

EHESS

---

No Gauntlet for Gentlemen: Officers' Privileges in Russian Military Law, 1716-1855

Author(s): John Keep

Source: *Cahiers du Monde russe et soviétique*, Vol. 34, No. 1/2, Noblesse, état et société en russie XVIe: Début du XIXe siècle (Jan. - Jun., 1993), pp. 171-192

Published by: EHESS

Stable URL: <http://www.jstor.org/stable/20170853>

Accessed: 19/02/2010 08:17

---

Your use of the JSTOR archive indicates your acceptance of JSTOR's Terms and Conditions of Use, available at <http://www.jstor.org/page/info/about/policies/terms.jsp>. JSTOR's Terms and Conditions of Use provides, in part, that unless you have obtained prior permission, you may not download an entire issue of a journal or multiple copies of articles, and you may use content in the JSTOR archive only for your personal, non-commercial use.

Please contact the publisher regarding any further use of this work. Publisher contact information may be obtained at <http://www.jstor.org/action/showPublisher?publisherCode=ehe>.

Each copy of any part of a JSTOR transmission must contain the same copyright notice that appears on the screen or printed page of such transmission.

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).



EHESS is collaborating with JSTOR to digitize, preserve and extend access to *Cahiers du Monde russe et soviétique*.

<http://www.jstor.org>

JOHN KEEP

NO GAUNTLET FOR GENTLEMEN:  
OFFICERS' PRIVILEGES IN RUSSIAN MILITARY LAW  
1716-1855

“The temper of soldiers, habituated at once to violence and to slavery, renders them very unfit guardians of a legal or even a civil constitution.”

Edward Gibbon

I

Russian military law, apparently an arid and disagreeable subject, is not merely of interest to a handful of specialists, but takes us to the very heart of the antagonistic relationship between the Imperial state and society. All states have found it expedient to assert their authority by establishing systems of exceptional justice. Cases of particular gravity may be dealt with by tribunals that apply a simplified procedure and impose severe sentences. In a modern *Rechtsstaat* such courts function only in time of national emergency; even so the armed forces are distinguished by having a self-contained jurisdiction of their own. Judgements passed by courts-martial are subject only to administrative review and cannot as a rule be contested in the highest courts of the land.

In Russian history exceptional judicial tribunals of one kind or another have existed since Peter I's reign and have inflicted untold harm. Prior to the “Great Reforms” of the 1860's military law was an important bulwark of the absolutist state, perhaps to a greater extent than was the case under the *anciens régimes* elsewhere in Europe. It served as an essential means of social control, not only over the armed forces (“military society,” to use a modern term), but also over a large proportion of the tsars' civilian subjects. For instance, enservfed peasants and the non-Russian inhabitants of the Empire's borderlands might be brought before a court-martial for

a variety of offences. In the early nineteenth century the jurisdiction of these military tribunals was tending to expand rather than contract as the autocracy encountered greater resistance. However, in the best-known instance of such resistance, the rebellions of December 1825, the accused were judged by a specially constituted superior criminal court, not a military one, and another special court was set up to deal with the Polish insurgent leaders of 1830-1831. These tribunals are outside our purview. We are concerned here with "regular" courts-martial, and only in so far as they judged members of the land forces.<sup>1</sup>

Since the most obvious horizontal division in the hierarchy of military rank (*chin*) was that between officers and men, and since in the Imperial era all officers were automatically nobles (*dvoriane*: a better translation would be "privileged servitors," but we may keep to the conventional terminology here), it is worth while trying to discover what privileges they actually enjoyed once, having donned uniform, they contravened military regulations. How frequently did they commit offences? What chances did an offender have of a fair investigation (*ferger* = *Verhör*) and trial (*sud*), compared with a commoner in the ranks? What pattern can be detected in the sentences imposed? Finally, how did noble officers themselves view their status prerogatives and was inequality before the law the chief defect of the pre-reform Russian military-judicial system?

There is a temptingly simple answer to our problem. As a wit once put it, Russian society of that time comprised but two classes, those who were beaten and those who beat others; officers belonged to the latter group. One may agree that exemption from the horrifying penalty of running the gauntlet, a particularly demeaning form of corporal punishment, was of the utmost importance, both legally and psychologically, but that is not the whole story. For one thing, the main advantage enjoyed by privileged individuals may well have been procedural, not penal, in so far as offenders had their cases adjudicated by the ruler or someone close to him/her - even if they were thereby exposed to the vagaries of the autocrat's temperament.

Unfortunately it is still not possible to provide a clear, well-founded picture of social realities in this domain. All governments prefer to keep military-judicial matters secret and in Russia at least until recently scholars fought shy of tackling the subject. As late as 1902 an official War Ministry historian did little more than summarize the relevant legislation, collections of which had started to appear nearly a century earlier.<sup>2</sup> The first writer to explore the voluminous archival records was M.K. Sokolovskii, who attempted merely to show how successive rulers had dealt with typical court-martial cases referred to them for review.<sup>3</sup> His initiative was not followed up by either pre-revolutionary Russian or Soviet historians until 1964, when V.G. Verzhbitskii published a history of military dissent under Nicholas I.<sup>4</sup> In the West critical analysis began with two articles by J.P. Le Donne in 1972-1973.<sup>5</sup> It has taken a qualitative leap forward with the work of another American historian, Elise Kimerling Wirtschafter, the first to have studied a broad range of files from the early nineteenth century housed in the Central State Military Historical Archive (TsGVIA), hitherto all but closed to foreign scholars.<sup>6</sup> Her approach is social rather than juridical, and her prime concern, quite legitimately, is with the men in the ranks. She takes a somewhat benign view of the military-judicial system at this time.<sup>7</sup> Nevertheless she is correct in stating that "in order to understand the full meaning of military justice for the common soldier, it is important to determine actual norms of punishment."<sup>8</sup> This holds good for officers, too, and some indications of practice in

their regard will be given below. First, however, we must give some account of the development of policy in this field.

## II

Throughout this period Peter I's military-judicial regulations (*artikuly, ustav*) of 1716 remained legally in effect, since their provisions were not expressly abrogated when amended by later legislation, so creating one of the many ambiguities in the system.<sup>9</sup> As one might expect, Peter's acts, modelled mainly on those in force in Prussia, bore a highly repressive character. According to one calculation the death penalty was specified for no less than 108 offences and severe corporal punishment for 85.<sup>10</sup> Offenders might be put to death in various cruel or humiliating ways (quartering, breaking on the wheel). However, it is not known how often these penalties were applied in practice and they had an obviously "propagandist" deterrent purpose. The high desertion rate in the last years of Peter's reign - also among *dvoriane* - suggests that this purpose was not achieved.

So far as procedure is concerned, the provision made for auditors (legal officers) implies that the tsar-emperor had a certain concern for legality. Unfortunately, right up to the end of our period these untrained and lowly clerks were seldom able to fulfil their assigned role responsibly. Cases were settled entirely within the military hierarchy, headed by the monarch, in the utmost secrecy, on the basis of formal summaries of evidence that were often inaccurate. Written procedure led to interminable bureaucratic procrastination. Delation was expressly encouraged, which created an unhealthy moral climate in the forces. Offenders were not formally charged; confession was regarded as the highest form of proof; and torture might be employed to extract it. Defendants had only a limited opportunity to present their case and had no one qualified to speak on their behalf because, as Peter put it with disarming frankness, "lawyers' useless lengthy speeches serve merely to complicate the judges' task and make for greater delay."<sup>11</sup>

The tsar shared the general assumption that officers, as nobles, held an honoured status that marked them off from commoners. Yet he was unwilling to grant them explicit legal rights. In his view those state servitors who performed well were amply rewarded by higher rank and pay, not to mention proximity to the All-Highest as the source of favour; if they committed some transgression, they ought to be punished more severely than their subordinates. To be sure, nobles (*szlachta*, the Polish term then in vogue) were supposedly exempt from torture, unless there were firm grounds for suspecting them of anti-State activity (*gosudarstvennye dela*) or murder. Since they shared this privilege with senior civilian officials, men aged over seventy, adolescents and pregnant women,<sup>12</sup> social status was not the sole criterion for this prerogative. According to another provision noblemen's evidence should be preferred to that of a commoner,<sup>13</sup> but the context indicates that this applied to civilian lawsuits, which were not yet clearly distinguished from breaches of military regulations. More significant will have been a ruling that "noble and senior officers" were to be tried by "general" court-martial rather than a regimental one if it were a matter of depriving them of their honour or their life.<sup>14</sup> This reduced the likelihood of arbitrary action by a regimental commander, since such offenders could hope for indulgence in the army's higher spheres and the monarch's clemency. In November 1724 all officers involved in "important" offences were to have their papers sent up

to the War College, with the Sovereign adjudicating those concerning “staff” officers (i.e. majors or above).<sup>15</sup>

This will have proved an advantage when, a few weeks later, Peter’s iron hand was removed and the regime became a *de facto* oligarchical one. The purpose behind the measures just mentioned was not to do the privileged a favour but simply to make the system work more efficiently. The problem was that unit commanders shirked the onerous duty of pronouncing and implementing harsh sentences and preferred to refer cases upwards even where the law was clear. Run-of-the-mill offences committed by officers, which comprised the majority, will have been dealt with at corps level or lower.

