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**THE STATE CREDITE ON UKRAINIAN LANDS
AT THE END OF XVIII — AT THE BEGINNING OF XX CENTURIES:
THE HISTORY AND LEGAL CHARACTERISTICS**

Abstract. The article deals with the historical and legal analysis of the formation and development of the state credit system in the Ukrainian lands. The article outlines the conditions and circumstances under which the organizational and legal foundations of the credit activity of banking and other state institutions were formed. During the incorporation of Ukraine into the Russian Empire, the elimination of Ukrainian statehood, and the encroachment upon the very cultural and national identity of the Ukrainians, the system of state credit actually did not exist. The attempts to create banking institutions were unsuccessful because there was neither any market formed nor money and securities in the feudal serfdom empire.

The changes only took place in the course of capitalist modernization in the second half of the nineteenth century. The abolition of serfdom made available a large number of workers and the legislator faced the urgent task of creating legal foundations for the development of the credit market. The main reform was the creation of the State Bank in 1860, which, in addition to regulating money market, emission activities, made long-term loans. It was guided by the statutory statute, other regulatory legal acts. In order to promote the credit in the sphere of agriculture, in particular mortgage, the Peasant Land Bank and the State Noble Land Bank were established, which got advantages together with privately owned entities. The offices, branches and agencies of the State Bank and the branches of State Land Banks were directly active in Ukrainian provinces Their activity (and, accordingly, its legal regulation) was under the influence of the specific features of Ukraine's financial and economic development, namely, a much more higher pace of industrial and agricultural development than in other regions of the Russian empire. But the insufficient development of long-term crediing in Ukraine had the negative impact on that development.

Keywords: financial system of the Hetmanate, legal regulation of credit, offices of the State Bank, branches of the State Noble Land Bank, branches of the Peasant Land Bank, legal basis of financial reforms.

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ДЕРЖАВНИЙ КРЕДИТ НА ТЕРЕНАХ УКРАЇНИ НАПРИКІНЦІ XVIII — НА ПОЧАТКУ XX СТОЛІТЬ: ІСТОРИКО-ПРАВОВА ХАРАКТЕРИСТИКА

Анотація. Здійснено історико-правовий аналіз становлення і розвитку системи державного кредиту на українських землях. Окреслено умови і обставини, за яких формувалися організаційно-правові засади кредитної діяльності банківських та інших установ держави. У період інкорпорації України Російською імперією, ліквідації української державності та наступу на саму культурно-національну ідентичність українців системи державного кредиту фактично не існувало. Спроби створити банківські установи були невдалими, оскільки у феодально-кріпосницькій імперії не існувало скільки-небудь сформованого ринку, у тому числі грошей та цінних паперів.

Зміни настали лише у ході капіталістичної модернізації у другій половині XIX століття. Скасування кріпосного права вивільнило велику кількість робочих рук і перед законодавцем постало нагальне завдання створити правові основи розвитку кредитного ринку. Основною реформою стало створення 1860 року Державного банку, який поряд із регулюванням грошового ринку, емісійною діяльністю надавав довготермінові кредити. Він керувався законодавчо затвердженим статутом, іншими нормативно-правовими актами. Для активізації кредиту у сфері сільського господарства, зокрема іпотечного, були започатковані Селянський поземельний банк і Державний дворянський земельний банк, що отримали переваги поряд із суб'єктами приватної форми власності. Безпосередня діяльність в українських губерніях здійснювалася конторами, відділеннями і агентствами Державного банку та відділеннями державних земельних банків. На їхню діяльність (і відповідно її правове регулювання) особливий вплив мала специфіка фінансового та економічного розвитку України, а саме — значно вищі порівняно з іншими регіонами Російської імперії темпи розвитку промисловості й сільського господарства. Негативно відображався на цьому розвитку недостатній розвиток довготермінового кредиту на українських землях.

Ключові слова: фінансова система Гетьманщини, правове регулювання кредиту, контори Державного банку, відділення Державного дворянського земельного банку, відділення Селянського поземельного банку, правові засади фінансових реформ.

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ГОСУДАРСТВЕННЫЙ КРЕДИТ НА ЗЕМЛЯХ УКРАИНЫ В КОНЦЕ XVIII — В НАЧАЛЕ XX ВЕКОВ: ИСТОРИКО-ПРАВОВАЯ ХАРАКТЕРИСТИКА

Аннотация. Осуществлен историко-правовой анализ становления и развития системы государственного кредита на украинских землях. Очерчены условия и обстоятельства, при которых формировались организационно-правовые основы кредитной деятельности банковских и иных учреждений государства.

