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The Cultural Position and Stratification of the Bohemo-Moravian Nobility from 12th and 13th Century Provincial Law Sources

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Abstract

JANIŠ, Dalibor. The Cultural Position and Stratification of the Bohemo-Moravian Nobility from 12th and 13th Century Provincial Law Sources.

The study is dedicated to the beginnings and development of the Bohemo-Moravian nobility, the role of the elites and specific terminology used in preserved sources like chronicles and other documents. The greatest attention is paid to legal sources, especially a set of provisions in early provincial law called the Statutes of Conrad Otto from the first half of the 13th century. This work contains important information on the possible stratification of the Bohemo-Moravian nobility as well as their role in the offices and the provincial judiciary. The 13th century brought a great transformation of the nobility class, especially the formation of noble dominions following colonisation, which was also reflected in the terminology.

Questions surrounding the emergence and early development of the nobility class in the Czech lands have received increased attention in the latest Czech literature.¹ A recent and still ongoing discussion has focused particularly on the economic background of the early nobility and its relationships with Bohemian rulers. Older theories in Czech historiography, first expressed in the 1970s, believed that the Bohemian rulers held extensive power over the entire land. According to these hypotheses, the early nobility had no landed property and was bound to the ruler, a prince, through monetary income alone or offices providing income. It was conceived as a system where all the ruler's revenue was centralized and subsequently redistributed—although no explanation of how this administratively complex mechanism was supposed to work was offered. A fundamental change was to occur in the 13th century when noble officials usurped the ruler's original landed property, giving rise to the Czech and Moravian landed gentry in the High Middle Ages. These ideas are part of what is known today as “the Central European

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- 1 Recently JAN, Libor. Nástin vzniku a vývoje české a moravské šlechty (s důrazem na její počátky). In *Časopis Matice moravské*, 2019, vol. 138, no. 2, pp. 241–260. On the older historiography, see also: KALHOUS, David. Úvahy nad možnostmi poznání sociální struktury raně středověkého přemyslovského knížectví. In *Praehistorica*, 2018, vol. 34, no. 2, pp. 30–41.

model,” or the presumed form of early medieval states in Central Europe—the Czech state, Poland and Hungary—which now contradicts newer analyses of written sources, clearly demonstrated by research of the last twenty years on the early nobility.²

Unclear origins of nobility in the Czech lands

Recent studies have outlined convincingly a somewhat different picture of the emergence of nobility in the Czech lands. While a lack of sources prevents tracing the origins of the elites from the early beginnings, a relatively clear image of a stratum of nobles in the 10th century has emerged.³ These nobles, along with their warriors, were close to the Přemyslid princes and had a major role in shaping the early Czech state. They can be considered a ruling group within the structure of the society of that time, representing “all free Czechs.” Heredity was an important marker of their status and political power, legally reflected and linked to an individual’s position within a given family and within the ruling elite.⁴ Heredity also applied to landed property—written sources reliably document the existence of free property (referred to as *patrimonium* and later especially *hereditas*), belonging to individual nobles (families), in the late 11th and particularly in the 12th century.⁵ They were basically at will to dispose of it freely without regard to the present ruler, who primarily had the right of escheat in case there were no close heirs. Nobility heredity, i.e., a special status among free inhabitants, was also a key attribute associated with the later “nobility,” or nobility as a defined social group associated with certain benefits and access to power. The principle of the hereditary status of the nobility is often emphasised in sources, chronicles and documents, usually by referring to a particular noble as the descendant of another person. Cosmas also mentions specific persons

- 2 On the extensive discussion, see: TŘEŠTÍK, Dušan – ŽEMLIČKA, Josef. O modelech vývoje přemyslovského státu. In *Český časopis historický*, 2007, vol. 105, no. 1, pp. 122–164; JAN, Libor. Skrytý půvab „středoevropského modelu“. In *Český časopis historický*, 2007, vol. 105, no. 4, pp. 873–902; WIHODA, Martin. Kníže a jeho věrní. Kosmas o světě předáků a urozených. In NODL, Martin – WIHODA, Martin (eds.) *Šlechta, moc a reprezentace ve středověku*. Praha : Filosofia, 2007, pp. 11–29; ŽEMLIČKA, Josef. Kasteláni, vilikové a beneficia v netransformované transformaci. In *Český časopis historický*, 2008, vol. 106, no. 1, pp. 109–136; JAN, Libor. *Hereditas, výsluha, kastelanie. Několik poznámek k terminologii a metodologii současné historiografie přemyslovského období*. In *Časopis Matice moravské*, 2009, vol. 128, no. 2, pp. 461–472.
- 3 KALHOUS, David. Čeští velmoži 10. věku. In *Sborník prací Filozofické fakulty brněnské univerzity (Řada historická C)*, 2006, vol. 54, pp. 5–13.
- 4 On the question of elites and their relationship to the concept of “nobility” cf. KALHOUS 2018, pp. 41–45.
- 5 JAN, Libor. *Hereditates a soudy statut Konráda Oty*. In JAN, Libor – JANIŠ, Dalibor et al. (eds.) *Ad iustitiam et bonum commune. Proměny zemského práva v českých zemích ve středověku a raném novověku*. Brno : Matice moravská 2010, pp. 10–22; WIHODA 2007, pp. 17–18; VELÍMSKÝ, Tomáš. K problematice pozemkové držby českých velmožů a družiníků v období 11.–12. století. In *Studia Mediaevalia Bohemica*, 2009, vol. 1, no. 2, pp. 177–186. On the question of the ownership of the early nobility critically ŽEMLIČKA, Josef. O „svobodné soukromosti“ pozemkového vlastnictví (K rozsahu a kvalitě velmožské držby v přemyslovských Čechách). In *Český časopis historický*, 2009, vol. 107, no. 2, pp. 269–308; ŽEMLIČKA, Josef. *Království v pohybu. Kolonizace, města a stříbro v závěru přemyslovské epochy*. Praha : Nakladatelství Lidové noviny, 2014, pp. 30–38. Recently ŽEMLIČKA, Josef. *Konec Přemyslovců. Skladba a fungování jejich pozdní monarchie*. Praha : Nakladatelství Lidové noviny, 2020, pp. 228–242; ZELENKA, Jan. In *memoria non habentur*. K majetkoprávní terminologii českého středověkého práva. In *Český časopis historický*, 2021, vol. 119, no. 1, pp. 7–31.

that were “elevated” by the prince among the other nobles, or that the person in question was not originally of noble birth.⁶

These early elites were connected to the royal retinue, later the princely or royal court (*curia*), and also with the administration of the early Přemyslid state. Holding offices (*beneficia*) was initially associated with land ownership and yielded income only for the respective official. Besides the royal court, the main offices were tied to castle centres (*urbes*), and the most significant officials associated with these castles were their administrators (*castellanus, prefectus urbis*).⁷

The most prominent representatives of the early power elite of the Přemyslid state are referred to in written sources by a variety of Latin terms. The best evidence comes from the Chronicle of the Czechs, the primary source for the history of the early Czech state and society before 1125. The author, Cosmas, used the term *comes* in connection with prominent great men. He typically specifically designated the most important individuals within the prince’s circle who had a hand in the decisions of all important matters concerning the state. Chronicler Cosmas used expressions such as *primates, proceres, or nobiles* to denote this elite status. The diversity of his vocabulary is complemented by phrases like *seniores, maiores, terre maiores, or omnes Boemie natu maiores*,⁸ emphasizing the importance of their position and noble or hereditary origin. Members of the elite belonged to individual families (clans), whose existence is also mentioned by Cosmas. In some cases, he even provided the names of these families. It is assumed that the roots of many of these families date back to the early “pre-state” period and are likely related to the fact that the territory of Bohemia was under the rule of several princes in the 9th century. According to the Frankish annals, 14 Bohemian princes and their companies (*XIII ex ducibus Boemanorum cum hominibus suis*) were baptised in the court of Louis the German at the beginning of 845, most likely in Regensburg.⁹ Previous views on the

6 COSMAS PRAGENSIS, *Chronica Boemorum*. Monumenta Germaniae Historica (MGH), *Scriptores rerum Germanicarum, Nova series 2*. Edited by Bertold Bretholz. Berolini: Weidmann, 1923, pp. 62–63, I. 34; p. 63, I. 35. Cf. NOVOTNÝ, Robert. Povýšení vši chvály hodného Hovory. Dva životy nejstarší nobilitace. In DOLEŽALOVÁ, Eva et al. (eds.) *Od knížat ke králům. Sborník u příležitosti 60. narozenin Josefa Žemličky*. Praha: Nakladatelství Lidové noviny, 2007, pp. 396–403; KALHOUS 2018, pp. 44–45.

