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The Kalmar Union and the Polish-Lithuanian Union (part 2) – the legal foundations and the later history of the two state unions*

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This publication is a continuation of comparative research into the history of the Kalmar Union and the Polish-Lithuanian Union. In the first part of the article,¹ the authors focused on presenting the origins and reasons for the establishment of both state unions

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¹ A. Gaca, H. Bąk, *The Kalmar Union and the Polish-Lithuanian unions (part 1) – origins and causes of establishment*, "Studia Iuridica Toruniensia" 2022, Vol. 30, pp. 127–154.

while simultaneously looking at the mutual similarities and differences between them.

The purpose of the second part is to present the legal basis for the functioning of both unions, as well as their later fate, with particular emphasis on the political and legal changes affecting the nature of both state unions. While in the case of the Polish-Lithuanian Commonwealth the personal union was transformed into a real union and led to the establishment of a unitary state in the Stanislaus era, as some domestic historians believe, the personal character of the Kalmar union, as well as the Danish-Swedish rivalry over primacy and the nature of the union, prevented further institutional and political integration of the constituent states.

It is worth noting that, just as there has long been a scholarly debate in Polish, as well as Lithuanian, Belarusian, and Russian historiography on the proper interpretation of the term *applicare* used in the deed of Kreva, one of the focal problems of Scandinavian researchers is the assessment of the legal force and character of the Union deed and its position in relation to the homagial deed.

As Grzegorz Błaszczyk argues, pointing to a long-held view shared by a great many scholars, the document that Jogaila signed in Kreva in 1385 was not a formal deed establishing the union of the two states, but rather a pre-nuptial agreement summarising the first stage of the Polish-Lithuanian negotiations. It was one of many 'preliminary' deeds connected with the treaties between Poland and Lithuania in 1385–1386, having the character of a pre-marital agreement, announcing the establishment of a legal and state relationship between Poland and Lithuania, and outlining future mutual relations between the two countries.² Historians have long been in agreement on this matter. In the document issued by Jogaila, he accepted the terms of his marriage with Jadwiga and his coronation as King of Poland. However, one very important term contained therein – *applicare* – caused its interpretation to

² G. Błaszczyk, *Dzieje stosunków polsko-litewskich od czasów najdawniejszych do współczesności*, Vol. 1: *Trudne początki*, Poznań 1998, pp. 195–196; M. Jučas, *Unia polsko-litewska*, transl. A. Firewicz, Toruń 2003, p. 97 et seq.; R. Frost, *Oksfordzka historia Unii Polsko-Litewskiej*, Vol. 1: *Powstanie i rozwój 1385–1569*, transl. T. Fiedorek, Poznań 2018, p. 94.

provoke and to this day to continue to provoke considerable polemics on a fundamental issue: should the use of this term be treated as the Grand Duke's commitment to incorporate ('integrate,' 'join') Lithuania into Poland, or was the union of the two states to be of a radically different nature? And what about the deed, or rather deeds, which gave rise to the Kalmar Union, and do the provisions contained therein also give rise to such fundamental disputes and differences in interpretation?

The union of the three Scandinavian states was concluded in 1397 at a convention of the magnates in Kalmar. Prior to the signing of the union documents, Margaret was forced to solve the problem of succession to the throne. After the death of her only son Olaf, the queen adopted Prince Boguslaw, who came from the Pomeranian Griffin dynasty and was the son of her niece Maria and Prince Warcisław, and at the same time her closest male relative. The prince assumed a new name, Eric, and was recognised as hereditary king of Norway in 1389.³ Seven years later, the *landsting* in Viborg proclaimed him king of Denmark, and a few months later the Swedish lords paid him homage.⁴ It was not until 17 June 1397 that he was crowned king of the three Scandinavian states at a convention in Kalmar,⁵ which was confirmed by a deed of homage (*kroningsbrevet*) dated 13 July 1397.⁶

³ V. Etting, *Queen Margrete I (1353–1412) and the Founding of the Nordic Union*, Leiden–Boston 2004, p. 81; E. Kjersgaard, *Borgerkrig og Kalmarunion 1241–1448*, in: *Danmarks historie*, Vol. 4, eds. J. Danstrup, H. Koch, København 1963, pp. 431–432; R. Frost, *op.cit.*, p. 99.

⁴ Z.H. Nowak, *Współpraca polityczna państw unii polsko-litewskiej i unii kalmarskiej w latach 1411–1425*, Toruń 1996, p. 15; idem, *Krew i Kalmar. Dwie unie późnego średniowiecza w północnej i wschodniej Europie*, in: *W kręgu stanowych i kulturowych przeobrażeń Europy Północnej w XIV–XVIII wieku*, ed. Z.H. Nowak, Toruń 1988, p. 64; W. Czapliński, K. Górski, *Historia Danii*, Wrocław 1965, p. 122.

⁵ V. Etting rightly observed that Eric's coronation as king of the three Scandinavian states was in violation of the Treaty of Lindholm, according to which the former king of Sweden, Albrecht of Mecklenburg, was to retain his royal title until the agreed ransom had been paid or until Stockholm had been returned to Margaret; see eadem, *Queen Margrete I*, p. 99; eadem, *Margrete den første. En regent og hendes samtid*, København 1997, p. 113.

⁶ The contents of this document show that Eric was elected king of the

Much more controversial among Scandinavian historians is the union deed (*unionsbrevet*) itself, the original of which is kept in the Danish National Archives.⁷ Unlike the coronation document, which was drawn up on parchment and sealed by the representatives of all three Scandinavian states, it was written on paper and signed by only a minority of the nobles. In fact, the *Unionsbrevet* was issued by 17 members of the councils of the kingdoms, i.e. 7 from Sweden, 6 from Denmark and 4 from Norway (by comparison, the homage deed was sealed by 67 councilors), and only 10 of them sealed the document by directly affixing the seal and not – as was customary for deeds of this rank – by hanging it.⁸ It should also be added that the Norwegian side did not send the most important members of the council to Kalmar – for it was presided over by the Bishop of the Orkney Islands.⁹

In Scandinavian historiography, one may encounter two main, radically different theses concerning the legal force of the deed of union. According to the first, for which the Swedish historian Gottfrid Carlsson is regarded as the precursor, the *unionsbrevet* should be regarded as a fully-fledged Union treaty concluded be-

three Scandinavian states in accordance with the will of their inhabitants. In addition, the nobles swore an oath of allegiance to the newly elected ruler and promised him that they would faithfully manage the castles, fortifications, and lands they had received or would receive from Eric and Margaret. The homage deed also contains a solemn expression of gratitude by the nobles on behalf of the people of the kingdoms to Queen Margaret for her services in administering the states of the North; see *Den Danske Rigsløvgivning 1397–1513*, ed. A. Andersen, København 1989, pp. 19–22.

