

УДК 347.73

Key Tendencies in the Development of Financial Law and Teaching it in Russia

Elena Iu. Gracheva*

*Kutafin Moscow State Law University
9 Sadovaia-Kudrtinskaia Str., Moscow, 125993, Russia*

Received 12.07.2015, received in revised form 09.08.2015, accepted 21.09.2015

The article views the issue of the formation of financial law as a science and a branch of law in Russia. It describes the main stages and regularities of its development, analyses its subject, specificity of the legal regulation method, thus proving its autonomous nature. The article also focuses on the analysis of key works on financial law by the Russian scholars of the 18th-19th centuries, as well as of the first textbooks on financial law which was a core subject at the University law faculties at that time. The article considers key monographs on financial law in the 20th century and the main aims of the study of financial and tax law in the constitutional state and at the present stage of legal education reforming in our country.

Keywords: financial law, history of financial law, teaching financial law in the 19-21 centuries in Russia, basic scholar schools in the 19 century, goals and objectives of financial law at the present stage.

DOI: 10.17516/1997-1370-2015-8-10-2018-2032.

Research area: law.

1. Introduction

Modern transformations of the education system, including adoption of new federal state educational standards of higher professional education in law, seriously aim at fundamental changes in teaching legal disciplines, financial law being one of them. These standards envisage the aims of the formation of a many-sided personality with a range of modern fundamental legal knowledge and professional competencies under the conditions of constitutional law and society, the aims forming the necessary base for further development of a legal support of Russia's innovative development. This

indicates an increased role of law in modern society, its purpose and social value as a regulator of social relations. This mission can be realized only if it contributes to the solution of problems the society face at the present stage of its development. In this context there arise the issues of the objectives and role of law (and financial law, in particular) in their implementation.

The answers are impossible without the analysis of the formation of financial law as a science in Russia, as well as of the main stages and regularities of its development since it is the historical approach that leads to revealing the

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* Corresponding author E-mail address: kfpb@msal.ru, gracheva@msal.ru

background and roots of current achievements and challenges.

2. Subject, goals and objectives of financial law as a science and a branch of law

The subject of financial law as a science is the study of the branch of financial law, the subject of the latter being social relations developed in the process of formation, distribution, redistribution, and use of centralized and decentralized monetary funds by the state and municipal units, as well as by the subjects authorized to achieve social goals and objectives the society faces.

Considering the abovementioned sphere of social relations, the science of financial law analyzes and studies not only the legal norms, regulating financial public relations in order to achieve the goals and objectives set, but also their system, sources, and financial legal relations, resulting from the impact of financial and legal regulations on the sphere of financial activity.

Science should provide answers to the questions about possible strengthening or weakening of legal impact on financial activity. Another important objective of science is to form the citizens' legal awareness, conforming to the level of market economy, for their financial education, understanding of peculiar features of taxation, functioning of the budgetary, banking and other institutions of the financial system as well as nurturing the need to observe financial law as a fundamental term to observe law and order in society.

Science objectives are achieved by such methods of research as the comparative and historical approaches which make it possible to reveal the tendencies in the formation and development of various social processes and the reaction of the state to their legal regulation. The problems that emerge in the society are not clear without understanding the lessons of the

past, basing on the conclusions formulated by the science in the 19th and 20th centuries.

It is possible to single out several stages in the history of financial law formation and development.

As financial law had long developed within the scope of the science of finance it is worth while giving a brief outlook at the main directions of its development.

Regardless of the records of finance in the Law of the Twelve Tables, the Code of Hammurabi, *Russkaya Pravda* (Russian Justice), Magna Carta, Thomas Aquinas' ethics the science of finance is generally recognized to come into being simultaneously with political economy in the XV century in the cities of Northern Italy, facing economic and cultural growth at that time. Those years were marked with the works by J. Bodin, Th. Hobbes, J. Locke, F. Justi, J.F. von Sonnenfels, et al. In 1766 F. Justi published his first methodical work "The system of financial management", in which he states the main provisions of financial science. According to I.I. Yanzhul, F. Justi is the father of financial science. In 1768 J.F. von Sonnenfels, the Minister of Finance in Austria, published his work "Grundsätze der Polizei, Handlung und Finanzwissenschaft" ("Basic principles of the police, trade and finance"). It was published in most European countries. In Russia it was repeatedly reprinted. L. Montesquieu's, J.J. Rousseau's, I. Kant's and, especially, A. Smith's and D. Ricardo's works significantly influenced the development of financial science.