7 JAN, Libor. K počátkům české šlechty. Družina, beneficium, pozemkové vlastnictví. In NODL – WIHODA 2007, pp. 45–52; JAN, Libor. Česká a moravská šlechta ve 13. a 14. století – otázky zrodu a kontinuity. In KNOZ, Tomáš – DVOŘÁK, Jan (eds.) *Šlechta v proměnách věků*. Brno: Matice moravská, 2011, pp. 44–51; WIHODA, Martin. Geneze moravské šlechty. In *Acta historica et museologica Universitatis Silesianae Opaviensis, Řada historická C*, 1995, vol. 2, pp. 23–41; WIHODA, Martin. Die mährischen Eliten als Problem der Kontinuität (oder Diskontinuität?) der böhmischen Geschichte. In KOUŘIL, Pavel (ed.) *Die frühmittelalterliche Elite bei den Völkern des östlichen Mitteleuropas (mit einem speziellen Blick auf die großmährische Problematik)*. Brno: Archeologický ústav AV ČR Brno, 2005, pp. 9–18.

8 COSMAS PRAGENSIS, *Chronica Boemorum*, pp. 114–115, II. 22; p. 143, II. 39; p. 153, II. 46; p. 177, III. 15; p. 192, III. 23. Cf. English translation of the Chronicle, see: *Cosmae Pragensis Chronica Bohemorum: Cosmas of Prague, The Chronicle of the Czechs*. Edited by János M. Bak and Pavlína Rychterová. Budapest; New York: CEU Press, 2020.

9 *Annales Fuldenses sive Annales regni Francorum Orientalis*. MGH, *Scriptores rerum Germanicarum in usum scholarum separatim editi 7*. Edited by Fridericus Kurze. Hannoverae: Hahniani, 1891, p. 35, A. 845; TŘEŠTÍK, Dušan. *Počátky Přemyslovců. Vstup Čechů do dějin (530–935)*. Praha: Nakladatelství Lidové noviny, 1997, pp. 74–96; TŘEŠTÍK, Dušan. The Baptism of the Czech Princes in 845 and the Christianization of the Slavs. In *Historica. Historical Sciences in the Czech Republic. Series Nova*, 1995, vol. 32, pp. 7–59; KALHOUS, David. *České země za prvních Přemyslovců v 10.–12. století: II. Díl/Svět doby knížecí*. Praha: Libri 2013, p. 155.

early Přemyslid state assumed that the Přemyslids forcibly eliminated all other princes. While some sources and archaeological findings do attest to conflicts with non-Přemyslid princes, newer interpretations of the origins of the early Czech state consider a less violent model for the formation of Přemyslid Bohemia. A physical continuity between the princes of the 9th century and the “great men” of the 10th century can only be documented in the case of the Slavníks clan. However, a familial continuity of the elites is highly probable.¹⁰

Early Bohemo-Moravian nobility and questions of terminology

The Chronicle of Cosmas clearly highlights the significant position of *comites*, who appear in all parts of his work. It is evident that their described roles in the administration of the Přemyslid state correspond to a period in the early 12th century, which was during Cosmas's lifetime. The role of *comites* was significant, as they collectively advised the Bohemian prince. It was not a passive role; Cosmas designated them as heads of the land (*capita terre*) together with the prince.¹¹

References to *comites* can be found in documents dating back to the middle of the 11th century, with the frequency of these references increasing from the middle of the following century onwards. As a rule, the title *comes* was used to designate individuals, often only certain persons within the ranks of witnesses in the documents.¹² In 1078, the Moravian Přemyslid Ota I founded a Benedictine monastery near Olomouc. In the introduction of the founding charter, Ota emphasized that the act of founding was to be carried out with the testimony of the princes, bishops, abbots and nobles—especially the *comites*—and also all the “other” nobles, (*omniumque comitum ceterorumve nobilium testimonio*).¹³ The nobles as issuers of documents also referred to themselves as *comites*. An example is a document issued in the early 1180s by Čěč, *comes de Zeleznice*, a former court judge (*iudex curie*).¹⁴ References in the sources prove that the title *comes* was given to the most prominent members of the noble community such as Hroznata, the founder of two Premonstratensian monasteries, whom the Prague Prince-Bishop Henry called *illustris comes et amicus noster* in a document in 1197.¹⁵ The term *comes* was used in documents (charters) to refer to members of the noble elite until the beginning of the 13th century, with the latest, more frequent occurrences appearing in the 20s and 30s of the same century.

10 KALHOUS, David. *Anatomy of a Duchy. The Political and Ecclesiastical Structures of Early Přemyslid Bohemia*. Leiden; Boston : Brill, 2012, pp. 115–120; KALHOUS 2006, pp. 5–13. On the question of the early princes recently, see: HASIL, Jan. *Duces bohemianorum předpřemyslovského období jako interpretační problém*. In BOHÁČOVÁ, Ivana – SOMMER, Petr (eds.) *Raný český stát v 10. století*. Praha : Filosofia, 2020, pp. 61–79.

11 COSMAS PRAGENSIS, *Chronica Boemorum*, pp. 29–30, I. 13.

12 From early documents e.g. *Codex diplomaticus et epistolaris regni Bohemiae 1* (CDB). Edited by Gustav Friedrich. Pragae : Sumptibus comitiorum Regni Bohemiae, 1904–1907, pp. 53–60, no. 55; pp. 105–106, no. 100; pp. 161–163, no. 157.

13 CDB 1, pp. 82–85, no. 79. On the significance of the written testimony, see: HRUBÝ, František. *Tři studie k české diplomacie*. Brno : Masarykova univerzita, 1936, pp. 9–10.

14 CDB 1, pp. 265–267, no. 296. On Čěč cf. CDB 1, pp. 243–247, no. 278–280; pp. 250–251, no. 285.

15 CDB 1, pp. 325–327, no. 358; ŠIMŮNEK, Robert. „Comes“ aneb (Dis)kontinuita v pojetí pozdního středověku. In DOLEŽALOVÁ et al. 2007, pp. 406–409. On Hroznata cf. KUBÍN, Petr. *Blahoslavený Hroznata. Kritický životopis*. Praha : Vyšehrad, 2000.

