Review Article

Personal Letters and Soviet Law: Intellectual Origins of Sections 491 Kazakh CC and 540-1 Uzbek CC*

Serge L. Levitsky
Docteur-en-Droit (Paris)

Personal letter! John Donne had valued it above the kiss: "...more then kisses, letters mingle Soules." Jane Austen endowed it with greater significance than a lock of the beloved's hair: "I have burnt all your letters... Please to destroy my scrawls—but the ring with my hair you are very welcome to keep." (Sense and Sensibility, ch. 48.) In Franz Kafka's epistolary courtships, the addressee was tortured with the intensity of his bliss and despair, but the woman rejected by the indifference of his passion. Engagements were broken, but the letters survived. How desperate was Perdican's desire, in Alfred de Musset's On ne badine pas avec l'amour, to possess the secret of a private letter: "Quelle mauvaise curiosité me saisit malgré moi!" (Act III, scene 2.) He was echoing Madame d'Epinay's more legitimate but equally consuming wish: "Je mourais d'envie de... lire [cette lettre]." (Mémoires, I.) But such were the conventions of the société polie of the 18th century that Mme d'Epinay refused to read it when her husband had proffered it to her: "Non, lui dis-je en la lui rendant; votre confiance me suffit...". The letter was from M. d'Epinay's mistress. How much more shocking, then, it is for the addressee to read a personal letter in public, aloud. You cannot divulge in public the contents of a personal letter, an indignant Cicero had asserted, and still remain a gentleman:

"Quis enim unquam, qui paulum modo bonorum consuetudinem nosset, litteras ad se ab amico missas... in medium protulit palamque recitavit?" (Oratio Philippica Secunda, IV.)

Breach of confidentiality entails forfeiture of personal honour: "No mnie porukoi vasha chest'" (your sense of honour is my guarantee)—Pushkin's Tatiana appeals confidently in her letter to Eugene Onegin. "Le déshonneur en est la pénalité", Lamartine assures the French Chamber of Deputies in 1841, during a debate on copyright legislation. To the Russian legislator of a century and a half


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ago, on the other hand, honour, discretion, and délicatesse, while excellent virtues in themselves, often required the support of explicit laws if they were to prevail. Under the Copyright Statute of 1830, (a) personal correspondence, regardless of its contents, received the same protection as literary works; and (b) no one was permitted to publish a personal letter except with the joint consent of the author and the addressee. If either of them had died, consent for publication was to be secured from the heirs of the deceased.

I

The assimilation of personal correspondence to literary works, under the Russian Copyright Statute of 1830, made it more difficult for the Russian jurists to isolate and define the criteria which characterised a writing as an object of copyright. But no one enquired into the reasons for the assimilation. Was the legislator influenced by the great popularity among the Russian reading public of the epistolary form? Russia's own classicist tradition of literary letter writing was quite slender, but the psychological epistolary novel, which had enjoyed its golden age in Western Europe particularly during 1750-1789, and produced such masterpieces as Pamela and Clarissa (Richardson), La Nouvelle Héloïse (Rousseau), and Die Leiden des jungen Werthers (Goethe), was not only read and translated, but widely imitated in Russia long after "... die tonangebenden literarischen Kreise sich schon von dieser Form abgewandt hatten" (to use N. S. Trubetzkoy's apt observation). F. Dostoevskii, who considered letter writing a highly inadequate means of communication, and an occupation best endured in hell, was able to publish a successful epistolary novel (Poor Folk) as late as January 1846, by blending the sentimental tradition of 18th century with the more recent naturalist trend—adding but a touch of genius.

More to the point, the narrative techniques and stylistic devices, perfected in two centuries of European letter writing, both real and fictional, and in epistolary novels, found their way into Russian letters written during the early decades of 19th century, conferring upon them an unusual degree of literary polish and linguistic perfection. Such letters served not only as chronicles of notable personal and social events, and as commentaries upon them, but as excellent media for stylistic and genre experimentation in their own right. Many of these letters

"... acquired an independent literary significance as masterpieces ... of the language arts from the very moment of their creation."  

One must read The Familiar Letter as a Literary Genre in the Age of Pushkin to more fully appreciate the literary significance of Russian personal letters on the eve of the enactment of the Russian Copyright Statutes of 1828 and 1830. Of Mr. Todd's attractive book, it can be truly said that its major shortcoming is