novel of 22.07.1915 and the Third Novel of 09.03.1916. The Novels to the Civil Code of Austria of 1811 were estimated in Austrian Civil society as a kind of «cosmetic repair» aimed at adapting the Code to the living conditions of that time without disturbing its structure or changing the basic principles. But after a while it became obvious that even so amended Civil Code could not solve all the problems that arose after the end of World War I. Changes in the social, economic and political system put before the legislature the task of legal regulation of the new social relations and accordingly adapt the Austrian Civil Code of 1811 to the new needs. The Civil Code of Austria of 1811 with the novels remained in force in Western Ukraine until 1932, when Rich Pospolyta II has accepted the new Civil Code.

Key words: novels to the Code, the Civil Code of Austria of 1811, Commission, changes, contract.

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Ju. Levchuk

Kiev Trial Chamber Functions

The article analyzes the Kiev Trial Chamber activity – the appeal court for the district courts, which was established by the judicial reform of 1864 in the Russian Empire. The main Kiev trial chamber's functions are discovered in the article. Kiev trial chamber, established in 1880 by the Judiciary Statutes of 1864, was the body of appeal for the district courts decisions and the court of first instance in legally defined categories of cases; the focus of the prosecution, the bar and the notary.

Key words: Kiev trial chamber, the judicial reform, the legal court regulations of 1864, the functions of the chamber.

Formulation of a research problem. Judicial reform of the 1864 in the Russian Empire occupies an important place in the judiciary transformation along with other liberal reforms of that time. The actuality and expediency of rethinking the aspects of judicial reform of 1864 is combined with the similarity of present processes and the processes that occurred in the late nineteenth century. It refers to the urgent judicial reform in Ukraine due to the inefficiency of the judiciary, disregard of the principle of legal guarantees of human rights, delay of the trial and the emergence of endless litigation, distrust to the judiciary and its incompetence etc. We should also take into account the urgency of reforming the judicial system of Ukraine to achieve its compliance with the judicial systems of the European Union in the context of European integration processes. The reform of the judicial system of Ukraine, the deepening of social consciousness, the transformation of the social and legal order is possible only with the detailed study of past experience.

Analysis of recent publications and researches. Scientific interest to the problem of the judiciary organization and operation on Ukrainian lands during their stay in Russian Empire is observed by national and Russian scientists from the XIX century till now. Historiography of the problem is presented by M. A. Butskovskyj, I. V. Gessen, O. A. Golovachov, A. F. Koni, M. A. Filipov, V. Y. Fuks, G. A. Dzanshuev, M. G. Korotkyh, O. N. Yarmysh, V. A. Chehovych, O. D. Svyatoskyj, S. M. Kazantsev, T. L. Kurasand others.

Exposition of the basic material. A significant discrepancy between the existing relations in the political, socio-economic, legal and other spheres of life in the Russian Empire and the leading bourgeois tendencies in the Western Europe took out the reformational process to the agenda in the Russian Empire. In 1864, in particular, the judicial reform was carried out in order to avoid legal crisis.

The judicial reform of 1864 in the Russian Empire proclaimed democratic principles of justice: the election of magistrates and jurors, independence and immutability of judges, equality before the law, transparency. Also, the bar was introduced, the prosecutor's system was reorganized. The reform has created a dual system of courts: local courts – the sole magistrate, magistrates congress and the Senate and general courts – the district courts, trial chambers and the Senate [1, p. 127].

The territory of the Russian Empire, according to Judicial statutes of 1864, was territorially divided into districts, led by the Chambers. Three chambers were created in Ukraine:in Kharkov, Odessa and Kiev. Chambers were mainly introduced as courts of appeal for decisions of district courts, but in exceptional cases they could deal with the case as a court of the first instance - the state and office crimes; trial chambers also

performed coordination and organizational functions in the judicial system of the Russian Empire. Chambers also regulated the notary, prosecutors and the bar by the Judicial statutes of 1864.

On the 29th of June, 1880 Kiev trial chamber was established. It was composed of criminal and two civil departments, later two more civil departments were introduced. Chamber operation was grounded under position of Law «The establishment of judge system» adopted on the 20th of November, 1864. Kiev, Volyn, Zhytomyr and Mogilev province were accountable to Kiev trial chamber [2, p. 24].

Thus, the jurisdiction of Kiev trial chamber covered the courts of above mentioned provinces, namely Kiev, Zhytomyr, Lutsk, Mogilev, Nijin, Starodub, Uman, Cherkasy and Chernihiv courts.

The purpose of this article is to research Kiev trial chamber functions in the mechanism of the judicial system functions in the Russian Empire due to Judicial statutes, adopted on the 20th of November, 1864. During this analysis we will be able to take into account the positive and negative effects of judicial reform in the context of the Kiev trial chamber function.