A similar situation appears in the surviving narrative sources; the term *comes* is last used by the chroniclers Vincentius and Gerlach in the 12th century.¹⁶ The expression appears exceptionally in later documents, but these mentions are usually in connection with the imperial title of count (*Graf*). A number of foreign nobles with the title appear in Czech sources, and some members of the Czech nobility acquired the title of count in the 15th century. In the 13th and 14th centuries, the title *comes* also appears as a kind of archaism in connection with members of the Bohemian nobility in monastic obituaries and anniversaries.¹⁷

In addition to the plural term *comites*, other expressions appear in early medieval sources, chronicles and charters, that refer to the most prominent part of the nobility as a whole: *primates* (*terrae primates*, *primates Bohemorum*) and *optimates*. Cosmas also uses the term *magnates*, which otherwise appears more in sources of foreign provenance, e.g. *magnates Boemie*, commonly used in imperial documents for example. As in the above cases, these terms also refer to the prominent position of the power elites of the Czech state.¹⁸

From the second half of the 12th century, new expressions associated with the nobility began to appear in documents, like the terms *baro* and *nobilis*, used especially for important members of the Bohemo-Moravian nobility. At the same time, the term *miles* entered the language of documents as a general term for a nobleman-warrior and soon began to be used as a term for a member of the “lower” nobility. However, as will be elaborated on later, the term *milites* may have been used in some cases to refer to the entire nobility. The chronicler Cosmas still uses the term *milites* in this broad sense. In connection with a battle in 1087, he mentions an army composed of “warriors” (*ex electis militibus*) under the command of the prince’s son. Further narratives suggest that the term *milites* included both noble and common warriors. Cosmas mentions that after the departure of the “warriors of the second order” (*secundi ordinis milites*), “only noble” warriors (*nobiles*) perished. The warriors of the “second order” are also referred to by Cosmas as shield-bearers (*scutarii*).¹⁹

Documents from the 12th and 13th centuries contain another important term, *župan* (plural *župané*), which is related to the titles of the early nobility. This Czech (Slavic) word was usually recorded in Latin as *suppanus*, or *suppani*

16 CDB 2. Edited by Gustav Friedrich. Prague : Sumptibus comitorum Regni Bohemiae, 1912, pp. 248–251, no. 259; pp. 279–286, no. 286; pp. 391–393, no. 363; pp. 393–397, no. 364; CDB 3/1. Edited by Gustav Friedrich. Prague : Sumptibus Terrae Bohemiae, 1942, pp. 74–75, no. 70; pp. 147–149, no. 119; *Cosmae Chronicon Boemorum cum continuatoribus*. Fontes rerum Bohemicarum 2. Edited by Josef Emler. Praha : Museum Království českého, 1874, pp. 412, 414, 420, 474, 476.

17 ŠIMŮNEK 2007, pp. 407–409.

18 Selectively: CDB 1, pp. 85–87, no. 80; pp. 98–99, no. 91; pp. 110–111, no. 110; pp. 116–123, no. 115; pp. 323–325, no. 357: “Ego Groznata, dei gratia de primatum Boemie,” CDB 1, pp. 131–132, no. 141; pp. 137–138, no. 147; COSMAS PRAGENSIS, *Chronica Boemorum*, p. 154, II. 47; KALHOUS 2012, pp. 115–119; WIHODA 2007, p. 21; ŽEMLIČKA, Josef. *Počátky Čech královských 1198–1253. Proměna státu a společnosti*. Praha : Nakladatelství Lidové noviny, 2002, pp. 352–353.

19 See, indexes in the early documents to *nobiles*: CDB 1, pp. 161–163, no. 157; pp. 218–219, no. 247; to *barones*: CDB 1, pp. 254–255, no. 289; pp. 283–284, no. 311; to *milites*: CDB 1, pp. 154–155, no. 154; pp. 214–216, no. 245; pp. 246–247, no. 280; pp. 254–255, no. 289; pp. 260–261, no. 292; COSMAS PRAGENSIS, *Chronica Boemorum*, pp. 142–143, II. 39; ŽEMLIČKA 1997, pp. 200–201; WIHODA 2007, p. 21.

in the plural form.²⁰ It first appeared in a document of Frederick, Duke of Bohemia, from 1187, where secular individuals, including prominent officials, are referred to as *supanis* in the witness list.²¹ Scholars have attempted to explain the word *župan* etymologically as of Avar origin, adopted by some Slavs. It was used for important officials in the 9th century in the Great Moravian and Croatian states and was adopted in Bohemia, Poland and Hungary in the 10th century.²² In the Czech context, it was likely used in the 10th to 12th centuries and served as a domestic equivalent to the abovementioned Latin terms. The word denoted all significant officials of the ruler, especially those associated with castles and the court. The term *suppanus* eventually became synonymous with *comites* or *nobiles*, used for the socially highest-ranking noblemen. It began to be used in opposition to the term *milites*, which referred to less significant nobles holding lower offices and performing military service.²³ After consultation with *suppani*, King Přemysl Otakar I issued several important charters: confirmation of the Statute of Conrad Ota and an important privilege for the Church in Bohemia from 1222.²⁴

From the late 1260s, usage of the term *suppanus* became rare and by the beginning of the following century, it nearly disappeared. This change is convincingly interpreted as the transformation of the term *župan* into the shortened word *pán*, i.e. lord, with something similar happening in Poland. However, the meaning is not entirely identical; rather, it signifies a certain transformation. It also denoted the most significant nobles and later became a title for the higher nobility-lords (Estate of Lords). However, the term *pán* no longer referred to a “great man” or official (beneficiary), but to holders of free (allodial) property. In Latin sources, alongside older terms like *baro* and *nobilis*, lords are also referred to as *dominus*, in line with older Roman legal tradition, primarily signifying a sovereign landowner. Older narrative sources and documents use the term *dominus* to refer only to the ruler, his relatives and rarely to other, especially ecclesiastical, dignitaries. It should also be noted that the word *pán* (lord) was derived from the designation of minor noblemen (*panošě*) who were in the ser-

20 On the references in the sources and a detailed linguistic analysis, see: VYKYPĚL, Bohumil. *Studie k šlechtickým titulům v germánských, slovanských a baltických jazycích*. Brno : Masarykova univerzita, 2004, pp. 133–143. Cf. JANIŠ, Dalibor. *Zemské soudnictví na Moravě vrcholného středověku*. Brno : Maticе moravská, 2013, p. 85.

21 CDB 1, pp. 288–290, no. 317.

22 VYKYPĚL 2004, pp. 133–135, 149–153; SMILJANIĆ, Franjo. O položaju i funkciji župana u hrvatskim srednjovjekovnim vrelima od 9. do 16. stoljeća. In *Povijesni prilozi*, 2007, vol. 26, no. 33, pp. 33–102; CZARNECKI, Tomasz. *Szlachta. Studia o pochodzeniu historycznego terminu prawnego*. Warszawa : Uniwersytet Warszawski, 2014, pp. 91–92; BOGUČKI, Ambroży. Etymologie polskich nazw rycerstwa. In ŚLIWIŃSKI, Błażej (ed.) *Pielgrzymi, pogrobowcy, prebendarze. Studia z dziejów średniowiecza 15*. Malbork : Muzeum Zamkowe w Malborku, 2009, pp. 17–43 (here pp. 38–39); TŘEŠTÍK, Dušan. *Mysliti dějiny*. Praha; Litomyšl : Paseka, 1999, pp. 175–181. From older studies, especially ŠLECHTA ZE VŠEHRD, Antonín Petr. Ursprung und Bedeutung der historischen Bezeichnungen župa und župan. In *Mitteilungen des Vereines für Geschichte der Deutschen in Böhmen*, 1894, vol. 32, no. 1, pp. 1–17.

23 CDB 3/1, pp. 202–205, no. 164. 1237: “suppanis, militibus totique Brezlaiensis provincie;” CDB 4/1. Edited by Jindřich Šebánek and Sáša Dušková. Prague : Československá akademie věd, 1962, pp. 405–406, no. 235. 1252: “universis suppanis et militibus regni sui; nobiles et milites;” CDB 5/1. Edited by Jindřich Šebánek and Sáša Dušková. Prague : Československá akademie věd, 1974, pp. 220–222, no. 137. 1257: “suppani et alii quam plures milites et servientes;” cf. VYKYPĚL 2004, pp. 138–139, 142.

