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Kazimierz Działocha, Leszek Garlicki, Paweł Sarnecki, Wojciech Sokolewicz, Mirosław Wyrzykowski: *Komentarz do Konstytucji Rzeczypospolitej Polskiej,* [Commentary to the Constitution of the Republic of Poland], Leszek Garlicki (ed.), Warszawa 1995, Wydawnictwo Sejmowe

1. This book is a unique position in the Polish literature devoted to the issues of constitutional law.

In other countries commentaries to constitutions are published very rarely, therefore it was almost impossible to use foreign patterns for comparison. This fact made the task of writing the book even more challenging. An additional difficulty was created by the specific condition of the Polish constitutional acts, especially by the lack of one integrated Constitution. Under those circumstances the Authors have decided to discuss in the "Commentary" three binding acts with constitutional force, although they are very different in their origin, scope and function. These are: a) the Constitutional Act of 17 October 1992 on the mutual relations between the legislative and executive institutions of the Republic of Poland and on local government called frequently the Little Constitution (LC); b) the provisions of the Constitution of the Polish People's Republic of 22 July 1956 still remaining in force in the content and scope defined in article 77 of the Constitutional Act of 17 October 1992; c) the Constitutional Act of 23 April 1992 on the procedure for preparing and enacting a Constitution for the Republic of Poland.

In "Preface" the Authors mention that they will continue the work on "Commentary" hoping that in the future they will have the opportunity to cover a new fundamental law in the scope of their study. Thanks to the convenient form of the present edition of the book it is possible to add supplements to "Commentary" when the new constitutional amendments to the presently binding acts are adopted. It seems quite a practical solution. We may assume, however, that it would be more reasonable to finish off the work on the new Constitution rather than to make partial amendments to the binding constitutional acts. When the new Constitution is adopted, the Authors should continue their work by preparing the commentary to this new regulation. In such circumstances, the form of the present edition will probably be modified.

2. At the moment it is difficult to say how long the presently binding acts will still remain in force and whether or not partial amendments will be adopted, therefore the form of the present edition of the book which gives the possibility to add supplements seems very reasonable. The Authors themselves mention the possibility to add "new texts" to the appropriate parts of "Commentary". This feature of "Commentary", however, combined with the fact that the Polish constitutional acts are based on three different sources makes it difficult to use the book as a source of information or quotations. The book lacks both the consistent page numbering and the num-

bering of subsequent text units. The consistent numbering has been retained only with reference to different parts of the book which deal with a particular provision of constitutional acts, but each of the five Authors uses his own system of numbering in his part of the "Commentary". It means that if we wanted to quote a statement or an opinion from the book, we would have to point out, first, the provision discussed, then the Author of the given part of the text, the number of the given text unit, and, possibly, a number of the page which appears in the part written by that particular Author. We can see that the whole process of finding the appropriate quotation would be both quite difficult and time-consuming.

3. The Authors of the book are the top Polish constitutionalists, the former and present judges of the Constitutional Tribunal, the experts of the Constitutional Committee and of the chief organs of the state. Although the book has been prepared by so many different specialists, the same methodological approach has been applied throughout the book and the opinions presented have been agreed upon to a considerable extent. Any repetitions of comments have also been avoided. Despite the similar analytical approach applied throughout the book, the different Authors tend to use different types of sources. Professor Sokolewicz, for example, tend to rely on the drafts of constitutional acts which enables him to discuss in detail the origin of a given constitutional provision. Professors K. Działocha and L. Garlicki, being the judges of the Constitutional Tribunal, devote a lot of attention to the constitutional jurisprudence. M. Wyrzykowski and P. Sarnecki refer quite often to various opinions found in Polish and, in the case of M. Wyrzykowski, in foreign literature. All of the Authors are quite reluctant to make many references to the drafts of the constitution which have already been submitted and which are being worked on at the present moment. They also do not make any constitutional suggestions *de lege fundamentale ferenda,* especially with reference to the provisions which are criticized by them. This reluctancy can be justified by the form of commenting the provisions, which the Authors apply throughout the work. The reader, however, would be interested to get more information especially about the controversial issues regarding the doctrine, the constitutional jurisprudence and the problems arising during the process of drafting new constitutional provisions.

