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STEPAN BORYSENOK: TO THE PORTRAIT OF THE SCIENTIST*

The history of the law in the Grand Duchy of Lithuania has always attracted the attention of researchers. The productive period in its study was the activity of the Commission for the Study of the History of Western-Ruthenian and Ukrainian Law of All-Ukrainian Academy of Sciences (hereafter AUAS). The theoretical achievements of the commission are significant. Nowadays some of its members' works have been republished with modern commentaries, and separate studies have been devoted to them. But there are such members whose works do not have any historiographical researches despite their great scientific achievements. One of them is the historian Stefan (Stepan) Hnatovych Borysenok (May 17, 1891 – November 14, 1937).

S. Borysenok was a talented and extraordinary researcher. This article presents his biographical data as well as the theoretical achievements of the scientist are analyzed. The scientific achievements of the researcher in the field

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of law history are not very large. They are about 10 works (thorough scientific articles) and several reviews. They were significant for that time. However a few decades later after writing of these articles modern researchers point to a significant number of inaccuracies and errors in his works. S. Borysenok's works were highly appreciated by his contemporaries and scientific mentors M. Vasylenko and O. Malynovsky. First of all they were impressed by the fact that he always tried to turn to primary sources and was critical to the works of his predecessors. His works show an excellent knowledge of the historiography of a particular research problem. In addition S. Borysenok being a lawyer by education was able to analyze in more details the certain problems that were not always clear to historians.

The issues related to the First Lithuanian Statute and the history of the Bar in the Grand Duchy of Lithuania had been researched by S. Borysenok since the middle of 1920^s. In particular the main subject of his research in Moscow archives was "History of the Bar in Ukraine in the 16th–18th Centuries. The special articles of the researcher are interesting and original. Among them are such articles as "Formation of a Professional Bar in the Lithuanian-Ruthenian State", "Lawyer's Fee in the Lithuanian Principality in the 16th–17th Centuries" (The latter was published in the 7th issue of the "Proceedings of the Commission for the Study of the History of Western-Ruthenian and Ukrainian Law". But that issue was destroyed).

One of the greatest work by S. Borysenok concerns the history of the Bar formation in the first half of the 16th century.

Also in the late 1920's the researcher had been preparing for publication a thorough work with focus on the Lithuanian Statute (history of drafting the code, sources, lists). Correspondence with Lithuanian researcher A. Janulaitis (the ancestor of the Lithuanian Statutes historiography) indicates that the manuscript of this work (or a significant part of it) probably existed. At the same time the facts of cooperation with Lithuanian historians are recorded and they give us the opportunity to hope that the lost achievements of the researcher can still be found and introduced into scientific circulation. And we are convinced that they will be the impetus for the new scientific research and will cause a significant number of scientific discussions.

In the early 1930's S. Borysenok was an employee at the library. He actively worked at the acquisition of the library fund with foreign professional publications. He tried to establish and systematize international exchange.

On September 23, 1937 S. Borysenok was arrested on trumped up charges of alleged involvement in an "anti-Soviet nationalist organization". On October 25 of the same year he was sentenced to death via shooting (executed on November, 14).

Keywords: *S. Borysenok, law history, the First Lithuanian Statute, All-Ukrainian Academy of Sciences, Commission for the Study of the History of Western-Ruthenian and Ukrainian Law of AUAS.*

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СТЕПАН БОРИСЕНОК: ДО ПОРТРЕТА ВЧЕНОГО

Історія права Великого князівства Литовського завжди привертала увагу дослідників. Продуктивним періодом в її студюванні стала діяльність Комісії для вивчення історії західноруського та українського права ВУАН. Теоретичний доробок комісії вагомий. Деякі праці членів комісії перевидано із сучасними коментарями, їм присвячено окремі дослідження. Але є й ті, про яких практично немає жодних історіографічних досліджень, попри їх великий науковий доробок. Таким істориком є Стефан (Степан) Гнатович Борисенко (17.05.1891–14.11.1937).

