

# Collegial Decision-Making as the Foundation of Local Administration Reform on the Eve of Congress Poland Establishment

*Abstract:* This article examines the reasons for the popularity of collegial decision-making in early nineteenth century Poland. Was it driven by the force of habit and the attachment to tradition, or were practical reasons more important? Was the popularity of collegiality connected to a deeply-felt lack of control over the activities of the administration, particularly the local administration? The contribution focuses on the process of rebuilding the administration based on the one-man management principle imposed on Poles by Napoleon at the time of establishment of the Duchy of Warsaw. Particular emphasis is placed on the period between 1814 and 1815, that is during the operation of the so-called Civil Reform Committee, appointed following Napoleon's demise in connection with Tsar Alexander I's plans to transform the Duchy into the Kingdom of Poland.

*Key Words:* collegial decision-making, one-man management, local administration, Congress Kingdom of Poland, Duchy of Warsaw, Napoleonic model of administration, bureaucracy, Polish republicanism

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## Introduction<sup>1</sup>

The system of collegial decision-making by administrative organs was characteristic of most European countries during the eighteenth century.<sup>2</sup> Nevertheless, in the following century, in part due to the popularity of the Napoleonic model, it was gradually replaced by the one-man administration (management) system. This article primarily addresses the reasons for such a popularity of collegial decision-making in early nineteenth-century Poland. Was the deciding factor the force of habit and the attachment to the native tradition, or were practical reasons more important? Was the popularity of collegiality generally connected with the deeply rooted feeling of lack of control over the activities of administration, particularly local administration? To what extent did this popularity go hand in hand with the belief, so typical at the time of emerging liberalism, that the executive could not be trusted, insinuating it had an inclination for abuse and arbitrariness. Within this context, I will attempt to verify the hypothesis according to which collegial decision-making, coupled with other traditional Polish republican principles aiming to engage broad numbers of citizens to participate in management, was to build social trust towards the state and legitimize decision-making processes. This raises the question of whether this development was of crucial importance in bureaucratic encounters as “a microcosmic reflection of the relations” between citizens and the state and its officials and implications of the various concepts of administration.<sup>3</sup>

In this article I focus on the process of rebuilding the administration based on the one-man administration (management) principle imposed on Poles by Napoleon at the time of establishment of the Duchy of Warsaw, particularly in the period between 1814 and 1815, that is during the operation of the so-called Civil Reform Committee. Following Napoleon’s demise, this institution was established in connection with Tsar Alexander I’s plans to transform the Duchy into the Kingdom of

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2 C.B.A. Behrens, *Society, Government, and the Enlightenment. The Experiences of Eighteenth-Century France and Prussia*, New York/Toronto, 1985, 41–67.

3 Yeheskel Hasenfeld/Jane A. Rafferty/Mayer N. Zald, *The Welfare State, Citizenship, and Bureaucratic Encounters*, in: *Annual Review of Sociology* 13/1 (1987), 387–415, 412. In reference to the early nineteenth century, the formation of street-level bureaucracy emerged as “public service workers who interact directly with citizens in the course of their jobs”. Michael Lipsky, *Street-level Bureaucracy: Dilemmas of the Individual in Public Services*, New York 1980, 3. The alienation of bureaucracy from society could also occur in this case.

Poland. This was a moment when the new model of administrative organization (emerging between 1780 and 1820) and the nascent modern civil service of European states<sup>4</sup> came into contact with the Polish customs based on traditional republicanism, which, since the sixteenth century, was the dominant paradigm of thinking about the state in the Polish-Lithuanian Commonwealth.

The article comprises two parts. The first sections present an overview of how two contradictory concepts took shape in the Polish territories in the late eighteenth and early nineteenth centuries. These concepts were collegiality, implemented during the reign of King Stanisław August Poniatowski (1764–1795), and one-man management (administration) introduced by Napoleon in the Duchy of Warsaw (1807–1815). This part concludes with an assessment of the Napoleonic administrative system implemented in the Duchy of Warsaw and the request for its reform, which was formulated in the 1811 Report of the deputation appointed one year earlier to work out “methods of improving the administrative system”. The Deputation’s evaluation of the administration functioning in the Duchy sheds light on the problem of acculturation that occurred when state institutions were transferred from Napoleonic France to the Polish territories. This study is not a classic comparative work in the sense that it does not compare phenomena present in various nation states. Rather, through focusing on the Polish territories, it aims to illustrate how foreign elements were adopted, modified and adjusted or rejected by the political elite of the receiving country.<sup>5</sup> The method of organizing local administrations was a key issue discussed in many countries during the first half of the nineteenth century. At its heart was the degree to which the advocates of the Napoleonic model actually achieved their centralistic goal, which was to overcome the resistance of local communities and subordinate them to the central power. The analysis of this debate, which merely marked the opening of this discussion on the Polish territories, demonstrates that the Polish political elite had not yet accepted the Napoleonic model of management at this stage, that is in the years between 1814 and 1815.<sup>6</sup>

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4 Norman Chester, *The English Administrative System 1780–1870*, Oxford 1981, 38–42, 123, 138, 222, 362–374; Clive Church, *Revolution and Red Tape: The French Ministerial Bureaucracy 1770–1850*, Oxford 1981, 77, 89; Jos C.N. Raadschelders, *Handbook of Administrative History*, New Brunswick 1998, 117; Jos C. N. Raadschelders/Marc R. Rutgers, *The Evolution of Civil Service Systems*, in: H.A.G.M. Bekke/J.L. Perry/T.A.J. Toonen (eds.), *Civil Service Systems in Comparative Perspective*, Bloomington-Indianapolis 1996, 67–99, 78–81; Michał Gałędek, *System wykwalfikowanych kadr urzędniczych w konstytucyjnym Królestwie Polskim (1815–1830)* [Recruitment of Skilled Officials in the Constitutional Kingdom of Poland (1850–1830)], in: *Miscellanea Historico-Iuridica* 13/1 (2014), 117–141, 128–129.

5 Martijn Van den Burg, *Cultural and Legal Transfer in Napoleonic Europe: Codification of Dutch Civil Law as a Cross-National Process*, in: *Comparative Legal History*, 3/1 (2015), 85–109, 87.

6 Michael Broers, Napoleon, Charlemagne, and Lotharingia: Acculturation and the Boundaries of Napoleonic Europe, in: *The Historical Journal* 44/1 (2001), 135–154, 151.

Departing from this analysis, the second part explores the discussions on collegiality within the Civil Reform Committee focusing on key issues: (1) the meaning of collegiality; (2) assessment of one-man management (administration) as a mechanism which led to abuse; (3) the executive nature of local administration; (4) foreign and native inspirations and reference points for collegiality; (5) collegial administration and the representative bodies; (6) collegiality as a safeguard of national liberty; (7) collegiality as a part of a traditional vision of local administration.

## On the eve of bureaucratization. Polish administration in the late eighteenth century

Upon Stanisław August Poniatowski's ascension to the throne of in 1764, Polish state administration was not only anachronistic but also dysfunctional. Many public offices operated according to rules established as early as in the Middle Ages. State institutions were based on traditional structures and patterns. The state was in dire need of complex reforms, including those that would lay the foundations for a modern administration. In this latter area, works had to begin from scratch, as, following the reign of the Saxon House of Wettin (1703–1763), there was not even as much as a seedling of modern mechanisms of state management left.<sup>7</sup>

Alongside the reformist camp that was being consolidated at the time, Stanisław August Poniatowski attempted to pull the country out of stagnation and political collapse. The Enlightened elites that undertook the tasks of administrative reform strove to order the new structure based on selected bureaucratic principles, but they did so cautiously and inconsistently. The centralistic postulates were met with strong resistance. Efforts aiming to professionalize the official staff were also hindered.<sup>8</sup> As an effect, the nascent administrative model – which was characteristic of the times – was not fully transparent; it did not function according to uniform principles everywhere and was not fully integrated. While refashioning the existing organization of state authority, attempts were made to combine Enlightenment patterns of rationalized administrative structure with elements of national republican tradition, which came with an extensive network of self-government institutions.

The Polish republican tradition, which had shaped the early modern way of thinking about the state, was also a feudal tradition of the *szlachta* (Polish nobility). The noble republican thought had emerged in the sixteenth century, and in the

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7 Józef Gierowski, *The Polish-Lithuanian Commonwealth in the XVIII Century; From Anarchy to Well-Organised State*, Krakow 1996, 105–133.

