SOME SPECIFIC FEATURES OF THE GENESIS OF MODERN BELGIAN POLITICS

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Abstract. This article discusses the symbolism of the year 1830 in the transition from the old political order to the establishment and gradual consolidation of the modern Belgian state. Modern constitutionalism was characterized by the struggle against monarchical absolutism and the concentration of political power in the hands of a single person. In addition, it supported the respect of civil rights and liberties, the individual being at the center of liberal philosophy, along with the idea of a representative government, the separation of powers in the state and the supremacy of the rule of law. The spread of the revolutionary wave from 1830 throughout the country opened a new period in the history of Belgium, in which the ideas of centralizing the state and asserting national independence merged with the urgency to give a direction to the state by choosing the representative monarchy as a form of governance and with the introduction of the Senate as an intermediate power. By analyzing the Belgian deputies' speeches, this article aims to make an introduction in the way the deputies imagined the construction of the state and to advance the idea of a mutual trajectory of the Belgian society in accordance with the young European nations.

Keywords: separation of power, monarchy, Senate, bicameralism, Belgium, modern constitutionalism.

Introduction

A revolutionary wave crossed the whole of Europe in 1830. The popular insurrection in Brussels on August 26-27, 1830, was quickly suppressed by the bourgeoisie. However, the revolutionary wave spread throughout the country. On October 4, 1830, the decree of the provisional government promulgated the violent detachment of Belgium from Holland and the establishment of an independent state. The Belgian revolutionaries implemented

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the only feasible model of political organization in the first half of the 19th century: a unitary and centralized state. But this state seems to be dominated by a French-speaking bourgeoisie, essentially secured because of the property-based voting system. In addition, due to its proximity, France exerted a great influence on political ideas and attitudes in Belgium. Starting with 1830, a period opens in which for the first time the centralization of the state follows its course at the same time as national independence.[1] Until that time, Belgium had seen different regimes, moving from absolutism to modern constitutionalism.

The hypotheses of this article are configured starting from the following assumptions: the socialization pattern had a considerable role in the choice of the representative monarchy as the optimal form of government by the Belgian deputies; the need to ensure a balance of power and to prevent its monopolization by a single chamber leads to the introduction of the institution of the Senate. In order to ensure the conceptual coherence of the research carried out, this article aims to answer some fundamental questions in accordance with the studied area: What is the role of the socialization pattern for the justification of the Belgian deputies' expositions in the official sessions of the National Congress? What are the reasons why the division of legislative power between two chambers proves to be essential for the Belgian political imaginary?

This article focuses on a more in-depth analysis of several elements intrinsic to the transition from the old to the new regime: the separation of powers in the state; the responsibility of political representatives; constitutional monarchy; liberalism; and the establishment of the institution of the Senate. Therefore, the research aims to ensure the outline of a theoretical and analytical framework for understanding the above-mentioned elements. In order to do so, we study of the parliamentary debates within the Belgian National Congress related to the revolutionary wave and the discussions about the optimal form of government and the pertinence to establish the Senate, as well as the presentation of the way of implementing the principle of separation of powers in state and the functioning of the Belgian institutional system.

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[1]   Xavier Mabille, *Histoire politique de la Belgique* [Political History of Belgium] (Bruxelles: Éditions du Centre de recherche et d'information socio-politiques, 1986).

The analysis of parliamentary debates from 1830 derives its importance from the perspective of knowing the ways in which the Belgian deputies imagined the construction of the state, by choosing the representative monarchy as a form of government and by introducing the institution of the Senate as a source of balance at the level of central power. Although the reports of the Belgian parliamentary debates have been less analyzed, they contribute to clarifying and interpreting the intention of the legislator and they allow keeping their memory, precisely the positions taken by the officials in the public sessions.[2] Born from the liberal spirit of the revolution of 1830, the Belgian state became a model for European nations in the process of consolidation, modernization or proclamation of independence, and through the Constitution of 1831, it introduced fundamental principles into the European political imaginary, such as representative government, the separation of powers, the limitation of monarchical power and the immovability of judges.

Some of the first constitutions promulgated on this Belgian model was that of the Kingdom of Saxony (September 4, 1831), but in reality, this constitutional text was very different from its model. Those that borrowed the most provisions were the constitutions of Spain (1837), Greece (1844, 1864), Romania (1866), as well as Holland (1848), Luxembourg (1868), Prussia (1848), the Kingdom of Sardinia-Piedmont (1848). Overall, in 1848, the influence of the Belgian constitution was generalized mainly under the work of the liberal bourgeoisie in countries such as Italy, Germany, Hungary, which considered it an ideal form of state organization. Most often these borrowings concerned the enumeration of fundamental liberties, as was the case with the German federal constitution of 1849 or the constitution of the Swiss confederation of 1848.[3]

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2   Hugo Coniez, "L'invention du compte rendu intégral des débats en France (1789-1848)" [The Invention of the Full Report of the Debates in France], *Parlement[s]. Revue d'histoire politique* 14, no. 2 (2010): 146-158; Hugo Coniez, *Écrire la démocratie. De la publicité des débats parlementaires* [Writing Democracy. Publicity of Parliamentary Debates] (Paris: L'Harmattan, 2008).

3   John Gilissen, "La Constitution belge de 1831: ses sources, son influence" [The Belgian Constitution of 1831: its Sources, its Influence], *Res Publica (Revue de l'Institut Belge de Science Politique)* (1968): 135.

Senate legitimacy has been a feature of traditional democracies since its emergence in 1789. In the case of Belgium, the matter was debated by the National Congress as early as December 1830. Proposed in the Constituent Assembly, the bicameralism was unanimously approved by the Congress, after three long public debates. By setting the eligibility threshold at 2,116 francs, limiting the minimum age to 40, refusing to pay compensation to senators, and extending their mandate to eight years, most members of Congress reaffirmed as mission of liberal bicameralism the aristocratic, conservative and conciliatory chamber.[4] The context in which the question of the establishment of the Senate was addressed refers to precise historical models, but which nevertheless complicates the correct understanding of these interventions, which translates into a heterogeneity of the invoked ways of thinking, which have liberalism as a common characteristic.[5]

The research methodology is based on the rigorous and critical examination of primary (Belgian parliamentary debates from 1830-1831) and secondary sources (bibliographic reference works for the studied area). This research is based on a qualitative investigation, which involves the consultation of specialized literature, the analysis of historical sources, with an emphasis on archival documents, valuable sources that can provide accurate and truthful information with reference to the subject being treated, more chosen due to the historiographic character of the work. Therefore, the main method of analysis is the textual analysis.