24 CDB 2, pp. 210–213, no. 227 (here p. 210): “de consilio suppanorum nostrorum.”

vice of lords—late medieval Polish sources also use this term. The Latin equivalent is usually considered to be the word *cliens*.²⁵

The dynamic development of the nobility in the 13th century brought with it the important term *vládyka*, which first appears in written sources at the end of the 13th century.²⁶ In Latin written sources, it is a Bohemian-ism that probably had no suitable Latin equivalent. From the 14th century onwards, the term appears in Old Czech written texts. The word is of proto-Slavic origin and appears in all Slavic languages in the Middle Ages, however with different meanings. In connection with the development of the Bohemian nobility, it referred to less important members of the nobility who did not belong to the elite, were not members of the royal or aristocratic retinue and were not in a servile position but at the same time possessed estates—land with subjects.²⁷ In the context of the sources of the 13th century, noblemen designated as *vládyka* can probably be classified as *nobiles minores*, which will be discussed later. From the 14th century, the term referred to members of the “lower” nobility, especially in Bohemia, while in Moravia it became more widespread in the 15th century.²⁸ However, even this term is not as clear-cut as it might seem. In the first half of the 14th century, the plural form, *vládyka*, was also used to refer to all groups of nobility in the sense of landed gentry, i.e. landowners with subjects—this undoubtedly was the basis of the term the verb *vládnout* (“to rule”). Holders of landed estates among the nobility are marked in this way, in the so-called Rožmberk Lawbook from the beginning of the 14th century for example, which it refers to Bohemian provincial law.²⁹

Assembly and administration of early medieval castles

Assemblies go back to ancient times in the Bohemian-Moravian area and were indirectly documented for Great Moravia in the 9th century by reports in sources about the adoption of certain decisions “by all Moravians” (*omnes Moravi*). Despite the possible multiplicity of such assemblies, the main ruler (prince) and all other (co-)princes, members of the ruling dynasty and aristocracy as representatives of important and powerful families—the structure of Moravian society is not entirely clear—had the final say. Sources indicate that the Great Moravian Assembly was connected with the holding of a regular (monthly) fair, i.e. a natural gathering of the larger population. The connection between the meetings of the assembly and the fair is proven or assumed in other countries as well.³⁰

25 VYKYPĚL 2004, pp. 139–140, 154–166; CZARNECKI 2014, pp. 26, 41; MACEK, Josef. *Česká středověká šlechta*. Praha : Argo, 1997, pp. 26–45; JANIŠ 2013, pp. 85–86; ŽEMLIČKA 2002, pp. 365–366; NOVOTNÝ, Václav. *Čechy královské za Přemysla I. a Václava I. (1197–1253)*. České dějiny 1/3. Praha : Jan Laichter, 1928, pp. 8–9.

26 *Regesta diplomatica nec non epistolaria Bohemiae et Moraviae 2* (RBM). Edited by Josef Emler. Praeae : Sumtibus regiae scientiarum societatis Bohemiae, 1882, pp. 614, no. 1422. The royal document of 1287: “si quisquam nostrorum nobilium, wladiconum, civium et aliorum quorumcunque;” RBM 2, pp. 804–806, no. 1872 (confirmation of the same document of 1301).

27 In the document of Vitek of Švábenice from 1309, witnesses mentioned by name are divided into groups according to their position. RBM 2, pp. 951–952, no. 2189: “domini ac hii nobiles [...] milites et hii etiam wladicones [...] et famuli nostri.” Cf. MACEK 1997, p. 69.

28 VYKYPĚL 2004, pp. 133–149; MACEK 1997, pp. 68–87.

29 MACEK 1997, p. 71; *Kniha Rožmberská*. Edited and translated by Vincenc Brandl. Praha : Jednota právnická, 1872, pp. 32–33.

30 LYSÝ, Miroslav. Panovníci, biskupi, velmoži a ľud. Zhromaždenia v historickom porovnaní

The assembly gatherings (*colloquia*) mentioned by Cosmas and his followers played a key role. They are primarily brought up in connection with the election and enthronement of the prince, whose election was not valid without the consent of “all Czechs” (*omnes Bohemi*). The assembly also elected the bishop of Prague at the ruler’s proposal. Representatives of the noble elite, the “leading men of the land” or the “elders of the land,” were always present and representing all the Czechs, as Cosmas noted, being the “voice of the people.”³¹ The exact number of this early nobility circle is not entirely clear. Referring to the year 1109, the aforementioned chronicler noted with some irony that 20 “small lords” (*dominelli*) had an influence on Czech affairs, which he said often led to anarchy. This mention has sparked a small discussion in Czech historiography about the interpretation of this passage. Some authors believe that the number of mentioned lords represents all adult male members of the Přemyslid dynasty, while other historians reject this possibility and believe that it is the number of the most important aristocrats, the noble elite, with decisive influence within the power structure of the Czech state.³² The participation and decisions of this elite were considered sufficient, equivalent to “the general consent” and resolutions of “all Czechs” or “the entire Czech nation.” In many cases, especially during the election and enthronement of princes, the presence of the broader masses of the people is also mentioned. However, the role of “the people” was passive, being there as witnesses or just audience; the people were part of the ceremonial ritual and their presence lent a broader legitimacy to the event.

Early medieval chroniclers hardly mention the organizational aspect of these assemblies. They probably took place regularly—according to their judicial function—in connection with Prague Castle, but could have also occurred elsewhere at princely castles and courts where nobles were summoned by the ruler. Cosmas provided a remarkable account of the assembly gathering that took place in 1068 in the—now extinct—village of Dobenín in eastern Bohemia during the campaign to Poland. Prince Vratislav II called for the assembly (*in cetus*) of “the people and leaders” (*populum et proceres*). Besides the prince, his brothers stood on his right and left sides, around them sat clergy and nobles (i.e. beneficiaries, *comites*), and behind them stood other warriors (*milites*). The assembly discussed the election of a new Prague bishop, who his brother Jaromír became against the prince’s will. Cosmas’s description of the whole, somewhat dramatic event illustrates that the *comites* were the decisive voices at the assembly. Other members of the emerging nobility and all common warriors were undoubtedly bound to these lords by their positions. In the assembly, they had a more passive role and belonged, along with others, to “the people”

mojmírovskej Moravy a arpádovského Uhorska. In *Forum Historiae*, 2019, vol. 13, no. 2, pp. 59–74; TŘEŠTÍK 1997, pp. 72–73.

