

Charalambos K. Papastathis, *Τὸ νομοθετικὸν ἔργον τῆς Κυριλλομεθοδιανῆς ἱεραποστολῆς ἐν Μεγάλῃ Μοραβίᾳ*, (Ἑλληνικὴ Ἑταιρεία Σλαβικῶν Μελετῶν, 2), Thessaloniki 1978, 142 pp. (summary in French: *L'œuvre législative de la mission Cyrillo-Méthodienne en Grande Moravie*, pp. 132-142).

The bibliography of works devoted to the activities of the Cyrillo-Methodian mission and its cultural heritage today constitutes several thousand items. Until recently one could state as a paradoxical curiosity how little of this vast literature was written in Greek or by Greek authors at all, although in the history of the endeavours of the Byzantine empire to assert its influence on the Slavonic nations the mission of Cyril and Methodius undoubtedly ranks among the most significant events, at least as far as the consequences are concerned. An essential turning point in this respect was the 1100 anniversary of the arrival of the Byzantine mission in Great Moravia, which was marked in Thessalonica, the city of origin of both Slavonic apostles, by the publication of an imposing memorial volume in two parts (1966 and 1968) edited by professor J. E. Anastasiou. Thessalonica, too, obviously, continues to be the centre of Slavonic studies in Greece. It is the seat of the Institute for Balkan Studies and the Hellenic Society for Slavic Studies, which has been publishing the journal *Cyrillo-methodianum* since 1971 and since 1976 also a series of monographs; as its second volume appeared the book by Ch. K. Papastathis devoted to the legal work of the Cyrillo-Methodian mission in Great Moravia.

In studying the literary works of the Byzantine mission in Great Moravia the writings of legal nature were long neglected. The attention of scholars mostly concentrated on the questions of Slavonic liturgy, on translations from the Greek into Old Slavonic as well as on the original works written in Old Slavonic, whether they were of hagiographical or hymnographical nature. The activities of Cyril and Methodius in the legal sphere were either not taken into consideration at all, or were regarded in the context of their literary work as a whole as something marginal and rather insignificant. Whereas only the Old Slavonic Nomocanon, whose translation by Methodius is mentioned in the Old Slavonic *Vita Methodii*, was deemed to be a legal relic of the Cyrillo-Methodian period, because the earliest Old Slavonic civil code known under the title *Zakon sudnyj ljudem* (ZSL) was generally considered to be a work of Bulgarian origin.

It was only after the Second World War that a new stage in viewing the work of the Cyrillo-Methodian mission was ushered in. A contribution to this was a more detailed analysis of a text—the so-called Anonymous Homily in the Glagolitic Codex Clozianus—which, although known for over one hundred years, had not been devoted sufficient attention before. The origin of this Homily, for which no Greek model is known, used to be placed in this South-slavonic environment until R. Nachtigal and N. van Wijk pointed out its more probable Moravian provenance. In two studies, written independently from each other, F. Grivec and A. Vaillant came to the conclusion that this Homily was the original work of the Moravian Archbishop Methodius. The Czech scholar J. Vařica crowned these investigations by comparing the "Anonymous" Homily with the ZSL and showing that this text, an adhortation addressed to the princes-judges, has an immediate connection with the ZSL and refers to it directly. Vařica devoted several studies to the analysis of Old Slavonic legal texts of Great Moravian origin, whose results he summarized briefly, but clearly and accurately, in the respective chapter of his book *Literární památky epochy velkomoravské* (*Literary Relics of the Great Moravian Epoch*), Praha 1966, pp. 63-83. He arrived at the conclusion

that the legal works were not merely some marginal or supplementary part of the activities of Cyril and Methodius, but on the contrary they stood in the foreground; he even went as far as putting forward the hypothesis that the Moravian Prince Rastislav summoned the Byzantine mission to his land above all for them to establish a code and implement it.

