

THEORY AND HISTORY OF STATE AND LAW

UDC 340.15:94(477)

V. Honcharenko, Doctor of Law, Professor,
Head of the Department of History of State
and Law of Ukraine and foreign countries of
Yaroslav the Wise National Law University

Procedure for the formation of the All-Ukrainian Congress of Soviets in NEP period (1921–1929)

Introduction. Statement of the problem. There are many supporters of the reorganization of the Parliament of Ukraine toward bicameralism among modern domestic researchers of its organization and activities. At the same time they offer a wide variety of options for the formation of the upper house of parliament. Search for the optimal model of the way of formation of such a Chamber requires not only refer to the current practice of electing the members of the upper chamber in a number of foreign countries, but also to the experience of modern Ukrainian constitutionalism at different stages of its history. A quite useful and original was the experience of formation of the supreme legislative body in Ukraine in the period of New Economic Policy (1921–1929), when All-Ukrainian Congress of Soviets of Workers', Peasants' and Red Army Deputies was such a kind of the authority.

Status of the study. Certain issues about the republican congress of Soviets' formation during the NEP were observed in the works of modern scientists: B. Borev, S. Brodovich, A. Butsenko, G. Gurvich, A. Malitsky, E. Engel. In the later Soviet period, some aspects of the procedure for forming the All-Ukrainian Congress of Soviets were studied by B. Babii, A. Taranova, D. Yakovenko. However these researchers were not in the depth of scientific analysis of this problem presented. Moreover, current Ukrainian historians don't pay enough attention to the study of the organization and activities of the supreme bodies of USSR's state power during the period of the New Economic Policy.

Relevance of the research topic. It consists primarily in the fact that knowledge of a wide variety of models of the formation of the higher representative bodies at different stages of their history helps to find the ways of creation an ef-

ficient design of the parliament in modern Ukraine. In the Ukrainian historical and legal science there is still a significant gap in the objective knowledge of the organization and activities of the representative bodies in the UkrSSR that also actualizes the research topic.

The purpose of the article. The purpose of this paper is to highlight the formation's mechanism of the supreme body of the Ukrainian SSR under the New Economic Policy, which provided a sufficiently rapid and effective renovation and stable development of the national economy in the analyzed period. The novelty of the publication lies in a comprehensive approach to the consideration of these issues and in use of comparative legal method for presentation of the materials.

Basic material. At the beginning of the New Economic Policy the highest legal status of the All-Ukrainian Congress of Soviets was determined by the Constitution of the USSR of 1919. Thus, the article 10 of the Constitution states: «Congress of Soviets is the supreme governing body of the Ukrainian Soviet Socialist Republic». The Constitution of the All-Ukrainian Congress of Soviets as amended in 1925 assigned the status of «supreme authority of the USSR». The Constitution of the Ukrainian SSR 1929 fixed that «the supreme authority of the Ukrainian Soviet Socialist Republic is the All-Ukrainian Congress of Soviets of Workers', Peasants' and Soldiers' Deputies»¹. On behalf of a public author-

ity it meant, that it was a kind of republican forum of the Soviets, the system, which was also regulated by the Constitution of the USSR of 1919 and 1929. Thus, the article 18 of the Constitution of the USSR 1919 provides: «18. The Soviet authorities in the field are: a) the Soviets of Workers', Peasants' and Soldiers' Deputies (urban and rural), as well as elected executive committees (the Board), and b) Congress of Soviets (provincial, district and county), as well as elected executive committee (ExCom)»². The Constitution of the Ukrainian SSR in 1929 defined also the system of local government in the country, taking into consideration the administrative-territorial reform undertaken in the mid-1920s in the USSR. According to Article 49 of the Constitution of the USSR 1929 the Soviet authorities in the field are: a) the Soviets of Workers', Peasants' and Soldiers' Deputies; b) Congress of Soviets – district and county and their elected executive committees (ExCom). The Soviets were divided into urban, village and settlement territorial entities³.