How far did officers’ juridical situation improve during the post-Petrine “thaw,” and did any such ameliorations come about through pressure from below? These questions cannot as yet be answered with certainty, since the relevant cases have not been examined systematically. In the 1730’s soldiers in the Izmailovskii guards regiment who made mistakes at gunnery practice were beaten with rods “without any indulgence” (*bez vsiakogo upushcheniia*), even though many of them will have been of gentry background. One man was beaten before his entire company for failing to denounce a comrade who falsely claimed to be of noble stock.<sup>16</sup> By 1743 all guardsmen, irrespective of their rank and status, had their court-martial sentences reviewed by the Sovereign.<sup>17</sup>

The empress Elizabeth, as is well known, issued a decree formally abolishing capital punishment, but this seems to have concerned civilian offenders only. “Civil” or “political” death, which sometimes replaced it, was no “soft option.”<sup>18</sup> It might involve a ceremony of “dishonouring” known as *shel'movanie*, whereby the accused was publicly equated with a rebel or thief (if on the run, his name was pinned to a scaffold; if under arrest, his sword was broken over his head) and outlawed.<sup>19</sup> This meant in practice despatch to forced labour (*katorga*) in Siberia and loss not only of their property but also of their families (unless the offender’s wife chose to share his fate).<sup>20</sup> Three decrees of 1753-1754 specified physical mutilation after such a ceremony,<sup>21</sup> but whether this additional indignity was actually inflicted on noblemen remains unclear. One authority points to a 1755 decree ordering that conditions should be made harsher for forced labourers sentenced to “political death” than for ordinary criminals, and holds that in practice there was only a formal difference between persons in the two categories.<sup>22</sup> But was this decree implemented?

By the mid-eighteenth century the intellectual climate was changing and army officers were emerging as an embryonic interest group. The experience of the Seven Years’ War strengthened their awareness of their potential role, which contrasted favourably with that of a weak and divided political leadership.<sup>23</sup> The shock effect of their exposure to conditions in more advanced western lands may have been more powerful than it was during the Napoleonic Wars, to which some historians have attached excessive importance. This is not to say that officers put forward specific suggestions for improvements in military justice, whether procedural or penal. But both the luckless Peter III and his famous consort, who succeeded him as Catherine II, may have felt it expedient to respond to the new mood.

The celebrated Manifesto of Liberties granted to the nobility by Peter III on 18 February 1762 gave members of this class the right to decide whether they wished to serve or not and was a landmark in its history, even though most of them were

compelled by poverty to soldier on, and those wishing to retire had to surmount many bureaucratic hurdles.<sup>24</sup> Nothing was said in this edict about ameliorating conditions of service for those who remained in the forces. Like later male Romanov rulers, Peter III was a military martinet, concerned with imposing strict discipline and greater rank-consciousness. He ordered “staff and subaltern officers not to mix in familiar fashion with NCOs and other soldiers, lest they forfeit their respect.”<sup>25</sup> Had he remained in power for longer, he might well have taken this concern further by changing military regulations, as his son Paul would do.

As it was, the Russian army came under the command of professional officers, such as P.A. Rumiantsev and G.A. Potemkin, who took their cue from the relatively benign atmosphere at Catherine’s court. The empress set up a military commission on reform, which produced limited results in the judicial sphere, and another on noble privileges which indirectly left more of a mark. The former body drafted two “instructions,” for colonels commanding infantry and cavalry regiments respectively, which defined for the first time which *disciplinary* penalties might legally be imposed on officers.<sup>26</sup> These were: public reprimand, extra guard duties, three different forms of detention (*arest*), and “marching behind the unit during a campaign” (or exercise). If a commander committed anyone to court-martial, the penalties were to be graduated “according to the importance [of the offence]”; although not new, this principle was now stated more clearly.<sup>27</sup> Nothing was said about the penalties to be imposed on officers charged with more serious offences. Presumably Catherine expected such cases to be brought to her notice, so that she (or the vice-president of the War College, Z.G. Chernyshev) could deal with them in an appropriately enlightened manner. The more humane spirit which Catherine exemplified did not imply any reduction of social exclusiveness in the forces, but rather the reverse.<sup>28</sup>

The commission on gentry liberties’ report (March 1763) proposed *inter alia* that, whether in or out of service, nobles should be exempt from capital or corporal punishment – but only until they were put on trial. Execution or exile should be confined to those guilty of what were then euphemistically termed “the first two points,” namely insulting the Sovereign or rebellion. Their property was not to be confiscated; nor should their children be affected by their loss of honoured status. Nobles should have the right to defend themselves in court, and the evidence brought against them should be more complete than was required in the case of non-privileged offenders.<sup>29</sup> These qualifications suggest that the aristocrats and courtiers on the commission were amply solicitous of state interests and the autocratic tradition. The report may have had something to do with the fact that during the 1760’s nobles were apparently no longer subjected to corporal punishment, although no specific decree was promulgated to this effect; officers will have been among the main beneficiaries of this relaxation.

If Catherine refrained from publicizing any action she took on the report, this was certainly not from fear of radical innovation in this sphere, for her views on judicial matters were some way ahead of those of her subjects. This is clear from the *cahiers* (*nakazy*) submitted to the Legislative Commission of 1767-1768, and from the debates there. Judicial issues were of much less account to noble deputies than their right to land and serfs, and were not discussed at length; nor did anyone distinguish between military and civil jurisdiction. Only one nobleman spoke on behalf of a motion to ensure equality of all classes before the law, while one retired officer spoke against it; the others who ventured an opinion were non-nobles.<sup>30</sup> Of the *cahiers*

only one, from the noblemen of Kashin, wanted members of their class to be freed from corporal punishment altogether (in this going beyond the commission); two other groups suggested, more moderately, that they should be stripped of their rank before suffering such a penalty.<sup>31</sup> Clearly Beccaria's ideas had yet to percolate beyond Catherine's court. There was no pressure on her from below to revise Peter's stern military-judicial code, and she preferred to bring her influence to bear privately. Senior army commanders were officially informed of her *Nakaz* and told to base their decisions on it. In practice, however, this meant that courts-martial continued to pass severe sentences which everyone now knew would be mitigated on review. This introduced a large fictional element into the military-judicial system.

In 1782 torture, which had already been reduced or banned in civil or police actions, was explicitly prohibited in investigations by the military authorities.<sup>32</sup> Three years later the celebrated Charter on the Rights, Freedoms and Privileges of the Nobility (21 April 1785)<sup>33</sup> prescribed that *dvoriane* should enjoy "inalienable, inheritable and hereditary" dignity (§ 2), of which they were not to be deprived unless they committed a crime irreconcilable with its principles (§ 5). Seven such crimes were then listed. They included treason and robbery; the sixth ran "crimes that by law entail deprivation of honour and corporal punishment" (§ 6). A nobleman was not to forfeit his dignity, honour, life or property without trial by his peers (§§ 8-12). All such cases were to be presented to the Senate and submitted for review (*konfirmatsiia*) by the Sovereign (§ 13) and finally, in a lapidary formula: "corporal punishment shall not extend to the well-born" (§ 16).

We may note that, in the first place, nothing is said here *explicitly* about serving officers, except for a provision (§ 17) that nobles in the army's lower ranks should be treated on par with those holding commissions under "Our military regulations." Logically, these regulations ought to have been revised simultaneously to accommodate noblemen's privileges; the fact that this was not done suggests that the empress and her advisers – quite correctly! – did not consider that any innovation had been made. What was involved here was only the confirmation of rights already granted informally.<sup>34</sup> Secondly, the Charter implied that noblemen in the armed forces would be tried by "their peers," as prescribed by article 12, only in the sense that their superior officers were also *dvoriane*; and their cases would not come before the Senate. Thirdly, what was to prevent any ruler adding new offences to those that entailed deprivation of honour, or his underlings from interpreting minor offences as dishonourable? Thus the Charter contained loopholes which would assume great significance later. It is also worth noting that the privilege of exemption from corporal punishment was not a noble preserve, but was enjoyed also by merchants of the first two guilds, "honoured citizens," and (some?) clergy.<sup>35</sup>

Catherine gave a free hand to her commanders, notably the omnipotent Potemkin, *de facto* viceroy of southern Russia. Their views fluctuated according to circumstances. In 1788 Potemkin wrote to another general: "I have ordered penalties to be mild, but if anyone should disobey his commander I shall inflict a penalty equivalent to death,"<sup>36</sup> which does not suggest that he took Catherine's concessions very seriously, although others may well have done so. At any rate, when the political climate in St. Petersburg changed on her demise there was no way of stopping a sharp regression in military-judicial policy and, apparently, practice. The radicalism of this change may have been exaggerated by contemporaries; only a detailed examination of the records could show how extensive it actually was.

Paul's brief but trend-setting reign initiated sixty years of more repressive state policies (with a brief thaw after his assassination in March 1801), accompanied by an efflorescence of military-judicial legislation. Most of this dealt with jurisdictional questions, for example defining the powers of commanders at various levels and bringing civilians within the compass of military tribunals. All these edicts applied to the army as a whole (or specific arms of service); remarkably few concerned officers *per se*. The most important changes seem to have come about as a result less of legislation than of informal pressures. For this was an age when a Russian "military intelligentsia" emerged, comprising officers with a more modern outlook to which some senior decision-makers in the army did not remain impervious.

Paul's aim was to eliminate what he perceived (not incorrectly) as inefficiency and "slackness" in the forces by reasserting his Imperial prerogative, centralizing the administration, and enforcing respect for jurisdictional boundaries and the hierarchy of rank. His approach may be termed bureaucratic and militaristic. It is sometimes said that he was opposed to aristocratic privilege, which he associated with his mother's easy-going ways. Rather, he was eager to develop it but regarded his own privileges as vastly more important. The emperor wanted the Russian *dворянство* to acquire the truly noble, civilized, chivalric qualities associated with the western European elite – while remaining loyal servitors of the tsar. He perceived army officers as a model for the *dворянство* as a whole, as the best fitted to provide it with leadership. Precisely for this reason they were expected to maintain higher standards of behaviour, under the supervision of an array of new institutions and, not least, personal control by the emperor himself.

