CONFERENCE OF UNIVERSITY DEPARTMENTS OF THE THEORY OF STATE AND LAW

In 1964 the staff of the university departments of the theory of State and law held a conference in Karpacz, at which the following papers were submitted: 1) *Appraisal of the present state of legal studies* (Professor S. Zawadzki), 2) *State of*

research on the theory of State and law (Professor J. Wróblewski), 3) *Methodological problems in jurisprudence* (Professor S. Ehrlich), 4) *Relationship of the theory of State and law to the history of politico-legal doctrines* (Dir. J. Baszkiewicz), 5) *Relationship of the theory of State and law to science politique* (Dr. H. Groszyk), 6) *The theory of State and law curriculum in the first and last years of the law course* (Dr. A. Łopatka), 7) *Problems in teaching the theory of State and law—methods used in lectures, tutorials, seminars, and master's theses* (Dr. W. Zamkowski).

On the first day of the conference, papers were read by Professor S. Zawadzki and Professor J. Wróblewski. Professor Zawadzki, since his article on the state of legal studies had previously been published in "Państwo i Prawo" [State and Law], only touched on the key problems, such as the link between theory and practice, the ideological situation in jurisprudence, the development of new cadres of research workers. But he spoke at length on methodological problems. He stressed the necessity for opposing the methodological conservatism and traditionalism which leads to everything outside analysis of the law in force being treated as a non-legal problem. He thought there was a great need for jurisprudence to concern itself not only with legal-dogmatic analysis of the law, but also to concern itself with the effect of the law on society. The development of empirical research is hampered mainly by 1) lack of clarity as to who should study the relationship between the law and its practical functioning; 2) the fear that dogmatic and theoretical legal studies might be weakened if lawyers began to carry out empirical research; 3) the serious methodological problems involved in the empirical investigation of politico-legal institutions.

Describing these difficulties, Professor S. Zawadzki said that evaluation of the effectiveness of the legal institution should not be undertaken exclusively by lawyers, but that, on the other hand, this kind of research should not be regarded exclusively as the domain of sociologists, either. The adoption of empirical methods in jurisprudence does not mean that other methods hitherto used, which are based on historical and dialectical materialism, should be rejected. Empiricism is only one of the approaches to the study of the law. The development of empirical research does not involve the negation of dogmatic and theoretical law studies. Great difficulty is caused by the fact that as yet insufficient work has been done on choosing the proper methodological foundations for research on the social functionning of the law. One of the key problems in the theory of State and law, which becomes obvious from an appraisal of the present state of legal studies, would seem to be the need to help the diverse legal disciplines to work out proper methods for empirical research, taking into consideration the specific features of the given field of law. This is perfectly feasible, on condition that theoreticians take part in the work.

Professor J. Wróblewski gave an assessment of the work that had been done in the theory of state and law between 1959 and 1963, by examining the works published during that period. On the basis of this review, Professor J. Wróblewski came to the following conclusions: a) there had been a distinct growth of research during this period as compared with the period before 1959; a wide range of problems had been studied, and a number of monographic studies had been published that were pioneers in their field and had produced echoes far beyond the bounds of Poland; b) it was therefore advisable to continue the research trends already began, putting emphasis on use of research techniques suitable to the complicated structure of legal phenomena, and concentrating on important problems which so far have been insufficiently studied; c) there is a tendency for authors, or university departments, to specialize in certain groups of problems; but this tendency is limited by the number of available staff in the various departments; this is a matter which should be taken up by those responsible for the personnel policy of the ministry; d) the factors that encourage

the development of research in the theory of State and law are in principle the same as those in other spheres of jurisprudence.

The discussion which followed these papers was characterized by great diversity of viewpoint. The main debate took place on the question of empirical research in the study of law. All the speakers in the discussion agreed that empirical research should be developed in the study of the law. They stressed, however, that there was also room for theoretical studies which would give the direction to empirical research and draw general conclusions from the material collected by empirical methods. A different view of the role of theory in jurisprudence was taken by Professor Podgórecki. It was agreed during the discussion that empirical research calls for the working out of specific methods and research techniques in the sphere of jurisprudence. In view of the development of the empirical trend in jurisprudence, young research workers must be given further training in the other social sciences. Training in the diverse new methods is also required.

