

## THE THEODOSIAN CODE

CROGIEZ-PÉTREQUIN (S.), JAILLETTE (P.) (edd.) *Codex Theodosianus. Le Code Théodosien V*. Pp. 523, figs. Turnhout, Belgium: Brepols, 2009. Cased, €125. ISBN: 978-2-503-51722-3.

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'*Servavit nobis Theodosianum Gallia*': so remarked Mommsen in the *Prolegomena* to his edition of the Theodosian Code (p. xxxviii), celebrating the land which in large measure has preserved the relevant manuscripts. And it is in France that there now appears a major contribution to scholarship on the compilation of Theodosius II, in the form of an imposing translation project which will eventually go far beyond the useful but not entirely satisfactory English translation published by Clyde Pharr in 1952.

The elegant book under review, the fruit of many years of work by a team led by S. Crogiez-Pétréquin (University of Tours) and P. Jaillette (Halma Ipel, University of Lille-3)<sup>1</sup>, offers a French translation of Book 5 of the Theodosian Code and is the first of a projected series in sixteen volumes bearing the title *Codex Theodosianus – Le Code Théodosien*. This project, directed by C.-P. and J., which is in turn part of a larger enterprise of editing ancient texts known as GDR 2135-THAT (*Textes pour l'Histoire de l'Antiquité Tardive*), sets out to offer the first complete French translation of the Theodosian compilation. Since its inception in 2003, the project has been accompanied by a series of international colloquia on various formal and substantial aspects of the Code.

The present translation has been anticipated by two other recent French translations. Both of these, however, are much more limited in scope, being dedicated largely to Book 16<sup>2</sup>, the content of which – the religious legislation of Late Antiquity – has proved of particular interest to scholars in recent decades.

The work under examination is a major scholarly undertaking. Structured in two distinct parts, it opens with a preface by the Editors (pp. 5–10), followed by an introductory section (pp. 11–184), impressive in its range and detail, compiled by J. – the Editor responsible for this volume – which in its turn is accompanied by a series of appendices (pp. 185–252). The second part (pp. 253–445), consisting of the translation proper, is divided into a transcription of the Latin text of Book 5 of the Theodosian Code (ed. Mommsen) with the corresponding Visigothic *interpretationes* and the facing French translation, which is enriched by an impressive apparatus of explanatory notes and commentary. The work is closed by useful subsidiary appendices (pp. 447–523), consisting of an ample glossary, a chronological table for the period 305–455 A.D., a list of the reigning Emperors and of the praetorian prefects attested between 337 and the mid fifth century A.D., and a wide-ranging series of indexes.

Every serious translation of a source of such complexity cannot avoid philological questions nor dispense with a prior analysis of the textual tradition. This is

<sup>1</sup>The other members of the team are J.-M. Poinssotte, J.-P. Callu, A. Laquerrière-Lacroix and P. Laurence.

<sup>2</sup>These translations, edited respectively by E. Magnou-Nortier and J. Rougé (with the collaboration of R. Delmaire), both published by Les Éditions du Cerf in the series *Sources Canoniques* no. 2 (2002) and *Sources Chrétienne*s nos. 497, 531 (2005, 2009), partially overlap, the second adding the constitutions with a religious content issued between the time of Constantine and Theodosius II which are dispersed in other books of the Theodosian and Justinianic Codes and in the *Sirmondiana* collection.

all the more true for Book 5, of which the Breviary of Alaric has preserved only a small part. This amply justifies the decision of J. to begin the Introduction by recalling the fate – from its discovery in 1820 by Peyron to its final accidental destruction in 1904 – of the *Fragmenta Taurinensia* a.II.2. This manuscript fragment, consisting of 29 folios, was originally part of a palimpsest from Bobbio containing a more complete (though still imperfect) tradition of the Theodosian Code. It constitutes the sole testimony for the reconstruction of more than three-fifths of Book 5 of the Code. In addition to the manuscript tradition, the author discusses at length the various editions of the Theodosian Code, in particular those published in the nineteenth and twentieth centuries after the discovery of the Turin manuscript.

More than 40 pages (pp. 28–70) are dedicated to the delicate problem of the correct sequence of the leaves of the manuscript and consequently of the titles and constitutions of the Code itself. The clarity of the discourse, together with the various explanatory tables, renders this complex question admirably comprehensible. Using helpful synoptic tables, the author carefully sets out the attempts made by the various editors to restore the original order of the titles, analysing in detail Mommsen's editorial decisions and Krüger's study of the configuration of Book 5. The circumstance of the unique Turin witness, the difficulty of establishing the original order of the leaves, and the probable loss of some leaves, render the reconstruction of this part of the Code particularly problematic. It is precisely here that the author's analysis brings out with greater clarity the theoretical differences between Mommsen and Krüger and the corresponding discrepancies between their respective critical editions. The question is by no means of small importance, for in comparison with that of his master, Krüger's edition of 1923 presents many aspects which are strikingly original if not indeed 'révolutionnaires' (p. 59).

