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DYNASTIC LAW OR THE WILL OF THE EMPEROR: ON THE PROBLEM OF THE SUCCESSION TO THE THRONE IN 18th– CENTURY RUSSIA ¹

The article is devoted to one of the most painful problems encountered by any absolute monarchy – the problem of the transfer of power. Taking the example offered by 18th-century Russian history, the author explores the contradiction between the need to frame a law that would strictly regulate the rules of succession to the throne, and the desire of the reigning emperor to identify the law with his own personal will and his exclusive prerogative of appointing a successor. This contradiction was most clearly expressed in the draft papers of Catherine II, who, while having a clear understanding of the full force of the “fundamental” rules that work to stabilise society, simultaneously did not regard her son as a worthy successor of her policy. The Empress’s views are investigated on the basis of archival sources, several of which are introduced into academic circulation here for the first time, and are evaluated in the historical perspective of their relationship to the 1722 Charter on succession to the throne in previous reigns, a period that has come to be known in historiography as the “era of palace coups”. The question of the extent of the power of the ruling monarch is examined as part of the broader problem of the essence of autocracy.

Key words: Russian History, “The Truth of the Monarch’s Will”, Succession to the throne, “The Declaration of Rights” of 1689, autocratic power, “Testament of Catherine II”.

“His Majesty is an Autocratic Monarch”

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To this day, the history of Russia is conceived of as something akin to the Book of Degrees,² split up into separate and distinct sections that begin with each new reign. Inclinations, predilections, entourages and, in the end, the childish fears of rulers have always exerted a direct influence on both state policy and the lives of their subjects. This is precisely why it is that the issue of succession to the throne was such a difficult one, and why any disruptions or changes in the way the state and sceptre were passed on could lead not only to the decline of a dynasty, but also to unrest in the country at large.

In this context, the uniqueness of the 18th century lies in the fact that it was a time of both fierce struggle between various groupings for their claimant to the crown and a whole series of attempts to legally confirm the legitimacy of one or another emperor's appearance on the Russian throne.³ The 18th century began with Peter I's famous ukaz⁴ (decree) of the 5th February 1722 on succession to the throne, which stated: "We have deemed the framing of this charter to be right and proper, so that it may always be at the will of the ruling sovereign [to appoint] whom he wishes in determining the succession, and to revoke [this appointment] upon seeing a lack of suitability [in them]."⁵ This act, prompted by the case of Tsarevich Alexei, proclaimed the right of the monarch to appoint a successor of his own choosing, regardless of their blood relationship with the Romanov dynasty, and moreover, in case of

² The *Stepennaya kniga* or "Book of Degrees" was a 16th-century work containing an exposition of Russian history, systematised according to "degrees" corresponding to the reigns of the grand dukes.

³ As Russell Martin correctly notes, the significance of the struggle for the throne in the second quarter of the 18th century lay in the confrontation between the descendants of two rival clans: the Miloslavskys and Naryshkins, as well as representatives of the ruling families of Courland, Holstein, Brunswick, etc. that were connected to them by dynastic marriages (See: Martin, R. "Law, Succession, and the Eighteenth-Century Refounding of the Romanov Dynasty" // *Studies in History and Culture in Honor of Donald Ostrowski*. Bloomington, Indiana. 2012. pp.225-242).

⁴ A more accurate title would be "Charter on the succession to the throne", but this document is usually referred to in the historiography as the "Decree of 1722 on the succession to the throne".

⁵ *Polnoye sobraniye zakonov Rossiiskoi imperii s 1649 goda. Sobraniye 1-oye* [Complete collection of laws of the Russian Empire since 1649. 1st collection]. St Petersburg: Tipografiya 2-go Otdeleniya Sobstvennoi Yego Imperatorskogo Velichestva Kantselyarii [Printing House of the 2nd Branch of His Own Imperial Majesty's Chancellery]. 1830. (hereinafter – PSZ). T.VI. No.3893. P.496. 1722, 5th February.

dissatisfaction with this heir, to then deprive him of the right to the throne and choose another in his place. The concept of the maximum expansion of the prerogatives of the imperial power was substantiated by the main preacher and ideologist of Peter's reign, Feofan Prokopovich,⁶ in the treatise *Pravda voli monarshei* or "The Truth of the Monarch's Will", stating as follows: "And we already quite understand how powerful autocratic power is, being unbound by any laws and by no means subject to human judgment, [...]. In determining the heir to his throne, any autocrat is highly free and unrestricted".⁷

Thus, in the literal sense, the matter of the order of the transfer of power, one so fateful for any absolutist monarchy, was shifted from the sphere of tradition or, as stated in the decree of 1722, "the custom of the olden [times], that the senior son was given the inheritance",⁸ into the sphere of politics and court intrigues, despite the fact that that this document was, it would seem, the first instance in the history of Russia whereby the rules of succession were actually put into legislative form. Many researchers have regarded Peter's decision here as being an important symptom of the extraordinary strengthening of the autocratic system. E.V. Anisimov believes that, with this, the first emperor had in fact made a coup d'état, taking power beyond the sphere of law and turning the ruler into a dictator.⁹