Regular re-election campaigns for grassroots Soviets (urban, village and settlement), provided by the legislation of the republic in the USSR in 1920, having passed a stage of convening and work of Congresses' Soviets of the corresponding administrative and territorial

² Съезды Советов в документах. Сборник документов. 1917–1922 гг. Том 2. – М.: Государственное издательство юридической литературы, 1960. – С. 56.

³ Історія конституційного законодавства України : Зб. док. / Упоряд. В. Д. Гончаренко. – Х.: Право, 2007. – С. 95.

¹ Історія конституційного законодавства України : Зб. док. / Упоряд. В. Д. Гончаренко. – Х.: Право, 2007. – С. 89.

units, finished with regular convocation of All-Ukrainian Congress of Soviets of Workers, Peasants and Soldiers Deputies. During the period of NEP seven Ukrainian Congresses' Soviets were held. In 1921 V and VI All-Ukrainian Congress of Soviets, in 1922 – VII All-Ukrainian Congress of Soviets, in 1924 – VIII All-Ukrainian Congress of Soviets, in 1925 – XI All-Ukrainian Congress of Soviets, in 1927 – X All-Ukrainian Congress of Soviets and, finally, in 1929 – XI All-Ukrainian Congress of Soviets took place.

Each of the All-Ukrainian Congresses' Soviets was formed on the basis of multistage elections. Elections to the republican congress of Soviets in literature sometimes also defined as «multi-step»¹. This method of forming the All-Ukrainian Congress of Soviets prescribed in All-Ukrainian Central Executive Committee's resolution on May 26, 1920 «On All-Ukrainian Congress of Soviets of Workers', Peasants' and Soldiers' Deputies». The resolution stated that «if the All-Ukrainian Congress of Soviets immediately precedes the provincial congress, delegates from the provinces are sent directly to the Provincial Congress of Soviets, if provincial congress of Soviets doesn't preceded by the All-Ukrainian Congress of Soviets, delegates may be sent directly to the county congress

of Soviets. Elections directly from the members of the Red Army are held in cases where one part of the institutions can't take part in provincial, district conventions and City Hall's elections»². Enshrined in the VUTsIK's resolution from May 26, 1920 the principle of the formation of the All-Ukrainian Congress of Soviets delegates, which were primarily elected by Congresses of Soviets of the largest administrative-territorial unit of the Republic (in this case, the Provincial Congress of Soviets), was consistently adhered to in legislation and in future. Since the X All-Ukrainian Congress of Soviets the delegates at the Republican Congress of Soviets were elected not by provincial, but by other Congress of Soviets. Thus, carrying out the changes in the administrative-territorial division of the Republic on the basis of IX All-Ukrainian Congress of Soviets Resolution «On the transition to the three-stage management system in Ukraine» led to the elimination of provinces. They were replaced by districts. The right to elect delegates of the Republican Congress of Soviets was given by the district Congresses of Soviets³. After the formation of the Moldavian Autonomous Soviet Socialist Republic (MASSR) in 1924 as a part of the USSR's right to elect delegates of the All-Ukrainian Congress of Soviets obtained All-Moldavian Congress of Workers', Peasants' and Soldiers' Deputies.

Thus, the legislation specified that the delegates to the All-Ukrainian Congress of Soviets were elected by the most

¹ Высшие органы государственной власти и органы центрального управления РСФСР (1917 – 1967 гг.) Справочник. – М.: Центр. гос. архив РСФСР, 1971. – С. 35; Сыродоев Н. А. Крупный шаг на пути реформы политической системы / Н. А. Сыродоев // Известия вузов. Правоведение. – 1989. – №2. – С. 4.

² СУ УССР. – 1920. – №44. – Ст. 209.

