

IN MEMORIAM

Acta Poloniae Historica
101, 2010
PL ISSN 0001-6892

JULIUSZ BARDACH (3 November 1914 – 26 January 2010)

On 26 January 2010 died the Nestor of Polish historians of law – Professor Juliusz Bardach. He was born on 3 November 1914 in Odessa, just after the outbreak of the First World War. He was to come to Poland with his family in 1922. Having settled in Włodzimierz Wołyński (Volodymyr-Volynskiy), it was there that he was to spend his youth and obtain his school leaving certificate. As a place of study he chose the Faculty of Law and Social Sciences at the Stephen Báthory University in Wilno (Vilnius), especially because – as he underlined – of the said ‘social sciences’ of the faculty’s name. This was probably symptomatic: in the whole of his later activities the law and its history was to be viewed by him in a broad social, cultural and economic context.

The University itself cultivated the tradition of the Vilnian Academy (1579-1783), the Main School of Grand Duchy of Lithuania (1783-1803) and the Imperial Vilnian University (1803-32). It was in this atmosphere that Juliusz Bardach quickly associated himself with the seminar in the history of the institutions, law and society of the Grand Duchy of Lithuania, which was directed by Stefan Ehrenkretz. It was also to him that he was to owe his academic debut: as a twenty-year-old student of the second year he was to take the floor at the history of law section of the 6th General Congress of Polish Historians (Wilno, 1935), where he polemicalised with the leading authorities of the day: S. Ehrenkretz, Wojciech Hejnosz and Franciszek Bossowski. These opinions were to be subsequently published in the Congress’s journal.

During the seminar programme he was to find his own subject area: the *adoption* not present in the Statute of Lithuania, yet visible in the documents of practice. His thesis, published in 1938, met with a sympathetic reception on the part of the most eminent academics of the time, including Stanisław Kutrzeba and Przemysław Dąbkowski. While the young author, still waiting for a scholarship to enable him to continue his academic work, involved himself also in the practical affairs of politics – during his association with the Polish Socialist Party he started to edit the Wilno edition of its paper, *Robotnik* [The Worker].

The outbreak of war shattered not only these plans. It became necessary to leave Wilno – occupied by the Red Army – and move to Lwów, though this did not result in escape from enlistment in the Red Army. Following

release from service there began a period of wandering leading him even as far as Uzbekistan. He was able to don a Polish uniform only in the autumn of 1943. As a soldier of the Polish First Army Juliusz Bardach was to reach Berlin along with the Red Army; he remained in military service, including work as a military attaché in Moscow, right up until 1950. While still in uniform he gained his PhD for his thesis on adoption at the Jagiellonian University in 1948; his tutor being Adam Vetulani.

In 1950 he became connected with the University of Warsaw, specifically with the Institute of the History of Law, which he was to loyally serve until the end of his life – a period of 60 years. For a time he headed the Department of State and Law History at the Polish Academy of Sciences, but administrative initiatives led to the dissolving of the Department in 1968, something that had a clear political undertone.

Several currents may be discerned in Juliusz Bardach's academic output. The 1950s were marked by participation in the multi-volume outline of Polish history prepared by the Institute of History of the Polish Academy of Sciences as well as work on a synthesis of the history of institutions and law in Poland, the effect of which was the five-volume corpus: *Historia państwa i prawa Polski* [The History of Poland's State and Law]. He was not only the editor but also the author of volume I (to the mid-15th century).

The second research current was the history of Polish parliament: the first studies on the subject of its genesis were conducted in the 1950s, the final effect of which were the fragments of the synthesis *Historia sejmu polskiego* [The History of the Polish Sejm] and *Dzieje sejmu polskiego* [The Annals of the Polish Sejm], illustrating the beginnings of parliament. He paid particular attention to the medieval (pre-1492) genesis of the Polish Sejm. He emphasised in earlier works the significance of the Assembly of Highest Dignitaries, to which he ascribed a partner in authority (next to the monarch) and from which derived the General Sejm. Later, under the influence of the research of his pupil – Stanisław Russocki, he was to see the genesis of the Sejm in the meetings of the royal council, conducted initially for mainly judicial aims. He was an adherent of the thesis as to the birth of gentry democracy already in the mid-15th century.

