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Constitution of the Republic of Poland

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Preface

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Outline of Legislation
on Presidential and Parliamentary
Elections

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W A R S A W

POLISH COMMISSION FOR INTERNATIONAL LAW COOPERATION

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OUTLINE
OF LEGISLATION ON PRESIDENTIAL
AND PARLIAMENTARY ELECTIONS

by Michael Potulicki, LL. D.

The Polish Constitution of 1935 is, as the reader will have observed, a fundamental law the aim of which is to indicate the paths of public, social and economic life of the nation,—to give it an assured character and direction for the future. But its authors have been most careful not to determine or to foreclose questions of detail. It has been framed, therefore, more as a schematic law for special laws which would fix the details of given problems; in short it is to serve for their organization.

Amongst these laws there are three which are closely bound up with the machinery of the Constitution itself and which, therefore, should be duly mentioned herein. These laws have just been enacted, having been promulgated on July 10th, 1935. They deal with:

- (a) the election of the President of the Republic;
- (b) the elections to the Sejm;
- (c) the elections to the Senate.

A concise summary of these laws is given below; the scope of this publication makes it impossible to quote the full text.

LAW OF JULY 8TH., 1935 CONCERNING
THE ELECTION OF THE PRESIDENT OF THE
REPUBLIC

(Journal of Laws, No. 46, 1935, Item 321)

A bill in respect of the election of the President of the Republic was presented to the S e y m on June 6th., 1935 by the Parliamentary Bloc for Co-operation with the Government.

The law as passed stipulates that the Assembly of Electors (art. 17 of the Constitution), charged with the duty of electing the President of the Republic shall be convoked by the President of the Republic who shall fix the place and date of this session. The date fixed shall be at the latest upon the fifteenth day before the term of office of the President of the Republic expires.

Art. 20 of the Constitution enacts that the term of office of the President of the Republic shall be extended for the period indispensable for the designation of the new President in the event of a referendum becoming necessary for this purpose.

The S e y m and S e n a t e shall meet in session, each of them, three days before the session of the Electors, in order to draw up a list of the last-named. The S e y m shall choose fifty electors and the S e n a t e, on its part, twenty-five from amongst the candidates who shall have been proposed upon the various lists, each signed by at least eight deputies, or by eight senators. Each deputy and each senator shall be empowered to sign only one list of candidates.

The apportionment of the Electors' mandates shall be effected in the following manner: the total number of valid votes received by each list shall be divided by 4, each of the lists receiving a number of mandates answering to the quotient; fractions are to be disregarded. The remainder of the mandates not apportioned shall be granted to the list which received an absolute majority in the voting. If none of the lists will have received such a majority, the non-apportioned mandates shall be granted in the proportion of one mandate per list to each of those lists which successively received

the most votes. If, after such apportionment, the total number of mandates accorded to the lists filed by the Sejm should still exceed the number of fifty candidates, drawings shall decide upon which of the lists mandates will be cancelled.

The Speakers of the two Chambers shall without delay communicate the result of the count to the Electors.

Art. 17, sec. 2 of the Constitution stipulates that the mandates of the Electors shall expire upon the same day that the newly elected President of the Republic commences his term of office. In addition, the law concerning the election of the President of the Republic contains a provision that the Electors shall under no circumstances be deprived of their liberty during the period between the date of their nomination and that on which their mandate expires.

The voting of the Assembly of Electors shall only have the force of law if passed by a quorum consisting of the Chairman of the Assembly and of at least a half of the total number of Electors.

The names of the candidates to the Presidency of the Republic shall be presented in writing: such propositions should be signed by at least eight Electors.

The candidate who receives an absolute majority of the votes, deposited in accordance with the law, shall be considered as elected. If none of the candidates receive an absolute majority, the polling will be resumed: at each count, the candidates who receive the least votes shall be eliminated.

The Chairman of the session of Electors shall sign the minutes of the Assembly and shall make his report to the President of the Republic whose term of office shall expire as from that moment.

If the President of the Republic whose term of office thus expires informs the President of the Council of Ministers in writing that he has not the intention of applying his right to designate his own candidate (in accordance with art. 16, sec. 3 of the Constitution) or if he does not designate him within seven full days, the President of the Council of Ministers shall publish an announcement in the "Official Journal of Laws of the Polish Republic" stating that the electoral procedure has

been concluded and that the candidate of the Assembly of Electors has been elected President of the Republic.

