

CONSTITUTIONAL AND PARLIAMENTARY IDEAS OF RUSSIAN LIBERALS

(1860s-1870s)

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Russian liberalism finally shaped into a substantial social force in the mid-1850s. It broke into two principal trends — the so-called «occidentophiles» and «slavophiles» who had differing views on the paths on the country's historical development. In contrast to the slavophile idea of a special, objectively predetermined, historical path and destination of Russia, occidentophiles concentrated their attention only on general laws of development of Russia and West European countries.

This article examines politico-legal doctrines of ideologists of occidentophile liberalism.

In the 1850s, the most influential liberal society of the occidentophile trend was the so-called «Party of Petersburg Progress». This society was close to the source of governmental liberalism represented by the Grand Duke Konstantin Nickolayevich. Among its members were authors of the reforms of the 1860s and future statesmen, such as N. A. and D. A. Milutins, A. P. Zablotsky-Desyatovsky, I. P. Arapetov, well-known writers I. S. Turgenev, I. A. Goncharov, lawyers V. D. Spassovich, B. I. Utin, historians N. I. Kostomarov, M. M. Stasulevich, S. M. Solovyev, publicists A. N. Pypin, K. K. Arsenyev, L. A. Polonsky, E. I. Utin, E. F. and

V. F. Korsh, and many other representatives of the nobility and the bourgeois intelligentsia. The ideological leader of this circle was K. D. Kavelin, Professor of state and law history at Petersburg University, prominent ideologist of liberalism, an author of the 1861 Peasant Reform.

There were no political parties in the period under consideration, and people were grouped around so-called «thick» journals according to their views. In the 1860s, most members of Kavelin's circle grouped around the Constitutional-Monarchist organ «Vestnik Evropy» (Herald of Europe) edited and published by M. M. Stassulevich, former professor of Petersburg University.

The political platform of liberals envisaged the establishment of a law-governed state structure headed by a monarchy limited by representative bodies. As convinced opponents of revolutionary measures and any forms of terrorism, liberals defended the idea of a step-by-step evolution of the state through improvement of the legislation and the renewal of obsolete state structures by reforms from «above».

The form of the state mechanism during the post-reform period was the most burning topic of the day.

During the post-reform period, liberal public opinion levelled criticism against the government apparatus and called for transformations in the top echelons of state power. Tzarism remained unlimited by any representative legislative organ. Such a situation did not satisfy the Liberals who strove for a law-governed society and for participation in the governing the state.

On the other side, the reactionary-conservative opposition displeased with the 1861 reform, also sought compensation of its rights through the introduction of an aristocratic constitution which could help it to consolidate its position and launch an attack against the reforms.

At the same time, the expanding revolutionary movement, aimed at overthrowing the existing social system, excited the apprehension of both liberals and conservatives. Both of them called upon the government to carry out a constitutional reform from «above» so as not to provoke a revolution from «below».

The attitude of Alexander the 2nd and his ministers to such a reform and to the idea of popular representation was negative in principle. But in the periods of the first and the second revolutionary situations (1859-1861 and 1878-1881), there were hesitations in government quarters concerning these reforms. In 1866 the Grand Duke Konstantin Nikolayevich submitted a so-called «constitutional» project to the Emperor, and in the late 1870s Alexander the 2nd meditated upon Valuev's «constitutional» project under the pressure of social forces.

K. D. Kavelin played an important role in the ideological and

political struggle of the 1860s-1870s around the development of the Russian state.

As a consistent evolutionist, K. D. Kavelin believed that a gradual regeneration of state power from an autocratic monarchy into a constitutional monarchy was inevitable. However, he considered the introduction of constitutional rule in the existing correlation of forces not only inopportune but also dangerous. He thought that the strong camp of conservatives and reactionaries could use the constitution for introducing laws which would consolidate the interests of the oligarchy. Kavelin was of the opinion that Russian liberals were not strong enough to oppose it. Besides, he pointed to the political immaturity and narrow outlook of contemporary liberals. To expand the political outlook of Russian liberal public opinion, in 1865 Kavelin together with B. I. Utin translated from German and published a collection of articles «Constitutional Principle, its Historical Evolution and Interaction with the Political and Social Mode of Life of States and Peoples» under the editorship of Gakstengauzen (with the preface written by the translators). The magazine of the metropolitan censorship committee (December 24, 1865 issue) noted that the book «was a publication that minutely and methodically gave preference to a new political structure which was directly opposed to our existing form of government»¹. As regards the preface, the magazine wrote that «it was a kind of propaganda and a guiding programme for actions aimed at developing constitutional forms of political life in Russia»². The censor's office decided to sequester the book and bring an action against Kavelin, Utin and the proprietor of the publishing house which printed the book. In reality the censor over-estimated the task of the authors as a «guiding programme for actions». The authors saw the constitutional form of government in a rather long-term perspective.