⁶ Some works have called into question Feofan Prokopovich's authorship, or at least suggested that the work had co-authors. Nevertheless, even these specialists recognise the central role played by the first person of the Synod and the ideologist of Peter's rule in the creation of this treatise. See: Cracraft, J. "Did Feofan Prokopovich really write *Pravda Voli Monarshei*?" // *Slavic Review*. 1981. Vol. 40. No. 2. Pp. 173-193; Lentin, E. "Avtorstvo 'Pravdy voli monarshei': Feofan Prokopovich, Afanasii Kondoidi, Pyotr I" [The authorship of "The Truth of the Monarch's Will": Feofan Prokopovich, Athanasy Kondoidi, Peter I // XVIII vek [18th century]. Sb. 21. St Petersburg: Nauka. 1999. pp. 33-39.

⁷ PSZ. T.VII. No.4870. S.621. 1726, 21st April

⁸ According to O.A. Omelchenko, "the unconditional nature of the formerly traditional family-lineage succession in the transfer of the royal throne was placed in doubt" (Omelchenko, O.A. "Stanovleniye zakonodatelnogo regulirovaniya prestolonaslediya v Rossiiskoi imperii" [Formation of the legislative regulation of succession to the throne in the Russian Empire] // *Femis: yezhegodnik istorii prava i pravovedeniya* [Femis: Yearbook of the History of Law and Jurisprudence]. Moscow State Industrial University. 2007 . Issue 7. 2006. P. 18). See: PSZ. T.VII. No.4870. P.621. 1726, 21st April

⁹ See: Anisimov, Ye.V. "Pochemu Pyotr? Byla li alternativa dlya Rossii?" [Why Peter? Was there an alternative for Russia?] // *Rodina* [Homeland]. 2007.

Ultimately, Peter himself failed to leave any such instruction as to who should inherit his throne,¹⁰ but the official coronation of his wife Yekaterina Alekseyevna,¹¹ carried out on an extraordinary scale in February 1724, became one of the factors that contributed to her being confirmed as sovereign after the death of the Emperor. However, the supporters of Catherine I were greatly alarmed by the appearance early in 1726, a year into her reign, of “villainous letters” on a pillar near St Isaac’s Church, and subsequently in the grounds of Prince Golovin’s quayside Petersburg mansion, all calling into doubt the principle of the transfer of power as proclaimed by Peter. The anonymous evildoers were given six weeks to repent and confess (potential informers being promised a reward of two thousand rubles), and were threatened in case of denial with “temporary” death on this earth and “eternal torment according to the judgment of God”, as well as an ecclesiastical curse, whose text was specially composed by the same Feofan Prokopovich. Of course, the traitors “who do not recognise the provisions set forth in the book *The Truth of the Monarch’s Will*” had no intention of repenting, and nobody was found willing to take money or receive the confiscated properties of the “evildoers” in return for information as to their identity in such a dangerous case. It was therefore decided to subject the authors of these “villainous sheets” to a public anathema. The text of Prokopovich’s oath was published at printing houses in both St Petersburg and Moscow, and disseminated for proclamation “in all churches”.¹²

No. 11. Pp. 2-4; the same author. *Imperatorskaya Rossiya* [Imperial Russia]. St Petersburg: Piter. 2011. Pp. 151-164, etc.

¹⁰ For more detail on this, see: Kurukin, I. V.. *Epokha “dvortsovykh bur”*: *Ocherki politicheskoi istorii poslepetrovskoi Rossii* [The era of “palace tempests”: Essays on the political history of post-Petrine Russia]. Ryazan: Private publisher P.A. Tribunsky. 2003. Pp. 85-97.

¹¹ On this, see: Ageyeva, O.G. “Imperskii status Rossii: k istorii politicheskogo mentaliteta russkogo obshchestva nachala XVIII v.” [The imperial status of Russia: on the history of the political mentality of Russian society at the beginning of the 18th century] // *Tsar i tsarstvo v russkom obshchestvennom soznanii: Sb. st.* [Tsar and Tsardom in Russian public consciousness: Collection of articles]. Moscow: IRI RAN. 1999. Pp. 112-140.

¹² *Polnoye sobraniye postanovlenii i rasporyazhenii po vedomstvu pravoslavnogo ispovedaniya Rossiiskoi imperii* [Complete collection of decrees and directives for the department of the Orthodox confession of the Russian Empire]. St Petersburg: Sinodalnaya tipografiya [Synodal Printing House]. 1881. T.V. No.1801. P. 379. 1726, 13th June; No.1806. pp. 382-384. 1726, 22nd June; for a more accurate publication, see: Zvezdin, A. “Klyatva na

Meanwhile, the rejection of the legislatively unspecified, but long prevailing system of transfer of the throne down the male line was also capable of causing involuntary distortion of the content of the decree on the succession – something which greatly concerned the authorities and demanded a certain degree of political education of the crown’s subjects. It was to this end that the “decree, oath and explanation of the Truth of the monarch in determining the heir to the realm”, specially published in a separate book,¹³ were ordered to be read on every Sunday and holiday at parish churches and monasteries, so that nobody “by ignorance would be deceived towards temporary and eternal execution”.¹⁴ After the death of Catherine I in 1727, it was announced at the start of the reign of her successor Peter II that “Our most beloved grandmother not only ordered the publication of a charter on the inheritance of the Russian monarchy, but also that of a special book entitled *The Truth of the Monarch’s Will*.”¹⁵