Отмена крепостного права высвободила большое количество рабочих рук и перед законодателем возник вопрос создания правовых основ развития кредитного рынка. Важным фактором здесь стало создание во второй половине XIX века Государственного банка, Крестьянского поземельного банка и Государственного дворянского земельного банка. Непосредственная деятельность в украинских губерниях осуществлялась конторами, отделениями и агентствами Государственного банка и отделениями государственных земельных банков.

Ключевые слова: финансовая система Гетманщины, правовое регулирование кредита, конторы Государственного банка, отделения Государственного дворянского земельного банка, отделения Крестьянского поземельного банка, правовые основания финансовых реформ.

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Introduction. The problems of economic development and establishment of the effective system of public finances and its legal regulation have been urgent for Ukraine for 28 years of its independence. The issues of filling the state budget, its timely setting and rational use, the efficiency of the taxation system are at the heart of not only scientific discussions but also the political struggle, remaining a factor of the success of the domestic economy and its social orientation. The task of forming effective investment and credit markets, creating the banking system, capable of stimulating and filling the economy with capital, is of a particular importance. As social practice shows, the adoption of foreign techniques and the methods of social and economic activity can be effective, provided that one takes into account the ethnological, psychological, civilizational features of each country, which have evolved in the course of its historical development. The end of the XIXth and the beginning of the XXth century in both the Russian and Austro-Hungarian empires, between which Ukraine's lands were portioned out, passed under the slogan of market modernization of economy, finances, and economic life as a whole. At that time in the Central Ukraine there were the processes which were typologically similar to those ones that then took place in the post-Soviet times.

Research analysis and setting tasks. The problems of organizational and legal foundations of credit institutions in the territory of Ukraine repeatedly came in view of domestic scientists. The presence of Ukraine in the empires (Austro-Hungarian and Russian) caused the need in the analysis of the legal regulation of state credit under their legislation, as well as the study of the organizational and legal support of the relevant state institutions. In pre-revolutionary legal historiography, certain aspects of the development of banking were explored in the popular and well represented work by D. Tolstoy [1], in the monographs by I. Blioch [2], M. Friedman [3], I. Taburno [4], and V. Sudeikin [5], P. Migulin [6; 7]. Special focus should be made on V. Barvinsky's exploration of the Hetmanate's finances [8]. The Marxist-class approach towards the problem of the history of state crediting was used by Soviet scholars and O. Pogrebinsky [9; 10], I. Hindin [11; 12, etc.], S. Borovy [13], V. Vdovin [14]. Historical and legal studies, dealing with the organizational and legal ensurance of the public credit institutions' activity, have become more active in independent Ukraine. The institutional aspect of the problem was considered in the writings of one of the authors of this study (O. Golovko) [15; 16], a long-term land loan was studied in V. Kirichenko's research [17]. Nevertheless, a general historical and legal analysis of the legal regulation of the state credit in the territory of Ukraine has not been created so far by the modern national science of the history of the state and law. So, study of the most general tendencies of this process is the task of this article.

Research results. In the eighteenth century, Ukraine lived in the difficult conditions of constant imperial pressure, processes of incorporation that put at risk its very existence. Most of its

territory was under the political, legal and military influence of the Russian Empire, which constantly pursued an offensive on the Ukrainian autonomy. One of the most important areas of focus of the imperial annexation offensive was the Hetmanate's finances. The government of the Hetmanate latently but pertinaciously opposed the Russian czarist regime's assault on the autonomy of its financial system as the material basis of the Ukrainian statehood. «Under a strict supervision of the Board of Foreign Affairs, the Hetmanate still managed to maintain a separate financial system,» argued S. Kohut [18, p. 55]. One should also agree with V. Gorobets that «... during the financial reform in Ukraine the Russian administration succeeded not only in attracting the finances of the Hetmanate to the general imperial treasury, but also in making important structural changes in this important sphere of the state life» [19, p. 407]

The attempts to introduce state crediting through the formation of state-owned banking institutions were characteristic of the reforms of the Russian version of absolutism by mindless copying Western models without creating a proper regulatory and legal groundwork, taking into account local conditions. By the decree of May 13, 1754 the Noble Loan Bank and Merchant (Commercial) Bank were created with the purpose of the credit support of landlords and the top of the merchants [20]. On May 25, 1762, there was an attempt to set up the State Bank [21]. They, in fact, did not extend their operations to Ukraine and quickly declined in the conditions of serfdom and the absence of the market economy. In 1769, the first Assignment banks were established in St. Petersburg and Moscow (at the same time the Bank of Nobles and the Bank of Kupets were closed) [22]. While copying the experience of Western Europe, Catherine II merged Credit banks into one bank and on November 9, 1781 established its offices on the periphery, including Kiev, Kharkiv and Nizhyn. Again, no major operations were carried out, and for six and a half years, local offices were eliminated «because of their poor performance they were recognized as unnecessary...» [23]. However, although insignificant, but there was a need in local lending. Usury was not approved. As a result, the provincial guardship and wardship authorities, created as a result of the local government reform (which actually destroyed the autonomy of the Hetmanate) were given the right to accept demand deposits and to issue mortgages (for no longer than a year and from 500 to 1000 rubles each time) [24].