A lot of space is taken up in Juliusz Bardach's academic output by accounts of the history of law as a science, with the monograph on Waclaw Aleksander Maciejowski at the head. Equally important are the biographic entries for eminent nineteenth-century historians (Stosław Łaguna, Włodzimierz Spasowicz, Nikolaï Kariejew, Adolf Pawiński, Michał Bobrzyński), as well as recollections of researchers active in the twentieth century (Tadeusz Manteuffel, Henryk Łowmiański, Aleksander Gieysztor, Jan Adamus, Michał Szczaniecki, Stanisław Russocki).

He occupied himself within the history of Slavic laws not only in the work on W.A. Maciejowski. He was critical in his approach to the search

– characteristic for nineteenth-century historiography – for ‘general Slavic law’. He equally did not agree with the thesis that similarity in terminology bore witness to a common protoslavic genesis for many legal institutions. He advocated a comparative approach to research into the chief sources of law (*Russkaya Pravda*).

One certainly cannot forget the numerous methodological works on comparative method and reception in the history of law, as well as on the historical approach in jurisprudence. This routine review has only allowed one to point out the main areas of research, as it would be difficult given the immensity of the Professor’s output, numbering around 590 works, to describe each and every current. Not only are the studies valuable but also the in-depth reviews, numbering sometimes several dozen pages, like, for example, the 50-page review of Kazimierz Kolańczyk’s book on the relics of common land ownership in ancient Poland (1950).

An important trait in Juliusz Bardach’s academic work was the constant correction and supplementation of works on the occasion of their subsequent editions and translations. This academic heritage will surely see an in-depth analysis. This will reveal how the Professor linked the researched phenomena with each other in an integral presentation.

One of the most important currents within his research were studies into Lithuanian history, to which he devoted over 120 works. They were to commence his academic path and even those initial works from his student period have preserved their validity to this day, while the study on adoption was to be twice reprinted. They were received with broad interest not only in Poland but also in the form of selected studies that appeared in Belorussian (2002) and Lithuanian (2010) as well as in the recognition given in the honorary doctorate awarded by the University of Vilnius (1997).

His academic debut during the Wilno Congress concerned not only *trzeciżna* (the possibility of the alienation of a third part of hereditary goods without the consent of kin), but also the problem of the reception of institutions (1936). The effect of a return to this subject matter was the article on *trzeciżna* (1976). The study on adoption also concerned private law (1938), in a similar way to the study – 20 years later – on undivided inheritance (1958). The synopses: civil marital law of the Ruthenian population of historical Lithuania (1963) as well as reciprocal donation in Lithuania (1965) fit into this branch of law. At the beginning of the 1960s it is possible to detect in the Professor’s works an interest in the practices of the Lithuanian chancellery under Sigismund I (1960), the subsequent aspect of its activities – request for the granting of land or office as well as remuneration for this – is described in the next study (1962). Within this current is also located the description of the intelligence activities of the *ryskuny* (1967).

The problems of primordial court proceedings are explained in the sketch on claimant and complaint (1973). The specific character of the coexistence of

Christian denominations is presented in two studies (1982, 1992), while one sketch shows the position of Jews in Radziwiłł Birże (1990). Juliusz Bardach researched the changes in social structures, analysing these phenomena from the early Middle Ages: *smersds* (1968), through towns under Magdeburg Law (1980) right up to the 19th century, critically tackling the Weyssenhoff genealogy (1991).