³ СУ УССР. – 1925. – №44. – Ст. 295.

fully-fledged local authorities – the Congress of Soviets (at the beginning of the NEP – provincial, and since the mid-1920s – district and the All-Moldavian). Nevertheless, this did not mean that the All-Ukrainian Congress of Soviets was, so to speak, cut off from other subordinate local authorities. After local congresses of Soviets at all levels, including those, that directly elected delegates to the Republican Congress of Soviets, primary elections to local Soviets were held. This situation can be well illustrated by the following example. Thus, in accordance with Article 2 of the «Regulations on the District Congress of Soviets and district executive committees» from July 1, 1925, a District Congress of Soviets, which was competent to elect delegates to the All-Ukrainian Congress of Soviets constituted «of representatives elected municipal and village councils and regional congress of Soviets, as well as factories and plants located outside the city and factory settlements»¹. According with Article 2 of the «Regulations on the Regional Congress of Soviets and district executive committee» of 28 October, 1925, a Regional Congress of Soviets was formed of delegates, «elected by village, settlement and city councils in the Area»². Thus, the District Congress of Soviets formed of representatives of all Soviets existed on the territory of the district. From them the delegates from this Congress were elected to the Republican Congress of the Soviets. Eventually, the delegates of the All-Ukrainian Congress of Soviets were

representatives of local councils – local authorities directly elected by the citizens. It should be noted that the vast majority of delegates to the local congresses of Soviets were elected from among the deputies of local councils – urban, rural, village.

The elections of local Congresses and the convening of Congresses of the Soviets until the Republican Congress of Soviets were successive stages of formation of a single public authority in the period under review. This unified system functioned on the territory of the Soviets of the USSR crowned by the All-Ukrainian Congress of Soviets originated in local councils. There are interesting opinions expressed by P. Stuchka on the unity government with the Congressional version of their construction. He, in particular, wrote that the features of the Soviet system lie in the fact that «in this system the power of the particle are closely linked and soldered together from top to bottom. Our Constitution puts forward the principle of close and continuing contact with the center without stagnation of the state's circulation «of the organism»³. As rightly pointed out in the literature, «not lower bodies are the result of the differentiation of the supreme bodies of state power, but the supreme bodies are the result of an integrated combination of lower public authorities. Lower bodies – the Council – is a primary body, supreme bodies are secondary, but not *vice versa*... Principled position that the supreme bodies are the

¹ СУ УССР . – 1925 . – № 44 . – Ст. 295.

² СУ УССР . – 1925 . – № 84 . – Ст. 488.

³ Стучка П. И. Учение о советском государстве и его конституции / П. И. Стучка. – М.-Л., 1931. – С. 150.

result of the integrated organizational unification of the lower bodies – the Soviets – is also emphasized by the structure and the name of the main body of each higher administrative unit – the Congress of Soviets»¹.

Multistage procedure of the formation of All-Ukrainian Congress of Soviets included a number of rational principles. It provided in the supreme body of the Ukrainian SSR such participants, who were well-informed about the situation in those regions of the country, from where they arrived in the capital of Ukraine – Kharkov at the All-Ukrainian Congress of Soviets as its delegates. After the All-Ukrainian Congress of Soviets of the delegates the majority of deputies was from the local Soviets, so that they were well versed in the affairs of these basic grassroots authorities, working in the midst of the masses, and therefore knew the mood of the voters. In addition, the delegates of the provincial (and then the county and All-Moldavian) Congresses of the Soviets received during the plenary session of the Congress comprehensive information about the status and prospects of the state, economic, social and cultural development of the territory of such a large administrative unit, as the province (District), from which they were delegated to the Republican Congress of Soviets. Verbatim records of local congresses of the Soviets, legal acts adopted by their, as well as other very important for dele-

gates information materials were also published. At the same time, the order of formation of the All-Ukrainian Congress of Soviets prevented the decrease of the knowledge level of its delegates. The matter is that the end of work of local congresses of Soviets that had the right to elect and to be elected by the delegates to the Republican Congress of Soviets, held in conjunction with the beginning of working time of the All-Ukrainian Congress of the Soviets. The Presidium of the All-Ukrainian Central Election Commission followed this. Thus, having considered the issue of «Convocation of the VII All-Ukrainian Congress of Soviets and the beginning of the election campaign», 23 August, 1922, the Presidium of VUTsIK determined the time of the convening of the Congress (10 December, 1922) and also stated: «end of the county congresses of Soviets to time directly to the convening provincial congresses, and the latter to coincide with the convening of the 7th All-Ukrainian Congress of Soviets»². Having reviewed the November 17, 1923 issue of convening VIII All-Ukrainian Congress of Soviets and going to convene it in the period from 8 to 10 January 1924 Small Presidium of VUTsIK agreed: «offer provincial executive committees time Provincial Congress of Soviets to the convening of All-Ukrainian Congress of Soviets, in advance having reported about the date of their convocation». Having considered at its meeting on February 27, 1929 issue of the preparation

¹ Колесников А. Взаимные отношения между высшими и низшими органами РСФСР / А. Колесников // Власть Советов. – 1923. – №4. – С. 26.