31 COSMAS PRAGENSIS, *Chronica Boemorum*, p. 39, I. 19.

32 COSMAS PRAGENSIS, *Chronica Boemorum*, p. 198, III. 28. Cf. ŽEMLIČKA, Josef. “Dvacet pánů” české země (K vymezení panujícího rodu v 11. a 12. století). In *Časopis Matice moravské*, 1998, vol. 117, no. 2, pp. 293–309 (these 20 lords are unconvincingly identified with members of the ruling dynasty); WIHODA 2007, p. 26; recently ZELENKA, Jan. Několik poznámek k (ne) kosmovskému pojetí českých dějin. In *Český časopis historický*, 2024, vol. 122, no. 1, pp. 12–18.

mentioned by Cosmas, who understandably could not be more numerously represented at the specific gathering in the fields near Dobenín.³³

Castle administrators (*castellanus*) were prominent figures associated with castle administration. Alongside the term *castellanus*, we also encounter the Latinised German-isms *burggravius*, *burgravius* or *purchravius* from the beginning of the 13th century. This designation was used as a synonym for *castellanus*, as the same individuals were alternately referred to by both terms in the sources. Generally, based on the occurrence of these terms, it can be noted that the term *castellanus* is older and was used more in connection with early medieval castles, while the term *burggravius* appears more often in the context of new “stone” castles from the 13th century. Both terms, however, were alternately used throughout the 13th century and only later did the term *burggravius* prevail, which appears in Czech-language sources in its Bohemianised form *purkrabí*. In addition to these two terms, the specification *prefectus* appears several times, but an analysis of references has shown that it is merely a synonym for the two aforementioned terms.³⁴

The term *castellanus* could have had two somewhat different meanings in some cases though. In several witness lists in documents, this term is used in connection with one castle or the provincial centre for several individuals. For example, in 1222, a document from Margrave Vladislav Henry lists ten individuals collectively referred to as *castellani de Znoyem*, with the first of them being further identified as *burgravius de Znoym*.³⁵ Similar examples can be found from the 1220s in both the Moravian and Czech contexts. In these cases, the term *castellanus* did not only refer to the main official, i.e., the castle administrator, but also to other individuals from the nobility associated with the specific provincial administration centre or castle. In the sources, they are often designated in the plural as *castellani* or *castrenses*.³⁶ Cosmas, the chronicler, alternatively uses terms such as *cives*, *urbani*, *milites urbis*, *civitatis proceres*, etc. The castle administrator himself is usually listed first or is separately identified as *castellanus*, followed by a list of other nobles associated with the castle. In some cases, the term *burgravius* is used for differentiation. The *castellani*, officials and other nobles were tied to specific castles by the performance of their offices, though the territorial scope of their offices covered the entire province, likely owning certain residences directly in the areas of these castles, or in the forecourts or courtyards.³⁷

33 COSMAS PRAGENSIS, *Chronica Boemorum*, pp. 115–116, II. 23. On assemblies, see: ŽEMLIČKA, Josef. *Čechy v době knížecí (1034–1198)*. Praha : Nakladatelství Lidové noviny, 1997, pp. 342–347; ŠIMEČEK, Zdeněk. K charakteristice středověkých kolokvií v Čechách. In *Československý časopis historický*, 1970, vol. 18, no. 6, pp. 593–601; RUSSOCKI, Stanisław. Zgromadzenia przedstanowe środkowej Europy. Wstępna analiza porównawcza. In *Czasopismo prawnohistoryczne*, 1973, vol. 25, no. 2, pp. 1–17; ŽEMLIČKA, Josef. *Te ducem, te iudicem, te rectorem* (Sněmovní shromáždění v časně středověkých Čechách – kontinuita či diskontinuita?). In *Český časopis historický*, 1993, vol. 91, no. 3, pp. 369–384; POLÍVKA, Miloslav. České sněmy od jejich počátků do nástupu Habsburků na český trůn (1526)–nárys. In PTAK, Marian J. (ed.) *Sejm czeski od czasów najdawniejszych do 1913 roku*. Opole : Uniwersytet Opolski, 2000, pp. 19–30; WIHODA, Martin. Sněmy Čechů. In KNOZ – DVOŘÁK 2011, pp. 17–37.

34 JANIŠ 2013, pp. 86–87; JAN, Libor. *Vznik zemského soudu a správa středověké Moravy*. Brno : Matice moravská, 2000, pp. 38–39.

35 CDB 2, pp. 221–222, no. 233.

36 Cf. CDB 4/1, pp. 374–376, no. 211.

37 ŽEMLIČKA 1997, pp. 298–299; ŽEMLIČKA 2002, pp. 358–359; JANIŠ 2013, pp. 88–89; JAN

The formation of the office of the *castellanus* or, more generally castle administrator, is not entirely clear due to a lack of sources. It is assumed that a more developed castle system existed in the Czech lands only from the beginning or middle of the 11th century, with new castle centres emerging in the 11th and 12th centuries. However, the castle system was not a horizontally and vertically organised administrative system in the modern sense of the word, but rather was divided into several organisational levels.³⁸ For this reason, it is not possible to find an ideal “type” of official castle administrator that would be the same in all administrative centres in this early period. On the other hand, it is certain that the administration of important castle centres, represented by the prince, undoubtedly led to the creation of the significant office of “castle administrator.” The difficulty in identifying these early medieval officials is also due to the fact that they are not sufficiently differentiated in terminology, as the term *comes* is usually used collectively.

The *castellanus* was probably the most significant official who, apart from court offices, played a role in the administration of the early medieval Czech state until the beginning of the 13th century. The extent of the castellan’s powers in the early period is not entirely clear. It undoubtedly evolved with regard to the formation of the castle system during the 11th and 12th centuries. In general, it can be assumed that their jurisdiction applied to a given castle district, which was an administrative, economic and military unit. The *castellanus* was essentially the deputy of the prince, ensuring organisation of the castle operation with the help of lower officials, overseeing the castle supplies, participating in collecting taxes and other revenues with other officials and supervising the execution of land duties related to the construction and maintenance of castles, roads, bridges, etc. Also, the military role of the *castellanus* was important. This system applied not only to warriors (*milites*) from a particular castle, but also to the entire castle district. The military readiness from castle districts under the command of the castellan constituted individual components of the princely army.³⁹

The office of the castellan, like other benefices, was tied to the possession of certain properties and numerous incomes. The *castellanus* had a selection of lower castle officials at his disposal, who in turn supervised various servants and craftsmen. However, this “supreme command” of the castellan cannot, by any means, be extended to other provincial officials, especially the chamberlain (*camerarius*) and judge (*iudex*). This is particularly true for provincial centres in Moravia. Although their duties were practically linked to a specific castle, they actually covered the entire province, making these officials independent from the *castellanus* in terms of their authority and scope of activity. Moreover,

2000, pp. 39–41.

38 TOMKOVÁ, Kateřina. Hradiště doby Boleslava II. In POLANSKÝ, Luboš – SLÁMA, Jiří – TŘEŠTÍK, Dušan (eds.) *Přemyslovský stát kolem roku 1000*. Praha : Nakladatelství Lidové noviny, 2000, pp. 93–100; ŽEMLIČKA 1997, pp. 47–48, 175–180; ŽEMLIČKA, Josef. K dotváření hradské sítě za Břetislava I. In *Historická geografie*, 1995, vol. 28, pp. 27–47; PROCHÁZKA, Rudolf. K vývoji a funkčnímu rozvrstvení hradů 11.–12. století na Moravě. In MOŽDZIOCH, Sławomir (ed.) *Lokalne ośrodki władzy państwowej w XI–XII wieku w Europie Środkowo–Wschodniej. Spotkania Bytomskie 1*. Wrocław : Polska akademie nauk, 1993, pp. 109–141.

