

DOI: 10.32703/2415-7422-2019-9-2(15)-225-232

UDC 001.347.629.4

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### **Legislative activities of the Kyiv Law society in the field of railway transport**

**Abstract.** *The research of the scientific heritage of the Kyiv Law Society, which worked at the Kyiv University of St. Vladimir in the second half of the XIX and early XX centuries, is of current relevance within the framework of civil society development in Ukraine. The variety of its scientific directions speaks of the tireless desire of the members of the Society to improve the national legislation, to solve a number of legal problems and to promote the development of legal science in the Ukrainian lands. This article investigates the problems in the field of railway transport to have been actively discussed at the meetings of the Kyiv Law Society. The main steps in the creation of a unified railway legislation in the Russian Empire in the second half of the XX century, which was mandatory for all railways in the country, are outlined. The role of the Commission for the Study of Railways in Russia of E. T. Baranov, which was created to study the state of railways in the country, has been considered. It is shown that the Commission consisted of leading scientists and public figures of the country – A. F. Koni, S. Yu. Vitte, A.A. Vendrykh, M.M. Annienkov and others. It has been stated that the main purpose of the Commission's activity was to collect the necessary materials from foreign and domestic railway and judicial practice, which could be studied as much as possible with the participation of representatives of science, trade, military affairs and industry, with the purpose of creating the General Statute of Railways of the Russian Empire, which became the first codified source of law precisely in the railway business. It has been shown how the KLS took part in this process. The speeches of individual scientists such as O. F. Kistiakivskyi, D. I. Pikhno, M. Ye. Krainskyi, A. H. Dolzhanskyi, O. F. Kvachevskyi who spoke on the problems of railway jurisprudence, put forward their proposals, discussed the possibilities of appropriate changes in the development of the railway industry and held discussions at the meetings of the Society have been analyzed. In addition, the history on the creation of the General Statute of Railways, its content and significance for the railway business in the Russian Empire, which became the first step in the formation of a unified legal field on the entire network of national railways, have been revealed.*

**Keywords:** *Kyiv Law Society; railways; the legal component of rail transport; the Uniformed Statute of Russian railways*



## **Introduction**

The active development of capitalism in the Russian Empire in the second half of the XIX century led to the rapid expansion of the rail network throughout the country, which was built by both the state and private companies, but mainly with state borrowing. Every year, new railways were created, each operating under its own rules. All this led to the fact that in the mid-70's of the XIX century there was an urgent need to create a unified country-wide railway legislation that would set uniform legal rules for the operation of railway transport (Murav'eva, 2017).

The Kyiv Law Society (hereinafter referred to as KLS), which was established in 1876 at St. Vladimir's University of Kyiv, has repeatedly engaged in law-making in the course of its activity, since its ranks included leading legal scholars, representatives of judicial institutions, well-known lawyers, judges, jurists who created a stable center of Ukrainian legal thought in Kyiv in the second half of the nineteenth century.

## **Methods of research**

In this scientific study, the methodological basis of the study is the historical method of research, based on the study of the emergence, formation, and development of objects in chronological sequence, which achieves an in-depth understanding of the essence of the problem. In addition, a chronological method was used, which provides for the presentation of historical material in chronological order at all stages of the development of a historical phenomenon, the methods of bibliographic and source analysis used in the search, systematization, and processing of primary information. The principles of historical validity, objectivity, consistency, and complexity have also been applied (Pylypchuk, 2019).

## **Results and discussions**

In April 1876, the Government of the Russian Empire initiated the issue on the state of the railroad in the country. For this purpose, the Commission for the Study of Railways in Russia was set up under the chairmanship of Count Eduard Baranov, which included leading scientists and political figures of the time. This is a well-known lawyer, public official and court speaker, a member of Kyiv Law Society A. F. Koni, and future Minister of Railways S. Yu. Vitte, and a military engineer, a member of the main Railway Inspection A. A. Vendrykh, and the Chief Clerk of the Commission M. M. Annienkov who later built the Trans-Caspian Railway (Guansyan, 2016).

The Commission appealed to the law firms of the country, including the KLS, to collect the necessary materials on foreign and domestic railway and judicial practice, which could be maximally studied with the participation of representatives of science, trade, military affairs, and industry. And also it asked to present a number of problematic issues in the railway business, which at the time did not have a solution.

