

The Canons of the Church and their ecclesiastical function: some remarks

CONSTANTIN RUS
*Decano – Facoltà Teologica di Arad
(Romania)*

The designation of the Church as the mystical body of Church and the inseparable union within it of the divine and human under one head, the one Lord, make possible the solution of various important problems. One of these is the question of what should be the criterion in determining the contents of the canons. It is this which will principally concern us in this study.

The Church on earth, inseparably linked with the Kingdom of God in heaven through its divine head, is the sole organization in the history of mankind to transcend this world. Human and divine are harmoniously united within it; indivisibly, yet without confusion.

The true Church, therefore, is not merely a visible human organization in the world, nor is it solely a divine invisible body above and beyond the world. Rather it is single and indivisible, visible and invisible, divine and human, existing at once both in heaven and in earth, both within time and in eternity. This principle is of fundamental importance both for the entire organization of the Church and for the satisfactory solution of problems concerning the internal order of the Church which are complicated precisely because the Church is essentially both a human and divine entity, in which the transient is continuously involved and intertwined with the eternal, the visible with the invisible, the divine with the human, the changeable with the unchangeable¹.

The visible Church, as the organized expression in the world of the unique and indivisible, divine and human organism of the Church, is indissolubly linked to its invisible divine head and carries on in the world the redeeming work of Jesus Christ. Clearly therefore, the founding of the Church even as a visible society in the world, hierarchically organized, is the prerogative of the same Lord who is both God and Man. It was He who equipped it with its fundamental laws and with the appropriate organs and means to fulfill its earthly mission. The Lord is not only the redeemer of the world; He is also its law-giver. It followed that as the Church had received from its founder a commission and power, it would develop and institute whatever it required to function normally as an institution, taking the Holy Scriptures as its fundamental principle. Canons were therefore gradually promulgated, regulating the life of the Church in its earthly aspect.² As these canons are derived from the very essence of the Church and act in harmony with it, they enshrine the unchangeable essence of the

¹ MOURATIDES K., *The relation between Church and State*, Athens 1965, 57.

² LOSSKY V., *La théologie mystique de l'Église d'Orient*, 172.

Church in the changing conditions of history³ and are eternal, visible, historical and changeable expression of the unchangeable element, the doctrines of the faith;⁴ hence the close, direct and essential relation between dogma and canons. It is for this reason that the Greek words *dogma* and *kanon* are sometimes used as synonyms⁵.

Such an expression of the essence of the Church necessarily rests on concrete historical premises and preconditions. Since the historical conditions under which the Church has been called on occasion to fulfill its saving mission have not remained stable or unchanged, the life of the Church and the ecclesiastical laws which govern it have developed parallel with the change and development in the external conditions. The canons were not all promulgated at once, but gradually, as the new religion spread abroad, and various external factors demanded that the Christian Church be organized by explicit regulations⁶.

This gradual promulgation of the canons, linked to the Christian communities' periodic needs which the Church attempted to meet with its laws, has led certain Orthodox theologians to argue as follows: lying behind the canons are the Church's extensive and varied interest leading it to give its children a guide-line to enable them to identify basic questions soundly and to deal with them correctly⁷; further, the needs of its children have altered in much and are continually altering, alongside the circumstances of society and the effect of the passage of time and of modern conceptions. It is consequently self-evident that the Church not only can but must adapt its laws to these new needs, by modifying or even abolishing canons that have come to be useless or impractical, and must promulgate new ones as they become necessary⁸.

There are also the extreme liberals who unhesitatingly regard any discussion whatever about the canons as completely useless, sterile and casuistically, as revolving around laws which, if they are not dead, are certainly well on the way to the grave.

As well as the conservative progressives and the extreme liberals, there are the extreme conservatives: those who reject any possibility of change or modification in the canons. They rely chiefly on canon two of the Council in Trullo⁹, which ratified the canonical code prevailing previously, and secondarily on the first canon of the seventh Ecumenical Council (Nicaea II)¹⁰, which, having no reason to go into a detailed

³ PETROVIC M., *The Nomocanon in 14 titles and the Byzantine commentators*, Athens 1970, 68.

⁴ EVDOKIMOV P., *L'Orthodoxie*, Paris-Neuchâtel 1959, 39.

⁵ STEPHANIDES B., *The bounds of the ecclesiastical legislation of the Byzantine Emperors*, Athens 1995, 13.

