ARTICLES

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P. D. KISELEV AND THE DEVELOPMENT OF A RUSSIAN LEGAL CONSCIOUSNESS

Through the domestic careers of Pavel Dmitrievich Kiselev—as commander of the Second Army under Alexander I, as President of the Danubian Principalities during the Russian occupation from 1829 to 1834, and as Minister of State Domains under Nicholas I—there runs a thread that distinguishes him from the vast majority of his contemporaries. A passionate concern for justice marks the energetic administrative and reform activity of the mature Kiselev, who regarded himself as an agent of the forces of Enlightenment. He labored to promote legality among rank-and-file soldiers and the peasantry, believing that heightened legal consciousness promoted self-respect and enhanced efficiency and prosperity. He was one of Russia's first administrators to attempt in a systematic and practical way to implant a notion of rights, a concept familiar to the Westernized elite, among the larger population. The purpose of this essay is to enquire into the origins of Kiselev's own faith in justice and the limitations he encountered from both the Westernized element and the peasantry as an independent official in Nikolaevan Russia trying to advance legal consciousness in the interests of modernization.

The question of justice and its administration in the evolution of Imperial Russia has by no means been laid to rest by historians. Two recent attempts at synthesis, by Richard Pipes and Edward Crankshaw, stress the sickliness of Russian justice in the modern period.¹ The latter goes so far as to identify

¹ Richard Pipes, Russia under the Old Regime (New York: Charles Scribner's Sons, 1974). For a critique, see Marc Szefelt, "Two Negative Approaches of Russian Pre-Revolutionary Development," Canadian-American Slavic Studies, 14, No. 1 (Spring 1980), 74-87. Pipes' argument is too complex to reproduce here, but a few points may suggest its scope. In his chapter on the peasantry, he explains that: "There exists broad agreement among contemporary observers that the worst feature of Russian serfdom was not the abuse of authority but its inherent arbitrariness..." and quotes from a traveler's account of 1839: "... the British peasant has rights; the Russian has none!" (p. 154)
Marc Raeff notes the failure in Russia by the last years of the Romanovs to achieve a society where law enjoyed general respect by virtue of upholding the rights of all: "The people admit the existence of justice (pravda) but do not acknowledge the law (zakon) and are devoid of rights (prava). For the intelligentsia there is legality (zakonnost') without a sense of justice (pravo-soznanie). Finally the government recognizes the law (zakon) without acknowledging rights (prava); the law (pravo) as far as it is concerned is simply the collection of the acts of authority." He identifies the absence of government-defended general rights as a kind of aberration from a Western pattern that had led to an international movement for codification. When the material world came to appear to the European mind as a potentially limitless source of wealth waiting to be developed by individuals free to act on their own initiative, many governments moved to define the rights of persons and balance them against the claims of existing social groups. In the West the authorities' enthusiasm for unleashing active and productive populations fostered respect for the individual life and a sense of human solidarity and caused eighteenth-century legislators to push for a uniform way of life to be shared by all members of society. Russia attained a sort of codification in the 1830s but somehow failed to achieve a dynamic system of justice that perpetually redefined the norms behind the laws in such a way as to keep the law relevant to everyday life.

Two stimulating monographs chart the changes in consciousness among the Russian elite concerning justice and its potential in the critical century leading up to the 1864 judicial reform. The prevailing attitudes toward justice vary sharply from generation to generation. Richard Wortman, for example, reveals Catherine II's Minister of Justice, Derzhavin, as a cranky adminis-