

Judicial Practice on Official Malfeasance in the Novgorod Province in the 18th Century



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Abstract: *The article reveals the problem of the realization of officials' legal responsibility for mercenary abuses in the service during the period of reforms of public administration in Russia in the 18th century on the example of the Novgorod province. The general trends and features of the formation of anti-corruption institutions in the system of provincial authorities and the country as a whole are determined based on the analysis of the history of Russian legislation and the study of the materials of judicial practice.*

Keywords: *Novgorod province, archival sources, legislative history, legal system, public administration reform, malfeasance, legal liability for corruption.*

I. INTRODUCTION

Combating corruption and economic crime at the regional level has been an important task in ensuring the security of the state throughout the history of Russia.

Since the beginning of the formation of the Russian Empire's state mechanism under Peter I, as the complexity of organizational, administrative and economic functions increased, the problem of ensuring the rule of law in the exercise of official powers has grown. The more powers were assigned to specific officials, the greater was the risk of their use for mercenary purposes.

Such manifestations of mercenary purposes as bribery and extortion were entrenched in the practice of the exercise of official powers of Russian officials as a common practice. Modern authors explain this by the long existence of serfdom in Russia, in which the offerings to the master, senior in rank, etc. were natural [1, 2]. Appeal to a superior person, endowed with authority by the state, was unthinkable without offerings. One can argue about the sacred nature of such gifts, the essence of which goes to the origins of human civilization.

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However, the 18th century in the political history of Europe was marked by the ideas of enlightened absolutism. Russia at this time was torn between the desire to join the general course of development of European civilization and the desire to preserve the privileges of the ruling class, which excluded the very possibility of modernization of public administration. This was particularly

acute in the province. Administrative and judicial bodies of Russian provinces were the most important part of the state apparatus of the Russian Empire. The state administration as a whole depended directly on the level of their competence and functioning efficiency.

II. METHODS

The methodological basis of the study is the dialectical method of scientific knowledge. The following general scientific methods were used in the research: system-structural, structural-functional, comparative, logical (analysis, synthesis, deduction, induction, etc.), as well as comparative legal, statistical, specific sociological, logical-legal, analysis of documents.

III. RESULTS

The Novgorod province was established on April 29, 1727 [3]. The specifics of its geographical location between the two capitals (Saint Petersburg and Moscow) dictated the special role of local officials, who were responsible for the implementation of many innovative projects in the field of public administration. However, this did not prevent the local administration from pursuing its own interests.

Of interest is the ingenuity of local managers who found very peculiar ways of obtaining illegal income and evasion of responsibility. This was largely due to the weak legal regulation of the "sovereign's service". The legislator paid attention to fixing class privileges in the sphere of public administration. Numerous issues of law-enforcement practice were resolved by a fairly free interpretation of the laws at the local level (in the province), which was aggravated by the elementary legal illiteracy of most officials. It came to the fact that provincial officials determined the scope of their powers and competence themselves. An example of this is the numerous facts that can be restored from the preserved archival materials.

In 1780, the Novgorod Chamber of Criminal Court considered the case of abuse of office by Semyon Dorofeev, the secretary of the Borovichsky Lower District Court.

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The local governor and a representative of the drinking establishment were also targeted in the investigation.

It should be noted that the case was opened just after the enactment of "Constitution for the Administration of Governorates of the Russian Empire" by Catherine II in 1775, which, among other things,

regulated the practice of combating kormchestvo (illegal manufacture and sale of alcoholic beverages). Chapter XIX entitled "On the Governor and His Office" referred to the seizure of the products of kormchestvo (para. 258), for which the governor is responsible, personally giving commands, sending the perpetrators to court" and filing a complaint to the governorate administration.

According to the materials of the case, it was precisely within the framework of the campaign against kormchestvo in the Borovichsky district that the local administration organized the removal of the produced wine, carried out by the staff of the Lower District Court. Large-scale searches were carried out, including in the house of landowner Major Solopova, as well as her peasants' houses.

Regardless of rank and title, the staff were deliberately rude, not complying with the established manner of conducting the search. The landowner Solopova, who came out of the house because of the noise, was hit by the hussar in charge of the search team, who drew blood from her nose. After that, Solopova was dragged to a peasant hut for interrogation, where the "bottles" with wine had already been seized.

During the interrogation, the landowner was given to understand that she was involved in a criminal case regarding the wine trade. Solopova confessed that she gave wine to her peasant for sale ("no more than five buckets"). Ivan Tagvoev, the representative of the drinking establishment, was involved in the interrogation and tried to drive intimidated Solopova to a deal, offering to give him the serf peasant and his family for working off in compensation of the alleged existing debt. Solopova, in spite of her fright, did not make a deal and was brought for further investigation to the Lower District Court. The landowner was waiting for the interrogation in a guardroom and was suffering from mockery and bullying of the soldiers of the regular staff.

Meanwhile, the Governor appeared in court, "... sat down on the seat of the Chairman of the court and called on Major Solopova. Pointing to the hanging mirror, he told her that it was the Tsar's Eye and that he (the Governor) had authority over the local courts. He commanded her in an imperative way to make up with the representative Tagvoev to avoid a possible investigation ..." [4].