⁶ ARCHONTONES V., *On the codification of the sacred canons and the canonical institutions in the Orthodox Church*, Thessaloniki 1970, 17-18.

⁷ ÆMILIANOS (Bishop of Meloa), *The Church of the canons*, Athens 1963, 51.

⁸ ARCHONTONES V., *op. cit.*, 19.

⁹ RHALLIS G. – POTLES M., *Suntagma tōn qehwō kai Vērōn kanōnwōn*, Athenai 1852, vol. II, 308-310. The canon reads as follows: «It seemed very good and proper to the holy council that the 85 canons accepted and ratified by the holy and blessed fathers before us and handed down to us in the name of the holy and glorious Apostles should continue from now on secure and certain for the cure of souls and the healing of passions ... and we set our seal also upon the other holy canons promulgated by our holy and blessed fathers (there follows a list of the councils the canons of which are ratified) ... Nobody is permitted to falsify the afore-mentioned canons or to set them aside, or to accept, besides those mentioned, other canons spuriously added to the others by people attempting to debase the truth. If someone is caught innovating or attempting to overthrow one of these canons, he shall be liable to receive the punishment laid down by the canon, and shall thus be corrected in his fault».

¹⁰ *Ibidem*.

enumeration of the canonical and doctrinal resolutions of the earlier councils and Church Fathers, merely reiterated more precisely and clearly what the Council in Trullo had promulgated on the code of the ancient canons and their authority: «To these there is to be no adding, and from them there is to be no taking away»¹¹.

Yet what is the exact meaning of these canons? CHRISTODOULOS' commentary on these two canons is extremely interesting: «The wording of this canon (two of Trullo) does not concern itself with the Church's legislative power to change or ratify the canons. In the original words of the canon, the council ratifies the canonical code as it had taken shape by the end of the seventh century and, by accepting it, confirms the councils and canons of the Fathers which it enumerates by name. Finally it prohibits any falsification or adulteration in the code as ratified, or replacement of the canons recognized by the Church with spuria written by unscrupulous persons. The prohibition by the council of any such activity was necessary when the canonical code was being specifically ratified for the first time by the legislative power and is directed at people who attempt to exploit the truth, and not at the acts of the legal power in the Church. If we compare the phrasing of the second canon with that of the first, which does speak about the untouchables and exchangeability of the dogmatic definitions of the Ecumenical Councils, then the distinction made by the councils between the two becomes clear. The council summarized the truths of the faith defined and clarified in the creeds and dogmas of the six Ecumenical Councils, decreeing at the end of the first canon: «The faith of all the men who have been prominent in the Church of God is to hold fast and continue until the consummation of the world, (...) for we have resolved absolutely neither to add anything nor to take anything away from what has been decreed before in any possible way». Similarly, there is an important distinction between the penalties the council imposes for transgressing the first and second canons. In the second canon, anyone convicted of innovating or of attempting to overthrow any of the canons afore-mentioned by the council is declared liable to receive the punishment fixed by the canon he has perverted or changed. In the first canon, we read: «And if anybody does not keep and cleave to the afore-mentioned dogmas of the faith and thus glorify and preach them abroad, but attempts on the contrary to overthrow them, let him be anathema (...) and let him be expelled and banished from the Christian register as an alien». The 2nd canon of the Council in Trullo thus contains no suggestion that the canonical and disciplinary regulations of the canonical code are unchangeable and immovable, still less that this immovability must be understood in the same sense as that of the Holy Scriptures. Nor does the council put the canonical ordinances of the preceding councils on a par in importance for Christians with their dogmatic definitions. The direct sense of the words of the canon is to forbid any Christian, whatever his position in the Church, to change, pervert, replace or adulterate the canons on his own authority. There is absolutely no mention in the canon of acts of the legislative power of the Church, or of its prerogatives to develop and change earlier laws. The same sense is expressed in the first canon of Nicaea II. On the other hand many of the councils employ the word *ananeoumeqa* (“we

¹¹ RHALLES G. – POTLES M., *op. cit.*, II, p. 555-556.