However, three separate groups of successors were still distinguished in the so-called “testament” of Catherine I¹⁶: the persons and future descendants of

pismopodmetchikov (1726 g.)” [Oath on posters of letters (1726)] // *Deistviya nizhegorodskoi gubernskoi arkhivnoi komissii: sbornik statei, soobshchenii, opisei i dokumentov* [Actions of the Nizhny Novgorod Provincial Archival Commission: a collection of articles, messages, inventories and documents]. Nizhny Novgorod. 1903. Tipografiiya tovarishchestva I.M. Mashitova [Typographic lithography of the partnership of I.M. Mashitov]. Pp. 14-18.

¹³ Prokopovich's treatise was published in 1722, immediately after the appearance of Peter's decree, though it would be during the reign of Catherine I that the Empress's supporters undertook the mass publication and distribution of the charter, the oath, and the *Pravda Voli* itself. Feofan [Prokopovich Yelezar; Archbishop of Novgorod and Narva]. *Pravda voli monarshei: Vo opredelenii naslednika derzhavy svoei* [The truth of the monarch’s will: In determining the heir to his realm]. Moscow: Moskovskaya tipografiya. 1722; Feofan [Prokopovich Yelezar; Archbishop of Novgorod and Narva]. *Pravda voli monarshei: Vo opredelenii naslednika derzhavy svoei*. Moscow: Sinodalnaya tipografiya [Synodal Printing House]. 1726.

¹⁴ See: PSZ. T. VII. No. 4870. S.621. 1726, 21st April

¹⁵ PSZ. T.VII. No.4870. S.621. 1726, 27th May. Moreover, the manifesto of 27th May 1727 witnesses that under Catherine I, her subjects were promised rewards for denouncing those who “would speak in a repulsive manner about the succession of the crown in conversations and social gatherings” (PSZ. T.VII. No.5084. S.798- 799. 1727, 27th May).

¹⁶ See: *Rossiiskii gosudarstvennyi arkhiv drevnikh aktov* [Russian State Archive of Ancient Acts, hereinafter – RGADA]. F.2. Op.1. D.21. L.2-14;

Peter Alexeyevich, Anna Petrovna and Yelizaveta Petrovna, as well as the elder sister of the young Peter II – Natalya Alexeyevna. Due to childlessness, the throne passed from the first heir to the next, practically cancelling out the decree of 1722. And yet in July 1727, only a year after the major drive on behalf of the authorities to ensure widespread public awareness of the new rules for the transfer of the throne, there came an absolute expunging of all decrees related to the case of the Emperor's father, Tsarevich Alexei, including the *Decree on the succession to the Russian throne*. Under threat of prosecution, the colleges, chanceries, ecclesiastical parishes and civilians were to submit all such documents to the Senate in St Petersburg or the Senate's offices in Moscow and "not to keep or read [them] in their houses under any pretext whatsoever".¹⁷

There thus developed a paradoxical situation in which a law remained unrepealed while knowledge of its actual contents was now prohibited. Following the death of Peter II, special circumstances still on occasion saw the Decree of 1722 resurface in imperial proclamations as an argument for the appointment of a successor. So it was that, in 1731, the childless Anna Ioannovna's desire to avoid intrigues, blackmail and provocations on the part of court factions led her to compel the country to swear allegiance to a non-existent future emperor on the grounds that "according to the decree on the succession of 1722, it is always according to the supreme will and consent of the ruling sovereigns of the all-Russian throne to establish whomsoever they please as their heir."¹⁸ In 1742, however, the newly enthroned Empress Elizaveta Petrovna appointed her nephew as her successor, "as we were closest by blood".¹⁹ Thus, after the publication of 1726, not one of the later Russian emperors had the political audacity to reissue Peter's decree of 1722 "to nationwide notice" for reading in all parish churches and monasteries or to publicly declare that in matters of the transfer of power, as well as in all others, "His Majesty is an Autocratic Monarch, who need not answer to anyone on earth regarding his affairs".²⁰

PSZ. T.VII. No.5007. S.788-792. 1727, 7th May. For more on the authenticity of the will, see: Anisimov, Ye.V. *Rossiya bez Petra* [Russia without Peter]. St Petersburg: Lenizdat. 1994. Pp. 138-139; Kurukin, I.V. *Epokha "dvortsovykh bur"*. Pp. 126-129.

¹⁷ PSZ. T.VII. No.5131. S.831-832. 1726, 26th July.

¹⁸ PSZ. T.VIII. No.5909. S.601-603. 1731, 17th December.

¹⁹ PSZ. T.XI. No.8658. S.712. 1742, 7th November.

²⁰ See, for example: Voinsky ustav [Military regulations] (PSZ. T.V. No.3006. S.324. 1716, 30th March).