The landowner confessed her fault concerning the sale of the illegally produced wine, but she did not want to put up with the "offenses caused to her" and sent petitions to the Novgorod Regional Governorate, Borovichsky Noble Custody. As a result of the complaints considered, a criminal case was opened, which was considered by the Borovichsky District Court, and then by the Novgorod Chamber of the Criminal Court. The accusation was filed against Dorofeev, the secretary of the Lower District Court, who allegedly sent a search team to remove the illegally produced wine without permission. Proving his innocence, Dorofeev referred to paragraph 231 of Chapter XVII of "Constitution for the Administration of Governorates of the Russian Empire",

according to which, the Lower District Court should only inform "where it is necessary" "about matters that cause harm to society". Dorofeev could not give an order for the seizure of the wine by himself. It came from the Governor, who knew about the wine trade. He made the court secretary sign the order because "it is not a fit business for him (the Governor) – to sign papers" [4].

The judicial investigation was dragged out. During this time, the Governor resigned and was not subject to any punishment, despite the unauthorized assumption of judicial powers and obvious assistance to extortion. Meanwhile, paragraph 254 of "Constitution for the Administration of Governorates of the Russian Empire" stated that the Governor was not a judge and only informed the court about the violations of order in the city; he had the right to enforce the decisions of the court. However, there was no evidence of his personal interest in extortion accompanying the seizure of the wine in the court papers. It is obvious that the Governor escaped any punishment.

Tagvoev, the representative of the drinking establishment, was found guilty of committing mercenary acts. However, the Local Governorate recommended to the Borovichsky District Court to solve the case without using strict punishment [4. D. 420. L. 288]. The decision of the Chamber of Criminal Court stated that, in accordance with the norms of the Bill of Exchange Charter, it would be necessary to punish him (Tagvoev) using the whip. However, based on "The Most Gracious Manifesto" "... he should not be punished". The sanction against Tagvoev was reduced to a warning. The charge against Dorofeev was dropped by the decision of the Chamber of Criminal Court. He received a warning "to be decent when proceeding..." [4].

This practice of the provincial judiciary in making decisions against officials is typical. The provincial judges had a tendency to evade convictions against local officials, which was a typical feature of the central government. Therefore, audits were initiated from time to time to identify such facts and to remedy the situation at the local level.

A large-scale revision of the provinces was carried out in the reign of Paul I to verify justice and detect cases of bribery [5]. Cases were initiated, in turn, as results of such inspections. In 1797, the Novgorod Chamber of the Criminal Court considered the case of the burgomasters of the Starorussky City Magistrate Usachev and Syromyatnikov, the ratmanns Ptitsyn and Flyagin, which was initiated according to the results of the audit, which revealed the non-execution of laws by the local judicial organizations. The members of the Starorussky Magistrate were accused, among other things, in the absence of resolutions, decisions, verdicts in initiated cases and failure to comply with the instructions of the Local Governorate. The perpetrators were dismissed. However, the final decision on their punishment can't even be found [4].

P.M. Kurdyuk names numerous contradictions in the ratio of disciplinary and criminal proceedings as one of the problems of the implementation of legal responsibility in relation to civil servants and judges [6].

Indeed, the most common types of punishments against officials were removal from office and monetary penalties. In addition, it is clear for modern specialists that a system of state supervisory control was formed in Russia in the 17th-18th centuries.

A.A. Yalbulganov notes that the control of state chambers during audits of cases subordinate to the provincial governments was carried out in the form of observation [7].

This indicates that the attempts of the central government to establish effective work of the state apparatus "from top to bottom" were not systematic. Therefore, official misconduct multiplied and judicial practice did not really improve.

In 1781, the case of Ivan Cherkesov, the secretary of the Vytegor'skaya Lower Court and the clerk Solovetsky, accused of illegally writing escapees and accepting bribes, was sent to the Novgorod Chamber of the Criminal Court for revision. The materials contain a resolution from the journal of the Belozersky District Court. The accused took bribes from peasants with money and sugar. Cherkesov and Solovetsky did not plead guilty. The District Court on the basis of Chapter 14 of the Council Code only inquired "whether they take it upon themselves that they really did not take any bribe from the peasant Fomin and other seven people and whether they affirm that on the oath" [4].

IV. DISCUSSION

It is obvious that one of the reasons for official misconduct was the low salaries of civil servants. O.V. Simanin clarifies that the situation was aggravated by the sharp increase in the number of officials with irregular salaries peculiar to the Imperial administration [8]. In this regard, V.A. Ochakovsky notes that in-kind gifts, for example, flour, jam, oil, oats, hay, in provinces, were brought to the Governor, Vice-Governor and the Prosecutor. Payments were made in cash, along with in-kind gifts, to secretaries and clerks [9].

"Charter on the rights, liberties and advantages of the noble Russian nobility" granted by Catherine II to the nobles in 1785 insured Russian officials from the direct effect of the law providing for legal liability for official misconduct. It was clearly prescribed in the Charter that it is impossible to adjudicate a noble who committed a criminal offense without "the confirmation of the imperial majesty" [10]. The impunity of bureaucrats was also facilitated by the practice of the formal approach to the testimony of the lower ranks and especially peasants.

V. CONCLUSION

Thus, despite the declared by the central authorities intentions to fight bribery, embezzlement and other types of misconduct in office, in real life, neither the law nor the law-enforcement practice corresponded to this task. In such circumstances, the granting of official powers instilled in unscrupulous officials confidence in the right to use them for purely personal purposes.

Many problems of the organization and functioning of the state mechanism of Russia in the 18th century retain their relevance. As a result, the agenda includes the tasks of combating the crimes of public officials and improving legislation and judicial practice taking into account the historical experience.

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