renew”); such an expression would not have been used if the keeping of the canons were as immovable as the doctrines of the faith. Again, the Council in Trullo first ratifies in general the canons of the local councils, and then goes to correct and even to repeal some it regarded as resting on erroneous foundations (compare canon fifteen of Neocaesarea with sixteen of Trullo). The seventh Ecumenical Council, although saying in its first canon that “we preserve everything that has been handed down,” nevertheless adds another twenty two canons, some of which repeat earlier canons that were apparently no longer in force. The same council in its first canon quotes Moses, by saying: «You shall not add anything to these things, nor shall you take anything away», yet it still introduces another twenty two canons. We are all familiar with the remarks of the ancient canonists that such-and-such a canon was valid, or was no longer in force, that it was *universal* or *particular*. BALSAMON says in his interpretation of the fifty-ninth canon of the Council in Trullo that the provisions of the canon were not in force, but rather those of the Novel of LEO THE WISE prevailed (see also his *Commentary*, XVI, 1, 2). From the general spirit of the council’s phrasing, it emerges that the ancient canons are recognized and ratified as mandatory law for the whole Church and for every individual member of it. None of the members is justified in perverting them, in replacing them with others, or in introducing completely new elements into them on his own initiative¹².

This disagreement and controversy amongst the canonists is clearly to be attributed to a different theological conception of the sense and purpose of the canons. According with SCHMEMANN, the gravest error of the extreme liberals lies in their seeing the canons as having the characteristics of secular laws, as administrative decrees which are automatically changed, if only the appropriate text can be found. Yet it is here that the problem lies, in that a canon is not purely a legal text or principle with no practical application in the Church whatsoever. A canon is a demonstration of the way in which, in a given situation, the eternal unchangeable essence of the Church must be revised and expressed. This eternal truth expressed in a particular canon, promulgated on a specific historical occasion in conditions probably differing radically from those pertaining today, remains stable and everlasting in the canons, making them an unchangeable part of church tradition. There are various forms of the historical essence of the Church for each person who has even a slight acquaintance with its history; there is clearly no doubt about this. In the course of history, one form replaces another. However, in all the various different forms of the life of the Church, there is a stable and permanent kernel: the dogmatic teaching on the Church, or, in other words, the Church itself. The life of the Church cannot take optional forms at will, but only such as correspond with the essence of the Church and are able to express this essence in given historical circumstances. Thus the canons are the form in which the

¹² CHRISTODOULOS A., *The Treatise of Canon Law*, p. 57-60. A similar view on the interpretation of the 7th canon of the Council in Trullo is held by SESAN V., *Revision der Canonen und anderer kirchlichen Normen, sowie deren Kodifizierung*, in *Proces-verbaux du premier Congres de theologie orthodoxe a Athenes 1939*, 310-323. Cfr. ARCHONTONES V., *op. cit.*, 20. There are scholars who believe that the said canons, even though they did not find their full application throughout the long life of the Church, do envisage the unchangeability of the holy canons, and that the promise on the faith and devotion to the holy canons was also included in the *Ordo* of the Episcopal oath during consecration [AFANASSIEFF N., *Canons et conscience canonique*, in *Contacts*, 2^{me} trimestre (1969), 121-122].

unchangeable essence of the Church is enshrined in the changing circumstances of history. Any conscious contempt of them can consequently lead to the corruption of the Church, that is to ecclesiological heresy¹³.

The extreme liberals confuse *ius divinum* with *ius humanum* and forget that the category of divine law, which alone has meaning and unchangeable authority, must be understood to embrace everything which is closely connected to the essence of the Church and which bases its organization, without which the success of the Church's purpose would be problematical, upon everything which is either directly founded upon the doctrines of the Christian faith, or is a direct conclusion from them¹⁴.

They forget that the canons which govern the life of the Church in its earthly aspect are inseparable from the doctrines of the Christian faith, that they are not legal charters, nor sets of rules, strictly speaking, but the doctrines of the Church, the revealed tradition, applied in all sectors of the practical life of the Christian community.

They forget that this organic and inseparable unity of the canons and the canonical order in general, together with the internal nature of the Church, not only gave the Church's laws the preeminent character of spiritual and liturgical law, but also ensured the unity and self-sufficiency of the ecclesiastical organization, preserving it from any confusion with the secular equivalent.

They forget that to solve the canonical problems it is not sufficient merely to know the system of Canon Law mechanically, any more than it is sufficient to handle it in an external, formalistic and casuistically manner by finding the canonical text appropriate to each particular case. This transfers the focus from the divine factor to the human, from the essence to the form and from the freedom of the spirit of love to the dead letter of the Law¹⁵.

