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Abstract

The conservative Petre P. Carp became famous in Romania's modern age in several ways: as a doctrinarian, as a diplomat and as a man of letters. However, he was also one of the most important lawmakers in small Romania and his legislative endeavour subscribed to the effort to modernise the Romanian economy and society in a capitalist fashion, in the second part of the nineteenth century and the beginning of the twentieth century. The accurate perception on Carp's contribution to this process was influenced by the deformed image created by the clichés disseminated about him. The perspectivist method of interpreting his manifestation as a lawmaker shapes the image of a lawmaker who knew very well the legal systems of various ages and who was capable of creating adequate measures in order to solve the issues specific to the Romanian society of that time. Interpreted from this standpoint, his legislative actions did not belong to a "retrograde", as they were labelled, but to a politician who approached governance with rigour and competence, trying to improve given situations (within the limits imposed by his conservatism).

Keywords:

lawmaker, conservative, P. P. Carp, perspectivism, mining law, farming covenant

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BOCANCEA, S., (2011) A LAWMAKER IN THE MODERN AGE. P. P. CARP,
Jurnalul de Studii Juridice, Anul VI, Nr. 1-2, Iunie, pp: 167-177

Introduction

Petre P. Carp was one of the politicians in the modern age who distinguished himself among his fellows by the fact that he put forth a new type of political man and a different way of doing politics. In his fifty years of activity, the conservative politician proved to be a professional by the seriousness with which he approached the act of government, by his competence, consistence, competitiveness, civility and morality. The images that made him famous in the Romanian society of the second part of the 19th century varied to a great extent: as a doctrinarian, a lawmaker, a political activist, a diplomat and even a man of letters.

In his quality of a lawmaker, he introduced himself not as an innovator, but as a reformer, claiming for himself not the merit of originality, because "all ideas are already found in books", but that of selecting and adapting information "to our needs" (Carp, (2000), :456, 568). The anomalies that emerged in the course of the transition towards bourgeois modernity, the Junimea members believed (Carp was their political leader), were the result of the mismatch between the advanced degree of the forms imported and the delay of the Romanian content. Carp's solution, exposed in his political programme "the New Age", did not aim at giving up the cultural imports from abroad, but at raising the content at the level of imports through the reform of the economy (incentives for agriculture and industry to develop towards capitalism), of the society (by creating a capitalist segment capable of taking over the efforts of modernisation) and through the cultivation of new mindsets and attitudes (related to ownership and citizenship). The project aiming to modify succession laws (by introducing peasant majority - 1879), the law on giving the peasants ownership over parts of state-owned land (1889), the mining law (1895), the law on industry stimulation (1912), the law on the organisation of professional education (1892), "the law on tzuika" – traditional alcoholic beverage (1900), the law on professions (1911) were some of the bills proposed by the conservative P. P. Carp in order to encourage the capitalist modernisation of the Romanian economy and society.

The perception on the political man's activity, in its various forms, was deformed by clichés which depict him as a retrograde, someone "sold to the foreigners" (especially Germans), an authoritarian. The causes that led to the emergence of these interpretative patterns were multiple and referred to his political competitors (the tactics of any political adversary aiming to minimize or hijack the meaning of their opponent's actions or statements), to the politician's lack of interest in popularising his intentions and projects, to his lack of popularity that derived from the slightly aggressive display of his ego, to the Romanian society's apprehension about the conservative political message due to its penchant for the left (Boia), and to the presence of Manichaeism in the

BOCANCEA, S., (2011) A LAWMAKER IN THE MODERN AGE. P. P. CARP,
Jurnalul de Studii Juridice, Anul VI, Nr. 1-2, Iunie, pp: 167-177

political milieu, which assessed politicians according to their ideological belonging: invariably, the liberals were "good" whilst the conservatives were "bad" (Iliescu, (2005), :182-190).

Communist historiography took over these interpretation patterns and included them into its ideological (Marxist) perspective on reality. Its main presupposition was the class interest of the politician under investigation, an interest that determined all his statements and actions. The objective of the investigation was to unmask and condemn public personalities for their inability to overcome their class limits. From this standpoint, the quintessence of Carp's endeavours was that of preserving the economic, social and political position of landlords, a social category to which the political man belonged.

In post-communism, there has been an increasing interest in reconsidering the conservative ideology and the various attitudes adopted by conservative political men at different moments during Romanian modernity.