Research into the Union of the Crown and the Grand Duchy was to arouse increasing social interest. This was not always to meet with the approval of the authorities. In 1969 during the 10th General Congress of Polish Historians in Lublin devoted to the subject of the Union, Juliusz Bardach's anniversary paper was removed from the plenary session and transferred to one of the sections. Published that same year it was to give a start to numerous studies and review articles. The work on the General Assemblies of the Grand Duchy of Lithuania (1975) – considered by some to be a relic of the Lithuanian Sejm – was for a quarter of a century (up until Henryk Lulewicz's research) the only work to present this institution. One of the studies – in 1991 – made widespread the view as to Lithuanian autonomy in the Commonwealth equally after the passing of the 3rd of May Constitution – on the strength of Mutual Guarantee of the Two Nations of 20 October 1791, a view which, though being incorporated into an academic textbook, has difficulty in breaking into the widespread consciousness.

The role of the constitution – in the present meaning of the word – of the Grand Duchy of Lithuania was fulfilled by three of its Statutes (1529, 1566, 1588), which – although visible in Juliusz Bardach's work from the very start – were to wait for a more detailed study only in the mid-1970s (1974). Subsequent studies presented new aspects: validation of the 3rd Statute (1978), its influence on the Crown and the countries of the region (1989, 1995, 1999); finally the influences of Roman Law on the 2nd Statute (1995) and the links of all these three Statutes with Roman Law (1999, 2000).

Juliusz Bardach willingly conducted research into the border regions of academic disciplines, he combined thus – for example – the history of law with linguistics. He explained the genesis of the translations, from the second half of the 15th century, of the land statutes of Casimir the Great and Ladislas Jagiello into Ruthenian (1962, 1999). He also analysed the cause of printing in the Grand Duchy (for the use of its elites) of the Polish translation of *De Republica emendanda* by Andrzej Frycz Modrzewski (1997). He felt equally at ease in researching the 19th century: something borne out by the study into the relations of Gustaw Manteuffel with Józef Ignacy Kraszewski (1972) and about the latter's *Zarysy dziejów Inflant* [Outlines of Livonian History] (1976).

The next important current within Juliusz Bardach's research were the ethnic relations on the lands of the former Grand Duchy of Lithuania. Thus he presented the problems of Poles' national consciousness in Lithuania and Belarus in the 19th and 20th centuries (1988, 1999), their relation to other

nations of the region (1994), the projects for the canton organisation of Lithuania (1986), and the views of Bolesław Limanowski on national questions (1974). Here research interests started to clearly link themselves with those already mentioned from his Wilno youth. This can be seen not only in the sketch on Leszek Raabe (1963), the Wilno organisation of the Polish Socialist Party (1987) or the evaluation of Walerian Meysztowicz's memoirs (1977), but equally in the synopses: Polish-Lithuanian academic relations in the interwar period (1997) and the activities of Władysław Semkowicz in this field (1999).

His love for pursuing borderline disciplines is also obvious in his text about Czesław Miłosz's relation to the heritage of historical Lithuania (1985, 1998), as equally in his exposition on the Lithuanian option of Oskar Miłosz (1987) – linked with the former by a somewhat distant lineage.

The Professor was able – equally in direct conversation – to make a lightening synthesis of phenomena and present it against a comparative background. He exercised in this restraint (in writing about *adulators and deep bows*, he treated the attempt to indicate an analogy with *paulette* with distance). This feature of his academic writing is clearly seen not only in syntheses but also in more detailed studies.

Juliusz Bardach's academic achievements met with recognition both in Poland and abroad. This being borne out by his membership of Accademia Nazionale dei Lincei, Polska Akademia Nauk, Towarzystwo Naukowe Warszawskie, Société d'Histoire du Droit, Société Internationale d'Histoire du Droit Comparé Jean Bodin and participation in the work of Commission Internationale des Études Historiques Slaves at the Comité International des Sciences Historiques as well as – in the very Committee itself – Commission Internationale d'Histoire des Assemblées d'États et du Parlementarisme, and equally the PhDs *honoris causa* from the universities of Lodz (1995), Warsaw (1996) and Vilnius (1997).

Juliusz Bardach passed away after a long and fruitful life. He will be remembered not only by the grateful recollections of his pupils, hundreds of publications but also by a sizeable body of researchers inspired by them.

transl. Guy Torr

Andrzej B. Zakrzewski