As for the issues of forming the legal basis for the credit business, the first half of the nineteenth century in the Russian empire was marked by the same inconsistency and desire to adopt Western experience. One reorganization was changed to another, centralization was replaced by decentralization and vice versa. Thus, on May 7, 1817, the State Commercial Bank was established [25]. Two of its 5 offices were located in the territory of modern Ukraine — in Odessa and Feodosia. This very location attests to the fact that commercial transactions and their credit security were considered by the legislator primarily in connection with maritime trade. The operations of the Odessa office had their own peculiarity related to the status of the city as a free trade zone — porto-franco. The threat of smuggling caused the situation when the legislator allowed to grant loans only on the security of Russian-made goods which were stored in the city. The Commercial Bank's offices made short-term loans — no longer than 6 for months. The list of goods which were to be accepted as pledge was regulated in detail.

The annexion of Right-Bank Ukraine by the Russian Empire, due to the partition of Poland, caused an active unification policy in the region. The Kyiv-based office of the Commercial Bank [26], which operated on the Right Bank area, was established on May 24, 1839. It was responsible for accepting deposits and making loans. In addition to industrial and agricultural products, real estate, securities could serve as collateral. This office, unlike other local institutions of the Bank, could lend for more than six months on the security of the settled mansions. The offices had the right to determine every three months the amount of interest and, and, with the further approval of the management, up to 6% per annum.

The lawmaker also took into consideration the Left Bank Ukraine. The office of the Commercial Bank was established on March 10, 1843 in Kharkiv [13, p. 219]. All the offices were guided by the bank's statutes and the «decrees» approved by the Emperor, that is, they were the legislative acts from the point of view of the legal theory and practice of the Russian Empire. The landlords obtain credits mainly in the guardian and wardship authorities and consumed («ate» them); the amounts of the collateral were striking. Thus, in Tavriya province, every third of the serfs was in pledge (38.8%), and in the neighboring Kherson province it was every second serf

(49.9%). The largest proportion was in Kharkiv and Chernihiv provinces (57.7% and 58.7% respectively) [13, p. 201—202]. The low legislative regulation technique of crediting became one of the factors behind the deep systemic financial crisis in the Russian Empire in the consequence of the Crimean War. The domestic debt as a result of non-productive lending the landlords amounted to a huge sum of 425 million rubles in terms of those days currency. [12, p. 479].

The basis of the modernization of the Ukrainian lands in the Russian Empire was the Peasant Reform of 1861. Making available a large number of workers after the abolition of serfdom and at the same time the need for industrial modernization of the economy required the creation of the money market. It was necessary to reform the sphere of finance [27, p. 177]. The most important was the task of crediting agriculture, which was to become productive and profitable.

The foundation of the State Bank under the decree of May 31, 1860 had to stabilize the financial system. At the same time, the basic legal act regulating its activity — «The Statute of the State Bank» [28] was approved. Its legal succession to the previous state-owned banks was determined. As a consequence, parallel accounting of pre-reform and post-reform loans was conducted. Making a long-term loan was for the first time included to the competence of the Bank. Thus, the State Bank, on the one hand, had to be an instrument of influence on state- and non-state-owned banks, and, on the other hand, it was their competitor in the credit market. The Bank's institutions at the local level were its offices. There were 7 of them in total, three of them were in Ukraine (Kyiv, Kharkiv, Odessa). The offices had considerable authorities and the branches of the State Bank, which were established in other centers of the provinces, conformed to it. The additional regulatory act, which, along with the Statute, governed the activities of its local institutions, was approved on January 3, 1862 by the «Statute of the State Bank's Offices» [29]. Finally, the unnatural lending activities of guardship and wardship authorities ceased. These cases were transferred under the jurisdiction of the provincial bodies of state finance management, namely treasury chambers, before the end of the respective terms. The competence of the departments was more limited compared to the offices, including the lending activity as well. In large cities that were not the centers of provinces, the State Bank's agencies emerged.