Unfortunately for Paul, this ideal was unrealistic and self-contradictory. Efforts to implement it led to a pettifogging tyranny which discredited the monarch and led to his overthrow – though not to the abandonment of militaristic ideas, which found favour with several later Romanov rulers.<sup>37</sup>

One of the key new supervisory institutions was the Auditor-General's office (*General-auditoriat*), set up in January 1797 and placed under Lieutenant-General Shakhovskoi. He had a staff of seven officials, some of them civilians,<sup>38</sup> and was empowered to review cases affecting officers down to the rank of colonel (except those in the guards). Offenders could be sentenced to demotion to the ranks, a penalty that threatened offenders with loss of noble status as well as *chin*. Paul took advantage of the loopholes in the 1785 Charter to demote and humiliate officers even for relatively minor infractions of regulations. The problem arose within two months of his accession in connection with an ensign named Rozhkov, who was charged with uttering "impertinent words" about the emperor and holy icons (probably criticizing him for paying them insufficient respect). As a *dворянин* Rozhkov could not be sentenced to the mandatory harsh penalty for such "blasphemy." Paul ruled that "as soon as nobility is forfeited, the privilege no longer applies" and ordered future cases to be settled accordingly. This was done in at least two later instances before the ruling was generalized by a decree of 13 April 1797.<sup>39</sup> Other cases followed: in 1800 a captain Kirpichnikov, serving in a garrison regiment, was sentenced to lose rank and status, and as a private soldier to run the gauntlet once through 1,000 men; a certain rough justice was involved here, since he was accused of having insulted (or beaten?) an NCO.<sup>40</sup>

Paul was inconsistent in applying his restrictive concept of noble privilege. He ordered that officers who had been beaten should no longer remain in the service, as



they had “dishonoured” it; yet those penalized by posting to detachments in Siberia were not permitted to retire unless they were physically unfit.<sup>41</sup> Ordinary military tribunals were forbidden to sentence officers to demotion;<sup>42</sup> this penalty was reserved for serious offenders whose cases came before the Auditor-General and/or the tsar. Shakhovskoi was kept busy, for later in 1797 he was told to examine *all* cases, even those involving commoners, where the death penalty was mandatory under the (still unreformed) Petrine code. This produced such a flow of paper that in practice he confined himself to officers’ cases, although no action was taken to devolve his heavy responsibilities until 1805.<sup>43</sup> Meanwhile cases concerning non-privileged personnel were dealt with administratively by the War College (from 1801: Ministry).<sup>44</sup>

In this casual way an important differentiation emerged between nobles and commoners in regard to military-judicial procedure. But was this really a privilege for officers so long as the tyrannical Paul reigned? This emperor was in the habit of raising sentences passed by subordinates in the military hierarchy; he would also personally order, by-passing the newly established institutional machinery, the summary punishment of officers who incurred his displeasure on the parade-ground, for example. He is said to have ordered a lieutenant in the Horse guards, P.I. Miliukov, to be given one hundred (five hundred?) strokes of the cane (*palka*) for mishearing a command; Grand Duke Konstantin Pavlovich, himself no soft-hearted liberal, fell to his knees dramatically before his father and won the man a pardon.<sup>45</sup> Such arbitrary acts were typical of Paul’s despotic style as ruler and undercut his efforts to establish regular procedures and what today might be called “bureaucratic routinization.” He was also mean-spirited, ordering that officers in detention should no longer receive half their pay.<sup>46</sup> The measure was repealed soon after his death.<sup>47</sup>

Alexander I marked his accession by amnestying several dozen officers unjustly punished by his predecessor and restoring their rights to others who had been irregularly discharged.<sup>48</sup> A commission was set up to “re-examine former criminal cases,” whose powers covered military personnel.<sup>49</sup> One of its members, logically enough, was the new Auditor-General, S.I. Salagov, who took a more liberal line than Shakhovskoi. He pushed through a ruling that officers (and noblemen in the ranks) should not be put in irons after being sentenced to prevent them escaping, since the practice contravened the 1785 Charter.<sup>50</sup> He also took steps to upgrade the status of auditors, declaring aptly that “we need people with feeling, a sense of honour and a good knowledge of the law.”<sup>51</sup> In the following year Salagov’s office was authorized to review *all* military-judicial cases, including those involving men in the ranks, and the arrangements for committing offenders to trial were reformed. Officers below colonel’s rank were normally to be indicted by an inspector,<sup>52</sup> i.e. an officer outside the regular chain of command, instead of by their immediate superior; the inspector was to report the matter to the Auditor-General, who would order the trial to be held; the verdict went first to the accused’s commanders, who expressed their opinions in order of ascending seniority and passed the file up to the Auditor-General for final vetting.<sup>53</sup> The tsar was thus to concern himself only with colonels and above, as was current practice, but he was to be informed in advance of all cases concerning officers before they came to trial.<sup>54</sup>

These procedural reforms evidently stemmed from a desire to guard against malicious prosecution by junior commanders, but unfortunately they were too cumbersome and bureaucratic to take root. They also made too many concessions to

the Imperial prerogative, for there was nothing to stop the monarch influencing proceedings or determining their outcome.

As Russia became more deeply embroiled in the Napoleonic Wars, a harsher spirit came to prevail, exemplified by the appointment as War Minister of A.A. Arakcheev. What seems to have happened in practice was that officers' cases were decided in the capital (after passing up the hierarchy, but *without* an inspector being involved) by the tsar, the Auditor-General acting as not much more than a letter-box, while commoners' cases were decided routinely by officials on the Auditor-General's staff (unless anti-State or other grave offences were at issue). Thus the upshot of the reform, whatever its intention, was to differentiate more plainly between noblemen and commoners, and to attach greater weight to status (*soslovnost'*). Typically, as the Auditor-General's office expanded, noblemen's cases were handled by three sub-sections ("desks") out of a total of six.<sup>55</sup>

But to complicate matters the Napoleonic Wars also brought about a countervailing movement in the direction of effacing rank and status differences. In 1808, facing a noble *fronde* after two inglorious campaigns, Alexander came close to panic. Appointing Count Buxhoevden commander-in-chief, he observed that "strict discipline is the soul of military service and the slightest weakness by a commander leads to dissolution of the whole [unit]." Insubordination had led to marauding by soldiers and disputes among officers. Accordingly Buxhoevden was given the power "to arrest and try by court-martial everyone who is disloyal or disobedient, and to execute such sentences immediately, even if this means a death sentence."<sup>56</sup> This was tantamount to dispensing with the entire military-judicial system.

Worse was to come. As Napoleon prepared to invade, Alexander issued comprehensive regulations for the entire Active Army. Devised under his personal supervision, these strengthened the powers of the military police and introduced an emergency judicial procedure, to co-exist with the regular one.<sup>57</sup> Under these Field Regulations an accused was for the first time allowed to choose a defence advocate and the proceedings were to involve an oral exchange in public. But these advances were made only because such tribunals were expected to wreak summary justice as expeditiously as possible: death sentences were to be carried out within forty-eight hours,<sup>58</sup> and this was the fate that awaited officers absent from their place in the line of battle in action. (This was actually slightly *harsher* than the penalty fixed for soldiers, who faced death only for deserting *from the watch* while "in front of the enemy.")<sup>59</sup> An officer not at his proper post when on the march was to lose all his *chiny* and to be cashiered; for insubordination he faced demotion to the ranks, and for "stubborn" or "overt" disobedience civil or actual death, according to his rank.<sup>60</sup> The Petrine notion that seniority should bring higher penalties reappears several times in this document.

No information is available about the way the Field Regulations were implemented, and it might be contended that these difficult times justified exceptional legislation: the Empire's existence was at stake. Did not the war end in a matter of months? Alas, although the Field Auditoriat ceased operations with the advent of peace, the emergency procedures it applied did not. They were found too convenient to discard and survived anomalously for more than forty years. They were incorporated *en bloc* into Nicholas I's military-judicial code of 1839 and made applicable to a host of other threatening domestic situations, civil as well as military.

Neither officers nor men could know for sure under which procedure they were likely to be tried and judged.

When the Russian army returned home from Paris Alexander I and his unpopular favourite Arakcheev responded to what they perceived as potential subversion of the absolutist order by embarking on a repressive course, in the armed forces as in society at large, which fomented the very disaffection it was designed to avert. In St. Petersburg and elsewhere guards officers and other nobles met conspiratorially to discuss reforms and even tsaricide. These developments have been studied at length, especially in the context of intellectual history, but no one has yet looked at court-martial records for these years to discover whether the practice of military tribunals differed from that in the earlier part of Alexander's reign.<sup>61</sup> The published evidence is inconclusive. In 1817 staff-captain Virzhukovskii, of the Velikie Luki infantry regiment, was charged with insulting a superior officer before his men. Count L.L. Bennigsen recommended reduction to the ranks *bez vyslugi* (i.e. without the possibility of redeeming himself by meritorious service), adding that he should not be deprived of noble status as he had twice been seriously wounded in action. The tsar found this reasoning "insufficiently forceful" and had the case transferred to the Auditor-General, who no doubt (our source is silent on the matter) complied with his wish for greater severity.<sup>62</sup> A major named Bartenev, serving in a garrison regiment, killed an innkeeper who had refused his peremptory summons for accommodation; he was demoted to private rank *with* redemption opportunities, i.e. to a lesser penalty, nothing being said about loss of status rights.<sup>63</sup> These two cases suggest that upholding military discipline counted for more than the life of a civilian. A lieutenant who went absent without leave to look after his estate on his father's death, and stayed away for years before being discovered, was acquitted by the first tribunal; but again Alexander took a sterner view, imprisoning him in a fortress for a month and reprimanding the tribunal chairman for his "weak judgement."<sup>64</sup> Finally, we may mention a case that had political ramifications. Captain N.N. Pushchin, of the Lithuanian Guards regiment, maintained clandestine links with other dissident officers of which the court was evidently unaware when he came before it in 1822. Threatened by his colonel with detention for some fault on the parade-ground, Pushchin intemperately called him "a pea-coloured rogue and a coward"; when the Grand Duke Constantine remonstrated with him, he threw his hat on the table and exclaimed: "what kind of a rascal do you take me for, Your Highness? You're spitting on me. Watch out, for I'm a human being after all." Later he offered a written apology to both men. He was sentenced to death, but on the grand duke's intercession escaped with demotion to the ranks.<sup>65</sup> In the circumstances he was lucky, since he avoided the repressive measures imposed on his fellow Decembrists.