3. Key stages of financial law development in Russia.

Development of political economy in the XVIII century was the basis for its recognition within the frame of financial science in the XIX century and further development by the scholars. Thus, K.H. Rau's book "Basic principles of financial science" was reprinted six times in

Russia. The textbook's structure, containing general principles of financial science, state expenditure, state revenue, public credit, budget, financial management organization, was based on in financial science of other European countries, including Russia. "Transition from absolutism to constitutional management, connected with consideration and approval of budget by the people's representatives, resulted in the need for the budgetary law development. Budget, financial management and control ... have turned into important integral parts of financial theory" (Pushkareva 2005, p. 14-15).

A. Wagner, E. Sachs, K. Menger, F. Niti, L. Koss, A. Pigou, K. Marx, K.T. Aeberg were among European scholars who developed financial science in the XIX century.

Financial science in Russia at the turn of the XIX – XX centuries developed at the European level. Its recommendations were taken into account not only in state policy till the October revolution but up to the 30-ies of the XX century.

Professor L.V. Khodskii gave a very detailed description of Russian financial science of the late XIX – early XX centuries: "As for the history of financial science in Russia, it cannot boast of its richness and originality. However, already in the beginning of the XIX century there appeared the treatise on financial science that deserved special attention. It was N. Turgenev's "Experience of the theory of taxation" (1818). Professor I. Gorlov's "Theory of finance" appeared in the 40-s (1841). Professor V.A. Lebedev's "Financial law" appeared in the 80-s (1882-1885). This work is the most extensive and detailed statement of financial law in the Russian language. Among modern University lecturers on financial science in Russia Academician I. I. Yanzhul and Professor I.Kh. Ozerov were the most famous ones. Professor P.P. Migulin enriched financial literature with his irreplaceable major work devoted to the

Russian public credit (P.P. Migulin "Russian public credit"). AA. Isaev also has papers on finance among his numerous works ("Essays on tax theory and policy" and "Our finances and income tax"). N. Iasnopolskii, a Professor from Kiev, is also worth mentioning ("On geographical distribution of state revenue and expenditures in Russia in 1890-1897").

N.Kh. Bunge, Professor of Kiev University, the Minister of Finance and Finance Committee Chairman, is still remembered in the history of Russian finances. He was a scholar who got promoted to the field of financial management and legislation. M.M. Alekseenko, Professor of Kharkov University, became prominently famous as the Chairman of the budget Committee of the established State Duma. The last 10-15 years of the Russian financial literature are marked with valuable works by many young scholars. These special academic works are devoted to the issues of financial management in foreign states. P. Haensel, M. Friedman, V. Tverdokhlebov, and M.A. Kurchinskii are among such scholars. M. Bogolepov and L.N. Yasnopolskii are worth being mentioned among the representatives of new financial Russian literature.

It should be also noted that recent revival in the field of financial science is largely caused by the change in the political system of Russia and involvement of the elected representatives of the population in financial and economic construction" (Khodskii 1913, p. 16-17).

Financial education was given the most serious attention in Russia. There was an appropriate course at the universities. Insufficient understanding and knowledge of the processes in financial sphere have the most negative and sometimes catastrophic impact on the whole society. The importance of financial education was dwelt upon by Professor I.I. Yanzhul: "... knowledge of financial science is everyday

absolute necessity for every educated person” (Yanzhul 1904, p. 2).

At the same time financial science began to emerge in the XVIII century. It set up on its own from such area of research as cameralistics, embracing the knowledge of controlling the “camera”, i.e. private property of the state. The works by Sonnenfels, a German scholar, were among the most significant ones in the field of cameralistics. They were repeatedly reprinted in Russia. The author wrote in one of his works: “... The science of state revenue shows how this revenue must be collected and controlled” (Sonnenfels 1787, p. 19).

Cameralistics was taught at some Russian universities (St. Petersburg, Kazan, Kharkov) at the departments of cameralistics of law faculties, which existed till 1863. Its objective was specialists’ training in economic and administrative areas.