Vašica based his theory on a thorough analysis of all the preserved Old Slavonic legal texts. Nevertheless, in spite of the fact that he dealt with them from the point of view of their legal content, his chief arguments lie in his philological proofs carried out with great erudition and later supplemented by still further scholars. It was, however, impossible to say that also the legal-historical analysis of all these texts had been performed to ensure lasting validity. Evidence is provided by the latest work dedicated to them—the edition *Magnae Moraviae fontes historici*, vol. IV: *Leges-textus Juridici*, Brno 1971. Vašica had prepared for it a new critical edition of the Nomocanon to which as well as to the ZSL he added extensive introductory studies and a detailed commentary. Unfortunately he died before he could complete this work, and so his texts were prepared for publication later by his pupil K. Haderka, who also did not live to see the publication. The distinguished connoisseur of Slavonic law, V. Procházka, was supposed to write the study about and the commentary to the Anonymous Homily. However, his premature death interrupted the work of preparing the edition at its very beginning.

I have outlined the comprehensive development of the research so far, especially with regard to the Anonymous Homily in order to indicate how Papastathis's book is integrated into this development and in what respect it makes a contribution. Papastathis is a specialist in the history of law. He is well acquainted with the results of work done in this field by Slavonic philologists and is aware of its importance for determining the time and place of the origin of the individual texts in question. He however, firmly states his intention not to duplicate this work nor adopt it mechanically, but wishes to carry out independently an analysis of the legal contents of the earliest Slavonic legal texts and only then draw comparisons between his own results and those accomplished by the philologists. This procedure undoubtedly has certain advantages, because it represents an attempt at an objective verification of the results achieved by various methods. Although at the same time it, of course, also has its stumbling-blocks. After all it is almost impossible to strictly separate the legal-historical analysis from the philological one and a final conclusion can only be reached by a complex analysis of the relics under study.

One of the great advantages of Papastathis's procedure is that he investigates the legal works of the Cyrillo-Methodian mission as a whole. In his opinion the ZSL, the Anonymous Homily and the Nomocanon are closely connected and supplement each other. Papastathis considers the Anonymous Homily, to whose analysis he devotes the most space, as the key text for determining the mutual relationship of all three texts. This is the more valuable in that an analysis of this Homily is lacking in MMFH vol. IV (as above mentioned) and thus Papastathis fills the blank spaces the late J. Vašica and K. Haderka left. I shall not repeat here all the results Papastathis arrived at, because he himself gives a full enumeration of them in the 29 points at the end of his book and summarizes them in brief in a French résumé. His analysis of the Anonymous Homily goes into great detail. Naturally to a certain extent there is a consensus with Vašica's analysis, in many ways, however, he makes an essentially new contribution. This is for instance his analysis and comparison of the legal institutions found in the Homily with the legal systems in use. Papastathis ascertains that whereas with regard to questions of monogamy and the preconditions for arranging a marriage the Homily

fully agrees with the principles of Roman-Byzantine law, with regard to adultery and divorce it follows the teachings of the Church.

The Anonymous Homily, according to Papastathis, has the character of a supplement. It assumes the existence of a code, but a primitive and incomplete one that must be amended and explained. In this connection the author analyses the use of the expression *zakon* in the Anonymous Homily. This term is undoubtedly employed for the Holy Scriptures, either as a whole or the Old or New Testament separately. In this sense, however, it is always used with some attribute (e.g. divine etc.). Besides this however, we find it used without any attribute and Papastathis convincingly points out that in this case the term *zakon* means the written collection of laws the Homily follows up and explains.

Papastathis speaks of the originality of the Anonymous Homily (that is the very title of the third chapter of his book). He proves that we are not concerned with a translation from the Greek, but with an original work written in Old Slavonic. The evidence he provides for this assertion (in particularly against A. Vaillant) is convincing. We must point out, though, that this view was held by some other scholars also. Very interesting and convincing are Papastathis's deductions that the Anonymous Homily could have come into existence only after 692, when the Council in Trullo formulated spiritual relationships as an impediment to marriage, and that therefore it must have originated outside the Byzantine Empire, because in this period Christianity had fully asserted itself in it and there was no need to battle against heathen customs. Similarly pointing to the *zakon* in terms of an incomplete legal code was essentially quite impossible inside the Byzantine Empire with its mature legal system.