4. The content of the work is divided in the following way. In the main body of the work which is focused on the Little Constitution (LC), the provisions of the "Introduction" and of chapter 1 ("General Principles") are discussed by P. Sarnecki, while the provisions of chapter 2 ("Sejm and Senate") - by L. Garlicki. The commentary to chapter 4 ("The Council of Ministers of the Republic of Poland") is written jointly by P. Sarnecki (introductory remarks and articles 51-53) and by W. Sokolewicz (articles 64-66). The transitional and final provisions which constitute chapter 6 of the Little Constitution are discussed by L. Garlicki, who is at the same time the scientific editor of the whole "Commentary". He has also written the commentary to the binding provisions of chapter 1 of the Constitution of 22 July 1952 (as amended), which refer to the foundations of the political and economic system. L. Garlicki's introduction is followed by a more detailed commentary by M. Wyrzykowski. The binding provisions of chapter 4 of the Constitution of 1952, which in their present form refer to the Constitutional Tribunal, the Impeachment Tribunal, the Supreme Chamber of Audit, the Commissioner for Civil Rights' Protection (Ombudsman) and the National Council for Radio Broadcasting and Television are interpreted and discussed by Professor K. Działocha.

"Commentary" does not cover the provisions of chapter 3 of the Little Constitution of 1992, which refer to the office of the President of the Republic of Poland as well as the provisions of chapter 5 which deal with the local government. "Commentary" does not discuss the binding provisions of chapter 7 of the Constitution of 1952 which refer to courts and public prosecution,

the provisions of chapter 8 dealing with the rights and duties of citizens and of chapter 9, which establish the principles of elections to the Sejm, to the Senate and to the Presidency. The provisions of chapter 10 ("The Coat of Arms, Colours, National Anthem and Capital of the Republic of Poland") and chapter 11 ("Procedure for Amending the Constitution") have also been omitted. The present edition of "Commentary" does not include the comments on the act of a unique instrumental and procedural nature, i.e. the Constitutional Act of 23 April of 1992 on the procedure for preparing and enacting a Constitution for the Republic of Poland. Let us hope that in the nearest future, the Authors of "Commentary" will interpret and discuss the constitutional regulations which have not been included in the present edition of the book.

5. Since there are so many issues discussed in "Commentary", it is not possible to refer here to all the different interpretations and attitudes presented in the book. It is important to emphasize at this point that all the Authors possess profound knowledge of the issues discussed. They have extensively referred to the constitutional jurisprudence. They have also managed to keep a balance between the legal interpretation of the binding acts and the presentation of the previously binding constitutional acts in a historical perspective. At the same time they have presented in a concise form the issues referring to the field of comparative law. The Authors have proposed their own understanding of the acts and they have given arguments for such an understanding but at the same time they have presented other interpretations and the basic justification for them.

6. As I have mentioned earlier, in view of such a broad variety of issues discussed in the book, it would be difficult to refer to all of them. Therefore, I will concentrate on the issues which need further arguments or raise certain doubts.

The first opinion worth discussing has been expressed by L. Garlicki in the commentary to article 3 of chapter 2 of the Little Constitution. The Author said that "due to a different character of the office" it would be difficult to treat the office of the President of the Republic of Poland as a representative body, despite the fact that article 29 point 1 of this Act establishes the principle that the President shall be elected by the Nation. L. Garlicki goes on to say that under such circumstances there is certain preponderance of the Sejm and the Senate of the Republic of Poland, which undoubtedly are the representative organs, over the remaining chiet institutions of the Republic of Poland, including, as we may guess, the office of the President.

The opinions presented above, despite the definition of the functions of the President in chapter 3 of the Little Constitution, touch upon a complicated question of understanding the constitutional (juridical) concept of representation. The question which again comes up at this point is what should be regarded - on the basis of the constitutional provisions discussed here - as the execution of the representative mandate? Are we justified in saying that a given organ is a representative one because through a general and direct national election[1] it has acquired the powers to perform the functions defined by the Constitution and the statutes? Or maybe it is necessary that an institution aspiring to being a representative one meets further criteria, for example a criterion of terms of office or of gaining the majority of votes required by the Constitution. These are, by the way, the requirements that have to be fulfilled by a person holding the post of the President of the Republic of Poland.[1 2] Is it indispensable that a representative institu-

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[1] Cf. M. Sobolewski: *Reprezentacja w ustroju współczesnych demokracji burżuazyjnych* [Representation in a System of the Modern Bourgeois Democracies], Kraków 1962, p. 38

