«UNE AME REPUBLICAINE»? CATHERINE, MONTESQUIEU, AND THE NATURE OF GOVERNMENT IN RUSSIA: THE NAKAZ THROUGH THE EYES OF M.M. SHCHERBATOV

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'...mon âme a toujours été singulièrement républicaine; je conviens que c'est peutêtre un singulier contraste que cette trempe d'âme avec le pouvoir illimité de ma place...'

Catherine II to J.G. Zimmerman, 1789¹

'Nous avons causé trois quarts d'heure sur les américains et sur la forme des gouvernements; il ne veut admettre que celle des républicains, même pour les grands états.' Chevalier de Corberon, French chargé d'affaires at St Petersburg, on a conversation with Shcherbatov, 1776²

rom the moment of its publication in 1767, Catherine's *Nakaz* aroused widespread attention as an elaborate apologia of what later historians would call 'enlightened absolutism.' In the course of her reign it appeared in 25 editions and in nine European languages. Both in Russia and abroad it was hailed as eloquent proof of Catherine's advanced principles and of her resolve to implant in Russia some of the most admired fea-

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tures of contemporary political theory. She was inspired above all, as she informed d'Alembert and Frederick the Great, by Montesquieu, whose De l'esprit des lois she described as her 'breviary'. 5 294 out the 526 articles in the Nakaz, some three-fifths of the entire document, consist of excerpts from De l'esprit des lois which Catherine reproduced virtually verbatim. Using Montesquieu's terminology throughout the Nakaz, she proclaimed herself the friend of 'moderate government'. She expatiated on her desire to see the freedom and security of her subjects (whom she described as 'citizens'), guaranteed by law. She invoked such institutional concepts as the 'intermediary powers' and the 'repository of the laws'. Voltaire, greeting the Nakaz as 'le plus beau monument du siècle', 6 voiced the general approval of the philosophes, who, with the notable exception of Diderot, showed more enthusiasm than discernment. The public response in Russia was no less sweeping. Catherine's confidential adviser, Count Sievers, described it as 'Russia's Golden Bull'. Catherine herself informed both d'Alembert and Madame Geoffrin that 'la voix unanime de tous ceux qui l'ont vu disent [sic] que c'est le non plus ultra du genre humain'. 8

Against such a background, Shcherbatov's Observations on the Nakaz (written c. 1772/3) stands out in bold relief as the only formal extant critique of the Nakaz by a Russian contemporary. As with most of his writings on politics and society in Catherine's reign, the *Observations* were not published in Shcherbatov's lifetime, being intended at best for clandestine circulation among a handful of aristocratic sympathisers or reserved for the eyes of posterity. Ostensibly, Shcherbatov followed a successful public career as courtier (kamer-iunker, becoming kamer-ger in 1773), administrator (gerol'dmeister since 1771), and imperial historiographer, volume one of his History of Russia appearing in the same year. His Observations on the Nakaz remained unpublished for over a century and a half, appearing in print only in 1935. The manuscript consists of a written copy of the Nakaz in Russian, followed by Shcherbatov's enumerated observations, the latter forming a critical commentary of almost fifty printed pages.9 Shcherbatov's Observations demonstrate that Catherine's 'Political Testament' evoked, in one quarter at least, a response somewhat less than rapturous. While he presented himself as a disinterested patriot and 'true son of the fatherland' (верный сын отечества), 10 Shcherbatov's personal and political animosity towards Catherine derived both from frustrated ambition and, as is well known, from his uncompromising advocacy of noble privilege and the maintenance of serfdom. He aired these views publicly at the Legislative Commission of 1768-9 as deputy for the nobility of the province of Yaroslavl', and he continued to advance them throughout his life, both in his History of Russia and in his unofficial and unpublished critiques of policies and personalities in Catherine's reign.¹¹

Given Catherine's acknowledged debt to Montesquieu, it is significant to note Shcherbatov's own close familiarity with Montesquieu, and his admiration for сей именитый писатель and сей мудрый муж, 12 to whose великие мысли и обширной разум he refers with obvious admiration and whose reputation he describes as that of an оракул политики и закономудрствия¹³. Shcherbatov was steeped in Montesquieu's works, particularly De l'esprit des lois. 14 Whilst also citing Hume, d'Holbach and Rousseau in his Observations on the Nakaz, he was predominantly concerned with De l'esprit des lois. He evidently had a copy of it at hand (in its Russian version) while writing the Observations, since he refers to it and quotes from it throughout his critique. His admiration is nevertheless qualified and discriminating: on a number of points he permits himself to disagree with Montesquieu, сохраняя все почтение к сему знаменитому писателю, кажется можно со справедливостию противуречить сей его мысли. 15 He did not, for example, share Montesquieu's view of the influence of climate on historical development. His overall sympathy with and understanding of Montesquieu, however, make Shcherbatov an unusually valuable commentator on the Nakaz, the compilation of which, according to Catherine, was largely a matter of 'copying and appreciating the principles of President Montesquieu.'16

Shcherbatov is by no means uniformly hostile to the Nakaz. Many of Catherine's assumptions and suggestions taken from Montesquieu meet with his approval. He shares her belief in the importance of law and the necessity of codification as a precondition of social order and welfare. He agrees that ничто более не спомоществует спокойствию обще всех граждан и каждого особливо, как установленные мудрые законы¹⁷ and that благосостояние граждан зависит от мудрости законов, которыми управляются 18. Many humanitarian principles of the Nakaz taken from Montesquieu and Beccaria and relating to the rights of defendants in criminal proceedings likewise evoke his emphatic approval. He agrees that persons charged with capital offences should have the right to challenge and to reject potential jurymen, insisting that сие есть столь справедливое правило, что достойно быть ежечасно пред очами у всякого народа.¹⁹ He agrees that trials should be held in public.²⁰ He endorses Catherine's strictures against the use of torture. He confirms that capital punishment should be reserved for the most serious offences.²¹ He stresses the cardinal importance of the presumption of innocence and holds that sentences should err on the side of leniency: лутче виновного меньше наказать, нежели безвинного наказать строго. 22

