

*THE FUNCTION OF THE PERMANENT PARLIAMENTARY
COMMISSIONS IN THE LEGISLATIVE PROCESS IN THE POLISH
PEOPLE'S REPUBLIC*

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The passing of laws in the modern state is becoming a more and more complicated process calling for the co-operation of an increasing number of elements representing on the one hand both public opinion and the views of certain spheres of society, and on the other hand representing specialized knowledge concerning the given field, practical experience, and knowledge of the general legislative policy of the State. If the legislative machinery is to work properly, the above elements must be taken into account and rationally co-ordinated in the legislative process as a whole. In contrast to the dawn of our civilisation, when great reforms were usually carried through by great law-givers, such as Moses, Solomon, Lycurgus, and Servius Tullius, it would be difficult today to assign credit for legislation to any particular person; the term "father of a law" has become an anachronism. In circumstances where the subject of legislation is becoming more and more dynamic and complex, it is not easy to regulate the functioning of the legislative mechanism so as to define and ensure the proper extent to which all the elements involved here should take part. The heart of the matter is that the legislative mechanism, in particular, should do everything possible to make the statutes express the views that prevail in the community, while at the same time fulfilling the objective purposes for which the legislation was proposed as well as achieving the basic aims of current state policy.

This is a problem which concerns the organization of parliamentary work. It should be solved by so organizing the legislative process as to allow for various points of view and for the true transformation of public opinion into the will of the State. The permanent parliamentary commissions which prepare draft bills for plenary debate by parliament have a particularly important part to play in this field. In reaching for a solution to this problem, it should be borne in mind that: a) the factual role and importance of the permanent parliamentary commissions are a function of the real position of parliament as the supreme representative body among all the State bodies; b) the legal regulation of the process

which leads to the passing of new laws or the amendment of old ones is not always consistent with the actual practice by which statutes become law.

In connection with this problem I should like to devote some attention to the participation and role of the permanent commissions in the legislative process, as seen from the point of view of the Constitution, the Sejm (Parliament) regulations, and actual parliamentary practice in the Polish People's Republic.

To begin with, it should not be forgotten that the factual role of the Sejm commissions in the legislative process was quite different in the first term of the Sejm (1952-1956) from their role after 1956, that is, after the political turning-point in our country which initiated greater democratization in the life of the State.

The Polish Constitution of 22nd July, 1952 contains only fragmentary and general decisions regulating the legislative process: a) it indicates which bodies should have the right to propose legislation (Art. 20, par. 1); b) it lays down the rule that statutes should be passed by the Sejm in open session (Art. 15, par. 3, Art. 17., par. 1, Art. 18, par. 3); c) it entitles the Sejm to issue detailed regulations on how the debates of the Sejm and its subsidiary bodies should be held (Art. 18, par. 4); d) finally, it lays down that the statutes passed by the Sejm should be signed by the Chairman and Secretary of the Council of State, and should also be published in the "Dziennik Ustaw" [Journal of Laws] (Art. 20, par. 2).

It will be seen from the above that the framework prescribed for the legislative process by the Polish Constitution leaves plenty of room for elasticity in determining the order of the debates on legislation, and also offers the opportunity for adapting procedure to suit experience and needs.

It is a known fact that during the period 1952-1955 the legislative activity of the Sejm in Poland was negligible as compared with the opportunities offered by the Constitution: as a rule, decisions were passed by decree of the Council of State, and statutes were rare exceptions. Hand in hand with the diminution of the legislative activity of the Sejm, so also did the role of the Sejm commissions in this field decrease. These tendencies in parliamentary practice were also reflected in a Sejm regulation passed on 21st November, 1952, which was valid till the end of the Sejm's first term. Only seven permanent commissions were set up, and their duties and procedure were defined very generally. These permanent commissions, too, met rarely. When they did meet their agenda was small, while their influence on the text of the few laws was only incidental and as a rule uncreative.

Beginning with the VIIIth session of the Sejm in 1956, there was a marked revival of the work of the Sejm and its commissions. Meetings

of the commissions were held more frequently and were often characterized by sharp exchanges of views. New working methods were adopted, and the commissions' attitude to the draft bills was increasingly critical and creative. All these admirable changes in the work of the commissions were a reflection of the slow awakening and growth of democratization of public life.

The lively tendencies to restore the Sejm to the position accorded to it by the Constitution and thus enable it to carry out its legislative function properly and fully, found expression in a new Sejm regulation passed on 1st March, 1957,¹ which is still valid today with only very slight amendments. This regulation is of very great importance for the style of work of the Sejm and its commissions. From the point of view of the problem we have been examining, the regulation made important modifications in the permanent Sejm commissions as an institution. This was necessary for the Sejm to perform its legislative function. Therefore, a) the number of permanent commissions was increased considerably,² which meant that greater specialization was possible than in the first term of the Sejm, when there was only one legislative commission to examine all the bills; b) both as regards organization and as regards powers, the commissions were given greater independence, as compared with parliament, which performed its business in plenary session;³ c) the duties of the permanent commissions as regards legislation were defined precisely, that is, they were expected to examine bills, to examine decrees submitted

¹ The regulation was drafted by an *ad hoc* commission set up by the Polish Sejm. The commission included representatives of all the deputies' clubs, as well as non-Party deputies. There was lively discussion, which took the line then generally popular, that all possible and practical measures should be taken to further the democratization of public and political life in Poland. When passed, the regulation was published in the official Polish register ("Monitor Polski", No. 19, item 145).

