

4-1-1949

THE LAW OF THE SOVIET STATE. Edited by
Andrei Y. Vyshinsky. Translated by Hugh W.
BabbW Introduction by John N. Hazard. New York,
The Macmillan Co. (1948)

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Recommended Citation

John H. Esterline, *THE LAW OF THE SOVIET STATE*. Edited by Andrei Y. Vyshinsky. Translated by Hugh W. BabbW Introduction by John N. Hazard. New York, The Macmillan Co. (1948), 3 U. Miami L. Rev. 486 (1949)
Available at: <http://repository.law.miami.edu/umlr/vol3/iss3/25>

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fidence to concentrate so on building power without worrying about its ultimate utility in terms of self-realization or self-denial.

A series of increasingly deprivational experiences has shaken Western man's confidence in himself and the values his culture represents. A rising social pessimism has brought with it a demand for authority; fear, which is the denial of freedom, has produced vast social movements which are literally head-long flights from freedom.

The point, very simply, is this. Western man must stop, take stock of his situation, rally, and, instead of fleeing freedom, join the issue resolutely with the power he has created over man and nature and see who is to be master. In order to control this power so that it becomes a means of self-realization, man must apply the same sort of organized and disciplined intelligence to this problem that he applied in creating the power in the first place. The burden on all men who remain essentially free or essentially capable of freedom is enormous.

Ascoli is absolutely correct in saying that all available courage must be applied to the task in a realistic way and that "precision work, not sweeps of rhetoric," is required. Unfortunately, he is not able to practice what he preaches. His rhetoric is fine, but he can offer little in the way of clear directives or basing points.

He does say that "any government which attempts to take over the function of freeing men from want and from fear is likely to become the main cause of want and . . . fear." However, he advocates a return to politics, in the sense of individual policy-forming and executing activities, on a broad scale. He wants to develop politics as "doing" rather than as "getting." "Politics," he says, "is not the science of power: it is the science of freedom."

But Ascoli is a philosopher, not a scientist. For light on genuine means of increasing freedom in our society, the general reader is referred to Stuart Chase's report on the current status of social science, *The Proper Study of Mankind*.

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THE LAW OF THE SOVIET STATE. Edited by Andrei Y. Vyshinsky. Translated by Hugh W. Bahl. Introduction by John N. Hazard. New York, The Macmillan Co. (1948) 749 pp. \$15.00.

REGARDLESS of the deficiencies of Marxism-Leninism as a political or legal philosophy it seems obvious that no serious student of the Soviet Union may overlook this book. Vyshinsky and his colleagues are blinded by the fact that they must reject all non-Soviet theories of the state and of jurisprudence.

but certainly they cannot be accused of unfamiliarity with their substance. As Professor John N. Hazard states in his admirable introduction, "American readers will find that most of the great names in the history of political and legal theory will be found in Vyshinsky's book." It is precisely for this reason, it appears to me, that the volume has immense significance. The depth and zeal of a fanaticism which admits absolutely no compatibility with any non-Soviet mind anywhere is astounding indeed. It is one thing to reject a theory sight unseen, or to remain unmoved by a superficial examination of it. Vyshinsky and his contemporaries in the Institute of Law of the Academy of Sciences, however, remain unmoved despite their intimate knowledge of the whole gamut of theorists from John Locke to John Calhoun, from Louis Blanc to Alexis De Tocqueville. How, it may well be asked, can Westerners even begin the formidable task of seeking *rapprochement* under such circumstances. Actually it is rather academic to criticize the content of Vyshinsky's work or the foundations of Marxism-Leninism when their world, as far as we are concerned, is totally unrelated to the rest of the world, past or present. Reading this book is a sobering experience.

It is important to recognize that basically the Vyshinsky interpretation of history and politics is not Marxian but Marxian-Leninist. Between the two themes a difference exists so fundamental that at least one Western scholar has indicated that were Marx alive today he would be logically driven to contest the present position of the Soviet theorist in important respects. Professor Rudolf Schlesinger indicates, for example, that traditional Marxism regards the state as "a 'superstructure' upon the really determining factor of human history, the social relations entered into by men in producing the means of livelihood," while "evidently the Marxian definition does *not* fit a state that itself is the main organization of economic life." Other dichotomies abound. If *The Law of the Soviet State* is recognized as an anti-intellectual, semi-Marxist *apologia* for the political authorities in the USSR, then—and only then—can it be discussed by the non-Soviet student.

