

Summary of the PhD thesis

“Formation of Muscovite judicial system in the 15th and the first half of the 16th centuries”.

Problem statement:

The earliest of extant judicial documents are those from the first half of the 15th century. Hence, legal procedure started recording on paper no sooner than that time. Apparently, before that trials were oral. So, one might locate the starting point of Russian legal process and judicial system as no sooner than the first half of the 15th century, because there are no written extant sources from earlier period.

One might object that a legal procedure is mirrors in legislation. I presume that there was no unified legislative rule in the 15th century Grand Duchy of Moscow that could be applied to a considerable area and was actually practiced. It is widely thought that the Law Code of 1497 was the first unified legislation used on the whole territory of the Grand Duchy of Moscow. So, the Law Code is a late source, and the question of its enforcement is still discussable issue. We might reconstruct the legal procedure only basing on the judicial documents.

Almost all early Russian judicial documents concern land trials. Thus, the question arises, why the registration of trials on paper started only in the 15th century? What was the regular cause of the demesial trials? Perhaps it was the result of changes in attitude to acres. One might assume that acres became a special value in the 15th century, and that is why they started to cause of trials. Moreover, I suppose that the concept of the land property had arisen at that period. Of course, acres could be sold and granted long before the 15th century, but at that time acres' alienation became strongly connected with written documents.

Studying the form of judicial documents, I have realized that all studied sources are pretty similar in their structure. Obviously, the earlier deeds differ from the later ones – usually the former are smaller. I have found no significant differences in documents' forms from different areas; which is a valuable result not mentioned in historiography. Appanaged princes of Moscow, as well as Pskov republic, grand dukes of Ryazan, and Moscow grand dukes issued the documents referring the same form. It looks awkward, since Grand Duchy of Ryazan, and Grand Duchy of Moscow were two separate independent competitive state formations, but they still had equal judicial documents' form. I assume that there were several integrative trends long before those territories became the part of the Grand Duchy of Moscow. I would prefer the term “Russian lands' accretion” over “gathering of the Russian lands”. The reason is that the gathering is the process which is determined by duke's will, while accretion is involuntary subconscious process, which bears a spontaneous character. Roughly speaking, Grand Duchy of Moscow incorporated certain territories so quickly and easily at the end of the 15th and the beginning of the 16th centuries, because these territories were ready to join it.

The unity of the judicial documents' form provokes the problem of transfer. It is most likely that the blank of judicial documents was adopted from another state. Otherwise the period of blank formation would be noticed in earlier sources. Furthermore, simultaneous invention of similar documents' forms on different territories is very doubtful.

The ways of judicial documents' form transfer are very challenging to discover. This issue needs a detailed study and a comparative approach. My progress in searching of the sources of judicial documents' form adoption is weak meanwhile. My study of Lithuanian sources and judicial system still has no positive results. There are several relevant points in Polish legislation (Elblag book). Early

(beginning of the 14th century) references to *bessudnie* deeds were found in Novgorod birch-bark letters.¹ It is significant that no judicial documents from Novgorod are extant. To sum up, the problem of judicial documents' form transfer needs further investigation.

Chronological framework:

My research has its starting point at the first quarter of the 15th century, because the earliest deed is *pravaja gramota* of 1416.² It remained in original. I do not agree with those historians, such as A. Gorsky and U. Alexeev, who think that the earliest judicial documents relate to 13th century.³

The research has a final point in the middle of the 16th century. The judicial documents of that time enlarge seriously, because more documents were given to the court as a proof. Sometimes there can be more than one trial on the same acres, in that case deed includes all documents of the previous trials, that, of course, enlarges it. In the middle of the 16th century *Prikaz* system was formed. The Manorial *prikaz* started to judge all land trials. The judicial system became more unified and centralized. Criminal legal proceedings gradually divided from civil ones. Finally, in 1556 the *fief-office* system and the *fief-office* court were abolished. More centralized judicial system of the middle of the 16th century was significantly different from trials of the first quarter of the 15th century.

Localization:

Since my research is strongly source-orientated, the localization of my research was determined by remained judicial documents. All sources that I have managed to collect could be correlated with 29 territories. Majority of them were parts of the Grand Duchy of Moscow. Some of them belonged to Moscow appanaged princes. There are judicial documents of Mikhail Andreyevich the duke of Beloozero, Urii Vasil'evich and Urii Ivanovich dukes of Dmitrov, Semen Ivanovich the duke of Bezhetsk and Kaluga and Vasilii Jaroslavich the duke of Serpukhov and Borovsk. It is also one remained Pskov deed of 1483. At that time Pskov was not incorporated in the Grand Duchy of Moscow, but strongly depended on it. Furthermore I have found three Ryazan grand dukes deeds.

So, my research is localized in the Grand Duchy of Moscow, but I use not only Moscow judicial documents to compare Moscow judicial procedure with trials of apanage principality and the Grand Duchy of Ryazan.

Sources:

My research is mostly based on judicial documents (*pravie* and *bessudnie gramoti*, *sudnie spiski*). The grant-charter and land-surveying documents are also studied in case they refer to trials.

Roughly speaking, *pravie gramoti* and *sudnie spiski* were records of trial that included information about the judge, plaintiff and defendant, their statements, statements of witnesses, copies of documents, that were given as facts of evidence and a verdict. Significant feature of my sources is that almost all judicial documents that have remained are land trials. Only 17 deeds are devoted to arsons, larcenies, robberies and murders.