39 JANIŠ 2013, pp. 93–95; JAN 2000, pp. 38–39.

from sources in the first third of the 13th century, it is evident that chamberlain offices in major Moravian centres gradually overshadowed castellan offices in significance. Here, the importance of the castellan's role seems to decline.⁴⁰

The Statutes of Duke Conrad Otto

The Statutes of Conrad Otto constitute one of the oldest extensive sets of legal provisions in the Czech lands, surviving in three documents from the first half of the 13th century. The first was issued by King Přemysl Ottokar I in Znojmo in 1222, but only a 14th century copy has been preserved. A second version was issued by the same ruler in 1229 and a third was issued for the Břeclov province by Ulrich of Spanheim in Břeclov in 1237. Originals and copies of both the latter charters have been preserved.⁴¹

This set of legal provisions is traditionally known as the Statutes of Conrad Otto; though, this is a modern form. In the introduction of the first two versions of the Statutes, it is stated “that the rights previously established by our predecessors, such as since the good memory of Duke Conrad and others, and then by us, [...] were set forth.”⁴² Another reference to Duke Conrad is found in the wording of the first provision of the Statute, which speaks of the possession of estates “during the time of Duke Conrad” (*tempore ducis Conradi*). The final evidence regarding the name is a significant but somewhat indefinite note at the end of the document, issued by Duke Conrad Otto in Sadská in 1189. The document confirms a certain donation for the Johannite Order. The conclusion of the charter consists of an extensive subscription with the names of thirty-one witnesses, including the prince, the bishop of Prague, provosts, abbots, officials and lords, as well as “other abbots, clergy, monks and warriors from both Moravia and Bohemia who gathered in Sadská to hear the statutes (provisions) of Duke Otto.”⁴³ Based on the extent and wording of the document, it can be assumed that a significant colloquium took place in Sadská where the princely court and chapter were located, with the participation of prominent secular and ecclesiastical dignitaries from Bohemia and Moravia. The specific provisions that were declared in Sadská are unknown as the event is not mentioned in other sources. However, traditionally the provisions of the three aforementioned charters from the early 13th century are associated with this event in historical literature.

The origins and content of the Statutes present a rather complex issue that has received considerable attention in both older and more recent works.⁴⁴ The

40 JANIŠ 2013, p. 95.

41 CDB 2, pp. 222–225, no. 234; pp. 329–332, no. 325; CDB 3/1, pp. 202–205, no. 164.

42 CDB 2, p. 223, no. 234; p. 330, no. 325: “Ne autem ea iura, que prius a nostris predecessoribus, ut a bone memorie duce Conrado et ab aliis, postmodum autem a nobis in tota [...] provincia sunt statuta.”

43 CDB 1, pp. 296–297, no. 323: “et alii multi abbates, clerici, monachi, milites tam de Moravia, quam de Boemia, qui convenerant in Sazka ad audienda statuta ducis Ottonis.” On the princely court in Sadská (Central Bohemia) cf. ŽEMLIČKA 1997, pp. 343–344.

44 On the Statutes recently, see: JANIŠ 2013, pp. 151–156; JAN 2010, pp. 10–22; JAN, Libor. Statuta Konráda Oty a problémy jejich historické a právněhistorické interpretace. In *Časopis Matice moravské*, 2017, vol. 136, no. 1, pp. 3–34. From the older works, see especially: HORÁK, Petr. K statutům Konráda Oty. In *Sborník Matice moravské*, 1961, vol. 80, pp. 267–280; VANĚČEK, Václav. Glossy k tzv. Statutům Konrádovým. In *Sborník věd právních a státních*, 1941, vol. 41, no.

statutes represent the oldest known compilation of provincial law (*ius terre*), the roots of which were common to the entire Czech lands—it was only with further development that Bohemian and Moravian provincial law began to differ.⁴⁵ Most of the provisions are devoted to procedural law, the wording of individual articles is often very sparse, sometimes even incomprehensible, and the work uses numerous bohemian-isms.

The Statutes represent an important resource in understanding the structure of the Bohemo-Moravian nobility of the High Middle Ages. The recipient of all three charters was “collectively” the nobility in the individual Moravian provinces (1222 Znojmo, 1229 Brno and 1237 Břeclav),⁴⁶ and the form resembles royal mandates rather than documents addressed to specific recipients. The style of these charters is related to the fact that all three confirmations were preserved through two Moravian monasteries: the Premonstratensian monastery in Louka (1222, copy) and the Cistercian monastery in Velehrad (1229, 1237, both the original and copies). They were issued at the request of both monasteries, even though they are addressed towards local officials and the nobility. Historian Petr Horák connected the provisions contained in these documents with the acts of immunity charters, like many scholars before him had done. However, he did not consider the surviving confirmations to be a distinct type of immunity. According to Horák’s assumption, both monasteries compiled a summary of applicable local law, likely as it was proclaimed or renewed. Certain provisions, especially those relating to immunities, could have been useful to them in legal practice. The Statutes would then take the form of a kind of “semi-official” legal collection, prepared with the knowledge of the ruler. Horák explained the fact that only the two mentioned monasteries acquired the written form of the Statutes by emphasizing the significance of these religious institutions. The charters were not addressed to the nobility in Moravia as a whole, but to the nobles and provincial officials in the individual Moravian centres where the respective provincial courts sat.⁴⁷

The first two charters were issued directly by the king. In the introduction, he mentions this fact after consultation with the Bohemian and Moravian lords designated as *suppanis* (*cum fidelibus nostris suppanis, Boemis pariter et Morauis*). It is noteworthy that the first charter is formally addressed only to the *milites*, i.e., as if only to the lower-ranking, servile noblemen. It is possible that this was done to emphasize that the provisions were primarily binding for all the king’s servants.⁴⁸ On the contrary, the later version from 1229 explicitly addresses the important members of the nobility (*suppanis*) and all other noble (*nobiles*) and non-noble persons. The third charter from 1237, issued by the governor of the Břeclav province with reference to the royal authority, is addressed to *suppanis*,

2, pp. 105–159.

45 On the characteristics of legal relations in the Czech state with regard to the position of the ruler, cf. ŽEMLIČKA, Josef. “Právo knížete” a “právo země” jako pojmy staršího středověku. In *Český časopis historický*, 2015, vol. 113, no. 2, pp. 303–345 (on *ius terre* pp. 340–343).

46 On Moravian provinces, see: JAN 2000, pp. 17–32; JANIŠ 2013, pp. 47–75.

47 JANIŠ 2013, pp. 154–155; HORÁK 1961, pp. 267–280.

48 Similarly, in 1252, the royal mandate for the protection of the monastery of Plasy was addressed to “universis suppanis et militibus regni sui,” while later provisions concerning the nobility as a whole refer to “nobiles et milites” or only to “nobiles,” see: CDB 4/1, p. 406, no. 235.

*militibus totique vulgo Brezlauiensis provincie.*⁴⁹ These terminological variations are interesting in view of the fact that the provisions of the Statutes work only with the terms *nobiles* and *milites*.

The Statutes of Conrad Otto mention two types of judicial sessions. The first is a court where a judge (*iudex*) presided over the trial. According to the relevant provision, the judge was never supposed to act alone but only in the presence of a *castellanus* or several nobles (*nobiles*). The second type was a court of *villicus*. In the times when he presided, he was not supposed to seek advice outside the court (*ad capiendum consilium*) but was to rule together with warriors (*milites*). The next article stipulated that if it was time to start a trial with all parties present and the *villicus* was unable to appear, the judge (*iudex*) should preside with the warriors (*milites*). Both the judge and the *villicus* were required to always hold court sessions in the morning, not in the late evening hours. However, the Statutes do not explicitly state or strongly indicate the territorial or personal jurisdiction of these courts or the authority of both judges. Regarding local jurisdiction, it can be assumed—albeit very generally—that the jurisdiction of these courts always applied to the respective province, as is suggested by later details on specific individuals holding offices in the provinces.⁵⁰

The fields of jurisdiction of both courts have been the subject of discussion in both older and more recent studies. The latest research has shown that the court under the presidency of the judge (*iudex*) was a provincial court, intended mainly for private disputes of the nobility and in terms of procedural law, it was a proceeding initiated by private lawsuits. From these provincial courts held in the Moravian provinces, a direct line led to the High Medieval provincial court, as is known in detail from 14th and 15th century sources. The *villicus*'s court operated independently of private lawsuits and had a certain “public-law” nature. The judge, namely the *villicus* or provincial judge (*iudex provincialis, lantrichter*) as he was later often called,⁵¹ acted on his own initiative and prosecuted all criminals from official authority. The difference between the two courts, therefore, did not lie in a different, mutually superior or subordinate position or jurisdiction, but only in a different type of initiative commencing the respective proceedings. Later sources from the 14th century show that the court of *villicus* (*iudex provincialis*) had primarily a criminal jurisdiction. Assessors act as an undoubtedly important clue regarding the nature of the above-mentioned courts, also known as *nobiles* in the case of the judge's court and *milites* in the case of the *villicus*'s court.⁵²

49 CDB 2, pp. 222–225, no. 234 (here p. 223): “omnibus generaliter Znoymensis provincie militibus;” CDB 2, pp. 329–332, no. 325 (here p. 329): “suppanis et omnibus nobilibus atque vulgo provincie Brennensis;” CDB 3/1, pp. 202–205, no. 164 (here p. 202).