Evolving from cameralistics, financial science in Russia took its prominent place in the system of sciences on “state improvement”. Russian financial science was formed under the influence of Western scientific views on the nature of finances, need for their legal regulation and use by the state authorities to achieve their goals and objectives. The works by A. Smith, D. Ricardo and other European researchers were of the greatest impact. Yet, the Russian science of the XVIII – XIX centuries is characterized by an active development of the theory of taxation, money, credit, public debt, public finances, etc. The most notable works that greatly influenced further development of the Russian financial science are those by I.T. Pososhkov (“The book on poverty and wealth” (Pososhkov 1937))¹, V.N. Tatishchev (“Brief Russian geography” (Tatishchev 1950)), A.Ia. Polenov (“On villainage of peasants in Russia” in which the term “tax” was first mentioned) (Izbrannye proizvedeniia... 1952). I.A. Tret’iakov’s work “Selected works

by Russian thinkers of the second half of the XVIII century” (Tret’iakov 1952, p. 8) is also worth mentioning. It was published four years prior the publications of A. Smith’s fundamental work “The wealth of nations” (1776). The ideas about the significance of finances in society were developed by S.V. Desnitsky, A.N. Radishchev, P.I. Shuvalov, P.I. Yaguzhinsky.

The conclusion that financial law in our country “originated in the bowels of economic and political science” should be agreed with (Kozyrin 1998, p. 10). Classifying sciences, V.N. Tatishchev distinguished domestic science, an economic science of private finances, and politics, “a state science”. He referred the issues related to public finances to political science, thus mentioning it in his note to the Senate “On wisdom of economy as a political part” (Tatishchev 1950, p. 202).

Making the curriculum of Moscow University, M.V. Lomonosov envisaged the study of politics and Russian legislation to consider financial issues. Financial science was taught in Tsarskoye Selo Lyceum (Lomonosov 1948, p. 173).

The ideas of mercantilism influenced the development of financial science. As the concept of commerce implied such issues as duties, taxes, management of industrial enterprise, etc., financial issues had been long studied in the course of the science of commerce. Analysis of the development of trade in its connection with strengthening of the state economy and public welfare as well as with the political reforms in Russia was typical for that time. N.I. Novikov, a Russian educator, made a conclusion about direct relation between commerce and liberty: “The impact of trade in the state is mainly in 1) making credit, 2) money circulation, 3) relative wealth, 4) augmenting the prosperity of diligence, 5) state savings, 6) luxury, 7) moral education of people... 10) freedom (Novikov

1951, p. 535). A.N. Kozyrin's conclusion about a close connection of science with free-thinking that was "a characteristic feature of financial and legal thought formation in Russia" should be agreed with (Kozyrin 1998, p. 13). N.I. Turgenev wrote that political economy, which comprised the basics of financial science, "was born together with constitutional freedom of the peoples of Europe" (Ibid.). These features of the atmosphere of financial science and financial law formation were reflected in such university courses.

It was Professor N.S. Vasil'ev who developed and lectured the course of financial law at Moscow University² (Kozyrin 1998, p. 14).

As it was mentioned above, financial science, financial law and political economy had long been considered as a whole. They were not regarded separate disciplines. I.Kh. Ozerov, Professor of Moscow University, wrote: "On the one hand, financial science belongs to the cycle of economic sciences, on the other hand, to that of legal ones ... Financial science is the science of staff of life, of why people are full or hungry, why they either have bread or do not have it" (Ozerov 1909-1910, p.17). Academician I.I. Yanzhul mentioned that "the most important place in administrative sciences is given to economic sciences, including that of the state economy, or financial science, or financial law as it had been traditionally termed" (Yanzhul 1899, p. 1). At the same time he distinguished specific features of these sciences and wrote that unlike financial science financial law is "a set of legislative regulations on financial organization and management of the state" (Ibid., p. 13). Whereas financial law studies how the state earns funds, financial science bases on the data of financial law as a science as well as state laws and, thus, elaborates general rules on how the state should earn funds. Financial law, according to the scholar, should work out the rules for the government to be guided in its future policy.

Representatives of Yaroslavl school of financial law with I.T. Tarasov, Professor of the Demidov Juridical Lyceum, in the first place distinguished financial law as a branch of law and the area of legal science: "Positive financial law is a set of regulations defining state-and-economic sphere of the nation in certain epoch. The sources of this law are the laws, administrative regulations and customs ... The science of financial law as a theory should present something permanent, well-established, although not devoid of those elements of development which are necessary for every science. As for financial law of this state, it is only a reflection of the reality, real implementation of elements of the financial law science at this time" (Tarasov 1889, p. 6-7).