С. Борисенко був талановитим та неординарним дослідником. В даній статті подано біографічні дані та проаналізовано теоретичний доробок вченого. Науковий доробок вченого в галузі історії права не дуже великий – близько 10 праць (грунтовних наукових статей) та декілька рецензій. Для свого часу вони були значними. Утім сучасні дослідники, через кілька десятиліть після написання цих статей вказують на значну кількість неточностей та помилок. Праці С. Борисенка високо оцінювали його сучасники та наукові наставники М. Василенко, О. Малиновський. Вони свідчать про прекрасну обізнаність з історіографією тієї чи іншої досліджуваної проблеми. Окрім того, будучи юристом за освітою, С. Борисенко зміг детальніше проаналізувати певні проблеми, не завжди зрозумілі історикам.

Із середини 1920-х рр. С. Борисенко досліджував питання, що стосувалися Першого Литовського статуту та історії адвокатури у Великому князівстві Литовському. Одна з найбільших праць С. Борисенка стосується історії формування адвокатури у першій половині XVI ст. Наприкінці 1920-х рр. дослідник готував до друку ґрунтовну працю присвячену Першому Литовському статуту (історія складання кодексу, джерела, списки). Листування з литовським дослідником А. Янулайтісом (родоначальником литовської історіографії статутів) свідчать, що рукопис цієї праці (або значна його частина) ймовірно існував. Дані факти співпраці з литовськими істориками дають нам можливість сподіватися, що втрачені напрацювання дослідника ще можна віднайти та ввести до наукового обігу. І ми переконані, що вони стануть поштовхом до новин наукових досліджень та спричинять нову хвилю наукових дискусій.

На початку 1930-х рр. С. Борисенко, будучи співробітником бібліотеки ВУАН, активно працював над комплектуванням бібліотечного фонду іноземними фаховими виданнями. Він намагався налагодити та систематизувати міжнародний обмін.

23 вересня 1937 р. за сфабрикованим звинуваченням у нібито причетності до "антирадянської націоналістичної організації" С. Борисенка заарештували. 25 жовтня того ж року його засудили до розстрілу (страчений 14 листопада).

Ключові слова: С. Борисенко, історія права, Перший Литовський статут, ВУАН.

The history of the law in the Grand Duchy of Lithuania has always attracted the attention of researchers. The productive period in its study was the activity of the Commission for the Study of the History of Western-Ruthenian and Ukrainian Law of All-Ukrainian Academy of Sciences (hereafter AUAS) (1918–1934). The chairman of this commission was Mykola Vasylenko. He considered the main task of the institution should be a systematic study of the history of Western-Ruthenian or Lithuanian-Ruthenian Law (this name is more often used in science) as well as the history of Ukrainian Law, i.e. the history of the Left Bank Ukraine Law after 1654 when it had been joined Russia. When referring "Western-Ruthenian" or "Lithuanian-Ruthenian" he meant the law in Ukrainian, Belarusian and some Russian lands of the Grand Duchy of Lithuania (Usenko, 2016: 9–10).

The theoretical achievements of the commission are significant. Nowadays some of its members' works have been republished with modern commentaries, and separate studies have been devoted to them. But there are such members whose works do not have any historiographical researches despite their great scientific achievements. One of them is the historian Stefan (Stepan) Hnatovych Borysenok (May 17, 1891 – November 14, 1937). S. Borysenok was a talented and extraordinary researcher. M. Vasylenko singled him out among others; his colleagues followed his opinions and respected him.

He was born on May 17, 1891; he was educated at the 4th Kyiv Gymnasium, which he left in 1908. The same year he entered Kyiv Imperial University of St. Volodymyr to the Faculty of Law which he graduated from in 1913 (ДАК, ф. Р-871, оп. 2, спр. 43, арк. 5а–5а зв.) with a graduate work "Legislative Significance of the Boyar Duma in Moscow State" (ДАК, ф. Р-871, оп. 2, спр. 43, арк. 11). In 1915 he became a professor scholar at the Department of the History of Ruthenian Law at the same university, in 1918 he passed the master's exam in the history of Ruthenian law, and in 1919 he became an assistant in this subject (ДАК, ф. Р-871, оп. 2, спр. 43, арк. 7). In 1921–1923 he worked under the leadership of M. Pashe-Ozer-sky in Soviet criminal and criminal procedure law. Since 1922 he had been

working at the AUAS as a researcher in the Commission for the Study of Western-Ruthenian and Ukrainian Law (Istoriia Natsionalnoi, 1998: 100); since 1926 he had been a researcher and scientific secretary of the Public Section in the Commission for the Study of Popular Law in Ukraine (ДАК, ф. Р-871, оп. 2, спр. 43, арк. 6). In 1922 he was elected to the post of assistant in history of Western-Ruthenian Law at the Faculty of Law in Kyiv Institute of National Economy, where later he held the position of custodian of the law office.

