda rawski and his nephew filled his former office. The younger Opaliński became a close advisor to Jan Kazimierz and a cautious supporter of the plan for an election \textit{vivente rege}. Władysław Czapliński. “Łukasz Opaliński z Bnina h. Łodzia (1581-1654)” and Stanisław Grzeszczuk “Łukasz Opaliński z Bnina h. Łodzia (1612-1662)” \textit{Polski słownik biograficzny} vol. XXIV (1979), p. 90-5.
\textsuperscript{255} Printed in Ochmann-Staniszweska’s \textit{Pisma polityczne panowania Jana Kazimierza} p. 207-210 and Kubala’s \textit{Wojny duińskie}, p. 534-6. Ochmann-Staniszweska notes other versions found in Biblioteka narodowa and the Ossolineum entitled \textit{Puncta i postanowienie Króla Jmci z panami radami i stanem rycerskim podczas inkursyjej Węgrów i Szwedów anno 1657} and another from the Library of the University of Warsaw called \textit{Puncta postanowione w Poznaniu A. 1657}.
\textsuperscript{256} Czapliński, “Próby reform państwa w czasie najazdu szwedzkiego.” p. 316.
\end{footnotesize}
of parliament. In his first five points he reconfirms the Commonwealth’s commitment to fight its enemies and restore peace to the fatherland. He offers full amnesty to all those who sided with the enemy either *ex errore* or *ex desperatione rerum*, guarantees religious peace to all (except the Arians), and declares the council’s right to maintain alliances and make peace *ad conservationem Reipublicae*—without the *sejm* if necessary. While this last point clearly exceeds the king’s traditional prerogatives, the king’s argument is implicitly the same one he advanced in *A Means for the Successful Calling*... the year before: the extraordinary circumstances of war.

Finally, in the sixth paragraph the author gets to the issue of parliamentary reform. While the king’s earlier decree simply advocated suspending the *liberum veto* during wartime, this text presents the “disorderly and far from the institutions of our forefathers” ways of parliament (*sejmowanie*) as “one of the greatest reasons” for the calamity that has befallen the Commonwealth. Therefore, in order to prevent the repeat of such events, he presents a new order for parliamentary deliberations. First, issues will be discussed at the *sejm* according to the order of the king’s propositions to the *sejmiki*. Second, no one will be allowed to hold up deliberations to achieve his private ends. Third, the consensus of the majority (*consensus maioris partis*) shall not be broken by the contradiction of a few or a small group of people (*kilku albo kilkunastu*); instead, any bill approved by a two-thirds majority will pass. The author immediately adds that objections (vetoes) to things contrary to “express law or to the fundamental laws of the fatherland” or to something introduced in the Commonwealth against its expressed opposition would “of course...be
valid”—so long as the contradiction was made legally and not as a pretext for achieving some private aim.\(^{257}\)

While at first glance this suggestion to pass bills by majority vote would seem to do away with consensus decision-making and the *liberum veto*, its more subtle aim is to limit what was generally viewed as “licentious” use of delegates’ right to object. Everyone complained when an individual or small handful of delegates held up the entire parliament in order to get a private concern addressed. While *sejmiki* commonly instructed their delegates not to allow anything to be discussed at the *sejm* until some specific demand was met, such tactics, when employed in Warsaw, often provoked the ire of the rest of the assembly.\(^{258}\) In general, censure was applied to those who remained in “stubborn opposition,” *uporny kontradykca* as Fredro put it, evincing the assumption that a minority should eventually yield to reasonable persuasion. Although the author’s suggestion that bills be passed by a two-thirds majority is quite novel, it is not so much a proposal to institute majority rule as a suggestion about how to force a small, stubborn minority to yield to the majority in extreme circumstances. In any case, the author offers no details about how majority voting might be instituted in a parliament unaccustomed to voting on legislation.

Perhaps most informative is the document’s list of admissible uses of the *liberum veto*: to prevent anything contrary to the fundamental laws of the fatherland or to prevent the

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\(^{258}\) Czapliński cites a case from the first *sejm* of 1652 when one delegate, a certain Madaleński kept threatening to veto the *sejm* unless the king granted him a *starostwo* that he felt entitled to. This irritated everyone. Finally, the king had to give it to him. *Dwa sejmy z roku 1652*. p. 150.
introduction of something explicitly rejected by the Commonwealth. One must assume that talk of the court’s plans to hold a royal election in the king’s lifetime had reached the countryside by this time. With rumors of a planned attack one of the cardinal laws of the republic circulating across the countryside, any proposal to limit the liberum veto would have enflamed suspicions about the king’s true motives.

The rest of the document does little to assuage the szlachta’s perpetual concern that the king intended to curtail their liberties. The next paragraph suggests that in order to encourage secrecy, the king should not send his propositions to the sejmiki in advance of the sejm and that rather than specific instructions, sejmiki should send their delegates to the sejm with petitions and general advice to promote the common good. The next paragraph suggests that taxes decreed earlier without the sejm’s approval become permanent, and the final paragraph suggests the transformation of the king’s resident council into a standing body empowered to address matters that arose suddenly and could not be put off until the next sejm. All of these proposals strike at the heart of the sejmiki’s primary concerns that nothing affecting the Commonwealth be decided without their knowledge and input and that no taxes be levied without their consent.

We are left to guess how the sejmiki might have reacted to Jan Kazimierz’s Resolution... because it was never sent to them. In fact, the royal propositions eventually sent to the

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259 This suggestion may have inspired the author of A Necessary Consideration for the Quick Completion of Parliaments written a year or two later or it may have just been a common idea at the time. He writes “According to some people’s understanding, it would greatly help the secretiveness of councils...if when the sejm was called the propositions from His Majesty the king for the upcoming sejm not be sent out to the sejmiki…” Ochmann-Staniszewska. Pisma polityczne... vol. I, p. 235.
sejmiki in advance of the sejm that began in July of 1658 contained no mention of
parliamentary reform at all. Nonetheless, the general topic was on some sejmiki’s
minds. The Lublin sejmik was wary of the idea of reform, and advised its delegates to
preserve the laws and freedoms “whole and inviolable” and not to allow any “novitates,
particularly those prejudicial to our freedoms and laws.” There is no mention of sejm
reform in the laws passed at the 1658 sejm. Likewise, the king made no mention of
parliamentary reform in his instructions for the next sejm that began in March of 1659.
That sejm passed the aforementioned resolution entitled De modo concludendi sejmów.
This resolution decreed that a committee be created to draft a plan “to more easily
accomplish sejm conclusions,” which would then be forwarded to the sejmiki. This plan
was supposed to be the first order of business at the next sejm.

No such plan was ever presented. Following the conclusion of the sejm in May of 1659
the court was distracted by other matters. In September the queen formally established a
league of senators to advocate for a royal election in the king’s lifetime. Talk of
parliamentary reform was pushed off to a group of senators and szlachta brought together
to discuss terms for the peace with Sweden the following summer. During these
negotiations at Oliwa, the queen finalized her plans to elect Duke d’Eghien, son of the

260 The contents of the king’s decree can be found in ASWK vol. II. p. 627.
261 Kubala, p. 69.
263 “De modo concludendi sejmów: Considering that a means to conclude issues and councils is
the most excellent solution for the quicker accomplishment of sejm conclusions, both for public
matters and private ones of województwa, lands, counties and people. Therefore to discuss this we
call all the deputies from the Senate and House of Delegates who have been appointed in these
konstytucje by the approval of certain commissions, who having gathered with our earlier decrees
the above mentioned approval, will also discuss a means of concluding councils most efficiently,
which we will propose in our instructions to the sejmiki and with this we will begin the next,
Great Condé, with the French ambassadors who were there mediating the treaty between the Commonwealth and Sweden.

Before we turn to the szlachta’s reaction to the court’s election campaign, there is one more reform proposal to consider. This work, written in 1660, was a truly unusual proposal first noted by Tadeusz Korzon and later called by Władysław Konopczyński “a hundred times deeper and broader” than the contemporary *A Necessary Consideration* and “the most significant of all reform plans known to Polish history until the times of Stanislaw August, maybe even until the Constitution of the Third of May.”\(^{264}\) Unlike almost all other reform proposals written in seventeenth-century Poland, this one does not assume the existing constitution as its point of departure. This work, entitled simply *Puncta na sejm podane* (*Propositions Presented to the Sejm*), imagines an entirely new system designed to produce efficient decision-making by instituting majority voting by secret ballot.\(^{265}\)

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\(^{264}\) Korzon mentions the text in a footnote about the convocation of 1660. *Dola i niedola Jana Sobieski* (Kraków, 1898) p. 173. Konopczyński mentions it in his discussion of efforts to reform the *liberum veto* after the Deluge. *Liberum Veto* (Kraków, 1918), p. 239. The original can be found in the Czartoryski Library manuscript 402, p. 337-348. Published versions can be found in Konopczyński’s *Liberum veto*, p. 440-8 and Ochamann-Staniszewska’s *Pisma polityczne*... vol. I. p. 236-243. Konopczyński suggested Chancellor Bishop Mikołaj Prażmowski as a possible author since the text was found among his papers, while Czapliński sought to explain its unique perspective by suggesting the authorship of Andrzej Morsztyn as one who was deeply familiar with parliamentary practice in England and France. Czapliński is so struck by the text’s originality he writes, “if not for the fact that the manuscript was found among other acts from the seventeenth century and if not for certain allusions in the text suggesting its origin in those times, I would be ready to posit that it comes from at least the middle of the eighteenth century.” “*Próby reform...*” p. 325. Jan Andrzej Morsztyn (1621-1683) was a poet, royal secretary, Crown referendary and eventually treasurer. He was loyal to the French faction at court, involved in a plot to dethrone King Jan Sobieski, and forced to flee Poland in 1683. He spent the rest of his life in France.

\(^{265}\) Konopczyński titled it *Projekt reformy sejmu i senatu pryzbocynego omawiany na konwokacyi r. 1660*. Reprinted as an appendix in his *Liberum Veto*... p. 440-4.
This plan would create a powerful executive composed of the king and an expanded council of rotating resident senators and delegates from the szlachta who would ensure that “everything decided at parliaments would efficiently come into effect.”

Parliaments would meet annually, beginning the Monday after St. Michael’s Day (September 29th), but they would bear little resemblance to the sejmy the Commonwealth knew. Issues concerning the entire republic would be discussed on Mondays and Tuesdays in joint session with the King, senators, and delegates. Matters would be discussed one at a time for exactly one day unless a second day was needed. These matters would then be put to a vote on Wednesdays and decided by secret ballot, which the author calls, “the most perfect instrument of the free voice (głos wolny) in a Republic.” All issues, even the smallest and easiest ones (najmniejszy i najlacniejszy), would be decided by a majority of secret ballots.

At the end of the six-week session the three estates would meet together to hear the reading of all the bills approved earlier. At this point there would be “no power to contradict” except if some change in a bill were detected. Thus, the delegates’ most effective strategy to reject unwanted proposals—running out the clock and then opposing any extension to the session—would be impossible. Moreover, it would become almost impossible to circumvent the executive’s agenda, as the king would now have the right to veto laws approved by both the House and Senate. The only way to override this new royal veto would be if the king’s decision contradicted “express law” and a majority of both the House and Senate agreed not to continue proceedings until that law had been

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267 “praestantissimum instrumentum liberae in Republica vocis.” *Pisma polityczne*, p. 237.
satisfied. Even if the House and Senate managed to oppose the king during the *sejm*, the newly expanded executive council could easily overturn or modify its decisions, for it would have the power to decide matters according to this new system during the months the *sejm* was not in session.

The radical nature of the proposal makes its serious consideration by even the most enthusiastic supporters of parliamentary reform unlikely. However, some of its specific provisions offer great insight into the reasons why plans for parliamentary reform and abolishing the *liberum veto* never got very far in the Commonwealth during the seventeenth century. The text’s argument for majority rule is the same advanced by other reform proposals from the court: “so that the Republic would not put in danger by the vote of one, two, three or a handful.”

Like the earlier Jan Kazimierz’s Resolution... this plan suggests a qualified majority of two-thirds, saying that under normal circumstances a bill not garnering two-thirds of the votes should be put off until the next *sejm*. However, this plan acknowledges that there were special cases that should not be decided by majority vote. These cases concern the powerful minority groups in the Commonwealth that would stand to lose their power if majority voting were introduced: individual nations (i.e. the Lithuanians), the Roman Catholic Church and religious minorities, including Protestants and Eastern Orthodox. Bills affecting these groups would be decided by committees upon which the minority in question would receive disproportionately greater representation. The proposal creates a complex system of two-

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268 Ibid, p. 238.
269 Ibid, p. 238.
stage voting to elect delegates to these special committees as well as procedures to handle tie votes in committees.

This level of attention to protecting regional and religious minorities attests to the importance of devising a system that would reassure these significant minority groups, which were accustomed to having the *liberum veto* as a defense of last resort, that their rights would be protected. It also helps explain why legally implementing a plan to abolish the *liberum veto* would have been politically difficult at best. Minority groups would have to be convinced that their rights would be protected in the new majority-rule regime—otherwise they could use the *liberum veto* to oppose the reform.

By comparing reform proposals written by republican citizens with those originating at Jan Kazimierz’s court we begin to appreciate the gulf separating the two camps’ political assumptions, particularly regarding the appropriate role of the *sejm* in the Commonwealth’s constitution. Republican reformers continued to see a lack of civic virtue and harmony among the estates as the source of the Commonwealth’s problems. For them, *sejm* practices (*sejmowanie*) and the right to veto were not the problem; the problem was the king’s corrupting distribution of patronage and citizens’ shortsighted desire for private gain. If corrupting influences could be removed, order established at the *sejm*, and virtue restored among citizens, then harmony among the three estates would return. The court proposals, on the other hand, explicitly identify parliamentary practice (including the *liberum veto*) as the problem. Court proposals seek to transform the *sejm* from a forum for expressing concerns and brokering consensus to a body capable to
making efficient decisions. In order to do this, they argue that majority rule must be
introduced. What court proposals fail to do, though, is devise a way to convince citizens
that their civic rights (first and foremost their glos wolny) would be protected if they
happened to find themselves in the minority under this new regime. This proved an
insurmountable challenge. After the sejm of 1661, the issue of parliamentary reform to
limit or abolish the liberum veto, all but disappeared from the political discourse.270

*From Mixed Republic to Two Irreconcilable Factions: The Campaign for Election vivente rege*

Each estate aims to maintain its rights: on one hand the szlachta attends that the
Republic does not experience harm in case the ruler threatened freedom; on the
other hand the ruler, [attends] that majesty is not threatened by freedom that has
become license, having become too unbridled or haughty. The senate is above this
as a mediator, who supports neither unlimited power against freedom or the
szlachta’s license against maiestas. It watches carefully so that freedom and the
highest power do not struggle with each other too dangerously; they keep both
sides in balance, so that neither prevails, but both have equal conditions, and so
that, on the one hand, majesty is given its due and at the same time so that most
importantly, freedom is not reduced, for this would break existing laws.271

AM Fredro “Cautio Reipublicae, seu durationis omen,” 1660

By comparing the reform proposals advanced by Jan Kazimierz’s court and those made
by republican szlachta we begin to appreciate the gulf that separated the political
assumptions of the two camps. When we examine the course of the campaign for an

270 At the end of his description of efforts to reform (i.e. abolish) the veto under Jan Kazimierz,
that great opponent of the liberum veto Konopczyński concedes, “we must admit that the issue [of
veto reform] disappeared because it was unpopular." Liberum Veto... p. 241.
271 Od czego należy trwałość Rzeczypospolitej p. 314 in 700 lat polskiej myśli
politycznej...Compare this description of the mixed constitution to Polybius’s description of the
Roman republic cited in the introduction.
election *vivente rege*, we can fully appreciate how the truly unbridgeable this gulf was. Whereas *sejmiki* expressed cautious interest in parliamentary reforms and citizens made proposals to improve the functioning of the *sejm*, hardly anyone outside the court, who had not been pressed or paid to support the election of a French prince in Jan Kazimierz’s lifetime, supported the idea. While many senators signed on to the campaign in its early days in exchange for French money or other court favors, when the king actually raised the issue at the *sejm* of 1661 and again at the *sejm* of 1662, even many of those who had promised to support the idea failed to do so. Once it became clear that the court’s ultimate aim was to place the queen’s niece and her new husband the Duc d’Enghien on the throne, the *sejmiki* of the Crown were almost unanimously opposed to the idea.\(^{272}\)

From the perspective of the republican *szlachta* in the countryside, this plan to hold an election in the king’s lifetime made no sense at all. As Fredro had argued in his essay against the election, it was not only illegal, but also unnecessary and dangerous. The *szlachta* had been complaining for years that Jan Kazimierz’s Senate Council and chancellery trampled on the prerogatives of the *sejm*, contradicted the decrees of the Tribunal courts and attempted to rule without them. They had heard rumors about the queen’s secret agreements with various senators and Louis XIV. In this context many quite reasonably concluded that the court’s campaign to hold a royal election in Jan Kazimierz’s lifetime was a French-backed attempt to force monarchy upon the Commonwealth.

\(^{272}\) Having no children of her own, Ludwika Maria had adopted her sister’s daughter Anna Henrietta of the Rhine Palatinate and arranged for her to marry the Duc d’Enghien in 1660.
Modern Polish historians have done a great disservice to their seventeenth-century forbearers by perpetuating the idea that the election campaign was actually an attempt to reform the Commonwealth.\textsuperscript{273} Jan Kazimierz and Louise Marie’s plot to place her niece Anna Henrietta and Duc d’Enghien on the Polish throne was not about reform. Although many at the time agreed that election reform to shorten interregna would be beneficial, the king and queen were not seeking to implement new election procedures. They were trying to circumvent established law and custom to put their chosen candidates on the throne despite the vocal opposition of the citizenry.\textsuperscript{274} This was, at the very least, an attempted coup. At the most, it was an attempted revolution—to transform the Commonwealth’s mixed republic into a hereditary monarchy.

The election campaign divided the Commonwealth into two hostile factions. There was no middle ground between those who wanted to overthrow the constitution of the Commonwealth (by manipulation, if possible and by force, if necessary) and those who wanted to preserve the constitution and the freedoms it guaranteed just as they were. The szlachta who opposed the election expressed their opposition using all the means available to them. The most important of these was their glos wolny—the right to have

\textsuperscript{273} Much of this misconception is due to the sources upon which historians of this period have traditionally relied. The reports of French and Austrian ambassadors and secretaries and other court figures are easily accessible and widely used. However, their perspective is, not surprisingly, limited to the court and shaped by their lack of understanding of the customs and values of republican citizens. Therefore, the dominant historiography usually concludes that opposition to the election was primarily the product of Austrian propaganda and the machinations of Jerzy Lubomirski and his clients. The szlachta have been generally portrayed as easily manipulated rubes.

\textsuperscript{274} Indeed the king had to promise that this election would be a one-time expedient and not set any precedents. The Kraków sejmik, prompted by Lubomirski, included this condition in its instructions concerning the election in 1661. The proposal the king formally made to the sejm in 1661 included the condition that this election would be a one-time exception to the law about free elections. ASWK. vol. III. p. 21.
their say and be heard at parliament. In keeping with the customs of the Commonwealth, they expressed their reservations diplomatically but persistently. Delegates opposed the plan at the sejm of 1661 and more forcefully at the sejm of 1662. The sejm of 1662 passed a law reconfirming the szlachta’s traditional right to a free election and nullifying all agreements relating to the court’s election plans.

Still, the court party continued its efforts, discounting the szlachta’s perspective and assuming that popular opposition was the result of stubborn conservatism and manipulation by Marshal Jerzy Lubomirski and his Austrian backers.275 The opposition protested more loudly—about the election, but also about the court’s repeated disregard of law and custom and the Senate’s failure to check the king’s excesses and defend the law. They complained that their protests and their rights and customs were not being respected—that the were not being heard and that their glos wolny was not being respected. The court did not listen.

Talking Past Each Other: the Sejmy of 1661-2

Andrzej Maksymilian Fredro’s best-known and best-selling work was not the collection containing his defense of the veto but a collection of proverbs and advice about how to win friends and influence people, mostly one’s fellow citizens. This work, Monita politico-moralia, seu quomodo vivendum cum paucis, cum populo, salva virtute, gratia et authoritate, was first published in 1664 and ran into 24 editions, the last appearing in

1781. It is a treasure trove of helpful suggestions about how to navigate difficult political situations such as,

> He who listens to one who is speaking with genuine kindness and answers him in a pleasant way, conducts oneself exactly as though he had the power (when he wants) to open human hearts with his kindness. Outstanding citizens have this very effective quality to draw the hearts of others, and his fellow citizens, to him.

Another helpful bit of advice recommends,

> If you wish to propose something to the people that at first glance is unpleasant, but which the public interest stubbornly demands, try to have someone else propose it first so that the people’s initial outrage will not land on you. Then come forward yourself with gentle persuasion and demand the same thing, but without fervor, as though you do not care if it comes to pass. For it is so that the thing we most stubbornly demand, (for it then seems very valuable) meets with great opposition; while that which we desire less (like something less valuable) is achieved much more easily.277

Judging by the way Jan Kazimierz and Ludwika Maria conducted their campaign to put the Duc d’Enghien and Anna Henrietta on the throne, they were not fans of Fredro’s work. Moreover, they seemed willfully obtuse to the political culture of the Commonwealth reflected in Fredro’s *Political-moral Advice*... Still, this was a republic in which public opinion both mattered and could be easily offended. The king and queen’s tactics suggest that they believed that by bribing and blackmailing enough influential magnates they could get the sejm to approve an election *vivente rege*.278 Their wrongheaded strategy failed for the first time at the sejm of 1661.

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276 “Przestrogi polityczne-moralne...” from 700 lat polskiej myśli politycznej. p. 300.
278 Korzon observes the fallacy of the French strategy, “to accomplish this constitutional revolution in the noble-aristocratic Commonwealth, they [the French party] brought only courtly agility (zwinność), skill at intrigue and the mistaken belief that in Poland it was possible to do everything through magnates and that it was possible through bribery to incline all the magnates
Hoping to prevent *sejmiki* from sending their delegates to Warsaw with instructions that opposed an election *vivente rege*, the king did not mention his plan in the official decree that called for a *sejm* beginning May 2, 1661.\(^{279}\) The court could hardly keep such a plan secret, though, especially given their wide-scale efforts to convince leading citizens to support it. For months leading up to the *sejm*, the king, and particularly the queen, worked tirelessly to recruit senators and other magnates to sign secret agreements, first to support an election *vivente rege* and later, the election of the French candidate. This campaign included both the launch of Poland’s first regular newspaper, *Merkuriusz Polski*, and a royal tour through Małopolska so the king could personally lobby uncommitted senators like Marshal Jerzy Lubomirski.\(^{280}\) At a convocation in February of 1661 the court asked individual senators to sign agreements promising to see to it that delegates in favor of the plan would be elected at the *sejmiki* where they had influence.\(^{281}\)

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\(^{279}\) An undated supplement suggesting an election *vivente rege* was sent from the chancellery, but it was not signed by the king and arrived too late for many *sejmiki* to consider it. Ochmann-Staniszewska, *Sejmy z lat 1661 i 1662*. p. 33. This irregularity followed an earlier postponement of the *sejm*. A decree dated December 21, 1660 originally called for the *sejm* to begin March 28, 1661, but a second decree dated January 10, 1661 delayed the *sejm* until May 2, 1666, purportedly to give the army more time to prepare for the summer campaign season. This delay irritated the Kraków *sejmik*. See ASWK t. III p. 12-13.

\(^{280}\) *Merkuriusz Polski* was a weekly published from January-July 1661 with news from Poland and abroad. It covered events like the English restoration and Denmark’s adoption of a hereditary monarchy in a positive light. This apparently had little effect on Polish citizens’ views on the virtues of hereditary monarchies. See Przyboś, Adam. Ed. *Merkuriusz Polski*. Kraków, 1960.

\(^{281}\) I have encountered no earlier mention of organized efforts by the court to manipulate *sejmiki* elections across the Commonwealth. W. Kłaczewski cites the court’s manipulation of *sejmiki* elections during the Lubomirski trial (1664-5) as the first instance of this practice. *W przededniu wojny domowej: walka sejmowej lat 1664-5*. Lublin: 1984. p. 36. While the court faction was much bolder in its tactics a couple years later, I believe the practice began with the court’s secret instructions to senators to influence the election of delegates favorable to the court at *sejmiki* in 1661 and 1662.
Shortly before *sejmiki* met in March the court sent out special envoys to important *sejmiki* to make its case.

The absence of the topic of an election in the king’s lifetime in the royal decree that called the *sejm* did not prevent many *sejmiki* from expressing their reservations or outright objections to the idea. Fredro’s aforementioned essay against the election had come out at this time and the court had responded with a pamphlet extolling the advantages of an early election.282 The idea was in the air and circulated alongside various ideas for parliamentary reform. In March of 1661, in addition to reiterating their usual demands for oversight of the treasury and payment of the army, and continuing their criticism of illegal activities by the king’s ministers, the leading *sejmiki* of the Commonwealth expressed their doubts about an election in the king’s lifetime and reasserted their right to a “free election” (*wolna elekcja*).283

Despite the efforts of the court party, the Wielkopolski *sejmik* in Środa clearly instructed its delegates to oppose the measure: “in regards to an election, our gentlemen delegates will not only not allow anything, but will not [even] speak of it.” As they did when they wanted to put special emphasis on a particular instruction, they bound their delegates “*fidem, honorem et conscientiam*” to carry out these instructions.284 The Ruthenian *sejmik* in Wiśnia broke up over the issue of the election and the king refused to call a second

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283 The king’s assurances that he would not advance a particular candidate or interfere with the election were both disingenuous and unconvincing. The szlachta believed a royal election could be truly free only when there was no ruling monarch.

284 PAN Krak. Ms. 8598 t. II.
sejmik for fear it would be hostile to the idea. Thus, we have no instructions from Wiśnia and there were no delegates from the Ruski województwo present at the sejm of 1661.

The instructions from Sandomierz have apparently been lost, but Wespazjan Kochowski, who was from Sandomierz, reports in his history that the szlachta so thoroughly yelled at (okrzynęła) the king’s special envoy that “he barely escaped the sejmik.” According to Ochmann-Staniszewska, only four of the 12 sejmiki instructions from the Crown that she was able to locate clearly supported the idea of an election vivente rege, and those four sejmiki had faced intense pressure from royalist senators who had attended the assemblies.

Opposing the king outright was, of course, a delicate matter. Sejmiki expressed their reservations very diplomatically, usually choosing to emphasize the existing laws that prohibited such an election, rather than attacking the idea directly. An good example of this approach can be found in the directions of the Kujawy sejmik held in Radziejów:

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286 Wespazjan Kochowski. Edward Raczyński, trans. Historia panowania Jana Kazimierza z klimekterów. Vol. II. Poznań: 1859. p. 112. Kochowski (1633-1700) was poet and historian from Sandomierz województwo and contemporary of Stanisław Dunin Karwicki. Like Karwicki, he came from the middle szlachta and served many years in the army. Kochowski turned to history in his later years and published his Annalium poloniae ab obitu Vladislai IV et cliimecteres, a history of Poland under Jan Kazimierz and Michał Korybut Wiśniowiecki, in 1683. The work was based on numerous sources as well as his own experiences and generally presents the events of these decades from the perspective of the middle-szlachta republicans of Małopolska.
287 Ochmann-Staniszewska. Sejmy z lat 1661 i 1662. p. 40.
The instruction found in the supplement from His Majesty the King about a new royal election frightens us very much; common law has closed the way to such [an election] in the lifetime of the king since the decision of our dearly departed kings and your majesty’s ancestors, and he who dared to promote it in our fatherland was declared any enemy of the fatherland, and so never did it enter into the hearts of our ancestors, nor would it into our hearts that we, while looking at the lord happily reigning over us, for whom we wish from God good fortune and innumerable years of good health and successful reigning, to think of another…

The sejmik ultimately advises its delegates to discuss the matter with the rest of the republic without upsetting the long-standing faith and good will between them and the king. The Kraków sejmik took a similar approach, first thanking the king profusely for his concern about the republic’s fate after his death and then advising their delegates to discuss the matter with the whole republic. They went further, though, and listed eight conditions that had to be met for them to support an election in the king’s lifetime. These conditions would ensure that the election would be a one-time exception to the law and be carried out in accordance with the traditional procedures of a free election. No candidates could be discussed in advance of a convocation sejm and the king would pledge to make no recommendations or agreements with potential candidates or electors. The borders and castles of the republic would be safeguarded so no foreign army could influence the election. Finally, the election should be concluded before winter, so as to limit the “time and place for factions and corruption which surround [elections] and usually do great harm to the common good.”

From the serious reservations expressed by the Kraków sejmik to the outright opposition expressed by the Wielkopolski sejmik we can gather that the court’s chances of

288 Dzieje ziemi kujawskiej vol. II. p. 113.
289 ASWK. vol. III. p. 21.
convincing the sejm to approve an election vivente rege in the spring of 1661 were not good. In fact, delegates scrupulously avoided any discussion of an election and focused instead on exorbitancje and the pressing need to pay the army. As usual, their exorbitancje related to money and ministers. Their two biggest complaints were that the king’s Senate Council had passed new taxes without the consent of the sejm and that an Italian named Boratini, whom the king had appointed to mint coins, was minting far more coins than legally allowed and was thereby causing ruinous inflation in the country.

Discussion in the House focused on demands to see the Senatus Consulta and skrypty ad archiwum (i.e. to find out who was responsible for these offenses and make sure that the court was not keeping anything else from them), and also to close the mint and have Boratini tried for his crimes.

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290 S. Ochman-Staniszewska points out, as do many others, that instructions from the Wielkopolski and Kraków sejmiki were influenced by the leading aristocrats in these województwa, Jan Leszczyński and Jerzy Lubomirski, especially Lubomirski who outlined these very conditions for an election in a letter prior to the sejm. Leszczyński and Lubomirski’s influence is not in doubt, but one should not assume that they “controlled” the assemblies or induced the szlachta there to change their minds. The instructions from 1661 are in keeping with the sejmiki’s usual concerns about oversight of finances and complaints that the king has been exceeding his authority. We should not attribute their opposition to the king’s unconstitutional proposal for an election to the undue influence of these aristocrats. When the king criticized Lubomirski for not bringing Kraków sejmik over to the election, he replied that even he did not have that much influence. Sejmy z lat 1661-2. p. 107.

291 The king hoped to pay the army with these new coins and thereby avoid the need for sejm approval of new taxes. It is unclear how many millions of szelagi (named boratyński, tynfy) Boratyni and Tynf minted, but inflation was severe. When Pasek collects his pay for conducting the Muscovite envoys from the Lithuanian Treasury (the Crown treasury was empty) in 1662 servants have to carry it home in two wheelbarrows. Jan Pasek. Catherine Leach, ed. Memoirs of the Polish Baroque. p. 159. See also Robert I. Frost’s After the Deluge… for more information on inflation during this period.
Despite stormy deliberations, the House managed to pass new rules of order for itself and appointed a committee to draft a plan for sejm reform. By the time the committee presented its recommendations on June 12th, though, the sejm was reaching the six-week mark and the court had already begun to shift its focus to the issue of the election. Moreover, delegates were by that point very suspicious of the court’s motives for promoting majority voting. One delegate from Wielkopolska, Stefan Drożdżowski, expressed the fear that majority voting was just a prelude to the court’s actual plan to introduce autocracy. Earlier, he made a speech in the House claiming that the court wanted to “drive our I do not allow it (nie pozwalam) from Poland…and introduce majority voting, and then by this trick introduce the ways of the Gallic state.” In the face of popular opposition, the court let its proposal to introduce majority voting on bills drop. The sejm never returned to the issue of parliamentary reform.

By late June the army of the Crown (led by Hetman Jerzy Lubomirski) had lost patience with the sejm’s arguing and announced that it would form a confederacy (konfederacja) until its demands were met. Because no agreement had been reached about new taxes to pay the now striking army, the sejm had to be prolonged (despite the usual instructions from numerous sejmiki prohibiting prolongation of the sejm) several times. More than ever, the king needed the delegates’ good will to approve new taxes, yet he chose this

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292 S. Ochmann-Staniszewska, Sejmy z lat 1661 i 1662. p. 94. The new rules of order suggest broad interest in bringing more order to deliberations. They stipulated that sessions last from 7:00am-2:00pm every day; that the sejm open with the marshal’s propositions and focus on security and paying the army; that bills be passed one at a time; that once discussed issues not be raised again; that public matters be discussed before private ones; that delegates not interrupt each other and that they remain in their seats. These rules were apparently not applied to subsequent sejmy. Ochmann-Staniszewska, p. 66.

293 Ochmann-Staniszewska, p. 44. From Votum Drozdowskiego Wielkopolaka in material eligendi successoris. BCzart. Ms.1669 s. 179.
tense moment to make his case for the election. His timing provides more evidence that the court was hopelessly obtuse to the delegates’ frame of mind. On July 4 Jan Kazimierz had the chamber cleared of observers and made a rare personal appeal to the sejm for a royal election in his lifetime. Historians have made quite a lot of this speech because in it the king predicted the partition of the Commonwealth by its neighbors if it failed to accept this critical “reform” (i.e. the election). In their rush to identify this “prescient” speech as the fatal moment when the Commonwealth went awry, historians overlook the shocked disbelief expressed by the delegates in the chamber that day. The king’s appeal was met with a long silence. Kochowski reports that everyone listening was absolutely stunned (zadumieni) by the king’s speech. They had just celebrated a triumph over Moscovy and come through the Deluge basically unscathed. They had politely reminded the king of the fundamental laws of the Commonwealth that guaranteed their right to a free election. As Korzon observed, Jan Kazimierz’s warning must have seemed to the delegates there that day less like a vision of a dangerous future and more “like a clumsy and offensive description of a coup.”

The court’s official proposal, read by the marshal of the House after Jan Kazimierz’s personal appeal, reflected the conditions laid out by the Kraków sejmik. Even to this carefully limited version of the plan, delegates and senators began to reiterate, as politely as possible, their objections. Andrzej Maksymilian Fredro, who was castelan of Lwów as therefore sat in the Senate, observed, “as there cannot be two suns in the heavens, there

295 Kochowski, 119.
296 Korzon, 96.
cannot be simultaneously two kings and peaceful government in one kingdom.”

Krzysztof Grzymułtowski, castelan of Poznań, then gave a speech questioning the necessity of such an enormous change to the constitution just to address the inconveniences of an interregnum, “But is this really the sine quo non? There are serious inconveniences and evidence shows the usefulness of holding elections quickly, but to abolish the law of all laws [my emphasis] and by this freedom too?…I do not see the necessity and instead fear the danger.” He asked the king at the very least to put off the decision until another sejm and to give people time to consider this weighty matter, “for they say that no deliberation lasts longer than a person’s life, but here the life of a people is under consideration, the life of common law, the life of liberty, which God in his most particular grace has given to the people.”

Regalist senators, including the two chancellors, Bishop Prażmowski and Krzysztof Pac, tried to convince the House to accept the proposal. Chancellor Pac of Lithuania even threatened to break the union between Poland and Lithuania over the issue of the election. After several more senators had expressed their reservations, delegates began to rise to read their instructions that prohibited the election. Eventually, more than 30 delegates made public their opposition to the election, the most vocal being from Wielkopolska and Sandomierz. Finally, the court had to give up. On July 6th an angry Chancellor Prażmowski scolded the delegates, calling them “disgraceful children”

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297 Ochmann-Staniszewska, Sejmy z lat 1661-2, 111.
299 This public opposition is was an act of great courage. The king had personally requested the election and these delegates had dared to stand up before him and the rest of the republic to reject his request. In the Commonwealth where social and economic advancement was largely dependent on royal patronage, this act could have easily ended a nobleman’s career.
(wyrodne dzieci) for rejecting the king’s proposed election, and then turned to the matter of new taxes. Having won the battle over the election, the House quickly worked out arrangements to pay enormous new taxes to cover the republic’s debts to the army. The sejm wrapped up 10 days later on July 18th—more than 10 weeks after it began.

Looking at the konstytucje passed by the sejm of 1661, we can see the compromise that took so long to work out between the court party and the opposition. The konstytucje make no mention at all of an election vivente rege. In return for this silence, the sejm passed no indictments of the king’s ministers, no new laws constraining the activities of the Senate Council, and most importantly, passed detailed legislation describing how taxes would be assessed and paid to a new commission meeting several months hence in Lwów. The only reference to the szlachta’s exorbitancje is a law reconfirming the procedure of verifying, filing and publishing konstytucje immediately after the sejm (so that no changes could be introduced surreptitiously). It would seem the matter of an election had been settled. In fact, the battle was only getting started.

Two Factions Form

During the seven months that separated the parliaments of 1661 and 1662 the Commonwealth became even more polarized. As the szlachta heard more details of the court’s plan (diligently publicized and embellished by opposition propaganda), they became more outraged. Contrary to what the king had told the parliament, he did indeed

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300 Volumina Legum vol. IV. p. 330.
have a candidate in mind, and despite the *sejm*’s obvious rejection of the proposed election, the court continued to pursue its plans. After it became apparent that they could not bring about his election legally, the king and queen considered using foreign troops or Cossacks to force the election of the Duc d’Enghien.301 The opposition, led by Lubomirski and his Austrian backers, focused their propaganda on the still striking armies, which soon added the demand to ban an election in the king’s lifetime to their demands for back wages.302

An excellent window into the anger and frustration of the szlachta (both those serving in the army and those at home) can be found in an opposition pamphlet published sometime during the second half of 1661, *Considerations on the State of the Commonwealth (Uwagi o stanie Rzeczypospolitej).*303 The author of this tract makes many specific accusations designed to enflame his readers’ resentment and spur opposition to the court’s policies, but they all boil down to three general complaints. First, he argues that by secretly arranging a French election behind their backs, the court was trampling upon citizens’ right to know about and approve matters effecting the entire Commonwealth; second, that the court was disregarding the laws of the republic, particularly the most fundamental one, the right to free elections; and third, that the court had so thoroughly

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301 Korzon, p. 188.
302 The *sejm* of 1661 agreed to pay the armies by setting up a commission in Lwów to collect tax revenues, review registers of soldiers and calculate how much was owed. This process took a long time and the województwa, many of which were still recovering from the wars, were slow to bring their taxes to the commission. The army remained confederated and camped out on royal and church lands. The presence of thousands of hungry troops on their lands discouraged the szlachta and churchmen from further postponing the armies’ demands. Zbigniew Wójcik’s biography of Jan Kazimierz provides an overview of the king’s relations with the army. *Jan Kazimierz Waza* (Wrocław: 2004).
corrupted senators and delegates that the szlachta’s ability to express its concerns at the sejm had been blocked. These desperate times, when “the court has been completely Frenchified,” when “their plots all lead us to Condé, to the succession of the French kingdom or to secretly make it (w podszewkę podać) so the French kingdom owns us…without ever asking the Republic about it,” called for desperate measures.\textsuperscript{304} The author calls upon the szlachta to rise up to protect their right to a free election, “the fundamental axis and pride of this republic,” and to join the army at the sejm so that in a great mass (w kupie) they could all “bury this matter for good.”\textsuperscript{305} In his mind, their ultimate salvation rests in the liberum veto, “salva per omnia libertate contradicendi,” which he calls “the right of every delegate at the sejm and also every szlachcic.” The author makes clear his view that the only thing preventing them all from being sold into French servitude is their power to protest. He encourages all the szlachta to come together en masse so their right to protest cannot be ignored, for “if these [contradictions] were to happen, and they did not have their power (suum vigorem), then anything at all could be decided against our wishes.”\textsuperscript{306} In the author’s view, the situation has gotten so out of control that every citizen—not just delegates at the sejm—has to use his veto to stand up and prevent the court from forcing its agenda on the unwilling Commonwealth.

As a work of opposition propaganda Considerations on the State of the Commonwealth projects a sense of desperation and fear designed to stir the szlachta into action. But this sense that things had gone terribly wrong and needed to be corrected by all means necessary was hardly limited to factional propaganda. One also sees it in the sejmiki

\textsuperscript{304} Ibid, 49.
\textsuperscript{305} Ibid, 51.
\textsuperscript{306} Ibid, 52.
instructions for the sejmy of 1661 and 1662. Beginning in 1661 we see sejmiki adding threats to their demands that the king’s ministers and other senators respect the law. Sejmiki had complained about the Senate Council’s practice of making decrees about important matters without the consent of the citizens before. They repeatedly demanded that senators personally sign the decrees they approved, as directed by the law. In 1661 the Wielkopolski sejmik threatened to fine resident senators who failed to perform their duty as guardians of the law and to call them before the Tribunal. They demanded that “the gentlemen residents live at the king’s side without becoming corrupted, under the penalty of 4000 zlotys and a summons to the Crown Tribunal inter causas officii.” In addition to trying to threaten senators into opposing the court’s activities, the Wielkopolska and Kraków sejmiki also threatened to void any illegal acts made without their knowledge found in the skrypty ad archiwum. Their greatest threats, though, were reserved for the chancellery, which they asserted had been tampering with the laws (konstytucje) and issuing illegal decrees and pardons. The Wielkopolski sejmik, after stipulating that all new konstytucje be signed by the marshal and his appointed deputies and filed with the Warsaw gród immediately following the conclusion of the sejm, adds that if these procedures are not followed, any delegate may make a protest to void them. Kraków echoes these demands and threatens that if anyone [at the chancellery] dares to alter the konstytucje, any single województwo can protest and the chancellery

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307 Wielkopolski sejmik instructions for 28 March 1661 read: “Because many things prejudicial to our laws emerge from the Senate Council, our gentlemen delegates will rise with the other województwa to find a way to set this right so that their lordships did not get into material that effects the entire republic and that is contrary to freedom and finally, that they sign their opinions according to the law.” Bib. PAN Kr. 8598 vol. II.

308 Bib. PAN Kr. 8598 vol. II.
official will be punished privatione officii.\textsuperscript{309} The Kraków sejmik also demanded the opportunity to review all decrees made by the chancellery, and added that “if anyone is found to have exceeded what is proper to his office, he will be tried according to a special registry at the Tribunal and punished accordingly.”\textsuperscript{310}

In these instructions we see that trust among the estates has been severely eroded. The suspicion that the king and his ministers (as well as many other senators) were colluding to exclude the citizens from their rightful role in governing the republic seems more pronounced than ever in these instructions. Kraków makes this case explicitly,

The first liberty among all others can be said to be that no one decides anything about us without us, which His Royal Majesty’s Chancellery wants to take from us, when (not for the first time) having sent a sejmik decree to one town hall [gród], it sends only a packet of letters to their lordships the senators and other gentlemen citizens to other grody, which, contrary to the ancient ways [more antiquo], mentions neither the date or place of the sejmik. [We demand] that such an exorbitantia, which destroys our freedom by separating us from counsel about the Republic, be stopped [poskromiona] and that His Royal Majesty’s Chancellery act according to ancient law and custom; [our delegates] will make a humble request to His Royal Majesty our gracious lord in the name of all wojewódtzw of all grody two weeks before the sejmik that those sejmiki will be said not to exist.\textsuperscript{311}

Here Kraków not so subtly accuses the king’s chancellery not only of failing to fulfill its responsibilities, but also of conspiring to exclude certain sejmiki from parliamentary deliberations by failing to apprise them of the dates and locations of assemblies.

\textsuperscript{309} ASWK, vol. III. p. 54
\textsuperscript{310} Ibid. p. 54.
\textsuperscript{311} ASWK vol. III. P. 55.
Moreover, they imply that the king’s chancellery was purposefully going around them to communicate directly with individual senators. These senators, who were supposed to be guardians of the law and mediators between maiestas et libertas, appeared to be in league with the king. As Kochowski tells it, they, who had once been the Commonwealth’s ministers, had become the “king’s ministers, flattering the court for promotions for themselves or their relatives or to enrich themselves or raise up their families, turning a blind eye to the whole of the fatherland’s freedoms and the conservation of the common law.”

In his famous confrontation with several senators at court in Wilno in 1661, Jan Pasek expressed similar sentiments, calling the senators there “stepfathers inter patres patriae, quorum machinationes had enfeebled the Commonwealth and brought it to the extremity of destitution.”

Under such conditions the sejmiki could hardly trust their own delegates not to be corrupted by the court party. The Sandomierz sejmik made their delegates swear not to allow anything or even discuss anything that had not been explicitly included in their instructions. The Ruski sejmiki recommended that all sejm delegates take an oath that they had taken no bribes and would not “advance their own or anyone else’s private interests or promote anything beyond their instructions (ultra commissum).” In another attempt to prevent the corruption of delegates, they suggest that no one should serve as a delegate to the sejm more than once every four parliaments.

314 Kochowski. vol. II. p. 146.
The extraordinary sejm of 1662, which was supposed to last two weeks, opened February 20th in this atmosphere of distrust and suspicion. Again, the king had chosen not to mention the election vivente rege in his decree to sejmiki, but sejmiki still sent their delegates to Warsaw with explicit instructions not to allow the election or even discussion of it. Wielkopolska’s instructions reiterate the previous year’s position de non eligendo vivente principe regis in toto and calls the election proposal the source of “various factions, corruption, distrust, rivalries and even dangerous schism.” Instructions from the Ruthenian sejmik of Wiśnia attribute the idea of the election to the excessive number of foreign residents at court who “disturb the state of the republic with their zealous plots” and sow distrust (diffidencye). In addition to demanding that these “superfluous residents” be expelled from court, their instructions demand that the authors of the election plan be identified and that any candidate whom they promoted be officially disqualified from royal elections in the future. They conclude with the demand that the king reconfirm the right to free election with a special charter.

According to Ochmann-Staniszewska, such clear and categorical opposition to the idea of the election was now almost universal among the sejmiki of the Crown and was combined with a call to increase the sejm’s control over the government and to limit corruption. Most senators apparently also had misgivings, or at least did not want to comment on the election publicly, for when the sejm opened, only five bishops and two castellans were

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316 Kujawy demands that “there be no mention of an election of a new king.” Dzieje Ziemi Kujawskiej. vol. II. p. 131.
317 PAN Kr. 8598 vol. II.
318 AGiZ. vol. XXI. p. 341
319 Ochmann-Staniszewska bases her conclusions on instructions from 20 sejmiki (including all the leading sejmiki) of the Crown that she was able to locate. Sejmy lat 1661-2. p. 167-75.
present (in addition to the king’s loyal chancellors, court marshal, and treasurer). The delegates opened with their usual demands to have the Senatus Consulta and skrypty ad archivum read out to the House. The first issue raised by the opposition, led by delegates from Wielkopolska, Kraków and Sandomierz, was the need for a new konstytucja formally banning an election vivente rege. This caused an uproar from royalist delegates. Other contentious issues were immediately raised, particularly complaints about the Crown treasurer and his improper spending of tax money raised to pay the army.

All agreed that the first order of business, though, had to be a means to pacify the striking armies. The armies would not be satisfied by promises of another committee. Both the Crown and Lithuanian armies sent delegations to the sejm to make their economic and political demands known. Eventually, the confederated troops camped outside of Warsaw and refused to leave until a compromise was worked out. When Jan Pasek went to the capital in the spring of 1661, he saw “great commotion, no accord; some wanted to disrupt the sejm, the army began to assemble outside Warsaw, declaring that no one should leave before the sejm ended.” The two weeks allotted for the extraordinary sejm barely gave the delegates time to appoint committees to negotiate with the confederates.

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320 This low turnout is remarkable. Many senators came to parliaments late in order to make a grand entrance, but also to avoid having to oppose the king publicly. See Henryk Olszewski Sejm w dawnej rzeczypospolitej; ustrój i idee. (Poznań: 2002) and Wojciech Kriegseisen Sejm Rzeczypospolitej szlacheckiej do 1793. (Warsaw: 1995) for an overview of sejm norms and customs.


Despite many sejmiki’s instructions, the sejm was prolonged again and again. Like the previous one, it eventually lasted 10 weeks.\footnote{The sejm ran from February 20 to May 1, 1662. W. Konopczyński. Chronologia sejmów polskich. (Kraków: 1948) p. 154.}

In the final weeks of the session the fundamental argument shaped up just as it had at the previous parliament. The House would not grant new taxes (this time the proposal on the table was a one-time head tax amounting to six million złotys) until the king formally renounced his plan for a royal election in his lifetime. This time the House’s hand was stronger. Not only did the striking soldiers support the delegates’ demands to ban the election, they pressed for more concessions from the king. Notably, they wanted him to dismiss his two chancellors, Bishop Prażmowski and Krzysztof Pac.\footnote{Oehmann-Staniszewski. Sejmy lat 1661-2. p. 222. The opposition attacked the Lithuanian chancellor so fiercely he apparently considered escaping to France. p. 197.} After weeks of particularly heated arguments, a compromise was finally reached.

The nature of this compromise can be seen in the konstytucje of 1662. In exchange for granting a virtually unprecedented head tax, the delegates achieved their two most important political goals: an reconfirmation of their right to a free election and tighter controls over the king’s administration. The law entitled “A Resumption of the Laws about the Free Election” reconfirmed the traditional laws that Jan Kazimierz had sworn to uphold in the Pacta Conventa and voided all agreements made in both the Crown and Lithuania having anything to do with an election vivente rege. The law entitled “On the Rendering of the Accounts of the Senate Council” reconfirmed laws from 1576, 1588, 1607, and 1641 that stipulated that all senators who approved decisions made by the
Senate Council must sign the records.\textsuperscript{325} Additionally, this law prohibited the Senate Council from passing any tax legislation, modifying laws, recruiting armies, granting pardons or tax exemptions, or dispensing any public funds without the consent of the sejm. The law closes with a striking new element—the threat that any such decrees or orders issued by the chancellery contrary to this law would be considered null and void.\textsuperscript{326}

What is perhaps most striking about the legislation passed by the sejm of 1662, however, is its opening statement. Unlike the konstytucje passed after earlier showdowns between the citizens and the king, it is not the king who apologizes and promises to respect the boundaries of his prerogatives. It is the citizens. The point called “\textit{Pronouncement of the Estates of the Crown and Grand Duchy of Lithuania’s goodwill towards Us},“ confirms the citizens’ goodwill and fidelity toward the king,

The priestly and lay council and also the Delegates of the lands of both the Crown and the Grand Duchy of Lithuania, who at this time are gathered at Our side at the present sejm, in their name and that of the whole Republic, pronounce to Us in a uniform and unchanging word, bound by conscience, that We will not be in any danger; rather they gladly desire to respect Our dignity, health, and property, and promise to stand by Us with all good will, faith and honor in every occasion, maintaining among ourselves mutual unity and accord (zgoda); and mutually oblige ourselves not to leave one another in any danger, confirming this with the prestige of this sejm.\textsuperscript{327}

\textsuperscript{325} It is interesting to note the dates of these laws—each one followed a flare up between the king and szlachta over the limits of each estate’s prerogatives.
\textsuperscript{326} Volumina Legum. vol. IV p. 390.
\textsuperscript{327} Volumina Legum. vol. IV. p. 389.
The very fact that the citizens had to state explicitly that they did not wish to endanger either the king or his property suggests the severity of the disagreement they had just had, and reminds us that barely seven years had passed since many citizens had indeed renounced allegiance to Jan Kazimierz and sided with his enemies. It is interesting to compare this confirmation of the bond between the king and the citizens to a similar konstytucja passed in 1607 after the Zebrzydowski Uprising. While the intent was similar (i.e. to restore trust among the estates after a divisive battle over an election vivente rege among other issues), the tenor of the konstytucja is quite different. In 1607 Zygmunt III confirmed his commitment to the laws and freedoms of the Commonwealth and promised to restore immediately any that had fallen out of use. He acknowledged that he “happily ruled over a free people [due to a] free election” and that he therefore had a responsibility to preserve the laws and freedoms granted by his ancestors “completely as a whole.”\textsuperscript{328} Jan Kazimierz makes no such pledge in 1662. In fact, it is the other two estates that reconfirm their fidelity to him—and, mostly importantly, promise not to harm or abandon him. Conspicuously absent from the layer konstytucja is any agreement about the king’s fundamental role in the mixed republic that might have reassured citizens about the king’s commitment to protect and preserve the Commonwealth’s mixed constitution.

Even though a compromise had ultimately been worked out, there appears to have been little agreement (zgoda) between the king and the citizens. According to Kochowski, the sejm of 1662 marked the beginning of intractable discord in the Commonwealth. At that time “there was no agreement (zgoda) among the brothers; some were corrupted by the court, others were trying to shore up the ancient laws and the free election.” He writes

\textsuperscript{328} \textit{Volumina Legum.} vol. II. p. 432.
that the situation was so divisive that “almost everyone agreed that a sejm konny (on horseback) was the only solution.” A sejm konny was seen as the last resort by szlachta when the republic was so thoroughly out of balance that all citizens had to come together in person to work things out with the king and Senate. This call for a sejm konny echoes that of the author of Considerations on the State of the Republic to rise up, defend freedom en masse made in advance of the parliament of 1662. In Kochowski’s retelling the Commonwealth entered a new kind of crisis at this time:

Never had the fatherland been in such trouble (utrapienie), both from quarrelsome neighbors, and also from false friends and open enemies; because at that time troubles bothered us from abroad and at home there was no harmony (zgoda), trust, brotherly love; for these reasons we ignored oppression by our enemies; and now we are so divided, one does not trust another, one has no confidence in another, a brother regards his own brother with suspicion. It is because we lack the virtue of our fathers, that is love and harmony, we have forsaken the ancient ways, honesty is nothing, and why are we surprised that we are searching for Poland in Poland.