These remarks of approval, however, serve by contrast to underline the overwhelmingly critical tenor of Shcherbatov's comments on the *Nakaz* in general. The central targets of his criticism are the basic principles of Catherine's

political philosophy. His method of approach is to go through the *Nakaz* article by article, comparing and contrasting particular articles with their sources in *De l'esprit des lois*. He regularly identifies the precise references in Montesquieu (these were not indicated in the *Nakaz*), and since, as Catherine was the first to admit, the *Nakaz* was essentially a reworking of *De l'esprit des lois*, ²³ he concentrated on demonstrating how far Catherine had in his view deviated from or even falsified Montesquieu's principles. His method was to expose discrepancies, inconsistencies and false analogies between the *Nakaz* and *De l'esprit des lois*. Characteristic of his approach is the following observation:

Сии суть слова господина Монтескиу в книге «О разуме законов», книга II, глава 4. Но сей именитый писатель сие говорит о таком правительстве, где единой управляет по основательным законам, а не о таком, где самовластие его пределов не имеет. ²⁴

This very objection in fact lies at the heart of Shcherbatov's Observations on the Nakaz. His main purpose was to query how far, if at all, Catherine's absolutism (самодержавное правление, самодержавная власть)²⁵ differed from 'arbitrary rule' (самовластие) or outright 'despotism' (деспотичество).²⁶ He sought to throw open two basic question: what was the actual form of government and what form of government was most appropriate to Russia; and in his comments on the latter he showed himself an enthusiastic advocate of 'republican government' (республиканское правление) and 'republican freedom' (республиканская вольность). Catherine herself begged both questions, adducing a variety of arguments in support of absolute rule (самодержавная власть), ассерtance of which was fundamental to her political philosophy. In article 9 she declares the absolute nature of her government (государь есть самодержавный, 'le monarque de Russie est souverain'). She goes on to assert in article 11 that всякое другое правление не только было бы России вредно, но и в конец разорительно. These are basic suppositions which Shcherbatov seeks to refute; and for each point which Catherine puts forward in support of absolute rule, Shcherbatov is ready with a denial and a counterargument. He rejects her central argument that absolutism is Russia's 'natural' form of government.

Catherine's justification of absolutism on the grounds of Russia's size, Shcherbatov considers highly tendentious, even though, as he admits, it is drawn from Montesquieu. Article 9 of the *Nakaz* states: Государь есть самодержавный; ибо никакая другая, как только соединенная в его особе власть не может действовати сходно со пространством толь великого государства. This Shcherbatov roundly denies, notwithstanding Montesquieu. The question, he insists, is an open one: Чтобы великое государство требовало необходимо самодержавной власти, сие есть проблема, еще принадлежащая к ре-

шению²⁷. He is still more critical of Catherine's amplification of her claim, in article 10, where she argues as follows: Пространное государство предполагает самодержавную власть в той особе, которая оным правит. Надлежит, чтобы скорость в решении дел из дальних стран присылаемых награждала медление отдаленностию мест причиняемое. Both claims, as Shcherbatov points out, are taken from De l'esprit des lois, Book VIII, chapter 19 ('Propriétés distinctives du gouvernement despotique'), which begins: 'un grand empire suppose une autorité despotique [sic] dans celui qui gouverne.' Nonetheless, on this fundamental question Shcherbatov permits himself to dissent from Montesquieu: не могу я согласиться в справедливости сего мнения.²⁸ Shcherbatov concedes the theoretical blessings in a vast state of 'enlightened absolutism' under that rare paragon, the philosopher-prince, ежели мы себе представим государя трудолюбивого и презирающего свои удовольствии для пользы подданных, которого бы все указы и повелении основаны на совершенной мудрости и правосудии были,²⁹ only to dismiss the possibility as chimerical. Not only could the absolutism (самодержавие) of such a ruler indeed produce the advantages claimed by Catherine, но таково бы самовластие приятнее было, нежель самая республиканская вольность. 30

Another obvious objection to absolutism in a hereditary monarchy is the lack of guarantee of continuity of enlightenment, since, as Shcherbatov points out, the qualification for rule is не достоинство, но единое право рождения.³¹ Absolute rule reflects the qualities of the ruler. It will not be enlightened under an arbitrary ruler: когда такой государь не по уста[но]вленным законам, но по своим своенравиям управляет, сие именуется деспотичество, что малое разделение с гнусным тиранством имеет. 32 Nor will absolute rule lead to скорость в решении or be сходственно с истинными пользами государства,³³ as claimed by Catherine and Montesquieu, if a ruler is distracted, for example, by любовная страсть; such distractions и более еще республиканского замедления приключат. ³⁴ Moreover an absolute ruler, человек, не дающий никому отчету в своих делах, ³⁵ is likely to prove resistant to disinterested advice, да когда и решение его воспоследует, можно ль надеяться, чтоб оно было сходственно с истинными пользами государства [...]?³⁶ As for the form of government best suited to administer a large empire, Shcherbatov argues that римская республика пример нам ясный представляет. Она, не взирая на свое пространство, не токмо правила отдаленными странами, содержала в тишине и спокойстве вновь покоренные народы, но еще ежедневно и области свои расширяла.³⁷

In article 12 of the *Nakaz* Catherine declares: лучше повиноваться законам под одним господином, нежели угождать многим. Shcherbatov rejects this

contention. If, he argues, even under limited monarchy (в таком государстве, в коем власть манаршая [sic] была законами стеснена) rulers have often violated the established laws, how much more is this so under absolute rule, where единая воля государская законом служит и где он отчету в своих поступках никому не отдает;³⁸ and where вся сила правления в едином изволении часто неспроведливом [sic] и переменчивом манаршем [sic]состоит.³⁹ In a republic, on the other hand, though rule is by the many, the rulers are accountable and obliged to rule по разуму установленных законов, отчего и происходит, что при сих множестве правителей, однако не им, но единому закону повинуются. 40 In article 13 Catherine asks: Какий предлог самодержавного правления? and replies: не тот, чтоб у людей отнять естественную их вольность, но чтобы действия их направити к получению самого большого ото всех добра. Shcherbatov dismisses this as meaningless casuistry, a generalisation to which every accepted form of government can subscribe. Citing Rousseau on the social contract, Shcherbatov stresses that whatever other rights the people originally surrendered to the monarch, народ не мог свою естественную вольность уступить, яко вещь такую, без которой его благополучие никак соделаться не может. 41 In any event, Shcherbatov doubts whether the social contract applies to absolute monarchy (самодержавная власть). Alluding to Montesquieu's doctrine of the separation of powers, the celebrated remedy against despotism, he asks: ибо можно ли тут надеяться на сохранение естественной вольности, где власть законодательная и исполнительная в единой особе сообщена?⁴² While Catherine, therefore, in article 14 concludes that the most effective form of government is that which corresponds closest to the expectations of reasonable men in instituting civil society, Shcherbatov comments pointedly: видно, которое републиканское или монаршическое [sic] правление к концу сему достигает. ⁴³