Since 1924 he had taught the criminal process, Soviet legislation for the protection of ancient monuments and art in various universities. Some developments in Soviet law had been published at that time (Borysenok, 1924; Borysenok, 1924a). Later in 1923–1926 he taught social sciences at secondary schools. He was a member of Nestor the Chronicler Society as well as the Law Society under subordination of the Ukrainian Academy of Sciences. In 1930 he was acting professor in Kyiv Institute of National Economy where he gave lectures in the course "History of Ukrainian Law" (ДАК, ф. Р-871, оп. 2, спр. 43, арк. 36; Istoriia ukrains'koi, 2017: 58–59).

S. Borysenok's cooperation with AUAS began in 1922, when he became a freelancer in the Commission for the Study of the History of Western-Ruthenian and Ukrainian Law at AUAS. Since 1926 he had been a staff member of the Commission for the Study of the Customary Ukrainian Law of AUAS. At the same time he taught at the educational institutions of Kyiv. In 1930 the period of his job at AUAS library began. He managed the 1st and the 2nd library departments (ЦДАГО України, ф. 263, оп. 1, спр. 47006, арк. 9), supervised the departments of book use (1933), book depository (1933–1935), the bureau of international exchange (1934), participated in the criminal law section of the Commission for Study of the Soviet Law of AUAS. At the same time he worked as a lecturer in Kyiv higher institutions. Having worked in the structural units of AUAS he proved to be a promising researcher. M. Vasylenko considered him a serious historian of law.

The scientific achievements of the researcher in the field of law history are not very large. They are about 10 works (thorough scientific articles) and several reviews. They were significant for that time (Usenko, 2009: 26; Blashchuk, 2019; Blashchuk, 2019a; Boykov, 2018; Dovbyshchenko, 2019: 25–30; Starchenko, 2002; Vashchuk, 2017; Vashchuk, 2017a). However a few decades later after writing of these articles modern researchers point to a significant number of inaccuracies and errors in his works (Pirmasis Lietuvos, 2004: 31). S. Borysenok's works were highly appreciated by his

contemporaries and scientific mentors M. Vasylenko and O. Malynovsky. First of all they were impressed by the fact that he always tried to turn to primary sources and was critical to the works of his predecessors. He could argue his position: "our work should be completely critical as for the old schemes. We should try to explore some legal bases of Ukrainian law. There can be considerable differences" (Protokoly Komisii, 1927: 500). Even despite the difficult financial situation at the academy (business trips were not paid at all or were only partially funded) he went to Moscow to study the Lithuanian metrics (Protokoly Komisii, 1927: 469; Okynshevych, 1929: XIX). His works show an excellent knowledge of the historiography of a particular research problem. In addition S. Borysenok being a lawyer by education was able to analyze in more details the certain problems that were not always clear to historians. That is why M. Vasylenko involved him in a complex and long-term project: compiling a dictionary of Ukrainian legal antiquity (Okynshevych, 1929: XX).

According to the distribution of topics which had been planned, S. Borysenok studied punitive institutions in ancient Russian, Lithuanian-Ruthenian and Ukrainian law. Of course, in this context, he could not ignore "Rus'ka Pravda" and the Lithuanian Statutes. At that time the study of "Rus'ka Pravda" gained new momentum, new lists were found and new archeographic publications were being prepared. At the Commission regular meetings S. Borysenok made a number of reports in particular such as "The Flow and Expulsion of «Rus'ka Pravda»", "Arson in «Rus'ka Pravda»" and "Horse-stealing in «Rus'ka Pravda»" (Okynshevych, 1925: 4). When summarizing this material later he prepared an article "Criminal Content of «Rus'ka Pravda» stream" (Borysenok, 1925).