⁷ Ibidem, No. 2; I. Andersson, *Dzieje Szwecji*, transl., introduction and elaboration S. Piekarczyk, Warszawa 1967, pp. 73–74.

⁸ Z.H. Nowak, *Współpraca polityczna*, pp. 16–17; idem, *Krew i Kalmar*, p. 65; idem, *Kilka uwag w sprawie kandydatury księcia pomorskiego Bogusława IX na króla unii kalmarskiej*, in: *Balticum. Studia z dziejów polityki, gospodarki i kultury XII–XVII wieku ofiarowane Marianowi Biskupowi w siedemdziesiątą rocznicę urodzin*, ed. Z.H. Nowak, Toruń 1992, pp. 236–237; W. Czapliński, K. Górski, op.cit., pp. 122–123; Z. Ciesielski, *Dzieje kultury skandynawskiej*, Vol. 1: *Od pradziejów do Oświecenia*, Gdańsk 2016, p. 301; J. Małek, *Historia Norwegii (do roku 1814)*, Toruń 2019, pp. 224–225; V. Etting, *Queen Margrete I*, p. 98; I. Andersson, op.cit., pp. 73–74; R. Frost, op.cit., p. 104.

⁹ H. Barüske, *Erich von Pommern. Ein Lebensbild*, Rostock 1997, p. 45; V. Etting, *Queen Margrete I*, p. 96; J. Małek, op.cit., p. 224.

tween the kingdoms of the North, as evidenced by the fact that it was sealed by representatives of the kingdoms.¹⁰

A different view was expressed by Lauritz Weibull and Eric Lönnroth, who assumed that the Union document was only a draft, which, apart from its apparent features pointing to its provisional character, is evidenced by the fact that it was neither ratified nor signed by Queen Margaret and King Eric. It contained only a draft Union programme, which was presumably to be completed by the signing of a deed proper, which never happened.¹¹

The view that the deed of coronation and the deed of union were in fact two union schemes is closely related to this concept. The first is seen as *regimen regale*, i.e. the personal and self-rule of the king, a hereditary ruler, of which Margaret was alleged to be an advocate, while the second is seen as the principle of the electoral throne and the king's rule with the council of the kingdom (*regimen politicum*), according to which the royal election was closely linked to the adoption of electoral capitulations, which was supposed to be an expression of the nobles' programme. The pushing through of the monarchical idea that was to prevail in Kalmar explained the unofficial nature of the deed of union, which probably did not receive legal sanction.¹² This view, formulated in 1934 by the aforementioned Eric Lönnroth, met with widespread approval in Scandinavian historiography¹³ and, despite attempts

¹⁰ See, *inter alia*, G. Carlsson, *Kalmarunionen. Till frågan om rättsgiltigheten av 1397 års unionsavtal*, "Historisk Tidskrift (Sverige)" 1930, p. 405 et seq.; cf. B. Piotrowski, *Tradycje jedności Skandynawii. Od mitu wikińskiego do idei nordyckiej*, Poznań 2006, p. 32.

¹¹ See, *inter alia*, L. Weibull, *Unionsmötet i Kalmar 1397*, "Scandia" 1930, Vol. 3, pp. 185–222; idem, *1397 års unionsbrev och dess rättsgiltighet*, "Scandia" 1931, Vol. 4, No. 1, pp. 115–142; E. Lönnroth, *Sverige och Kalmarunionen 1397–1457*, Göteborg [1934] 1969, pp. 10–62; idem, *Unionsdokumenten i Kalmar 1397*, "Scandia" 1958, Vol. 24, No. 1, pp. 32–67.

¹² E. Lönnroth, *Sverige*, pp. 10–62.

¹³ See H. Gustafsson, *A State that Failed? On the Union of Kalmar, Especially Its Dissolution*, "Scandinavian Journal of History" 2006, Vol. 31, No. 3–4, p. 208; S. Imsen, *The Union of Calmar. Northern Great Power or Northern German Outpost?*, in: *Politics and Reformations: Communities, Politics, Nations, and Empires. Essays in Honor of Thomas A. Brady, Jr.*, eds. Ch. Ocker et al., Leiden–Boston 2007, pp. 477–478.

at reinterpretation, is still considered, at its core, to have been correct.¹⁴

Among the most widely debated hypotheses concerning the deeds of union, three main can be listed, which, while in principle accepting Lönnroth's thesis, to some extent modify it. According to the first theory, which is based on a comparative analysis of the royal diplomas issued by Margaret and Eric and the so-called *Kalundborgvidisse*¹⁵ – an authenticated certificate of deed of union, drawn up by the Chancellor of the Kingdom of Denmark and Bishop of Roskilde Jens in 1425 – the *unionsbrevet* may have been more than a mere draft. It was thus perhaps written evidence of unfinished negotiations between representatives of the Union