8 Raadschelders/Rutgers, *Evolution*, 1996, 78–83.

eighteenth century it absorbed new currents of Enlightenment ideas. Nevertheless, it remained submerged in the Polish political and doctrinal legacy. In this sense, the republican concept of administration of Polish traditionalists was simultaneously a noble concept. Therefore, landowners were defending collegiality in the name of Old Polish republican ideas.<sup>9</sup>

The development of the administrative apparatus during the reign of Stanisław August Poniatowski was already initiated by the Convocation Sejm in 1764, which appointed treasury and military commissions, separate for the Crown and for Lithuania. From this point in time, especially in regards to the treasury, one could speak of the emergence of the cornerstone of ministerial administration, which followed selected basic bureaucratic standards. The same 1764 Convocation Sejm that had decided to establish the first Polish ministries also inaugurated processes of transformation of the local administration, by way of appointing good order commissions (*komisje dobrego porządku, boni ordis* commissions). In the next few years, a fairly coherent model of the administrative system emerged, while the models and experiences of this time could serve as an important point of reference for the next stage of reforms that were undertaken during the Four-Year Sejm (1788–1792).<sup>10</sup>

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Polish local administration at the turn of nineteenth century

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1764 Stanisław August Poniatowski's ascension to the throne	1788–1792 Four-Year Sejm reforms	1795 The collapse of the Polish-Lithuanian Commonwealth	1807 Establishment of the Duchy of Warsaw	1815 Establishment of the Kingdom of Poland
1764 Establishment of <i>komisje dobrego porządku</i> ,	1789 Establishment of <i>komisje porządkowe cywilno-wojskowe</i>		1807 Establishment of prefects and sub-prefects	1816 Establishment of <i>komisje wojewódzkie</i>

We may point out a few characteristic features of the Polish administrative system that existed until the end of the 1780s, and subsequently was modified in the Constitution of 3 May 1791 and its accompanying legal acts. Among them was a sys-

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9 Anna Grześkowiak-Krwawicz, Noble Republicanism in the Polish-Lithuanian Commonwealth (An Attempt at Description), in: *Acta Poloniae Historica* 103 (2011), 31–65, 60–65; Richard Butterwick-Pawlikowski, A Dialogue of Republicanism and Liberalism: Regarding Anna Grześkowiak-Krwawicz Book's on the Idea of Liberty, in: *Kwartalnik Historyczny* 121/Special Issue (2014), 169–188, 180.

10 Michał Gałędek, Legal Transfers and National Traditions: Patterns of Modernization of the Public Administration in Polish Territories at the Turn of the 18th Century, in: Michał Gałędek/Anna Klimaszewska (eds.), *Modernization, National Identity, and Legal Instrumentalism: Studies in Comparative Legal History*, vol. 2: Public Law, Leiden/Boston 2020, 33–50, 34–40.

tem of collegial administrative bodies fashioned after the eighteenth century solutions functioning in Europe. At the central level, such bodies were the ministerial great commissions. At the local level, the reformers first set up good order commissions, which were then replaced by civil and military order commissions (*komisje porządkowe cywilno-wojskowe*). The forefathers of Polish administrative reforms of the latter half of the eighteenth century resolved, at the same time, that commissions should be relatively numerous. As for great commissions, they deemed six members to suffice, but order commissions could have an excess of 20 members.

It should be emphasized that whereas the authors of the concept from the early days of the reign of Stanisław August exhibited interest in the issue of reorganizing the administrative apparatus, the problem of local administration did not receive sufficient attention in their works.<sup>11</sup> Thus, the undoubted breakthrough that took place in the organization of administrative structures at the local level did not come until the introduction of civil and military order commissions in 1789. In contrast, their predecessors – good order commissions of 1768 – had, owing to their limited scope of tasks and powers, incomparably less power to influence the socioeconomic life of the province.

When creating new offices, the reformers did not reject the key elements of the Polish self-government system.<sup>12</sup> They determined that local officials had to be elected, and that the nobility (*szlachta*) would retain its privileges in such elections. Moreover, the order commissions were subordinated not only to the central government but were also dependent on local representative institutions in the form of dietines (*sejmiki*) and communal assemblies. Principles of (1) collegial and (2) elected offices were accompanied by that of (3) terms of office. Commission members were appointed for a fairly short period of time, usually two years, from members of *szlachta* who owned a freehold, no matter how minuscule, and property owners from cities and towns.<sup>13</sup> The fourth complementary principle: that of unpaid (honorary) offices was introduced only at the local level.<sup>14</sup> Such a system did not provide the proper conditions for staff professionalization. If anything, it ran contrary

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11 Jerzy Gordziejew, *Komisje porządkowe cywilno-wojskowe w Wielkim Księstwie Litewskim w okresie Sejmu Czteroletniego (1789–1792)* [Civil and Military Order Commissions in the Grand Duchy of Lithuania during the Four-Year Sejm Period (1789–1792)], Krakow 2010, 18.

12 Antoni Mączak, *The Structure of Power in the Commonwealth of the Sixteenth and Seventeenth Century*, in: J.K. Fedorowicz/M. Bogucka/H. Samsonowicz (eds.), *A Republic of Nobles: Studies in Polish History to 1864*, Cambridge 1982, 109–134, 117–125.

13 Jerzy Lukowski, *Liberty's Folly. The Polish-Lithuanian Commonwealth in the Eighteenth Century*, Abington, 1991, 12.

14 Richard Butterwick, *The Enlightened Monarchy of Stanisław August Poniatowski (1764–1795)*, in: Richard Butterwick (ed.), *The Polish-Lithuanian Monarchy in the European Context, c. 1500–1795*, London 2001, 193–218, 211–212. Cf. Jerzy Michalski, *Rousseau and Polish Republicanism*, Warsaw 2015, 132–133.

to them, especially since the designers of the new administration had no intention to require any professional qualifications from officials.

Nevertheless, the traditional Polish republican conviction that bureaucracy was obsolete had enough time to sink in with some of the representatives of Polish political elites, and it sprang back to life a few decades later. As a consequence, on the eve of the establishment of the Kingdom of Poland (up until 1815), this model of collegial, elected, tenured and unpaid offices (not only administrative but also judicial) was still widely supported. Its advocates argued for the supremacy of solutions from the times of Stanisław August Poniatowski over the early bureaucratic and career-based structure, which – in their eyes – had been discredited in the times of the Duchy of Warsaw (1807–1813).<sup>15</sup>

On the other hand, what clearly emerges in the balance of reforms under Poniatowski's reign, and especially in comparison between the accomplishments of the Four-Year Sejm and earlier initiatives, is a bureaucratic vector of the transformations. The emerging concepts of rebuilding the administration and appointing order commissions may have been influenced by the political experiences of Enlightened absolutism countries, including the development of local administration.<sup>16</sup> The gradual process of bureaucratization was attested to by the push to expand, order and uniform the entire administrative structure, as well as to separate more discernibly the administrative apparatus from other authorities, and to organize it more consistently in line with the rules of bureaucratization and centralization which were so characteristic of the development of nineteenth-century Western Europe.<sup>17</sup>

## Local administration in the Duchy of Warsaw and the concept of its reform in 1810–1811

The final collapse of the Polish-Lithuanian Commonwealth in 1795 diametrically changed the political circumstances under which Polish political thought was developed. Two subsequent forms of Polish statehood – the Duchy of Warsaw from 1807 and the Congress Kingdom of Poland from 1815 – adopted the model of limited monarchy, characterized by a partial exclusion of the executive sphere from

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15 Cf. sub-chapter: Collegiality as a part of traditional vision of local administration.

16 Gordziejew, Komisje, 2010, 23.

17 Edgar N. Gladden, *A History of Public Administration*, vol. 2: From the Eleventh Century to the Present Day, London 1972, 377–378; Brian Chapman, *The Prefects and Provincial France*, London 1955, 69–71; Church, *Revolution*, 1981, 256–257; Marc Raeff, *Michael Speranski: Statesmen of Imperial Russia 1772–1839*, The Hague 1969, 150–151; Raadschelders, *Handbook*, 1998, 117–118.

social control and by its dependence on the ruler.<sup>18</sup> In determining the administrative system of the Duchy of Warsaw in the constitution of 22 July 1807, the French Emperor decided to fashion it after the French constitution.<sup>19</sup> This was the first time in the Polish administrative history that the administration was strictly centralized and organized according to bureaucratic rules. The organizational model of local administration was very different to pre-partition solutions. It was now based on the French office of prefect in department and sub-prefect in *poviat*, which, in principle, were to hold all administrative power out in the field.<sup>20</sup> The Polish political elites did not realize that the French model could not be reduced to the idea of a somewhat prefectural omnipotence in the department.<sup>21</sup> The French prefects had to make compromises and negotiate with the local elites who “*ont la connaissance du terrain et des hommes*”.<sup>22</sup> The Polish image of the powerful office of prefect and its unlimited influence on the department in France was different. Keeping this context in mind, it must be noted that the situation in the Polish territories was a classic example of tensions that emerged between the local social elites and centralistic strivings.<sup>23</sup> “*Le problème théorique est de savoir si la négociation d’un pouvoir politique local autonome par rapport à l’Etat n’engendre pas, par un ensemble de mécanismes de compensation l’émergence de formes particulières de pouvoirs parallèles.*”<sup>24</sup> And so, the discussion on

18 Marian Kallas, Ustrój konstytucyjny Księstwa Warszawskiego [Constitutional System of the Duchy of Warsaw], in: *Przegląd Sejmowy* 15/5 (2007), 11–32, 16.

