

# Chapter I. The state system of Old Poland (up to 1795)

## § 1. Patrimonial monarchy

### I. The rise of the Polish state

#### 1. The clan-tribe system and its collapse

Pre-Polish tribes belonged among the Western Slavs. They arrived in the area located between the Oder and Bug rivers, on one hand, and the Carpathians and the Baltic Sea, on the other, during the Migration Period, most probably in the 6<sup>th</sup> century. The basic unit of Slav society was the **clan**. Initially, it included all those who originated from the same ancestor (agnatic), but with time a clan which consisted of relatives on both the father's and the mother's side (cognatic) became predominant. It served religious, military, economic, social, as well as protective purposes. Usually, the members of the clan inhabited a single settlement. The clan consisted of families.

A number of clans would form a **tribe**, which was based on common ancestry as well, but also served state functions. The state-forming process started first within the so-called **small tribes** inhabiting an area of up to 10,000 sq. km. These would combine to form a larger structure, i.e. the **large tribe**, which comprised a loose association of multiple small tribes. This process became more evident especially in the 8<sup>th</sup> century. Tribal associations formed in such a way occupied an area of up to 40,000 sq. km. The most important ones were: the Vistulans, the Polans, the Goplans, the Lendians, the Silesians, the Masovians and the Pomeranians.

Superior authority in a small tribal state was held by the **veche** (*congress*). It gathered all free men, i.e. only male co-members of a tribe, able to bear arms. In a large tribal state, the veche gathered the elders and the princes of small tribes in order to decide on the most important state affairs such as: declaration of war and peace, the judiciary as well as the election of the grand prince.

Economic development, migrations, as well as the rise of personal property led in the 7<sup>th</sup> century to the collapse of the clan community and its replacement with a territorial community based on neighbourly ties. The newly created territorial association came to be termed as the **opole**. This occupied an area from 40 to 400 sq. km, which contained the burgh, as well as numerous villages and settlements. The population's chief occupation was farming and animal husbandry.

## 2. The beginnings of Polish statehood

Larger territorial structures, based on the above-mentioned tribes, formed in the Polish lands in the 9<sup>th</sup> century. Information about them was first recorded by the *Bavarian Geographer*, who enumerated their names and the number of goods possessed by them. The strongest tribal state was created by the Polans, who had conquered the neighbouring tribes. Probably, in the 9<sup>th</sup> century, the state of the Polans witnessed the toppling of the ruling dynasty, of which the last member was *Popiel*, and power was then taken over by the Piastowiczes, who – already in possession of Greater Poland and Kuyavia – went on to seize the lands of Sieradz, Łęczyca as well as Masovia, thus creating the foundation for the Polish state.

Another important entity was the state of the Vistulans. In the 9<sup>th</sup> century, however, it was subjected by the Great Moravian Empire and later, after the latter's collapse, by the Czech state. It was recaptured by the Polish state, together with Silesia, by *Mieszko I* at the end of his reign. Under the first Piasts, the Polish state stretched over 250,000 sq. km and was home to a population of around 1,000,000. There are no precise records concerning the growth of the state of the Polans. In written sources, it appears only in the 960s in a description by *Abraham ben Jacob*, and later in *Widukind* of Corvey's chronicle.

## 3. The patrimonial character of the state

**Patrimonial monarchy** arose in Germanic states which emerged following the collapse of the Roman Empire. Such a concept was later adopted in other countries which arose in the Middle Ages, including Poland. This meant that the state had been an **object of private property rights**, i.e. the monarch's private property for him to freely dispose of as a whole, including all the particular territories and population, under ducal law (*ius ducale*). This concept lacked a distinction between the monarch's private property (*patrimonium*) and public authority exercised by him. This concept persisted until the rise of estate monarchy. A different view has recently been expressed by *Wacław Uruszczak*, claiming that the Polish state was not the property of the Piasts but only hereditarily controlled by them, which means that its rulers were only the possessors.

