Law Training in Continental Europe

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With the return to normalcy law schools can be expected to return to their discussions of new plans for legal education, discussions which have become quite a normal part of the activities of law teachers. The very fact that reform plans are being considered so widely indicates the existence of a feeling of uneasiness about legal education in this country. In a time experiencing such far reaching changes in every field of life it would, indeed, be inconceivable if legal education would remain static. While foreign experiences cannot, of course, be decisive for future planning in this country, they should not be neglected. It has thus been a timely idea of the Russell Sage Foundation to publish, as a part of its Public Service and Law-School Training Series, a volume on law training in continental Europe. Recognizing the facts that preparation for public service is one of the most pressing problems in this country and that European "law" training has long been concerned with this task, the Russell Sage Foundation has taken care that this aspect be emphasized by the author to whom the study was entrusted. The author, Doctor Schweinburg, claims that he has singled out Austria for detailed treatment because there law training was "most clearly and consistently outlined." Whether or not this claim is justified, may be regarded as an open question by the reader of Doctor Schweinburg's book. The Austrian system is certainly that about which the author can speak with authority because it is the one of which he himself has been a product and of which alone he has had first hand experience. His description of the other three systems treated by him, viz., those of France, Germany, and the Soviet Union, is based upon a mere reading acquaintance. But as to Austria, the author certainly knows what he is talking about. To that extent his selection for detailed description has been fortunate. However, from this very description the reader cannot but derive the conclusion that Austria, while building upon a remarkably liberal tradition, has been peculiarly conservative and that she has been less consistent than other countries in giving her future lawyers, judges and public administrators
an all-round training during the in-service period which follows the university stage of legal education.

Doctor Schweinburg properly stresses the fact that in continental Europe the law degree constitutes not only the avenue to the legal profession strictly so called but also to public administration and public life in general. Whether, as the author claims, this holds more true for Germany than for France, or whether, as in this reviewer’s opinion, the opposite is nearer to the truth, is less important than the fact that it is this very feature which renders the European systems suggestive for this country. These systems are designed to give the student a comprehensive view of the legal system as a whole and then, through in-service training, introduce him to the problems of the actual practice of the judge, the notary, the attorney and the administrator.

So far, the idea of a more or less prolonged period of in-service training has not found much favor in this country. The present book shows how important and useful such an apprenticeship following the theoretical law school phase can be, provided it is kept within reasonable time limits and not, as it was the case in Austria, unduly extended to achieve a temporary relief for an overcrowded bar. That this policy had been motivating the Austrian extension of the apprenticeship period for attorneys to seven years (!), has not been stated by the author.

Among the advantages which can be derived from the division of legal training into a university and an in-service stage figures not only the better preparation of the young members of the legal profession, but also a clearer orientation of the law school, which can concentrate upon training in legal thinking and in the understanding of the function of law in society. However, the present book also shows that the “two-pronged” system is no guarantee for the achievement of these purposes. In Austria it seems that the university, while it succeeded in training for formal legal thinking, failed in awakening the students’ consciousness of the relations between law and social life, although the study of economics and legal history constitutes an important part of the “legal” curriculum. When these fields are taught in separate courses, rather than as integral parts of the law courses themselves, the students fail to establish the relations.

A critical evaluation of Doctor Schweinburg’s brief statements about legal education in France and the U.S.S.R. cannot be undertaken by this reviewer. As to Germany, it seems, however, that the author does not fully appreciate the far reaching changes which
took place during the Weimar Republic. These changes found their expression not so much in those official memoranda and regulations which are discussed or presented by the author as in a change of spirit of teaching and basic philosophies. The characterization of German legal science as positivistic and German universities as concerned more with learning than teaching, while it fitted an earlier stage, can hardly be applied to the younger generation of law teachers of the Republican period.

The present book does not constitute the last word on legal training in Europe. A study showing not only for Austria but for the other countries as well the actual functioning of the system, its underlying ideas and the subtle connections between legal training, the administration of justice and social ideals and practices, is still to be written; it will have to be voluminous and it will have to cut deeply. However, in its very conciseness Dr. Schweinburg’s book constitutes a suggestive contribution to the problems of legal education of this country.

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