Assuming the conclusions of the critical approaches adopted by authors such as A. Corbea (Corbea, (1991), S. Alexandrescu, (1999), L. Boia, (2011), T. Pavel (2000), C. Siulea (Siulea, (2003), I. Stanomir (Stanomir, (2002, 2004, 2008) and so on, and using perspectivism in the manner announced by Karl Mannheim (Mannheim, (1968), I aim to sketch an image of the conservative P. P. Carp taking into account his ideology (the limits inherent to such a way of perceiving reality), the limits of his personality (vanity, stubbornness, idiosyncrasies), of the society in which he lived. Mannheim's ideological method uses, just as the Marxist one, the presupposition of the scrutinised character's hidden or declared interest and it does this in order to understand him better and not to condemn him. To do so, it takes into account the historical factors that influenced his statements, his behaviour at a given moment, but it also pays attention to the researcher's preferences which, unless they are assumed openly, might alter the outcomes of the endeavour. In doing this, I do not wish to denigrate nor to defend the Romanian conservative, but to understand him better. The outcome of such an enterprise is not relativist knowledge, but contextualised, relational knowledge.

My investigation will focus P.P. Carp as a lawmaker, aiming to capture the extent to which his legislative propositions belonged to a retrograde or were a conservative answer to the great issues of a society undergoing a modernisation process. In order to sketch Carp's image as accurately as possible, I shall present the circumstances of his professional formation insisting on his interventions in order to amend some laws (such as that on farming covenants) or to present his own legislative propositions (i.e. the mining law).

BOCANCEA, S., (2011) A LAWMAKER IN THE MODERN AGE. P. P. CARP,
Jurnalul de Studii Juridice, Anul VI, Nr. 1-2, Iunie, pp: 167-177

The legislator

In the fashion of the Romanian society in the middle of the 20th century, future elites were educated in schools from abroad. Petre P. Carp, the son of a boyar, was also sent to study abroad by his father, Petre I. Carp, but not in Vienna, where he had studied himself, but in Berlin. After he had finished the secondary school (1858), with the mention *primus omnium*, Carp enrolled at the Faculty of Law and Political Science within the University of Bonn (1858-1862) (Gane, (1936): 65). His option was likely influenced by the fashion of that age. Elena Siupiur, who studied the phenomenon of academic migration towards German universities, showed that young learners had a predominant penchant for the legal and philosophical faculties of these universities, fed by the wish to build a political or governmental career once they returned home. The author says that under Cuza and Charles I, in Romania there were 255 legal advisors who had studied the law, between 1800 and 1880, at the faculties of the six German universities, alongside 200 Greeks and 180 Serbians (Siupiur, (1998), :213-246). The influence of this professional category, E. Siupiur argues, on the efforts to modernise the political, administrative and legislative life of small Romania was particularly important. Just as their fellows formed in the French or Belgian academic milieu, they played a crucial role in the import of the European institutional and legal model, in adapting the European liberal and legislative constitutionalism to the Romanian realities. At the same time, they managed to reach the top of the social hierarchy: they became heads of the government, ministers and directors general, members of the diplomatic corps, deputies and senators, co-authors of legislative works up to the First World War, academics and institution founders, party leaders, writers and journalists with a role in the shaping of public opinions. For instance, the political men M. Kogălniceanu, M. K. Iepureanu, P. P. Carp, T. Maiorescu, D. A. Sturdza, Gr. Brătianu, I. Bălăceanu, I. G. Negruzzi, G. Antipa, and many others were law graduates (Pavel, (2000), : 209).

Till he got directly involved in politics, Carp held the position of auditor at the State Council, an institution established in January 1864 by Cuza, having the task of preparing bills and regulations which were forwarded to the General Assembly, and also had attributions in administrative law. The council was composed by a president, the Prince of the country himself, a vice-president, a secretary general, 9 councillors and 9 auditors. The auditors, appointed directly by the Prince, had to prepare the documents concerning the committees or the General Assembly. For this position of unpaid auditor Carp was recommended by his professional competence and, most likely, by Th. Rosetti, the Prince's brother in law (Gane, (1936), vol. I, :92).

