

the line was a governor at creating osadnystvva that had to become his mainstay in Volyn. However, among the local populations it caused the growth of national consciousness and national movement.

In the 20th the concept of “Poland for the Poles” became characteristic.

So, in the 1920-th Polish political circles continued the policy of national assimilation of the Ukrainians.

Shmarova T.O.,
Senior Instructor of General Theoretic and State and Law Sciences Department, Law Sciences Faculty, National University “Kyiv-Mohyla Academy”

LEGAL STATUS OF PROPERTY OF THE ORTHODOX CHURCH UNDER THE CODE OF LAWS OF THE RUSSIAN EMPIRE

The issue relating to the legal status of the property of the Orthodox Church is a specific subject of the present research. It has been recently especially actualized in the context of launching in Ukraine of the process of restitution of the ecclesiastical property nationalized by the Soviet authorities. Thus, the historical aspect thereof gains practical importance by enabling to determine the particular owner of the property as of the moment of its expropriation.

Despite certain legal incorrectness, we are operating the term “ecclesiastical property”, and it is attempted in the present article to define both its essence and components. The Church is not an entity subject to regulation by secular laws; on the contrary, its institutional construction depends on the requirements of canonical laws. Ecclesiastical property per se is being identified upon its belonging to the person, but in the present case such a person is a legal fiction in terms of law.

In the light of the above, there has been reached a compromise, whereby the ecclesiastical property is recognized under some Church institutions, owning legal personality but to some extent lacking procedural capacity. The above-mentioned Church institutions consist of bishop’s houses, monasteries and separate churches.

The article outlines the issue on the types of ecclesiastical property. It is considered that the church (represented by its separate institutions) can hold title over sacred items, goods either sanctified during the worship, or not sanctified. The author analyzes the particulars of legal regime of different types of ecclesiastical property, conditions and ground for acquisition thereof, termination of property rights of Church institutions over ecclesiastical property, validity of bequeathing of such property or its transfer to lease.

Upon termination of patriarchal governance, Peter I introduced synod-

al governance instead and as a result, the Holy Synod acquired the status of the state administrative authority. The above led to an assertion that ecclesiastical property deemed as a part of a state property. In the present article the author challenges such an assertion and makes a general conclusion on that the property was indeed owned by institutional entities of the Orthodox Church, but at the same time featured some specialties determined by the laws at the moment. For instance, acquisition of real estate by churches and monasteries

was not allowed without the consent of the Emperor, as well as any similar issues concerning the property of spiritual educational institutions had to be decided at the level of the Holy Synod.

In the course of preparation of the present article there were used the text of the Code of Laws of the Russian Empire (volume X), text of practical and theoretical commentaries thereto prepared by attorney-at-law A. E. Vorms and professor V. B. Yelyashkevych, educational and monographic literature on civil and canonical law.