In the 1860s Kavelin placed great hopes in the development of local self-administration. He received with enthusiasm the law on a Zemstvo (elective district council) reform. In his work «The Social Role of the Nobility» he wrote that the Zemstvo contained «a huge curative power for all our ailments». Kavelin advocated a classless Zemstvo regarding it as a basis for future parliamentarism and a school of public figures. Later, in the 1870s, Kavelin realized that the Zemstvo self-administration was a qualitatively alien element in the bureaucratic autocratic machine, and that the Zemstvo reform (even its considerably curtailed self-administration which was initially introduced) was actually brought to nought.

¹ CSHA of the USSR, f. 777, op. 2, 1865, record 102a, file 110, p. 9.

² Ibid, pp. 14-16.

He came to the conclusion that the cause of the Zemstvo reform's failure lay in the existing political system. In his work «What Shall We Be? A Reply to the Editor of the *Russky Mir*» (1862) Kavelin stressed the vital need for restructuring the central state institutions: «good undertakings had little success and collapsed right at the start precisely because everything was transformed from below, but was left intact from above»... «without radical transformation of our top state institutions on new principles... chaos, lawlessness, illegality will never cease to exist...»³ At the same time, Kavelin tried to draw the attention of progressive public opinion to the assault on the reforms launched by the so-called «Court Party» headed by former foreign minister Valuyev. Uneasy about growing reaction, he again returns to the question of the constitution. Kavelin thought that demands for the introduction of the constitution at that time were absolutely futile and only emphasized our political immaturity and poor knowledge of Russia⁴.

The afore-named article contains a draft of the constitution. Kavelin believed that the way out of the crisis lay in an administrative reform. In the first place, he proposed the establishment of an administrative senate as a consultative body under the Tzar. One third of the senate should be appointed by the Emperor. Another third is elected by the provincial Zemstvo, and the last one — by the senate itself. One third of the senate is renewed annually. A senator is elected for a term of 3 years and can be re-elected. While in the senate, he cannot serve anywhere else. The Tzar is chairman of the administrative senate, the Committee of Ministers and the department of the senate should be disbanded. Thus, the administrative senate becomes the supreme administrative state establishment. The administrative senate was called forth to serve as a link between government mechanism and social life. Besides, Kavelin hoped that the Tzar would give representatives of the senate access to state affairs. It was something like a prototype of parliament.

During the oriental crisis and the Russian-Turkish war, when the question of the state structure again became acute, Kavelin wrote an article entitled «Political Phantoms»⁵ in which he fiercely attacked the bureaucracy, accusing it of arbitrary rule and of pushing the monarch away from the state affairs. He stressed that the administration absorbed judicial and legislative power, therefore it was necessary to withdraw justice and legislation from the administrative influence. It could be

³ Kavelin K. D., Collected Works, Vol. 2, S-P., Column 898.

⁴ Kavelin K. D., Collected Works, Vol. 2, What Shall We Be. Column 894.

⁵ Kavelin K. D., Collected Works, Vol. 2.

achieved by setting up three independent senates: the legislative, the judicial and the administrative senates all should be under the supreme sanction of the Emperor.

The functions of the administrative senate were substantially extended in the 1877 project. Previously he regarded it as a supervising organ and a source of reliable information for the Tzar, but then he wanted to place under its control «all branches of the Empire's internal administration; all ministries are to be abolished except the ministries of Foreign Affairs, of the Navy, of the Court and the War Ministry. The Foreign Ministry and the Ministry of the Court are independent of the Senate. The War Ministry and the Ministry of the Navy are responsible to the administrative senate in administrative and financial affairs. Political policy is also a responsibility of the administrative senate. Kavelin demands that all matters pertaining to legislation be concentrated in the respective senate. The judicial senate should be established as the supreme state body whose most important task would be to exercise control over the «correct administration of justice».

The Monarch exercises general direction of state affairs, appoints one third of the senate and selects officials from the list of candidates submitted to him. The proposed senates are responsible only to the Tzar, and his decision is law with them.

The main idea of the reform of local self-administration, according to Kavelin, was to ensure direct participation of Zemstvo representatives in administration on equal rights with the bureaucracy. Both these elements are included in the projected provincial administrative council which must concentrate in itself all government administration, the council is chaired by the governor to whom only the police force is subordinate.

Justice, the Zemstvo and the city administration should be independent of the council. Kavelin pointed out that the court of law had very limited rights and had to be allowed more independence. Kavelin wanted to change the legal procedures so that all civil cases would be transferred to the court of jury. In the final part of his work Kavelin stated that no reform could be implemented unless freedom of speech and of the press were ensured.