The issues related to the First Lithuanian Statute and the history of the Bar in the Grand Duchy of Lithuania had been researched by S. Borysenok since the middle of 1920^s. In particular the main subject of his research in Moscow archives was "History of the Bar in Ukraine in the 16th-18th Centuries" (ДАК, ф. Р-871, оп. 2, спр. 43, арк. 3 зб.). The special articles of the researcher are interesting and original. Among them are such articles as "Formation of a Professional Bar in the Lithuanian-Ruthenian State" (Protokoly Komisii, 1927: 486-490; Borysenok, 1927a), "Lawyer's Fee in the Lithuanian Principality in the 16th-17th Centuries". (The latter was published in the 7th issue of the "Proceedings of the Commission for the Study of the History of Western-Ruthenian and Ukrainian Law". But that issue was destroyed). These articles were published on the pages of "Pro-

ceedings..." and analyzed in detail by modern researcher D. Vashchuk (Vashchuk, 2017: 308–313).

One of S. Borysenok's the greatest work concerns the history of the Bar formation in the first half of the 16th century (Borysenok, 1927a). According to the scholar's opinion the legislative regulation of the law practice took place after the introduction of the First Lithuanian Statute in 1529. In particular the lawyers' place of activity became "*zemski* (provincial) courts and economic (central) court later the Main Lithuanian Tribunal" (Borysenok, 1927a: 83).

The scientist believed that the reason for the Bar emergence was the replacement of subsistence economy to the monetary one. In his opinion "there is a need for precise, fixed in the form of the law, legal norms that would ensure both the validity of legal relations and the definition of the order for protecting interests in court". Therefore as a result of the Statute introduction in 1529 the professional Bar began to grow (Borysenok, 1927a: 91). As the historian had established before the Statute "no importance had been given to who exactly had the right to speak on behalf of another person in court; they had not been interested even in writing down the procurator's name". Their jurisdiction included both criminal and civil cases (Borysenok, 1927a: 93–94). The important tools for resolving litigation before the pre-statue period remained also the rules of customary law (nationwide importance) as well as local customs. In this context S. Borysenok rightly remarked that "to resolve the case without agreeing with the local custom it would be to insult this law. Not hoping to resolve the case well the economic court sometimes considered it was better to refer the case to a local court" (Borysenok, 1927a: 96–97).

The Statute adoption in 1529 gave preference to a written law over a customary one, but "judicial proceedings are imbued with formalism. The happy ending of the process mainly depended not only on the existence of arguments that the parties had but also on whether they fully met the requirements of the law" (Borysenok, 1927a: 106). Therefore success depended on perfect knowledge of the law, the ability to highlight the content of the case in court by both parts the plaintiff and the defendant. According to the scientist's opinion women needed the greatest protection in court as their interests were represented mainly by their husbands or so-called friends (Borysenok, 1927a: 111).

Any assistance was not free and was paid as it was agreed. For example in one of the lawsuits the author provides information about the following

reward: "two poses of Luna cloth, a horse's fur coat and five kopecks of money, total reward for forty five kopecks of money". Thus a fee ("*pomochnoye*") appeared and "it had become a sign of a special legal profession birth for the people who are hired to conduct other people's cases in court" (Borysenok, 1927a: 116–117).

S. Borysenok dedicated a separate article entitled "Lawyer's Fee in the Lithuanian Principality in the 16th–17th Centuries" to the award for the lawyer practice. This text had to be published in the seventh issue of "Proceedings..." However because of the several authors' arrests the issue was destroyed. Due to the foreword of the Commission chairman M. Vasylenko its content and brief information about the texts of publications are known. Regarding S. Borysenok's text he noted that "the fee was a private contract of the lawyer and the client". It was a payment for the professional services of a lawyer; the fee was provided as one of the types of court costs and was included in the contract of the lawyer with the client. Lawyers were rewarded with land, money and other things" (ІР НБУВ, ф. 40, оп. 1, од. зб. 449, арк. 2; Vasylenko, 2006: 449). That is we have a short quote or the content narration of this study. We can only hope that the full text of S. Borysenok's article, and possibly the entire issue, will be found in one of the archives.