Combination of legal phenomena proper with the description of their economic nature is a peculiar feature of the content of the first textbooks on financial law. This tradition is to some extent kept at present when presentation of legal issues is preceded by the economic analysis of categories and phenomena under consideration.

As economics and law relate to both content and form, consideration of legal form cannot be torn away from the economic content of the phenomenon under this legal form. This makes it possible for the law to provide comprehensive, complex, clear and deep representation of the need for the country's economic development, state policy in the financial sector in order to improve financial legal norms. I.T. Tarasov wrote that "legal, political and economic elements are inseparable in the science of financial law. It integrates the analysis of the laws of economic phenomena and the analysis of legal norms. This science teaches not only what to eat and why it happens but the matters corresponding with the economic laws, mission of the state and the concepts of truth and justice" (Ibid.).

4. The history of the development of leading scientific schools of financial law

The history of science of financial law, like any other public political science, is the history of the development of scientific schools, conflicts of scientific views, political interests, positions of scholars, researchers, politicians, reflected in monographs, legislative acts, institutional actions, curricula of law faculties at universities and other educational institutions. The development of financial law and its subject can be to the greatest extent judged upon on the basis of scientific heritage of Russian scholars and public figures, forming and developing financial law.

M.M. Speransky (1772 – 1839) is one of the most prominent political figures of the first half of the XIX century.

The beginning of the century in Russia is characterized by a period of the transition to the formation of capitalist relations. This is reflected in active development of manufacturing, construction of railways, strengthening of the financial system of the country as a whole. New phenomena of social life objectively resulted in the need for the reform of state administration, in particular. The reform, carried out due to M.M. Speransky's project, resulted in the establishment of the State Council which became a deliberative body, elaborating laws, providing uniformity of accepted legal rules and ensuring the absence of contradictions in legislation. State apparatus also underwent transformations: ministries, including the Ministry of Finance, were established instead of boards. Problems in the field of public finance led to Alexander I's special attention to the formation of the country's budget. M.M. Speransky was authorized to form the key principles of budgetary legislation. In addition to this M.M. Speransky paid attention to the tax system. In particular, he proposed to abandon wine leases, non-productive state expenditures

and bring expenditure budget in strict accordance with the country's income. M.M. Speransky developed "The plan of finances" approved by the emperor's manifesto³ (Kozyrin 1998).

The work by **N.I. Turgenev** (1789 – 1871) "The experience of the tax theory" (1818) is one of famous and significant works of the early XIX century. It was highly spoken of in the second half of the century. Thus, I.I. Yanzhul wrote: "If this work had been published in a language which is wider used in Western Europe, it would have taken a prominent place among the best works on the tax theory in the early XIX century and would have definitely influenced them... His book gives a detailed theory of all issues on taxes from their origin and source to the description of their types and function... Under the terms of that time and state of financial science in the West Turgenev's essay had long been a kind of oasis in the desert" (Yanzhul 1899, p. 855-856).

Conclusions and propositions, formulated in the work, influenced the development of ideas on taxes and their legal regulation among the scholars of the XIX century. Moreover, they have retained their importance and relevance in modern conditions of the tax reform in our country.

Social processes in Russia in the early XIX century caused the range of issues, analyzed and considered by the science of financial law. These are the issues of state revenue, expenditures, monetary-credit system, and taxation. They are given a special attention in the above-mentioned works by M.M. Speransky and N.I. Turgenev. At the same time a significant budget deficit in the first half of the century led to a close attention to the issues of the public debt and methods of its repayment. The most significant work on the issue of the public credit and public debt, resulting from it, in European financial science is "On public credit" (1833), the work by **M.F. Orlov** (1788 – 1842). Although it was published during the period of the Minister of Finance E.F. Kankrin's

financial reform, M.F. Orlov is still recognized as the founder of the public credit theory.