Carp was not interested in becoming a pleading lawyer. He pleaded in court only once, in the 1892 Bedmar case, but not as an advocate, but as a

BOCANCEA, S., (2011) A LAWMAKER IN THE MODERN AGE. P. P. CARP,
Jurnalul de Studii Juridice, Anul VI, Nr. 1-2, Iunie, pp: 167-177

minister of Lands. From this position he refused to meet the request of the Romanian state, which invoked art. 7 of the Constitution in order to take control over the Bedmar estate (there were no successors). Carp's gesture, interpreted in the context of his friendship with the Bedmar family lawyer, Buiucliu, raised many comments regarding his lack of objectivity in the case. In December 1892, to defend himself, Carp took a stand in Parliament, where he compared two similar cases, Bedmar and that of Princess Gortciacov, which were in two different ways (in the Princess's case there had been no reference to art. 7). According to the minister, foreign legislations, such as the Russian or the English one (an argument used by the prosecuting lawyers) did not have provisions that contested the hereditary capacity of people outside the family. The Romanian legislation was also lacking such a provision, and art. 7 did not give any right for the state to claim such a prerogative. The minister Carp's point of view triumphed, and it was used later on, during the D. A. Sturdza government, in the Zapa case (Gane, (1936), vol. II, :40).

The measure of his legal knowledge was given, I believe, by his lawmaking works, which embodied the principles declared in his political programme, the "New Age". In Carp's mind, which was shaped by Junimea's principles, the legislative system in modern Romania suffered from the mismatch between the increasingly modern nature of the state laws and the fact that most social groups had a low level of understanding on legal provisions. The source of legal "evil", the conservative man claimed, was not the import of forms, needed in such a retarded civilisation as that found in Romania in the middle of the 19th century, but the fact that they were adopted indiscriminately, with no regard to their efficiency in their mother countries. Massive adoption "with no method" was caused by both the lack of information on Romanian realities and the lack of any knowledge about the need to raise the content at the level of the form.

The objective of erasing these anomalies that had emerged in the course of the transition towards modernity and of matching the content and the form is found throughout Carp's entire legislative works. His position in relation to the legal, economic and social situation in Romania was predominantly conservative. According to a basic conservative principle, highlighted by A.-P. Iliescu (Iliescu, (1998), :76), there are specific answers to the (always particular) problems of human communities. It is from this perspective that one should interpret Carp's statement according to which real (socially useful) reforms (laws) were only those measures that "leaned on the past"; the law is nothing else than the "fatal consequence of what happened in practice" (Carp, (2000),: 493). In order to conceive efficient laws, it was not enough for the lawmaker to have commendable intentions; one should also have knowledge about the socio-economic realities ("the situation in which the country's people live") and knowledge about how to improve them, because the finality of any lawmaking endeavour is to replace real habits with better habits (Carp, (2000),: 66). When

BOCANCEA, S., (2011) A LAWMAKER IN THE MODERN AGE. P. P. CARP,
Jurnalul de Studii Juridice, Anul VI, Nr. 1-2, Iunie, pp: 167-177

reduced only to good intentions, the whole endeavour was nothing but the "work of a bad legislator" (Carp, (2000),: 518).

In his activity as a legislator, Carp was characterised by pragmatism. He did not seek to create new states of affairs (by the way, the position of a revolutionary is not appropriate for a conservative), but to improve existing situations. To prove it, I shall present his position when it came to amend the law on farming covenants and to support the bill on the mining industry. We should also add that these attitudes subscribed to his political action platform. His 1882 plea and the 1893 legislative measure on the amendment of the law on farming covenants were sequences of his programme that aimed to orient the Romanian agriculture towards capitalism, to improve the peasants' situation with the purpose of increasing social solidarity. The mining law (1895) belonged to the series of measures conceived to develop the industrial sector.

In the middle of the 19th century Romanian agriculture was affected by the mixture of traditional (medieval) and modern realities, a coexistence that created the form without content called *neo-serfdom*. As C. Schifirnet warned (Schifirnet, (2007), :205), this socio-economic reality should not be understood as a new form of serfdom, but as tendency-capitalism or partial capitalism, which lack the mechanisms of the capitalist economy, i.e. the indicators of this economy: performance and profitability. One of the practices very common especially in Moldova was that of farming covenants. A capitalist-based work contract between the Contract the great landowners and the peasants, the farming covenant included, besides capitalist elements such as the wages, some feudal forms of payment, such as the rent. Concluded for a period of five years, with the amount corresponding to the entire period being paid in advance, the covenant became burdensome for the peasants both from a financial standpoint (due to the perpetual financial crisis in which they found themselves) and from their freedom to move.