[2] It strengthens the legal and political position of the President of the Republic of Poland as the institution of the system which derives its political mandate from the will of the nation - a sovereign. Cf. R. Mojak (in:) *Prawo konstytucyjne* [Constitutional Law], (ed.) W. Skrzydło, Lublin 1994, p. 284; the same author: *Instytucja Prezydenta RP w okresie przekształceń ustrojowych* [Institution of the President of the Republic of

tion also possesses the ability to reflect the varied preferences of the electorate, which is a natural feature of the bodies with the collegial structure but is not typical for a monocratic presidency? Is it necessary for a representative institution to hold a minimum political accountability, which is also held by a person filling a certain official post? Or maybe it is sufficient to exercise it indirectly through countersigning the acts proposed by the President? We should remember at this point that the conditions of receiving the unrestricted mandate both by the deputies (art. 6 of LC) and the senators (art. 26 of LC) do not manifest any structural differences in understanding and exercising political accountability for the functions resulting from being elected, which are to be performed during a given term of office.

In view of the circumstances discussed above, the opinion presented by L. Garlicki, referring to the certain supremacy of the Sejm and the Senate as the representative institutions over the office of the President not considered as an organ of political representation at least in the strictly juridical meaning demands further arguments. It is interesting to point out that this issue, so important from the theoretical point of view and bearing serious consequences for the whole system, has so far been hardly discussed at all by authors dealing with the problem of presidency. Let us hope that the Authors of the "Commentary" will not manifest the same inclination in the next editions of the book and will undertake the task of interpreting the provisions of chapter 3 of the Little Constitution.

The doubts expressed above do not underestimate the opinion that there is a certain degree of preponderance of the Sejm and the Senate over the institution of the President in view of certain provisions of the Little Constitution, for example with respect to the decision-making power to pass the bills (art. 18, point 3) or the power to influence the political profile of the newly created government (art. 57-60 of LC). Those doubts do not intend to prove that a certain level of apprehension about strengthening the office of the president is unjustified. The Author explains this feeling of apprehension mainly by the danger of the emergence of half-authoritarianism.[3] He also refers to the European tradition of understanding the concept of the division of powers and gives specific political and personal reasons.[4]

7. In the commentary to art. 3 in chapter 2 (p. 21) L. Garlicki rightly points out the fact that the principle of equality is not included in the rules of the elections to the Senate, which should be interpreted, in the first place, as the expansion of the regulatory freedom exercised by the ordinary law-making body. He also draws readers' attention to the fact that a state list of candidates and their preferential order on this list in the election to the Sejm make the idea of directness slightly blurred. The idea of direct elections is understood, in the first place, as the possibility of every voter to exert a certain influence on the chances of particular candidates. Another idea which is in a way approved on the pages of "Commentary" is more controversial. According to the author, the directness is guaranteed (or founded) by the principle of direct vote. It seems that the requirement to vote for particular candidates rather than only for the list of candidates which remain beyond the direct influence of voters with respect to the preferences of particular candidates to the mandate is also an element of the principle of directness. For practical

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Poland in the Period of System Transformations], Lublin 1995, pp. 136-138 (here the question of the "mandate" of the president and its nature has been presented in a rather concise form).

[3] Cf. recently: *Ku konstytucji społeczeństwa obywatelskiego* [Towards the Constitution of the Civic Society]; collective work, (ed.) A. Łopatka, Warsaw 1995, pp. 119 and foil.

[4] Cf. T. Szymczak: „Prezydent RP w noweli kwietniowej i w praktyce" [The President of the Republic of Poland in the April amendments and in practice], (in:) *Zmiany konstytucyjne a system organów państwa* [Constitutional Changes and the System of the State Organs]; (ed.) Z. Jarosz, *Studia Konstytucyjne* [Constitutional Studies], vol. 8, Warsaw 1990, footnote 16; R. Mojak (see above), pp. 133-137, 333-337, 339-347.

reasons, and in order to increase the number of people taking part in elections, it would be reasonable to show a more flexible attitude to the requirement of voting for particular candidates. Also in this case, we should support the view that the method of voting should guarantee in itself that the voter expresses his own voting preferences.[5] The question of transferring his preferences to the place of voting (the organ supervising the election in a given district) is rather a question of technical nature.