Such was the state of the Commonwealth from the perspective of republican szlachta after the parliament of 1662. The Commonwealth had been divided by the court’s efforts to introduce the election of a French prince despite the obvious opposition of the citizens. Trust among the estates had ebbed to a new low as the new political situation, in which the court had the money and will to mount a sustained attack on the Commonwealth’s constitution, deformed their traditional relations. Most notably, the Senate—the main

329 J.A. Gierowski describes sejmy konne as akin to confederacies, “it was an institution that flowed from the most egalitarian inclinations of the szlachta, particularly the middle szlachta, as though realizing the dream of a sejm of justice, or sejm konny, to which every szlachcic could come to battle with exorbitancje personally and influence the affairs of the Commonwealth.” “Konfederacje a postawa polityczne szlachty” in Dzieje kultury politycznej w Polsce. (Warszawa: 1977) p. 93.
target of the court’s lobbying efforts—failed to perform its role as mediator between
\textit{libertas et maiestas} and instead became the battleground of factional warfare. While the
king and queen failed to achieve their ultimate goal, the campaign for a French election
had two unforeseen consequences that would continue to shape politics in the
Commonwealth for decades to come. First, during their nearly decade-long quest to put
their candidate on the Polish throne, the king and queen built up a powerful party of
ministers and minor officials who willingly carried out royalist policies in exchange for
favors and lucrative pensions funded by Louis XIV. In reaction, Louis’s rivals, the
Austrians and Prussians, enlisted their own coterie of supporters willing to support
policies that benefited their own \textit{raisons d’etat}. These factions introduced new techniques
to manipulate the parliamentary system as well as unprecedented levels of corruption.\textsuperscript{331}

As these opposing factions solidified, parliaments became more and more about
advancing one’s own party rather than working out policies to benefit the entire
Commonwealth. Many senators chose to accept the pensions and power offered by the
court. A few chose to lead the opposition, which was officially committed to defending
the traditional constitution and liberties of the \textit{szlachta}, but also brought them great
personal power and influence. Without the mediation of the senatorial estate, political
power shifted from being (more or less) evenly distributed among three estates to being
fiercely contested by two (more or less) equal factions—the court and the opposition.
Balance among three became stalemate between two.

\textsuperscript{331} Korzon calls this willingness to serve foreigners one of the “plagues” that followed the failure
The tool that allowed this stalemate to become so deeply entrenched was, of course, the
liberum veto. What had once been an occasionally abused negotiating tool and the
ultimate recourse for national, regional or religious minorities, in the course of a decade
transformed into the Commonwealth’s ultimate defense against those who sought to
overthrow its constitution. By the end of the 1660s Fredro’s assertion that their right to
protest at parliament was citizens’ ultimate defense against attacks on the
Commonwealth’s mixed constitution had become holy writ among republican szlachta.
This transformation was the second significant consequence of the king and queen’s
election campaign. As is evident from the parliamentary battle of 1661 and 1662, the
szlachta did not immediately resort to the veto to defend themselves. They used their
traditional method to protest the court’s exorbitancje and its election campaign: their glos
wolny. When the court did not heed their objections, they resorted to a more powerful
(and destructive) weapon. This phase of the struggle will be the topic of Chapter Three.
The Polish Republic is composed of three estates, mutually connected among themselves in symmetry...they are the king, the Senate and the Szlachta. Each of these estates has its responsibilities described and circumscribed by law.

Marshal and Hetman Jerzy Lubomirski

In 1666 Jerzy Lubomirski published *A Manifesto of My Obvious Innocence to God, the World, and the Fatherland by the Most Honorable Gentleman Jerzy Stanisław Lubomirski, Grand Marshall and Field Hetman of the Crown, etc.* The work begins rather improbably with the above description of the Polish constitution. While upon first glance it may seem odd that a convicted rebel, who was leading an uprising against the king at the time, would begin his public defense with a canonical description of the republic’s mixed constitution, this passage actually provides the key to understanding the curious evolution of the *liberum veto* during Poland’s stormy 1660s.

In theory, the right to protest (*ius vetandi*) understood as part of the concept of *głos wolny* (free speech) had always existed to protect minority rights and ensure consensus. In practice, though, the *liberum veto*, understood as a single delegate’s right to protest so as to suspend parliamentary deliberations and thereby break parliament, was a product of

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the political showdown the 1660s. This newly concrete and expansive definition of a citizen’s right to protest, as well as the parliamentary precedent for using it, emerged during a pitched political battle that began in 1661 when Jan Kazimierz and Ludwika Maria launched a plan to elect a French prince to the Polish throne as their successor. This proposal contradicted the fundamental laws of the Commonwealth and provoked stubborn opposition from the parliaments of 1661 and 1662. Despite widespread popular opposition, the king and queen continued to press for a French election. Having failed to accomplish their ends at these two parliaments, they changed strategy and undertook a campaign to elect Duke d’Enghien, son of the Great Condé, by whatever means necessary, including by force.\(^{333}\)

From the perspective of the court, the primary obstacle to putting d’Enghien on the Polish throne was the leader of the middle szlachta opposition, Great Marshal and Field Hetman Jerzy Lubomirski. In the summer of 1664 the king decided to try the powerful war hero and aristocrat from Małopolska for laese majesty and treason. From the perspective of Lubomirski’s republican supporters, the Grand Marshal’s opposition to an election vivente rege defended citizens’ fundamental right to choose their next king freely.\(^{334}\) The court’s all but unprecedented attack on Lubomirski shocked and outraged citizens who saw his persecution as an attack on every citizen’s right to oppose policies he considered

\(^{333}\) These means included introducing French or Swedish troops into the Commonwealth under the guise of supporting the war against Muscovy or later, Turkey, planning Lubomirski’s assassination, illegally indicting his followers, blowing up sejmiki. See Tadeusz Korzon’s Dola i niedola Jana Sobieskiego. vol. I. Kraków, 1898. Chapters VIII-XIV chronicle the court’s activities during the Lubomirski Uprising.

\(^{334}\) This right is the first mentioned by the Henrician Articles. For more about the integral role of the right to a free election played in republican political theory see Chapter Two, particularly the discussion of the writings of A.M. Fredro.
dangerous to the Commonwealth, or more generally, to express his opinions freely.\footnote{It was something unheard of, incomprehensible to the szlachta mentality. To a careful observer it became clear that the king would no longer tolerate outbursts of opposition.” \textit{Witold Klaczewski, W przededniu wojny domowej: Walka sejmowa 1664–5.} Lublin: 1984. p. 25. This widespread shock and disbelief is similar to that expressed when Jan Kazimierz had his vice Chancelllor Hieronim Radziejowski tried for political reasons in 1652. While the king got away with it the first time, Lubomirski was a much more formidable opponent. Moreover, the republican opposition was already riled up after their fight against the king’s election campaign at the parliaments of 1661 and 1662.} When the irrepressible Lubomirski returned to the Commonwealth after being convicted \textit{in absentia} in December of 1664, he arrived with a small army, proclaiming that he was defending the ancient constitution of the republic against a corrupt court bent on electing a French prince at any cost. He was soon embraced by legions of supporters, including the overwhelming majority of citizens of the Crown.

The historiography of the Lubomirski period has traditionally focused on the intrigues and correspondence among the Polish, French, Austrian and Prussian courts. It has neglected the perspective of average Polish citizens. Like their court informers, historians have failed to appreciate the significance of the constitutional crisis underlying the Lubomirski affair.\footnote{A comprehensive book about the Lubomirski Uprising (\textit{Rokosz}) had yet to be written, a fact that attests to the complexity of the era and helps explain why the constitutional crisis underlying the uprising has not been given proper attention. Nineteenth-century authors like Wiktor Czermak (\textit{Ostatnie lata panowania Jana Kazimierza}) and Tadeusz Korzon (\textit{Dola i niedola Jana Sobieskiego}) laid the groundwork for understanding the period by focusing on the correspondence of courtiers and foreign diplomats. More recently, monographs describing the parliaments of the period have added a new dimension to our understanding. However, as is often the case with Polish historiography, these works are extremely narrow in focus and refrain from making broader conclusions about a given parliament’s role in the long struggle between \textit{wolność et maiestas} as seventeenth-century Poles called it. See Klaczewski’s \textit{W przededniu wojny domowej: sejmy z lat 1664 i 1665}. Maciej Matwijów’s \textit{Ostatnie sejmy przed abdykacją Jana Kazimierza 1667 i 1668}. (Wroclaw: 1992) and the new \textit{Dwa sejmy z roku 1666} by Paweł Krakowiak (Torun: 2010).} The upheaval that lasted from late 1664 through Jan Kazimierz’s abdication in 1668 was more than a power struggle between the king and one of the
Commonwealth’s most powerful aristocrats.\textsuperscript{337} The fact that the deaths of the two leading protagonists, Lubomirski and Ludwika Maria, in early 1667 did not bring an end to the standoff attests to this. In the eyes of republican citizens, the struggle was to defend not just Lubomirski, but the mixed constitution of the Commonwealth. As Lubomirski told readers of his \textit{Manifesto},

\begin{quote}
This is not about any one person, but about ancestral freedoms; it is about the \textit{szlachta} estate, whose \textit{glos wolny} and prerogatives, equal to all the prerogatives on earth, have been silenced; because of what happened in my case, the House of Delegates has already been abolished. What else can this estate hope to expect? When the pre-\textit{sejm} appeals from delegates about me and about the Fatherland are ignored, when they have no effect on His Majesty and are scorned?\textsuperscript{338}
\end{quote}

Opposition propaganda made this point explicitly: the king’s attack on Lubomirski—a leading senator and free citizen of the Commonwealth—was an attack on all citizens’ freedoms and the mixed constitution that guaranteed them. Most citizens rejected the legitimacy of Lubomirski’s trial and saw his persecution as the culmination of the court’s nearly decade-long assault upon the laws and customs of the Commonwealth. Since the beginning of his reign, Jan Kazimierz had been trying to transform the \textit{sejm} into a body that would efficiently grant taxes and allow him to rule as he wished.\textsuperscript{339} For years, the leading \textit{województwa} of the Commonwealth had been complaining about his ministers’

\begin{flushright}
\textsuperscript{337} I have chosen to use the Polish term “\textit{rokosz}” rather than translate it as ‘uprising’ or worse, ‘rebellion.’ The right to refuse obedience to a king who violated the laws of the Commonwealth’s constitution appears in the final article of the Henrician Articles. There was nothing illegal about the movement led by Lubomirski.

\textsuperscript{338} Lubomirski, \textit{Jawnej niewinności Manifest…} p. 154.

\textsuperscript{339} Unlike their seventeenth-century forefathers, modern Polish historians have been reluctant to call Jan Kazimierz and Louise Marie’s ultimate designs “absolutist” or even autocratic. They have generally described them as “progressive” and necessary reforms.
\end{flushright}
excesses and demanding to have more say in governing.\textsuperscript{340} For many republicans the king’s illegal and politically motivated trial of Lubomirski was the last straw.

In a republic of laws based on shared sovereignty among the estates, the king should not have been able to condemn a senator to infamy and sequester his property simply because the senator opposed the king’s (illegal) policies. In fact, it was a senator’s duty to point out when the king violated the laws and customs of the Commonwealth. Delegates at the sejm of 1664-5, at which Lubomirski’s trial was held, protested both the trial and the illegal tactics used to rig its outcome, but the court party conspired to have the delegates’ protests ignored until after Lubomirski had been convicted and sentenced. This violation of the delegates’ głos wolny changed irreparably the significance and power of the liberum veto in Polish politics.

At the parliaments that followed, the court tried to invalidate delegates’ protests in defense of Lubomirski by claiming that delegates had used their ius vetandi illegally. Since there was no express law about the circumstances under which a delegate could legally protest at the sejm, the two sides argued about what constituted a legal and proper liberum veto. Delegates refused to allow any limit to their right to protest because, as the court had demonstrated for more than a decade, it was willing to use all means available to achieve its ends. The court faction, led by the queen, the French ambassadors de Lumbres and de Bonzy and the two chancellors, Bishop Mikołaj Prażmowski and Krzysztof Pac, employed bribery, deceit, manipulation and intimidation to a degree

\textsuperscript{340} See Chapters One and Two for a description of citizens’ reoccurring complaints and demands from the 1630s-1660s.
formerly unknown in the Commonwealth. Faced with such tactics, the republican opposition needed more than their traditional exhortations for civic virtue and “brotherly persuasion.” Over the course of several years, the argument about what constituted a legal and proper protest escalated. Eventually, a new incarnation of citizens’ long-standing glos wolny emerged: a delegate had the right to issue a protest and suspend parliamentary deliberations at any time, for any reason. Proposals to limit a delegate’s right to protest in any way were associated with the court’s efforts to silence szlachta opposition.

Five of the six parliaments that met from November 1664 until March of 1668 were broken by a liberum veto. While Lubomirski’s restitution appeared to be the central bone of contention, it was in fact, only one of a long list of exorbitancje republican

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341 Jarema Maciszewski’s observation about political culture during Poland’s golden age holds true for the middle of the seventeenth century as well. Many of the intimidation tactics used by Jan Kazimierz’s court appeared shocking to Polish citizens accustomed to regular compromise as well as forgiveness and amnesty—even following the most severe conflicts. As he explains it, “the essential difference between political practice in the Commonwealth in the sixteenth century when compared with other European states was the manner in which political arguments were handled within szlachta society, and also in relations among the king, aristocracy or magnateria, and szlachta. First, they did not resort to illegal force within the szlachta estate. Second, they did not settle political arguments with the aid of weapons…third, they did not use political murder as a means of [political] action…fourth, as a rule they avoided very extreme solutions (and concepts…instead an inclination to compromise prevailed.” Jarema Maciszewski. “Kultura polityczna Polski złotego wieku” in Dzieje kultury politycznej Polski. J.A. Gierowski, ed. (Warszawa, 1977).

342 All six parliaments met for their allotted time. The first, held during Lubomirski’s trial, met from November 26, 1664-January 7, 1665. The next extraordinary sejm was broken by delegates seeking Lubomirski’s restitution. It met February 12-28, 1665. The third was broken by a regalist deputy on the 48th day of deliberations. It met from March 17-May 4, 1666. The fourth met six months later November 9-December 23, 1666 and was broken by a delegate protesting the court’s failure to meet the conditions of the Agreement of Łęgonica signed between Lubomirski’s forces and those loyal to the king in July of that year. After a 10-week sejm managed to conclude in the spring of 1667, the next one, held less than a year later January 24-March 7, 1668, broke over the king’s refusal to dismiss the French ambassador. Monographs have now been published about all six sejmy of the period. This greatly enhances our understanding of the progression of the argument between republicans and the court faction.
citizens wanted remedied. Their first demand, of course, was for a sincere promise from the king to cease all efforts to put d’Enghien, or any other French prince, on the throne.\textsuperscript{343} The king refused to grant Lubomirski full restitution, to remedy the republicans’ other exorbitancje, or to give up on the French election. Two years of civil war (1665-1666) did nothing to break the impasse; they only enforced the precedent of using the liberum veto to postpone an irreconcilable argument.

\textit{The Last Straw: The Trial of Marshal Lubomirski and Protests Ignored}

In late August of 1664 the king called a parliament to be held three months hence. In his decree Jan Kazimierz made no mention of Lubomirski and instead claimed to be calling the \textit{sejm} to work out means to bring the war with Muscovy to a close, to pay the Commonwealth’s weary soldiers, and to treat “other great matters of public deliberations so that the common law will be satisfied.”\textsuperscript{344} However, by the time the \textit{pre-sejm sejmiki} met in mid-October citizens of the Crown had already gotten wind of the court’s plans to try Lubomirski. They showed up in huge numbers at their local \textit{sejmiki} to learn that the rumors were true.\textsuperscript{345} Lubomirski, the Grand Marshal and Field Hetman of the Crown,

\textsuperscript{343} Shortly after the parliament of 1662 had passed a resolution confirming the \textit{szlachta}’s right to a free royal election and canceled all agreements relating to the election, the queen arranged her niece’s marriage to Prince d’Enghien (the mentally unstable Henri Jules de Bourbon) in Paris in December 1663 and Jan Kazimierz ceded his hereditary titles to the Swedish and Lithuanian thrones to the prince without the \textit{sejm}’s approval. Putting d’Enghien and Anna Henrietta on the throne was Louise Marie’s personal crusade. She gave the \textit{szlachta} no reason to believe she would cease until she had succeeded. See Korzon. vol. I. chapters IV and VI and Zofia Libiszowska. \textit{Królowa Ludwika Maria}. Warszawa: 1985.

\textsuperscript{344} \textit{ASWK}. vol. III. p. 92.

\textsuperscript{345} Lumbres reported that 5000 people showed up at the Kraków \textit{sejmik} and that Lubomirski arrived with a retinue of more than 1500 soldiers. Kłaczewski, \textit{W przededniu wojny domowej}... p. 39.
was to be tried at the upcoming sejm for numerous crimes including laese majesty.\textsuperscript{346}

This was not the first time Jan Kazimierz had used this tactic to spring unpopular news on the szlachta.\textsuperscript{347}

The leading województwa of the Crown experienced exceptionally contentious sejmiki. Assemblies that usually lasted only a day or two debated the Lubomirski affair and the possibility of a French election for many days, even weeks.\textsuperscript{348} The length and contentiousness of these sejmiki had much to do with the court’s efforts to neutralize opposition to the trial as well as to prevent any instructions renewing the ban on a French election. The court’s strategy was more sophisticated and more successful than the one it had used in 1661-2. The king and queen had dispatched envoys to the sejmiki and coordinated with local aristocrats to ensure that the court party won the day or at least prevented the election of delegates who would oppose the court at the sejm. The court focused its efforts on citizens most likely to be sympathetic to Lubomirski, those in the traditionally republican województwa of the Crown.\textsuperscript{349}

\textsuperscript{346} Usually at parliaments the king and senators heard cases brought to the parliamentary court (sąd sejmowy) in the Senate Chamber while the delegates met in the House.

\textsuperscript{347} See Chapter Three for discussion of the court’s tactics during the election campaign of 1661-2.

\textsuperscript{348} Sandomierz citizens met for two weeks. Zofia Trawicka’s Sejmik województwa sandomierskiego w latach 1572-1696. (Kielce: 1985).

\textsuperscript{349} Klaczewski describes the court’s efforts to manipulate the course of these sejmiki as unprecedented. In regards to the envoys the king sent out to the sejmiki, he writes, “this was a particular novelty (swoiste novum), it is unknown whether envoys had received this kind of assignment ever before.” In regards to instructions given to local aristocrats and other members of the court faction about the election of d’Enghien, he relates, “if there was any desire to oppose it, it was better to break the sejmik than allow the passage of inconvenient articles.” W przedmiu wojny domowej w Polsce: walka sejmowa lat 1664-5. (Lublin: 1984), p. 34.
Kochowski writes that he witnessed the court’s messenger read out the indictment against Lubomirski at the Grand Marshal’s home sejmik in Proszowice (the meeting place for the Kraków województwo). According to Kochowski, Lubomirski listened to the charges passively, patiently explained his innocence and then appealed to the crowd for intercession on his behalf. Most likely, he employed arguments similar to those found in a letter he had sent to many sejmiki, including the Kraków sejmik, 10 days earlier. In this letter he recounted his long service to the Commonwealth and claimed that the reason for the court’s stubborn animosity (zawiętość) towards him was his opposition to the French election: “The reason is not due to my demerit, for as I have said, I have done my utmost my whole life to serve the fatherland and earn the favor of His Royal Highness, but it is due to this election.” The szlachta of the Kraków województwo were (not surprisingly) supportive of their starosta. As Kochowski tells us, “as soon as the messenger finished there were many who started to cry, bemoaning the persecution of an innocent man, and they passed a resolution threatening his persecutors.” There were no doubt many in this traditionally republican territory who bemoaned both Lubomirski’s personal misfortune as well as the court’s attack on the leading opponent of its plan to elect a French king.

The court had anticipated strong opposition in Proszowice and therefore had taken preventative measures. Shortly before the sejmik, Michał Zebrzydowski, one of the leading members of the court party in Małopolska, arranged to have several prominent citizens close to Lubomirski indicted by the local magistrate (podkomorzy) for

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“intentionally delaying proceedings” at a recent sejmik. As citizens facing legal charges they were ineligible to be elected delegates to the sejm. Lubomirski and the opposition pushed to elect these men despite the pending legal case against them. The sejmik broke over this issue, and thus the court’s ultimate aim was met. No delegates from the Kraków województwo, the leading sejmik of Małopolska, would be present at the sejm. The king’s victory at Proszowice would prove to be a great blow to the opposition at the upcoming sejm.

Deliberations were no less tense at the sejmik of Wielkopolska. Suspicious of the court’s intentions, the republican opposition at Środa insisted for two days that their delegates to the sejm be bound by an oath stipulating that first, they would not allow anything not contained in their instructions to be approved at the sejm and second, that they would not allow the sejm to begin unless delegates from all the sejmiki were present. Rather than allow this oath, the court’s agents broke the sejmik. Representatives from both Kraków and Wielkopolska immediately appealed to the king for permission to hold repeat assemblies so that they could try again to elect delegates to the sejm.

Kochowski confirms that the court conspired to break sejmiki that were likely to support Lubomirski and also that these sejmiki took measures to counter the court faction, “sejmiki in various województwa, where it was suspected that Lubomirski would be supported, were broken by the court, and this was tried in Proszowice, but all the szlachta

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351 Kłaczewski, p. 40.
352 Korzon describes the course of the Kraków sejmik, writing simply that it broke up without electing delegates. p. 248-253.
353 Kłaczewski, p. 42.
drew together, [declaring] that anyone who dared break the sejm would be called a traitor to the fatherland."\textsuperscript{354} In his monograph about the sejm of 1664-5 and the one that immediately followed, Witold Klaczewski observes that in the court’s crusade to convict Lubomirski, it used “methods contradictory to ruling law (obowiązujące prawo) on a great scale.” He further observes, “even the issuance of secret instructions ran counter to the principles of szlachta democracy; everything suggests that this was the first time such a concealed weapon was used.” The unprecedented tactics of the court party proved to be a major complaint of the opposition throughout the Lubomirski period.

While the leading Crown sejmiki broke, several other traditionally republican województwa concluded and passed instructions that provide insight into the opposition’s point of view. They express sympathy for Lubomirski as well as distrust of the court’s agenda.\textsuperscript{355} Two of the most influential, the Sandomierz and Ruski sejmiki, both lasted two weeks, suggesting both heated debates and an impressive will to reach a positive conclusion. Sandomierz eventually found compromise by electing two delegates known to be Lubomirski supporters, one court loyalist and one with more moderate, though with republican leanings, as delegates to the sejm.\textsuperscript{356} They then passed instructions, which reflected a clearly oppositional point of view. First, they wanted the Lubomirski matter settled. They asked the king to consider the Grand Marshal’s long service to the

\textsuperscript{354} They were ultimately unsuccessful, of course. Kochowski vol. II, p. 306
\textsuperscript{355} Korzon quotes Lumbres saying the court broke six sejmiki in addition to Kraków and Wielkopolski. (p. 253). Klaczewski confirmes only that the Sieradź sejmik broke in addition to Kraków and Wielkopolski. The absence of delegates from these three sejmiki deprived the House of Delegates of 22 of its 150+ members. (p. 60).
\textsuperscript{356} The two “Lubomirski” delegates were Pękosławki and Podlowski and the court delegate was Władysław Rej. At the time Dębicki was considered a moderate. At the sejm of 1667 he would lead the opposition. Klaczewski, 44.
Commonwealth and forgive him.\textsuperscript{357} If that was not possible, they suggested that Lubomirski’s case be considered by the general levy (i.e. with the participation of the entire szlachta) and without the participation of the king.\textsuperscript{358} Furthermore, they came out against any plans to revive the French election and asked that the court not have any contact at all with Condé.\textsuperscript{359}

The instructions eventually worked out by the Ruskie województwo are similarly oppositional, despite the efforts of Jan Sobieski (then court Master of the Horse), whom the court had sent to Wiśnia to advance its agenda at the sejmik. While Sobieski managed to get himself elected delegate, the sejmik’s instructions bound him to ask the king to pardon Lubomirski, or at the very least put off his trial until the next sejm.\textsuperscript{360} In addition to this appeal, the republican citizens in Wiśnia repeated their long-standing complaints about the king’s ministers exceeding the law and failing to consult the third estate. In addition to usual complaints about the illegal decrees of the Senate Council, demands for more oversight of the Commonwealth’s finances and prohibitions against prolonging the sejm, the citizens of the Ruskie województwo added new complaints about the Lwów Commission and the decisions to mint more coins and call up new troops without the consent for the sejm.\textsuperscript{361} They also proposed reforms to make it more difficult for the court

\textsuperscript{357} Trawicka, Sejmik wojowództwa sandomierskiego. p. 55.
\textsuperscript{358} In response to King Stefan Bathory’s summary execution of a political enemy in 1587 a law had been passed prohibiting the king from sitting in judgment in cases of laese majesty.
\textsuperscript{359} Kłaczewski cites instructions found in TE vol. IX p. 1264. Trawicka cites Teka Ulanowskiego, Ms. 8595 PAN-PAU Kraków. These instructions for 1664 are incomplete.
\textsuperscript{360} AGiZ. vol. XX p. 380
\textsuperscript{361} The Lwów Commission was established by the parliament of 1662 to pay soldiers whose salary was in arrears.
to circumvent the sejm—a plan to ban secret parliamentary acts (skrypty ad archivum) and another to safeguard konstytucje from manipulation at the end of parliaments.\textsuperscript{362}

While there is no mention of the election in the instructions from Wiśnia (perhaps Sobieski had a hand in that), they do take precautions against any attempt to coerce delegates once they got to Warsaw.\textsuperscript{363} The instructions require that “whatever is established in the House of Delegates not be disputed in the Senate and that nothing not discussed in the House of Delegates be raised in the Senate.” They also propose quite a few new anti-corruption measures. They suggest that deputies to the Tribunal swear that they are not “servants or employees, that they will not conspire against or promote any cases, and that they will pay a fine for perjury.”\textsuperscript{364} Furthermore, they propose that delegates to the sejm and deputies to the Crown Tribunal be eligible for election only every other sejm or Crown Tribunal and that they be sworn to “only promote the common good and that they will not take any gifts at all [that would] damage the republic.”\textsuperscript{365}

Even without mention of the unwanted election vivente rege, these instructions suggest that the citizens in Wiśnia were more than a little wary of the court’s plans for the upcoming sejm.

Their concerns turned out to be completely justified. In Korzon’s words the sejm that opened November 26, 1664 was “calamitous, epochal…never had history witnessed laws

\textsuperscript{362} Their instructions call for an end to skrypty ad archivum and order delegates to stay at parliament until konstytucje approved by all three estates have been publicly read, signed, and registered so as to avoid protests after the laws have been printed. (AGiZ. Vol. XX. p. 380, 388).
\textsuperscript{363} This had been the court’s strategy with its election vivente rege proposal at the sejm of 1661 and 1662.
\textsuperscript{364} AGiZ. vol. XX, p. 384.
\textsuperscript{365} Ibid. 388.
trampled so shamelessly in Poland, every day for six weeks, publicly in the face of the representation of the people…” The court’s well-organized plan to prevent or squash any opposition to Lubomirski’s trial shifted into high gear once the sejm opened. Senators and delegates recruited by the court with French money showed up in great numbers, including many Lithuanians who had been supplied by the Lithuanian Chancellor’s powerful client network. The Crown Chancellor, Bishop Mikołaj Prażmowski, met with all the delegates personally to press each one to support the court party. For his part, the king rebuffed appeals from the Kraków and Wielkopolski sejmiki for repeat assemblies as well as numerous appeals to forgive Lubomirski.

The opposition party, which had coalesced during the court’s attempt to impose an election vivente rege upon the parliaments of 1661 and 1662, was caught off guard by the court’s machinations and never managed to gain its footing. While it was buoyed by the addition of Lubomirski’s clients and friends, relatively few of these were actually in the House of Delegates. The Kraków, Wielkopolska and Sieradź delegations were missing and the usually stridently republican Ruski delegation had been divided by the court’s intervention. Lubomirski had only the delegates from Sandomierz, Belsk and Bracław as reliable defenders. Moreover, the court had packed the House with its own supporters.

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366 Korzon, p. 272.
367 Lumbres had 100,000 francs with which to buy delegates. Klaczewski, p. 57.
368 Pasek expresses special animosity for Prażmowski in his memoirs. He associates the Chancellor with “the rancor and intriguing of evil men, who in promoting their own interests, brought our country to even greater ruin than the enemy.” Memoirs of the Polish Baroque…, p. 171.
369 See ASWK vol. III, p. 94-97 for text “Odpowiedź króla Jana Kazimierza na poselstwo województwa krakowskiego z Warszawy 2 grudnia 1664.” The official denial came after the king turned down the representatives from Kraków and Wielkopolska in person during the first days of the sejm. After delaying his reply for several weeks, the king cited a lack of time to hold new sejmiki.
Because one of the court’s first shows of strength was an attempt to expell Lubomirski supporter and Bracław delegate, Stanisław Piaseczyński, we have a rough estimate of the balance of power at the sejm. The vote to expel Piaseczyński (on dubious charges) was 73 in favor and 48 opposed.\footnote{If the three missing sejmiki delegations had been present, the vote might well have been a tie and the balance of power at the sejm would no doubt have been quite different. Kraków, Poznań, Kalisz and Sieradź combined not only had 22 votes, but outsized influence due to their place at the top of the parliamentary hierarchy and tradition of talented orators.} The relative weakness of the opposition was confirmed when the court (after several days of wrangling) was able to elect its candidate for marshal of the House of Delegates, court favorite, Jan Gniński (podkomorzy pomorski).\footnote{Gniński’s office, podkomorzy pomorski, is significant. Pomorskie województwo (Pomerania around Gdańsk) was a royalist stronghold where royal lands comprised more than 60% of the territory and included numerous lucrative starostwa. Ciara, p. 84.} Moreover, the court party had the Senate in its proverbial pocket. No senators defended Lubomirski in their \textit{vota} and several others warned delegates not to break the sejm.\footnote{Kłaczewski, p. 63. These bishops, Trzebicki and Czartoryski, were right, of course, about the dangerous precedent being set, but the context is important here. The opposition was attempting to stop the court’s illegal activities.}

The opposition was so fragmentated that their initial protest against the trial seems to have been uncoordinated. On December 5th, near the end of a day of noisy deliberations, another Bracław delegate, Mikołaj Żabokrzycki, protested the lack of agreement on a motion to appeal to the king on Lubomirski’s behalf and left the chamber. No one seemed to notice at the time. When his absence was noted and brought to the Marshal’s attention, Gniński insisted that he knew nothing about any protest and doubted that it had been Żabokrzycki’s intention to interrupt the sejm. He then closed the session. The next day, the delegates discovered that Gniński had secretly appointed seven obviously royalist
delegates to serve as jurors at Lubomirski’s trial—after the protest had been made and the delegate had left the chamber. As soon as these partisan jurors arrived in the Senate, Lubomirski’s trial had begun unexpectedly. At this point, some opposition delegates began to demand that Żabokrzycki’s protest be recognized.\footnote{The jurors (seven rather than the legal eight) were all obvious members of the court party. Citizens would later suggest that the number of delegate/jurors from the House be tripled or made to equal twice as many as the number of senator-jurors and that they be elected by the entire House. See 1666 instructions from Kraków and Wisznia below.}

The opposition must have realized that they were outnumbered and that the validity of their protest was questionable. There was no precedent of a delegate’s protest stopping parliament in the House of Delegates before the six-week mark. Neither was there any written law about how or under what circumstances a \textit{liberum veto} could be issued. The court party, understandably, made the case that Żabokrzycki’s protest was invalid. The king immediately called a secret council that ruled the protest invalid, but this too was unprecedented. No one was legally empowered to rule on the validity of a veto. The court party realized that the questionable legality of Lubomirski’s trial had been thrown further into doubt by this questionable protest.\footnote{Many including Trzebicki, bishop of Kraków, questioned the legality of a \textit{sejm} where the leading \textit{województwo} of two of the three provinces (in addition to Sieradź and possibly several others) was absent.}

The king immediately sent 20 horsemen to search the city for Żabokrzycki, but they were unable to find him. When he eventually turned up (at Lubomirski’s estate), the king, Primate and Marshal of the House all sent letters asking him to return. Marshal Gniński wrote twice.\footnote{Kłaczewski, 68.} Żabokrzycki replied that he had no intention of returning and that he “as a righteous (\textit{prawy}) man could not stand to
look upon these novelties which were opposed to and very harmful to freedom and law as well as custom.”

Since Żabokrzycki refused to return and recind his veto, the court faction had to try to convince the House of Delegates that his veto had been illegal. Gniński, supported by the (royalist) Lithuanian and Mazovian delegates, argued that the protest was invalid for two principle reasons: first, the delegate had not been formally recognized when he protested, and second, he had issued his protest in the House before the two chambers had joined at the end of the sejm (as had been the case when the liberum veto was used to end sejmy in 1652 and 1654). He also employed arguments usually made by the king and his courtiers against breaking a sejm—that a broken sejm would leave key matters of state unresolved and soon bring ruin upon the Commonwealth. His arguments had little affect on delegates who knew that at that very moment in the Senate chamber corrupt witnesses were offering false testimony against Lubomirski before the king, senators and the partisan delegates, whom Gniński had secretly appointed as jurors.

Opposition delegates were not moved by Gniński’s disingenuous pleas to consider the common good. On December 9th Żabokrzycki’s colleague from Braćlaw, Kazimierz Kordysz, refused to continue without him and issued a formal protest against both the violation of his colleague’s free speech (glos wolny) and against the Marshal’s refusal to

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376 Klaczewski, 69.
377 There was also the additional issue of registering the veto with the Warsaw gród (castle, equivalent to the town hall). Żabokrzycki tried to register his veto in Warsaw, but was refused by officials loyal to the king. He was finally successful in registering it at the gród in Czersk.
378 According to the 1588 law, the king was banned from sitting in judgment at cases of laese majesty. Volumina Legum. Vol. II. p. 251-2.
consider a motion to appeal to the king on Lubomirski’s behalf. He then theatrically left the chamber—but not before proclaiming that at least this time the Marshal could not pretend he had not heard the protest. The next day several other delegates, including the leader of the republican camp, Mikołaj Pękosławski of Sandomierz, echoed Kordysz’s protest in defense of free speech. Gniński tried to salvage the situation for the court party by postponing proceedings. The next day the king sent a delegation of bishops to encourage the delegates to continue the sejm, but to no avail. In the end, more than 10 delegates issued formal protests, and while Gniński kept holding sessions, fewer and fewer delegates showed up. On December 12th there were 20 delegates in the chamber; the next day only 15. Still, the opposition’s protest proved unable to stop the court party.

The House was unable to consider any other issues and the few delegates present killed time with pointless discussions for the following week or so. Finally, just before Christmas the sejm court passed its guilty verdict against Lubomirski. The verdict, as well as the harsh sentence (loss of offices and property), shocked just about everyone and drove even more delegates to the opposition. When the sejm resumed after the holidays, senators pressed the delegates to proceed with other matters. On January 3rd the two chambers joined together. Several bishops repeated their warnings about the dire consequences of breaking the sejm and held out hope of reconciliation.

379 Klaczkewski, 72. See footnote 107. These numbers are confirmed by two sources.
380 Even with all the court’s manipulation, the verdict was not unanimous. The vote was 36 guilty, 8 partially guilty and 8 innocent.
Rather than attempt to find common ground with Lubomirski and the republican opposition, the king made a very public display of his power and unwillingness to forgive. In the first days of the 1665 Jan Kazimierz held a rare public execution on the main square of Warsaw. The recipients of the king’s “justice” were four officers of the Lithuanian army confederacy who had executed Lithuanian treasurer and court favorite Gosiewski for conspiring against them more than two years before. There was great sympathy for the veterans, especially the aged Kotowski, and many appealed to the king for clemancy. Jan Kazimierz did not yield.

After the execution, there was even less hope of compromise. As courtier and eye witness Jan Antoni Chrapowicki reports, delegates displayed little interest in discussing serious matters because they “arrived with prejudiced feelings (cum praeiudicato animo)” and were already “set on breaking the sejm.” In truth, both sides were just waiting for the opportunity to blame the other for breaking the sejm. When one opposition delegate, Piotr Telefus from Halicz, stormed out of the chamber, angry that he had not been given the floor, Chancellor Prażmowski immediately recognized this as a valid liberum veto. Telefus’s claim that he had left for “natural causes,” did not prevent Marshal Giniński from moving to the closing ceremonies. The sejm ended at midnight January 7, 1665. With this strange and dramatic conclusion we see how the liberum veto functioned quite differently in practice than in theory. At the turn of 1665, it was not Andrzej

381 Korzon says the execution occurred January 3, 1665 (p. 270). Chrapowicki recorded January 5, 1665 in his Diary.
384 Ibid. p. 23.
Maksamliyan Fredro’s shield or powerful fortress of liberty. It was a tool of partisan warfare—ignored when one party (in this case, the court) had the power to do so and accepted when it served the interests of those in power.

Głos wolny *Under Attack*

It did not take long for the sensational news of Lubomirski’s trial and the opposition’s failed attempt to stop it to reach the countryside. Both sides published their version of events almost immediately in an attempt to win over public opinion before the next *sejm*, which was to be an extraordinary two-week *sejm* opening March 11th.\(^{385}\) Lubomirski’s camp countered the king’s propaganda tract, *Proces Judicarius*, with its own version of events, *New Ostracism at the New Warsaw Sejm*, which likened Lubomirski to the Athenan citizen Aristides.\(^{386}\) The king presented his perspective in a letter sent to *sejmiki* on January 16, 1665—just nine days after the *sejm* had ended.\(^{387}\) The king’s version of events reveals the same attitude toward the *liberum veto* and parliaments in general expressed in the reform proposals that came out of court circles at the end of the 1650s. The breaking of the *sejm* is portrayed as an ignominious act: the illegal and selfish protest of a stubborn few willing to put the whole Commonwealth at risk for their private interest. The king writes that *sejm* had been broken,

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\(^{385}\) Legally, the *sejm* following a broken regular *sejm* was supposed to last six weeks. The court hoped this short *sejm* would deal only with passing taxes to pay the still unpaid army and concluding the war with Muscovy.

\(^{386}\) *Nowy Ostracymus na nowym sejmie warszawskim*. BCzart. mans. 398, p. 234-301

\(^{387}\) “Instrukcja królewska na sejmik przedsejmowy województwa krakowskiego dana w Warszawa 16 stycznia 1665” in *ASWK*. Vol. III, p. 98-101. Letters sent to other *województwa* of the Crown were presumably similar. The court’s full version of the trial found in the widely distributed “*Proces Judicarius*.”
…by a few delegates, who not basing their contradiction on any law…indeed against express law, only aligning themselves with desire for another man’s interest, working for that rather than for the common good, heeding neither the good of the Fatherland or its destruction, these unmercilous sons placed their own mother in crisis and cast the common weal into obvious danger, by leaving her without public counsel at this grave and difficult time.

From the court’s perspective, the delegates’ vetoes at the sejm were acts of licence, not liberty. Employing a curious twist of logic, the king’s letter accuses the delegates who used the veto of forgetting the “faith, honor and conscience” that bound them to honor the instructions from their sejmiki, which should “limit abuse of the power of free speech.” In this way, he accuses the protesting delegates, “unbound by any just or equitable law,” of harming the common good for their own selfish reasons under the pretext of liberty.388

Having made his perspective on the last sejm clear, the king then proposed that the szlachta come to the next sejm to discuss only a means to defend the Commonwealth and to pay the army (i.e. to pass taxes). After outlining the military situation in the country, the king assured his readers that with “unity and mutual agreement (zgoda)” they would be able to continue the war against the tsar successfully. The king did not limit himself to patriotic appeals and brotherly persuasion. He concluded his letter with an unveiled attempt to blackmail the szlachta into tacit acceptance of the outcome of the last sejm. He warns that if any citizens were to insist on discussing anything other than defense at the upcoming sejm or be unwilling to “accomodate themselves to the common consensus (powszechna zgoda),” then the blame for breaking the sejm would be entirely theirs. If someone’s “malice” (malignitas) were to break the sejm, then the fatherland would be

placed in obvious danger, and this “impertinence” (zuchwalstwo) would be the reason for its doom.\footnote{Ibid. p. 99-100.} As he had before, the king equates using the liberum veto to break a sejm with wonton destruction of the fatherland and asserts that delegates have no justifiable reason to employ the veto and do so only out of “malice” and private interest.

Republican citizens did not see it this way. Judging from the instructions the województwa gave their delegates to the sejm of 1665 and the rebellion that broke out shortly after it was broken, most citizens of the Crown were outraged—outraged by both the outcome of the trial and tactics used to achieve it. In Kochowski’s assessment, it was lamentable not that the liberum veto had been used at the parliament of 1664-5, but that it had been ignored. As he saw it, there were too few decent men at the parliament to defend the szlachta’s glos wolny,

\begin{quote}
there were only favorites and those corrupted by Queen Ludwika to persecute Lubomirski. There was no one to stop the election of the marshal nor to prevent the commencement of the squables then beginning in the Commonwealth…there was no one to open the estates of the Commonwealth’s eyes to freedom of speech (glos wolny) and to the veto, (nie pozwalam) to the destruction of the free election, and to the fact that it is not proper to convict a minister for standing up for freedom.\footnote{Kochowski, II, p. 306.}
\end{quote}

In the eyes of an average citizen like Jan Pasek, the trial of Lubomirski was a sham, orchestrated by a “French woman determined to inducer gallicismum upon our freedom by installing a French dandy on the throne.” He describes how witnesses were “because of villainous people, […] bribed to testify against [Lubomirski],” and how “some deputies, being decent gentry from the provinces, looked a fine to the consequences of
this, and defended him potentissime, but had much ado to get the upper hand.” Even though Pasek did not join the uprising, he expresses great sympathy both for these “decent gentry from the provinces” and for Lubomirski himself, attributing the outbreak of civil war that followed the failed sejmy to the cause of that “civus oppressus.”

The court’s attack on Lubomirski produced a unified opposition almost instantly. The two parties advanced opposite perspectives on the trial and opposite agendas at the sejmiki that followed six weeks later (i.e. to repudiate or approve the outcome of the last sejm). In this increasingly partisan environment it becomes more difficult to take sejmiki instructions at face value. In Proszowice and Opatów (Kraków and Sandomierz województwa) the court party was unable to stop angry citizens from sending delegates to the sejm armed with instructions to demand the restoration of Lubomirski and the protection of delegates’ ius vetandi. In Środa and Wiśnia (Wielkopolska and Ruskie województwa) members of the court party were able to moderate republican demands and elect a few delegates from their party. We have less information about how instructions from less influential sejmiki came to be written as they were. While the overwhelming majority of sejmiki in the Crown came out for Lubomirski’s restitution and the protection of deputies’ right to protest at parliaments, the tone of their instructions differed quite a lot depending on the balance of forces present at the particular sejmik.

At the very least, though, the Crown (even some sejmiki in the court’s home turf, Mazowia) appealed to the king to pardon Lubomirski. Klaczewski observes that Lubomirski’s savvy propaganda contributed to this outcome, but he also argues that the

391 Pasek, Jan C. Memoirs of the Polish Baroque. p. 172, 175.
court’s efforts to sway the szlachta with money and promises was doomed from the start. “The szlachta knew very well that its own vital interests were at stake” and “treated Lubomirski’s sentence as manifestation of the court’s lawlessness (samowola) and a preliminary step to limiting golden freedom.”

Intertwined with the citizens’ feelings about Lubomirski was their stand on the liberum veto. Obviously, those citizens who saw Lubomirski’s verdict as illegitimate had reason to assert that the sejm was illegitimate from the moment Żabokrzycki’s veto was first ignored. Those in the court party sought to invalidate the veto or at the very least, limit it in such a way as to let verdict against Lubomirski stand.

Instructions from Kraków, Sandomierz and Kujawy provide examples of pro-Lubomirski sejmiki that advocated for an broad interpretation of delegates’ right to protest. Sandomierz demanded that in the future free speech (wolny głos) not be oppressed and that no laws be passed without consensus (zgoda) among the estates. The instructions from Kujawy assert that the ancient principle of nemine contradicente (that nothing would be decided at the sejm unless no one objected) is the foundation of all liberties,

As the whole of our freedom rests on the foundation that nothing shall be decided either in the House of Delegates or in the Senate Chamber but by nemine contradicente; as happened a the recent sejm when so many delegates from various województwa left cum solenni protestatione, about which nothing was done, which is contrary to our liberties; we instruct our delegates not to allow anything that would bring harm to our liberties.

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392 Kłaczewski. p. 105-6.
393 Kłaczewski, p. 103 (instructions at Br. 42/56 p. 202 and Br. 124/147, p. 477-484.)
394 Pawinski, A. Lauda i Instrucje Ziemi Kujawskiej. Vol. II. (Warszawa:1888) p. 146. (The instructions are misdated February, 26, 1663. The contents show they clearly come from February 1665.)
Kraków’s defense of the right to veto is still more strident. Their instructions demand a new law to make explicit the power of any delegate’s protest to suspend parliamentary deliberations:

Because at the last sejm the Marshal of the House continued after the protests of several delegates and after their departure with great diminution of free speech (wolnego glosu), our delegates will demand an explanation of this act. And so that vox libera does not experience similar dangers and the Republic [does not experience] similar cases and conflicts, our gentlemen delegates will undertake measures so that at this sejm, before all else, it will be decided by public law that whenever a delegate from whatever województwo or land leaves the House of Delegates according to his legal protest (contradictionem), immediately after his departure all activity of all the delegates both those remaining in the House of Delegates and those sent whereever as deputies should cease…

Instructions from Środa and Wiśnia, while clearly influenced by members of the court party, still express dismay about events at the last sejm. The Wielkopolski sejmik complained about the Marshal of the sejm’s transgression against “native custom and the ius vetandi” and instructed its delegates to make sure they “seriously (serio) ask about the recognition of objections [at the last sejm].” The Ruski sejmik avoided any accusations and instead lamented that at the last sejm “all matters could not be handled according to law and their proper course.” However, as they had before, the citizens at Wiśnia sought to remind the king of the larger importance of parliaments in their mixed constitution. After promising to pay the army its back wages, they direct their delegates, before anything else (ante omnia), to make sure that the “Republic’s affairs, both private concerns and public demands from the lands and województwa not experience any harm

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395 ASWK. Vol. III, 103.
396 PAN-PAU Kr. Ms. 8598 vol. II. p. 530.
and to extirpate from the minds of citizens the [idea] that sejmy are for no other purpose but for the thinking up of ways to impose taxes.”

Simply put, the court was playing by different rules than the citizens—and winning. In addition to orchestrating Lubomirski’s trial, the court’s agents began to break sejmiki to deny their opponents a voice at parliament. The court also used judicial and physical intimidation to prevent citizens from speaking up against them. The Kraków sejmik reflected this frustration in its instructions from February 1665, “as common law allows a citizen at a sejmik and a delegate at the sejm to have his say about law and freedom (praw i wolność domawiać się), our delegates will stipulate by law that no nobleman will ever face trial because he was legally having his say.” The instructions written by their brethren in Wiśna make it clear that citizens were facing legal trouble (or at least the threat of legal trouble) for opposing the court. They instruct their delegates to demand that all indictments handed down (from the king’s chancellory) in oppressionem liberae vocis be annulled. They demand that Pan Pękowski and other citizens from Kraków województwa not face any trials “for free speech” and that henceforth all such indictments of public crimes be signed by two senators, one bishop and one lay senator.

The court did not limit itself to manipulation of the legal system to intimidate the opposition. Soon after the verdict against Lubomirski was announced, the king sent his guards (under French commanders) to the Kraków województwo to enforce the

397 AGiZ, vol. XX p. 402-3
399 AGiZ. Vol. XX. p. 404.
Their maltreatment of Lubomirski’s wife and supporters in the neighborhood was well publicized. The citizens of the Kraków województwo told their delegates to demand that these regiments be punished for their licence (swawole), before allowing the sejm to treat any other issue. They also demanded that their own right to be free from quartering and harrassment by the king’s troops be respected and pointedly reserved the right to defend their property and persons from such assualts as necessary.

Under these circumstances republican citizens would not hear of limiting the liberum veto. In this polarized atmosphere, limiting the right to veto was itself a partisan idea. Before the 1665 sejm the Warsaw sejmik, which was controlled by Chancellor Prażmowski and his clients, instructed their delegates to propose a new law banning use of the liberum veto for private matters. “Private matters” in this context was simply a code word for the Lubomirski case, which the court did not want discussed. What appeared to be an attempt to limit abuse of the veto was only another attempt to silence the opposition.

Driven to Extremes: The Sejm of 1665

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\(^{400}\) The king’s guards were sent to Lubomirski’s property at the end of January 1665 and killed several servants in the process of seizing his estate at Janowiec. As Kłaczewski observes in his biography of Lubomirski, this rapid and violent execution of a verdict against a nobleman was highly unusual, “the very fact that the verdict was executed so fast was something out of the ordinary in the Commonwealth, where a convicted nobleman [usually] reported to jail himself, that it provoked opposition among szlachta opinion. The belief that the trial aimed not only at the accused, but also at the laws and freedoms of the szlachta became widespread.” Jerzy Sebasitan Lubomirski. p. 234.

\(^{401}\) Lubomirski himself left the Commonwealth shortly before his trial concluded to seek refuge and support in the Empire.

\(^{402}\) ASWK. Vol. III, p. 105.

\(^{403}\) Kłaczewski, W przededniu wojny domowej… p. 107-8.
The court’s numerous violations of the szlachta’s free speech provoked the opposition to take an extreme stance at the sejm that opened March 12, 1665. Led by the delegations from Kraków and Sandomierz, the opposition demanded confirmation of their unlimited free speech as well as full restitution for Lubomirski. As usual, the king was in no mood to compromise. Despite numerous appeals from senators and sejmiki alike, he showed no sign of relenting and restoring Lubomirski. Instead, he distributed many of Lubomirski’s properties to a number of other citizens to buy their support and/or silence. This step made the sentence against the former Great Marshal and Hetman virtually irreversible.404 The sejm of 1665 lasted a mere 16 days.

The Kraków delegation opened proceedings in the House by demanding a full accounting of the previous sejm from the former Marshal, Jan Gniński. After putting them off for a few days, Gniński eventually gave his report. He defended his decision to override delegates’ protests and laid the blame for the broken sejm solely on those deputies who had protested. His accusations only added fuel to the fire and provoked Żabokrycki (who had been reelected by the Bracław sejmik) to express his desire to break this sejm too.405 Several days later the leader of the Sandomierz delegation, Mikołaj Pękosławski, and one of the king’s most outspoken supporters drew swords on the floor of the House in the midst of mutual recriminations.406

404 It is interesting to note that the king had some trouble convincing people, including Jan Sobieski, to accept these ill-gotten gains. Jan Sobieski (then the court master of horse) became Grand Marshal and later hetman too. Jan Wielopolski, leader of the court party in Kraków became starosta of Kraków. Both faced public reproach for taking Lubomirski’s offices. 405 Kłaczewski, W przededniu wojny domowej... p. 119. 406 Ibid. p. 120.
The opposition would not allow the House Marshal, Jan Antoni Chrapowicki, to raise any other issues, such as the pressing need to work out payment for the army and means to conclude the war with Muscovy, until their two primary (and interrelated) demands were met. As a Lithuanian and a member of the court party, Chrapowicki was entirely unsympathetic the opposition’s point of view. His laconic diary reveals how intractable the situation had become.

March 20, 1665

In our House they did not allow me to name deputies [to the fiscal commission], only discussing whether to legitimate this sejm and about free speech (głos wolny), there were many, lengthy discussions about this…

March 21, 1665

In our House they did not allow the naming of deputies. They brought up free speech, which was offended at the last sejm, pan Pękosławski gave a long speech about this…

March 23, 1665

In our House there was plenty of noise with taunts and agitation of minds (cum commotione animorum) about the case of the Crown Marshal…

March 24, 1665

We convened in the House—again there was lots of noise about free speech, partisans of the Crown Marshal [said] that he was unjustly convicted and [wanted] to ask His Majesty the King for clemency; It came to sharp insults and jeers…

March 26, 1665

In our House various issues were raised, particularly about free speech and about clemency for the Crown Marshal…
Chrapowicki’s diary never suggests that he sees the opposition’s point about free speech. Instead, he blames the breaking of the *sejm* on corrupt delegates working for Lubomirski: “and thus the ungodly spite of delegates bought by Marshal Lubomirski broke that *sejm* and placed the Fatherland in grave harm.” His assessment is consistent with the court’s traditional stance that there was no just reason for breaking parliaments and that such acts were always inspired by the destructive self-interest of a few delegates.

This critical assessment of delegates’ protests was supported by countless sermons and *vota* by priests and bishops who equated breaking *sejmy* with sinning against the fatherland. Several such sermons were given during the *sejm* of 1665. Even bishops who tried to remain above partisan divisions like Trzebicki, Bishop of Kraków, perpetuated the association of protests with sinful self-interest. By admonishing delegates not to use their right to veto and to compromise and levy the taxes the Commonwealth so sorely needed, they were in effect asking opposition delegates to accept the court’s conviction of Lubomirski and violation of their free speech. These entreaties were not always offered as gentle, pastoral counsel. In the final hours of the *sejm*, Bishop Trzebicki “vehemently addressed the Kraków delegates, cursing them and threatening to close the churches to them ‘if they did not withdraw their protests.’” Moreover, bishops were generally among the court’s most reliable supporters and thus their exhortations to consider the common good (i.e. to go along with the king) often had decidedly partisan overtones.

