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The journal *Lithuanian Historical Studies*, established in 1996 by the Lithuanian Institute of History, is an annual historical periodical, publishing articles, research projects, conference reports, book reviews and annotations that deal with topics related to the history of Lithuania and its relation to other countries. It also provides information about recent publications, important historical sources, scholarly activities and specialist conferences in Lithuania.

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Lietuvos istorijos institutas

Kražių 5, LT-01108 Vilnius

Lithuania

Email: sarcevicene@istorija.lt

Andrzej B. Zakrzewski, *Wielkie Księstwo Litewskie (XVI–XVIII w.). Prawo – ustrój – społeczeństwo*, Warsaw: Campidoglio, 2013. 324 p. ISBN 978-83-927476-6-6

Recently, we have seen more and more works on the legal history of the Grand Duchy of Lithuania. Among them, the book by the Polish historian Andrzej B. Zakrzewski, which appeared in 2013 called *Wielkie Księstwo Litewskie (XVI–XVIII w.). Prawo – ustrój – społeczeństwo* [The Grand Duchy of Lithuania (16th–18th c.). Law – System – Society] will occupy an extraordinary place. Its author is a University of Warsaw Faculty of Law and Administration professor, who until now was known more for his attention to problems of the history of the system of parliamentary government: he was the first to write a monograph on a particular GDL *seimelis* (assembly).¹ This time, Zakrzewski appears in a different role, a shift from analysis to synthesis, and an attempt to summarise research on the history of GDL law and state order. The book consists of an introduction, 15 sections of various size from three to 38 pages (I State of Research; II The Periodisation of the History of State Order; III Reception of Law and Order; IV Territory and Administrative Division; V Society; VI System of Parliamentary Government; VII The Government of the Grand Duke; VIII State Rule, Posts; IX Treasury; X Army; XI System of Courts; XII Lithuania's Statutes; XIII Law in Theory and Practice; XIV The Languages in which the Law was Manifested; XV Relationship between GDL and Poland in the 16th–18th Centuries), abbreviations, lists of sources used (printed and archival), and literature. The author states that he set himself the goal to deliver 'some elements of old Lithuanian law and (state) order from the 16th century until 1791'. Incidentally, Zakrzewski chose the last date not considering it the year that the GDL lost its sovereignty (he sees that date as the last division of the Polish-Lithuanian Commonwealth [PLC]), but for convenience, because it is problematic to assess the changes brought by the Four-Year Parliament, and the activities of the 1792 Confederation. However, looking at the wide range of subjects covered, one can conclude that in fact he has attempted to summarise the general history of research on GDL law. In the first part of the work, the author presents studies devoted to this problem, starting from the works of Tadeusz Czacki that appeared at the beginning of the 19th century, and ending with the most

¹ A.B. Zakrzewski, *Sejmiki Wielkiego Księstwa Litewskiego XVI–XVIII w. Ustrój i funkcjonowanie: sejmik trocki* (Warsaw, 2000).

recent scholarly research of these days (including those printed in 2013, and even some only submitted for publication). Using a chronological approach, while also grouping them according to the national origins of the researchers and the particular schools of historians, Zakrzewski competently discusses and rates the most important publications, revealing the factors that led to some of the research topics and their quality. Such a review is invaluable for a law historian, because it also presents information gathered while maintaining close personal relationships with scholars from Lithuania, Belarus and Ukraine, so knowing very well 'on what are living' the scholars of those countries.

The author further analyses aspects that are provided in the titles of the sections. He seeks to show the development of GDL law, which occurs together with changes in the organisation of the government, changes in the social, economic, cultural and other spheres of life, and through the development of the state and society, and its institutions. He also tries to determine the place of the GDL in the Commonwealth from both a legal and a factual approach. The author argues that he is most interested in the period after the Union of Lublin, and he wants to draw attention to the greater than previously thought differences between the GDL and Poland (in this respect, the Polish researcher paradoxically extends the work of Adolfas Šapoka, inspired by specific historical circumstances and needs, begun during the interwar period, on the search for the separateness of the GDL from Poland²). For example, the influence of Roman law was more significant in the GDL; moreover, in comparison with Poland, some decisions of state organisation and management were more rational (territorial division and others). In the work, the author also reveals a theoretical model of law, and next to it shows that in practical life not everything was so unambiguous.