Under Nicholas I military-judicial practice can be followed more closely, since from 1834 the Auditor-General rendered an annual report to the tsar. This official's powers were redefined two years earlier, when the army's top-level administration underwent reorganization.<sup>66</sup> Bureaucratization was now well advanced. Auditors' salaries and educational qualifications were raised and their career prospects improved. At the central level no less than 969 officials were required in 1850 to settle the ever increasing number of cases.<sup>67</sup> The tsar took a close interest in such matters, personally adjudicating some 2,300 cases over a twenty-five-year term, or about two a week.<sup>68</sup> Edicts issued forth in a steady stream, but again very few had

to do specifically with officers' rights.<sup>69</sup> This lacuna can be attributed in part to the tsar's desire to prevent extraneous interference in the exercise of his prerogative of extending clemency, which also meant that he determined the penalty that many officer offenders were to undergo.

One of Nicholas's first acts on his accession was to ordain that, whenever an officer was sentenced to demotion to the ranks with redemption opportunity, the court or reviewing instance should not specify the term to be served; the implication was that the tsar would decide this himself.<sup>70</sup> If an officer were to be imprisoned in a fortress, Nicholas liked to choose the one he was to be held in. Although he would normally concur in (or mitigate) his Auditor-General's judgement, on occasion he increased a penalty. Likewise he might order an officer to be detained without trial, or even have him summarily tried and given a penalty fixed in advance by Imperial fiat.<sup>71</sup> The tsar's sense of justice was erratic, to say the least. Unfortunately his place in the system was of such central importance that it undermined his efforts to promote regularity and a sense of legality among his officials.

The 1839 code of military law was a landmark in the systematization of practice in this domain. It did not introduce any significant procedural reforms or mitigations of penalties, at least so far as officers were concerned.<sup>72</sup> Indeed, it was designed to do no more than eliminate inconsistencies and laws that had "fallen out of use owing to the spirit of the age."<sup>73</sup> In 1840 the tsar ruled that if a senior officer (colonel or above) faced trial, he himself would confirm the composition of the court in advance. This made its autonomy more of a fiction than it already was, given the fact that the tsar had previously been informed of an officer's committal under the act of 1802.<sup>74</sup> Serious offences went up from corps level to the army commander and then to the Auditoriat; if loss of officer rank or noble status was at stake, the matter was referred to the Sovereign; and only after he had made his determination was the sentence executed. Noble offenders were *not*, it should be stressed, the only category so singled out. According to the code the same procedure applied in cases of apostasy from Orthodoxy, insults to the monarch's person, and offences committed by holders of certain medals, or by more than nine individuals.<sup>75</sup> In practice the tsar also adjudicated countless other cases, either from choice or because his subordinates reinsured themselves by ascertaining the Imperial will: the consummate autocrat, Nicholas did not readily devolve responsibility.

### III

In the latter part of the reign, for which statistics are available, the number of officers (and nobles serving in the ranks) brought to justice was relatively low. Wirschafter's tables for 1836-1855 show a peace-time peak of 286 cases in 1836 and a low of 127 in 1845 (1855: 315).<sup>76</sup> There were about 26,000 officers on active service in 1826.<sup>77</sup> Between 1848 and 1856 the army's total strength doubled (on paper, at least), from about 800,000 to 1.7 million men, but the number of officers apparently grew less rapidly: to 39,060 in 1854, if one may extrapolate from the criminal statistics. For the period 1826-1850 official calculations put the ratio of offending officers to total effectives at 1: 213, i.e. 0.47%, and that for men in the ranks at 1: 118 or 0.85%.<sup>78</sup> Much depended on the type of unit: the Internal Guard, a para-military police force, was so corrupt that it had to be abolished later; in these years it had an offence rate of 2.22%, as against a mere 0.13% in the Guards.<sup>79</sup>

Taking the army as a whole and a typical peace-time year, 1846, we find that of 8,794 military personnel who faced trial, 116 were officers and 45 noblemen in the ranks. If one accepts the stated ratio of officer offenders to total effectives (1: 265), the total officer complement was 30,740 and the percentage of offenders 0.38%.<sup>80</sup> Since the Auditor-General's department only decided thirteen such cases during the year,<sup>81</sup> the great bulk of them must have been settled at a lower level and reported to the department after the fact. Of the 116 cases recorded by the department, 73 were categorized as "service offences" (abuse of office, insubordination, etc.), 16 as "offences against the person," 17 as "dissolute conduct," 6 as "offences against property rights," and 4 as fraud. (For noblemen in the ranks the figures were respectively 29, 2, 2, 7, 4 plus 1 religious offence.) These categories are further subdivided in the source.

Table 1 (see p. 184) shows, in approximate order of severity, the maximum penalties that could be administered under the 1839 code on officers (or noblemen in the ranks) and commoners found guilty of certain offences. The most obvious point to emerge is that the 1785 Charter was generally adhered to in law as regards exemption from corporal punishment, but not invariably so (even if practice may have been more humane). A privileged individual in the armed forces was more likely to lose rank than status and then either soldier on as a private in his unit or be posted to some Imperial border territory where fighting was in progress - sometimes, as we have seen, with the opportunity of redeeming himself through exemplary service. Interestingly enough, loss of rank did not automatically lead to loss of status. The latter seems to have acquired the characteristics of a distinct sanction (albeit one combined with others), whereas Catherine II had seen it as the social *consequence* of a "dishonouring" sentence.

We may now consider the penalties actually inflicted in Nicholas I's reign on officers found guilty of various offences, beginning with malfeasance or abuse of power.

Corruption was all-pervasive in the pre-reform Russian army, notably among those who had anything to do with supply. The 1839 code punished extortion or bribery (*likhoimstvo, vymogatel'stvo*) severely; included under this designation was the withholding of pay from soldiers, and even the indirect offer of a small bribe was accounted an offence.<sup>82</sup> However, several years earlier Nicholas had ruled that those court-martialled for stealing state property should be sent to forced labour only in the most serious cases and that loss of rank and status was a more appropriate penalty.<sup>83</sup> The inconsistency was left unresolved and in practice, it seems, the more lenient approach was generally taken.

In 1853 the members of a top-level committee, including one admiral and three generals, charged with supervising payment of pensions to meritorious veterans, were charged with having misappropriated over 1 million roubles. Field-Marshal Paskevich, the commander-in-chief and Nicholas's closest confidant, was appointed chairman (*prezus*) of the court-martial. Since the chief culprit had died, his former colleagues were accused only of negligence. One general (Ushakov) was sentenced to six months' detention in a fortress and discharged from the service; the others were detained for shorter periods. Most of them were soon back as adjutants-general and spared having to repay the sums misspent; none of them lost status. Perhaps the outbreak of war had something to do with this laxity, besides the tsar's evident weakness for wearers of gold braid.<sup>84</sup> In another corruption case the head of the

Moscow “commissariat commission,” Major-General Polivanov, was sentenced to lose status, medals and rank for irregularities committed in contracting for the supply of soldiers’ helmets; but one week after becoming a private he received an Imperial pardon, had his *chiny* restored, and was discharged:<sup>85</sup> evidently Nicholas had just wanted to scare him.

Even when abuses of office brought hardship for soldiers, or even led to their death, the line taken was still relatively mild. In 1852 three brigade commanders inspecting troops in the Caucasus were found guilty of “wilfully neglecting the welfare of units entrusted to them” and so causing increased mortality. All three lost rank and status, and the principal offender, Colonel Maksimovich, was sent to a detention company for four years.<sup>86</sup> Wirtschafter quotes similar cases from 1820 and 1855 (just after Nicholas’s death) in which officers who maltreated private soldiers were given light penalties and calls the official attitude “ambiguous.”<sup>87</sup> Rank clearly mattered a lot. A mere ensign who punished a private with excessive cruelty ended up in a detention company for three years, while a captain who savagely beat a soldier to death received ten years’ forced labour; both lost their status rights.<sup>88</sup> Prince Dadian(ov), a colonel serving in the Caucasus who was evidently of non-Russian extraction, built up a flourishing enterprise with soldiers’ labour, usually without paying the men their due. His misdeeds came to the tsar’s attention when he toured the region in 1837. He promptly ordered him court-martialled. Dadian spent three years in a fortress cell (*kazemat*) before his case came up for Imperial review, whereupon Nicholas, evidently deciding he had been punished enough, sent him to live indefinitely as a civilian in the provincial town of Viatka.<sup>89</sup>

The most frequent offence, among officers as well as soldiers, was absence without leave (or desertion: there were several fine gradations of gravity). The case of D.E. Charykov, a lieutenant in the Izmailovskii guards, was so straightforward that it could be settled within a few weeks (1833). While on sentry-go at the Winter Palace he left his post and by mischance ran into Grand Duke Mikhail, head of the corps: he was arrested and charged with desertion. The first court-martial sentenced him to death on the basis of Alexander I’s Field Regulations – presumably on the grounds that he had committed his offence within the “sacred” precincts of the Imperial household (for there was no military emergency). The divisional commander, taking into account Charykov’s youth (25), good conduct and “pure-hearted repentance,” recommended demotion with redemption opportunity, saying nothing about loss of status. The corps commander agreed. The papers then went up to Grand Duke Mikhail, who suggested three months’ detention in the unit guardroom followed by transfer to a line regiment in his present rank. The Auditor-General chose to play safe, ignoring this recommendation and endorsing the opinions expressed earlier, but Nicholas took the same line as his brother.<sup>90</sup>

No such indulgence was shown to Rudolf Zarembo, a cadet (*iunker*) from Radom province who was surely either Polish or Ukrainian by nationality. In 1854 he deserted from his unit, then stationed in Polish territory, and made for the Austrian border, but was apprehended. His intended defection and the war-time context aggravated his offence. The case was heard by the commander-in-chief, who deprived Zarembo of his noble status and sent him to forced labour in Siberia for two years.<sup>91</sup> Desertion and insubordination might well be linked to political dissent, without this always being clear from the records.