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407 Chrapowicki, *Diariusz*. Vol. II. p. 35-38. Incidentally, Chrapowicki reports that he received a lucrative lease on Crown property from the King immediately after the *sejm* ended.
Chancellor Prażmowski, Bishop of Plock and soon-to-be Primate of Poland, was the most obvious example of a bishop completely dedicated to advancing the court’s agenda. In fact, his characteristically caustic reply to a motion by delegate Władysław Łoś of Ziemia dobrzyńska proved to be the last straw that finally broke the sejm. After promising to call another sejm to work out Lubomirski’s case in the near future, the court had managed to convince the opposition to grant two day-long extensions, but the sides were really no closer to a compromise than they had been at the beginning. News arrived that Lubomirski had entered the Commonwealth with hundreds of soldiers. Many were ready to move this argument to the battlefield. One of those men was apparently Władysław Łoś, a Lubomirski supporter. Around 9:00pm on March 28th he made a motion to conclude the parliament. Chancellor Prażmowski lost his temper and tried to silence him, saying that he was still young and should not interrupt those older than he. In response, the young delegate protested that his free speech was being violated and attempted to leave the Chamber. He was caught at the door. Bishop Trzebicki and Court Marshal Branicki tried to convince him to withdraw his protest. Łoś at first appeared to relent, but then slipped out of the Chamber and disappeared. Given all that had transpired and their instructions to defend a delegate’s unlimited free speech, there was no hope that delegates from Kraków, Sandomierz and Ruskie województwa could be convinced to overlook this protest. Chrapowicki moved to bid farewell to the king around midnight. This liberum veto announced the beginning of the civil war known as the Lubomirski Rokosz.

The Liberum veto, Rokosz and the Right de protestanda obedientia

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Out of context, the failure of the sejm of 1665 looks like two stubborn parties blaming the other for their own unwillingness to find consensus. Upon closer inspection, however, there was a profound conflict between the two camps—a conflict that caused the broad concept of glos wolny to evolve into the liberum veto.

Armies took to the field soon after the sejm broke up and delegates returned home to report to their brethren. As it turned out, the battle for citizens’ hearts and minds was nearly as fierce as the battle between the king’s and Lubomirski’s forces. Each party publicized its side of the story and quickly contradicted the other side’s version of events. The polarization of discourse produced many pamphlets, essays, public letters, etc. that repeated similar points and made similar arguments. The main aim of the court’s propaganda was to legitimate the trial against Lubomirski by besmirching his character and painting him as disobedient and ambitious, a man willing to drive the Fatherland to civil war for his own gain. Wrapped up in these personal attacks was the court’s insistence that the trial against Lubomirski had been legal and that all protests against it had been the work of Lubomirski’s corrupt agents, who destroyed parliaments under the pretext of defending liberty.  

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410 In the final hours of the sejm Bishop Trzebicki angrily accused the opposition of putting the Fatherland at risk, and delegates Ksiński and Zaręba of Sandomierz yelled back, “you yourselves destroy the Fatherland, by misleading the King, stirring things up, it’s not our fault but yours.” Klaczewski. p. 122. (The ‘you’ they are addressing is presumably the royalist senators.)

411 Krakowiak, author of the monograph about the two parliaments of 1666 comments about court propaganda, “regalist propaganda did not even attempt to defend the king’s circle, knowing how unpopular it was among the szlachta.” Dwa sejmy z roku 1666. (Toruń, 2010). p. 68.
Lubomirski’s camp made basically the opposite argument. They sought to draw a parallel between Lubomirski’s righteous struggle to defend the Commonwealth against a corrupt, French-controlled court bent on the election of a French prince, and citizens’ own struggle against the French election. Lubomirski’s propaganda typically presented his version of events and then quickly turned to the fundamental principle at stake: citizens’ right to use the veto when their lawful protests were ignored. According to his propaganda, Lubomirski had exhausted every peaceful means to reconcile with the king and to put an end to his election plans. He had no other choice but to lead the rokosz. Likewise, republican citizens had tried to stop the court’s election campaign—still the court pressed on. They had no other choice than to use their veto. Opposition propaganda thus legitimated Lubomirski’s rokosz and citizens’ use of the liberum veto simultaneously.

The first point that most republican tracts make is that Lubomirski had been tried illegally because of his just opposition to the French queen’s plan to put a French prince on the throne. As one text, *A Conversation between a citizen staying at home and a citizen from the general levy returning from camp outside of Palcyzn*, from late 1665 explains it, Lubomirski was justified in mounting the rokosz, because he was trying to defend the free election.

…he did this in defense of our liberty, seeing that it was already the final ruin of our liberties, when they grab at our very hearts, taking from us the free election, when her Majesty the Queen with so many senators (not senators, I say, but traitors) set out to snatch violently from us the first prerogative of our freedoms, introducing to the Polish Kingdom without the consent of the Commonwealth, before the death of His Majesty the King, Prince Condé. And for that Pan Lubomirski was unjustly
sentenced...only because he did not want to allow the Queen this election.412

Another similar opposition tract, *A Letter from an Anonymous writer to his confidant written 20 December 1665*, states, “Indeed this dread began from the election sejm [1661], these hatreds, these destructive arts, which are intolerable, this subversion of councils in the disguise of justice...”413 The popular belief that Lubomirski was unjustly prosecuted for his opposition to the election persisted and shows up in memoirs and histories of the period. Pasek explains that the army was sympathetic to Lubomirski because, “the fury against him was over nothing so much as his being *potens manu et consilio* to impede the election of Condé, whom Queen Ludwika was trying *omnibus modos* to place on the throne.”414 Another cavalier who unlike Pasek, joined Lubomirski’s *rokosz*, Jakub Łoś, wrote that the real reason Lubomirski was prosecuted was “the long-standing hatred and lack of favor from Her Majesty the Queen, the promoter of this election.”415

In his history Kochowski evinces the typical middle szlachta view on the *rokosz*, writing, “the French faction, resident Frenchmen and ambassadors under pretext, was the source of this whole mess in Poland, they thought up various reasons to destroy Polish freedom, and particularly the election of a new king to the throne, which was conceived contrary

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412 “Rozmowa Ziemiańska w domu zostającego z Ziemianem z pospolitego ruszenia z obozu spod Palczyna.” Ochmann-Staniszevska. *PPPJ* vol. III. p. 62
414 Pasek, 177-8.
to common law.” He calls this the result of “rzady bialoglowskie,” the rule of women.Łoś recommends in his memoir that those wanting to know the true details of whole affair read Lubomirski’s book, A Manifesto of my obvious Innocence.... Judging from the political literature and republican citizens’ recollection of the period, public opinion readily embraced Lubomirski’s explanation of the reasons behind his persecution.

Convincing the public that his trial had been unjust and politically motivated was only the beginning, though. Lubomirski and his supporters also worked to convince citizens that both he and the szlachta had just reasons for rising up against the king. In order to make his case, Lubomirski had to convince citizens that the court’s attempts to silence opposition to his trial in December 1664 were illegal and in violation of the constitution of the Commonwealth. By logical extension, he argued that delegates were perfectly justified in using their ius vetandi to defend the laws of the Commonwealth and that any undermining of their protests was tantamount to oppression of their glos wolny. He makes the connection between the oppression of his rights and the oppression of the szlachta’s free speech explicitly in the conclusion of his A Manifesto of my obvious Innocence....

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417 Wójcik observes that Lubomirski supporters “were simply fanatically convinced about the rightness of the issue, for which he became the symbol and standard. This fanaticism, reminiscent of the intense zealotry of Cromwell’s Puritans, turned out to be a strong and dangerous weapon.” Jan Sobieski, p. 92.
418 Historians have struggled pin down Lubomirski’s personal motivations and suggested variously that he was working for the Emperor or wanted to be king himself. Korzon argues that Lubomirski fought on principled grounds. “Lubomirski was an average szlachcic with a fanatical love of liberty, with Fredro’s disastrous theory of state in his head, and despite his ancestral pride, with all the charms of fraternal camaraderie with the ‘brothers.’” Korzon, p. 237-8. For our purposes his true motivations are beside the point. The important thing is that a great number of citizens made common cause with him in defense of their own liberties as well as his.
I have misfortunately fallen for the Fatherland, and I have innocently fallen, oppressed by the hatred of enemies, especially Her Majesty the Queen…I have right on my side and the Fatherland has it with me, because her constitution [stan] has been disturbed, confused, trampled. The szlachta estate and its free speech (glos wolny), which in Poland is left to every man, has been abolished! This Fatherland has nothing more to hope for or look to when its mediation, which was offered so many times, had no effect.419

The above mentioned A Letter from an Anonymous Writer to his Confidant written 20 December 1665, deals with the heart of the matter, the Commonwealth as a society of laws in which the people have the right to rise up if the king fails to uphold the laws he swore to protect.

As I understand it, kings can do as much to their subjects as the law allows, outside of which royal power is simply piracy (latrocinia)...About Poland in particular they say: the kings are allowed to [do to] the subjects as much as the law they swore to uphold allows, thus, the prince when elected king by united and free suffrage, rules over us somewhat conditionally (as the coronation oath openly evidences) and it remains our obligation to obey him as long as he preserves justice, law, freedoms, customs, privileges and the pacta conventa he swore to...I ask you now: are private and public laws being preserved? Could a greater, more mischievous, more enormous prejudgment happen to anyone? Could justice be more openly and evidently overthrown? Could liberty be subverted more ignominiously than in its own nest, the House of Delegates?420

Fortunately for Lubomirski, there was an enormous well of discontent and indignation for his propaganda to tap into. He had little trouble convincing citizens who had been complaining about the king’s excesses for years that their voices had been ignored. For these citizens, free speech was not only about having one’s say without fear of recrimination (which the court had also endangered), it was also about being heard. From

419 Lubomirski. Jawnej niewinności Manifest.... p. 156.
420 “List ab anonimo do konfidanta swego...” PPPJK. Vol. III. p. 90-91
their perspective, citizens of the Crown had been suggesting, beseeching, pleading, and
threatening for a long time and still the court continued on with its illegal schemes. They
had no choice but to resort to their liberum veto.

In the eyes of republican citizens of the Crown, delegates’ protests at these two sejmy had
been made in defense of the Commonwealth (i.e. the laws and customs that ensured civic
freedom in the republic and set their country apart from all others). This was precisely
how the liberum veto was supposed to function in Andrzej Maksymilian Fredro’s vision
of their mixed constitution: a few virtuous men were standing up to defend their
fundamental freedoms against a majority corrupted by the king’s partisan use of
patronage (and Louis XIV’s money).421 While Fredro’s 1660 essay in defense of the veto
had referred to citizens’ right to hold free royal elections as the fundamental right from
which all others flowed, after the breaking of two sejmy at the beginning of 1665, citizens
gradually began to see głos wolny as their most fundamental right, the sine qua non of
their republic.

Because the court had repeatedly ignored their objections, the opposition needed a more
robust form of protest, one that could not be ignored. The szlachta had such a weapon,
but it was very destructive and difficult to control. It was the right de protestanda
obedienta, the right to refuse obedience to a king who failed to keep the promises he had
made upon his election.422 Like citizens pushed to exercise their veto at parliament,

421 See Chapter Two for a discussion of this work.
422 This right was included in the Henrician Articles and confirmed after the Zebrzydowski
Rokosz in 1607 and 1609. Volumina Legum. Vol. II. p. 462
Lubomirski exercised the ultimate veto—the right *de protestanda obedientia*—on the battlefield during the months following the broken *sejm*.

In the early spring of 1665 Lubomirski won the hearts of the still-unpaid army with his talk of defending noble freedoms. Pasek reports that 40 of the 100 army divisions formed a confederacy and sided with Lubomirski, including those from the leading *województwa* of the Crown.\(^{423}\) The striking army added full restitution for Lubomirski to its economic demands. Lubomirski’s calls to everyday citizens to join the fight had modest results until he led his troops (perhaps 5,000 or so) into Wielkopolska in late September.\(^{424}\) There, one of the key leaders of the opposition, *wojewoda* Jan Leszczyński, called out the general levy (*pospolite ruszenie*). Despite the express wishes of the king, the citizens of Wielkopolska came out to fight alongside Lubomirski. The Wielkopolanie, led by Leszczyński’s nephew Krzysztof Grzymułtowski, castelan of Poznań, demanded a *sejm konny* (on horseback) so all the issues dividing the two sides could be worked out by the entire *szlachta*.\(^{425}\) After chasing the *rokoszanie* across the countryside for months and losing a pitched battle at Częstochowa, Jan Kazimierz’s mostly Lithuanian troops (paid with French money) proved incapable of defeating Lubomirski’s forces.\(^{426}\) A truce was

\(^{423}\) Pasek, 177-8.
\(^{425}\) Kochowski outlined the *rokoszanie*’s complaints. They called the civil war, which was approved by the Senate Council without the knowledge of the estates, “the first step to *absolutum dominium*.” They objected to the Lithuanian army being used to destroy their lands and to “oppress innocent people” and also to the calling up of additional troops without their permission. They repeated other complaints from their *sejm* instructions regarding the illegal minting of copper coins to pay these troops, the Chancellor’s illegal negotiations with the French, extra-legal taxes, and the chancellory’s practice of indicting innocent people. Kochowski, vol. III. p. 42-44. Klaczewski. *Lubomirski*. p. 254. Korzon, p. 360.
\(^{426}\) Since much of the Crown army was sympathetic to Lubomirski, the king relied on Lithuanian troops who were loyal to the royalist chancellor Krzysztof Pac and his brother, Michal, who was hetman of Lithuania.
finally signed after the battle of Palczyn on November 8, 1665. Winter was coming on and the king was out of money. The two sides agreed to try to work things out at another sejm, which was to begin the following spring.

*The Two Sejmy of 1666: A New Kind of Liberum Veto*

Describing the polarization of delegates at the first sejm of 1666, Stanisław Księski of Sandomierz wrote, “Even if Saint Paul himself had come down from heaven, wanting to save us, they probably would have contradicted him.” Indeed, the parties, which had been fighting with swords two months before, were hardly ready to lay them down when sejmiki assembled February 3, 1666. As he had the year before, the king avoided all mention of Lubomirski in his pre-sejm propositions and instead asked the delegates to consider the common good and vote taxes to pay the army and to pay off his debts (the majority of which had been incurred when he borrowed money from France to pay the troops he had used to fight Lubomirski’s forces). As he had before, the king sent his supporters to important sejmiki armed with secret instructions to elect delegates supportive of the court’s agenda and not to allow instructions that “would make the sejm difficult.”

Once again, the leading sejmiki of Crown were particularly stormy and lasted more than a week. This time, however, the king’s supporters were largely unsuccessful, being chased

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428 *ASWK* vol. III. p. 114.
429 Krakowiak, p. 46-7.
out of assemblies in Środa and Opatów and overwhelmed in Proszowice. All the sejmiki called for peace and an end to odia et diffidentia, as Kraków put it, but this time many sejmiki backed up their demands with an open or implied threat: if the king was unwilling to meet their demands, they were ready to use their liberum veto. While scrupulously maintaining their traditional respect for the king, sejmiki like the ones in Kujawy and Lublin explicitly threatened to block sejm proceedings if the king refused to restore Lubomirski. The citizens of Kujawy wrote,

First of all, whereas the gentleman Pan Lubomirski, Grand Marshal and Field Hetman of the Crown and General of Małopolska, was accused by a sejm decree ad poenas legum which was contradicted in the House of Delegates, hence a great conflagration was sparked in our Fatherland, and so that this stubborn (zawzięty) fire does not lead from the foundation of our Fatherland to our final ruin, we instruct our gentlemen delegates not to begin any consultations, and diligently try, having made a humble request to our Lord Majesty, to appeal strongly to His Majesty the King, that he finally show consideration to his subject and show his favor and inborn noble clemancy, and kindly accept him back to his former honor and position, and if our gentlemen delegates are rebuffed by His Majesty and are unable to accomplish this with a humble request, they should immediately after the greeting of His Royal Majesty enter a formal protest, and not advance to any further consultations…

Almost all the leading sejmiki of the Crown began their instructions with the demand that Lubomirski be pardoned, but they included long lists of other exorbitancje too. Kraków only implied a threat to break the sejm, saying that “the successful conclusion of the upcoming sejm primarily requires that all the exorbitancje which have occurred up until now in the Commonwealth, be completely put to rest and healed by the lord’s

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430 The only significant loss to the republican party was at Wiśnia (Ruskie). The sejmik there broke twice, passed no instructions and sent no delegates to the sejm.
432 Krakowiak makes this statement based on the 19 Crown sejmiki instructions he was able to gather from the spring of 1666.
They continued like many other sejmiki to ask for general amnesty, that the Lithuanian army be withdrawn from their województwa and returned to the Ukrainian front, that finances and payment of the army be worked out by the województwa, that the king incur no more debts without the consent of the sejm, and that he issue no more indictments of individual citizens from his chancellery.

But the two major issues at the upcoming sejm would be the court’s the oppression of citizens’ głos wolny and their latest plans to put the Duc d’Enghien on the throne. The king had signed an agreement with French ambassadors either June 4 or 5, 1665 to abdicate at the next sejm in the fall of 1666. The plan then was to force Duc d’Enghien’s election by means of arms, either French or Swedish. The Kraków instructions inform us that Krzysztof Grzymułtowski, castelan of Poznań, had documents revealing the court’s plans. Clearly trying to put the election to rest once and for all, the citizens of Kraków demanded that all agreements relating to an election in the king’s lifetime be “burned or torn up by delegates from the House and Senate at this sejm” and that “any such documents found in possession of foreigners be considered void. And that His Honor the Lord of Poznań reveal to the republic the schemes (praktyki) for an election, which he warned us about in his letter.”

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433 ASWK. vol III. p. 118.
434 Korzon dates “the beginning of the end” for the Commonwealth to this day, “when that unfortunate king threw the majesty of the Polish nation at the feet of a foreign monarch…” p. 326.
435 ASWK. Vol. III. p. 121. Krakowiak reports that 11 of 19 instructions from the Crown that he found demand that the right to a free royal election be confirmed. p. 102.
Many sejmiki also wrote instructions related to citizens’ glos wolny. They repeated calls to investigate Gniński’s ignoring of protests the year before. In their demands for an investigation into protests at the 1665 sejm, the citizens in Środa revealed the growing importance of an inviolable glos wolny (libera vox) in their estimation,

Our gentlemen delegates will raise this with the other gentlemen delegates of the entire republic, and will undertake an inquiry to learn if vox libera was oppressed at the sejm of 1665 and solemnly ensure that this greatest jewel of szlachta liberty continue to be respected to the utmost, and secondly, not allow the ancient principles (instituta) of the republic regarding it to be diminished in the smallest detail.436

Here they call glos wolny/libera vox the greatest jewel (największy klejnot) of their liberty. At this moment the citizens of Wielkopolska clearly associated glos wolny with the protests that were ignored in early 1665 and counted the right to protest—and be heard—as one of the ancient principles of the republic. As such, the power of the veto could not be “diminished in the smallest detail,” an assertion that would become holy writ in the Commonwealth over the course of the next several years.

When evaluating the extreme stances (and rhetoric) of many sejmiki, one must remember that citizens felt this to be an exceptional moment of crisis in their republic. Instructions from many of the Crown sejmiki ask the king to call out the general levy immediately to work out the issues paralyzing the Commonwealth.437 Wielkopolska had already called their citizens to mount up and join the struggle. With each broken sejm, the sense that there was no other way to get the court to listen to them grew among republican citizens. They became more comfortable with using veto—or at least threatening to—for two

436 PAN-PAU Kr. Ms. 8598 vol. II. p. 531.
437 Krakowiak finds this demand in 8 of 19 instructions, including those of the leading województwa. p. 103.
reasons: because there was growing precedent for doing so and because pro-Lubomirski propaganda had provided them with the ideological justification for resorting to the parliamentary equivalent of the rokosz.\textsuperscript{438}

The sejm opened on March 17, 1666 with a sermon given by court preacher Jesuit Adryan Piekarski, who railed against the szlachta’s lack of respect for authority. The House, which was full of experienced republican delegates, notably the Sandomierz delegation, reacted negatively to his partisan preaching.\textsuperscript{439} Many of the same men, including Sandomierz’s Mikołaj Pękosławski, whose protest in defense of Lubomirski had been ignored in December of 1664, were present.\textsuperscript{440} Apparently, there were lots of Lithuanians in attendance too, but they were overwhelmed by the experienced and vocal delegates from the Crown.\textsuperscript{441}

The first ten days of the parliament featured a rather chaotic show of wills. The former marshal, Chrapowicki, was absent and his replacement had trouble controlling the flow of debate.\textsuperscript{442} The delegates from Małopolska refused to do anything before the House formally appealed to the king for Lubomirski’s restitution. The court’s delegates opposed them. When the court tried to flex its political muscle by arranging to have one of Lubomirski’s closest associates, Mikołaj Podlodowski disqualified from his seat, some 70 opposition delegates (from Kraków, Wielkopolska, Sandomierz, Sieradź and other

\textsuperscript{438} Krakowiak’s writes the mood of the sejmiki, “…clearly reveal the szlachta’s distrust of court policies and readiness for confrontation with regalists at the sejm. It was often an almost literal echo of the demands of opposition political propaganda.” p. 108
\textsuperscript{439} Sandomierz had returned the same delegates.
\textsuperscript{441} Kłaczewski. Jerzy Sebastian Lubomirski. p. 258.
\textsuperscript{442} Chrapowicki was in Andruszowo negotiating a peace treaty with Muscovy.
województwa) walked out. Eventually, the court had to yield in the face of the unified opposition. Podlodowski remained in the chamber as did Telefus, the Bracław delegate who had broken the sejm 1664-5 and who had also been a target of partisan attacks. Seeing that neither side could force their agenda, both sides relented, and on March 27th delegates finally elected a compromise candidate to be Marshal of the House.443

During the first week of April, the stalemate over Lubomirski’s restitution continued and expanded to include republican delegates’ opposition to the king’s planned appointments: Jan Sobieski to be Crown Field Hetman (Lubomirski’s former office) and Chancellor Prażmowski’s to be Primate. Delegates from Sandomierz and Łęczyce moved to annul the verdict against Lubomirski and to return his former offices. The opposition refused to let the Marshal appoint deputies to the sejm courts as the usual order required and instead demanded a colloquium with the Senate (without the king) to discuss numerous exorbitancje and plots to stage a royal election. Regalist delegates opposed these motions on the grounds that they violated the traditional order of sejm.

Debate in the House was clearly going nowhere, so during the second week of April a small group of influential citizens met to mediate the dispute between king and Lubomirski. Representatives of the two sides had been trying to work out a compromise since the before the original trial, but to no avail. This round of negotiations was undermined by Jan Sobieski’s arrival in Warsaw on April 21st. After long hesitation, he

443 This was Jan Chryzostom Odrowąż-Pieniażek of Sandomierz whom the court had recently won over with the starostwo of Oświęcim. Krakowiak, p. 112. See Kazimierz Przyboś. “Jan Chryzostom Pieniażek.” PSB. Vol. XXVI (1981) p. 93.
had agreed to assume the office of Crown Marshal (Lubomirski’s other former office) and immediately led the Senate in confirming the verdict against Lubomirski.\textsuperscript{444}

After a break for Easter, delegates returned to hear that the king was mobilizing troops and calling up new Cossack divisions, presumably to renew hostilities with the rokoszanie. On April 28 (five days before the scheduled end of the sejm) senators began to press the House to come upstairs to work out new konstytucje. The most devout members of the opposition were unwilling. In addition to all their other issues, they were particularly scandalized by an apparent attempt to place Pękosławski under house arrest.\textsuperscript{445} The next day while 100 or so other delegates proceeded to the Senate, about 40 Republicans (from 12 different województwa and one land) met in the House. In what amounted to a mass veto, these 40 delegates refused entreaties to join the rest. After some hesitation, those in the Senate chamber allowed Chancellor Prażmowski to continue parliamentary deliberations there.

An outraged group of republicans met the next day at the Bernadine monastery. One of their leaders, Stanisław Zaręba of Sandomierz, explained to the Bishops who had been dispatched to negotiate with them that the court’s violation of delegates’ głos wolny lay at the heart of their complaints. Zaręba asserted that protests against parliamentary trials, unlike protests against konstytucje, had to be valid in the House of Delegates, not just in joint-session after the expiration of the sejm’s normal term. Otherwise, they would be

\textsuperscript{444} Korzon reports that Sobieski struggled with his conscience, and faced public humiliation when he finally accepted the office that many of his fellow citizens felt still rightly belonged to Lubomirski, his former commander.

\textsuperscript{445} Both Korzon and Przyboś report this event. Apparently, Pękosławski was able to evade the king’s men. PSB. Vol. XXV. (1980) p. 740.
useless because trials generally ended by the time the two chambers joined at the conclusion of the parliament—as had happened during Lubomirski’s trial.\textsuperscript{446} Such an interpretation of delegates’ right to protest was unprecedented, but it was entirely logical in light of recent events. This new broad understanding of the veto’s legality would soon open the door to protests at any moment during a sejm.

In a last ditch effort to find compromise, delegates agreed to prolong the sejm until May 4\textsuperscript{th} and appointed a committee to work out the major differences separating the sides. The committee was able to agree that the king would grant a general amnesty and a formal reiteration of the 1662 confirmation of the free election, but the king still refused to restore Lubomirski to his former offices or to expel the French ambassadors as the opposition demanded. On May 1\textsuperscript{st} the king effectively put an end to hopes for a successful sejm by announcing Jan Sobieski’s appointment to Lubomirski’s former office of Field Hetman. Republicans boycotted the next day’s meeting in protest.

On the last day of sejm Stanisław Zaręba laid out the Republicans’ entire list of exorbitancje and delegate Adryjan Miaskowski of Wielkopolska made the final summation of their position: the right of free election rested on Lubomirski’s restitution; he must be returned to the office of Field Hetman, and the French ambassadors responsible for all the election plots must leave the country immediately. The opposition then refused to allow any further deliberations. At midnight the court pleaded for another prolongation. Miaskowski refused on the basis of his instructions. He was backed up by the delegations from Kraków and Sandomierz. The next day the King sent the Bishop of

\textsuperscript{446} Krakowiak, 196.
Poznań to try to change Miaskowski’s mind, but he refused. A third sejm in a row had broken.

Rather than bring the sides closer to compromise, the spring sejm of 1666 only drove them further apart. In the year and a half since the verdict was passed on Lubomirski, the fundamental argument had not changed. So long as the king refused to heed the delegates’ protests against his court’s persecution of Lubomirski (and other less prominent members of the opposition) and continued with plans for a French election, there could be no agreement.

The propaganda battle heated up again. The king again sent his version of events out to the województwa. At the relationaly sejmiki following the break up of the sejm, numerous województwa called out their own general levies for self-defense. Six województwa sent their citizens to join with Lubomirski’s forces. This group of republican citizens issued an announcement explaining their actions and asking other citizens to join their general confederacy on July 3, 1666. They explained their motivations thusly,

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447 As Jan Pasek observed, “the sejm was in session then, throughout the whole winter, at great cost and much ado, yet, as before, neither side came to any agreement, only to greater embitterment and exasperation.” Pasek, Jan C. p. 184

448 They were Wielkopolska (Poznań and Kalisz województwa), Kraków, Sandomierz Sieradz, and Łęczyce. According to both Krakowiak and Klaczewski, Wielkopolska, Kraków and Sandomierz each sent about 1500 citizens. It is interesting to note that the six województwa that joined Lubomirski were the top six Crown województwa in the Commonwealth’s traditional hierarchy, with the exception of Bracław. (Bracław, which was the third highest ranked in the Crown, also fervently supported Lubomirski.) Going down the list in order, we discover that all the województwa of the Crown outside of Mazovia and neighboring Płock and Rawa, supported Lubomirski, but many were hindered by geography from joining him; Bręść-Kujawy, Dobrzyń and Inowrocław were in the middle of fighting and dared not take sides, and the Ruskie województwa (Lwów, Przemyśl, Sanok), Halicz as well as Bracław were discouraged by great distance.
Whosoever examines the course of the last ten years and counts the grave wounds inflicted on the republic, will without fail recognize that it is nothing other than the resumption of the election itself and the prodigious introduction of various crafts and tricks towards it, that caused and still cause harsh oppression, particularly through this woeful civil war, which has not only brought the republic general poverty, but also brought horrendous devastation in many places…and what is more, fellow citizens of the Commonwealth caused, by means of ill fate, such mistrust (dyfidencja), that due to the breaking of three sejmy, the Commonwealth was rendered deprived of council, whose care several men in place of the estates usurped for themselves all the laws and institutions of the elders, messing up [everything] from top to bottom, abolishing the freedom to think and speak, aggravating [us] with illegal indictments, uprooting the justice of the Tribunal, calling up new armies to oppress the citizenry, accepting and dispatching foreign ambassadors, concluding leagues and contracts with neighbors without the knowledge of the Republic, breaking the holy union with Lithuania; the armies in the heart of the Crown are not ashamed to violate churches of God, the sanctity of szlachta homes and all security of hostages…and what is most woeful, driving (collidunt) citizens against other citizens...

Only after this litany of exorbitancje do the citizens raise the issue of Lubomirski’s restitution, promising to defend his “honors, health and property” along with their own. According to their explanation, they joined the uprising not to attack the king, but to defend their republic. Likewise, the citizens of Wielkopolska explained at their relationaly sejmik in May 1666 that their decision to take to the field was not motivated by some personal animosity to the king, but a desire to preserve the republic of their forefathers so they could pass it on to their sons.

We rise up, not because we want to violate the law of majesty (iura maiestatis), for we promise to protect this first and directly…, but so we do not allow the republic, deprived of council after three broken sejmy in a row, to be abandoned, or the passing of her care to those who usurp her with injury to the estates. Therefore, so that, Praise God, wilted laws and freedoms, disturbed by injuries of wars, can be restored completely to

449 “Uchwała województwa krakowskiego, poznańskiego, sandomierskiego, kaliskiego, sieradzkiego i łączyckiego w obozie pod Kołem 3 lipca 1666 r.” ASWK. Vol. III. p. 139-143.
their pristine state and so that which was received from the hands of our forefathers will be taken inviolate again from our hands by our prosterity.450

The fear of losing their republic that was so politely expressed in sejmiki instructions was expressed in more inflammatory language in political pamphlets and tracts like Lubomirski’s oft-mentioned Manifesto. Lubomirski writes, “…for anyone who looks at the current state of the Commonwealth, can boldly say, that everything in it is upside down, statutes and ancient laws are scorned, Richelieu and Mazarin-like maxims are in esteem. Ancient customs are jeered and laughed at, and à la mode is loved and valued.”451 Lubomirski’s tract repeats the point again and again, clearly trying to incite the citizen-reader to action.

Along with this growing fear that the very foundations of the republic were at risk came a bolder assertion of citizens’ right to prevent this from happening. While the spring sejm of 1666 resembled non-conclusive sejmy of the past (i.e. citizens were upset with the king’s policies and refused to grant any taxes until they got their demands met), it marked a change in both the theory and practice of the veto. At this point, the use of a veto by an individual deputy to break parliament after the expiration of the six-week term had been universally accepted. Even the king accepted this interpretation. He rails against those who came with “petrified hearts” and “raised lawless and improper contradictions at every point,” but he does not question the power of their protests to end the sejm.452

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452 In his letter to the Kraków województwo of May 19, 1666 bemoaning the “third sejm broken by ill-will grounded in spite by means of private contradictions,” the king assumes that the exit of a single delegate in protest must cause sejm deliberations to cease. In describing Miaskowski’s
In the political literature, the importance, and by extension, the inviolability, of the right to protest grew. In his *Manifesto*, Lubomirski tells citizens that they are guardians of the whole system and that they are armed with their greatest prerogative, their *głos wolny*.

And lastly, the most particular part of the republic is the *szlachta*, like the hands and breasts of this state; …they rule in it like guardians, so that nothing falls out of the whole of the republic’s constitution, so that laws and freedoms are not violated, so that an unlawful, ambitious autocrat does not get the upper hand, thus the *szlachta* estate becomes the guardian of its own estate and power and the defense of its own laws. The greatest prerogative of this estate is its *głos wolny*, for it choses its own lord by means of its *głos wolny*, it allows everything by means of its *głos wolny*, and indeed except by its *głos wolny* nothing can be decided.\(^{453}\)

Afraid of the court’s machinations, they began to assert that a delegate’s veto (of any kind of motion) must be considered valid at any point during a *sejm*. Although this was a novelty in political practice, republicans like Mikołaj Pękosławski insisted on this change. At the first *sejm* of 1666 Pękosławski explained that *głos wolny* (*vox libera*) was a cardinal law and therefore had to be respected in all circumstances,

…cardinal laws are like the free election during an interregnum, *vox libera* at *sejmy* and *sejmiki*, and like the fundamental law upon which all our freedoms rest, *neminem captivabimus nisi jure victum*. We cannot step away from these fundamental laws at all, for none of these can be disturbed without disturbing the republic and [causing] revolution (*eversione status*).\(^{454}\)

Here Pękosławski argues that one of the cardinal laws of the republic is *głos wolny*—not the *liberum veto*. While this distinction was soon lost in the fog of partisan warfare, it is

\(^{453}\) Lubomirski. p. 154.
\(^{454}\) Krakowiak, 206 (cited from the *sejm* diary).
fundamental to understanding the republicans’ argument. Without the right to speak freely—and be heard—at public assemblies, they could not be free citizens. In this light, Pękosławski’s understanding of *glos wolny* is analogous to citizens’ other fundamental freedom, *neminem captivabimus nisi jure victum*, the Commonwealth’s version of what the English would later call *habeas corpus*. In order to be a citizen, one had to be certain that he would not be subject to arbitrary arrest and conviction for expressing his opinions. In most citizens’ minds the king had prosecuted Lubomirski unjustly for opposing the election and therefore violated one of the key guarantors of civic freedom in their Commonwealth. At this extreme moment of crisis Pękosławski and his colleagues took the concept of *glos wolny* to its logical conclusion: delegates had the right to protest at any time during a parliament to protect the fundamental laws of the republic. This was not an argument for an unlimited *liberum veto* exactly, but in the partisan struggle of the Lubomirski era, that is what it became. Over course of the next three contentious parliaments republicans’ defense of *glos wolny* transformed into an assertion of every delegate’s right to use his *liberum veto* whenever he felt necessary.

*The Second Sejm of 1666: Enshrining an Inviolable Veto*

In June 1666 some 6000 citizens from six *województwa* of the Crown joined up with Lubomirski’s already sizable army. After a month of evading the king’s troops, they finally met them at a difficult river crossing near the village of Mątwy in Wielkopolska.

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455 The long-standing English writ of *habeas corpus* became formally enshrined in law with the 1679 Habeas Corpus Act—incidentally, during a factional struggle about who would be the future king.

456 The republican notion of freedom hinges on this point: the freedom from constraint or more precisely, the freedom from fear of constraint. See Chapter One.
There Lubomirski’s forces decimated the king’s army in a bloody and lopsided battle. The king’s army lost some 3000 men while Lubomirski’s lost perhaps 150. According to reports, many of the corpses showed evidence of a brutal battle, some stabbed 30 or 40 times. Prisoners were executed. Koczowski explained the brutality of this fraternal massacre in terms of the szlachta’s opposition to the French election, “So desperately did the Polish szlachta defend itself, freely beating their way out of the slavery (which the Lord King never conceived, but the ministers of court had driven into his head), wanting to break the opposition of the szlachta, which would not allow the election of Condé.”

The defeat of the king’s forces and the shedding of so much szlachta blood shocked public opinion and drove the two sides to a quick truce signed at Łęgonice on July 31, 1666. According to Kochowski, who joined his fellow citizens in the general levy and was present at the peace negotiations, the royalists dealt with the województwa in bad faith, “the ministers, implacable in their animostities (zawziętościach), did not want to see a fundamental pacification in the fatherland, and wrote the treaty in such a way as to ensnare the Confederates, and to sew a suit of slavery for a free people.” The conditions first offered by the king’s negotiators promised to grant a general amnesty at the next sejm, to disperse the armies to the województwa for payment, to close the mints, to correct the law regarding lese majeste and treason, and to suspend all unlawful indictments against citizens, but it failed to mention the primary bone of contention, the

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457 There are numerous descriptions of the battle in the historiography. See Kłaczewski, Jerzy Lubomirski, 266. Stanisław Piazza describes the battle in great detail in his brief work, Rokosz Lubomirski (Kraków: 1994).
459 Ibid. p. 68.
royal election. Negotiators from the *województwa* came back to the king with yet another explanation of their point of view,

> The gentlemen ministers of our Gracious King believe that we gathered here in a confederacy with Lubomirski and the confederated army as interested partisans, but they are gravely mistaken, not for this end are so many regiments of the *województwa* gathered, but for the salvation of collapsing laws and freedoms, oppressed by the unfortunately conceived election of a new king during His Royal Majesty’s lifetime.\(^\text{460}\)

Jan Kazimierz eventually granted their request for a separate decree that once again confirmed his oath to preserve the “laws and freedoms of the Commonwealth as a whole including the free election…the most excellent (*najcelniejszy*) and cardinal law for centuries” and to treat anyone who promoted a royal election during his lifetime as an enemy of the Polish kingdom.\(^\text{461}\)

The Treaty of Łęgonice was far less successful for Lubomirski personally. In exchange for a general promise to be returned to the king’s favor, Lubomirski agreed to disband his troops and ask the king’s forgiveness at a public ceremony. Apparently, he had little choice but accept this offer. He lacked the money and troops to continue, but more importantly, the *szlachta* who had flocked to his banner had made their point and gotten yet another solemn promise from the king not to advance a French election. Having achieved their goal and witnessed more than enough bloodshed, they began to go home.\(^\text{462}\)

\(^{460}\) Ibid. p. 72.  
\(^{461}\) The full text can be found in Kochowski. vol. III. p. 73-4.  
\(^{462}\) There was little more the republican opposition or Lubomirski could do after Matwy, short of dethroning the king and assassinating his loyal ministers. Not only would this course of action have driven the Commonwealth deeper into civil war—the king’s party, after all, included some
The Treaty of Łęgonice required the king to call another sejm to pacify the country. The king called another sejm for November 9, 1666, but little could be worked out. In the intervening months rumors had leaked out that the court was once again conspiring to place a French prince on the Polish throne. After briefly foresaking its Polish plans in the spring, the French court reversed itself and began to push for the election once more. This time, the French ambassadors and their supporters at court planned to have Jan Kazimierz announce his plans to abdicate at the upcoming sejm. He would then call a quick election sejm for the spring of 1667 during which d’Enghien would be elected with the support of the court party, many of whom had already signed agreements and been promised favors to support his candidacy. While promising to maintain the appearance of a free election, the French faction made plans to force d’Enghien’s election if necessary with troops from France. Rumors of this new plot, an election in the lifetime of the king but after his abdication, riled up the republican opposition, which having just fought a war to defend its right to protest the any election vivente rege, arrived at the sejm with strident instructions to guarantee that this time its objections—its głos wolny—would not be ignored.

of the most powerful people in the Commonwealth—it would have violated the laws and customs of the mixed constitution they were trying to defend.

463 The French continued their strategy of bribing as many senators and other magnates as possible. They particularly focused their efforts on Lubomirski, who they apparently believed would be able to convince the citizens to support d’Enghien’s election. Louis XIV’s representatives offered Lubomirski an enormous amount of money and return to his former offices in exchange for publicly advocating a French election. The French demanded that he send one of his sons to Paris to serve as a hostage in case he reneged on the deal. Korzon, p. 451. He broke off negotiations just before the fall 1666 sejm. Klaczewski concludes that his negotiations were all a ploy to buy time to consider his options. (He was in contact with the Emperor and Elector as well.)

464 Korzon relates that at the end of July 1666 Louis XIV promised to pay three million livres for the election of either Prince Condé or the Duc d’Enghien—to be paid after the election. p. 451.
At the end of September the citizens from Ruskie województwo met for their pre-sejm sejmik and drafted exceptionally long instructions (over 150 points), addressing all the exorbitances that had been raised by citizens in recent years. Despite the stereotype that republican citizens were loathe to contemplate any alteration to the laws and customs of the Commonwealth, the citizens in Wiśnia were anxious to pass new laws that would prevent the sort of upheaval brought about by the court’s election campaign and Lubomirski’s trial.\textsuperscript{465} The citizens of Ruthenia also called for several new protections for their glos wolny. In a section entitled Oppressio vocis liberae, they instructed their delegates to do nothing until they ensured that all activity at the sejm would cease when a delegate left the House of Delegates in protest, and that the Marshal of the House would not continue proceedings. To ensure compliance, they demanded a new law to punish any marshal who continued sejm proceedings despite a delegate’s protest, calling him pro hoste patriae et eversore libertatis.\textsuperscript{466}

While the Ruthenians were characteristically emphatic in their demands, the Wielkopolanie employed more subtle tactics. The citizens at Środa thanked the king for his decree about future elections, which “removed the fear that had been stuck in the

\textsuperscript{465} AGiZ. vol. XXIV. p. 422-3. In response to Lubomirski’s trial, they demanded laws regulating trials of lese majeste and treason to elect more delegates to hear the case, to ensure that delegates were elected by the entire House (not appointed by the Marshal) and that the body pass judgment by secret ballot. They demanded that the Marshal of the House and as well as all delegates be sworn in, and that anyone found promoting an election in the king’s lifetime be tried immediately by the Crown Tribunal. They also suggested that the sejm should not meet until all sejmiki were present, and to facilitate this they asked that local officials be empowered to call make-up sejmiki in case they broke the first time.

\textsuperscript{466} AGiZ. vol. XXIV. p. 422.
hearts of the citizens.” Like their brothers in Wiśnia, they suggested measures to ensure that citizens’ concerns would be heeded at the upcoming sejm. In addition to suggesting new procedures for trials of lese majeste and treason like those proposed by the Ruthenians, they insisted that no “unfamiliar issues” be proposed at the sejm and that the old ways of deliberating be maintained. At the same time, they introduced a new practice to encourage delegates to perform their duty honestly and not to break the sejm for selfish reasons. They had their delegates swear the following oath and suggested that all delegates take the same at the upcoming sejm.

I, NN, swear to the Lord Almighty God One in the Holy Trinity that I undertake the office of delegate only out of concern for the common good, which I will promote to the best of my abilities according to the instructions given to me, and that I will get no reward of honors given or promised for the harm of the Republic, nor will I break the sejm for my own or others’ interest (respekt).

In what might appear to be contradictory impulses, citizens were simultaneously asserting their right to protest (and ultimately, to break parliaments), while making delegates swear not to use this power. The key to understanding their complex position is the expression “for my own or other’s interest.” Everyone agreed that a broken parliament was a tragedy that endangered the republic, but the two factions differed on the important point of a justifiable liberum veto. While the court’s propaganda insisted that parliaments were always broken by a few individuals seeking their own selfish ends, republican propaganda argued that vetoes in defense of the republic’s constitution (like those employed during the Lubomirski Rokosz) were justified and even virtuous. The

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467 PAN-PAU Kr. Ms. 8598 vol. II. p. 550.  
468 This perspective is consistent with Fredro’s defense of the veto. See Chapter Three.
Wielkopolanie, no doubt, had the court faction’s delegates—not their own—in mind when they wrote about breaking a sejm “for my own or other’s interests.”

In addition to proposing a number of new laws and practices to ensure that their demands would not be ignored at the upcoming sejm, citizens, particularly those who had recently returned from the battlefield, reserved the right to mount up again to achieve their goals. Many sejmiki passed resolutions to call out the general levy again if the upcoming sejm failed. Many already suspected that the court had reneged on the promises it made at Łęgonice regarding the free election and Lubomirski’s restitution, and the king’s official proposals for the upcoming sejm (which mentioned neither issue, only the need to raise taxes) provided no reassurance. Thus, at the beginning of November 1666, the two factions were right back where they had been nearly two years earlier—the citizens had expressed their opposition and the king had carried on with his plans to elect a French prince nonetheless. The major difference now was that citizens were armed and ready to oppose the court with their new weapon—a liberum veto able to suspend parliament at any point during its session.

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469 “The gentlemen brothers expressed their distrust of court politics especially in their readiness to defend szlachta freedoms, not excluding even the possibility of calling the general levy again.” Krakowiak, p. 256.

470 The Kraków instructions reveal that citizens there were already on to the king’s strategem to abdicate and then force d’Enghien’s election. “our gentlemen delegates will try to achieve the complete approval of this treaty [Łegonica] as a konstytucja at the upcoming sejm, taking special care about the decree concerning the free election, which must be inserted into the laws of the kingdom, that two words creating perplexity be either changed or removed (i.e. this “despite by free election”), which an election in the lifetime of the reigning [king] cannot be, it is only free when [conducted] according to our ancient laws or when its necessity is not imposed by a contrived conception of some kind of sudden and unexpected resignation.” ASWK. Vol. III. p. 156.
The fall sejm began like the spring one, without the former marshal to direct heated debates. Delegates from Ruskie and Sandomierz województwa refused even to undertake the election of a new marshal until the House agreed to adopt oaths for the marshal and the delegates—the former to suspend parliamentary proceedings each time a delegate left in protest, and the latter to swear they had not been paid to support one side or the other. Royalists from Lithuania and Mazovia opposed the marshal’s oath on the grounds that it would limit the power of the Marshal and the other two estates, but delegates from Kalisz and Sandomierz insisted, arguing that głos wolny and the right to oppose were foundations of szlachta freedoms. Pękosławski reiterated his argument that a delegate’s protest had to be valid at any point during the parliament in order to stop an illegal trial at the sejm court, for the protester could very well lose his head (łeb by ucięto) before the end of the sejm otherwise.

In response to calls to limit protests to those considered legal (przy prawie), Pękosławski explained that in the current partisan atmosphere the only way to determine whether a veto was “legal” would be by majority vote. In his mind, majority rule would soon lead to tyranny of the majority and the end of szlachta freedoms, “our konstytucje must pass nemine contradicente, this is the whole power, the whole strength of our freedom…who

471 The proposed oath for delegates was: “I, NN, swear to the one God in the Holy Trinity, that in the office of the House of Delegates now invested in me, not looking to any expectation or prize or involving myself in any faction, I will only promote the good of the republic. I will maintain ancient laws and customs. Delegates’ głos wolny and the dignity of this House will be preserved in all ways. I will have no dependency on anyone, only from it [the House] and whatever is passed by consensus (zgodnie), I will faithfully present to the Volumina Legum. And if any delegate (God forbid) leaves this House in protest, which cannot be revoked by any effort or persuasion, then in that case I will be obliged to withdraw from my office and I will not treat any parliamentary material. So help me God and his Holy Passion.” Krakowiak, p. 378.
will judge if another’s protest is legal or not? That would, of course, introduce majority rule (*pluralitatem*) into the House.  

After five days of arguing, the House rejected the oath for delegates, but passed the oath for the Marshal of the House. Delegates then elected a new Marshal in a close vote (46 to 35), and he duly took the new oath to halt proceedings in the House every time a delegate left in protest for whatever reason. A delegate’s right to suspend parliament had been formally established.

The next weeks were marked by protests by a number of minority groups, most notably, the Lithuanians. After years of being under the thumb of the all-powerful Pac family, a Lithuanian opposition was emerging under the leadership of Bogusław Radziwiłł and the Sapieha family. This faction vied with the still powerful Pac family for the vacant post of Lithuanian Hetman and issued several protests during the course of the *sejm*, including the one that eventually broke the parliament on Christmas Eve. Meanwhile, the opposition of the Crown had its own agenda in regards to public appointments. They wanted their enemy Bishop Prażmowski to resign as Chancellor (he was to become Primate of Poland) and one of their leaders, Vice-Chancellor Jan Leszczyński appointed in his place. There were several protests related to this and other disagreements among

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473 Krakowiak, p. 446. Here Pękosławski expresses the common republican prejudice against majority rule, familiar to readers of A.M. Fredro and other republican theorists who assumed that majority rule necessarily leads to the tyranny of (an often corrupt and un-virtuous) majority.

474 Unlike most *sejm* monographs of an earlier era, Krakowiak’s new *Dwa sejmy z roku 1666* makes an admirable effort to treat the political situation in Lithuania as well as in the Crown. He is hampered a scarcity of Lithuanian documents and the past neglect of Lithuanian political history in Polish historiography. It seems to me that Lithuanian citizens did not begin to play a significant role in parliaments (i.e. appearing in large numbers, advancing their own agenda, etc.) until the 1660s, but this sense may come from an overemphasis of Crown affairs in the past.
the powerful families in the Commonwealth, including the disputed inheritance of the enormous Zamoyski entail. Others made protests related to less celebrated legal cases. At one point, the few Protestants in the House issued a protest in defense of their liberties. In each case, the protesters were tracked down and returned to the House.

Delegates could not help but notice the inconvenient result of their new rule to stop proceedings every time a delegate left in protest. Of the 35 days the parliament was in session, six entire days were spent in passivity while the delegates waited for protests to be withdrawn. In the final days, as usually happened, delegates refused senators’ entreaties to join them upstairs to write konstytucje until their demands had been met. In this case, they wanted all vacancies to be filled and the mints to be closed immediately. The king faced an impossible choice, particularly in regards to the Lithuanian hetman position. Promoting Michał Kazimierz Pac to Grand Hetman and appointing one of his supporters to replace him as Field Hetman would offend the anti-Pac opposition, while not promoting Pac would cost him the current Hetman’s support and troops, which the king needed if he was going to force the French election. Similarly, both the Crown and Lithuanian opposition had long demanded that the mints, which had been turning out millions of copper coins, be closed immediately, but Hetman Pac needed those coins to pay Lithuanian troops to keep them loyal. Desperate to conclude the sejm and get taxes to pay the army, the king tried to placate the opposition by appointing Leszczyński Crown Chancellor, but the Lithuanian opposition refused to compromise. Witebsk delegate Teodor Łukomski eventually stormed out in protest over the court’s failure to close the mints and investigate the king’s minters, Tymff and Boratini. He quickly registered his

475 Krakowiak p. 412-4.
protest and then absconded to Lithuania just before Christmas. The king tried to convince
the parliament to continue on December 27th, but there was no way to convince the
opposition to invalidate Łukomski’s protest, regardless of his motivations. The dangerous
principle had been established; no one dared override a delegate’s veto.

Even Kochowski admits that both sides were looking for an excuse to break the sejm. In
the end, the pretext was the hetman appointment and the closure of mints in Lithuania,
but ultimately, the breaking of the sejm was due to a fundamental lack of trust between
the two sides. Delegates simply would not agree to pass taxes to pay an army that the
king had used against them just months before and which, they believed, would soon be
used to force a French prince upon them.476 After reneging on so many promises to
respect the citizens’ right to a free royal election, there was no way Jan Kazmierz could
have convinced them to believe him this time, even if he had wanted to. Unable to solve
this fundamental disagreement, the delegates were left to argue about other issues and
jockey for more power for their own party. Rather than return to the battlefield, they
chose to ignore the elephant in the room and bicker about seemingly less important
problems. Unfortunately for the future of parliamentary politics in the Commonwealth,
the second sejm of 1666 was the shape of things to come. More and more often evenly
matched factions would come to parliament unable to reconcile their diametrically
opposed political agendas and instead would instead argue about ministerial
appointments or points of order.

476 It is important to note that sejmiki were more than willing to pay troops that had been
approved by the Commonwealth, but they stubbornly refused to pay for the troops the king had
called up on his own authority during the Rokosz or to pay back Louis XIV for the money the
king used to hire troops to fight the rokoszanie.
At one point it seemed as though the opposition’s use of the *liberum veto* had worked. Jan Kazimierz was forced to give up his plans to impose a French election and made to restore Lubomirski in 1667. He abdicated a year later.\footnote{Jan Kazimierz pardoned Lubomirski and returned his hereditary properties, but was unwilling or unable to return his former offices and Crown lands because he had already granted them to others. This issue became mute when Lubomirski died (of a stroke) in January 1667.} In 1669 tens of thousands of republican citizens overwhelmed the French-backed court faction to elect a surprise native candidate, Prince Michał Korybut Wiśniowiecki, as the next king of Poland-Lithuania.\footnote{Son of the popular war-hero Prince Jerema and Gryzelda Zamoyska, granddaughter of the illustrious Chancellor Jan Zamoyski.} But they were still fighting an impossible battle: to impose republican values on monarchists, who were willing to cheat, lie, and intrigue with foreign powers to gain their own advantage. Even after four more years of civil unrest, the republican faction was either unwilling or unable to eliminate the monarchist faction.\footnote{There are no mass reckonings in the history of the Polish-Lithuanian Commonwealth. Amnesty was offered after every *rokosz* or divided election so that citizens could continue to participate in public life without fear of retribution.}

Consequently, the parties remained locked in their irreconcilable conflict and continued to hone their skills of obstruction so that no side could gain the upper hand. After delegates had established the rule that every protest had the power to suspend parliamentary deliberations, obstructionist politics became very easy.

Of course, the veto did not become a weapon of obstruction in the hands of embittered factions right away. It was a gradual process that played out over years of partisan gridlock. But before we move on, we should pay careful attention to the years of the Lubomirski *Rokosz*. This was the era in which a dangerous new interpretation of the
**liberum veto** evolved. Faced with implacable foes, citizens had no other recourse than to protest more loudly, to assert their unlimited right to object for whatever reason and, when all else failed, to saddle up their horses and head out personally to set their republic right. In republican political writings, the *ius vetandi* began to replace the free election as the fundamental right from which all other freedoms flowed. In this partisan atmosphere, abolishing delegates’ right to protest or establishing a system to judge whether a veto was “legal” really might have brought an end to the shared sovereignty that defined the republic. This was the moment when the argument took shape and when words gained their particular meaning. When the king exhorted citizens to consider the common good and eschew “private interest,” he meant that citizens should vote him his taxes and keep quiet about the Lubomirski case. When republicans exhorted their fellow citizens to consider the common good and eschew factions, they meant they should reject the court’s bribes and instead rise up to defend their traditional *glos wolny*, which along with the right to free royal elections, served as twin pillars of their civic freedoms.