² Государственный архив Харьковской области. – Ф. Р-203. – Оп. 1. – Д. 777. – Л. 63.

of XI All-Ukrainian Congress of Soviets, the Presidium of VUTsIK agreed with the need «to coincide with the convening of the District Executive Committees to propose district congresses of Soviets to the convening of the XI All-Ukrainian Congress of Soviets».¹

Thus, the delegates of the All-Ukrainian Congress of Soviets, well-informed on the progress of state, economic and socio-cultural development in its territory, having finished involvement of local congresses of Soviets immediately went to the Republican Congress of Soviets, bringing back the business spirit and the activity that reigned at meetings of local congresses of Soviets. As noted, for example, a review of the previous IX Ukrainian Congress of Soviets of the provincial congresses of Soviets, «according to each report at congresses of persons interested to act was so much that if pledged all the word, it should drag out congresses for some weeks».² That is, the delegates could constructively, thoroughly discuss the issues for consideration by the All-Ukrainian Congress of Soviets, competently adopt legal acts of the highest authority of the republic.

This was largely facilitated by the fact that the agenda of the All-Ukrainian Congress of Soviets, as a rule, were such questions that have been previously considered at the provincial (then district) Congress of Soviets, although at a local level. We illustrate this with the example

of X All-Ukrainian Congress of Soviets, held 6 – 13 April, 1927. In the agenda of this congress there were such questions: 1. The Report of the Government of Ukraine. 2. Report on the state of the industry and its development prospects. 3. Status of Agriculture and objectives for its development: a) land management; b) agricultural cooperation; a) agricultural credit. 4. Report on the Red Army. 5. Organization of trade and cooperation. 6. Information on changes in individual items of the Constitution of Ukraine. 7. Report on the work of the Soviets. 8. Elections.³ The agenda of District Congress of Soviets, held on the eve of the X-Ukrainian Congress of Soviets, was the question, which in many respects was similar to the issues of the agenda of the Republican Congress of Soviets. Thus, the District XI Congress of Soviets of Izum Region (26-31 March 1927) had the following agenda: 1. Report of the Government of Ukraine. 2. Report of the District Executive Committee on its work. 3. Status of industrial districts and the prospects for its development; municipal and road development. 4. Status of Agriculture: a) land management; b) agricultural cooperation and collectivization; a) loans and the value of its reorganization in agriculture. 5. Construction of the Red Army. 6. Status of trade cooperation and the implementation of the directive on the reduction of retail prices. 7. Adoption of the

¹ Центральный государственный архив высших органов власти и управления Украины. – Ф. 1. – Оп. 5. – Д. 36. – Л. 33 оборот.

² Радянська Україна. – 1925. – №3. – С. 46.

³ X Всеукраїнський з'їзд Рад робітничих, селянських та червоноармійських депутатів. 6 – 13 квітня 1927 р. Стенографічний звіт та постанови. – Харків : Оргінстр ВУЦВК, 1927. – С. 7.

lay judges. 8. Elections of: a) the District Executive Committee members and candidates; b) delegates to the All-Ukrainian Congress of Soviets; c) delegates to the All-Union Congress of Soviets.¹ Opened on March 27, 1927 the District X Congress of Soviets Kiev district was approved the following agenda: 1. Report of the Government of Ukraine. 2. Report of the District Executive Committee and approval of the district budget. 3. Report on the state of agriculture, the problem on its development and land management. 4. Report on Education. 5. Report on the Trade and Cooperation. 6. Elections.² Similar questions were on the agenda and other district Congress of Soviets.³ This suggests that the consideration of identical questions on the level of local congresses of Soviets and the All-Ukrainian Congress of Soviets is one of the many compelling confirmations of the existence of the integrity and unity of the Republic of Soviets as the representative bodies of power and that is especially important to emphasize build from the bottom up.