S. Borysenok's next study is devoted to the lists of the First Lithuanian Statute, which "quite directly completes the long preliminary unification process of the ancient legal separate systems of the ancient Ruthenian lands united under the supremacy of Lithuania" (Borysenok, 1929a). Contrary to the order of Sigismund I the Old the Statute, was not published. S. Borysenok expresses his own point of view on the reasons for the emergence of its various lists. According to his idea it was due to the lawsuit, when gaps in the Statute norms could be filled through the Sejm. However in reality it was not the case, and therefore "each owner of the Statute copy supplemented and corrected the Statute from his practical point of view on the applicability of this or that legal norm". The biggest problems arose when consideration of a case was on the "highest juridical authority", when "the individual's own list was constricted with the economic list and legal defense according to his list of the Statute was dangerous" (Borysenok, 1929a: 47).

In the following sections of the article the author subjects to scientific analysis of the Statute lists 1529 which he knew, although the description of the manuscripts is taken from I. Danylovych edition. In particular, S. Bo-

rysenok considered 4 lists in Ruthenian languages (Dzialinsky, Fyrliivsky, Slutsky and Vilynsky), one in Latin (Porytsko-Pulavsky) and two translations into Polish (Ostrobramsky and Svidzynsky) (Borysenok, 1929a: 54–64). According to the content, the historian divided the lists into two groups: short edition (Dzialinsky, Fyrliivsky, Porytsko-Pulavsky) And wide edition (Vilynsky, Slutsky, Ostrobramsky). In the lists of the second group some norms had been changed and new ones had been added. S. Borysenok made a comparative analysis of the norms for the Statute different lists and compared them with the documents of judicial practice. He came to the following conclusion: "1) the originals (or maybe it was one original) from which the lists of the broad edition had been copied out (Vilynsky, Slutsky, Polish) are supplemented and corrected copies of the Statute; 2) these originals were by no means economic copies. This is a private work because the articles which they contained were not in the economic list" (Borysenok, 1929a: 95).

Actually in this article S. Borysenok for the first time tried to analyze the discrepancy of some (but not all) lists which had been saved (Pirmasis Lietuvos, 2004: 30). However he made a number of mistakes: he failed in quite understanding that Slutsky and Vilynsky lists were the same, although he stipulated such a possibility. Modern researchers associate all his errors and inaccuracies with a weak base of sources and insufficient knowledge of the historiography as it is (Pirmasis Lietuvos, 2004: 31).

S. Borysenok analyzed a rather large number of court cases and tried to find out whether the economic list of the Statute existed. According to his observations, such situations held when the case had been considered in the economic court in accordance with the Statute, but that norm was either not in any of the lists, or it had been amended (Borysenok, 1929a: 97–100). The author also concluded that "the list used in the economic court had its own numbering unknown to us in general. It does not coincide with the lists of the Statute which are known now" (Borysenok, 1929a: 104). The general result was quite categorical: "no one economic list of the Statute left" (Borysenok, 1929a: 109).

Part of the research for the Lithuanian Statute was the work "Customary Law of the Lithuanian-Ruthenian State in the early 16th Century" (Borysenok, 1928a). In this article the author shows the importance of the customary law in the Lithuanian state emphasizing that it was of a local nature. The author finds out the process of the law slow formation along with the custom as well as the relationship of law and custom. Thereby he

shows which norms of the custom were codified and enshrined legally, the meaning and reception of "Rus'ka Pravda" norms in the Lithuanian state.

A common type of the Commission's staff work for the Study of the History of Western-Ruthenian and Ukrainian Law of AUAS was the writing of reviews and surveys. S. Borysenok's work was not an exception. The Commission's staff did not formally approach this type of work, so reviews often generated interesting scientific discussions. First of all it applies to the reviews for R. Lashchenko's work which were published in the second issue of "Proceedings...". These are reviews for the first volume of R. Lashchenko's monograph, his articles as for the Lithuanian Statute (Borysenok, 1926a; Borysenok, 1926b). A review of Mark Cosven's monograph was published in the same issue (Borysenok, 1926). In the third issue he analyzed the work of Adam Vetulani on the development of the trial in Poland in the 13th – early 16th centuries (Borysenok, 1927). In the sixth issue his review of the work for Polish researcher Jan Adamus "Z zagadnień prawa Litewskiego. Lviv. 1926 page 56 (Historical and legal monument edited by Przemysław Dąbkowski volume 2nd)" (Borysenok, 1929). S. Borysenok raises the issue for defining the concept of "Lithuanian Law" (Borysenok, 1929: 474). The author analyzes in detail the use of the terms "Lithuanian Law", "Lithuanian-Ukrainian Law", "Lithuanian-Belarusian Law", "Lithuanian-Ruthenian Law" and "Western-Ruthenian Law" in science. In such a way he showed the tendency of politicization and "nationalization" of the legal heritage in Lithuanian-Ruthenian state (Borysenok, 1929: 479–480). Actually this issue was the cause of controversy with the R. Lashchenko's works. The scholar clearly stated his position that the most correct term is "Lithuanian-Ruthenian Law", as "it leaves the Lithuanian ethnographic element, and on the other hand points to the law-making factor "Ruthenian" in the historical sense of Rus (Ukraine and Belarus)" (Borysenok, 1929: 480).