¹⁴ See, *inter alia*, H. Bjørkvik, *Aschehougs Norges historie*, Vol. 4: *Folketap og sammenbrudd 1350–1520*, Oslo 2005, pp. 206–208; J.E. Olesen, *Inter-Scandinavian relations*, in: *The Cambridge History of Scandinavia*, Vol. 1: *Prehistory to 1520*, ed. K. Helle, Cambridge 2003, pp. 725–726; idem, *Eric af Pommern og Kalmarunionen. Regeringssystemets udformning 1389–1439*, in: *Danmark i senmiddelalderen*, eds. P. Ingesman, J.V. Jensen, Aarhus 1994, pp. 144–145, 164–165; M. Linton, *Margrete den 1. Nordens dronning*, København 2000, pp. 130–132; idem, *Drottning Margareta. Fullmäktig fru och rätt husbonde*, Aarhus 1971, pp. 247–250; idem, *Kalmarunionen: historiske kilder*, ed. R. Thomsen, Copenhagen 1974, pp. 11–12; V. Etting, *Fra fællesskab til blodbad. Kalmarunionen 1397–1520*, København 1998, pp. 29–33; eadem, *Queen Margrete I*, p. 98; E. Albrechtsen, *Danmark – Norge 1380–1814*, Vol. 1: *Fælleskabet bliver til (1380–1536)*, Oslo 1997, pp. 101–103; H. Barüske, *op.cit.*, p. 47; A.E. Christensen, *Kalmarunionen og nordisk politik 1319–1439*, København 1980, p. 147 et seq.; idem, *Kongemagt og aristokrati. Epoker i middelalderlig dansk statsopfattelse indtil unionstiden*, København 1968, pp. 234–235; K. Hørby, *Danmarks historie*, Vol. 2: *Tiden fra 1340–1523*, København 1980, pp. 128–129; P. Ene-mark, *Fra Kalmarbrev til Stockholms blodbad. Den nordiske trestatsunionen epoke 1397–1521*, København 1979, pp. 18–21; E. Kjersgaard, *Borgerkrig og Kalmarunion*, pp. 476–480. A compilation of polemical positions against E. Lönnroth's thesis can be found in the as yet unpublished doctoral thesis that Frode Hervik defended in 2012 at the University of Bergen, see F. Hervik, *Nordisk politikk og europeiske ideer. En analyse av nordiske forfatningsdokumenter 1282–1449*, Bergen 2012, pp. 219–261, http://bora.uib.no/bitstream/handle/1956/6301/Dr.thesis_Frode%20Hervik.pdf?sequence=1&isAllowed=y (access: 8.07.2022).

¹⁵ *Den Danske Rigslovgivning*, No. 5; more broadly on the subject of *Kalundborgvidisse* see H. Bruun, *Kalundborgvidissen 1425 af Kalmarunionsbrevet*, "Historisk Tidsskrift" 1962, Vol. 11, No. 6, pp. 521–573.

kingdoms on the one hand and Margaret and Eric on the other,¹⁶ or a provisional agreement to be subsequently approved separately by the council of each of the kingdoms.¹⁷ Herman Schück even assumed that this thesis is now predominant in Scandinavian historiography, repeating that the deed itself is nothing more than written evidence of negotiations between representatives of the councils, inhabitants, and towns of each kingdom and the queen and her adopted son, the subject of which was the legal and constitutional relations of the union.¹⁸ A further view is that the issuers of the deed of union may have formed a confederation of nobles in opposition to the policy of *regimen regale* advocated by Margaret. However, this view seems unfounded, as these individuals were among the Queen's closest associates.¹⁹ Finally, it can be argued that the homage deed and the union deed are an expression, not of two separate political concepts, i.e. *regimen regale* and *regimen politicum*, but of an idea concerning the personal or real nature of the union.²⁰

A rather isolated, but very interesting, view also appears to be held by the Danish historian Markus Hedemann, according to whom *unionsbrevet* and *kroningsbrevet* complemented each other, granting the king a number of prerogatives which strengthened his power in relation to the nobles, and which the latter did not question. This was evidenced, for instance, by Eric's consent to the issuing of the aforementioned *Kalundborgvidisse*, which was, after all, a certified extract of the deed of union. According to Hedemann, the reason for the first schisms within the union was attributed

¹⁶ A. Christensen, *Kalmarunionen*, p. 158 et seq.; E. Albrechtsen, op.cit., p. 103.

¹⁷ M. Linton, *Drottning Margareta*, pp. 302–330; P. Enemark, *Motiver for nordisk aristokratisk unionspolitik. Overvejelser omkring kildegrundlag og tilgangsvinkler i unionsforskningen*, in: *Danmark i senmiddelalderen*, eds. P. Ingesman, J.V. Jensen, Aarhus 1994, p. 167.

¹⁸ H. Schück, *The political system*, in: *The Cambridge History of Scandinavia*, Vol. 1: *Prehistory to 1520*, ed. K. Helle, Cambridge 2003, p. 683.

¹⁹ A. Christensen, *Kalmarunionen*, pp. 158–163.

²⁰ V. Etting, *Margrete den første*, pp. 121–122.

to Eric's defeats in the Schleswig War, and not – as pointed out earlier – to opposing visions of the union: royal and magnate.²¹

The content of the union document itself, as should be explicitly noted, does not, in principle, arouse discussions or scholarly disputes among Scandinavian historians. On the other hand, as discussed above, the interpretation of the very term *applicare*, used in the deed signed by Jogaila in Kreva, was, and continues to be, the subject of serious controversy and sometimes sharp polemics in the literature on the origins of the Polish-Lithuanian union.

Attempts to disambiguate the meaning of this term in relation to the period when it was used are crucial for understanding and properly assessing the nature of the future union of the two states: the Crown and the Grand Duchy of Lithuania. The considerable difference in the positions taken by individual researchers, representing many generations of historians, is due, *inter alia*, to the fact that the concept of incorporation was understood quite differently in the Middle Ages from its contemporary meaning, and the term *applicare* itself was used in both private and public law, while in legal terms it was probably not very strictly defined.

Comparing the political and state systems of the monarchies concluding the two unions, it must be clear that the problem of incorporation of this kind could not have taken place in Scandinavia during the period in question. For at that time, the individual kingdoms, Denmark and Sweden, state countries in which the principle of election of the throne existed, and even the hereditary Kingdom of Norway, were not treated as *patrimonium* by their reigning rulers. Meanwhile, before the union, Lithuania was at such a stage of development of its state form that the undoubtedly strong grand ducal power was still characterised by patrimonial features – a mixture of the concepts of property and power, private and public law relations. This meant that its ruler could still divide up the state at his own discretion and otherwise administer it, treating its territory as a *patrimonium* inherited from his ancestors.

²¹ M. Hedemann, *Unionsbrevets kongelige program og krigen om Slesvig*, "Scandia" 2011, Vol. 77, No. 2, pp. 38–72.

In the authors' opinion, a broader consideration of this issue can be put forward as one of the research postulates.