The first post-reform decades showed insufficient capacities and resources of the State Bank. The private credit sector developed slowly and could not meet the needs of the economy as well. The legislative acts of that time, which regulated the activities of private credit institutions, actually mandated those approaches and relationship that developed in the course of relevant economic processes. Private banking institutions granted a long-term credit, in particular to land, first of all to entrepreneurs, mainly, merchants. Such a class stratification action restricted the access to the credit market for the entrepreneurs from a non-noble estate. The Ukrainian landowners, concentrated in the local self-government bodies, initiated the creation of legal bases for crediting the peasants. On May 18, 1882, the regulations for the Peasant Land Bank were approved. [30] The Bank had, among other things, the functions of granting loans, controlling the receipt of mandatory payments for their servicing, and some other credit operations. At the same time, bureaucratic and centralizing tendencies showed themselves there as well: different utmost amounts of loans were set for certain areas of the empire. As a rule departments were usually set up at the offices and branches of the State Bank to work at the local levels. The social and political situation on the Right Bank (the desire to destroy Poland's influence) and the strong social and economic development of the Bank of the Leftbank Ukraine led to the establishing of its branches in all Ukrainian provinces during the first three years of the Peasant Bank's existence. In a department, a loan agreement was made: applications were submitted, the case of the borrower was formed (that is, a credit history, as it is called today, was investigated), they were provided with all the necessary information regarding the terms of a transaction. The procedure of granting loans was regulated in detail. The work of the Peasant Bank was triggered by a loan from the State Bank's funds. Both institutions were subordinate to the Minister of Finance of the Russian empire, that is, they were a bureaucratic structure. The consequence of this was the conclusion of unfavorable agreements by the peasants, the bureaucratic influence on the price formation, that is, administrative interference with private legal relations.

Shortly after arranging a mortgage for the peasants, the same idea occurred to the legislator regarding the landlords. The result was the establishment in June 3, 1885 the State Noble Land Bank and the approval of its Regulations [31]. The main purpose of its activity was making long-

term loans to the hereditary nobles — landowners on the collateral of their landed property. Thus, nobles in the first generation, in particular those, who acquired their nobility in accordance with the moving up the career ladder of the civil service, could not count on the preferential credit of the newly created Bank. The local institutions of the Noble Bank were departments. 6 of the first 11 departments were set up in Ukraine. In addition to Katerynoslavsk province, the Katerynoslavsk department served the Kherson province, and the Kyiv department served the Kyiv, Podolsk and Volyn provinces. In 1898, the Kishinev branch was reorganized into Odesa branch [32, p. 1—2]. Under the Article 14 of the Regulations, the branch was required to consider the application of the person who wished to obtain a loan, to assess their landed property, to provide relevant information for the Board of the bank to make effective decisions, and to find out the grounds for granting privileges.

The lack of highly qualified officials and specialists to work in the local branches of both land banks caused the Ministry of Finance to make an ineffective but forced decision on the possibility of holding concurrently positions in the branches of the Noble and Peasant banks at the local levels. And in the beginning of the twentieth century, when it was time for Stolypin's agrarian reform and the functions of both State Mortgage banks expanded significantly, only two of 26 local branches of the State Noble Land Bank and the Peasant Land Bank were completely separated, one of them was in Ukraine (Kyiv branch). There the autocracy, which tried to aggravate the antagonism between the Polish landowners and the Ukrainian peasantry on the Rightbank rebellious area of Ukraine, as it can be seen, paid particular attention to the need for the development of state crediting the peasant farms in particular.

Thus, it can be asserted that, under the circumstances when granting loans to the most enterprising peasants, who were capable of organizing productive and efficient agricultural production, was the most socially justified, cost effective, and profitable for the society and state, the autocracy, on the contrary, gave possible credit preferences to their former masters. And the similar situation was no exception in Eastern or Southern Europe at that time. At present it looks like a well-established historical fact that the Austro-Hungarian monarchy was more progressive than the Russian one; a higher degree of protection of the Western Ukrainian peasantry against the peasants of Central Ukraine. But in Austria-Hungary, a proper system of reliable agricultural crediting was not created by the legislator: «... the absence of the banking system for crediting the peasants made it possible... to provide loans to peasants at an overpriced interest rate against their future agricultural products...» [25, p. 213].