Event history is the basis of political history, where one prefers to write about society, not about political actors. This method can usefully serve this article from a methodological point of view by treating from a chronological perspective the main events on the constitutional path of Belgium up to its proclamation as a monarchy. The article looks specifically at the use of key concepts, such as representative government, the separation of powers in the state, the accountability of political representatives before citizens, the parliamentary regime, constitutionalism, and liberalism. These concepts have been analyzed in the studies such as those by Norberto Bobbio, Andras Sajo, Els Witte, Émile

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[4]   Véronique Laureys et al., *L'histoire du Senat en Belgique de 1831 à 1995* [The History of the Senate in Belgium from 1831 to 1995] (Bruxelles: Racine, 1999), 21.

[5]   Ibid., 22. The historical models were: the English model after the Glorious Revolution; the French model after the Revolution of 1789; the American model due to the success of the senatorial organization.

Huyttens, Véronique Laureys, Silvia Marton, Radu Carp, Xavier Mabille, Raz Joseph, etc.[6] Therefore we cannot talk about a discontinuity of this work in relation to the assumed direction, especially since it aims to continue the previous approaches - the references that have supported the argumentation of the ideas proposed by the present article.

The Separation of Powers in the State and the Monarchical Principle

The 19th century recorded a triumph of parliamentarism in most Western states, where it was considered that "the elaboration of a common political line brings together the diverse interests of society (…) resulting from free, rational and concerted discussions in parliament."[7] Keeping reports related to parliamentary debates is a decision-making transparency tool, becoming a principle of representative democracy, which also applies to the Belgian legislative framework from 1830.[8] Their role was

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[6]   Silvia Marton, "«La Belgique de l'Orient» et les chemins de fer: les raisons d'une comparaison. La construction politique de l'État-nation dans le Parlement roumain (1866-1871)" [The Belgium of the East and the Railways: the Reasons for a Comparison. The Political Construction of the Nation-state in the Romanian Parliament (1866-1871)], *Studia Politica. Romanian Political Science Review* VIII, no. 1 (2008): 27-44; Émile Huyttens, *Discussions du congrès national de Belgique. 1830-1831* [Discussions of the National Congress of Belgium. 1830-1831] (Bruxelles: Société typographique belge, 1844); Laureys et al., *L'histoire du Senat en Belgique*; Xavier Mabille, *Histoire politique de la Belgique*; Joseph Raz, "The Rule of Law and its Virtue," *Law Quarterly Review* 93 (1977); Els Witte, *Le Moniteur Belge, le gouvernement et le Parlement pendant l'unionisme* [The Belgian Monitor, the Government and the Parliament during Unionism] (Bruxelles: Édition du Moniteur Belge, 1985); Andras Sajo, *Limiting Government. An Introduction to Constitutionalism* (Budapest: Central European University Press, 1999); Radu Carp, *Responsabilitate ministerială* [Ministerial Accountability] (Bucharest: All Beck, 2003); Norberto Bobbio, *Democrație și liberalism* [Democracy and Liberalism] (Bucharest: Nemira, 2007).

[7]   Els Witte and Jan Ceuleers, "La publicité des débats parlementaires à la Chambre des représentants" [The Publicity of Parliamentary Debates in the House of Representatives], in *Histoire de la Chambre des représentants de Belgique. 1830-2002* [History of the House of Representatives of Belgium. 1830-2002], eds. Éliane Gubin et al. (Bruxelles: Chambre des représentants, 2003).

[8]   Jean-Noël Ferrié et al., "Comprendre la délibération parlementaire. Une approche praxéologique de la politique en action" [Understanding Parliamentary Deliberation. A Praxeological Approach to Politics in Action], *Revue française de science politique* 58,

to accurately describe the parliamentary debates on one hand, to introduce them into posterity, that is developing them to constitute a valuable source for researchers, political scientists, historians and jurists on the other hand, without forgetting the need to make the decision-making process and the position of the representatives known to citizens.[9]

On November 10, 1830, the deputy Louis de Potter reiterated in front of the National Congress the idea that the representatives elected by the nation have the sacred mission of laying the foundations of the edifice of the new social order on the solid basis of freedom, the main guarantee for the prosperity of the state. For a more vivid image of the importance that had to be given to this desideratum, the deputy recalls the sad episode of the imposition of the constitution of 1815 by the Dutch that has been rejected by the Belgian people:

> "violated consciences, education put under chains, the press condemned to be only an instrument of power or forced to censorship; the arbitrary substitution of government decrees by a legal system established through the social pact; right of petition not recognized; the confusion of all powers, becoming the domain of one; the despotic imposition of a privileged language; the immovability of judges, reduced to the role of commissioners of power; complete absence from the guarantee of publicity and from that of judgment; an enormous debt and expenses (…); taxes overwhelming by their size and distribution (…); laws voted by the Dutch only for Holland and against Belgium (…); the seat of all the great constituent bodies and of all the important institutions in Holland; scandalous embezzlement of funds specially intended to favor the industry; the revolting partiality in the distribution of civil and military employment by a government in whose eyes the quality of Belgian was a title of reproach; in a word, the whole of Belgium treated as a conquered province, as a colony."[10]

Therefore, one of the holiest goals of the young European nation was to fight against the despotism, in which the Belgians were partakers with

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no. 5 (2008): 795-815; Claire de Galembert et al., *Faire parler le Parlement: Méthodes et enjeux de l'analyse des débats parlementaires pour les sciences sociales* [Making Parliament Speak: Methods and Challenges of Analyzing Parliamentary Debates for the Social Sciences] (Issy-les-Moulineaux: Librairie générale de droit et de jurisprudence, 2013).