² Art. 28 of the regulation set up 19 permanent commissions, of which 18 corresponded to the various ministries in their terms of reference. The mandatory-regulatory committee did not belong to that category, since its terms of reference were concerned with the functioning of the Sejm itself — this commission had a number of powers with regard to the Sejm's decisions on deputies' mandates; it also expresses its opinion on amendments to the regulation and on its interpretation. The permanent commissions are not set up by the Sejm, which fixes the number of members on each commission and appoints the members (Art. 25, par. 2 of the regulation).

³ As far as organization is concerned, one may mention such provisions as that the commission itself may elect its presidium (Art. 31 of the regulation), or that various commissions can themselves decide to hold joint sittings (Art. 35, par. 2 of the regulation), or that meetings of the commissions can be held when the Sejm is not in session. The commissions were given certain new rights regarding control of the administration.

to the Sejm for ratification, and to give their opinion of draft decrees submitted to the commissions by the Council of State (Art. 29 of the regulation).

The particular importance of the permanent commissions in the legislative work of the Sejm as a whole is due to the fact that Parliament in its entirety is unable, even for technical reasons, to give careful and detailed attention at its plenary sittings to matters which as a rule are complicated and call for special knowledge and expertise if they are to be solved properly. On the other hand, the commissions are in a position to devote the proper time and attention to objective assessment of the bills, especially since a) being smaller, their members have been chosen partly for their interest in the problem, their qualifications, or experience in the given field, which goes a long way to keeping the discussion to the point and obtaining concrete results; b) it is only in small groups that the parliamentarians can concentrate on complicated, often detailed matters, and objectively discuss the *pros* and *cons* of doubtful questions; c) it is easier for a commission to coopt experts or obtain the opinion of certain circles or social organizations, just as it is easier for a commission to consult the government on debatable questions.

In accordance with the provisions of the new Sejm regulation, the permanent Sejm commissions became much more active during the second term of the Sejm. At the same time, their role in the legislative process increased immeasurably, as will be seen from the fact that during that period the Sejm passed 174 statutes which in the normal course of parliamentary procedure had to pass through the commission stage.

In speaking of the role of the commissions when legislation is being passed by the Sejm, two factors should be noted particularly, namely: 1) the commissions' ability to propose legislation, and the degree to which this capacity is used in practice, 2) the permanent commissions' influence on the final wording of statutes passed by the Sejm.

1. In the Polish People's Republic legislation cannot be proposed by the Sejm commissions, but only by the government, the Council of State, and the Sejm deputies. It should be pointed out that the deputies very rarely use their right to propose legislation, and if this does happen, a special Sejm commission is set up to draft the bill. The laws on the Supreme Control Chamber, the People's Councils, and the workers' councils, were proposed and passed in this way.⁴ On the other hand, the

⁴ The statute of 13th December, 1957 on the Supreme Control Chamber ("Dziennik Ustaw" [Journal of Laws], No. 61, item 330); the statute of 25th January, 1958 on the People's Councils ("Dziennik Ustaw" No. 5, item 16); the statute of 20th December 1958 on workers' councils ("Dziennik Ustaw", No. 77, item 397).

permanent commissions do have a certain possibility of stimulating the government to pass legislation for certain ends, and in certain situations they even have the right to take the initiative themselves. According to the Sejm regulation (Art. 39), the Sejm commissions have the right to pass on their desiderata on certain matters to the government and to particular ministers. In actual practice, it often happens that these desiderata are demands for a new law or for amendments to an old one (for example, in June 1960 the Execution of Justice Commission addressed to the General Prosecutor's Office a postulate that the law on the Prosecutor's Office should be amended, while the Home Affairs Commission put forward a postulate that a draft code of administrative procedure should be drawn up).⁵ Although it is true that the body to which such a postulate is addressed is not bound to accept it, in actual practice, however, such a body tends to treat any sensible postulate as binding in the political sense. Another opportunity for inducing government bodies to produce legislation is provided by the discussion on ministerial reports, in which the respective ministers provide information on the kind of legislation their ministry intends to put forward; at the same time, during the discussion the ministers have the chance to hear any criticisms made of the legislation they propose. Finally, the permanent commission may itself show direct initiative when decrees submitted to the Sejm for ratification are being discussed. According to Art. 56, item 5 of the regulation, following a proposal by a commission the Sejm can repeal a decree and pass a bill regulating in a new way matters that were formerly regulated by the decree, in which case the bill proposed by the commission has the same validity as an ordinary law.