In article 15 Catherine claims: Самодержавных правлений намерение и конец есть слава граждан, государства и государя. As Shcherbatov points out, this is an echo of *De l'esprit des lois*, book V, chapter 9 ('Comment les lois sont relatives à leur principe dans la monarchie'), where Montesquieu, categorising the motive 'principle' applicable to each form of government, defines 'honour' (честь) rather than 'glory' (слава) as the principle of monarchy. Shcherbatov not only points this out but draws a crucial distinction between monarchy (монархия, монаршическое [sic] правление) and absolute monarchy (самодержавие, самодержавное правление, the expression used by Catherine throughout the *Nakaz* as a synonym for monarchy). Shcherbatov stresses that Montesquieu ascribes the principle of 'honour' only to the former (предполагает монаршическому, а не самодержавному правлению). ⁴⁴ Shcherbatov,

however, goes further than Montesquieu, finding the principle of honour more applicable to republican than monarchical rule. He cites the example of republican Rome, pointing to the reflected glory shared by the citizens in a republic. He denies that 'glory' can be the motive-force under absolute monarchy, the true principle of which, he defines, quoting Montesquieu, as 'fear' ('la crainte').⁴⁵

Shcherbatov delivers a sharp attack on article 16, where Catherine refers to a 'spirit of freedom' (разум вольности) as characteristic of monarchical rule (в народе, единоначалием управляемом). Such a 'spirit of freedom', according to Catherine, может произвести столько же великих дел, и столько споспешествовать благополучию подданных, как и самая вольность. Shcherbatov dismisses this as rank sophistry. He again emphasises the incompatibility of absolutism and freedom (вольность), которая, повторяю, под единоначальством не может сохраниться. ⁴⁶ He then pours scorn on Catherine's vaunted 'spirit of freedom'. Catherine claims, что сей разум вольности то же может произвести, как и самая вольность. Следственно сей разум не есть вольность и потому он по крайней мере маска вольности. ⁴⁷ The citizens may be deceived for a time, but eventually they will be disabused.

Shcherbatov next turns a skeptical eye on Catherine's interpretation of the institutions of state in Russia. Article 18 of the Nakaz declares: Власти средние, подчиненные и зависящие от верховной составляют существо правления. Here, as Shcherbatov points out, Catherine not merely copies Montesquieu (De l'esprit des lois, Book II, chapter 4 ('Des lois dans leur rapport avec la nature du gouvernement monarchique'), from which she cites verbatim: 'les pouvoirs intermédiaires, subordonnés et dépendans constituent la nature du gouvernement'), but stops short at the operative point, where Montesquieu refers to 'la nature du gouvernement monarchique'. The rest of the sentence in Montesquieu, as Shcherbatov underlines, continues: 'c'est-à-dire de celui où un seul gouverne par des lois fondamentales.' As Shcherbatov demonstrates, Catherine's truncated version utterly perverts the sense of Montesquieu's original by applying it to absolute rule: Отложение же сего слова оказует желание к неограниченной деспотической власти, а где есть деспотичество, тут не могут быть законы тверды, ни власти средние, подчиненные, более взирающие на изволение деспота, нежель на законы, быть верные хранители оным. 48

Again, in article 19, taking the words from the same passage in Montesquieu, Catherine declares: Государь есть источник всякия государственныя и гражданския власти. Shcherbatov points out that once more the phrase is taken out of context. Montesquieu (Book II, chapter 4) refers to a monarchy, где государь обязан править по основательным законам государства, и то-

гда, давая иль утверждая с согласия правительства сделанные законы, есть действительно источник всякия государственныя и гражданския власти; но и сам обязан становится повиноваться им установленному закону. ⁴⁹ Hence Catherine's assertion does not apply to absolute monarchies, в таких державах, где государь себя почитает быть превыше закону. ⁵⁰ Here, Shcherbatov argues, while all power certainly derives from a single ruler, the basis of his power is unjust, since he overrides the limited and conditional authority vested in him by society, and thereby violates the social contract. ⁵¹

In articles 22 and 23 Catherine cites Montesquieu on the necessity of a 'repository of the laws' (хранилище законов). Again, Shcherbatov points out, her quotations are taken out of context: in De l'esprit des lois, Book II, chapter 4, Montesquieu сие говорит о таком правительстве, где единой управляет по основательным законам, а не о таком, где самовластие его пределов не имеет. 52 Shcherbatov tellingly quotes Montesquieu's comment on the situation under the latter form of rule, viz.: 'Dans les états despotiques, où il n'y a point de lois fondamentales, il n'y a pas non plus de dépôt de lois.' In Shcherbatov's view, therefore, it is idle to assert, as Catherine does in article 26: В России Сенат есть хранилище законов. The very name 'Senate', with its classical associations, is inappropriate and misleading in the Russian context, where the Senate's scope is closely limited: в самом деле, не имея власти законодательной, а исполнительную весьма стесненную [sc. сенат] мало силы имеet. 53 In an absolute monarchy, therefore, where the ultimate source of law is the monarch's will, to designate the Senate as the 'repository of the laws' is a misnomer: тщетно имя хранилища закона ему давать, которого он токмо маску носит, как то обыкновенно во всех деспотических правительствах бывает, что судии не суть хранители законов, но исполнители воли деспота.⁵⁴

In articles 21 and 24 of the *Nakaz* Catherine refers to the right enjoyed by the Senate and other organs of state (правительства) to make 'representations' against a decree (указ) deemed at variance with existing law or on the grounds of its obscurity, impracticality or positive harm. Noting that such a right existed in principle under the *General'nyi Reglament* of 1720 and had since been confirmed by Catherine, Shcherbatov nonetheless claims that it has never been invoked by the Senate since Peter's reign. Отчего же сие происходит? Shcherbatov asks. Оттого ли, что государи в ошибки не впадают? [...] Или оттого, что сенаторы или не видят пороков или, и видя их, не смеют противуречить? In either case Shcherbatov attributes the fault to the monarch for failing to appoint senators of sufficient strength of character to resist the ruler: В самом же деле мне кажется, что государи, оставляя пребывать сей закон, не желают видеть исполнение по нем [...] боясь, чтобы твердые своими пред-

ставлениями не нарушили их власть, что они бунтом почитают, хотя бы в самом деле сие было сохранения пользы государства и умножения славы монарха. This again implicitly brings out for Shcherbatov, as for Montesquieu, the 'fear' characteristic of a despotic form of government. Conversely the example of the Roman senate suggests to Shcherbatov the advantage of a robust 'first organ of state' (первое правительство государства). Even under the emperors, he notes, republican tradition remained strong: пока и при них сенат остатки власти своей сохранял, римская империя страшна была вселенной; но с падением власти сенацкой, т.е. тогда, когда власть императоров неограничена стала [...] сия сильная империя слабыми народными разрушена стала. The strong of the Roman senate suggests to Shcherbatov the advantage of a robust 'first organ of state' (первое правительство государства).