[9]   Benjamin Morel, "Ce que conte le compte rendu: l'institution d'un ordre parlementaire idéalisé" [What the Record tells: the Institution of an Idealized Parliamentary Order], *Droit et société*, no. 98 (2018): 182-183.

[10] Belgian Parliamentary Debates: Session 1830-1831, Parliamentary Annals – Plenary Sessions, House of Representatives, 100-101.

the union of their territories with the Dutch. In addition, Louis de Potter drew attention to the need for a permanent government, summarizing the main achievements of the Provisional Government: the abolition of the abusive tax; full transparency granted to criminal proceedings; offering new guarantees to the defendants before the courts; the establishment of the promised judicial institutions; abolishing the degrading punishment of caning; the organization of popular elections for the first magistrates of the Belgian communes and direct elections of deputies in the National Congress; the establishment of several general police directorates; the abolition of the lottery; transparency of municipal accounts and budgets; the freedom of press, education, association, opinion and worship.[11] At the end of his speech, the deputy pleaded for the maintenance of the principle of non-intervention of other states in the internal affairs of Belgium, a principle which, although universal in the sense that it should be used as the basis of international relations, takes into account the various possible situations on the international scene.[12]

During the session of the National Congress on November 15, 1830, the deputy Alexandre de Robaulx supported the separation between the legislative and the executive, considering the latter a moral being, which in the circle of its attributions should benefit from independence, proposing as a form of communication, the transmission of messages between the two, a proposal accepted by Congress.[13] The importance of the executive as an institution stems from the fact that it has a monopoly on coercion, controls the physical resources of a state, ensures the implementation of policies and the functioning of a society, but its action need to be continuous and led to unity:

> "The nation must be represented and through its representatives it participates in the legislative power. Laws are not written in vain, if they are not punctually executed."[14]

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[11]   Ibid., 100-101.

[12]   Ibid., 101.

[13]   Ibid., 144.

[14]   Andras Sajo, *Limiting Government. An Introduction to Constitutionalism*, (Budapest: Central European University Press, 1999), 155-174; Belgian Parliamentary Debates: Session 1830-1831, Parliamentary Annals – Plenary Sessions, House of Representatives, 194.

The representative mandate was introduced in 1791 in France, becoming a basic principle of the parliamentary regime and a social value in itself. The policies are initiated, elaborated and implemented based on the requests coming from the society through this representative mandate.

On the one hand, in a parliamentary system, the government depends on the parliament, otherwise the legislative cannot exercise control. If the parliament is unstable, this dependence threatens to leave the executive without a leader, which in turn endangers the proper functioning of the state.[15] The parliamentary regime is the political system in which the executive power and the legislative power depend on each other. In this case, we can talk about a flexible separation of powers, characterized by the cooperation and mutual control of the legislature and the executive. Executive power is generated by the legislative power, which has a number of forms of control, such as impeachments and motions of censure.

On the other hand, the government in turn influences the activity of the legislature, being able to act by assuming the parliamentary initiative:

> "Born on the ruins of the absolutist monarchies of Western Europe, the parliamentary regime in its classical form essentially involves an executive consisting of a politically irresponsible head of state and a ministerial cabinet responsible both for its own acts done in the exercise of its powers and for the head of state," based on the idea that "the head of state reigns but does not govern."[16]

In his pleading for the proclamation of national independence, Abbé de Foere brings into discussion his creed regarding the importance of justice, which "must be the supreme law, the only law regulating diplomacy and the internal politics of states."[17] From the perspective of Joseph Raz, the law is meant to be transparent, clear and stable, and the activity of state bodies governed by the adoption of open, permanent, general and explicitly stated rules. The independence of the courts must be guaranteed,

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[15] Sajo, *Limiting Government*, 185.

[16] Tudor Drăganu, *Începuturile și dezvoltarea regimului parlamentar în România până la 1916* [The Beginnings and Development of the Parliamentary Regime in Romania until 1916] (Cluj Napoca: Dacia, 1991), 19.

[17] Belgian Parliamentary Debates: Session 1830-1831, Parliamentary Annals – Plenary Sessions, House of Representatives, 173.

so that their discretionary powers are subject only to the law.[18] Continuing this idea, a correlation can be made with Montesquieu's way of thinking, according to which the judiciary cannot fulfill this condition unless it functions as an independent branch of power, separately from the legislative and executive powers, if not freedom would be limited and the principle of separation of powers in the state would lose its primacy. This is the point from which two possible scenarios arise, First, the situation in which the judicial power would become arbitrary with regard to the life and freedom of citizens, if it were to approach the legislative power, with judges also taking over the powers of some legislators. Second, the situation in which the actions of the judges would acquire an oppressive character, in the event that the judicial power would unite with the executive power:

> "There is also no freedom, if the judicial power is not separated from the legislative and the executive power. If it were combined with the legislative power, the power over the life and liberty of the citizens would be arbitrary, because the judge would be the legislator. If it were combined with the executive power, the judge could have the force of an oppressor."[19]

In order to avoid these two scenarios, the complete separation and self-determination of the judiciary, which has a strong control over the legislative and executive branches, and turn it into a means of political surveillance, are absolutely necessary. Following the appointment of judges, the other branches cease to exercise influence over the judiciary, which is subject only to the law.[20] The impartiality and the independence of the judiciary are two constitutional requirements designed to guarantee the people's rights. This is the context, which leads Charles Destouvelles to support the idea that "without institutions there is no freedom, there is no stability," a phenomenon that could be reached through the system of concentration of powers, which prevents a coherent organization and functioning of society.[21] According to Abbé

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[18] Joseph Raz, "The Rule of Law and its Virtue," *Law Quarterly Review* 93 (1977): 198.

[19] Montesquieu, *Despre spiritul legilor* [The Spirit of Laws], vol. I (Bucharest: Editura Științifică, 1964), 196.

[20] Sajo, *Limiting Government*, 220.