8. In view of the fact that the foundations of the electoral system do not have strong constitutional basis and since chapter 9 which includes the binding provisions of the Constitution of 1952 after amendments, referring to the parliamentary and presidential elections has not been covered in the present edition of "Commentary", it is impossible at this point to discuss in much detail the consequences that it bears for the respective institutions of the Polish electoral system. Certain issues have hardly been mentioned probably in order to avoid future repetitions. Among those issues we should mention the problem of the influence of the principle of proportionality of elections and its constitutionalization on the strengthening of the multi-party disintegration in Poland. L. Garlicki is right in saying that in many Western democracies politicians have often expressed their concern that the electoral proportionality may adversely affect the emergence of the stable parliamentary majority, and - as a consequence - badly influence the stability of the government and its activities.[6] It seems, however, that renouncing the principle of proportionality in the period of system transformations, when many organizations manifest political shallowness and political parties concentrate on a short-term tactics rather than a long-range strategy would not necessarily lead to the creation of a two-party or two-block system. This opinion seems well justified if we take into consideration the political disintegration of the successive compositions of the Senate elected within the system of relative majority, and a surprisingly high number of candidates for the presidency in 1990 and in 1995.

9. The parts written by P. Sarnecki ("Introduction", art. 1-2, 51-53 of LC) present a reasonable discussion on the relationship between the principle of the division of powers and the rule of a law-abiding state (comments to art.1 ch. 1 of LC, p.2). We should agree with the statement that the division of powers into "legislature", "executive" and "judiciary" does not cover all the activities performed by the state organs with the use of their powers.[7] What is even more, **also** other categories of activities of state institutions, defined in view of their organization and competence, could be founded on the constitutional provisions. The opinion that "the violation of the constitution may consist in "the activity" which is either in breach of the positive constitutional provisions or which formally does not violate them but uses the constitutional provisions in nonconformity with their purpose" (p. 2. commentary to "Introduction) is more controversial. The question is who (which state authority) would authoritatively and definitely evaluate the "purpose" of the constitutional provisions and which juridical and extrajuridical criteria should be applied for this evaluation? Would this be a task for the institutions which determine the consti-

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[5] Cf. Z. Jarosz: *System wyborczy PRL* [Electoral System of the Polish People's Republic]; Warsaw 1969, p. 156 (here within a different legal status, it was decided that as an element of directness, the "content of the vote" will be decided by the voter directly). Within this context, we can form a principle of no transferability of the powers to shape the content of the vote to third parties.

[6] A broader information: A. Lijphart: *Electoral Systems and Party Systems*, Oxford 1994, pp. 10-56.

[7] On the difficulties in the application of the traditional threefold powers for the classification of the institutions of the state cf. A. Sylwestrzak: „Władza czwarta - kontrolująca" [The Fourth Power - the Monitoring Function], *Państwo i Prawo* [State and Law] 1992, Nº 7, pp. 87 and foil, and M. Grzybowski: „W kwestii określenia kompetencji Rady Ministrów" [On the Issue of Determining the Powers of the Council of Ministers], *Państwo i Prawo* 1995, Nº 5, p. 8

tutionality of legal acts and activities of the state subjects? To what extent would they be free or, vice versa, by what means restricted in determining the directions and limits of purposes of the constitutional provisions? Should we include here the judicial institutions which apply the provisions of the constitution directly? Again we come across the problem of differentiation between the substance and the "spirit" of the constitution (or, speaking in more general terms, of the "spirit" of the law). It is also the problem of the limits and determinants of the judicial activity of the constitutional courts and other bodies which interpret and apply the Constitution. In practice, the problem also refers to the issue of differentiation between the functions of the constitutional system-creator and the functions of the institutions applying, interpreting and safeguarding the observance of the Constitution.

I would prefer to replace the phrase used in the book: "The Sejm and the Senate are the legislative authority", which is, in a way, a simplification, with a longer definition of those organs which is much easier to interpret, i.e.: "institutions of legislative authority". This phrase seems more consistent with the opinion presented on page 4 of the commentary to art. 1 of the Little Constitution that " a given authority is created by (...) the combination of the possibilities to perform a particular form of activity with the specific organizational structure".

10. In the part devoted to the regulations of the Sejm and the Senate, L. Garlicki points out to the fact that the text of the Little Constitution does not comprise the legal basis to perform a monitoring function by the Sejm with respect to other organs of the state. The deciding factor here was the tendency to depart from a general understanding of the Sejm's monitoring function, which is typical for the system based on unity of the state power[8] and to emphasize the influence of the principle of division of powers. We have to bear in mind, however, that in the binding constitutional regulations, the powers of the Sejm are retained in a clearly defined form. Within their boundaries the Sejm's monitoring function is performed. We should mention, in the first place, the competence to appoint a committee "in order to examine a particular matter" (art. 11), the right to review the governmental reports upon the implementation of the budget and other financial plans with the right of granting of approval to the Council of Ministers (art. 22, points 1 -2), the rights of deputies to address an interpellation or a question to the Prime Minister or to an individual member of the Council of Ministers (art. 25 of LC). The fact is that in the present state of constitutional regulations we cannot guess what the monitoring competence of the Sejm is or treat it as a kind of "implied powers" within the scope of the constitutionally founded monitoring function.