“On the pre-eminence of the Imperial Majesty”

Catherine had ascended to the Russian throne in 1762 as a result of a coup arisen on the strength of the growing discontent with the ruling emperor in Russian society and, above all, among the guards, as well as due to the personal qualities of Peter III himself and their mutual antipathy. In her earlier role as a grand duchess at the Saint Petersburg court, she had not entertained any notions of being a “monarchomach” or “usurper”, but had literally fought for her personal liberty and even life. Her relations with her husband, Emperor Peter III, doomed her, at best, to monastic confinement. Meanwhile, the rationale made for the coup that took place on the 28th June 1762 contains important data about both the political thinking of the new monarch and the ideology of Russian absolutism in general. Recalling those days, Catherine wrote about Peter III that: “Circumstances took such a turn that it was necessary to either die with him, through him, or to attempt to save oneself from death.”²¹ In the Manifesto released on the accession to the throne of the Empress, appeals were made to the trampling of the Orthodox faith, the desecration of the glory of the victorious arms, and the threat presented to the integrity of the realm.²² Yekaterina Alexeyevna was proclaimed Empress over the heads of three legitimate male-line heirs of the House of Romanov: in the Schlüsselburg fortress languished the twenty-two-year-old John VI (Ioann Antonovich of Brunswick), who had been shunted aside in 1741, Emperor Paul III was still alive, and finally, the seventeen-year-old Pavel Petrovich was soon to reach maturity.

The three high-profile death sentences that darkened the first decade of Catherine’s reign were associated precisely with the need to safeguard her right to rule. Lieutenant Mirovich had attempted to free Ioann Antonovich, for which he lost his head. It was rumoured that the Plague Riot of 1771, which ended with the hanging by lots of a section of the participants, had been incited by the College of Foreign Affairs chairman Nikita Panin in order to place his pupil Pavel Petrovich on the throne. Pugachyov, who was drawn and quartered, adopted the identity of Peter III and declared his wish to transfer power to “his son Pavel”. In the 1760s, in the aftermath of Catherine’s June 1762 coup, the Secret Expedition received a constant stream of denunciations about the spread of incredible rumours concerning the imperial succession: typical claims included the likes of “Peter III is alive”, “Pavel Petrovich has been murdered”,

²¹ *Zapiski imperatritsy Yekateriny Vtoroi* [“Notes of Empress Catherine II”] (Saint Petersburg: Publishing House of A.V. Suvorin, 1907). P. 466.

²² PSZ. Vol. XVI. No. 11582. P. 3. 1762, 28th June.

“Ioann Antonovich is gathering troops”, “Pavel Petrovich will not rule”, “Pugachyov is alive”, etc.²³

The Grand Duchess was made Empress, primarily, as the mother of the Tsarevich. Paul was referred to officially as “the legitimate heir to the throne of All the Russias” in all manifestos, sworn promises, the oaths of subjects of annexed territories, and in legally regulated forms of church liturgy, and this saw the case from the first day of Catherine’s reign until her death. However, the Empress did not hesitate to harshly suppress any notions of her regency, emanating primarily from the circle of Nikita Panin. In 1766 the Empress wrote a draft of the succession to the throne in which she clearly states “after my death, my son will inherit.”²⁴ Of course, the main meaning of this phrase was not so much a willingness to hand over the throne to the eldest son, but an unshakeable intention to remain in power until her last breath.

The underlying cause of the difficult relationship between the enthroned mother and her son was rooted in the constant danger of the heir actualising his claim to the throne, although this was a danger that was diminished with the further consolidation of the Empress’s power. Paul’s growing instability and lack of political cynicism, as reflected in her personal documents and in the testimonies of contemporaries, led Catherine to fear both for the future of the throne and for the fate of her son. Three times she sat herself down to draft a law of succession, driven in each instance by highly contradictory motives. On the one hand, the palace coups provoked by the Charter of 1722 had demonstrated the extreme vulnerability of the state, despite the sacralisation of the person of the monarch in Russia. The Empress clearly understood that the only guarantee of stability would be to enshrine in legislation a strict procedure for the transfer of the royal sceptre in the male line in accordance with

²³ See: “On the wife of the military governor of Dedilovo and collegiate assessor Andreyev, Paraskeva, who spoke about the death of Emperor Peter III”, “On keeping the soldier Mikhail Grichin under guard for spreading empty rumours that Peter III was alive”, “On the rumour spread by Bekker that a rebellion had taken place in Petersburg and Prince Ioann been crowned as tsar“;” About the gamekeeper Yust Knokhem, who wrote in a letter that people wanted to kill the Empress Catherine II“, etc. (RGADA. F.7. Op.1. Dd.2096, 2139, 2153, 2193, 2205, etc.).