[21] Ibid., 241.

de Foere, the principle according to which the general interest is the supreme law becomes by its nature a diplomatic one, even if it gave rise to the purely material considerations of balance and general security, such as revolted groups of citizens, interventions in society under the name of defending citizens' interests and causes or civil discords and even bloody and interminable wars:

> "These are the horrible consequences of the material principle of diplomacy, a principle which arbitrarily leads to all injustices, to all outrages, to all upheavals, to all tyrannies, to all anarchies; principle under whose empire there is neither faith, nor law, nor natural right, nor right of people, nor general protection, nor particular security".[22]

Thus, the deputy blames the state of violence to which the Belgian state has been brought, which could culminate from an arbitrary application of power to a concealment of private interests under the pretext of the general interest through the degrading subordination of justice, in order to subsequently arrive at a state in which the general liberty and security are threatened, under the pressure of the danger of complete dissolution. This is the context that explains all the usurpation and diplomatic violence exerted on Belgium, a fact for which it was imperative to transform justice into "the invariable law of diplomats and statesmen."[23] This is the starting point of the proposal to establish several diplomatic offices with the aim of making known the right of the Belgian nation and to overcome the state of humiliating subordination in which the country found itself, all in the name of the "eternal justice:"

> "The principles of eternal justice are of inflexible rigor. Everything that does not fit exactly is mutilated, deformed, fought by the irresistible power of human consciousness."[24]

The worries of the Belgian deputy stemmed from the political experience of the country because what has corrupted the proper functioning of a society and throughout history has attacked the right of nations and

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[22] Belgian Parliamentary Debates: Session 1830-1831, Parliamentary Annals – Plenary Sessions, House of Representatives, 172.

[23] Ibid., 172.

[24] Idem

individuals has been the principle according to which whatever politics advise, justice authorizes. This is the principle that dominated the diplomacy of the Congress of Vienna (1814-1815), the Treaty of Paris (1815) and London Conference (1830), sacrificing the right to independence of Belgium in favor of purely material interests and erasing the name of the Belgian people from the list of European nations. The independence of Belgium without the territory belonging to Luxembourg was unanimously proclaimed by the National Congress during the session of November 18, 1830, with 188 votes in favor.

The issue of popular consultation has been brought up since those times by Baron Jean de Pélichy van Huerne, who advocated for "a republican monarchy" as a form of government, following a calculation of the advantages and disadvantages this could bring to general welfare by investing in power through universal suffrage a constitutional monarch to rule using republican institutions[25] Inevitably, the idea of ministerial responsibility is subtly noted together with the proposal that no act of the monarch should have effect if it is not covered by a minister who takes responsibility for it. Continuing his ideas, the deputy makes pro-monarchy arguments, considering this form of government as a vital configuration for guiding the state towards development and defining it as:

> "the oldest, most frequently used and most active form of government. I see it surrounded by strong and stable authorities and founded on the greatest liberty. Constitutional and representative hereditary monarchy suits both customs, morals, and the geographical situation. Acting in this way, we will not cause any harm to the other powers and thus we will avoid war."[26]

From this perspective, the deputy claimed that ensuring a continuity of governance at the European level could contribute to the recognition of the rights of the new nation. Mathieu Leclercq started his speech in front of the assembly with the idea that a hereditary ruler of the state could proclaim liberty and law but destroys moral customs. Thus, the identification of a sure tactic to guarantee the respect for law and freedom proves paramount, especially since in the absence of law,

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[25] Ibid., 185.
[26] Ibid., 185.

licentiousness and anarchy would dominate society as a whole. The same deputy urged moderation with the transition from one form of government to another, because each of them has advantages and disadvantages.[27] An elected head of state, as in the case of the republic, seeks to ensure his continuity, and later his retirement, for which he tries to surround himself with partisans, giving him a large part of the state's affairs. But gaining trust and loyalty cannot be done without some rewards, which is why public offices are often distributed not to the worthiest, but to those who can support it better. So, this fact can be treated as a custom, that the rules of equity do not always dominate politics, a sector where ambitions have free rein. In a representative monarchy, the nation intervenes in the affairs of power, but in an indirect manner. Power is conferred by the citizens to those chosen, considered the worthiest and most interested in the general good.[28]

In addition, Mathieu Leclercq supported the need to introduce an education intended for all, able to develop the faculties and the way of thinking of an individual, the knowledge of the rights and duties, which derive from his role as a citizen, as well as the principles of the political organization of the state in which he lives. The appearance of this ideal in Belgian political consciousness occurred against the background of the American experience, because as the deputy claimed, there "everyone knows how to read; a general instruction developed the spirit of reflection in all classes; all deal with public interests, all confuse them with private interests (…); all, when the law hath spoken, stop and listen," which Belgium seemed to be far from at the time of his lecture.[29] He concludes his pleading by mentioning the fact that "the republic is not in relation to our traditions, our morals, nor our customs," especially since at the European level most of the powers were monarchies.[30] Thus, Mathieu Leclercq does not shy away from making a brief comparison between the American and Belgian cases, starting from the geographical

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[27] Ibid., 186.
[28] Ibid., 188.
[29] Ibid., 189.
[30] Ibid., 189.

positioning, in the context in which Belgium was surrounded only by absolutist and representative monarchies.

According to Charles Liedts, heredity has a neutral character at the level of political power, because it is not only linked to a certain form of government or a certain state of society, it adapts to time, needs and situations.[31] In consonance with this idea, Jean-Joseph Raikem explains the fact that if ministerial responsibility were to become a reality, the rule of a hereditary chief would be most likely to ensure respect for public liberties and guarantee general security. Thus, he supported a representative constitutional government with a hereditary head. An ambitious prince will seek to stabilize his power, while a weak one would only end up being manipulated by other politicians.[32] Pierre Seron declares himself a supporter of the representative form of government with the head of the executive power elected by the congress for a period of ten years, a proposal however rejected by the rest of the members of the Congress.[33]

According to Viscount Charles Vilain XIIII, the imposition of a federal republic would lead to general discord, he himself being a great follower of heredity to the throne.[34] As Paul Wyvekens argued before the National Congress during the session of November 19, 1830, "constitutional monarchy, far from being a state of transition to a more ideal regime, is on the contrary a more learned, more ingenious political combination than the republic itself," thus emphasizing the superior character of a monarchy, even if other members of the Congress had contrary views, such as the case of Paul Devaux, for whom the predilection for the election of the republic came from the lower costs that a president entailed compared to a hereditary king.[35] However, even the republic does not seem perfect, because "no system of government favors foreign intervention more" than this and the domination of political parties by strong interests.[36]

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[31] Ibid., 191.
[32] Ibid., 198.
[33] Ibid., 198.
[34] Ibid., 199.
[35] Ibid., 208.
[36] Ibid., 214.