11. In previous works[9] it has already been said that in the situation when a law authorizing the government to issue a regulation with the force of a statute is adopted, the substance covered by the authorization falls in the area of the legislative initiative of the government (commentary by L. Garlicki to art. 23 of chapter 3 of the LC). This issue can be considered controversial. On the one hand, the Sejm and the Senate, when granting the authorization restricted by the time-limits and the substance, do designate the Council of Ministers to act and grant it the appropriate powers within the limits of this authorization. On the other hand, those organs still remain the

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[8] Some authors (eg. A. Burda: *Polskie prawo państwowe* [Polish State Law], Warsaw 1976, p. 274) used the notion of "the monitoring of the state apparatus; others (such as F. Siemieński: *Studia z zakresu konstytucjonalizmu socjalistycznego* [Studies in the Field of the Socialist Constitutionalism]; Ossolineum 1969, pp. 291 and foil.) tended to associate a creative function of the parliament against the "institutions applying the law" and the monitoring of their activities.

[9] Cf. A. Szmyt: „W sprawie rozporządzeń z mocą ustawy" [On the Issues of Regulations Having the Force of the Statute], *Przegląd Sejmowy* 1993, Nº 2, pp. 123-128

bodies of the legislative authority with the right to pass a bill which will withdraw (or limit) the authorization.

12. The opinion that the provisions of the Constitutional Act of 17 October 1992 referring to the differentiation between the powers of the Council of Ministers and the President (defined in art. 51 in comparison with art. 32, point 1 and art. 34 of LC) are imprecise is neither new nor original. The same holds for the opinion that in the list given in art. 52 the functions, tasks and powers in the strict sense of those words have been mixed up. In the comments to art. 52 an attempt has been made to determine the scope of meaning of those very unclear statements. Those comments, however, do not express sufficient criticism of the wording of those provisions.

13. W. Sokolewicz has written a very informative commentary to art. 64-67 of the Little Constitution presented in the perspective of comparative law. It is also interesting to study a clear differentiation between the notions of "resignation of the government" and "dismissal of the government" (pp. 4-15 of the commentary to art. 64 of LC). We should also pay attention to the discussion of the variety of solutions applied in the modern constitutionalism in the case of the change at the post of the Prime Minister (or head of the government). Then, the Author makes an attempt to define the constitutional notion of the "resignation of the government" on the basis of the binding provisions (p. 5 of the quoted part of the commentary) and discuss the differences within the framework of the Polish constitutional law between this notion and the notion of "dismissal of the government", which does not appear in the text of the binding constitutional acts. A systematic list of "reasons for resignation" gives an additional clarity to the interpretation of those issues (p. 6 -10 of the commentary to art. 64 of LC).

14. In "Commentary" the attempt has been made to define which persons are covered by the resignation of the government (p. 17 of the commentary to art. 64). The prevailing majority of the opinions presented by W. Sokolewicz are right. It would be interesting to learn whether, according to the author, the resignation of the government extends also to the directors of the ministries, who do not hold the post of ministers, in the case when the post of the minister has not been filled for a longer period (e.g. since the moment of forming a government in a specific composition).

15. The comments written by Prof. K. Działocha refer only to the Constitutional Tribunal and do not touch the issues of the Impeachment Tribunal, the Supreme Chamber of Audit, the Commissioner for Civil Rights' Protection and the National Council for Radio Broadcasting and Television. The comments focus only on art. 33a and cover 52 pages of the book. The Author presents in an instructive form the dilemmas connected with the definition of the legal nature of the Constitutional Tribunal in view of the three categories of state organs of the Republic of Poland (pp. 5 and foil., commentary to article 33a of the Constitution of 1952). A typical feature of K. Działocha's comments is a strong reference to the jurisprudence of the Constitutional Tribunal. To give an example, the author has discussed in this way a controversial question of differentiation between the constitutionality of normative acts (constitutionality in the strict sense of the word) understood as the conformity of their provisions with the provisions of the constitutional acts (constitution) and their legality (in the narrow meaning of the word) understood as the conformity with the provisions of the statutes.[10] It is a great pity that the limited framework of "Commentary" did not allow prof. Działocha to elaborate further on the importance of the internal hierarchy of the constitutional norms and of the differentiation between the "principles" or