It is absolutely essential to know the underlying sense and meaning of *canonicity*. For this purpose, some higher, surer criterion is required to reveal the true sense of the canons beyond the problems and the external forms of the life of the Church. Such a criterion cannot be found in the transitory and ephemeral, but only in the eternal, in other words in an *awareness of the eternal truth expressed in the canons*.

It is thus erroneous to look for such an awareness in the canons, that is to say in isolated historical texts, because these do not directly contain the life of the Church, but confront the problems of its empirical, transient aspect. The fundamentals, however, cannot be transient and ephemeral, but necessarily lie beyond the narrow confines of time, independent of the historical context or its conditions. Consequently the basis of an understanding of the eternal truth behind the canons cannot be found, cannot exist, except in the dogmatic teaching on the Church. It lies close to the understanding of the dogmatic element of the Church and is distinct only from the point of view of historical direction. As the moving force of the Church's history, its aim is to enshrine the dogmatic teaching in canonical forms.

¹³ SCHMEMMANN A., *Towards a Theology of Councils*, in *St. Vladimir's Seminary Quarterly* 6 (1962), 6.

¹⁴ CHRISTODOULOS A., *op. cit.*, 23.

¹⁵ MOURATIDES K., *op. cit.*, 123-124; LOSSKY V., *op. cit.*, 172 f.

Throughout the changing forms of the Church's life, this awareness of the truth expressed in the canons thus remains «unalterable, unchangeable, valid everywhere and always for all those who confess the same doctrines of the faith. This quality contains the sure criterion for confronting and solving the various canonical questions that arise, as well as for appreciating the canonical forms in their totality»¹⁶.

Viewed from this point of view, the position of the extreme conservatives is seen to be equally erroneous. They start from the secure theological conception that the Holy Canons, at least those of the Ecumenical Councils, are «nothing other than divine law itself, the seeds of which are contained in the Holy Scriptures, but which has been developed and elucidated»¹⁷. They extend the unchangeable as far as the very legislative power of the Church, forgetting that it was the Church which instituted and ratified the Holy Canons and by accepting them invested them with authority.

It cannot consequently be denied that it is the Church which possesses and always will possess the right to change in a legitimate fashion anything in its earlier canons which it finds needing to be changed or corrected. This right is inseparably connected with the essence of the Church's legislative power. If we accept that the authority of the canons is higher than the Church itself which instituted them, this means that not only do we see the Church as lower than its creation, and make it permanently subject to that creation, but also that we put upon it the heavy burden of resurrecting many conditions of life and needs which have disappeared so as to effect the application of certain ancient regulations¹⁸.

The function of the canons and of ecclesiastical law in general is intended (as a creative and protective element) to help the Church's life to approach as far as possible the dogmatic teaching on the mystery of the Church. This, like all dogmas, is not theoretical or abstract truth, but is reflected in a whole series of expressions and is realized in the life of the Church.

This realization consists of the canonical organization, but this can never be complete. No ecclesiastical form can be seen to exhaust the mystery of the Church, but only to come near it, and this approach is relative to the historical moment at which it occurs. For this reason, any absolutist form of Church organization is quite unacceptable, because it confuses the empirical, relative and particular expression of the Church with its unchangeable essence. The various historical forms are connected to one another absolutely by the dogmatic teaching underlying them. Any modification or change should therefore appear not only as a readjustment to historical conditions, but equally as a desire for fuller expression of the ecclesiastical mystery under new conditions and presuppositions. No change is legitimate except when the new structure of the Church expresses more clearly and extensively than the old the eternal dogmatic truth of the Church. We are free to modify, or even to create new forms, but we are not always entitled to do this. In this question, as in the whole life of the Church, great

¹⁶ AFANASSIEFF N., *op. cit.*, 121.

¹⁷ Cf. ARCHONTONES, *op. cit.*, 27.

¹⁸ CHRISTODOULOS A., *op. cit.*, 61.

courage must always be accompanied by immense prudence and by faith and devotion to tradition¹⁹.