S. Borysenok showed his position as for the national character of the Lithuanian Statute in a large article in the Belarusian edition: "The National Character of the Lithuanian Statute 1529" (Barysienak, 1927; Barysienak, 1927a). In this article S. Borysenok tried to trace the history of the Statute research. Particular attention is paid to the analysis of sources (Barysienak, 1927: 139–160; Barysienak, 1927a: 136–157). He pays considerable attention to the Grand Duke's privileges, raises the issue of the influence "Rus'ka Pravda" and Polish law as well. According to S. Borysenok the main source of the First Lithuanian Statute were both customary law and judicial

practice of the main core in GDL which included ethnographic Lithuania and part of Belarus (Barysienak, 1927a: 152), therefore he calls this document a monument of "Lithuanian-Belarusian Law" (Barysienak, 1927a: 157). He also commented on many articles of the First Lithuanian Statute. The study "Fedir Yevlashevsky, a Belarusian practitioner-lawyer of the 16th century" (Barysienak, 1928) is no less interesting and original. It was also prepared for the Belarusian edition. However according to the logic of the presentation, this is one of the subjects related to the practice of law, which at that time had been investigated by S. Borysenok.

In the early 1930's S. Borysenok was an employee at the library. He actively worked at the acquisition of the library fund with foreign professional publications. He tried to establish and systematize international exchange. He described his vision of it in detail in the article "Active Organization of International Exchange in the Scientific Library" (Архів НБУВ, оп. 2, спр. 28, арк. 1-14). It was submitted for publication and included in the publishing plan for 1936 (Архів НБУВ, оп. 1, спр. 516, арк. 14). But due to his fire and arrest it remained in the manuscript. Another such material was the article "The Problem of the Book Depository in the Scientific Library" (Архів НБУВ, оп. 1, спр. 516, арк. 14). These developments and the researcher's desire to improve the work of the library only remained on paper. March 11, 1935 he was fired from the library as "one who failed in his duties" (Архів НБУВ, оп. 1л, спр. 46а, арк. 10). This decision in that political situation was "forced" and "understandable" (Dubrovina, Onyshchenko, 2003: 259-260).

In the late 1920's and early in 1930's when the situation at the academy changed significantly, many scientists had to leave the problematic research and continue their studies in the "right" perspective. In addition the communist regime demanded a critique of all previous work of "bourgeois", "liberal" and "nationalist" historiography. S. Borysenok was forced to change his research plans. He drew attention to the law of other historical periods ("Lynchings of Criminals in 1917" (Borysenok, 1928)), as well as "critically" and "self-critically" studied the works of his predecessors ("Russian Great Power in the Concept of "History of Western-Ruthenian Law": Kiev "school" of Professor M. Vladymyrsky-Budanov" (Borysenok, 1932)).

Also in the late 1920's the researcher had been preparing for publication a thorough work with focus on the Lithuanian Statute (history of drafting the code, sources, lists) (ІР НБУВ, ф. 40, оп. 1, од. зб. 239, арк. 1-

1 зб.). This work of the Commission was planned and primarily related to the preparations for the 400th anniversary of the First Lithuanian Statute. It was the very problem that he worked actively during 1928–1929. The work was supposed to be completed in 1931 in the form of a separate edition total 15 author's sheets (IP НБУВ, ф. 40, оп. 1, од. зб. 238, арк. 3). According to L. Okynshevych S. Borysenok conducted the preparatory stage, but then everything was delayed because exactly like this publication had been started by Polish scientists (Okynshevych, 1929: XVIII–XIX). Such a publication had been never prepared by Polish researchers at that time but instead of it in 1929 a large-scale scientific conference was held in Vilnius. The materials of the conference were published in 1935 and generated a number of interesting and constructive scientific discussions (Księga pamiątkowa, 1935).