¹ Documents № 137, 251, 302, 366. <http://gramoty.ru/>

² Мейчик Д. М. Грамоты XIV и XV вв. московского архива министерства юстиции. Их форма содержание и значение в истории русского права. М., 1883, № 1; Акты социально-экономической истории Северо-Восточной Руси конца XIV – начала XVI в. (далее – АСЭИ) Т. 3. М., 1964, № 31.

³ Леонтьев А. К. Право и суд // Очерки русской культуры XIII – XV в. Ч. 2: Духовная культура. М., 1970. С. 46; Горский А. Д. Борьба крестьян за землю на Руси в XV – начале XVI века. М., 1974. С. 36; ». Алексеев Ю. Г. Судебник Ивана III: традиция и реформа. СПб., 2001. С. 80.

I believe that the carefully holding land deeds can explain the fact of dimension of documents' safety. These documents, unlike criminal ones were extremely important for their owners, because they confirmed the ownership on acres. On the contrary, there was no need to hold criminal deeds. Even if a document of criminal trial was given, it was not useful for the right side of the dispute, because the guilty one would be punished in any case, with the document given or not.

I have combined all my sources in the database. It consists of 296 judicial documents and references to them. I have used published documents mostly, because acts of that period were published a lot.⁴ I have managed to find only 11 unpublished sources. I have formulated 25 questions to study judicial documents. I have combined all discovered deeds in one table, each line of which is a summary of one deed and each column is one of the 25 questions. Thus, the table collects following information:

- Date of the deed
- Its place
- Name of the judge and his occupation if possible
- Plaintiff's information (name, occupation)
- Defendant's information (name, occupation)
- Subject of the trial
- Plaintiff's complaint
- Names of witnesses
- Questions to witnesses
- References of *judicum dei*
- Documents that were given to the court as a proof
- Way of presentation of those documents (reading aloud or audition)
- Presence of the *doklad* and name of its judge
- The right side of the dispute
- Verdict
- Witnessing of the document (seals and signatures)

⁴ АСЭИ Т. 1 – 3. М., 1952 – 1964; Акты феодального землевладения и хозяйства XIV - XVI вв. Ч. 1. М., 1951; Акты феодального землевладения и хозяйства. Акты московского Симонова монастыря (1506 – 1613 гг.). Л., 1983; Лихачев Н. П. Сборник актов, собранных в архивах и библиотеках. СПб., 1895; Акты, относящиеся до гражданской расправы древней России. Киев, 1860; Русская историческая библиотека. Т. 2. СПб., 1875, Т. 32. Пг., 1915; Каштанов С. М. Очерки русской дипломатики. М., 1970; Лебедев Д. Собрание историко-юридических актов И. Д. Беляева. М., 1881; Горчаков М. И. О земельных владениях всероссийских митрополитов, патриархов и Св. синода. (988 – 1738). Из опытов исследования в истории русского права. М., 1871; Шумаков С. Обзор грамот коллегии экономии. Вып. 1 – 2. М., 1899 – 1900; 13. Беляев И. Д. Списки судные и докладные и грамоты правые и безсудные в Московском государстве. // Архив историко-юридических сведений, относящихся до России. Кн. 2. Половина 1. Отд. 3. М., 1855; 15. Кабанов А. К. Материалы по истории Нижегородского края из столичных архивов Вып. 3. Ч. 1 // Действия НГУАК. Т. 14. Нижний Новгород, 1913; Описание документов и бумаг, хранящихся в Московском архиве Министерства юстиции. Кн. 4, СПб., 1884; Мейчик Д. М. Грамоты XIV и XV вв. московского архива министерства юстиции. Их форма содержание и значение в истории русского права. М., 1883; Акты русского государства 1505 – 1526. М., 1975; Акты Российского государства: архивы московских монастырей и соборов XV – начала XVII вв. М., 1998; Акты, относящиеся до юридического быта древней России. Т. I. СПб., 1857; Акты юридические или собрание форм старинного делопроизводства. СПб., 1838; Акты служилых землевладельцев XV – начала XVII в. Т. 1, 3, 4. М., 1997 – 2008; Русский дипломатарий. Вып. 1 - 2. М., 1997, Вып. 4. М., 1998, Вып. 6. М., 2000, Вып. 7. М., 2001; Перечень актов архива Троице-Сергиева монастыря. 1505 – 1537. М., 2007; Акты Троицкого Калязина монастыря. М. – СПб., 2007; Акты Суздальского Спасо-Евфимьева монастыря 1506 – 1608 гг. М., 1998; Памятники русской письменности XV – XVI вв. Рязанский край. М., 1978; Морозов Б. Н. Грамоты XIV - XVI вв. из копийной книги Рязанского архиерейского дома // Археографический ежегодник за 1987 г. М., 1988.

- Names of people who were on trial
- Information about deed's publication

All judicial documents remained in very different conditions. In the 15th – the first half of the 16th centuries the form of judicial documents was not stable. Depending on a situation some parts could be slightly changed or omitted. Some documents were seriously damaged and remained in pieces; some were just mentioned in ancient catalogues and other sources. Hence, I have to conclude, that quantitative analysis of judicial documents always will be very rough. Some sources are always not suitable for questionnaire's framework. One cannot operate statistics and exact values studying ancient documents, but quantitative analysis still permit to see some tendencies.