[10] Cf. the judgments of the Constitutional Tribunal of 18th December 1990, U 13/89, OTK [Jurisprudence of the Constitutional Tribunal] 1990, p. 79 and of 21st January 1992, U 4/91, OTK 1992/11, p. 165,

"foundations" of the constitution and other constitutional norms of more detailed or specific nature which do not enjoy the status of "principles"[11] for the interpretation of the Constitution in the jurisprudence of the Constitutional Tribunal. We also have to agree with the opinions referring to the importance of the ratification of international agreements for the interpretation of the domestic law (pp. 15-16, commentary to art. 33a). Prof. Działocha is right in giving a moderate evaluation of the evolution of the jurisprudence of the Constitutional Tribunal in this field, leading to the increased influence of the ratified agreements and conventions on the evaluation of the legality of the domestic law. At the same time, however, he rightly points out that there is no clear authorization that could make international agreements the basis for the evaluation of legality of domestic normative acts. At this point, we should realize that the state of legal acts in this field should be modified especially in view of the Polish attempts to become a member of the European Union.

16. Despite referring to the title of chapter 4, which may probably be considered as a form of forecast of future editions, the present edition of "Commentary" docs not include the comments on the remaining organs mentioned there, i.e.: the Impeachment Tribunal, the Supreme Chamber of Audit, the Commissioner for Civil Rights' Protection and the National Council for Radio Broadcasting and Television. We may expect that those comments will be published in a form of supplement to "Commentary".

17. The comments to art. 1 of the current version of chapter 1 of the Constitution of 1952 are presented on 61 pages. They form a profound study of the basic foundations of the binding constitutional regulations. Since some of the issued discussed (e.g. the principle of a democratic law-abiding state, the principle of the division of powers, the principle of the confidence of a citizen in the state, the concept of the acquired rights and their protection and the interpretation of the notion of "social justice") are important for the deliberations presented by other Authors, maybe it would be justified to place this text unit written by prof. M. Wyrzykowski in the earlier part of "Commentary". The order applied by the Authors may be justified by the willingness, which still calls for some sort of explanation, to present, in the first place, the Constitutional Act of 17 October 1992 as the essential and at the same time the latest part of the Polish constitutional regulations. The fact that the comments by M. Wyrzykowski are placed in the final part of the book may also be partially explained by the fact that they are concentrated only on one, though very rich in various connotations, article of the binding provisions of the Constitution of 1952.

The analysis of the term "democratic law-abiding state" and the discussion of consequences of making the principle of "democratic law-abiding state" the fundamental principle of the constitutional order of the Republic of Poland (pp. 4-9 of the commentary to art. 1) form an important part of the comments written by M. Wyrzykowski and of the whole "Commentary". The Author refers here in an instructive and concise form mainly to the issues of the German constitutional doctrine. He enumerates the features of the concept of a "formal law-abiding state" and a "material law-abiding state" (pp. 4- 9). Following R. Herzog, the Author expresses a reasonable opinion about the complementary nature of the formal and material elements of "law-abiding state". Within this context the reader may expect an explicit statement about the relationship between the material and formal elements in the Polish concept (concepts) of a law-abiding state.

On page 8 of his part of the book M. Wyrzykowski refers to M. Pietrzak's notion of the pillars of a law-abiding state. Those pillars (this term in itself is descriptive rather than analytical

[11] This critical issue should be referred to the work by K. Działocha: „Wewnętrzna hierarchia norm konstytucji w orzecznictwie" TK [Internal Hierarchy of the Constitutional Norms in the Jurisprudence of the Constitutional Tribunal], (in:) *Państwo, ustrój, konstytucja*, Lublin 1991, pp. 43-56,

in form and does not belong to the strictly juridical terminology) comprise the notions with the connotations existing within the framework of constitutional law, e.g. the sovereignty of the nation, the division of powers, the independence of courts or the supremacy of the statute in the system of sources of law. They also cover such terms as "constitutionalism" and "local government". It seems that a simple enumeration of those notions with no further discussion is not sufficient. It is necessary to place them within the juridically determined constitutional principle.

18. "Commentary" is a unique work, which although does not make an easy reading, is very valuable. The Authors of the book deserve our respect and gratitude as well as the words of encouragement to continue the work on this outstanding piece of writing.

Marian Grzybowski