Table 1  
*Maximum penalties for selected offences under the military-judicial code of 1839*

ARTICLE NO	PENALTIES OFFENCES	PRIVILEGED (noblemen)			NON-PRIVILEGED (commoners)	
		STATUS DEPRIVATION	RANK DEPRIVATION	PENALTY*	CORPORAL PUNISHMENT (gauntlet)	OTHER*
163	<i>ch. I: offences against faith</i> improper language in church		•		•	6
171	<i>ch. II: offences against State</i> attempt on Sovereign's life (peace-time)	(•)	(•)	2, 3	•	3
184 192	<i>ch. III: offences against government</i> striking an official resisting authority	• •	•	11	• •	6 <sup>a</sup>
233-4 235	<i>ch. IV: service offences</i> "manifest" disobedience cursing a superior	• •	• • <sup>f</sup>	3 <sup>g</sup> 12 <sup>f, c</sup>	• <sup>b</sup> • • <sup>d</sup>	• • •
246-8 313 327 339	absence without leave, over 24 hrs., 1st offence forcing soldier to do heavy private work withholding soldier's pay extortion, bribery	• <sup>f</sup>	• • <sup>f</sup>	13 <sup>e</sup> 3, 4 <sup>f</sup>	- •	• 3, 4 <sup>f</sup>
376 391-3 426	<i>ch. V: offences against person</i> homicide challenging to a duel serious insult (infringement of honour)	• •	• <sup>h</sup> • <sup>f</sup>	3 <sup>g</sup> 5, 7, 9 <sup>bf</sup>	? • •	? 3 5, 7, 9 <sup>b</sup>
456	<i>ch. VI: offences against family</i> rape	•	•	3 <sup>g</sup>	•	3
497-501	<i>ch. VIII: offences against property</i> larceny ( <i>vorovstvo-krazha</i> )	•	•		• <sup>j</sup>	13 <sup>j</sup>

\*Key to Penalty Code  
(excluding corporal punishment for commoners)

- 1 Death.
- 2 "Civil death."
- 3 Exile with forced labour (*katorga*).
- 4 Exile to settlement (*na poselentie*).
- 5 Imprisonment in fortress.
- 6 Imprisonment in detention company (*arestantskaia rota*).
- 7 Imprisonment (detention) in guardroom (*gaupvakhta*).
- 8 a-b Transfer as private soldier to unit in borderlands, without/with *vysluga* (redemption opportunity).
- 9 a-b Continuation of service as private soldier in present unit, without/with *vysluga*.
- 10 Transfer to garrison unit as private soldier.
- 11 Transfer to garrison unit, etc. without rank reduction.
- 12 Discharge (cashiering).
- 13 Other (e.g. fines).
  
- (●) implied although not mentioned.
  - a if arms used, 3.
  - b over 6,000 blows permitted with Sovereign's confirmation.
  - c for noblemen in ranks: status and rank deprivation.
  - d 1,500-blow limit; tried and penalty increased if other offences committed during absence.
  - e fine to value of sum withheld.
  - f alternative penalties.
  - g noblemen also to run gauntlet.
  - h for wounding opponent, 6, 8, 9 or 13 (fine).
  - j 1,500-3,000 blows for first to third offence, 5,000 for fourth; to compensate victim to value of sum stolen.

A subaltern who made as if to strike his commander during a dispute was sent to a detention company for two years, whereas a nobleman serving in the ranks received a six-year term in such a unit for insulting the captain of his company before the assembled troops.<sup>92</sup> Physically assaulting a superior was of course a graver offence, and one captain who did so faced "civil death" followed by ten years in a detention company.<sup>93</sup> All three offenders lost their noble status. Thus one can observe a regular pattern here. The homicide by a (noble) NCO of an officer who had reprimanded him brought not just detention but exile with forced labour – the normal sentence for murder, robbery with violence, and other serious crimes.<sup>94</sup> Occasionally Nicholas might specify that forced labour should be for life (*na vechnuuiu katorgu*) or that the convict should be transported there in chains.<sup>95</sup>

According to a recent study of the Siberian exile system, in or about 1840 as many as 29% of the convicts were political offenders, the bulk of them ex-nobles – who would have formed a sizeable army of some 40-50,000 men. Less than two thousand (1,915) were forced labourers in 1856, about three-quarters of them *dvoriane*.<sup>96</sup> The bulk of these men will have been former Polish *szlachta*.

The Polish insurgents of 1830-1831 had well-wishers among the troops sent to suppress them. Some went over to the rebel side, from force of circumstance as much as for ideological reasons. Fifty cases concerning private soldiers are known, and in October 1831 Paskevich sent on two lists of 49 officers and 27 NCOs, nearly all of whom seem to have hailed from the western provinces.<sup>97</sup> One NCO of noble extraction with a Russian-sounding name, Mikhail Pavlovskii, was sentenced to loss of status, discharge and *katorga*, but was duly exempted from corporal punishment.<sup>98</sup> Generally



in the 1830's dissidence was in a low key. It often took the form of circulating forbidden literature, such as verses by the Decembrist poet K. Ryleev. One officer caught doing so escaped without judicial consequences, and left a revealing memoir of his experiences – the only published record of its kind.<sup>99</sup> In 1838 eleven junior officers and NCOs plotted to free the Polish democrat Szimon Konarski from prison but were betrayed, court-martialled and sentenced to Siberian exile. However, the principal accused, Junior Lieutenant A.P. Kuzmin-Karavaev, avoided this fate: Nicholas substituted detention in a fortress followed by despatch as a soldier to the Caucasus, where he ultimately secured rehabilitation. The case was publicized abroad by Alexander Herzen, which may help to explain this outcome.<sup>100</sup>

On the other hand, the officers implicated in the Petrashevtsy affair were treated more harshly, although nothing more was involved than the propaganda of “subversive” ideas. The ordeal of Fedor Dostoevsky (a retired lieutenant!) is well known. N.A. Mombelli, who held the same rank in a guards unit, was sentenced to fifteen years in the Nerchinsk mines; he served ten of them before his lot was eased, again by despatch as a private soldier to the Caucasus.<sup>101</sup> These severe measures helped to stifle dissent in Russia during the European revolutions of 1848, but it re-emerged the following year when Nicholas sent his troops into Hungary. There were several cases of desertion to, and even active collaboration with, the insurgents. Cornet K. Rulikovskii, who came from Podolia, allegedly allowed his men to be ambushed while out foraging; found guilty of treason, he was promptly executed.<sup>102</sup> Captain Gusev, a Pan-Slav and bitter foe of the Habsburgs, prepared an appeal urging his comrades and subordinates to change their allegiance. At his court-martial he made a forceful speech attacking the tsar's policy but was hanged along with seven other officers.<sup>103</sup> The Russians were, however, more chary of taking human life than their Habsburg partners, and found Count Hayman's massacre of Hungarian prisoners barbarous.<sup>104</sup> It was the Austrians who passed on evidence against Ensign P. Vasilev, of the Lublin chasseurs. Taken prisoner by the insurgents, he is said to have conducted himself in a way “humiliating for a Russian officer” and on recapture was charged with treason. He pleaded not guilty but the evidence of three witnesses told against him. Nicholas ordered him to undergo a mock execution (a variant on the “civil death” penalty), followed by twenty years' forced labour.<sup>105</sup> Whether this was a kinder fate than capital punishment is perhaps a matter of opinion. A full-scale investigation of court-martial records would be necessary to ascertain how these penalties compared with those inflicted on unprivileged commoners in the ranks.

#### IV

What did Russian officers and other nobles think of the military-judicial system and the privileges they enjoyed in it? It is a commonplace that the level of “legal consciousness” was very low in Russian society.<sup>106</sup> The overwhelming majority of *dvoriane*, in and out of uniform, accepted the status quo. Even the few who dissented gave little or no attention to military law as such. The picture is not, however, altogether black. Among forty demands current in “enlightened” circles during the first half of the century, F.B. Kaiser cites equality before the law and the elimination of exceptional tribunals.<sup>107</sup> It is probably true to say that reformers approached the Empire's judicial system from a moral rather than a juridical perspective and that they were often confused as to the specifics of the changes they desired.