Returning, however, to the deed itself, which constituted the legal basis of the Kalmar union, it is important to remember that the *unionsbrevet* – containing, according to Ingvar Andersson, “a draft common constitution concerning the essential matters of the political systems of the three kingdoms” – consisted of nine articles.²² The Scandinavian throne was to be an electoral one and, according to the principle of male primogeniture, the sons of Eric of Pomerania had precedence. If the king died leaving only daughters behind, the successor was to be chosen from among the royal grandchildren. Finally, in the event of the king's childless death, his successor was to be appointed by the nobility and the councils of all three kingdoms.²³ In addition to the person of the monarch, foreign policy, which the monarch – as a rule – would handle personally, was to be shared. All other decisions were to be taken by the king with the participation of one of the three kingdom councils.²⁴ If one of the Union States was attacked, the others were obliged to provide armed assistance. Importantly, each of the three kingdoms retained its own laws and customs, as well as its constitutional institutions.²⁵ As an exception to the aforementioned rule, the sixth *unionsbrevet*, provided that an outlawed person in one of the Union States was also treated in the same way in the other kingdoms if he found refuge within their borders.²⁶

The Kalmar Union was thus essentially a personal union, subservient to dynastic aims, assuming the equality of all three union states, which retained their legal personality. The ruler ensured the preservation of the internal order and was the guardian and guarantor of perpetual peace. The joint monarch was supposed to prevent the future armed conflicts between the Scandinavian

²² I. Andersson, op.cit., p. 73.

²³ *Den Danske Rigsløvgivning*, No. 2 [1].

²⁴ *Ibidem*, No. 2 [7].

²⁵ *Ibidem*, No. 2 [2, 3, 4].

²⁶ *Ibidem*, No. 2 [6].

states, so frequent in past years.²⁷ One has to agree with Janusz Mallek, according to whom the success of the Kalmar meeting was due, among other things, to the widespread desire for peace in all the Scandinavian countries.²⁸

The Act of Union concludes with a solemn clause confirming the rights of Margaret I to the lands that the Queen's father, Valdemar IV, and son, Olaf, had granted to her in Denmark, as well as to the administration of the estates that were part of her dowry, which were located in Sweden and Denmark. These and any other estates located in the Union States that were granted to Margaret in return for her services could be retained by her until her death, after which they were to be returned to the Crown, with the exception of the estates and possessions that she was entitled to dispose of by her last will.²⁹

Despite the provisional nature of the union document, it can be assumed that the nobles representing their kingdoms at the time of the Kalmar convention assumed that the union would be a perpetual union of three states based on an elected throne and a common foreign and defence policy, with each kingdom retaining its own laws and judiciary system.³⁰

The two unions share some similarities in terms of rivalry for leadership. While in the Polish-Lithuanian union the leading role was undoubtedly played by the Crown, in the case of the Kalmar union Denmark dominated from the very beginning, being economically and demographically superior to the other partners.³¹ The role of the political centre was taken over by Copenhagen, and the real power until her death in 1412 was held by Queen Margaret. She sought to introduce a hereditary throne and weaken the

²⁷ Ibidem, No. 2 [5].

²⁸ J. Małek, op.cit., p. 225; cf. J.E. Olesen, *Erich von Pommern und Christopher von Bayern. Studien zur Kalmarer Union*, Greifswald 2016, p. 13.

²⁹ *Den Danske Rigsløvgivning*, No. 2 [9].

³⁰ H. Schück, op.cit., p. 685.

³¹ P. Żurawski vel Grajewski, *Duch pyszny poprzedza upadek. Rozważania o naturze procesu rozpadu unii*, Kraków 2012, p. 21; Z. Ciesielski, op.cit., p. 301; W. Froese, *Historia państw i narodów Morza Bałtyckiego*, transl. M. Dorna, E. Płomińska-Krawiec, K. Śliwińska, Warszawa 2007, p. 125.

nobles, as manifested, for example, by Eric of Pomerania's failure to accept electoral surrenders or to fill central offices.³² The queen was also a supporter and initiator of the process of revindication of the royal estates from private hands. In addition, in order to consolidate her and Eric's position in Norway and Sweden, she granted the local castle fiefs to the most trusted people, primarily Germans and Danes from Pomerania, who formed a local administration apparatus largely dependent on the monarch.³³

These activities earned the queen a number of enemies, but owing to her authority and political talents she managed to avoid major revolts until her death. The first major rebellion against Swedish royal self-rule only occurred during the independent reign of Eric of Pomerania, between 1434 and 1436. The uprising instigated by Swedish miners under the leadership of Engelbrekt Engelbrektsson, which started in Dalarna and then spread throughout the Kingdom of Sweden, was initially directed against the tax oppression and economic crisis caused by Eric's war with the Hanseatic League and the campaign against Holstein, and in time developed into an open rebellion against the marginalisation of Sweden in the Union and the filling of local positions with immigrant officials.³⁴ The infringement of the principle of equality of union states, fundamental to the existence of the union, was one of the main reasons for its premature collapse.

Eric of Pomerania's policy led to his dethronement, successively in Sweden, Denmark, and Norway. Therefore, it seems worthwhile – treating this as yet another claim for comparative studies – to compare the period of his reign and his attitude to the very idea of a union, whose assumptions and goals the Scandinavians owe

³² M. Linton, *Kalmarunionen*, pp. 32–33.

³³ P. Żurawski *vel* Grajewski, *op.cit.*, pp. 23–24; H. Schück, *op.cit.*, p. 691.

³⁴ J.E. Olesen, *Pommersche Aspekte in der Nordischen Unionspolitik des Königs Erich von Pommern*, "Studia Maritima" 2018, Vol. 31, pp. 73–74; H. Gustafsson, *A State that Failed?*, p. 209; P. Enemark, *Fra Kalmarbrev*, p. 30; M. Linton, *Kalmarunionen*, pp. 12–13, 16, 35; W. Czaplinski, K. Górski, *op.cit.*, pp. 134–137; P. Żurawski *vel* Grajewski, *op.cit.*, p. 24; I. Andersson, *op.cit.*, pp. 82–83; A. Kersten, *Historia Szwecji*, Wrocław 1973, pp. 110–112; J. Małek, *op.cit.*, pp. 232–233; H. Schück, *op.cit.*, pp. 691–692.

above all to Queen Margaret, and their implementation by Eric, with Jogaila's policy and strengthening of his position throughout his reign, and the results he achieved.