This debate would be played out again and again. Proposed limits to the veto would continue to be seen as attempts to silence the minority faction and thus be rejected. As the stalemate dragged on for decades and the veto was used more frequently for undeniably selfish reasons, this rhetoric became little more than worn-out window dressing. There was a moment, however, when the rationale was sincere and patriotic citizens could in good conscience defend a delegate’s right to suspend parliament whenever he believed it was necessary.
Chapter Four

Our Free Speech vs. Their Free Speech:
The More Curious Evolution of Glos Wolny During the Reign of
Michał Korybut Wiśniowiecki (1669-1673)

First off we declare, all together and also each individually before God, to whom the
secrets of human hearts are known, before the majesty of His Royal Highness and the
entire Christian world, that not out of any personal motivation or any greed for revenge
against each other, but only for the praise of God, love of the fatherland, the dignity of
the king, laws, freedom and pacification of the Commonwealth, free of zealotry and any
kind of jealousy one for another, letting go of all hatreds or unnecessary rivalry and
uprooting all this from our hearts, not only do we guarantee equality among ourselves by
law, but also resurrect the uniform harmony of our forefathers, to preserve unity and
mutual affection at public councils in defense of the Commonwealth, to remain in
confederation ... until the Commonwealth is pacified both inside and out. We call to this
confederacy all bishops, senators, officers of the Crown and the localities, all who are
not here at this time... anyone who can be called a szlachcic.

...And all those who do not out of respect and mutual affection find themselves here
within two weeks of the date of this present confederacy, that is, those who do not appear
by the 28th day of this month... to them we will extend the legal penalty of our union
without leniency, that is, we will confiscate their property and declare their persons
permanently expelled from the equality and parity of the szlachta estate, without any
respect to friendship or relation, regardless of their state and condition.

From the Act of the
Confederacy at Goląb
November 17, 1672

480 Przyboś, Adam and Kazimierz, eds. Dyjaryjusz kolowania i konfederacyjej formowania w
generalnym pospolitych ruszeń obozie pod Goląbiem i pod Lublinem zostającego.... Wrocław:
In the summer of 1669 many of the same citizens who had joined Lubomirski’s rokosz came to Warsaw to thwart the designs of the court party to elect a foreign prince to the throne following Jan Kazimierz’s abdication the previous summer. At the election tens of thousands of citizens overwhelmed some of the most powerful magnates in the Commonwealth and elected Michal Korybut Wiśniowiecki, a young nobleman with impeccable republican lineage and no ability to threaten their liberties, as their new king. Three years later in the fall of 1672, many of these same citizens turned out once again to defend their liberties—this time at Gołąb, a village on the banks of the Vistula between Warsaw and Lublin. Thousands gathered there to form a confederacy to defend their king and to wrest power from the powerful magnates who still had not given up their plans to place a French prince on the throne. (Their plan now involved forcing Wiśniowiecki to abdicate.) The Confederacy of Gołąb was thus the third mass uprising in just over six years by republican citizens defending the foundations of their mixed republic against a small group of powerful monarchists who were set on overthrowing it.

The surprise election of Michał Korybut Wiśniowiecki turned the political situation in the Commonwealth on its head. The court party, which had been advocating a French election since Jan Kazimierz and Ludwika Maria had first raised the idea in 1661, suddenly found itself in the opposition. This group continued to be led by leading ministers including Archbishop Mikołaj Prażmowski and Hetman Jan Sobieski and bankrolled by French agents. Ideologically, they supported reforms to centralize political power in the hands of a powerful (foreign) king. Under Wiśniowiecki they became
known as the malcontents (malcontenci). The other party, which had been the republican opposition under Jan Kazimierz, continued to be led by the middle szlachta of the Crown. Their agenda aimed to reign in powerful magnates like Prażmowski and Sobieski and to put more political power into the hands of the citizens and their sejmiki. Under Michał these republicans were (confusingly) referred to as the regalists (regaliści).

This turning of the tables allows us to see how much the rhetoric about free speech and the sanctity of the liberum veto used during this period was truly based on principle and how much was the result of the exigencies of the changing political situation. Under Jan Kazimierz, republican citizens were on the defensive against the illegal designs of the court party. When they were intimidated and ignored by the court, citizens asserted that their free speech included the right to use protests, their ius vetandi, to suspend parliamentary proceedings. Pro-Lubomirski propagandists reinforced the connection between free speech and the right to protest by drawing the parallel between citizens’ right to protest and their right to refuse obedience to a king who failed to uphold the laws of republic. According to this logic, when exhortations to consider the common good failed to stop the court’s election campaign and Machiavellian tactics, citizens had the right (even the responsibility) to use their veto to suspend parliament—indefinitely if necessary. Since a delegate’s right to protest was an integral part of his free speech, which could not be limited without endangering civic freedom, citizens struggled to envision a way to limit a delegate’s right to protest. More importantly, in the sharply partisan atmosphere of the 1660s no republican citizen would have thought of limiting the power of his ultimate weapon against the French-funded monarchists at court.

\[481\] For a discussion of the rhetoric of the 1660s see Chapter Three.
This rhetoric of the Lubomirski Rokosz gives the impression that the szlachta had an unbending commitment to the principle of unanimity and a delegate’s right to suspend parliament for any reason. Citizens’ dogged opposition to Jan Kazimierz’s so-called election reforms, further gives the impression that the majority of citizens opposed any change to the Commonwealth’s constitution. These impressions have been reinforced by generations of historians critical of the szlachta’s oft-cited conservatism. A close look at the stormy reign of Michał Korybut Wiśniowiecki from the perspective of the republican citizens who elected him and defended him at the Confederacy of Gołąb, however, changes the way we understand these important issues.

By the end of Jan Kazimierz’s reign a delegate’s right to suspend parliamentary proceedings with his ius vetandi, had been confirmed in practice. Still, a delegate’s right to break a sejm (i.e. to leave parliament and thereby prevent his fellow delegates from continuing) was in serious doubt. Complaints about licentious or frivolous breaking of parliaments were common, and numerous proposals were made to limit a delegate’s ability to break parliaments. At this point, republican citizens had not at all accepted that a single delegate should have the unlimited power to break parliaments. They had only established that delegates’ unlimited free speech should include the right to suspend parliament whenever they believed the Commonwealth was threatened.

When the balance of power shifted in their favor after Jan Kazimierz’s abdication, republican citizens felt little compunction about denying that unlimited free speech to
members of the court party. From their perspective, the French-backed opposition was composed of traitors and enemies of the fatherland and thus not entitled to free speech. When republican citizens were presented with the opportunity to intimidate the opposition into silence and ignore their protests at Wiśniowiecki’s election, for example, they did so. Even more surprising, these same citizens who had produced copious propaganda in defense of the traditional constitution while they were in the opposition, did not hesitate to propose significant reforms once they had gained the upper hand. These proposed reforms, specifically to make ministers accountable to the sejm and to limit the king’s power to appoint the republic’s leading officers, would have shifted the balance of political power in the Commonwealth in a decidedly democratic direction. Finally, few of those who had defended the laws of the Commonwealth when the king illegally convicted Lubomirski spoke up when the Confederacy of Gołąb illegally convicted Archbishop Prażmowski and other leaders of the malcontent party seven years later.

During this phase of the struggle between republicans and monarchists the rhetoric of free of speech became more strident and uncompromising, but this was not the result of republican citizens’ deepening conviction that unanimity and an unlimited liberum veto were essential to maintaining the Commonwealth’s constitution. On the contrary, citizens quickly grasped the deleterious effects that an unlimited veto and repeated broken parliaments would have on the Commonwealth—and their own liberties. The right to protest evolved into the unlimited right to break parliaments during Wiśniowiecki’s reign because new people began using it for new purposes. In what must
have appeared to be rich irony to contemporary observers, the magnate “malcontents,” once they were in the opposition, amplified the rhetoric about the involubility of free speech and the need to preserve the Commonwealth’s laws that republican szlachta had used to defend their position when the court party had been in control. Likewise, republican leaders, once they were ensconced at court, condemned the opposition using many of the same accusations that Jan Kazimierz had used against them. The dynamics of the argument were the same. While one party tried to shift the balance of political power in its own favor, the other party used every means at its disposal to prevent these reforms.

The difference, of course, was that republican leaders had used the language of free speech and the Commonwealth’s traditional constitution in good faith to legitimate their opposition to Jan Kazimierz’s illegal policies. They drew upon a long tradition of republican theory and practice and were thus able to convince legions of the Commonwealth’s citizens of the justness of their cause. The malcontents, on the other hand, used this same language to defend themselves and their illegal designs to overthrow the Commonwealth’s constitution. This cynical use of Poles’ most cherished ideals palpably undermined the legitimating power of these ideals. During Wiśniowiecki’s reign malcontents insisted that free speech gave their delegates the right to break parliaments. Republican citizens struggled to articulate the difference between a protest made in defense of free speech and a protest made for corrupt or selfish reasons. Delegates in the pay of the malcontent party insisted that their protests were in defense of free speech. Even though their claims were tenuous and their selfish motivations rather
apparent, these delegates (and their powerful patrons) succeeded in breaking parliaments. It did not take very many unscrupulous uses of the *liberum veto* to rob free speech of its legitimating power.\(^{482}\)

In the end, neither party was powerful enough to force its agenda. In 1669 the magnate opposition contributed to the first ever breaking of a coronation *sejm* and more ominously, the first breaking of a *sejm* before its six-week term had expired. The next two years would bring political paralysis: another broken parliament followed by a third that seemed fruitless until the king called out the general levy and the *szlachta* used its sheer numbers to intimidate the stubborn minority into conceding. Two more broken parliaments and a devastating invasion by the Turks caused the king to summon the general levy once more in the summer of 1672.\(^{483}\) It was this group of citizens who formed the Gołąb confederacy to pacify the country and restore unity.

At the long pacification *sejm*, which lasted January-April of 1673, the confederates were forced to withdraw their reform proposals and even their conviction of the leader of the opposition, Archbishop Prażmowski. This impasse was brought about both by a balance of political power in the Commonwealth and their unwillingness to fight to the death.

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\(^{482}\) Maurizo Viroli charts a similar undermining of traditional republican language in fifteenth-century Florence. Since Aristotle’s day, ‘politics’ had been conceived as the method of living together justly…

\(^{483}\) Of the six parliaments held during Michal’s four-year reign, only two concluded successfully. The first two, his coronation parliament (October 1-November 12, 1669) and the extraordinary parliament that followed (March 5-26, 1670), were broken. The third parliament of his reign held September 9-October 31, 1670 concluded under the pressure of the general levy. The fourth and fifth, held January 26-March 14 and May 18-June 30 of 1672, were broken. The last parliament of his reign was the marathon pacification *sejm* that lasted from January 4 until April 8, 1673. Konopczyński *Chronologia sejmów polskich*. Kraków, 1948. p. 155-6.
While the struggle might have come out quite differently if even a couple actors had played their parts differently, the compromise that was reached in 1673 conformed to the republican political theory that had dominated in the Commonwealth since the Renaissance. Their mixed republic balanced precariously upon the harmonious consensus (zgoda) of the three estates. No single estate—or minority within an estate—could impose its will upon another. The szlachta at Gołąb could not force their reforms to limit senatorial power on the leaders of the magnate party any more than Jan Kazimierz and his court party could force a French election on the unwilling citizenry.

In the case of intractable disagreements like these, the only choices were to table the issue and hope for more agreeable circumstances in the future or resort to civil war. The Commonwealth had already resorted to civil war and popular uprisings three times during the 12-year battle sparked by Jan Kazimierz’s election campaign. In 1673, exhausted by internal unrest and in the midst of a losing battle with the Ottomans, the Commonwealth chose peace. They chose, once again, to table their disagreement.

The End of an Unhappy Marriage: 1668

The story of Michał Wiśniowiecki’s tumultous reign begins on September 16, 1668 when Jan Kazimierz finally abdicated the Polish throne. The szlachta’s reaction to this nearly unprecedented step was mixed.484 Although relations between Jan Kazimierz and the

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484 The first freely elected king after the extinction of the Jagiellonian dynasty, Henri Valois (the future Henry III of France) happily fled Poland after hearing of his older brother’s death (Charles IX) in the summer of 1574.
citizens had long been difficult, the times were dire and many feared that a contested election could easily open up divisions lightly papered over by the truce of Łęgonice signed just two years before.

The agreement that followed the bloody battle at Mątwy did not to settle the disagreement between the two camps. Despite promises to stop intriguing with the French, Jan Kazimierz and Ludwika Maria continued their negotiations with French agents and Condé. The queen continued campaigning for the French candidate until literally the last day of her life, which was May 10, 1667. An exasperated citizenry demanded that the king give up his election plans and threatened to call out the general levy to ensure that their demands were be met. The sejm of 1667 was the longest of the king’s 20-year reign, running more than 10 weeks (March 7-May 26). It ended with a defeated (and newly widowed king) again promising to forego plans for a French election in exchange for the szlachta’s grant of necessary taxes. As the marshal of that sejm put it in his farewell speech,

Now that Your Majesty has allowed the election, which was the reason for diffidence and so many broken sejmy, to be put to rest, the trust of the people has immediately returned and brought about the happy fact that, to everyone’s surprise, this sejm concluded successfully…when His Royal Majesty keeps promises made to us, we faithful subjects will also maintain our proper obedience to Your Royal Majesty.”

But Jan Kazimierz did not keep his promise to stop intriguing with the French. In March 1668 he signed yet another agreement with Louis XIV, this time to abdicate and to make

485 Chrapowicki. vol. II. p. 324.
Prince Frederick Wilhem of Neuberg his successor. At the last regular sejm of Jan Kazimierz’s reign (January-March 1668), the republican opposition drew a line in the sand. Popular animosity toward the French ambassadors, who were blamed for all the troubles that had ensued since Jan Kazimierz proposed electing his successor in his own lifetime, grew to a fevered pitch. Republicans from Sandomierz, led by parliamentary veterans Marcin Dębicki, Mikołaj Pełkosławski, Stanisław Zaręba and Hieronim Komornicki, demanded that the king expell all foreign ministers (first and foremost Louis XIV’s Pierre de Bonzy) from the Commonwealth. Leaders of the republican szlachta pointedly asked the king to choose between the republic and his French advisors. Jan Kazimierz had already chosen his French allies. The sejm broke up after six weeks, without even hearing the sentators’ speeches (vota). On the penultimate day of the parliament, the exasperated king stood before the assembled estates and said,

> When I see that my declarations cannot satisfy you, I must suspect that there is something buried here; it would be better to dig it up and honestly say what you want to say, but I know what is behind it—you are fed up with the fact that I have sat on this throne for 20 long years, but I am no less fed up with you.

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486 Przyboś. Diariusz sejmu konwokacyjnego 1668r. (intro). See Tadaeuz Korzon’s Dola i niedola Jana Sobieskiego vol. II for details of the French faction’s activities.
487 Animosity toward the French faction so high that during the sejm on February 5, 1668 someone shot into the French ambassador’s carriage and on the next day, a secretary to the Brandenburg delegation was nearly thrown out a window of the House of Delegates when he was mistaken for a secretary to the French ambassador. See Maciej Matwijów. Ostatnie sejmy przed abdykacją Jana Kazimierza 1667 i 1668. Wrocław 1992. p. 128
488 Chrapowicki’s diary mentions delegates’ call to expell foreign officials nearly every day the parliament was in session. Diariusz. vol. II p. 382-404.
489 Traditionally, hearing the senators’ speeches was the third order of business at any parliament. First, the House would elect a marshal, then they would expel any delegates who were found to be ineligible, then the delegates would proceed to the Senate chamber to greet the king and to hear speeches given by all senators who were present at the time. After that, the delegates would return to the House to deliberate and write bills, returning to the Senate towards the end of six-week term to deliberate in joint session. The first parliament of 1668, therefore, never even got off the ground.
490 Chrapowicki. vol. II. p. 403.
Jan Kazimierz announced his plans to abdicate to the Senate Council on May 12th and called an abdication sejm. On September 16, 1668 the king returned his Pacta Conventa to the assembled estates of the Commonwealth and formally abdicated the throne of Poland-Lithuania. To many citizens Jan Kazimierz’s abdication and retirement to France confirmed what they had long suspected—the differences that he and the Republic had were simply irreconcilable.

Unifying the Republic/Excluding the Corrupted

... Promoters of the election scorned cardinal laws and dared to violate them, favoring by illicit means the election, which they brought from foreign lands, and which so disturbed our homeland that their schemes had to be extinguished and put out by our brothers’ blood. While there are a great many transgressions to answer for, still the upcoming election will be held most strictly in a brotherly manner, having already pardoned them, not exacting punishment; but we will ensure that if someone displays similar daring against the republic again, no amnesty will cover him...

The General sejmik of Małopolska in Nowe Miasto Korczyń
18 February 1669

Despite mourning Jan Kazimierz’s abdication and worrying about facing the impending war with the Turks and Tatars without a king, many citizens saw the king’s failure to place his successor on the throne as a triumph for their republican constitution.491 Huge numbers of citizens enthusiastically prepared to elect their next king. The leading

491 In his introduction to the convocation sejm diary Kazimierz Przyboś expresses the traditional historiographical prejudice against the ideology of republican szlachta while observing the general celebratory spirit after Jan Kazimierz’s abdication, “in the minds of the szlachta their argument about the superiority of the the Commonwealth’s constitution over all forms of absolutism had triumphed, so they more willingly lent their ears to the demagogues, who defended the inviolability of this constitution.” Diariusz sejmu konwokacyjnego r. 1668, p. xiv-xv.
województwa of the Crown, Kraków and Wielkopolska, formed confederacies to ensure that the election would be free from the machinations of foreign representatives, and other województwa called their citizens to the general levy.492

These citizens had good reason to take such precautions.493 The officials whom Jan Kazimierz had appointed and who had supported his pro-French policies were still in power and still planning on rigging the election.494 Certain that these evil counselors had been responsible for Jan Kazimierz’s abdication, Jan Pasek and many like him now suspected that they would try to steal the election.495 Therefore, at the convocation sejm that opened November 5, 1668, the delegates sought to accomplish two things: first, to prevent the breaking of the convocation, which would have made a peaceful and free election nearly impossible; and second, to force all citizens to renounce foreign corruption and to swear to chose their next king based solely on the needs of the common good. In the minds of citizens who had been fighting to defend their right to elect Jan

492 They were Ziemia dobrzyńska, Warsaw, Sandomierz, Halicz in addition to Wilno and Orszański in Lithuania. Przyboś. Diariusz sejmu konwokacyjnego 1668. p. xv.
493 The deaths of Lubomirski and Ludwika Maria shook up in party affiliations. Many former supporters of Condé advanced the election of Prince Phillip Wilhem of Neuberg, Louis XIV’s new choice. Many in the Austrian party supported the Emperor’s official choice, Neuberg, but others backed Charles of Lorraine. There was also small party that supported a Muscovite candidate. Foreign ambassadors actively recruited supporters. See Mieczysława Chmielewska Sejm elekcyjny Michała Korybuta Wiśniowieckiego 1669r. Warszawa: 2006. p. 59-90.
494 Pasek expresses typical disdain for these officials and blames them for the failure of Jan Kazimierz’s reign, “And so, there you have it, Gracious King, the effectum of vicious counselors, looking out for their own private interests, not your good. You filled your senatorial chairs with them, you bestowed on them the highest subsellia, you made them our masters, these men without conscience, without God in their hearts...” Jan Chryzostom Pasek. p. 206-7.
495 In his history Kochowski accuses the French faction not only of trying to manipulate the election, but also of all kinds of corruption and even treason. “These ministers dreamed up the abdication in order to resurrect their election schemes, so that after Kazimierz renounced the Polish kingdom, they could elect Condé king. They took annual pensions from France and therefore the Turk declared war against them and they bargained with the Tatars to come to Poland, the upset Cossacks put themselves under the protection of the Turks and they sold Smoleńsk to the Muscovites.” Vol. III. p. 161.
Kazimierz’s successor for the last six years these measures seemed necessary to ensure consensus and a free election. In practice they meant silencing the court faction’s delegates and forcing those who now found themselves in the minority to renounce their political agenda or be excluded from the election.

From the opening days of the sejm it was clear that delegates would not allow any protests to break the convocation. On November 6th Jan Romanowski from Ruskie województwo proposed taking away the right to protest from all delegates who arrived late to the parliament and another from Brześć-Kujawy suggested confederating so that no one could break the sejm.496 According to one sejm diary, “almost everyone praised this proposal cum applausu.”497 The next day delegates were still discussing the possibility that someone might break the sejm when Romanowski exclaimed, “we are prepared to sacrifice the blood of any such person with our bare hands.”498 The next day a delegate from Mazowia threatened to throw any potential breaker of the parliament out the window. Again, “almost everyone” nodded in agreement.499 The following week in the Senate the Marshal of the House (diarist Jan Antoni Chrapowicki) announced that the House had agreed to declare anyone who tried to break the sejm an enemy of the fatherland (pro hoste patriae).500

The mood of the delegates surely discouraged any member of the French party from attempting to break the parliament. Eventually they were left with no choice but to accept

496 Confederations operated according to majority rule.
499 Ibid. p. 11.
499 Ibid. p. 13.
500 Ibid. p. 107.
the delegates’ demands that all citizens swear an oath before the election. The
Sandomierz delegation demanded that the oath exclude all foreign candidates in general
and the French candidate explicitly. Not surprisingly, Prażmowski and other members
of his party argued that such an oath, designed to exclude their candidates, was
unnecessary. Their opposition was expressed by a lone delegate from Mazowia, Nikodem
Jabłonowski (pisarz nurski), who protested every motion to proceed with the oath. The
ture source of his opposition was clear to all and inspired many a harsh word against the
corrupt senators of the court party. All the while Prażmowski denied that anyone was
still involved in French-funded plots.

Finally, on November 24th Andrzej Maksymilian Fredo, the castelan of Lwów and
leading republican spokesman, cut through the political posturing by revealing that he
had been paid 3000 talers to support the French election and he knew there were 16
senators and ministers present who were lying about their involvement with French
intrigues. He then suggested that the oath be accompanied by amnesty for anyone who
had previously conspired with foreign powers. At the next session, on November 26,
shouting delegates overwhelmed the feeble protests of the lone delegate from Mazowia.
The French party had no choice but to take the oath. The Bishop of Poznań and
opposition leader, Stefan Wierzbowski, gleefully suggested that Archbishop Prażmowski
be the first to do so.

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501 Just before a young delegate from Sandomierz named Stanisław Dunin Karwicki categorically
rejected the candidacy of Prince of Condé, Mikołaj Pękosalwski (Sandomierz) said, “We would
all prefer to perish rather than be left under the tyranny to which the French crown has become
accustomed.” Przyboś Diariusz 1668 p. 39.
According to the *konstytucje* the *sejm* eventually passed, the goals of the convocation were to ensure unity and avoid corruption at the upcoming election.\textsuperscript{503} They included an appeal to forget past divisions and to “harmoniously (*zgodnie*) and uniformly elect the future king according to the requirements of the Republic,” and “with brotherly affection and Christian hearts” to refrain from seeking revenge for past injuries. Despite all the lofty rhetoric about harmony and brotherly affection, in the next paragraph citizens agreed to call up the general levy to protect the election against “all enemies.”

This juxtaposition of lavish declarations of mutual trust and affection with severe penalties for opposition is typical of the period. In their declarations citizens sought to bring the magnate opposition around to their side with generous carrots, but they also threatened dissenters with big sticks. The *sejm* ultimately decreed that every citizen must take the oath taken by participants of the convocation *sejm*—or face devastating consequences.\textsuperscript{504} At the Kraków *sejmik* of January 8, 1669 citizens were given four weeks to take the oath or be considered enemies of the fatherland and lose not only the right to elect the next king but also the other prerogatives of the *szlachta* estate [status

\textsuperscript{503} *Volumina Legum.* vol. IV. p. 482. “…we all mutually promise and oblige ourselves, by faith, honor, decency and our consciences to create no division or separation among ourselves, or to allow, as one indivisible republic, private factions to appear so that one part would elect a king without the other part or place on the throne someone, who by intrigues which offend the free election, or accepts money either for his own advantage by recruiting people or promises given or authorized by the future king…”

\textsuperscript{504} *Volumina Legum.* vol. IV. p. 483. “I swear to the Lord Almighty God and the Holy Trinity that without interpreting in any contrary or imagined way my oath for the royal election, that I did not take anything from anyone or in someone’s name, nor did I receive any promises, nor schemed myself or through someone else for my own benefit, but have done everything with regard for the whole Commonwealth. I will elect to the throne the one whom I understand according to my conscience to be worthy of our laws. I will not lead anyone into the country contrary to universal agreement. If I ever took anything from anyone, then I completely renounce this. And I will not elect or nominate anyone who during the reign of our last king and after his abdication tried to obtain the Polish throne by improper means.”
The general sejmik of Małopolska that met a month later not only declared those who opposed the oath pro hoste patriae, but also announced that they were “prepared to rise up for their destruction” [i in destructionem takiego consugere gotowićmy]. This willingness to intimidate the opposition into silence grew more apparent at the election that opened a few months later.

An Election nemine contradictente: No Free Speech for Traitors

Traitors! We'll cut you down. We'll not let you out of here; to no avail did you wreak havoc on the Commonwealth; constituemus other senators, we'll elect a king from our own midst as the Lord God inspires our hearts.

Jan Pasek at the election of Michał Korybut Wiśniowiecki
June 1669

Wespazjan Kochowski, described that day in June of 1669 on the election field outside of Warsaw as “the moment when the voice of God naming a king for the Poles could be heard through the voice of the people.” Citizens rejected all the foreign candidates and instead proclaimed an undistinguished scion of an illustrious Polish family, Michał Korybut Wiśniowiecki, as their choice. While many republican citizens viewed Wiśniowiecki’s election as a miracle that momentarily united the sharply divided country, even their chronicler Kochowski admits that the election was not unanimous in

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505 ASWK. vol. IV. p. 246.
506 ASWK. vol. IV. p. 254.
507 Pasek, p. 212.
508 Kochowski, vol. IV. p. 22.
the strict sense. He writes that the earth shook with the rejoicing of 80,000 szlachcicy, “when it seemed everyone harmoniously [zgodnie] declared Michał king, with the exception of a few Lithuanians of the opposite opinion who broke the general unanimity.”

509

The election sejm may have concluded nemine contradicente (without contradiction), but it was hardly unanimous. From the opening day, May 15, 1669, Archbishop Prażmowski and his party fought motions from Crown sejmiki to exclude all foreign candidates from the election.510 But the citizens who had turned out to protect the election from foreign intrigues stymied the court party’s efforts.511 Crown sejmiki rejected the proposal of Archbishop Prażmowski (who served as interrex) that the election be conducted by delegates rather than by the whole szlachta [in viritim]. Instead, they sent enormous delegations. The Kraków, Sandomierz, Wielkopolska, Lublin, Mazowia and Podlaski województwa all called out the general levy, thereby compelling every able-bodied citizen in their territory to attend.512 By early June tens of thousands of szlachcicy surrounded the senators’ pavillon at the center of the election field.

509 Kochowski. vol. IV. p. 29.
510 „The primate explained to those who stubbornly insisted on the oath [passed by the convocation sejm] that it was made under duress and therefore invalid.” Mieczysława Chmielewska, Sejm Elekcyjny Michala Korybuta Wiśniowieckiego 1669 r. Warszawa: 2006. p. 200.
511 Both Chmielewska in her monograph about the election and Marcin Sokalski in his monograph, Między królewskim majestatem a szlachecką wolnością: Postawy polityczne szlachty małopolskiej w czasach Michala Korybuta Wiśniowieckiego, highlight the self-defense reaction among szlachcicy who felt that their republic was being taken over by foreigners.
512 Małopolska’s desire to prevent foreign powers, who they believed were conspiring against their free republic, from stealing the election was clear from the resolutions passed at the general sejmik held in Nowe Miasto Korczyń on February 18, 1669. Introducing a resolution to ban foreign ambassadors from residing in Poland for more than six weeks, they wrote: “it is known to the whole world what terrifying and unpracticed in our nation intrigues ambassadors and residents of foreign lords dared to enter into before the abdication of the last king by means of
The Archbishop, Hetman Sobieski, and Lithuanian chancellor Krzysztof Pac tried to postpone the election in hopes that the _szlachta_ would eventually leave the crowded, expensive and increasingly dangerous capital. After the six-week parliamentary term expired on June 13th, the citizens began demanding the election. Tensions reached a pitch on June 17th when the crowd began hurling abuse at the senators and shooting into their pavilion.513 The senators hastily agreed to hold the election the next day.

On the morning of the election, neither Prażmowski nor Sobieski were anywhere to be found, so shortly after 1:00pm Bishop of Poznań Stefan Wierzbowski began the election himself by singing the traditional opening hymn.514 Soon from various Crown _województwa_ arose the name of a Polish candidate: Michał Korybut Wiśniowiecki, who had attended the election as a member of the general levy from Sandomierz. Sources differ about who was first to suggest Wiśniowiecki, but clearly Marcin Dębicki, leader of the Sandomierz delegation, and vice-Chancellor Andrzej Olszowski, who had first raised Michał as a possible candidate in his widely distributed _Censura candidatorum sceptri_ trading agents for this purpose, and to attack our free constitution [lboro statui nostro]. _ASWK_ vol. IV. p. 255.

513 Chmielewska p. 212. Pasek describes this scene in his typically colorful way, “The next day the senators rode out to the election field. The field was covered in armies; different opinions are pronounced; one praising this candidate, another that. One noble from the Łęczyce district speaks up, the squadron was mounted and standing right near the assemblage, ‘You Condé supporters keep still, or you’ll see bullets flying here.’ One senator answered sharply. Now did they begin to fire: commotion, uproar; the senators fled from the spot betwixt the carriages, under chairs…” p. 212. Chrapowicki was closer to the action and writes that “the men of the general levy [pospolici] around the trenches began shooting a lot, so that some [senators] were frightened. Then the Bishop of Kujawia Czartoryski said that this shooting is not at all safe and someone there from Rawa hollered, ‘that’s for you, Father, they’re shooting.’ They all jumped up and the Marshal of the Crown [Sobieski] took after him with great speed, for they who were shooting were standing right in the Lithuanian gate, but they then dispersed.” vol. II. p. 508.
514 Chmielewska, p. 216. Wierzbowski was presiding bishop as Warsaw then belonged to the Poznań diocese. (He was also a leader of the republican opposition.)
Polonici deserved much of the credit.\textsuperscript{515} Wiśniowiecki’s promoters read the moment and the electors just right, and chose a candidate who was neither advanced by foreign powers nor a perceived threat to szlachta liberty. Moreover, he had a perfect pedigree for republican-minded patriots.\textsuperscript{516}

Objections to Michał were drowned out in the general rejoicing. Archbishop Prażmowski, who had been holed up for several days in the royal castle in Warsaw, was called to the election field and forced to proclaim the young candidate king. He refused to come until Michał’s supporters threatened to have bishop of Kujawy Kazimierz Florian Czartoryski proclaim their elect as the new king of Poland if the archbishop would not do so himself.\textsuperscript{517} A small, but powerful minority had been intimidated into capitulation.

Unfortunately for the future of the Commonwealth, this capitulation would be brief. A few months later at Michał’s coronation sejm the newly christened “malcontents” would make their objections known and contribute to the first breaking ever of a coronation sejm as well as the first breaking of a sejm before the six-week term had expired.

\textsuperscript{515} As Wójcik cleverly observes in his biography of Sobieski, “Olszowski realized that the court’s policy had finally gone bankrupt during the years of the civil war; he understood before everyone else that at the end of the 1660s no one would get very far on Polish roads in a foreign carriage.” \textit{Jan Sobieski 1629-1696}. Warsaw: 1983. p. 157.

\textsuperscript{516} In addition to being able to trace his ancestors back to Jagielló, Michał was the son of celebrated military commander Prince Jerema (from whom Jan Kazimierz withheld the hetman’s baton) and Grzyzelda Zamoyska, grand-daughter of the famed chancellor and tribune of the szlachta, Jan Zamoyski. See Chemielewska’s “Początki interregnum po abdykacji Jana Kazimierza. Pretendenci do trunu polskiego” in \textit{Studia i materiały z dziejów nowożytnych}. Eds. K. Matwijowskiego i S. Ochmann-Staniszewska. Wrocław: 1995. p. 87-107.

\textsuperscript{517} According to one source, vice-chancellor Olszowski had to ask the archbishop to come and perform his duty four times. Adam Przyboś, \textit{Michał Korybut Wiśniowiecki 1640-1673}. Kraków: 2007. p. 51. Pasek confirms that Prażmowski proclaimed Michał unwillingly, “The archbishop carried out the formalities proper to his office on the inauguration of the newly elected king and also the church ceremonies where \textit{in gratiarum actionis} were offered, but with what kind of intention, what kind of zeal! Just as if you were to harness a wolf to a plough and bid him plough by force.” p. 215.
Undoing Jan Kazimierz’s reign and Reforming the Republic

By 1669 the sejmiki of the Crown had been complaining about Jan Kazimierz’s policies for nearly two decades. Their most consistent complaints were that many of the king’s official appointments were improper and that many of his corrupt officials ignored the law and intimidated citizens. Following his abdication, the szlachta finally had the opportunity to set things right, to remedy the exorbitancje that had crept into the Commonwealth during his reign and to write a new Pacta Conventa for the next king to prevent similar problems in the future.\(^{518}\)

Looking through the numerous proposals sejmiki made to set the Commonwealth right, one can see many of the same concerns raised earlier: a desire to reconfirm citizens’ right to a free election and to prevent future kings from repeating Jan Kazimierz’s campaign for a royal election in his lifetime, complaints about foreigners’ influence in the Commonwealth, demands to know about and approve all important decisions facing the Commonwealth, and a desire to bring law and order to both the distribution of Commonwealth offices and the courts. In addition to reforms designed to limit the king’s powers, sejmiki made new proposals to limit the power of key ministers and lesser officials. Instructions from the most republican wojewódzwa of the Crown contain rather

\(^{518}\) In addition to confirming the principle that a free people should elect their own leader, free elections (i.e. those conducted after the death of the previous king) were seen as essential to civic freedom because the interregnum allowed for a resetting of the Commonwealth. It also gave electors unparalleled bargaining power with candidates for the throne.
radical proposals to change the way senators were chosen and to repeal their life-long tenure. Additionally, one finds frequent mention of the problem of broken sejmy and the need to limit irresponsible use of the ius vetandi. During this period when republican citizens were at last free to advance their own reform agenda, they did so boldly. Even though their proposals were couched in the language of restoring the Commonwealth’s ancient laws and customs, citizens were actually proposing reforms that, if implemented, would have been made for a very different, much more democratic constitution.

From the opening paragraph of the konstytucje passed at the convocation sejm it is obvious that the szlachta was intent on reversing the key policies of the previous king’s reign. Many of these policies intersected in the person of Jerzy Lubomirski, his opposition to an election vivente rege, the illegal verdict passed against him despite delegates’ protests, and the popular uprising he inspired. An official declaration passed by the election sejm exonerated Lubomirski completely and called the accusation of lese majeste against him frivolous (ex levi occaisione) and the work of those “vying to disrupt the fatherland and divide the estates.” According to this statement, the Commonwealth had suffered greatly from the violation of his free speech and also of delegates’ freedom to protest (wolnosci kontradykcji poselskiej), as well as the civil war that it sparked. The sejm, therefore, overturned the verdict and reconfirmed the law of 1588 that prohibited a king from judging cases of lese majeste. The Wielkopolska and Kraków sejmiki demanded further reform to the procedure by which such cases should be handled, suggesting that judges be elected by the województwa, that they be sworn-in and be
landowners (*bene possessionatis*) of the noble estate.\(^{519}\) Kochowski reports that this resolution passed unanimously, “without opposition from even those who had once been behind this terrible offense.”\(^{520}\)

The *konstytucje* that follow this special declaration go on to prohibit the king from making any mention of a successor in his lifetime or conferring with anyone about the next royal election. This prohibition was backed up with the traditional threat of *de praestanda obedientia*. Before the *sejm* the *sejmiki* of the Crown had been even more categorical in their rejection of an election *vivente rege*. The instructions from Ruskie *województwo* are the most strident, “anyone who dares…ultra communem scitum et consensum of the whole republic…to partake in conferences or schemes in materia electionis of a king…anyone who openly or tacitly proposes a candidate for the state…or takes bribes to that end… must be tried as a traitor and punished by death (*na gardle*). \(^{521}\)

Having rejected the central policy of Jan Kazimierz’s rule and exonerated the leader of the opposition, the *sejm* continued to address other pressing *exorbitancje*: it banned royal abdications and prohibited one person from holding multiple offices;\(^{522}\) it limited the

\(^{519}\) PAN-PAU Kr. Ms. 8595 (April 8, 1669) and *ASWK* vol. IV p. 253.

\(^{520}\) Kochowski, vol. IV, p. 22. Marcin Sokalski observes that the ease with which this repudiation of the Lubomirski verdict was accomplished (the day after the Kraków and Sandomierz delegates proposed it on May 23, 1669) “speaks volumes about the deep sense of injustice felt among the szlachta masses over the way the court treated Lubomirski, and the fact that the verdict was universally acknowledged to be improper and was considered one of the greatest *exorbitancje*; it reveals the size of the abyss between royal sovereignty and szlachta freedom.” *Między królewskim majestatem a szlachecką wolnością…*, p. 88. I would say this abyss lay between the two main parties of the era.

\(^{521}\) *AGiZ* vol. XXI. *Lauda sejmikowe wiszeński, 1648-1673*, p. 521.

\(^{522}\) This provision would have stripped Jan Sobieski of one of his powerful offices (Grand Marshal and Hetman of the Crown). Enforcing this law on the commander of the army would have been virtually impossible.
number of foreigners at court, repealed illegal grants and sequestrations of property, complained about violations of free speech, and raised the need to outfit fortresses in the Ukraine.\textsuperscript{523}

Eventually, the time came to write the \textit{Pacta Conventa} for the new king. The first draft of these rules was proposed by none other than the leading republican theoretician of the age, Andrzej Maksymilian Fredro.\textsuperscript{524} The document he drafted explicitly limited many of the king’s prerogatives, but this is not surprising under the circumstances. In her monograph about the election \textit{sejm}, Mieczysława Chmielewska observes severe limits on the king’s powers were accepted because neither political camp was interested in granting him very broad prerogatives, “the camp of his supporters because that was their ideology, and the opposing camp because they did not accept him.”\textsuperscript{525} While this is certainly true, it is important to note that many of the reforms proposed by the \textit{sejmiki}, including those that eventually made it into the \textit{Pacta Conventa}, were not only aimed at limiting the king’s prerogatives, but at enforcing the laws that protected the balance of political power in the Commonwealth so that middle \textit{szlachta} could participate in governing on a more equal footing with their magnate brethren.

By reading the \textit{Pacta Conventa} along side the \textit{sejmiki} instructions that inspired them, one sees that the primary preoccupation behind many of the citizens’ proposals, radical and seemingly frivolous alike, was corruption. Almost all of their complaints and proposed

\textsuperscript{523} \textit{Volumina Legum}, vol. V. p. 11-13. \\
\textsuperscript{524} Kochowski. vol. IV. p. 24-5. He reports that Fredro made his proposal after a wide-ranging discussion of necessary reforms, particularly in the area of just distribution of patronage. \\
\textsuperscript{525} Chmielewska, p. 229.
solutions strive to keep citizens free of economic dependence and/or political coercion by
the king and the powerful magnates who often aligned with him. When reading these
instructions it is important to take into account that the previous 20 years of war had been
devastating to the Commonwealth’s economy and that many citizens were more
vulnerable to economic manipulation by the court or wealthy aristocrats than they had
been in prior decades.\footnote{526}

The most obvious evidence of their concern about corruption is the increasingly common
demand that officials to take oaths. It was first proposed during the era of the Lubomirski
\textit{Rokosz} that Marshals of the House take an oath to be independent and non-partisan.
Several years later \textit{sejmiki} were demanding that nearly everyone involved in governing
take oaths to be impartial and to refuse bribes. In the spring of 1669 Wielkopolska
demanded that Marshals of the House, senators and all officials [\textit{urzędnicy}] take such
oaths. A few weeks earlier Małopolska had demanded similar oaths from the same list of
officials, plus all \textit{sejm} delegates. They were to swear that they were completely
independent, that “they were not obligated \textit{ullo modo et respectu sine omni mentis
restrictione.”}\footnote{527}

The \textit{sejmiki’s} long-standing fear that the king and his ministers were making decisions
about the republic without their knowledge or consent persisted and had been augmented
by the fear that foreign influence would only lead the court further from the interests of

\footnote{526}{For more about the growing influence of clientel networks in the Commonwealth during the
later seventeenth century, see Andrzej Maćzak. \textit{Klientela: Nieformalne systemy władzy w Polsce
i Europie XVII-XVIIIw.} Warszawa: 1994.}
\footnote{527}{PAU-PAN Kr. Ms. 8598 vol. II (April 8, 1669) and \textit{ASWK} vol. IV p. 254.}
the republic. The *sejm*, therefore, passed laws limiting the number of foreigners who could reside at court (six men and six women) and the length of time foreign ambassadors could stay in the Commonwealth (six weeks). In reaction to Ludwika Maria’s campaign for an election *vivente rege*, women and foreigners were expressly banned from partaking in matters of state. Furthermore, secret councils and the use of the king’s private seal (rather than that of the Commonwealth) were banned. All foreign delegations were to be staffed by Poles and all foreign correspondence was to be written in Polish or Latin. To prevent the king from building up a loyal coterie of naturalized citizens and/or ennobled commoners, the parliament reconfirmed that grants of citizenship and enoblements be made only by the *sejm* and that newly created nobles (foreign or native) be ineligible for offices or benefices for three generations.

Efforts to limit corruption by court factions understandably focused on senators, most of whom had been compromised in popular opinion by their participation in foreign intrigues. To the traditional exhortations that resident senators perform their duty (i.e. defend the law) and that members of the Senate Council present at deliberations sign *(distinctim)* the minutes of those meetings, the parliament added the threat that senators who did not follow these rules would lose their offices. This law, when combined with

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528 Additionally, the Sandomierz and Ruskie wojewodztwa both called for the king to dress in the Polish style. Ruthenians demanded that all szlachta and senators dress in the Polish style as well—or be ineligible for offices in the Commonwealth. *[a któryzyby stroju cudzoziemskiego lub senator lub szlachcie złożyć nie chciał, aby incapax dignitatis in republica był deklarowany.]* AGiZ vol. XXI. p. 524. While not seeming of great import to modern readers, these demands, which were repeated for years, suggest the seriousness of the gulf between court and citizens and how keen citizens were to guarantee that the king was free of all types of foreign corruption.


530 *Volumina legum*. vol. V. p. 12.
a reconfirmation of laws against any single person holding more than one office, particularly two ministries like Grand Marshal and Hetman (like Jan Sobieski), would have created significant new limitations of senatorial power. The sejmiki of Wielkopolska and Małopolska wanted to take these limits even further—to the point of significant constitutional change.

In a move that would have seriously limited the powers of the most powerful officials in the Commonwealth, Wielkopolska (as well as many other sejmiki) wanted to repeal lifetime tenure for the Commonwealth’s four hetmans. Sandomierz wanted to limit all ministers of state to three-year terms. Lublin suggested having the king chose lay senators from four candidates proposed by the szlachta, the same way local officials were chosen. At the Małopolska general sejmik in February, Mikołaj Pękosławski suggested firing all senators who “had shown obvious enmity [nieżyczliwość] to the fatherland” and filling their seats by election. Ruskie województwo went even further and suggested doing away with the Senate Council all together and replacing it with new resident senators, who faced losing their offices if anything “against the law and opposed to the institutions” of the Commonwealth were to come from the court. Because of the economic and military might of the most powerful senators, these proposals were no more likely to be instituted than another common proposal that all Catholic bishops be elected by their colleges [kapituly], rather than be appointed by the king (and approved

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531 Sokalski, p. 102. He observes, “Reading the instructions from Małopolska inclines one to the conclusion that the szlachta… presented a broad package of proposals aiming in a reformist direction and able to rationally improve the shortcomings of the state’s constitution.”

532 AGZ vol. XXI p. 522 (post-election sejmik August 1669) “Instabunt Ichmę pp. posłowie nasi, aby senatus consulta zniesione były a ministris status przy królu residentes sprawować się tego będą in futurum, jeżeli cokolwiek przeciwko prawu et contra instituta ode dworu wychodzić będzie sub privation officiorum suorum.”
by the pope). Still, they reveal a zealous reformist streak among the middle szlachta of the Crown. The citizens who turned out to “correct” the republic during the interregnum were clearly dreaming of a more democratic constitution in which senators as well as the king would be held accountable to the citizenry.

The necessity of limiting the king’s power had been taken for granted in the republican political theory that had prevailed the Commonwealth since the Renaissance. Calls to limit the power of senators—individually and as a body—arose in the waning days of Jan Kazimierz’s reign and grew during the interregnum. In his introduction to his history of Wiśniowiecki’s reign, Kochowski asks his readers to look at the “revolutions” of this period dispassionately and to see that the responsibility for “the injuries to freedom and the whole of the Commonwealth lay with corrupt senators.” He suggests that citizens of the Commonwealth elect senators themselves, arguing that senators “would show more kindness for the fatherland if [their office] came from the hand of the Commonwealth not the court…and they would become true guardians of laws and freedoms, not allowing anything to be treated without the estates of the Commonwealth, not entering into any harmful factions with neighboring states or the court.”533 Here, Kochowski reflects the belief of many republican citizens that senators had ceased to fulfill their constitutional role as mediators between the sovereignty of the king and the freedom of the people.534

533 Kochowski, vol. IV, p. 106.
534 Stanisław Dunin Karwicki, who was a young delegate from Sandomierz in 1668, witnessed this change. Decades later in his influential treatise De ordinanda republica he traces most of the ills of the later seventeenth century to it. Maciej Mawijów observes the beginning of this transformation in his monograph about the final sejm of Jan Kazimierz’s reign. “The course of the sejm [of 1667] revealed the shrinking significance of the second parliamentary estate—the Senate. The active involvement of the majority of senators present at the sejm on both sides of the conflict certainly did not correspond to the role of “ordo intermedius” which the Senate was
Instead, they intrigued with foreign powers to lead the factions that divided the country, often for their own personal gain. To make matters worse, they poisoned parliamentary proceedings by adopting and perfecting the szlachta’s traditional tools of opposition.

\textit{Głos wolny: Conflating Free Speech and the Right to Break Parliaments}

Contrary to the prevailing historiography, citizens during this era were hardly knee-jerk defenders of the \textit{liberum veto}. Instead, they were dogged defenders of free speech, a concept that included justifiable uses of the \textit{ius vetandi}, but not the breaking of parliaments for political or personal advantage. In the instructions and \textit{konstytucje} of the interregnum violations of \textit{głos wolny} were generally presented as a separate issues from the breaking of parliaments. The breaking of parliaments was considered a serious \textit{exorbitancja}.

First, let us consider what citizens meant when they used the terms “\textit{głos wolny}“ or “\textit{libera vox}.” The election \textit{sejm} passed a \textit{konstytucja} entitled \textit{ratio liberae vocis} that annulled \textit{sejm} decrees “which offend free speech [and were] thought up and issued only out of human spite” and banned such summons [\textit{mandaty}] or lawsuits in the future. The instructions from Małopolska’s general \textit{sejmik} provide some insight into what sort of decrees and lawsuits this law refers to. They write, “it has become customary for minds theoretically supposed to play. Senators who belonged to the court party were compromised by their involvement with election intrigues—they did not have their proper authority among delegates. On the other hand, opposition senators did not earn much authority by avoiding taking positions openly, and eagerly turining attacks on the court over to surrogates (\textit{postawione osoby}). \textit{Ostatnie sejmy panowania Jana Kazimierza}, p. 70.
obdurate to Polish freedom and liberties that summons [mandaty] *ad opprimendam vocem liberam* are made by the chancelleries of the Crown and Lithuania.” The citizens of Małopolska therefore demand that the chancellors prevent such rulings that “dare to stifle free speech”—or face losing their offices (*sub privatione officiorum suorum*)[^535]. Republican *szlachta* had complained about legal intimidation since Jan Kazimierz’s faction began using the courts to cow opposition to his policies. This practice was seen as the one of the most troubling violations of free speech.

Citizens also raised a related concern that suggests that corrupt officials were seizing properties illegally. In Proszowice they demanded that *starostwa* taken from their owners “illegally and without court orders” be returned to their rightful owners.[^536] *Sejmiki* also complained about irregularities in the courts, mostly having to do with wrongfully distributed properties and unreasonable delays. *Szlachta* understandably considered these crimes as violations of free speech. Citizens who believed that properties could be granted or taken away for political reasons would obviously not have felt free to express their opinions.

Shortly after the election, citizens of Sandomierz complained about yet another type of suppression of free speech. They complained that armed men, presumably those employed by magnates, were threatening citizens at their *sejmiki*.

In several *województwa* the number of disgraceful acts at the place of public councils have multiplied, in churches, in Holy buildings, *in libera voce circa ius publicum* malevolent men oppress the citizens opposing

[^535]: ASWK vol. IV. p. 255 (Sejmik korczyński 18 February 1669.)
them, drawing sabers, axes, daggers...all kinds of arms and provoking riots...“

To stop this sort of physical intimidation, the Sandomierzanie ask their delegates to propose a new law that would sentence anyone who drew a weapon at a sejmik to prison and would punish anyone who injured a citizen at a sejmik by death.537

Unlike the sort of violations of free speech mentioned above, the issue of using the liberum veto to break sejmy does not appear in the konstytucje of the interregnum. This seems odd given that sejmiki had been expressing concern about the breaking of sejmy for several years already by this point. In 1666 and 1667 after four parliaments in a row were broken by protests, many sejmiki appealed to delegates to find a way to conclude sejmy successfully. They had been doing just this for decades, of course, but now they emphasized the need to take specific measures to prevent protests from breaking parliaments.538 The most common proposal was that delegates should not leave the sejm (or Warsaw) after they lodged a protest. The Wielkopolska sejmik that met in February 1667 wrote,

So that broken sejmy do not lead the Commonwealth to ultimate ruin, we instruct our honorable delegates to consider all means so that the upcoming, God-willing, sejm will conclude succesfully without breaking; to this end, we would consider it most helpful if every delegate present remain with the estates of the Commonwealth, promoting the conservation of the common good, without leaving.539

537 PAN-PAU Kr. Ms. 8959 [pre-sejm sejmik 25 February 1670.]
538 This was the first time that a broken sejm was not been followed by a successful one. Following Jan Kazimierz’s indictment of Jerzy Lubomirski at the sejm of November 1664-January 1665, the next three sejmy were broken by protests: March 1665, March-May 1666 and November-December 1666.
539 PAN-PAU Kr. Ms. 8598 vol. II. p. 559. (February 7, 1667).
Instructions from the Rawa sejmik, which met the same day, express similar concerns, but go further, pressing for a new law to limit improper protests,

As it is through frequent, unfounded and illegal vetoes that sejmy are dissolved and, being cum summo Reipublicae detrimento, we order our honorable lordships, our delegates, above all to find a modum concludendi sejmy, of limiting such vetoes by firm law so that we might once again bring a session to a successful end.\(^{540}\)

The sejmiki were not the only ones to see the obvious dangers of using the liberum veto to break parliaments. Influential citizens had been proposing that delegates find a way to limit vetoes they considered improper or illegal (usually called niesłuszny or nie przy prawie) for several years already. At the second parliament of 1666 Marshal of the House Chrapowicki suggested, “a delegate should not exit the House in protest for just any reason because that is levitatis.”\(^{541}\) At the same sejm Vice-Chancellor Olszowski exhorted delegates to “restrain the shameful license of broken sejmy” and suggested that a protest not be valid unless the entire delegation of a sejmik or at least three delegates protested together.\(^{542}\) Maciej Matwijów reports in his monograph about the 1667 sejm that a number of other sejmiki made similar suggestions, generally insisting that protestors not leave, that they justify their protests in front of the Commonwealth, and prove that they were not made for private benefit but for the common good.\(^{543}\)

\(^{540}\) Pasek, p. 190. Pasek records the instructions from the sejmik where he was elected marshal. This is the first paragraph of those instructions.

\(^{541}\) Chrapowicki II. p. 94.

\(^{542}\) Matwijów. Ostatnie sejmy... p. 17.

\(^{543}\) The Prussians demanded no protests “ex levi ac privata aliqua causa.” The Mazowians wanted the protestors to swear that they did not belong to any party or special interest, but protested for the common good. Matwijów. p. 32-4.
Perhaps optimistic citizens thought the era of broken sejmy was over after Jan Kazimierz’s abdication. Perhaps that is why they left any specific mention of broken sejmy or a delegate’s ius vetandi out of the konstytucje they passed during the interregnum.544 We do find mention of the need to regulate protests in sejmiki instructions, though. In April of 1669 the sejmik of Wielkopolska mentioned that the breaking of sejmy put the Commonwealth in great danger and therefore asked the województwa cum tota republica to come up with a plan and invent a means…to stop both the breaking and prolonging of parliament,” but with the important caveat, “sine oppressione liberae vocis.”545 Małopolska agreed, “the frequent breaking of sejmy leads the Commonwealth into danger” and suggested that delegates maintain the traditional practice that “a delegate submitting a protest (kontradykcje) either publicly withdraw it or persist until the conclusion of the sejm.”546

As discussed above, there was great concern about the convocation sejm of 1668 breaking. Near the very end of that sejm bishop of Kujawy Kazimierz Florian Czartoryski proposed passing a new law to create a “union for a legal, eternal confederacy” [confoederationem na związek wiecznym prawem promował] that would have made the breaking of sejmy impossible.547 It was eventually decided that a convocation sejm did not have the power to pass such a law. Besides, at the time such a law seemed unnecessary, as the many threats made against protential troublemakers had intimidated the opposition into silence. At the next sejm, however, the situation was different. The

544 We must remember that prolonged parliamentary paralysis was a new phenomenon and inextricably linked to the battle for an election vivente rege.
545 PAN-PAU Kr. Ms. 8598 vol. II. p. 600. Conventus Sredensis Exorbitantis April 8, 1669.
546 ASWK. Vol. III. p. 259 (Sejmik korczyński 18 February 1669.)
547 Przyboś, ed. Diariusz sejmu konwokacyjnego 1668 roku. p. 43. (26 November 1668)
republican szlachta was less unified and the aristocratic opposition had had the time to hatch an ingenious plot to break the new king’s coronation sejm using the szlachta’s own weapon, the liberum veto.

