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Attorneys of the Volga region and the Urals at the beginning of the judicial reform of 1864

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Abstract

The process of training and development of the Bar Institute at the beginning of the judicial reform of 1864 (Reshetnikova, 2014), dates to the government of Alexander II, on the example of the Volga region and the Urals, discusses the main directions and characteristics of the professional activity of lawyers in the region. It is a documentary and historical study that pays special attention to the formation of the Institute of Defense for a deeper understanding of its essence and its inherent characteristics. Currently, there is an objective need for a comprehensive and comprehensive study of the history of the training and development of the Bar Institute. The judicial system was divided into provincial and county. For the provincial system were the Criminal Cases Chamber of the civil court, provincial court, high provincial court, provincial magistrate, superior punishment; and for county - County Court, lower district court. The results can be concluded that the judicial system of the Russian Empire after the successful reform established a powerful and independent Defense Institute. The judicial reform of 1864 created a completely new professional group, which was very important for the legal future of the Russian Empire.

Keywords: lawyers in the Urals; Institute of Defense; judicial reform; Alexander II; judicial statute.

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Abogados de la región del Volga y los Urales al comienzo de la reforma judicial de 1864

Resumen

El proceso de formación y desarrollo del Instituto de Abogados al comienzo de la reforma judicial de 1864 (Reshetnikova, 2014), se remonta al gobierno de Alejandro II, sobre el ejemplo de la región del Volga y los Urales, se analizan las principales direcciones y características de la actividad profesional de los abogados en la región. Se trata de un estudio documental e histórico que presta especial atención a la formación del Instituto de defensa para una comprensión más profunda de su esencia y sus características inherentes. Actualmente, existe la necesidad objetiva de un estudio integral y completo de la historia de la formación y desarrollo del Instituto de Abogados. El sistema judicial se dividió en provincial y condado. Para el sistema provincial estaban la Sala de Casos Penales Sala del tribunal civil, tribunal provincial, alto tribunal provincial, magistrado provincial, castigo superior; y para el Condado - Tribunal del Condado, tribunal de distrito inferior. Los resultados obtenidos permiten concluir que el sistema judicial del Imperio ruso después de la exitosa reforma configuró un Instituto de defensa poderoso e independiente. La reforma judicial de 1864 creó un grupo profesional completamente nuevo, que fue muy importante para el futuro jurídico del Imperio ruso.

Palabras clave: abogados en los Urales; Instituto de defensa; reforma judicial; Alejandro II; estatuto judicial.

Introduction

More than once in Russian history, the liberalization of politics set in motion the reform of justice and law. Gorbachev's openness and the process of democratization in post-Soviet Russia saw lawyers struggle in Russia to make their courts independent, powerful, and fair. The judicial reforms that resulted from their efforts recalled the era of Great reforms and the adoption by the tsarist leaders of the judicial reform of 1864 (Dorskaya, 2015), for which lawyers and officials fought for half a century. Seventy years of Soviet power passed between these two eras of reform, during which successive generations of Soviet leaders tried to shape the courts and laws in accordance with their interests and visions. To a large extent, they turned back the clock, erasing many of the achievements of the tsarist judicial reform.

The judicial reform of Alexander II, announced on November 20, 1864, in Russian historiography is considered the largest transformation on the way of modernization of the Russian Empire (Savostyanova, 2013). The

Central element of the reform is the introduction of the trial of jurors and attorneys (lawyers). The main result of the reform of the judicial system was to ensure the transparency, adversarial and wordless proceedings.

1. Methods

This article is written using a combination of methods: special-historical and legal, so the study becomes interdisciplinary, conducted at the intersection of legal and historical fields of scientific knowledge. Historical methods have become prevalent, defining the guiding principles, nature, and style of research. Historical-descriptive, historical-comparative, historical-system are used. Special legal methods, such as historical-legal and formal-legal, are also involved.

2. Results and Discussion

Despite the demand in society for such a legal institution as the bar, the Russian state was in no hurry to adopt this direction to protect its citizens. The formation and development of the bar as an independent branch of the judicial system began with a great delay against the background of the development of the whole state.

Legal protection in the sense in which we are accustomed to it, began the path of its formation in ancient Russia. The main cell of society in those days was considered a community (*verv*). It was her authoritative opinion in disputes and accusations, which often occurred between its members, that was recognized as an axiom. Therefore, the main defenders were considered to be the elder of the family or the father of the family.

Over the long period of its existence, the Russian state has undergone many transformations, including those in the authorities. Suffice it to recall the reformatory activity of Peter I, thanks to the invincible energy, iron will and outstanding talent of Russia in a relatively short time “lost” the appearance of the Eastern state and closer to Europe, becoming a powerful military power, which had to reckon with all its neighbors.