The second and third day of the conference were taken up with a paper by Professor S. Ehrlich and the discussion following it. Professor Ehrlich took as his subject the principal methodological problems of jurisprudence, with particular reference to the profile of particular branches of the study of the law, the emergence of new disciplines, and the place of the theory of State and law in jurisprudence. He drew attention to the fact that the development of jurisprudence was endangered by what is called the "dogma," and he pointed out that the studies defined by this term are unscientific. For dogmatists confine themselves to commenting on statutes and other legal regulations, whereas the complexity of the law calls for multi-dimensional research. These planes of research (the logical-semantic, the sociological, and psychological) should determine the profile of the particular branches of the study of the law. For studies with such a profile, the term "dogma" is inadequate. Professor Ehrlich went on to protest against the separation of comparative law, legal policy, and legal sociology, as separate disciplines. Research in the sphere of comparative law, legal sociology, and legal policy should form part of every legal discipline. Such research should be inseparably bound up with each legal discipline, which would make sense and could lead to important practical results. If these three fields were set apart as separate disciplines, they, would disappear entirely from the field of the jurists. Apropos of these remarks, it may be said in general that the reason for setting up new disciplines should be the fact that they deal with a different, distinct subjectmatter, and not that they use different methods.

In conclusion, Professor Ehrlich formulated a whole series of methodological postulates for the theory of State and law. He said that the theory of State and law should investigate prevailing social relationships by means of empirical methods; it should specially encourage the sociological aspect of research; it should draw up theoretical generalizations on the basis of the empirical material collected and the latest methods; it should coordinate the work of the other branches of jurisprudence.

The discussion was mostly centred round the question of dogmatism. It was said that research aimed at explaining the meaning of the laws in force could not be denied scientific and social value. Nor could such research be reduced solely to the semantic-logical plane. The speakers agreed, however, that the particular disciplines should not confine themselves solely to the job of commentating, but that they should undertake empirical research as well. If the profile of legal studies assumed this form, S. Zawadzki suggested that the term "dogma" should be replaced by the term "particular disciplines." The view that legal sociology, legal policy, and comparative law should not be cut off from the rest of legal studies as separate disciplines won the approbation of the conference.

It was stressed during the discussion that philosophical reflection on the law cannot be ousted from the theory of State and law.

On the third day, two papers were submitted, one by Dr. Baszkiewicz, and one by Dr. H. Groszyk.

Dr. J. Baszkiewicz drew attention to the close connection between the history of politico-legal doctrines and the theory of State and law. The history of doctrines is an essential element in the education of the young lawyer—an element which is half-way between an introduction to the theory of State and law, and the full exposé of the theory of State and law. It would be impossible to understand a full expose of the Marxist science of State and law without a knowledge of the history of politico-legal thought. The history of doctrines helps to mould the political attitudes and world outlook of young lawyers in the right direction. By showing the connection between politico-legal views and socio-economic relations, the history of legal doctrines makes the various institutions of State and law easier to understand. For this reason, the history of doctrines should take as its main subject the newer politico-legal doctrines. The boundary between the history of doctrines and the theory of State and law cannot be taken as 1848. The criterion used in fixing this boundary should be more clastic, namely the vitality of certain ideas in the contemporary world. This factor should determine whether they be counted as belonging to the history of doctrines or to the theory of State and law.

During the discussion following this paper, it was pointed out that the history of political-legal doctrines was important as a subject of general educational value, and of extreme importance ideologically. For this reason the history of doctrines should retain its present name and the same number of hours should be devoted to it, the only proviso being that the proportions between the various subjects within this framework should be decided by a meeting of specialists.