19 Jarosław Czubaty, *The Duchy of Warsaw, 1807–1815: A Napoleonic Outpost in Central Europe*, London/New York 2017, 37–44.

20 Compare the opinion on the prefect as a ‘crucial agent of the central government in provincial France’ in the recentralization reform of the executive, Geoffrey Ellis, *The Napoleonic Empire*, 2nd ed., Basingstoke 2003, 28.

21 On the illusory nature of the prefectural omnipotence in departments cf. many works which question this cf. e.g. Howard Machin, *The Prefect in French public administration*, London 1977, 17–37; Tiphaine LeYoncourt, *Le préfet et ses notables en Ile-et-Vilaine au XIX<sup>e</sup> siècle (1814–1914)*, Paris 2001. About “une confusion entre le corps intermédiaire sur lequel repose le système napoléonien, la « notabilité », et les auxiliaires du régime qui en doivent émerger, les « notables », pour lesquels l’honneur est une valeur essentielle”, cf. Gabriel Garrote, *Entre sus et non-dits : notables et moralité (Rhône, 1810)*, in: *Cahiers de la Méditerranée*, 92 (2016), 117–131, 117. Forthcoming is a book by Pierre Karila-Cohen, *Monsieur le préfet. Incarner l’État dans la France du XIX<sup>e</sup> siècle*, Ceyzérieu 2021. I would like to thank the Author for providing me the manuscript.

22 Marie-Cécile Thorat, *L’émergence du pouvoir local. Le département de l’Isère face à la centralisation (1800–1837)*, Rennes 2010, 29. About “*écart entre les prérogatives institutionnelles de la « masse de granit » qu’est l’administration préfectorale, et la dépendance, malgré tout, de l’État à l’égard d’un public*” (Karila-Cohen, *Monsieur*, 332), cf. *ibidem*, 4–6, 20–84; Guy Thuillier, Vincent Wright, *Note sur les sources de l’histoire du corps préfectoral (1800–1880)*, in: *Revue historique* 253/1 (1975), 139–154, 144–145. Compare also Bernard Le Clère, Vincent Wright, *Les préfets du second Empire*, Paris 1973, 36–45.

23 Martijn Van der Burg, *Local Administration in the Napoleonic Empire: the Case of Napoleon’s Third Capital*, in: *Napoleonica. La Revue* 25/1 (2016), 123–141, 140.

24 Pierre Grémion, *Le pouvoir périphérique : bureaucrates et notables dans le système politique français*, Paris 1976, 158.



the character of local administration within the Committee must also be regarded as a struggle for power between local notables (some of them were the Committee's most radical opponents of bureaucracy) and the government that was pushing for centralization.<sup>25</sup>

The introduction of numerous solutions foreign to the Polish tradition had divided the political elites of the Duchy of Warsaw. A narrower part of them supported the implementation of Napoleonic ways, or at least of their Polish image. Even before the *octroi* of the constitution of Duchy by Napoleon, the circle of so-called Polish Jacobins endorsed the fullest possible adoption of the French model.<sup>26</sup> The Polish occidentalists accepted *a priori* the superiority of Napoleonic institutions, departing from the assumption that the Emperor who propagated revolutionary ideas was a repository of civilizational progress, and thus that the legal and political solutions proposed by him were worthy of reception as universally valuable, "eternal, unyielding, general, same for all times, places and countries."<sup>27</sup> Yet the majority of the political elites approached foreign institutions with caution or reluctance. This group enjoyed the support of the landed *szlachta* as, even though Napoleon had abolished serfdom and society's division into estates, it still remained the dominant social group by far. The landowners were uneasy about the endeavours of the administrative officials, who enforced numerous and burdensome public duties, and who, on top of this, were not controlled by the *szlachta*.<sup>28</sup> Many still remembered the times of King Poniatowski well; they had participated in the reforms of those times and expected the reinstatement of the pre-partition system, and most notably of the Constitution of 3 May. Criticism against the system introduced in the Duchy of Warsaw mounted as the shortcomings of the organization of central and local administration became more visible.

However, the constitution of the Duchy only outlined the organization of the administration, making it perfectly feasible to go through with complex changes without having to interfere with its contents. The issue of fixing the administrative relations occupied an important position in the Duchy of Warsaw throughout the entire period of its existence.<sup>29</sup> The problem of reforming the administration partic-

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25 John Dunne, Napoleon's 'Mayoral Problem': Aspects of State Community Relations in Post-Revolutionary France, in: *Modern & Contemporary France* 8 (2000), 479–491, 489.

26 Marcei Handelsman, Z dziejów Księstwa Warszawskiego. Geneza Księstwa i jego statutu [From the History of the Duchy of Warsaw. The Origin of the Duchy and its Statute], in: idem, *Studja historyczne* [Historical Studies], Warsaw 1911; 107–240, 127–128.

27 Marcei Handelsman, *Rozwój narodowości nowoczesnej* [Development of the Modern Nationality], Warsaw 1973, 169, 174.

28 Gałędek, *National Tradition*, 2020, 49–50.

29 Paweł Cichoń, *Rozwój myśli administracyjnej w Księstwie Warszawskim 1807–1815* [Development of the Administrative Thought in the Duchy of Warsaw 1807–1815], Krakow 2006, 69.

ularly occupied the Council of State. An eight-member Deputation was established under the aegis of the Council of State, by virtue of a decree dated 20 June 1810 “in response to the mounting criticism of the organization and functioning of administration” and charged with the task of finding “methods of improving the administrative system”, yet with the reservation that “the constitution [...] drafted and signed by Emperor Napoleon is not subject to any changes” and that “the formulated conclusions should decrease administrative costs”.<sup>30</sup> Some years later, the most active members of the Deputation – Aleksander Linowski<sup>31</sup> and Tadeusz Matuszewicz<sup>32</sup> became involved in the works on shaping the administrative system of the Congress Kingdom of Poland.<sup>33</sup>

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30 Ustawodawstwo Księstwa Warszawskiego [Legislation of the Duchy of Warsaw], Vol. 2, Warsaw 1964, 164; Marian Kallas, Projekt reform ustrojowych w Księstwie Warszawskim (1810–1811) [Proposal of organizational reforms in the Duchy of Warsaw (1810–1811)], in: *Zeszyty Naukowe Uniwersytetu Mikołaja Kopernika w Toruniu. Nauki Humanistyczno-Społeczne* 42 (1971), series Prawo 10, 77–93, 77.

31 Aleksander Linowski (ca.1759–1820) – in the 1780s a deputy to diets, including the Four-Year Sejm. Connected with the reforming camp, he actively participated in legislative works, including works on the 3 May Constitution. In the Duchy of Warsaw in 1808 he was appointed the counsellor of state, being involved in numerous legislative works. As a close associate of Prince Adam Jerzy Czartoryski, following the collapse of the Duchy, he was enlisted by him to participate in works aiming to rebuild the political system. He was a member of the Civil Reform Committee Administrative Section, and in spring 1815, he drafted the final version of *The Principles for the Establishment of Administrative Magistratures*. He was likely one of the co-authors of the draft of *The Constitutional Principles of 1814*, and he participated in preparing the draft of the Constitutional Charter of the Kingdom of Poland in 1815. In the Kingdom of Poland he became a member of the Government Commission of Internal Affairs, where he headed the Division of Police and Post. Kajetan Koźmian characterized Linowski as a “republican” who “attacked” centralization and “claimed this government to be the worst ever, as it interferes with everything and wants to know it all”. At the same time Koźmian admitted that he was “without a doubt one of the most outstanding counsellors of state, mainly due to his intellect, talents, oratory abilities and patriotism”. Kajetan Koźmian, *Pamiętniki* [Diaries], Warsaw 1972, vol. II, 215, 242.

32 Tadeusz Matuszewicz (ca. 1765–1819), similarly to Linowski, was, up until the 1780s, a deputy to sejms and participated in reform works. After Galicia was ceded to the Duchy of Warsaw, he was appointed counsellor of state, and in 1811 he took the office of Minister of the Treasury. After the fall of the Napoleonic protectorate in 1814, Matuszewicz, as one of the closest associates of Czartoryski, became a member of the Civil Reform Committee and one of the most active ones during the discussions on the drafts of the Administrative Section. Just like Linowski, he was probably the co-author of the draft of *The Constitutional Principles of 1814*, and he participated in preparations of the draft of the Constitutional Charter of the Kingdom of Poland in 1815. In the Kingdom of Poland he took the office of the Minister of Revenue and Treasury, which he held until 1817. According to Kajetan Koźmian, “as a man of great talents and skills [...] who had already gained recognition for his articulation and significance at the Four-Year Sejm”, he was one of the eminent organizers of the Kingdom’s legal and political order. *Ibid.*, 51.