*Using the liberum veto against the Republic*

The estates...had already begun making new laws, renovating old ones or clarifying them, when suddenly the ship of public counsel was dashed on the hidden rocks of an atrocious faction, which through the instrument of Jan Olizar, vice-justice [podstędek] of Kijów, broke the sejm...as soon as the issue of curing the ills of the Commonwealth was brought up, he very awkwardly burst out with his pronouncement...and with this step invalidated the deliberations of his colleagues, the Senate and the king.

Kochowski, describing the Coronation sejm of 1669

From the day Michał Korybut Wiśniowiecki’s coronation sejm opened on October 1, 1669, delegates unhappy with his election attempted to prevent its successful conclusion. The aristocratic opposition stirred up a disgruntled minority, those who had officially lost their lands to Muscovy in the Treaty of Andrusovo (1667), and at the very least, did nothing to stop these rowdy delegates from the East from extortion the

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548 Kochowski. vol. IV. p. 48.
549 Adam Przyboś explains why some powerful aristocrats became such inveterate enemies of the new king. “Some dignitaries joined the opposition because they were disappointed by the loss of the French candidate, others because of the elevation of one of their own, not the most worthy, but the poor Prince Michał. A feeling of offended magnate pride certainly gripped them, maybe their failure to carry out their political and financial responsibilities to their French representatives also bothered them. But they were deeply convinced of the rightness of their idea. They dreamed of a monarchy, perhaps on the model of Louis XIV’s state, but now they had to bow to the poor little prince [książe] Michał, who by some “miracle” had been raised to the throne.” *Michał Korybut Wiśniowiecki 1640-1673*. Kraków: 2007. p. 64-5.
Commonwealth for their own gain. The issue was compensation for their lost properties. Jan Kazimierz had promised the exiles (exules/egzulanci) vacant Commonwealth properties and leases in March 1667, but amidst the chaos of broken sejmy and his abdication, these promises went unfulfilled. A group of delegates from the lost Ukrainian territories led by Jan Olizar, podstęp of Kijów, refused to allow the sejm to proceed until their (ever-increasing) demands were met. A major bone of contention was the starostwo of Krosno, which Jan Kazimierz had granted to the wojewoda of Sandomierz, Jan Tarło, just before he made his promise to the exiles. The exiles demanded that this office—as well as every other office granted since the abdication, be turned over to them.

In what seems to be a suspicious coincidence, the usual leaders of the House of Delegates were either absent or caught up in the fight over the Krosno starostwo. The Kraków and Sieradź sejmiki had broken and thus had not sent any delegates to the sejm. The Sandomierz delegation was preoccupied by the fight over Krosno as they defended their wojewoda’s right to keep the office that was legally his.

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550 These “exiles” had lost control over their territories in 1648 due to the Cossack uprising and had been hoping to get them back or gain restitution from the Commonwealth for more than 20 years. The Treaty of Andrusovo put an end to hopes of repatriation, but they still held out hope for restitution. Even though these territories were in Muscovite hands, the former landowners continued to hold local offices and conduct sejmiki in exile. This made them especially susceptible to manipulation by magnate factions. Historians are divided about who bears the ultimate responsibility for the breaking of the coronation sejm, which, incidentally, did nothing to overturn Michał’s election. See introduction to Diariusz sejmu koronacyjnego 1669 r. published by K. Przyboś and Marek Ferenc. Kraków: 2004.

551 The fact that their demands continually increased as the other delegates and king tried to assuage them is strong evidence that at least some of the exiles were more concerned with breaking the sejm than actually getting compensation.

552 Three weeks into the sejm some Krakowiakie showed up to complain that their sejmik had been intentionally broken by a citizen paid 100zł and a barrel of wine to do so. Pękosławski, who had been elected as the delegate from Zator, complained about this “oppressione liberae vocis“ and hoped it would not lead to the loss of freedom and absolutum dominium. Diariusz sejmu koronacyjnego 1669r. p. 46
The other delegates, the Marshal of the House, and the king struggled mightily to placate the exiles. Despite their efforts, the Ukrainian delegates walked out in protest two weeks into the sejm. According a statement read by Jan Olizar, they felt their demands for offices had been ignored. Therefore, they invoked their right *de non praestanda obedientia*, formerly lodged their protest, and exited the chamber. At least two aspects of this protest were novel. First, it was not against any specific motion. And second, it was lodged only two weeks into the sejm. Previously, protests aimed at breaking parliament were made at the end of the six-week term and against a motion to prolong debate. Olizar’s protest was also curious because of the delegates’ invocation of their right *de non praestanda obedientia*.

Why would they need to renounce their obedience to the king along with suspending the sejm? Here it is important to remember the connection between a delegate’s right to protest and a citizen’s right to renounce allegiance to a law-breaking king that was forged during the Lubomirski rokosz. In December of 1664 delegates had protested the court’s illegal prosecution of Lubomirski. After being ignored at that parliament and the next, many szlachta had renounced their obedience and risen up against the king. The series of events that led so many citizens to renounce their obedience to Jan Kazimierz had begun at the sejm of 1661 when he first proposed (and they first rejected) the plan for an election *vivente rege*. Citizens’ opposition had been repeatedly ignored for five years before they resorted to their two ultimate weapons, their right to veto and their right to renounce obedience. The exiles made this leap—from having their demands ignored to

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553 Ibid. p. 36.
renouncing obedience to Michał Korybut Wiśniowiecki—before the new king had even been crowned.

The day after the Ukrainians left in protest, Jerzy Wandalin Mniszech (sędzia sanocki) from Ruskie województwo openly accused them of extorting the Commonwealth, “…we promise to satisfy the exules and they now per extorsionem demand it from His Majesty the king and from the Commonwealth.” Wherever protests made by the republican opposition in the mid-1660s aimed to prevent the king from violating their constitution, this protest was an attempt to extort offices from the Commonwealth for private gain. Despite being cloaked in similar language of rights ignored and free speech suppressed, this protest marked an unprecedentedly cynical use of the liberum veto.

The Marshal, Stanislaw Krzycki of Kalisz województwo, and the other delegates were shocked by the exiles’ behavior. Several days after the initial protest, Marshal Krzycki tried to send deputies to review treasury receipts, but was stopped by the protestors, who had returned to the House to announce their new demands: that all offices granted since 1667 be returned to the Commonwealth and redistributed to the exiles. At this, the sejm diarist reports, “the Marshal was stupefied” and everyone else was surprised because “the Marshal was unable to convince the protestors, or rather the protectors of foreign interests, to yield.” The next day when both houses met in the Senate, a Lithuanian delegate and exile repeatedly blocked a motion to begin the senators’ speeches with demands to return to the House. Other delegates opposed him and the whole session

554 Ibid. p. 39.
555 Both sides of the conflict frequently invoked their right to “free speech.” The diary reports that when some delegates complained that the protestors should be thrown out the window, the protestors defended themselves with libera vox and threatened to retaliate. To this a delegate from Sandomierz replied that their threats of retaliation were “oppressia liberae vocis.” p. 31-2.
disolved into a yelling match, which culminated with the Marshal yelling at the exiles, “Break the sejm over this, otherwise you won’t win, may a bolt of lightening strike that man [the protestor] before our eyes and God exact such obvious punishment on him.” To which everyone replied, “Fiat, fiat.”

When the senators finally got the opportunity to give their speeches, several influential leaders called for limits on delegates’ right to protest. Bishop of Kraków Trzebicki echoed his sejmik’s suggestion that a protestor not be allowed to leave the parliament and instead be forced to listen to attempts at compromise. Vice-Chancellor Olszowski suggested that not only should a protestor remain at the sejm, but also that he be made to swear in an official announcement that he protested “not for private gain, but pro liberae voce.” Wojewoda of Lublin Władysław Rej agreed with provisions to prevent the protestor from leaving and suggested that he be made to prove in court that his protest was not for private gain. He voiced the common concern that broken sejmiki and sejmy be prevented “sine laesione liberae vocis, which is the basis nostrae aequalitatis.”

This was really the rub: how to establish a rule that would limit frivolous or selfish objections but that would not also provide the majority with an easy way to stifle the minority’s free speech. This conundrum explains the epidemic of oath-taking at the time—oaths were seen as the only way to compel citizens to reject corruption and partisanship. It proved a rather ineffective remedy.

Regardless of all the exhortations to save parliaments by preventing protestors from leaving, just a few days after the senators finished their speeches Olizar and fellow

556 Ibid. p. 45.
delegate Alexander Konstanty Woronicz (podkomorzy kijowski) repeated their protest contra totum actum comitiorum de nullitate omnium and fled the House—despite efforts by other delegates to stop them at the door. After negotiating with the king for even greater compensation (Tarło had already agreed to forfeit Krosno for the sake of peace), Olizar disappeared during the night of the November 6th. The delegates waited in passivity for five days, but efforts to find him and bring him back to withdraw his protest proved futile.

*Preventing the Breaking of Parliaments* sine laesionae liberae vocis

*And to prevent the breking of sejmy it is impossible to provide an adequate remedy,* which would not be cum praeiudicio liberae vocis, *and it is difficult to come up with a law for this so we see no other method,* but... *that if someone must protest,* he not rashly walk out or drive away, *but that he persist in his protest until the very conclusion,* during which a way of removing or satisfying his reasons for the contradiction can be found.

Instructions from the Sandomierz sejmik, February 25, 1670

After the coronation sejm was broken by Olizar’s exit in November 1669, a number of sejmiki wrote instructions similar to this one from Sandomierz. They, too, seemed perplexed by the problem of preventing the breaking of parliaments without violating
their most fundamental right of free speech. Given that limiting free speech by explicit law seemed impossible, they sought to restrain the consciences of those who would abuse free speech for their own private or political interests. The *sejmik* of Ruskie województwo, for example, recommended that delegates swear in person that they would not disrupt *sejmy* for the sake of their private interests, and also that they were not dependent on anyone in any way that would be harmful to the common good. In order to restrain those who dared break a *sejm* “without legal foundation and against the instructions of their brothers, out of partisanship and rashness” [*zawiętość et temeritas*], they suggested that delegates be made to read the instructions from their województwo out loud as necessary.\(^559\) This would presumably reveal if a corrupt delegate was acting on private instructions rather than those of his brothers at home.

None of these suggestions had the desired affect at the extraordinary *sejm* that met the following March. Delegates swore at the beginning of the *sejm* to reject protests made in the House before the two chambers joined, not to allow the protests of absent delegates to suspend the parliament, and in the case of a delegate leaving in protest, to go to the Senate immediately to work out the disagreement.\(^560\) These precautions, however, were ineffective against the opposition’s not-so-secret attempts to discredit the new king and

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\(^{559}\) *AGiZ* vol. XXI p. 546. *Instrukcje sejmiku posłom na sejm* July 29, 1670.

\(^{560}\) Kazimierz Przyboś, ed. *Diariusz sejmu nadzwyczajnego 1670 roku*. Kraków, 2007. p. 21. The oath, which all delegates took on March 13 read: “we bind everyone before God with faith and conscience that if it happens that a delegate leaves the House of Delegates *cum protestatione*, then without leaving [Warsaw] we will all go upstairs and there *cum tribus ordinibus* we will discuss…what caused the contradiction in the House of Delegates, the senators should refrain from this judgement. And having pacified this contradiction we will return to the House of Delegates to treat the affairs of the Commonwealth.”
to replace him with a French prince.\footnote{The latest French candidate was Prince de Longueville, the Great Conde’s nephew. French ambassador de Lionne had been working with the French party in Poland since the coronation. See Korzon, vol. III. p. 352.} In addition to the real theoretical challenge of limiting abuse of delegates’ free speech without violating free speech itself, delegates were stymied by the malcontent delegates’ bold and unprecedented refusal to conform to the traditional parliamentary customs of bargaining and persuasion. Again, exiles from Lithuania and Ukraine refused to allow deliberations to start until their demands had been met. The majority could do nothing to persuade the uncompromising minority. Ignoring their protests would have meant provoking their powerful patrons to violence. After six weeks of obstruction and mutual accusations, many delegates demanded that the king call out the general levy again to deal with enemies “both internal and external.” During the final days of the parliament Aleksander Żabokrzycki, serving once again as a delegate from Braćław, sat in the House and refused to join his fellow delegates in the Senate. His colleague Krzysztof Kordysz stood in the Senate and prevented the remaining delegates from proceeding without him.

There were calls to override his protest. Jan Karol Romanowski from Chełm, who had been so vocal at the convocation sejm, lobbied to have Żabokrzycki’s protest annulled. Another delegate from Prussia chimed in with complaints about this “abuse of excessive liberty, which destroys free speech \[\text{liberam vocem}\].”\footnote{Diariusz sejmu nadzwyczajnego 1670. p. 106.} Bishop of Kujawy Kazimierz Florian Czartoryski wept over the state of the Commonwealth, saying “these debates about returning to the House murder \[\text{iugulat}\] the republic, which is \text{res populi}…when
the laws are subverted by men, then there is no longer a republic.” Still, when it was discovered the next day that Żabokrzycki had disappeared in the night, the delegates chose to give up and bid the king farewell.

The delegates’ reasons for letting the opposition break the sejm can be found in speeches made by two leading republicans on the penultimate day of the sejm. An older respected legal scholar from Kraków, Stefan Księski, exhorted his fellow delegates not to exacerbate tensions among themselves and instead to investigate the malevolent advisors who were leading the king to make divisive decisions, such as marrying the Austrian Archduchess Elenora without first obtaining the permission of the third estate. The second, Stanisław Zaręba of Sandomierz raised the all too real possibility that internal discord, “which overthrew the power of the Romans and Greeks,” would lead to civil war in the Commonwealth. Księski’s speech points to the doubts republican citizens harbored about what was really going on at court and their traditional suspicions of royal authority. Zaręba’s speech simply pointed out what everyone at the parliament already knew: there were powerful magnates standing behind these exiles from the East. Archbishop Prażmowski had refused to attend the sejm after making his opposition to Michał’s Austrian marriage quite public. Hetman Jan Sobieski was also absent. In fact, only 29 senators attended the sejm (six bishops and ten wojewody, the rest were castelans

563 Ibid. p. 105.
564 Michał married the Archduchess Elenora in February 27, 1670 (after extraordinarily brief negotiations) in an effort to shore up support from Austria against France. The French party was outraged and tried to stir up the szlachta’s traditional suspicious about a king who made decisions affecting the Commonwealth without their knowledge or consent.
565 Ibid. p. 107.
or ministers) and some of them were far from supportive. The king’s base of support among the most powerful men of the Commonwealth was obviously thin.

Finally, there was the issue of free speech. The opposition artfully manipulated citizens’ veneration of the right to free speech. The first widely publicized work of malcontent propaganda, Jan Wielopolski’s Letter from a Polish Szlachcic to his Neighbor after the Coronation Sejm anno 1669, begins with the claim that the royal election was not free and that “our cardinal freedoms are already abolished, when not by reason, but by assault, not by unanimous consent, but by armed confusion…a king was presented to us.” The essay continues like a parody of a typical piece of republican propaganda from Jan Kazimierz’s day in that it accuses Michał of violating his Pacta Conventa at every turn. The only difference is that now the villains are Austrian, not French. The new king is reputedly under the thumb of his Austrian wife and the Emperor’s ambassador, “who all but eats and sleeps in the king’s chambers.”

Opposition delegates regularly used the arguments republicans had crafted about free speech to oppose Jan Kazimierz’s policies. At the convocation sejm malcontents opposed republican efforts to exclude foreign candidates on the grounds that such an exclusion would be a novelty and therefore dangerous to the republic. Moreover, they argued, such a ban would restrict free speech. On the last day of the extraordinary sejm of 1670, Jan Gorzyński, who had done more than his fair share of obstructing the parliament, piously proclaimed, “I prefer cum Rempublicam morior in servitutem than detrimentum liberae

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567 Przyboś Diariusz sejmu konwakcyjnego r. 1668. P. 33.
**Fighting to a Draw—Again**

After the failure of the second parliament in a row, sejmiki were even more vocal in their complaints about the breaking sejmy under the pretext of free speech. The Wielkopolska sejmik complained in July of 1670 that “human malice has gotten the upper hand, so that under the pretext of liberae vocis, we are not allowed to begin or conclude parliaments according to the law…sejmy are broken cum magno reipublicae detrimento.”

The citizens of Wielkopolska were so insensed by the opposition’s cunning and intrigues that some 600 szlachcicy showed up to the post-sejm sejmik. When an encrypted letter from a leading malcontent, Treasurer Andrzej Morsztyn, was discovered in the possession of castellan Krzysztof Grzymułtowski, the crowd beat Grzymułtowski within an inch of his life. This was a shocking act of political violence, but not the only one. In Kraków the magnate opposition led by starosta Jan Wielopolski had gained the upper hand since Lubomirski’s banishment and death. They sent hundreds of armed men to break up the

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569 It’s important to remember that the delegates from Kijów, Bracław and Czernichów województwa were elected by sejmiki held in Wlodzimierz, presumably by other refugees from these occupied territories. These sejmiki (as well as the refugees themselves) were therefore extremely vulnerable to manipulation by wealthy patrons and foreign agents.
570 PAN-PAU Kr. Ms. 8598 vol. II sejmik July 29, 1670.
sejmik in Proszowice—twice—so the middle szlachta of the Kraków województwo could not send delegates to the next sejm.⁵⁷²

Calls to punish the leaders of the opposition (Archbishop Prażmowski, castellan Grzymułtowski and Treasurer Morsztyn) and their clients who broke sejmy had reached a fevered pitch by the time the next sejm opened September 8, 1670. The king finally agreed to the demands of many sejmiki to call out the general levy. By October Warsaw was surrounded by angry szlachcicy ready to force the conclusion of the sejm. With armed citizens to back them up, defenders of the king boldly accused the magnate opposition of disrupting the Commonwealth. They forced the passage of a new konstytucja that bound all citizens “not to forsake the king in any danger and also…to risk their health and wealth for His Majesty.” As they had two years before, delegates forced everyone to swear “to preserve indivisible peace among themselves” and to declare “anyone who would go against our free election pro hoste patriae et perduelli.”⁵⁷³

Clearly, this law was passed contrary to the will of the opposition, which was at that point actively trying to dethrone the king.

How did the leader of the opposition respond to this pressure? On October 22, 1670 Stefan Warszycki (castellan of Kraków) accused Archbishop Prażmowski of practicing “coarse Muscovite-style politics.” The Archbishop stormed out of the Senate chamber in

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⁵⁷² Przyboś’s introduction, p. xiii and Kochowski, p. 80. Jan Wielopolski had accepted Lubomirski’s former office of starosta of Kraków from Jan Kazimierz and went on to become Chancellor under Sobieski.

⁵⁷³ Volumina Legum. Vol. V. p. 28. Here we see that citizens saw those who opposed their freely-elected king as opponents not only of Wiśniowiecki personally, but also of their right to elect him—or anyone else—freely.
protest, proclaiming, “opprimor in libera voce!”

Prażmowski’s protest nearly broke the parliament, but after a couple hours a group of bishops was able to talk him out of his protest and into compromising. He returned and the sejm concluded successfully a week later.

*The Konfederacy of Gołab and the Pacification Sejm of 1673: Choosing Compromise over Civil War—by Choice and Necessity*

During the fourteen months that passed between parliaments, the need to bring resolution to the conflict between the two parties became critical. In the summer of 1671 Hetman Jan Sobieski led a campaign against Cossack and Tatar forces with a bare-bones army, unpaid and unsupported by the king and the reluctant general levy. In December the Ottomans formally declared war on the Commonwealth. Despite the obvious need to pass taxes and recruit tens of thousands of new troops, the first parliament held in 1672 (from January to March) was consumed by arguments between Chancellors Olszowski and Pac, and broken by a silly argument between regalist and opposition delegates. Clearly, both sides had lost faith in their ability to settle their differences at parliament. The king told his citizens to ready themselves for the general levy; Archbishop Prażmowski and Sobieski made plans to stage a coup at the next parliament.

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574 The incident is recorded in the sejm diary published by Przyboś on p. 102 and in Chrapowicki’s *Diariusz*, vol. III p. 110. Chrapowicki reports that Warszycki said, “you speak Muscovite not Polish, and it is not proper to speak this way before the king.”

The next (extraordinary) parliament opened in May. The king asked delegates to discuss only defense, but malcontent delegates insisted on discussing the numerous *exorbitancje* they had been complaining about in their propaganda. The situation was a mirror image of the parliaments near the end of Jan Kazimierz’s reign. Republicans insisted that the *sejm* be limited in time and scope and the magnate party refused to discuss defense until their complaints had been addressed. A typical piece of malcontent propaganda of the time, “*Exorbitantie ad correcturam Seymu Anni 1672,*” reviews the king’s violations of his *Pacta Conventa* point by point, culminating with his supposed attack on the *liberum veto*.

But how can we be surprised that laws are broken singly when they wanted to chop all of them off with one blow at the last *sejm*, like that tyrant who once wanted the neck of the Roman people, to destroy the foundation of Polish freedom, the apple of our eye, to wipe out the *vocem contradictionis*, and to push blinded liberty to the edge of the abyss.\(^\text{576}\)

The malcontents had not only copied but amplified the rhetoric first used by the republican opposition. Now the “foundation of Polish liberty” and “the apple of our eye” was not free speech, *libera vox*, but *vox contradictionis*, the *liberum veto*.

By June 20\(^\text{th}\) the *sejm* had reached an impasse. That same day Jan Sobieski and other opposition senators entered Warsaw with armed troops. On June 25\(^\text{th}\) Archbishop Prażmowski visited the king with a handful of other malcontents and demanded that he abdicate. The king refused. The next day 14 divisions under malcontent Andrzej Potocki, (wojewódza kijówski) attacked the king’s guards and set off a general panic. The delegates from Wielkopolska and Małopolska formed a conferderacy to protect the king and

appealed to the king to call out the general levy immediately. The civil war that had been brewing since Wiśniowiecki’s election had finally broken out.

Concluding the *sejm* under such circumstances was impossible, but that did not prevent the opposition from blaming the king for its failure. On the first of July they announced the formation of their own confederacy “to preserve the whole of the republic, its laws, freedoms and liberty…in its ancient constitution (*in antiquo statu*).” Their rhetoric echoed that of the Lubomirski *rokosz*, but its true intent was just the opposite. While Lubomirski and his followers had used this language to justify their uprising against the king’s illegal imposition of a French prince upon them, the malcontents were using the same language to disguise their efforts to dethrone a legally elected king in favor of another French prince. This exploitation of traditional republican rhetoric gradually turned hallowed expressions of liberty into meaningless slogans of partisan warfare.

In the midst of another civil war, the Commonwealth was all but defenseless against the Turks. In late August of 1672 Poles suffered the devastating loss of their chief southern fortress, Kamieniec Podolski and the huge territories it protected. Rather than unite the

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578 The malcontents’ plan to put a French candidate on the throne was ultimately stymied by the death Prince de Longueville (while fighting for Louis XIV in Holland) in July. Louis declined to offer a replacement and thus left his Polish agents without a viable candidate.

579 Members of the king’s party accused the malcontents of giving up the fortress to the Turks in order to further undermine the king. Despite repeated calls to try those who had surrendered Kamieniec, chiefly its commander Michał Potocki, no trials were ever held. Potocki’s brother, Felix Kazimierz, squashed calls for an inquiry at the *sejm* of 1673. See Wierzbowski. *O zgode w Rzeczypospolitej*. 
two parties, the loss further exacerbated domestic tensions as each side blamed the other for the Commonwealth’s military failures. The citizens who gathered near the village Gołąb shortly thereafter in response to the king’s call for the general levy were more anxious to fight the magnate opposition than the Turks. They quickly formed a general confederacy and began their long-wished-for sejm konny, a parliament on horseback.\footnote{Pasek reports that there was some discussion about what to call this assembly of citizens, a sejm on horseback, a convocation sejm, a war council or something else (p. 227). They organized themselves into województwa and elected delegates who sat in the general circle (kolo) while the rest of their fellow citizens stood behind them. Thus, every citizen present had the opportunity to participate directly in deliberations. This seems to me to be exactly what szlachcicy longed for when they called for a sejm konny.}

According to the Act of Confederation passed at Gołąb, the thousands of citizens of the Crown who had flocked to the king’s banner sought to restore unity and harmony to the Commonwealth.\footnote{The Lithuanians and Prussians did not join the confederacy. This made for a more homogenous group of republicans. These were citizens who had willing undertaken the burdens of travel and camp life to exercise the civic rights personally.} Their immediate goal, though, as diarist Jan Pasek put it, was to rid their Commonwealth of those who conspired against their freely elected king,

How much longer will these traitors be upsetting us with their perfidies?...No sooner had God given us our present ruler, who is not a king, but a father, they dislike him at once. We ought to shake off these advisors who take so little care of us, for otherwise we shall never rest.\footnote{Pasek. p. 230.}

The two most significant decisions made by the confederates during their month-long assembly at Gołąb and later, Lublin, were to condemn those whom they considered traitors (i.e. Archbishop Prażmowski and the delegates who had broken parliaments at the behest of the malcontent party, Olizar and Żabokrzycki) and to limit the terms of
important Commonwealth officials to two years—in order to make future officials less
dangerous to the republic.\textsuperscript{583}

These proposals to limit officials’ tenure and punish those who broke parliaments were
not new. \textit{Sejmiki} of the Crown had been suggesting such measures since the previous
interregnum. The problem, however, was how to execute these decisions over the
objections of powerful malcontents. Obviously, Archbishop Prażmowski would never
agree that this group of confederates had any right to deprive him (Primate of Poland!) of
his office and properties.\textsuperscript{584} In fact, he published a response to the confederates’ verdict,
in which he pointed out every illegal aspect of their summary judgment. In a poor
imitation of Jerzy Lubomirski’s \textit{Manifesto}, the primate condemned the mob justice of the
confederates and presented them as oppressors of liberty, “they attack \textit{sejmiki}, senators,
\textit{sejmy}, freedom itself, abolishing the \textit{ius vetandi}, now they do not refrain [from attacking]
one anointed by God. After the Archbishop, where will all this partisanship [\textit{zawziętość}]
end?\textsuperscript{585} As was the case elsewhere in malcontent propaganda, it is the violation of the
\textit{ius vetandi}, rather than free speech that Prażmowski presents as most egregious. Like the
Primate, Hetman Jan Sobieski would never have voluntarily given up one of his powerful

\textsuperscript{583} Adam and Kazimierz Przyboś. Dzjuryusz kołowania i konfederacyjnej formowania w
generalnym pospolitych ruszeń obozie pod Gołębiem i pod Lublinem zostającego począwszy a die
\textsuperscript{584} The papal legate was given instructions to protect the principle of ecclesiastical justice and to
protect the Archbishop.
Prażmowskiego Arcybiskupa Gnieźnieńskiego do Stanisława Działynskiego wojewody
Malborskiego (z Łowicza 12 Dec. 1672)”
offices or accepted the sort of diminution of his power confederates were proposing—and neither would the troops of the Crown army who remained loyal to their hetman.\textsuperscript{586}

The citizens assembled at Gołąb came up against the real limit of their power near the end of their assembly. When the time came to make a final list of all malcontents to be tried for treason at the next sejm, no one rushed to name their local magnates. A proposal was made to leave the naming of names to the sejmiki. Two citizens from Wielkopolska pointed out that this would be impossible as “malcontents would have their way at the sejmiki and when each one of them shows up with a huge retinue and orders what he wants or breaks the sejmik, people will be afraid to accuse them.” Pękosławski and Zaręba argued that such things would not happen now that citizens were “united in this sacred bond of confederacy, rising up against anyone who would break sejmiki or sejmy for their own private interests.”\textsuperscript{587} This seems to have done little to reassure their fellow citizens. Perhaps average citizens felt brave enough to confront magnates in Sandomierz, but not elsewhere. The matter was eventually put off to the sejmiki and later at the pacification sejm that opened the following January it was let drop all together.

In his monograph about the pacification sejm that eventually restored domestic peace to the Commonwealth, Leszek Andrzej Wierzbicki praises those who worked to broker compromise.\textsuperscript{588} He praises the delegates who deliberated for more than 100 days to bring

\textsuperscript{586} Sobieski’s troops formed their own confederacy dedicated to preserving the free speech and the \textit{ius vetandi} as well as the ancient constitution (i.e. against the Gołąb confederates’ reforms.) See \textit{Pisma do wieku i spraw Jana Sobieskiego}. p. 1215-7.

\textsuperscript{587} \textit{Dyaryusz kolowania…}\ p. 83-4.

\textsuperscript{588}“Fortunately, a large group of influential people appeared, who remembered the last domestic strife six years before and tried at all costs not to let such a conflict between the king and his
peace to the Commonwealth for resisting the temptation to kill the malcontents, and says that the idea of starting a civil war was completely foreign to them.\textsuperscript{589} Surely, the Commonwealth’s culture of concord and consensus contributed to their decision to postpone the argument between monarchists and republicans once again, but one cannot overlook the difficult reality of the situation. Republican citizens could not rid the Commonwealth of magnates who conspired with foreign powers without starting another bloody civil war. Moreover, they could not push through the constitutional reforms necessary to limit the political power magnates enjoyed by virtue of their near monopoly on the highest offices of state.\textsuperscript{590} The most they could accomplish was to force the malcontents to give up their plans to dethrone the king.\textsuperscript{591} Perhaps if the Commonwealth had been located on an island, the two sides might have really had it out, but by the spring of 1673, with the Turks standing at the gates of Lwów, the only reasonable choice seemed to be to set aside their grievances and turn to war against an external enemy.

And what about those republican reformers, like those stalwarts from Sandomierz, who wanted to move their republic in a decidedly more democratic direction? They faced a theoretical problem as well as a practical one. They believed in the rule of law and the

\textsuperscript{589} Ibid. p. 220
\textsuperscript{590} Andrzej Sulima Kamiński notes that citizens could protect their king and “through the power of the confederacy control and exert \textit{de facto} power. However, they could not introduce any essential constitutional reforms, which could have constitutionally and legally protected that power.” \textit{Rzeczpospolita Wielu Narodów}. Lublin 2002. p. 142. It is important to note that during the four-year reign of Michał Korybut Wiśniowiecki, citizens were almost constantly engaged in governing—parliament was in session for a total of more than 12 months and many sejmiki met much more frequently than the customary three or four times a year.
\textsuperscript{591} The great irony of all the malcontents’ intriguing is that Wiśniowiecki died (apparently of natural causes) just seven months after the pacification sejm ended.
ideal of the mixed republic in which political power was shared among the three estates. How could they address the problems of an overmighty king and corrupt senators within the framework of a mixed constitution? The traditional solution for a republic that had become corrupted was a temporary dictator, a principled strongman who could restore balance in the republic. The middle szlachta had no such powerful tribune of the people in 1673. Moreover, they feared unchecked executive power above all else. What was a committed republican to do?

In hindsight, they might have considered transforming the Commonwealth into a democratic republic without a powerful king, but that would have required a real revolution—a conceptual revolution as well as literal one. They would have had to imagine a new kind of republic and a new kind of executive, similar to what the American colonists were able to imagine a century later. Republican reformers in Poland routinely pointed to Venice and the Netherlands as admirable models, but these small, urban republics differed significantly from the large, decentralized, agricultural Commonwealth. We should not fault Polish republicans for being unable to imagine how such a republic would function. When the Americans proposed their constitution for a similarly unusual republic more than century later, many doubted it could ever work.592

Meanwhile, the magnate opposition had completely appropriated the republicans’ rhetoric of free speech and enshrined the right to veto—now understood as the right to

592 For example see Montesquieu’s *Spirit of the Laws* on big republics. See also political literature written during the American constitutional convention and run up to ratification. *The Debate on the Constitution: Federalist and Antifederalist Speeches, Articles and Letters During the Struggle over Ratification*. Ed. Barnard Bailyn. New York: 1993.
break parliaments—as a cardinal right. Partisan use of the right to protest made it impossible to limit the *liberum veto*. Each side insisted that its vetoes had to be respected—regardless of the motivations behind them. Along with destroying people’s faith in a genuinely unpartisan veto, use of this new unquestionable *liberum veto* made political blackmail quite simple. The Lithuanian delegates proved this during the final week of the pacification *sejm*. They refused to allow the parliament to continue unless every third *sejm* would thenceforth be held in Lithuania. The Crown delegates had no choice but agree.

It would be nearly a decade until the next parliament was broken by a *liberum veto*, but in the late 1680s the practice returned and grew even more destructive. *Sejmy* met less often and fewer and fewer citizens could remember a time when parliaments were an effective way to work out disagreements and govern the Commonwealth. It took nearly 30 years of partisan gridlock before Stanisław Dunin Karwicki would draw upon the reforms proposed during the 1660s and early 1670s to create a revolutionary plan to transform the constitution of the republic. In his revolutionary plan the *liberum veto* was returned to what it had been before the battle over the free election transformed it into a tool for political obstruction.
Then there are those who are such settled or neglectful homeowners that even though the building leaks on them from everywhere and is practically falling down, they cannot bring themselves to talk of saving it, holding to the common saying: it has stood a long time, it will stand a while yet. And they do not reflect on the fact that the longer great buildings stand without repair, the more suddenly they will collapse and fall down. As it goes with buildings so it goes with kingdoms. Because also with states, even though they exist in disorder for a long time, at some point the most sudden ruin and change will occur in them.

Exorbitancje in the Three Estates

Even the bleary-eyed and barbers know that the Polish Republic is composed of three estates, namely, the royal, the senatorial and the knightly [rycerski]. We see also that it is part monarchy and part republic and as such, its poorly constructed form is the source of ceaseless conflicts. Still no one should be surprised that it is a poorly constructed republic; for it was created not by some Solon, like Athens, or by a Lycurgus, like Sparta. It was not given an exact and regulated form from the beginning, rather it gradually transformed from an absolutist system to freedom.

De Ordinanda Republica

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In his famous work *A Conversation Between a Priest and Nobleman* (1639) Łukasz Opaliński makes the point that proponents of republican government had been making since Aristotle’s day, namely that reforming an established constitution often causes more harm than good. As the nobleman says in response to the priest’s suggestion to increase the powers of the king, “your cure is worse than the disease.” After two days of discussion, Opaliński’s priest and nobleman conclude that the Commonwealth’s established constitution cannot be changed without risking civil war, and therefore, the only means to find consensus and conclude parliaments successfully (besides some minor reforms to parliamentary procedure) is to exhort the *szlachta*, the senators and the king to display more civic virtue.

As Opaliński and his fellow political writers from the first half of the seventeenth century understood it, the constitution of their mixed republic was delicately balanced. So long as the king used his power to distribute lands and offices to encourage virtue, senators used their wealth and social position to encourage harmony between the king and *szlachta*, and the *szlachta* defended the freedoms of the republic both at the parliament and on the battlefield, all would be well. But what if they did not? What if the three estates failed to display the civic virtue necessary to fulfill their prescribed roles in the mixed republic? What if the king appointed senators who were beholden to him personally or to foreign courts rather than well-deserving citizens? What if senators accepted lucrative pensions to use their wealth and influence to undermine the rule of the king and to promote foreign interests? What if many members of the *szlachta* ceased to be independent citizen-

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595 See Book V of Aristotle’s *Politics* on the dangers of revolutions.
596 See Chapter Two for a discussion of Opaliński’s work.
soldiers and instead became the clients of oligarchic factions, willing to break up parliaments for their private interests? Opaliński and his generation of political writers never raised such questions, but two generations later this sort of corruption of the ideal mixed republic was evident to everyone who lived in the Polish-Lithuanian Commonwealth.

Stanisław Dunin Karwicki (c. 1640-1724) was born about the time Łukasz Opaliński wrote his famous critique of the Commonwealth. Although of much humbler origins than the aristocrat Opaliński, Karwicki had ample opportunity over his long life to observe and analyze the increasing discrepancy between the ideal *respublica mixta* and the actual political system of the Commonwealth. As a leading citizen of the Sandomierz *województwo*, he served the Commonwealth as a local official (*cześnik* and eventually, *podkomorzy*), soldier, and 12-time delegate to the parliament.

Karwicki reached adulthood just as serious discussion of reform was getting underway, but he lived most of his life during the era of increasing corruption and political obstructionism that began in earnest after the Pacification *Sejm* of 1673. In 1674, following Michał Korybut Wiśniowiecki’s unexpected death, Karwicki served as delegate to the convocation *sejm*. Along with his fellow delegates from Sandomierz, he demanded popular republican reforms, including transferring the king’s right to distribute

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597 Relatively little is known about Karwicki’s life. Konopczyński published a biographical sketch (*Przegląd historyczny*, vol. XXXVII, (1948) p. 261-275) and wrote the entry in *Polski słownik biograficzny* (vol. XII p. 155-6). Przyboś and Przyboś include a brief biography in their introduction to his works.

598 Karwicki managed to be present at many of the most significant parliaments of his lifetime (1668 convocation, 1669 election, 1674 convocation and election, 1681, 1688, 1697 election, 1697 coronation, 1703, 1710, 1712-3, and 1720). Przyboś and Przyboś, p. 9-10.
Commonwealth lands and offices to the *sejm*. Their proposals were ignored amidst the general clamor to elect Hetman Jan Sobieski king as quickly as possible so as to continue the war with the Turks. Over the next three decades Karwicki watched as reforms were repeatedly put off by parliaments that repeatedly deadlocked as a result of the stalemate between rival oligarchic factions. Finally, in the early years of the eighteenth century, surrounded by the chaos of the Great Northern War, he wrote a reform proposal that overturned the fundamental assumption made by Opaliński and previous generations of republican writers. As Karwicki saw it, reforming the constitution of the republic had become less dangerous than tolerating its ills.

Like the citizens who formed confederacies when their republic was in danger “from enemies both internal and external,”\(^{599}\) Karwicki’s plan takes popular sovereignty for granted. Because the Commonwealth’s mixed constitution had become less and less able to guarantee basic civic freedoms during the last decades of the seventeenth century, the obvious solution in Karwicki’s mind was to transfer supreme political power (undivided sovereignty) to the citizens themselves. When he was already well into his sixties, Karwicki proposed a much bolder version of the reforms he and his colleagues had considered thirty years earlier during the Confederacy of Gołąb. Between 1704-7 Karwicki wrote a comprehensive proposal to transform the Commonwealth’s mixed constitution into a one with undivided sovereignty. In his plan there would be no separate senatorial estate and the king would be little more than a figurehead monarch. A

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\(^{599}\) This was the common expression used by *sejmiki* in the 1660s and early 1670s when they proposed calling the general levy or more specifically a “*sejm* on horseback” (*sejm konny*) to take back power from aristocrats who were working for a French succession.
souvern, tri-cameral parliament composed of popularly elected delegates and senators would govern the Commonwealth full-time.

Karwicki’s proposal of a sovereign parliament asked citizens raised on the supremacy of the *respublica mixta* to make a huge theoretical leap, but it did not ask them to sacrifice the core value of their republican ideology: liberty understood as self-determination as well as freedom from restraint. In fact, this was exactly Karwicki’s project: how to preserve or enhance these values within a more efficient constitution. He, therefore, proposed reforming key political institutions not simply to remove opportunities for corruption and obstruction but also to enhance opportunities for civic-minded citizens to participate in governing themselves.

Karwicki’s treatise represents a significant break with the tradition of political writing that arose during Poland’s golden age. It reflects the revolution that began with Machiavelli and gradually spread across early-modern Europe. Political writers stopped describing ideal constitutions and began making recommendations based on the reality of political practice. Karwicki is not at all concerned with tailoring the Commonwealth’s government to the Aristotelian ideal of a *respublica mixta* and is unsatisfied with simply exhorting citizens to be more virtuous. Instead, he is motivated by a desire to provide virtuous (civic-minded) citizens with the practical means necessary to govern their

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600 Poland’s “golden age” is generally considered to be the second half of the sixteenth century, when the Commonwealth of Two Nations came into being and achieved its greatest territorial extent. The next half century is often referred to as the “silver age.”

republic efficiently and effectively without limiting their civic freedoms—first and foremost, their broadly-conceived right to free speech. In his reformed republic, use of the *liberum veto* would be limited to a narrow set of circumstances, and the legality of any such protest would be determined by the citizens who sent the protestor to parliament. In this way, the new constitution would once again make the *liberum veto* a guarantor of free speech and tool to encourage consensus, rather than a partisan weapon used to silence one’s political opponents and paralyze parliaments as it had become during the early 1670s.

To understand how Karwicki arrived at his revolutionary solution, we must briefly consider the history of the Commonwealth—specifically the further evolution of the *liberum veto*—during the last quarter of the seventeenth century.

*Three Decades of Impasse, Corruption and War*

Like Stanisław Dunin Karwicki’s poorly maintained house, the Commonwealth’s mixed constitution collapsed suddenly. 602 Less than a decade after the *szlachta* reinterpreted the *liberum veto* to protect itself from Jan Kazimierz’s autocratic intentions, self-interested oligarchs began to exploit this new parliamentary weapon for their own gain. After the Confederacy of Gołab failed to institutionalize any reforms to limit senatorial power (or

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602 Karwicki writes, “…the longer strong structures stand without proper repairs, the faster they later fall down under this un-repaired weight. The fate of states is almost the same as the condition and fate of great buildings, especially republics, where even the highest freedom perishes under good intentions. Although they last rather long in even the greatest disorder, still suddenly they either fall into *absolutum dominium* or become the plunder of neighboring powers.” Przyboś and Przyboś, p. 101. Krzyżanowski, p. 22.
even punish those senators who had tried to dethrone the szlachta’s legally-elected king), republican citizens of the Crown were all but pushed out of politics at the national level. The sejm ceased to be the forum for the struggle between libertas et maiestas as it had been for the first hundred years of the Commonwealth’s history and instead became the battleground of rival oligarchic factions. These parties were, to a great degree, supported and directed by agents from Paris, Vienna and Berlin, who manipulated Polish politics in hopes of affecting the balance of powers in Europe.

This dramatic transformation in the political landscape occurred due to a confluence of factors, both socio-economic and political. Economically, the Commonwealth was in dire straights. Decades of war had brought devastation, population loss and ruinous inflation. Land gradually began to be consolidated in the hands of fewer, wealthier landholders. More citizens with small or no properties rented the properties of local magnates or served personally at their courts. To a greater or lesser degree more citizens became dependent upon the will of their wealthiest neighbors. In this era of impoverishment for the average citizen, members of the elite had access to a new source of fantastic wealth: foreign pensions. In exchange for advancing the agendas of Louis XIV, Frederick Wilhelm or Emperor Leopold, magnates and their clients received rich compensation. The simultaneous impoverishment of average citizens and enrichment of

603 Antoni Mączak has written extensively on economic transition and material conditions in the Commonwealth during the early modern period. For a summary of these changes in English, see East-Central Europe in Transition. Ed. Antoni Mączak, Henryk Samsonowicz and Peter Burke. Cambridge: 1985.
the wealthiest enlarged the wealth gap and political inequality that had always existed between these two—theoretically equal—groups of citizens.

After the last king with ties to the Jagiellonian dynasty abdicated in 1668,605 rival magnate houses scrambled to establish themselves on, or at least near, the throne. The wealthiest and most powerful magnates did not hesitate to intrigue against a Polish king whom they viewed as less suitable than themselves, like young and poor Michał Wiśniowiecki, or who belonged to a rival faction, like Jan Sobieski. During these decades of partisan warfare, shifting factions published scurrilous partisan propaganda that further undermined the authority of the monarchy and increased citizens’ perceptions that the entire Commonwealth had become corrupt.

In this changing socio-economic environment, the reinterpreted liberum veto had a powerful and unexpected impact on the political system. The court, as well as the opposition, quickly discovered that it could manipulate the course of the sejm by manipulating sejmiki elections. Leaders of rival factions acted like political party bosses, advancing their own clients as candidates for parliamentary delegates at sejmiki. By using the liberum veto they also prevented rival factions from electing their choice of delegates by breaking sejmiki, often with the help of armed troops from their private armies.

Although sejmiki repeatedly demanded that the same people not be elected delegates over

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605 Jan Kazimierz (1648-1668) and his brother Władysław IV (1632-1648) were the grandsons of Catherine Jagielloňka (1526-1583) who married John III of Sweden.
and over again, local magnates were able to ensure that their people served term after term.  

This practice of manipulating sejmiki elections meant that there were always delegates in the House willing to make and support protests motivated by partisan interests. In the heated partisan atmosphere, ignoring or overriding these protests would have risked igniting a civil war between the two dominant parties, one supported by France and the other supported by Austria. Like the rest of Europe, the Commonwealth was divided by the implacable rivalry between the Bourbons and Habsburgs.  

After meeting almost constantly during the 1660s and de facto ruling the country during the Confederacy of Gołąb, parliament met less and less often as Jan Sobieski’s 22-year reign wore on. The parliaments that did conclude limited themselves to funding the war effort against the Turks. The only significant domestic legislation passed during the last quarter of the seventeenth century was a new oath for the Marshal of the House of Delegates in 1678 and a detailed order of proceedings for the House of Delegates that passed in 1690, but was ignored at the next parliament.  

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606 It is important to remember that young magnates usually got their start in politics by serving as delegates to the sejm. Because of their families’ local power and influence, they had little trouble getting elected. At the sejm a delegate could serve his family or faction’s interest. Young magnates rarely broke parliaments themselves, preferring to pay less-distinguished clients to do so. In this way they could preserve their reputation with local szlachta.  
607 Brandenburg played important role, but switched sides during the 1680s. Frederic Wilhelm died in 1688 and was succeeded by Frederick I.  
608 Not counting his election, 11 sejmy were held and only five concluded under Sobieski. On average five years passed between successful sejmy, with only one (in 1690) concluding successfully during the last eleven years of his reign.  
609 For the text of the oath (to be independent and non-partisan and to allow only konstytucje approved by both House and Senate to be declared law) see Volumina legum, vol. V, p. 267. The 1690 order of sejm proceedings basically confirmed the traditional order of events with an
Little changed with regard to the *liberum veto* either. Once the precedent had been set in the early 1670s that a single delegate’s protest could break parliament, it became virtually impossible to question a delegate’s veto regardless of how obviously corrupt his motivations. This kind of exploitation of the *liberum veto* was taken to the extreme in 1688. During a showdown between the court and the opposition in Grodno (Lithuania), Jan Sobieski’s enemies, the Sapiehas (who were then all-powerful in Lithuania), ordered their clients to prevent the opening act of the parliament, the election of a new Marshal of the House. The *sejm* broke up nearly six weeks later without even having formally begun.

As usual, the opposition propaganda portrayed contest as a struggle between szlachta freedom and the king’s autocratic designs, while the pretext for using the *liberum veto* was a trivial procedural matter. As soon as the *sejm* opened at the end of January, several regalist delegates questioned the mandate of one Lithuanian delegate (a Sapieha client) because he was under indictment for a crime. While it was customary to review the mandates of all disputed delegates at the beginning of the *sejm*, this was usually done after the former Marshal had transferred power (symbolized by the Marshal’s staff) to the newly elected Marshal. The disputed delegate, Dąbrowski, however, protested against the

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addition inspired by the debacle of the previous *sejm* that cases of disputed delegates would be adjudicated immediately. See *Volumina legum*. vol. V. p. 371.

610 Despite Sobieski’s efforts to limit their power, the Sapiehas dominated politics in Lithuania during this era so completely that they were able to control the outcome of almost every *sejmik* in the Grand Duchy. As Zbigniew Wójcik put it, “nearly all the *sejmiki* were in their hands, throngs of obedient clients danced to the music they played, and that part of the terrorized szlachta that did not like them preferred to sit quietly. Thanks to the Sapiehas’ control of *sejmiki*, it was almost exclusively their supporters that came to *sejmy* in Warsaw or Grodno.” *Jan Sobieski*. Warsaw: 1983. p. 416.
motion against him and stormed out of the House before the election of a new Marshal could be undertaken. His fellow Lithuanian delegates would not let the sejm continue without him.

Stanisław Dunin Karwicki was a delegate at this ill-fated sejm. He made at least two speeches in which he argued that this dispute was senseless and politically motivated. At the end of the first week of the parliament, he logically explained that a delegate could not suspend the sejm with his ius vetandi before the election of a new Marshal because his activitas (right to propose and oppose) did not exist until the former Marshal had transferred power to the newly elected Marshal and the parliament had officially begun.\(^\text{611}\) Two weeks later he impatiently repeated his argument, saying that Dąbrowski’s protest was indefensible by either law or custom, and implored the Lithuanian delegates to defer to the patient and “brotherly persuasions” of their fellow delegates. He concluded his second speech by observing that, “almost all the House” agreed with him and by encouraging his fellow delegates to disregard Dąbrowski’s protest and begin anyway, “it would be safer to make use of our rights and continue to the election of a new Marshal.”\(^\text{612}\) Karwicki’s logic and exhortations had little affect. The standoff continued for two more weeks until the Lithuanian delegates suddenly returned, rescinded their

\(^{611}\) “If the activitas of a delegate, that is the jus proponendi et vetandi, begins only from the new staff [the new Marshal’s election], which is my opinion, then a delegate does not have activitas under the old staff and can neither propose nor veto, and should only move immediately to voting for the new Marshal, and if he has neither the jus proponendi nor vetandi, than he cannot leave in protest and if he leaves, his protest cannot be considered valid, for I ask you, what does it mean to leave in protest? It is sistere activitatem, when neither he, nor I, nor anyone of us has it [the right to do so] under the old staff.” 

\(^{612}\) Ibid. p. 102-3.
veto, and began demanding the immediate election of a new Marshal. No longer interested in continuing the parliament, the court instructed one of its delegates to break the sejm.\textsuperscript{613}

The course of the sejm of 1688 attests to how far political practice had diverged from the ideal. Although earnest citizens like Karwicki still attended sejmy and attempted to hold public deliberations on matters of state according to the laws and customs of the Commonwealth, they were powerless in the face of factions willing to exploit any opportunity to stymie or besmirch the reputation of their opponents. Several days after the collapse of the sejm, Karwicki and his fellow delegates from Sandomierz joined other delegates in issuing a manifesto decrying the outcome of the sejm and urging the king to call another sejm as soon as possible so “the brothers” at home could hear about the tragic state of the House, the “sacrarium Aequalitatis Libertatisque...which has gradually perished.” They also, like the citizens in 1672, called upon the king to summon the general levy so they could deal with enemies “ab extra or ab intra” and counteract the swelling discord.\textsuperscript{614}

\textsuperscript{613} The real issue behind all the intriguing was the king and queen’s plan to anoint their oldest son Jakub as his father’s successor. Sobieski had suffered a serious illness the year before and there was speculation that he might die soon. The court was therefore anxious to elevate Jakub somehow and the opposition just as anxious to prevent this. In an effort to assuage citizens’ fears that he was planning to violate their right to a free election (which he was), Sobieski sent Jakub away during the sejm. Once it became impossible for the court to press for Jakub’s nomination, the opposition no longer needed to hold up the sejm and instead wanted to pin blame for its failure on the court. See Wójcik, p. 430-2 and Wójciech Kriegseisen, Sejmy Rzeczypospolita szlacheckiej do 1763: Geneza i kryzys władzy ustawodawczej. Warszawa: 1995.

\textsuperscript{614} PAN-PAU Kr. Ms. 1082 n.p. Manifest na niedoszłym seymie Grodzieńskim cum protestione Posłow koronnych i Litewski 1688 27 martii 1688.
Unlike Michał, Jan Sobieski never called out the general levy to have an ultimate reckoning with the magnates who paralyzed the parliament in order to undermine his rule. Zbigniew Wójcik, one of Sobieski’s great biographers, offers several convincing reasons why he did not, even after the opposition broke next sejm (November 1688-April 1689) even more audaciously. Simply put, to do so would have meant igniting another civil war when memories of the Confederacy of Gołąb (1672-73) and the Lubomirski rokosz (1665-6) were still fresh in popular memory and while the Commonwealth was at war with the Ottomans. Provoking a civil war under these circumstances must have seemed a particularly dangerous and pointless course of action, since experience had shown that such a potentially bloody confrontation was unlikely to produce the sort of constitutional reforms necessary to break the political impasse—especially given that foreign governments now encouraged the impasse. Moreover, the king’s only sure source of support was the mass of outraged citizens ready to take revenge on the magnates who had hijacked their sejmiki and sejmy. But Sobieski was himself one of those magnates, with French sympathies and a French wife, who had conspired against the previous king. Moreover, he knew that the first condition of gaining szlachta support would be renouncing his plans to secure the throne for his son. As had happened in the 1660s and 1670s, the intractable argument that divided the Commonwealth was once again put off.