This issue was initiated in order to improve the national legislation, namely the introduction of separate rules for regulating legal relations in rail transport.

The chairman of KLS professor O. F. Kistiakivskyi suggested to the members of the Society to accept this proposal and take up the solution of this case. At the meetings of the KLS, many issues were discussed on this problem. Some of these have been described in detail in the Company's minutes. For example, at the meeting of September 15, 1879, A. F. Kistiakivsky made several provisions that he believed required consideration for the introduction of common rules and railway legislation.

First, he proposed to introduce a rule that the holder of a 14-day coupon ticket would be entitled to interrupt and resume, during that time, their journey at any station on the travel line of a train.

It turns out that in the second half of the XIX century there were 14-day coupon tickets, and the passenger was allowed to leave at any station that was included in the coupon book during that time. The problem was that the passenger could not get off at any station, but only on the main ones included in the coupon book. And this was a problem for passengers, because in the second half of the XIX century routes were not as developed as they are now, and every kilometer for the passenger was a big problem. If the passenger was traveling from Kyiv to St. Petersburg, the coupon book contained the stations Nizhyn, Konotop, Vorozhba, etc. And the passenger could not go to Brovary to visit his relatives, he had to go to Nizhyn and then to get to Brovary by himself. The scientist thought that it was very inconvenient for the passengers and suggested to introduce the rule.

Secondly, Oleksandr Fedorovich offered to introduce roundtrip tickets. The scientist noted that it was practiced all over the world between 2-3 stations, between which they traveled back and forth for 2–3 days. In the early 80's of the XIX century, it was very important for trips to the suburbs, where the people went to have a rest on weekends, holidays and spring and summer days. The scientist believed that such a ticket would be a real gift for the public who cherished every minute of their vacation.

Thirdly, O. F. Kistiakivsky stressed the need to introduce reduced fares for members of scientific congresses and business trips. In particular, he noted that the government recognized the validity of these petitions, while the railway companies with special understanding gave the right of free access to the railroad to judicial investigators, magistrates, police officers, and no longer to the scientists who deserved it more.

*«The basis for such a decline was to recognize the great cultural power of science to the people, the science that invented railroads, telegraphs, and electric lighting, and made great discoveries in the field of improving society.*

*Thus, because the maintenance of the cultural importance of science is a permanent, normal duty of any state if it wants to be cultured, it would be desirable to establish a mandatory rule once and for all for railway societies to impose a fare for members of congresses, conventions and scientific business trips to the*

*destination»* (Protokol zasedaniya № 9 Kievskogo yuridicheskogo obshchestva ot 15 sentyabrya 1879 g., 1880).

The same concerned the cost of tickets to all-Russian industrial and technical exhibitions for working-class people who were entitled to such a trip by official institutions.

Fourth, O. F. Kistiakivskiy proposed the introduction of so-called long-term county tickets, which were also actively practiced in foreign countries and allowed a large number of the population to travel long distances. Moreover, the cost of such tickets was significantly lower than the cost of tickets for individual distances of a given trip. The scientist believed that active trips of the population to remote regions of the country could significantly increase the economic and cultural status of the country.

Of all the proposals of O. F. Kistiakivskiy, a discussion was only caused by the first. Most colleagues of the scientist believed that this situation was not problematic, it was only necessary to add in the coupon book additional pages for all intermediate stations, as Professor V. H. Demchenko thought, or to leave additional wagons at the stations just in case, as A. G. Dolzhansky noted.

Professor D. I. Pikhno drew the attention of those present that this proposal could cause technical and economic problems. In particular, he noted that each train was assigned an appropriate number of wagons according to the number of passengers. In the event of a sudden increase in the number of passengers, an extra wagon would have to be hitched, which could only be done at large stations. The small stations could only issue as many tickets as there were seats, which could make it difficult for anyone who travels. M. Ye. Krainskiy noted to this that there were few passengers on direct tickets, so the technical side of this proposal could not be a problem (F-rg, 1879).

There were also pathetic statements of those present who clearly did not understand the peculiarities of the railway business. For example, A. T. Dolzhanskiy noted that railways exist for society, so the convenience of the public should be above technical difficulties. If there are direct tickets that entitle them to leave at any intermediate station, then the technical difficulties of the railway could not violate the rights of passengers.