Zakrzewski is one of the first to try to offer a periodisation of Lithuanian state management, especially in the period of the joint state with Poland. Having summarised the latest discussions, he comes to the conclusion that the terms used in the past of an estate monarchy or the caste oligarchy of noblemen are not suitable for describing the Commonwealth and even more GDL realities. Instead, he proposes to distinguish these periods: tribal (from the ninth/tenth to the 12th century), the formation of the Lithuanian state (from the 12th/13th to the end of the 14th century), of modernisation (the late 14th century to 1569), and the Republic (from the Union of Lublin to 1793, in the latter he also distinguishes the date 1764, after which the creation of a constitutional monarchy and faster unification proceeded). He proposes linking the periodisation of GDL law with the emergence of the Lithuanian statutes, thus distinguishing pre-statute (up to 1529), the validity of the statutes (relatively until 1840), and post-

² See A. Šapoka, *Lietuva ir Lenkija po 1569 m. Liublino unijos* (Kaunas, 1938).

statute periods. We think that this distribution is more reasonable than the proposal to call the entire period the period of ‘legal estate inequality’ (by the content of the legal norms) or the ‘Medieval’ (according to the qualitative legal features) period.³

Speaking about the reception of the law and order of the GDL, he criticises Stanisław Kutrzeba, who called the interval of GDL history from the end of the 14th century until 1569 the period of ‘taking over the forms of Poland’s governance’. The latest research by historians reveals the influence of not only Polish, but also Ruthenian, German and Czech examples on the bodies and law of GDL state governance. So there was some influence both from the east and from the west. Some of the solutions proposed by Poland were rejected, and those accepted often acquired a completely different content, they were adapted to local realities and improved, and therefore they became different. In addition, this process was not one-sided. Poland in the second half of the 18th century imported quite a lot of GDL experience: the post of the permanent leading marshal of the *seimeliai*, as well as other laws related to the activities of the *seimeliai*.

In discussing the system and activities of the courts, the author wanted to show that the practice often digressed quite far from the letter of the law. He states that the principle of the separation of the competence of the courts was not always followed: with courts not working often due to crises, litigants would search for ‘any kind’ of court for their cases. The conclusion is reached that the nobles were equal only legally, but not in fact. Zakrzewski raises the hypothesis that the factor of law was important in cases when the parties in a dispute had a similar status, and thus disposed of similar (material, political) possibilities. Although this is not easy to prove, it looks quite realistic. The author also tries to uncover some of the legal aspects of culture. He notes that at the same time we can see the supremacy of the law, manifestations of good legal knowledge, but there was no shortage of cases in which the *seimeliai* (despite the stiff penalties threatened) were held by force, disputes were decided not in accordance with the valid law, or even in violation of it. The law was a weapon in a political and economic struggle, but at the same time, the nobility took care that the courts operated smoothly (the highly rated fact of the occupancy of judicial duties), their decisions would not be questioned, and that the established order in law would be complied with.

It is difficult to provide here all the insights of the author, because the list of analysed issues is very broad. We can only observe that Zakrzewski makes generalisations very carefully: first he discusses all the most important positions of scholars, and after expressing his opinion he tries to substantiate it thoroughly. His statements are never categorical, in cases when he is talking about little-investigated matters he avoids making any

³ J. Machovenko, *Teisės istorija. Vilniaus universiteto vadovėlis* (Vilnius, 2013), pp. 34–41.

wider generalisations. At the same time, he is a critical historian who values carefully the statements of some scholars (e.g. the assertion of I. Lappo that the land courts oversaw the activities of the castle courts, p. 186). He also draws attention to issues requiring investigation: the holding of several posts at the same time, the relationship of later laws with the norms of law established in the Third Lithuanian Statute, etc. It is important that when talking about the GDL institutes of law, he almost always compares them to the realities of Poland, thus highlighting their specificity.