615 Representatives from the Papacy, Vienna and Berlin were all very keen to keep Poland in the Holy League fighting the Turks. They feared that if Sobieski freed himself from the opposition he might try to turn Polish foreign policy toward France, as he had at the beginning of his reign. They, therefore, worked to protect leaders of the opposition from Sobieski’s attempts to investigate them for treason in 1688. See Wójcik, p. 453.
After the debacles of 1688 and 1689 parliaments became basically impossible. The only one to conclude during the last decade of Sobieski’s reign (1690) did so only after the king’s guards managed to track down the delegate who had attempted to break up the sejm on French orders and return him to Warsaw, where Sobieski was able to bribe him into withdrawing his protest.616 The general sense that corruption and chaos had taken over the Commonwealth was only exacerbated by partisan propaganda. In the wake of the failure of the Sejm of 1688, one of the most inflammatory members of the opposition Jan Odrowąż Pieniążek, railed, “the tree upon which laws and freedoms once bloomed has now dried up” and “oaths given to God are no longer oaths, compacts are no longer compacts, and now even blasphemy is more emboldened to stand against God, and God is not God…”617

Citizens saw that abuse of the liberum veto was at the root of the Commonwealth’s inability to govern itself, but were powerless to change the situation. As one pro-Sobieski pamphlet from this era put it, “But by raging on we only help the fates, and how can there be hope of salvation, and what point is there of asking the gods for an end to this, when all the means that God gives us to save ourselves, we turn against our own head [caput nostrum]? … Our eagle returns to his nest already burdened, dying with reproaches, it is not a corruption of laws, but their very sustenance, free speech [głos wolny] that is killing him, that which was to maintain freedom, killed him so as to preserve freedom.”618

616 Wójcik, p. 462. Sobieski promised him the next available starostwo.
617 PAN-PAU Kr. Ms. 1082 n.p. Mowa JW Odrowąża Pieniążka, wwd Sieradzkiego po zerwanym sejmie 12 Martii 1688. A very similar version of this speech can be found at Bczart. rkps.182, p. 43 Mowa Jmci Pana Pieniąka Wdy Sieradzkiego in Senatus Consilio w Grodnie 20 Martii 1688.
The apparent hopelessness of the situation can be seen in an exchange of pro-court and opposition pamphlets from about the same time, *An Examination of Polish Freedom* and *A Response to An Examination of Polish Freedom*. The first complains that “the great people [wielcy ludzie] in the Polish kingdom, who are discontent with the court in their own private affairs,” so “artfully wrap their private ambition in the guise of love for the fatherland” that the szlachta is ready to shed its blood for aristocrats’ private interests.” Because they are so suspicious of royal authority, szlachcicy “do not realize that freedom and equality suffer much more for the fame and luxuries of powerful citizens than from their own kings.” The royalist author concludes that now, “when servitude is threatening,” Poles have no choice but consider not only reform of the laws, but a reform of the constitution [*nietylko de correctura iurium, ale de correctura status pomyslić*], presumably in a monarchical direction. In *A Reponse to An Examination of Polish Freedom*, a zealous defender of liberty accuses the former author of criticizing freedom only to propose an attractive servitude [*speciosam servitutem*]. He agrees that the Commonwealth needs a helmsman at the rudder, but argues that the course of the ship should be determined by “that Compass: Poles sworn to [uphold] law and freedom.” He cautions against any plan to suspend the *sejm* or *liberum veto* temporarily and give the Commonwealth over to a “Protector,” observing, “this how the Roman tyranny began, *tum primum Comitia ad Patres translata*…the same would happen in Poland, for once freedom begins to be lost…the *ius vetandi* will disappear for the ages,” as happened when the Austrians took over the Czech and Hungarian kingdoms. “They begin with *correctura iurium* and leap *ad correcturam status*.” The author expresses the common

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619 BCzart 191/87 p. 413-416.
620 BCzart 191/87 p. 416-419.
fear that government was being transferred from the citizens to the king and his Senate Council. This, of course, was the necessary consequence of paralyzed parliaments, but the change only fed popular anxiety that the king’s ultimate goal was to deprive them of their right to govern themselves.

After Sobieski’s death divisions in the Commonwealth were only exacerbated by the divided royal election of 1697. Nearly two years passed before supporters of the French Prince Conti gave up and accepted Frederick August of Saxony as their new king, August II. Almost before the dust had settled the new king (without the consent of the Commonwealth) allied with Peter the Great and went to war against Sweden in order to win Swedish Livonia (the territory around Riga) for himself. Armies from Saxony, Russia and Sweden flooded the Commonwealth, wreaking havoc on the countryside. In 1704 Charles XII staged a royal election in Swedish-controlled Warsaw that made a young aristocrat from Wielkopolska, Stanisław Leszczyński, the new, disputed king of the Commonwealth.

The citizens of Sandomierz formed a confederacy that remained loyal to August until he abandoned the Commonwealth in 1705. Karwicki played a leading role in the Sandomierz confederacy, which sought to provide some semblance of orderly government amidst the chaos. While on a mission to negotiate with the Swedes on behalf of the confederacy, Karwicki was captured by some of August’s partisans and held captive. It was during his long captivity that Karwicki expanded upon his first draft of a

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621 For more about the independent diplomatic efforts of the Confederacy of Sandomierz, see Andrzej S. Kamiński’s Konfederacja Sandomierska wobec Rosji w okresie po-altransztadzkim 1706-6. Wrocław: 1969.
Fixing the Exorbitancje, Reforming the Republic

As for me, now in my sixty-sixth year of life, since my youth I have witnessed these calamitous [funestus] battles between maiestatem et libertatem under Jan Kazimierz and in the times of Michał, I have seen acts of excessive freedom [lascivientis libertatis actus]; it seems that Poland should fear every one of these breaking of parliaments due to license, so that the Commonwealth, deprived of all council and structure [opus], neither descends into chaos, nor is exposed to pillaging by her neighbors, nor that all power is transferred to the Senate Council so that it gradually ends up in absolutum dominium....

Those who think that they weary the king by breaking parliaments are mistaken, because they do more harm to freedom and open the way to absolutum dominium, because all the power of councils will be transferred to the Senate Council, that is to the will of the king... Therefore, we need to leave no stone unturned so that the Commonwealth can have strong and durable sejmy, which are not vulnerable to being broken by the malevolent [malevolorum].

Karwicki’s detailed proposal to reform Commonwealth is fascinating on a number of levels. First and foremost, he breaks out of the false dichotomy that previously shaped the reform debate by turning assumptions about the respublica mixta upside down. He is the first to argue that a balanced constitution of three estates is not essential to stability and

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622 In addition to great deal more historical detail, De ordinanda contains sections about reforming the courts, reorganizing the military and creating a system to finance a limited standing army that could be expanded in times of war. Karwicki suggests at the beginning of Egzorbitancje that he will discuss these topics, but apparently never fulfilled those expectations. Egzorbitancje breaks off in the middle of a discussion of procedures for selecting a king.

civic freedom. Quite the contrary, he argues that it is the source of all the Commonwealth’s ills. It is a “poorly formed republic that creates diffidentia among the estates and causes constant discord.” By rejecting the respublica mixta, Karwicki is able to reframe the choices open to reform-minded citizens. Rather than chose between the undivided sovereignty of a monarchy, which allows efficient execution of laws but abolishes civic freedom, or a mixed republic, which allows freedom but makes efficient execution of laws virtually impossible, Karwicki presents a new option.

Karwicki argues that the only possible solution for Poland is to institute a pure republic with undivided sovereignty vested in a standing parliament. He does not suggest doing away with the king altogether, only removing his power to threaten citizens’ liberty so that reforms of the other two estates will be possible. Therefore, his first, most essential proposal is to take away the king’s main prerogative, the right to distribute public lands and offices, and give it the republic. In contrast to earlier reformers, Karwicki assumes that exhortations to virtue and criticism of self-interest are insufficient. He seeks to shift the balance of power in the Commonwealth so that political institutions may be reformed and so that citizens will be able both to reward virtue and punish lawbreaking and self-interest. In this regard, his proposal is literally revolutionary. He reassures his readers that such a system can work by making repeated comparisons to the Venetian, Dutch, Swiss and most often, to the ancient Greek republics. He shows that the freedoms Poles are accustomed to can still flourish under a constitution other than the Commonwealth’s traditional respublica mixta.

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The second, most striking aspect of Karwicki’s work is his departure from the traditional division of the republic into three estates. Careful reading of his work reveals that while he begins with Aristotle’s tripartite division, Karwicki does not actually see citizens in these terms. In his mind there are only two categories of citizens: those who conscientiously work for the common good and those who are driven by self-interest. In his newly ordered republic politics will be reserved for the former, regardless of their wealth or status, while members of the latter group will be prevented from disrupting civic functions. The most surprising implication of his plan is the virtual elimination of the senatorial estate. In his estimation the “możniejsi” (wealthiest/most powerful) have failed to fulfill their role as guardians of the law and mediators between king and citizens. So, along with disabling the king’s power to limit szlachta freedom, Karwicki reduces senators’ powers so that they are virtually indistinguishable from those of regular citizens.

The third aspect of Karwicki’s work that intrigues a reader interested in early modern political thought is his practical approach to reforming the Commonwealth, inspired not by some new philosophical insight, but by the customs of Polish republicanism. Both his reasoning and conclusions reveal an eclectic blend of traditionalism and empiricism mixed with a healthy dose of his own Calvinist work ethic and desire for order.

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626 Karwicki’s work provides another example of citizens who enjoyed what Quentin Skinner calls “neo-Roman liberty” in his essay Liberty Before Liberalism. The Enlightenment did not reach Poland in Karwicki’s lifetime, but citizens like him were already accustomed to many of the movement’s political ideals. See Quentin Skinner. Liberty Before Liberalism. Cambridge UP: 1998.
(disingenuously) denies that there is anything novel about his proposals.\textsuperscript{627} He draws numerous examples from the laws and customs of the Commonwealth and proposes many reforms that had been circulating among the republican szlachta of the Crown for decades. Still, this 66-year old veteran of Polish politics imagines a constitution that is strikingly “modern.” His would be an orderly, meritocratic republic governed by equal citizens elected by secret ballot. This proposed constitution fulfills Karwicki’s two basic goals: that the republic allows citizens to govern themselves freely as well as to defend themselves from enemies “both internal and external” (i.e. from those willing to hamstring the republic for their own interests as well as foreign enemies).

Karwicki assumes that citizens are capable of governing themselves because he has seen them in action. The Commonwealth had a legal mechanism for citizens to take over the government during interregna or in times of exceptional danger: the confederacy. During confederacies citizens made decisions efficiently, in part by adopting majority rule. No doubt, the experience of confederacies combined with robust traditions of local self-government made the leap to an undivided republic and popular sovereignty much easier for Polish citizens like Karwicki. For them, the bigger challenge was the conundrum of the liberum veto. The question of how to limit abuse of the liberum veto without violating citizens’ freedom of speech had stymied republican reformers for three decades by the time Karwicki set pen to paper.

\textsuperscript{627} One of his most significant innovations is voting by secret ballot, which he takes from Venice. At one point he observes, “there is nothing harmful about taking something good from foreigners.”
Again, Karwicki needed no new philosophical insights to devise his ingenious solution to the impasse over the *liberum veto*. He drew upon the customs of the Commonwealth. Each of the previous five kings’ *Pacta conventa* had included a provision calling upon the king and Commonwealth to find a way to conclude parliaments (*modus concludendi consiliorum*). Using this formulation, Karwicki reframed the discussion about the veto. For him the challenge was not how to chose between free speech and efficient government; the challenge was how to make popular councils efficient and effective so that citizens could enjoy both civic rights and good government. In his prologue to the reader, Karwicki lays out his goals:

> Not to offend free speech (*głos wolny*), but rather to embellish it with appropriate privileges, so that especially *sejmiki* can conclude [successfully] with elections, to free the *sejmy* of the Commonwealth from the danger of being broken, to extinguish the continuous foment of domestic disturbances arising from the distribution of lands and offices and hatred towards the king and ministers….

His first step was to enhance free speech by removing the obstacles that prevented consensus (*zgoda*), specifically, the king’s and senators’ corrupting influences, and the second was to prevent the breaking of parliaments in the name of free speech. To accomplish his first step Karwicki proposed making all offices in the Commonwealth elective, either directly or through elected representatives at the *sejm*. He would further reduce the powers of the king and magnates by creating a giant entail of all public lands. The proceeds from these lands would be used to fund the army—rather than the private designs of the king.

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He would accomplish his second step—preventing broken parliaments—by redrawing the distinction between free speech and the right to break parliaments that the szlachta had recognized before the malcontent opposition had conflated the two related rights during the reign of Wiśniowiecki. By creating a new sovereign and standing sejm Karwicki would make it impossible to break parliament. By limiting the right to veto and creating a forum in which protests could be evaluated impartially, he restores the ius vetandi to what it was intended to be originally: a means to preserve free speech and encourage consensus among citizens, each of whom had an equal right to participate in the governing of their Commonwealth.

The True Source of Constant Domestic Discord

And this is the true and genuine source of distrust and domestic disturbances [diffidentiarum et motum civilium], namely that we have acting in our constitution and government two natural opposites [naturali antipathia]: royal majesty and freedom of the people.629

Like so many reformers before him, Karwicki follows the well-worn path of republicans who blame the Commonwealth’s numerous troubles on citizens’ self-interest and lack of civic virtue. But he is the first to argue that flawed citizens are not the only problem; the constitution itself is also to blame. His argument is simply that the eternal tension between royal majesty and popular freedom leads not to stability and harmony as republican theorists usually argued, but to constant discord and upheaval.

629 De ordinanda Discourse IV. Przyboś and Przyboś, p. 97.
Once upon a time, when kings used their powers to reward virtue, when citizens
genuinely loved and trusted their kings, and when senators kept balance between *libertas* *et majestas*, this system worked. Now because of “injustice, oppression of the poor, false
oaths, and most of all, a desire for private gain and on the other hand, a lack of love and
concern for the common good,” Karwicki foresees almost certain ruin.\textsuperscript{630} Citizens distrust the king, and rather than mediating between liberty and sovereignty, senators pit one side
against the other for their own private gain. The only way to still the constant commotion
is to let one of these opposing forces, either sovereignty or liberty, win out.

Now Poland decides her own fate…to block the source of constant discord
and domestic disorders, either the king, following his ancestors’, Polish
kings’, footsteps will transfer these rights of majesty which he has in his hands
to the people, reserving for himself only guardianship of the laws, like king
Theseus of Athens, or the Republic will return complete power (circumscribed
by certain laws), all the rights of majesty bestowed upon the people by
previous kings once again to the king.\textsuperscript{631}

Because a constitution must suit the spirit of the people and Poles have an “inborn love of
liberty,” Karwicki sees the former scenario as the only viable solution. The
Commonwealth must become an “absolute republic.”

His first step toward this end is to take from the king his most powerful, and most
corrupting power, the *ius distributiva*, the right to distribute the offices and lands of the
Commonwealth as he sees fit.\textsuperscript{632} As Karwicki emphasizes, this is the cornerstone of his

\textsuperscript{630} *De ordinanda*. Discourse IV. Przyboś and Przyboś, p. 94. Krzyżanowski, 12.

\textsuperscript{631} *De Ordinanda*. Discourse V. Przyboś and Przyboś, p. 100. Krzyżanowski, 20

\textsuperscript{632} It is interesting to compare this observation with Thomas Paine’s in his famous *Common Sense* (1776). “That the crown is the overbearing part in the English constitution needs not be
mentioned, and that it derives its whole consequence merely from being the giver of places and
reform proposal, without which, no other reforms are possible. He points out the obvious contradiction that a people so opposed to absolutism allow their own king such unlimited power. This unlimited right of distribution harms the Commonwealth in two ways. First, kings abuse this power by bestowing powerful offices and lucrative leases to royal lands upon unworthy citizens for political reasons. Secondly, the republic has no way to reward virtue and the “well-deserving.” Karwicki, surely one of these “well-deserving” citizens, whose numerous contributions to the Commonwealth went largely unrewarded, complains, “not because of their service to the Commonwealth but because of the king’s private favors, some men hold several starostwa, trade in them, get the right to bequeath them, sell some and ask for more. Meanwhile, those who risk their blood and fortune in the service of the Commonwealth can sooner expect death than a position (wakans).”

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pensions is self-evident. Wherefore, though we have been wise enough to shut and lock a door against absolute monarchy, we at the same time have been foolish enough to put the crown in the possession of the key.”
633 “I place this like the cornerstone of this fundamental reform, without which it is senseless to undertake further reforms, because without first allaying suspicions (dyfidelitya) about the royal estate, correcting exorbitance in the other two estates would only pave the way to absolutum dominium.” Exorbitance, p. 33-4.
634 “We pride ourselves on our free republic and that we detest absolute rule more than a dog does a snake. Meanwhile, we carelessly do not see that the king is not aiming for absolutum dominium down a narrow path but a wide road. His free (pro libitu) appointment of hetmans, granting them command over the army, the appointment of chancellors, grand marshals, the filling of senatorial seats with whomever he likes, and generally all the higher dignities, offices and posts according to his will, and additionally the ability to distribute starostwa and lucrative leases to the obedient and willing to serve and (like they say) to quickly make a Croesus—what could be a better way to create for himself a basis for rule (subsidia dominii). De ordinanda republica Discourse XIII. Pryboś and Przyboś, 124. Krzyżanowski, p, 56-7.
635 Exorbitance... Pryboś and Przyboś, 42. Karwicki’s Calvinism was also a barrier to his advancement outside of his województwo. He, like many other Protestants, served in the army. When he returned to civilian life he was elected to important local offices, cześnik and eventually podkomorzy.
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On a theoretical level, the king’s unlimited right to distribute lands and offices corrupted the Commonwealth, because citizens, either out of a desire for gain or fear of loss, were motivated by the king’s private interest rather than concern for the common good. On a practical level, the king’s unlimited *ius distributiva* gave him inordinate power, which was “frightening to freedom.”636 Because they feared that the king’s power would become over mighty, citizens resisted the king’s execution of laws and allowed magnates all manner of excesses (like breaking *sejmy*), rather than remove this aristocratic check on royal power. In Karwicki’s estimation, effective execution of the law would only be possible once the king’s right of distribution was transferred to the republic as a whole, so that “freedom, without fear of the king, could safely punish sins, even those of the aristocrats.”637

This first step in Karwicki’s proposal would have been rather familiar to his audience. Since the 1630s there had been talk of the need to reform the *ius distributiva*. As we saw in Chapter Three, proposals to remove this prerogative from the king’s hands were made during reform discussions of the late 1650s. At the Convocation *Sejm* of 1674 Karwicki and the rest of the Sandomierz delegation demanded that the king’s powers to distribute land and offices be transferred to the republic. More generally, *sejmiki* perpetually complained about the way the king granted offices and lands and sought to limit this power. No one could disagree with Karwicki’s assessment that competition for offices

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636 “The King has rights of sovereignty [*prawa majestatu*] and they are truly the most powerful, mainly for recruiting and attracting the minds of citizens to his side. The other two estates also have regalia or rights of sovereignty, which were accorded to them gradually by previous kings as freedom grew. They are truly numerous, but of much less significance because the king bends everything to his will with his promises and favors, which he administers freely.” Pryboś and Przyboś, 95-6, Krzyżanowski, 14.

caused “difficulty not only for the councils of the Commonwealth, but also harms the peace and reputation of the kings themselves.”

While these proposals to remove or at least limit the king’s powers to distribute Commonwealth lands and offices were familiar, the implications of actually transferring this power from the king to the citizens at their sejmiki and sejmy as Karwicki proposes were far reaching. Although Karwicki takes care not to draw too much attention to these consequences, anyone familiar with the Commonwealth could see that this change would undermine senatorial privilege and power almost completely.

*From Three Estates to Two Kinds of Citizens*

One of the most significant differences between Karwicki’s *Egzorbitancje* and his *De Ordinanda* is the way he organizes his proposed reforms. In his first draft Karwicki follows the traditional tripartite division of the Commonwealth, and describes the reforms to be made in each of the three estates in turn. He divides *De Ordinanda* thematically instead. The first book is about the true sources of discord in the Commonwealth and how to correct the leading egzorbitancje in the constitution (*in statu Poloniae*); the second about councils (*sejmy and sejmiki*); the third about a system to distribute Commonwealth lands and offices; the fourth about a new military economy; the fifth about reforms to the courts; and the sixth about interregna and royal elections.

Somewhere between the two drafts Karwicki must have realized that in his reorganized

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638 He cites historical examples from the reign of Zygmunt I (1467-1548) onwards of civil unrest caused by aristocrats vying for offices, including the Zebrzydowski Uprising.
Commonwealth there would no longer be three distinct estates; there would be only citizens. Those who impressed their fellow citizens with their civic virtue could be elected to serve in the annual parliaments either as senators or delegates. Those who disregarded the laws of the Commonwealth or placed their own private interest above the common good would have limited opportunity to frustrate public councils.

There had never been a legal distinction between the second and third estates, between aristocrats and the rest of the szlachta. The marks of aristocracy were lineage, personal wealth and access to public wealth in the form of lucrative leases on crown properties. Under Karwicki’s plan, aristocrats would no longer be able to leverage their wealth and status to gain privileged access to the offices and lands of the Commonwealth. They would no longer be able to pressure the king to grant them leases on public lands because Crown or rather Commonwealth lands, as Karwicki insists, would be held in entail to pay for defense and managed by salaried, professional stewards employed by the republic rather than absentee landlords. Nor would aristocrats be able to pressure the king to appoint them to the Senate because under Karwicki’s plan, sejmiki would elect senators. The sejm would elect ministers of state (except hetmans). Both types of elections would be held by secret ballot. The sejm would elect hetmans, but only when the Commonwealth was at war and only for the duration of the crisis. Theoretically, at least, aristocrats would have no advantage over regular szlachcicy. Delegates and ministers would even receive regular salaries so that capable but less well-off citizens might serve in the highest posts of the Commonwealth.639

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639 Ministers would enjoy the proceeds of two lucrative starostwa specifically set aside for each office as salaries.
The key to Karwicki’s plan to level the political playing field and improve the quality of public officials in the Commonwealth is election by secret ballot. He describes the election procedures for all offices in great detail, carefully outlining who should be allowed to participate in elections and removing all chance that the outcome will be manipulated or invalidated by corruption or intimidation. No non-resident szlachcic, or anyone who had been convicted of a crime, or who was in service to someone else (military or otherwise) would be allowed to participate in elections at sejmiki. Moreover, each województwo would compose a register of eligible voters and employ election clerks to make sure that only eligible citizens cast ballots.

His goal is to create an orderly and efficient system for electing officials whom citizens honestly deem best qualified. Elections would be under the direction of the highest ranking local official (rather than an elected Marshal), held first thing in the morning (‘when people are more sober’), votes would be cast according to the register, (‘let people who want to be listed first, arrive on time’), and most importantly, would not be subject to the liberalum veto. He is careful to outline the legal recourse citizens would have if someone did attempt to protest an election unlawfully.

If someone, disrespecting these elections wanted to dissolve or break them, to abolish the right of majority, by means of a protest, the Marshal should not only not recognize and accept it as valid, but should rather, if he insisted stubbornly (licentiose), should call him [the protestor] a disruptor of the sejmik and he should be tried by the local judges [per terrestres et castrenses judices] after the conclusion of the elections and

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He makes frequent reference to Venice and its complex voting procedures. The detailed nature of his explanations (including how to fold the ballot so everyone could see it was a single piece of paper, but not see the name written there) suggests that Poles were both unfamiliar with and suspicious of voting by individual ballot.
punished with jail, and further at the Crown Tribunal (if someone wanted to invalidate the majority of votes by means of a protest). For aristocrats
[cum potentioribus] there is a forum at sejmy or the Crown Tribunal. And thus the license of the malevolent [malevolorum] will be counteracted and liberty (which is only authentic when the laws are obeyed) will be protected.

In Karwicki’s eyes the greatest advantage of this transparent system would be that “everyone will be able to elect the one he considers in his conscience the best and most suitable (optimum et dignissimum) without provoking animosity.”

Karwicki assumes that electing officials by secret ballot will put an end to unqualified citizens gaining office for political reasons, “It must be said, that this will clean up the Senate somewhat because it will be difficult for someone with a mark against him to be elected. One must lament that kings appoint such people to the disgust of others because of some private court interest.” He also assumes that elections will produce more effective and knowledgeable senators, who have ties to their electorate, “those who have the love and trust of the brothers in the województwo will become senators.” Karwicki’s embrace of elections by secret ballot reflects a change in attitudes about the qualifications necessary to be an effective parliamentarian. Not unlike the change Mark Kishlansky observes by comparing parliamentary elections before and after the English Civil War, Karwicki’s comments suggest that by the turn of the eighteenth century Polish citizens had come to the conclusion that a parliamentarian’s political abilities

642 Egzorbiance. Przyboś and Przyboś, 44.
mattered at least at much as his status. Karwicki’s delegates and senators needed to be chosen carefully for their abilities, experience and virtue. We see this same concern echoed in his proposals to institute age requirements for delegates and senators as well as to make the first chamber of the sejm a training ground for young delegates before they advanced to the real challenges of forging consensus and drafting bills in the senatorial chamber.

Distinguishing between Free speech and Breaking Parliaments

Free speech and the ius vetandi or ius intercendendi is a particular distinction of the Polish szlachta and also a pillar of its freedom...But abuse of free speech brings on the destruction of both freedom and the Republic. Instead we must correctly distinguish between a szlachcic’s free speech and freedom of opinion or expression at his local sejmik and the voice of a delegate at the sejm...[We must distinguish] first, between those who enjoy the exercise of free speech and right to veto [and those who do not], and secondly between those public affairs in which the right to veto exists and those in which it does not.

Once Karwicki has disempowered the first two estates, he turns to his ultimate task: reforming public councils so that “they will be free from the fear of being broken by the malevolent.” Karwicki does not suggest abolishing the veto, but limiting its use so that it can once again be a last-resort tool to ensure consensus. His solution is two-pronged. The first and much more complicated aspect of his

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plan is to reduce the likelihood that someone will abuse the *ius vetandi* by excluding or discouraging citizens who are apt to be less than civic minded or easily corrupted from participating in the political process. Second, he outlines a narrow set of criteria for the legal use of the *liberum veto* and also a means to judge whether a given veto meets these criteria.

Karwicki presents a straightforward distinction between free speech and the right to protest. Citizens enjoy free speech at their *sejmiki* when the assembly considers matters that must be decided by consensus (i.e. tax declarations and instructions for *sejm* delegates). Any protest made about these matters by an eligible citizen (no non-residents, convicts, or servants) should be considered valid. Elections, on the other hand, must decided by majority vote. No one has the right to protest at any point during an election. Moreover, once a citizen is formerly named a delegate to the *sejm*, he loses his free speech because he is then bound to carry out the instructions of his *sejmik*. The only way a delegate can legally protest a bill at the *sejm* is if he does so based on explicit instructions from his *sejmik* and in agreement with the rest of his delegation. Because Karwicki’s reformed parliament exists for the entire year, this protest would not break the *sejm*. It would only cause a brief recess while the validity of the protest was determined by the delegate’s home province.\(^{645}\)

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\(^{645}\) This is one of the only two instances that Karwicki advocates that the three provincial *sejmiki* (for Wielkopolski, Małopolska and Lithuania) meet regularly. (The other is to mention that provincial *sejmiki* might harmonize instructions from all their *województwa* to facilitate deliberations at the *sejm*.) This suggests another layer of government at the province-level, making Karwicki’s Commonwealth look even more like American-style federalism.
By holding sejmiki elections before writing instructions, Karwicki hopes sejmiki will elect better delegates (for the same reasons he hopes secret ballot elections will elect better senators) and also limit the number of citizens who participate in the more difficult task of writing instructions. “After the elections, many szlachcicy, who were invited and brought just for their votes, will go home and the discussion of domestic affairs and passing instructions and decrees will be handled by a smaller group.” The results of the elections will not be revealed until after the instructions have been written so that disappointed candidates will not disrupt deliberations out of spite and “those just and wise men” who were elected delegates will be able use their free speech, “eloquence and prudence to help the affairs of the województwo and Commonwealth.”

Karwicki shows how his distinction between free speech and the right to protest will facilitate deliberations at the sejm as well. Here, again, his goal is to ensure that parliaments conclude successfully by ordering deliberations so that conscientious, civic-minded delegates and senators can carry out the business of the Commonwealth. Like many before him, Karwicki suggests that parliamentary deliberations be better organized: that they start on a set day each year, that delegates arrive on time, that sessions begin early in the morning, and that an agenda be drawn up in advance. He expands on this general line of thinking to propose that the work of the sejm be divided among three chambers rather than two. The first chamber would be staffed by younger delegates whose primary function would be to organize sejmiki instructions and dispatch them to the other

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two chambers where specific bills would be discussed. Karwicki observes that the more knowledgeable and experienced members of the parliament (both senators and delegates) would be able to work in smaller groups on more specialized topics in the senate chamber and the new “fiscal” chamber. By working together in “honest cooperation” [*per honestam aemulationem*] senators and delegates would be able to handle the affairs of the Commonwealth more efficiently. 647 He describes in detail the order of parliamentary deliberations taking care to remove the usual obstacles. Most notably, no delegate at the parliament would be eligible for any vacant office or lease until after he completed his term. 648

Karwicki insists, “we do not need any new inventions for this. For all new things are suspect to liberty,” 649 but he proposes a whole host of innovations designed to make *sejmiki* and *sejmy* more efficient and professional. In addition to the new voting procedures, Karwicki proposes that a citizen only be allowed to serve as delegate once every four years, and should be at least 30 and have served at two parliaments before serving in the Senate chamber. While serving as delegates in Warsaw citizens would receive salaries (based on the distance between their home and the parliament) and live in boarding houses built and maintained by their *województwa*. These buildings would have the added benefit of developing and beautifying the capital.

648 It is unclear if senators, once elected would be expected to attend every *sejm* for the rest of their lives. Karwicki never mentions limiting senators’ terms.
While Karwicki sharply reduces the chances of a delegate making a protest for selfish reasons, he accepts the possibility of a legal and just protest. Like the delegates who defended the first liberum vetoes of the Lubomirski era, Karwicki considers protests made on the basis of instructions and supported by entire delegations to be legal and proper. If the united parliament could not satisfy the protesters, the matter would be referred to their home province. In this way, Karwicki would preserve the veto for individual województwa and ensure that all new laws (konstytucje) would be passed by the consensus of the citizens.650

The principle difference between Karwicki’s view of the veto and the one Andrzej Maksymilian Fredro presented forty years earlier, is that Karwicki knows only too well how the liberum veto can be exploited.651 Fredro’s premonition of a single virtuous delegate defending liberty against a corrupt House of Delegates had not materialized. Just the opposite had occurred; a minority of corrupt delegates used the veto to take away the free speech of the rest. Refuting Fredro’s claim that limiting the veto would cause irreparable harm, Karwicki writes,

If the pen errs, it can be fixed by the pen. But if a stubborn man maliciously breaks the sejm...he leaves the Commonwealth without council, the army unjustly without pay, the borders of the state undefended. If thousands are kidnapped into Tatar and Turkich captivity, if a province is lost and if numerous armies lay waste to the Commonwealth and commit thousands of other injuries, can that be vetoed and fixed by pen and a konstytucja at the next sejm? The road is long by instruction, but short by example; let us reckon what good those admirers of freedom have brought us with their breaking of sejmy.652

651 See Chapter Three for a discussion of Fredro’s defense of the veto.
Experience had shown how much damage could be done by an unlimited veto in the hands of unscrupulous factions. Karwicki’s reforms would limit the veto, but preserve liberty by simultaneously making it easier for civic-minded citizens to govern their Commonwealth. As he says, “every Commonwealth stands not so much on good laws as on good and virtuous citizens.”

Karwicki’s most radical innovation is also designed to encourage civic-mindedness and limit the influence of less-virtuous citizens. He proposes reallocating the number of delegates each województwo sends to the parliament so that it will be based proportionally on tax receipts. Because each sejmik ultimately determined its own tax contributions, there were constant complaints that certain województwa were not contributing their fair share. Rather than create a bureaucracy to squeeze more money out of the provinces, Karwicki suggests offering a new incentive for citizens to contribute to the Commonwealth. He also proposes that votes in royal elections also be multiplied by the amount of money each województwo contributed to the public treasury. This system would have the added benefit of limiting the influence of the sejmiki of poor województwa, which were notorious for sending corrupt delegates the sejm.

This provision gets to the heart of Karwicki’s agenda: to take power away from those who use it for their own selfish interests and give it to citizens willing to sacrifice for the common good. As he puts it, “what is equality, what is justice,

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but that those who give more to the common good enjoy greater and more regard in public affairs." Karwicki is willing to give up on the traditional constitution so long as he can preserve citizens’ ability to govern themselves. He is not beholden to the *liberum veto*; he is beholden to free speech—and he understands that the exercise of free speech requires well-functioning parliaments.

From our perspective, Karwicki’s proposal might seem idealistic in that it demands unrealistic sacrifice and virtue from his fellow citizens. We might object that his proposed federal government is weaker even than the American Articles of Confederation, which proved inadequate. But these shortcomings should not distract us from the real value of this work. Karwicki’s proposal is a distillation of seventeenth-century Polish republicanism, the way it was conceived and practiced in his day. His work sheds invaluable light on the priorities and assumptions of his generation. His work gives up another solution to the age-old challenge of how to ensure efficient government and security without sacrificing the civic freedoms that republics like theirs—and ours—promise.

Karwicki never published his treatise. He shared it widely at the General Assembly of 1710 and received several positive reviews from dignitaries, who praised it for its wisdom and regretted that such a thorough reform of the Commonwealth was unfeasible. While based on republican ideals and full of

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656 See copies of two letters from 1710 by Stanisław Morsztyn, *wojewoda* of Sandomierz and Kazimierz Łubiński, Bishop of Krakow, published as appendices by both Krzyżanowski and the Przybosiowie.
familiar reform proposals, Karwicki’s plan still would have required a significant revolution to put into practice. Wealthy magnates, backed by powerful foreign interests, would either have to have been convinced to give up all their political advantages or been eliminated. Polish citizens had a number of showdowns during the seventeenth century over shifting the balance of political power in the Commonwealth and each of them had ended in a draw. Ironically, their otherwise laudable traditions of consensus and peaceful resolution of political conflicts ultimately proved detrimental to the Commonwealth because they prevented any final resolution to the century-long disagreement over constitutional reform. By 1710 there were few citizens like Karwicki who could remember a time when parliaments were not the battleground of factions and even fewer leaders among the impoverished and war-weary middle szlachta willing to undertake the kind of revolution necessary to seize political power. Once again, reforms were put off.

By the time the Great Northern War finally ended, Karwicki was dead. It was not until the interregnum following August II’s death in 1732 that reform discussions resumed in the Commonwealth. By then, nearly everything had changed. Foreign agents and armies, particularly the Russians, manipulated the Polish government almost at will. The Enlightenment had reached the Commonwealth and brought with it new ideas of a rational state administration capable of sustaining large armies and organizing economic development. These factors conspired to make the war-scarred generations of the first half of the eighteenth century unreceptive
to the sort of decentralized and demanding self-government that Karwicki’s generation had considered ideal.

During the 1730s political tracts questioning the value of “Polish” freedom first began to appear. In the widely published *Conversation between a Frenchman and a Pole about Freedom*, an ignorant szlachcic brags about Polish freedom, here understood as the right to do whatever one wants. The Frenchman rebuts his statements with stinging rejoinders that point out the superiority of his own well-regulated and economically vibrant state. The dominant definition of freedom had changed. The traditional republican emphasis on positive liberty had receded into the background as pressing problems like Poles’ wavering national sovereignty and desperate need for economic development took center stage.

Still, many of the fundamental values represented in Karwicki’s work remained sacred to many eighteenth-century Poles. His proposal suggested the possibility that they might be preserved in another type of Commonwealth, something outside the usual dichotomy of a paralyzed mixed republic or an un-free monarchy. The most famous reformist work of the 1730s, *A Free Voice, Protecting Freedom* (*Głos wolny, wolność ubezpieczający*), contains many of Karwicki’s proposals to improve the functioning of the *sejm* and limit abuse of

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the *liberum veto*. In the 1740s there was a movement to publish his work that apparently never succeeded.\(^{658}\)

A generation later, after 30 more years of broken parliaments, a leading author finally called for the outright abolition of the *liberum veto*. Stanisław Konarski’s work, *On an Effective Means of Council* (*O skutecznym rad sposobie*) (1760-64) starts from Karwicki’s central premise, that public councils must be fundamentally reformed to allow citizens to govern themselves. He ultimately concludes that the only way to institute any significant reforms is to abolish the veto entirely and embrace majority rule in all matters.\(^{659}\) Konarski’s proposal was eventually implemented by the constitution of the 3rd of May, which finally banned the *liberum veto* entirely in 1791—nearly 150 years after it was first used to break a parliament.

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\(^{658}\) In Kraków’s PAN-PAU archive’s folio #7449, a collection of biographical sketches made by Cypryan Walewski, I found a reference to Karwicki’s work being published under the title, “*O defekty Rzeczypospolitej Polskiej*” in 1726. This is the only reference I have encountered to this publication. The Przyboś publication uses the frontpiece from an edition prepared for publication in 1746. No such book is known to exist today.

\(^{659}\) Despite his strident attacks on the *liberum veto*, Konarski is still not entirely comfortable with the notion of majority rule and expresses quite a lot of ambivalence about it. He never decisively determines whether a simple majority or a qualified majority should be required to pass laws. Stanisław Konarski. *O skutecznym rad sposobie*. Wrocław: 2004.
Conclusion

The curious tale of the Polish liberum veto should remind us all of the importance of a historian’s perspective in the writing of historical narrative. From the perspective of Władysław Konopczyński and other members of the Kraków School who wrote at the beginning of the 20th century, the liberum veto appeared to be the fatal flaw of their constitution that drove their nation into 123 years of statelessness. For an American historian writing in the early years of the 21st century, the liberum veto appears to be the product of a free and diverse society’s struggle with the fundamental challenge of how to ensure broad civic engagement and personal freedom while still allowing for efficient political decision making and the just execution of laws. From my perspective, it is evidence of the traditional Polish commitment to republican freedom that survived not only 123 years of statelessness but also the horrors of World War II and communist occupation to emerge and flourish in a thriving new member state of the European Union.

My examination of the curious evolution of the liberum veto in the context of the seventeenth-century struggle between two competing political ideologies, republicanism and royal absolutism, has convinced me that Poles’ promotion of unanimity was inspired by the political realities of the 1660s as much as by their political ideology. In fact, it was the intersection of these two—political theory and practice—that caused Poles to make the choices they did during this divisive decade and prevented them from undoing the unintended consequences of these choices afterwards. We have to take great care to reconstruct the web of power relationships and meanings that shaped citizens’ worlds in
the seventeenth century to understand decisions they made that look like “madness” to us today. In a time when there was no sharp division between the social and the political and when there was no state bureaucracy to enforce government directives, harmonious consensus among the various political actors (mediated by social hierarchy), seemed the only sensible way to make political decisions that effected the entire Commonwealth. When this system was challenged by an attempted royal coup, citizens committed to the ideal of a free republic resorted to their traditional weapon of last resort—their nuclear option—not fully realizing that using it would destroy the entire system and take the freedoms it guaranteed along with it. By the 1680s this sad outcome had become apparent to careful observers. Already in 1674 the historian Wespazjan Kochowski published in a poem entitled A Curse on the Sons of the Crown who Break Sejmy, the last two stanzas of which read,

May he perish poorly, may he be killed in vain,
He, who breaks sejmy for his own private gain,
Let his head fall unpunished
Let him be erased from the Book of Life
And the Elements too; Let misfortune overtake him
And let bread be denied him
Just as Our Mother suffers; Let this evil son give a meal
To wild animals from his own corpse.

It was not supposed to be this way, my Poles,
With this precious diamond.
One should not poison Freedoms, but adorn them
In the blessed harmony of mutual affection.
Instead we eat our own Body;
Breaking sejmy out of private interests, out of stubborness, out of spite.
To whomever who would so disturb the Crown:
Do not be led astray. Take Holy water.660

Like the poet who prayed for a miracle after the first two parliaments were broken by the veto of a single deputy in 1652 and 1654, Kochowski offers no solution to the problem of broken parliaments other than moral exhortation and prayer. The Commonwealth’s entire political system rested on consensus and when consensus became impossible because of the irreconcilable ideologies of two leading factions, the system ceased to function. Twenty-first-century Americans accustomed to partisan gridlock and the use or threat of their own version of the veto, the filibuster, should see a cautionary tale.

Contemporary parallels aside, the story of the curious evolution of the veto in the Polish-Lithuanian Commonwealth offers us another example of how early modern Europeans approached the tradeoff between the liberty offered by a free republic and the orderly government and security promised by an autocratic state. Until very recently, the Commonwealth has been Europe’s forgotten republic, overshadowed by the Florentine-English-American republican tradition first presented by J.A.G. Pocock in 1975. The similarities in ideology and rhetoric among Polish, English and American republicans are numerous and fascinating, deserving of a thorough comparative study. The differences are perhaps even more interesting.

Preliminarily, I would suggest that the main differences between Polish republicanism and English republicanism are ones of relative emphasis. Because the Polish-Lithuanian Commonwealth stayed wholly committed to the mixed republic model throughout the seventeenth century and had no influential theorists of royal absolutism, we do not see the distinction between rulers and ruled that was made in England. Consensus among the
estates never evolved into consent of the governed. Had they been able to read it, Polish republicans might have found much to their liking in James Harrington’s *The Commonwealth of Oceana*, but his most famous metaphor of government by popular consent—the cake shared by two girls, one who cuts it and the other who chooses which half she will take—would have been lost on citizens like Karwicki. The value of popular government was in the deliberation itself as much as the decisions made. Their Ciceronian educations taught them to believe that participating in the governing of the republic, sacrificing their time, money and private interests for the good of the entire Commonwealth made one a citizen. Karwicki made such sacrifices himself and expected that his fellow citizens would too in the reformed republic he proposed. This is why Polish republicans were forever trying to shift more power to their local sejmiki and were reluctant to professionalize the sejm. If real decision-making were to move to the capital, citizens would lose the ability to fully develop their civic virtue and to enjoy the fruits of citizenship.

In this way Polish republicans have much in common with their American counterparts, who also struggled with the challenge of preserving local self-government while creating an efficient federal government in a very large and diverse republic composed of states with varying economic profiles and political traditions. Karwicki’s solution of a standing national parliament that required the consent of local assemblies to make significant decisions is its own kind of federalism. More importantly, though, Karwicki imagines a much more egalitarian citizenry, one in which ability and willingness to sacrifice for the common good counted for more than wealth or high birth. Gordon Wood describes a
similar desire to create a “natural” aristocracy in the early years of the American republic.\textsuperscript{661} It is Karwicki’s faith in citizens’ ability to govern themselves in a just and meritocratic system that most reminds us of the ideals of our Founding Fathers.

Unlike the leading lights of Liberalism, Karwicki does not accept the inevitability (or advantage) of self-interest. He never would have suggested that harnessing private interest would automatically translate into the common interest of the whole. Absent in his writing is John Locke’s emphasis on property and his promotion of the individual’s pursuit of prosperity. Nor does Karwicki display any of Harrington’s cynical acceptance of people’s tendency to justify whatever is in their best interests.\textsuperscript{662} Karwicki has no Hobbes in him. This does not mean that he believes his fellow citizens are altruists who seek only the common good. Experience taught him that the execution of clear and specific laws was essential to promoting civic virtue. He focuses much of his attention on designing free elections—ones he believed would return the most able and virtuous citizens. These citizens would then be able to execute the laws as they were intended. His fundamental proposals to take the right of distribution away from the king and to disempower the senatorial estate clearly aimed at leveling the economic playing field in the republic so that overmighty citizens would not be able to manipulate the political process for their own private advantage. His solution is a bridge between ancient attitudes about the centrality of inculcating civic virtue and the modern idea that good laws will make good men.


\textsuperscript{662} Typified by his famous quote, “as often as reason is against a man, so often will a man be against reason.” Quoted by Rahe, p. 411.
In the Polish context, Karwicki’s most significant contribution to the political debate was his key observation that civic liberty could flourish in a reformed constitution. This allowed thinkers to escape the blind alley into which partisan politics had driven them. Another key observation, that a small minority’s exploitation of unlimited free speech could actually prevent the majority of citizens from enjoying their most important civic freedoms, has much broader implications for all free republics, even today. Karwicki’s suggestions for managing free speech in a polarized political environment and encouraging civic equality and participation in a society with enormous economic inequality certainly have value for modern readers. His first concern was to expand opportunities for responsible citizens to partake in the shaping of their own destinies—a task that has become increasingly difficult as societies have become so large, mobile, and atomized. His second concern was to prevent powerful factions from obstructing or manipulating the political process without violating citizens’ fundamental right of free speech. Questions about what constitutes free speech and what sorts of entities have the right to exercise that speech continue to vex Americans, particularly in light of the *Citizens United v. Federal Elections Commission* (2010) decision. A glance back at the history of the Polish-Lithuanian Commonwealth—a similarly large and diverse republic that struggled with these issues long before we did—would surely offer new insights for our own debates.
APPENDIX 1:

Stanisław Dunin Karwicki

Exorbitancje in all three estates of the Republic briefly collected and also a means to correct these exorbitancje and assuage distrust among the estates presented for the consideration of leading citizens by a nobleman of the Crown.663

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663 This text was discovered by J.A. Gierowski and partially published in 1955 in his Rzeczpospolita w dobie upadku, 1700-1704. Wrocław: 1955 p. 229-241. It was published in its entirety along with a Polish translation of its final Latin version, De ordinanda republica, by Adam and Kazimierz Przybysz in Dzieła polityczne z początku XVIII wieku. Wrocław: 1992. The numbers in brackets [#] within my translation refer to page numbers in this edition. The work was written in either 1703 or 1704.
Ad consulendum de Republica caput est nosse Rempublicam.  

King Stefan’s opinion about Poland: Vestra o Poloni, Respublica non ordine, quo caretis, non regimine, quod contemnitis, sed solo fato regitur.

In politics as well as in architecture there are different and mutually opposed designs. There are people who see every beautiful building and right away want to knock theirs down and build another in this style, without considering whether the conditions are suitable or if other circumstances allow it. Then there are those who are such settled or neglectful homeowners that even though the building leaks on them from everywhere and is practically falling down, cannot bring themselves to talk of saving it, holding to the common saying: it has stood along time, it will stand a while yet. And they do not reflect on the fact that the longer great buildings stand without repair, the more suddenly they will collapse and fall down. As it goes with buildings so it goes with kingdoms. Because also with states, even though they exist in disorder [24] for a long time, at some point the most sudden ruin and change will occur in them. And so, on one hand, there is no reason to praise those politicians, who having arrived from foreign lands and observing how the state and monarchy function well there, want immediately to bring such government to Poland, not considering first whether such a government accords with the spirit and nature of a people accustomed to freedom; while on the other hand, these old-fashioned politicians are not particularly worthy of praise either, although they obviously see that Poland is perishing because of disorder and diffidence, because of domestic tensions

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664 To advise the republic one must know the republic.
665 Your republic, o Poles, is ruled not by order, which you lack, not by control, which you disdain, but only by fate.
between majesty and freedom and constant disturbances, they will not hear of necessary
reform, having drummed into their heads the common expression that Poland exists by
disorder and will perish by disorder; for having somehow subtly changed the idea that it
exists by disorder and will perish by order, they understand and tell us that disorder is
natural and that Poles have a supposed innate sympathy for it. Like the salamander who
lives in fire, which destroys all things, Poland will preserve itself in the disorder which
causes all other states to perish, and that order is contrary and dangerous to it.

But he who thinks this way both errs and leads others into error. It is true that if one
wanted to introduce into our Republic the sort of government that they have in
monarchies and absolutist states freedom would necessarily decline. However, if we do
not, according to the examples of other republics that were famous for freedom or still are
famous for it, achieve order among ourselves and reform that which is bad (which no
reasonable statesman can oppose), so much so when we see that it is getting worse and
worse, provinces are falling away, the longer [we go on] the more the state is ruined and
impoverished, our good name and reputation among our neighbors (for which our
forefathers spilled their blood) perishes and while we wait for the day when we ourselves
have destroyed freedom—we will be partitioned by our neighbors due to this lack of
order and these internal divisions and domestic disorders which every day loom larger.

We all see that these arguments and domestic disorders are evidence of diffidence among
the estates, but not everyone is curious enough to reach farther and consider whence
springs this constant distrust in our state and what is the real source of this distrust,
which, if it is not prevented, will certainly destroy freedom and lead to a change of constitution.

First of all, it is difficult to deny that other states, kingdoms, monarchies and republics have had and still have their own revolutions and insurmountable periods; they arise, flourish and fall, and our fatherland is also subject to this law. And it is certain that the insults, exploitation, oppression of the poor, injustice, and instances of perjury, which have multiplied among us, and most of all the descent into private interest and profit, and the neglect [25] of the common good, bodes ill, nay, promises our extinction. But let’s leave that to the disposition of God, who inscribes on his palm the times for all things as well as states. And so, having set aside reforms for later, let us go to political considerations on this very point: what is the true source of constant diffidence in this state? For like wise physicians, who having understood the cause of the illness, we will more easily choose the perscription.

No politician can deny that in the human body, healthy natures come with a good constitution and that illnesses and various defects come with a poor one; so it is the means of government (what politicians call the form of the Republic [forma Reipublicae]) which is the foundation for everything. If this foundation is good, longevity, harmony, and good government can be expected in the state. If it is bad, one must fear arguments, disturbances and certain changes to that state.
And so there are three means and forms of good government, by which all states have been governed and are governed. These are monarchy, aristocracy, and democracy. When one rules everyone that is called a monarchy, and when the wealthiest in the state lead the government that is called aristocracy, and when the common people concern themselves with government, that is called democracy.

Thus, all kingdoms and monarchies are governed in the first way, like was the case in Poland under the reign of the princes and then kings of Poland, until freedom reached its highest degree under Zygmunt August, who erased the title “lord and heir” from the title of Polish kings, for that is what kings before Zygmunt August wrote. Republics, where there is no king and freedom alone maintains the government (which the foremost politician calls a true politea) have been and are governed in the second and third ways; thus were several ancient Greek republics governed and even the Roman republic after the expulsion of the king was governed in this way, and so now are the Dutch and Swiss republics governed. So, too, among us after Lech, when there was no king, 12 wojewodowie governed the state. And again when the royal line ended with Wanda, governing was returned to the 12 wojewodowie.

Now when we consider the constitution of the Polish state and the means of governing it, we see that it is composed of three types of government. There is monarchy in the king,
aristocracy in the Senate, and democracy in the szlachta estate; [26] it is part kingdom and part republic. The king has the rights of majesty or regalia, which he disposes of freely, and these are so to speak, the most significant for drawing people to his side and [causing] domestic faction. The other two estates also have regalia, ceded to them by former kings, but in these the king accomplishes [things] by means of many promises and grants, according to his own interests and needs.669

The king, then, first of all, has the right to distribute great dignities, to make whomever he wants marshal, chancellor, hetman, senator and official. He also has the largess of starostwa670 and royal leases in his hands, he satisfies those who want royal “bread” as we call it, he elevates those who are amenable to himself and his interests along with their relations, and those opposed to the court cannot lift their heads or rise in any way. And he holds both powers without limitation, so he need not consult anyone about whom he gives to and from whom he withholds; in this way the king achieves his ends, particularly these days when ambition and greed have prevailed. He also has relational and parliamentary courts, he has the power to call assemblies, constitute sejmiki and sejmy and to call out the general levy and publish the wici,671 but these, of course, are described and circumscribed by law.

669 The sense is that the king meddles in the other two estates’ regalia or sovereign powers.
670 A starosta was the king’s official responsible for law and order in royal towns. He enjoyed the proceeds of royal lands in his starostwo in exchange for his services, which were often actually performed by a lesser official while the starosta enjoyed the revenue.
671 Wici (literally, sticks) originally referred to the posts upon which the king’s orders to call out the general levy were hung. With time wici came to refer to the documents themselves. There were always three progressive calls for citizens to muster, but sometimes the king issued the first two at once.
The republic, or rather the latter two estates, also has certain *regalia*. As such they have the right to establish and abolish laws; they also have the power not to obey those laws, because we lack proper execution of the laws, which is the heart of laws, particularly in regards to the most powerful. They have the right to declare war and make peace and treaties, but as in the old days, the king can accomplish much in this area by means of grants of honors and bread. They have part of the right to chose several officials, like *podkomorzy* and local magistrates, but the king is involved in this too as he can chose whomever he wants from those nominated. They have the right to levy taxes, so that no taxes may be passed against their will. They have mints in their disposition, which Zygmunt III ceded to the republic. They have the right to enoble and grant citizenship. They have the right to establish markets and to approve things by *konstytucje*[^672] or other minor laws, but the king is also [27] involved in these things because everything happens in his name. The republic has the Tribunal courts, the most notable *ius maiestatis*, established under King Stefan, but these hear only private cases. Like in the old days (much rests on this), these two estates do not have rewards for those who love freedom, while the king freely has in his hands both honors and bread. So that he who consistently serves the common good and freedom, is rewarded only with virtue, while he who serves the king’s interest is satisfied with honors and bread.

From this we see that here in Poland we have a kingdom and a republic and that the rules of royal rule differ from those of republican government; while freedom strives for its own preservation, the maxims of the former [royal rule] are completely opposite because,

[^672]: A law passed by parliament (the *sejm*) was called a *konstytucja*. The plural is *konstytucje*. 
there each man strives for his own interest. Therefore there is necessarily a constant jumble.\textsuperscript{673}

And this is the true source of all diffidence, fights, and domestic disturbances among us in Poland, that we have two things both important to us, which are inherently opposite and have an apparently inborn antipathy for each other: that is royal majesty and the people’s freedom. For the appetite for unlimited rule and ensnaring freedom is inborn in kings. Meanwhile, self preservation is inborn in freedom, so that from its birth, freedom is increasingly frightened and suspicious, hence the constant mistrust of kings and courtiers. And so, when the most powerful men, because of discontent over some kind of grant, when one vacancy passes someone by, they beat the drum, and there are fights and domestic disturbances. And there has not been such a good king since Zygmunt I, when freedom had already achieved her will, so that we all had complete confidence in him, nor such a successful reign during which this state was free of collisions between freedom and majesty. It has come to such an extremity that now we clutch at means to preserve freedom that could sooner bring about her ruin, such as rokosze,\textsuperscript{674} the breaking of sejmy and other similar things.

