

Poland
(1948)

Documents and Reports on Poland

THE PROVISIONAL CONSTITUTION

OF FEBRUARY 20, 1947

and the
DECLARATION OF RIGHTS

Econ. 250B
ROSS

1948

POLISH RESEARCH AND INFORMATION SERVICE
250 West 57 Street • New York 19, N. Y.

With this booklet the Polish Research and Information Service begins a new series of publications. As the need arises, such basic documents and reports will appear as may be of interest to all those who desire information on Poland. In conformity with the general aims of P.R.I.S., this series has the purpose of acquainting the American public with life in the new Poland and the tasks and problems which confront the Polish people.

This first booklet in the series contains two documents: The Declaration of Rights and Liberties and the Provisional Constitution, colloquially called the Little Constitution. We begin with these documents because with them Poland started out on her job of building a new legal order and setting up a new form of government. They are binding only until the Constituent Diet has adopted a new and permanent constitution.

The Provisional Constitution which we publish in the following pages is the second provisional constitution in Polish history. On February 20, 1919, the Constituent Diet likewise approved a Little Constitution which was binding until March 17, 1921, when a permanent constitution was adopted. This latter remained in force until 1935. In that year it was superseded by a new and anti-democratic law that interrupted the democratic trend in Poland which was making headway in the last two decades. Therefore, the constitution which the present Diet is about to draw up will be the third in the history of modern Poland.

It is our hope that the following documents will make the reader more familiar with the form of government the Polish people have adopted at the present time.

DECLARATION OF RIGHTS AND LIBERTIES

Approved by the Constituent Diet on February 22, 1947

THE CONSTITUENT DIET, representing the sovereign authority of the Polish people, solemnly declares that in the exercise of its constitutional and legislative power and in the exercise of its supervision over the activities of the Government, as well as in its determination of the basic policies of the nation, it will continue to uphold such fundamental civil rights and liberties as:

- (1) Equality before the law, regardless of nationality, race, creed, sex, origin, social status and education;
- (2) Security of person, life and property;
- (3) Freedom of conscience and of worship;
- (4) Freedom of scientific research and the publication of the results thereof, and freedom of creative artistic endeavor;
- (5) Freedom of press, speech, association, assembly, public meetings and demonstration;
- (6) The right to vote and to seek public office;
- (7) Inviolability of the home;
- (8) Secrecy of the mails and other means of communication;
- (9) The right of instituting court actions and of filing petitions with the proper State and municipal authorities;
- (10) The right to work and to periods of rest;
- (11) The right to relief in case of unemployment and incapacitation;
- (12) The right to education;
- (13) Protection of family life and care of mother and child;
- (14) Protection of health and working capacity.

At the same time, the Diet goes on record in stating that the abuse of the civil rights and liberties for the purpose of overthrowing the democratic form of government of the Republic of Poland, shall be prevented by law.

THE CONSTITUTIONAL ACT

Of February 19, 1947

CONCERNING THE ORGANIZATION AND POWERS OF THE SUPREME ORGANS OF THE REPUBLIC OF POLAND

Article 1

Until such time as the new Constitution of the Republic of Poland is duly established, this Constituent Diet representing the sovereign authority of the Polish people—in accordance with the basic principles of the Constitution of March 17, 1921, and the Manifesto of the Polish Committee of National Liberation of July 22, 1944, and the legislation on National Councils, as well as in accordance with the social and institutional reforms endorsed by the people in the referendum of June 30, 1946—hereby makes the following provisions regarding the organization and powers of the supreme organs of the Republic of Poland.

CHAPTER I

The Supreme Organs of the Republic of Poland

Article 2

The supreme organs of the Republic of Poland shall be: the Constituent Diet in which shall be vested the legislative power; the President of the Republic, the State Council and the Government of the Republic, in whom shall be vested the executive power; the independent courts in which shall be vested the judicial power.