## II. The political system

### 1. The Monarch

In accordance with the principle of a patrimonial state, the monarch was considered to be both the ruler and the private owner of the country. Usually, the rulers of Poland in the early-feudal monarchy period held the **title of prince**, as by 1138, only three of them had gained the **title of king**: *Bolesław the Valiant* (1025), *Mieszko II* (1025) and *Bolesław the Bold* (1076).

The title of king increased the ruler's prestige both at home and abroad by emphasizing the unity and independence of the state. In the period of feudal fragmentation, coronations were discontinued and restored only in 1295 (*Przemysł II*). Besides the titlature, another way to strengthen the monarch's power was to ensure dynastic continuity. Those entitled to the throne were the ruler's male inheritors related to him first directly and, secondly, collaterally.

The scope of royal power in the period of the centralized and unitary state was considerable, especially at the turn of the 10<sup>th</sup>/11<sup>th</sup> centuries under *Mieszko I* and *Bolesław the Valiant*. Later, it gradually diminished to be recaptured temporarily (*Bolesław the Bold*). The monarch rights included the **legislative, executive, military and judiciary powers**.

The crisis of the monarch's power was caused by **decentralizing factors**, represented especially by barons endowed with offices, privileges and immunities, who once independent economically, also tried to gain political independence. This was compounded by quarrels or even in-fighting for the ducal throne between feuding sons, as well as conflict with the clergy. The overall picture was further complicated by people's uprisings. The major crises for the state power occurred in the 11<sup>th</sup> century, especially during the reign of *Mieszko II* (people's uprising and struggle for the throne with *Bezprym*), *Bolesław the Bold* (internal opposition led by *Władysław Herman* and the bishop of Cracow *Stanisław*), *Bolesław Wrymouth* (civil war with *Zbigniew*, followed by the opposition of the voivod *Skarbimir*). Decentralizing tendencies intensified especially at the turn of the 11<sup>th</sup>/12<sup>th</sup> centuries. This resulted in the state division in 1097, temporarily for the first time, into provinces by *Władysław Herman*, who having retained control over Masovia, handed over Greater Poland and Kuyavia to his older son *Zbigniew*, and Silesia and Lesser Poland to his younger son *Bolesław*. On his death in 1102, *Władysław Herman* left Poland divided. Conflicts between his sons led to a civil war, combined with the intervention of Emperor *Henry V*, which fortunately ended with the country reunion. The country was divided permanently by *Bolesław Wrymouth* on the strength of his 1138 testament (statute), which was an act to regulate succession and power structure.

The testament introduced in Poland the principle of **seniorate**. According to it, power was divided among the senior prince (**princeps**), who was to be the oldest prince in the clan, and junior princes (**juniors**). The princeps, besides his own province, would also receive the transferrable and formally indivisible principate province, which consisted of the lands of Cracow, Łęczyca and probably part of Greater Poland with Gniezno, Gdańsk Pomerania, as well as control over Western Pomerania. Each of *Wrymouth's* adult sons received, according to the testament, his own province, which was hereditary and could be divided (*Władysław II*, the senior – Silesia, *Bolesław the Curly* – Masovia and Kuyavia, *Mieszko III* – Greater Poland). The senior prince, the princeps, held control over affairs of a country-wide nature, including **foreign policy, superior military command, appointment of Church and state dignitaries and maintenance of garrisons in the juniors' gords**.

*Władysław II's* attempt to overrule the testament and restore one-man rule failed, and the prince was banished (1146). A similar fate fell on *Mieszko III the Old* (1177), who strove to strengthen the central power. The reign of *Casimir the Just* (up to 1194), who followed him, marked the last period of stable superior rule and country-wide congresses. His death opened up a new stage of struggle for the throne at Cracow, leading to the erosion of the princeps' power and transformation of the provinces into separate state entities. After 1227, a condition of lasting feudal fragmentation began in Poland, which continued de facto until 1320, even though unification processes had been evident since the second half of the 13<sup>th</sup> century.