Therefore, all republics both ancient and contemporary, did not want to have kings in order to prevent the collisions and distrust that must exist between majesty and freedom,

\textsuperscript{673} Mieszanina is often translated as mixture, blend or medley, but in particularly in the early modern period the word carried a negative connotation akin to mix-up, mess, chaos; a collision of incompatible things.

\textsuperscript{674} Rokosz is the term for a rebellion against the king, usually inspired by a perceived violation of the constitution or the king’s Pacta Conventa. The major rokosze of the seventeenth century were led by Michal Zebrzydowski in 1606-7 and Jerzy Lubomirski in 1665-6.
like in ancient times the Roman Republic, which after it expelled the kings, banished the
very word and was governed by consuls or captains. And other ancient republics [28]
governed themselves in the very same way, Carthage had its *sufets*, Corinth its *pritanes*,
Crete its *kosmosi*, Thebes its *beotarchs* and *polemarchs*, and other such great Greek
republics had others. These days the Swiss cantons and Confederated provinces of the
Netherlands are governed without a king. And if there are kings in such a republic, then
they are so circumscribed by law that they have no power. They especially take care that
the distribution of honors and offices is not in the hands of one man, but of all. There
were kings in both Athens and Sparta, but they deprived themselves of all this voluntarily
and gave the people the right to chose officials, and, although in the Spartan republic
there were two kings, at the election of officials each of them only had three votes.
Meanwhile in Venice, their prince, who represents the king, has only one vote, equal to
all the others.

It seemed effective to place between these two states of royal majesty and noble freedom
something like a wall, a barrier of some kind, an *intermedium ordinem*, a senatorial
estate, which would not allow majesty from one side or freedom from the other side to
transgress their proper boundaries, just like the *areopagita* in Athens or the senate in
Sparta. But these days we recognize [29] that they who are supposed to mediate and keep
majesty and freedom balanced like on even scales, I declare that they themselves, stir up
either majesty against freedom or freedom against majesty and in this rocker made of
curved wood at the center, touch now this side and then that one, keeping this country
like a perpetual motion machine in constant diffidence and domestic disturbances because of slights or for the sake of their private interests.

So if we want to destroy this rocker that is so useful to evil men, but very harmful to the republic, one end must have more weight. And one of these two must outweigh the other, that is either give the king the power of the whole government and name him hereditary monarch, renouncing certain rights to him, just as was done 40 years ago in Denmark, or circumscribe royal power so that in no way, neither by gift or punishment, can it be frightening to freedom, because usually we do not fear one whom we trust.

First of all, truly, the most effective means of governing is when everyone obeys one man with good councilors, because there is secret administration of everything and execution is fast, the two things upon which governments most rely. When the lord is understanding, good, and fortunate, there is nothing better. Poland flourished under this sort of government of kings, of their forefathers, the boundaries of the country expanded in all directions, castles and cities that today stand ruined were built, the fame and esteem of the Polish people were great, and although in the meantime we have slipped, we opposed that kind of government.

In regards to the second means, because in every state the best government is one that suits the spirit of the people (because successful government requires not only a wise leader, but also the willing obedience of those who follow), and because the Polish people have an inborn inclination for freedom and are already accustomed to it, it would
be difficult to persuade them that they had to place themselves under the rule of one man, and the republic would sooner perish, before they would be brought to this by force. [30] There are examples of this in ancient republics where freedom was taken away and they destroyed themselves. And in neighboring Hungary we have seen an example of this with our own eyes.

It would seem better then to adapt to the spirit of the people and chose the second means, and while leaving the kings all their eminence, to circumscribe their power so as to remove all freedom’s fear of majesty, and then assuage all the diffidence that arises from this fear. Such was done in ancient republics like Sparta; one politician writes: *Reges creati sed quibus nervi potestatis precisi facere, insigne imperii cummulusque honor concessus.* And so it is in contemporary republics, in Venice they have their life-long prince and in Genoa they have two-year princes in the form of kings, but they are so circumscribed that freedom does not fear them; they have nothing in their hands and no powers that could harm freedom, they are only the first people of those states and sit in the first seat so that some trouble-maker [*importun*] does not press for the empty seat. Hence, not having anything to fear from their prince, they safely order the king to execute written laws and they severely punish traitors and other *exorbitancje*. We, on the other hand, do not allow execution [of laws] on the powerful, because we are afraid that the king like the Tarquins will destroy the greater malcontents so as to crush the lesser ones; we prefer to suffer and defend even the greatest *exorbitancje* (under the guise of freedom)

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675 Kings are chosen, but the strength of their rule is limited, they are granted only the signs of power and the crown and honor.
rather than open to the king even the smallest path to autocratic rule, and so by fearing one tyrant, we suffer many.

In order to get out of this real slavery, which we tolerate for supposed freedom, and to put all the exorbitancje right, we must look carefully at all the estates, three in this republic: the kingly, the senatorial and the szlachta. So let us go through them all, considering what needs to be fixed. [31]

If we want to circumscribe the power of the first estate, representing monarchy, because we fear it will become absolutum dominium, then we must also take care that the second estate, the Senate and aristocrats, not prevail over the squashed royal power, so that their aristocratic estate does not turn into oligarchy. Likewise, that the third szlachta estate, which contains democracy, does not end in ochlocracy or dangerous chaos. This all has already greatly hampered our efforts.

Therefore we must consider all three estates. That which is frightening about the first kingly estate must be taken from him and divided between the other two estates of the republic.

It would also seem best to circumscribe the power and loftiness of the most powerful houses in the second estate and assure the enforcement of the [law of] incompatibilitas\textsuperscript{676} for persons and houses contained in the last Pacta Conventa.\textsuperscript{677}

\textsuperscript{676} Laws of incompatibilia banned the holding of multiple offices by a single person. They were often ignored.
While in the third szlachta estate *exorbitancje* of freedom, these disruptions and breaking of public assemblies must be stopped. A means of excellent councils for both domestic and foreign affairs must be established, courts must be put in good order, old laws need to be renovated, the imperfect ones written clearly, and also a system of military economy and paying the army must be created to prevent confederacies which are harmful to the republic, and lastly, we must discuss a way to shorten *interregna* and a means to elect kings.

We see that the common people suffer mightily in this disorder, but also that in ancient states the discontent of all these unhappy people was an unmistakable sign and impetus for sudden change. And we have a recent example of this from forty years ago in the Danish kingdom, where the noble estate had enjoyed free elections of kings and just like us had freedom. But because of internal disagreements and the plotting of Count Ulfeld, who had it in for the king, his lord and brother-in-law, he led the Swedish king, the grandfather of the current one, to Denmark, and once he took over the Danish state because of their disagreements and disorder, it happened that the Swedish king, grandfather of the current one [32] would have taken the Danish crown in Copenhagen with harsh assaults, had the Dutch fleet not come to the rescue at the right moment. We see then the obvious ruining of the state during this reign of disorder; all the rebellious people forced the deputies of the nobility at the parliament, so that willing or unwilling

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[32] The *Pacta Conventa* was the document signed by each king upon his coronation. It outlined his rights and responsibilities vis-à-vis the Commonwealth.
they had to, in the name of their brothers left at home, to recognize the king as hereditary and absolute monarch and give the government to him.

Undoubtedly, we have the same disagreements and distrust, and if we do not counteract them, we must fear the same kind of sudden revolution. Therefore, we need to take care of this before we hang ourselves on the same hook upon which the Roman republic once grew cold. When there was no other remedy or solution in the divided republic except for one man to take everything under his rule.

Truly it seems dangerous now amidst this chaos to discuss reform, especially when a neighboring power might get into it, but when we look at both ancient and recent changes in various states, we realize that changes in government rarely happened in peacetime and usually only during wars or after wars, after fights and domestic disturbances, when bad government had harmed everyone, only then did they undertake, oftentimes sudden, change; like the Danish kingdom forty years ago freely preferred to put itself under the rule of one man rather than perish under bad government. Or the opposite, Holland or the Seven Confederated Provinces having experienced harsh persecution, threw off the royal yoke, and formed a free republic for themselves, which would not have happened without the help of neighboring powers because their neighbors helped them weaken the Spanish power, which was then frightening to all Europe.

In ancient times there was an obvious example of this in the Spartan republic, when in the midst of domestic schism the weaker side took up with a neighboring power, and
confirmed their freedom, a rare example. Who knows what God thinks of us, seeing that this state will shortly perish because of this disorder, he almost forces us by giving us this opportunity to reform the government, if only we will take it, and forsaking private interests, [33] take care for the public good, without which our private fortunes cannot last.

And so the animosities of parties, each for his own candidate, are fomented mostly either by the hope for offices and honors, (that they will be able to get many of them from the king they supported), or by the fear of all the others that they will not be able to hope for anything (for honestly, private interest is rooted mostly in this). So in order to remove both this false hope and unnecessary fear, let us enforce what our kings have promised us in five *Pacta Conventa* already, that is, a means and circumscription of the right of distribution (*iustitiae distributivae*). And because we realize that when one of our kings uses his power of patronage absolutely to give to this one and pass over that one, all this hatred falls on the king and the court, public councils are disrupted, *sejmy* are broken, and great diffidence arises among the estates. Therefore, after freeing the king from this hatred, we can divide it between the other two estates, so that distribution will be administered by means of an urn or like in Venice by means of ballots or balls. I do not wish to take all appointments out of the kings’ hands, but to share them. Let the king freely grant offices in the Crown and Grand Duchy of Lithuania and *ziemskie* offices and also the lesser castellans. While the other two estates will dispose of the [chancellors’s] seals, [marshals’] staffs, [treasurers’] keys, [hetmans’] batons, *wojewodztwa* and higher

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678 Karwicki leaves appointments to local offices and less important senators to the king. Later he clarifies that the king will be able to choose these officers from a list of four candidates proposed by the local sejmik.
There will be more about this below. Thus the king will be free of this tiresome competition, and the hatreds and offenses that go with it. And let no one say that the king will only be a cipher, because he will have plenty of honors to give out. And it will not be like in autocratic states where the king can give and take back, where everyone must fear the king. Here once the king grants [a position] he cannot take it back, unless one who got what he did not want pays court to the king and then takes another one and gives back the unwanted one. In fact, there are many examples of people who quarreled with the court, disrupted councils and the affairs of the Republic, in order to force [this] as quickly as possible. This power of distribution causes kings more troubles than consolation.

It is certain that this is the only way to ensure the king a peaceful reign and also that the public councils of the Republic will be more peaceful. Secondly, no senator or delegate or szlachcic voting by secret ballot will offend anyone and will be able to vote according to his conscience for whoever seems most suitable to him. Thirdly, whoever is sure of his worthiness and services, can always be certain that he will sooner be met with honors through these ballots than by court favor alone. When such great dignities and positions were conferred by frivolous or purchased promotion, we saw that the common good was not satisfied. I place this as the corner stone of fundamental reform, without which it does not make sense to undertake further reforms, because without assuaging distrust of the

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679 Karwicki is proposing taking the king’s right to appoint senators. The offices he proposes be distributed by the other two estates are ministers of state (chancellors, hetmans, marshals and treasurers) and governors (wojewodowie and higher kaszteleanie). Karwicki leaves the king the right to appoint local officials, but by this he means that he will continue to chose from four candidates proposed by the locality as was customary. In his final draft, De Ordinanda, Karwicki takes even this power away from the king and proposes that these offices be elected by all the estates at parliament (with the king only having one vote).
royal estate in this [area], reforming *exorbitancje* in the other two estates [34] would only open the door to *absolutum dominium*.

I present this as the fundamental or basic reform; I will explain the other points of my reforms here briefly, so as not hold the reader in anticipation too long.

1. That we have *perpetuum concilium* or standing councils and administration for both foreign affairs and also domestic government. So let *sejmy* be constituted each year, like Tribunals that can be freely suspended and resumed according to the needs of the Republic. This way we will have quick as well as safe and constant council for any eventuality. Secondly, and most importantly, we will have something like a public Tribunal for the domestic affairs of the Republic and with this, parliamentary execution of *exorbitancje* which [now] move at their own terrible pace because after the end or breaking of a *sejm*, we must wait a year or two for the next [opportunity for] execution. Thirdly, this will prevent the breaking of *sejmy* because such a *sejm* will not be able to be broken. More about this below when we get to *sejmy*.

2. And so in order to remove freedom’s fear and distrust of majesty and so that it will not be said that the king is taking advantage of us at these *sejmy* through his distribution of honors and bread, as senators and delegates are wont to do, let us now (as I already mentioned) establish a means and circumscription of the *iustitiae distributive*, as our kings Władysław IV, Jan Kazimierz, Michał, Jan III, and August II have already promised in five *Pacta Conventa*, to put into effect under their reigns.
3. That when it comes to the next general election, we reject foreign candidates and we change elections in the following way. While before now we did not elect Poles to the throne because of some state secret, let us turn that state secret on foreigners and chose only our own citizens, people who have proven their worthiness, who have spent their years well in the service of the Republic, because such men will enjoy respect and credit among all and also will be familiar with the affairs of their Republic, their fatherland, and will be able to keep everything in good order like guardians of the laws, as is the case in Venice with their princes. And when the circumscription of the *iustitiae distributivae* is established, the competition of neighboring princes for the crown will cease and we will have more peaceful elections. [35]

4. And so in order to pacify domestic rivalries among families (which usually arise among Piasts because of competition), we will create a rotation in elections, so that like deputies to the Tribunal, who cannot serve more than once every four years, no one from the same house will be allowed to be a candidate to the throne except at every fourth election, so that another house will achieve this honor and one house will not prevail in ambition. There will be less of an issue with jealousy when distribution is circumscribed, because this is what rival houses most fear about a Piast king, that he will have free reign to lavish honors and royal lands on his own while neglecting and passing over others.
5. We must establish a standing militia and devise regular payment for the army, without having to refer to either sejmy or sejmiki. We can do this safely when royal power, which we must consider in this case, will be limited by circumscription of the iustitiae distributivae and the [hetmans’] batons. With regular pay, obedience and order in the military will be established, and everything will be more effective when the army is paid. And hetmans will not serve for life, as was the case before Jan Tarnowski.

6. The length of interregna will be shortened and election procedures will be changed so that so many various people will not be brought to one place like in a snare.

And so these are the points that require great reflection and each will be discussed in detail in its own place. I would wish for this to be done now, not waiting for the next interregnum. Having written this proposal, I ask for three things from whoever wants to read it. First, that you read well with attention and reflection because I wrote it without a single correction. I have no doubt that upon your first quick reading, various difficulties and reservations will occur to you, and perhaps, as it was the same for me when I wrote it, there were also struggles and moments of consideration, but finally the greater side won out. If I had gone on at length with reasons, this work would have grown to be unpleasant to read; therefore I leave it to your careful reflection. Secondly, do not judge until you read it all and consider one thing in light of another because here one thing depends on another. Third, just as I wrote this without self interest, so please read it and judge it this way, so that we both have the public good and not private interest before our
eyes and so that neither of us will fall under the censure of the politician who wrote:

*Quae communia sunt, nemo sua esse putat, hinc quisque [36] rerum suarum satagit a publicis, tanquam non suis, nec nisi privato lucro publicas utilitates metitur.*

From the past *Pacta Conventa* of his royal majesty August II written in 1697:

And because it was impossible to end or limit all the other *exorbitancje* and injustices mentioned above at the election *sejm*, so we put them off until a future, God willing, *exorbitancje sejm*. The kinds of *exorbitancje* and injustices were mentioned somewhat in these documents, i.e. *de modo iustitiae distributivae*, order during *interregna*, *de correcta iurium* etc. We have placed this in agreements with King Jan III from 1674, and with King Michał in 1669, with King Jan Kazimierz in 1648, and first with King Władysław in 1632.

*On the first estate: royal majesty*

Truly, I believe that the first and greatest *exorbitancja* against the laws and privileges of the free Republic in this first estate is the free administration of the *iustitia distributivae*, which has remained in royal hands up to now, that is the unlimited and absolute granting of all dignities, honors, *starostwa*, royal lands, church benefices, bishoprics, abbeys and the like.

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680 That which is common, no one considers his own, hence each takes care of his own private affairs, public affairs are alien to him, as though he did not measure public interests by his own private interests.
We pride ourselves that we have a free republic. We legally renounce *absolutum dominium*, meanwhile we do not see that this is absolutist rule; to give the baton and armies of the Republic to whomever he wants, to give the seals and chancellery of the state, to give order and the sword with the marshal’s staff, to seat senators and chose people to the council according to one’s own intentions. On top of this, he has the Republic’s bread in his hands; those who are most amenable to the king’s interests have more than 100,000 annual income from the Republic’s properties. [37] What could be a better and more imperceptible way to open the door to absolute rule than this one? Our worthy bishop and historian of Poland well observes: *Studia eorum, quos rex promovet, sibi mancipat, et aliorum qui illos honores appetunt, ad obsequium suum allicit. Ac ita non vi, sed lento svavique flexu animos omnium ad partes suas inclinat.* What then could be a more effective way for the king to achieve his ends than through the people’s ambition and greed for good property (because we are ever more corrupted), than the free administration of honors and bread? And if it were not for this mutual antipathy that, according to the wise, holds the very mechanism of this world together (one competing against another), which keeps houses and individuals in this republic struggling against each other and does not allow one side to get the upper hand, certainly our freedom would have already turned into slavery. Finally, I would sooner agree, if this right of distribution were to remain absolute in the king’s hands, that the other *regalia*, which past kings have ceded to the Republic be given back to him, rather than by their

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681 The marshals were in charge of law and order in the capital. “Order and the sword” refers to the power to police and punish.
682 “The activities of those who promote the king, enlist themselves and others who strive for honors, and induce them to allegiance. And so not by force, but by slow and gentle persuasion incline all minds to their side.” Pawel Piasecki. *Chronica gestorum in Europa singularium. Cracoviae*: 1645.
division and separating give occasion to constant mistrust, fights, and disturbances between majesty and freedom. As I say, it is safe so long as one of the two sides outweighs the other, when either the king with good councilors has the right to dispose of all the regalia, or when he gives them to the Republic and the other two estates, as long as he has both, the king will never have a calm reign and the state will never be free of domestic disputes and distrust. We need not blame our forefathers for bringing the Republic to this state of perfection, but it is time for us to follow their example and finally bring to effect that which we have already laid down with our kings in five Pacta Conventa, that is a modum iustitae distributivae.

Our forefathers did enough. For considering the royal estate in Poland under the princes, and then under the ancient kings, we must admit that our kings at that time were absolute lords, as they wrote “lord and heir” [dominus et heres]. The kings had all the regalia or laws of majesty [iura maiestatis]. They had the power to declare war, or make peace with whomever they wanted, to order taxes, establish or change laws, open or close mints, distribute honors and offices, create nobles and give them crests and other regalia which the statute calls royal [38], as mentioned above. And while sejmy and assemblies happened in the old days, they in no way harmed the free [wolnowładny] rule of kings.

Our forefathers’ old-Polish inclination toward freedom along with their valor and military courage allowed them to keep their kings in power, so that not by exiling or killing their lords (as happened in other countries), but rather by their love and fidelity to their person
and house compelled them to renounce their royal rule voluntarily; they either shared the laws of majesty and these regalia with the republic or put them entirely in its hands.

Thus, Louis, so that the Senate and knightly estate would allow one of his two daughters to be his successor to the Polish Kingdom, freed the szlachta from the poradlne [tax], and also the royal and osep per lan and bushel of rye and oats, leaving only two grosze as a symbol of regni et summi domini (as the statute says).683

Władysław Jagiello, the son-in-law of Louis, granted the privilege that coins would not be minted without the permission of the council of lords.

Zygmunt III resigned all minting to the Republic, in gratitude for the 1632 sejm’s allowing his sons to sit next to the throne under the canopy and for granting him leases belonging to Queen Constancia to her children Kazimierz, Aleksander and Anna after her death.

Kazimierz III, the son of Jagiello, granted the szlachta of Great and Little Poland the power to pass taxes to pay the unpaid Prussian army; from this began the House of Delegates, the temple of freedom (as we call it) and forge of Polish laws and freedoms. He also told and promised the Republic, that he would not begin wars without the permission of the Senate.

683 The passage refers to ancient taxes on land and produce. A lan was a unit of area roughly equal to a hectare, but it varied in size across the Commonwealth. A grosze was worth 1/30th of a zloty.
Jagiello and his successors legally circumscribed justice upon a nobleman: *nobilis non captivetur nisi jure victus*.\(^{684}\) Thus, the kings shared their rights of majesty with the Republic. Only the distribution of honors and the king’s (as we say), but really the Republic’s, lands have remained to this day in the hands of the king, undoubtedly for two reasons. First, it did not make sense to bargain away everything from the kings, so kings left some way for their heirs also to serve the Republic. Secondly, there was no reason to fear anything dangerous to freedom from this distribution under earlier kings until Zygmunt III. Because beginning with Kazimierz III, his two sons Olbracht and Aleksander, who succeeded him on the throne, died without heirs. His third son, Zygmunt I, was allowed by the Commonwealth to have his son August named his successor in his lifetime, and was satisfied with this. August, seeing that he was the last male of the Jagiellonian line and without children, not only did he not consider autocratic rule [*wolnowladne panowanie*], he instead renounced his Lithuanian inheritance and joined it [Lithuania] to the Crown in eternal union, about which golden words should remain in inextinguishable memory in the documents of the *sejm* of 1564. After August, Henri ruled only five months and Stefan after him (while he seemed ill-suited because of his impatience: “*rex sum, regnare volo*”\(^{685}\)) he reigned without hope of heirs with Anna and moreover was distracted by wars, so had no time to think about monarchy; and so it was not necessary to fear that kings would use this [power of] distribution to confirm successors or the interests of autocratic rule, and also [because of] our old-Polish good nature and nobility, the powerful did not run after either honors or bread, on the contrary, both were sent to them while they were at home. This removed all suspicion and distrust.

\(^{684}\) A nobleman shall not be imprisoned without a court verdict. (Similar to the English writ of *habeas corpus*, which was not legally formalized until 1689.)

\(^{685}\) I am king, I want to rule.
from the szlachta estate and while this [power of] distribution remained in the king’s hands, this temptation was not frightening to freedom, when everyone contented himself with his own and did not run after honors or bread with greedy appetites. Zygmunt III, more fertile than pervious kings, was not above suspicion of instituting autocratic rule and the succession of his sons. Hence the strict election conditions and uprisings and domestic squabbles. Only under his reign did we begin to notice how dangerous it is in a free republic for the king to have the power of absolute distribution and administration of honors and bread. For not only did he use this distribution to benefit his own family, giving Brodnica to Anna,\(^686\) his sister and princess of Sweden and the Bishopric of Warmia to his son Jan Olbracht, but he also gave the leading offices of the Commonwealth to people less suited to them out of spite for those like Zamoyski and others, who opposed his interests and his second marriage to his first wife’s sister. The king was so successful at this: that he accomplished his will, causing the greatest chaos in the sejm and in his Commonwealth, pitted house against house, flattering himself while affronting the deserving, in this way the Inflanty were lost, Prussia nearly destroyed, and Multany forsaken.\(^687\) The Commonwealth recognized this and so right after the death of Zygmunt III wanted to limit royal power in this area [40], but because Władysław was already practically king, he had defenders in this matter, who preferred to trust in his favor, and this distribution remained in the king’s hands. We had to content ourselves with a promise; Władysław obliged himself (as we read in his Pacta Conventa) to straighten out the modum iustitiae distributiae. But the sejmy and konstytucje show how he regulated things. For right away at the coronation sejm he gave two grants to his two

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\(^{686}\) Brodnica was a lucrative starostwo in Prussia.

\(^{687}\) Inflanty was a territory located roughly where modern-day Latvia. Multany was another name for Wallachia (in present day Romania).
brothers, the princes, he gave the Bishopric of Kraków to Jan Olbracht and he gave the Abby of Czerwiński, which he obtained, for the bishop of Wrocław to Karol Ferdinand. No one brought up this article about distribution written in the *Pacta Conventa* because everyone was distracted by promises and hope for vacancies, as Piasecki, the bishop and historian, who while praising no one, notes, “*Non pauci corrupti promissis Rempublicam deserebant, eoque nonnulla, quae displicerent regi promovendis declinante.*” Then at the *sejm* of 1635 Karol obtained the abbey of Tyniec and finally in 1641 he persuaded the Republic to give him the bishopric of Plock. And also he obtained permission to give two vacancies, one in the Crown and one in Lithuania, to his third brother Jan Kazimierz.

And this is how kings used this distribution to shore up their interests and their own house, and finally this *ius maiestatis* was cheapened, because they [honors and offices], were not given to the well-deserving, rather they were bought by the financial promotion of royal favorites, knaves, ladies and even of the kings themselves. So what wonder is it that the *szlachta* estate saw how the kings used this distribution for their own interests to endear themselves and apparently to buy more the powerful. As we observed with our historian earlier: “*studia eorum, quae rex promovet, sibi mancipat, et aliorum, qui illos honores appetunt, ad obsequium suum allicit. Ac ita non vi sed lento suavique flexu animos omnium ad partes suas inclinat.*” And so, as I said, upon seeing this, the *szlachta* estate distrusted the kings, and did not trust the aristocrats either, when they saw

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688 Many bought by promises abandoned the Commonwealth and in this way, the matters contained in the *pacta conventa* (beneficial to the Commonwealth) were at that time squandered, they were put off until the king’s approval could be gotten.
689 “The activities of those who promote the king, enlist themselves and others who strive for honors, and induce them to allegiance. And so not by force, but by slow and gentle persuasion incline all minds to their side.” Paweł Piasecki. *Chronica gestorum in Europa singularium Cracoviae* 1645
that the most powerful populists misled them not only with grants, but also with uncertain promises (because they promise one thing to ten people at the same time). And so to say it straight out, whatever fights [41] there were between the Zborowscy and Stefan, Zamoyski’s dissatisfaction with Zygmunt (although these factions supported these kings at the elections), the Zebrzydowski and Radziwiłł uprisings, the breaking of sejmy, civil wars, schisms at sejmiki, dissatisfaction with this distribution always had to interfere and freedom was only a mask and cover for private interest. Even schisms at elections themselves were caused by the hope that the side that advanced its candidate successfully would control the filling of vacancies. The cited examples of the Zborowscy under Stefan and Zamoyski under Zygmunt give evidence of how this works; for the sake of brevity, I do not wish to cite more recent examples. The historian rightly notes about Stefan, when he praises him for filling vacancies only with the deserving based on their merits, not just with those who asked, adds, “sed brevi incurrit [propterea] odio graviroa præsertim apud Zborovios, qui cum in eius electione maiorem praeceteris operam praestitissent, ex voto suo administrandum regnum ex maxime beneficia distribuenda fore sperabant.”

At last this distribution of vacancies turned into a source of offence to even the kings themselves and until now there has been no lord wise or prudent enough to satisfy everyone. He acquires one uncertain friend, but only for a time (because he is ready to bolt at the slightest dissatisfaction even after many kindnesses) and he makes 10 certain enemies, as the present reign has witnessed. The kings, our lords, should allow, not only

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690 This passage refers to the Zebrzydowski Uprising (1606-7).
691 “But he quickly fell because of grave hatreds, particularly from the Zborowscy, who did more for him at his election than others and expected that they would rule the kingdom and distribute benefices.”
for the interests of the Commonwealth, but also for their own sakes, to be free of this hatred, that circumscriptionem *et modum iustitiae distributive* which the Commonwealth stipulated for herself in the *Pacta Conventas*, and like their ancestors, share this distribution, and also this hatred, with the other two estates, so that they, too, will have a means to reward those who serve the Commonwealth and not just those who pay court to the king.

*On the Distribution of Starostwa and Royal lands*

Royal, or rather Commonwealth, properties, such as *starostwa* and other leases, are usually called “bread for the well deserving.” But we hardly need to elaborate on how badly that bread for the well deserving is distributed. We all see, and we all lament that a great portion of that bread is held by women and children who have in no way served the Commonwealth. Moreover, because they are passed down and turned into almost hereditary properties by the most powerful families, they are dispensed with harm to those who serve the good of the fatherland. And so the very men who hold several *starostwa* at the same time, not because of service to the Commonwealth, but from the king’s private favors, trade in them, having gotten permission *ad cadendum*, sell one and beg for another. Meanwhile, those who risk their blood and treasure in service of the Commonwealth, sooner see death than a vacancy.

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692 Permission to cede them to someone else
693 Available offices or leases on royal lands were referred to as vacancies (*wakans*).
Kings themselves have seen and continue to see how little advantage they gain from this [power of] distribution and more hatred, fights, disturbances than gratefulness. The Commonwealth also suffers greatly from dissatisfaction with this distribution, for sejmy are broken over this, sejmiki are disrupted, particularly these days when greed has gotten the upper hand; this needs no further elaboration. So, once again because of this trading and dealing in royal lands, castles, buildings, and villages collapse and develop less. The Commonwealth has tried to prevent this through various konstytucje. In 1556 a konstytucja introduced expektatywy i solida, in which the possessor was given a privilege for his lifetime. A konstytucje from 1662 declared that no woman could hold more than two royal properties of any kind after her husband’s death. To prevent the ruin of royal lands, it was ordered by a konstytucja in 1641 that the treasury take properties back and give them to a new possessor. The results of all this can be seen for themselves. It would be best, therefore, to form an entail of all these properties to pay the army and, leaving appointments to the grodowe or sądowe starostwa for later, decouple [these properties] from the king’s holdings, and [attach them] to the secular [chancellors’] seals, to the [marshals’] staffs, and [hetmans’] batons, but only two starostwa each, which would always accompany them. (The reasons for this follow). Immediately after the death of the current possessors, all royal lands will be formed into an entail for the army, the stockpiling of artillery, and other war needs. In this way, we will not only free ourselves from disturbances and fights in the Commonwealth, which arise at councils and in public affairs because of dissatisfaction with distribution, but also we will make it so

694 “promises of offices and set revenue” (Przyboś, p. 42)
695 In this complicated sentence Karwicki proposes forming an entail out of royal properties, the proceeds of which be used to fund the army. Certain properties, like the castle and judicial starostwa would be held out of the entail. Other properties would be tied to the offices of chancellor, marshal and hetman (two properties per office) to provide salaries for these officials.
that everyone better manages his own estate, and does not ravage the king’s bread. These factions and their luxurious hospitality at sejmiki and sejmy to show off to court will cease. Moderation with one’s own income will arise and we will be more economical. The army will always be paid properly and in an orderly fashion, without burdening the poor people. [43] We will be free from confederacies and there will be numerous other benefits from this. The proceeds of this entail, whether sent from a village or leased lands, will be for the army to serve the Commonwealth and raise detachments, and also to pay enlisted soldiers from the income of the properties. (More below when we get to military economy.) At that time we will also discuss compensation for soldiers’ courage, losses and maiming.

On the Distribution of Honors, Senatorial seats and all Offices

The last Warsaw sejm of 1702 (not to mention all the past ones) provides evidence of the fact that the distribution of honors that is in the king’s hands disrupts our assemblies. The breaking of this sejm, it goes without saying, brought great difficulties upon the fatherland, the king, and all of us. We must, therefore, address this flaw, and divide this hatred which falls on the king on account of this distribution; that is, so that this distribution will be handled by election. First, the elections for wojewodas and castellans can be held in their own województwa, and the lands that belong to a given województwo can cast their ballots with them. Thus, the principality of Zator and Oświęcim would participate in the election of the castellan and wojewoda of Kraków in Proszowice. The Wieluń land would participate in the election of the wojewoda and castellan of Sieradź.
The lands of Lwów, Przemyśl, Sanok, Halicz and Chełm, in the election of the wojewoda of Ruthenia [Ruskie] and the castellan of Lwów. The ten lands of the Mazowia principality would go to the election of the wojewoda of Mazowia and castellan of Czersk. Election sejmiki would also be stipulated by law in the Grand Duchy of Lithuania, so that they cannot be broken. (More about this below when we get to sejmiki.)

And so as not to burden the szlachta, elections to podkomorzy, judges, vice-judges, and clerks will be sent to these places and given to the king and senate. More about this below. And in the Grand Duchy of Lithuania the województwo of Płock will elect its own wojewoda, the principality of Żmudź will elect its starosta, who sits in the Senate, and thus let the other województwa have a free election for their first senators. Second, the election for all the others, lower and higher castellans, for the [vice chancelors’s] seals and [vice-marshals’] staffs, treasurer, [hetmans’] batons, and also judicial starostwa (stipulating by law that they not be sold), let them be conducted by the king and general council [the sejm], more about this below. And Crown and Lithuanian offices and also local ones, will be left to the free disposition of the king; Let’s see how this works until the next interregnum.

The advantages of these elections will be:

1. The two estates, that is the senatorial and szlachta, which until now had neither punishment for [44] the bad, nor reward for the honest, except scolding the former and thanking the latter, will now have both; for honest service to the republic will
have hope for reward from the brothers and hypocrisy [przewrotność] will fear shame and rejection in the competition for higher offices.

2. Confidence, by which all republics flourish, will increase because not only will the one whom they chose be obligated to all three estates, instead of to the king alone, but likewise all three estates will have greater mutual confidence in him as their elect.

3. This will clean up the Senate a bit (this has to be said), because one who has some kind of mark against him will have trouble getting elected by ballots. It is lamentable that kings appoint such people to the Senate to the disgust of others out of some private court interest.

4. This will facilitate public councils, which are held up and disrupted by competition over vacancies. Our historian observed this about the sejm of 1616, he writes:

Comitia generalia rex ex voto absolvit, cum nulla tunc beneficia vel officia vacarint, quibus ut solet, studia partium distracta turbarent negotia publica.696

5. Instead of kings appointing senators, who lack familiarity with the given województwo as well as respect and love in the województwo, through elections those who enjoy the love and confidence of their brothers in the województwo will be chosen.

696 The king concluded the general parliament by his own decision, when the competing desires of the sides lead to the disruption of public affairs because there was at that time no vacant office or benefice.
6. If kings have less power because of this election, then they will also have fewer troubles and less animosity, because those dissatisfied with vacancies not only disrupt the public affairs of the Commonwealth, they also ruin the private affairs of the king, as Zygmunt III particularly experienced in regards to his interests in Sweden.

7. Chancellors and court favorites too will escape hatred because whoever is passed over [heaps] blame on them too, hence all this unfair shouting at them after sejmiki, sejmy and other assemblies. Moreover, jealousy and rivalry among the favorites themselves, which can be harmful to both the court and Commonwealth, will cease, the more so when the elections are conducted per tacita suffragia or closed voting by secret ballot. More about this below.

8. Likewise, there will not be such animosity between factions at free royal elections, like those after Henri and Stefan that nearly destroyed the Commonwealth. And now we see what divided elections can do. Such stubborn parties back their candidates because they hope (they are almost always disappointed) that they will control distribution under the next lord and that honors and bread will be distributed according to their will. However, when distribution no longer rests with the king [45], these animosities will fade somewhat. If someone says that our kings will be kings in name only and that we will not have any foreign candidates to the crown, I answer: better to have a faux king and a living Commonwealth than a live king and a faux Commonwealth, for elections will be calmer, and this competition among foreigners has brought us nothing since Zygmunt August, only a lot of promises and
no real benefit. On the contrary, instead of territories which were promised to be incorporated into the Crown and to expand [our borders], our borders have shrunk considerably, when we surrendered Multany and Wallachia, lost the greater part of the Inflanty, and almost lost Prussia. Only God knows what further foreign elections will bring us. As the Venetian princes have the eminence and dignity of kings, although they do not control distribution, still as in the old days they have dignity suitable for their state, so too will the Polish king have it from respect for such a great state. In Venice, although the prince has no power, such is his eminence and dignity, that when one senator said to the Venetian prince, who was giving a sweeping speech, “Your Princely majesty says [too] much” not only was the senator thrown out of the Senate, but sentenced to prison and finally sent into exile; as the Italian politician explains it, “Havendo questi anni passati il Doge detto il suo parere in consiglio et vendegli resposto di un Consigliere con queste parolo: Signior Pricipe, Voi cianciate troppo; il consigliere non solamente fu privato de la sua Cañca ma di piu per sentenza del Senato fu condannato in prigione per qualche tempo et poi bandito della Città.” (Compendio Historico Anno 1665).697

On the Second Senatorial and Aristocratic [możniejszym] Estate

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697 In the past year the Doge was giving a lengthy speech in the Senate when he was stopped by one of the senators with these words: Your Princely Majesty, you are speaking a bit too long; that senator was removed from office, thrown out of the senate, imprisoned for a time and then expelled from the city. (Historical Compendium 1665).
The senatorial estate is called the *intermedius ordo* in this Commonwealth because it is supposed to mediate between royal majesty and *szlachta* freedom. When reading histories of ancient times one is surprised by how frankly they talked to the kings in the Senate (though they were autocratic monarchs) and how they had such great dignity and that this estate enjoyed the confidence of the *szlachta*. But this is not so surprising, because as long as the aristocrats did not get carried away with honors and royal bread, and instead put the common good above their own private interests according to old Polish righteousness (like the example of the *wojewoda* of Kraków [46] under Jagiello cited by Padniewski in his discourse, vice-chancellor of the Crown), they enjoyed great esteem and confidence among the *szlachta* and therefore, the kings had to respect them and take them into account. But then when the aristocrats began to get mixed up in their own private affairs and, under the guise of freedom, worked to achieve their own private interests, then they set the kings against freedom or native laws, and then having quarreled with the court about their private affairs, made themselves the greatest zealots for freedom and stirred up the *szlachta* against the king, just as our historian tells us about the uprising under Zygmunt III: “*Vix unquam causam Reipublicae contra regem defendam quis suscepit, nisi et propria offensa stimuletur.*”698 It is not surprising that the *szlachta* estate, having recognized that the aristocrats were inciting quarrels between the king and his subjects for their own gain, joined with the king, and then the aristocrats put the kings against the *szlachta*. It is not surprising that he lost confidence in them, and that the court is less esteemed, for usually at court they respect those who can [accomplish things] with the brothers. When senators are elected by votes rather than by

698 “One only supported the interest of the Commonwealth against the king when his own spite inspired him to do so.” (Piasecki, 273.)
the frivilous promotion of courtiers, this diffidence towards them will cease, all the more so when everyone, because they do not expect anything from the court, gives up factions.

By reassuming statues, particularly the *konstytucja* from 1565 that stipulates that senators attend *sejmiki* and write articles with the *szlachta*, we will restore their ancient dignity at *sejmiki*. Because of diffidence toward the senate, it has come to pass that in some *województwa* senators are excluded after they give their speeches, and their votes for delegates are not recorded as is the case in the Sandomierz *województwo*. Mazowia stipulated in the *konstytucja* of 1598 that both *szlachta* and senators must be involved in elections [for delegates]. The *sejmik* of Halicz, likewise, in a *konstytucja* from 1563 wrote that the castellan should elect delegates along with the *szlachta*. Thus is should be stipulated by a general law that senators vote while sitting with the *szlachta* and that their votes be recorded.

And in regards to the most powerful houses and individuals, already a point in the recent *pacta conventa* counteracts the power of the wealthiest, by not giving within a single house “*eiusdem nominis suprema ministeria status,*”\(^{699}\) such as the [chancellors’] seals, [marshals’] staffs, [treasurers’] keys, and [hetmans’] batons of both the Crown and the Grand Duchy of Lithuania. When [47] these dignitaries are chosen by vote, it will be easier to maintain this law, because sometimes the court allows itself [things] against the law due to favors and then writes “*pro hac sola vice.*”\(^{700}\) And it will help reduce greatly the power of the most wealthy when an entail of royal lands is created for the army

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\(^{699}\) the highest ministries of state to the same name

\(^{700}\) for this time only
because those who are stuffed with this bread, who hold six or more starostwa, are burdensome to their neighbors and to the Commonwealth itself. Especially those who rise from lower conditions; they tend to be more haughty.

*Primatialis dignitas* should be distributed by secret ballot; dignity and confidence will be greater when they no longer depend on the king alone. Let the bishops’ seats also be elected at the annual sejm. Abbeys and other benefices can be distributed.

**On the Third Szlachta Estate**

The szlachta or knightly estate is the third one in this Commonwealth. If there are things in need of reform in the first two estates, then there are no fewer in this one. For this extreme, and as I put it, indecent, love for our freedom and fear for it (which is often false), has led the szlachta estate, while trying to preserve it, to reach for the kinds of means, which sooner destroy it and lead to autocratic rule. Like the breaking of sejmy, which causes counsel and governing to be left to the Senate Council, or rather to the king himself, whom the council usually accomodates. Also like uprisings [rokosze], during which the worst thing would be for the szlachta to fail once and to usher in autocratic rule. Thus we need to counteract these exorbitancje in the szlachta estate. For when we circumscribe the senate and king, we must also circumscribe and limit excessive liberty, or rather license, at the same time. Let us first briefly discuss our councils, both particular ones (sejmiki) and general ones (sejmy). Secondly, we will discuss courts and our laws.

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701 dignities of office
Thirdly, mints and a way to increase the value of coins. Fourthly, military economy, about the army and its leaders, its entail, pay, uniforms, training, particularly the infantry, etc. Lastly, let us discuss *interregna* and a means to elect our kings. [48]

*On Councils and Their Order*

Experience itself teaches that it is pointless to place a numerous army in the field if you do not have council at home. And council rests mostly on two things. First is speed and second, secrecy. It is quite clear that our councils have neither. For first, regarding speed, let us just count the time it takes for *deliberatoriae* to get to the senators and when responses are given, before decrees calling the pre-*sejm sejmiki* are sent out and then the time the law requires between *sejmiki* and *sejmy*. Then an ordinary *sejm* lasts six weeks and sometimes takes 12. If it breaks then all this great labor comes to naught. Waiting two years for another *sejm* or at least a year, and if there is to be collection of the taxes passed and execution of other decisions made at the *sejm*, then this has to be sent to the *województwa*. Then the relational *sejmiki* [take place] and, if they do not break, execution requires some time, while at the same time *sejmiki* negate that which *sejmy* decide by means of protests. Before all this is finished, a half year has passed. So what is the use and effect of councils when execution is so slow? If during this council something is decided today, then nothing will come of it tomorrow, and so we must change this by means of revolution and reform, particularly in regards to military matters, and what of this, which has been eroding for such a long time.
Regarding secrecy, it is obvious to everyone that our councils lack this, because neither sejmiki, which want to know about every affair of state, nor sejmy semotis arbitris\textsuperscript{702} and by means of documents to the archives,\textsuperscript{703} can keep a secret. Therefore we need to adopt a more effective means for council, so that it will be faster in times of sudden need and so that it can be secret, like the examples we have in the Dutch, Venetian and other republics, which have standing councils and secrecy. For there, they are not afraid at home and constitute their government of people who are elected, and they trust them, even when they do things in secret. We, on the contrary, imagine majesty [majestat] like a falcon above us, distrust everyone and all want to know about the smallest matter. However, when kings, our lords, relinquish this power [potencyja] voluntarily, to the suspicious szlachta estate, by sharing the distribution of offices with the other two estates, more confidence among the estates will return and councils will then be more effective and more secret.

And because our councils are both local at sejmiki and general at sejmy, we will discuss each separately.

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*On Sejmiki and Glos Wolny (free speech)*

\textsuperscript{702} without observers. Usually parliamentary chambers were crowded by observers, both Polish and foreign. Sometimes the chambers were cleared of observers when serious matters of state were discussed.

\textsuperscript{703} *Skrypty ad archiwum.* These were secret decisions, sent directly to the archives without being published.
Free speech is an ornament of the Polish szlachcic and a pillar of szlachta freedom. For taking away a szlachcic’s ius vetandi and his veto, would cause all the laws of autocratic rule to come rushing in and reduce the szlachta to other nations that live under absolute rule. But as the worst flaw occurs in the best things, we see, that her uncautious sons use the holy law of free speech to destroy the fatherland along with freedom. As sejmiki are the true forums for free speech, every szlachcic’s ius vetandi must remain invoiable there. Because a szlachcic comes to his sejmik, or at least should come to his sejmik, with his own free opinion, without any kind of instructions, without the constraints with which we obligate our delegates, he is, therefore, free to understand as he is able and to say what he understands and to stand by it; it is both difficult and improper to circumscribe by law his speech in even the smallest way. A [sejm] delegate’s speech does not and cannot have such privileges because he comes with someone else’s opinion and instructions from his brothers. It is proper then, without touching or disturbing free speech at sejmiki, to explain by explicit law and general agreement the ill use of free speech and make this distinction. First, then, about people: who has free speech at a sejmik and who does not. And second, under which circumstances the ius vetandi or veto applies and which it does not. It is not necessary to reach for new inventions in this, as they are always dangerous and suspicious to freedom. The szlachta estate itself has already shown itself the way to order in this regard when it made a distinction in both areas partly with law and partly by custom (which is the supplement of law). However, laws about this are not universal and are only found here and there in konstytucje that not everyone knows, and customs are not standard among województwa. As one tends to make up what he needs, it would, therefore, be good to write an order for sejmiki at an exorbitancja sejm with all the
województwa in attendance so that everyone knows what pertains. We will be able to do this safely when royal power has been circumscribed as we have said above.

First then about people. In this area województwa have already made the distinction that not every szlachcic has free speech. First, he who is without property or not settled there, although a good szlachcic, does not have a voice and not only cannot contradict, but even less can he vote for delegates or deputies. [50] Sieradź województwo and zemia Wieluńska stipulated this in a konstytucja from 1611, Kraków województwo and zemia Chelmska accepted this konstytucja immediately. Then in 1613 the Kijów województwo and zemia Mielnicka also accepted it, then Płock województwo and the same year the Prussian województwo also stipulated this. Podlaskie wrote it for itself in 1631 and Rawskie województwo did too in 1667. Other województwa accepted this by tacit consent and rightfully so, because how can one who has no property give council about the common property of the województwo? Secondly, those who have been banished [banici] do not have and should not have a voice because how can one who is unfree due to a legal verdict have a free voice, and how can one who himself ignores the law write laws? So it must be enforced, so that the wealthy do not ignore convictions and legal verdicts that cost the poor szlachcic. Thirdly, we do not allow a man bound in service to someone else, although a nobleman and landowner to have a voice at sejmiki and usually call upon the directors not to give a voice to servants. And rightly so, because if soldiers, who are after all our brethren szlachta, are not supposed to participate in sejmiki when they are in the service of the Commonwealth and under the command of their superiors, even if they have significant property, (as the konstytucje of 1591 “De disciplina militari...“ stipulates
and which several *województwa* strictly observe), all the more so, a person in private service cannot have his own opinion, and must say what he is told to say. And for this reason at the Tribunale in 1589 an oath was administered to the Wołyń deputies, that they were not sworn servants or [51] paid employees of any lord. And lastly, delegates, after the votes are read and they are declared delegates, usually speak *passive*, because they are already bound by service to the *województwo*; their *activitas* ceases immediately after their nomination during the harmonizing of articles. This refers to the people among whom this distinction has been made, partly by law and partly by custom.

And now it will be easy to distinguish between matters in which the *ius vetandi* has a place and those in which it does not without infringing on free speech. Because certain matters are decided and should be decided at our *sejmiki* and *sejmy nemine contradicticente*⁷⁰⁴ or by general consensus [*spólną zgodą*], that is so that everyone agrees unanimously without contradiction upon the articles of *sejmik* instructions, points of *województwo* decrees, and on *konstytucje* at the *sejm*. Or *per pluralitatem*, like the elections at *sejmiki* of delegates to the *sejm*, deputies to the Tribunal and candidates for local magistrates and at the *sejm*, the election of the Marshal of the House, decisions about disputed delegates, and all verdicts of the Tribunal. Thus reasonable reflection is necessary, because the *ius vetandi* or veto should be allowed in matters that should be decided without contradiction, for it is proper in such matters that everyone agrees, otherwise, even if just one of many contradicts it, it should not be passed. Regarding matters that are decided *per pluralitatem* and by vote, the *ius vetandi* has no place and that which the larger portion agrees to should stand. So it is necessary to preserve the *ius*

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⁷⁰⁴ Without contradiction
vetandi inviolable in these matters that should be decided by general consent without contradiction, likewise in those that are decided by vote, it is necessary to preserve ius pluralitatis. Because if we want to decide something that should be decided nemine contradicente *per pluralitatatem*, then we destroy the *ius vetandi*. Conversely, if we introduce the *ius vetandi* and contradictions into a matter which should be decided *per pluralitatatem* and by vote, then again we destroy the *ius pluralitatis* and thus disrupt matters and ourselves. On this foundation I will move on to discuss specifics.

First, regarding pre-*sejm*, relational and taxation *sejmiki* at which we discuss materias status and write instructions and decrees. There, [52] because these matters should be decided without contradiction, it is necessary to leave the *ius vetandi* to every free szlachcic undisturbed, without investigating whether it [the contradiction] is proper or not or whether it is legal or not. The only means left is to persuade or plead that they withdraw their contradiction, or otherwise we cannot write it in the instructions or decree.

But in regards to election *sejmiki* for deputies to the tribunal, delegates to the *sejm*, candidates for wojewoda and the first castellans (as the Commonwealth sees fit), as we discussed above. At these *sejmiki*, no issues will be entered into until the elections are over. The election should be conducted only by votes or ballots for candidates *per pluralitatatem*. Therefore neither the *ius vetandi* nor any contradiction can have a place there. And it must be stipulated by explicit law that even if someone wants to break the election by leaving in protest, the director should not heed him nor accept his protest. On the contrary, he should conclude the voting which had begun and then have him [the
objector] tried in the appropriate local court. In the same way a deputy who leaves in protest in the midst of voting at the Tribunal (where per pluralitatem also pertains) is tried and unseated; there have been examples of this. We see that this law is extremely necessary, because not only has the Tribunal become almost vacant due to the breaking of sejmiki and also because in many województwa there are no podkomorzy or ziemstwa. And if this is not prevented and wojewodas and castellans become elected, then as we lack local authorities now, we will not have a Senate because rivals will break sejmiki to spite their opponents. And so that the powerful do not ignore banishment and legal verdicts, let there be a right to object, but allowed only to the aggrieved party, not his representative, and let him have with him authentic documents. Let the local authorities judge these objections there in the church. If it turns out that the candidate is a scofflaw and is ignoring a legal verdict against him, then there is nothing more suitable than to exclude him from candidacy, because to promote him would be to oppress the poor. If it turns out (as happens) that the candidate has been unjustly convicted of treason and improperly condemned, then this should not harm his candidacy and moreover if it turns out to be a rumor to bedevil one’s opponent and this protest has disrupted the sejmik, then the court [53] can punish him either with prison or a fine. Meanwhile, let them judge the one who made the accusation by votes or ballots. If he is found guilty by the court, by a combination of ballots and votes, then do not count votes cast for him, and if he is found innocent, then count and tabulate his votes with those of the others.

705 *przez ziemstwa i grody*
706 Local administration.
I propose that the following necessities for these election *sejmiki* be prescribed by explicit law:

1. That it be stipulated that these *sejmiki* (as described above) cannot be broken, prescribing that the director should not heed any protest or contradiction, nor accept any of these, but should finish balloting and voting by ballots. Objections concerning convicts however, can be adjudicated, as described above.

2. That all election *sejmiki* for deputies as well as for delegates and senators last one day and that voting concludes in one day.

3. That every election *sejmik* not elect a marshal either *per verbum placet*\(^707\) or ballots, but that each election *sejmik* be led by the highest ranking official of the *województwo* or land who is present at the assembly. And even if a higher ranking official arrives after the commencement, he not be able to claim directorship or remove the other man from his seat. We will thus obviate breaking *sejmiki* over the election of the marshal in this way. Higher officials of the Crown or Grand Duchy should be excluded from directing these *sejmiki* by express law so as not to take up their time, and also so that this honor will be preserved for the officials of each *województwo* and land. Judicial *starostas* in the Crown are eligible to be directors and come after *podkomorzy*. However, he who directs will not be eligible to run for office at that *sejmik*, as has been stipulated by a *lauđa* of the Sandomierz

\(^707\) By the word *placet*, “it is agreed” (i.e. by acclamation).
4. That one or two assistants from each województwo or land be deputized to help with the work and better ensure that those not settled there, servants and others who do not belong there do not sneak in. And also so that the director will be free of ill will and suspicions because he will have ready witnesses.

5. And so not to take up time with nominating and giving speeches, and so that everyone can nominate whomever he wants without fear of offence, because of which one sometimes must nominate someone he does not want to. Let these elections be conducted per tacita suffragia, that is by folded ballots in an urn, so that no one can see what is written there. So as to ensure good order, I believe it is necessary that early in the morning the counties (in populous województwa) [54] disperse among the chapels and there before a local official [przed urzędnikim ziemska lub grodzkim] sign in, taking care that servants, non-residents, convicts and others mentioned above not enter. In this place each [citizen] may immediately voice objections to his opponents so as to make peace or adjudicate the matter right then without disrupting the sejmik later. Then after two hours this written register will be given to the director sub carentia activitas,⁷⁰⁸ for otherwise they could purposely stretch out registering all day by some trick so that the election could come to naught. Not only will all such acts electionum be facilitated by these written nominations, not only will everyone be able to elect whom he likes without hatred (because he can show anyone interested a different card or throw a different one into the urn), but also all these inconvenientiae will cease [when] one counts the votes of the others. Tabulation errors need not be

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⁷⁰⁸ To stop the activity
feared because each man should come to the table when the director reads his name from the register and having shown that he has only one card rolled into a tube in between his fingers, should throw it into a box designated for this that stands open on the table. In addition to this, if two cards are found rolled up into a single tube, then both will be torn up. Thus everyone will refrain from cheating so that his vote is not thrown out.

