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UDC 94:378:34(571.16)

**THE PROFESSORS OF TOMSK IMPERIAL UNIVERSITY
IN THE SERVICE OF JUSTICE***

SUMMARY. Academics in pre-revolutionary Tomsk assisted public institutions including the judiciary. Their participation in the life of the Siberian legal system in the 19th-20th centuries was performed in several ways. One of them included training of qualified personnel by the faculty of law for the judicial system of the territory. The idea of improving the system and its legal procedure was promoted through the Tomsk legal society. These professors along with legal practitioners discussed urgent questions of the theory and practice of law and also worked out recommendations for the improvement of legal process, which, however, were not taken into consideration by the State authority. The judicial service was mainly carried out by Honorable Judges of the Peace, but the inconvenience of this social duty, the shortcomings of the court system and a great deal of their own activities brought down the quality of their work. Some educational specialists had successful experience as officials of the State before their career at university. On the whole, at the end of the 19th century, favorable conditions were created for the collaboration of the judiciary and the university, but they were obstructed by strained relationships between the State and society.

KEY WORDS. Professors, Tomsk University, court in pre-revolutionary Siberia.

The principles and conditions of judicial reform in 1864 to ensure fair justice demanded balanced participation of the state and society in court, dictating the necessity to encourage the public to take part in the proceedings. This reformation required a large number of highly qualified personnel, improvement of law and legal education, improvement of the contingent of lawyers and expanding their contacts with court practice.

The Judicial Statutes of Alexander II were introduced in Siberia only in July of 1897 with significant limitations. And the benefit to society of the new Justice of the province could be ensured only by one institution, that is the institution of Honorable Judge of the Peace (hereinafter — HJP). By 1897 Tomsk University had been functioning for nine years. It had just one faculty — the medicine faculty. But the Judiciary Reform had made the establishment of a Faculty of Law inevitable [1; 46-

* The study was supported by the Ministry of Education and Science of the Russian Federation, agreement 14.B37.21.0481 “The fate of historian in the regional dimension” in the framework of the Federal Target Program “Research and scientific-pedagogical personnel of innovative Russia”, 2009-2013.

50]. It was founded in December 1897 [2] and began to function in October of the following year [3].

Thus there was a great possibility for cooperation between the large Scientific Center (the University with its departments, professors and teachers) and the judicial system which was then open and in need of assistance. This assistance was carried out by the professors in three main ways: by training students, by improving justice through research and by direct participation in the proceedings.

In Siberia there was an acute shortage of people with legal training, so during the Judiciary Reform of the late 19th century 47% of all job vacancies were given to people somehow familiar with the province, while 53% were given to people who saw the province for the first time in their life [4]. Yet, the transfer of a person with a legal degree from the European part of Russia cost up to 8,000 rubles [1; 48] and the professors of the new Faculty of Law at the only Siberian University were to train justice personnel. There was an opinion that it would be very difficult “to find teaching personnel” [5], but actually this problem did not occur. Even though it brought together the first teaching staff of the Faculty of Law, its quality could not give rise to complaints: the lecturers I.G. Tabashnikov (Dean of a newborn university department [6]), I.A. Malinovskiy, S.I. Zhivago, M.A. Reisner, N.N. Rosin came from the universities of the European part of Russia (Moscow, Saint-Petersburg, Novorossiysk, St. Vladimir’s universities and Novoaleksandriyskiy Institute) [7] and they already had experience [8; 94-95, 161-165, 204-207, 212-215, 247-249], which allowed them to train skilled and professional lawyers.

During the first five years the faculty accepted 451 students [9], and the first of them left the alma mater with diplomas in 1902 [10; 505]. According to Professor V. Sapozhnikov, in ten years “from the legal department there graduated more than 400 people who became new young forces of Siberian courts” [11]; in total 748 specialists were trained between 1898 and 1916 [12].

Professors-lawyers were actively engaged in improving the professional culture of the legal staff, strengthening the unity of Justice Officials, improving law and, moreover, they popularized law studies. In 1901 the Law Society was established at the University of Tomsk [13]. The establishment was initiated by teachers and it consisted not only of teachers but also of practicing lawyers (members of the local district court), magistrates, prosecutors and defense lawyers [14].