In that period, the junior princes lost power in favour of barons and the clergy. Under *Henry IV Probus* (late 13<sup>th</sup> century), the **right to resist** (*ius resistendi*) was officially pronounced, allowing the ruler to be deprived of the throne for non-compliance with the laws or breach of obligations. This institution had existed in practice since the 11<sup>th</sup> century (*Mieszko II, Casimir the Restorer*).

In conclusion, the basic principles of the state system under the first Piasts were: rule of monarchy, sovereignty, connection of state and Church, as well as concentration of power in the monarch's hands and a hereditary throne.

## 2. State administration

### a) Central administration

The government of the Polish state was generally based on models taken over from Carolingian administration, taking into account its own specific features. Central offices developed in the epoch of early-feudal monarchy and feudal fragmentation only asserted the existing status quo in each province.

Officials holding senior offices were initially known by the term **comes** or its Polish counterpart **żupan**. Lower ones were called bailiffs. With time, these became honorary titles designating distinguished persons. A characteristic feature of the patrimonial monarchy was also a lack of distinction between state and court offices.

The most important official from the 11<sup>th</sup> to the 13<sup>th</sup> century was **comes palatine** (*comes palatinus*). With time, he came to be known as the **voivod**. He was de facto a deputy of the monarch, particularly with regard to the judiciary, state governance and the military. The position of voivod rose to prominence during feudal fragmentation when voivods attempted to take over the prince's power, and their status was to be emphasized by the use of titulature containing the formula "by the grace of God". At the end of the 13<sup>th</sup> century, voivods lost importance. This was especially true of the voivods of Cracow, who in the official hierarchy were preceded by castellans.

In Silesia, the equivalent of the voivod was the **palatine**, and in Western Pomerania, the **marshal**.

The next in hierarchy was the **chancellor** (*cancellarius*). Sources attest to this office from the beginning of the 12<sup>th</sup> century. It was usually held by a clergyman, as it required the ability to read and write. The official was tasked with drafting and sealing public documents. With time, a princely chancellery was established for the office, supervised by the **protonotary**, who was in charge of **notaries** tasked with editing diplomas. An important role was also played by the **treasurer** (*thesaurarius*), who took charge of the monarch's treasury and of keeping state documents, as well the **minter** (*monetarius*), who managed the supplies of money and bullion. Among other major officials were also dignitaries who dealt with particular courtly functions, such as: the **cupbearer** (in charge of cellars), the **pantler** (in charge of the pantry), the **equerry**, **master of the hunt**, **sword bearer**, etc. Each of them had one or more deputies, e.g. the royal cupbearer, steward, etc. To sum up, all the above-mentioned officials may be divided into the ones who assisted in the exercise of royal power and courtly ones.

In the period of the unitary state, as well as in the beginnings of the period of fragmentation, there was only one dignity (e.g. voivod, chancellor) for the whole state or province. Offices were integrated when some of the provinces merged. From the beginning of the 13<sup>th</sup> century, however, there appeared a tendency to keep a separate official hierarchy for each province. This resulted in the transformation of central offices into land ones. Their strong position was underlined by the fact that they were held for life.

## **b) Territorial administration**

The early-feudal monarchy period was characterized by a division into provinces. This harked back to the large tribal states (the provinces of Poznań and Gniezno, Cracow, Sandomierz, Silesia, Masovia, Kuyavia, Łęczyce and Sieradz). Each province was headed by a viceroy appointed by the monarch. The division disappeared later during feudal fragmentation.

The basic unit of territorial division, however, was the gord district which, from the 12<sup>th</sup> century onwards, was known as the castellany. Authority belonged to the gord comes, and then to the castellan. The gord was the centre of government, as well as serving administrative, military, tax-collecting and judiciary functions. During feudal fragmentation, castellanies were divided to expand the local power structure. As a result, by the mid-13<sup>th</sup> century, there were nearly a hundred of them. Local officials within a castellany were as follows: *woj-ski* (responsible for safety), standard-bearer (convening the knighthood), gord judge (local judiciary) and bailiff (economic affairs). The castellany's revenue was used to provide salaries for the officials.