The entire canonical achievement of the Church forms an unbroken sequence of eras, rich in experience and in its obligation, responsibility and mission to enshrine the mystery of the Church in accordance with the varying situations of different times and places. We carry on only what did not originate from us, yet we like to believe that history begins with us. For this reason, in all our practical work, tradition and creation must always be inseparably linked; this will be the surest proof that our work will be continued, rather than come to an end with our death. However, every human action presupposes and entails to some degree the destruction of a previous creation which has ceased to be a living expression of the eternal, thus falling into complete inertia preventing creativity of any kind. We therefore can and must modify ecclesiastical laws, but only when the canons have ceased to be genuine canons, when they have ceased to fulfill their mission; when they no longer, in other words, express in life the eternal truth behind the canons. Certain canons will consequently remain in force until the end of time, and these canons are as sacred for us as the dogmas which they express²⁰.

Yet how can these canons be properly distinguished in their nature and authority from those which bear traces of the temporal circumstances of ecclesiastical life which brought them into existence? I quote A. CHRISTODOULOS, who believes that in defining the relation between the early canons and the legislation currently in force, we should bear in mind:

a). That the true spirit of the Christian Church in its visible dimension as a social institution is the profound and correct understanding of the fundamental bases of its organization, of the highest principles of its government and life, which are expressed in none of the later ecclesiastical laws with such clarity and totality as in the early canons. The integrity of the Church, its undivided life during the period of Ecumenical Councils and the marked vitality and interest in religious and ecclesiastical social concerns – all, amongst other factors, contribute to this. The early canonical code, more than any later ecclesiastical legislation, can be seen as an expression of the catholic voice of the spirit of the Church in the most essential questions of its internal organization and government. From this point of view, the early canons are a precious work and monument of diligence of a period never repeated in the Church. For later years they have been used and must continue to be used as supreme model and key for the understanding of the spirit of Church government, from which determining principles in law-making are to be derived. The ecclesiastical legislation of later years cannot boast of having made any development in comparison with the early canons, or even of having understood the first principles of ecclesiastical organization and government. Even today we cannot but confess that many principles of the early canons which were enshrined in the early canonical organization and government of the Church were investigated more deeply and approximated more closely to the highest, ideal aims of the ecclesiastical body than many later ecclesiastical laws. As far

¹⁹ AFANASSIEFF A., *op. cit.*, 115.

²⁰ *Ibidem*, 115-116 and 125.

as contemporary Church life is concerned, a great deal is consequently required from the legislative authorities to put the canonical principles into practice in the ecclesiastical bodies. To develop and apply these principles, to link them with the needs and situation of the church of each area and to elaborate them in particular laws is an essential and unceasing task of ecclesiastical legislation. When this relation to the canons is understood, their great, ageless importance for the ecclesiastical life of every era becomes possible and intelligible, and the great reverence the Orthodox Church has paid and still pays to this monument of its legislative activity becomes deeply significant. The Church does not make the canons an idol for thoughtless worship, but it does demand due reverence for them from its members and serious study and understanding of their spirit and ethical qualities from its ministers.

b). That within the early canonical code, we must distinguish the fundamental canons of general importance which express the first principles of ecclesiastical organization and the spirit of Church government, from those canons which relate to its external historical forms, to temporal conditions and needs; we must separate the spirit of the law from its external form, the intentions of the canons from all the canons individually²¹. Those who regard the canons as unchangeable do not make such a distinction and condemn the legislative power of the Church as unrealizable and as an impossible task. Laws do not create life, but only direct, order and govern it. The practical result of accepting such a theory would be that the legislative power would become extinct, as the early canons would be unshakable, yet at the same time unrealizable in many parts and forms. Or rather, since this is impossible in practice, the result would be that we should express great respect for the early canons in theory, while in fact becoming increasingly estranged from them in our laws and in practice. Whatever the case, the early canon would remain a treasure hidden in the field, to use the Gospel image, its owner unaware of it and not using it. Yet once the two elements are discerned in the canons, the intention as distinct from the forms, the aim of