So Kiev trial chamber, in accordance with art. 137 of Law «The establishment of judge system» adopted on the 20th of November, 1864 as the other chambers had got its concrete location in Kiev [3, p. 19]. The Kiev district court and Kiev trial chamber were settled at the newly erected building for the main city and provincial institutions placement»... official place, which houses a number of government agencies, namely: Kiev trial chamber, Kiev district court, Treasury chamber with the provincial treasury, the provincial government, the provincial drawing and typography, notary archives, the city police department, etc.» [4, p. 55].

Kiev trial chamber, in our opinion, was not only endowed with judicial functions, but also with administrative and regulatory, so as it acted as a court of appeal and in some legally considered cases as a court of first instance; it was also the cordinative and directive center for the Bar authorities, prosecutors, notaries, investigation authorities. The chamber was responsible for their cooperation.

Speaking about the chamber's judicial functions, it should be noted that Kiev trial chamber was generally accepted as a court of appeal for the decisions of the Kiev, Zhytomyr, Lutsk, Mogilev, Nijin, Starodub, Uman, Cherkasy and Chernihiv district courts.This is confirmed by numerous archival cases considered by the Kiev chamber, for instance the appeal case Levandowskiy V Suharskiy [5]; the appeal case Taube V Mlodutska [6], etc.

The trial chamber, according to Judicial Statutes of 1864, in exceptional cases, could act as a court of first instance. Article 1030 of the Criminal Justice Statute defines chamber's jurisdiction on public and political crime cases (when it is a malicios crime committed by one or more persons); Article 1073 – on crimes committed by the officials [7, p. 128-134].

As noted above, the chambers were also the center of advocacy. Its establishment was regulated by the Judicial statutes of 1864. According to this document, the institute of barristers was introduced - an independent state professional corporation, included in the system of justice basing on the rights and duties of keeping criminal and civil cases in all courts of the empire [8, p. 717].

The Bar was divided into two types: public attorneys - attorneys who worked at the courts (judicial chambers and district courts); private attorneys – lawyers who participated in the cases only with the court permission or with the warrant of attorney. There were 120 barristers and 54 assistants in 1886 in the district of Kiev trial chamber; in 1913 – 492 barristers and 417 assistants. In each district if the number of barristers exceeded 20 people, the council of barristers had to be based. In the district of Kiev trial chamber the council of barristers was established only in 1904. It had administrative and disciplinary functions, coordinated by the chamber, so as one representative in the council was appointed by the trial chamber.

The judicial statutes also regulated the notary in the Russian Empire. Article 420 of Law «The establishment of judge system» regulated the establishment of notary under the supervision of the judicial chambers, whose main function was notary acts implementation [3, p. 58]. Notaries in fact have been authorized for the registration of industrial, consumer, charitable and educational societies etc. So the trial chambers were the archival storage for that kind of information.

According to art. 125 of Law «The establishment of judge system «the prosecutor and defined quantity of its assistants were operating in each trial chamber. The prosecutor, in addition to exercising his oversight function, was involved in the formation of the annual report on the activities of the Chamber, he also created its own annual report of public prosecutions. The chamber itself supervised the operation of accountable prosecutor and his assistants [3, p.17].

There was an office consisting of secretaries and their assistants at the trial chamber, also stationery officials whose primary function was to census documents. The function of archivist in some cases could be combined with the secretary function.

The organizational aspects of chamber's operation according to Judicial Statutes of 1864 were introduced by meeting of the trial chambers, which in turn were divided into administrative, judicial meetings and general assembly meetings. Administrative meetings were held to review the previous orders for local courts; to review disciplinary proceedings cases; to discuss cases in the judicial institutions. In trials the criminal and civil cases were directly discussed. These meetings were held in public, unless the law prohibited public hearing and set the closed hearing. Prosecutors of the Chamber reported on the proceedings time if their participation was mandatory. Lists of cases selected for consideration, were hung on the door of the Chamber [9, p. 120].

The general department meetings of the Chamber were clearly regulated by Art. 160 of Law «The establishment of judge system» adopted on the 20th of November, 1864. The main purpose of their organization was to discuss the candidates for open positions in the Chamber. The chairman of the Chamber was authorized to gather such meetings; these meetings were to be attended by all the judges of the Chamber.

It should be also noted that according to Chapter 3 of Law «The establishment of judge system» chambers were accountable to the body that formed them. Thus, at the beginning of each year chambers, district courts and prosecutors were obliged to report on their previous year operation to the Minister of Justice. The report had to be created by the head of the chamber together with the prosecutor on the relevant data obtained from the district courts and chamber as well.

Conclusions and perspectives for further research. Kiev trial chamber, established in 1880 by the Judiciary Statutes of 1864, was the body of appeal for the district courts decisions and the court of first instance in legally defined categories of cases; the focus of the prosecution, the bar and the notary. Taking into account the positive and negative effects of judicial reform in the context of the Kiev trial chamber operation we should admit that all the main functions of the chamber were highly performed. Kiev trial chamber, being a judicial authority, could easily combine its operation as a court with all the other essential administrative and organizational functions in the region of Kiev trial chamber district.