Shcherbatov underlines that security of life, liberty and property under the law is incompatible with absolute rule. In article 39 Catherine defines 'civil liberty' (государственная вольность) as спокойство духа происходящее от мнения, что всяк из них [sc. граждан] собственною наслаждается безопасностию. Shcherbatov again points out not only that this statement is taken from De l'esprit des lois, Book XI, chapter 6 ('De la constitution d'Angleterre'), but, quoting the passage in full, that once more it is taken out of context, Montesquieu's point being to stress the necessity of the separation of powers: 'Lorsque dans la même personne ou dans le même corps de magistrature, la puissance législative est réunie à la puissance exécutrice, il n'y a point de liberté.' Shcherbatov emphasises the point: соединение законодательной со исполнительной властию и следственно деспотичество.⁵⁸ Where, therefore, Catherine declares in article 39: и чтобы люди имели сию вольность, надлежит быть закону такову, чтоб один гражданин не мог бояться другого, Shcherbatov pointedly remarks on the precariousness of individual security under absolute rule: Надлежит сему прибавить, чтобы подданной и от монаршей власти несправедливости не претерпел; ибо тщетно будет наслаждаться безопасностью от ровных себе, когда кто могущея всех и может сию его безопасность нарушить. 59

In his *Observations on the Nakaz* Shcherbatov continually juxtaposes Catherine's claims in support of absolutism with arguments overtly supporting republican government. There is no evidence in the *Nakaz*, however, of a corresponding republican sympathy on Catherine's part. The *Nakaz* provides a blueprint for progress, but only within the existing political structure, the true nature of which, in Shcherbatov's view, as in Montesquieu's, represents the negation of political freedom. While approving many individual provisions of the *Nakaz*, ⁶⁰ Shcherbatov rejects the political ideology on which it is founded. If we seek for the reality of freedom, legality and constitutionalism in the *Nakaz*, he argues, we

do so in vain. Catherine's version of legality is not the rule of law, but rule 'above the law' (превыше закону). The Senate 'wears only the mask' (токмо маску носит) of 'the repository of the laws'. The rule of law exists in 'name alone' (там законы токмо имя носют [sic]). The separation of powers exists not even in name. Finally, it is idle to speak of legality when there is no intention of laying down those 'fundamental laws' which in Montesquieu's scheme of things should underpin the whole structure of a 'moderate government'. As Shcherbatov notes: Однако ни в наказе, ни в обряде уложенной комиссии нигде не сказано, чтобы основательные законы государства сделать; что бы однако, казалось, долженствовало быть началом всего учреждения; следственно и Наказ сей к деспотическому правлению ведет. 61

In the light of Shcherbatov's Observations on the Nakaz, some broad points may be made as to Catherine's political philosophy. First, that her arguments in favour of absolute monarchy struck at least one contemporary Russian reader as questionable; and insofar as they purported to derive from Montesquieu, as fundamentally flawed; this, well over a century before the question of Catherine's borrowings from Montesquieu became the object of scholarly research, when a twentieth-century scholar, F.V. Taranovskii, applied Shcherbatov's own methodology with a close comparison of the Nakaz and De l'esprit des lois. 62 Shcherbatov's bitterness at what he felt to be his own lack of advancement, and his general disenchantment with Catherine which found its ultimate expression in his memoir On the corruption of morals in Russia, 63 in no way detract from the accuracy of his exposé of the Nakaz, based as it is on close and accurate analysis. Indeed, given his well-known and life-long struggle for wider entrenched privileges for the nobility, Shcherbatov lays less stress in the Observations than might be expected on Catherine's relegation of the nobility in the Nakaz to little more than the service-element in the state rather than to the independent estate and control on absolutism envisaged by Montesquieu. Shcherbatov contents himself with observing that во утверждение того, что я обще о дворянстве сказал, можно видеть [в] Монтескиу, колико сей мудрый муж почитал дворянство нужно для монархии. 64

Shcherbatov's examination of Catherine's treatment of *De l'esprit des lois* underlines the fundamental incongruity of principle between the empress and Montesquieu and the inherent paradox in her use of his work. In a word, Shcherbatov's analysis was correct. To Montesquieu, Russia was manifestly a 'despotism', 65 without 'fundamental laws' to circumscribe absolute power, without 'intermediate' constituted bodies, such as estates and *parlements*, to interpose between sovereign and people, without a separate 'repository of the laws' and the other constituents of 'moderate government' which he described

in *De l'esprit des lois*. As Shcherbatov clearly demonstrates, only by taking Montesquieu's words out of context and by deliberately perverting his theory could *De l'esprit des lois* be applied in defence of absolute monarchy.