33 Biblioteka Naukowa PAN i PAU (BN PAU/PAN) w Krakowie [Scientific Library of PAN and PAU in Krakow], 209/1, 144v, 149v. The work of the Deputation came to fruition in the form of the report, submitted to the Council of State on 19 June 1811. Two versions of it are held at the BN PAN/PAU (139) and at the Archiwum Główne Akt Dawnych w Warszawie [Central Archives of Historical Records in Warsaw] (Archiwum Publiczne Potockich, 108).

What really stands out among the general grievances formulated by the Deputation is the attitude to loans from the Napoleonic model of the administrative system. They were not shy in articulating the opinion that the constitutional legislator may have “not paid [sufficient] heed to either the differences between the French state and our state, nor to the qualities that make up the core of our national character.”<sup>34</sup> They also added that “heretofore, the infatuation with the perfection of French legislation and solution has carried us away so far that we overlooked the domestic shortcomings, the puerility of our own people and country”,<sup>35</sup> while “we should always have looked first to the nation while grasping the bright lights of the current century.”<sup>36</sup> Thus, it was not universalism and occidentalism, but the specific circumstances of the country that should have mattered the most in making the choice. The French solutions may have proved useful, but only at a later state of development of the Polish territories, too backwards and thus as of yet maladjusted to the institutions designed for France. As per this argumentation, the full acculturation of Napoleonic solutions would be possible, or even desired, but only within a longer time frame, once Polish territories had achieved a higher developmental level.

However, the Deputation criticized the organization of administration that was actually introduced in the Duchy of Warsaw only by taking it as an example of incorrect implementation of the constitution since, due to political reasons, the Napoleonic constitution was inviolable. Owing to the main goal for which the Deputation had been appointed, it devoted much attention to the issue of overinflated organizational structures, the excessive number of civil servants and the overly high costs of maintenance of the bureaucratic apparatus.<sup>37</sup> This was emphasized very strongly by all those participating in the public debates held in the Duchy of Warsaw.<sup>38</sup> The focus on cutting down administrative costs had not only to do with the difficult financial situation that afflicted the state under Napoleon’s protectorate<sup>39</sup> but also with the lack of understanding and the generally hostile attitude towards an active state, which was deeply rooted in the time-honoured Polish republican tradition.<sup>40</sup>

The Deputation also claimed that “another level of harmfulness [is engendered] by the fact that the entire, almost unlimited power to issue decisions and resolutions in matters both small and large, novel and old, is concentrated in the hands of sin-

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34 BN PAU/PAN, 139, 19–19v.

35 *Ibid.*, 8.

36 *Ibid.*, 267–268. All quotes have been translated from Polish by the author.

37 Biblioteka Raczyńskich (BR) w Poznaniu [Raczyński Family Library in Poznań], 9, 238v.

38 Władysław Sobociński, *Historia ustroju i prawa Księstwa Warszawskiego* [History of the Political System and Law of the Duchy of Warsaw], Warsaw 1964, 128.

39 Kallas, *Projekt*, 1971, 82.

40 Anna Grześkowiak-Krwawicz, *Queen Liberty: the Concept of Freedom in the Polish-Lithuanian Commonwealth*, Leiden/Boston 2012, 1–135.

gle-man authorities.”<sup>41</sup> Its members shied away from any attempts to “undermine the principle of executive concentration”. They even argued that “it [is] only this principle which affords to the government’s activities unity, coordination, order and swiftness.”<sup>42</sup> For this reason, the Deputation appealed for putting all local administration in the hands of the one authority<sup>43</sup> as well as they advocated the deconcentration of tasks and competences from the ministerial rung onto the departmental one. The realization of these two proposals together would considerably strengthen the prefect’s position.<sup>44</sup> Therefore, the integration of administrative power within a single office was a desired direction of reforms, albeit under the condition that the government would provide efficient mechanisms of prefects’ accountability, so that they were unable to abuse such extensive power wielded single-handedly.<sup>45</sup> It was inadmissible to allow situations in which superior officials treated their subordinates as “mere copyists” of decisions made at their sole discretion<sup>46</sup>. According to the members of the Deputation, this practice had to be done away with. They proposed a solution with prefects (as well as ministers at the central level of the administration) being accompanied by collegial meetings made up of higher-ranking officials.<sup>47</sup> At the departmental level, this function could have been successfully exercised by “first official”, which represented the “most important parts of administration”.<sup>48</sup> They should actively participate in the decision-making process by attending sessions and working together towards a consensus, although the final decision would be reserved for the superior official. The thus understood “collective proceedings” were particularly desirable in “those [...] matters which, by their very nature, require closer consideration and a group of enlightened minds, in which lengthy pondering may not be deemed a waste of time, while single will and opinion [may] suffice where a ready provision requires not reflection but execution.”<sup>49</sup>

Submission of the Deputation report echoed far and wide. It was addressed by individual ministers. Their counteraction allowed for only some of the proposed

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41 BR, 9, 239v.

42 Ibid., 239v–240.

43 Marian Kallas, *Koncepcje organizacji nowoczesnej administracji terytorialnej w Księstwie Warszawskim* [Concepts of the Organisation of Modern Territorial Administration in the Duchy of Warsaw], in: *Annales Universitatis Mariae Curie-Skłodowska* 37 (1982), Sectio F, *Humaniora*, 189–210, 201–202.

44 Cf. Kallas, *Projekt*, 1971, 92.

45 BN PAU/PAN, 139, 158–159.

46 Ibid., 5.

47 Cf. also Cichoń, *Rozwój*, 2006, 138.

48 BN PAU/PAN, 139, 159–160.

49 BR, 9, 241.

reforms to be carried through.<sup>50</sup> However, main proposals were ended in nothing, also due to the campaign of 1812 and the collapse of the Napoleonic Duchy of Warsaw.

Members of the Deputation and other high-ranking officials of the Duchy would later be involved in works on the transformation of administrative structures under the patronage of the Russian Emperor Alexander. In this manner, conclusions of the Deputation's report paved the way for future works on the organization of the administrative system in the Congress Kingdom of Poland.

### Civil Reform Committee projects of a new organization of local administration in 1814–1815

The fall of Napoleon and the occupation of the Polish territories by the Russian army from 1813 led to a political reconfiguration. The victorious Tsar Alexander I decided to maintain the Polish statehood and change its system, and thus the Duchy of Warsaw was to become the Congress Kingdom of Poland, with a new, liberal constitution. Alexander I gave the Polish political elites considerable freedom. He promised that in the implementation of the new system he would take their proposals into consideration. By virtue of the ukase dated 19 May 1814, the Tsar established the Civil Reform Committee, whose main task was to work out a concrete concept for rebuilding the system of local administration. Alexander attached a guidance directive to his order, in which he encouraged the Committee to (voluntarily) draw on its works from the Polish administrative institutions, as the basic source of inspiration pointing to the collegial civil-military order commissions that were established in the Polish-Lithuanian Commonwealth during the Four-Year Sejm reform period.<sup>51</sup>

The function of the president was entrusted to Prince Adam Jerzy Czartoryski, but he only participated in a few sessions. To all intents and purposes, he was permanently substituted by Nikolai Novosiltsev. Other members of the Committee were Tadeusz Matuszewicz, Aleksander Linowski, Antoni Bieńkowski, Stanisław Zamoyski, Franciszek Grabowski, Józef Koźmian, Tomasz Ostrowski, Tomasz Wawrzecki, Józef Kalasanty Szaniawski and Andrzej Horodyski. Many are already known to us from their activity during the times of the Duchy of Warsaw. A large group of them were also Prince Adam's closest collaborators, as well as representatives of the future political elite of the Congress Kingdom of Poland.

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50 Ibid.

51 The monarch also added that the new administration should be “best suited to the poverty of this country”, “best suited to the [specificity] of a rural country”, as well as befitting the “spirit and customs” of the nation. Biblioteka Książąt Czartoryskich (BKC) w Krakowie [Princes Czartoryski Library in Krakow], 5233 IV, 62.