G.N. Potanin, one of the leaders of Siberian regionalism, has identified three major areas of scientific and practical research of this organization: a study of the issues of the reform of the magistrates’ court in the province, the introduction of local institutions and the development of butter manufacturing [15]. The judges were interested most of all in finding opportunities to improve Siberian justice. In 1909 this society created a “Judicial Committee” to develop specific recommendations on the modernization of the magistrates’ court in the province. This Commission was a fellowship of law theorists (professors of Tomsk University I.A. Bazanov, S.P. Mokrinisky, I.Y. Novombergsky) and practicing lawyers (members of the Tomsk District Court V.P. Galperin and E.A. Semenov, lawyers S.V. Alexandrovsky, V.N. Anuchin, M.R. Beilin, P.V. Vologodsky

and A.M. Golovachyov, magistrate I.L. Usanovich). The recommendations were the following: electivity and irremovability of judges of the peace, and all of them were to have higher legal education. [16]. These recommendations both met interests of Siberians and needs of justice, but they remained unclaimed.

In fact the professors considered that justice should be dispensed by the HJP. This was a very prestigious responsibility in Russia (at that time the Minister of Justice N.V. Muravyov himself performed this duty [17]). The initial list of candidates for these positions (appointed for three years) included the most respected people of Tomsk province, including university professors M.N. Popov, V.N. Velikiy, F.A. Erofeev, I.I. Sudakevich, F.Y. Kapustin, I.S. Popovsky, D.I. Timofeyevsky [18], and the final list included professors P.V. Burzhinsky, N.F. Kashchenko, V.V. Sapozhnikov and M.N. Popov [19].

In all, during the Judiciary Reform in Siberia 15 professors received an offer from Tomsk's governor A.A. Lomachevsky to join the judiciary with the rights of HJP, but many of them refused, claiming that they were busy and were not able to combine this and their own activities. Thus, the following professors refused to participate: I.N. Grammatikati from the department of Obstetrics and Gynecology because of "lack of free time" and work at the University Hospital and the Orphan Asylum, F.K. Kryuger from the department of Medicinal Chemistry because of "many lessons", A.F. Smirnov from the department of Histology and Embryology ("I am afraid it will be not right to try to kill two birds with one stone, so I have the honor to say to Your Excellency, that I would consider it to be almost impossible to agree to include my name in the list of persons who may hold the post of honorary magistrate") [20].

Professors who were the leaders of the education system in the region also refused. The trustee of the West Siberian Education District V.M. Florinsky parried an offer with the following words: "Unfortunately, it is extremely difficult for me to agree; because of many official duties and lack of time I will not be able to perform successfully the duties required of honorable judges of the peace". Much work allowed A.I. Sudakov to motivate his rejection of the proposed position ("The duties of the rector of Tomsk Imperial University, a professor of this university and an editor of the university journal... are numerous and complex") [21].

In the following years there were other refusals to serve Themis. For example, the university rector M.G. Kurlov preferred not to take responsibility before a judicial authority, also due to workload. In 1907, Professor P.V. Burzhinsky, referring to the increase of work and his intention to leave Tomsk, asked the Special Committee of the Province to dispense him from his judicial duties [22].

Meanwhile, the development of the institute of HJP in the province was at the time when the authority of the judiciary were eroded, and its evolution was determined by unfavorable socio-political tendencies. Because of staff shortages, the Siberian court system needed real help from representatives of civil society. Judicial statutes obliged HJP to participate in district court sessions "in case of lack of members" (article 48 of "Organization of Judicial Institutions"), and these necessary additional resources were actively used due to the circumstances. They even had to violate the

established order, so that there was no delay in the dispense of justice. In 1912 the governor of Tobolsk A.A. Stankevich informed the Minister of Justice S.G. Shcheglovitov about violations already made: “Because of the lack of judges in the Tobolsk district court, especially when they are away in the province at the assize court, some of the candidates mentioned above [HJP — *author*] are actually performing their duties of judges, although they have not yet been allocated a post” [23].