The last decade of Alexander I's reign witnessed an upsurge of intellectual activity in the military, as elsewhere in educated society. The activists who met in the conspiratorial circles, most of them subalterns, had informal patrons in the senior ranks, such as Count P.D. Kiselev, whose dissidence took a less spectacular form yet left lasting traces. Their thinking prepared the way for the army reforms of the 1860's, in which some of them survived to take part.<sup>108</sup> Kiselev was the author of at least two memoranda on military-judicial matters: one on corporal punishment, the other entitled "Proofs of the uselessness of the death penalty, drawn from the administrative history of the Danubian provinces."<sup>109</sup> The latter viewpoint he shared *inter alia* with the elderly and eccentric Admiral N.S. Mordvinov, an inveterate framer of proposals on many issues of the day and the only State Councillor to vote against including an article permitting the death penalty in a projected new legal code; he also argued that corporal punishment should be replaced by public "shaming."<sup>110</sup> Baron Steingel, a civilian Decembrist, argued that penalties ought to fit the crime and be reformatory in purpose; paradoxically he went on to advocate substituting capital for corporal punishment, and even contended that for an officer loss of rank was less acceptable than Siberian exile, for it deprived him of the company of his peers.<sup>111</sup>

A similar muddle characterized the ideas of Colonel P.I. Pestel', who in general was intellectually far ahead of his fellows. An authoritarian in temperament, he favoured corporal punishment of soldiers for serious offences (though only by court sentence), and even wanted this to be inflicted in public for maximum deterrent effect. Judges, Pestel' thought, should have no discretion to interpret the law, since this encouraged arbitrariness, and for the same reason convicted offenders should be shown no clemency.<sup>112</sup> In fairness it ought to be added that he advocated a militia-type army on the French Jacobin model, believing that the growth of civic consciousness would give soldiers a natural self-discipline, so that only a few anti-social elements would require punishment.

The most detailed proposals for judicial reform in the Empire came from the pen of N.I. Turgenev, a (civilian) member of the Northern Society who was abroad when the insurgents struck and so escaped arrest. He stood foursquare for equality before the law, separation of powers, trial by jury, open oral procedure, and reliance on witnesses' evidence as the main source of proof; he also suggested safeguards to protect defendants' rights during preliminary investigation and the equivalent of *habeas corpus*.<sup>113</sup> And yet Turgenev, for all his dislike of Nicolaevan militarism, apparently looked with favour on the military-judicial system, remarking casually that corporal punishment was inflicted out of respect for Russian national custom rather than from legal principle, and that there was less of it than in the British army.<sup>114</sup>

This ambivalence suggests that in the first half of the nineteenth century even the most "advanced" members of the elite were incapable of exerting pressure for fundamental reform of the military-judicial system. By and large this corresponded to the nobles' perceived interests and *Weltanschauung*. Their penal and procedural privileges served to bolster their self-esteem and status consciousness (*soslovnost'*); they were expected to perdure in much the same way as serfdom was viewed as an immutable institution. It does not necessarily follow that the conservatism of the "ruling class" was the principal obstacle to reform, although it is clear that in Russia the initiative would have to come from the top, from a handful of enlightened officers

and officials who had the ear of a sympathetic autocrat. Inequality before the law struck contemporary foreign observers forcibly,<sup>115</sup> but it was not the worst blemish. It corresponded to the country's social structure at that time, and was but one among a whole complex of evils, all of which needed to be tackled simultaneously if real progress were to be achieved.

Humanization of the penal provisions of the military-judicial code, which until 1863 prescribed the gauntlet (a form of "collective savagery," as Le Donne aptly observes)<sup>116</sup> even for quite minor offences, had to go hand in hand with an end to secrecy and the introduction of new rules of evidence, oral contest, advocacy, and a Military Procuracy as guardian of legality. Such measures were indeed taken under Alexander II. However, just as Russia failed to become a *Rechtsstaat* during his reign, so in the military-judicial sphere the changes effected were half-hearted. In some respects the army pointed the way forward for the rest of society, but it did not exist in isolation and was a product of its milieu – a backward society, riven by caste and class differences, with low educational and cultural levels. Above all, the autocracy remained in being. Under the old dispensation the tsar was the ultimate arbiter and controller of the military-judicial system, the fount of mercy and the embodiment of the law, which ultimately was but an emanation of his personal will. Moreover, the autocrat set the tone for countless lesser mortals who continually took arbitrary decisions of their own.

One may even assert that before (and to some extent even after) the Great Reforms, the military-judicial system was essentially a *pseudo*-judicial one: although it apparently functioned according to a plethora of regulations, in a mechanical way, it was really based on informal relationships and unstated assumptions which, having left no recorded trace, do not lend themselves to historical enquiry.

*Venthône, 1992.*

1. For reasons of space we cannot consider the navy or the comparative international context. For the administration of justice in general under Catherine II see the recent study by I. de Madariaga, "Penal policy in the age of Catherine II," *Proceedings of the Conference on the Leopoldina*, Siena, December 1986, II: 497-535. I am indebted to the author for critical comments on a draft of this article.

2. I.A. Shendzikovskii, assisted by N.I. Faleev (comps), "Glavnoe voenno-sudnoe upravlenie: istoricheskii ocherk," in *Stoletie Voennogo ministerstva*, XII, kn. 1, chast' I (Spb, 1902). The first laws on military justice were published individually and were not known to all relevant decision-makers. Two early collections were *Sobranie zakonov i postanovlenii, do chasti voennogo upravleniia otosiashchikhsia*, kn. I (Spb, 1816), and *Svod Rossiiskikh zakonov po chasti voenno-sudnoi* (Spb: ed. Dezhurstvo Glavnogo shtaba, 1820). The appearance of the first collection of all extant Imperial laws and decrees in 1830 (*Polnoe sobranie zakonov Rossiiskoi imperii*, 45 vols (hereafter cited as *PSZ*), complete with subject index, was a major step forward. Nine years later Nicholas I systematized existing legislation in exhaustive detail, with some minor revisions, in *Svod voennykh postanovlenii* (hereafter *SVP*), chast' V: *Ustav voenno-ugolovnyi*, 2 bks (Spb, 1839); the references given to earlier edicts were, however, often inaccurate and misleading. This code remained in effect until the reforms of the 1860's.

3. M.K. Sokolovskii, "Imperator Nikolai I v voenno-sudnykh konfirmatsiakh," *Russkaia starina*, 124, 11 (1905): 397-420; id., "Iz russkoi voenno-ugolovnoi stariny: Vysochaishie konfirmatsii Pavla I-go po voenno-sudnym delam," *ibid.*, 123, 7-9 (1904): 353-368; id., "Iz russkoi voenno-ugolovnoi stariny: iz vspoddaneishikh dokladov po voenno-sudnym delam v tsarstvovanie Imperatora Aleksandra I," *Varshavskii voennyi zhurnal*, 10 (1904): 775-785.

4. V.G. Verzhbitskii, *Revoliutsionnoe dvizhenie v russkoi armii: s 1826 po 1859 gg.* (Moscow, 1964). For literature on the army in general see under P.A. Zaionchkovsky, L.G. Beskrovnyi and V.A. D'iakov in J. Keep, *Soldiers of the tsar: Russian army and society* (Oxford, 1985), bibliography.

5. J.P. Le Donne, "The administration of military justice under Nicholas I," *CMRS*, XIII, 2 (1972): 180-191; id., "Civilians under military justice during the reign of Nicholas I," *Canadian-American Slavic Studies* 7 (1973): 171-187. See also his later works, *Ruling Russia: politics and administration in the age of absolutism, 1762-1796* (Princeton, 1984) and *Absolutism and ruling class: the formation of the Russian political order, 1700-1825* (New York-Oxford, 1991).

6. E.K. Wirtschafter, *From serf to Russian soldier* (Princeton, 1990); id., "Military justice and social relations in the prereform army, 1796-1855," *Slavic Review*, 44 (1983): 67-82; id., "The ideal of paternalism in the prereform army," in E. Mendelsohn and M.S. Shatz, eds, *Imperial Russia, 1700-1917: State - society - opposition: Essays in honor of Marc Raeff* (Dekalb, IL, 1988): 76-94.

7. For a more critical approach by the present writer, see J. Keep, *op. cit.*; id., "The case of the crippled cadet: military justice in Russia under Nicholas I," *Canadian Slavonic Papers*, 38 (1986): 35-51; id., "The Sungurov affair, 1831: a curious conspiracy," in E. Mendelsohn and M.S. Shatz, *op. cit.*: 177-197; id., "Justice for the troops: a comparative study of Nicholas I's Russia and France under Louis-Philippe," *CMRS*, XXVIII, 1 (1987): 31-54; id., "The military style of the Romanov rulers," *War and Society*, 1 (1983): 61-84. See also D. Beyrau, *Militär und Gesellschaft im vorrevolutionären Russland* (Cologne, 1984).

8. E.K. Wirtschafter, *op. cit.*: 118.

9. For a convenient edition with commentary: *Pamiatniki russkogo prava* ed. K.A. Sofronenko, (hereafter Sofronenko) (Moscow, 1961) VIII: 319-369, 579-601; cf. also *PSZ*, IV, n° 3006, ch. 24 (auditors), 41 (military police), 50 (courts).

10. V. Savinkov, *Kratkii obzor istoricheskogo razvitiia voenno-ugolovnoi zakonodatel'stva* (Spb, 1869): 16.

11. "Ustav voinskii," ch. XV, art. 1 (Sofronenko: 586).

12. *Ibid.*, ch. VI, art. 10 (Sofronenko: 598, 628).

13. *Ibid.*, ch. III, art. 13 (Sofronenko: 592).

14. *Ibid.*, ch. I, art. 4 (3) (Sofronenko: 580).

15. *PSZ*, VII, n° 4589 (11 Nov. 1724); cf. M.P. Rozengeim, *Ocherki istorii voenno-sudnykh uchrezhdenii v Rossii do konchiny Petra Velikogo* (Spb, 1878): 188; I.A. Shendzikovskii and N.I. Faleev, *art. cit.*: 119.

16. M.P., "Iz arkhiva leib-gvardii Izmailovskogo polka," *Voennyi sbornik*, 7 (1905): 183.

17. *Voennaia entsiklopediia*, ed. K.I. Velichko *et al.* (Spb, 1911-1915), XIII (1913): 159-160.