The Civil Committee was made up of smaller sections. The members of the Administrative Section were Zamoyski as its head, Linowski and Horodyski. Moreover, people from outside of the Committee were involved in the Section's works.<sup>52</sup>

Historical literature considers the works of the Civil Reform Committee to be the prime moment of activity of Polish republican traditionalists, the moment when they had the best opportunity to come forward with a positive programme, not only for all the reasons mentioned above but also owing to the fact that the Committee was dominated by the opponents of political and legal changes that had been implemented in the Duchy of Warsaw. The aversion towards bureaucratic administration, professed both by conservative circles and especially by the landowners (landed *szlachta*), already palpable a few years earlier (in the period of operation of the 1810 Deputation), now flared up. Chaos and the dismal economic situation in the country, coupled with the unconditional enforcement of public duties in connection with the 1812 war and Russian occupation of 1813, created more and more enemies of the administrative officials.<sup>53</sup>

The first months of the Committee's works on rebuilding the system of local administration seemed to follow a course of complete cut-off from the Napoleonic model. Proposals of Andrzej Horodyski (the "informal initiator" of the Deputation's establishment in 1810)<sup>54</sup> and Kajetan Koźmian (former Referendary of the Duchy's Council of State)<sup>55</sup>, were presented to the Committee members. Horodyski and Koźmian called for the replacement of prefectural and subprefectural administra-

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52 Gałędek, National Tradition, 2020, 80–83, 86–92.

53 Michał Gałędek, Does War Deepen Distrust toward the State? Reorientation of the Polish Political Thought under the Influence of Napoleonic Wars, in: M.M. Seco, R.F. Sirvent, R.A. Gutiérrez Lloret (eds.), Del siglo XIX al XXI. Tendencias y debates (Alicante, 20–22 de septiembre de 2018), Alicante 2019, 1750–1760, 1755–1760.

54 Andrzej Horodyski (1773–before 1857) – was an active representative of the Polish Jacobins. In the Duchy of Warsaw he held the function of Referendary at the Council of State. He was involved in the appointment and works of the Deputation for the drafting of bills and remarks for the improvement of the national administration in 1810. After the fall of the Napoleonic Duchy, he was appointed a member of the Civil Reform Committee, but he was active within it only in the summer of 1814. Despite his earlier Jacobinian sympathies, in the Committee he tried to enforce traditionalistic, anti-bureaucratic solutions. In 1815, he was appointed Counsellor of State at the Ministry of Revenue and Treasury. Kajetan Koźmian characterized Horodyski as "a Galician, residing in Warsaw, educated at German schools, well-versed in the spirit and order of the Austrian government; an enlightened, moderate and cultured man". Koźmian, Pamiętniki, 1972, 24.

55 Kajetan Koźmian (1771–1856) – in 1810, he took the position of Referendary at the Council of State. In 1814, he was appointed a member of the Civil Reform Committee Administrative Section, but he did not participate personally in its works. It was not until 1815 that he was involved in a number of reforming works, and likely played a deciding role in the drafting of the Organization of Administrative Authorities of 1816, which ultimately became the foundation for the organization of local administration in the Kingdom of Poland. Appointed Counsellor of State in the Commission of Internal Affairs, he, in 1818, adopted the function of the Director of the Division of General Administration in the same Commission.

tion inherited from Napoleon with order commissions modelled on commissions established by the Four-Year Sejm. The order commissions were to make decisions collegially, in groups of five members. These members were to be elected for terms of two years, and they were to serve without remuneration. The adoption of these principles marked a turn towards political tradition, particularly since the administrative activities were to be subjected to the control of departmental (voivodeship) councils – local representative bodies, which would participate in the election of officials, held at *sejmiks* that is at gatherings of *szlachta* and at communal assemblies for representatives of other social strata. Moreover, Koźmian and Horodyski proposed for offices to gain an estate character, which would have been inadmissible in the times of the Duchy of Warsaw. Offices were to be composed of representatives of the nobility, townspeople and the clergy, with the guaranteed majority of the first estate. The sole official authorized to make decisions, to whom the authors of this draft bill planned to “attach the continuous and uninterrupted discharge of duties”, was the president of the commission, to be known by the Old Polish title of *staroste*. The nominations for this office – also for a term, but this time against remuneration – would be made by the “supreme government”, but only out of the candidates that were put forward by the *sejmiks*. The vote of the *staroste* in decisions made collegially was to weigh equally to the votes of the remaining members, while the additional competences did not guarantee to him strong position.

On the other hand, the maintenance of the basic centralistic principles, on which the organization of the administrative apparatus was to rest, meant that the order commissions would, to a certain extent, be a continuation of the Duchy of Warsaw administration. In their draft bill, Koźmian and Horodyski assumed that the strict subordination of the order commissions to the central government would be preserved, just like the integration of the entire local administration under the authority of order commission. Moreover, Horodyski and Koźmian had no intention of going through with a revolution in the internal organization of offices established in the Duchy of Warsaw. Finally, the power held by the voivodeship (departmental) councils over the local administration was to ensure – at least in the theory – that the central government would be able to intervene effectively and to enforce responsibility from local officials. Councils were to be devoid of any instruments of direct influence over local officials, with one important reservation that, every four years, they would vet them and decide on the re-election, as offices were for a set term.

This concept did not win the approval of the Civil Reform Committee, which, in March 1815, ultimately backed the draft bill prepared by Aleksander Linowski (the main character of the Deputation from 1810), written in accordance with the guidance directives that had been adopted at a plenary session following a number of debates. The Committee rejected the ideas that set apart Koźmian and Horodyski's

draft bill, which were to truly approximate the designed solutions to the pre-partition model, as “recommended” by the Tsar. The organization of administration as proposed by Linowski was a hybrid, but if we were to judge its proportions, it was closer to the Napoleonic organization than to the old-Polish administrative tradition. However, the Committee discarded the idea to entrust administrative power into the hands of honorary unpaid officials appointed for a term. This principle, had it been implemented, would have made the transformation of administration much more revolutionary at the provincial level. Members of the order commissions (the name was maintained as a gesture toward Polish tradition) were to be permanent civil servants, like their presidents, and they were expected to have certain professional qualifications, or at least experiences, in the public service.

## The meaning of collegiality

One of the central issues during the Civil Reform Committee’s discussions on the new organization of local administration was its collegial character. A heated debate concerning the principle of collegiality flared up at a session on 25 August 1814, where a general plan of further works regarding the design of the new organization of local administration was discussed. Some (unnamed) Committee members who supported collegiality viewed it primarily as an effective mechanism of self-control against the officials’ arbitrariness and lawlessness. They argued that “even if [a collegium] has no say in administration, which is a body that does not make decisions, but only executes what has already been decided and ordered”, which is typical of local authorities, “there will at least be witnesses and guardians to ensure that everything is done lawfully and that each citizen is treated equally.”<sup>56</sup>

Those present had their doubts, however, as to how the principle of collegiality was to be understood. These concerns were expressed by Stanisław Zamoyski<sup>57</sup>, who explained that “he had only backed the collegiality of administrative authorities to ensure that the head of each body has witnesses to his activities, who could provide him with aid whenever necessary, and who would work alongside with him

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<sup>56</sup> BKC, 5233 IV, 88.

<sup>57</sup> Stanisław Zamoyski (1775–1856) – Galician magnate and leader of the local nobility, appointed chairman of the Central Government of Galicia in 1809, shortly before its attachment to the Duchy of Warsaw. A relative of Czartoryski, he, in 1814, became president of the Civil Reform Committee Administrative Section, although he most likely did not personally direct the works conducted at the Section in relation to the reform of the local administration system. During the discussions of the Committee he stood apart as an advocate of restoring estates.



and deliberate with him.”<sup>58</sup> In reality, then, this conservative Galician magnate<sup>59</sup> and president of the Committee’s Administrative Section paradoxically declared his support for one-man administration and decision-making at official gatherings. Yet this way of understanding collegiality was not shared by others. Another member of the Administrative Section, Aleksander Linowski pointed out that “the meaning of the word ‘collegiality’ has common knowledge and it cannot be understood any other way than as a situation where the majority of the votes within a group of people resolves all issues.”<sup>60</sup> In turn, the proposal to “leave the decision in most cases to the president himself, with his colleagues acting only as witnesses and collaborators”<sup>61</sup> did not enjoy much support from other members of the Civil Reform Committee. Opponents of restricting collegiality to the duty of participating in common sessions indicated that in the Duchy of Warsaw:

“The current prefects [...] have such collaborators and witnesses, and other high-ranking officials must each naturally have them too, but such collegiality, instead of being real, would only be an empty word, and it is contrary to the law for the name and the title to announce one thing and in essence establish another.”<sup>62</sup>

## Did one-man administration and decision-making introduced in the Duchy of Warsaw lead to abuse?

During the debate, supporters of collegiality argued that:

“History had taught us how much lawlessness and repression of citizens occurred in administration held in the sole hands of a prefect in a department and of sub-prefects in poviats, which was corroborated by different examples of cases where these officials overstepped the boundaries of their authority to the harm of the citizens.”<sup>63</sup>

The mechanism according to which one-man administration ultimately always led to abuse was explained by Franciszek Grabowski<sup>64</sup>, Counsellor of State in the Duchy

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58 BKC, 5233 IV, 103.