## **c) Starost**

The office of starost appeared at the end of the 13<sup>th</sup> century. It was introduced by king *Wacław II*, and it was based on the Czech model. The (general, district) starost was appointed by the king for particular lands. As an appointed official, he could be recalled at any time. Usually, as a representative of the king's interests against barons, he would come from the minor knighthood. He was given administrative and military power. The office was strengthened by *Władysław the Short*, who had appointed starosts for all the former districts except Lesser Poland. Gord courts (judge, subjudge, clerk), as well as administrative courts (substarosts, burgraves) were accountable to the starost.

## **3. Co-governing bodies**

### **a) The monarchy council**

The centre of state government was the princely court where court officials managed various areas of state administration. These dignitaries formed the original monarchy (royal, princely) council. With time, the council was expanded to include lay and clerical barons. It acted only in an advisory capacity and its competence was never defined, as the monarch could deal with every matter himself without consulting anyone. Nevertheless, the council was, to a greater or lesser extent, depending on the ruler's position, a limitation on his prerogatives.

## b) Veches and feudal congresses

**Veches** harked back to pre-state traditions. Up to the 12<sup>th</sup> century, they comprised all free men. They gradually evolved, however, as barons came to dominate public life, and as the size of the state and royal power grew to make matters decided increasingly more complex. In effect, decision-making passed to the monarch and the barons, only sporadically to be put to the general vote and that only to make the matter appear more solemn.

With time, the general veche turned into a **feudal congress**, which comprised – besides the prince – only barons, the knighthood and city representatives, which made it more official. The period of feudal fragmentation saw the rise of **district and interdistrict veches**. The latter were country-wide, the former only local. Feudal veches (congresses) were competent to give their opinions on matters related to: foreign policy, levy of taxes, appointment of officials, division of districts, etc.; to administer justice, as well as elect a new ruler or deny him obedience. The most well-known veches were congresses which acknowledged the privileges of the Polish Church: the synod of Łęczyca (1180) and the veche in Borzykowo (1210).

## III. Judiciary

### 1. State courts

The most important institution was the monarch's court (princely court). It was designated as court *in curia* or court *in colloquio*. It consisted of the ruler and assessors. Justice was usually administered on the monarch's behalf by the judge (*iudex curiae*) or subjudge (*subiudex curiae*). The subject-matter competence of the court was not precisely defined, as the prince could bring any case before his court.

A lower court was the **castellan's court**, whereby justice was usually administered on the castellan's behalf by the **gord judge** (*iudex castri*), acting in collaboration with assessors. Originally, the castellan's court had jurisdiction over all persons inhabiting the district.

A special form of state courts was represented by voivod's courts, which decided upon matters in which a Jewish person was a party, as well as marketplace courts held by a **marketplace judge** (*iudex fori*).

### 2. Ecclesiastical courts

Ecclesiastical judiciary emerged at the beginning of the 13<sup>th</sup> century as the first estate judiciary based on the relevant princely privileges. It was adjusted to the ecclesiastical structure. In the first instance, the judge was an archdea-

con, whose verdict might be appealed to a bishop. However, at the synod of Wroclaw (1248), the bishop's judiciary duties were placed with the newly established office of officialis, whose verdicts could be appealed to the archbishop. The structure was complemented by synodic courts which were held when the bishop was touring the diocese.

### 3. German town law courts

Municipal courts were held by a college or an individual person. Among collegiate courts were: a council court, an ordinary aldermen's court, an extraordinary aldermen's court (in the form of a necessary court, guest court, or criminal court) and a veto court. Courts held by an individual person were as follows: the mayor-president's court, the burgrave's court and the village head's court (judge). A special type of court was a fief court which settled matters brought forward by voigts and village heads.