Starting from the debates of the Belgian deputies regarding the choice of an optimal form of government for the young European nation, the primacy of the monarchy is highlighted, which proves to be the main instrument by which the freedom of a nation can resist foreign intervention and domination, because there is not the same level of ambition and discord among the political elite. The power of the monarch plays the role of a barrier to the interests of conquest, transforming himself in a conciliatory power. This is also the argument, which explains Paul Devaux's preference for representative monarchy.[37] For Charles-Joseph de Roo, however, a form of government had to be found starting from the ideal that the nation would be protected and the confidence in the future assured. Here the duty of the constitution to fight against the usurpation of power and social instability can be added, as well as against all phenomena that could threaten freedom and the country's independence. According to him, the main guarantees that the young nation needed to fight in asserting its own identity, aimed: "direct and popular elections, the accountability of those in power, the organization of the judiciary, judicial order, civic hosts, freedom of public instruction and the press," all to prevent despotism, aristocratic and oligarchic power, thus he declares himself a supporter of representative monarchy.[38]

Constantin Rodenbach advocated for hereditary constitutional monarchy, just like Charles Blargnies or Charles Destouvelles, "under the condition that this government be organized in such a manner that all powers emanate from the nation, taxes be moderate and tyranny be impossible," insisting thus on popular sovereignty and the need to abolish any form of abuse of power.[39] This represented a major danger according to the philosophy of Montesquieu, who argued that "experience always teaches us that every man who possesses power is inclined to abuse it, and he goes on like this until he reaches the limits," so for the abuse of power to be prevented, "power must be restrained by power through

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[37]   Ibid., 214.
[38]   Ibid., 220.
[39]   Ibid., 236.

established order."[40] Concretely, this desire could be fulfilled by introducing the principle of separation of powers in state and clearly establishing the specific functions of each power in order to prevent despotism:

> "When the legislative power and the executive power are united in the hands of the same person or the same body of rulers, there is no freedom, because the fear may arise that the same monarch or the same senate will not draw up tyrannical laws to apply tyrannically."[41]

In the exposition of his ideas, Constantin Rodenbach based his speech on the interpretation of the constitutional monarchy from the perspective of the purest form of government of the law, not of people, campaigning for "ministerial responsibility, independent magistracy, (...) complete freedom of religion, press and education."[42] Drawing a parallel with the French model, Pierre Seron recalls the principles formulated by Condorcet on February 15, 1792, within the French National Convention, considering that heredity produces a form of social discrimination. In support of his ideas, he brings the argument that there is a risk that the head of state will not try to fight for the general good since the low chances for the danger of taking away his powers:

> "All political heredity is both an obvious violation of natural equality and an absurd institution because it presupposes the inheritance of one's own qualities for the performance of a public office. Any exception to the common law made in favor of one person is a violation of the rights of all. Any power above which no other person rises cannot be entrusted to a single individual, either for his life or for a long period, without conferring on him an influence attached to his person and not to his offices, without giving his ambition the means of lose public freedom or at least try."[43]

According to Hubert Masbourg, "in hereditary monarchies the interest of the chief is identified with that of the state; the public good must

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[40] Montesquieu, *Despre spiritul legilor*, 195.

[41] Ibid., 196.

[42] Belgian Parliamentary Debates: Session 1830-1831, Parliamentary Annals – Plenary Sessions, House of Representatives, 240.

[43] Ibid., 251.

naturally be the object of all his desires and of all his efforts."[44] Thus he is maintaining his optimistic belief despite any contrary opinions. Beyond this, in a monarchy there is a tendency that moral affection makes its appearance, manifested by the respect of the citizens towards their king. Once put to the vote, the question of choosing the optimal form of government for the Belgian state gathered 187 members in the National Congress, of which 174 voted in favor of the representative constitutional monarchy under a hereditary head, and 13 in favor of the republic. The deputies who voted against the monarchical regime were Pierre Seron, Alexandre de Robaulx, François Lardinois, Jean Goethales, Pierre David, Abbé Désiré De Haerne, Pacifique Goffint, Justin de Labbeville, Eugène Fransman, Louis Delwarde, Camille de Smet, François Pirson and Thiers, during the meeting of November 22, 1830.[45]

The Senate in the Belgian Parliamentary Debates from 1830-1831

In Belgium, the question of the Senate was also one of the great debates of the National Congress of December 1830, and included numerous proposals that it should be appointed for life only by the head of state. The number of members was to be well determined: one senator to two deputies. To occupy the position, the census character was established, with a land contribution of 1,000 florins. In provinces where none of 10,000 citizens were eligible in this respect, the citizen who paid the most taxes was eligible to be elected. Senators did not enjoy privileges, and the minimum age to occupy the seat of senator was 40 years.[46]

The desire for a chamber elected for life came from the ideal of introducing an incorruptible institution. According to popular conceptions, corruption does not simply represent the violation of a moral or political custom but expresses the transgression of a higher universal norm. Corruption is a human condition and an ancient phenomenon. In a limited sense, corruption is based on human choice and depends on the

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44   Ibid., 259.
45   Ibid., 260.
46   Ibid., 370 (Session of December 7, 1830).

will of each individual to allow himself to be dominated by self-interest or to contribute to the common good. As for corruption at the state level, it results from the interaction of individualism with political and economic inequality.[47] The state unaffected by the phenomenon of corruption guarantees some forms of economic, legal, and political equality, but without demanding absolute equality in all aspects of life.