59 Cf. Kazimierz Krzos, *Z księciem Józefem w Galicji. Rząd Centralny obojga Galicji* [With Prince Joseph in Galicia. The Central Government of Both Galicias], Warsaw 1967, 262–270, 279–282.

60 BKC, 5233 IV, 103.

61 *Ibid.*, 99.

62 *Ibid.*

63 *Ibid.*, 86.

64 Franciszek Grabowski (1750–1836) was a lawyer in Lublin in the times of the Polish-Lithuanian Commonwealth. After the attachment of Galicia to the Duchy of Warsaw he was appointed a coun-

of Warsaw and those days the most active member of republican traditionalists in the Committee. He observed that an official who made decisions unilaterally

“[...] as a human being might commit all types of abuse, be it by imposing his will on individuals employed at the office or by acting partially, as a single person placed in a position of administrative power, where everything hinges on him alone; he will be easily swayed by temptations, easily given to arbitrariness, which is always harmful to the general well-being, apart from being harmful to the interested party. Because of the foregoing, such offices and officials are loathed by the citizens, and thus the universal opinion that such an official can inflict much evil upon a citizen and little good; this gives rise to constant and monotonous complaints of all against an administration that is run in this way.”<sup>65</sup>

Moreover, it was said that “even though the law imposed responsibility [on prefects and sub-prefects], throughout all these years since the establishment of the Duchy, there has not been a single case of holding them accountable, despite the frequent proven breaches and abuses.”<sup>66</sup>

At the Committee forum it was only Tadeusz Matuszewicz, the leading figure of the Deputation from 1810 and experienced former minister of the Duchy of Warsaw, who defended the one-man administration. Addressing concerns regarding officials making decisions individually and arbitrarily, Matuszewicz attacked the claim made by supporters of collegiality, who argued that in the time of the Duchy of Warsaw “overstepping boundaries of authority to the harm of citizens” by prefects and sub-prefects had been a universal plague. He was also of the opinion that complications in the correct functioning of not only local administration offices but also of the entire administration, stemmed from the unusual circumstances in which it operated. Matuszewicz believed that one-man decision-making and individual responsibility would be the best solution once the situation in the country had become stable. He argued, then, that the following principle accounted for in the Duchy of Warsaw constitution should remain in force:

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sellor of state. As a member of the Civil Reform Committee he supported solutions based on the Old Polish law, and he was against the plans to maintain the bureaucratic system. After the establishment of the Kingdom of Poland, he mainly focused on works in connection with the new organization of the judiciary. Kajetan Koźmian considered Grabowski to be one of the traditionalists “who still keep their national Polish costume” and even “maintain their heads shaved”. At the same time, he deemed them to be the last generation of “excellent lawyers skilled in the laws of Old Poland”. Koźmian, *Pamiętniki*, 1972, 225, 242.

65 BKC 5233 IV, 402; BKC 5236 IV, 144.

66 BKC 5233 IV, 86.

“as regards the simple execution of regulations [...] the constitution orders executive administrative offices to act single-handedly, with personal acts and responsibility serving as a measure against non-execution and arbitrary execution.”<sup>67</sup>

According to Matuszewicz, the foregoing mechanism would constitute the best safeguard against officials misusing their authority, while collegial decision-making could disperse and wash down this responsibility. Admitting “the sad truth that throughout a number of years since the introduction of constitutional government in the Duchy of Warsaw there has not been a single case of bringing anyone to accountability”, he argued that “not only provisions” were to blame for this state of affairs. He explained:

“The Constitution has given all the power to the king [of Saxony], but in reality this did not bring true concentration, as the national government was not in the country but far abroad [in Dresden] and, for this reason, the Duchy of Warsaw may be likened to a property that is not only inhabited by its owner but also devoid of a properly authorized commissary.”<sup>68</sup>

Thus, it was not the defective organization of the ministries or other offices at a lower level that should be blamed for this state of affairs, but the absence of a supreme authority that would enforce the execution of the binding law and accountability for officials’ abuses.<sup>69</sup>

## The executive nature of local administration

In the opinion of Matuszewicz, the very executive nature of what the administrative apparatus did implied the application of one-man management and decision-making. It is determined by the concentration of executive power in the monarch’s hands, and by the need to ensure “order, routine, discipline and swiftness and [...] above all [...] obedience”<sup>70</sup> Matuszewicz viewed the functioning of local administration bodies from the perspective of having to minimize their decision-making freedoms. He believed that the scope of operations of officials should be restricted within the normative boundaries of “establishments” that clearly specified what they

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67 Ibid., 97.

68 Ibid., 100.

69 BN PAU/PAN, 139, 117; Michał Gałędek, *Prawne i polityczne uwarunkowania statusu ministra Księstwa Warszawskiego* [Legal and Political Determinants of the Ministerial Status in the Duchy of Warsaw], in: *Studia z Dziejów Państwa i Prawa Polskiego* 16 (2013), 151–167, 165.

70 BKC, 5233 IV, 98.

could do, and thus within boundaries delimited by administrative law regulations. Other members of the Civil Reform Committee agreed that carrying out administrative tasks should be limited to the “simple execution” of clear and unambiguous normative orders. Matuszewicz, however, differed from them in that he optimistically assumed that the creation of a coherent administrative and legal system to be possible and that the regulations in force would effectively had tied hands of officials, impeding arbitrariness in the discharge of their offices. The supporters of collegiality, on the other hand, did not deem this method likely to succeed. The latter saw collegiality “primarily as a dam against administrative lawlessness, much more effective than formal accountability of officials for actions taken by them”.<sup>71</sup> For these reasons, Matuszewicz’s argumentation did not convince his adversaries, who remained unwavering in their belief that even if “accountability were to be tightly guaranteed by the new law”, it still “would not be able to ward off evil as well as collegiality, as a higher-ranking official will always find a way to impunity.”<sup>72</sup>

## Foreign and domestic inspirations and reference points for collegiality

In another discussion, members of the Civil Reform Committee, who backed the introduction of collegiality, “presented examples of foreign governments” to prove their claim that “collegiality does not impede order or swiftness in the execution of administrative matters”. In particular, they pointed to Prussia with its “chambers [*Kammern*] with numerous members” or Austria, whose authorities also worked on a collegial basis.<sup>73</sup> They did not stop short at the well-known examples of the neighbouring country either, claiming a broad knowledge of the European administrative systems of the time. They found collegiality in the new Dutch constitution “even on the lower administrative levels.”<sup>74</sup>

Addressing this argument, Tadeusz Matuszewicz openly admitted that he was not familiar with collegial administration in the Prussian government. Regarding the Austrian example, however, he observed that in the Habsburg Monarchy “[local] administration is largely tied to the person of *Kreishauptmann* [district officer] by *titulo praesidii*, and he enjoys great preponderance in all matters.”<sup>75</sup> Thus, according

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71 Maciej Mycielski, *Rząd Królestwa Polskiego wobec sejmików i zgromadzeń gminnych 1815–1830* [Government of the Kingdom of Poland towards Sejmiks and Communal Gatherings 1815–1830], Warsaw 2010, 38.

72 BKC, 5233 IV, 100.

73 *Ibid.*, 87.

74 *Ibid.*, 100.

75 *Ibid.* *Kreishauptmann* (county prefect) chaired the administration in each Austrian district. As John Deak noticed: “Unlike the central offices in Vienna, which were collegial organs whose decisions

to Matuszewicz, the Austrian system was just a facade of collegiality. This was the only direct reference to the Austrian patterns in the discussions on administrative models worthy to emulate that were held by the Committee. This is all the more surprising since most of the Committee members either came from Galicia or were closely connected to it, so they knew the Austrian solutions<sup>76</sup> and keenly cited them as good standards or points of reference in other discussions, for example those concerning the reform of marriage law or enforcement proceedings. It can also be added that it is doubtful whether the Committee members were familiar with the English model of self-governance, which may have been regarded similar to the solutions considered national. It is true that Prince Adam Jerzy Czartoryski, the leader of the reforming camp, was a known sympathizer of the English model, but it may be surmised that his inclinations were limited to the fundamentals of a well-functioning central government and an attempt to introduce a jury system.<sup>77</sup>

Also, interestingly, no one brought up the example of pre-partition experiences with collegiality in good order of 1768 and in civil-military order commissions of 1789, even though the former were explicitly mentioned in the Tsar's decree as a potential model to be followed as well as the main pattern of the first project prepared by Koźmian and Horodyski. Supporters saw collegiality as a fitting concept to tackle the new challenges of the nineteenth century. However, they did not intend to draw on reforms from the period of Stanisław August Poniatowski as a source of inspiration. We can only find one vague reference in the utterance of an anonymous advocate of shared sessions and decisions, who said that "collegiality [...], as prescribed by the last, rightly beloved Polish constitution of 1791, could be found both in main and less important magistratures."<sup>78</sup> For this reason, he underscored that "nothing can be an obstacle to also introducing collegiality now, as the king's will itself is to liven up the Polish spirit of the laws while modifying them."<sup>79</sup> And yet, even the author of these lines did not call for the restoration of old Polish institutions. He only addressed the May 3 Constitution which sanctioned civil-military order commissions to show that the one-man management ran contrary to national tradition. Furthermore, the voices of other members of the Civil Reform Committee

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resulting from committee voting, the county prefect had exclusive authority to make decision." John Deak, *Forging a Multinational State: State Making in Imperial Austria from the Enlightenment to the First World War*, Stanford 2015, 48. For more information on the Austrian Josephine central state and its local administration cf. also *ibid.*, 91–95, 111, 124, 157–158.