In the autumn of 1440, the Danes elected Eric's nephew, Christopher of Bavaria, Duke of the Palatinate, descended from the Wittelsbach dynasty, as the new king, and in the spring of 1441 the Swedish Council approved the Danish election.³⁵ In 1442, Christopher of Bavaria became king of Norway. The union of the three northern countries was upheld.³⁶ Thus, a ruler with a German background was placed on the Scandinavian throne.³⁷

Before this could happen, however, in 1436 Eric of Pomerania entered into negotiations with the rebellious Swedish states. The Danish and Norwegian kingdom councils and representatives of the Hanseatic League acted as mediators. The deed renewing the union, concluded in Kalmar in the same year, was based on the principle of the rule of the councils of the individual union states and the separate laws and customs of each kingdom, which in practice meant the implementation of the *regimen politicum* programme.³⁸ When a compromise was once again reached between the Swedes, Eric, the ruler, without relinquishing his former position in Sweden, led the Swedish Council to elect Karl Knutsson as regent in Sweden, in agreement with the Danish Council, in the absence of the king. Furthermore, the two councils unanimously confirmed the preservation of the union, postponing the possible election of a common monarch for the future, without ruling out the continuation of the union despite the absence of a common ruler (1438).³⁹

³⁵ W. Czaplinski, K. Górski, op.cit., pp. 139, 144; I. Andersson, op.cit., pp. 84–85; A. Kersten, op.cit., p. 115; J. Małek, op.cit., pp. 238–245.

³⁶ K. Krüger, *Die Unionsakten der Jahre 1397, 1436 und 1438*, in: "huru thet war tallet j kalmar". *Union und Zusammenarbeit in der Nordischen Geschichte. 600 Jahre Kalmarer Union (1397–1997)*, eds. D. Kattinger, D. Putensen, H. Wernicke, Hamburg 1997 (Greifswalder Historische Studien, Vol. 2), pp. 159–167; J. Małek, op.cit., pp. 238–239; A.E. Christensen, *Christoffer af Bayern som unionskonge*, "Historisk Tidsskrift" 1996, Vol. 16, No. 2, pp. 269–312.

³⁷ M. Linton, *Kalmarunionen*, p. 13.

³⁸ P. Enemark, *Fra Kalmarbrev*, p. 32.

³⁹ K. Krüger, op.cit., pp. 167–170; P. Enemark, *Fra Kalmarbrev*, pp. 33–34;

These considerations lead to the formulation of further research proposals: the search for similarities or differences in the course of the reign and the effects of the policy aimed at integrating the united kingdoms of Margaret and Eric of Pomerania and of Ladislaus Jogaila. It still seems important to answer the fundamental question: why did the two unions fail to use their great political and military potential for joint action – as the already mentioned Zenon Hubert Nowak tried to point out in the context of mutual relations in 1411–1425 – in the following century?

The Kalmar Union continued until 1523. In contrast to the Polish-Lithuanian union, which lasted from the end of the 14th century until the partition of the Polish-Lithuanian Commonwealth and developed from a personal union into a real union, in the case of the union of the Scandinavian states the ties linking the three kingdoms loosened considerably over time. Norway, politically and economically the weakest, did not play a major role in the union, and the struggle for the union's continuance and character was between Denmark and Sweden. After the death of Eric of Pomerania's successor, Christopher of Bavaria, in 1448, the Swedes elected Karl Knutsson, a Bonde opponent of the union with Denmark,⁴⁰ as their new king, and in Copenhagen the election of Christian I of Oldenburg took place, who in 1450 was also elected to the Norwegian throne.

This development led to the formation of a party in Sweden in favour of a definitive cessation of the union with Denmark, whose representatives were mainly drawn from the rich peasantry and petty nobility. Only a section of the Swedish elite was still in favour of the Kalmar agreement.⁴¹ The years 1448–1450 thus represent an important caesura for the history of the Kalmar Union, and not only because of the actual split in the union and the election of their own monarchs by Denmark and Sweden. Indeed, August 1450 saw the signing of two union treaties, at Bergen and Halm-

I. Andersson, *op.cit.*, pp. 82–83; K. Kersten, *op.cit.*, pp. 114–115; W. Czaplinski, K. Górski, *op.cit.*, p. 138; J. Małek, *op.cit.*, p. 237; H. Schück, *op.cit.*, p. 693.

⁴⁰ J. Małek, *op.cit.*, p. 249.

⁴¹ M. Linton, *Kalmarunionen*, p. 13.

stad. The first treaty, signed by Denmark and Norway, sanctioned the personal union that had been in place since 1380, while the second regulated the Kalmar union in the face of the election of two separate monarchs to the Danish-Norwegian and Swedish thrones.

As for the deed of renewal of the Kalmar union, its provisions led to a further break-up of the union rather than – as it might seem – an actual restoration.⁴² The document stipulated that upon the death of one of the reigning monarchs, i.e. either King Knutsson of Sweden or Christian I of Norway and Denmark, the vacant throne would pass to the surviving monarch, subject to the consent of the relevant kingdom council. Thereby, the union was to be renewed. If, however, the council did not accept the person of the monarch, then it should elect a regent or a regency council from among its number, and this council would govern the state until the death of the second king. At that time, the deed provided, a meeting of representatives of the kingdoms of Sweden and Denmark was to be convened to elect a common ruler from among the descendants of the deceased monarchs.⁴³ Moreover, the Swedish council agreed that Karl Knutsson would relinquish his claim to Norway in favour of Christian I.⁴⁴ As Ingvar Andersson rightly pointed out, the possibility of realising the concluded compromise depended mainly on the will of the rulers, who, as it turned out, were not interested in consolidating peace. As a result, the Halmstad settlement did not lead to a restoration of the union, but triggered a dispute that would last for decades to come.⁴⁵

⁴² Ibidem, pp. 42–45.

⁴³ P. Enemark, *Der Weg König Christians I. zum schwedischen Thron*, in: *“huru thet war tallet j kalmar”. Union und Zusammenarbeit in der Nordischen Geschichte. 600 Jahre Kalmarer Union (1397–1997)*, eds. D. Kattinger, D. Putensen, H. Wernicke, Hamburg 1997 (Greifswalder Historische Studien, Vol. 2), pp. 275–280; idem, *Fra Kalmarbrev*, p. 51; M. Linton, *Kalmarunionen*, pp. 42–45.