The author proves that the region where these legal texts came into being could only have been Great Moravia. He criticizes Trojicki's theory regarding the Macedonian origin of the ZSL and especially the widespread theory of its Bulgarian provenance. Against the latter he gives the following reasons: 1) a considerable maturity of the organizational structure of the Bulgarian state, for which a code as imperfect as the ZSL could not have been suitable; 2) considering that the Greek Ecloga had already been introduced in Bulgaria, there was no need for an introduction of a partial compilation on its basis in the Slavonic language; 3) it is hardly likely that after the abolition of the Ecloga in Byzantium (870-879) a code would be introduced in Bulgaria based on the Ecloga. These reasons undoubtedly bear witness against the view that the ZSL stems from Bulgaria, but in my opinion they in themselves are not sufficient evidence for refuting this theory. Certainly they supplement and support in a fundamental way the philological proofs regarding the West Slavonic, Moravian origin of the ZSL, but the philological evidence is undoubtedly of primary importance in this respect. That is why I mentioned above that reliable conclusions can only be drawn on the basis of a complex analysis of these texts. There is no intention in my comment to minimize the significance of Papastathis's analysis in this direction, but I do think that he narrowed down unnecessarily his working procedure only on the field of the history of law, and this the more so in that he demonstrates his full understanding of the philological problems. I should like to point out for instance his translation and interpretation of the much discussed term *vrěme*, where in my opinion he correctly, as opposed to Vařica, translates this expression in its original literal meaning of "time" and not as "sordid deed".

Although the prevailing opinion regarding the Great Moravian origin of the ZSL seems to be the most probable today (cf. also H. W. Dewey - A. M. Kleimola, *Zakon sudnyj ljudem*, Michigan Slavic Materials 14, Ann Arbor 1977, p. XII), its authorship remains a disputed

question. J. Vašica pronounced, on the basis of his findings that between the Nomocanon and the so-called Anonymous Homily, whose author was undoubtedly Methodius, and the ZSL there are certain linguistic and stylistic differences, the opinion that the ZSL was the work of Constantine the Philosopher. This opinion, however, has not been generally adopted. Most recently, Bohumila Zástěrová, "Über zwei grossmährische Rechtsdenkmäler byzantinischen Ursprungs", in: *Beiträge zur byzantinischen Geschichte im 9.-11. Jahrhundert*, ed. by V. Vavřínek, Prague 1978, pp. 373 ff., proved convincingly that the author of all the three Old Slavonic legal writings originating in Great Moravia was Archbishop Methodius. Papastathis, whose book was written independently of the study by B. Zástěrová, defends the same opinion. Whereas, however, the latter fixes the origin of the ZSL to the period when Methodius was the Moravian Archbishop, that is to say probably the seventies of the 9th century, Papastathis maintains it came into being during the first phase of the Byzantine mission in Great Moravia, i.e. between 863-866. His premise is founded on the ascertainment that the ZSL was set down prior to the Anonymous Homily, which he dates to the years 873-879. His hypothesis may be plausible, but according to my view the dating cannot be proved unequivocally; B. Zástěrová's dating is equally possible. For this question is also connected with the problem of the social function of these codes in the Great Moravian society, which Papastathis does not pose in his book. In agreement with Zástěrová I believe the ZSL never constituted an official legal norm in Great Moravia, and thus it is the less likely that Rastislav would directly demand the drafting of a code for his state. Rather I regard the legal writings of Great Moravian origin as an attempt by the Byzantine mission to introduce a strict legal order into a society, whose state form and administrative structure was only in the process of being formed and to which a concept of law in the Roman-Byzantine sense was as yet unknown. The far and few reports we have at our disposal would rather point to the endeavours of the Moravian Archbishop and his supporters never quite being crowned with full success, and it is possible that this also was a source of conflicts between Methodius and Svatopluk.