76 For more about drawing inspiration from the Austrian district offices in the introduction of collegial administrative chambers in Galicia: Krzos, *Z księciem*, 1962, 157–158, 166–167, 221, 223–224.

77 Michał Gałędek, *Dreams of 'moving from the Napoleonic code to the new era of the judiciary' on the eve of establishment of the Kingdom of Poland (1814–1815)*, in: *Rechtskultur. Zeitschrift für Europäische Rechtsgeschichte* 8 (2019), 55–70, 65.

78 BKC, 5233 IV, 101.

79 *Ibid.*

suggested the majority of them agreed that in order to “liven up the Polish spirit” it would be enough to bring back certain general principles, such as collegiality. They did not believe, however, that a detailed analysis of the legal and administrative output of pre-partition Poland to be necessary as an inspiration.

## Collegiality in administration and representative bodies

Concerning the issue of collegiality, Tadeusz Matuszewicz opposed administrative organs with “representations” – voivodeship councils, which were to act as a continuation of Napoleonic departmental councils. He observed that collegiality was not only desirable but also indispensable in all these “institutions” whose purpose was not to deal with the day-to-day management of public matters but to contemplate together and reach a collective consensus. Yet, in his opinion, all functions that required collegial decisions, such as “deliberation of draft bills”<sup>80</sup> or choosing between different measures of execution,<sup>81</sup> should be entrusted to councils. If collegiality were to be “introduced in [administrative] offices that have no need for it”, Matuszewicz argued, it would bring harm to representative bodies, which could suffer from marginalization.<sup>82</sup> For all these reasons, he asserted that the principle of one-man decision making

“[...] in reality [...] seems to have all the advantages of reason, appropriateness and usefulness. Because to [on the one hand] push for the removal of collegiality and deliberation from those offices whose purpose is to draft, contemplate, edit bills to be enacted, would be to open up the door to despotism and arbitrariness, and [on the other hand] to introduce deliberation where there is no room for pondering, where only execution and actions are needed, would be to introduce delays and chaos.”<sup>83</sup>

Matuszewicz’s arguments did not convince his adversaries. They attempted to rebut them by bringing up the bad experiences with the execution of administrative power in the Duchy of Warsaw.

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80 Ibid., 97.

81 Ibid.

82 Ibid.

83 Ibid.

## Collegiality as a safeguard of national liberty

Collegiality was also perceived to be in the categories of “a certain safeguard of national liberty”,<sup>84</sup> which should probably be understood as a warranty against the executive’s breaches of political rights and freedoms. A question pertinent to this issue was asked: “Are there any intentions to grant some privilege of legal resistance to these collegial offices?”<sup>85</sup> Those present unanimously stated that “no one has put forward such a suggestion, and it would not be a desirable one”, which did not change their belief that “collegiality in executive offices that cannot bring any safeguards to national liberty could certainly become a major impediment to order.”<sup>86</sup> Collegiality in offices was to be something more than just a measure of countering abuse. In a broader context, it was to act as a protective mechanism against the bureaucratic alienation of political power from the nation.

## Collegiality as part of a traditional vision of local administration

Tadeusz Matuszewicz’s speech must also be considered within a broader context, in fact he mentioned that he was afraid of collegiality in administrative offices because “it will be followed by proposals from the same draft, that is of electivity and unpaid service, the infelicitous effects of which” he “will try to expound in due time.” He added “today, I cannot hide that maintaining them would, in my opinion, quell all hopes for public order.”<sup>87</sup> Matuszewicz’s words were a reaction to the draft prepared by Koźmian and Horodyski, as well as to the anticipated further counter-offensive by republican traditionalists who pushed for a diametrically opposite vision of local administration system, which combined the traditional four features: collegiality, unpaid service, electivity and termed offices. In line with the Polish pre-partition republican tradition, administration based on these four pillars would open up the way towards broad involvement of citizens in state service, it would act as an instrument integrating the state and the nation and it would make it possible to keep the costs of maintenance for the state apparatus low. Importantly, for republican traditionalists resolving the issue of collegiality “also indirectly determined the matter of selecting local officials, as single-man offices (as well as presiding over collegial bodies) were treated as reserved to nomination by the monarch.”<sup>88</sup> The opposite of

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84 Ibid.

85 Ibid.

86 Ibid.

87 Ibid.

88 Cf. Mycielski, *Rząd*, 2010, 38, 40.

this model was the bureaucratic one, based on professional service and the principle of one-man administration and decision-making. As its advocate, Matuszewicz did not see any better alternative. According to him:

“Collegiality will eliminate neither nuisances nor costliness. As for the expenses, if the offices are paid then the more people are hired, the higher the cost. If they are unpaid, then instead of administration and without savings, we will have savings without administration, the cure will become worse than the disease.”<sup>89</sup>

## Conclusions

A critical attitude towards bureaucracy was the result of a lack of national traditions of modern administration. Polish authorities were obliged to implement the system modelled on the French one. For this reason, it was perceived as foreign and imposed. In the Duchy of Warsaw, criticism focused on the problem of the alleged over-expansion of bureaucratic structures, incompatible with the degree of the country's development and the national spirit of a “rural country”. While the opinions voiced by the 1810 Deputation were, for political reasons, very moderate, the discussion among the Civil Reform Committee after Napoleon's demise in 1814 seemed to be headed on a collision course with all solutions being inherited from the Duchy of Warsaw. In reality, with the exception of the minority group of republican traditionalists, most Committee members only wanted to modify the French model and did not oppose centralization or the bureaucratic nature of the administrative apparatus. The Committee's decision to replace one-man administration with collegiality, albeit in a limited form, was to help with the acculturation of the Napoleonic legacy and conceal its foreign origin.

The Napoleonic period was marked by the co-existence of old and new Europe, brimming with possibilities and offering alternative paths toward modernity. The presented debate demonstrated this fully. It was not until Napoleon's fall that it became clear, both in Polish territories and in other parts of Europe, that institutions fashioned after the French ones had taken root. The deliberations of Civil Reform Committee opened up this stage; it was the point of departure for formulating assessments on the acculturation of French-style bureaucracy in the Congress Kingdom of Poland in the first half of the nineteenth century. The guiding idea of the Committee members was to create an institutional solution that would allow the representatives of local elites, chosen as officials by voivodeship councils (regional

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<sup>89</sup> BKC, 5233 IV, 100.



representative bodies), to have an influence on administration and thus neutralize the danger of a take-over by the bureaucrats.<sup>90</sup> This modification seemed necessary because, as was constantly emphasized at the Committee sessions, the Napoleonic model was maladjusted to the nature of a “rural country”, mainly due to the significant costs associated with the organization of a bureaucratic apparatus. And so, acculturation in the Polish territories ran into problems of two sorts. The opposition against Napoleonic administration did not only stem from the propagandist need to discredit Napoleon’s legacy after his downfall, but also from the belief that there were profound socioeconomic differences between Polish territories and France.<sup>91</sup>

The Organization of [local] Administrative Authorities in the Congress Kingdom was finally adopted in 1816. In accordance with the earlier concept of the Civil Reform Committee, collegial voivodeship commissions replaced the prefectural offices. Commission presidents were granted an even stronger mandate than that proposed by most Committee members.<sup>92</sup> Thus, in reality, despite the formally retained collegiality, their position in the Kingdom of Poland was not much different from that enjoyed by the prefect. The façade of collegiality, along with its name that referred to the Polish tradition of truly collegial bodies, effectively concealed the fact that the finally adopted solution was nothing more than a modified version of the French original, intended to facilitate the acculturation of the introduced institution.

