

Foreword

This textbook is an attempt to present the history of Poland's state system and law from the earliest times up to the present. The material has been periodized in the traditional manner. In so doing, the basic criterion of division, which has been adopted, are the transformations of the form of the state. These would, as a matter of course, lead to transformations in the substance of court law. The greatest challenge for the scholar is to periodize the state system and the law in old Poland (up to 1795). The basis for the periodization of the state system was provided by *Stanisław Kutrzeba* in his "The History of the State System in Poland (1905)", and elaborated by *Juliusz Bardach* in "The History of the State and Law of Poland" (1957). It is as follows:

- a) the rise of tribal states and, subsequently, of the Polish state (8th century – mid-10th century);
- b) patrimonial monarchy (mid-10th century – 1320), whereby that period may be further divided into early-feudal monarchy, up to 1138, and fragmentation;
- c) estate monarchy (1320 – 1454); and
- d) the nobles' republic (1454 – 1795), divided into subperiods of noblemen's democracy (1454 – 1652), magnate oligarchy (1652 – 1764) and the beginnings of constitutional monarchy (1764 – 1795).

Recently, *Wacław Uruszczak* has proposed a new periodization by dividing the history of the law and the state system in Poland into three periods: Piast Monarchy (966–1370), Kingdom of the Angevin and the Jagiellons (1370 – 1572) and the Commonwealth of Two Nations (1572 – 1795).

The starting point and time-span of some of these periods have stirred controversy to date. This is as a result of different evaluations of processes related to the state system and the law, even despite the adoption of similar criteria of systematization. It is far easier to systematize the history of the law in the old Polish period. The basis for that was created by *Michał Bobrzyński*, the author of "The History of Poland in Outline" (1877), who proposed the division of his native history into three periods:

- a) primeval (up to 1241);
- b) medieval (1241 – 1505), and
- c) modern (1505 – 1795).

On that basis, *Józef Rafacz* created a division of the history of old Poland's law into the following periods: medieval (up till the late 15th century, rightly assuming that sources concerning the history of the law up to the 13th century are extremely scanty) and modern (16th - 18th centuries). To do justice to the differing periodizations

of the history of Poland's state system and law up to 1795, a common denominator has been adopted for the purpose of this textbook, to allow discussing both these issues within almost completely overlapping periods. Such a solution, although far from perfect, is based on the practice adopted in the majority of textbooks.

Further periodization of the history of Poland's state system and law offers no major difficulties, for it may be divided into the following periods:

- a) rule of the partitioning powers, taking into consideration Polish state-like entities with partial sovereignty or autonomy (1772/1795 – 1918);
- b) 2nd Republic of Poland and Polish territories under occupation (1918 – 1944/45); and
- c) people's government (1944/45 – 1989), subdivided into: People's Poland (up to 1952) and People's Republic of Poland (up to 1989).

It is worth noting, however, that adopting such a periodization of the history of the law is simplifying matters to some extent, as it conflicts with the time-periods, in which the partitioning powers' codifications were in force.

This textbook takes advantage of Polish scholars' research contained both in basic handbooks on the history of the Polish state system and law, as well as in monographs and specially focused studies.

The following has been done to make using this textbook easier: the text has been divided into smaller portions (chapters, paragraph, listings with Roman and Arabic numerals), and bold type has been used for the most important terms, petit print for remarks supplementing the main text; also, an index, genealogical charts, tables and graphs have been introduced.

The present text is intended for lecturing purposes. This justifies all the short-cuts and simplifications necessitated by the need to select from an enormous body of primary sources and literature. As a result, a number of issues have been given cursory treatment or only mentioned.

This book is a translation into English of my textbook entitled *Historia ustroju i prawa sądowego Polski*, published by C.H.Beck, Warsaw 1999, 2003, 2008, 2011 (476 pages).

Generally speaking, this publication is intended for Polish students who are studying law in English. It also attempts to popularize the history of Poland's law abroad. For this, it is the first study of this kind in Poland available in English. This will help to bring the subject-matter closer to all readers in the world.

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