²⁴ RGADA. F.10. Op.1. D.12. L.1-2ob. See also: “Otryvok sobstvennoruchnogo chernovogo proyekta manifesta Yekateriny II o prestolonasledii” [Excerpt from the handwritten draft of Catherine II’s manifesto on succession to the throne] // *Russkaya starina* [Russian antiquity]. 1875. January. Pp. 384-385.

prevailing Russian custom, which had never been set down in writing. This understanding was reinforced by an enlightened belief in the regulatory and disciplining power of “fundamental” laws. On the other hand, Catherine never lost sight of the fact that she was a “non-hereditary” ruler who had taken the throne while simultaneously issuing a proclamation acknowledging Paul as the legal heir, and therefore tried with all her might to prevent him from coming to power during her lifetime and, apparently, even afterwards.

In the early 1780s, after Pavel Petrovich and his second wife Maria Fyodorovna’s return from a trip abroad, the relationship between Catherine and her son became even more strained – it was at this point that she again began to worry about the problem of an heir.²⁵ Catherine penned a peculiar kind of treatise, referred to by the Empress under the title *On the Pre-eminence of the Imperial Majesty*.²⁶ The Empress first wrote out this document carefully in draft form, and then prepared a white paper manuscript.²⁷ The irrefutable

²⁵ On this, see: Erren, L. “Feofan Prokopovich’s *Pravda voli monarshei* as Fundamental Law of the Russian Empire” // *Kritika: Explorations in Russian and Eurasian History*. 2016. Spring. Vol. 17. No. 2. Pp. 333-360; Martin, R. “Law, Succession, and the Eighteenth-Century Refounding of the Romanov Dynasty”. Pp. 225-242; Safonov, M.M. *Zaveshchaniye Yekateriny II* [Testament of Catherine II]. St Petersburg: Lita. 2002.

²⁶ Zapiska imperatritsy Yekateriny “O preimushchestve Imperatorskogo Velichestva [Note by Empress Catherine “On the Preeminence of the Imperial Majesty”] // RGADA. F.10. Op.2. D.324. L.1-4ob. The same collection of papers preserved such manuscripts as “A handwritten draft of an order to the Senate on the autocratic and legislative power of the Imperial Majesty”, “Handwritten rough papers on the advantages of the Imperial Majesty”, “Handwritten rough papers on the family and inheritance of the Imperial Majesty (RGADA. F.10. Op.2. D.325).

²⁷ The first publisher of some documents from this collection, O.A. Omelchenko, believes that these texts were to have formed the basis of the so-called *Nakaz Senatu* or “Order to the Senate”, the draft of which remained unfinished (Omelchenko, O.A. “K probleme pravovykh form rossiiskogo absolyutizma vtoroi poloviny XVIII veka” [On the problem of the legal forms of Russian absolutism in the second half of the 18th century] // *Problemy istorii absolyutizma: sbornik nauchnykh trudov [Vsesoyuznyy yuridicheskii zaochnyy institut]* [Problems of the history of absolutism: a collection of scientific works (All-Union Correspondence Institute of Law)]. Moscow: (without publisher). 1983. Pp.40-41). For an extended publication see: Marasinova, Ye.N. “*Zakon*” i “*Grazhdanin*” v Rossii vtoroi poloviny XVIII veka: ocherki istorii obshchestvennogo soznaniya [“Law” and “Citizen” in Russia in the second

“pre-eminences” or advantages of autocratic rule were set out very clearly in this note and grouped into three important positions:

1. The supreme power is embodied in the image of the royal person, whom no one can approach “in dignity, in rank, in power, in might and in action, at any time and place” “in the All-Russian Empire”. “The person of the Imperial Majesty” is *yedynovladeyushchaya* (“one who rules alone”) and “consecrated with holy myrrh, anointed and crowned”. It is precisely to the emperor that the “oath of allegiance from all subjects” is sworn.²⁸

2. Unlimited power is concentrated in the hands of the monarch, consisting of the exclusive right to “make peace and war”, “send ambassadors”, “bestow dignity, ranks and estates” “to whom he sees fit”, “to forgive guilt” and to grant pardon. Autocracy was not limited in any way by the law and, moreover, laws were perceived as the main instrument for realising the intentions of the reigning monarch, which, from the point of view of Catherine, fully met the interests of the state: “the autocratic and legislative power of the Imperial Majesty exists and is maintained in security for the sake of the integrity of the empire and the safety of the empire and every subject”.²⁹

3. The state treasury and the minting of coins should be concentrated in the hands of the monarch.³⁰

Finally, the selection of a future successor was also exclusively in the sphere of jurisdiction of the ruling monarch – “The Imperial Majesty’s autocracy, throne and crown are not divisible in nature and it is essentially improper for two persons to rule, it not being possible by nature and it should not [happen] for the common good, the autocratic and legislative power of the Imperial Majesty appoints the heir to the throne, and the autocratic power determines the order of succession.”³¹ Following Peter, Catherine is equally imperious in the way she concludes her note: the emperor “is not subject to render any

half of the 18th century: essays on the history of public consciousness]. Moscow: NLO. 2017. Pp. 415-434.

²⁸ RGADA. F.10. Op.2. D.325. L.3.