In those conditions both S. Borysenok's and the Commission work was complicated and made impossible due to the availability of archival material. Thorough work only could be prepared with the involvement of the most known lists which had been stored in foreign archives and libraries. In addition the political situation did not promote scientific contacts and exchange, so the works and experience of foreign colleagues were beyond access. And it was the obstacle which also complicated the research process.

However, the researcher most likely did not stop working. Correspondence with Lithuanian researcher A. Janulaitis (the ancestor of the Lithuanian Statutes historiography (Pirmasis Lietuvos, 2004: 34)) indicates that the manuscript of this work (or a significant part of it) probably existed. In the late 1920^s in Lithuania the issue as for publishing the First Lithuanian Statute in Lithuanian language had been arisen. Certainly the impetus was the 400th anniversary of the historic document. On December 15, 1929 due to the anniversary a festive meeting of the scientific community was organized at the University of Lithuania (Kaunas), and A. Janulaitis and I. Jonynas made reports. Then it was decided to prepare the publication of the First Lithuanian Statute (Pirmasis Lietuvos, 2004: 35). A. Janulaitis personally addressed to S. Borysenok in regards the possibility of translating and publishing his work in Lithuania (LMAB. Rankraščių skyrius, f. 267, № 307, l. 3). The Lithuanian side offered a fee of \$ 20 per sheet and sent an advance of \$ 50 (LMAB. Rankraščių skyrius, f. 267, № 307, l. 7, 13). On October 19, 1935 S. Borysenok announced that the work consisted of 12 author's sheets, but after completion it might have 15. The structure of the work was as follows: "1) The problem in scientific research of the

Lithuanian Statute 1529; 2) The main directions of the Lithuanian Statute 1529 study in the historical literature; 3) The history of the Lithuanian Statute drafting; 4) Lists of the Lithuanian Statute; 5) Sources of the Lithuanian Statute; 6) Conclusions" (LMAB. Rankraščių skyrius, f. 267, № 307, l. 11). However in 1935 S. Borysenok was fired, persecution began and he was arrested. The project had not been implemented.

On September 23, 1937 S. Borysenok was arrested on trumped up charges of alleged involvement in an "anti-Soviet nationalist organization". On October 25 of the same year he was sentenced to death via shooting (executed on November, 14) (ЦДАГО України, ф. 263, оп. 1, спр. 47006, арк. 81). The family was deported from Kyiv and all property was confiscated. The criminal case does not contain information about the seizure of manuscripts and the library, so their fate can only be guessed.

The materials of the criminal case evidence that the system broke a person: the defendant "confessed" to everything that the People's Commissariat for Internal Affairs accused him of, signed all the "confessional" protocols of interrogations. In 1958 he was rehabilitated posthumously due to "the absence of a crime" because the evidences were not "confirmed" (ЦДАГО України, ф. 263, оп. 1, спр. 47006, арк. 88). A certificate of rehabilitation was sent to his wife Olena Borysenok, who lived in Bila Tserkva region, Kyiv oblast (ЦДАГО України, ф. 263, оп. 1, спр. 47006, арк. 92 зв.).

At the same time the facts of cooperation with Lithuanian historians are recorded and they give us the opportunity to hope that the lost achievements of the researcher can still be found and introduced into scientific circulation. And we are convinced that they will be the impetus for the new scientific research and will cause a significant number of scientific discussions.

ARCHIVES

Архів НБУВ – Архів Національної бібліотеки України ім. В. І. Вернадського [Archive of the V. Vernadskyi National Library of Ukraine].

ДАК – Державний архів м. Києва [State Archive of Kyiv].

ІР НБУВ – Інститут рукопису Національної бібліотеки України ім. В. І. Вернадського [Manuscript Institute of the V. Vernadskyi National Library of Ukraine].

ЦДАГО України – Центральний державний архів громадських об'єднань України [Central State Archives of Public Organizations of Ukraine].

LMAV – Lietuvos mokslų akademijos Vrublevskių biblioteka. Rankraščių skyrius [The Wroblewski Library of the Lithuanian Academy of Sciences. Manuscripts Department].

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