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Левчук Ю. Функції Київської судової палати. У статті аналізується діяльність Київської судової палати – органу апеляційного оскарження рішень окружних судів, що був створений при реалізації судової реформи 1864 року у Російській імперії. З'ясовано основні функцій Київської судової палати. Київська судова палата, створена в 1880 році, згідно з нормами Статуту 1864 року, була органом апеляційного оскарження рішень окружних судів як судів першої інстанції у юридично визначених категоріях справ; цим полегшувалась діяльність прокуратури, захисту і нотаріату. Беручи до уваги позитивні і негативні наслідки реформи 1864 р. у контексті досвіду діяльності Київської судової палати слід визнати, що всі основні функції цим органом були виконані на високому рівні. Київська судова палата, будучи судовим органом, могла поєднувати свою роботу з іншими необхідними адміністративними й організаційними функціями в Київській губернії.

Ключові слова: Київська судова палата, судова реформа, Судові Устави 1864 року, функції палати.

Левчук Ю. Функции Киевской судебной палаты. В статье анализируется деятельность Киевской судебной палаты – органа апелляционного обжалования решений окружных судов, который был создан в ходе реализации судебной реформы 1864 года в Российской империи. Выяснены основные функции Киевской судебной палаты. Киевская судебная палата, созданная в

1880 году, согласно нормам Устава 1864 года, являлась органом апеляционного обжалования решений районных судов как судов первой инстанции в юридически определенных категориях дел; этим облегчалась деятельность прокуратуры, защиты и нотариата. Принимая во внимание позитивные и негативные последствия судебной реформы 1864 г. в контексте опыта деятельности Киевской судебной палаты, следует признать, что все основные функции этим органом были выполнены на высоком уровне. Киевская судебная палата, являясь судебным органом, могла совмещать свою работу в качестве суда с другими необходимыми административными и организационными функциями в Киевской губернии.

Ключевые слова: Киевская судебная палата, судебная реформа, Судебные Уставы 1864 года, функции палаты.

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I. Levchuk

Problems of Spiritual and Religious Re-education of Prisoners in the Prisons of the Russian Empire in the Nineteenth Century

The experience of spiritual and religious re-education of prisoners in the prisons of the Russian Empire in the nineteenth century is studied. The activity of the clergy in the context of spiritual and religious re-education of individuals who committed the illegal acts is analyzed. The prison authorities, clergy and governor were dealing only with religious propaganda, and the prison regime itself with all its inherent injustices and hardships caused no desire for prisoner's rehabilitation. Insufficient material support of prisons only worsened the situation where in addition to the frequent lack of churches and chapels in the prisons, the lack of libraries, spiritual and religious literature, also was not maintained a good salary level for the prison clergy.

Key words: spiritual and religious re-education, the clergy, the Society of Trustees of the prison.

Formulation of a research problem. The actuality and expediency of studying the question of spiritual and religious re-education of prisoners in the prisons of the Russian Empire could be explained by the similarity of events and processes that took place in the nineteenth century to the present processes. That fact concerns providing basic legal guarantees of human rights, transformation of the system of institutions for execution of criminal penalties connected with deprivation of liberty, separation of new social relations needed to leverage other settlement, proper organization of the prison system, new institutions, etc. The influence of religion on human being has always been important, and the isolation of people in prison acquires a greater significance, especially by virtue of educational function of religion. Equally important is the social and educational function of religious influence, which deals with the preparation of people to law-abiding lifestyle. Elements of religious education, which are inevitably present during the priest's care of the convicted, are contributing to move away from criminal way of thinking, but to moral purification of bad habits, and therefore help to reduce crimes in future.

Analysis of recent publications and research. Scientific interest to the problem of the penal system organisation and operation has been observed by national and Russian scientists for a long period of time. Historiography of the problem is presented by F. H. Ahmadeev, I. Bogaturev, S. L. Gajdyk, M. M. Gernet, O. Goreglyad, M. G. Detkov, D. O. Drul, M. D. Kalmykov, G. Canon, M. Kostetskyj, A. Kunitsun, M. Mordvunov, V. M. Nikitin, M. V. Osupov, O. O. Piontkovskyj, M. F. Prjanishkov, V. V. Rosihin, I. M. Uporov, B. S. Utevskyj, I. Fojnutskyj, Y. G. Shurwindt, O. N. Yarmysh etc.

Exposition of the basic material. It should be noted that the primary purpose of limiting freedoms because of committing an illegal act is not punishment and isolation of individuals, but his rehabilitation and correction to prevent the commission of crimes in future. Therefore we consider this problem to be actual to research the experience of spiritual and religious re-education of prisoners in the prisons of the Russian Empire in the nineteenth century.

Thus, one of the main tasks of the Church in the nineteenth century was considered Christian morality education and eradication of evil, for instance overcoming crime was resolved by isolation of criminals in prison, also by the involvement of the clergy to the spiritual and religious re-education of prisoners to escape anti-social behavior in future.