²¹ Against CHRISTODOULOS' view, supported by D. BALANOS and H. ALIVIZATOS, which distinguishes between fundamental and non-fundamental canons, there are scholars who make a distinction between dogmatic and administrative canons. Such a distinction is not new; on the first canon of the Council of Chalcedon, Zonaras writes: "The councils promulgated canons, some of which helped to define the dogmas, while others applied to the ecclesiastical establishment and regulated the churches" (RHALLIS G. – POTLES M. *op. cit.*, II, 217). In ALEXIUS I's 40th Novel, ch. 4, we read: «Of the holy canons, some, which provide for the faith and give us some consolidation of the true dogma, shall be preserved and renewed in every way, while the rest shall be extracted and given over to my authority (...)» (From FRANGISTAS CH., *The constitutional power of canons of the Orthodox Church*, Athens 1985, 7, n. 7). This point of view is rejected by ALIVIZATOS, the authors of the *Pedalion* and P. CHRISTOU, ALIVIZATOS does not think it is possible to speak seriously of dogmatic canons, «for while there certainly are some dogmatic canons, their content entails their being historical canons of secondary importance, because dogmatic questions settled by such canons will earlier have been fixed by definitions, and the canons consequently become superfluous. Also, questions of order and ecclesiastical administration settled by the remaining dogmatic canons are connected with the heresies prevailing at the time they were promulgated and with the heretical churches and communities which came into being as a result of the dogmatic differences and disputes. From this point of view, those dogmatic canons which do exist have little or no significance" [ALIVIZATOS, *Are there dogmatic canons?*, in *Theologia* 27 (1935), 477]. The authors of the *Pedalion* write: «The conciliar canons mainly include not dogmas of the faith (at least only rarely), but provide for the good order and condition of the Church» (*Pedalion*, 1998). CHRISTOU thinks that «the canons form a single whole (...) there are no canons with a dogmatic or cultic content; the few which do touch on dogma and worship do not prescribe dogma or worship, but rather fix order in relation to dogma and worship; in other words they too are administrative canons» (CHRISTOU P., *The new charter of the Church of Greece*, 20). Cf. ARCHONTONES V., *op. cit.*, 27-28 and FRANGISTAS, *op. cit.*, 34).

promulgating laws will consist in perceiving more deeply and correctly their fundamental principles, which are always and everywhere adaptable, in working them out as specific ordinances of positive law and in deriving from them, as first principles, new principles for whatever new conditions appear in life. The external forms of the early life of the Church as fixed in the early canons cannot bind the exercise of the Church's legislative power, when it finds them inapplicable and needing to be changed, adjusted or conformed to other requirements. These external forms do not constitute the essence of the canons; the integrity of the Church does not depend upon them, nor will they serve to prove that the Church persists faithful to itself and to those high purposes for which it was founded and exists. Only such as would disrupt the accomplishment of those purposes and would thus destroy the very essence of the Church – only such phenomena in the historical development of the Church's legislation would be a deviation from the fundamental principles on which the Church must firmly stand in its external organization and government. According to these principles and ideas, the significance of the early canon amongst the sources of ecclesiastical law and the relation of ecclesiastical legislation to it can be defined as follows: the ecclesiastical canon holds a position of primary significance among the legal sources, as a source from which the fundamental principles must be derived by the legislative power of the Church, to be developed and arranged in specific ordinances in accordance with the new ecclesiastical conditions. The external historical forms must not be given the same significance, because the forms can only be unchangeable when the conditions in the world are themselves unchangeable. For this reason we see in reality that many such forms have fallen into disuse and become part of the heritage of legal history. Even some of the most important ordinances of ecclesiastical organization have not withstood the effect of time and history: as witness the synodical principle, significantly altered in contemporary law. But behind the external forms is hidden the spirit of the early ecclesiastical laws, the fundamental principles which change form, but must not die and can be included and enshrined in new, wider and more comprehensive forms. This important work belongs to the highest ecclesiastical power, which has alone been given the right to recall to life what has been destroyed by time, to adapt the adaptable, to abolish what is unadaptable in practice, and to develop from the early principles new forms suitable for the period²².

The important and extremely sensitive work of altering the canons must nevertheless be carried out with great caution and only where there is "great necessity", as LIVIU STAN rightly emphasized,²³ and not from motives of superficial up-dating, nor with deliberate partiality, preconceptions and chauvinism, all of which unfortunately are apparent in TROITSKY's theses. He speaks about a legal "equality of prerogatives" of the autocephalous churches, drawing a parallel between the canons and the principles of international law. He has no hesitation in maintaining that «in the contemporary period, when in many countries the Church has been separated from the

²² CHRISTODOULOS A., *op. cit.*, 65-69.

²³ STAN L., *La législation canonique et sa valeur*, in *Mitropolia Olteniei*, V, 1954, nr. 11-12, 322.

State, neither the canons nor the practice of the Early Church can form the basis of ecclesiastical organization»²⁴.