Dr. H. Groszyk in his paper dealt with the relationship between the theory of State and law and *science politique.* It may be taken that *science politique* corresponds largely to our theory of State and law, since its investigations are centred on the problem of the State, or, more precisely, on the problem of power. It should be added that French political science is particularly interested in the techniques of government, and makes wide use of the sociological approach. In contrast to the theory of State and law, *science politique* has no appropriate theoretical base which would provide it with the necessary methodological directions. The strong side of bourgeois political science is that it has worked out a wide range of techniques for research on social institutions. In the reviewer's opinion, it would benefit the theory of State and law to take over these methods, and enrich general theory with empirical material, to the question whether there was a need, in socialist science, to create a separate discipline that would be concerned with politics, Dr. Groszyk answered in the negative. Each of the social sciences is at the same time a political science. There is a need for a science to play an integrating role in research on political problems. In Poland this role should belong to the theory of State and law.

During the discussion, the speakers approved of most of the ideas put forward in Dr. Groszyk's paper. They also stressed the need for increasing the scope of research on the socialist State.

Both the paper of Dr. A. Łopatka and that of Dr. W. Zamkowski were devoted to didactical problems.

Dr. A. Łopatka thought that the teaching of the theory of State and law should be kept as it is at present. He approved of the present division of the curriculum into an introduction to the study of State and law, covering 90 hours a year (45 hours'

lectures, and 45 hours' tutorials), and a full course on the theory of State and law consisting of 60 hours. The introduction, which is for first year law students, and the full course on the theory of State and law, which will be taught in the last year, are supplementary to each other and form an integrated whole. The introduction to the theory of State and law is of great importance, as it makes it easier for the students to understand the other subjects. The introduction to the theory of State and law should not try to be an encyclopaedia of the law, it should not be confined to basic legal concepts, but it should be more or less free of disputable matter. The lectures on this theory in the final year of the law course should be a continuation and development of the introduction to the theory of State and law. These lectures should be connected with the particular subject in which the department of the theory of State and law is specially interested, although the same methodological principles should be adopted by all departments. The ideal lecture should put particular emphasis on criticism of contemporary systems, with special stress on the socialist system. There is a need for textbooks. As a matter of fact, two or three textbooks are needed in the field of this theory, so as to meet the requirements of the special field in which a given university department is interested.

Dr. W. Zamkowski read a paper on ways of teaching the theory of State and law. He pointed out that the basic form of teaching was the lecture. The lecture, supplemented by the textbook, should be monographic in character. The speaker declared that the lecture played an important role in the political education of the students, and helped to mould the proper ideological attitude among them.

Tutorials were of equally great importance. They helped the students to work for their exams, stimulated the students to systematic study, helped them to solve particularly difficult problems, formed proper ideological attitudes, and taught the students to use scientific language in the field of law.

In the normal university course, the tutorials on the introduction to the theory of State and law should take the form of coaching, or of discussion, depending on the concrete subject. The subject for the master's thesis is usually chosen with regard to the type of job the student intends to take up when he graduates. This means that the subject of essays, seminars and master's theses should be carefully chosen. In general, the subjects chosen should be untraditional. The subjects given to the various students should fit together more or less as a whole, so that taken altogether the work done by them may enliven the seminars and raise the level of discussion.

In the discussion which took place on these papers on the teaching of law, the conference was unanimous that: 1) teaching of the theory of State and law should have the same organizational framework as at present; 2) the theory of State and law should be divided into two subjects: a) introduction to this theory, to be taught during the first year of studies, b) the theory of State and law proper, to be taught in the final year; 3) the same number of hours as at present should be given to the teaching of both these subjects.

The present division of the course into the first and the final year is the only one possible. No other subject can take the place of the introduction during the first year of studies, because it gives the students the necessary conceptual framework. Yet in view of the rawness of the students (they are unacquainted with the existing law), the introduction cannot cover all the problems which should be discussed, hence the need for teaching the theory of State and law in the students' final year.

The success of this conference showed the usefulness and fruitfulness of meetings of this kind, and the necessity for repeating the event in subsequent years.

J.S.