⁴⁴ P. Enemark, *Christian I og forholdet til Sverige 1448–1454*, “Historie/ Jyske Samlinger” 1981–1983, Vol. 14, No. 3, p. 444.

⁴⁵ I. Andersson, op.cit., pp. 86–87; cf. J. Mañek, op.cit., p. 247.

As already mentioned, two opposing aristocratic parties emerged in Sweden, one advocating that the union should be retained and the other that it should be broken. The gaining of the upper hand by one group resulted in either a split in the union or its restoration.⁴⁶ The aforementioned Karl Knutsson Bonde assumed power in Sweden on three separate occasions: the first time between 1448 and 1457, the second time between 1464 and 1465, and the final period of his reign fell between 1467 and 1470. The conflict between Denmark and Sweden thus took the form not of a rivalry over the leadership of the union, but of a regular dispute over its continued existence, the basis of which was to be found, on the one hand, in the Oldenburgs' claim to the Swedish crown and, on the other, in the deep resentment of Danish rule by a large section of Swedish society. An expression of Swedish separatism was the appointment of Sten Sture the Elder, nephew of King Charles Knutsson Bonde, who died in 1470, as regent.⁴⁷

The brief renewal of the union (1497–1501) under the terms of the so-called Recess of Halmstad and the assumption of the Swedish throne by King Hans led only to a consolidation of the personal nature of the union. According to the content of the Recess, which was moreover an electoral capitulation of the new monarch issued for Denmark and Norway, the king exercised his power with the participation of the councils of the three union kingdoms, which in addition represented the interests of each state in its relations with the sovereign. Separate laws and customs were to be maintained, as well as the principle of excluding foreigners from the councils of the kingdoms, so that each kingdom was ruled exclusively by locals. Furthermore, an obligation was introduced for the king to visit each of the federal states once every three years.⁴⁸

The death of Karl Knutsson Bonde began a period of regency for the Stures and the Swedish kingdom council, which lasted

⁴⁶ M. Linton, *Kalmarunionen*, p. 13.

⁴⁷ The Swedish term *riksföreståndare* literally means administrator, chief of the kingdom. In the Polish literature, however, it is commonly translated as regent; see A. Kersten, *op.cit.*, p. 122; I. Andersson, *op.cit.*, p. 90.

⁴⁸ *Den Danske Rigsgivning*, No. 37.

intermittently for almost 50 years.⁴⁹ However, as long as there were supporters of the union among the Swedish aristocracy, the question of its future remained unresolved.⁵⁰ This did not change until November 1520, when, on the orders of the Danish-Norwegian monarch Christian II, newly crowned king of Sweden, his opponents, nobles from the Vasa line, including the father of the future king Gustav Vasa, Eric Johansson Vasa, were executed in Stockholm. As a result of this event, a nationwide uprising broke out in the country, as a result of which Christian was dethroned, and in 1523 the Swedish kingdom council elected Gustav Vasa as king, which is considered to mark the end of the Kalmar Union.

The reasons for its collapse include several factors. As with the Polish-Lithuanian union, the union of the Scandinavian states was also built with a view to countering German expansion into northern Europe. After the military defeats inflicted on the Order, one factor that continued to integrate the Crown and the Grand Duchy was the growing external threat from Moscow. In the case of Scandinavia, after the collapse of the Hanseatic League and the reduction of the Danish-Dutch conflict to an internal problem of the Kingdom of Denmark, there was no common interest unify-

⁴⁹ Sten Sture the Elder held the regency in the country in the years 1470–1497 and 1501–1503, Svante Nilsson Sture in the years 1504–1512, and Sten Sture the Younger in the years 1512–1520. Between 1497 and 1501, as a result of King Hans taking the Swedish throne, there was a brief restoration of the union, and for one year (1512) Eric Trolle was regent. Svante Nilsson was related to the Sture family through his mother, while he himself belonged to the Natt och Dag family after his father. As for Sten Sture the Younger – Svante Nilsson's son, he began using the surname Sture to refer to his famous predecessor, when in fact he was a distant relative. When writing about the period in question, we should hence speak more about the Sture political faction than the regency of the Sture family, see H. Gustafsson, *A State that Failed?*, pp. 208–209.

⁵⁰ An attempt to renew the union made in 1483 at a meeting of representatives of the councils of the kingdoms of Sweden and Denmark at Halmstad did not yield the expected results. The modernised Union Treaty never actually entered into force. Its main principles, however, show a tendency towards a loosening of union ties – in fact, the Union countries were supposed to be free and equal partners in political and economic matters, while at the same time expanding the scope of power of the councils of the individual kingdoms; see B. Piotrowski, *Tradycje jedności Skandynawii*, p. 38.

ing Scandinavia, and the religious wars that engulfed the Reich as a result of the Reformation removed, at least temporarily, the threat of German domination over the Northern states.

In conclusion to the considerations concerning the Kalmar Union, it should furthermore be made clear, with reference to the facts described above, that the accession to the throne of a ruler from the Wittelsbach dynasty and the subsequent reign of the Oldenburgs represented a departure from the idea of entrusting power to native dynasties, being at the same time an expression of the hegemony of the Danish kingdom council, from which the idea of the election of Christian I originated. Foreign monarchs of German origin, having ascended the Danish throne, disregarded the laws and customs of the other two kingdoms by granting local fiefs and offices to Danes and Germans, imposing high taxes or relinquishing rights to parts of the kingdom (the ceding of Shetland and Orkney to Scotland by Christian I).⁵¹

The aftermath of the Union kings' violation of local laws and customs, appointment of foreigners to public offices and economic oppression resulted in Swedish uprisings against the union, which in time turned into permanent resistance. This led first to the deposition of Karl Knutsson Bonde as king and then to the regency rule of the Stures. The union was brought to an end by the events known as the Stockholm bloodbath, as a result of which the Swedish kingdom council dethroned Christian II and elected Gustav I, the first ruler from the Vasa dynasty, as king.