Beneath Catherine's borrowings from Montesquieu stood a traditional Russian political structure — in Shcherbatov's words, самодержавная и неограниченная власть российских государей. 66 Russia's basic governmental form remained unchanged. Catherine's 'enlightenment', however much it moderated the exercise of her power, did not affect its essential character; and allowing for the many important shifts of emphasis in the Nakaz, her political theory was ultimately but an updated version of that of Peter the Great. He too had sought to harness absolute power to ends considered enlightened by the standards of his time, and his political apologia, Pravda Voli Monarshei, also borrowed from the natural law philosophy current in his day.⁶⁷ Just as the authority of Grotius and the spirit of Pufendorf are invoked in Pravda Voli Monarshei to buttress Peter's absolutism, so forty years on Catherine incorporated in her Nakaz the language of Beccaria, Bielfeld, Justi and Quesnay, as well as of Montesquieu. Pravda Voli Monarshei, indeed, contained a discussion of the social contract and even of alternative forms of government, which, however tendentious, finds no counterpart in the *Nakaz*. ⁶⁸

One of Catherine's principal aims in publishing the *Nakaz* (as of Peter in *Pravda Voli Monarshei*) was to dissociate Russia from the associations of 'oriental despotism' which attached to it in the west and to prove that Russia was different from Turkey, Persia or Japan. This of course was the significance of her insistence in article 6: Россия есть европейская держава. ⁶⁹ Among the writers who did most in the eighteenth century to confirm Russia's reputation as a depotism, however, Montesquieu was foremost. Paradoxically, boldly and ingeniously, Catherine drew heavily on the language of Montesquieu in order to redress this unfavourable image. But, as Shcherbatov shows, both her quotations and her misquotations from *De l'esprit des lois*, with their telling omissions, disguised, and were intended to disguise, the underlying reality of Russian absolutism. There is a double irony in Catherine's quip to Frederick the Great that in borrowing from Montesquieu, she had dressed in borrowed plumage. ⁷⁰

What, then, of Catherine's vaunted 'âme républicaine'? Catherine prided herself on her 'classical taste for honour and virtue'. The described Count Grigorii Orlov as 'that hero so like the ancient Romans in the good old days of the Republic.' She herself, she told Grimm, was 'l'âme la plus républicaine que vous connaissez,' a sentiment which she reproduced in the epitaph which she composed for herself. Such expressions of republican sympathy are not to be taken literally. They should be seen in the broad context of the classical and aes-

thetic tastes of her age. Catherine shared with those other practitioners of 'enlightened absolutism', Frederick the Great and Gustav III of Sweden, an admiration for Tacitus, Plutarch and Roman republican values, sincere no doubt, but, as she admitted, standing in obvious contrast to their absolute power. Under the influence of Montesquieu (both in his Considérations sur les causes de la grandeur des romains et de leur décadence and of De l'esprit des lois), of the Encyclopédie, and later of events in the American colonies, absolute monarchs with a claim to enlightenment values became conscious of the need to distinguish their rule from the opprobrium both of 'oriental' and also of classical 'despotism'. Thus, while Shcherbatov argued that слава более действует над республиканцами, нежели над теми, которые под монаршическим [sic] правлением живут, 74 Frederick the Great in his Lettres sur l'amour de la patrie (1779) set out to rebut this very 'opinion that one might expect to find true citizens in republics, but that there were none in monarchies.' Against the objections raised by those who thought like Shcherbatov, Frederick maintained that 'the ruler is not a despot, ruling merely according to his own whim', because 'the sovereign authority' ('l'autorité souveraine') was shared by the institutions of state, including the administrative bureaucracy and the judiciary. Moreover 'it is the laws alone that rule.'75

Amongst other devices employed to enhance the prestige of absolutism without renouncing its reality, was the cult of the enlightened emperors of the Antonine age, whose example offered an attractive precedent and a plausible response to the challenge of republican values. In his article 'puissance' in the Encyclopédie, Diderot argued that absolute monarchs were 'trustees of power' on their subjects' behalf, and hailed the Antonines as rulers who 'used their power to make men happy.' Frederick too cited the Antonines as rulers who combined absolute power with republican virtue and examples in the early empire drawn from Tacitus, including the republican stoic martyrs Thrasea Paetus and Helvidius Priscus. ⁷⁶ Both names attracted Catherine's attention in contrast to what she described as 'the uninterrupted sequence of ruling monsters from Tiberius to Nero and from Commodus to Constantine.'77 By implication, for Catherine too the Antonines were honourable exceptions; and indeed she added a marginal note of emphatic approval of Montesquieu's observation that 'sous les bons empereurs l'état reprenait ses principes et le trésor de l'honneur suppléait aux autres trésors.'78 Marmontel's Bélisaire (1767) which also invoked republican virtue in absolute rulers and was, moreover, dedicated to Catherine, offered her a public opportunity to display her republican credentials. She authorised its translation into Russian, herself took part in translating it, and wrote to Marmontel, two months before publishing the Nakaz, agreeing 'qu'il n'y a de vraie

gloire que celle qui résulte des principes que Bélisaire soutient.'⁷⁹ Gibbon went to the heart of the matter in his analysis of the 'happy age' of the Antonines. In a passage of *The Decline and Fall of the Roman Empire* highly relevant to the contemporary debate and particularly to Russia, he wrote (1776): 'the vast extent of the Roman empire was governed by absolute power, under the guidance of virtue and wisdom.' The Antonines, he states in a pregnant phrase, 'delighted in the image of liberty.'⁸⁰

Catherine's classicism, while part of the common culture of the age, also provided a useful backcloth to the presentation in the Nakaz of her political principles and her authorial persona as empress of Russia. in the Nakaz. One aspect of that classicism was mythological: her own symbolic personification as the Russian Minerva.⁸¹ It was also reflected in the Roman themes featuring in the designs which she commissioned from architects such as Cameron and Clérisseau and sculptors such as Falconnet and Marie-Anne Collot.⁸² All this formed part of her particular style of government, which combined firmness and decisiveness with mildness, benevolence and maternal concern.⁸³ It coloured her absolute power with the attractive qualities which she professed, encouraged and to a large extent evinced: 'be gentle, humane, accessible, sympathetic and liberal,' she wrote in a copy of Fénelon's Télémaque intended for the eyes of her successor.'84 Even Shcherbatov admitted that she was умна, обходительна, великодушна и сострадательна по системе. 85 Nonetheless, as he makes clear in the Observations, a 'republican soul' was fundamentally incompatible with a 'spirit of despotic power' (дух деспотической власти). 86 Nor, he suggests in the *Observations*, could Catherine's court be considered an exemplar of conventional republican austerity, естли сам государь пример добродетели не подаст. 87 Insisting that не могут хорошие законы быть, естли оне [sic] не на нравах основаны и нравственными добродетелями не подкрепляются, ⁸⁸ he queried the sincerity of Catherine's professed aim in article 83 of the Nakaz, чтобы вселить узаконениями добрые нравы в граждан.