The withdrawal, made in the state and public image of Russia by Peter I, was radical, bold, did not consider the mass opinion of the country and its past. Peter’s reforms-independent, not prescribed from above, the evolutionary movement of the then existing society, little changed, but, indeed, political consciousness, morals and faith contributed to its “modernization”. The reforms did not penetrate into the depth of the views of the population, were not “imposed” on it, so they gave tangible results only in the sphere of public life, which is amenable to external force. Many of Peter’s legislative innovations have not been instilled at all, and a number of novels, mainly under his successors, have been canceled or forgotten.

The complete opposite in relation to their real meaning and influence on the life of society was represented by the state reforms (Berendts, 1915) of Emperor Alexander II – the Tsar-Liberator. We can hardly be mistaken in saying that in the history of mankind there are rarely such magnificent examples of a radical but peaceful transformation of the state - along the path of humanity, education and justice. No wonder this period in history was called “the Era of the great reforms of the reign of Alexander II” (Under the editorship of M. Gernet, 1916).

The General negative attitude to the existing judicial system naturally led to the idea of the need for judicial reform. At first this idea was the property of the few – the most enlightened and understood in the public Affairs of men, but gradually it spread more and by the end of the fifties of the XIX century was the unanimous desire of many developed populations.

Awareness of the need for judicial reform was gradually spreading to the institutions responsible for codifying the legislation in force at that time. Count Bludov in 1843 demanded through the Minister of justice, count Panin, to know the views of prosecutors and chairmen of courts and chambers about the shortcomings of Russian laws in the proceedings.

Already since 1843 a number of committees, including the well-known Commission of count Bludov, established in 1850, worked on the reform of the court, but these works were not successful and served only as material for the Commission formed in 1861, under the actual leadership of Secretary of state Butkov, the Commission that developed “the basic provisions, and then the judicial statutes, which received the highest sanction on November 20, 1864” (Under the editorship of A. Fedichev, 2014).

After the approval of The judicial statutes on November 20, 1864, a full-scale Judicial reform was launched throughout the Russian Empire, which introduced a new judicial system, the institutions of jurors and the bar, and proclaimed the most important principles of justice. The reform came to the middle Volga region in the 70s of the XIX century. After the establishment of magistrate courts in the region, June 26, 1870 Alexander II signed a decree “on the introduction of judicial statutes in the districts of the Kazan And Saratov chambers of justice and in the provinces of Smolensk and Kostroma” (The main trends in the development of the Institute of advocacy in the Middle Volga region in the period from the second half of the XIX century to 1917, 2010: s/p). With the implementation of Judicial reform began the history of attorneys of the Volga region as a legitimate Corporation of lawyers.

On the basis of a comprehensive analysis of extensive factual material on the issues under study, it can be concluded that the development of the Institute of attorneys at law in the Volga region has passed three stages:

The first stage: 1870-1886 Marks the establishment of judicial regulations, the emergence of the foundations for the existence of the Institute and the emergence of the first attorneys. The bar of the region was United during this period, United by the administrative borders of the Kazan judicial chamber.

Phase II: 1886-1904. is Characterized by the separation of the bar of jurisdiction between two judicial chambers, Kazan, and Saratov.

The third stage: 1904-1917. Begins with the establishment of the Kazan Council of attorneys. It ends with the events of the October socialist revolution.

The initial stage (1870-1886) of the development of the Institute of attorneys of the Volga and Ural regions is characterized by the formation of a special Committee of attorneys, consisting of five members elected by the General meeting of attorneys from their environment for one year. In case of illness or temporary absence, the composition was replenished by candidates elected from the total number of attorneys.

The special Committee was charged with: (a) reporting to the attorneys-at-law and their assistants of the district court's orders; (b) presenting to the court considerations on measures that may contribute to the successful discharge of their duties by the attorneys-at-law; and (C) collecting, at the request of the court, preliminary information on the cases of attorneys-at-law and their assistants considered by the court in disciplinary proceedings.

The special Committee of attorneys was charged with the duty to require attorneys and their assistants to provide the necessary information.

The decisions of the special Committee of attorneys came into force only in the presence of all its members.

“The Council has convened a General meeting of barristers, and in the summons, it was stated not only that it is convened on the basis of article 365 Uchr. Court. TSIs., but also noted that this is the second common brother.

For the absence of a legal number of persons, the meeting was declared invalid, but the cash appeared attorneys made a decision on the recognition of the meeting invalid due to non-compliance with the formalities when searching for the agenda, because they did not specify the consequence provided for in Art. 365 of the HRM. Court. TSIs. that is, that if the second brother does not take place, the Council will remain in the same composition until the next election” (The Council of sworn attorneys, 1914).

The conduct of the special Committee's cases was determined independently and reflected in the records, the contents of which could be consulted at any time by the attorneys of the district.