50 JANIŠ 2013, pp. 176–177.

51 On the terminology, see: JANIŠ 2013, pp. 143–144.

52 JANIŠ 2013, pp. 137–150, 176–179; JAN 2000, pp. 42–54, 128–130; JAN 2010, pp. 10–22.

The term *nobilis/nobiles* appears in several provisions of the Statutes and was a general term for members of the nobility.⁵³ Differences in the status of individual nobles are referred to in the first provision—widely discussed in the literature—which refers to the confirmation of the free estates (*hereditates*) of all nobles “greater and lesser,” i.e. the elite and lesser persons (*virii nobiles tam maiores quam minores*). As described above, in the early Bohemo-Moravian nobility, these were significant lords whose status derived from their wealth, origin, participation in governmental power—holding of significant offices at the court or in the provinces—and also in the creation (finding) of the law. Such links to the provincial court was crucial in Bohemia and Moravia. In the 15th century, noble families whose members had the right to sit as judges in the courts formally constituted the Estate of Lords, in each of the two countries separately, of course.⁵⁴

In addition, the significance of the term *miles/milites* is somewhat ambiguous. In later periods, this is what knights or members of the lower nobility were called in general, which led some historians to believe that the courts from the Statutes are “higher” and “lower” nobility courts. However, we cannot assume such an Estate division for the 13th century. While sources often indicate a certain division emerging among the nobility concerning their social status and importance (nobility), relationship to the ruler, property held, etc., both categories were by no means closed. The formation of two noble Estates, the Estate of Lords and the Estate of Knights, has its roots in the 13th century, but their final establishment in a political and legal sense falls in the late 14th century, when the Estate of Lords was created.⁵⁵

Similar to the term *nobiles*, *milites* could also refer to members of the nobility in general in the 12th and 13th centuries. The word *miles* can be translated as “warrior,” and when using this term, a typical characteristic of this emerging nobility is emphasized; military service or the general military character of medieval knighthood. It was not only a designation for “ordinary,” less significant warriors, but sometimes all noblemen including the most significant were referred to as *milites*. Individual wealth and social-political status were then expressed by the emerging division into *milites primi et secundi ordinis*.⁵⁶

53 For example, article 17, referring to murder, emphasises that the status of the perpetrator does not matter, who could be either noble or non-noble (*nobilis vel rusticus*), see: CDB 2, pp. 222–225, no. 234 (here p. 224).

54 Cf. JANIŠ, Dalibor. Nalézání práva a zemské soudnictví v českých zemích. In JAN – JANIŠ et al. 2010, pp. 23–46; NOVOTNÝ, Robert. Uzavírání panského stavu a problematika nobilitací v pozdním středověku. In DOLEŽALOVÁ, Eva – NOVOTNÝ, Robert – SOUKUP, Pavel (eds.) *Evropa a Čechy na konci středověku. Sborník příspěvků věnovaných Františku Šmahelovi*. Praha : Filosofía, 2004, pp. 291–306; JAN 2019, pp. 258–259; ŽEMLIČKA 2002, pp. 365–367.

55 Cf. MEZNÍK, Jaroslav. Česká a moravská šlechta ve 14. a 15. století. In *Sborník historický*, 1990, vol. 37, pp. 7–35; MEZNÍK, Jaroslav. Markrabě a páni. (K mocenskému dualismu na Moravě v době předhusitské). In *Sborník prací Filozofické fakulty brněnské university (Řada historická C)*, 1995, vol. 42, pp. 39–50; MEZNÍK, Jaroslav. Vývoj a systém stavovské reprezentace v českých zemích v pozdním středověku. In *Sborník prací filozofické fakulty brněnské university (Řada historická C)*, 1997, vol. 44, pp. 71–81; JANIŠ, Dalibor. Moravská šlechta v pramenech zemského práva pozdního středověku. K problematice obsazení zemského soudu a úřadů. In KNOZ – DVOŘÁK 2011, pp. 63–79; MLATEČEK, Karel. Nižší šlechta na Moravě před husitskou revolucí. Možnosti dalšího studia. In DOLEŽALOVÁ – NOVOTNÝ – SOUKUP 2004, pp. 281–290.

56 In 1138, Duke Soběslav I summoned all “warriors of the first and second order” to Sadská to confirm his son’s succession. This was in fact a representative group of Bohemian nobles. *Cosmae*

In a narrower sense, the term *militēs* refers to nobles who were in a certain way bound to the ruler and later to the most significant secular and ecclesiastical feudal lords, including all vassals or *ministeriales*. These *militēs* were either direct retainers or were most commonly tied in some way to individual castle (provincial) centres through military service or offices, usually associated with specific estates (*beneficia*). They can be identified with the mentioned beneficiaries, including all *castellani*, *castrenses* and the like. In many ways, this system resembled classic feudal relationships as known from the Western European context. The granting of *beneficia* is evidenced by some phrases in documents: *inbeneficiatus*, *beneficiarios nostros et nobis infeudatos* [i.e. by the king], etc. Many references in documents demonstrate the affiliation of specific estates to individual castle offices or castles.⁵⁷ It follows from the above that the assessors of both types of provincial courts were different in their positions, with the awareness that both categories overlapped in the wording of preserved sources, as they undoubtedly often did in reality. The use of both terms in the Statutes, however, is consistent and emphasized the different positions of both groups of early nobility with certainty.⁵⁸

Many *militēs secundi ordinis* were among the servants of noble lords (*nobiles*), as a clause in the Statutes indicates. The ninth article mentions a special action (denoted by the Bohemianism *narok*) concerning robbery or theft; if the crime were committed against a nobleman (*nobilis vir*), he could be represented by his servant. Such representation was not possible in the case of persons referred to by the term *druho*, which meant members of a retinue (the Czech word *družina*, retinue, is related to this term). A *druh* can therefore be considered a noble person, i.e. a nobleman in a lower position, in a servile relationship to a lord. Sources do not provide much evidence. A list of witnesses from Znojmo in the 1225 charter for the Louka monastery is one example. Among the persons mentioned is Lutold of Lesonice, undoubtedly a nobleman, and further on is *Chrepecz de Lisiniz*, *drugo Lutoldi*, probably his servant.⁵⁹ Members of this “lesser” nobility were usually referred to as *cliens* or *servus*. The term *miles/militēs* also appears for this class, showing its multifaceted nature.⁶⁰

The Statutes of Duke Conrad Otto mention the arrangement of four main provincial officials, castellan, chamberlain, judge, and *villicus*, who operated in major Moravian centres, and from whom a line leads to the late medieval provincial offices known from 14th century sources. An analysis of prosopographical data and the terminology used in connection with these offices, as well as reports from other documents, clearly shows that the office of the judge (*iudex*) is the direct predecessor of the office of the high provincial judge, and the office of the chamberlain (*camerarius*) is similarly the predecessor of the office of the

Chronicon Boemorum cum continuatoribus, p. 229; cf. ŽEMLIČKA 1997, pp. 344–345.