The need for reforms in the top echelons of power was a prevailing theme also in the «Vestnik Evropy». Leading publicists of the journal — K. K. Arsenyev, A. N. Tsy-pin, L. A. Polonsky, E. K. Watson, B. I. and E. I. Utin, V. D. Spassovich and others — called for the establishment of a law-governed state. Some of them, such as E. I. Utin, A. N. Tsy-pin and V. D. Spassovich were in favour of immediate constitutional reforms. In their publications they treated with sympathy the republican form of

government⁶. The Journal was subjected to ceaseless attacks of the reactionary press, and the editor won the reputation of a «politically untrustworthy person» despite his highly cautious behaviour. «The Third Department» — the main office of the Tzarist political police — used its investigation materials to compile a «Note on the trends of the press and its ties with the public movement in Russia» (1883) which stated that «the names of Stassulevich and Tsy-pin (the closest associate of Chernyshevsky), linked with the «Vestnik Evropy», fairly well explain the trend of the publication⁷. The author of the Note was uneasy about the fact that the «Vestnik Evropy» enjoyed popularity as a journal which «unequivocally expresses the demands that the outdated forms of community life be replaced by new ones, based on constitutional theories...»⁸

As was already mentioned, it was forbidden to openly discuss the concept of the limitation of autocratic power in Russia. The «Vestnik Evropy» had had previous experiences of such bans. For example, its December 1870 issue was detained, and then published with ten pages cut out of the article by A. E. Tsy-pin⁹, which described the history of social thought in the epoch of Alexander I, specifically the constitution worked out by N. N. Novosiltsev. Stassulevich had to give explanations on this score to Minister of Internal Affairs A. E. Timashev¹⁰.

The censor also cut out the «Domestic Review» prepared by L. A. Polonsky, which called for reforming the supreme state establishments¹¹.

In their attempts to discuss the forms of the state structure acceptable to Russia, the publicists of the «Vestnik Evropy» had to popularize the rich political experience of West European countries. Analysing various forms of constitutional and parliamentary systems, the journal conveyed the idea of its advantage, of the need for transformation of the country's political system, establishment of a law-governed, constitutionally guaranteed social structure, provision of broad bourgeois freedoms (the freedom of speech, of the press and of conscience).

⁶ The File of the Main Department of the Press, 1872. Cit. from the book on the book, vol. 3, L., 1932, p. 281.

⁷ Makashina S. A. From the History of the Literary Policy of Autocracy. LN, p. 442.

⁸ Ibid., p. 452.

⁹ Vestnik Evropy, 1871, October, Domestic Review, p. 853.

¹⁰ Nikitenko, vol. 2, p. 417, 435-436.

¹¹ Stassulevich and His Contemporaries in Their Correspondence. Vol. 2, SPB, 1912, p. 184-204.

Of interest is a critical review of political literature on Britain («Britain in the Book by Tan») compiled by E. I. Utin¹². The author actually reiterates the programmatic demands of liberals. He does not conceal his admiration for Britain's state system which grants and guarantees the society basic bourgeois rights — the freedom of speech, of the press, of public assemblies, meetings, the freedom of the individual, etc. All these are political instruments which enable British society to «follow each action of the government», «to control it and raise the questions of the necessary reforms, the necessary improvements».

«Political life in Britain can and must serve as a model for all peoples of continental Europe», he said in conclusion unequivocally pointing out the need for reforming the bureaucratic state apparatus of Russia under which the society is deprived of the necessary means to express its opinion, and of public and state institutions through which it could influence the policy of the government.

In his literary reviews «Feminine Types in Novels by A. Trollop»¹³ and «Modern Novel in England»¹⁴, L. Polonsky adheres to the idea of permanent organic development and improvement of the state mechanism in England.

Many publicists of the «Vestnik Evropy» compared the state system of Russia with France of the period of the 2nd Empire. For example, describing the situation in France (absence of the freedom of speech, of the press, publication, meetings, etc.) publicist K. K. Arsenyev in his article «The New Law on the Press in France»¹⁵ hints at the state of affairs in Russia which has common features with the situation in France.

The second book of the «Vestnik Evropy» carried a review by B. I. Utin of the above-mentioned collection of articles entitled «Constitutional Principle, its Historical Evolution and Interaction with the Political and Social Life of States and Peoples»¹⁶. In this review B. I. Utin calls for studying the achievements of West European political thought, the knowledge of which can be useful in «a relatively feasible future course of our history». However, a constitution — elaborates the author — cannot

¹² Utin E. I. «Britain in the Book by Tan», Vestnik Evropy, 1872, September-October.

¹³ Polonsky L. A. «Feminine Types in Novels by A. Throllop». Vestnik Evropy, 1871, August.

¹⁴ Same author. «Modern Novel in England». Vestnik Evropy, 1875, November.

¹⁵ Arsenyev K. K. «The New Law on the Press in France». Vestnik Evropy, 1868, April.

¹⁶ Utin B. I. «Review of the Book «Constitutional Principle...». Vestnik Evropy, 1866, vol. 2, section «Literary Column».

be a phenomenon «estranged from the life of the people»; it appears as a result of «a natural evolution of the state organism from its own material and moral resources». He thinks that to work out Russia's own state law it is necessary to study Russian statehood (electoral principles in Russian history, representative establishments, state and international law, etc.).

In conclusion, it should be pointed out that constitutional and parliamentary ideas of Russian liberals were dictated by a bourgeois development of the country, but unfortunately they failed to be fully embodied in life, because Russia's development bore the features of the feudal-serfdom structure, and the autocracy did not want to waive its attributes of power.

The significance of this circle of ideas lies in the fact that they became a basis for their further development by the next generation of the liberal bourgeoisie which, in the early 20th Century, took the form of the Liberal Party of Cadets (Constitutional Democrats).