The verdicts of aldermen's courts could be **appealed**. Royal cities would appeal to Magdeburg. The first higher German town law court in Poland was established in Chelmno (1233). It was replaced by a higher court in Toruń (1458 – 1608). Due to the absence of an intermediate instance between the lower and royal courts, *Casimir the Great* created the **Supreme German Town Law Court at the Royal Castle** (1356). It consisted of a landvoigt and 7 aldermen. The third instance was represented by a royal commissioner's **Court of Six Cities** (1356).

**Village courts** were based on models created by the municipal judiciary. They consisted of a **village head and village aldermen** appointed by the lord or village head.

## IV. Social system

### 1. Knighthood

#### a) Development of the knighthood

The emergence of the estates was a long-standing and complex process spanning the entire period of patrimonial monarchy, which ended as late as the mid-14<sup>th</sup> century. The noble estate derived from the **knighthood**, i.e. the group of people who engaged in warfare as a profession. It comprised both barons (*nobiles*) and ordinary knights (*milites*). The barons, known as **comeses**, owed their importance to the fact that they held state offices, at the court and in gords, as well as to the rise of great land ownership, which emerged following the break-up of the great clan community, and as such was continually enhanced by the

monarch's endowments and illegal seizures. The knighthood derived from ducal soldiers and free members of opole communities. They were known as **wlo-dykas**. They were the first to own land granted to them by the ruler as a benefice under knights' law (*ius militare*) in exchange for the duty of military service. Others held it hereditarily. The collapse of the army structure led to the spread of knights' full (allodial) ownership, free from burdens imposed by ducal law.

## b) Immunities and other privileges

Originally, an **immunity** was a privilege related to an estate, one which released it from obligations to the monarch. Later, it became more personal. First, it could only be acquired by barons, but at the turn of the 13<sup>th</sup>/14<sup>th</sup> centuries, immunity was extended to all lands held by the knighthood. With regard to its substance, we may distinguish **judicial immunity** and **economic immunity**. The former allowed the lord to administer justice in the area under immunity. Initially, this only applied to minor cases (*causae minores*) and non-free or semi-free population, but gradually also major cases (*causae maiores*) and the entire population. Economic immunity, on the other hand, consisted in the population, which inhabited the area granted immunity, being exempt from fees, tributes and services to the monarch, as these would now be received by the lord in the form of a land rent. The grant of economic immunity usually involved the lord relinquishing the so-called **regalia** to the ruler, i.e. control of certain economic activities reserved for the monarch.

Concerning the scope of exemption, we may distinguish **general and partial immunities**. The former would abrogate the whole or nearly whole ducal law with a single document and was usually granted to the clergy; the latter, on the other hand, exempted a person only from some servitudes, performances and court matters, and it was addressed to barons and later also to the knighthood.

Alongside immunities, barons and later the knighthood also began to gain other privileges. From the second half of the 13<sup>th</sup> century, the **right of non-response** (*ius non responsivum*) had become common, which ensured exclusion from the jurisdiction of castellan's courts and submission to that of the monarch's courts. Barons and the knighthood were given better legal protection and even the right to erect their own gords. They were also distinguished by having a coat of arms (personal sign) and appellation (emblem). The entirety of knights' rights was designated as the knights' law (*ius militare*).

## 2. Clergy

As a separate estate, the clergy developed the earliest (in the early 13<sup>th</sup> century). Its separation took place based on the functions it fulfilled and not on

birth. Although formally accessible to everyone, this estate was in fact internally divided, as the position of clergymen depended on their social background.

In regard to positions held, the clergy was divided into **higher and lower clergy**. The former included archbishops, bishops, abbots, priors, members of chapters and colleges. The others comprised the lower clergy. In regard to ordainment and vows, the clergy was divided into **secular diocesan clergy** and **monastic order clergy**. Last but not least, in regard to denomination, there existed **Catholic** and **non-Catholic clergy**.

The privileged position of the clergy originated from the **synod of Łęczyca** (1180) when *Casimir the Just* waived movable property left behind by deceased bishops and abbots (*ius spolii*) and released the population in Church-owned villages from the obligation to provide horse-drawn carriages to royal officials. Another privilege for the Church was granted by the Piast princes in **Borzykowo (1210)**. This guaranteed free election of bishops, the clergy's freedom of appointment to higher Church offices, submission of the clergy to ecclesiastical courts (*privilegium fori*). It also confirmed *ius spolii*.