CHAPTER II

The Constituent Diet

Article 3

The Constituent Diet shall have power to:

- (a) establish the Constitution of the Republic of Poland;

- (b) enact laws;
- (c) supervise the activities of the Government and chart the basic course of national policy.

Article 4

(1) The Diet may pass legislation authorizing the Government to issue decree-laws on all matters except: the Constitution; the electoral law; the functions of the Supreme Auditing Board; the responsibility of the President of the Republic and the Ministers, as provided in Article 27; the budget; the national economic plan; changes in the monetary system; the military draft; the structure of local governments; the ratification of international treaties.

(2) The powers referred to in paragraph (1) may be granted only for the time when the Diet is in recess or adjournment and for the period following the dissolution of this Constituent Diet until such time as the new Diet has convened.

(3) The Premier shall submit the decree-laws to the State Council for approval.

(4) The President of the Republic shall cause the decree-laws, approved by the State Council and signed by the President of the Republic, the Premier and the Ministers concerned, to be promulgated in the official Journal of Laws.

(5) Decree-laws not submitted for approval to the Diet at its ensuing session, or those rejected by simple majority shall expire on the day when the Diet goes into recess or adjourns. Their expiration shall be made public by the Premier in the Journal of Laws.

Article 5

The right of legislative initiative shall rest with the Government, the Diet and the State Council.

Article 6

The term of the Constituent Diet shall be five years starting with the day of its inauguration.

Article 7

(1) The President of the Republic shall convene, open, adjourn and close the Diet.

(2) The President of the Republic shall convene the Diet for its regular fall session not later than in October. The fall session may not close before legislation concerning the budget, the national economic plan and the military draft has been enacted, and not earlier than two months after the session has been called.

(3) The President of the Republic shall convene the Diet for its regular spring session not later than in April. The spring session may not close before passing a resolution on the report of the Supreme Auditing Board concerning the audit of the budget, and not earlier than one month after the session has been called.

(4) The President of the Republic may at any time convene the Diet for an extraordinary session and it is his duty to do so within two weeks upon request by one third of the Diet.

Article 8

If the Diet fails to enact legislation concerning the budget, the national economic plan and the military draft within three months after the bills have been submitted by the Government, the President of the Republic shall, upon consent of the State Council, promulgate these laws in the version proposed by the Government.

Article 9

(1) The Diet shall elect from among its members the Speaker, three Deputy-Speakers, Secretaries and Committees.

(2) The terms of the Speaker and the Deputy-Speakers shall continue beyond the term of the Diet until the new Diet has convened.

(3) The Speaker shall appoint the employees of the Diet for whose activities he shall be responsible to the Diet.

Article 10

The members of the Diet are sworn in by the Speaker, taking the following oath:

“As a member of the Constituent Diet I do solemnly affirm to the best of my understanding and in accordance with my conscience, that I will work for the good of the Polish people, protect their democratic rights and, to the best of my strength and ability, preserve the independence and promote the general welfare of the Republic of Poland.”

Article 11

Articles 21, 22 and 24 of the Constitution of March 17, 1921, shall apply to the members of the Constituent Diet.

Articles of the Constitution of March 17, 1921 incorporated into the Provisional Constitution

Article 21

The Deputies may not be held responsible either during their term or after its expiration for any acts within or outside the Diet, provided these acts form part of their duties as Deputies. For speeches, remarks and other expressions of opinion on the floor of the Diet the Deputies shall be responsible solely to the Diet. The Deputies may be held responsible before the courts for infringement on the rights of a third person only if the judiciary secures permission from the Diet.

Criminal, administrative or disciplinary proceedings against a Deputy that had been started prior to his election shall be stayed upon request of the Diet until the expiration of his term.

In criminal proceedings against the Deputy the length of his term shall not be included in the period of limitation.