The second half of the XIX century was marked by the active development of scientific thought and emergence of interesting research of financial law issues. Whereas the works previously considered are concerned only with some of the issues of financial system functioning and its legal regulation, subsequent works were the first textbooks on financial law. The latter were systemic; they defined the subject and gave characteristics to individual institutes of financial law. In 1841 the first Russian textbook on financial science was published (“Theory of finance”, 1841). Later the works by F.B. Mil’gauzen, Professor of Moscow University (Mil’gauzen 1865), I.Iu. Patlaevsky, Professor of Novorossiisk University in Odessa (Patlaevskii 1877), I.I. Yanzhul, Professor of Moscow University (Yanzhul 1882), V.A. Lebedev, Professor of St. Petersburg University (Lebedev 1882), A.A. Isaev, Professor of the Demidov Juridical Lyceum in Yaroslavl (Isaev 1886), I.Kh. Ozerov (Ozerov 1909-1910) became famous.

S.I. Ilovaiskii published a textbook of financial law which was repeatedly reprinted (the fifth posthumous edition was published in 1912).

Publication of German Professor Aeberg’s course of financial law had a significant influence on the development of science of financial law.

The statement of the course starts with the first part on state expenditures, the tradition being kept in Russian financial science. The second part is devoted to general understanding of state revenue and its various kinds including taxes. The third part is about the doctrine of the organization of financial management and debt, including state credit, debt, money circulation, etc.

Approximately the same structure of the financial law course is peculiar for the textbook by D. L’vov, an extraordinary Professor of the Imperial University of Kazan (L’vov 1887).

One of the main issues discussed by the scientific community at that time was the nature of financial law and its place in the Russian system of law in the late XIX – early XX centuries.

S.I. Ilovaisky recognized the autonomous nature of financial law as a branch of knowledge “with its special field of research”. He was against identification of the subjects of financial law with those of political economy. According to S.I. Ilovaisky, whereas political economy studies the relations in the sphere of private economy, financial science focuses on the economic activities of various public bodies and, primarily, government revenue and expenditures. This led to the study of financial law and finance administration, including the structure of supreme and lower fiscal authorities (Ilovaisky 1895, p. 3-5).

V.A. Lebedev, Professor of St. Petersburg University (1833-1909), and L.V. Khodsky and I.Kh. Ozerov, his pupils, are among the remarkable representatives of financial law. V.A. Lebedev’s main work was “Financial law” (1882-1885). It was translated and published in many European countries and called a financial encyclopedia by his contemporaries.

Starting from 1884 **the departments of financial law** were established at all universities. This resulted in the need for the relevant courses and tutorials on financial law.

V.A. Lebedev also published other works which became a landmark in the development of financial law (Lebedev 1886).

The only academician, who was a representative of financial science and financial law, was I.I. Yanzhul (1846-1914). His main work was “Basic principles of financial science: the Doctrine of state revenue” (1899).

Setting the place of financial law in the system of social sciences, I.I. Yanzhul noted a rapid growth of the significance of financial

science in the XIX century: “This is quite natural in view of significant value of finance for the economic, political and cultural life of the country. **At present finances measure the power of the states ... finances measure the country’s welfare, the value of civilization** (the italics are ours)” (Yanzhul 1882, p. 2). He emphasized the fact that **with the help of finances one can gain an insight into the true meaning of historic events**: “Finances, finances by themselves often show the inner meaning of historic events, which are of a completely different nature in their external manifestation” (Ibid.).

It is evident that one of the principal issues, discussed in legal science, was **the issue of the autonomous nature of financial law**. In almost every work mentioned the authors try to express their position on this issue.

By the early XX century two views on the autonomous nature of financial law were formed. Both have their supporters and opponents up to now.

A.I. Elistratov, a specialist in public law, did not deny financial law’s autonomous nature and noted a close relation of financial law with administrative law. He pointed out to the fact that social relations, developing in the field of public administration, are also the subject of both branches of law (Elistratov 1914, p. 69-70).

The point of view on the autonomous nature of financial law was supported by A.N. Zak (Zak 1913, p. 18-20).

G.F. Shershenevich, sticking to the position of “administrative law”, noted that financial law branches out of internal management due to its practical value as a set of rules of law defining acquisition and spending of real assets, necessary for task implementation, by the government. They also include the rules of law governing the financial sector of such unions of public character, subordinate to the state, as cities, zemstvos (elective district councils), etc. Essentially

financial law is a part of administrative law (Shershenevich 1995, p. 153).

Unlike this point of view, A.N. Zak stated that a financier, an economist and an administrative officer often have to deal with the same issues. Whereas “fiscalism” is the starting point for a financier, the starting point for an economist is the interests of national economy, for a scholar in the field of internal control it is the interests of proper functioning of administrative machinery. In other words, A.N. Zak focused on goals of certain sciences (Zak 1913, 20-21).