The Church's economy was based on enormous land complexes, which placed it, alongside the monarch, among the largest land-holders. Usually, the lands came from endowments by princes and lay barons. The archbishop of Gniezno's estate in 1136 comprised 149 settlements and was constantly growing. Monasteries were also generously endowed. The least endowed were parishes.

### 3. Burgesses

#### a) Town locations

The location of Polish towns was related to three phenomena: the emergence of a collectivity as an agent which dealt jointly with the lord, the rise of money-goods economy, and spatial transformations.

The 13<sup>th</sup> century witnessed an influx of German settlers into an economically developing Poland, especially into Silesia, who once endowed with judicial and economic immunity for the land allotted to them, began to create their own forms of local-government. Most frequently, a colony of arrivals was settled in the vicinity of existing Polish settlements (Gdańsk, Słupsk); sometimes, however, a new area was designated for the "guests" (Płock). With time, a model of settling and organizing towns became common whereby the settlers would adopt Magdeburg law and effect the so-called **location**. Initially, the term *locare* meant "to place, to put in place".

Depending on who issued the location document, **ducal (later: royal) and private towns** were distinguished. The location document granted town rights,

designated the town limits and suburb areas, organized town authorities, regulated the rules of commercial activities and craft work, listed the rights and obligations of the burgesses, set forth the rights of the owner of the town, etc.

The town was organized by a person known as a **locator**. He was an entrepreneur, usually of German – exceptionally of Polish – descent, tasked with bringing a specific number of settlers specializing in trade and manufacturing, accommodating them in the town and providing a basis for economic activity. Settlers were given comfortable terms such as their own judiciary, tax-free years, i.e. exemption from heavy taxation for a number of years, a grant of individual and hereditary land plots, as well as common ground allocated to the borough, the privilege of free trade and of pursuing a craft, etc. This was especially advantageous for the locator, who was given an area of his choice and was free to build economic facilities in it (such as mills, abattoirs, timber mills) to secure profits for himself.

The basic model in terms of the system and law for most Polish towns was that of **Magdeburg**. It was a **mother-town**, on whose model other centres, known as **filial towns** or **daughter towns**, were located to form a town law family together, in which similar rules applied in terms of structure, system and legal standards (a filial system). The process of town location under Magdeburg law began first in the Silesian district, where the town of Złotoryja (1211) was first settled, to be followed by Lwówek (1217). In total, by 1370, 234 towns had been settled with Magdeburg law in Poland.

With time, two local varieties of Magdeburg law developed to produce a model for the organization and laws of new towns. These were **Środa Law** (Środa Śląska), by which over 100 towns were settled, starting from 1235, mainly in Silesia, Greater Poland and the land of Sieradz and Łęczyca, as well as **Culm Law** (Chełmno), by which, starting from 1233, 225 towns were settled in total, usually in Pomerania and Masovia.

Alongside Magdeburg law and its local varieties, Polish cities were also settled with **Lubeck law**. Interactions with Lubeck resulted from Hanseatic influences, which is why these settlements took place mainly along the coast in Western Pomerania.

## b) Town system

The town was headed by a hereditary **voigt** (*Vogt, advocatus*). Sometimes he was known as “town head”. He was usually the locator, who received the position of voigt as a compensation for his efforts and outlays. The town lord’s relationship with the voigt was of a private- and public-law nature. The private law relationship translated into grants of land and other benefits serving as com-

penation for the settlement. The public law relationship translated into granting the voigt authority which involved representative, administrative, judiciary, police and military functions.

The wealth and importance of voigts became inconvenient with time, particularly for burgesses and owners. In the 14<sup>th</sup> century, a tendency appeared (first in Silesia) to eliminate the voigt's office; this was done usually by purchase. Voigts were replaced by municipal local-government authorities, such as the **council** and **board of aldermen**.