²⁹ RGADA. F.10. Op.2. D.325. L. 3ob.-4. In the Order itself, it was stated that “the will of the sovereign” should be observed “similarly to the laws laid down by the state as well” (*Nakaz imperatritsy Yekateriny II, dannyy Kommissii o sochinenii proyekta novogo Ulozheniya* [Order of Empress Catherine II issued to the Commission on composing the draft for a new Code]. Edited by N.D. Chechulin. St Petersburg: Tipografiya Akademii nauk [Printing House of the Academy of Sciences]. 1907. Pp. 6-7).

³⁰ RGADA. F.10. Op.2. D.324. L.4ob

³¹ RGADA. F.10. Op.2. D.325. L.2.

account in the affairs of this world”, but answers to and gives “thanksgiving to our one and only Divine Creator.”³²

In the draft clauses “On exclusion from the succession” Catherine sketches out the image of an ideal emperor, on the one hand, and an “antihero”, whose enthronement would threaten the whole state with calamities, on the other. The successor must be “good, vigorous, skilful, well-behaved”, and capable of “maintaining and strengthening the good condition of the fatherland”. On the other hand, the monarch is endowed with the absolute right to remove an heir from the line of succession if they reject the Orthodox Church, possess lands outside Russia, are involved in uprisings or conspiracies, or are “lacking in the intelligence and mental, moral and physical qualities for ruling”. In other words, the autocrat is obliged to protect the fatherland from a ruler who is “evil, careless, subject to rage, does not seek the truth” and especially one who is insane.³³

According to contemporary traditions in legal thought, Catherine sought out precedents for the transfer of the throne along other lines than the direct male line, as well as additional arguments to give the monarch the right to appoint his own successor. The Empress’s train of thought, her doubts and preferences were reflected in a number of rough notes, unpublished drafts, synopses, and marginal notes.³⁴ Some quotes from sources placed in the folder “Discourses on the family, society and the state” bear Catherine’s remarks, characterising the manner in which she worked with documents: “I have marked ‘+’ what may be needed.”³⁵ Also found in the materials collected by the Empress during her deliberations on the order of the transfer of power was a clerk’s reproduction of *An Act declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown* – the English Bill of Rights of 1689,

³² RGADA. F.10. Op.2. D.324. L.4-4ob.

³³ RGADA. F.10. Op.2. D.324. L.1-4ob.

³⁴ For Catherine II's drafts related to the succession project, see Martin, R. Law, *Succession, and the Eighteenth-Century Refounding of the Romanov Dynasty*. Pp. 227-228, 234-238.

³⁵ RGADA. F.10. Op.2. D.86. L.1. See also: Omelchenko, O.A. “*Zakonnaya monarkhiya*” *Yekateriny Vtoroi: Prosveshchenny absolutizm v Rossii* [Catherine II’s “Legal Monarchy”: Enlightened Absolutism in Russia]. Moscow. 1993. pp. 326-328.

regulating the order of succession to the English throne,³⁶ as well as the Empress's handwritten summary of Prokopovich's treatise.

“The Bill of Rights” and “The Truth of the Monarch’s Will”

The text of the Bill of Rights of 1688-1689 was reproduced twice for the Empress, both in English and French.³⁷ The author of the French translation is unknown, but it may be assumed to have been the Moscow University law professor Semyon Desnitsky, who is known to have made a Russian translation of Blackstone's *Commentaries on the Laws of England* on the instructions of the Empress.³⁸

And although the document did not say a word about the possibility of transferring the throne to a person chosen on the personal whim of the monarch, the restrictions this act of the “Glorious Revolution” imposed on a potential heir may well have been of interest to Catherine. One of the points of the Bill of Rights declared: “all and every person and persons that is, are, or shall be reconciled to, or shall hold communion with the see or church of *Rome* or shall professe the Popish religion, or shall marry a Papist, shall be excluded, and be for ever uncapable to inherit, possesse, or enjoy THE CROWNE <...> and in all and every such case or cases, THE PEOPLE of these Realmes shall be and are hereby absolved of their allegiance”.³⁹

At the same time, the Bill became an important stage in the shaping of the Empress's notions of *poddanstvo* or “subjecthood” and gave impetus to the active inclusion of the very concept of the “subject” in the Russian political

³⁶ Bill of Rights: “An Act declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown” // RGADA. F.10. Op.2. D.235. L.21-35ob.

³⁷ The manuscripts of the Bill, carefully executed in a clerical hand, do not contain any notes, though it is very unlikely that the Empress did not read the translation she had ordered.

³⁸ However, given that Desnitsky had already retired by this point and was no longer in the best of health, it is likely that the French version of the Bill was prepared with the help his former student Andrei Bryantsov, who had also participated in the translation of Blackstone.