57 CDB 2, pp. 103–104, no. 109; pp. 229–232, no. 239; pp. 315–319, no. 320, etc. Cf. JAN, Libor. *Václav II. a struktury panovnické moci*. Brno : Matice moravská, 2006, pp. 188–193; JAN 2007, pp. 48–51; JAN 2019, pp. 252–253; ŽEMLIČKA 2008, pp. 109–136; ŽEMLIČKA 2002, pp. 360–361; JANIŠ 2013, pp. 178–179. Recently ZELENKA, Jan. *Beneficium et feudum. Podoba a proměny lenního institutu*. Praha : Historický ústav, 2016, pp. 137–173.

58 JANIŠ 2013, pp. 178–179.

59 CDB 2, pp. 260–261, no. 268; ŽEMLIČKA 1997, pp. 477, 200.

60 ŽEMLIČKA 2002, pp. 360–361.

high provincial chamberlain. From the 14th century, castellans (later burgraves) connected with Moravian centres belonged to the so-called minor provincial officials.⁶¹ The forum of justice where, according to the Statutes, the judge sat together with the nobles (*nobiles*) can be considered the direct predecessor of the regular provincial court without much doubt, (at the end of the 13th century and during the first half of the 14th century, the sessions of the provincial courts were concentrated in two places—the royal towns of Brno and Olomouc, where the provincial court sat alternately). Assessors of the court were composed of the landed nobility, who had developed the law. The jurisdiction of this court covered both contentious and non-contentious matters related to free properties and later to land-registry, and the nobility was personally subject to this court. Proceedings before this forum of justice took place according to the rules of an accusatory process based on private lawsuits, even in the case of disputes of a criminal nature. It is evident that this judicial forum of the nobility, which convened only a few times a year, could not deal with cases related to the exercise of ordinary public criminal-police power. These disputes fell under the jurisdiction of the *villicus*'s court, which very likely proceeded according to the rules of an officially initiated accusation in the gradually emerging inquisitorial type of process.⁶² Although the validity of the Statutes of Conrad Otto is documented only for the Moravian provinces, and not all of them—Olomouc is missing, we can assume that the provisions were also valid in Bohemia, which is indirectly proven by a the cited document from 1189. Thus, some common or similar elements accompanied the establishment of the provincial court in Bohemia.⁶³

Conclusion

The early nobility of the Czech lands played an important role in terms of power and military alongside the monarch, and contributed significantly to the formation of early provincial law. However, the origins of the nobility in the Czech lands are not entirely clear due to a lack of written sources, with the question of the stratification of the early nobility particularly difficult. Written sources give a clearer picture only for the period of the 11th and 12th centuries, from which considerably more sources—both documents and chronicles—have survived.⁶⁴ Although the main source for the Czech early Middle Ages, the Chronicle of Cosmas, describes the earlier events connected with the formation of the Czech state and the role of the nobility at that time, the chronicler's conception of the early nobility corresponds more to the time in which he

61 JAN 2000, pp. 123–127; JANIŠ 2013, pp. 244–246. Recently JANIŠOVÁ, Jana. Menší zemský soud Markrabství moravského v pramenech z let 1576–1618. In *Olomoucký archivní sborník*, 2023, vol. 21, pp. 48–63

62 JANIŠ 2013, p. 180.

63 JANIŠ 2010, pp. 23–46; JANIŠ, Dalibor. The Provincial Court of Justice and the Basis of Identity of the Bohemian and Moravian Nobility. In ANTONÍN MALANÍKOVÁ, Michaela – ANTONÍN, Robert et al. (eds.) *Collective Identity in the Context of Medieval Studies*. Ostrava : Ostravská univerzita 2016, pp. 61–79; JAN 2006, pp. 194–215; JAN, Libor. Zrod zemského soudu v Čechách. In BARCIAK, Antoni (ed.) *Kultura prawna w Europie Środkowej*. Katowice : Instytut Górnośląski, 2006, pp. 227–239.

64 Archaeology has made a significant contribution to our knowledge of the early elites in the Czech lands and its value cannot be overlooked. Recently, in particular, see: PROFANTOVÁ, Naďa. Archeologie elit v Čechách. In BOHÁČOVÁ – SOMMER 2020, pp. 147–170.

lived and worked, i.e. the end of the 11th and the beginning of the 12th century. As this chronicle is primarily a literary work, the terminology used is not “official.” Nevertheless, it provides at least basic information about the structure of the early medieval Bohemo-Moravian nobility, data that can be compared with other surviving documents. Cosmas clearly defines a ruling noble elite (*comites, proceres, primates*), which represented “all Czechs,” i.e. the entire free population. Division of the elites is reflected in Cosmas’ use of the phrase *Boemi primi et secundi ordinis*.⁶⁵

Research has clearly shown that the status of the early nobility was hereditary, but the prince could ennoble some members of his retinue or court. Another important feature was participation in the exercise of public power, especially in the assemblies associated with the election or installation of the prince. Members of the early nobility held offices associated with landed property, offices that were attached either to the sovereign’s court or to individual castles or provinces. Important provincial offices were connected to the provincial judiciary. Membership of the noble elite was associated with the right to be assessor of the provincial courts and to make (find) law. Members of the early nobility could also hold free land (allodial estates), although the ownership of landed estates only became important in the 12th century. In the 13th century, the landed gentry with large estates and castles of their own began to emerge. A series of fundamental changes that the Czech lands underwent in the 13th century, including the transformation of royal power, colonisation and the establishment of towns, also affected the nobility. This was reflected in the terminology used. The elite group of the nobility, associated with a share of power and important offices, was referred to by the terms *nobiles, suppanes, barones, domines*. Nobles who were in the service of the monarch or important persons among the lords or clergy (bishops) were usually called *milites* or *clientes*. The members of this so-called lower nobility were quite numerous, as can be seen from sources dating back to the 14th century. However, the two groups did not yet form closed Estates, these came later, as mentioned above. The Estates of the Lords began to form around the turn of the 14th and 15th centuries, while the Estates of the Knights in both countries (Bohemia and Moravia) only emerged as a result of the Hussite Revolution.⁶⁶

65 COSMAS PRAGENSIS, *Chronica Boemorum*, p. 234, III. 58.

66 On the Estates system, see: ŠMAHEL, František. Obrisy českého stavovství od konce 14. do počátku 16. století. In *Český časopis historický*, 1992, vol. 90, no. 2, pp. 164–166; ŠMAHEL, František. Das böhmische Ständewesen im hussitischen Zeitalter: Machtfrage, Glaubensspaltung und strukturelle Umwandlungen. In BOOCKMANN, Hartmut (ed.) *Die Anfänge der ständischen Vertretungen in Preußen und seinen Nachbarländern*. München : Oldenbourg, 1992, pp. 219–246; KEJŘ, Jiří. Počátky a upevnění stavovského zřízení v Čechách. In *Právněhistorické studie*, 1997, vol. 34, pp. 63–95; MEZNÍK, Jaroslav. Vývoj a systém stavovské reprezentace v českých zemích v pozdním středověku. In *Sborník prací filozofické fakulty brněnské university (Řada historická C)*, 1997, vol. 44, pp. 71–81; POLÍVKA, Miloslav. Některé aspekty vývoje stavovství v české společnosti předhusitské a husitské doby. In *Folia Historica Bohemica*, 1984, vol. 6, pp. 17–56; VÁLKA, Josef. Stavovství a krize českého státu ve druhé polovině 15. století. In *Folia Historica Bohemica*, 1984, vol. 6, pp. 65–98.