The manner in which the **council** developed raises debates and doubts, mainly in the case of Magdeburg law towns (in Lubeck law towns, councils appeared at the moment of settlement). It is assumed that the councils of some towns took root still in the period of voigtship (Strzegom, Legnica), but most of them appeared in the 14<sup>th</sup> century when the office of voigt had already been eliminated. The number of councilmen was not fixed. It depended on the size of the town, varying from 4 to 24, e.g. Gdańsk had 23 councilmen, including 18 from the Main Town, and 5 from the Old Town (but the latter had only one vote together). In Cracow, there were 24 councilmen, of whom the council in office numbered 8 persons, and the supplementary council 16. With time, councils began to be presided over by the **mayor** (*Bürgermeister, magister consulum*). He chaired the council and represented the town, but had no independent right to decide on town-related matters. To a small degree, he had authority over the judiciary. The council's authority included: municipal legislation, approval of guild statutes, safety, defence, jurisdiction over criminal, administrative and trade matters.

The authority competent to administer justice was the **board of aldermen**. In the period of voigtship, it was appointed by the voigt, later by the council. It consisted of between 7 and 12 aldermen, as it was the case in Toruń.

### c) Social system

According to the **legal criterion**, burgesses were divided into **citizens** and **dwellers**. Citizenship could be hereditary or acquired. Only citizens could take advantage of town rights and privileges, among which were: holding offices, owning real estate, trading or pursuing crafts, brewing beer, etc. Citizens were obliged, among other things, to pay taxes and keep watch. The rest of the population were dwellers, who consisted mostly of a formerly rural population immigrating into the towns. They would acquire personal freedom after staying in the town for a year and a day, in accordance with the principle of "town air makes free". Dwellers were not entitled to town rights but were obliged to comply with the regulations of the town.

Another criterion for the division of burgesses was **financial status**. The most important position was held by the **patriciate** consisting of the wealthiest merchants and craftsmen, as well as the members of town authorities. Another stratum, the most numerous one, were the **commons**, which consisted of small merchants/shopkeepers, owners of small workshops and journeymen. Usually, both of these groups had town rights. Lower down the scale were the **plebs**, made up of poor townspeople such as labourers, house servants, beggars in temporary employment, tramps, etc.

#### 4. Peasantry

##### a) Dependence of the peasant population

**Free yeomen** constituted the majority of the population when Polish statehood was developing. The development of feudalism, however, drove them more and more into dependence, both for political and economic reasons. Under the early-feudal monarchy, it was possible to distinguish the following strata of dependent rural population: **ducal peasants** (independent farmers subjects to the duke and holding land under the rule of dependent ownership), **land-bound peasants** (dependent population, settled on an ecclesiastical estate) and **debt prisoners** (debtors placing themselves and their families in surety until their debts have been worked off).

The rest of the free population had fallen into dependence through commendations, trying to avoid military service and other public duties incumbent on the free. Widely applied was the practice of **precarya**, consisting in the peasants' voluntarily placing themselves and their lands under the care of ecclesiastical, and later lay, feudal lords. Precarya resulted in the feudal lords taking over **superior ownership of the land**, which was then handed to the peasants, but only under **usufructuary ownership** with the obligation to provide prescribed services.

##### b) Peasant services

Peasants settled on a land were obliged to provide a number of services known as feudal rent. There existed three types of such: in kind, in labour and in money. The rent in kind involved supplying cattle, grain, honey or game to the ruler or lord. The rent in labour involved peasants' forced labour. At times, both these rents were combined into a joint service. This dominated in the feudal economy from the 11<sup>th</sup> to the 13<sup>th</sup> century. As the goods-money economy developed, the above-mentioned types of rent were replaced with a census rent. This was rendered in money or in grain (a commodity with a definite exchange value).