Thus, at the end of the nineteenth century, new circumstances of the State Bank's activity itself arose. On June 6, 1894, its new Statute was approved [33]. That Act defined the competence and legal principles of activity of both the Central and local institutions of the Bank. The powers of the State Bank's offices were extended and they became the centers of banking districts. The Kyiv district included the Kyiv office, the Chernihiv, Zhytomyr, and Kamyanets-Podilskyi divisions, that is, in addition to the three provinces, which belonged to the Kyiv, Podolsk and Volyn Governorate General, the Chernihiv province, which once belonged to the Leftbank area and used to be a member of the Little Russian Governorate General, also became the member of that district. The State Bank's Office in Odessa was the center of the district, which also included the Yelisavetgrad, Mykolaiv, Sevastopol, Kherson and Feodosia branches. Its power was also extended to the branch located in Kishinev. The Kharkov office was the center of the district, with offices in Katerynoslav, Kremenchug, Poltava, Romny, and also in Kursk. Two more branches (in Berdyansk and Yuzivka), despite the desire of their executives to submit to the Odessa office, were subjectivist and unjustifiably included in the Rostov district [34, p. 52—53]. The legislative innovation was the establishment of accounting committees, which were created at the offices and branches of the State Bank. In the course of the loan transaction, they performed expert and advisory functions. First of all, it was the assessment of the collateralized property and securities, as well as determining the recommended amount and term of crediting.

At the end of the nineteenth century the institutions of the State Bank of the Russian empire in Ukraine focused not so much on crediting, but on issuing and accounting. This was due, on the one hand, to the fact that the Bank was an important instrument for carrying out S. Witte's financial reform and, on the other hand, due to entering the credit market of the above-mentioned State Land Banks. Monetary reform and the introduction of the gold-exchange standard contributed

to the increase of lending activity of the State Bank's institutions. Thus, the Kyiv office increased its amount of credit transactions almost twice (from 2.6 to 4.8 million rubles per year) in only three post-reform years (1896—1898). At the same time, the experts in finance and financial law argued that it was lending that reduced the effectiveness of the State Bank. Among other banks of European states, the Central Bank of the Austro-Hungarian Empire, which operated in Western Ukraine, was hold up as an example [35, p. 6—8].

The beginning of the twentieth century became a real strength test for the State apparatus of the Russian Empire and its financial system, which, as it is known, it failed. The economic crisis of 1900—1903, the revolution of 1905—1907, and the First World War created the challenges that highlighted all the shortcomings of the credit system of imperial Russia. Given the industrial and agrarian development of Ukraine, these phenomena and processes notably manifested themselves there. Shortcomings in legal regulation led to mistakes and gaps in relevant social relations, in our case they were financial and economic ones. The credit and financial market lost its stability. For only 1905 and the first quarter of 1906 the volume of gold and forex reserves of the Russian empire decrease by 34.3%. During the same year, the state debt increased by almost 12%. The offices and branches of the State Bank were now required to place domestic governmental bonds as well as the State Treasury's short-term bonds [16, p. 348, 357]. The same tasks were set before the local branches of the State Noble Land Bank and the Peasant Land Bank. The legal and regulatory framework of these institutions also changed at the end of the nineteenth century. On November 27, 1895, the new version of the Statute of the Peasant Bank was approved. [36] It was the Peasant Land Bank that became the main instrument for conducting market reforms in agriculture, which in history were associated with P. Stolypin. He refused the status of a tool for the preservation of social relations that had developed in the economy after the Peasant Reform of 1861. Since 1906, the bank took centre stage in the Empire among mortgage institutions in terms of the amount of transactions, including credit ones [17, p. 362].

During the First World War, the lending activities of mortgage institutions underwent certain restrictions, regarding, for example, repeated loans for the same landed estates. At a time of war, the volume of mortgage operations decreased 3.5 times. The branches of the Peasant Land Bank received openly repressive functions — for example, regarding the liquidation of the property of the subjects of Germany, Austria-Hungary and other Central states [37, p. 7]. Neither Russian nor the Austro-Hungarian empires came out of the First World War. The unprecedented revolutionary processes, which became an integral part of the Ukrainian Revolution, began to seethe.

Conclusions. The provincial reform of the local government in the Russian Empire in 1775, which went after the abolition of the Hetman rule and government, was a significant factor in shaping the organizational and legal foundations of the emergence and development of public credit institutions. It had no Ukrainian national roots and was annexationist in its content, aimed at unifying and eliminating Ukrainian cultural, national and state legal identity. In the first half of the nineteenth century, the legislator did not define the clear regulation of credit activity, in the absence of a developed market, the preference given to short-term crediting did not contribute to the economic development of the serviced territories, and Ukraine in particular. As part of the Russian empire, Ukraine was the most developed region not only in terms of industry and agriculture, but also in terms of credit, financial and investment activities. During the period under investigation, the material, economic prerequisite of the demand and desire of the imperial political paradigm in Russia to retain Ukraine as its member (or at least in the orbit of its unconditional geopolitical influence) at any cost. History shows that this paradigm has proven to be extremely viable.

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