Laws must be applied equally to all citizens and properly administered for the general interest, not the private interest. As a rule, ethics associates political corruption with moral decay, degeneration, and decadence[48] The problem of corruption was inextricably linked to the fact that it was rather present in mixed regimes, not dependent on the personal will of a single leader or the collective will of a single group or faction. The conceptualization of corruption as a process of degeneration allowed the development of two types of discourse in medieval and modern times. The first describes corruption as the process of moral or physical disintegration of the human being, including the degeneration of the earth and the cosmos. The second type describes corruption as the end of a process of decay with harmful effects, as it can lead to the disappearance of the state or the total destruction of society.[49]

Count Félix de Mérode advocated for the appointment of a Senate for life, with members elected on the basis of the census criteria, which would guarantee the national spirit and collective freedom.[50] The bicameral parliament was an institution with tradition in England and an innovation in France and Belgium, as Jean-Baptiste Nothomb begins his pleading for the introduction of the Senate.[51] According to several members of the National Congress, a single chamber "could usurp excessive power, diminishing the royal prerogative (…). The lower

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[47] Patrick Dobel, "The Corruption of a State," *The American Political Science Review* 72 (1978): 961.

[48] Bruce Buchan and Lisa Hill, *An intellectual history of political corruption* (Hampshire: Palgrave Macmillan, 2014), 44.

[49] Ibid., 44.

[50] Belgian Parliamentary Debates: Session 1830-1831, Parliamentary Annals - Plenary Sessions, House of Representatives, 421.

[51] Ibid., 424.

house will always dominate the other powers, so long as it is the expression of public opinion, because the lower house represents the nation from which all powers emanate."[52] Therefore, the representative government is most interested in defending the stability of the throne, but also the freedom and prosperity of the country, as Jacques Fleussu argued before the members of the National Congress in his attempt to criticize the democratic government, in which he saw an instrument of imposition of political demagoguery.[53] The almost universal belief was that through the operation of a single chamber, there was a risk of exercising a monopoly over the legislative power. According to Charles de Brouckère, "a single chamber, the product of a good electoral law, will not preserve nationality," while Pierre Van Meenen considered it necessary to introduce a second chamber, so as to balance the powers and functions as an intermediary between the sovereign and the legislative power. Also, according to him, the upper chamber could function as a preventive, not a repressive tool, its usefulness stemming from the control exercised over the acts of the elective chamber.[54]

According to Jean Ghisbert de Leeuw, the establishment of the Senate was necessary for "the aristocracy to be represented; to function as a body balance; (…) to prevent the attacks of an eminently popular chamber from reaching the executive power directly."[55] Thus, for him the main three factors to take into account for the establishment of the Senate were: the representation of the aristocracy, the introduction of a moderating body to prevent the monopoly of power, and the prevention of the attacks of an eminently popular chamber on the executive power. The lower chamber was the one that usually represented the nation, from where all the powers of a state usually emanate.

For Pierre Van Meenen, the introduction of a second chamber was a necessity, in the context in which it could function as an intermediate power in relation to the head of state, exercising control over the operations carried out by the elective chamber. The biggest disadvantage that the

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[52]   Ibid., 427.

[53]   Ibid., 439.

[54]   Ibid., 428-430.

[55]   Ibid., 444.

deputy identified was not a possible break between the two powers, but their complicity, because in the attempt of the majority of the chamber to get into the graces of the sovereign, it could lead to a violation of citizens' liberties by applying the constitutional provisions in the sovereign's own interest. In the situation where the sovereign would dissolve the elective chamber, also in absence of a higher chamber to take over its powers, then the sovereign would enjoy absolute powers in the state.

Moreover, Pierre Van Meenen interpreted the existence of the upper chamber "more as a preventive means than as a repressive means," proving itself "useful through the control it must exercise over the acts of the elective chamber."[56] Regarding the matter of the Senate, Pierre Seron reiterates the idea that "an aristocratic chamber can only be useful to despotism."[57] Barthélémy de Theux de Meylandt saw "as indisputable the advantages of a Senate for the improvement of legislation and the maintenance of internal peace," in the context in which Belgium was a country without privileges, and "the constitution guaranteed all popular institutions so that the Senate would not have a personal interest in opposing any useful law."[58] Thus, the country's position was at a favorable point for the adoption of the Senate institution:

> "the Belgian people, united in the same interests, will directly elect a chamber dominated by the national spirit and strengthened by new guarantees, such as the annual tax vote, a commission of accounts appointed by this chamber, and revocable at her will, and a well-organized ministerial responsibility, which will place the chief power in her hands."[59]

Campaigning for the election of the members of the Senate by the people, deputy Robert Helias d'Huddeghem pointed towards an independence of this chamber in relation to the sovereign, which could be ensured by introducing an incompatibility between the position of senator and the possibility of occupying another position around the monarch, to limit the desire to obtain as many personal advantages as possible. Among

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[56] Belgian Parliamentary Debates: Session 1830-1831, Parliamentary Annals – Plenary Sessions, House of Representatives, 428-430.

[57] Ibid., 433.

[58] Ibid., 434.