³⁹ RGADA. F.10. Op.2. D.235. L.25. Cf.: A Treatise of Pleas of the Crown; or, a system of the principal matters relating to that subject, digested under proper heads, written by William Hawkins, serjeant-at-law, and later edited by John Curwood, barrister-at-law. Vol. 1 of Criminal offences. Arranged according to the analysis of Blackstone, with the statuses and decisions down the present time. London. 1824. P. 30.

context. It is no coincidence that this document from the English Revolution had the subtitle: “An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown”. The Bill defined “allegiance” as loyalty, submission and recognition of the rule of authority, which was demonstrated by swearing “the Oathes of Allegiance and Supremacy”. In addition, this document proclaimed that “it is the Right of the Subjects to petition the King, and all Commitments, and Prosecutions for such Petitioning are Illegall”.⁴⁰ The relationship between subject and the state was thus closely linked through the institution of direct petitions to the name of the king and an oath to the “royal persons”, in which “[...] the Royall State, Crowne, and Dignity [...] with all Honours, Stiles, Titles, Regalities, Prerogatives, Powers, Jurisdictions”.⁴¹ The appearance in the Empress’s papers of the 1688-1689 Bill of Rights in both the original version and a French translation testifies to Catherine’s resolute search in this text for answers to the questions troubling her.

At around the same time, Catherine also turned to *The Truth of the Monarch’s Will*, requesting the text of the treatise from her Secretary of State A.V. Khrapovitsky. On 20th August 1787, the latter noted in his diary that: “They read out to me a well-known passage from *Pravda Voli Monarshei*. Either here or in the manifesto of Catherine I it is said that the cause of Tsarevich Alexei Petrovich’s misfortune was the false opinion that the throne appertained to the eldest son.”⁴² The Empress carefully reread the treatise and made her own handwritten synopsis, diligently rewriting about a tenth of Prokopovich’s original text and editing some selected quotations.⁴³

Catherine focussed her main attention on the provisions declaring the rationality and consistency of Peter I’s ukaz of 5th February 1722 on succession to the throne. The notion of the maximum expansion of the prerogatives of the imperial power, substantiated by the chief preacher of the Petrine era was also recognised by Catherine, who copied out the following thesis from Prokopovich’s tract: “Every autocrat, both in all other matters and in

⁴⁰ RGADA. F.10. Op.2. D.235. L.22ob.

⁴¹ RGADA. F.10. Op.2. D.235. L.24ob.

⁴² Khrapovitsky, A.V. *Pamyatnyye zapiski* [Memoirs]. Moscow: Universitetskaya tipografiya. 1862. p. 37.

⁴³ See the publication of Catherine's extracts, which are correlated with the text of *Pravda voli monarshei*: Marasinova, Ye.N. “Zakon” i “Grazhdanin” v *Rossii vtoroi poloviny XVIII veka* [“Law” and “Citizen” in Russia in the second half of the 18th century]. pp. 434-447.

determining his heir to the throne, is free to act. He whom the sovereign appoints as heir is the heir.”⁴⁴

What attracted Catherine in Prokopovich’s treatise were the arguments concerning the monarch’s responsibility for the throne and its future: “The Charter safeguards that in the Russian state the monarch’s power should be inherited by the best of those who have been examined and determined by prudent autocrats.”⁴⁵ No less weighty did the argument made in the spirit of autocratic paternalism seem to the Empress: in so far as traditionally, a father might deprive his “ill-natured son” of his inheritance, so too did the autocrat, being a father both to his own children and to all his subjects, have no less right to dispose of his “patrimony”. However, while Feofan Prokopovich had recognised the emperor’s power to “condemn to death” his “wicked and insane” heirs, Catherine carefully excludes any mention of execution in her synopsis and confines herself to the neutral terms “renunciation” and “punishment”. In addition, given the circumstances of her coming to power, the Empress emphasises that the right to choose the future monarch is not only the prerogative of a “hereditary sovereign”: “Every sovereign who has received a sceptre, whether by inheritance or election, accepts it from God”. And further, in a quote from Prokopovich’s treatise, “the autocrat [above all a hereditary one] has full power to determine his inheritance” – thereby logically excluding the very definition of “hereditary”.

The Empress is highly selective in her use of Scripture to justify the monarch’s prerogative to appoint a successor. In making her abstract, she removed almost all the introductory sentences referring to the authority of spiritual texts, ignoring Prokopovich’s passages on the prodigal son and the numerous examples he had assembled from the Old Testament, limiting herself only to the history of the sad reign of the semi-mythical Rehoboam, the mad son of Solomon under whose reign the tribes of Israel were divided. Arguments based on examples from Russian history seem to have been much more important to Catherine – she displays a special interest in the precedent offered by the reign of Ivan III: “Prince Ioann Vasilyevich twice cancelled [his nomination of] the heir, first passing over his sons in favour of his grandson, and then setting aside his already crowned grandson to give a son his inheritance.”

The aim of Catherine’s draft laws was without doubt to stabilise the House of Romanov by means of a legally defined system of succession to the throne.

⁴⁴ RGADA. F.10. Op.2. D.325. L.1-10.

⁴⁵ RGADA. F.10. Op.2. D.325. L.1-10. The following quotations are taken from the same source.