However, it is important to pay attention to other things, primarily the principle of the construction of the text. Zakrzewski is not content with a dry analysis of scholarly positions, but in the text he tries to justify his statements with citations from numerous primary sources (laws, memoirs, correspondence, polemical and legal works of the period). In fact, the citation of sources and authors in the original Ruthenian, Latin, and also French and German languages makes the reading more difficult. Since many aspects of the history of law are still not studied, the author has also had to use information from archival sources. Of course, this path is quite dangerous, because one can make conclusions based on information from a random message. Moreover, this information sometimes remains quite uncertain. Here (p. 255) giving a reference to the number of an archival source, the author mentions the proposals of an unnamed *seimelis* in 1782 to establish parish courts for the examination of less important cases, the decisions of which could be appealed to the local court of the castle. We can only surmise that the instruction of the *seimelis* of Trakai, the history of which the author studied, to the envoys of the 1782 Seimas (parliament), is referred to. For the same reason, we can find more inaccuracies. For example, when writing about regulatory changes in the working times of the GDL land and castle courts, the author mentions only the 1786 law (pp. 183–184), but after all, there had been earlier ones, from 1766 the land courts of Trakai, Breslau, Rechyca and Mazyr changed,⁴ from 1768 the castle courts of Mozyr and Rechytsa,⁵ and from 1784 the work times of the Trakai, Vaūkavysk and Breslau land and castle courts,⁶ changes also took place later in 1790.⁷

Reading the text, one notices conspicuous repetitions (sometimes even identical sentences), especially when they are in the same section: for example, in the part about the system of courts, the sentences about the proposals that the GDL Supreme Tribunal should examine the cases of nobles (pp. 185, 198) in districts in which for various reasons the land courts did not work, that in 1655–1661 the Tribunal did not work at all

⁴ *Volumina legum* (further *VL*), t. 7 (Petersburg, 1860), p. 236.

⁵ *VL*, t. 8 (Petersburg, 1860), p. 391.

⁶ *VL*, t. 9 (Krakow, 1889), p. 23. Also cf. T. Waga, *Kadencye sądów ziemskich y grodzkich oraz jurydykcyi sądowych Obojga Narodów* (Warsaw, 1785).

⁷ *VL*, t. 9, p. 196.

(pp. 196, 211), etc, are repeated. Although the author says that he chose this principle deliberately, it is still quite strange when the same sentence is repeated on two consecutive pages (pp. 115 and 116, the statement that the 1653 Seimas, which was held in Brest, adopted at least 74 constitutions, of which no less than 24 were for the GDL, which were not disjoined from other constitutions, having Poland in mind).

There is an impressive list of literature used (about 600 positions of scholarly research), and archival and printed sources (more than 100). The author is well versed in historiography, both older as well as the latest, and reads the scholarly literature, not only in the Polish but also in the Belarusian, Ukrainian, Russian, German, English and Lithuanian languages. As a result, he uses the facts of the latest word in scholarship. However, despite this, the author does not use all the literature on topics, especially written in the Lithuanian language. Probably the language barrier prevented the use of the results of research by Irena Valikonytė,⁸ Jolanta Karpavičienė,⁹ Yevgeny Machovenko,¹⁰ Aivas Ragauskas¹¹ and other scholars who have analysed various aspects of GDL courts and law. Reading the text, it remains unclear why, speaking about the verbal reception in Lithuania of certain institutes, the work of Valikonytė is not mentioned,¹² why when speaking about the legal situation of the Jews in the GDL, the results of the research by Jurgita Verbickienė,¹³ and when

⁸ Here and later only individual (mentioned in the text) works: 'Teismo dokumentų Lietuvos Metrikoje repertuaras: rašto ir teisinės kultūros aspektai Lietuvos Didžiojoje Kunigaikštystėje XVI a. pirmojoje pusėje', *Istorijos šaltinių tyrimai*, compiled by A. Dubonis, 2 (2010), pp. 109–128; 'Priešteisminių dokumentų funkcijos ir likimas Lietuvos Didžiojoje Kunigaikštystėje XVI a. viduryje: šaukimų registravimo žurnalai', *Istorijos šaltinių tyrimai*, 4 (2012), pp. 93–108.