[59] Ibid., 434.

the special powers granted to the Senate requested by this deputy were: "the maintenance of public and individual liberty, of freedom of conscience and of the press, of the power to order and give remunerative rewards."[60] Viscount Charles Hippolyte Vilain XIIII supported the lifelong appointment of senators by the king, considering this option optimal for preserving the independence of the vote and justifying this choice in the name of the public good. The king could not thus limit their role, nor could corruption divert them from their intended purpose in the exercise of their duties. However, the excess wealth accumulated at the level of this institution could cause the Senate to acquire "the claims and traditions of oligarchy, contrary to general liberties," and "a guarantee of its independence will be the publication of its meetings and acts. This publication will serve as a brake on the issuance of principles contrary to general liberties."[61]

Hubert Masbourg advocated for the establishment of the Senate as an intermediate power to "maintain and restore harmony" at the level of the central power, to put a barrier in the way of ministerial despotism and factional interests, to guarantee the fundamental law and preserve the social order.[62] The absence of such a system of balance of powers led most of the time to bloody revolutions in free states, Cicero's thought being brought as justification, according to which the best form of government turns out to be the one composed of three powers, because in this form they can temper one another.[63]

As baron François Van den Broucke de Terbecq supported before the other deputies, the act of giving to a nation a constitution involves a rigorous process, as it must guarantee all the rights of the citizens and remove arbitrary power from the society through a form of government capable of providing a solid basis for liberties,. He reasons the balance arising from the existence of three powers in terms of the fact that a single power will eventually be destroyed, and the two powers will fight

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[60]   Ibid., 443-444.
[61]   Ibid., 448.
[62]   Ibid., 459.
[63]   Ibid., 459.

until one of them is losing.[64] According to Mathieu Leclercq, in the absence of intelligence, freedom is just a meaningless word, arguing that a higher chamber like the Senate would cause inequality and distinction between social classes, the biggest fear being that of coming under the captivity of despotism or aristocracy.[65] In general, the functioning of a representative type of government is based on the introduction of the Senate as an upper chamber, in order to prevent the seizure of power by the Chamber of Deputies, balance the power, prevent disorder, anarchy, possible uprisings and oppressions in society.[66]

In support of his point of view regarding the establishment of the institution of the Senate during the session of the National Congress of December 15, 1830, Alexandre de Robaulx recalls the moment when the monarchy was chosen as a form of government, the republic being rejected as considered to provide only temporary power in terms of the eligibility of the term of government, as each time a president changes the nation goes through a succession of transformations. Instead, the hereditary character of a monarchy proves to be the best tool for ending political dissension.[67] This is the context that transposes Étienne de Gerlache into a promoter of the idea that a hereditary chamber could offer greater guarantees of stability, "more spirit of independence, wisdom and conservation."[68]

The introduction of the Senate would have produced a change in the Belgian society, and in order for it to prove sustainable and effective, a slow and rational process of managing the political upheaval was necessary, taking into account all the circumstances and challenges of the moment, a perspective proper to the liberal ideology. But change can also produce fear. The reluctance to introduce the institution of the Senate came from the anxiety that once composed of aristocratic elements, it would no longer ensure an egalitarian respect for the main freedoms of the citizens. However, the speech delivered by Josse Delehaye and

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[64] Belgian Parliamentary Debates: Session 1830-1831, Parliamentary Annals – Plenary Sessions, House of Representatives, 461.

[65] Ibid., 480 (Session of December 15, 1830).

[66] Ibid., 481 (Session of December 15, 1830).

[67] Ibid., 487.

[68] Ibid., 473.

Pierre Van Meenen before the National Congress sums up the most edifying role of the Senate, being described as "a power, which by its nature and position, apart from opposing popular rebellion as well as the despotic tendency of the head of state," becomes an instrument capable of watching the acts of each party, a faithful guardian, who ensures that the law is observed.[69]

Once the favorable or adverse interventions of the Belgian deputies are completed, the question of establishing the Senate was put to vote during the National Congress session of December 15, 1830. The situation was as follows: 128 votes in favor and 62 votes against, because the latter deputies saw the Senate as a threat rather than a way to maintain order and stability in the state. However, the negotiated compromise on the form of the senatorial assembly is a good illustration of the tension between the conservative and liberal currents, with the latter emerging victorious. Based on general practice at European level, the Senate proved to be less impetuous than the Chamber of Deputies, belief clearly presented in the interventions within the Belgian National Congress. Taking into account the balance of forces in Europe, the creation of this upper chamber became a sign of political development of the Belgian nation that aspired to the recognition of the legitimacy and independence of this young state by the great powers. The creation of Belgium changed the map of Europe, which made the role of political representatives more difficult, because they did not want to take the risk of worrying the great powers at a time when the existence of the new state was not yet unanimously accepted at the European level. But the decision to create a second chamber also expressed the choice to take into account the economic and social realities of the time. The Senate was a means of integration into the political system of the great landed families whose local influence was considerable. Social inequality was quite prominent in Belgian society in the first half of the 19th century. If the big landowners were not given an important place in the new institutional formats, there were two risks: either to become opponents of these institutions, which would have weakened the political regime,

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[69]   Ibid., 490 (Session of December 15, 1830).

or to dominate the single chamber, thus stopping the political expression of other components of the population.[70]

Partisans of the single chamber motivated their choice starting from the idea of equality between citizens and the guarantee of everyone's rights before the law, the Senate being for them the equivalent of privileges. According to Lucien Jottrand, the proposal to establish the Senate institution has as main explanation the social desideratum of "having a guarantee of maturity and calmness in legislative discussions and resolutions," while the supporters of a single chamber did not want this proposal to materialize for fear of seeing the state constitution affected by aristocratic privileges.[71] In Jottrand's opinion, the only viable method of achieving a fusion between these two opposing views was for senators to be elected by the citizens from among those who were of a certain age and possessed a certain wealth, considering that by this method a tribute could be paid to the homogeneity of the opinions and national interests of the Belgian people.[72] Félix de Mûelenaere drew attention to the fact that it was necessary to ensure that the Senate did not become a danger to public liberties, in the context in which it should have played the role of a protection against social oppression, whereas for Joseph Forgeur, if the upper chamber was appointed by the provincial councils, and not by the electors, this would give it a neutral character, and render it safe from any attempt by the government to corrupt it.[73]

According to art. 56 of the Constitution, the main conditions for the election of a senator were: to be born in Belgium or subject to the great naturalization, to possess civil and political rights, have residence in Belgium and respectively to respond to census and age conditions.[74] The history of the Senate is deeply connected to the general politics and institutional developments of Belgium. At the formation of the country, Catholics and Liberals overcame philosophical differences to face the threat that Holland constituted. This Unionist period between moderate

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[70] Laureys et al., *L'histoire du Senat en Belgique*, 33.
[71] Belgian Parliamentary Debates: Session 1830-1831, Parliamentary Annals – Plenary Sessions, House of Representatives, 508 (Session of December 16, 1830).
[72] Ibid., 508 (Session of December 16, 1830).
[73] Ibid., 520 (Session of December 16, 1830).
[74] Émile Huyttens, *Discussions du congrès national de* Belgique, 34-35.

and progressive elements was characterized by compromise solutions and the growing influence of the king and of the government.[75] After the signing of the peace treaty with Holland in 1839, internal dissensions arose, ideological struggle took shape, and Parliament began to challenge royal power. Unionism only managed to hold on until 1847, losing its strength because of internal conflicts. After the 1848 election, the first liberal non-unionist government came to power, and in 1856 the king made an unsuccessful attempt to restore unionism.