The Kalmar Union finally dissolved in the early 1620s, whereas the fate of the Polish-Lithuanian Union, whose origins are linked to the deed issued in Kreva in 1385, was quite different. One does not need to refer to a very rich literature to conclude that the relationship between the two states, subject to various changes which depended both on internal causes of each state and on external

⁵¹ The policy of filling castles in Sweden and Norway with Danish and German lords had already been initiated by Margaret and was continued by Eric of Pomerania; see P. Enemark, *Fra Kalmarbrev*, pp. 25–26, 29–30; S. Imesen, J. Sandnes, *Norges historie*, Vol. 4: *Avfolkning og union 1319–1448*, ed. K. Mykland, Oslo 1976, pp. 337–338; J. Małłek, *op.cit.*, pp. 230–232; B. Piotrowski, *Tradycje jedności Skandynawii*, p. 34.

motives, survived until the partitions.⁵² Not only did it survive, but its factual and legal character gradually evolved. While initially the Crown and Lithuania, essentially independent states, were united by a common monarch, with time the union between them was transformed from a personal into a real union. The increasing threat to the Grand Duchy from Moscow, Turkey, and the Crimean Khanate, as well as the need to jointly defend Livonia from Swedish and Russian aggression in the second half of the 16th century, and finally the threat of the heirless death of Sigismund Augustus, led to a change in the nature of mutual relations and their tightening. The real union – concluded in Lublin (1569), preceded by the incorporation of Podlachia, Volhynia, the Braclaw and the Kiev region into the Crown – led to the federation of the two equal states on universally known principles, i.e. with not only a common ruler, but also a common parliament, foreign policy and – at least at the level of declarations – a common mint foot.

Finally, the fate of both unions after their formal cessation and their impact on the further historical development of both Poland and Lithuania and the respective northern states may also be the subject of comparative studies. As far as the Polish-Lithuanian union is concerned, undoubtedly the culmination of the long process of transition from a personal union to a real union was the significant change that took place in terms of the unification of the dualistic Rzeczpospolita (Commonwealth) that took place in the Stanislaus era, especially through the enactment of the 3rd of May Constitution in 1791.⁵³ Although there was no separate article

⁵² Of course, two short periods of its discontinuation – in 1440–1447 and after the death of Casimir Jagiellon (1492) – should not be forgotten. Since the Kalmar Union was also intermittently broken in the course of its duration, it is possible to consider comparing them in this aspect, especially by pointing out the causes and consequences of these breaks; see M. Jučas, *op.cit.*, pp. 164–173.

⁵³ While as early as the year of the election of Stanislaus II Augustus as king, government treasury and military commissions were established separately for the Crown and Lithuania in accordance with the spirit of the Union of Lublin, the first period of this monarch's reign saw a significant tightening of the relationship between the Crown and the Grand Duchy of Lithuania in terms of the structure of the new central authorities. It was a consequence of

stipulating the abolition or change of the nature of the union, it was in fact under the deed of Mutual Assent of the Two Nations, adopted by the Sejm on 20 October 1791, that the union of the two states was strengthened while retaining its federal character, as indicated, *inter alia*, by Lithuania's retention of the separateness of its central offices, judicial law, and, in part, the judiciary.⁵⁴ The Guard of Laws, a kind of council of ministers, consisted of five ministers. The Grand Commissions, on the other hand, were to be composed, as a rule, half by representatives of the Crown and half by Lithuania. Every third regular session of the Sejm, for the sake of Lithuania, was to be held in Grodno. The tradition of the union of the two states was also preserved in Polish historiography of the 19th and early 20th centuries, and later in Polish political thought after the Partitions of Poland (e.g. Józef Piłsudski's federalist concept), or in attempts by the London government to reach an agreement with the exiled, anti-Soviet Lithuanian government during World War II.

The union of the three Scandinavian states initiated at the Kalmar congress of 1397 lasted, with interruptions, for 126 years, but its legacy lasted much longer. In fact, the idea of the union of the Scandinavian states did not die out with the coronation of Gustav I Vasa as King of Sweden. As already mentioned, the personal union between Denmark and Norway, initiated in 1380, was legally sanctioned in 1450. In 1537, the Union King Christian III effected the legal incorporation of Norway, equating its status to that of the oth-

the creation of new offices common to the Crown and Lithuania: The Commission of National Education (1773) and the Permanent Council (1775), which was abolished by the Four-Year Sejm; for more on the political changes in the Polish-Lithuanian Commonwealth in the period 1569–1791 see A. Zakrzewski, *Between the Union of Lublin and the Mutual Pledge of the Two Nations. From the Union of Two States to the Commonwealth of Three Provinces*, "Zapiski Historyczne" 2019, Vol. 84, J. 4, pp. 5–40.

⁵⁴ It is worth reiterating that the Third Lithuanian Statute of 1588 was largely in force in the lands of the Russian partition, confirmed by imperial decrees (1796 and 1801) and Senate decrees (1819 and 1822) until 1840; see J. Malec, *Zaręczenie Wzajemne Obojga Narodów – w 220. rocznicę uchwalenia*, "Studia Iuridica Toruniensia" 2012, Vol. 10, pp. 147–166.

er Danish provinces.⁵⁵ Effectively, however, until the dissolution of the union with Denmark in 1814, the Kingdom of Norway retained a certain degree of autonomy, which was expressed, for instance, in the maintenance of the tradition of hereditary succession to the Norwegian throne or the royal homage ceremony, which was different for Norway. The last personal union between the Scandinavian states – the Swedish-Norwegian union (1814–1905) – put an end to the personal union of the northern European countries.⁵⁶

Nevertheless, the idea of unity, as an extension of the thought and concept conceived in Kalmar at the end of the 14th century, continues to be alive. Indeed, the Nordic parliaments and governments have been working together for almost 70 years in the consultative forum of the sub-regional organisation, the Nordic Council, which was founded in 1952 and which, in addition to Sweden, Denmark, and Norway, also incorporated Iceland and Finland.⁵⁷ This cooperation covers a broad range of areas, including domestic and foreign policy and defence of these states and their autonomous territories. Its main objective is to promote the development and coordination of the member states' activities, inter alia, in the fields of law, culture, education, social policy, economy, communications and transport, and environmental protection. The Nordic Council adopts resolutions in the form of recommendations to the governments of its member states. The signatory states have abolished all passport restrictions within the organisation and have established a common labour market. Despite the advisory nature of this interparliamentary organisation, it has a considerable track record in solving the practical problems of Nordic cooperation. The intensification of their cooperation at governmental level was further served by the establishment of the Nordic Council

⁵⁵ H. Bąk, *Legalność tzw. paragrafu norweskiego z 1536 roku w świetle postanowień norwesko-duńskiego traktatu unijnego z 1450 roku*, "Studia Iuridica Toruniensia" 2015, Vol. 17, pp. 33–38.