In the sentence from her letter to Zimmermann which prefaces this essay, while conceding the 'contrast' between her republican sympathies and her 'unlimited power', Catherine claimed, like Gibbon's Antonines, that she could not be said to have abused that power. Be that as it may — and Shcherbatov elsewhere challenges that claim head on his point in the *Observations* was that she made no real provision in the *Nakaz* for the kind of checks and balances contemplated by Montesquieu and which lay at the heart of his political philosophy. Republican attributes were decorative rather than germane to Catherine's political philosophy. However genuine her admiration for 'the principles of President Montesquieu', if Montesquieu was to be taken seriously and on his

terms, admiration was no substitute for a political structure which provided for institutional checks against abuse of power, entrenched guarantees and the separation of powers. The French parlements, 'consisting', in Shcherbatov's view, of 'the best men in the state' (парламентские собрании, сочиненные из лутчих людей государства), 91 could through the exercise of the 'droit de remontrance' delay a royal edict, in contrast to the limited (and in Shcherbatov's view underused) right of representation of the Russian Senate. The English, in Shcherbatov's words, 'zealous for their freedom' (агличане [sic], ревнивые к своей вольности), 92 enjoyed a real separation of powers through an independent judiciary; while the American revolutionaries in the founding of the Republic were to show that Montesquieu's doctrines could be applied, as Shcherbatov significantly noted, 'même pour les grands états.'93 Little of Montesquieu applied in Russia, and that little in name only. Appearance and image were important to Catherine, and the well projected publicity of her court included elements that were classical, Roman and republican. Falconet's statue, 'la gloire de Catherine II', like the golden shield (aureus clupeus) bestowed on Augustus, might certainly be taken to suggest republican traditions under an imperial regime. But such suggestions were misleading. The 'mask of freedom', as Shcherbatov pointed out, like Gibbon's 'image of liberty' under the Antonines, was not the same as freedom itself.⁹⁴

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¹ Sochineniia Imperatritsy Ekateriny II, (ed.) A. Pypin, xii, (St Petersburg, 1907), pp. 595-6.

² Un diplomate français à la cour de Catherine II. Journal intime du chevalier de Corberon, ii, (Paris, 1901), p. 49.

³ See O.A. Omel'chenko, «Zakonnaia monarkhiia» Ekateriny Vtoroi. Prosveshchennyi absoliutizm v Rossii, (Moscow, 1993); F.V. Taranovskii, 'Politicheskaiia doktrina v Nakaze imperatritsy Ekateriny II' in Sbornik statei po istorii prava, posviashchennyi M.F. Vladimirskomu-Budanovu (Kiev, 1904), pp. 44-86. Quotations from the Nakaz are from N.D. Chechulin, (ed.), Nakaz Imperatritsy Ekateriny II, dannyi kommissii o sochinenii proekta novogo ulozheniia, (St Petersburg, 1907).

⁴ William E. Butler, 'The Nakaz of Catherine the Great', *American Book Collector*, xvi, No. 5, 1966, pp. 19-21.

⁵ Catherine to d'Alembert, 27 June 1765, *Oeuvres et correspondances inédites de d'Alembert*, (Paris, 1887), p. 239; Catherine to Frederick II, 17 October 1767, *Sbornik imperatorskogo russkogo istoricheskogo obshchestva*, xx, (St Petersburg, 1877), p. 236.

⁶ Voltaire to Catherine, 19 June 1771, *The Complete Works of Voltaire*, cxxi, (Banbury, 1975), p. 442.

⁷ Des Grafen J.J. Sievers Denkwürdigkeiten, (ed.) K. Blum, (Leipzig, 1857), part 1, p. 256.

⁸ d'Alembert, *Oeuvres et correspondance inédites*, p. 245; *Sbornik*, i, (St Petersburg, 1867), pp. 276. ⁹ 'Zamechaniia Shcherbatova na Bolshoi Nakaz Ekateriny' (hereafter 'Zamechaniia'), *Kniaz' M.M. Shcherbatov. Neizdannye sochineniia*. Pod redaktisei P.G. Liubomirov, (Moscow, 1935), pp. 16-63. Published from an eighteenth-century copy, with corrections in Shcherbatov's hand, in the National Library, St Petersburg (Hermitage Collection, No. 40). The manuscript consists of a

copy of Catherine's Nakaz with comments by Shcherbatov (which he designates as 'primechaniia'). The manuscript is untitled. The title was supplied by the editor.

- ¹⁰ Zamechaniia, p. 60. Shcherbatov frequently uses the expression in his writings.
- ¹¹ On Shcherbatov, see A. Lentin, introduction to his edition of M.M. Shcherbatov, On the Corruption of Morals in Russia, (Cambridge, 1969), pp. 1-102; and 'A la recherche du prince méconnu: M.M. Shcherbatov (1733-1790) and his critical reception across two centuries', Canadian-American Slavic Studies, 28, No. 4 (Winter 1994), pp. 361-98.
- ¹² Zamechaniia, pp. 27, 59.
- 13 'O sposobakh prepodavaniia raznye nauki', Sochineniia Kniazia M.M. Shcherbatova, ii, (St Petersburg, 1898), p. 591.
- ¹⁴ Shcherbatov produced his own (unpublished) translation of Montesquieu's *Considérations sur les* causes de la grandeur des romains et de leur décadence (National Library, St Petersburg, Hermitage Collection No. 304) and a short excerpt from De l'esprit des lois (Hermitage Collection No. 228/30-32). For Shcherbatov and Montesquieu, see A. Lentin (ed.), Prince M.M. Shcherbatov, On the corruption of morals in Russia, Cambridge, 1969, pp. 6, 19, 23, 46-7, 49, 59. Shcherbatov's direct quotations from Montesquieu in the Observations are from a Russian version of De l'Esprit des lois. In this essay, they appear in French.
- ¹⁵ Zamechaniia, pp. 18-19.
- Catherine to d'Alembert, 31 August 1766, d'Alembert, *Oeuvres et correspondances inédites*, p. 2457¹⁷ Zamechanniia, p. 17.
- ¹⁸ Zamechaniia, p. 18.
- ¹⁹ Zamechaniiia, p. 42.
- ²⁰ Zamechaniia, p. 47.
- ²¹ Zamechaniia, pp. 47-8. See also A. Lentin, 'Beccaria, Shcherbatov and the question of capital punishment in eighteenth-century Russia', Canadian Slavonic Papers, 24, no. 2 (1982), pp. 128-37.
- ²² Zamechaniia, p. 43.
- ²³ Catherine admitted to Frederick the Great that 'my only role in the work has been to arrange the material and to add a line or a word here and there. If all my own contributions were put together, I do not think they would add up to more than two or three pages', 17 October 1767, Sbornik, xx, p. 236.²⁴ Zamechaniia, p. 27.
- ²⁵ Both Catherine in the *Nakaz* and Shcherbatov in his *Observations* use the adjective самодержавный and the expression самодержавное правление and самодержавная власть. From the French version in which she wrote the Nakaz, it is clear that Catherine intended these as the Russian equivalent of 'la souveraineté' and 'une autorité souveraine' and also, tendentiously, of 'un gouvernement monarchique'. In the semi-official English translation of the Nakaz by Mikhail Tatishchev, published in London in 1768, the adjective самодержавный is translated as 'absolute'; and it is in this sense that it is used by Shcherbatov. A neutral term for monarchy occasionally used both by Catherine and by Shcherbatov is единоначальное правление. Shcherbatov also uses the expression монаршическое [sic] правление, монархия.
- ²⁶ In his *Observations*, Shcherbatov uses the expressions деспотичество, деспотическое правление, деспотическая власть.
- ²⁷ Zamechaniia, p. 21.
- ²⁸ *ibid*.
- ²⁹ *ibid*.
- ³⁰ *ibid*. For Shcherbatov, самовластный is the equivalent of деспотический (р. 27).