⁹ J. Karpavičienė, *Moteris Vilniuje ir Kaune XVI a. pirmojoje pusėje. Gyvenimo sumiestinimo Lietuvoje atodangos* (Vilnius, 2005).

¹⁰ J. Machovenko, *Nelietuviškų žemių teisinė padėtis Lietuvos Didžiojoje Kunigaikštystėje (XIV–XVIII a.)* (Vilnius, 1999); 'Vilniaus jėzuitų akademijos Teisės fakultetas 1641–1667 metais', *Teisė*, (2005), pp. 57, 82–92; 'Viduramžių Vilniaus universiteto teismas pasaulietinės ir bažnytinės jurisdikcijos atskyrimo kontekste', *Teisė*, 74 (2010), pp. 57–66; 'Lietuvos viešosios teisės iki XVIII a. pabaigos istorijos tyrimų būklė ir perspektyvos', *Teisė*, 79 (2011), pp. 22–34. For a complete list of this author's works, see on the internet: <http://www.tf.vu.lt/dokumentai/Viesoji_teise/Institutai/prof._J.Machovenko_publicacijos_2013_07_10.doc>.

¹¹ A. Ragauskas, 'Kaltintojai ir gynėjai nukirsdinto bei sudeginto ateisto Kazimiero Liščinskio teismo procese (1689): mikroistorinio tyrimo metmenys', *Seminarai*, 2002 (Vilnius, 2003).

¹² I. Valikonytė, 'Prokuratorius XVI a. pirmojoje pusėje: bylos šalies pavaduotojas, kalbovas ar 'teisingumo riteris'', *Pirmasis Lietuvos Statutas ir epocha (straipsnių rinkinys)*, ed. I. Valikonytė, L. Steponavičienė (Vilnius, 2005), pp. 135–151.

¹³ J. Verbickienė, *Žydai Lietuvos Didžiosios Kunigaikštystės visuomenėje. Sambūvio aspektai* (Vilnius, 2009).

speaking about the army, of Gediminas Lesmaitis, are not cited.¹⁴ There is a similar situation in regard to the Medieval era. The author (p. 7) asserts that not too many new sources have appeared for investigating those times, and the approach of researchers is changing, due to new evaluations of already-known historical material. This was to justify why Zakrzewski, writing about the source of many events and institutions in the Middle Ages, relies almost exclusively on studies written in Polish (mostly the major study by Henryk Łowmiański), as if the careful, and often innovative work by Edvardas Gudavičius, Rimvydas Petrauskas, Stephen C. Rowell, Artūras Dubonis, Darius Baronas and other historians, covering various aspects, did not exist.

These comments do not in any way undermine this innovative and important work, without which no historian of GDL law can live. The book is carefully prepared, it has hardly any errors (it was reviewed by the eminent scholars of GDL history professors Henryk Wisner and Henryk Lulewicz). Thanks to the author's objectivity, thoroughness, diligence and precision, the book can also serve as an encyclopedia, filled with numerous accurate examples aptly illustrating the history of GDL law that would also be interesting to the general reader. It is therefore worth considering making a translation of the book into the Lithuanian language, especially since in the near future it is doubtful that anyone would undertake such an ambitious and massive work, demanding great knowledge and extraordinary erudition.

Adam Stankevič

¹⁴ G. Lesmaitis, *Lietuvos Didžiosios Kunigaikštystės samdomoji kariuomenė XV a. pabaigoje – XVI a. antrojoje pusėje* (Vilnius, 2010).