In the literature, attention was drawn to the close relationship with the regions and center at Congressional model of power organization. Thus, according to G. Gurvitch, inextricably linked with the local Councils central Congresses of Soviets was that «Congress delegates leave

the Soviets, remain to be deputies of the Council during a brief session of Congress and come back to the Soviets after Congress occupation. The Congress is concise, focused energy of the same Soviets».⁴ In another work G. Gurvich, referring to the same problem, noted that local Soviets report to the Congress of Soviets their rights and authority, and not vice versa. «This – the researchers note, – achieved the most correct architecture of power: not from the top down and the bottom up. But thus given and highly valuable content inside of power: essentially, here and get it direct rule, people's rule, where people either for a moment no one assigns his power, and actually implementing it continuously». Reduced G. Gurvich's point of view shared by A. Malitsky, who noted that «the principle of the Soviet state system, the Soviet state apparatus from below and not from above – is one of the basic principles of the Soviet state law.» In this connection it should be noted that the procedure for the formation of multi-stage-Ukrainian Congress of Soviets was not the exclusive invention of Soviet power. Indirect elections to the supreme representative body were provided by a number of constitutions of foreign countries in which acted bicameral parliaments. For example, according to the Constitution of Belgium 1831, the Senate as the upper house of parliament, was formed on the basis of election. Half of the members of the Senate were elected directly by the population, and half of

¹ Государственный архив Харьковской области . – Ф. Р – 1639 . – Оп. 1 . – Д. 148 . – Л. 12-12 оборот.

² Государственный архив Киевской области . – Ф. Р-112 . – Оп. 1 . – Д. 3363 . – Л 11.

³ Попередні підсумки окружних з'їздів Рад // Радянська Україна . – 1927 . – № 3–4 . – С. 85.

⁴ Гурвич Г. С. О Союзе ССР : Общие основы советской конституции / Г. С. Гурвич . – М.: Власть Советов, 1931. – С. 14.

the Senate elected by the provincial councils.¹ According to Article 46 of the Constitution of Argentina 1860 Argentina's upper house of Congress – the Senate, had a composition, which consists of two Senators from each province, elected by the legislatures of the provinces, and the two senators from the capital². Speaking about the positive qualities of the multistage procedure of formation of the highest representative body of the country, should pay attention to the judgment, which was expressed at the expense of Leon Duguit. In his opinion «no doubt, indirect voting provides the best selection, weakens the bitterness of the election struggle, protects against reckless lifestyle. Therefore, in countries

where education is not widely where political education is also poorly developed, it is prudent to establish a two-level voting».³ Domestic and foreign practice of constitutionalism allows you to design different models of the order of the upper chamber formation of the Parliament of Ukraine in the case of its introduction in the country. Members of this chamber can be, for example, to vote on the regional congress in an amount established by the Constitution of Ukraine. This will facilitate the integration of the interests of the country's regions in the multi-faceted practice of state building.

Published: Legea și viața. – 2014. – № 11/1. – P. 39-43.

¹ Современные конституции, Сборник действующих конституционных актов : в 2 т. Т. 1. Конституционные монархии / пер. под ред. и со вступ. очерками В. М. Гессена и Б. Э. Нольде. – СПб.: Изд-е юрид. книж. склада «Право», 1905. – С. 125.

² Современные конституции, Сборник действующих конституционных актов : в 2 т. Т. 2. Федерации и республики / пер. под ред. и со вступ. очерками В. М. Гессена и Б. Э. Нольде. – СПб.: Изд-е юрид. книж. склада «Право», 1907. – С. 100.

³ Дюги Леон. Конституционное право. Общая теория государства / Леон Дюги. – М. : Типография Т-ва И. Д. Сытина, 1908. – С. 506–507.