Vyshinsky paves the way for the voluminous presentation of law in the Soviet state by defining law on page 51. It is "the totality (a) of the rules of conduct, expressing the will of the dominant class, and (b) of customs and rules of community life sanctioned by state authority—their application being guaranteed by the compulsive force of the state in order to guard, secure, and develop social relationships and social orders advantageous and agreeable to the dominant class." Soviet law thus becomes "the aggregate of the rules of conduct established in the forms of legislation by the authority of the toilers and expressive of their will." We learn further that "the entire coercive force of the socialist state" is necessary to give effect to a society agreeable to the toilers. It is, moreover, "inconceivable to suppose that it is possible to solve the problems of restraint merely by administrative repression" during the

transitional period of the proletarian dictatorship. The Soviet state must, perforce, await the "annihilation of the Capitalist encirclement" before law as we know it will wither away. The invectives which Vyshinsky unleashes in his introductory chapter to demolish Western theorists are but pale imitations of those which he reserves for condemning "the rotten theory of the wrecker Pashukanis" and his fellow heretic, the "spy and wrecker" Stuchka. "Understanding of the essence and content of Soviet public law is possible only if we start from the Marxist-Leninist understanding of law in general" and, it might be added, of Andrei Vyshinsky in particular.

Repeated and vehement denunciation of any science of law limited to "a narrowly juridical sphere of investigation" becomes somewhat painful to non-Soviet scholars who have long ago discarded such a conception. Professor Francis G. Wilson has recently pointed out that in the United States, for example, the last serious attempt to build such a system was the work of John W. Burgess in the nineteenth century. Vyshinsky, unwilling to recognize conceptual change abroad, attacks the dead when he rails against legal theory that fails to consider law in terms of the raw materials of history, philosophy and economics: "Juridical abstractions, illusions, and fictions flourish luxuriantly in this soil [narrow juridical interpretation], giving off, like *ignes fatui*, their deceptive and lifeless glitter."

Vyshinsky is on considerably safer—and saner—ground in a chapter which traces the stages of the development of the Soviet constitution, of the USSR, and of the Stalin constitution of 1936. His work is thoroughly documented here as throughout the book, even though highly repetitious. He has no mercy for his former colleagues, the Social Revolutionaries and Mensheviks, who "played an especially filthy part" in the struggle to undermine Soviet authority in 1918. This same vituperance, which appears congenital to many heretics (Vyshinsky, himself, was a former Menshevik), pervades Vyshinsky's treatment of a section he calls the "political basis of the USSR." In fact, it leads ultimately to a revelation which is etched sharply by Professor Franz L. Neumann who, reviewing this book in *Political Science Quarterly* (March, 1949), remarks that "It is also quite clear from Vyshinsky's discussion that the soviets were by no means considered spontaneous revolutionary organs of self government, but instruments through which manipulation of the population by the Communist party could be achieved." As long as the Bolsheviks were a minority in the soviets the latter could not be considered the fount of the state.

The work plods onward through a detailed account of the two forms of socialist property in the USSR, state property and that of the kolkhoz-cooperative; the foundations and objectives of economic planning; the state organization within its framework of a "federalism" strange to American notions, and the organs of state authority and administration. The doctrine of separation of power receives more than its share of abuse in the process.

Other extremely detailed chapters deal respectively with the prosecutor and the courts, which is Vyshinsky's particular field by reason of his long experience as prosecutor, and with the rights and obligations of USSR citizens. A final chapter discusses the suffrage and elections. Actually, the second half of the volume is probably the most comprehensive presentation of the structure and function of the Soviet government available in English.

As Professor Hazard reminds us in his introduction to the work, a volume produced under the general editorship of Andrei Yanuaryevich Vyshinsky "carries the weight of considerable authority." And since the splendid translation of the book under the Russian Translation project of the American Council of Learned Societies, Vyshinsky has become even more important as the new Soviet foreign minister. Perhaps a suggestion to the world's diplomats would be in order at this point. They should be aware that they are dealing with no amateur or figurehead. Under his bombast, Vyshinsky has hidden a wealth of knowledge of legal and political philosophy. Moreover, he is a chief architect of that other world, the Soviet state.

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