- ³¹ *ibid.* In *O povrezhdenii nravov v Rossii*, arguing in favour of an hereditary constitutional monarchy, Shcherbatov attacked Catherine from a different angle, complaining that while не можно сказать, чтобы она не была качествами достойна править толь великой империей, she lacked any legal title to the throne. Prince M.M. Shcherbatov, *On the Corruption of Morals in Russia*, (ed.) A. Lentin, Cambridge, 1969, p. 234.
- ³² Zamechaniia, p. 21. In *O povezhdenii nravov v Rossii* Shcherbatov instances Catherine's 'arbitrariness' (самовластие). *On the Corruption of Morals in Russia*, p. 246.
- ³³ Zamechaniia, pp. 21, 22.
- ³⁴ Zamechania, p. 21. See *On the Corruption of morals in Russia*, pp. 234, 240, 244, for Shcherbatov on Catherine's любострастие.
- ³⁵ Zamechaniia, p. 22.
- ³⁶ Zamechaniia, pp. 21-22.
- ³⁷ Zamechaniia, p. 22.
- ³⁸ *ibid*.
- ³⁹ *ibid*.
- ⁴⁰ Zamechaniia, p. 23.
- ⁴¹ *ibid*.
- ⁴² *ibid*.
- ⁴³ *ibid*.
- ⁴⁴ Zamechaniia, p. 24.
- ⁴⁵ *ibid*.
- ⁴⁶ *ibid*.
- 47 Zamechaniia, p. 25. .Shcherbatov does not indicate that article 16 is taken from Montesquieu, *De l'esprit des lois*, Book XI, chapter 7.
- ⁴⁸ Zamechaniia, p. 25.
- ⁴⁹ *ibid*.
- ⁵⁰ *ibid.* For Shcherbatov on Catherine's claim to be above the law, see *On the Corruption of Morals in Russia*, p. 246.
- ⁵¹ Zamechaniia, pp. 25-26.
- ⁵² Zamechaniia, p. 27.
- ⁵³ Zamechaniia, p. 28.
- ⁵⁴ *ibid*.
- ⁵⁵ Zamechaniia, p. 26.
- ⁵⁶ Zamechaniia, p. 27.
- ⁵⁷ Zamechaniia, p. 22. Shcherbatov himself was made a senator in 1779 after a decade in which his hopes of appointment were bitterly disappointed.
- ⁵⁸ Zamechaniia, p. 40.
- ⁵⁹ Zamechaniia, pp. 30-31.
- ⁶⁰ In his essay 'O sposobakh prepodavaniia raznye nauki', (*Sochineniia Kniazia M.M. Shcherbatova*, ii, (St Petersburg, 1898) pp. 590-91), Shcherbatov recommends the *Nakaz* for the education of the young noble.
- ⁶¹ Zamechaniia, p. 27.
- ⁶² F.V. Taranovskii, *loc. cit.*
- ⁶³ On the Corruption of Morals in Russia, pp. 234-58.
- ⁶⁴ Zamechaniia, p. 59.
- 65 F.V. Taranovskii, *loc. cit.*; Isabel de Madariaga, 'Catherine II and Montesquieu between Prince M.M. Shcherbatov and Denis Diderot', in *L'età dei Lumi. Studi storici sul settecento europeo in*

onore di Franco Venturi, vol. ii (Naples, 1985), pp. 611-50;. Albert Lortholary, Le mirage russe en France au XVIIIe siècle, Paris, 1952, pp. 33-38.

⁶⁶ Zamechaniia, p. 20.