D. I. Pikhno responded that railways could not be regarded as a private institution only because the treasury was interested in their work, which guaranteed the railways a proper profit. Therefore, it was impossible to afford unnecessary expenses without affecting the treasury. Extra carriages would have a corresponding cost because passenger traffic was always very uneven.

O. A. Kvachevskiy noted that Dmitry Ivanovich's objections had a special character that could not be ignored because it was of general importance in relation to all railway issues. When a passenger claimed any violated right, the railway department as a rule stated inconvenience or disadvantage of the passenger's requirements for control, not taking into account the right. It is obvious that the point

of view was not the answer to the question, after all, the question of law can only be answered legally.

Thus, the remark of Kistiakivsky had a purely legal basis, while D. I. Pikhno responded not to the denial of the passenger's right, but to the reasoning of the technical disadvantage of exercising that right for the railways.

The right, according to the scientist, can not be perceived through the prism of the benefits of the person who has to exercise this right. But there is a system and, in this case, the implementation of the right is not possible without taking into account the technical side of the case, because whatever rights are not given to the population, they will not be able to be realized if the technological process of transportation by rail.

M. Ye. Krainskyi noted that those small operating surcharges offered by Oleksandr Fedorovich had been negligible compared to the amounts that disappeared on the railways under the guise of operating costs. And that it is sufficient to establish strict control over the railway industry in order to obtain the necessary savings in operation, which would give passengers the necessary facilities during transportation.

As a result of the discussion, O. F. Kistiakovskiy noted that the number of passengers interrupting and resuming their journey was very small, so it could not significantly affect the technical side of transportation (Protokol zasedaniya № 9 Kievskogo yuridicheskogo obshchestva ot 15 sentyabrya 1879 g., 1880).

The Commission had worked for 4 years. As a result, it was determined that the work of domestic railways was unsatisfactory and the money spent on its construction did not justify itself. This was primarily due to the fact that some railways were constructed without economic consideration, with poor bandwidth and poor maintenance.

The Commission determined that the lack of single railway legislation was the main reason for this situation. This is how the idea of creating a Statute of the Russian Railways was born, which was perceived negatively in the Ministry of Railways. Officials chaired by Minister of Transport K. M. Posiet in any way hindered the creation of the Statute because they feared to expose their abuses and troubles. But it did not work (Gross, 2011).

The first general statute of the Russian railways was signed by Emperor Alexander III on June 12, 1885. From that moment on, the railways of the country introduced a direct non-overloading route which, of course, significantly accelerated the movement of carriages. The statute consisted of three sections: «Section on the Carriage of Passengers and Cargoes by Railways», «Section on Rules on Jurisdiction and Limitation of Railway Claims on the Procedure for Enforcement of Decisions on Railway Claims» and «Section on Police Railway Rules», also it regulated the activity of the transport administration, transportation of people and goods. In this regard, the Ministry of Railways established special bodies for the operational regulation and management of operational work, which was an important step in the process of improving the national railways. As well, the Council on Railway affairs was established under the Ministry, which became its advisory body and supervised

the work of various institutions for the construction, maintenance, and operation of railways of various forms of ownership.

The General Statute of the Russian Railways became the first codified source of law in the railway business. It was a legal act binding on all railways of the country, which was the first step in forming a single legal field on the entire network of domestic railways (Klimov, 2017).

### Conclusion

Thus, in the activity of railway transport in the Russian Empire, through the legal companies of the country, in particular KLS, state regulation and control was established, which was reflected in the work of the railway administration. This document became the basis for further legislation on the subject, in particular for the General Statute of the USSR Railways (1920). It should be noted that the main paragraphs of this statute are still in use in the railway industry and are the main source of the current statute of the Ukrainian railways.