For the duration of his term the Deputy may not be held responsible in criminal, administrative or disciplinary proceedings, nor can he be deprived of his liberty without authorization by the Diet. In case a Deputy is caught in the act of committing a common crime, and his detention becomes imperative in the interest of justice or in order to counteract the effects of the offense, the judiciary is bound to inform the Speaker immediately to this effect in order to ask permission of the Diet for the arrest and the criminal prosecution of the offender. However, the detained must be released without delay if the Speaker so requests.

Article 22

A Deputy shall not be permitted, in his own name or on behalf of other persons, to purchase or lease real estate owned by the Government, to sell goods or services to the Government or to receive grants or other personal benefits from it.

Nor may a Deputy be awarded by the Government any but military decorations.

Article 24

The Deputies shall receive compensation, the amount of which is to be determined by the rules of the Diet, and they shall be entitled to the free use of all state-owned means of transportation within the territory of the Republic.

CHAPTER III

The President of the Republic

Article 12

The Diet shall elect the President of the Republic for a term of seven years. He shall be elected by majority vote with no less than two thirds of the members present.

Article 13

Articles 40; 42; 43; 44; 45, paragraph (1); 46, 47, 48; 49; 50; 51; 52 and 53 of the Constitution of March 17, 1921, shall apply to the office of the President of the Republic.

*Articles of the Constitution of March 17, 1921
incorporated into the Provisional Constitution*

Article 40

In case of the President's inability to discharge the duties of his office, or in case the office of President becomes vacant due to his death, resignation or to some other cause, the Speaker shall act as President.

Article 42

In case of the President's failure to discharge the duties of his office for the duration of three months, the Speaker shall immediately convene the Diet for the purpose of deciding whether the office of the President of the Republic is to be considered vacant.

The recognition of the office as vacant requires a three fifths majority with no less than half the members present.

Article 43

The President of the Republic shall exercise his executive power through Ministers who are responsible to the Diet, and through their subordinate officers.

Article 44

The President of the Republic together with the Ministers concerned shall sign the laws and cause their promulgation in the official Journal of Laws

In order to enforce laws the President of the Republic shall have the right—whenever authorized by law to do so—to issue executive decrees, rules, orders and prohibitions, and to secure their implementation, if need be by force.

Such power shall likewise be vested in the Ministers and their subordinates regarding all matters within their jurisdiction.

Official acts of the President of the Republic, in order to become valid, shall be countersigned by the Premier and the Minister concerned, who by their signatures assume responsibility for the acts.

Article 45, Paragraph 1

The President of the Republic shall have the right to appoint and to recall the Premier and, upon the latter's proposal, shall appoint or recall the Ministers. Furthermore, the President of the Republic shall have the right, in cases provided by the law, to appoint civilian and military officers proposed by the Council of Ministers.

Article 46

The President of the Republic is the Supreme Commander of the National Armed Forces. He may not, however, exercise the func-

tions of Commander-in-Chief in times of war. The Commander-in-Chief of the Armed Forces in times of war shall be appointed by the President of the Republic upon the proposal of the Minister of Military Affairs, who in turn shall be responsible to the Diet for acts relating to the Command in times of war and for all matters pertaining to military administration.

Article 47

The President shall in individual cases have the power to grant pardons and to mitigate punishment as well as to annul the effects of a sentence.

An amnesty requires a legislative act.

Article 48

The President of the Republic shall represent the State abroad, receive diplomatic representatives of foreign countries and dispatch diplomatic representatives of the Republic of Poland to foreign countries.

Article 49

The President of the Republic shall have the right to conclude treaties with other countries and must inform the Diet thereof.

Trade and tariff agreements, agreements implying permanent financial obligations for the State or agreements implying obligations for the citizens, treaties regarding boundary changes, as well as alliances require the consent of the Diet.

Article 50

The President of the Republic shall have power to declare war and make peace upon previous approval by the Diet.

Article 51

The President of the Republic is not responsible to the Diet, nor can he be sued under the civil law for his official acts.