6. That no letters or petitions be accepted until after the elections have been completed, particularly first thing in the morning, and especially on short days. As soon as they are in session, the decree for the sejmik will be read, and then the order of these sejmiki, written up very thoroughly, so that everyone will be familiar with it and no one will sin out of ignorance. After this reading, the official of the województwo or land, whoever is highest ranked at that moment, will sit behind the table and the counties (in populous województwa) will disperse to the chapels, where they will write registers as above. Whoever arrives last will be written down last. In an equal Commonwealth everyone’s votes are equal, there will be no dishonor, if the official takes the vote of one who comes late after a szlachcic without a title. Let all who come after the two hours of registration not have a voice because that would cause disruption. Let whoever wants to [participate] come early. After the director sits down again after registration, he will read from the registers in order and will collect the secret ballots in the box so that it can be concluded in one day. If after the reading of registers and collection of secret ballots enough time and daylight remains to count and tabulate the votes without candles, that is good. If not, then the box with the
ballots will be sealed and taken to the sacristy and only on the next morning, having opened the session again (not accepting any more ballots) the director will open the box in the presence of his assistants and the szlachta, count the votes and declare whomever received the most votes deputy, wojewoda, castellan, etc. and with his assistants give confirmation of this [55] to deputies of the Tribunal, resident senators and the council.

7. And because no materie status will be raised, the ius vetandi should not pertain. In fact, if someone wants to annul the election with a protest and break the sejmik, he should be considered an oppressor of free speech and enemy of szlachta equality and should be tried according to the statute of Zygmunt I pro turbatore conventus, and like mentioned above, tried after the completion of the secret balloting. One might have a qualm about this: what if the majority of the sejmik leaves with contradictions? But we need not fear this, because the election will be conducted by secret ballot and neither side will know what is in the ballots and who is getting more votes, they will hope well for themselves and will not want to disrupt the sejmik.

And that is all for election sejmiki for deputies and candidates for the first senators. Now regarding pre-sejm sejmiki to elect delegates to the sejm: because instructions and decrees need to be written nemine contradicente at these sejmiki while elections of delegates should be conducted ius pluralitatem, therefore both the ius vetandi and ius pluralitatatis must be preserved at these sejmiki, I propose to divide the act of electing delegates from the act of writing instructions. Let them first, as soon as they arrive on the first day,
conduct the election of delegates in the way outlined above, that is under the first official of the województwo or land and by secret ballot. And only after the voting is completed, will they elect another marshal either by secret ballot or custom to the second act of the sejmik, that is the writing of instructions, decrees and other sejmiki documents, the reading of letters, petitions, etc.

The following advantages will come from the election of delegates being handled first before all other matters. First, even if the second act of the sejmik breaks over some point or article, the województwo or land will still have delegates, without which, we have discovered, things go very badly, when they are overburdened by taxes or a heavy tariff is placed on them, and this would be even worse, if we establish consilium perpetuum or annual sejmy (more on this below). Secondly, those brothers, who come only to vote, once they do this, will return home and it will be both easier on them and easier for the marshal to write the instructions and also it will facilitate the sejmik. Thirdly, these banquets, nighttime intrigues, parties and other exorbitancje, from which inconvenientiae arise (as experience has shown), will cease. The wealthy will be free of these costs and the poor free of the costs of lodging and injuries from drinking bouts, because a vote will fall like a dead bolt; competitors will no longer exert themselves wining and dining, bribing, factioneering, etc.

And if no difficulties arise from this during the second act of the sejmik, that is the writing of articles and points, when they want to know who was elected delegate and who was not, let the box, in which the ballots lie, without [56] counting or tabulating the
votes, be given under the seal of the director and his assistants to the sacristy of the church until the conclusion or breaking of the second act of the sejmik. In this way we avoid many inconveniences. For first, we retain everyone most needed for counsel and the writing of instructions, decrees, etc. The others are those, who seeing that they will not become delegates, would leave in anger; those who might break or disrupt the second act of the sejmik would leave. In order to keep all those who run for delegate, let us add that if someone leaves, even if according to the vote tally he is elected delegate, then the one who received the second highest number of votes will be declared delegate in his place. Second, those who already knew they had been elected delegates would promote the articles they deem necessary, while the others who were not elected would hinder them out of spite and there would be an immediate collision of interests. Third, declared delegates must *curere activitate*, and so worthy people will have a free voice to counsel about the good of their województwo and the Commonwealth, no one will know if they were elected delegate or not.

Only after the conclusion or breaking of the second act of the sejmik, the first official, who holds the staff of the director or if he falls ill, one of his assistants in his place, should sit down and having taken the sealed box from the sacristy and opened it, count up the votes from the ballots. He will declare those who received the most votes delegates. And then they should be sworn in, and even without instructions in casu breaking of the sejmik, go to the sejm and take care of the interests and good of their województwo and the whole Commonwealth.

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709 cease activity (i.e. not express their own private opinions).
From particular councils, sejmiki, let us go on to general sejmy, upon which the conservation of the whole Commonwealth depends. We have mentioned already that these are so slow and take so much time that it is impossible to maintain secrecy at them, upon which councils rest. Experience also shows how uncertain they are when one evil man offended by something or hired for some great scheme ruins one. By breaking the sejm he leaves the Commonwealth without counsel and without defense. I will not mention how many issues in the województwa’s instructions about domestic order and things necessary to the common good pass from sejm to sejm in the recessy, when [57] we can hardly settle [the issue of] the defense of the Commonwealth in five days at the most, other desideria and petitions of the województwa have to remain in the basket.

The Commonwealth saw and experienced this during the first Swedish war and therefore, right after it at the Sejm of 1659 the Commonwealth named deputies who were supposed to find a modum concludendorum consiliorum at sejmy (as it says in the konstytucja), but nothing came of this. We saw this already under Zygmunt III, that quicker counsel and execution was necessary in war councils, as the konstytucja of 1590 expresses it, and the Commonwealth named deputies from both the senate and ex equestri ordine from the provinces to the king’s side, who were empowered (as title says) to counsel and decide with the king about all matters of the Commonwealth’s security from neighboring enemies, to begin and conclude treaties, etc. etc. These deputies were sworn among other

\[710\] recessy were those issues tabled until the next sejm

\[711\] from the knightly estate (i.e. the szlachta).
things to secrecy, that they would in no way reveal the secrets of the council to anyone, but this council did not last long, because at the next sejm in 1591 it was abolished, for they feared that Zygmunt would pull the deputies to his side by means of honors and bread in order to incite a war with Sweden which he had his heart set on. Despite all this, in years past the Commonwealth has reached for other solutions, naming deputies or commissioners to a war council, to both the king and the hetmans, as the konstytucje of 1620, 1634 and 1649 attest. And then in 1673, 1676 and 1678 this was done, maintaining the council from sejm to sejm. And now since the Lublin sejm\textsuperscript{712} we have had such deputies. Still, this council is not perfect, because it is only for military and foreign affairs and does not consider domestic government. But we need both; therefore we need an excellent means of public council and government.

Let us undertake this means, let it be like the Tribunal in that sejmy will last from year to year and let us form consilium perpetuum, year-long sejm, at which we can have constant counsel for both foreign events and domestic affairs and government. Let pre-sejm and election sejmiki have [58] a set date (for example, after the campaign so that meeting of the war councils would not be disrupted in that year) and the sejm also, let it like the Tribunal also begin on its own fixed date. Let relational sejmiki occur reguarly in this way three or four weeks after the sejm and let everything follow its own order. The sejm can [communicate] what it needs to the sejmiki by means of decrees, and if there is a special or urgent need, they can assemble a sejm with the king, and call sejmiki for the

\textsuperscript{712} The Sejm of Lublin met in 1703.
województwa.⁷¹³ Let them be free to suspend this annual sejm according to the time the laws take, if something happens suddenly later, they can reassemble in a week.

In this way, first of all, we will have quick counsel, because as I said, they can assemble in one week. Secondly, it will be a secure council because it will not be several senators like the Senate Council [now], not several who often represent the will of the court or the most powerful written in the konstytucja, instead this council will be composed of the whole Senate and delegates from all the województwa elected by the szlachta.

Third, it will be secret because only one third of delegates will enter this council and they will be sworn to secrecy. The Senate will also be divided into two houses, of the minor castellans in particular; secrecy is more certain among a smaller group.⁷¹⁴

Fourth (and most importantly), we will have something like a public Tribunal, for not only will there be a council for war, treaties, delegations and other foreign affairs [which will be] be quick, secure and secret, but at these sejmy will also have [a council] for the domestic affairs of the Commonwealth. Just as private matters are adjudicated at the Tribunal, here all public matters can be judged and parliamentary execution, about which we are especially concerned, will be more frightening to all.

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⁷¹³ Without drawing any attention to the change, Karwicki proposes granting the new standing sejm (including the king) the right to call sejmiki. This right, of course, belonged to the king alone. He implies that the sejm would be able to call and suspend its own proceedings (perhaps with the king’s consent) as well.

⁷¹⁴ Karwicki does not mention this smaller, emergency council in De Ordinanda.
Fifth, this will prevent breaking of sejmy because it will be impossible to break such a sejm (more about this below).

When the king no longer has the power to endear the Senate and delegates to himself by use of vacancies, freedom will not need to fear any danger from this kind of sejm. And we will be safer from these lawbreakers (exorbitantów) who inspire the fear in the szlachta estate and pull the wool over our eyes using the machinations of majesty, while they themselves commit evil; we will be able to punish them and put things in order.

So then, let us do the following to establish good government and provide order to these sejmy. We have seen that two specific things disrupt our sejm deliberations: first, this great number of people in a group all talking about one thing, almost 200 delegates counting the Prussian delegates\(^{715}\) (when all the sejmiki conclude), and when all the senators come about 140, and when the two chambers join, each and every one wants to show off to the king or to the aristocrats or to the brothers, so he takes both the floor and time. Even though we can hardly write one konstytucja during five weeks in the House of Delegates, we want to do everything in five days upstairs.\(^{716}\) The second thing [59] that disrupts sejmy is this jumble of various issues and often contradictory instructions from the sejmiki, it is similar to that Spanish dish, which they call olla podrida, where they put

\(^{715}\) The three provinces of royal Prussia sent as many delegates as they wanted, usually around 20. The total number of delegates from the remaining województwa and lands was 168.

\(^{716}\) The Senate chamber was historically upstairs from the House chamber, so they referred to meeting in the Senate as going upstairs. From 1637 onwards the House of Delegates was supposed to go upstairs five days before the conclusion of each sejm to present the bills it had passed already. This rarely happened on time.
various foods in a single pot. There are 60 some instructions from the województwa and lands when all the sejmiki conclude and each one runs several pages of various articles, one contrary to the next, and this ante omnia, when one person advocates this and another person something just the opposite.

Let us divide this group of people and also let us distribute the jumbled issues and matters among them. Presently, everyone in one group wastes time listening to the one person who is speaking, so [let’s make it] that everyone works and helps each other at the same time. Let us simply, as I say, share the work among many hands. It is not necessary to think up new ways, because freedom always suspects new inventions. Let us just pick up the tracks made by the sejmy themselves, and secondly, let us return again to ancient customs. We have provincial sessions for understanding and working out issues. Deputies are appointed to [review] treasury receipts, we call the Radom Tribunal. Let us put this in good order. Why do delegates now knock about at sessions in monasteries with treasury receipts in private palaces, less properly and without dignity? Let us instead assign them to the castle, where the sejm will be; and in addition to the two chambers, let us name a third. Thus, they will be able to meet regularly in three chambers and debate matters in their own order.

Let one chamber be that which is now the House of Delegates, where sejmiki instructions and articles will be combined and distributed to the two other chambers as appropriate according to the instructions of the województwa. They can take care of other matters there too, so as to facilitate deliberation later.

717 Ollo podrida: a Spanish stew of meat and wide variety of vegetables.
The second chamber is that which we call the Senate, where affairs of state should be debated, such as war and peace, foreign delegates, agreements with neighbors, border commissions and other similar issues, and occasionally the sejm court can be held there.

Let the third chamber, which needs to be assigned to the castle, be the fiscal chamber, there whatever comes under the heading fisci should be treated and I would like to have the Radom Tribunal\textsuperscript{718} transferred there too. Because it used to be that all these accounts were handled at the sejm. Only under Zygmunt III (under whom difficult sejmy occurred because of his private interests with Sweden and his stubborn character) was the Tribunal first established by the konstytucja of 1613, at the second sejm (for there were two in that year). Thus, it would not do any harm to return to this ancient custom and bring back all these accounts to the sejm. [60] Let all contracts about provisions for the Commonwealth go \textit{per plus offerentiam} arise there. Also courts about royal properties, from which an entail for the army will be created, can be held there (more about this below). For this the following things are essential:

1. That both delegates and senators be delegated to each chamber, because in the Chamber of the Województwa or Delegates something different will be done, just the combining of sejmiki instructions, which the senators wrote along with the szlachta. (It was not at all bad that senators sat in the House of Delegates at the last convocation in 1696.) And thus when the szlachta elect them, delegates will be able

\textsuperscript{718} The Radom Tribunal adjudicated disputes about fiscal matters, taxes, etc. Senators chosen by the king and citizens elected by the sejmiki served as judges.
to unite familiar council with the Senate, as was said above and more will be said below.

2. That they not break out of the House according to the will of the Marshal, as has been done until now, but that deputies from each województwo be assigned to each chamber. For this way the województwo will be safer, when each of them has observers in each chamber and then at the relational sejmiki each województwo will receive enough information. Where sejmiki elect 12 delegates (like from Poznań and Kalisz), they will sent four to each chamber; where they elect six (like from Kraków, Sandomierz, Rawa, Podlasia), they will sent two to each, and they will make their relation as a group. The Krakowianie, who are accompanied by the Zator delegate, will send him whereever he seems most needed. Where they elect three delegates (like Lublin and Płock), they will send one to each. Sieradź with Wieluńska land, Brześć with Dobrzyńska land will send two to each, Łęczyca will send one to two chambers and to the third let them send two delegates. In Prussia (where there is not set number of delegates) and also Ruthenia, Mazowia, let the general sejmiki moderate the number according to the sejmiki that conclude. Likewise in Lithuania, the counties and województwo can distribute themselves.

3. That this division does not break up the House of Delegates, therefore as needed with [the possibility of] recesses (which can be freely called according to time and need for several or more weeks), let all the chambers unite in the senatorial or rather the Council Chamber. There, if some contradictions and difficulties came up in the
other chambers, perhaps the Marshal can propose something, if he can solve it, that is
good, if not, then they can either table it until another session or the next *sejm*, or they
can confer with the *województwo* or province about the delegate who was
inappropriately stubborn, more about this below.

4. That the Marshal be free to be in one chamber one day and another the next to
direct, when he sees the need in order to better [61] assuage diffidence. Meanwhile in
the other two chambers, deputies who have been sworn-in according to the law of
1678 will preside in the place of the Marshal.

5. Let similar issues go to print under one *konstytucja*, like bridges, tax breaks,
enoblements, grants of citizenship, etc. For presently, each one is written separately,
with preambles even, and because of this, books of *konstytucje* become so large that
soon one person will not be able to lift them.

The advantages of dividing the chambers will be:

1. Parliamentary affairs will be facilitated, and because of beautiful cooperation
everything will go better, when we escape this jumble of issues, for each chamber
will treat that which belongs to it.

2. The delegates will moderate themselves, because the older, more knowledgeable
statement will go to the council chamber, and those familiar with accounts and
financial matters will go to the fiscal chamber, while the younger ones will stay in
the Chamber of Delegates or Województwa for practice; and those who, having declined into old age and tend to busy themselves with conversation, they will have to mind their responsibilities, if they want their brothers at the sejmik to thank them.

3. Competition and campaigning for the office of delegate (which now disturbs our sejmiki) will abate a bit, for not everyone hurries to do real work, more so when at the relational sejmik everyone will have to give his own account of what he did in his chamber, instead of now when some people put this off on the others.

4. When the Radom Tribunal is transferred to the sejm, both the Commonwealth and the województwa will be freed of the cost of traveling from the sejm to Radom and back again and and we will be able to stop all this.

5. When this group of councilors, and also eavesdroppers are divided among the chambers, it will be easy to count, for these observers irritate both delegates and Senators. The Council Chamber in particular will be free of this and there will be greater secrecy.

6. It will be easier on the kings because they will have breaks; especially near the end, constant sitting is sometimes more tiresome to kings than the labors of camp.

Regarding the order of sejmy, I believe we should undertake the following:

1. As soon as the delegates arrive on the first day they should begin with the trials and expulsions of disputed delegates [rugi] and conduct this under the former marshal, so that
the chamber knows and the delegates themselves know, who should sit among them and who not. [62]

The konstytucja of 1678 refers these judgements [to be heard] by the new House, this way either the delegate (or rather his województwo) suffers harm or the House itself does. Because if one who will later be expelled elects the Marshal, than the House is harmed; if he is not allowed to vote and later is recognized as [a legitimate] delegate, then he is harmed and his województwo suffers dishonor. Additionally, the friends of the controversial delegate hold up the election of the new marshal so he will not be tried (we had an example of this at the 1687 Grodno sejm719 which because of this everything happened and [the sejm] dissolved without the election of a marshal) and so here judging these cases under the old staff [directorship of the former marshal] will facilitate the election of a new marshal. But it would be best if the województwa themselves judged these objections when the delegate was nominated, as I mentioned earlier. Let it be determined that one who has not raised [the issue of] convictions at that time cannot try to expell a delegate later at the sejm. For these expulsions harm the województwa, when they lose a delegate who is already in the House. Therefore, it would not be a bad idea in case of the expulsion or death [of a delegate] that the sejm call a sejmik for that województwo to elect another one (as the college of cannons does when a deputy [deputat] dies). Or that a sejmik that usually elects, for example, six delegates could designate in its decrees the two men, who received the most votes after these six, and in case of death or expulsion so he could immediately step in next.

719 The Grodno sejm was held January 27-March 5, 1688. It was at this sejm that he appealed to the delegates not to accept the protest of delegates before a marshal had even been election. He was unsuccessful.
2. Everyone with an objection should voice it at the very beginning of the expulsion period \([rug\textit{i}].\) If there is such a delegate, then hear his case. If he falls ill, then as soon as he arrives, the delegates of the three houses will gather and pass judgement. For a bad habit has arisen that a person with an objection will not voice it until the [disputed] delegate speaks, and he who feels guilty, purposefully does not speak, watching for the moment when the objector is not present and in this way tricks the one who has been harmed. Let us then close this crooked path and let there be justice for even the poorest. Wealthy convicts will take care either not to run for delegate or to placate the plaintiff earlier.

After the expulsions, let the voting for a new marshal proceed immediately by ballots or \textit{suffragia tacita}, if it seems fitting for speed and to avoid hatred. After this election, let the delegates from each \textit{województwo} work out among themselves who from the group will serve in the Council Chamber [63], who in the Fiscal Chamber and who will remain in the Chamber of Delegates. And thus every \textit{województwa} will give this list on paper to the Marshal. And if the delegates from some \textit{województwo} cannot agree among themselves, the Marshal will appoint them or let them decide by lot who will go to which chamber. However, I would prefer that no one under 30 or at least 25 and who has not served as delegate at least twice, be sent to the Council Chamber. For if in private matters the law recognizes that one younger than 24 should not administer his own fortune or inherit property, so much the more so should a youth not administer the fortune of the entire Commonwealth. After delegates and senators disperse to the chambers, instead of
the less necessary proposals and speeches from the senators [vota], let each chamber
collect information from delegates from the previous sejm about where matters stood in
that chamber.

On the Distribution of Vacant Positions at the Sejm

We spoke about vacancies such as for the positions of wojewoda and senior castellan
earlier, that the nomination of candidates and their presentation to the king should be
conducted by the sejmiki. Now, regarding the other vacancies such as minor castellans
and other ministers of state, all the Crown and local officials, podkomorzy, starosta
grodzki, and judges, let them be conducted per electionem, but at the sejm. For
example, let one day every three or four weeks be designated for the Crown Marshal to
submit [a list of] vacancies in the Crown and the Lithuanian Marshal to submit the
Lithuanian vacancies and to suggest candidates. The next morning, once both the senators
and the delegates from all the chambers have convened in the Council Chamber, let each
place a piece of paper rolled into a tube with the name of the man he wants to fill that
vacancy into the urn (let the voting be conducted by secret ballot for expediency, so as
not to take time with speeches, and also to avoid animosities). After all, in Venice the
greatest elections, even for the prince of Venice, are conducted with balls and they bear
no shame from this, boys go around with little boxes or drawers. And that republic has
already existed a thousand years in good order. There is no harm in learning something
good from our neighbors. Because of these elections all the higher offices will have

720 These are all local officials, whose titles and specific responsibilities varied from place to
place. They were generally responsible for law and order at the local level.
dignity, when neither knaves, porters, nor women will be asking for privileges, but when offices will be filled by the sentiments of decent people and certainly not just anyone will get one as has often been the case; everyone will strive for a good reputation and the affection of all, whoever wants to advance will not be paying court to the king or his favorites. [64]

And the kings themselves will be free of nuisances and animosity; public councils will be more peaceful, officials, who hold several offices, which we now have, will disappear. However, for more peaceful sejmy I would like to stipulate by law that no one compete for any vacancy while he is serving as delegate. Former delegates should enjoy first consideration in the competition at the next sejm because of their labors and efforts.

**On the Breaking of Sejmy and Leaving in Protest**

If there is one exorbitancja in the szlachta estate that is most dangerous to freedom and the fatherland, then it is the breaking of sejmy, when one evil person either from private offense toward the king or court (particularly about vacancies) or who is encouraged or bribed, breaks the sejm and by taking revenge on the entire Commonwealth for an unsuccessful private matter, puts his own fatherland in all kinds of danger without counsel or defense. I said above when discussing sejmiki that the voice of a delegate at the sejm and his ius vetandi is very different from the voice of a szlachcic at his sejmik, because a szlachcic comes to the sejmik without any constraints on his speech, without instructions, without an oath, without obligations and he is, as I say, *liberrimum loquens*. 
But a delegate comes to the *sejm* with a voice limited by instructions, not with his own, but with the opinion of the whole *województwo*, obligated by faith, honor and conscience, and in some *województwo*, by an oath. He should not act so absolutely and despotically as often happens with the Commonwealth. But now what is to be done, now that this unfortunate habit has increased so that neither *konstytucja* nor any other means have been able to prevent it to this day? Everyone can read in our histories where this harmful habit among delegates of disrupting *sejmy*, and even breaking them, came from, particularly in Kromer, Polish bishop and senator; when describing the beginnings of the House of Delegates under Kazimierz III, he concludes that the kings and aristocrats inspired the delegates for their own private interests, puffing up the delegates like bagpipes, they ruined the temple of laws and liberty—the House of Delegates, and he warns us lest this debauchery which destroys freedom bring great danger to the Commonwealth and leave it without government, or bring it to an end in grave tyranny and slavery.[65]

Just as we must fear one of these two due to the breaking of *sejmy*, we must also fear that either, once the Commonwealth falls on hard times without harmony [*zgoda*] and without council, it will be partitioned into pieces by its neighbors, or that all parliamentary council will come to be transferred to the Senate Council, which will slowly lead to a change in government, so much having been ceded to the king, who will be able to use this breaking of *sejmy* to his advantage.

And we are mistaken when we think that when we break *sejmy* we are harming kings, because, in fact, in this way we pave him a road to *absolutum dominium*, when all
council and government fall on the residents at his side: and so to speak, we depend more on *sejmy* not breaking due to delegates’ leaving in protest, more than the king does.

If someone says or thinks that [without the veto] when it happens that all the delegates have been led astray by private interest, one virtuous man will stand by freedom, and they will not listen to him and will write and decide something harmful, then freedom will be destroyed.\textsuperscript{721} First I say, that he paints the fatherland poorly, who even in his thoughts expects to see such times when only one among the elect of the *szlachta* estate in the House of Delegates will be virtuous and the rest traitors. God forbid we see such times. The Commonwealth and freedom will have perished, although who knows what conditions she would be in, because every Commonwealth exists not only by good laws, but by good and virtuous people. Secondly, this [proposal] will not block the way of delegates’ protests, in fact it describes (more about this below) how the Marshal of the House will not write down any *konstytucja* that has been objected to, but will note them separately. Third, let us lastly admit, that if something harmful enters into the *konstytucje* this is not deadly, for what one *sejm* establishes, another can abolish. It was written at the *sejm* of 1678 that the Marshal should appoint deputies to consider issues that had been tabled *nulla obstante contradictione*,\textsuperscript{722} but because this clause seemed harmful to *ius vetandi*, it was abolished immediately at the next *sejm* that concluded in 1683; there are many other examples. That which a pen writes, a pen can correct.

\textsuperscript{721} This was the rationale for preserving the unlimited *liberum veto* A.M. Fredro presented in 1660: that without the veto, a virtuous minority would be unable to prevent a corrupt majority from sacrificing liberty for their own (selfish) gain. Fredro offered this explanation during Jan Kazimierz’s campaign to put a French prince on the Polish throne, when it indeed seemed that a corrupt minority of senators were about to accomplish an autocratic *coup d’etat*. See Chapter Three.

\textsuperscript{722} Not opposed by a contradiction
But on the other hand, when one evil delegate, breaks a sejm because he is paid to or in order to further his own private interest or that of someone else, he leaves the Commonwealth without deliberations, the army without pay and discipline, border regions without defense, where many Christian souls fall into pagan slavery due to the exposure of the borders, [66] provinces are lost, the Commonwealth itself is desolated by enemy armies and bears a thousand other injuries; will another sejm be able to fix this with a pen and make up for this harm? They say that the path is long through study, but short through example. Let us go this route and count up the broken sejmy, and what good have these contrarians who broke sejmy brought the Commonwealth and freedom? And now we have a fresh example, the Commonwealth groans under the weight of such great armies. It is then a political chimera and the wool which they pull over our eyes, that breaking of sejmy is necessary for freedom. I say instead that it paves the way to despotic government, when all the council and governing falls to the king and his resident senators, as was said above.

Therefore, the Commonwealth wanted to prevent this breaking of sejmy (which had been a nuisance) at the pacification Sejm of 1673 after all the diffidence and domestic battles, and put everything in order under the heading of the confederacy,\(^{723}\) (as the konstytucja says) to return the formam Reipublicae et antiquum status, confirming sejmy, sejmiki, the House of Delegates, we guaranteed liberatem sentiendi et ius vetandi (but as was added) according to the law. We thought at the time that this would counteract vehement animostities, but time showed that it did not. For among us every delegate not only wants

\(^{723}\) Karwicki refers to the Confederacy of Gołąb, discussed in Chapter Five.
to interpret law as he wants, but on top of this, when neither the law nor *sejmik*
instructions are in his interest, he resorts to the general law to which ambition for his
interest draws him: *salus populi suprema lex*\(^{724}\) and, having become a zealot for freedom
and the common good, he leaves the chamber in protest and then later by sneaking out of
his lodgings, he breaks the *sejm* and leaves the Commonwealth without counsel, without
defense—while he has one who will protect his back.

An annual *sejm*, which can be freely suspended, will prevent this breaking of *sejmy*. First,
no one will be able to break it over the issue of prolongation. Secondly, if someone is so
stubborn to leave in protest and cannot be convinced to return, then the *sejm* can be
immediately suspended for a couple weeks (especially if there is no danger from abroad),
and decrees can be immediately sent to the *sejmiki* and general *sejmik* of the province
from which that delegate hails so that the whole province can judge whether his exit in
protest was necessary or not. In order for these [67] exits in protest not to become
common and disrupt affairs of the Commonwealth, I would like them to be judged in a
court. And because an equal does not have power over an equal, the House of Delegates
cannot judge such a delegate, but the *województwa* upon which the delegates are
dependent, have the responsibility of inquiry and judgement in this matter, and so that it
will be conducted with more dignity and gravity, let the whole province decide at its
general *sejmik* and if it is found that he disrupted the *sejm* because he was encouraged to
or out of some private interest, let him be declared ineligible [for office], or as considered
appropriate. The *województwa* and lands of the province can elect judges to the case
(when such cases arise) *per pluralitatem* and for just this one case. We need not fear that

\(^{724}\) The good of the people is the highest law.
such trials will happen often, for let one lawbreaker [*exorbitant*] be punished and dozens will apologize. And thus both the *ius vetandi* will remain whole and there will be punishment of the wicked.

And regarding order in the House of Delegates, I would propose:

1. That there be a comparison of *województwa* instructions during which similar articles would be noted separately and distributed to the chambers: matters of state to the Council Chamber, and treasury issues to the Fiscal Chamber. Contradictory articles would be noted separately and left in the House of Delegates so that while the similar articles are treated in the other two houses, delegates in their own chamber can combine these contradictory ones as best as they can for general consensus. Young delegates will have a forum to show themselves there. With this comparison of instructions another path to disruption of the *sejm* will be closed, for oftentimes another delegate will support something that is not in his instructions while standing against his own instructions.

2. And so in order to preserve the *ius vetandi* as a whole, let the marshal and deputies to *konstytucja* swear that they will not write down any *konstytucje* which were contradicted, but having crossed out that bill and written down the objector’s name, he should, once the chambers reunite, present this contradiction. If the objector cannot be convinced with reasons, then let the *sejm* go into recess and send the objector to his province for judgement, as described above.
3. For the sake of more peaceful deliberation, let no one who is a delegate run for a vacant office, as described above.

4. And so as not to discourage people from serving as delegate, let us establish a salary from the województwa for delegates. Formerly, they were given one from the treasury, then the województwa [68] provided them. Let delegates by general law be salaried, so that the willing can serve and not think about how the can find the money to do so. This is very small expense, but because of it, decent people of modest means excuse themselves from these functions. All the more so when they will have to sit nearly a whole year and agree not to try for any vacancy. Only a salary will obligate them to watch over the sejm and arrive right at the beginning, as the Bracław województwo stiputated in a konstytucja from 1633 when it established a salaria for its delegates.

5. It is necessary to have alternation among delegates so that there is not a perpetual dictatorship, thus several województwa have stipulated in their decrees to add this to the order of the House of Delegates that, like deputies to the Tribunal, one cannot serve as delegate to the sejm but once every four years.

6. And it would be very proper for a województwo to have a number of delegates in proportion to the taxes it brings into the treasury to defend the Commonwealth. For why is it proper that Podlaskie województwo brings in one whole hearth tax of 5000
and Rawa half a quarter [of one] while both of them have six delegates at the sejm, equal to Kraków or Sandomierz, which give some 20,000? Worse still, delegates from other województwa, which hardly give anything toward the defense of the Commonwealth, do the most to disrupt deliberations of the Commonwealth and sometimes even break sejmy.

7. It would be very good for delegates from each województwo to have designated loging all together, and it would be easier if every województwo assigned from the alcohol tax or some other tax a sum to build a building of appropriate size where the delegates could gather more easily and meet with each other.

*On Interregna and Royal Elections*

We have spoken rather broadly about government under a king [*sub regno*]; it is fitting also to speak about interregna. Our interregna and elections are critical revolutions, very dangerous to the Commonwealth, and if divine providence did not preside over them, we would need to fear certain change and destruction of freedom from all the various nations, heads, and factions gathered in one mass. Particularly the elections of Zygmunt, Michał and this most recent one, from which the Commonwealth [69] is still reeling. Our forefathers understood this and therefore under King Stefan, as our historian, senator and worthy bishop writes: “*Praefinire electionis novi regis stabilem aliquem modum, quo incerto eousque interregna fluctuari et transversam in praeceps agere Rempublicam*”
solebant. But right away the factions that were disinclined to the king turned this to naught, claiming that he was thinking *de absoluto dominio* with this plan to circumscribe elections. Even Zygmunt III had his own proposals about this. Then Władysław, Kazimierz, Michał, Jan III, and this king August promised in their *Pacta Conventa* that they would instill order during interregna, but nothing has come of this. Somehow we have already put ourselves in this disorder and we catch fish for our private tables in these muddied waters; it is difficult introduce good rules and unaccustom ourselves from this bargaining which everyone usually does for his side at elections. However, anyone who does not wish the rapid destruction of the fatherland and freedom, should consider a means of government during interregna, and especially for the election of kings.

Written laws will not help with this. Effective execution of laws requires that some men write the laws and carry them out, while others obey them. We, however, write and enforce our own laws; we ourselves do not obey them and we interpret them as we like and often break these laws and those too; we maintain that he who has the right to establish legal rules has the right to interpret them.

So then, if we want to prevent this bargaining, the foreign and domestic factions, and also the dangers that are most grave to the Commonwealth during interregna, we need to completely change the model and way of interregna and royal elections.

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725 To establish some kind of constant means of electing our king, because the upheavals during an uncertain interregnum led the Commonwealth to violent revolution.
First, I would like us to completely reject the conditions and competitions of our neighbors. They will resign all by themselves anyway. When we burden the royal power, no foreign monarch will run after our crown. Our forefathers accepted the election of foreigners to the exclusion of Piasts for two particular reasons. First, they feared that a Polish king, having autocratic control of the distribution of honors and bread [70] would fill higher positions and ministries with his kin, and once he had enriched them with lucrative starostwa, he would slowly curb freedom. Secondly, in the promises of foreign candidates they saw in their minds, as they say, mountains of gold. And thirdly, the truest reason was dishonorable envy, one house in this equal Commonwelth envied another and everyone strived for the crown for himself. Now we have seen under two Polish kings, Michal and Jan III that they were not frightening to freedom, nor did they raise their house so much; even less so when distribution no longer rests autocratically in the hands of the king (as we discussed above). Secondly, we have realized that these promises that foreign monarchs made us brought no advantage, indeed they brought great disruption to the Commonwealth. Henri, instead of establishing a navy on the sea and several thousand Gascon footsoldiers for the Muscovite war, instead of paying off the Commonwealth’s debts, he reigned barely five months, abandoned us, and flew from the unsuitable Commonwealth, like splinters from an axe. When the Commonwealth reminded Zygmunt III about the grant of Estonia that he had promised in his Pacta Conventa, he insisted quite bluntly that he would rather foresake the Polish kingdom than give up Estonia. And when he went to Reval with his father Jan, king of Sweden, he wanted to return to Sweden all together. And then it seemed very likely that he planned to

726 “jak z siekiery na natoniu.” Literally, the expression is “like from an axe onto the a place where wood was chopped.”
give the Polish crown to Austria and annex Lithuania, Żmudź, Inflanty and Courland to Sweden, and thus divide us. Histories and manuscripts show what kind of upheavals arose in the Commonwealth from this. This is the benefit the Commonwealth has gotten from foreign kings. We see for ourselves what the Commonwealth has gotten from this recent election: such great wealth and treasure dispersed among private people has somehow turned into nothing. They are enjoyed neither by the Commonwealth, nor by individuals. Finally, since it will be possible to reduce envy by reducing the king’s power by dividing his distribution with the other two estates, we can also do this by legally stipulating an alternation of houses, that just as one cannot be elected deputy to the Tribunal more than once every four years, so it seems right to elect a king from the same house only once every fourth election. This way, other houses will be able to achieve this honor and in this way the same families will balance [71] each other like on a scale, and because of this, freedom will be safer. Let the king’s children be senators and officials of the Crown, for when leading senators will be elected at sejmiki and the whole council will elect other ministers of state and officials at sejmy, rather than [be appointed] by the king by himself, there will be nothing to fear, as we see in the example of the Venetian republic. (Otherwise, with time we would have more princes than szlachta and if they did not have suitable honors, no one would accept the throne; their children would be denied honors because their father [was king].)

Secondly, I would like to change the custom and law of election, for that which we pride ourselves on, that our royal elections are conducted nemine contradicente\textsuperscript{727} and that one szlachcic can contradict and halt the election, about which much is written in foreign

\textsuperscript{727} With no one objecting
books, in this we delude only foreigners, while we burden ourselves with unnecessary fights and great dangers. Without mentioning more ancient ones, the election of Władysław III, where the election occurred *per pluralitatem*, as the historian writes, “*Reliqui numero suffragiorum victi vel sponte cedebant vel paucitate sua contemnebantur.*” Let us take a more recent election: the election of Zygmunt III, while it happened *nemine contradicente*, in truth, so to say, a great number chose Archduke Maximilian, only one side was more resourceful, it supported its candidate with Zamoyski’s brilliance and prudence, and everyone can read in our history about the kind of upheaval and danger the Commonwealth was in in the midst of this. And while Michał’s election did not happen *per pluralitatem*, before our eyes there were plenty of opponents and they were wealthy, but they were not heard, and because of this Kamieniec and Podole were almost completely lost; only God’s grace returned them to us. And did the most recent election really happen *nemine contradicente*? We saw how many opponents there were and almost the majority were for Prince Conti, only the other side was better prepared and was closer and so could outrun him. There is no need to expound upon how Poland has paid for this until the present. [72] So, we pull the wool over the eyes of foreigners as well as ourselves with this supposed law, while we put the Commonwealth in clear danger. Would it not be better to change agreeably this law or custom, which we have abolished many times due to our own lack of agreement, and decide that elections of kings be conducted by voting, *per pluralitatem*? Whoever has the most votes will be elected king. In this way we will be free of schisms at elections; Hungary perished due to these schisms and double elections. Recall that double election

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[72] “The rest were convinced by the number of votes, either they voluntarily conceded or were ignored because of their small number.”
in which some elected Władysław and others Olbract, the sons of our king Kazimierz III. At another double election one party elected Jan and the other Archduke Ferdinand; they destroyed the fatherland and freedom when that King Jan, unable to match the power of the Archduke, called upon the Turkish sultan for help, and brought ruin to his state instead. Poland is paying for such schism to this very day, when the weaker side recruits a foreign power. Somehow it is difficult to fault someone who stands by his own law, but when we change this custom about the right of veto [de iure vetandi] at elections, indeed when they will be conducted by a majority of ballots, it will be hard for anyone to speak against law and custom.

Thirdly, in addition to changing the shape of elections, I would like to shorten the length of interregna (which are dangerous to the Commonwealth). Because, first of all, what is the need and advantage of having long interregna of a year or more? Why should the poor body of the Commonwealth go so long without a head? Why should we don the hood and suspend the flow of courts and holy justice, and give time to license, rebellion, and foreign and domestic faction? Why should we turn so black with mourning that foreigners call our circle on the field circulum nigrum? (They called it the black circle at Władysław’s election.) And then why do we bring, people of diverse nations, with diverse notions, often adversarial factions [73] from all corners of the Polish world with such a massive march of the general levy and oppression of the poor people, to one field like to a some kind of snarl, almost like to a mutual massacre? Let us look at just two elections. Those of Zygmunt III and the new king August. Piasecki writes about the first:

729 "Kaptury wdziewać." During interregna, when the crown was absent, justice was said to be carried out by “hooded“ courts (sąd kapturowy)
730 About elections kolo w okopach
“Civium discordiae exarserant in tantum, ut instructa utrique acie, pene concurrerint aliquoties, nisi primas et graviores ex senatu inter arma et signa infesta obequitantis et precibus cum lachrymis per salutem patriae duces partium obtestantes, praelium diremissent.”

We saw for ourselves at the most recent election how it looks when one party distinguishes itself from another, they wrapped handkerchiefs around their arms.

What awaits us in future interregna and elections due to this partisanship [zawiętość], unless we ourselves, God help us, put an end to it, if we do not prevent this and find a election procedure that does not bring so many people to one place?

I see no other way that would better suit the freedom of our people, but to hold elections for king in the województwa and lands just like elections for deputies and others described earlier. So that as soon as the king dies, the Primate should, according to custom, announce the king’s death with a formal announcement and in this announcement immediately call election sejmiki according to the opinion of the general council or annual sejm (if it happens to be in session when the king dies). If the council was then in recess, then it should be summoned by the announcement and once they consider all dangers on the borders, to summon the sejmiki no more than four weeks from the king’s death; they should write instructions for the sejmiki and propose candidates for the crown to the województwa. Once all this has been done, the annual sejm should go into recess until two weeks after the election sejmiki so there is no time for it to divide.

731 “Such great discord arose among the citizens that having formed two lines, they several times would have started fighting had not the primate and the leaders of the senate ridden between the opposing weapons and banners and begged the leaders of the two sides with tears in their eyes, for the love of the fatherland, not to resort to fighting.”
into factions, indeed to prevent this. Meanwhile, let all the courts, Tribunal and castle
[grodzkie] courts continue judging cases. Let new suits begin under the title *nos
proceres* \^{732} and let there be a separate register for new cases. However, let the Tribunal
go into recess two weeks before the election *sejmiki* and *grodzkie* courts one week before,
so *szlachta* will be able to go to the *sejmiki*. And these election *sejmiki* should be held
according to custom on a single day throughout the *województwa* and lands in the entire
country. Secondly, general *sejmiki* should not be held in Mazowia or anywhere else, but
each *województwo* and land should deliberate and vote in the usual place (avoiding unrest
and factions), so that a *szlachcic* need not trouble himself by going far away to cast his
ballot. [74]

Thirdly, these election *sejmiki* should conclude in three days, not extending longer *sub
nullitate actus et suffragiorum*, \^{733} in order to close the road to factions through delay.

These three days should be spent in the following manner. The first day should be
devoted to compiling the register from the counties or lands before an official or elder in
the county, who is at the *sejmik* at that time, as was earlier explained in the section about
*sejmiki*. Whatever time is left that day should be used to find understanding regarding the
candidates for the kingdom. Whoever does not come that day and sign the register has
only himself to blame and will not have a vote the next day. The withholding of a vote
from those who do not arrive on time will in no way harm the *województwo* or land or the
people themselves. For in regards to the person, as they say, one who really wants

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\^{732} We nobles
\^{733} Or face nullification of the act and votes.
something will suffer no harm.\footnote{Bo co do niego, powiadają, chcącemu nie masz krzywdy.} When one misses an election that happens once every ten or more years, he has only himself to blame. As regards the województwo, votes for a candidate will be counted not by number of electors, but by tax receipts (more about this below), so the absence or lack of votes from lazy or neglectful electors will do no harm.

On the second day, without accepting anyone else to the register, let the voting be conducted by secret ballot, as we described above in the section about sejmiki, so that first thing in the morning a senator from the województwo or, if he is absent, the first official will preside over the reading of the register written according to county or individual, during which each man, rather than giving a speech, will make his vote on a rolled up ballot, in such a way so that it [voting] may conclude on the second day. These ballots will be locked in a box and sealed and placed in the sacristy of the church or somewhere particularly safe (as explained above when discussing sejmiki).

On the third day in the presence of the senators and deputies from the counties (in larger województwa) the votes will be gathered and counted [to see] how many each candidate received; he who has the most votes of all the candidates will be written down as the candidate of the given województwo or land. And if it happens that two men receive the same number of votes (which happens very rarely), then write down both names, without the number of votes. Here someone might say that in the smaller województwa, which have sparse populations, these sejmiki could be concluded in one day, but first of all, let there be equality in an equal Commonwealth. Secondly, let elections of kings be more dignified than elections of deputies or senators. Third, let no województwo or land know what happened in another one until they know what happened at all of them. For if
candidates were chosen in one day in the smaller województwa, then the next day they could find out in nearby województwa and factions might arise. Additionally, with time for reflection, everyone will be able to vote more deliberately. [75]

Immediately after the conclusion of these sejmiki in three days, let the annual senators and delegates proceed immediately (as soon as possible from the distant województwa) to the sejm, which went into recess earlier. There they will present the candidates from each sejmik (like I said, the ones who received more votes than all the others) and once they present the candidates, the primate will proclaim whoever gets the most votes king. It is most proper to take the proportions used to calculate votes for the candidates from the tax register. For we all take pride in the fact that we are equal by birth in this equal Commonwealth, where (as they say) a szlachcic in his garden is equal by birth to a wojewoda, so only service to the Commonwealth raises one above another. He who does more for the Commonwealth, has more respect from everyone. As it is with private individuals, so it should be with entire województwa. We are all equal in dignity, but after all, the ones that do more for the Commonwealth and for the common good, that send more troops to defend the Commonwealth and maintain our mutual freedom by paying them, they should also have greater respect in proportion in the election of kings. Like that legal expression, and very rightly: Do ut des, facio ut facias. Therefore, it is right to make this proportion based on taxes. If we wanted to base this proportion on acreage [łany] so that a województwo would get as many votes as it had acres [łany], then this would seem to do harm to apportion noble votes according to łany of fields, because several or sometimes dozens of szlachta live in all kinds of homes on a single lan,

735 I give so that you give, I do so that you do.
moreover our *lany* are not consistent. It would make more sense then to take the proportion from the number of hearths, because any *szlachcic* who has his own fire and hearth, even if it is a shack and a patch of field, upon which he pays taxes to the Commonwealth, then he counts himself as a landowner and settled resident and can have a free voice at the *sejmik*. So taking the proportion of votes a *województwo* has in the royal election according to the number of hearths, upon which the *województwo* gives taxes to defend the Commonwealth, for according to the rates and oath of 1661, the whole Commonwealth keeps these rates to pay the army, thus it is proper to maintain these rates also in proportion to votes.

For example, according tp the rates mentioned, the Sieradź *województwo* has 12,000 hearths, from which it pays the soldiers to defend the Commonwealth, so then the candidate for king from this *województwo* (he who, as I said, received the most votes at the *sejmik* in Szadek) would be reckoned 12,000 votes during tabulations at the *sejm*, without regard to whether he had more or less at the *sejmiki*, for here the vote of the whole *województwo* is weighed, not that of every individual *szlachcic*, but according to the proportion of taxes that it brings in to serve the Commonwealth and defend freedom. As was said above, [76] the *województwo* that does more for the Commonwealth and the common good, should have more votes for its candidate at the election. Thus, the Zakroczymska land in the Mazowia *województwo* swore [to give] 3860 hearth taxes according to the 1661 rates and paid only 324, so only 324 would be reckoned to its candidate. Czersk land, though, which paid 6152 hearth taxes, would give its candidate 6152 votes. The same proportion would be kept in the other *województwo* too. Someone
might say we will have a “smoke” king because of this method, let him instead be a golden king. Let us not take from the proportion of hearths, but from a unit of hearth tax and from gold, how much a województwo or land gives per unit of hearth according to the oath of 1661, and reckon that many votes. Sieradź województwo gives 6000 złote, so reckon it 6000 votes. Zakroczymska land gives 162 złote, so reckon it that many votes. Czersk land gives 3075 złote, its candidate will be given 3075 votes. That also will be a proportion. So if some województwo or land takes it as a dishonor that according to these rates its candidate gets few votes, it can easily address this. Let it correct itself and by a new revision of hearths, let it change the tax tariff of Commonwealth and at the same time contribute more votes in the election. This way these województwa and lands, which have been severely underpaying up until now, will bring about equality in tax contributions as soon as possible.

Here perhaps someone will think, would it not be better if all the ballots that were cast in the województwa (and there will be many of them to count), were sent with all the candidates to the sejm, instead of one from each województwo, the one who received the most votes, and only at the sejm count up all the candidate’s votes and elect him who receieved the most in the entire state? But there must be reflection on this. Województwa where the szlachta is numerous would always elect our kings. For example, the principality of Žmudź in Lithuania would have as many votes as several other województwa, which pay more taxes, it would not have that many unless you counted them all in a group. In Wielkopolska two województwa, Poznań and Kalisz have enough hearths to pay 45,000 in taxes. Mazowie województwo does not have half as many, but if
comes to votes, Mazowia would have twice as many as these two województwa, even though they are larger. The same goes for Małopolska, the Kraków województwo has 50,000 hearths that pay taxes. While the Podlaskie województwo has just over 10,000, but if it came to votes then more of these would come from Podlasia than Kraków. And because we use the proportion from the taxes from the whole województwo, no single szlachcic can claim he is harmed by this, nor that there is a more proper way to bring equality among województwa.

Second, instead of preventing factions, this would open the door to them, because [77] candidates would compete among themselves and crowd into these województwa where the population is dense. The poorer they are, the more susceptible to factions, and thus they would vote for candidates more due to factions than due to service and worthiness.

Thirdly, instead of order, which we want to introduce in elections in this way, we would introduce more disruptions in sejmiki with this disorder, because one województwo would accuse another of having too many votes, take issue with non-residents, servants, soldiers, etc. [voting], like the accusations made during the last election for Marshal [at the sejm]. This way, though, whether a candidate from a województwo or land gets 100 or 1000 votes at a sejmik, they will record for him only one vote at the sejm (without referring to or counting sejmik votes), which will be multiplied according to the tax rates for that województwo or land and thus everything will be conducted peacefully, sejmiki without any factions, the more so when elections are held per tactia suffragia.
Whoever reads about the election of the Venetian prince must marvel that there they hold ten rounds of voting and choosing balls according to lot, only then do they nominate 41, who elect the prince with at least 25 votes, and all this prevents factions.

*The Advantages from this kind of election will be:*

1. First, at last they will be true elections and every Polish *szlachcic* will in fact be an elector of his king. There are many of us who have witnessed three elections.⁷³⁶ Let us reckon how many were able to cast a vote for the one he liked. In that din it was impossible to recognize anyone either nominating or objecting. Now, though, every *szlachcic* who goes to his *sejmik* will be able to give his free vote for whomever he likes and it will be recorded.

2. The time of *interregna* (which are always difficult and dangerous) will be shortened, for an election will happen in six weeks. These convocations and other assemblies with their unnecessary costs and burdens on the poor and this suspending of local and general courts will cease and all matters will continue in due course and protocols and registers will not be disturbed.

3. Factions that destroy the fatherland and ruin private affairs will be prevented, because, not only will it be impossible to scoop up others in such a short time, but also because it will be impossible to run through so many *województwa*, especially

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⁷³⁶ Karwicki witnessed the election of Michał (1668), Jan Sobieski (1674) and August II (1697).
when elections will be held at the same time throughout the country and voting for
the new king will be concluded in three days. Foreign ministers, ambassadors and
residents [78] will grope around with all the gentleman squeezed into Warsaw from
all the provinces, like in a school of fish or capons in a pen being readied for
slaughter, the game will go mad and their ranks will be broken.

4. Such elections will bring fame to the Polish nation, for such is the echo among our
neighbors, that more than 100,000 szlachta can stand to defend the fatherland. This
will be verified by these elections, for according to the rates a king-elect will have
200,000 or 300,000 votes from the Crown and Lithuania and that will be a very
obvious thing, in as much as not every foreigner will know the secret that a
candidate’s votes from each sejmik are tabulated not according to the votes of
szlachta who attend the sejmiki, but according to the tax schedule.

5. Schisms at elections, like the ones that destroyed Hungary (see page 120) will
cease in this way when the majority decides, for everyone must stop at this when such
a law has already been passed.

6. There is yet another way to let the election be determined in part by chance
(something like the Venetian form), so that the candidates elected by the sejmiki go to
Warsaw on an assigned day. Because there are 63 sejmiki in the Crown and Lithuania,
let an urn be made into which 62 blank cards are thrown and on the 63rd let there be a
crown or the word “king.” Stir up these cards in this silver urn and then in order, as
the województwa go, let each candidate chose one card. For example, the candidate from Kraków województwo takes the first card and after him the candidate from Poznań then from the Wilno województwo and so on, and the one who draws the one with the symbol or word will be named king. And if it so happens that more than one sejmik suggests the same candidate, for example Sandomierz województwo choses the same candidate from its sejmik in Opatów as Sieradź województwo choses at its sejmik in Szadek, in Wielkopolska, and the Witebsk województwo also agree. Then, when the województwa are read, let him take one card for Sandomierz województwo and then when Sieradź is read, let him take a second card, and later when Witebsk is called, let him take a third and so on. In this way it will be by luck and worthiness, for the candidate whom more województwa agree on is more worthy and nicer for all. So, fate will sooner tap him for the kingdom through several or dozens of cards. But this way (upon further consideration) is not proportional and not sensible. For what about proportion? The Mazowia województwo, for example, which brings 11,000 in taxes to the treasury, has ten sejmiki, that is one for every land, so it will have ten candidates for the kingdom and ten cards in the election, while Kraków województwo, which brings in 25,000 or Poznań and Kalisz which bring in 22,000 have one sejmik a piece in Proszowice and in Środa, so they would have only one candidate and one card in the election. While Wiska land, which contributes 300 złote to the defense of the Commonwealth or Zakroczymska land, which gives 162 złote per tax unit sympla, would also have one candidate and one card, like Kraków or Sandomierz, which give more than 20,000 for the defense of the fatherland. And if we decided to
hold elections by county in these województwa, then there would not be just proportions.

Therefore, it seems best to do this in the following way. First, that royal elections be held not in the lands at the local sejmiki, but at general sejmik. Secondly, that we take the proportion for votes from the hearth tax rates and reckon one vote for every thousand złote (that which is over 1000, but not yet 500, count as only one, but it if exceeds 500 then reckon another vote), three votes go to the candidate from a województwo that gives 3000 to the defense of the Commonwealth, then 20 votes from a województwo that gives 20,000 get thrown in to the silver urn, and the candidate from that województwo will draw 20 cards out. Thus from both provinces of the Crown we will throw circiter 150 cards into the prepared silver vessel and and separately from Lithuania a quorum of cards. Among these only one will be marked with a crown or word, and he, who draws that one will become king. From these cards the candidate from the Kraków województwo will take 25 from the urn according to the rates, the candidate from Poznań will take 12, and then from Wilno. When it comes time for Kalisz, the same candidate who drew 12 for Poznań (because they share one sejmik in Środa and one candidate) again will draw 11 according to the rates and so on, calling the województwa of the Crown and Lithuania in the same order they speak during sejmy. This will continue until the card with the crown or word is drawn by one of the candidates. When it is drawn the number of cards left in the urn will be inspected and counted to verify that there was no cheating or fraud. But let there also be deputies to oversee the filling of the urn. If some
fraud appears, then new cards will be put in and drawn out. To avoid errors, let only one card be drawn at a time. The remainder will clearly reveal the truth.
APPENDIX 2:

A Map of the Commonwealth in 1635

Sandomierz województwo is highlighted in red.
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