The tense situation in the villages determined the liberal government to propose, in 1882, a bill to amend the law on farming covenants. On this occasion, Carp intervened in the debate in favour of the amendment and exposed his own propositions. He supported for farming covenants to be reduced to one year (not two, as in the liberal alternative) because it was the only way to establish more precisely the "ratio between price and work" and because it respected the freedom of the contracting parties, especially the peasant's, who, lacking resources, was "forced to come back to his old creditor" (Carp, (2000), : 155).

But the most important reproach to the liberal proposition referred to their resorting to the provisions of common law. This reference to the civil law, as G. Taşcă showed, "was such an impressive argument that no one wondered if it was in the peasant's interest to apply the common law" (Tasca, (1938), :3). Bearing in mind the consequences that the use of common law generated for this case, Carp described the procedure: thus, the common law was the

"common robbery" because "in the end, both the common law and the bailiff lead us to the policeman" (Carp, (2000),:167). The error of the liberal lawmakers, the conservative Carp claimed, was that they had started from ideal premises in order to judge actual situations (farming covenants); the principles of common law were not universals, such as those of natural law. It was impossible to introduce the French land code in Romania because the farming systems of the two states were characterised by different realities (for instance, there was no crediting in French agriculture). Thus, it would be possible to resort to the civil code, Carp said, only when new practices had been introduced in Romanian agriculture, which meant creating "associations between the peasant and the owner" in Wallachia and paying for work when "it was done" in Moldova (Carp, (2000), :157-158).

Although the practice of crediting generated many inconveniences for the contracting parties, Carp was against its blunt suppression. Even if the law was bad, it should have been removed progressively because: "A mindful lawmaker does not proceed to reforms in a violent and radical manner when well-established customs, which have become a second nature, are at stake" (Carp, (2000),:157). He pleaded for a progressive abolishment of these covenants; the peasant should have been encouraged to redeem himself. This system was possible because Carp himself, as a great landowner, was also applying it.

In 1893, during the 1891-1895 conservative government, a new law on farming covenants was passed; it bore the mark of Carp's thoughts. It had provisions on: declaring the areas rented for money or work; eliminating any type of non-financial payment; the peasant's obligations to the landowner; the landowner's obligation to establish grazing areas according to the cattle headcount possessed by the peasant (Lungu, (1967),:113). Other provisions established a one-year term for the contracts referring to the cultivation of land, grazing areas, vineyards and gardens and a five-year term for grasslands; the law set strict rules for the landlords' bookkeeping; it created artificial grasslands; it established penalties for local authorities who did not levy wheat crops in due town (a fact that brought losses of 20-25 million to the national wealth), it limited exceptional law only to justified cases, it oriented the conflicts deriving from farming covenants towards justices of peace, not the mayor (Gane, (1936), vol. II,: 359).

It is easy to see that Carp's position was not that of a retrograde, of a politician interested in preserving the position of the social class to which he belonged (as in the Marxist ideological interpretation). The solution he found to this explosive situation in the Romanian society complied with 19th century conservatism. Starting from the actual situation, he was in favour of a progressive abolishment of farming covenants (to avoid the losses incurred by the contracting parties) which were to be replaced by modern relations

BOCANCEA, S., (2011) A LAWMAKER IN THE MODERN AGE. P. P. CARP,
Jurnalul de Studii Juridice, Anul VI, Nr. 1-2, Iunie, pp: 167-177

(associations). As a minister, in order to prevent the landlords' abuses, he made it compulsory for the obligations of the parties to be stated in the covenant.

The mining law of 1895 is yet another proof of the conservative political man's pragmatism. The bill was a real application of his principle of the state authority's intervention in the economy with the purpose of stimulating modernisation in these sectors. Carp's support for this principle made the liberals and his ideological fellows label him as a socialist. Rejecting this label, the conservative made clear the purpose and the extent of this protectionism. Under the influence of the German economist Fr. List, Carp pleaded for a limited intervention of the state, only in order to create a competitive national economy and to increase national solidarity.