### c) Polish law colonization

In the early 12<sup>th</sup> century, the Polish countryside witnessed beneficial changes, resulting from progress in farming technology (the three-field system, iron tools), developments in animal husbandry, reduction in the unfree population, land consolidation, etc. These improved the living standards of peasants, and consequently, demographic growth and an increase in income followed. This encouraged feudal lords to have wastelands settled which had thus far lain unused. In these areas, the lords provided the settlers with more convenient conditions than in lands already farmed. This led to a colonization movement known as the **Polish law colonization** or “**the custom of free guests**”. Newly settled villages were given the following rights: a fixed rent paid in grain or money, tax-free years, a development loan, limited right of exit and right to the usufructuary ownership of land. With time, the lords would settle unfree populations and their own subjects under Polish law.

### d) German law colonization

The settlement of villages with German law was conditional upon the monarch's award of a settlement permission to the lord, which usually occurred after the previous grant of an immunity to that same lord. Based on such permission, the lord would conclude a settlement contract with a village **locator-organizer**, to whom a formal settlement deed was issued. The document defined the following: village area, locator's and settler's rights and obligations. It also released the village from encumbrances in relation to the prince. The locator-organizer would become a **village head**. This was a hereditary office and its benefits consisted of a few rent-free lands, the right to collect 1/6 of rents and 1/3 of court penalties, and to own an inn, abattoir and mill. The village head fulfilled the following duties: presiding over the village board of aldermen, organizing military service, collecting rents and tributes for the lord. The importance of village heads started to diminish with the issuance of the Warta statute (1423), which allowed the nobility to remove a recalcitrant village head and the lord to buy up the land left behind, if no one else volunteered to purchase it.

## § 2. Estate monarchy (1320 – 1454)

### I. The Crown of the Kingdom of Poland

The unity of the Polish state was restored at the coronation of *Władysław the Short* in 1320. At that time, Poland covered an area of 106,000 sq. km, com-

prising Lesser Poland, Greater Poland, the land of Sieradz (the land of Łęczyca was temporarily enfeoffed to Kuyavian princes in exchange for the lost Kuyavia). *Casimir the Great* managed to annex Kuyavia and the land of Dobrzyń (1343), Red Ruthenia (1352, 1366), the land of Wschowa (1343), as well as, temporarily, Santok and Drezdenko (1365–1370), all of which covered an area of 170,000 sq. km, to which were added the fiefs in Masovia amounting to 70,000 sq. km. By the death of *Casimir Jagiellon*, the size of the country had extended to include: the land of Wieluń (1396), Spis (1412), Podole (1430), the duchy of Siewiersk (1443) and Royal Prussia (1466), all of which totalled 260,000 sq. km. Added to that were the Duchy of Prussia, Moldova and Masovia, which constituted fiefs.

Poland's overcoming feudal fragmentation, combined with a simultaneous shift in a number of other European countries away from disintegration, changed ideas about the manner in which a state should be structured and run. The restoration of central power favoured a gradual drift away from a patrimonial state toward an understanding of the state as a public and sovereign institution. In terms of the law and state system, this tendency demonstrated itself in Poland in the development of the **Crown of the Kingdom of Poland (*Corona Regni Poloniae*)**, modelled after 13<sup>th</sup>-century England and Hungary. This embodied the principles of the sovereignty, indivisibility and inalienability of the state, as well as its separation from the monarch. In practice, this meant that the state and monarch became independent of the universalist doctrine of Emperor and Pope (although some relics of the latter's superiority remained, such as tithes, Peter's Pence and annates). It also meant that rulers were obliged to restore lost possessions, expand their territories and increase the importance of estate representation. The state emblem was established, a country-wide flag adopted, and Cracow grew in importance as the state capital and place of coronation and burial of rulers.

## II. The structure and rights of the estates

### 1. Nobility

#### a) Division of the nobility by wealth

The existing social system led to the consolidation and unification of barons and knighthood/nobility within a single estate, including all knights. This distinguished the Polish nobility from other European countries, in which privileges applied only to barons. Moreover, Poland never developed a system of fiefs, which made all knights directly subordinate to the monarch. The only criteri-