For treason, violation of the Constitution and criminal offenses,

** Under the present government, the Minister of National Defense. (Ed.)*

the President of the Republic can be impeached solely by the Diet and a decision to this effect requires a three fifths majority with no less than half of the members present. The trial shall be conducted and the sentence passed by the Tribunal of State as provided for by special legislation. Immediately upon his impeachment, the President of the Republic shall be suspended from office.

Article 52

The President of the Republic shall receive compensation determined by special legislation.

Article 53

The President of the Republic may not hold any other office nor be a member of the Diet or of the Senate.

Article 14

In case of a vacancy in the office of the President of the Republic the Diet shall proceed immediately to elect a new President.

CHAPTER IV

The State Council

Article 15

- (1) The State Council shall consist of:
the President of the Republic, who shall be the chairman;
the Speaker and the Deputy-Speakers of the Constituent Diet;
the Chairman of the Supreme Auditing Board.
- (2) In times of war the Commander-in-Chief of the Polish Army shall also become a member of the State Council.
- (3) Upon the unanimous motion of the State Council, the Diet may appoint additional members to the State Council, not to exceed the number of three.

Article 16

The State Council shall have power to:

(1) exercise the supreme control over the local national councils which was previously exercised by the Polish National Council and its Praesidium in accordance with the Act of September 11, 1944, concerning the organization and activities of the national councils;

(2) approve decree-laws based on powers granted to the Government by the Diet;

(3) exercise authority previously vested in the Praesidium of the Polish National Council;

(4) declare a state of emergency and martial law [Article 19, paragraph (2)];

(5) approve promulgation of laws concerning the budget, the national economic plan and the military draft, in the cases referred to in Article 8;

(6) originate bills;

(7) examine reports of the Supreme Auditing Board.

CHAPTER V

The Government of the Republic

Article 17

The Government shall be headed by the Premier, under whose chairmanship the Ministers form the Council of Ministers.

Article 18

(1) If matters of extraordinary importance are to be considered, the Premier shall, at the request of the President of the Republic, call the Cabinet Council.

(2) The Cabinet Council is formed by the Council of Ministers under the chairmanship of the President of the Republic.

Article 19

(1) The provisions contained in Articles 44; 45, paragraphs (1) and (2); and Article 56 to 63 of the Constitution of March 17,

1921, shall apply to the Council of Ministers and to the Ministers concerned.

(2) Upon the motion of the council of Ministers the State Council may declare a state of emergency or martial law. Such decree must be admitted to the Diet for approval at its ensuing session. Unless it is submitted to the Diet, or in case it fails to win its approval, the decree shall expire.

*Articles of the Constitution of March 17, 1921
incorporated into the Provisional Constitution*

Article 44

The President of the Republic together with the Ministers concerned shall sign the laws and cause their promulgation in the official Journal of Laws.

In order to enforce laws the President of the Republic shall have the right—whenever authorized by law to do so—to issue executive decrees, rules, orders and prohibitions, and to secure their implementation, if need be by force.

Such power shall likewise be vested in the Ministers and their subordinates regarding all matters within their jurisdiction.

Official acts of the President of the Republic, in order to become valid, shall be countersigned by the Premier and the Minister concerned, who by their signatures assume responsibility for the acts.

Article 45, Paragraph 2

The President of the Republic shall have the right to appoint and to recall the Premier and, upon the latter's proposal, shall appoint or recall the Ministers. Furthermore, the President of the Republic shall have the right, in cases provided by the law, to appoint civilian and military officers proposed by the Council of Ministers.

Article 56

The Council of Ministers as a body shall bear the constitutional and parliamentary responsibility for the policies of the Government. In addition, the Ministers are responsible individually, each within his own department, for their policies, as well as for the constitu-

tionality and legality of their official acts and the acts of their subordinates.

Article 57

The Ministers shall be likewise responsible, jointly and individually, for the official acts of the President of the Republic.