(Incidentally, the problem of the transfer of power remains the main sore spot of the Russian political system to this day). This fact does not contradict her attempts to find precedents that would make it possible to exclude from the succession a son who, from her point of view, who was not fit for the role of ruler of the Russian Empire. As Russell Martin put it: “There is also the question of Paul's status in the third project. It has been noted by biographers of Catherine II that, toward the end of her life, she had planned to pass over her son, Paul, in favor of her eldest grandson, Alexander. The case for skipping over a generation has been based largely on rumors reported in the memoirs of several of Catherine's courtiers. The rumors seem to be supported by this third project, which, unlike the first two, fails to reference Paul - either as "my son" or by name - as her successor.”⁴⁶. Oleg Omelchenko also points out that, despite Catherine’s desire to ensure “succession to the throne strictly by law”, her draft works, especially the final one of 1787, contain a certain “psychological subtext” and “special emotional note” that preclude the unambiguous resolution of the problem of her intention to exclude Paul from the throne.”⁴⁷

The *Pravda voli monarshei* and the *Act declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown* were thus both necessary for Catherine in her work on the project “On the Lineage and Inheritance of the Imperial Majesty”, in which she clearly confirmed the Decree of 1722 and more than once proclaimed the right of the monarch to appoint a successor and determine the procedure for the transfer of power. However, these drafts remained unpublished and the “Manifesto of Succession to the Throne” never did see the light of day. This was because Catherine herself never managed to reach a final decision as to which was more dangerous for the monarchy, Russia and, finally, her son: to transfer power to her grandson during her lifetime on the basis of Peter’s decree, to leave a will, or to take the path of tacit recognition of the priority of the male line.

At first glance, it might seem that the handwritten draft papers on the lineage and inheritance of the imperial majesty reflect one intention of the Empress – to prevent Grand Duke Pavel Petrovich from taking the throne. However, the proclamation of the monarch’s right to appoint an heir also concealed a desire, probably not even fully obvious to the Empress herself, to overcome the

⁴⁶ Martin, R. “Law, Succession, and the Eighteenth-Century Refounding of the Romanov Dynasty”. Pp. 239-240

⁴⁷ Omelchenko, O.A. “Stanovleniye zakonodatel’nogo regulirovaniya prestolonaslediya v Rossiiskoi imperii” [Formation of the legislative regulation of succession to the throne in the Russian Empire] P. 46-47, 51.

ancestral vice of autocracy, which leaves the selection of the heir in the power of any “whim of nature”. New archival materials give some idea of the Empress’s internal lurches between the urgent necessity of formalising the royal succession in the male line through legislation and the real dangers that would accompany completely removing the ruling monarch as a factor in the naming of a successor.

The Empress was troubled about to whom she would leave not only the throne, but also her vast patrimony, the Russian Empire. In November 1787, she remarked to Khrapovitsky: “It seems that everyone should be equally zealous in fulfilling the will of the monarch, especially since all the affairs belong to one mistress alone. Perhaps they think me a gaunt mistress.”⁴⁸ Of all the abundance of canonical quotations in *The Truth of the Monarch’s Will*, Catherine was struck most by a fragment of the second chapter of the “wise Ecclesiastes”, which she wrote out on a separate sheet in her own hand: “Yea, I hated all my labour which I had taken under the sun: because I should leave it unto the man that shall be after me. And who knoweth whether he shall be a wise man or a fool? Yet shall he have rule over all my labour wherein I have laboured, and wherein I have shewed myself wise under the sun. This is also vanity!”⁴⁹

There is no basis to suppose that Catherine’s image of “God’s anointed” belonged to the sphere of religious feelings, nor was she thinking in terms of such categories as that of a *Monarchomach*, or inclined to justify the removal of a tyrant from power. However, the impossibility she experienced of resolving the contradiction immanently embedded in the dynastic system of absolutism revealed the main tendency of the monarchy’s evolution towards constitutionalism.

On 17th November 1796, Catherine’s son Paul I ascended the throne, and immediately after the coronation in the Moscow Kremlin’s Cathedral of the Assumption on 5th April, a new act of succession was signed, making official the succession of rule along the descending male line, but also providing for female inheritance in the absence of heirs through the male line or other

⁴⁸ Khrapovitsky, A.V. *Pamyatnyye zapiski* [Memoirs]. P. 44.

⁴⁹ The text is given in Old Church Slavonic in Catherine’s draft notes (RGADA. F.10. Op.2. D.235. L.15-15ob.).

circumstances.⁵⁰ The most important thing in this document is that the heir should be determined precisely by law, and not by the will of the ruling monarch. As the Manifesto stated: “That the heir is always appointed by the law itself. [...] To this we have owed the tranquillity of the state, which is based on the firm law of inheritance.”⁵¹ This was followed less than four years later by the assassination of Paul, the re-emergence of the 1722 Decree on Succession to the Throne in the documents of Alexander I, the secret abdication of Konstantin Pavlovich, and the political crisis of the Decembrist uprising... And yet despite all that, we can say that there was under Paul, for the first time in the history of imperial Russia, legislative restriction, or rather self-restraint, on the part of the autocracy.

⁵⁰ The so-called “semi-Salic succession” (or “the Austrian system of royal succession”), according to which, after the extinction of all male lines, the throne passes to the female offspring of the last monarch. A similar procedure for the transfer of power existed at that time in Austria and Scotland.

⁵¹ PSZ. T.XXIV. No.17910. S.587-589. 1797, 5th April.