S. I. Ilovaisky, who taught financial law at Novorossiysk University in Odessa, wrote: “... M. Kapustin considers financial law to be a part of political economy. This cannot be agreed with as the scope of political economy is the laws of private sector, whereas the scope of financial science is economic phenomena of different public bodies. The former can be called the science of private sector, the latter – the science of social or public economy” (Ilovaiskii 1895, p. 1).

The Yaroslavl-Demidov Juridical Lyceum became one of well-known centres of the development of financial law as a science from the second half of the XX century. I.T. Tarasov (1849 – 1929) and A.A. Isaev (1851 – 1924), distinguished in the field of financial law, taught there.

I.T. Tarasov’s most famous work on financial law is “The essay on financial law as a science”. “For the first time in pre-revolutionary financial-and-legal literature it puts its focus on legal material proper: the conception of financial law is developed; the issue of enforcement to the fulfillment of financial laws is given a focus of research; a special attention is paid to the issues of liability, which is meant to be both the liability of the bodies of financial management and individuals’ liability for violations of rights and interests of the treasury” (Kozyrin 2004, p. 20).

Equally with other I.T. Tarasov's works it became a distinct stage in the development of both financial law and financial law as an autonomous branch of law and jurisprudence.

Being an economist, A.A. Isaev also did much for the development of financial law as a science. He enriched it with his statements his two main works ("State credit" (Yaroslavl 1886), "The essay on tax theory and policy" (Yaroslavl 1887)) contained.

Despite the debate, financial law as an autonomous academic discipline was taught at all law faculties at the universities, interesting fundamental textbooks on financial law and its separate institutions were published.

5. Development of financial law after the October revolution

A radically new situation in the development of financial law and teaching it was formed after the October revolution. Economic shocks, related to the changes in economic and political system, led to nationalization of banks, insurance, predominance of state ownership, abandonment of old financial institutions and financial bodies, repudiation of the tsarist national debt. The norms of administrative law, governing financial relations, became relevant under these conditions. This was in line with the administrative-command system of management, formed in our country after the Revolution. **The established management system made economic and financial methods of management and impact on social processes unnecessary.** This led to the situation when the norms of administrative law in the system of Russian law became predominant as compared to those of financial law. The situation was due to the expansion of the sphere of state management in financial sector, the system using not only financial and economic methods of influence but mainly imperative and administrative-command ones, which did not

take economic interests of economic entities into account. As is known, *these conditions resulted in the fact that a number of universities liquidated legal faculties, which will be later called the faculties of "unnecessary things". In most cases financial law was no longer taught as an autonomous academic discipline, and only the area of administrative law had the institute of management in financial credit sphere.*

Yet the scientific thought was not stopped, new works on financial law were published. These are, in particular, "Budget law of the popular representation" by A.A. Alekseev (1918), "The role of state control and basic principles of its activity" by A. Goloposova (1918), "Budget law in the legislation of the RSFSR" by A.M. Gurvich (1918), "Historical essay on the state control development in Russia" by F. Beliavskii (1919), "Finance, government and public interest" by M.I. Bogolepov (1919), "State economy and monetary circulation" by M.I. Friedman, (1919), "Financial system in the period of primitive socialist accumulation" by D.V. Kuzovkov (1923), "Budget law of the RSFSR and the USSR" by S.A. Kotliarevskii (1924), "State credit. Theory and technique" by V.N. Tverdokhlebova (1924), "Objectives and methods of financial control" by A.O. Al'skii (1925), etc.

The post-war years, especially the beginning of the 50-ies, can be considered the next noticeable stage in financial law development. **R.O. Halfina's** and **M.A. Gurvich's** works are the most notable at that period.

R.O. Halfina's work is one of the milestone ones. The author mentions that financial law became an autonomous branch of law, independent from public and administrative law. It is due to the specific character of the object of legal regulation and its public value. In other words, the criterion of separation of financial law from administrative and public branches of law is the subject of regulation and namely the activity

of the state in the field of funds accumulation and distribution (Khalfina 1952, p. 194-195).

M.A. Gurvich's "Soviet financial law" textbook (1952) had been the only textbook for all law students throughout the fifties. Delimiting financial law from administrative one, M.A. Gurvich based on the fact that legal and administrative norms, regulating executive and distributive activities of state administration bodies, are also applicable to the activities of financial management bodies (Gurvich 1952, p. 31-32).