Article 58

The Diet shall exercise its parliamentary control over the Ministers by majority vote.. Both the Council of Ministers and each Minister individually shall resign if requested by the Diet.

Article 59

The constitutional responsibility of the Ministers and its implementation shall be determined by special legislation.

The Diet has the power to impeach Ministers by a three fifths majority with no less than half the members present.

The trial shall be conducted and sentence passed by the Tribunal of State. A Minister may not escape constitutional responsibility by resigning his office. Immediately upon his impeachment the Minister shall be suspended from office.

Article 60

Ministers or officials delegated by them may participate in the meetings of the Diet and they shall have the floor immediately upon request. They shall have the right to vote if they are at the same time members of the Diet.

Article 61

Ministers may not hold any other office nor be active members of executive or supervisory boards of corporations and other business organizations.

Article 62

If and when a Minister's functions are exercised by an acting Minister, the latter is subject to all the provisions that normally go with this office.

Whenever necessary, the Premier may appoint one of the Ministers as his Deputy pro tempore.

Article 63

The number of Ministers, their jurisdiction and mutual relations, as well as the powers of the Council of Ministers, shall be determined by special legislation.

CHAPTER VI

The Supreme Auditing Board

Article 20

(1) The Supreme Auditing Board shall audit the financial and economic activities of government offices, agencies and enterprises.

(2) The State Council may entrust the Supreme Auditing Board with the temporary or permanent control of all or any local government and associations or agencies subsidized by the Government or exercising functions of public administration delegated to them by the Government.

Article 21

(1) The Chairman of the Supreme Auditing Board shall be elected by the Diet.

(2) The organization and procedure of the Supreme Auditing Board shall be determined by special legislation.

Article 22

The Supreme Auditing Board shall audit the government accounts at the end of each fiscal year and submit to the Diet a proposal recommending the approval or rejection of the settlement of government accounts.

Article 23

The Chairman of the Supreme Auditing Board shall participate either in person or through a delegated representative in the deliberations of the Diet and shall have the right to address the Diet on all matters pertaining to financial reports of the Government and to the settlement of government accounts.

CHAPTER VII

The Administration of Justice

Article 24

(1) Justice shall be administered by the courts in the name of the Republic of Poland.

(2) In discharging their judicial duties the judges shall be independent and guided by law alone.

(3) The courts shall have no power to review the validity of duly promulgated laws and decree-laws.

Article 25

(1) The organization and jurisdiction of the courts shall be defined by special legislation including provisions which will extend the jurisdiction of the regularly constituted courts over the entire administration of justice.

(2) The rights and duties of the judges, the manner of their appointment and their compensation shall be determined by special legislation.

Article 26

The jurisdiction of the organs which are to pass on the legality of administrative decisions and the mode of procedure to be employed in such cases shall be determined by special legislation.

CHAPTER VIII

Transitional Provisions

Article 27

The body which is to try impeachments of the Ministers and of the President of the Republic of Poland, as provided for in Article 51 of the Constitution of March 17, 1921, shall be established by special legislation.

Article 28

The Government shall submit to the Diet bills pertaining to the budget, the national economic plan and the military draft for 1947 not later than within three months after the opening of the Constituent Diet.

Article 29

Not later than three months after the opening of the Constituent Diet the Government shall submit to the Diet for approval all the decree-laws issued after September 23, 1946. Decrees not submitted for approval or those rejected by majority vote shall expire on the closing day of the session during which they were to be submitted. Their expiration shall be announced by the Premier in the Official Journal of Laws.

CHAPTER IX

Final Provisions

Article 30

This Constitution can be amended by a two thirds majority of the Diet.

Article 31

The enforcement of the provisions contained herein shall devolve on the Premier and all the Ministers.

Article 32

This Constitution shall take effect on the day of its promulgation.

MARSTIN PRESS, INC.
NEW YORK 17, N. Y.



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