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### **Правотворча діяльність Київського юридичного товариства в галузі залізничного транспорту**

***Анотація.** Дослідження наукової спадщини Київського юридичного товариства, яке працювало в Київському університеті Св. Володимира у другій половині XIX – на початку XX ст., на сьогодні носить актуальний характер в рамках розвитку громадянського суспільства в Україні. Різноманітність його наукових напрямків говорить про невтомне бажання членів Товариства вдосконалити вітчизняне законодавство, вирішити низку юридичних проблем і сприяти розвитку юридичної науки на українських землях. У даній статті досліджено, які проблеми в галузі залізничного транспорту активно розглядалися на засіданнях Київського юридичного товариства. Висвітлено основні кроки у створенні єдиного залізничного законодавства в Російській імперії в другій половині XIX ст., яке було обов'язковим до виконання усіма залізницями країни. Розглянуто роль Комісії з вивчення залізничної справи в Росії Е. Т. Баранова, яку було створено з метою вивчення питання про стан залізничної справи в країні. Показано, що до складу Комісії входили провідні вчені і громадські діячі країни – А. Ф. Коні, С.Ю. Вітте, А.А. Вендрих, М.М. Анненков та інші. Зазначено, що основною метою діяльності Комісії було зібрання необхідних матеріалів з іноземної і вітчизняної залізничної і судової практики, які можна було б максимально вивчити за участі представників науки, торгівлі, військової справи і промисловості з метою створення Загального статуту залізниць Російської імперії, який став першим кодифікованим джерелом права саме у залізничній справі. Відображено, як КЮТ приймало участь у даному процесі. Проаналізовано виступи окремих вчених на засіданнях Товариства – О. Ф. Кістяківського, Д. І. Піхна, М. Є. Країнського, А. Г. Должанського, О. Ф. Квачевського з проблем залізничної судової практики, в яких вони вносили свої пропозиції, обговорювали можливості відповідних змін у у рамках розвитку залізничної галузі і вели дискусії. Крім того, розкрито історію створення Загального статуту залізниць, його зміст і значення для залізничної справи Російської імперії, що стало першим кроком у формуванні єдиного правового поля на усій мережі вітчизняних залізниць.*

***Ключові слова:** Київське юридичне товариство; залізниці; юридична компонента залізничного транспорту; Загальний статут російських залізниць*

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## **Правотворческая деятельность Киевского юридического общества в области железнодорожного транспорта**

*Аннотация.* Исследование научного наследия Киевского юридического общества, которое работало в Киевском университете Св. Владимира во второй половине XIX - начале XX в., сегодня носит актуальный характер в рамках развития гражданского общества в Украине. Разнообразие его научных направлений говорит о неустойчивом желании членов Общества усовершенствовать отечественное законодательство, решить ряд юридических проблем и способствовать развитию юридической науки на украинских землях. В данной статье исследованы проблемы в области железнодорожного транспорта, которые активно рассматривались на заседаниях Киевского юридического общества. Освещены основные шаги в создании единого железнодорожного законодательства в Российской империи во второй половине XIX в., которое было обязательным к исполнению всеми железными дорогами страны. Рассмотрена роль Комиссии по изучению железнодорожного дела в России Е. Т. Баранова, которая была создана с целью изучения вопроса о состоянии железнодорожного дела в стране. Показано, что в состав Комиссии входили ведущие ученые и общественные деятели страны - А. Ф. Кони, С. Ю. Витте, А. А. Вендрих, М. М. Анненков и другие. Указано, что основной целью деятельности Комиссии был сбор необходимых материалов по иностранной и отечественной железнодорожной и судебной практике, которые можно было бы максимально изучить с участием представителей науки, торговли, военного дела и промышленности с целью создания общего устава железных дорог Российской империи, который стал первым кодифицированным источником права именно в железнодорожном деле. Запечатлено, как КЮО принимало участие в данном процессе. Проанализированы выступления отдельных ученых на заседаниях Общества - А. Ф. Кистяковского, Д. И. Пихно, М. Е. Краинского, А. Г. Должанского, А. Ф. Квачевского по проблемам железнодорожной судебной практики, в которых они вносили свои предложения, обсуждали возможности соответствующих изменений в рамках развития железнодорожной отрасли и вели дискуссии. Кроме того, раскрыта история создания Общего устава железных дорог, его содержание и значение для железнодорожного дела Российской империи, что стало первым шагом в формировании единого правового поля по всей сети российских железных дорог.

**Ключевые слова:** Киевское юридическое общество; железные дороги; юридическая компонента железнодорожного транспорта; Общий устав российских железных дорог

Received 20.10.2019

Received in revised form 01.11.2019

Accepted 5.11.2019