

PUBLIC LEGAL ACTS OF SECULAR AUTHORITIES, THEIR TYPES AND CHARACTERISTICS

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Abstract. This article deals with public legal acts of secular power in XV - XVII centuries and their varieties as a historical source. As a result their features and characteristic features are distinguished, and their role and place in the legal system of the Russian state in XV - XVII centuries are defined.

Keywords: charter, act, authority, treaty, document.

In modern Russian source study, as defined by S.M. Kashtanov, acts in the narrow sense are usually understood not as a whole set of heterogeneous documents, but only those that establish certain legal relations either between the contracting parties to the transaction or between the author and the addressee. It is fundamentally important to separate acts from laws (all the more so since the latter are often referred to as legislative acts, expanding the meaning of the word). Unlike laws, which establish, formulate legal norms, acts only use them; relations that are established by acts must not violate accepted legal norms (including those of customary law, which are not usually fixed in laws).

In Western European diplomacy, a scheme of classification of act sources was developed based on the criterion of the origin of the act. All acts were divided into public law, which were issued on behalf of sovereign monarchs (emperors, kings, etc.) and popes, and private law, which included all other types of acts.

The leading place in the classification of acts is occupied by the acts of secular authorities, because it is these acts that mainly characterise the situation of the state and its position on the world stage, because this category includes many different forms of these documents.

One of the earliest types of acts of secular authorities is international treaties. The first such documents were discovered as early as the 10th century. In the 15th century international treaties were mostly signed with Lithuania and the Polish-Lithuanian Commonwealth, which indicates a rather active foreign policy in this direction. Also in XV century such treaties were signed not only by Moscow princes, but also with Tver, Ryazan and Pron' ones. With the completion of the processes of unification such practice disappears and from the beginning of the XVI century the

sovereign sovereign with the right to treaties with other subjects of public law, remains only the Tsar and Grand Duke.

One of the largest and most informative blocks of various documents is the Letters Patent. This type of document was a written act, which approved the granting of something, as well as various kinds of benefits and privileges. Initially, letters patent were issued by grand and feudal princes to spiritual and secular landowners, who enjoyed a number of privileges in the area of land tenure.

Considering these acts, M. F. Vladimirsky-Budanov in his "Review of the History of Russian Law" notes that, depending on the subject of the grant, the concept of "letters patent" can be understood as three completely different types of documents. The first type is represented by letters patent in the narrow sense, i.e. deeds of gift on property from the state to private persons; they contain a grant of real estate, lands and trades, or strengthen transactions on real estate between private persons, equally between these latter and the prince [3, p. 256]. This type of letters is essentially a private norm and does not carry much importance in the history of legal sources. The second type of this document Vladimirskiy-Budanov M.F. calls preferential letters patent or immunities. These are deeds containing exemption for the landowner from common burdens of court and tribute; in such documents the person receiving a patent is exempted from the court of local authorities (with submission to the court of prince) and persons living in his estate either completely submit to the court of their landowner or only partially (the latter much more often; usually the owner is awarded with court, except for committing plunder, robbery and theft with show of hands) [3, p.257]. The third type of letters rogatory may be called protective, reserve or edict. They assert a general legal norm in relation to a particular case and person. General rules are not established by these documents, but only confirmed and sanctioned by threats of punishment for their violation; it is assumed that the same rules already exist either on the basis of customary law or on the basis of a decree.

In addition, among the acts of secular authorities of the fifteenth and seventeenth centuries one should distinguish the charters. These are documents which determine the local administration of a particular area. It can be assumed that they speak of the duties of the ruler of a given territorial unit, but in fact this type of documents gives and establishes once and for all the rights of the inhabitants of that area, thereby limiting and setting certain limits to the ruler of that territory.

The first charter to the territories dates back to the second half of the 14th century and these were the charters of the provincial governments. The oldest and most important to researchers are the charter of Dvinsk (1397) and Belozersky charter (1488), the history of which "is associated with foreign policy activities of the Grand Duke of Moscow - issuing acts of necessity to keep and gradually integrate annexed lands into the Grand Duchy of Moscow. In a situation of financial and administrative weakness of the state of that time this policy seemed optimal. And in a similar way will take place conquest, annexation and incorporation into the Russian state of other territories [5, c. 169]. Only 17 copies of this type of charter letters relating to the end of the XIV - XVII centuries have been preserved. In addition, there are also gubnye and zemstvo charter lists. The criterion for this division of these types of acts is the addressee of these letters (the body of zemstvo self-government, the body of provincial self-government, the governor or volostel).

N.P. Zagoskin, having analysed and compared the content of various letters of commendation, singles out the following parts in the structure of these acts: "1) the introduction (indicating the reasons and reasons for issuing the act); 2) norms that regulated ways of in-kind and monetary support of officials and contained the basic principles of local government; 3) norms that established the amount of fees for the actions of officials; 4) norms that regulated certain aspects of public order and judicial procedures; 5) norms that introduced general principles of liability of officials for violation of the rules of the charter; 6) the requisites of the act" [4, p. 149].

In the XVI and the first half of the XVII centuries, a special type of charter lists were customs charter lists issued by order of Moscow Grand Dukes and Tsars in order to regulate customs duties. In the second half of the XVI century, in the Moscow State, customs service emerged as a separate kind of public activity. Along with that came the documents regulating the work of that service. Customs Charters proceeded directly from the sovereign, his deputies and orders and were addressed to governors, whose job was to collect customs duties on "faith", to voivodes, offenders and clerks.

The main source for the history of zemstvo councils are council acts or cases, i.e. minutes of their convocation, discussion of the issues raised, with (or without) a verdict at the end. The first surviving authentic document of that kind is the council act of 1566, containing the "opinions" of the "officials" about the continuation of the war with Poland. It does not have a special name (called simply a "charter"). In the XVII century a form for a council act was formed. In its full form it included the following sections: the decree about the convening of a council, the government's report (of the tsar or on his behalf - the clerk), the list of the class groups and the account of their speeches, the tsar's decree on the basis of the sobor charter. Thus, the researcher is presented with a complete picture of the activities of the council.

Thus, after examining the acts of secular authorities, it can be seen that the acts of secular authorities include international treaties, charters and statutes. These documents establish and regulate relations between the state and another state or between the ruler and certain estates and strata of society.

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