Conclusions

Following the analysis of the Belgian deputies' speeches during the parliamentary session of 1830-1831, we came to the conclusion that the Belgian society does not deviate from the line of young European nations. Thus, immediately after gaining independence, under the auspices of the National Congress, a perfect form of government of the new state is sought, and the most notable way to do this is to appeal to the model of the great European powers, which explains the pattern of socialization by taking over elements of culture specific to nations at a higher stage of development. This attitude is explained both by the urgency to give a direction to the state, and by the prestige of neighboring countries with a great tradition of representative monarchy. This form of government proves to be the main instrument by which the liberty of a nation can oppose foreign intervention and domination in the context where the power of the monarch acts as a barrier to the interests of conquest. As a general rule, in hereditary monarchies the interest of the chief is identified with that of the state, so that all his efforts are focused on implementing the grievances of society.

The Senate as an intermediate power has the role of maintaining balance between the other two powers, of putting a barrier in the way of ministerial despotism and factional interests, so as to contribute to the guarantee of the fundamental law and the preservation of social order. The absence of such a system of balance of power has often led to revolts

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[75]   Laureys et al., *L'histoire du Senat en Belgique*, 62-63.

or bloody revolutions in free states. As the best form of government proves to be that composed of three powers, so that they may temper one another, the advantages of the operation of the institution of the Senate for the improvement of legislation and the maintenance of general security are proved indisputable, notwithstanding the general consideration of that era, that it defends the interests of the aristocratic class.

Starting from the question of the three models, the senatorial institution discussed in 1830 is not a new creation but is inspired by existing examples and political theories with diversified accents. However, they reflect the dominant political ideology of the time: the liberalism, which proves more concerned with the development of forms of government characterized by a set of institutions and principles, such as the separation of powers in the state, free elections, and representative system, than with the establishment of democratic foundations. From this point of view, the debates in Congress correspond perfectly to the liberal moment in the turbulent but irreversible history of democracy. Thus, it cannot be denied that the idea of democracy was not constantly present during the discussions. The fundamental problem posed by the organization of the Senate concerns the representativeness of this assembly and, in a certain way, its democratic legitimacy.[76]

The doctrinal references clearly reflect the heterogeneity of the thoughts invoked, even if they are all related to the liberal system of thought. Following three other major public debates, Congress adopted representative constitutional monarchy as the foundation for the new Belgian institutions. Emphasizing the separation of powers and proclaiming the responsibility of ministers, Congress adopts the parliamentary system, thus following the French example of July 1830. The political responsibility of the ministers was one of the main demands of the Belgian representatives under the Dutch regime, which also explains the urgency of its application.

As Émile Huyttens argued,

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[76] Henry Leroy, "Le Sénat dans le nouvel État belge. Questions et perspectives" [The Senate in the new Belgian State. Questions and Perspectives], in *La réforme du Sénat. Actes du colloque organisé à la Maison des Parlementaires le 6 octobre 1989* [The Senate Reform. Proceedings of the Symposium Organized at the Maison des Parlementaires on October 6, 1989], Centre de droit public de la Faculté de Droit de l'Université Libre de Bruxelles (Bruxelles: Bruylant, 1990), 72.

"a good constitutional government consists of a more or less equal balance of democratic and aristocratic elements, and I believe that, consequently, two chambers must be admitted. The existence of two chambers also seems essential for the stability of the government. This is the only way to prevent changes that are too sudden and resolutions that are too hasty; even the United States felt the need to create a Senate alongside the other chamber. It would be impossible for power to fight against the impetuosity and passions of a body which, recognized as omnipotent (…) would impose its passions and whims on power and, consequently, on the nation (…). Through repeated use of the veto, the executive power would end up becoming unpopular and discredited. Moreover, the history of the French Revolution demonstrates that the use of the veto is almost impossible for a monarch who finds himself face to face with a single legislative assembly, unless he wants to expose himself to seeing his power destroyed. (…) The Senate must be a moderating power."[77]

In this quasi-programmatic passage, the principle of separation of powers in the state can be identified from Montesquieu's perspective. Despite the establishment of this double mechanism of dividing legislative power and representing within it different social groups, the risk of a possible coalition of the two assemblies leading to the paralysis of the executive or one chamber by the other does not completely disappear.

The Senate was most often perceived as an institution of compromise: a consolidation of the liberal institutional balance and the maintenance of the class privileges of newly independent Belgium. Belgian bicameralism corresponds to the transition from the old to the new regime: an upper chamber representing the aristocracy face to the lower chamber, of a more bourgeois composition, anticipating the antagonism between liberals and democrats that would manifest later in the era. During the first years of national independence, the political situation was dominated by external affairs. During the period of unionism, ideological clashes were replaced by non-denominational clashes between moderate and progressive elements. Thus, the period 1831-1839 was often called the golden period of unionism.[78] In the first years of the country's existence, the parliament did not influence the foreign policy of the government, and the Senate remained a defender of the monarchy, enjoying the full confidence of the king. This is the reason why for a long time the Senate hesitated between the role of defender of royal interests and the function of controlling the executive power.[79]

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[77] Émile Huyttens, *Discussions du congrès national de* Belgique, 7.
[78] Laureys et al., *L'histoire du Senat en Belgique*, 52.
[79] Ibid., 59.