If, however, the President of the Republic whose term of office has expired avails himself of his right to designate his candidate, the choice shall then be made with the application of art. 16, sec. 4 of the Constitution by the whole electorate of citizens who shall choose one of the two candidates: the one proposed by the President of the Republic or the one designated by the Assembly of Electors. In other words, a referendum shall be held.

This referendum shall be decreed by the President of the Republic within the course of seven days counting from the date on which the candidate of the Assembly of Electors was designated.

All citizens, regardless of sex, aged twenty-four or over and possessed of the right of active suffrage to the Sejm can participate in the referendum.

The referendum shall be held on one day, upon a Sunday, over the whole territory of the Republic. The votes shall be accepted by the electoral district commissions in accordance with the norms fixed by the law in respect of elections to the Sejm.

The newly-elected President of the Republic enters into office upon the last day of the term of office of his predecessor. In the event of the premature death or of the resignation of the former President of the Republic, the new President of the Republic shall enter into office immediately.

LAW OF JULY 8TH., 1935 CONCERNING ELECTIONS TO THE SEYM

(Journal of Laws, No. 46, 1935, item 419)

This law fixes the number of deputies to the Sejm at 208.

Every citizen, regardless of sex, who has attained the age of twenty-four upon the day of the elections, shall possess the right of active suffrage. As regards the eligibility of candidates to the Sejm, this right is possessed by every citizen

having the right of suffrage and who has already attained the age of thirty on the day the elections are announced.

The following persons shall not have the right of standing for election as candidates in the electoral districts where they exercise their functions and duties: the voivodship governors and the functionaries of their respective offices; public prosecutors attached to the various tribunals of justice (but with the exception of the Prosecutors of the Supreme Court); the district school-curators and the chiefs of departments under them; school-inspectors and superintendents of public instruction; the directors of Treasury Tax Offices and their functionaries, and all ranks of the State Police Force.

The elections shall be held on a Sunday. The electoral period, that is to say the period between the date on which the election writs were issued and the date of the count, shall have a duration of not less than fifty-four days and not more than sixty days.

The electoral operations shall be confided to the Commissioner-General of Elections as also to the electoral zone and district commissions.

The territory of the Republic shall be divided into 104 electoral zones, each of which shall return two deputies.

The list of candidates for election shall be drawn up in each zone by a special Assembly which will meet under the chairmanship of the Electoral Commissioner of the zone concerned.

The Zone Assembly shall be composed, according to the terms of the law, as follows: (a) delegates of the territorial local-government institutions, elected by the district councils (one delegate per 20,000 inhabitants in every district); delegates elected by the communal councils (two delegates per commune containing more than 6,000 inhabitants and one delegate for the other communes); delegates elected by the municipal councils (one delegate per 4,000 inhabitants in towns not forming part of a district local-government union, or per 6,000 inhabitants in all other types of towns); (b) delegates of economic self-governing institutions and of vocational organizations, elected by: the Chambers of Commerce and Industry (one delegate per 500 electors to the said Chambers); by the

Chambers of Handicrafts (one delegate per 500 electors to the said Chambers); by the Chambers of Agriculture (in the proportion of one delegate per two delegates of the district councils); by the vocational organizations of manual workers (one delegate per two delegates to the municipal councils and to the communal councils in industrial regions) and of mental workers (one delegate per two workmen delegates).

In addition to the representatives mentioned above the following will belong to the Electoral Assembly in all zones where there will be more than 75,000 urban dwellers: delegates of the vocational bodies elected by the Chamber of Physicians (three delegates per zone), by the Chamber of Barristers (two delegates per zone), by the Chamber of Notaries-Public (one delegate per zone), as also representatives of the Polish Union of Technical Associations (three delegates per zone) and delegates of women's associations (five delegates per zone).

In addition, all other delegates presented by the electors shall belong to the Zone Assemblies, counting one delegate at least per 500 electors domiciled upon the territory of the zone. The signatures of electors presenting their delegate should be certified by a notary-public at the rate of 10 groszy (rather less than the equivalent of a penny) per signature.