18. Decree of 10/17 May 1744, cited in *PSZ*, XIII, n° 10086 (29 March 1753); XIV, n° 10306 (30 Sept. 1754). I. de Madariaga (*art. cit.*: 502) points out that the knout might well be yet more fatal.

19. "Ustav voinskii, Tret'ia chast' protsessa," ch. II, art. 5 (Sofronenko: 600, 631); these rules were added by the tsar personally.

20. S.V. Kodan, *Politicheskaia ssylka v sisteme karatel'nykh mer samodержavii, I-aia polovina XIX v.: uchebnoe posobie* (Irkutsk, 1980): 29.

21. *PSZ*, XIII, n° 10086, 10087 (29 March 1753); XIV, n° 10306 (30 Sept. 1754).

22. M. Stupin, *Istoriia telesnykh nakazanii v Rossii ot Sudebnikov do nastoiashchego vremeni* (Vladikavkaz, 1887): 40.

23. J.L.H. Keep, "Die russische Armee im Siebenjährigen Krieg," in *Europa im Zeitalter Friedrichs des Grossen: Wirtschaft, Gesellschaft, Kriege* (Munich, 1989): 133-170.

24. R.E. Jones, *The emancipation of the Russian nobility* (Princeton, 1973): 29-34; P. Dukes, *Catherine the Great and the Russian nobility* (Cambridge, 1967): 38-46; cf. also I. de Madariaga, *Russia in the age of Catherine the Great* (London, 1981): 22-23.

25. *PSZ*, XV, n° 11438 (7 Feb. 1762).

26. *PSZ*, XVI, n° 12289 (8 Dec. 1764); XVII, n° 12543 (14 Jan. 1766); I.A. Shendzikovskii and N.I. Faleev, *art. cit.*: 144.

27. *PSZ*, XVI, n° 12289 (8 Dec. 1764), §§ 7, 9.

28. *PSZ*, XVII, n° 12543 (14 Jan. 1766); cf. XVI, n° 11611 (15 July 1762); P. Dukes, *op. cit.*: 159.

29. A.N. Kulomzin, "Pervyi pristup v tsarstvovanie Ekateriny II k sostavleniiu Vysochaishei gramoty Dvorianstvu Rossiiskomu," in N. Kalachov, ed., *Materialy dlia istorii russkogo dvorianstva*, 3 fascs (Spb, 1885-1886) fasc. ii: 13-71, at pp. 43, 52ff.; *Sbornik IRIO*, VII: 238-264; cf. D.L. Ransel, *The politics of Catherine Russia: the Panin party* (New Haven-London, 1975): 153-161; I. de Madariaga, *op. cit.*: 83-89.

30. The draft article in question dealt with gentry accused of infringing someone's life or honour, which were most likely to come before civil courts. *Sbornik IRIO*, XXXII: 273-275.
31. P. Dukes, *op. cit.*: 160.
32. *PSZ*, XXI, n° 15313 (1 Jan. 1782); but cf. XX, n° 14890 (June 1779).
33. For the Russian text with English translation and commentary see now *Catherine II's Charters of 1785 to the nobility and the towns*, tr. and ed. D. Griffiths and G.E. Munro (Bakersfield, CA, 1991), for these provisions p. 5; cf. I. de Madariaga, *op. cit.*: 295-299; R.E. Jones, *op. cit.*: 273-299.
34. This simply repeated a "favour" granted in 1775: *PSZ*, XX, n° 14275 (17 March 1775).
35. According to M. Stupin, *op. cit.*: 44, the latter had enjoyed this right since 1771. Seminarians were, however, often beaten: G.L. Freeze, *The Russian Levites: parish clergy in the eighteenth century* (Cambridge, MA-London, 1977): 98.
36. N.F. Dubrovin, *A.V. Suvorov sredi preobrazovatelei Ekaterininskoi armii* (Spb, 1886): 114.
37. On Paul see H. Ragsdale, ed., *Paul I: a reassessment of his life and reign* (Pittsburgh, 1979). His conception of officers' duties is in *PSZ*, XXIV, n° 17588, pt. IX, ch. 1.
38. *PSZ*, XXIV, n° 17719 (9 Jan. 1797); XXIV, n° 17757 (24 Jan. 1797); XXV, n° 18853 (11 Feb. 1799).
39. N. Vish, "Telesnye nakazaniia v voiskakh i ikh otmena," *Voennyi sbornik*, 10 (1904): 140; *PSZ*, XXIV, n° 17776 (31 Jan. 1797); XXIV, n° 17916 (13 Apr. 1797).
40. N.K. Shil'der, *Imperator Pavel I-yi: istoriko-biograficheskii ocherk* (Spb, 1901): 432; M.K. Sokolovskii, "...Pavel I...", *art. cit.*: 360.
41. N. Vish, *art. cit.*: 141; *PSZ*, XXV, n° 18479 (8 Apr. 1798).
42. *PSZ*, XXV, n° 18863 (18 Feb. 1799).
43. *PSZ*, XXVIII, n° 21904 (8 Sept. 1805), with details of earlier developments.
44. I.A. Shendzikovskii and N.I. Faleev, *art. cit.*: 163.
45. N.K. Shil'der, *op. cit.*: 436, citing A.P. Evreinov; the story may have been embroidered but it is accepted by Shendzikovskii, Vish and lately by W.B. Lincoln, "Konstantin Pavlovich," in *Modern Encyclopedia of Russian and Soviet history*, ed. J.L. Wiczynski (Gulf Breeze, FL) XVII (1980): 173.
46. *PSZ*, XXVI, n° 19296 (25 Feb. 1800).
47. *PSZ*, XXVI, n° 19966 (7 Aug. 1801); cf. XXX, n° 23622 (Apr. 1809).
48. *PSZ*, XXVI, nos 19782, 19784 (15 March 1801).
49. *PSZ*, XXVII, n° 20206 (31 March 1802).
50. *PSZ*, XXVII, n° 20335 (18 July 1802).
51. *PSZ*, XXVIII, n° 21134 (22 Jan. 1804).
52. Or else by the tsar himself: a sop to Alexander's *amour-propre*. Inspectors were concerned mainly with supplies and equipment.
53. *PSZ*, XXVIII, n° 21904 (8 Sept. 1805).
54. *PSZ*, XXVII, n° 20230 (11 Apr. 1802).
55. *PSZ*, XXXII, n° 24971 (27 Jan. 1812), pt I, ch. 5, secs 65-74.
56. *PSZ*, XXX, n° 22761 (20 Jan. 1808); XXX, n° 22794 (30 Jan. 1808).
57. *PSZ*, XXXII, n° 24975 (27 Jan. 1812), pt II, arts 143-171 (police) and supplements "Obrazovanie voennogo suda pri Bol'shoi Deistvuiushchei Armii," "Ustav Polevogo Sudoproizvodstva," and "Polevoe Ugolovnoe Ulozhenie" (pp. 75-81).
58. "Obrazovanie...", arts 37, 42, 79.
59. "Polevoe... Ulozhenie," arts 15, 17.
60. *Ibid.*, arts 28, 33-34.
61. Works highlighting the military context of Decembrism are W.B. Lincoln, "A re-examination of some historical stereotypes: an analysis of the career patterns and backgrounds of the Decembrists," *Jahrbücher für Geschichte Osteuropas*, 24 (1976): 357-368; E.A. Prokof'ev, *Bor'ba dekabristov za peredovoe russkoe voennoe iskusstvo* (Moscow, 1953) (who on pp. 67-78 discusses the "reaction" in the army without mentioning the courts at all); J. Keep, *op. cit.*: 250-274. A.L.H. Rhinelandier has recently shown that the liberalism displayed by the commander of the 30,000-strong Russian occupation forces in France had its limits, but that only a score of courts-martial were held there in 1818: *Prince Michael Vorontsov, viceroy to the tsar* (Montreal-Kingston, Ont., 1990): 26-40.
62. M.K. Sokolovskii, "... Aleksandr I," *art. cit.*: 776.
63. *Ibid.*: 782.
64. Case of Sofronov 2, 30<sup>th</sup> chasseurs: *ibid.*: 780.
65. *Ibid.*: 776-777; cf. also V.A. Fedorov, *Soldatskoe dvizhenie v gody dekabristov, 1816-1825 gg.* (Moscow, 1963): 174-175.

66. This reform curbed the powers of the emperor's "Main Staff" in favour of the War Ministry and its agencies. The Auditor-General was no longer simply to be the boss of his staff (the General-Auditoriat), but rather its "director," while the minister was supposed to exercise a less immediate supervision. Their roles were analogous to those of the Chief Procurator and the Justice Minister vis-à-vis the Senate. *Polnoe sobranie zakonov...*, 2<sup>nd</sup> series, 55 vols (hereafter cited as *II PSZ*), (Spb, 1830-1884) VII, n° 5318, pt IV, arts 140-142; XI, n° 9038, arts 588-590. On the annual reports see "Otchet o sostoianii voenno-sudnoi chasti za poslednee 25-letie," (hereafter "Otchet...") TsGVIA, fond 1, opis' 1, tom 3, delo 6020, ll. 3-4.

67. From an average of 7,184 indictments in 1826-1830 to 8,295 in 1850-1854, an increase of 15.5%; staff grew by much the same proportion. "Otchet..." l. 20. The army's paper strength remained stable from 1825 to 1848, when it rose by 100,000 men.

68. *Ibid.*, ll. 19, 31.

69. For example, officers charged or under investigation had their retirement pensions stopped while proceedings lasted, but pensions for the wounded were paid until the court decided otherwise: *II PSZ*, X, n° 8738 (31 Dec. 1835).

70. *II PSZ*, I, n<sup>os</sup> 192, 227 (12 March 1826).