The least controversial legal text of Great Moravian origin seems to be the Nomocanon, which doubtlessly can be put down to the authorship of Methodius. It is also long well-known that this is a shortened and adapted version of the Synagoge of John Scholasticus in 50 chapters. J. Vašica devised an exemplary critical edition of Methodius's Nomocanon which, provided with an extensive critical study, was published in *Magnae Moraviae fontes historici, IV*, Brno 1971, pp. 205-363. Papastathis follows up this work; he does not, however, agree with Vašica's assertion that Methodius created a new, "Great Moravian" type of Nomocanon. He maintains that in spite of all the adaptations and shortening the Methodius's Nomocanon in no way essentially differs from the traditional Byzantine nomocanons. He is certainly right in this, nevertheless I do not think there is a fundamental difference between the two opinions. Vašica decidedly did not maintain that Methodius's Nomocanon had an anti-Byzantine bias, against the Patriarch of Constantinople in favour of the Roman Pope, but wanted to express in this formulation that Methodius adapted the traditional Nomocanon to suit the needs and conditions of the Great Moravian society. This approach was characteristic for the Cyrillo-Methodian mission and was evident in all spheres of its activities. I have tried to point this out in my own work, e.g. in my book *Staroslověnské životy Konstantina a Metoděje* (Old Slavonic Lives of Constantine and Methodius), Prague 1963, or more recently in my study "The Introduction of the Slavonic Liturgy and the Byzantine Missionary Policy" in the quoted volume *Beiträge zur byzantinischen Geschichte im 9.-11. Jh.*, Prague 1978, pp.

251-281. Any antagonism between the Eastern and Western Churches was alien to Constantine and Methodius, whose ideas sprang from the traditions of early Christian universalism and who fully adapted their work to the needs of the society in which and for which they worked. One may therefore agree entirely with Papastathis when he characterizes Methodius as "a faithful son of the undivided Church" (p. 59).

Papastathis's book does not solve all the problems concerning the legal work of the Cyrillo-Methodian mission quite completely, because it will be necessary to take into consideration the philological aspects of the problem and also to solve it sufficiently in its historical-social context to arrive at a definite solution. Nevertheless Papastathis's legal-historical analysis of the above-mentioned three texts represents a great contribution to gaining knowledge of these problems and all further research will have to take into account his book. It is a valuable contribution to the study of the questions of the spreading of Byzantine law among the Slavs and the activities of the Cyrillo-Methodian mission as such.

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Stella Alexander, *Church and State in Yugoslavia Since 1945*. New York: Cambridge University Press, 1979, 351 pp.

Stella Alexander's work fills an important gap in the voluminous literature which chronicles the formative years of the postwar Yugoslav state. The title, *Church and State in Yugoslavia since 1945*, is too pretentious, particularly since seven of the nine chapters are largely devoted to the formative years of Tito's Yugoslavia; only the last two chapters deal with the events of the 1960's. The author utilizes only historical techniques in her analysis, which has the virtue of presenting an objective chronicle of events but without deeper probing into their broader social ramifications. The author herself calls the volume "a preliminary study of a recent historical period, for which many essential documents are still not available...". She utilizes a profusion of indigenous sources and obviously has interviewed many of the principals who were actors in the frequently dramatic events. The center of gravity of the book is an analysis of the relationship between the socialist state and the Roman Catholic Church. The Serbian Orthodox Church receives only a secondary place in her analysis; the Yugoslav Muslims receive barely glancing mention.

There are sound historical reasons for this choice. The relationship with the Catholic Church provided most of the high drama in the early years of the regime, even though all religion faced a difficult period when the Partisan Movement established itself as the government in power in Yugoslavia. Its Communist leadership was determined to contribute to the demise of religion as a potent social force and would in retrospect, no doubt, admit that it was the result of an "over-optimism" generated by most victorious revolutions. As Stella Alexander repeatedly points out, the Party was caught in the contradiction of professing the freedom of conscience and worship while obstructing all but the most pliant manifestations of the organized church, whether Orthodox or Catholic, and exposing their hierarchies to tolerated random terrorism. The Catholic Church, with its hierarchial structure which had its supreme authority outside the borders of the country, proved to be the most intractable. The Church's moral and titular leader in the early postwar years was the doctrinally rigid Archbishop of Zagreb, later Cardinal, Alojzije Stepinac. Immediately after the country's