Finally, in the electoral districts upon the area of which there are academic schools, the delegates of these schools should be added (three delegates for each establishment containing several faculties, and one delegate for each establishment of only one faculty) and these shall also participate in the Zone Electoral Assembly.

The right of proposing candidates to the legislative bodies shall be due to every member of the Zone Assembly.

The chairman of the Assembly shall draw up a list of the candidates proposed by the members. In the event of only four candidates being proposed, their names shall figure upon the list. If, however, the number of candidates exceeds that of four, a vote shall be taken and those of the candidates who receive a quarter of the total votes cast shall be inscribed upon the list of candidates.

After having drawn up the list of candidates for deputies, the Assembly shall in the same manner draw up a list of candidates to act as substitutes.

In this connexion, be it mentioned that candidatures cannot be presented in more than one electoral zone.

Finally, the electoral operations having been concluded, the two candidates who received the largest number of votes but not less than 10,000 each, shall receive their mandates as deputies to the Sejm.

The counting of the votes shall take place as follows: each voter shall receive an official list upon which the names of the candidates will be printed; he will designate upon his list the names of the two candidates for whom he wishes to vote.

LAW OF JULY 8TH., 1935 CONCERNING ELECTIONS TO THE SENATE

(Journal of Laws, No. 46, 1935, item 320)

The law fixes the number of senators at 96, of whom one-third shall be designated by the President of the Republic and two-thirds by the Voivodship Electoral Colleges. These Colleges shall be composed of delegates chosen by those citizens having the right of suffrage to the Senate by reason of their personal merit, their mental achievements or of the confidence which they enjoy amongst their fellow citizens.

Active suffrage to the Senate shall be accorded, *in virtue of personal merit*, to those citizens who have been decorated with the Order of the White Eagle, with the Order of Virtuti Militari, the Cross or the Medal of Independence, the Cross of the Brave, the Order of Polonia Restituta, or finally, with the Cross of Merit; *as regards mental achievements*: (a) citizens who have received the diploma of an academic or polytechnic school, of a lyceum, or of a Military School for officers or for ensigns; (b) those citizens who, before the introduction of the new school system, had passed through a higher school equivalent to those mentioned or who have

the rank of officer in the Army; *as regards the confidence which given citizens enjoy amongst their fellow-citizens:* (a) persons occupying posts for which they have been elected in territorial local-government insitutions, as also executive posts in the economic associations attached to the said local-government institutions, and especially: councillors of Chambers of Agriculture, of Industry and Commerce, and of Handicrafts; presidents of industrial associations and of agricultural boards; presidents of vocational trade-unions; (c) presidents of local branches of associations recognized as being of public utility; citizens occupying higher posts in the administration of the above-mentioned organizations.

The right of suffrage to the Senate shall not be possessed by citizens below the age of thirty.

The right of eligibility to the Senate shall be accorded to every citizen who has the right of voting to the Sejm and who has attained the age of forty before the date of the elections.

Candidature to the Senate shall not be made in more than one voivodship.

As to electoral districts, these shall be divided into electoral zones each containing from 90 to 120 voters to the Senate. Each zone shall designate one delegate to the Voivodship Electoral College. The election of the delegates shall take place two weeks before the date of the elections to the Sejm in all the Zone Assemblies. The delegates shall meet upon the first Sunday following the elections to the Sejm.

The Electoral College shall draw up a list of candidates and shall then proceed to vote in such fashion that each delegate shall have the right to vote for as many senators as there are fixed for the voivodship in question.

Out of the total of 64 senators elected in this way, the City of Warsaw, as the capital, as also the voivodships of Kielce and of Lwow, shall have six senators each; the voivodships of Warszawa and of Lodz shall have five senators each; the voivodships of Lublin, Wolyn, Krakow and Poznań shall each have four senators; the voivodships of Wilno, Bialystok, Tarnopol and Silesia shall have three senators each, and the voi-

vodships of Pomorze, Nowogródek and Polesie shall each have two senators.

After the publication of the results of the elections to the Senate, or within the course of seven days, the President of the Republic shall be obliged to designate the 32 senators the choice of whom is reserved to him.

Warsaw, July 15th., 1935.