⁵⁶ Interesting remarks by Georg Jellinek on this union can be found in the cited work by R. Frost; idem, op.cit., p. 89.

⁵⁷ It was later joined by Greenland (1984), the Aland Islands, belonging to Finland, and the Faroe Islands, belonging to Denmark (1970).

of Ministers in 1971 and the Legal Committee, whose task was to prepare drafts for the unification of Nordic law.⁵⁸

In conclusion, it should be pointed out that extensive comparative studies of the two state unions are still imperative, relating in particular to: the origins, the political, economic and social reasons for their establishment, the effects, the subsequent main lines of development and the transformation of their nature, both factual and legal, and the principles of their functioning. Moreover, it is worth comparing, to a greater extent than has hitherto been achieved, the length of their duration (especially the phenomenon of the longevity of the Polish-Lithuanian union in its successive stages) and the impact of both unions on the subsequent history of the states which formed them. A particularly well-founded research proposal, drawing on previous research endeavours, is to compare the successive stages, transformations and effects, both immediate and long-lasting, of both state unions, and in particular, as raised by Zenon Hubert Nowak, “an investigation into the problem of the extent to which the two state unions used these new opportunities to realise common political goals in northern and eastern Europe”.⁵⁹

Taking on such a vast area of research, and then attempting a synthesis covering all of these issues and many more in detail, requires – in view of the extensive range of problems addressed, not to mention the aforementioned and still significant language barrier in the context of the Kalmar Union – a collective effort. The optimal solution, it would seem, would be to undertake international co-operation for the realisation of this idea, by experts in both Polish-Lithuanian and Swedish-Danish-Norwegian relations, and in particular – with regard to the origins of both state unions – also the history of the Teutonic Order and the Hanseatic League.

⁵⁸ The Nordic Council of Ministers, based in Copenhagen, was established on the basis of resolutions of the parliaments of the founding states; for more on the integration of Scandinavia in the 20th century, see B. Piotrowski, *Integracja Skandynawii. Od Rady Nordyckiej do wspólnoty europejskiej*, Poznań 2006.

⁵⁹ Z.H. Nowak, *Krewa i Kalmar*, pp. 68, 74 (fnt. 47).

SUMMARY

The Kalmar Union and the Polish-Lithuanian Union (part 2) – the legal foundations and the later history of the two state unions

The authors' objective is to indicate the need to continue comparative studies of the Polish-Lithuanian union with the Kalmar union. The first part of the article focuses on the genesis and origins of these state unions. The subject of comparison comprises, inter alia, the time and causes of their creation and the circumstances of their conclusion, as well as the stages of social, political, legal, and institutional development of the states forming them (part 1). In the second part, the authors concentrate on a brief presentation of the further history and subsequent transformation of the nature of these unions and an analysis of the Articles of Association (part 2). These issues are presented principally from a comparative perspective, taking into account the mutual differences and similarities of the two unions.

In the authors' view, the fundamental research problems that could become the subject of comparative studies include, among others, an attempt to compare and evaluate the disputes that have arisen among historians over the interpretation of the Latin term *applicare* on the one hand, and the validity and significance of the deed of union concluded in Kalmar and its relationship to the homagial deed on the other. The subsequent fate of the two unions, with particular reference to the rivalry between the union states and the effects this rivalry has produced, may also be the subject of comparative research. In the authors' opinion, it would also be advisable to continue the research commenced by Zenon Hubert Nowak into the cooperation between the two unions, with the proviso that the research should focus particularly on the period omitted by Nowak, i.e. up to 1411 and after 1425. It then seems expedient to provide answers as to why the two state unions failed to realise their military and economic potential and to undertake wider cooperation, as well as to present the impact of the two unions on the contemporary relations of the states that comprised them.

Keywords: comparative approach; Polish-Lithuanian unions; Kalmar union; state unions

STRESZCZENIE

Unia kalmarska a unie polsko-litewskie (cz. 2) – podstawy prawne i dalsze losy obu związków państwowych

Celem autorów jest zwrócenie uwagi na potrzebę kontynuacji badań porównawczych unii polsko-litewskich z unią kalmarską. Pierwsza część artykułu zawiera przede wszystkim uwagi na temat genezy powstania i początków tworzenia tych związków państwowych. Przedmiotem porównania są m.in. czas i przyczyny ich powstania oraz okoliczności ich zawarcia, a także etapy rozwoju społecznego, politycznego, prawnego i instytucjonalnego państw je tworzących (cz. 1). W drugiej części autorzy skupili się na skrótowym przedstawieniu dalszych dziejów i późniejszych przeobrażeń charakteru tych związków oraz analizie aktów założycielskich (cz. 2). Kwestie te zostały zaprezentowane przede wszystkim w ujęciu komparatystycznym z uwzględnieniem wzajemnych różnic i podobieństw obu unii.

Do zasadniczych – zdaniem autorów – problemów badawczych, mogących stać się przedmiotem badań komparatystycznych, należy zaliczyć m.in. próbę porównania i oceny sporów, jakie wśród historyków wywołała z jednej strony interpretacja łacińskiego terminu *applicare*, z drugiej zaś ważność i znaczenie aktu unijnego zawartego w Kalmarze i jego relacji z aktem homagialnym. Tematem badań porównawczych mogą być także dalsze losy obu unii ze szczególnym uwzględnieniem rywalizacji między państwami związkowymi oraz skutków, jakie ta rywalizacja przyniosła. Zdaniem autorów celowa byłaby również kontynuacja badań rozpoczętych przez Zenona Huberta Nowaka nad współpracą obu unii, z tym zastrzeżeniem, że badania te powinny dotyczyć zwłaszcza okresu pominiętego przez Nowaka, a więc do 1411 i po 1425 roku. Wydaje się, że celowe byłoby udzielenie odpowiedzi na pytanie, dlaczego oba związki państwowe nie wykorzystały swojego potencjału militarno-gospodarczego i nie podjęły szerszej współpracy, a także przedstawienie wpływu obu unii na współczesne relacje państw wchodzących w ich skład.

Słowa kluczowe: ujęcie komparatystyczne; unie polsko-litewskie; unia kalmarska; związki państwowe

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