Inspired by other states' legislations and informed about the situation of Romanian mining, Carp created a *sui generis* law, which did not grant absolute rights of exploitation neither to the state nor to the landowner. The reality he wanted to create was a situation where the "owner of the area had rights over the underground, but the exploiter was not at the absolute discretion of the owner" (Carp, (2000), :500). It was beneficial for the landowner, even if he did not take part in the exploitation, by the quota reserved for him (4% of the net revenue), and by the damages set for eventual losses, and for the state (a 2% royalty). It allowed foreign capitals to take part in the exploitation of underground deposits; the interdictions referred only to the granting of political and landowning rights to foreign investors. The provisions of the law did not apply to bituminous substances (crude oil[2], asphalt, ozokerite) which were left at the landlord's disposal.

The lawmaker was accused because his legislative proposal did not comply with the principle of the inviolability of property and with the provisions of art. 7 in the Constitution, establishing that expropriation was possible in cases not allowed by the fundamental law. Among all, the most serious accusation was that referring to the violation of property. The explanation given by Carp was that his proposal did not use the idea of expropriation but that of "occupation" (lease), a principle also used by other states. Lease was a "*sui generis* property, which is neither rural nor urban but an industrial property" (Gane, (1936), vol. II,: 123). The lawmaker believed that if his bill was accepted it would had beneficial effects not only for investors but also for the community at large, by creating "many, many industries" (Carp, (2000),: 499).

From the things presented above we may infer that by his measure Carp aimed to ensure a better organisation of the mining exploitation in Romania,

[2] Internationally, it is only in 1897, when the internal combustion engine was brevetted, that the interest in oil skyrocketed. In our country, due to the lack of capital, of qualified personnel and of systematic studies of the underground, the oil industry had only a modest evolution between 1858 and 1895. See a detailed presentation in Gh. Buzatu, (2009), :27).

which would have resulted in the development of those branches of the industry that depended on local raw materials. His measure was the expression of his perspective according to which in the Romanian economy it was needed to encourage the sectors that were able to exploit local resources and to discourage the enterprises that relied on the import of raw materials. By developing these fields and qualifying the workforce, the Romanian economy could take part efficiently in the global economic market.

In his activity as a lawmaker, according to the perspectivist interpretation, Carp appears as someone who knew very well the legislative systems of other European countries and the local realities and as a pragmatic legislator. Aiming to solve gradually the problems of the Romanian economy and society, he created a series of measures that he described as unspectacular, but "slow measures, that come to help latent work and increase the national wealth" (Carp, (2000),: 612).

Conclusions

Through his lawmaking activity, the conservative Petre P. Carp proved to be one of the most substantial politicians in the 19th century Romania, whose contributions to the modernisation of the social, economic, political and administrative system should be reconsidered. Thinking and acting as a conservative, he contributed, alongside the liberals, to the effort to consolidate the young Romanian national state and to include it among the other European political units.

The critical assessment of the clichés referring to Carp and the perspectivist manner of interpreting reveal a specialist in legal science, in his field of professional competence, interested in finding the best solutions for a society in the course of transition to capitalist modernity. Created from a conservative perspective, they were supposed to reform a state of affairs, not to revolutionise it. Reform proved its social utility only if, taking into account the past, it turned its eyes to the future. His legislative proposals – some were passed and some rejected – do not impress by their originality but by the efforts made by the lawmaker to get informed and to connect information coming from various fields (legal, political, social and economic sciences) and to include into the law even the outmost consequences of a situation.

His well documented attitudes in what regarded the law on farming covenants (1882; 1893) and the mining law (1895) reflected the principles announced by his political platform, the "New Age", through which he aimed to contribute to the construction of the national economy and to strengthening social solidarity in small Romania. His positions were not those of a politician who was nostalgic for the past, but the specific answers of a modern conservative to the particular problems of 19th century society in Romania.

BOCANCEA, S., (2011) A LAWMAKER IN THE MODERN AGE. P. P. CARP,
Jurnalul de Studii Juridice, Anul VI, Nr. 1-2, Iunie, pp: 167-177

Although his political actions and pleas had a strong circumstantial nature, the things that deserve to be recovered from the political model represented by P. P. Carp are the competence and the rigour with which he approached the act of governing, his effort to get informed, process the data and adapt them to a given reality.

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BOCANCEA, S., (2011) A LAWMAKER IN THE MODERN AGE. P. P. CARP,
Jurnalul de Studii Juridice, Anul VI, Nr. 1-2, Iunie, pp: 167-177