2. Owing to intensification of the Sejm's legislative activities, the commissions also had much more work to do. According to the regulation, every bill, after its first reading, or in exceptional cases without a first reading (which is almost always the case in practice), is sent to the appropriate commission for consideration. The growth of the commissions' activities will be realised when it is recalled that in the first twenty months of the present Sejm's life there were 395 sittings of commissions and 409 sittings of sub-commissions. Important legislative acts often involve much time and energy at the commission stage. For instance, when examining recently the draft of the civil procedure code (in October and November 1964), the Execution of Justice Commission held 4 plenary sittings and

⁵ In an article *Notes on the work of the Sejm during its third term* ("Państwo i Prawo," [State and Law], 1963, No. 5-6, p. 796), L. Pol cites a number of examples where in certain concrete cases the government, impelled by desiderata expressed by the commissions or by proposals and comments made during the discussion at commission meetings, was induced to propose legislation.

its sub-commissions 12 sittings. When a bill concerns a subject that is of interest to a large number of commissions, such commissions are co-opted in different ways to take part in the work on the bill.

After examining the bill, the commissions usually suggest amendments and supplementary proposals. Experience has shown that it is only in very exceptional cases that a bill is passed unamended. It frequently happens that the discussion induces the government to change its mind, and amendments are proposed in the name of the government itself. It sometimes happens that after the amendments and supplementary points proposed by the commissions are accepted by the Sejm, the bill has little resemblance to the bill put forward by the government (e.g. the statute of 13th July, 1957, passed to combat speculation and protect customers in commercial dealings).

It even happened once that when a bill was opposed by the permanent commission, the government, recognizing the justice of the objections put forward during the discussion, withdrew the bill (which in this case was to make partial amendments in the regulations on employees' inventions, and had to go through the Heavy Industry Commission).⁶

The commissions are very thorough and critical in their examination of the bills. Out of 163 bills put forward by the government and passed by the Sejm in its second term, only about 20 were passed without any amendment. There are usually many amendments, and in most cases they are of considerable social significance. It is worthy of mention that last year the Execution of Justice Commission proposed almost 400 amendments (including editorial corrections) to the draft of the civil procedure code. Finally, it should be noted that a new function is appearing in the work of the commissions, that of controlling how the laws passed by the Sejm are carried out.

Observation of the work of the Sejm commissions in Poland shows that they are making a great contribution to the legislative function of the Sejm, while detailed examination of the amendments proposed by them shows that in their work the commissions try to do the will of the working masses by defending their vital interests and safeguarding the rights and liberties of the citizens.

The revival of activity by the Sejm and its subordinate bodies after the VIII Plenum of the Central Committee of the Polish United Workers Party in October 1956 was undoubtedly a result of the desire of great masses of the working people for the democratization of public life in

⁶ A number of interesting notes on how the Sejm commissions can influence the final wording of statutes passed by the Sejm may be found in an article by W. Popkowski, *Amendments made by Sejm commissions to bills during the IIIrd term of the Sejm* ("Państwo i Prawo," [State and Law], 1963, No. 7, p. 18 et seq.).

Poland; we should add that this desire was deeply rooted in the minds of the working masses. Yet this rough sketch of the beneficial revival of the Sejm's legislative function cannot be called a true picture unless we take account of certain factors indicating tendencies at odds with the above trends. For example, the fact that the Sejm deputies hardly take advantage at all of their right to move bills is regrettable.⁷ Then it is unfortunate that the first reading of a bill is often omitted. The Sejm regulation provided for exceptional cases where a bill could be sent by the Sejm Presidium straight to the appropriate commission without a first reading. But this has become the rule, not the exception.⁸ At the second reading the discussion is generally confined to general statements by the representatives of deputies' clubs and groups. In consequence the debates at the Sejm plenum contain too little criticism, and in effect the discussion boils down to more approbation of the viewpoint represented by the appropriate commissions.⁹

Other criticisms could, of course, be made as well. But that is not what matters at the moment. The historically tested truth that the spirit of progress, deeply rooted in the mind of the masses, must in the final count lead either to the formation of new social institutions, or to the modification of existing ones, must fill us with optimism.

⁷ Although we take a critical attitude to the amount of legislative initiative shown by the deputies, we are not convinced that it would be right, as is proposed, to extend the powers of legislative initiative to wider circles. For instance, Prof. S. Rozmaryn (*Ustawa w Polskiej Rzeczypospolitej Ludowej* [The Statute in the Polish People's Republic], Warszawa 1964, p. 358 et seq.) suggests that such rights should be accorded to the trade unions and the voivodship People's Councils. It seems to me that these bodies would have every opportunity to have their will made known if the deputies themselves were sufficiently active and energetic (for the deputies represent both trade union and regional interests).

⁸ According to Art. 53, par. 1, the Presidium of the Sejm may send bills proposed in the intervals between the Sejm sessions, and in certain exceptional cases bills proposed in the time between the sittings, straight to the commissions. This takes the place of the first reading.

⁹ Professor S. Rozmaryn is right when he says on this question: "The second reading could be much more fruitful if the Sejm's decisions during that reading were concerned not with the amendments alone and them with the bill in its entirety along with the accepted amendments, but rather with particular parts (e.g. chapters) of the bill. The discussion would then take place not on the bill as a whole but on its successive parts along with the amendments proposed to the particular part" (op. cit. p. 381).