General meetings of attorneys consisted of all attorneys of the Volga region and met: 1) to hear the annual report; 2) for the annual election of members of the special Commission; 3) at the request of the district court on the issue of changing the composition of the special Commission.

The 26th of July 1898 the Council received from attorney Konstantinov telegram of the following contents:

Now the President of the court has removed me from the protection of the 60 referring to the decision of the General meeting, 1875, are charged under article 129 of the articles asking for vigorous action and for guidance to further my course of action barrister Konstantinov (The Twentieth Anniversary of Moscow Jury Attorneys, 1891: 59).

The frequency of convening General meetings of attorneys was not regulated by the legislation in force at that time.

On September 29, 1870, in our General meeting, the idea was expressed of the need for periodic meetings of attorneys of the judicial district, to participate in the discussion of issues relating to the interests of the entire estate. At the same time, attention was drawn to the fact that the strength of corporate principles and rules peculiar to our rank, then only reach the proper development, when all members will take part in the life of the estate, when among its members there will not be the discord, which, weakening the General idea of the institution, puts forward the right PA fees, personal interest, hardly sufficient to achieve those sought qualities of a lawyer who distinguish him from an ordinary Commissioner.

In view of the fact that 367 art. court. TSIs. along with the law, it recognizes the obligation for sworn attorneys to the established rules, which are not calculated separately in the law. Many have rightly pointed out that these rules are established everywhere by the life of the legal profession itself, in accordance with their needs and requirements. Therefore, in order to enable the latter to speak, it would be necessary to recognize the principle of the right of attorneys to participate in meetings, to discuss General issues... these Arguments could not shake the loud statements about the need for frequent meetings with the above purpose. If the law is positive and does not establish the number of meetings, then it cannot be deduced that they are prohibited.

For the validity of the decisions of the General meeting of attorneys required the presence of at least 2/3 of the total number of attorneys Volga district court.

As candidates for the position of attorneys could apply for persons:

- who had a University or other higher education diploma on completion of a course of legal Sciences or on passed examinations in legal Sciences (external studies).
- at which the length of service in judicial Department at the positions allowing to get practical skills in production of judicial cases made not less than 5 years.

At the same time as candidates for the position of attorney could not qualify:

- persons under 25 years of age.
- foreign person.
- persons with outstanding debt obligations at the time of application.
- persons in the public service.
- person limited in civil cases.
- persons brought to criminal responsibility.

To become a sworn attorney, it was necessary to submit a petition to the Council of attorneys. The application was accompanied by documents confirming education, experience, and other necessary information about the applicant. The Board of barristers, having reviewed the submitted documents and the person “taking into consideration all of the information that recognizes the need” issues an order or the acceptance of the petitioner in the number of barristers, what was issued to him the proper certificate, or were denied it.

3. Summary

The activities of the Institute of attorneys of the Volga region at the initial stage of judicial reform in 1864 had its own characteristics.

First, the formation of the judicial district was very late. Until 1873 in the Volga region justice was carried out in the framework of the proceedings adopted by Catherine II.

In 1873 on the basis of the Decree Of his Imperial Majesty County courts were closed, world judicial institutions were introduced and at the same time was formed from criminal and civil chambers – the United Chamber, which were transferred to the first instance of the case from the former County courts.

The Institute of attorneys consisted of:

- attorneys' committees of the district courts, prior to the introduction of the Council in the district.
- Council of attorneys of the trial chamber.
- Council of barristers of the district of the Saratov judicial chamber, which is in charge from 1886 was part of Samara advocacy.
- consultations of attorneys at law at Kazan, Simbirsk, and Samara district courts.
- Committee of assistant lawyers at the Kazan district court.

The activities of the Institute of attorneys were regulated by the decree “on the introduction of judicial statutes in the districts of the Kazan And Saratov chambers of courts and in the provinces of Smolensk and Kostroma.”

Conclusion

The judicial system of the Russian Empire after the successful reform acquired the Institute of powerful and independent advocacy. The judicial reform of 1864 created a completely new professional group, which was very important for the future of the Russian Empire.

It's about attorneys at law. The bodies of advocate's self-government were the General meeting and the councils of attorneys. Attorneys at law were United in a jury bar - the bar Association, a member of which could only become a member on the basis of professional knowledge, which was to guarantee a high professional level. Attorneys at law were engaged in private practice. The lawyers had assistants.

Because of the rhetoric of brilliant lawyers, they had a special authority in Russia. Trials, which were of a political nature and in which famous lawyers took part, became public events of the first rank. The bar was of great importance as a guardian of the law, as well as a third party to the process. They were one of the few professional groups with a clear interest in statehood.

Judicial reform has created not only a new court, but also a new system of law enforcement, and indeed a new understanding and understanding of the rule of law and justice.

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