71. Case of Private Krasnodemskii (a nobleman), Kamchatka infantry regiment, 1830, in M.K. Sokolovskii, "Imperator Nikolai...", *art. cit.*: 415, cf. also 399, 404, 412; Ensign S.I. Trusov, Poltava infantry regiment, 1826, in V.G. Verzhbitskii, *op. cit.*: 48, cf. also 268.

72. For commoners the number of blows to be administered when running the gauntlet was limited first to 6,000, and then to 3,000 (1830, 1834), but these rulings were kept secret lest discipline be undermined, and in practice were not regularly enforced. N. Vish, *art. cit.*, 11 (1904): 117; A. Kudriavtsev, "O distsiplinarnom ustave 1875 g.," *Voennyi sbornik*, 167 (1886): 1-2, 91.

73. "Otchet...": l. 5.

74. The edict of 11 April 1802 was taken over into the new code: *SVP*, bk 2, art. 247.

75. *Ibid.*, bk 2, arts 425-426; cf. *II PSZ*, XI, n° 9038, arts 588-589.

76. E.K. Wirtschafter, *op. cit.*: 114-116. There may be some double counting of those accused of multiple offences. These figures are incomplete for certain years and may be supplemented as follows:

	officers	noblemen in ranks
1851	197	82
1852	208	50

TsGVIA, f. 1, op. 1, ed. khr. 19785, 20362.

77. L.G. Beskrovnyi, *Russkaia armia i flot v XIX v.: voenno-ekonomicheskii potentsial Rossii* (Moscow, 1973): 81; J.P. Le Donne, *Absolutism...*, *op. cit.*: 322.

78. "Otchet..." l. 22. In her table 5.5, p. 115, E.K. Wirtschafter may have made a clerical error by putting the 1:118 figure in the "Officers" column and "no data" for the lower ranks. For army strength, see J. Keep, *op. cit.*: 326, 354.

79. "Otchet..." *loc. cit.* A report covering the guards and grenadier corps for 1851, with a total strength of 110,536, lists only 5 and 6 officer offenders respectively, only one of whom suffered status deprivation. However, on l. 3 of this document 94 guards and 91 grenadier officers are said to have been implicated in an investigation or trial. TsGVIA, f. 14664, op. 4, ed. khr. 541.

80. "Otchet o deistviiakh Auditorskogo departamenta Voennogo ministerstva za 1846 g.," TsGVIA, f. 1, op. 1, ed. khr. 16885.

81. *Ibid.*, l. 22.

82. *SVP*, kn. 1, arts 327-328, 336-339.

83. *II PSZ*, VI, n° 4254 (12 Jan. 1831). From the context it appears that Nicholas had officers in mind here.

84. M.K. Sokolovskii, "Imperator Nikolai...", *art. cit.*: 397-398; "Otchet... za 1853 g.," l. 3, TsGVIA, f. 1, op. 1, ed. khr. 20993.

85. "Otchet... za 1851 g.," ll. 32-34, TsGVIA, f. 1, op. 1, ed. khr. 19785 (also the case of Major-General De Witt and others, which was treated similarly).

86. "Otchet... za 1852 g.," ll. 31-32, TsGVIA, f. 1, op. 1, ed. khr. 20362.

87. E.K. Wirtschafter, "The ideal...", *art. cit.*: 100-101; *id.*, *op. cit.*: 98-99 (case of Lieutenant Sedikin, 1829); A.I. Fel'kner, "Delo fligel'-ad'utanta Kop'eva: rasskaz iz vremeni upravleniia Kavkazom kn. Vorontsovym," *Russkaia starina*, 7 (1873): 533-546 (with comments by M.P. Shcherbinin on pp. 698-704).

88. Case of Ensign Pishivtsov, "Otchet... za 1840 g.," l. 20, TsGVIA, f. 1, op. 1, ed. khr. 13150; case of Staff-Captain Matveev, "Otchet... za 1854 g.," l. 7, *ibid.*, ed. khr. 21891. M.K. Sokolovskii, "Imperator Nikolai..." *art. cit.*: 399, 404.

89. "Otchet... za 1840 g.," l. 19; M.K. Sokolovskii, "Imperator Nikolai...," *art. cit.*: 411. For more lenient treatment of a similar case involving Lieutenant-General Linden, "Otchet... za 1852 g.," l. 30.
90. TsGVIA, f. 801, op. 70/11, d. 4, 1833.
91. V.G. Verzhbitskii, *op. cit.*: 285.
92. Cases of Cornet Lifliand, Novoarkhangel'skii ulans; Private Kulygin, Tula chasseurs, "Otchet... za 1838 g.," ll. 22-23, TsGVIA, f. 1, op. 1, ed. khr. 12510.
93. Case of Staff-Captain Uvazhnov-Aleksandrov, Podolian chasseurs, *ibid.*, l. 22.
94. Case of NCO Perepil'tsyn, employed in the customs, "Otchet... za 1840 g.," l. 24.
95. Case of Lieutenant Pravikov, Mingrelian chasseurs, "Otchet... za 1846 g.," l. 19.
96. S.V. Kodan, *op. cit.*: 21-23. He cites for the first figure Iu. A. Gagemeister, a contemporary statistician, who put the total at 122,198 in 1835 and 186,883 in 1851. V.G. Verzhbitskii, *op. cit.*: 156, claims 100,000 political exiles. The total number of offenders sentenced to forced labour between 1827 and 1846 was 159,755; E.N. Anuchin, *Issledovaniia o protsente soslannykh v Sibir' v period 1827-1846 gg.: materialy dlia ugolovnoi statistiki Rossii* (Spb, 1873): 17-18. A total of 1,132 male and 177 female *dvoriane* were sentenced to *katorga* for all crimes from 1835 to 1846, plus 3,741 males and 1,082 females from the "military class" (*voennoe soslovie*): *ibid.*: 66-67; of these 13.6% were sentenced for crimes against the State, 16.1% for homicide, and 18.5% for robbery; only 2.5% were guilty of causing a civil commotion (*vozmushchenie*) or insubordination, and 1.2% of service offences.
97. V.G. Verzhbitskii, *op. cit.*: 146-147.
98. "Vedomost' Vysochaishkikh konfirmatsii... za 1833 g." This was an excerpt of precedents made by the auditor who dealt with the case of Lieutenant Charykov: see n. 90 (ll. 65-68).
99. V.D. Krenke, "Moi arest i osvobozhdenie v 1839 g.: iz vospominanii general-leitenanta V.D. Krenke," *Istoricheski vestnik*, 4 (1881): 401-417. After 1848 such activities would be treated more severely: V.G. Verzhbitskii, *op. cit.*: 265-267.
100. *Ibid.*: 160-172; A.I. Herzen (Gertsen), *Sobranie sochinenii v 30 tt.* (Moscow, 1954-) VII: 313; XV: 44, 319-320.
101. V.G. Verzhbitskii, *op. cit.*: 190-227; A.F. Voznyi, *Politseiskii syisk i kruzhok petrashevstsev: uchebnoe posobie* (Kiev, 1976). The proceedings are in TsGVIA, f. 801, op. 84/28, ed. khr. 55; the accused's subsequent fates (to 1857) are mentioned in f. 1, op. 1, ed. khr. 19187, but this source is unclear about captain F.N. L'vov and omits Lieutenant A.I. Pal'm; the latter is known to have repented and got away with a simple transfer. Lieutenant N.P. Grigor'ev went insane and had to be placed in the care of relatives. For the intellectual aspects: N.V. Riasanovsky, *A parting of ways: government and the educated public in Russia, 1801-1855* (Oxford, 1976): 233-245.
102. V.G. Verzhbitskii, *op. cit.*: 250; I.W. Roberts, *Nicholas I and the Russian intervention in Hungary* (Basingstoke, 1991): 165, 262; cf. also 139.
103. V.G. Verzhbitskii, *op. cit.*: 249. There are apparently no surviving Russian records of this case.
104. I.W. Roberts, *op. cit.*: 205-207.
105. "Otchet... za 1851 g.," ll. 31-32; V.G. Verzhbitskii, *op. cit.*: 250-251.
106. On this question the standard work is R.S. Wortman, *The development of a Russian legal consciousness* (Chicago-London, 1976).
107. F.B. Kaiser, *Die russische Justizreform von 1864: zur Geschichte der russischen Justiz von Katharina II bis 1917* (Leiden, 1972): 92-95.
108. W.B. Lincoln, *The great reforms: autocracy, bureaucracy and the politics of change in Imperial Russia* (DeKalb, IL, 1990): 143-158.
109. *Katalog Voенно-uchenogo arkhiva Glavnogo shtaba* (Spb, 1892) 4: 96 ff., n<sup>os</sup> 504, 506; these do not appear to have been published.
110. I.I. Solodkin, *Ocherki po istorii russkogo ugolovnogo prava: I-aia chetvert' XIX v.* (Leningrad, 1961): 25, 27; *Arkhiv grafov Mordvinovykh* (Spb, 1902) IV: 684-687.
111. I.I. Solodkin, *op. cit.*: 23-24.
112. *Ibid.*: 95, 109, 111, 113.
113. L.A. Diadkin, *Sudebno-protsessual'nye vzgliady dekabristsa N.I. Turgeneva: uchebnoe posobie* (Saratov, 1979): 17-64.
114. N.I. Tourguéneff (Turgenev), *La Russie et les Russes*, 3 vols (Brussels, 1847) II: 346, 352.
115. A French officer noted in 1856: "this whole system rests basically on unlimited obedience to the will of one's superior and an absolute disregard for the human dignity of all those not of noble extraction." Captain Mirchet, "Note sur la discipline et sur l'organisation de la justice militaire," *Services Historiques de l'Armée de Terre* (Vincennes), *Mémoires historiques et reconnaissances*, vol. 1497, B-m-529, f. 2.
116. J.P. Le Donne, *Absolutism...*, *op. cit.*: 204.