

Book Review: Vladimir Gsovski, *Soviet Civil Law*, Vol. 1

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BOOK REVIEWS

Soviet Civil Law, Vol. 1. By Vladimir Gsovski. Ann Arbor: University of Michigan Press, 1949. Pp. 909. \$10.00.

Motives of a state are difficult to appraise without a knowledge of its language and laws. Russian language difficulties cannot be easily solved, but with the assistance of the volume which we have reviewed it is possible to obtain a comprehensive survey of the Soviet Legal System.

One of the fundamental theses of Marx, Engels and Lenin was that upon subjugation of the bourgeoisie and the assumption of control by the proletariat, and the establishment of a classless state, there would be a withering away of the state and the law. The impact of this Marxian doctrine and its practical application has given rise for many years to speculation with respect to the fractuation of the ideal. It was supposed that eventually the doctrine would be tested in Russia but developments in the last fifteen years point in an entirely different direction.

Stalin in his work "Problems of Leninism"—English Edition Moscow, 1940, 409, gave an entirely different interpretation of the withering away doctrine. He said:

"Some of our comrades understood the theses about the abolishment of classes, the creation of classless society, and the withering away of the State as justification of laziness and good nature, as justification of a counter-revolutionary doctrine of extinguishment of the class war and weakening of the governmental powers. Is it necessary to state that there is no place for such in the ranks of our Party? . . . The abolition of classes will be achieved not by extinguishing the class war but through its intensification; the State will wither away not through making the governmental power weak, but by strengthening it to the utmost."

It is apparent that while the withering away of the state has not been definitely stricken out of the Soviet program, it has been at least indefinitely postponed. The prevailing concept of law is based upon the supremacy of the state and the present ruling class. The current definition of law generally accepted is that of Vyshinsky:

"Law is a general body of such rules of conduct expressing the will of the ruling class as are established by legislation, and of such customs and rules of community life as are sanctioned by the government power, the application of which body of rules is secured by the coercive force of the State for the protection, consolidation, and development of the social relations and the public order, beneficial and desirable for the ruling class."

The impact of the law of supremacy of the state is best illustrated in the field of labor. Despite the impression in many quarters that Russian law confers on toilers the maximum benefits of organized society, the fact is that in Russia today, labor is the pawn of the state, and since the inauguration of the new economic policy which extended from 1922 to 1929, the position of labor has grown steadily worse. Soviet labor law is to a large extent criminal law. Tardiness, leaving work before scheduled time, undue prolonging of lunch time, and loitering on the job are offenses which must be punished. A single tardiness exceeding twenty minutes should result in immediate dismissal, or compulsory labor without confinement for a maximum of six months, with a reduction of wages of 25% in lieu of dismissal. For some time there was a seven day week, but in 1940, the six day week was introduced, restoring Sunday as a day of rest.

Although a seven hour day was written into the 1936 Constitution, the 1940 Edict lengthened the working day to eight hours for plants and offices, except for specially dangerous jobs, for which a six hour day was retained. In 1947 the Constitution was amended to provide for an eight hour day in place of a seven hour day. Nominally, collective bargaining is recognized, but in practice, a model labor agreement is drafted by each ministry upon consultation with the central office of the trade unions concerned. They are then sent with a directive letter to the various establishments where the agreement must be used as a means of raising the enthusiasm of workers. Clearly such collective agreements are not the result of collective bargaining and are not based upon free contract.

Although, generally speaking, the ownership of property vests in the state, the tendency of the law has been to recognize ownership in consumption goods as distinguished from production goods. There is also a tendency toward the development of a law of possession, with incidents similar to our law of ownership.

In the field of marriage and divorce, there has been a sharp deviation from the former Communist doctrine. Since July 8, 1944, only a marriage registered at the Civil Registry Office is legal and a child born outside of a registered marriage is illegitimate. Until July 8, 1944, either spouse had the right to discontinue the marital status without being required to give a reason, but since that date, a divorce could be granted only by the courts for reasons deemed justifiable. Such reasons are not specified by statute, and as a matter of practice, a large percentage of divorces are granted upon mutual agreement.

In the early stages of the Soviet law the state sought to disrupt and weaken family ties. At the present time, the interference by the state is in the opposite direction. It is startling to learn that a final judg-

ment of divorce may always be reopened upon the petition of the Attorney General, and that the Attorney General may intervene in any civil suit including an action for divorce.

There is a marked trend toward strengthening the laws of inheritance. Under the civil code in 1922, the persons who might inherit from a decedent were limited to the direct descendants, that is, children, grandchildren and great-grandchildren, the surviving spouse and disabled or indigent relatives or strangers who were actually dependents of the decedent for not less than a year before his death. Neither parents nor collateral heirs had any share in the estate unless they were actually dependent upon the deceased. The Succession Reform Act of March 14, 1945 has broadened the law of succession to include not only descendants but parents and brothers and sisters. In addition, limited powers are conferred upon a testator to provide by will for the disposition of his property.

In the field of torts there has been a general adoption of the theory of fault and contributory negligence.

The author treats exhaustively such puzzling questions as Soviet Agrarian Legislation and collective farm jurisprudence.

The book affords to a student of common law an opportunity to acquire a general perspective of the judicial system in operation in Russia today.

SUEL O. ARNOLD*

University of Notre Dame Natural Law Institute Proceedings, Vol. I, Edited by Alfred L. Scanlon. Notre Dame, Indiana; College of Law, University of Notre Dame Press, 1949. Pp. viii, 142. \$2.00.

The ominous signs of crumbling which have been appearing with increasing frequency in the foundation of our institutional heritage have caused sufficient alarm to rally some of those desirous of preserving it. In December, 1947 the first Natural Law Institute was convened at the College of Law of the University of Notre Dame "in an attempt to explain what natural law is and to dispel some widespread misconceptions of what the natural law is." An attainment of this purpose would surely aid in securing the vigor and strength of our Constitutional Government to be reestablished.

This volume reports five lectures given at this first meeting of the institute. The subject matter reflects the espoused cause. In the first lecture the Natural Law is shown to have been recognized as fundamental by the men who formally established the government of the

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