There follows a detailed discussion of imperial constitutions and their role as a legal source. Here the author examines the formal characteristics (structure, style, language, etc.) of the constitutions of Book 5 of the Theodosian Code and, by means of a synoptic comparison between CTh. 5.7.2 and the more complete version handed down in the *Sirmundianae* (Sirm. 16), reconstructs the treatment to which the constitutions were subjected by the compilers. This brings him to confront the intricate question of the *inscriptiones* and *subscriptioes*, which have often been corrupted in the manuscript tradition.

A substantial section ('La Teneur du livre': pp. 103–80) offers, in language comprehensible to the non-specialist, an overview of juridical institutions (succession *mortis causa*, juridical status of persons and the colonate, the legal regime pertaining to land) treated in Book 5. In particular, it traces the complex story of their evolution in the course of Late Antiquity, as revealed by the constitutions collected in the Theodosian compilation.

The introductory part concludes with a series of appendices consisting of a number of tables and the stereotype reproduction of portions of some less readily accessible literature: the apograph of the *Fragmenta Taurinensia* by Krüger; the relevant portion of the latter's edition of the Theodosian Code; and the *Paratitlon* to title 9 of Book 5 in the famous 1665 Lyon edition of Jacques Godefroy. Unfortunately, the reduced size of these reproductions does not make for easy consultation.

The base text adopted for the translation is that of Mommsen, which has been faithfully reproduced opposite the facing page translation (the only slip noted is the citation of Burg. 22.9 instead of 23.9 in CTh. 5.1.4). A rich bibliographical apparatus has been added. It is perhaps unfortunate that it has been decided not to

include the list of manuscripts which Mommsen places at the end of each constitution, and which is not without its uses. The numeration of the lines of the text and, consequently, of the apparatus, inevitably differs from that of Mommsen, and this of course affects the use of older works of reference, such as the *Heidelberger Index* of Gradenwitz.

The translation succeeds brilliantly in overcoming the complexity of the language of the late antique imperial chancery, being characterised by singular clarity and absolute reliability (only *juillet* appears erroneously for *juin* in the date of CTh. 5.12.3). The numerous notes in the accompanying commentary further help to make comprehensible the individual constitutions. Finally, the observations about the date and recipient of each constitution, which have been contributed by Roland Delmaire, renowned as one of the leading experts in the field, are of great value, being based on an exhaustive and painstaking consideration of the conclusions of modern scholarship in the light of prosopography, numismatics, epigraphy and all the other relevant disciplines.

The work thus goes well beyond a simple translation of the Theodosian Code. No aspect – whether of formal or substantial nature, from the manuscript tradition to the critical editions, from the reconstruction of the historical context of each constitution to the analysis of the juridical aspects – has been overlooked. The wealth of scholarly information provided in addition to the translation itself will make this source of great value to a wider public.

Faced with such a fine translation of a text which is notoriously far from easy, one must express surprise at the presence of a number of misunderstandings in the translations of the secondary literature cited, which has also been rendered in French.<sup>3</sup>

The work of C.-P. and J. constitutes a fundamental contribution to the study of the Theodosian Code and a precious instrument for all scholars of Late Antiquity. One awaits the forthcoming publications with great anticipation.

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<sup>3</sup>For example, in the passage cited from the *Prolegomena* ‘non exiguum numerum locorum corruptorum in tribus libris, sexto septimo et octavo, Codicis Iustiniani potissimum ope feliciter emendavi’, Mommsen is referring to the correction, successfully accomplished, of Books 6, 7 and 8 of the Theodosian Code *with the help* of the Code of Justinian, and not to the correction of Books 6, 7 and 8 of the Justinianic Codex itself (as the author appears to have understood: ‘corriger avec bonheur dans trois livres, les 6, 7 et 8 du CJ principalement’ [p. 16 n. 20]). Or again in his *Prolegomena*, Mommsen criticises Hänel for not always indicating in his apparatus the provenance of the variant readings and the sigla of his manuscripts (‘Lectio varia unde veniret parum curans, saepenumero adeo librorum suorum notis omissis’), which is inexactly rendered ‘sans reprendre les notes de ses livres’ (p. 24 n. 47). Again, when he refers to the ‘constitutiones imperatorias emissas per temporis spatia Theodosiano comprehensa’, Mommsen means the constitutions issued in the period covered by the Code (i.e. 313–437 A.D.), not in the period of the redaction of the compilation (as suggested by the translation ‘Les constitutions ... qui furent émises pendant que le Théodosien était rédigé’ [p. 44 n. 30]).