In the period of 1903-1907 every HJP in Tomsk province participated in the meetings of the District Court 2.2 times per year, and all in all their presence at the hearing of cases was recorded in 212 cases against 210 where only members of the courts were present [24]. So there were no benefits in helping to dispense justice, also it was an onerous kind of activity. Moreover, there was always a chance of participating in unattractive trials, which could also discourage civil society from this perhaps unpleasant activity. For example, in May 1902 Professor N.N. Rozin sat in court during the case of A.M. Speyer, who had been convicted of murdering his wife [25]. At the same time, HJP candidates were examined by the gendarmerie and the police for evidence of their political reliability [26]. This close interest also could discourage people from the position of honorable judges of the peace.

That is why it is not surprising that dispense of justice began very soon to be regarded “as an additional obligation” [27] and the quality of the HJP contingent deteriorated. According to the Tomsk lawyer R.L. Veisman, there were fewer and fewer highly educated people (professors, doctors) among the candidates, giving way to the ignorant, “deliberately reactionary elements” [28]. This fact is also confirmed by data: in 1900 in the list of candidates there had been 8 professors, in 1903 7, in 1906 — 3 and 1909 — 2 [29].

The conditions of the deployment of the revolutionary process did not contribute to the participation of the professors of the Faculty of Law in the proceedings. That was because the professors were at that moment almost the main “preachers” of freedoms in Siberia. Over a three-year period from 1906 they were even not nominated for posts of HJP. The names of I.A. Malinovsky, S.P. Mokrinsky, M.N. Sobolev and N.N. Rosin were simply crossed out from the list, while the names of doctors of the Faculty of Medicine N.F. Kashchenko, P.V. Burzhinsky and M.N. Popov were left [30].

There was no place in the government for professors-lawyers who were actively engaged in politics. All the abovementioned professors actively participated in the work of the Tomsk Law Society, the meetings of which resembled opposition gatherings [31; 17]. The long-term chairman of the Law Society N.N. Rosin made speeches about freedom of the press in the spirit of the age [32], I.A. Malinovsky was one of the organizers of the branch of the “People’s Freedom” party in Tomsk [8; 163] and openly called for revolution (he said once at a meeting of the St. Petersburg Law Society: “We need the elimination of the old regime and the establishment of such a new order in which the rights of a citizen would belong to the entire population, and which would guarantee the protection of these rights by the State” [33]) and eventually,

was dismissed from the university [34]. M.N. Sobolev was “among the notable figures of the liberal movement” [31; 18].

At the same time there were teachers in Tomsk who practiced direct service in the judiciary. Thus, N.Y. Novombegsky was a magistrate in the Far East [8; 179-184]. But the most noteworthy is I.V. Mikhaylovsky, who made a career in the judiciary. After graduating in 1889 from the Faculty of Law of Kiev University with a diploma of the 1st level, he took the service in the judicial organization, where he held various positions, including Justice of the Peace. As a student of the founder of the “public school” B.N. Chicherin, he independently studied philosophy and law, writing articles for the “Brockhaus and Efron Encyclopedic Dictionary”. Working as a judge in Siberia he took a master’s degree and wrote an outstanding monograph [10; 511], [35].

Even before he came to the province he had contributed to the improvement of the Siberian court, subjecting it to constructive criticism [36]. From July 24, 1903 he served as a judge of the peace in Tomsk, from May 6, 1904 he combined his work with lecturing at Tomsk University. He worked as a freelance university lecturer on the proposal of his teacher (“More than a decade ago B.N. Chicherin in the most flattering words recommended me to the Tomsk Faculty of Law” [37]) and as a chairman of Tomsk district court. Tomsk District Court characterized him: “As for the moral qualities of Mr. Mikhaylovsky, during his service as a magistrate of Tomsk District Court, I have never heard any adverse information about him” [38]. From June 30, 1907 I.V. Mikhaylovsky served as a professor of the Department of Law Encyclopedia and Philosophy History of Tomsk State University [39]. According to the Soviet historian M.A. Cheltsov-Bebutov, he was influential in the development of new and innovative directions in the science of criminal procedure in pre-revolutionary Russia — the theory of the process as a system of guarantees of individual human rights [40].

Quite liberal judicial rules and an advanced university education created in Siberia of the late 19th — early 20th century favorable conditions for the convergence of the faculty of law and Justice for the purpose of dispensing justice. However, the possible fruitfulness of such a union and cooperation was minimized by the tension and growth of contradictions between the autocracy with its state apparatus and society at large.

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