6. Financial law development in the late XX – early XXI centuries

According to many scholars, the 60-70-s of the XX century can be called "golden" years of financial law development (Istoriia finansovogo... 2003, p. 13). It is worth while mentioning **E.A. Rovinskii's** works first, as their most significant provisions form the basis of modern financial law (Rovinskii 1960). **B.N. Ivanov** (Ivanov 1967, p. 40-41), **M.I. Piskotin** (Piskotin 1971, p. 49), **S.D. Tsytkin** (Tsytkin 1973) and **V.V. Bescherevnykh** (Bescherevnykh 1976, p. 30) proved the autonomous nature of the subject and method of financial law, analyzed the system of financial law and its relations with other branches of law and, thus, laid the foundation for its further development. Basing on deep analysis of the historical process of legal system formation in foreign countries and in Russia, M.I. Piskotin, for example, convincingly proved that financial law did not originate from state or administrative law but developed as an autonomous branch of law, the process of its formation being simultaneous with the formation of these branches of law.

V.V. Bescherevnykh and S.D. Tsytkin's textbook turned out to be a landmark event (Finansovoe pravo 1967). The golden fund of Russian financial law also comprises the works by **N.I. Khimicheva** ("The subjects of Soviet budget

law" (1979)), **L.K. Voronova** ("Legal basics of state budget revenue" (1981)), **S.D. Tsytkin** ("Financial and legal institutions, their role in improving the Soviet state's financial activities" (1983)), **O.N. Gorbunova** ("Financial law and financial monitoring in modern Russia" (2003)).

Fundamental transformations in all spheres of public life in our country in the 80-ies of the XX century, associated with the formation of market relations, gave rise to the need of public power's new methods of influence on social processes, i.e. the tools which are legally regulated by the norms of financial law. The scholars faced new goals of understanding the changes of the subject of legal regulation, related to the formation of new types of social relations which are regulated by financial law. This is indicative of the expansion of the subject of legal regulation under modern conditions of market economy formation. Simultaneously we are witnessing how public relations, previously regulated by financial law, acquire new features. This should be considered at the development of financial and legal norms in order to achieve their most effective impact on social relations.

The interest in the history of formation and development of financial law as a branch of law and a science increases under these conditions. This is reflected in a number of works. K.S. Bel'skii's "Financial law. Science, history, and bibliography" (Bel'skii 1995), one of the first works in recent period, should be mentioned first. Of particular importance is an extremely interesting project on republication of the most significant works on financial law, edited by A.N. Kozyrin, in a four-volume edition "At the cradle of financial law. "Golden pages of Russian financial law" series". An interesting research of the Russian history of financial legislation is carried out by the team of authors under I.V. Rukavishnikov's editorship (Istoriia finansovogo zakonodatel'stva Rossii 2003). The

textbooks on history of taxes and finance should be also mentioned (Pushkareva 2005, Shitov 2011, Lushnikova 2010, Finansovaia Nauka... 2012). The tradition to reprint pre-revolutionary researches on key issues of financial law is kept recently (Sokolov 2003, Isaev 2004)⁴.

Reference to the history of the science of financial law in all currently published textbooks and many monographic researches is also a positive fact (Finansovoe pravo 1999, 2000, 2002, 2003, 2007, Krokhnina 2004, Kucheriavenko 2002).

Like other branches of law, financial law undergoes radical transformations due to the changing role of the state under market conditions, possibility of using economic regulators to achieve contemporary goals the society faces.

These changes caused the necessity in the development of general theoretical problems of modern understanding of the nature of law. Determination of the role of law in influencing public attitudes under the market conditions is impossible without solving these common issues.

New realities resulted in the changes in law as a social category. They affected its various aspects, relations which generally can correlate as general – specific – particular. The former includes the changes associated with changes in the relations of law with economics, government, sociology, culture, ideology, etc. They, in turn, caused the processes of changes in the system of law, its content, form, etc., which could not but affect the content and system of financial law.

Currently such fundamental issues as the definition of subject, method, system, etc. are the most acute in the science of financial law.

Our ideas on nature of law can change, deepen and develop. With this regard it is possible to speak about changes in the content of financial law, affecting its shape (sources), subject, method of legal regulation, etc.