The majority of the purported defects of local administration in the Duchy of Warsaw had a common denominator. They arose from the distrust towards the centralized system of government, which fortified its strength in the provinces. Officials were perceived as the new, emerging social class that threatened the *szlachta* as the currently ruling class. As regards the local administration, the opponents of the expansion of bureaucratic structures alleged that officials leaned towards abuse and arbitrary resolutions.<sup>93</sup> They stemmed from the distrust toward the system of centralized system of government, which fortified its strength in the provinces. Given a general lack or underdevelopment of other protective mechanisms against lawless acts of administration, supporters of collegiality saw its most fundamental advantage in the possibility of thus creating safeguards against the abuse of power by officials who made decisions individually. To them, collegiality seemed to be an effective system, in which officials would control each other. Supporters of one-man administration were in turn in the minority among the Civil Reform Committee, and only Tadeusz Matuszewicz decided to defend them openly, emphasizing that in

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90 Michael Rowe, *Between Empire and Home Town: Napoleonic Rule on the Rhein, 1799–1814*, in: *The Historical Journal*, 42/3 (1999), 643–674, 672.

91 Compare, *ibid.*, 673.

92 Gałędek, *National Tradition*, 2020, 204–205.

93 Gałędek, *Does War Deepen Distrust*, 2019, 1755–1756.

the face of new challenges awaiting the administration, decisions – mainly in order to expedite its functioning – ought to be taken by a single person, especially since such a system would make it possible to assign accountability to a specific individual, enabling its proper enforcement.

This lack of trust in the bureaucracy was closely connected with hostile attitudes towards an active state, deeply rooted in the Polish republican tradition. A great part of the *szlachta* and their representatives in the Civil Reform Committee questioned the very sense and need for building bureaucratic structures, which came at a significant financial cost. The vision of a lean state was also closer to the heart of conservative circles for worldview reasons. The expansion of administration was at odds with old-Polish republican ideas, which saw social activity on the public forum as a patriotic duty. In the minds of republican traditionalists, the state did not need professional bureaucratic staff to manage the public sphere, but rather an expanded self-governance with administration based on offices that were to be elective (which was seen as a guarantee of social trust), unpaid (and so exercised for the prestige afforded by the honour of serving the community), collegial (to ensure that decisions were not made single-handedly) and termed (allowing for the constant rotation of staff and enlisting a larger number of citizens into the public service). On the other hand, however, the love of freedom, deeply imbued in the ethos of the Polish nobility, coupled – from the late eighteenth century onwards – with fashionable occidental enlightened (proto)liberalism, made the elites even more reluctant to embrace bureaucratic structures. The liberal noble elites saw administrative activities as a threat to freedoms and fundamental liberties, such as economic and personal freedom, and – especially – the inviolability of property rights. Similar to the noble masses, the representatives of traditional republican as well as new liberal doctrines believed that a ubiquitous administration was not only undesirable in many areas of socioeconomic life, but, in fact, harmful if furthered by means of police measures and regulations that hampered natural rights and freedoms. The absence of their own experience in building a state in line with modern principles caused the *szlachta* to lash out against bureaucracy; they refused to acknowledge that it was necessary and they would not give up any power in its favour. The nobility, which had only ever come into contact with this type of administration under the foreign rule of Prussia and Austria was traditionally cautious towards public authority. This wariness quickly exacerbated when officials of the Duchy of Warsaw exhibited the inherent bureaucratic tendency to alienate themselves from society to secure their particular interests and abuse their power in the face of an insufficiently developed system of administrative control.<sup>94</sup> On the other hand, however, the periods

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94 More cf. *ibid.*, 1750–1760.

under Prussian and Austrian rule after the Polish-Lithuanian Commonwealth had collapsed in 1795 and, in particular, the introduction of Polish administration and bureaucratic systems in the Duchy of Warsaw must have played a profound role: this process made the strong state and its administration somewhat more palatable to the *szlachta*, albeit still impossible to accept. After all, it ended the nobility's monopoly on power in the provinces. Experiences gained in the course of debates and governmental analyses, in combination with the close observation of the Duchy's system, would pay off in the future.

Bearing all that in mind, it should be emphasized that the concept of collegiality formed part of a larger whole. As per traditional republican ideas, administration should be based on public service exercised by elected officials, who performed their work free of charge and whose office was limited to a term. These rules translated into a vision of administration in which, pursuant to the traditional Polish republican doctrine, the broadest possible group of 'citizens' should be included in managing the state. It provided the answer to the tensions between bureaucracy and society (particularly *szlachta*) after the Napoleonic Wars, the period of particularly strong distrust towards the state apparatus. The popularity of this model was based on the assumption that citizens should be given the opportunity to become directly involved in the management of the public sphere and show their commitment to mutual welfare. Involving citizens in administrative work would not only allow them to better understand the mechanisms of the state and the principles of running the public sphere. It would also be an important element of civic education and shaping civic virtues.

Within this system, collegiality was to serve a number of purposes. Firstly, it made it possible to involve a larger number of people in the public service. Secondly, it guaranteed their real participation in the process of decision-making, thus giving them a sense of responsibility for the shape and functioning of the public space. Collegiality supporters were convinced that under this system discussions would lead to consensus in decision-making, and power would be shared among all members of the office who were "thought to have a shared understanding about the aims of the institution".<sup>95</sup> Thirdly, collegiality offered a significant control mechanism for the performance of public authority, a measure of self-control embedded in the administrative structure, based on trust and reliability. Collegiality was considered a better system to implement laws, protect social rights and ensure justice in bureaucratic encounters, particularly where civil servants had a considerable scope of discre-

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95 Leila Shrifan, Collegial management to improve the effectiveness of managers, organizational behavior in educational institutions, in: *Social and Behavioral Science* 29 (2011), 1169–1178, 1170.

tion.<sup>96</sup> It was a key element of internal administrative control, especially for the *szlachta*, protecting them against the alienation of the emerging social stratum, the “class of civil servants”, which was the old nobility’s main contender in their strive for power. By applying old republican principles, the *szlachta*, which had a broad participation in the direct exercise of public authority, could more effectively counter the attempts of bureaucrats to use power for their own ends and against the interests of the nobility. These tensions and power struggles between the conservative *szlachta* and the “estate of civil servants” and between local political participation and the “paternalism of central state” were also typical for this period in other countries, particularly in the neighbouring states, Prussia and Austria, whose socio-economic situation was to some extent similar.<sup>97</sup>

The republican traditionalists wanted a ‘civic’ administration made up of elected officials with no professional qualifications, whose office would be termed, unpaid and rotational, to be implemented in its most extreme form. They virtually excluded from the local structures the bureaucratic element that performed administrative functions professionally. The traditionalists called for a complete return to the concept of managing the state established in the Polish-Lithuanian Commonwealth. Their model was the local administration from the Enlightenment era, designed towards the end of the eighteenth century as a result of the reforms introduced by the Four-Year Sejm. According to their opinion, the modernization of administration along the lines of Western European countries did not take into account national peculiarities, in contrast to the solution that they proposed, which only seemed anachronistic.

However, the republican traditionalists were outnumbered even during Civil Reform Committee debates in 1814–1815, a prime moment of activity of Polish conservatives. The mixed concept gained the most followers. They appreciated the significance of the traditional republican concept, deeply anchored in the Polish tradition, but were aware of the fact that the challenges faced by a modern state required professional support of bureaucrats. This would guarantee that the administration could count on the expertise of qualified civil servants, who had the professional qualifications to perform administrative tasks, gained at the appropriate schools, especially at ones that were profiled specifically to satisfy the needs of public service, that is administrative and law studies. At the same time, they were vastly senior and thus had the necessary practical experience. Professional civil servants would act as

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96 Hasenfeld, Rafferty, Zald, *Welfare State*, 1987, 407.

97 Pieter M. Judson, *The Habsburg Empire: A New History*, Cambridge, MA/London 2006, 127; Deak, *Forging a Multinational State*, 2015, 38, 108; Hermann Beck, *The Origins of the Authoritarian Welfare State in Prussia: Conservatives, Bureaucracy and the Social Question, 1815–70*, Ann Arbor 1995, 73.

local leaders, holding the position of presidents of collegial bodies and other offices. Even in such a situation, the collegial decision-making would serve as a genuine guarantee that the bureaucratic element would not overpower the civic element in regional politics. Paid and professional civil servants were also to act as an auxiliary apparatus, working at administrative offices or performing other, strictly executive, roles, especially in those branches of administration where mostly specialized knowledge was required.

Such an attitude of Polish political elites towards accountability ultimately led to the replacement of the Napoleonic model of one-man management with the collegial model in the Congress Kingdom of Poland, following the *octroi* of this state's constitution in 1815. Nevertheless, in the course of further works, their vector visibly shifted towards giving priority to heads of collegial bodies, who, in the end, gained a host of tools for exerting individual influence on the other members of collegiums, and matters that required particularly swift handling were entrusted to their individual discretion.