- ⁶⁷ See A. Lentin, introduction to his edition of *Peter the Great: His Law on the Imperial Succession in Russia, 1722. Pravda Voli Monarshei vo opredelenii naslednika derzhavy svoei (The Justice of the Monarch's Right to Appoint the Heir to His Throne),* (Oxford, 1996), pp. 1-117.
- ⁶⁸ *ibid.*, pp. 44-6, and for the book's comparison of hereditary and elective monarchy, see section 16 of the text, pp. 226-45.
- ⁶⁹ Shcherbatov comments on article 6: Не можно всю Россию европейскою державою назвать, ибо многие ее области в границах Азии вмещены, как например Астраханская и Оренбургская губерния и вся Сибирь (р. 18). The observation, pedantic but true, may be thought to miss the symbolic dimension of Catherine's claim. It may, however, imply an 'oriental' element in the contemporary 'despotism' exposed by Shcherbatov. Shcherbatov notes (р.47) that in Mongolia деспотичество до вышней степени достигло.
- ⁷⁰ Catherine to Frederick II, 17 October 1767, *Sbornik*, xx, (St Petersburg, 1877), p.236. In his *Lettres russiennes* (St Petersburg, 1760), a defence of Russian absolutism against Montesquieu's charge of despotism, F.G. Strube de Piermont, professor of jurisprudence and politics at the St Petersburg Academy of Sciences, wrote:'le gouvernement de Russie n'est pas un gouvernement despotique proprement dit.' Catherine had appended in the margin of her copy: 'Monsieur dispute pour le nom, non pour [la] chose.' Prefiguring articles 9 and 10 of the *Nakaz* (except for the substitution of 'une autorité souveraine' for Montesquieu's 'une autorité despotique'), she also wrote in relation to *Lettres russiennes*: 'Un grand empire comme celui de Russie se destruiroit s'il y étoit etablie une forme de gouvernement autre que despotique, parce que c'est le seul qui peut remédier avec promptitude nécessaire aux besoins des provinces éloignées.' A. Pypin, 'Ekaterina II i Montesk'e', *Vestnik Evropy*, 1903, iii, pp. 296, 299. These comments were written by her at most five years before she began the *Nakaz*.
- ⁷¹ Sochineniia Imperatritsy Ekateriny II, (ed.) A. Pypin, xx, (St Petersburg, 1907), p. 646.
- ⁷² Catherine to Voltaire, December 1768, *Voltaire and Catherine the Great. Selected Correspondence*, (ed.) A. Lentin, (Cambridge, 1974), p. 53.
- ⁷³ Catherine to Grimm, 18 April 1776, *Sbornik*, xxiii, (St Petersburg, 1878), p. 48. Dominique Maroger, (ed.), *The Memoirs of Catherine the Great*, (London, 1955), p. 377. See also D.M. Griffiths, 'Catherine II: the Republican Empress', *Jahrbücher für Geschichte Osteuropas*, xxi, 1973, pp. 323-44 and 'To Live Forever: Catherine II, Voltaire and the Pursuit of Immortality', in R.P. Bartlett, A.G. Cross, Karen Rasmussen, (eds.), *Russia and the World of the Eighteenth Century. Proceedings of the Third International Conference organised by the Study Group on Eighteenth-Century Russia*, (Columbus, Ohio, 1988), pp. 446-68.

⁷⁴ Zamechaniia, p. 24.

- ⁷⁵ G.B. Volz, (ed.), *Die Politischen Testamente Friedrichs des Grossen*, (Berlin, 1920), pp. 37-39; 'Essai sur les formes du gouvernement et sur les devoirs des souverains', *Oeuvres de Frédéric le Grand*, ix, (Berlin, 1848), pp. 198-210.
- ⁷⁶ 'Lettres sur l'amour de la patrie', *Oeuvres de Frédéric le Grand*, ix, pp. 216-17.
- ⁷⁷ Dominique Maroger, (ed), *The Memoirs of Catherine the Great*, (London, 1955), p. 387.

⁷⁸ A. Pypin, 'Ekaterina II i Montesk'e', *Vestnik Evropy*, 1903, iii, p. 295.

⁷⁹ Catherine to Marmontel, 7 May 1767, in Marmontel, *Correspondance*, i, (ed.) John Renwick, (Clermond Ferrand, 1976), p. 121. The *Sobranie*, *staraiushcheesia o perevode inostrannykh knig na rossiiskiii iazyk*, founded by Catherine in 1768, translated many of the ancient classics into Russian, as well as *Bélisaire*. N.A. Sidorova, 'Antichnaia kult'tura v kontekste russkoi kul'tury epokhi Ekate-

riny Velikoi', in *Mezhdunarodnaia konferentsiia. Ekaterina Velikaia: Epokha Rossiiskoi Istorii. Tezisu dokladov*, (hereafter *'Ekaterina Velikaia'*), (St Petersburg, 1996), pp. 269-71.

- ⁸⁰ Gibbon's Decline and Fall of the Roman Empire, (Everyman, London, 1954), p. 78.
- ⁸¹ T.V. Artem'eva, 'Ekaterininskoe vremia kak «filosofskii vek»' in *Ekaterina Velikaia*, p. 64.
- ⁸² See N.A. Sidorova, 'Antichnaia kul'tura v kontekste russkoi kul'tury epokhi Ekateriny Velikoi', in *Ekaterina Velikaia*, pp. 269-71; E.V. Karpova, 'Skul'pturnye izobrazheniia Ekateriny II (k evoliutsii allegorischeskogo obraza)', *ibid.*, pp. 239-42.
- ⁸³ Catherine's acceptance of the title *Mat' Otechestva* in 1767 (following the precedent of Peter the Great's assumption of the title *Otets Otechestva* in 1721) looked back to Augustus' title *Pater Patriae*. In sanctioning the execution of Pugachov and his accomplices in 1774, Catherine enjoined P.I. Panin 'to treat the miscreants at their execution in accordance with my habitual love of humanity and mercy, and always rememberi that [...] I am like a mother shedding tears at the necessary punishment of her disobedient children.' (*Sbornik*, vi (St Petersburg, 1871), p. 121).
- ⁸⁴ Sochineniia Imperatritsy Ekateriny II, (ed.) A. Pypin, xii, (St Petersburg, 1907), p. 645.
- ⁸⁵ On the Corruption of Morals in Russia, p. 234.
- ⁸⁶ Zamechaniia, p. 28.
- ⁸⁷ Zamechaniia, p. 38.
- ⁸⁸ Zamechaniia, pp. 33-34.
- ⁸⁹ Sochineniia Imperatritsy Ekateriny II, (ed.) A. Pypin, xii, (St Petersburg, 1907), pp. 595-6.
- ⁹⁰ See A. Lentin, 'A la recherche du Prince méconnu: M.M. Shcherbatov (1733-1790) and his critical reception across two centuries', *Canadian-American Slavic Studies*, 28, No. 4 (Winter 1994), pp. 371-5; and A. Lentin, 'Shcherbatov, Constitutionalism and the «Despotism» of Sweden's Gustav III', in R.P. Bartlett, A.G. Cross, Karen Rasmussen, (eds.), *Russia and the World of the Eighteenth Century. Proceedings of the Third International Conference organised by the Study Group on Eighteenth-century Russia*, (Columbus, Ohio, 1988), pp. 36-44.
- ⁹¹ Zamechaniia, p. 46.
- ⁹² *ibid*.
- ⁹³ Un diplomate français à la cour de Catherine II. Journal intime du chevalier de Corberon, ii, (Paris, 1901), p. 49.
- ⁹⁴ For Shcherbatov's enthusiasm for republican values, cf. A. Lentin, 'Shcherbatov's Italian connections', in *A Window on Russia. Papers from the V International Conference of the Study Group on Eighteenth-Century Russia, Gargano, 1994*, (ed.) Maria Di Salvo and Lindsey Hughes, (Rome, 1996), pp. 182-3.