The main objective of financial law is, in our opinion, in the establishment of order, stability and protection of financial sector, financial activity of the state and municipalities, creating conditions for the reproduction of social relations in this field through normative regulation, secured by the state coercion [Leist 2000, p. 51].

It currently seems that the enhancement of the role and significance of financial law under the market conditions has led to the changes in the system of Russian law in general. It seems necessary to fundamentally determine the place of financial law in the system of Russian law without trying to give the right hierarchical classification of the branches of law. In our opinion, financial law “rose” to a higher level in comparison with the second half of the XX century. Together with administrative and civil branches of law it ranks after constitutional law compared to the previous periods when some researchers ranked it at the end of the system of law or totally forgot it.

This approach to understanding the nature of law in general and financial law in particular makes it possible to define its social mission in modern conditions of our society development with its main goal to form innovative economy.

Since the seventies of the twentieth century scientific and technical progress has been much spoken about. The progress has to serve the state as its advantages will lead to the state’s status of an economically developed, democratic world power. The need to overcome economic problems at the end of the last century resulted in market reforms in our country. This forms **the goals of legal regulation**.

The level of the development of science and technology in the world today results in the need for innovative economy. And if **the goals of law** as public relations regulator are **in meeting the needs of innovative development of the society**,

it “is able and should be a catalyst of the progress of society on the innovation basis. This premise makes it possible to consider innovative function of law as one of the key areas of legal influence on public life in the early XXI century” (Stepanenko 2011, p. 69).

7. Conclusion

The Strategy of the national security of the Russian Federation till 2020, approved by the Decree of the President of the Russian Federation, states that there is no other way of development for Russia than that towards innovative model of economy (Ukaz Prezidenta... 2009). Economic growth which is achieved through the development of the national innovation system and investment in human capital are mentioned among national interests and priorities of their development. *Law and the state*, in their turn, *should guarantee the achievement of these objectives*. “Russia needs a strong financial system providing with the resources for modernization” (Medvedev 2010). The mentioned above seems to indicate a special role of financial law in our society’s modern

transformations, associated with the formation of innovation models of economy and the process of modernization of the whole society. It is financial law that has sufficient potential to influence these processes.

The mentioned above has directly influenced the change of the role of financial law at mastering legal disciplines. This is reflected in the Federal State Educational Standard of Higher Professional Education of the third generation, stating that studying financial law as well as tax law is compulsory for all law schools and faculties in our country. The requirement of the Standard has resulted in a significant increase in hours for practical classes and autonomous work, reduction of lecture hours that affects the content of educational programmes, development of teaching materials and new interactive teaching methods.

Modern methods of teaching financial law and content of the courses, meeting the objective laws of social development, seem to be key conditions to achieve goals and objectives of legal education.

¹ The book was published two years prior to A. Smith’s and E.B. de Condillac’s works on the freedom of trade. Thus, in 1725 the tsar’s “Manifesto on freedom of trade and institutions of industrial machines” was published.

² The name of the course was “Zakony o gosudarstvennykh povinnostiakh i finansii” (“The laws on state duties and finances”).

³ The work is currently reprinted.

⁴ Introduction to these works was written by I.I. Kucherov.

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Основные тенденции развития науки финансового права и ее преподавания в России

Е.Ю. Грачёва

*Московский государственный юридический университет
им. О.Е. Кутафина
Россия, 125993, Москва, ул. Садовая-Кудринская, 9*

В статье рассматриваются вопросы формирования финансового права как науки и отрасли права в России, рассмотрены основные этапы и закономерности его развития, анализируется предмет финансового права как науки и отрасли права, специфика метода правового регулирования, что свидетельствует о самостоятельном характере финансового права как отрасли права. Также основное внимание уделено характеристике основных работ по финансовому праву российских ученых XVIII-XIX веков, и первых учебников по финансовому праву, которое стало обязательной учебной дисциплиной на юридических факультетах в университетах в то время. Рассмотрены основные монографические исследования по проблемам финансового права в XX в., определены основные задачи изучения финансового и налогового права в правовом государстве и на современном этапе реформирования юридического образования в нашей стране.

Ключевые слова: финансовое право, история науки финансового права, преподавание финансового права в XIX-XXI веках в России, основные научные школы в XIX в., цели и задачи финансового права на современном этапе.

Научная специальность: 12.00.00 – юридические науки.