As MEYENDORFF²⁵ properly asks, is such a parallel apt? I ask whether it is excusable. Can one really write about legal “equality of prerogatives” of the autocephalous churches? Is not the Church secularized when the relations of its members with one another are seen in such a secular way?

Again, if the canons and the practice of the Early Church do not form the basis of the Church’s administration, one is naturally faced by the question of what does. The answer is what clearly emerges from the Orthodox dogmatic teaching, according to which, as TROITSKY later points out, «the sole bearer of sovereignty in the Church on earth is the entirety of its bishops, the will of which is expressed by its organs, in other words by the Ecumenical and local councils».

Since TROITSKY maintains that the canons and practice of the Early Church cannot form a basis, how can he say coherently that the bearer of sovereignty in the Church on earth is the entirety of bishops, the will of which is expressed by the Ecumenical and local councils? The Ecumenical Councils have instituted canons and established ecclesiastical practice throughout the centuries, and TROITSKY describes these canons and practice. This seems a flagrant contradiction²⁶.

As far as superficially updating the canons is concerned, SESAN indicates the danger of senselessly replacing the ancient canons with new ones, “simply and only because the new contemporary spirit in ecclesiastical life requires it,” and he foresees that if the contemporary transient spirit in the life of the Church continues unchecked it will bring about its downfall, as this modernization could advance beyond the organization and structure of the Church and reach its dogmatic teaching. He writes that only where there is *utilitas evidens* and *necessitas urgens* and where it serves the accomplishment of the Church’s soteriological purpose as was the case when they were enacted must the Church change the early canons²⁷. «This we say, not to negate or overthrow what was enacted by the Apostles, but out of concern for the salvation and the improvement of the people», as canon twelve of the Council in Trullo defines it.

Therefore, to make use of the canons and to be within the bounds of propriety and canonicity means initially to know how to identify the eternal core in the text of a particular canon and how to find that side of the dogmatic teaching of the Church, and consequently to apply this eternal element in life, because there is reason in canonicity only in so far as the canon fulfils the reason for its promulgation²⁸. Faith in the canons is consequently faith in the whole of the Church’s tradition, and this faith, as FLOROVSKY writes, does not mean faith in the external authority of the past, but is life, is a bound, connection and contract with the fullness of ecclesiastical experience. Reference to tradition is not simply historical proof, and is not the same as

²⁴ TROITSKY S., *Budem vmeste borotsja s opasnotju*, in *Journal of the Moscow Patriarchate* (1950), 36-51.

²⁵ MEYENDORFF J., *Orthodoxie et Catholicity*, Paris 1965, 42.

²⁶ *Ibidem*, p. 20

²⁷ SESAN V., *op. cit.*, 316. Cf. ARCHONTONIS, *On the codification of the sacred canons and the canonical institution in the Orthodox Church*, Thessaloniki 1970, 131-133.

²⁸ PETROVIC M., *op. cit.*, 87, 88.

ecclesiastical antiquarianism²⁹. The emergent yardstick of the ecclesiastical organization is thus not the dry text of the canon, but the living testimony of the Church's tradition which is impressed in the life and practice of the Church.

A true awareness of the essence of the Church is a factor of fundamental importance for the universal development of ecclesiastical administration. If we consider that the usage developed in the various periods was nothing other than a clear practical demonstration of this awareness, then we can easily estimate its importance for the administrative changes in the Church realized at different periods, because this awareness demonstrated successively through usage is the trustworthy witness of the faithfulness of the temporal *traditio constitutiva* to the authentic, canonical *traditio continuativa*³⁰.

The practice of the Church illuminates certain obscure or imperfectly known points of our ecclesiastical history. It helps us to understand the canons correctly, showing us the way in which the Orthodox Church functions. It elucidates more and more the way by which the Church, although divided into large ecclesiastical areas acting independently of one another within their own canonical jurisdiction, does not thereby stop being one unique organic being, the One, Holy, Catholic and Apostolic Church, "built upon the foundations of the Apostles and Prophets, with Christ Jesus Himself being the corner-stone"(Ephes. II, 20-21).

²⁹ SCHEMANN A., *op. cit.*, p.4-6.

³⁰ PHEIDAS B., *Ιστορικοκανονικα προβληματα περι του θεσμου της Πενταρχιας των Πατριαρχων*, Athens 1970, 334.